TO RULE ONESELF
IN ANTEBELLUM AMERICA

THE CONCEPT OF SELF-GOVERNMENT
FROM REVOLUTION TO SECESSION

IN THREE VOLUMES

WHO SHALL RULE

2: GROWTH AND GOVERNANCE

GOVERNING IMPASSE

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A New Nation under a New Charter was 20 years old in 1808. At times we, the descendants, tend to forget the new part. We think and write as if *E Pluribus Unum* was an established fact. After all, two centuries had passed since the first settlements, and those settlements, mainly on their own, had turned both opportunity and crisis to their advantage. Few doubted the wisdom of the original colonies organizing themselves into a single political entity to drive out their disrespectful European masters, but beyond that their foresight was foggy. During the war and for 20 years after during the Confederacy and the first decade under the new charter America was for the lack of a better term experiencing growing pains. Almost everything about a central government had flashbacks. So severe were the strains that the nation flirted with dissolution under Resolutions approved by Virginia and Kentucky but pulled back. It is unrealistic to assume that in 1789 Americans could on the spot reconfigure their interior political and cultural maps from local to national. It was, as it should have been, a process. We might blanche at the thought that a person of the stature of Thomas Jefferson contemplated a protest could turn into an act of dissolution, but he, like many Americans, were not yet convinced of the utility and security of the union whose scope remained ill-defined. On the other side of the controversy, the Federalists pushed the envelope so far that they ignited exactly the deep-seated fears about the use of power that had taken root before and during the Revolution. Both the proponents of Federalism and their opponents had agendas that could have waylaid the union. The union survived these early challenges, but one cannot automatically assume that it survived because everyone decided to rally around the flag. What did happen was that the combatants learned something about political warfare that prior experiences had not shown them. The *how* was more complicated than the steps that preceded it. Learning to live as a nation would continue to run into a series of roadblocks and pitfalls, even as many Americans, perhaps a majority, had embraced the basic tenets of Republicanism without embracing an enthusiasm for the Union that that drove the Revolution. Even the Republicans will do battle among themselves over who was the best prepared to shape the direction of this evolving entity called a national government.
GROWTH AND GOVERNANCE

A half century ago Roger Brown persuasively argued in *The Republic in Peril: 1812*, the proponents of Republicanism had a tougher sell than the Federalists. Institutional government whether by monarchy, aristocracy or parliament or some combination thereof – a system bound up in John Adams’s “mixed government” or Alexander Hamilton’s “inherent authority” – derived its force from long-held beliefs that individual rule could not be the bedrock of a stable and prosperous nation because they were unreliable and fickle. Their solution was not to remove institutional restraints but to try to build them into a political structure that could also include wider popular political participation. Indeed, for popular government to work at all, institutional curbs were more essential than ever. Pushing the opposite viewpoint – institutional curbs were more likely to cause rather than cure erratic behavior – Republicans were swimming against a strong historical tide and may have worried about it.1 Even in 1808, after significant success against Federalists, now a much-shrunken political opposition, Jefferson expressed concern that a government founded on republican principles lacked the will to act. As European intrusion on American shipping mounted in 1806, he spoke of the need for resolve: “The love of peace which we sincerely feel & profess, has begun to produce an opinion in Europe that our government is entirely in Quaker principles, & will turn the left cheek when the right has been smitten.” Without an adequate response America “will become the plunder of all nations.”2 A society of self-governing individuals had to be able to defend itself – one of the few legitimate duties of government was defense – but how to accomplish that against outside forces that did share American ideals was a problem. The Republicans had fought Adams and the Federalists on military spending because it would mean higher taxes, and Jefferson had actually cut appropriations for the navy that was almost non-existent. Maintaining friendly trading relations with all foreign nations was central to both its economic and diplomatic goals.

The Embargo Act of 1807, which prohibited American vessels from leaving port to engage in trade, had been conceived as a way to punish foreigners without having to expand the navy to protect American shipping. The backlash was immediate. American merchants and shippers demanded to know why they should be punished instead of the foreign nations that were violating American neutrality. In was a hard case to make even under the banner that Americans should unite to defend the national sovereignty. New England was hit the hardest, and as the base of Federalism it gave the Party a much-needed transfusion. Jefferson made it clear


that to give in to the Federalists would send the signal that Republican principles and goals were truly as suspect and dangerous as the Federalists had long claimed. Flawed though Jefferson’s commercial policy may have been – and there is debate among historians about that – it was endorsed and implemented by James Madison, his Secretary of State and his successor. Madison was respected but not admired to the degree that Jefferson was, and even though his nomination was opposed by some southern Republicans under John Taylor of Caroline and eastern Republicans, who disliked the Embargo and supported for president former New York Governor and Jefferson’s second Vice-President, George Clinton, Madison won rather handily with 122 electoral votes of the 175 total. The electors also chose George Clinton to continue as Vice-President. Only the New England states except Vermont and Delaware voted for the Federalist, Charles Coatsworth Pinckney (SC). Dissatisfaction with foreign policy could not be ignored, but it was limited. On the whole the Jeffersonians were credited with having reversed the monarchical and aristocratic tendencies embodied in governance under Federalists. The European belligerents – France and England – were not sufficiently intimated by the United States to alter their policies. In the aftermath of the repeal of the Embargo, the United States under something known as Macon Bill No. 2 (1 March 1810) reopened trade with both belligerents but with a caveat: the belligerent first to lift its orders against American shippers would trigger a provision that vested in the President the power to shut down trade between the US and the remaining belligerent, although a three-month delay was allowed for the remaining belligerent to reassess its policies. In an ambiguously-worded note Napoleon let it be known that the French would consider lifting its decrees, if US would, as prescribed in Macon, declare Great Britain a belligerent. Madison believed on the basis of how Napoleon’s note was conveyed to him that the French had actually lifted their decrees, when in fact Napoleon had only made an offer to do so while simultaneously ordering the continued sequestering of American ships. In the meantime, between the fall of 1810 to the spring of 1811 Great Britain failed to acknowledge the Macon provisions. In retaliation Madison ordered all trade with Great Britain to cease. In fact the British navy continued to blockade the northeastern commercial lanes and interdict American ships. The disgrace that Jefferson and Madison feared was palpable, and the worst case scenario of war against Britain – what Republicans had hoped to avoid – had become unavoidable.

The history surrounding the War of 1812 is filled with anomalies:

1. Great Britain lifted its commercial restrictions against America two months after war was declared, although no effort was made to alter the war declaration, and the British and Americans reached a peace accord (at Ghent, Belgium) weeks before
Andrew Jackson and his Tennessee Boys won the celebrated Battle of New Orleans;

2. Even though Great Britain had a powerful military establishment, it had few resources to commit to the American theater because of the continuing war against Napoleon, and America with no standing army and a modest naval squadron launched a project to invade and conquer Canada;

3. Once again, the fears and consequences of warfare led to calls for secession, this time from the Federalists and their New England base where “Mr. Madison’s War” became a rallying cry, but even among Republicans there was strong opposition on the grounds the war was unnecessary and would create political and financial ruin as happened after the Revolution;

4. The ultimate indignity, at least symbolically speaking, the British attacked Washington and burned part of the city, and although the British decamped a few days later, the return of the President and his Cabinet, after fleeing in panic, was met with mocking by citizens and members of the militias.

The war more or less ended in a military stalemate. America, however, remained independent, and Canada remained in the British Empire. Certain outstanding issues, mainly border questions, were settled at Ghent. Despite setbacks and failures Americans may have had every reason to feel proud of the results. Defending their independence was a fundamental achievement. For more than 30 years the fear of European intervention or reconquest had preyed on the American conscience. The War of 1812, at the very least, diluted those fears. The Republican experiment, far too risky in the minds of its critics, had survived.

The nation that entered the war will emerge from the war in course-correction mode. Recall that what drove foreign policy, in particular trade policy, for the Jeffersonians was to maintain overseas markets for American agricultural products. Export trade was neither large or important in terms of the overall economy, nor would that change between the War of 1812 and the Civil War. In the years before the 1790, including the colonial era, US exports could have been as high as 20 percent of Gross Domestic Product, although the numbers are pretty “iffy”. But the United States probably had more of an export economy during its colonial phase than as an independent nation when developing its own economy against the backdrop of major demographic changes became paramount. The percentage will drop to single digits between 5 and 7 percent for the first half of the nineteenth century. Agricultural goods made up 70 to 80 percent of the American exports, and of that percentage tobacco and cotton could amount to more than half. It is worth
noting, however, in the first two decades of the nineteenth century – the Jeffersonian years plus the War of 1812 – “Vegetable Foods” was close to the combined totals of tobacco and cotton. In nominal terms, if GNP was between $500 hundred million and $1 billion, then agricultural exports in (current) dollars was worth about $50 to $100 million on average between 1800 and 1820. At the time Jeffersonians surely anticipated that these figures would grow in step with a more productive and profitable agriculture. What they did not and perhaps could not anticipate was the changing domestic consumption pattern that siphoned off more and more agricultural output to internal markets. That did not make agriculture any less productive or profitable but made reliance on foreign markets less important except for Jefferson’s own region, the South. Indeed, after the War of 1812 the United States will begin to erect protective tariff and that made commercial and diplomatic confrontations over trade policies with other countries less inflammatory (again except in the South). If the Jeffersonians were caught up in commercial warfare to protect their most valued economic sector, the imperatives for that dissipated after the War of 1812.  

Inadvertently during the commercial imbroglio and the war that ensued on imports the American manufacturing sector got a boost. Political liberty, minimal government and economic opportunity shared a similar premise. To reduce the barriers to the ownership of land and the cultivation of the soil, allowing the individual to reap the benefits of such efforts and to preserve his liberty and sovereignty, had an applicability in other economic sectors. Manufacturing had little in common with the agrarian vision except that it also offered opportunities to citizens on the make, as it were. Even the agrarian dream in which productive landowners were melded to republican principles suffered erosion as agriculture turned increasingly competitive and market-driven. As business opportunities to make money in an expanding economy multiplied, building a life as an idyllic republican farmer had less appeal. The implications of this were almost immediately clear. Breaking down old institutional conventions and restraints had appeal beyond simply tilling the soil. Should it matter how individuals channeled their economic ambitions so long as they in theoretical terms did not harm others? It mattered to the Jeffersonians who looked upon tilling as ennobling and therefore the only economic pursuit truly compatible with a society of self-governing individuals. Other economic pursuits subjected people in ways that victimized them, and they along with their victimizers followed behavioral patterns that were

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incompatible with self-government. It was true that as the economy diversified, economic interests diverged, and the competition over public policies increased. The part of the Jeffersonian ideal that American of many different strips could accept was the freedom to choose and the freedom to control. The conflicts that evolved from the exercise of these freedoms – the very conflicts that the Jeffersonians had sought to prevent – were what Americans struggled with for the next 50 years. Being free had its rewards, and being in conflict over freedom had its risks. The economy allied with a political ideology of minimal government and individual liberty will look different after the War of 1812 – different from what the Jeffersonians had envisioned – and that was because it was different.

The War of 1812, ill-prepared militarily though the nation was, represented a demarcation between what might be called “pure” Republicanism and “pragmatic” Republicanism. The nation entered out of fear of an uncertain future and emerged roughed up but less fearful about the future. The margins in the House of Representatives (4 June 1812) and the Senate (18 June 1812) to declare war were smaller than might be expected: 79-49 (total 143) in the House and 19-13 (total 36) in the Senate. The Federalists had 36 members in the House and 6 in the Senate, but at least a dozen Republicans in the House and the Senate opposed the war. Madison’s Message to Congress that led to a vote to declare war reads (and it was read for, not delivered by, the President) like a lawyer’s brief. It listed US grievances against Great Britain since 1803 along with US efforts to defuse the smoldering conflict between countries that in Madison’s view should be friends. The issue was to protect free commerce that was in the interests of all parties. His Message was hardly a rallying cry. No references to natural rights or individual liberties. It was a trade spat between two countries who could not find an amicable resolution. Others were far more passionate about expressing their views for or against the war. Madison, on the other hand, as others have noted, took America reluctantly to war. His long experience in government may have caused him pause: wars even when won could have large unintended consequences. Within his party, however, the War Hawks were not to be leashed. They came from the South and the West, the regions that they represented had not fared well under the back-and-forth commercial policies of Jefferson and Madison, and they equated their economic distress with British intransigence on international commerce. In short, American had to defend its honor in order to restore its prosperity. While the War Hawks were Republicans, their republicanism was informed not so much by the revolutionary imperative as by an expansionary one. The War Hawks – young, mobile and ambitious – belonged to a new generation that embraced Republican principles that could help to push forward their personal agenda. Henry Clay, only 34 when elected Speaker of the House of Representatives in 1811, could galvanize
support in behalf of war in a way Madison could not. In one such speech over two
days in the House, six months after the declaration of war, on debate of a bill from
the Senate to raise a force of 20,000 men for one year if the President should so
request, Clay reiterated many of the same points that Madison had enunciated in
his War Message. The 20,000 was in addition to the 35,000 previously authorized,
and there was opposition in the House not only from those who opposed war but
also from those who may have favored the declaration but questioned the
appropriation. There was some parliamentary slight of hand that exasperated Clay,
as the leader of the House and a defender of the War. But, as he will often do over
the next 40 years, he allowed the opposition to speak out against the bill (even
though Clay had the votes for passage) and he demanded to speak out against the
opposition and to rally his own forces. Unlike Madison, he spoke to arouse respect
and affection for the nation and for the cause just undertaken. It reminded his
audience that the opposition “unremittingly impeded” the administration of the
government. He regarded this as “singular” and “unexampled in the history of the
country.” The Administration, while trying to run the government, was also trying
to maintain the peace within the country. Thus, the foreign encounters that
Madison had detailed as cause for war, Clay discussed in the context of the
unrelenting opposition of the opposition to whatever action the Administration
tried. In the course of the speech he actually addressed the positions taken or
statements made by the opponents in their own speeches as if it was important for
them to know and for the country to know he was paying attention and he would
counter their arguments or facts in whatever way was required to protect the union.
His stance on war was unambiguous and unapologetic. Thus, even if the British
should do an about-face with respect to harassment and impressments, it was too
late, the damage had been done; national pride required no less. He then turned to
what was a frequent charge by the Congressional opposition and the opposition
press, what he called “very delicate and painful subject” – “the Southern
influence.” Although not the only one who had alluded to the southern influence,
Harmanus Bleecker (F-NY), had made a remark that did not accord with his often
liberal views. Bleecker had apparently said that those with the greatest interests in
the impressment of seaman (one of the charges against both the British and the
French), namely the shipping states, had no interest in continuing the war while
those with interest in impressment, namely the South (and the West), were most
adamant about prosecuting the war.

It was a provincial sentiment, unworthy of that gentleman....Does not
that gentleman feel for the unhappy victims of the tomahawk in the
Western country, although his quarter of the Union may be exempted
from similar barbarities? I am sure he does. If there be a description of
rights which, more than any other, should unite all parties in all quarters of the Union, it is unquestionably the rights of the person. No matter what his vocation, whether he seeks subsistence amidst the dangers of the deep, or draws it from the bowels of the earth, or from the humblest occupations of mechanic life, whenever the sacred rights of an American freeman are assailed, all hearts ought to unite and every arm should be braced to vindicate his cause.

Despite the recent setbacks and defeats (Detroit, for example) that had intensified the calls for ending the war, Clay refused to back down. What the nation must resolve to do is to call upon all the rich resources of the country, “give them judicious direction, prosecute the war with the utmost vigor,” strike the enemy wherever necessary and then negotiate a peace (from strength instead of weakness). He was not fearful of the opposition (Federalists mainly confined to the Northeast and a few Republicans from New York and Pennsylvania) because the vast majority of Republicans understood what was at stake. Failing this, Clay warned, the nation would end up like the impressed seamen that it was fighting to release.\(^4\)

Wars cost money, and as large as its surpluses had been in the previous decade, the US Treasury did not have enough money in its vaults to finance the war and had to tap other resources. Gallatin, who continued as Secretary of the Treasury under Madison, was less than enthusiastic about a full-scale war. Before the declaration of war Gallatin in early 1812 provided Congress with a revenue plan that called for a combination of direct and indirect taxes, duties and imposts and short- and long-term loans. Clearly, the most controversial feature was the call for new taxes. Unlike many of his compatriots, Gallatin believed that direct taxes in accord with proportionality, as stated in the Constitution, made sound fiscal policy and good public policy. If the nation was going to war, the public must be willing to assume directly some of the cost of paying for it. In his report he went to considerable lengths to explain the impact of such taxes on citizens in established states versus the citizens of new (mainly western) states. His chief argument was that given the growth in population the request of $3 million in direct taxes actually imposed a lighter tax burden than the colonies had assumed to pay for the Revolution. Despite his efforts Gallatin had to accept the fact that direct taxation, no matter

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\(^4\)Speech, *Annals of Congress*, 2\(^{nd}\) Session, 12\(^{th}\) Congress, 8 & 9 January 1813, 660, 672, 675. Halfway through the speech on 8 January, he pleaded exhaustion and asked to continue the speech the following day. Clay favored the invasion of Canada that some who had voted for the war were against. The recent defeat of American units had only served surprisingly to intensify interest in the strategy of invading Canada. Available on-line at [http://memory.loc.gov/ammem/amlaw/lwac.html](http://memory.loc.gov/ammem/amlaw/lwac.html)
how intelligently rendered, was off the table at least until later in the war. In the end, the financing of the war was accomplished primarily through notes and loans issued by the US Treasury. The Jeffersonian fiscal plan had depended almost exclusively on duties, but a nation in war could expect that income stream fall, as it did. Thus, the Treasury was confronted with covering losses in revenue from duties and redemptions relating to the debt (US Treasury had an exemplary record) plus finding tens of millions of dollars to build and supply the army and navy. At the outset of the war the Federal debt stood at about $45 million, and at the war’s end at about $127 million. The war itself cost about $95 million ($15 per freeman), and $82 million was borrowed. This was a sizable undertaking in a country with functioning but inchoate capital and credit markets, and yet the Treasury’s performance was “fairly respectable.”

The basic plan was two-pronged: to sell 6-percent bonds, and when that yielded less than needed to issue one-year notes that circulated like currency but paid interest. The Treasury issued about $37 million in notes (not all circulating at once) and the remainder (about $50 million) in longer-term bonds in several different sales. The fallback on notes (the equivalent of the much-disliked Revolutionary paper money) was necessary because too few investors such as state banks and other financial institutions bid on the bonds. The Administration was reluctant to discount the bonds, that is, to offer them to underwriters at lower prices with higher rates, but such negotiations became a part of the process over the course of the war. In addition, the Treasury had to accept payment for purchases of bonds in paper notes issued by state banks. These notes lacked uniformity and in many cases were worth less than what was printed on them. As much as the Treasury would have preferred payment in specie to bank notes, it had to accept the notes because the supply of specie was low as was the willingness of holders of specie to part with it. With discounting only $48 million instead of the face value of $55 million was raised in five long-term bond floats between 1812 and 1815, and of the $48 million only $28 million was in specie. With regard to its various bond obligations, the Treasury maintained a schedule of redemptions and annual interest payments. The Treasury became more adept at managing its public offerings, although most historians strongly argue that a central bank with links to the overall banking system would have made the Treasury’s job easier and less costly. Madison, who, like many Congressmen, was ambivalent on using federal taxation to raise revenue, finally in 1814 called Congress into a special session to enact a tax program along the lines originally proposed by Gallatin, who had resigned as Treasury Secretary in 1813 and was

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5 Gallatin to Ezekiel Bacon, 10 January 1812, and Gallatin to Madison, 1812 [1812], in Gallatin, Writings, 1:501-517, 527-529.

succeeded by William Jones, George Campbell and finally Alexander Dallas.\(^7\) When the war came to an end, notwithstanding military as well as financial missteps, the nation had rebuffed the British once again and, as before, had a large public debt to contend with.

At end of his Presidency and his “Little War” Madison found himself under pressure to resuscitate Hamilton’s strategies to stabilize public finances and reduce inflationary pressures. Dismantling Hamilton’s fiscal legacy had been a point of pride with original generation of Republicans but had less relevance for the new generation of Republicans. Post-war debate over fiscal reform within the Republican Party was a sign of what was to come – widening fissures created by differing opinions over how much government that had split the Revolutionary generation – but the debate will be conducted on different terms. A “republican” form of government was no longer widely contested. Self-rule in American would embrace a mixture of liberated individuals in pursuit of their own goals and ambitions and of organized governments to serve individuals in those pursuits. Being rule will continue to be viewed with suspicion, but within that context political opinions will differ and political battles will ensue. That Americans needed to be ruled under the tutelage of a privileged elite will have little credence. The post-war debate, to some embarrassment for a Republican President, who had opposed the original Bank of the United States and had mildly supported extension of its revised bank charter at the behest of Gallatin, was an undertaking by the pragmatists against the purists to redefine republicanism in a new and more dynamic world that was in part created by the war itself. And a new national bank was only part of the grand scheme. On the agenda were internal improvements, protective tariffs and land policies that were designed to open the door of opportunity further and faster. But the appeal of a more pragmatic republicanism had its limits. A Congress controlled by Republicans in which the Federalists had almost no presence would become a Congress at battle with itself.

When the recharter of the Bank of the United States was defeated, the House Republicans (in contrast to Senate Republicans) had a sizable majority over Federalists – 90 to 50. The vote to kill the Bank was by a single ballot, 65 to 64. Thirteen House members were not present or did not vote, and of that number (by my count) two were Federalists and eleven were Republicans (Democratic-Republicans). Of the 64 voting no, 19 were Republicans, and that meant that only 3 Federalists voted aye against 19 Republicans who voted nay. (The House had

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approved recharter bill the year before, but Congress adjourned before the Senate could act.) It’s important to recognize what the balloting was. The motion being voted on, as recorded in the Journal of the House, was to proceed with the “unfinished business” of the previous day. This was not an up-or-down vote on the extension of the charter but on the agenda. Voting by members could have been based on other factors besides their opposition to and approval of the recharter. The House could have restored the unfinished business to the agenda but did not.\textsuperscript{8}

A month later, the Senate voted not to recharter after George Clinton, Vice President and presiding officer, cast a tie-breaking (17 to 17) vote. On 20 February 1811 the vote came on a motion “to strike” the first section of the recharter bill, which read “Be enacted....” The next day (21 February) a related bill – “to amend and continue in force...‘An act to incorporate the subscribers....’ – was ordered postponed until the following December (1811) on a motion by Michael Lieb (DR-PA), who had the previous day to strike. In the Senate all seven Federalist voted not to strike and therefore to approve, and the 27 Republicans divided 17 in favor and 10 opposed. Republican support and opposition came from all regions.\textsuperscript{9} For all intents and purposes the bill was dead for this session, and the Bank of the United States began to wind down its business.

The Bank of United States had been enmeshed in politics since its inception, and to assume that it could extricate itself from its political past by touting a reasonably clean record with public benefits was unrealistic. The political debate had boiled to whether or not individuals could be well served by large powerful, privileged national institutions. The BUS was unpopular as a symbol and an institution. On the brink of war the popular political sentiments was not strong enough to revive recharter and push it through. For better or for worse, the Treasury found other ways to arrange financing. We cannot replay these actions to see if a national bank would have proven to be a superior arrangement, and as such would have helped to avoid or moderate the post-war financial disarray. The call for a national banking system did not disappear with the end of the charter of the BUS, and by 1814 the Administration had launched an effort to revive the bank.

The war-time Congress approved a new charter in January 1815 only to earn Madison’s veto because the bill had not followed the recommendations of Treasury Secretary Dallas. Dallas wanted a new bank with greater capitalization than the previous bank in order that the government could borrow directly from the bank


instead of issuing Treasury notes (which paid interest and circulated like currency) to finance its operations. The charter, as written, did not adequately include such a provision, and Madison’s second objection must have surprised some colleagues, who could recall earlier fights, because it called the bank, as proposed, undercapitalized and unable to provide the stable and sound system of credit and currency that was needed to prosecute the war.\textsuperscript{10} The Congressional opposition to the extension of the Bank of the United States before the outbreak of the war were Republicans of the Revolutionary and post-Revolutionary era. The Congressional makeup including its leadership at the end of the war had an expansionary view that extended the inheritance of the Revolutionary tradition. Although Madison still had reservations about national banks, based upon his earlier battles with Hamilton and the Federalists, he and his Treasury Secretaries (first Gallatin and then Dallas) envisioned an institution that could exist in accord with republican principles without threatening or eroding those principles because Republicans unlike the Federalists had no desire to use the bank to solidify their privileged status. The outcome would be better because these were not Federalists leading the charge, but Republicans albeit new Republicans. In fact, Madison’s complaint with the new bank bill was that it was not big enough. The Treaty of Ghent had been signed in December 1815, a month before the veto, and his veto could not, therefore, damage the war effort.

Unlike the earlier debate the question of constitutionality was brushed aside. In his December 1815 Annual Message to Congress Madison declared that a bank deserved reconsideration now because with “the improved condition of the public revenue” in the post-war economy justification for reconsideration of a national bank arose from the need for a uniform currency. “The absence of precious metals,” wrote Madison, “will…be a temporary evil…,” but until that can be remedied Congress may wish to provide a substitute in the form of a uniform currency through a national bank. Madison acknowledged that state banks, which issued their own notes that circulate din lieu of a national currency, may not be able to provide the uniformity that was needed.\textsuperscript{11} The word temporary, as in “a temporary evil” is an interesting phrase. Perhaps it was purely accidental and perhaps not. The debate over hard money versus soft money had just begun, and the use of temporary may reflect a view among many Republicans that national; banking and related policies were required because of the dislocations caused by war and not because of the preference for permanent governmental intervention. In time, as specie assumed its proper place, the need for paper money and an agency

\textsuperscript{10}Madison, Bank Veto Message, 30 January 1815, on-line at \url{http://www.presidency.ucsb.edu/james_madison.php}.

\textsuperscript{11}Madison, Annual Message, 5 December 1815, on-line at \url{http://www.presidency.ucsb.edu/james_madison.php}. 
like a national bank to administer it would pass. The dependence on specie and the expectation that it would circulate as the standard currency was, even in 1815, unrealistic. A specie-based currency could not and did not serve as the nation’s circulating medium, although for much of the first half of the nineteenth century a specie-based economy remained a goal and a preference. In recommending a national bank, Madison may not have considered it as anything more than what he said – a temporary fix, not a permanent solution.

The pressure to reconsider a chartered bank gained momentum because of a series of financial crises in 1814. Military setbacks had pushed down bond prices that traded on the open market. After the British had entered Washington and burned part of it before withdrawing, local and area banks had to close their doors because they could not redeem bank paper for specie held by residents. The downward move in bond prices was a no-confidence vote in the government. In practical terms if the government had tried to raise money through the sale of public securities it would have had to offer higher interest rates with no assurance that investors would even bid. A standard $100 bond with a yield between 5.5 and 6.0 percent was trading at $75 to $85 with the effective yield having risen to between 7 and 8 percent. In March 1814 the Treasury tried to raise $16 million in bonds at 6 percent and redeemable in 1827. Actually the sale was split into two phases of $10 million and $6 million, and when combined they had to be discounted to $80 with an effective yield of about 7.3 percent. But since purchases were made with state-bank notes, the total value of the bond sales should be discounted by another 15 percent so that the revenue gained from the sales was more like $65 per $100 and that pushed the effective yield up to about 9 percent. The confluence of setbacks on the military and financial front provided ample reason for the country to feel a sense of peril. But, as Edwin Perkins has cautioned, “the gloom of 1814 was short-lived.” The run on the Washington area banks did not spread to other regions, and the subsequent attack on Baltimore stalled. Six months later after the announcement of peace treasuries began a rebound. Prices of bonds traded in the open market began to rise so that the effective yield fell to about 7 percent, still high by past measures but manageable. The Secretary of the Treasury (Alexander Dallas) then decided in 1815 to raise $12 million through new bonds, but he refused to discount the bonds below $95 with an effective interest of 7.5 percent. Purchasers could use state-bank notes, which then circulated at an average discount of about $10 so that the effective yield reached about 8 percent. He could only place $9.7 million, but the lack of $2.7 million posed no financial crisis. Custom receipts in 1816 after a four-year decline jumped to $36 million and the budget surplus reached $17 million. With the government finances improving the trade in government securities saw yields fall to 6.5 percent as prices rose. It had
been a tough slog, but the nation had weathered the storm. A “fairly respectable” performance given the circumstances, writes Perkins. Most importantly, at the end of the war the government was not faced with an array of debt obligations of dubious values as was the case after the Revolution. Financing the war was the sole responsibility of the federal government with instruments that could be traded in the capital markets.\footnote{Perkins, \textit{American Public Finance}, 335-336.} That meant, of course, that when the hostilities came to an end and the obligations had to be retired, the government could proceed in a systematic fashion based upon prices and yields set in the markets themselves.

Congress did pass an acceptable bill in the spring of 1816 to charter the Second Bank of the United States. The vote was 80 to 71 in the House with almost as many Republicans in opposition as Federalists and 22 to 12 in the Senate. The President signed bill that reconstituted a bank not much different from Hamilton’s institution. Stabilization of the credit and currency under post-war conditions that risked inflation and devaluation was the primary rationale. Even the longstanding debate over constitutionality held less sway, as the debate shifted from general welfare to the authority to regulate money. The 2BUS stumbled in its first few years in its principle assignment, and reluctant Republican supporters became openly hostile. It did not open for business until January 1817, and the management was so inept during the first few years that Congress threatened in 1819 to revoke the charter. By then, the transition to a peacetime economy was well underway, not without some pain, to be sure, and the 2BUS, having righted its course, assumed increasingly the role of a central bank to moderate and guide the explosive growth arising from the acquisition and settlement of new lands. It generally remained aloof from politics (at least until the Jackson Period), and like its predecessor compiled a reasonably good record of fiscal management It earned grudging respect but not much love.

In Congress the agitation for more active government of which a banking bill was the first installment was led by a curious triumvirate of John Calhoun, a southerner, Clay, the westerner and Daniel Webster, a New Englander. They wanted among other things programs of internal improvements and protective tariffs. Both had been on the table for years, but the difference between then and now was a reflection of what was changing about America. The internal improvements bill, introduced by Calhoun in February 1817, at the very end of the Madison Presidency, was actually known as the Bonus Bill because what Calhoun proposed was that the $1.5 million bonus that the Treasury would receive from the new national bank plus all future dividends from the bank’s stock held by the
Treasury be placed in a trust fund dedicated to improving the nation’s transportation network. This was an attempt to sidestep a direct constitutional assault since no federal tax dollars would be involved. Moreover, while Calhoun acknowledged along Hamiltonian lines that the Constitution may be read as containing some “implied” powers, he stressed that the federal government had already committed funds to post roads and these funds could be used to upgrade and expand the post-road system. Despite Madison’s previous statement that he saw a need for internal improvements, especially in the West, and Calhoun’s nimble attempt to square Republican principles with national needs, the Bonus Bill, which landed on Madison’s desk just weeks before the end of his term, failed to win his signature. Madison’s veto message of 3 March 1817 was brief and to then point: the national government lacked the expressed authority either under the interstate commerce clause or the general welfare clause to undertake such a program no matter how the funding was arranged. Only a constitutional amendment granting such authority to the national government would resolve the dilemma. That amendment was never approved, and a federally-financed internal-improvements program except in a hit-and-miss fashion was never realized in pre-Civil-War America.

On the tariff question rates since the 1790s had progressively become more protective with the Tariff of 1816 establishing the highest duties yet. The British had stored tons of goods in warehouses during the War of 1812, and once the hostilities ended they dumped these goods on the American market. Some imports were taxed at high as 30 percent and others as low as 15 percent with an average of about 20 percent. Specific imports like wool, cotton and iron manufacturers were tagged with duties of about 25 percent after New England producers cried foul over British dumping. Protective tariffs were not universally applauded. In New England, for example, shipping interests opposed them. When viewed as a whole, banking, internal improvements and tariff will drive a wedge through the Jeffersonian political movement. This will not lead to a revival of Federalism or even Hamiltonianism but rather to a rearrangement of Republican political sentiments along a spectrum of more or less self-rule. Those who feared that a more active national government would ultimately be fatal to a society of self-governing individuals were balanced by those who envisioned such a government could benefit such a society.

The purists, the unreconstructed, among the Republicans were by no means silenced. The most ardent among them, John Taylor of Caroline, published nearly a

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half-dozen books on politics and collections of essays on agricultural and politics (linked as they were in his mind) between the end of the war and his death in 1824. He was not a convert to a more pragmatic Republicanism, and while his books and essays elaborated on ideas he had laid out in smaller publications during Jeffersonian battles with Federalists, he defended the original principles of American self-government that remained in the political mainstream until the Civil War. In 1814 he published *An Inquiry into the Principles and Policy of the Government of the United States*, a massive treatise on what republican principles must embrace and how governmental policies threatened their implementation and practice. Five years earlier he had written Monroe that “My book! Yes, I have written one, so blotted and interlined by keeping onwards ten years in fits and starts….” He also made it clear to Monroe that this book is “intended as an answer to John Adams’s book, and an antidote against sliding into the English policy upon the skates of legislation…” It enjoyed some popularity, although it numbered almost 600 pages and contained ideas that Taylor had long championed. The foil throughout the *Inquiry* was John Adams and his *A Defense of the Constitutions of Government of the United States of America* (1787). The book (actually published as three volumes) was written while Adams was serving as US ambassador to Great Britain in the 1780s. It was intended as a reply to three critics – M de Turgot, Abbé de Mably and Dr. Price – of the constitutional systems created by the newly independent state governments. It became a wide-ranging commentary on governmental systems since ancient times as well as a defense of the various American experiments. It not only showed Adams’s erudition, but it also revealed in fairly stark terms his own political predilections. As Adams was Taylor’s foil, so Adams’s foil was M de Turgot and his criticisms that the state constitutions did not allow for enough centralized authority to insure a stable, functioning civil society. Although Adams’s regarded some state constitutions as defective – too decentralized and too democratic – he responded to Turgot and others that the American constitutional experiments had actually advanced the art of constitutional government to a new and more rational platform. To begin with, in contrast to what we’ve learned about the Jeffersonians, Adams never strayed from the basic assumption that government was necessary and essential and perhaps most importantly when properly constructed would create the conditions for a prosperous, secure and progressive social order. Adams had a less than benign view of human nature. Adams asked the question – was “human nature incapable of liberty, that no honest equality can be preserved in society, and that such forcible causes are always at work that must reduce all men to a submission to

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despotism, monarchy, oligarchy, or aristocracy?” His answer to his question was no, and in reaching that answer he invoked the history of government in England. He was not an admirer of the way in which George III and his government had treated the colonies, but nonetheless he admired the system that had evolved in England in which law was paramount and institutions were designed to balance the rivalries and competitions that derived from human nature itself. In other words by the eighteenth century, thanks to the mixed orders represented by the British system, a blueprint existed for resolving the longstanding struggle among the various societal elements to rule each other. In the hurly-burly political world Adams was seeking equilibrium, a way to balance the conflicts. That equilibrium was not to be found in freeing the individual from government but attaching the individual to government, not just any old government, but government founded upon constitutions (even though England’s was unwritten) and law. In fact the United States had improved upon the English model: “…let us compare every constitution we have seen with those of the United States of America, we shall have no reason to blush for our country.” He listed the accomplishments:

- Our people are undoubtedly sovereign; all the landed and other property is in the hands of the citizens; not only their representatives but their senators and governors are annually chosen; there are no hereditary titles, honors, offices, or distinctions; the legislative, executive, and judicial powers are carefully separated from each other; trials by jury are preserved in all their glory, and there is no standing army; the habeas corpus is in full force; the press is the most free in the world. Where all these circumstances take place, it is unnecessary to add that the laws alone can govern.15

No one should mistake Adams’s praise for the development of the constitutional form in America as an unblemished endorsement of democracy. Adams was suspicious of too much popular rule, and what he saw as positive in American constitutionalism (with some exceptions) was that it did not try to create a political system in which popular rule, i.e. rule by the masses, was paramount. In his view that did not reflect how societies, even in America, which had more popular rule than most, were organized. They included elements from popular to monarchical, and the rationale for good government was to balance these elements. That became Adams’s mantra and also became his burden.

15Above quotes are from Volume 1 of A Defence of the Constitutions of Government of the United States of America…. at an on-line site for the Da Capo Press Reprint Edition by Plenum Publishing (New York, original imprint date, 1787), Letter 23, beginning on p. 91 Adams’s commentary was presented as a series of letters, all of which began with “Dear Sir” and a place and date.
All nations, under all governments, must have parties; the great secret is to control [sic] them: there are but two ways, either by a monarchy and standing army, or by a balance in the constitution. Where the people have a voice, and there is no balance, there will be everlasting fluctuations, revolutions, and horrors, until a standing army, with a general at its head, commands the peace, or the necessity of an equilibrium is made appear to all, and is adopted by all.¹⁶

Taylor and Adams actually exchanged letters over their long lives and during their bitter feuds. The attack on Adams by Taylor and the Jeffersonians was summed up in a question: how can you make such a complicated system work without inviting intrigue and complicity to exploit the system? Besides, they said, humankind was more benign in motivation and behavior than Adams admitted and having that benign quality meant that humans could thrive, not conspire, under a system that emphasized liberty over control. For someone of Taylor’s disposition, the reason that Adams failed to grasp this was because he was confused on how they had behaved while being governed, as they had been for centuries, with how they would or will behave liberated from government. In the end, Adams saw no substitute for institutional government in contrast to Taylor who saw a perfectly sound substitute for institutional government in the form of “individual self-government”.

Taylor drew the line with Adams in the early pages of An Inquiry. Adams, wrote Taylor, claimed that three forms of government existed for all people and all time – monarchy, aristocracy and democracy – and a government may founded upon the incorporation of all three. This was an ancient axiom, believed Taylor, that Americans had rejected. Adams failed to recognize that Americans were not Greeks or Goths, and did not share the same morality that might justify embrace of a tripartite governmental system. For all his historical erudition (A Defence discusses governments from ancient to modern time), Adams missed the point: history illustrated that all these governmental systems were founded on evil moral principles and therefore should be rejected. Americans, argued Taylor, had embraced more enlightened moral principles that emphasized individual capabilities and, if properly embraced, will negate the need for Adams’s balances and mixtures, which were so full of entanglements that they heightened the less

¹⁶Adams, see above footnote, Letter 55, starting on p. 372.
benign side of humankind.\textsuperscript{17}

Much ink was spilled over the matter of “natural” versus “artificial” aristocracies. What especially galled Taylor (and Jefferson as well) about Adams was his underlying contempt for popular rule and his aristocratic tendencies. He was often charged with being a monarchist because of his belief in a strong executive, but Adams was not a monarchist and would never have tolerated the establishment of a monarchy in America. Aristocracy was a more troubling term, which Adams and Jefferson debated without resolution in several letters during their much-heralded correspondence after Jefferson retired from national politics. Adams, the realist, contended that all societies created social divisions that did not necessarily arise from or lead to an entitled aristocracy. Even in the most democratic societies, an elite will emerge simply on the basis of differences in capabilities and talents, education and background, among their members. Since some will rise higher in the social structure than others, it was necessary in constructing a government to take into account this phenomenon. This was not an artificial aristocracy, as existed in England and on the Continent, which managed to survive because it had access to title and inheritance without regard to merit, but a natural aristocracy that could serve as an indispensable institutional anchor. Indeed, the selection of US senators, not by popular vote but by state legislatures from among the elite, people of proven ability and wisdom, was designed to give the federal government appropriate balance between what the masses of society construed to be in their best interests and what the more seasoned and experienced construed to be in the best interests of the society at large. Indeed, Adams accused the Virginians, who had long dominated the national government as representing an aristocracy founded on experience, not entitlement.

For Taylor the natural-aristocracy argument was simply a more benign way of presenting the age-old quest by people of status, wealth or education to rule because they had an \textit{a priori} obligation to save individuals from their worst instincts. Whether artificial or natural, it was aristocracy that could only survive if government itself acted as protector. That the elite knew what was better for individuals than individuals themselves were illogical. Adams’s natural aristocracy was as artificial as Old World entitled aristocracy, which held power in perpetuity on the basis of its titles, because the non-entitled elite could only survive if the system of governance allowed them to do so. And to do, they would invade the natural right of individuals to govern themselves. How could a natural right ever be inferior to a concocted right? An aristocracy is an aristocracy, and, however it

came into existence, it would make every effort to preserve its place and rank out of self-interest. For Taylor the idea of the necessity for an aristocracy, no matter how it is defined, in a society that embraced self-government was bogus and nonsensical.\textsuperscript{18}

Adams and \textit{Defence} could be the foil for Taylor and \textit{Inquiry} because despite another war and endless domestic squabbles the nation had not fallen apart. Adams tried to occupy a middle position between absolutism and democracy at a time when constitutionalism, in particular America’s brand, was under attack. He wrote of modern constitutionalism as more enlightened because it could accommodate and balance competing forces ever present in civil society. This opened him to charges that he was an apologist for longstanding presumptions that individuals had to be ruled, even as America had embarked upon an experiment that postulated the opposite – individuals should rule. By 1815, however, Adams’s fears were not widely shared in America. His argument seemed almost anachronistic. It was the product of a time of instability under the Articles of Confederation and under a few radical state charters. The new federal charter along with revisions of the state charters had removed some of the destabilizing components. Many including Taylor continued to believe that the federal charter was fundamentally flawed, but despite its defects, several of which had been fixed with amendments, the nation had not fallen into political chaos. It came close in the 1790s, but with the election of Jefferson the fears that had driven much of the opposition to the Federalists had dissipated. Adams continued to harangue his opponents and defend his views, but by the time Taylor got his book published in response to Adams the raison d’être for the \textit{Inquiry} – an attack on “mixed orders” – had receded in importance.

Americans were still debating how best to make the constitutional system work but not along the lines which Adams and Taylor and their allies had debated. The irony of this was that the principles set forth by Taylor in opposition to Adams’s ideas were assuming a relevance beyond what Taylor himself may have expected. By the time the \textit{Inquiry} was published, the need to attack government that smacked of the English political system had far less traction. In the meantime, where Taylor registered an impact was by promoting an opposite view of the capacity of individuals to rule themselves without all the Adams paraphernalia. It was possible that in the decades following Jefferson’s turning the ship of state, thanks in part to Taylor’s line of reasoning that underlay his Adams critique in the \textit{Inquiry}, Americans had found the basis for a political ideology that enshrined the individual and dismissed the inherent value of the institutional approach. Once this

\textsuperscript{18}Taylor, \textit{Inquiry}, 8-9. 11. 15-16.
door was open wide, the result could be different from what its originators may have entitled. It would seem that post-War-of-1812 America was dashing ahead of where Taylor himself had fixed his “ideal” world. It is not clear that between the publication of the *Inquiry* and his death a decade later that he readily adapted to an America on the move, unrestrained although not totally so, that may in part energized by his ideas. The idyllic pastoral world that Taylor’s writings evoked would hardly characterize the post-war America to which his book was addressed. Taylor’s preoccupation with Adams meant that he failed to write a book that laid out in a systematic and cogent fashion how societies of self-governing individuals worked. There is not a total absence of attention to his own political philosophy, and there is probably enough in *Inquiry* and his large oeuvre to make him America’s most prominent spokesman for individual self-government. Adams aside, the *Inquiry* makes a sufficient case that the simpler the government the safer the individual. It is possible to follow the thread of his political thinking even if it doesn’t always turn into a finished fabric.

- There is no doubt how societies came into existence: “Societies must be composed of, or created by individuals, without whom, it neither exist nor act.” [*Inquiry*, 132-144, hereafter with pages only]

- Whatever sovereignty a society can claim must flow from “each man’s right to govern himself….Individuals, forming a society, may arrange their rights in such forms as they please….But all natural rights are individual, and this indivisibility is the substratum of our policy…. [M]ajorities and their rights are creatures of the social compact, and not endowed by nature with political power…. ” [412-415 – these pages also consider the question of representation, to be taken up later.]

- There is also no doubt how individuals may influence this development: “There strongest moral propensity, is to do good to himself. This begets a propensity to do good to others, for the sake of doing good to himself. A sovereignty of people, or self-government, is suggested by the first moral propensity; responsibility, division, and an exclusion of monarchy and aristocracy, by the second.” [76]

- The emphasis on individual self-interest or “self-love” should not be seen as a negative: “Self-love, being the strongest motive to do evil to others, as well as good to ourselves, will operate as forcibly to excite an individual or a faction to injure a nation for advancing self-love, as to excite a nation to preserve its own happiness.” The key was to understand that “self-
government” aroused the good qualities while other governments excited the opposite qualities. [76-77]

• The risk was evident. Self-love in search of self-gratification can lure individuals or minorities to injure and oppress others. Since “the excitement to injure others, for gratifying ourselves, will be in proportion to the extent of the gratification, it follows, that an individual or minority will be infinitely more likely to oppress a nation for self-gratification, than a nation…to oppress an individual or minority.” Let me add that the power of the minority to oppress or the power of the majority to protect flowed directly from how limited or how expansive self-government was. [77]

• The battle between good and bad, virtuous and vicious, will affect every society: “men are naturally both…; and…they possess a power of regulating motives, or electing principles, which will cultivate either virtue or vice. Upon this ground, government is concluded to be a moral agent, which will be activated by good or evil moral qualities; and that its qualities will certainly correspond with the principles by which it created.” [165]

• Most assuredly, a nation that practiced good moral principles would yield a national virtue, every bit as strong and pervasive as individual virtue and “sponsor of happiness.” [438]

• To assume that man was not capable of choosing good principles and more importantly electing to live by them, then what hope was there? (This was aimed directly at Adams who had a less sanguine view of humankind.) “If man, the noblest creature of this world; if mind, the noblest attribute of this creature; are both incorrigibly imperfect, the inference that the world itself is a bad work is unavoidable. Man’s case is hopeless. If he is the creature of malignity or imbecility, and damned to be governed by fiends, naturally as bad, and artificially made worse than himself, where is his refuge?” It was inconceivable for Taylor and many Jeffersonians that individuals would be “endowed” with the power to govern themselves if it were not intended to be used and could not be used with good results. [436]

• In Taylor’s mind a society came into existence when self-governing individuals decided by way of a compact, charter or constitution to create one. There was a distinction between a society and a government. (Sometimes the word “nation” muddied up the discussion about society.) Society was something “metaphysical” (one of Taylor’s favorite metaphors)
and abstract, while government something institutional and concrete. “A social compact which is only a union of individuals, for the end of creating a government, ceases on the accomplishment of the end.” But Taylor made the point, unequivocally, that even after a society and a government were established the individual right of self-government remained supreme. This was crucial because the political entities that arose out of a decision by self-governing individuals could not assume or deduce power except what was delegated on the grounds that they existed and therefore they could rule. Just as individuals created these entities, they could also dissolve them. The government was not party to the compact, and therefore it cannot alter or subvert the compact for its own purposes. [424-425]

- Taylor frequently argued in behalf of good moral principles as the bedrock of a government that would best serve the individual, and yet he seldom spelled out what these principles should be and how they should be structured. In one instance, he wrote that a government practicing “honesty, self-government, justice and knowledge” would inspire individuals (who were capable of bad behavior) to seek virtue. These were vague by any measurement. More often than not Taylor argued from the negative. If the nation established a government that favored rank or privilege, served special interests instead of the general interest, meddled with individual rights, imposed taxes, confiscated properties, encouraged fraud, denied representation – the list was very long - the results would be a nation in pursuit of vice rather than virtue. One compelling reason to keep government small, strictly defined by delegated powers, was to bar the door to those who wanted to use government to serve their own interests. [34-35]

- Despite his distrust and dislike of formal government, Taylor understand that in a society as complex and a nation as large as America it was a necessity: “As the vices, the virtues, the passions and the interests of mankind are multiplied by civilization, the necessity for multiplying” the laws increased. In primitive societies a few laws would suffice; in complex societies more law, not less, is required. At the same time a single form of government (i.e. monarch or despot) must be replaced as the need for laws multiplied because such could without restraint enact laws to satisfy their own temptations. This would hardly serve the interests of a society of self-government. [159-160]

- As societies became more complex and governments more powerful, citizens had to be ever more vigilant as to how the public arena was being managed. Virtuous citizens played a role by demanding that good moral principles be adhered to as “bulwark against licentiousness of the people.” The temptations were constant and irresistible even in the best-designed
systems. It helped if citizens, the guardians of governing institutions, would “bestow on each officer and department, only that portion of power, necessary to fulfill the annexed functions; to make these officers and departments, all dependent upon the nation or a section of it…” [161]

• The key to good government was representation. Taylor returned time and again to the theme that republicanism was founded on the notion that individuals were best protected against political mischief when elected representatives performed their duties diligently and responsibly. The way to instill those qualities in elected representatives was to make them constantly accountable to the electorate. While the division of authority among the various branches of government was an essential republican principle, the way in which the division was created in the federal charter made the House of Representative the most accountable to the electorate. (Appointed to the US Senate several times by the Virginia Assembly Taylor thought that the accountability of a senator depended on how fervently elected state legislators undertook their duties.) Elected representatives should serve short terms and be subject to frequent elections – in other words a direct and unfettered link to the electorate. The transfer of authority to govern, what Taylor called the establishment of “national self-government” out of the reservoir of “individual self-government”, could only be preserved in the form that was intended if the elected representatives were held in check by individuals using their remaining authority to govern. “Self-government, by responsible representation, is the essence of our policy…. ” [203, 210]

• Taylor was not an admirer of the Federal Constitution and grew less admiring over time. Taylor preferred a federal charter more like the Articles of Confederation or more like many state constitutions that made it extremely difficult, if not impossible, to enlarge the authority of any governmental entity. His description of government under the Articles would no doubt surprise some of its critics, including fellow Virginians. Since the executive branch of the federal government (especially in the hands of someone like John Adams) caused him to shutter, Taylor was unabashed in his praise of the executive under the Articles: “It was a plural executive, annually appointed, liable to recall, ineligible after three years, incapable of holding any other office, of little civil patronage…..” In addition under the Articles the states had much greater control over the military, and thereby the national executive was denied access to an agency that would permit it to force its will against the wishes of the citizens. Further, he argued, states made the executive dependent upon the legislature and kept the judiciary as
well “outside the influence of the executive.” (There may be some debate about this among political historians.) It was impossible to preserve “national self-government”, as the citizens intended, when collusion occurred between the various branches. The influence of a single officer, the executive, over the other branches amounted to “a substantial monarchy.” [170-173, 175, 186]

- Taylor’s agrarianism was well-known (and was examined in Volume 1: Who Shall Rule) and was closely linked to ideas about government. His economic views embraced a more complex system than the self-sufficient yeomanry. Rather, he belonged to the camp that favored the creation and distribution of greater wealth and had definite ideas about how that wealth should be created. Agriculture was fundamental because without the capacity to assure a society’s subsistence the society would have no ability to create wealth. In broader terms “As power follows wealth, the majority must have wealth or lose power. If wealth is accumulated in the hands of a few, it carries power also; and a government becomes as certainly aristocratical, by a monopoly of wealth, as by a monopoly of arms; a minority, obtaining a majority of wealth or arms in any mode, becomes the government.” His conclusion was that if all shared in the wealth, such as land, the power of governing then fell upon all and assured that self-government will prevail. Although Taylor favored property in the form of land, he recognized other forms as well. He distinguished between “real” property from which things were produced and “artificial” property from which nothing productive flowed. Farmers produced things, manufacturers produced things, stock-jobbers (or traders) and speculators did not. “It is acknowledged that I do not include under the idea of property, any artificial establishment, which subsists by taking away property; such as hierarchical, kingly, noble, official and corporate possessions, incomes and privileges…..” He did not consider those possession as property because they were not “fairly gained by talents and industry, or are capable of subsisting, without taking property from others by law.” Worse yet when government was complicit in the artificial distribution of wealth it enhanced the power of those whose aims were fraudulent and avaricious and eroded the authority of self-government. “Agriculture, manufactures and commerce, are indigenous, as it were, to human comfort and happiness; paper stock is a foreign invader, whose object is to subdue these close friends and natural allies, by instilling an opinion, that one of them will be benefitted by deserting to the common enemy.” Safety in possession of property can only exist if the holder of that property can enjoy its profits. When those profits were denied or expropriated by others who
dealt in sham property, the foundations of progressive and protective
government would crumble. Taylor was as critical of state banks as he was
of the national banks on the grounds that they were a species of monopoly
that taxed (through depreciated notes and other credit instruments) the
productive classes. Bank advocates argued, according to Taylor, “let
individuals shift for themselves.” Of course “congeries or robber” would
argue that because they knew all too well that individuals cannot succeed
against illicit associations and corporations. “Gentlemen, our policy intended
to give an equal chance to us all in shifting for ourselves....If it is right that
individuals should be left by government to shift for themselves, why is the
enchanted mantle of law charter drawn over you, which makes those under
its cover flourish, and withers all within the reach of its shadow?” The
danger was not in shifting for oneself, but rather in shifting for oneself when
the rules were written to benefit some and penalize others. [275, 310-311,
113, 244, 267, 287, 366, 389-390; underlining is mine]

The preceding was an attempt to extract from a long polemic, written in opposition
to Adams’s much-publicized defense of mixed governments, a set of ideas that
would help to bring into sharper focus the ingredients of his own political
philosophy. Other examples could be cited, for I have not exhausted the list. There
were numerous instances where his writing lacked clarity and consistency. At
times, the reader has to assume what the steps might be when Taylor’s own
accounting is flawed or incomplete. One of the oddities that even a casual reader
will observe is that he often used terms like slavery or enslaved to express what
happens when individuals becomes victims of distortions and defects in the
constitutional system without apparently addressing real slavery around him that
denied several million people the benefits of his system of individual self-
government. [Taylor was ambivalent about slavery but refused to call for its
extinction. From time to time in the thousands of printed pages one can detect a
fear of what was ahead, although he never acted on those fears.] I doubt if many
Americans ever read Taylor’s books to the end (as a graduate student, I had
trouble), but I can also imagine that they felt comfortable with the basic goals, to
the extent that they were known, that governments should be restrained to allow
individuals “to shift for themselves.”. The debate over the shape of the government
and the place of the individual will not end with emergence of post-war society,
but will actually assume a new and more vigorous intensity. Echoes of Taylor will
be heard everywhere.

John Adams in retirement for a decade and a half read Taylor Inquiry and wrote a
long response to it. It was vintage Adams. In short, the Inquiry did not measure up
GROWTH AND GOVERNANCE

to the intellectual standards that Adams practiced. It “is marked with the characteristics of the Virginian school…the tendency to metaphysical niceties of speculation, the absence of a broad, logical grasp of statesmanship, and the love of technical distinctions without the correction of extensive generalization….” Taylor’s exposition was neither fair or logical, and his failure “seems rather to be attributed to a want of early moral and intellectual discipline, the only foundation of accuracy of reasoning in later life.”\(^{19}\) He chastised Taylor for preaching a gross fraud, namely that all men were “born with equal powers and faculties, to equal influence in society, to equal property and advantage through life….For honor’s sake, Mr. Taylor, for truth and virtue’s sake, let American philosophers and politicians despise it.”\(^{20}\) Adams declared once again, as he had many times before, that he was not theorizing about how political societies should function but rather was describing historically how they had functioned. Aristocracy was not artificial but historical and no matter where government established itself an aristocratic component will develop.\(^{21}\) On the matter of “good moral principles”, the bedrock of Taylor’s political system, Adams asked: “What government, then, ever was deduced from good moral principles? Certainly none….Because imagination cannot conceive of any government besides those of the one, the few, or the many [monarchy, aristocracy and democracy], or such as are compounded of them whether complicated with the idea of balance or not.”\(^{22}\) Adams could find no examples in history where democracies (the popular component preferred by Taylor and the Jeffersonians) outperformed other governing systems:

There never was a democracy yet that did not commit suicide. It is in vain to say that democracy is less vain, less proud, less selfish, less ambitious, or less avaricious than aristocracy or monarchy. It is not true, in fact, and no where appears in history. Those passions are the same in all men, under all forms of simple government, and when unchecked, produce the same effects of fraud, violence and cruelty.\(^{23}\)

In Adams’s world people had to be ruled because by their very nature they were disposed to behave badly. Without being governed the good moral principles that

\(^{19}\)Adams to Taylor, 15 April 1814, in The Works of John Adams, Second President…., Charles F. Adams, editor, 10 volumes (Boston: Little, Brown and Company, 1851), 6:446.

\(^{20}\)Adams to Taylor, Works, 6:453-454.

\(^{21}\)Adams to Taylor, Works, 6:457.

\(^{22}\)Adams to Taylor, Works, 6:466-467.

\(^{23}\)Adams to Taylor, Works, 6:484.
Taylor expected to emerge would never be realized. In fact, claimed Adams, justice was “the only moral principle or element of government….It can be done only by general laws.”

Thus, the system of governing in America was less interested in speculating about good or bad human propensities and was more interested in creating a legal framework that would allow the historical rivalries over who should rule to recognize their common interests.

There was never much likelihood that an Adams and a Taylor would ever find any common ground. Both could be criticized for engaging in polemics. Neither the Defence nor the Inquiry was a philosophical treatise in the strict definition of what such a treatise must accomplish. More importantly, we should recognize the fundamental differences in their polemics before we try to appraise their roles. Adams, it seems to me, was driven by the deep past whereas Taylor was driven by the near past. Moreover, Adams used history to document how unreliable humans whereas Taylor dismissed history because it only documented how governing systems had agitated evil moral behavior rather than good moral behavior that individuals were capable of. I suppose what ultimately separated an Adams and a Taylor was an a priori judgment about human nature. It does not strike me as particularly unusual that Americans might look upon their experiences as a departure from the historical currents that Adams found to be so persuasive in developing his own political views. Taylor did not try to erase history as much as to establish a demarcation between the long, tortuous path of governing before the eighteenth century and now, or almost now. History informed as to what to avoid, not what to incorporate, and America had shown how to begin the task of creating a new governmental construct based on avoidance of past mistakes and reliance upon individual qualities. The forward-looking aspect of Taylor was found in his belief (as was true of Jefferson and his allies) that there were basic principles that could guide the elaboration of the construct that rejected once and for all the value of reassembling in different ways governments of the past. Perhaps I’m speculating too much but I’m inclined to think that Taylor had the better of the argument, not because Adams was necessarily wrong about the past and about the missteps that should be avoided, but rather because the past was backward-looking. The message that resonated was what individuals were capable of, not what they failed at. Jefferson’s presidential years despite some setbacks had demonstrated that a less powerful central government (certainly less powerful than the Federalists and Adams in particular had advocated) would not sink the nation. And while the War of 1812 was nip and tick the fact that America prevailed seemed to push the Federalist vision of what American needed almost out of view.

24Adams to Taylor, Works, 6:475-476.
In his masterful study of what happened to Federalists after 1815 Shaw Livermore opened his discussion with the proposition that having tapped into a powerful metaphor that societies were corrupt but individuals were pure and left to their own endeavors and resources individuals would find fulfillment the Jeffersonians had rendered Federalism and its proponents as irrelevant – Federalism could not survive in a world of individuality and, I might add, neither could Adams’s preference for mixed government. The corrupt institutions and systems were no match for the precocious individual.

It would be incorrect to describe political landscape in America after 1815 as undergoing seismic changes but it certainly experienced tremors. In retrospect the tremors can be identified with a clarity lacking the actual participants.

• As the Federalist Party slid into oblivion, the Republican Party found itself under increasing pressure to adapt to changing circumstances.

• Competing elements within the Republican Party caused the demise of the Party of Jefferson, although a new party system of Democrats and Whigs reinforced the basic republican principles.

• Battle over admission of the first state carved out of Louisiana Purchase signaled an end to a national acquiescence on slavery and race.

• Economic questions no longer revolved around some static yeoman model but rather around individual opportunity and how best to bring the political forces into line with advancing those opportunities.

• More than ever the idealization of the individual served as the driving force, even as individuals often came up short of the ideal.

The transition from the Age of Jefferson to the Age of Jackson meant that the agrarian model that implied a stable and predictable social order no longer was an appropriate description or a desirable goal for America, although the dream of the blissfulness of an agrarian society would never die. What changed the model were geography and the demography. There was more land – an agrarian dream – but to make more land productive took more economic investment and development in general. This redounded to the benefit of merchants, haulers, manufacturers,

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laborers, bankers – a panoply of economic actors – all of whom could participate gainfully in the exploitation of the nation’s landed resources. And there were more people, in particular a younger and more robust population, to be fed, housed, and employed. If America looked abroad for its economic stimulus before the War of 1812, it looked at home for that stimulus after the war. The ideological framework, developed under the Jeffersonians with a few detours and enlarged under the Jacksonians, became more profoundly embedded in the American behavior and imagination.

In the presidential election of 1816 James Monroe, the Republican and another Virginian, the last of three, won over Rufus King, a Federalist from New York. King had not even been formally nominated, so dispirited were the Federalists. Monroe had competition in the Republican congressional caucus where nominees were chosen. William Crawford, a Southerner from Georgia and a prominent, respected politician, after three caucus sessions, received 54 votes to Monroe’s 65. Crawford had been appointed Madison’s secretary of the Treasury and continued in that post under Monroe. Crawford did not directly seek the presidency, and the opposition in the caucus arose from the disenchantment within the Republican Party for another Virginian, especially among the newest and youngest party pros. Moreover, the Party, now like a giant political tent, was showing some ideological fissures. The Old Guard remained innately suspicious of expanding the national government beyond what a fairly strict reading of the Constitution stipulated and the New Generation entertained a more pragmatic approach that emphasized the need to unify the nation by undertaking certain tasks that served the general welfare. For some within the Republican Party, embracing the basic ideas of popular government and personal liberty did not automatically negate support for programs that would enhance individual prosperity and security. This has often been described as humanizing Hamilton and Hamiltonizing Republicans. While certain economic programs endorsed by the newcomers shared certain goals with the Hamiltonians and Federalists, this was not the Age of Hamilton Redux. The Jeffersonians had installed a form of Republicanism that Hamilton and his allies would have feared as destabilizing. It may well have been easier to consider some larger national initiatives with a wink toward the Constitution when government itself was in more securely accountable hands than the government under the Federalists. The so-called Hamiltonian Reconstructionists only managed a partial victory – the charter of the Second Bank of the United States – and every other initiative was either defeated, vetoed or abandoned. But rethinking the role of government in a society in which individuals (for better or worse) were more liberated and less restrained (certainly more or less so than most Federalists would ever endorse) operated in a different context a quarter century after the Age of
Hamilton. “Original Republicanism” had not withered away by any means. Before he left office, Madison vetoed the internal improvements bill (that passed by very small majorities in Congress), even though he had intimated several months earlier he might be amenable to such a program. His misgivings reflected ideological presumptions (and Madison was far less ideological than Jefferson) about the scope of government that did not extend to dubious constitutional accommodations. Perhaps the third Virginian was inclined to modify Jefferson’s dictum of a limited and frugal government.

Not likely. Monroe won handily – all but three states. I have read from time to time that he was more open to a more aggressive national agenda than his predecessors. I find the evidence for such an appraisal wanting. By nature Monroe was taciturn and reserved. He carried on an extensive correspondence with John Taylor in which the political issues and personalities of the period were often discussed. Taylor’s views were often more outspoken and critical than Monroe’s, but Monroe showed no inclination to abandon the basic principles of the Virginia Republicans. His embrace of the Anti-Federalist movement in opposition to the Constitution has been explained as a youthful venture, but some of his Anti-Federalist views remained intact. When he came to the Presidency, Monroe could observe, as any good politician – after all, Monroe had a long political career as a soldier, diplomat, state assemblyman and governor, US Senator and Cabinet officer – could observe that post-War-of-1812 America was in an expansionary mood. And that mood led some to argue for more government programs, not an unfamiliar refrain but not necessarily a widely-popular refrain.

The clues to Monroe’s views can be studied in this First Inaugural Address in March 1817. Exuberance underscored his message. Following the examples of his predecessors he intended to lay out the principles which would govern his presidency. He would do so against the backdrop of what he called the “present happy condition of the United States.” The key to success was self-government. “To whatever object we turn our attention, whether it relates to our foreign or domestic concerns, we find abundant cause to facilitate ourselves in our institutions. No matter the difficulty the nation has “flourished beyond example.” Its citizens “individually have been happy” and the nation prosperous. In an odd juxtaposition, not only were citizens happy but also the government was happy. What was the source of all this happiness? It would appear that the source was the success of the system. Europe had tried constitutional forms that more or less led to destructive wars. Quite the contrary in the United States. Our constitutional form had a more solid foundation than the European forms:
...a Government adequate to every purpose for which the social compact is formed; a Government elective in all its branches, under which every citizen may by his merit the highest trust recognized by the Constitution; which contains in it no cause of discord, none to put at variance one portion of the community with another; a Government which protects everyone in the full enjoyment of his rights, and is able to protect the nation against injustice from foreign powers.

His exuberance, I dare say, was somewhat out of control. Although moving in that direction, the national government was hardly yet “elective in all its branches”. Furthermore, segments of the population – slaves, native peoples, women – had reason to complain about the lack of recognition under the Constitution. Finally, quarreling over the constitutional form had not subsided and was about to intensify. Monroe’s spirited but exaggerated portrayal of the nation’s harmonies and accomplishments may have arisen in part from the sense of relief and pride that the military nightmare had been successfully ended, a sense many Americans shared at the time of his election.

How then did Monroe intend to guide the ship of state to further the cause? He observed that the nation was “blessed” with such things as a temperate climate, rich resources, enterprising citizens and a supportive government. A supportive government meant that it was infused with “sufficient powers for national purposes without impairing the just rights of the States or affecting those of individuals.” A constant threat was that citizens will allow their sovereignty to be usurped through ignorance or deception. Their vigilance (recall Taylor) was undeniable, and the best way to promote their intelligence and virtue in exercising their sovereignty was to base government policies on sound constitutional measures that preserved their liberties. Monroe ran through a list of goals for his presidency: (1) because external threats remained, the coast plus inland frontiers must be fortified through federal forces and state militias; but they should be moderate, “adequate to the necessary purposes”; in the final analysis, however, defense will ultimately depend on the organization and maintenance of militias whose patriotism will make them less capable of oppression; (2) improvements by means of roads and canals “will claim attention” but must proceed “with a constitutional sanction...”; building such facilities will not only “add much to the convenience and comfort of our fellow-citizens” but will also serve to bind the nation; beyond this (not much different from what his predecessors said) no direct commitment to federal internal improvements; (3) manufacturing requiring “the systematic and fostering care of the Government” represented a notable shift in the Jeffersonian rhetoric, although the value of having a vigorous domestic
manufacturing sector had gained adherents even among the Jeffersonians; more than anything, developing the domestic market was seen as a boon for agriculture as well as an enhancement of security; again no specifics were offered by Monroe, but the enactment of protective tariffs were probably far more likely than government subsidies; (4) government should cultivate friendly relations with Indian tribes, although it should also persevere in extending “to them the advantages of civilization”, a somewhat unenlightened viewpoint; (5) rising government revenues should be used to pay down the federal debt, a policy that had to be abandoned during the war and was now more urgent than ever because the debt had risen three-fold; to avoid any mischief with rising revenues Monroe promised that a continuing and thorough examination of public accounts.

Propitious were the times, in Monroe’s opinion, and he doubted that any other nation could boost of “a growth so rapid, so gigantic, of a people so prosperous and happy.” He proclaimed with no sign of irony that in “contemplating what we have still to perform, the heart of citizen must expand with joy when he reflects how near our Government has approached to perfection; that in respect to it we have no essential improvement to make, that the great object is to preserve it in the essential principles and features which characterize it, and that is to be done by preserving the virtue and enlightening the minds of the people…..” Advancing the cause by staying the path “already traced” was his goal. Monroe faced a different future from his predecessors, but he was not inclined to “trace” a new path. Indeed, as his presidency unfolded, his reluctance to interfere or to alter or to subvert in an effort to recalculate its basic republican principles only increased.\textsuperscript{26}

Some matters relating to the Monroe Presidency can be dealt with more readily than others. On the fiscal side Treasury data show that revenues from 1817 through 1824 averaged $21.5 million. In 1817 revenues stood at about $33 million with almost 80 percent or $26 million from customs. Even though tariffs will increase duties on some imports (to be discussed later), the $33 million will be the high point for customs revenues for his entire presidency. From 1818 through 1824 they averaged about $18 million per year or one-third less than the high point. Total Treasury income will also fall from $33 million in 1817 to an average of about $20 million. Internal excise and direct taxes accounted for a few hundred thousand dollars each year, although they were in line with the Jeffersonian approach to federal taxes, which he phased out over time. Land sales, 2BUS dividends and miscellaneous receipts amounted to $1 to 2 million annually. Customs duties remained the workhorse for the Treasury, but as they declined, so too did the

Treasury’s total annual income. Despite a decline in revenue, the Treasury still took in one and one-half to two times what it had collected during Jefferson’s Presidency. The Treasury ran a surplus of $3 million on averages during the eight years with pluses recorded in five of the eight years. Treasury outlays averaged about $18 million per year. Because of the very large surpluses of $17 and $11 in 1816 and 1817 respectively the government reduced the federal debt, mainly from the war, from $123+ million to $103+ million. By the end of Monroe’s Presidency the debt had been reduced another $20 million to $83 million. Interest payments were high, $5+ million a year, because of the war debt. Military expenses were even higher, averaging about $7 million a year, greater than earlier peacetime budgets but in accord with Monroe’s declaration that outlays for defense were necessary to keep the nation safe. Military outlays were also higher in his first administration than his second by several million dollars. The remaining expenses were for the general government including pensions, which had risen, again because of the war, and an appropriation of $5 million for the purchase of Florida. All in all, the Federal Treasury had sufficient income (except for the deficit years of 1820-1821 because of an economic recession and 1824 because of the purchase of Florida) to manage a fiscal program that involved no federal initiatives except for an upgrading of the armed services and was largely directed toward paying down the debt and keeping interest current.27

The tariff question proved to be more vexing. Before the War of 1812 tariff was regarded primarily as a source of government revenue rather than a protector of domestic enterprises. For a few domestic manufacturers duties were raised in order to offer a shield against cheaper imports, mainly from Great Britain with its larger industrial base. In post-war American, however, the call for tariff legislation signaled a change in economic outlook. First, the details about tariff legislation. Monroe indicated that he was open to tariff revisions. Past tariff legislation identified three categories: (1) specific duties on specific imports such as molasses, steel or nails; (2) *ad valorum* rates (averaging about 8.5 percent) on declared values of designated imports; and (3) 5 percent duties on imports not listed under 1 and 2. The duties and rates were adjusted from time to time, and tariff legislation often had to be reauthorized after a number of years. During the War of 1812 *ad valorum* duties had risen as high as 25 percent. Customs revenues fell sharply during the war because of a British blockade, and the increase in *ad valorum* rates was designed to make up some of the losses from the declining imports. The Tariff of 1816, following the war, was clearly more protectionist than any previous tariff. Duties on goods manufactured from wool, cotton and iron were raised to 25

27Studenski and Krooss, *Financial History*, 92-94. The complexity of paying down the Federal debt is discussed on pp. 92-96, especially Table 11. I will return to this matter later.
percent. Some *ad valorem* rates were raised as high as 30 percent. Without detailing each congressional debate what can be observed is that between 1816 and 1824 rates were adjusted up and down without ever achieving a coherent national tariff policy. Importers and shippers cried foul almost from the beginning because higher rates meant fewer imports and lower revenues and eventually they were joined by southern planters who sold cotton and a few other commodities on international markets and bought finished goods in these same markets with proceeds of their sales. Support came from a growing domestic manufacturing sector. Its strongest base was in the Middle Atlantic States. How Americans at large viewed these debates is hard to document in any definitive manner. Some Americans were paying attention, but they were Americans with a vested interest in the outcome. In this early phase of the protective-tariff debate this sector – manufacturing and its work force – was a small. As the shift into domestic production expands, the impact of tariff legislation will cut a wider swath. The back-and-forth on tariff legislation during Monroe’s Administrations leaves an impression that while the American economy was entering a new stage of development and opportunity, the course that should be followed was not yet so clear.

Still among the most controversial financial issues and public policies, the Second Bank of the United States will provoke consternation and criticism during Monroe’s First Administration. The justification for a new national bank in 1816 was similar to the justification in 1790. But the fiscal concerns were different. The financial mess in 1790 was far deeper than in 1816. The Revolution had been financed with array of credit and currency instruments issued by the Continental Congress and the state governments whereas the debt incurred during the War of 1812 was mainly issued through the federal Treasury. Within a year after the end of the war the Treasury was more flush than expected and arranged under the direction of Secretary Crawford to establish a sinking fund to pay down the debt. The more pressing issue in the founding of the 2BUS had to do with bank notes and specie payments. The absence of specie and the abundance of state bank notes had created a redemption crisis. Although state bank notes were presumably redeemable, the banks lacked the specie to make good. More to the point, state banks did not want to engage in redemption because they could attract more business if they did not have to depend on specie – gold and silver coins mostly of Spanish colonial origin. Nor did many Americans want to operate on a specie-based currency because that would severely limited their access to credit. This was a financial conundrum in the American story: without paper instruments in the form of currency or credit financing the economic expansion would have been difficult and yet specie remained the official medium of exchange. The rationale
behind the 2BUS was not to impose a specie system but rather, as with its predecessor, to be a regulator of paper, to make paper money more secure and less discountable. On top of the redemption crisis, however, the nation faced inflation, not uncommon after war, when pent-up demand could be let loose and the circulation of depreciated bank notes served to push up prices as demand pressed hard against supply. The charter did not outlaw state bank paper, but what was now possible through a national bank was to move toward stabilizing currency and credit transactions. Once the 2BUS was open for business (February 1817) the federal Treasury announced it would only accept for payment of land, specie, notes from the 2BUS and notes from state banks that could be redeemed. States banks in a corollary act (1817) were given some months to shore up their balance sheets by adding specie reserves. State banks did resume specie redemption, and one goal in authorizing a new national bank had been met. But the 2BUS itself came under fire, to the point that some in Congress, especially pure Republicans, were ready to uncharter it.

Mismanagement on a noteworthy scale bedeviled the 2BUS. Shenanigans of all kinds took place from dummy corporations buying its stock for subscribers who had reached their limit to branches in the West authorizing far more notes or loans than they could justify based on their deposits. In technical terms, the Bank had paid out “its liquid assets” and replaced them “with illiquid ones” (not unlike the current 2008 credit crisis) so that eventually the Bank ran out of money to underwrite any more loans. With its own supply of specie dwindling, the Bank had no choice but to call in loans. Bankruptcies ensued with the most prominent being the Baltimore Branch of the 2BUS. With lending frozen and business declining the nation endured its first major panic, a nineteenth-century term that meant depression. Many state legislatures expressed their disapproval of the 2BUS by passing legislation that placed a stamp tax on bank notes not issued through state-chartered banks as well as taxes on the operations of the 2BUS branches of which there were more than a dozen. Had these efforts been allowed to continue unchecked, the 2BUS might well have collapsed. The taxing question reached the Supreme Court, and in another landmark decision from the Marshall Court state legislatures were declared to have exceeded their authority since the Congress had organized the Bank in order to manage national finances. Under a new president, Langdon Cheeves, 2BUS introduced draconian measures to reduce its note and loan liabilities and arrange new financing to improve its reserves. Outrage against the Bank and its supporters grew as the efforts to clean up its mess spilled over into the general economy through more foreclosures and fewer loans. State legislatures came to the aid of their so-called debtor-classes by enacting lenient bankruptcy laws and chartering new banks. Eventually, the economy reversed
itself, and prosperity returned. The Second Bank survived and in fact under a new president, Nicolas Biddle, who was determined to make it a powerful, indispensable but well-managed financial institution, it thrived. Biddle was a friend of Monroe, and while Monroe had watched the slide of the Bank with dismay, he encouraged the appointment of the Philadelphian. But the Bank under Biddle did not readily make new friends, and supporters deserted it because the Bank’s behavior to exercise its regulatory authority had affirmed what the critics had argued from the start.28

As troubling as the economic and fiscal issues were for Monroe during his first term, they did not pose the dilemma that the admission of Missouri did. More than a half dozen states had been admitted to the Union prior to 1820. With exception of Louisiana they were located between the Appalachians and the Mississippi. States north of the Ohio River were part of the Northwest Territories, where “involuntary servitude” was forbidden under the Northwest Ordinances in 1787. It is often ignored that as the Northwest Territories were being organized (territorial status preceded statehood), the “Old Southwest” Territories, land below the Ohio River and between the Appalachians and Mississippi, were also being organized and, perhaps more importantly, where slavery was permitted. By 1820, because of population densities, the House of Representatives had more members from states north of the so-called Mason-Dixon Line then states south of it, and that trend showed no sign of reversing. The Senate, on the other hand, was evenly divided. According to the 1820 Census about 18 percent (1.8 million) of the population were African-American, and the majority lived in the South. (African-Americans had to be counted because of the three-fifth clause in the Constitution.) In numeric terms the number of African-Americans had doubled since 1800. If American wanted to take on questions about the existence or extension of slavery, the number of slaves and the complications of incorporating them into society were daunting if not forbidding challenges in a society where racial lines were sharply drawn. Slavery had not withered away, as many Americans had hoped (although that would too raise incorporation issues), in part because southern planters had made slavery work in their favor. In competition for a share of the world cotton market slave labor did not, as some critics had argued, prove to be a fatal inefficiency. After studying many aspect of the plantation system Stanley Engerman has concluded that over time the plantation developed “many of the characteristics of modern industrial firms, being described as ‘a factory in the field.’” He notes that plantations were heavily capitalized and that planters made

decisions about allocation of production factors in order to optimize their profits. They understood how to weigh costs including those relative to the maintenance of a slave labor force in terms of the markets they were serving, domestic or international. More importantly, they knew how to organize slave labor so as to take advantage of age, gender, skill and adaptability relative to the tasks. At the heart of the system, writes Engerman, was the “ability to force slave workers into large-scale gangs to produce primarily export-commodities [in addition to cotton, tobacco and rice].” Efficiency of production actually rose as more slaves were employed. Plantations of 15 or more slaves proved to be highly productive. And to the credit of the planters they had to devise incentives as well as punishment to get the results that they wanted. In 1820 the plantation economy as described by Engerman was in its early stages, but it was surely far enough along that any prospect for ending slave labor was dim at best. As a sign of the change in how Southerners themselves approached slavery, defenders of slavery during the debate over the admission of Missouri began to emphasize the positive side of slavery – economically and socially – to a greater degree than before.29

For more than a year (1819-1820) the Congress wrestled with the Missouri question. The Missouri controversy was complicated by the fact that in organizing the Louisiana Territory after its purchase from France, the federal government acknowledged de facto the existence of slavery. Constitutions of slave states seldom included clauses legalizing slavery; rather they were silent on slavery and by implication since slavery was not forbidden, it was allowed. Moreover, slave states affirmed slavery by enacting slave codes that determined who could be enslaved as well as rules and regulations governing slavery.30 (Non-slave states had included or added provisions outlawing slavery.) By the time of the Missouri controversy, there was an equal number of slave and non-slave states. In the end, to maintain parity in the Senate, the only branch of the federal government where slavery advocates could be sure that they had the votes to prevent any further mischief with the American slave system, two states were admitted – Missouri a slave state and Maine a free state. In addition, however, Congress mandated and after discussions with his Cabinet Monroe approved a line at 36° 30’, the southern boundary of Missouri, to be drawn across the remainder of the Louisiana Purchase above which slavery was forbidden.

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29Engerman, “Slavery and Its Consequences for the South in the Nineteenth Century,” in Engerman & Gallman, eds., Cambridge Economic History, 2:340-341.Engerman’s analysis is not uniformly endorsed, but the general proposition that planters had reordered the plantation economy toward a more profitable scale is generally accepted.

30An older study, Harrison Trexler, Slavery in Missouri, 1804-1865 (Baltimore, MD: Johns Hopkins University Press, 1914), 57-60, details the complexity of the Missouri slave codes.
How directly the Missouri controversy affected Americans in the daily lives is hard to gauge. It is another slice of history that will remain incomplete. Newspapers carried the details of the debates, and speeches were printed and circulated, but this like so many historical controversies cannot be measured in terms how it stacked up against the other day-to-day challenges and crises. Speeches delivered in the Congressional chambers were mixed affairs of impromptu remarks and fully-written texts. The public record that we have consists of transcribed notes by recorders, usually chosen by the printers who had contracts with the Congress to make a public transcript. Speakers were allowed the option to revise whatever transcription the recorders had produced. Recorders complained that they could not always hear or they were unduly rushed so as to miss parts of the deliberations. But, as was true of many historical sources, what we have is the only record from which to reconstitute the proceedings of the first debate of a national crisis that for almost a year seemed to have no apparent solution. It was certainly the first public airing at a national level over how to manage slavery since the Constitution, which provided almost no guidance. The record, incomplete and inaccurate though it may be in places, is what we have to try to understand how a routine admission of a territory to statehood became an extended debate on the future of slavery.

Let it be noted that in 1798, when Ordinances of the Southwest Territories (Alabama and Mississippi), which duplicated the Northwest Ordinances except that slavery was not prohibited, were debated, a Massachusetts Representative, George Thacher, introduced an amendment that would have reintroduced the prohibition against slavery. Technically launching the first public debate about slavery on a modest scale, the Thacher amendment attracted 12 votes and was defeated shortly after it was introduced. In 1812 Louisiana was admitted as a state without any prohibition against slavery. The remainder of the Louisiana Purchase was officially known as the Missouri territory (so as not to confuse the Territory of Louisiana with the State of Louisiana). After the War of 1812 the area to become the State of Arkansas asked to be separated from the Missouri Territory and to be permitted to organize as the Territory of Arkansas. It is worth repeating that slavery was legal when Louisiana was purchased, the treaty between the US and France confirmed its existence and enabling legislation for the Louisiana Territory and later the split-off Missouri Territory did not change that condition. Whether Americans in general were aware of the implications of this or, if they were, they were in agreement with it, is not well known and easily documented. It may be that the presumption was that land contiguous with the Old Northwest would be organized without slavery just as land contiguous with the Old Southwest was organized without prohibition of slavery. The truth was that no restrictions existed on moving slaves into any part of the Louisiana Purchase. When the Missouri
statehood bill in late 1818 contained no prohibition against slavery and therefore presumed the legality of slavery, red flags popped up. Somewhat unexpectedly the battle was joined when two New Yorkers introduced restricting amendments to the Missouri statehood and the Arkansas territorial bills. The House would turn down restrictions on slavery for Arkansas (18 February 1819) but approve them for Missouri (15-17 February 1819). The Missouri debate took place over several days, 13 through 15 February 1819. James Tallmadge (DR-NY), introduced an amendment to the Missouri Statehood Bill on 13 February that stipulated the following:

That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, whereof the party shall have been fully convicted; and that all children born within the said State, after admission thereof into the Union, shall be free at the age of twenty-five years.  

Speeches for by Arthur Livermore (DR-NH) and Elijah Mills (F-MA) and against by Clay [Speaker of the House] and two Virginians, James Pindall (DR-VA) and Philip Barbour (DR-VA), were delivered on the day the amendment was introduced. The debate gathered steam on Monday (15 February) when John W. Taylor (DR-NY) staked out the constitutional grounds in support of the amendment. Before considering his speech, I should comment briefly on Taylor’s political career. He was also the author of a proviso restricting slavery in a bill to organize the territory of Arkansas that the House after the Missouri debate considered and defeated (on 17 February 1819). In March the Fifteenth Congress will adjourn at a standoff over Missouri, the House having approved a no-slavery bill and the Senate having refused to concur. When the Sixteenth Congress convened in December 1819 (First Session) the Missouri question will be taken up again and in March 1820 it will be resolved by compromise – admission of Missouri as slave and Maine as free – although continued to lead the fight to restrict slavery in Missouri. When the Sixteenth Congress reconvened (Second

31House Proceedings, Annals of Congress, 2nd Session, 15th Congress, 15 February 1819, 1170. The actual amendments were not recorded in the proceedings on Saturday, the day it was introduced, but on the following Monday. Available on-line at http://memory.loc.gov/ammem/amlaw/lwac.html.


33There may be political significance, according to some scholars like Shaw Livermore, in the fact that New Yorkers took the lead. A long rivalry had existed between the New Yorkers (dating back to Aaron Burr’s political maneuvering to isolate Alexander Hamilton and the Federalist Party) and the Virginians. The decision to use Missouri may have been designed to strike a blow against the Virginians’ continued dominance of a political party that had a national base. Livermore, Twilight of Federalism, 88-89.
Session), Speaker Clay notified the House he could not assume his duties until late December and thereupon resigned his post. After 22 ballots over three days, the most ardent defender of the Tallmadge Amendment, James Taylor, was elected Speaker, much to the chagrin of southern Republicans whose candidate had been William Lowndes (DR-SC). In accepting the Speakership, Taylor spoke briefly and stated his intent to maintain the “forbearance and decorum” that had prevailed during the recent debate. The next Congress (Seventeenth Congress), however, will choose a new Speaker, Philip Barbour, who had helped to lead the fight to admit Missouri as a slave state. Taylor will be reelected Speaker in the Nineteenth Congress when John Quincy Adams and the anti-Jacksonian wing of the Republican Party took control.34 Given his views on slavery and other issues that called for a more consolidated national government, which he shared with the President, he like other Republicans had decided the Old Republicanism was ill-equipped to handle the new challenges.35

Taylor’s Missouri argument made the following points: (1) Congress’s authority over how to organize and administer the territories was absolute, even to the extent that it could forbid an institution like slavery that existed under former rulers and existed in states whose representatives were determining the course of the future of a territory and its citizens, and (2) more specifically the argument that a government founded under the principle that “all men were created equal” could not alter conditions that prevented the implementation of the equality principle lessened both the power of the principle and the government that subscribed to it. While skirting the issue of slavery where it existed, Taylor held strong views about slavery but also held less doctrinaire views on federal sovereignty where elevating it was required to serve the public good and the national interest. (For Old Guard Republicans, this was a dangerous doctrine.) Taylor was not shy about reminding his colleagues and the national leadership that slavery had long been deplored: “Gentlemen have now the opportunity of putting their principles into practice; if they have tried slavery and found it a curse; if they desire to dissipate the gloom with which covers their land, I call upon them to exclude it from the Territory in question…. ” He did not agree with Clay (with whom he will later help to organize the anti-Jackson Party) that dispensing slaves across the country will actually improve their condition whereas concentrating them in one region will make their lives worse. That treats a disease with “nostrums” – it “saves a finger to-day, but


amputates the arm to-morrow.” Taylor committed himself to working with his Kentucky colleague in trying to better the condition of those enslaved. What that meant was not a program that freed the slaves in order to begin their incorporation into American society as full-fledged citizens but rather a plan “to appropriate a territory to their use, and aid them in settling it....” Taylor was prepared to acquiesce to the opening of the western territories to a “market in human flesh”, but he was concerned that if slavery were allowed into the western territories it would discourage settlements by those from non-slave regions. In effect, the West would become a province of the South. Contrary to the claim that public revenues would suffer, if slave-owners could not rightfully take their property with them wherever they wished to settle, land prices and sales would increase. He asserted that land values in Pennsylvania were higher than land values across the border where slavery was permitted. He agreed, however, with those who argued that once the enabling legislation passed and a territory became a state, citizens could exercise their sovereignty and reverse a territorial mandate. He refused to believe that Americans would not take such steps to end freedom because it was so essential to their ideals. The Northwest Territories thrived without slavery, and no movement had arisen to reverse the mandate. In his opinion “No convention of people will ever permit the future introduction of slaves. Let their political institutions be established in wisdom, and I shall confidently trust in the good sense of the people to direct them hereafter.”

Taylor’s boldness did not constitute an all-out attack on slavery and it fell short on the matter of extending citizenship to any freed slave, but it raised those issues that many Americans preferred not to confront publicly and directly. Acquiescence to slavery within a democratic society was only possible so long as it remained hidden from public view or debate. It was shock and betrayal, first to have an amendment introduced and then to have a open debate on the compatibility of slavery within the American system. When Timothy Fuller (from Massachusetts took up the Declaration’s clause of All men were created equal, he was more or less shouted down (interrupted is the polite term) by other members, Southerners by and large, who reminded him of the danger to public discourse and order in his

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36 For Taylor’s Speech and others I could refer the reader to Marion Miller, editor, Great Debates in American History..., 14 volumes (New York: Current Literature Publishing, 1913), instead of the Annals of Congress, which is the source that I have followed. There are problems with both sources. Miller reprinted the debates in such a manner that sections being omitted resulted in paragraphs and sentences being linked without any indication that they were not in the original text. The problem with the Annals is that speeches were transcribed from what recorders heard (unless they had a copy of the speech) and, as result, many speeches contained phrases like “he said” so that we cannot be sure that the recorders were transcribing the speakers’ exact utterances. In some cases, speeches were published by the speakers, and the Congressional records can be compared to the printed versions with one caveat – the printed versions could be edited. Quotes in the above text from Miller, 4:44-51; from Taylor Speech, House, Annals of Congress, 2nd Session, 15th Congress, 15 February 1819, 1171, 1174-1175, 1178. Available on-line at http://memory.loc.gov/ammem/amlaw/lwac.html.
declaring that holding slaves and professing republican principles were incompatible positions because any slaves, especially if sitting in the House galleries, could use that as justification to rebel. Fuller tried to assure his adversaries that he continued to support the arrangement that allowed states holding slaves at ratification to continue to do so. Such an exemption, however, did not apply to new territories and states. He underscored that the Constitution’s “privileges and immunities clause” (Article 4, Section 2) was being violated because slaveholders enjoyed privileges and immunities and the slaves none. His reference to the aforementioned clause questioned a basic premise of an unspoken constitutional arrangement: was it intended that slavery could be extended indefinitely and universally simply because some states were more or less granted exemptions to the spirit of the Declaration and the Constitution by retaining slavery? On the matter of transporting property, in this case slaves from one state to another, the constitutional article that allowed Congress to end importation of slaves in 1808 used the term migration as well as importation (without any specific reference to slave or slavery), and for Fuller that was sufficient to allow the Congress post-1808 to impose restrictions that might imperil the movement of slaves from one state to another.  

Not surprisingly, the most ardent dissent on the Tallmadge Amendment came from a Virginian. Philip Pendleton Barbour (DR-VA), whose long political career will culminate with an appointment to the US Supreme Court, pressed the constitutional distinction between territory and state. No doubt, he argued, that Congress had the power to set the rules and regulations for territories, but once a territory became a state the power of Congress was restricted. Since the prohibition against slavery was not included in the act enabling the Missouri territory, the Congress lacked the direct authority to demand a prohibition against slavery in the state. His description of the sovereignty of the state was as broad and exclusive as may exist anywhere in the debates. “This term State has a fixed and determinate meaning; in itself it imports the existence of a political community free and independent, and entitled to exercise all the rights of sovereignty of every description whatever.” To be sure, the Constitution imposed some limitations on the sovereignty of the states – negotiating treaties or coining money – but except where the limitations were specified all states enjoy the degree of sovereignty enjoyed by the “original States”. Then Barbour came back the obvious flaw in this whole venture: no matter what the Congress did relative to the admission of Missouri, it could not prevent Missouri from amending its constitution to allow slavery. The US Constitution delegated no authority to the national government to

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regulate slavery within the states and since its ratification the precedent relative to adoption or exclusion of slavery was based solely on state prerogatives. Since the restrictionists admitted as much, “we are doing worse than nothing to legislate upon the subject.” He acknowledged that, even though the restrictionists admitted this flaw, they believed that no people once they had ended slavery would ever try to re-impose it. This probably weighed heavily on the apologists for slavery and may explain why in the end they were not willing to fall back on the constitutional defect. Would a people exercising their ultimate sovereign authority ever voluntarily establish a system of involuntary servitude?38

Barbour then turned to the crux of the matter – slavery by its very existence created a class of people who were legally and permanently declared to be inferior. The possibility that all men are not created equal will tear at the American psyche into our own day. Individual being held by others as property, which Barbour readily admitted, implied a ranking in which those held as property were of inferior to those who held them. This should not be misconstrued, he argued. Southerners were attached to their slaves to the point that nothing of economic necessity or criminal malfeasance would induce them to sell their slaves. In Barbour’s reasoning, that attachment underscores why slaveowners should be permitted to take their slaves wherever they settle. Already Southerners were virtually shut out of the North, and to ask they accede to a prohibition against slavery in Missouri and beyond was a “monstrous injustice”, both for the slaver owner and slave, given their longstanding attachments Although held as property, they were treated as the most favored and valuable property (as if to distinguish them from livestock or equipment, and “although certainly degraded in the scale of society by reason of their servitude”, Southerners felt for them “those sympathies which bind one man to another, though that other may be our inferior.” That said, Barbour continued, highlighting the differences between the liberated and the enslaved and between the non-slave and pro-slave states would weaken the sense of union that was intended by ratification of the Constitution. Denying the slaveholder a right to remove his property in order to advance his own interests was in and of itself a great injustice.39

Barbour was followed by Arthur Livermore (DR-NH). Livermore more than any other proponent of the Tallmadge Amendment went after the institution of slavery itself. “Slavery…is the condition of man subjected to the will of a master who can


make any disposition of him short of taking away his life.” Livermore then listed the injustices against – lack of education, separation of families, bodily harm – all protected by the laws of the states where slavery existed. How long, he asked, can we allow the ambition for wealth to blind us to the sins “of holding both the bodies and souls of our fellow-men in chains!” He then acknowledged that since he was bound by the Constitution relative to the emancipation of slaves where slavery had existed, he “did not propose to emancipate slaves.” But the Constitution did not demand that slavery be protected beyond the original boundaries for the sake of advancing an economic system of tobacco and cotton. In perhaps one of the strongest statements in behalf of a nation in which both white and black were free Livermore suggested that the goals stated in the Preamble of the Constitution could not be achieved by subjecting half of the nation to the other half. He repeated that the Constitution did not establish slavery but only indulged the states “in the commission of a sin” from which they could not be restrained or which they would not abandon. He then alluded to a fear that lay behind the debate and controversy: as the number of slaves grew, the risk of insurrection also grew; once conscious of their strength slaves will take up the sword against their masters whom they greatly outnumbered; and when or if that happened, slaveholder would have to turn to northerners for the means to put down the insurrections. Leaving the implication of that remark to be contemplated, Livermore then proposed that the nation either reaffirm that the Constitution did not establish slavery by stopping the extension of slavery or once and for all end the debate by declaring publicly that the Constitution mandated slavery. The latter course, as Livermore well knew, was a no-starter.

The debate continued the following day (16 February) with Tallmadge, the author of the Amendment, having the final word. While he reviewed many of the points raised in opposition, what he stressed at the very outset was his intent that the amendment should only apply to new states and not be used as a springboard to attack slavery in general, hardly reassuring to Southerners based upon what the supporters of the amendment had said. The vote on the Tallmadge Amendment was split: on the first part – to exclude slavery – the vote was 87 to 76; on the second part – gradual emancipation – it was 82 to 78. The amended bill was passed 97 to 56.


in Missouri. In turn, the House refused to accept the Senate version of the statehood bill, and the bill to admit Missouri (as well as Maine) died somewhat unceremoniously.

The Congressional Session (16 November 1818-3 March 1819) was a lame-duck session of the Fifteenth Congress elected in 1816. The Sixteenth Congress (which officially began 4 March 1819) did not convene until December, 1819. Republican majorities had increased from 80 to 86 percent in the House and from 71 to 80 percent in the Senate. The Missouri Debates occurred after the congressional elections so that any fallout from the controversy would not show up in the election results. In the previous session, even as Missouri’s bid for statehood failed, the Congress approved the organization of the Arkansas Territory without also approving an amendment forbidding slavery introduced by Taylor. During the recess (Summer 1819) some northern states adopted resolutions in support of the Tallmadge Amendment, and some members of Congress addressed the Missouri controversy in what have become know as “Circular Letters,” which politicians wrote to be circulated among their constituents. As a territory, Missouri had Congressional delegates (non-voting), one of whom, John Scott, opened his letter with a statement about the recent Congress. He described the House actions in these terms: “Mistaken motives of humanity and philanthropy governed some, while political and selfish views certainly had their weight with others.” He regretted (a term commonly used by apologists for slavery) “the existence of slavery...; I think it wrong in itself, nor on principle would I be understood as advocating it”. The inevitable but: “...I trust I shall always be the advocate of the people’s right to decide on this question, as on all others, for themselves, leaving to their own wisdom and forecast the adoption of such a Constitution, and the enactment [sic] of such laws as they shall consider best comports with their prosperity and happiness. Need I underscore such words and phrases as “people’s right to decide” or “for themselves” or “prosperity and happiness” that had become a part of the American political vocabulary since the Revolution. He then adopted the position of southern apologists that slaves would be better off if they were not confined to the South (without further explanation, although presumably in line with Henry Clay’s assertion that spreading slavery out would have an ameliorative effect on masters and their practices), but, more importantly, the Congress had no authority to interfere with what was solely a domestic concern of the individual state. He then declared the other provisions of the statehood bill were satisfactory, although he regretted that the boundary of the state of Missouri was much smaller than had been requested and he assigned that to “Jealousy of the rising greatness of...
the west....”

One would expect the Missouri delegate to oppose the Tallmadge amendment. What were the views of other Congressmen from other regions? Ephraim Bateman (DR-NJ), in a letter written at the very end of the lame-duck session, described the actions taken by each chamber – in his words “both houses were tenacious of their opinions – and asked his constituents to freely express their sentiments because the matter would be taken up again in the Sixteenth Congress (to which he had been re-elected). His own personal position on slavery was that it was “morally wrong, but in a slight variation to how to address this moral wrong he stated his belief that “no just and lawful means ought to be omitted to lessen its evils, & check its prevalence; under the impression also, that a spirit of gradual emancipation had gone forth, I was surprised to witness so much acute sensibility on the subject.”

Given the debate, gradual emancipation was hardly likely any longer. He made the acute observation that whatever was decided in Missouri would set the course for how “the whole range of country west of the Mississippi” would be settled. The Missouri controversy was, in his opinion, was “a question of the greatest magnitude...ever debated in the Congress....” He had studied the question of the extent of the power of Congress to legislate on the admission of a state, and he could find nothing in the Constitution or the Louisiana Convention (approved at the time of the purchase) that restricted its authority. He noted the Article 4, Section 3 – admitting new states – and Article 4, Section 2 – privileges and immunities – as well as Article 3 of the Convention. (In this regard he shared the views of House members Livermore and Fuller, cited above.) Having determined validity of federal intervention, he affirmed that the diffusion argument had “little force in my mind.” If diffusion were necessary, there was plenty of land in the southwest for the extension of slavery. To add more land would mean adding more slaves, would probably increase illegal importations and slave sales and “blight all the hopes of an ultimate final emancipation of that unfortunate race of beings.”

He had no doubt that the future of unborn millions and the fate of the character of the nation were at stake. Among his regrets was that “the principle of slavery has of late taken still deeper root” in portions of the nation and that if the nation were writing a new constitution the great wealth arising from slavery in the South would probably prevent an exclusionary clause.

Among the half-dozen published Letters from southern Congressmen, Missouri

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was barely mentioned. There were references to the sovereignty of the states and the powers of the Congress but in other controversies. The continuing conflict with the Seminole Indians in Florida attracted considerable attention because of a recent trial of two Englishmen, who were convicted of stirring up the Indians to attack Americans. They were ordered to be hanged and shot, respectively, although General Andrew Jackson commuted one of the sentences. Not only were the Seminoles on the mind of Southerners but so too were the Cherokees and other native nations that occupied land sought by planters and others.

When the Congress opened for business, in December, 1819, the admission of new states topped the agenda. Alabama was admitted as a slave state, but this action simply maintained parity in the Senate because Illinois had been admitted as a non-slave state in the previous Congress. In January 1820 the House approved the admission of Maine (separated by New Hampshire from Massachusetts), and sent the Maine statehood bill to the Senate where the pro-slavery forces were determined to block it unless and until Missouri was granted admission. The makings of a compromise, however, were underway. On 6 February 1820, after several days of long Senate speeches, Jesse B Thomas (IL) introduced an amendment that stated: “all that tract of the country...which lies north of thirty-six degrees and thirty minutes north latitude, excepting ...[Missouri] there shall be neither slavery nor involuntary servitude....” It also provided that any person escaping slavery shall be treated as a fugitive and returned to his owner. This would allow for the admission of both Missouri and Maine and keep parity in the Senate, but protect the remainder of the Louisiana Purchase slavery-free. The Thomas amendment was read, but debate was postponed. After more skirmishes the House and the Senate appointed a conference committee in March that would, as many suspected, approve a bill with a compromise: strike the Tallmadge amendment and enact the Thomas compromise in the Missouri bill, approve separate statehood bills for Maine and Missouri and (a new twist) strengthen the Fugitive Slave Act relative to runaway slaves in the Missouri Territory. Senate passed the Missouri Bill with the Thomas proviso and the Maine Bill, both of which the House concurred in. President Monroe signed the Maine bill in early March and a week later the Missouri bill.

Very long speeches on Missouri were delivered almost daily in the Senate and the House from mid-January to mid-February 1820. The basic arguments revealed few fundamental changes, although many participants (a couple dozen total in both chambers) laid out their positions with stronger language and sharper criticisms. The arguments both in favor of and in opposition to restriction had a familiar ring because of the earlier debates The purists on both sides made basically the same
complaint: if slavery were permitted in Missouri, it could not be stopped; if slavery were not permitted, it could be stopped everywhere. Northern senators repeated the arguments that Congress possessed the power to regulate conditions for admission, and in the case of Missouri out of concern for the incompatibility of slavery with the American ideals Congress could demand that its constitution prohibit slavery. Southern senators denounced such interference as violating the sovereignty of the citizens of the states and threatening the Union.

Two of the best orators were Rufus King (F-NY) and Charles Pinckney (DR-MD). On 1 February 1820 James Barbour (DR-VA), President Pro-Temp of the Senate and brother of Congressman Philip Barbour (DR-VA), delivered a long speech over two days that in lawyerly fashion laid out a constitutional argument against restriction of slavery. Like many apologists Barbour refused to be pinned down on the morality of slavery. “Let it not, however, be supposed, that in the abstract I am advocating slavery? Like all other human things, it is mixed with good and evil--the latter, no doubt, preponderating.” For him, the principle question was constitutional, and if that were answered in the wrong way, the Constitution could properly govern the relations between the states. After several delays King delivered his speech on 11 February. King’s speech was not recorded. On 14 February William Smith (DR-SC) rose to respond to the speech that he was reported to have characterized as containing “very strange and very novel arguments...;arguments, sir, pregnant with mischief--argument which had astonished every hearer, and which must lead to a dissolution of this Government, if persisted in.” Apparently King was prepared to scuttle the linking of Missouri and Maine on the ground that it was “‘unnecessary, and must be intended to operate in another quarter. It was unfair and unusual, and intended to coerce men to vote against their conscience.’” And further King was quoted as saying “‘it will cover the men who yield to it, with the extreme contempt of those who offer it.’” Smith found inconsistencies in King’s latest speech when compared to earlier remarks. Perhaps the most offensive to Smith was a section whose topic King inferred he’d preferred not to have to address: quoting from King’s speech,

“But my purpose is fixed. Mr. President, I have yet to learn that one man can make a slave of another. If one man cannot do so, no number of individuals can have any better right to do it. And I hold that all laws and compacts imposing any such condition upon any human being, are absolutely void, because contrary to the law of nature,

which is the law of God, by which he makes his ways known to man, and is paramount to all human control.”

Smith regarded this as the language and the religion of the French Revolution, and if it were to continue this government was “verging” to a similar end.45

On 15 February William Pinckney gave his response to King’s speech. Like Smith Pinckney confessed that he was jolted by King’s remarks: He was of the opinion that the Missouri question could be settled amicably even after these tortuous debates, but “some of the principles announced by...[King] with the explicitness that reflected the highest credit on his candor, did...startle. me not a little.” He acknowledged the “free-spirit of our Constitution and of our people” along with the warning that neither was “assurance against the propension [sic] of unbridled power to abuse....” Admitting a state was not the equivalent of admitting any old state. In this case under the Constitution it was admission of a state such as the original states were admitted – “a State full sovereignty, except as the Constitution restricts it.” To deny Missouri admission on the basis of a Constitution that some Congressmen did not like was to “make the new State less a sovereign State than, under the Union as it stands, it would be.” Under such an argument “Inequality in the sovereignty of States is unnatural, and repugnant to all the principles of that law. To violate the equality principle that applied to all nations and to states within a nation is to violate what Nature itself has established. Indeed. the US Constitution proceeded from such a truth. The Constitution

takes the states as it finds them, free and sovereign alike by nature [sic]. It receives from them portions of their power for the general good, and provides for the exercise of it by organized political bodies. It diminishes the individual sovereignty of each, and transfers what it subtracts to the Government which it creates; it takes from all alike, and leaves them relatively to each other equal in sovereign power.

He accused King and others of misreading (intentionally?) the Constitution and the Article relative to the admission of new states. The Article contained no language relative to restricting what a sovereign state could do except by inference. According to King, it was improper for one man to enslave another; therefore, that should not be permitted in Missouri, and yet by not permitting it, Missouri’s sovereign power was not compromised. The question in Missouri, argued

45Smith Speech, Senate, Annals of Congress, 1st Session, 16th Congress, 14 February 1820, 373,380-381. It is not clear that this was a transcription of an actual, written speech. Available on-line at http://memory.loc.gov/ammem/ammlaw/lwac.html.
Pinckney was not one of enslaving people but of allowing people who owned slaves to continue to do so in Missouri under laws that the citizens would approve. The origin of slavery or the power to enslave was irrelevant.

Pinckney also declared a curious inherent risk in punishing Missouri. If the restrictionists had a desire to punish Missouri because slavery originated in fraud and coercion and to ignore the basic sovereignty issue, they should be aware that their actions may come back to haunt them. Why? Because the land that the nation had been built upon may itself have been acquired through fraud and coercion from the indigenous populations. Was it not possible that if the government could deny sovereign rule to the people of Missouri that the indigenous people may rise up to deny the sovereign rule of the people of the United States? Unlikely though it was that anything like that would happen, Pinckney’s point was that many examples exist of trying to protect important accomplishments even though they grew out of suspect or questionable actions.\footnote{Pinckney Speech, Senate, \textit{Annals of Congress}, House, 1\textsuperscript{st} Session, 16\textsuperscript{th} Congress, 15 February 1820, 389-390, 395, 397, 401. Available on-line at \url{http://memory.loc.gov/ammem/ammem/amlaw/lwac.html}.}

Staunch anti-restrictionists did not accommodate themselves to the compromise. Ten of 46 members of the Senate voted against it. That included the quixotic John Randolph (VA), who despised slavery and provided for the manumission of his slaves upon his death and their transfer to land he had bought for them in Ohio but who vehemently opposed any interference because it placed the states and their citizens at the mercy of the national government. The South had always counted on a handful of northern senators to support their pro-slave positions. They along with some southwestern senators deserted the South and supported the Compromise. Randolph declared them to be \textit{dough-faces}, who were no more solid or firm in their convictions than dough.

Monroe asked his Cabinet for an opinion on the Compromise, and, as expected, after hearing their opinions he signed the statehood bills. By signing the Missouri Bill Monroe and the party that he led could not have missed the constitutional significance. The Congress had taken it upon itself to enact legislation that decreed in the land above a line slavery was forbidden. More specifically, it had decreed that slavery was permissible in a state even though that state was above the line. The latter was in accord with the presumed wishes of the people of Missouri. They had approved a constitution that allowed for slavery. From this point forward, however, any other state carved out of the “Missouri Territory” (post-Compromise the territory will be named) above 36/30 would not be admitted if its constitution allowed for slavery. That the federal government could exercise its will during the
terrestrial stage was not in dispute, although debates over how far it could go might be debatable. Even if admitted with a constitution that forbade slavery, could not the people of the state later change their mind and vote for slavery? That assumed, of course, that slavery was strictly an internal matter, one of those “domestic” powers that was beyond the reach of the federal government. A new state called South Dakota, well above the line, could, once it became a state, contest the federal restriction by the citizens declaring they favored slavery. And given the import of this legislation – to proscribe slavery from federal land not subject to the ordinances of the old Northwest Territories – its constitutionality was never tested. It was accepted, not willingly by all parties, despite the constitutional implications of such federal action, that it was impractical, even worse, dangerous, to be confronted with a recurring debate over the extension of slavery as each new territory applied for statehood. When the Missouri Compromise was finally tested in Dred Scott (1856) in a case that could have been decided on narrow technical grounds, the chasm, which had lain mostly hidden without an earlier test, spread wider than could ever be bridged. The debate that the Compromise could not silence, although it was at the heart of the debate, was the debate on sovereignty (to be taken up shortly).

A half-dozen or so Circular Letters, written by members of Congress after passage of the statehood bills and during the next session of the Sixteenth Congress, were more concerned with other issues, mainly the Florida and tariff questions. Mark Hill (DR-MA) was one of seven Massachusetts representatives from the Maine District (that District later becoming the State) and he and John Holmes were the only representatives of the seven to vote for the Compromise. Hill’s Letter from 31 March 1820 was almost exclusively devoted to the Missouri-Maine debate. He contended that “admitting Missouri without restriction you quiet the slave-holding States, constituting about one half of the nation, you do not infringe the Constitution of the country; and you inhibit slavery from a territory larger than all the original thirteen United States, in exact conformity to the ordinances of 1787.” This became a standard position among many Northerners, mainly on grounds that the controversy had pushed the Union to the brink with dire consequences for all regions. Hill accepted this but with an intriguing twist. His stance on slavery appeared to be ambivalent. Besides getting Maine statehood he wished to maintain largely the economic system that had evolved since the Constitution, and that system, of course, embraced slavery. “If any should think the perpetuity of the Union of little consequence, I beg them to read Washington’s valedictory address, and to take Great Britain for an example to show what our condition would be, if

47Three Southerners circulated letters (mainly on economic policies), two from Maine and one from Midwest.
we lose the preponderating influence of the farming and planting interest....” He then quoted Adam Smith:

“the violence and injustice of the rulers of mankind is an ancient evil...but the mean rapacity, the monopolizing spirit of merchants and manufacturers, who neither are not ought to be the rulers of mankind, though it cannot perhaps be corrected, may very easily be prevented from disturbing the tranquility of any body but themselves.” [Italics in Hill Letter.]\(^48\)

Hill’s colleague, John Holmes had also voted for the Compromise but in his Circular Letter he dealt mainly with constitutional issues. He noted that he had received almost no mail demanding he change his course but rather applauding that course. He expressed his disgust with slavery, but he also accepted the idea presented by Henry Clay and endorsed by others that spreading slavery would ameliorate the condition of the slave and eventually led to its extinction. He closed by acknowledging that when “discord, distrust, and disaffection prevailed,” the people of Main were “firm, confident, and unshaken...” His constituents were pledged to “the wisdom of the future” by avoiding sectional conflicts, soliciting “the favour and friendship of all” and affirming a policy, “at once national, liberal, and just.”\(^49\)

Although soundly attacked in Maine newspapers for accepting the Compromise, Hill was re-elected to the House in the Seventeenth Congress from the State of Main (not a district of Massachusetts), serving a single term. Holmes wrote his letter after he had resigned (15 March 1820) from his House seat, and despite the ferocious criticism of his support and vote for the Compromise, he was chosen one of Maine’s first two senators, serving until 1833. Holmes sent a copy of his letter to Jefferson, and in Jefferson’s reply came a remark that has often been cited for its perspicacity. \(^50\) Jefferson wrote after affirming that Holmes’s Circular Letter represented a “perfect justification” of his legislative duties to his constituents that “this momentous question, like a fire bell in the night, awakened and filled me with terror. I considered it at once as the knell of the Union. It is hushed for the moment indeed. But this is a reprieve only; not a final sentence.”

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continued with a bleakness for the future that Holmes had assumed would be brighter:

a geographical line, coinciding with a marked principle, moral and political, once conceived and held up to the angry passions of men, will never be obliterated; and every new irritation will mark it deeper and deeper. I can say with conscious truth that there is not a man on earth who would sacrifice more than I would, to relieve us from this heavy reproach, in any practicable way. the cession of that kind of property, for so it is misnamed, is a bagatelle which would not cost me in a second thought, if, in that way, a general emancipation and expatriation could be effected: and, gradually, and with due sacrifices, I think it might be. but, as it is, we have the wolf by the ear, and we can neither hold him, nor safely let him go. justice is in one scale, and self-preservation in the other. of one thing I am certain, that as the passage of slaves from one state to another would not make a slave of a single human being who would not be so without it, so their diffusion over a greater surface would make them individually happier and proportionally facilitate the accomplishment of their emancipation, by dividing the burthen on a greater number of co-adjutors. an abstinence too from this act of power would remove the jealousy excited by the undertaking of Congress, to regulate the condition of the different descriptions of men composing a state. this certainly is the exclusive right of every state, which nothing in the constitution has taken from them and given to the general government. could congress, for example say that the Non-freemen of Connecticut, shall be freemen, or that they shall not emigrate into any other state?

Jefferson feared that the sacrifices of the Generation of 1776 that gave rise to this new nation would be “thrown away by the unwise and unworthy passions of their sons, and that my only consolation is to be that I live not to weep over it.” He hoped, vainly perhaps, that all would weigh the consequences of discarding the “blessings” from Union that should not be expected in “scission”. A Jefferson who feared for the Republican model that he had installed in the aftermath of an earlier national crisis over political goals and perhaps a Jefferson who also regretted matters left unattended to had come to divide the nation so firmly.\(^5\)

\(^5\)Holmes sent Jefferson a copy of his Circular Letter, 12 April 1820, and on 22 April 1820 Jefferson replied, his letter was printed by Paul Leicester Ford, editor, in *The Writings of Thomas Jefferson*, 10 volumes (New York: G P Putman’s Sons, 1892-1899), 10:157-158, and is available on-line at [http://www.loc.gov/exhibits/jefferson/159.html](http://www.loc.gov/exhibits/jefferson/159.html)
In my view the Missouri controversy launched the second great American political
debate. In the years after the Ratification of the Constitution the debate concerned
how to install a national government and annunciate a set of policies
commensurate with the Constitution. Hamilton’s grand vision of an active
expansive national government gave way to Jefferson’s narrow vision of a minimal
government. The visions made divergent assumptions about individuals in whom
the original sovereign power rested. Hamilton and his followers operated from a
social theory that favored institutions over individuals and firmly believed that a
society as well as its creators would benefit under an enlightened government even
with the (substantial?) sacrifice of personal liberty. Conversely, the Jeffersonians
believed that more liberty retained by individuals and the more authority denied to
government would result in an ideal social order. Jeffersonian Republicanism
eventually triumphed over Federalist Institutionalism. It is not known and can
never be known exactly how individual Americans related to this public, national
disagreement. To what degree did they share with the Federalists distrust of
individual liberty or with the Jeffersonians embrace of such freedom? Based upon
elections they appeared to favor the latter over the former. It does not seem to be
an exaggeration to say that banking on individuals rather than institutions had
strong appeal and that eventually came to serve as the operating ideology. The
role of the state and its government figured into these debates. For many
Americans states occupied a special place because they were known entities that
preceded the federal system. It would probably not be an exaggeration either to say
that despite flaws in their charters and governments states were entities in a
political or existential sense that could be trusted. The federal system had yet to
establish that trust. These first debates were less about what the states had to give
up and more about what the national government wanted to take on. In the contrast
the second great debate had more to do with states giving up. The idea of
establishing a political order that embraced both forms of self-government, as once
defined by Jefferson, was no longer just a political ideal. Generally it was assumed
that individual self-government was best preserved and encouraged by limiting
collective self-government. That had been goal of the Jeffersonian Republicans
after they took power. In the second great political debate a shift had occurred. The
Missouri Debates involved mainly Republicans of the Jeffersonian variety, and the
shift was that the national government by removing an inimical practice – slavery
– would enhance individual liberty. Since under slavery the worker could not
realize the rewards of his efforts, a basic tenet of a society of self-governing
individuals was violated. There was a incontrovertible link between political
freedom and economic independence. To be sure, for some like Rufus King, New
York Senator with impeccable Federalist credentials, the restriction on slavery had
to do with the need to establish a rule of law that subjected individual behavior to institutional restraint. But the more relevant theme among the proponents of restriction was drawn from Jefferson’s own “life, liberty and the pursuit of happiness”. Not possible if slavery were extended.

A hard argument for pro-slavery Republicans to counter by emphasizing personal liberty. Many of the pro-slavery speeches acknowledged the obvious incompatibility of slavery and liberty and tried to divert attention in two ways. They underscored the inferiority of slaves and therefore their incapacity to live in a self-governing system. They should remain the property of masters who were committed to look out for their welfare (it was in both their humane and economic interests). To allow masters the resources that they needed to manage their responsibilities properly, they must be permitted to pursue new opportunities even if they involved moving to the new territories. In addition since the federal government had very limited authority the conduct and disposition of slavery had fallen to the states. Some states had outlawed slavery, others had not. States were actually free to outlaw slavery, reintroduce it and then outlaw it again. Moreover, they were not bound to follow the wishes of the Congress, which could permit or prohibit slavery in the territorial phase. The ultimate decision rested with the people of the state in their constitution-making capacity. When the federal government on less than sound constitutional reasoning interfered with that process, it threatened the balance between one independent political entity and another. In the first instance the necessary-evil-about-which-nothing-can-be-done position was being replaced by the flip-side – positive-good-about-which-nothing-should-be-done. This was a more aggressive approach and more than likely was more threatening to the North and West than the necessary-evil approach. With respect to the balance of power argument the Missouri controversy upped and ante. In admitting Louisiana the Congress had demanded that the state constitution remove any references to judicial proceedings that did not reflect what the Constitution and the Bill of Rights required of all states such as trial by jury. That was acceptable because it brought the new state into conformity with the rules by which other states agreed to abide. The demand on the people of Missouri was of a greater order of magnitude. Since the Ratification of the Constitution the authority to manage slavery rested solely with the states. States permitting or prohibiting slavery was undertaken by the states themselves with results that varied from state to state. Equally important, a state that permitted slavery could not under some national constitutional standard demand that anti-slave states accept slaves, if a slave-owner decided to move himself and his property there. The established precedent was that the people in their role of transferring their sovereign power could determine the exclusion or inclusion of slavery through the state
constitutional convention. That the federal government could override without precedent the expressed intention of the people of Missouri not to exclude slavery constituted a fundamental threat to state sovereignty. In effect, it was not an abstract argument about how to delegate authority based on the ambiguous language of the federal charter – to wit, the national bank – but more ominously it represented a taking-away of power that had long been recognized as falling under the purview of the state. It amounted to coercion and usurpation, the dual threat that the federal charter was designed to prevent. The fear that the federal government could out of some broad reading of its mandate subvert long-established precedents based on a state’s own sovereign authority became the driving force behind the states-rights movement. The states had been and would continue to be the best guardians of the rights of individual because they could not engage in such coercion and usurpation of authority.

Where was the President during the Missouri controversy? By most accounts in the background. He followed the debates, consulted with friends and colleagues, in particular Virginian Republicans, and helped to line up support behind the Missouri-Maine statehood bills. Monroe was aware that staunch pro-slavery forces were prepared to deny him renomination, if he did not stand behind them in defense of the extension of slavery. Between the first round and the second round of debates Monroe came to realize that the threat of disunion was real, and that was sufficient to require his support for a compromise. By the time the election rolled around, Monroe had more or less won the admiration of the nation by helping to defuse the crisis. In his Second Inaugural Address Monroe invoked as he had in his First Inaugural the great progress of the nation in achieving its revolutionary and constitutional ideals. He wrote:

In this nation there is but one order, that of the people, whose power, by a peculiarly happy improvement of the representative principle, is transferred from them, without impairing in the slightest degree their sovereignty, to bodies of their own creation, and to person elected by themselves, in the full extent necessary for all the purposes of free, enlightened and efficient government. The whole system is elective, the complete sovereignty being in the people and every officer, in every department deriving his authority from and being responsible to them for his conduct.

Without any direct reference to the Missouri controversy, resolved just months before his re-election, Monroe noted that “Perfection in our organization could not have been expected in the outset either in the National or State Governments or in
tracing the line between the respective powers.” Perhaps insinuating without mentioning the recent crisis, he reassured the nation that many of the defects that had raised issues or generated disputes had been remedied. And because of that he believed that “our system will soon attain the highest degree of perfection of which human institutions are capable, and that the movement in all its branches will exhibit such a degree of order and harmony as to command the admiration and respect of the civilized world.” He then alluded to the great westward expansion and the fact that new states had been admitted to the Union as equal participates in the national sovereignty with the original states. “We now, fellow citizens, comprise within our limits the dimensions and faculties of a great power under a Government possessing all the energies of any government ever known to the Old World, with an utter incapacity to oppress the people.”

Since it took more than a year to settle on a compromise, the rumor mill worked overtime. It did not help that one of the few remaining prominent Federalists in the Congress, Senator Rufus King (NY) gave an earnest but eloquent speech during the second round. The gallery was full and included free blacks among its audience. Daniel Webster, who had shown himself to be a young, pugnacious orator before he left the House in 1818 (only to return after the Missouri controversy), lauded King’s skills: "You never heard such a speaker. In strength, and dignity and fire; in ease, in natural effect, and gesture as well as in matter, he is unequalled." Without a full text, which has not yet materialized, we have to rely on what others said about or quoted from the speech. When John Dix, employed as an “auditor” at US Treasury and seated in the galleries during the Missouri Debates, wrote in his Autobiography that these speeches were among the most memorable experiences in his long political career. He contrasted King’s “calm, dignified, argumentative, forcible and at times fervid” style with Pinckney’s mode of oratory that was “impassioned, fiery and sometimes bordering on violence, but sustained throughout with surprising logical power. John Quincy Adams, Monroe’s Secretary of State, wrote in his memoirs of attending King’s speech and observing that King’s manner was “dignified, grave, earnest but not rapid or vehement.” King’s skill was not in raising new arguments, but rather in skewering the sophistry of the slaveholders’ arguments. King’s thesis was simple: “the natural liberty of man” was incompatible with slavery. Slave-holders in the

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chamber, according to Adams, “gnawed their lips and clutched their fists” as they listened to him, an observation that coincided with comments by South Carolina’s Smith on the Speech’s inflammatory character.55 Between the first and second rounds he authored a pamphlet (to which Smith had referred) that well summarized his views. King, a member of the Constitutional Convention and a long-time Federalist, took a broader view of the delegated powers than his adversaries. Congress had the authority to regulate the conditions under which states entered the union including the restriction or exclusion of slavery. National interests clearly trumped local interests, in this case the rights of slaveholders. Indeed, he went so far as to argue that Congress could permanently exclude slavery as part of the admission procedure. If it were left to slaveholders, how could slavery ever fade away. He obviously hoped that slavery would fade away, but he maintained stoutly, despite much criticism, that his public position was only to restrict slavery, not to extinguish it. To his adversaries including Jefferson and Madison he was not to be trusted. The Missouri controversy was tailor-made for Federalist exploitation, to topple the Monroe Presidency and reestablish a Federalist government. His speech did little to quiet his critics. In one of the most powerful and often-quoted passage, part of which Smith had cited in his post-King Senate speech, King appeared to be adamant and unapologetic about slavery’s evil.

I have yet to learn that one man can make a slave of another. If one man cannot do so, no number of individuals can have any better right to do it. And I hold that all laws and compacts imposing any such condition upon any human being are absolutely void, because contrary to the law of nature, which is the law of God, by which he makes his ways known to man, and is paramount to all human control.56

55 Charles Francis Adams, editor, Memoirs of John Quincy Adams, Comprising Portions of His Diary from 1795 to 1848, (Philadelphia: J R Lippincott & Co, 1874-1877), 4:523. Adams also reported that afterwards that evening at a dinner party hosted by John C Calhoun, nothing else was discussed except the Missouri question and King’s Speech. “The slave-holders cannot hear of them without being seized with cramps. They call them seditious and inflammatory, when their greatest real defect is their timidity.” See also Charles R King, editor, The Life and Correspondence of Rufus King: Comprising his Letters, Private and Official, His Public Documents and His Speeches, 6 volumes (New York: G P Putnam’s Sons, 1900) 6:269-270. In a letter to J A King, he noted he was deeply engaged in the Missouri question, having delivered his speech on that day, and while he could not assay the effect, he was satisfied because he had said what he wanted to say. He called the “cause desperate in the Senate, and my object was, by taking a bold position, and defending it with some vigor and much confidence, to encourage & hold up others who were languid & discouraged. For further discussion of King, see Robert Pierce Forbes, The Missouri Compromise and its Aftermath, Slavery and the Meaning of America (Chapel Hill, NC: The University of North Carolina Press, 2007), 81-98.

That a single Federalist could arouse as much fear and loathing as King did with a single speech can be understood within the context of what was being debated. That this single Federalist or this single speech would revive a moribund party was incredulous. It is worth noting that most of the Congressmen who spoke in favor of restricting slavery and many who ended up supporting the compromise were Republicans. This controversy did not derive its energy from the old Federalist-Republican political wars. The Jeffersonians had won that war. Republican politics was widely endorsed and accepted.

Circumstances had changed since the original warfare, and with those changes new battle lines will emerge. The demise of the Federalist Party was followed by the demise of the Republican Party. A new party system will emerge in the 1820s. Holding a widening political umbrella aloft against rising crosscurrent proved to be impossible for the Republicans. The complicated system of the original Federalists of balancing interests and accommodating ranks under the leadership of an elite had little appeal in a nation and among a people on the move. The American experience began as a test of how far individuals operating in their own self-interest could progress. Historically self-interest was seen as incompatible with a secure and stable social order. Individuals on their own could not contain their more base desires. If nothing else, since the revolutionary language of the Declaration of Independence Americans had demonstrated that self-interest was not necessarily self-destructive. The message of Jeffersonian Republicanism was that if the the correct dosage of individual and collective self-government can be prescribed, the results will turn the citizen away from destructive self-interest toward benign self-interest. There was nothing benign about slavery, but both camps relied essentially on what was in the self-interest of each. To postulate that Americans embraced self-interest is not to argue that they always embraced the same version. As simple as the idea of creating a society of self-governing individuals may be in theory or on paper, it like most political concepts could under changing circumstances, often rapidly so, it show several faces. Political individuality (to use Shaw Livermore’s construct), which had made Federalists’ uncomfortable, came in several flavors.
Let me push the political chronology ahead before I attend to the details of how that chronology evolved. It has been suggested that the flap over Missouri was in part a slap directed at the Virginia dynasty. Whether accurate or not in the details, Virginia’s political dominance will fade after Missouri and Monroe. By 1824 so much dissent existed among Republicans. William Crawford, a Southerner and a prominent Republican politician, won the endorsement of the Congressional Caucus, although other Republicans may have had broader support. The fractured party did not fall in behind the choice of the caucus, in part because the caucus system itself was under attack as denying citizens a voice in the selection. In the fall of 1824 four candidates, all Republicans, will contest for electoral votes. Andrew Jackson will end up with the most popular (growing use of popular ballot) and electoral votes but will fail to get a majority of the electoral votes. Thrown in the House where each state had one vote the election of the president election became mired in controversy. In the previous spring (1824) several months before his death (August, 1824) John Taylor of Caroline, who was serving his third and final time in the US Senate and who, as a member of the Senate in 1803 had introduced the bill that became Twelfth Amendment, met with Adams. It is not clear that he ever came to trust Quincy Adams any more than he trusted his father, but it was true that Taylor could be gracious toward his opponents. The conversation apparently covered various topics including the Twelfth Amendment, which Taylor told Adams was a mistake. Taylor thought that the original procedure should be restored. Why the change of heart? Recall that the original version allowed electors, then exclusively chosen by state legislatures, to write two names without reference to the presidency or the vice-presidency, a procedure that allowed electors to choose almost anyone and resulted in near chaos during the presidential election of 1800. In his final year he apparently took this position not so because of the merits of the original procedure but rather because he was so put

57 In a letter to Monroe, whose Secretary of State was Quincy Adams, a year before, Taylor wrote that both Adamses were once admires of limited monarchy. He also acknowledged that it was possible to have who supported limited monarchy and to have recanted. He was of the opinion that the idea of monarchy had been “so far eradicated from the minds of honest men, that it cannot be revived….” Was Taylor willing to admit the younger Adams into the Republican fraternity? Possibly. Taylor to Monroe, 29 April 1823, in Taylor, “The Correspondence of John Taylor…,” Branch Historical Papers, 2:351.

off by the caucus system. During a debate in the Senate a day after his conversation with Quincy Adams, Taylor took to floor to speak on the matter of the caucus. He stated that in his view the caucus system for choosing presidential nominees was a clear violation of the Constitution. He also disputed a statement by a fellow Virginian, Philip Barbour (former Speaker of the House and Monroe’s point man during the Missouri Debates), who claimed that Taylor had taught him (Barbour) how the caucus system worked. Taylor responded that while he had attended caucus sessions, he had never attended a caucus session devoted to nominating a presidential nominee. He declared that such proceedings were dangerous and unconstitutional because members of the caucus and the Party were intending to influence the selection of a president when that was the sole responsibility of the state (through the choice of electors).

However one may want to interpret Taylor’s flip-flop – nothing came of the movement to change the Twelfth Amendment – the argument against the use of the caucus for nominations was gaining momentum. The reason for the proposed amendments was that, as the franchise was broadened, questions arose about how state electors were chosen and how popular presidential voting should be treated with respect to the Electoral College. The broader the franchise, the less important the Electoral College. Not everyone, including some prominent Republicans caught up in the 1824 tug-of-war favored extending the franchise. Among political-party historians the term deference is used to describe popular participation that operated within limits. The idea behind deference was that while the right to vote would be extended to some citizens who qualified, the system would be organized in such a way that those who were qualified by education or experience would earn the call to serve the electorate. In other words the common man would defer, willingly so. (Shades of the debate between Adams and Jefferson/Taylor.) The so-called “common man”, in many cases just an ordinary citizen, was proving to be less than differential. Furthermore, if democratic institutions were to survive in the less densely settled areas ordinary citizens with less education or experience had to take up the mantle of political participation. Even though the Jeffersonians had strongly highlighted the capacity of the individual to govern, they also acted as if formal government benefited from people like their leaders assume the burden of public service.

The selection of a Republican presidential nominee in 1824 was a graphic example of the collision of the old and the new in this ever-changing political world. Virtually all the old rules went out the window. Choosing Crawford had almost no popular support. In fact, his choice seemed so indefensible that the other candidates, all Republicans, ignored it. Campaigns ensued, especially in those
states that allowed for the public to choose electors. And the most popular candidate (but not popular enough with the electors) was Andrew Jackson, a military hero, of course, but socially and culturally was cut of a different cloth. The horse-trading in the House that ended up with Adams as President, who by custom established under the Jeffersonians, was entitled to the Presidency, having served as Monroe’s Secretary of State (as had Monroe and Madison). But his recent service in behalf of Republicans did not erase the doubts of many southerners and westerners. Clay threw his support behind Adams and to the chagrin of many became Adams’s Secretary of State. For all his fame as a legislator and orator, Clay had enemies, not only because he was ambitious (and that he was) but also because he had a reputation for drinking and gambling and not always treating his opponents or his friends well. In personal behavior Jackson was no saint, and yet he was not, perhaps because of his (dubious) military accomplishments, portrayed as the professional politician, which Clay (and Adams too) could not escape. The Republican Party, which, since the election of Jefferson, had practiced deferential politics, at least in the presidential contests, could not survive the political free-for-all that followed the breakdown of the caucus in 1824. Having won more popular votes but having been denied the presidency because of the shenanigans of the professionals of the old Republican coalition, Jackson will begin a campaign for the presidency as soon as Quincy Adams was elected President in the House (as called for, the second time, by the Constitution) with votes of 13 out of 24 states. The Jefferson Party was now officially dead, and in the next presidential cycle two new parties – Democrats (Jackson) and National Republicans (Adams-Clay) – will be in process of forming. Jackson will win handily. The National Republicans will reinvent themselves as Whigs four years later. Between 1828 and 1860 except for two presidential elections the Democrats will prevail.

In a controversial essay from more than a decade ago James Huston postulated that the distribution of wealth was a powerful force within republican theory from the American Revolution to the twentieth century. The bedrock of republican theory was that in the past politics was the quickest and easiest way for aristocracies to alter illegitimately the flow of wealth in their favor. Thus, assuming this to be the most feared divergence for a society founded on republican virtues, politics, or more precisely how politics was practiced, was central to preserving and strengthening republicanism. Although summarizing Huston argument in a sentence or two is risky, the thrust of his argument could be traced to a speech delivered by a Connecticut Patriot, Benjamin Turnbull in 1773: To maintain republicanism “will be highly politic, in every free state to keep property as equally divided among the inhabitants as possible, and not to suffer a few persons to amass all the riches and wealth of a country.” To this quotation Huston added
that while many of American’s writers and thinkers subscribed to these ideals from the late eighteenth through the nineteenth centuries, they never could offer a overarching conceptualization on how to protect them. What became the rallying call as well as a piecemeal strategy was the proposition that another, more radical Adams, Samuel, advanced before the American Revolution: “…that a man should have the free use and sole disposal of the fruits of his honest industry, subject to no control.”

What I heard as a youngster – maybe it was inscribed over the stage of the Grange Hall I attended as a kid – was “Enjoy the fruits of our labor”, a sentiment that could be directed, as Grangers historically had done, against grasping corporations but also against government. In the Federalist-Jeffersonian debate Federalists were accused of organizing and administering government to deny individuals their honest benefits, and with the demise of the two original parties and the emergence of a new political alignment between Democrats and Whigs “the fruits of our labors” will be invoked again. The difference was that both parties claimed to advocate such, and yet each party was able to frame the policies of the opposing party as if the converse was true. Huston, who brings to the table considerable knowledge on nineteenth-century American business law and state economic development, makes a crucial point about the two-party system and the idea of the distribution of wealth:

Most of the two-party systems that arose in the nineteenth century pitted one type of party that adhered to laissez-faire principles (the Jefferson-Jackson Democratic Party axis) against another type that favored governmental promotion of economic development (the Federalist-Whig-Republican party axis). Yet both party axes wished to avoid legislative favoritism to individuals and establishment of monopolies; all parties operated within the boundaries set by the American concept of the distribution of wealth.

The Jefferson-Jackson position was to stress the long-held fear that too much government would enable the rise of a political economy of aristocracy – a distortion of “enjoy the fruits” – while the Federalist-Whig position was that more government would promote economic development to the benefit of all. Although I may argue that Jacksonians were more closely allied to the Jeffersonians than the Whigs were to the Federalist, I agree that both Democrats and Whigs (and their immediate predecessors) maintained that they were acting against a distribution of wealth that favored aristocracy. Democrats and Whigs will disagree about how much spread in the distribution of wealth was appropriate – the former favoring a

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59 Huston also cited others from the Revolutionary Period that invoked similar sentiments.
small spread and the latter a large spread – they both “insisted that wealth accumulations be the result of labor, not legislative favoritism or monopoly.” Because of the change in population-to-land ratios since the American Revolution, distribution of wealth based on “fruits of labor”, as Huston avers, became unassailable in the nineteenth century. No one could afford to be against it and survive politically.  

Interpreting the impact of the changing population-to-land ratio or, more broadly stated, a growing geographic mobility in early nineteenth-century America caused alarm among contemporaries as well as later historians. It seemed to portend the potential for social disorder by further attenuation of weak bonds traditionally based on family, community and institution. When the late Rowland Berthoff published his 1960 essay, “The American Social Order: A Conservative Hypothesis,” he laid great emphasis on geographic mobility. He divided American history into three cycles of varying lengths in which the nineteenth century was seen through the lens of disorder or disorganization to a far greater degree than earlier and later periods:

- Seventeenth and eighteenth centuries down to 1815 exemplified low mobility and a stable social order;
- Nineteenth century witnessed enormous migration and immigration with a disorganized and disordered social order;
- First third of twentieth century more orderly (transitional period) because free land and immigration stopped;
- By implication a fourth cycle was emerging post-1930 that emphasized stability to a degree that made it comparable to the eighteenth century.

Even if one was less concerned by the loosening of traditional social bonds, one

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60Huston, “The American Revolutionaries, the Political Economy of Aristocracy, and the American Concept of the Distribution of Wealth, 1765-1900,” American Historical Review, 98:4 (1993), pages of quotes from top of paragraph: 1079, 1081-1082, 1096-1097, 1005. Fruits-of-labor metaphor tends to understate the complexity of Huston’s argument, although it captures the essence of it. He too has reservations about tying the Federalists and Whigs too closely in terms of the aristocracy component (see footnote 36, p. 1097). He also published a book with the title Securing the Fruits of Labor (Baton Rouge, LA: Louisiana University Press, 1998) in which he both elaborates and moderates the argument in the AHR essay.

could not ignore an array of practical economic matters that required attention. Except for the recharter of a national bank with powers intended to help to stabilize credit and currency operations, tariff revisions slanted more toward protection than revenue and modest highway financing the role of the national government in administering to the economic needs was, as might be expected from minimalists, limited. State governments picked up some of the slack, but except for a few high profile projects like the Erie Canal in New York, they tended to use their authority to charter companies to undertake projects rather than their money to finance them. The opposition to taxation was every bit as strong – perhaps stronger – in the states as it was at the federal level. Many road bills were introduced in Congress and some were approved with strong backing from Republicans, but both Madison and Monroe, out of constitutional scruples, vetoed them. Even a 1822 bill to allow tolls to be established for the national road with the funds to be used to maintain and expand the road was vetoed by Monroe. Road got built one way or another, along with an increasingly number of canals, but the approach of relying on local decisions struck some as inefficient and duplicative and as not necessarily advancing national cohesion. Henry Clay spoke in republican language but acted as if the language were highly malleable. Before he was caught up in the politics of the Corrupt Bargain (1825) and while still Speaker of the House during the First Session of the Eighteenth Congress, he presented his “American System” to the House. This stood in sharp contrast to the position taken by the Madison and Monroe Administrations of limiting the role of the national government in promoting growth even though it was defended as good for the Republic, its citizens in an individual sense and a collective sense. As the new political parties began to form, the ability of the federal government to contribute to the national wellbeing was posed against a more restrictive and in many ways a less imaginative national agenda of the Jacksonian.

The American System speech was delivered on 30 and 31 March 1824. A debate to raise the tariff on some manufactured imports, effectively to exclude them in favor of domestic goods, had been going for weeks. Several day before Philip Barbour (DR-VA) a frequent critic and adversary of Clay, had given a long speech in opposition to a protective tariff. He laid out “the sum of his “doctrines”:

that the wealth of a nation is an aggregate of the wealth of the individuals who compose it; this is as plain a principle as that the whole is made up of its parts. That there is an instinct implanted in man, the master-spring of his actions, which, through his life, impels him to a perpetual endeavor to better his condition; that this principle, acting alike upon all, without concert, and without even looking to the
public interest, every man in society is constantly endeavoring to increase his portion of wealth, and, consequently, every man is laboring to add to the stock of public wealth—an increase of the whole being the inevitable result of an increase of all its parts. From these principles, this corollary is deduced; that Government should never interfere but in matters of State; that, in relation to the internal police of a country, it has done all that is required of it, all that it ought to do, when it has secured to its citizens their personal liberty and private property...; that, as to the appropriation of his skill, capital, and labor he ought to be left free as the air which he breathes, subject to no other limitation, than one which may be expressed in one maxim of the civil law: ‘So use thy own as not to injure another’s.’”

And for good measure he added that government did not know better and did not so well how to improve man’s lot. Barbour was a Virginian, a apologist for slavery and a defender of what we might call the Southern Way, but he spoke in a language that could resonate across the political spectrum even as the sectional abyss was widening.\(^{62}\) He devoted considerable time and attention to the economic development of Spain and England, and both he found wanting: Spain was poverty-ridden under despotic rulers and England was prosperous under more enlightened government but faced growing concentration of wealth leading to worker impoverishment and social inequality. Manufacturing was touted by the British as increasing economic growth, and yet the restricted market required for in Great Britain to become an industrial empire had left it at a competitive disadvantage even compared to the United States: “fetters have sunk so deep they cannot be suddenly removed without tearing away part of the flesh with them. The British example then sir, should be to us a beacon, to warn us of the rocks and shoals which lie in the way of this policy.”\(^{63}\) In less abstract terms his objections to tariff can be boiled down to three: (1) tariffs penalized southern planters because they used their earnings from selling commodities abroad to purchase European products, which would be subject to higher duties; (2) tariffs would tilt the American economy toward a manufacturing system that would erode the values and virtues of an agrarian society; and (3) protective tariffs were unconstitutional because they favored one region and one sector over others in violation of the


Clay’s speech took four and one-half hours on 30 March and another hour or two on 31 March. It was meant to be more than a response to Barbour’s speech, although Clay dealt with many technical aspects of the tariff proposals. In the end he offered a blueprint for how the nation could best assure economic prosperity and growth for its citizens without compromising their liberties. In his opening remarks he implored for “divine assistance” to help him “to recall my country from the pursuit of a fatal policy, which appears to me inevitably to lead to its impoverishment and ruin.” At this moment the nation’s economy was sputtering, but in Clay’s accounting it was worse than sputtering. The road to ruin apparently came in two starkly different forms, and by the end of the speech the ruin that Clay forecast could only be avoided by going beyond simply a protective tariff. It was just one tool within a larger system to be employed to assure America a brighter economic future.

American System appeared as “American system” twice (so far as I could count), and the phrase “American policy” may have been used more often. These phrases were more than rhetorical devices. In a speech that had far more praise for the British system than might be expected from an old “War Hawk”, it also had to draw a clear distinction between what was admirable and what unworkable. In lauding the British system Clay was not talking about its political institutions but rather about its wealth-creation engine. He cited numerous statistics that were intended to demonstrate that by encouraging the development of a manufacturing sector the British had boosted their per-capita income to unprecedented levels, far above what Americans enjoyed. He reminded his listeners that the British paid higher nominal taxes than Americans without complaint because they enjoyed higher incomes, an interesting dichotomy for anti-tax Americans to chew on. Great Britain protected its own interests, and by doing so it created “greater wealth among her subjects, and consequently, greater ability to pay their public burdens” The robustness of the British economy was laid fact directly at the door of an

64Barbour Speech, House, Annals of Congress, 1st Session, 18th Congress 26 March 1824, 1915-1945. I would note that the Annals was printed in columns and each column had a page number, so that the pages just cited actually totaled 30 columns or 15 pages, a long speech nonetheless. More than half the speech was devoted to the state of the British economy. Available on-line at http://memory.loc.gov/ammem/amlaw/lwac.html.

65Clay Speech, House, Annals of Congress, 1st Session, 18th Congress, 31 March 1824, 1961-2002. The full text of the speech was printed under the date of 31 March, even though most of the speech had been given the day before. Its length was 40 columns or about 20 pages. Probably not a direct transcription since “he-saids” appeared in the printed version. This speech was longer, true of many Congressional orations, because at several points Barbour interrupted to correct Clay, and Clay departed from his notes to respond to Barbour’s criticisms. On 31 March another speaker followed Clay until the House adjourned at 3 PM. Available on-line at http://memory.loc.gov/ammem/amlaw/lwac.html.
expanding manufacturing sector. By his statistics, the manufacturing sector was twice the size of the agricultural sector. Many Americans knew England to be an economic powerhouse. Certainly the members of the House chamber knew that and could quote as many statistics as Clay. But they also knew, as did Clay, that the British industrial economy and culture had a dark side. As individuals became more deeply engaged in the manufacturing system, they became more dependent on the system for their survival. Pauperism was commonly associated with the rise of factories, and that image stood in sharp contrast with how Americans viewed their own lives. America had paupers, but it also had a social order that worked to eliminate not concentrate pauperism. Clay’s strategy was to admit the existence of pauperism and then to paint a bleak a picture of the American economy as a prelude to its own pauperism. “In casting our eyes around us”, he spoke, what comes to our attention is “the general distress which pervades the whole society….This distress pervades every part of the Union, every class of society.” And the causes: not the lack of resources or wasteful extravagances or loss of ambition. They “are human causes, and human causes not chargeable upon the people, in their private and individual relations.” In short the distress was the result of depending too much on foreign sources and not enough to domestic ones; “we have cultivated, with assiduous care, our foreign resources, we have suffered those at home to whither, in a state of neglect and abandonment”. But Clay was fully aware of the avalanche of criticism that such comments, especially on taxes, would provoke and he took care to distinguish between a British system and an American system. Or somewhat less comprehensively, British policy versus American policy. At its core, the American system like the British system was to protect and exploit the home market. It was intended to arrest the flow of manufactured goods from abroad, to encourage the development of domestics industries through protection, to prize machine-based innovations that could increase productivity (more goods) and efficiency (lower costs) and build a diversified economy that could compete with Great Britain. (Clay noted several times the “enemy’s” capacity to fight two wars at once and to maintain and expand its general economy.) Manufacturing was not absolutely opposed in the United States. Jeffersonians could be found among manufacturers as well as agrarians. Jefferson and many within his circle had accommodated themselves to a modest manufacturing sector, but the emphasis must be on modest. Manufacturing in general and British manufacturing in

66Clay Speech, House, Annals of Congress, 1st Session, 18th Congress, 31 March 1824, 1975-1976. This differed from Barbour’s reading. This was a debate to win the hearts as much as the minds of the Congressmen, so it was probable that many of the numbers or more accurately the way the numbers were used could be faulted. Available on-line at http://memory.loc.gov/ammem/amlaw/lwac.html.

particular conjured up social disorder. It was counter to the Jeffersonian sense of order, progress and tranquility that was tied to ownership of property and the usufruct that accrued to the owner who worked the property. They could not, and for good reason, envision as orderly a society when it was committed to developing a strong manufacturing component along the lines signaled by Clay’s plan. They would prefer, as Barbour and others pointed out in their criticisms of Clay’s plan, to continue to import most manufactures in order to avoid the consequences of a dominant manufacturing economy. Clay went out of his way to assure his audience that his system was not a formula for replacing America’s agrarian dream but under the steady hand of him and other leaders with the same commitment the diversified system would work to advance the economic prosperity of the landowners and of all Americans. Clay’s appeal was not to narrow regional or aristocratic interests. Throughout his speech he championed the needs of ordinary citizens. He clearly did not think that the agrarian dream that had driven the Jeffersonian political ideology was enough. A nation of farmer, which he referred to as yeomanry, in league with planters would not allow the nation to achieve its potential. He made note of the fact that entail and primogeniture had been abolished in order to open economic opportunity to all, and by the same logic broadening the economic base by restricting foreign manufacturers easy access to American markets would add to the economic opportunities that American expected and cherished. 68 By Clay’s reckoning, if the United States continued along the path sketched out by Barbour and others with respect to American foreign policy, would not the United States remain an extension of Great Britain? Had not the British themselves come to realize that even though they lost the “provinces”, they had through their own commercial and mercantile policies kept the United States tethered except in the form of government: “do we not remain essentially British, in every thing but the form of our Government? Are not our interests, our industry, our commerce, so modified as to swell British pride, and to increase British power?” Clay then described the nation as comprehending many sectors:

agriculture, planting, farming, commercial, navigating, fishing, manufacturing. No one of these interests is felt in the same degree, and cherished with the same solicitude, through all parts of the Union. Some of them are peculiar to particular sections of our common country. But all of these great interests are confided to the protection of one Government--to the fate of one ship; and a most gallant ship it is, with a noble crew. If we prosper, and are happy, protection must be extended to all--it is due to all. It is the great principle on which

obedience is demanded from all. If our essential interests cannot find protection from our own Government against the policy of foreign Powers, where are they to get it?\textsuperscript{69}

As reasonable as Clay’s program sounded, he had a tough sell. By any measure he meant to enlarge the government, and for that reason, even without spelling out a constructive alternative, opponents could simply keep reminding the Congress and the nation of a potential threat to personal liberty and state sovereignty if enacted. Tariff legislation was mainly technical, about schedules of duties on imports and sometimes exports (and a sure undergraduate nap inducer), although the idea of tariff was not. Tariff legislation was also complicated because it never established a single duty for all good but rather created categories of duties: some items paid heavier duties than other item. Higher duties on specific items beginning in 1816 set the protection model in motion. During the next decade rates on some items like cotton, woolens, iron rose from 25 to 33 percent and higher. The list of protected items grew and one or two items had such high duties that they ceased being imported. In an unusual alliance New England supported the South in opposition to protective tariffs even though some of the imports taxed were in competition with the region’s domestic industries. The opposition came from the merchant or commercial sector whose livelihood depended on international trade. Support for tariffs came from the Middle Atlantic and Western states. Clay said little about the rates in the 1824 tariff bill. He recognized that some economic sectors would be penalized, but he insisted that their penalties would be temporary. The aim of the speech was not address the technical questions but to lay out an agenda that harnessed the energy of the individual to advance the cause beyond anything ever conceived by the original proponents of an individual capacity. The comfort zone of the Jeffersonian agrarian dream was established in accord with its assumed predictability; the comfort zone in the Clay vision was far less predictable even though the lives and ambitions of many were in play according to Clay.

Adversaries in 1824, Daniel Webster (F-MA) took on Clay in a speech, slightly longer than Clay’s, delivered over two days (1 and 2 April). His speech was a reply to both Clay and to Christopher Rankin (DR-MS) from Mississippi, a transplanted Northerner from Pennsylvania, who had followed Clay and dwelt mainly on the sectors that suffered under tariff. Like Clay, Webster was more interested in framing the debate as broadly as possible, not just financial ramifications but also

ideological implications. He made a point to dispute Clay’s description of an economic crisis. Some depressed prices and some business stagnation but not nearly as widespread as Clay’s remarks portrayed. In fact, Webster emphasized the opposite: general prosperity and evidence of improvement. Webster made clear that government could not induce prosperity or end depression. He criticized Clay for not discussing how the tariff would actually increase manufacturing at home; he further criticized Clay for ignoring the “vexious rules” that English tariff legislation imposed on the economy. Webster then argued that freedom of trade was the soundest policy for the nation to follow. Tariffs had the effect of erecting monopolies, which American manufacturers did not need or endorse. The prospects of profits from new ventures would excite “unbounded” competition to the benefit of capitalist, workers and consumers. Fair competition will actually serve to advance economic development. This was in Webster’s view an appropriate “American System” that did not need to be created through tariffs and monopolies but was already in progress. At this stage in his political career Webster represented the commercial interests of New England, and those interests were still heavily committed to international trade. Even as manufacturing was spreading and some of his own constituents supported tariffs, commerce remained dominate. Webster’s views will evolve as the American economy evolved. His appeal was for a tariff policy that avoided vexing rules and artificial barriers and must have resonated with the heirs of the Jeffersonian economic model. Webster was not an agrarian, nor was he a Jeffersonian.

In Webster’s speech as in all the speeches for and against the tariff, the goal was to advance the prosperity and happiness of the individual and the nation. That was the common denominator. This was not an assertion, especially with respect to the happiness of the individual, with which Federalists would have ever felt comfortable. Their outlook was, for the lack of a better term, more hard-nosed: governing was what was needed and practiced to keep the naturally-waring factions at peace. In a new political environment the basic proposition was how to enhance the life of the individual in his pursuit of happiness, and the “war”, as fierce as it was at times, concerned strategy. As fate would have it, the three young men who began their political careers about the same time, who depended as much

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on oratory as strategy to define the course the nation should follow and who continued on the national stage well into the 1850s also came from the three regions – Northeast, South and West – whose interests could be starkly divergent or oddly intertwined. Of the three, Clay had the broadest vision because he could not see how the West would prosper without laying the groundwork for a national economic system. Calhoun accepted the “groundwork” ideal until it came to challenge slavery, forcing him into the narrowest of visions to the point that separation might be better for all parties. Webster in turn moved from a provincial New Engander to the staunchest defender and advocate of national sovereignty against sectional interests, even though he found it necessary to compromise with those interests. In a symbolic as well as a political sense Clay’s American System, which was never enacted as he conceived it, came to represent the fault line in the debate over how to get on with realizing the individual expectations that most Americans shared.

The Tariff of 1824 became law in May 1824, and the groundwork was laid for the presidential campaign. The Tariff was not the only campaign issue. Even before the campaign started the major stumbling block was how to reach a consensus on a candidate. The choice of the caucus, William Crawford (Southerner and former Secretary of War and of the Treasury), was probably the least popular, certainly the least known, of the four, and when he became ill, the race was to see who could muster the largest number of popular votes in those states where citizens could cast a ballots. There was little doubt who was the most popular candidate, but the thought of a Jackson Presidency horrified the dissolving leadership of the Old Republicans. Once election was turned over to the House, Quincy Adams proved to be stronger than Jackson but not strong enough until Clay threw him his support. Unlike previous presidents Quincy Adams did not give an Inaugural Address, and his first major message was delivered to Congress in December 1825 as his First Annual Message. When I first read the message years ago, I was struck by a sentence buried deep in the middle of the message:

> The great object of the institution of civil government is the improvement of the condition of those who are parties to the social compact, and no government, in what ever form constituted, can accomplish the lawful ends of its institution but in proportion as it improves the condition of those over whom it is established.\(^{72}\)

Improvement under the direction of government was not only good policy but also

necessary, if government was to achieve its legal ends. Government’s success or failure will be judged in terms of or in “proportion” to how much the government improves the lives over whom it has a mandate. With these words Quincy Adams, having served as Secretary of State to Monroe in an affirmation of fidelity to Jeffersonian principles, stoked fears of the Republican Old-Guard. This statement sounded more like John Adams than Thomas Jefferson. Contained in the message was a long list of projects that Quincy Adams thought constituted appropriate governmental intervention not to mention constitutional sanction. Quincy Adams was not a Federalist in the mould of his father, but he shared an outlook with Clay and later Webster that a society of striving individuals could gain even more with an active government behind them.

John Taylor of Caroline, had he lived to hear Quincy Adams’s Annual Message, would have pounced on these pronouncements. He had published three books since *Inquiry*, and while they all reaffirmed the principles enunciated in the *Inquiry*, they did so, as other scholars have pointed out, with as strong a defense of the sovereignty of the state as advanced in his previous writings. In *New Views* Taylor declared without qualification that the Declaration of Independence and the Union that resulted were the creations of the states. He repeated a favorite rhetorical device that he had used in several different versions. It concerned a crucial distinction in the opening sentence of the Preamble of the Constitution. In his view it was no accident that the sentence was a declaration in behalf of the people of the United States rather than the people for the United States. The distinction between of and for may have been lost on most Americans, but the argument was not. The dual-sovereignty riddle continued to command attention. In retrospect it’s easy enough to think in terms of some powers flowing from individuals to state governments and some to the national government because two hundred years later the idea of an overarching union has been pretty widely taken root in our political consciousness. Not so in the 1820s, and if we think back to the Hartford Convention or the Kentucky-Virginia controversy or to the Ratification debates we become all too aware of what Taylor was driving at. The flow of authority was not along two parallel paths that made each sovereign governing unit independent of the other but in a tier in which the people created the states and then through their states created a union. That was how the Confederacy was formed, and how many Americans may have continued to see the federal government under a new constitution, notwithstanding a deliberate effort by the framers to distinguish between citizens granting sovereignty to a state government

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and then to a national government. As new states were being added to the Union, disputes over sovereignty – where it originated and how it was transferred – continued to muddy the political waters. In purely practical terms, western states did not enter the Union in the way the original Thirteen did. The new states were mandated into existence through the national government. The original Thirteen came into the Union as equals, despite many differences in how they were organized. New states were to be admitted as “equals”, and yet they lacked a history, a time when their members worked out their differences over governance and policy, comparable to the history of the original Thirteen. For the most part they were vast stretches of mostly unoccupied land with rules and procedures imposed by their prior owners. To what extent, if any, did their prior existence influence their course under their new guardian. Despite treaties and conventions and arguments about their relevance, it counted for little. They started from scratch, their history beginning basically with their official designation as territories under something that became know as “organic law”, the legislation that the Congress enacted to recognize the territory. Stipulations concerning boundaries, internal political divisions, permanent federal prerogatives and territorial governance were contained in the organic laws. Most importantly, whatever form government and society took, it must follow the basic republican principles upon which the original Thirteen had entered the Union. Newly-admitted states between the Appalachian Mountains and the Mississippi River tended to be extensions of the states next to them. States in the Upper MidWest were largely settled by people from New England and the Middle Atlantic, and, similarly, states in the South West were settled by people from the South Atlantic. Their governmental systems differed in small details, but what truly separated them was slavery and all the legal accouterments for managing slavery. Slavery was prohibited or retained in terms of these settlement patterns. Once Americans began to cross the Mississippi new patterns emerged. Hence, a confrontation over slavery that had not occurred to any significant degree entered the debate over what powers the national government could exercise in its guardianship over the territories. There was generally agreement on two points: the national government had responsibility for the territories, but once the territories became states, the national government had to recognize the sovereignty of a state. Theoretically, a state in contradistinction to its territorial phase could decide to admit or prohibit slavery, and the national government had no recognized authority to interfere unless it acted (unlikely) to permit or forbid slavery in all states. So, while the phrase that new states were admitted in equality with existing states was used repeatedly, although in several variations, the execution became fraught with controversy in the aftermath of the Missouri Compromise. Since a new state’s prior history was its territorial history under the guardianship of the federal
government, how exactly did sovereignty work under these circumstances? The sovereignty of the settlers was recognized, but the sovereignty of the government in accord with the powers granted under Constitution may be paramount during the territorial phase. and, obviously, unlike the original Thirteen, the territory under the sponsorship of the federal government had no prior state precedent to fall back on.

A dual sovereignty was surely what the framers had in mind and they argued for such at the ratifying conventions, but they left the details to be worked out. As a result the concept of a dual sovereignty never had a uniform interpretation. And, as controversies over policies in the aftermath of the War of 1812, as the great westward push began, separated further the dualists from the singularists. Among those who held firmly and wrote extensively about the dangers of a dual sovereignty was John Taylor of Caroline who held firmly to the idea that the model of the flow of authority from the people to the state government and finally to the national government was the standard and must not be altered. The people did not step outside the states originally or subsequently to endow the national government with its operating authority. In a passage that may strike many as quaint Taylor posited in his final book that “We have a Congress, a judicial power of the United States but no such department of the people of the United States.” Thus, the Preamble sentence that was “of” rather than “for” the people of the United States. Taken literally, the people in their states chose to unite, and by doing so made the new general government a creation of the states. The United States was still a confederation and “not a consolidated or a national government of the people inhabiting all these states.”  

These were not idle debating points in the mid-1820s. Americans were unprepared to abandon the Union, as South Carolina will find out a decade hence. But Americans were unsettled about the scope and authority of the national government. That debate was continuing and will intensify in the years to come. The reason for the uncertainty was not only that the nation was passing through its adolescence but, more importantly, like most adolescents Americans were compelled by the dream that did not fit the reality in which they found themselves. Whether or not they were reading Taylor’s final three books (I doubt it) or trying to resolve the linguistic distinction between of and for the people, they did understand and could act upon the words that Taylor used to describe the dream: God points to this country to prove “whether human nature is able to maintain a fair, free, mild, and cheap government? No other people ever were, or ever will be

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74Taylor, New Views, 197.
in so good a situation to settle the question affirmatively.” This was language that Americans could understand. Whatever Taylor’s personal motives were (he certainly could be an apologist for the old-guard, slave-owning, aristocratic Virginia), his philosophical sentiments on the nature of government among a people who cherished independence may have had a wide audience.75

These three final works can be read on two levels. The first was a well established view of his and others concerning the relationship between the national government and the states. He made no secret of his preference for the Articles of Confederation and his distrust of the Constitution. Many of the Revolutionary Period believed that if a republic was to work it must be built upon smaller, manageable political units. Taylor stated his case again in Tyranny Unmasked: “Most political writers have concluded that a republican government, over a large territory, cannot exit.” Big political entities usually ended up with monarchies in order to quell unrest and to establish order because there was natural tendency for components within large entities to feel ignored, exploited and hindered.76 Not all agreed with Taylor. Madison had argued in Federalist #14 that advocates of small territories were confusing democracies with republics. In democracies the people needed to be in constant association so that they could continuously know their needs and could be prepared to act upon them. But republics were based not on the participation of all members but on the participation of those selected to represent the many. Distances in the United Sates were manageable under republican forms. Moreover, the novelty of the American experiment was that it challenged old ideas of political configurations. To confine government to small units out of a sense of fear was in effect to declare the experiment dead.77 Taylor never bought this argument. Besides lacking proof for his model, argued Taylor, Madison simply highlighted the essential fear. Central government spread out over large territories without precise and direct constraints, which smaller units within the larger association had to follow, would be free to experiment with novel ways of violating individual liberties. Taylor preferred the Articles because they went further in preserving the individual’s first bulwark, the state, against usurpation by centralists. As slavery became more divisive, the rights of states became more paramount, far more so than was the case in the early years of the nation. There were issues, but nothing rose to the level that slavery did because it involved an array of social, economic and political concerns. Still, the staunch position of

75Taylor, Tyranny Unmasked, 345.

76Taylor, Tyranny Unmasked, 3.

Taylor and his camp through their writings helped to provide some of the intellectual ammunition for the states-righters who was fully prepared to pose the state between the nation and the citizen.

On a second level, however, Taylor’s writing spoke to a broader audience. Behind states-rights, which even today often shapes political debates, was another rights debate – individual rights. It can be forgotten that all sides in the American political debating arena agreed that rights flowed from individuals to the civil society and its governing institutions. What separated the contestants was a much more subtle issue – the best proportionality for surrendering or preserving rights. Federalists, if they believed in individual rights, were prepared to endorse a substantial transfer of authority from the individual to the government for the good of the nation. The Jeffersonians were not. In his First Inaugural Jefferson laid out a blueprint in which social stability and economic prosperity depended on fostering a society of producers. In Jefferson’s mind producer was equated with agrarian. The key was to set the landowning producer free to use his resources and skills to establish his economic independence. Without economic independence his own sovereignty – natural right of self-rule – could never be fulfilled. Although other economic activities were not excluded, the core of the social order as envisioned by Jefferson was the agrarian, the landowner, the producer. In non-agrarian social orders individuals became too dependent on institutions or privileges to exercise their own sovereignty. In short, they continually surrendered their sovereignty in order to advance or survive. Taylor restated their views about self-government and sovereignty most explicitly in *Constitutions Construed*: “A love of wealth, fostered by honest industry, is an ally both of moral rectitude, and national happiness…; but a love of wealth, fostered by partial laws for enriching corporations and individuals is allied to immorality and oppression…..” For Taylor the American Revolution affirmed the link between freedom and property: “…the United States waged a long war, upon the ground, that governments are instituted to secure, and not to bestow the freedom of property…..” This implied a “negative” rather than a “positive” role for government. The idea of protecting put the government in the passive role of intervening through its police powers when violations occurred. The idea of bestowing implied a differ role for government. To bestow the freedom of property meant that property rights derived from the authority of the government and not from the free choices that individuals were endowed with. Taylor was not oblivious to the risk. Even though the love of wealth was “the chief basis of civil society”, this passion required some regulation and restraint, primarily “don’t”, because it served “the primary motive by which ambition itself is awakened…..” The need for regulation and restraint, however, should not be misconstrued. Any effort to use it to invest “a government with sovereign power”
over property and wealth would yield opposite results and violate the natural order. “The distribution of wealth can only be regulated by industry, by fraud, or by force. Force and fraud are of equal weight in the scales of justice....” They subvert “the pecuniary morality, or the freedom of property”. Any attempt by the government on its own or with the consent of the people to distribute property will destroy the whole enterprise. The reason was that such action would deny the natural right of the mankind “to the fruits of their own labor.” Taylor made a distinction between sovereignty and self-government. They should not be confused, he noted. Sovereignty was an attribute “of the right of self-government and only applicable to the people. It cannot be conveyed without depriving the people of self-government.” Government was not sovereign, but the people even in the creation of government remained sovereign, a natural extension of their right of self-government. Governments, therefore, could not assume powers over the distribution of property or the creation of wealth without stripping the individual of his natural right of self-government.78

In the post-War years the question of proportionality in surrendering individual rights showed signs of shifting. More might be surrendered in order that individuals could achieve greater results. Under the older “steady-state” agrarian ideal holding onto rights had great merit and little cost. But under the new regimen, driven by demographic and territorial expansion and economic diversification and experimentation, the looser the system the more opportunity for setbacks and failures. Nothing was clearer in the protective tariff/American System speeches by Barbour and Clay than their outlook on whether a shift in national policy will worsen or improve the lot of the American because that shift would change the essential dynamic of the social order. The language of John Quincy Adams’ First Annual Message could not be mistaken as a defense of the prevailing political creed. It urged a set of policies for charting an economic course contrary to what Taylor laid out in his last writings. Even though they may have had a amicable conversation in 1824 before Taylor died and Adams became president, Taylor would not have been surprised at the path taken by Adams when he assumed power because Taylor never gave up his belief that Federalists, whether converted or not, could be trusted to protect the rights of individuals. Despite his embrace of the democratic spirit (he had little choice if he wanted to remain a national figure) Quincy Adams had not embraced and probably could not Taylor’s construct. A society without a strong institutional fabric was unthinkable to his father, and with some modification was unthinkable to him.

78Taylor, Constitutions Construed, 11, 13, 29-30, 32-33.
The four years of the Quincy Adams Presidency were more troubled than his father’s. The Congressional elections in 1824 and 1825 (some states held their election in 1825) were no smoother than the contest for the presidency. The Federalist Party had virtually disappeared and the Republican Party was in disarray. When all the results were finally accounted for in 1825, the Adams group held slightly more than half the seats with 109 in the House to 104 for the Jackson group and the Jackson group held a slight majority of four seats in the Senate. The Jacksonians were a force to be reckoned with, and by the next round of Congressional elections for the Twentieth Congress (1826-1827) they will pull ahead in the House and extended their majority in the Senate. Jackson, although distrusted in more conservative quarters, had a sufficient strength to block the national goals of Adams and the presidential aspirations of Clay. The Adams/Clay coalition, soon to be known as the National Republicans and then Whigs, could sense that they an uphill battle in winning the affections of the citizens against Old Hickory. Scholars have studied Jackson from every angle in order to try to understand his appeal and success in the political arena. For a man who left a modest personal archive – few letters or other documents – he has inspired a large body of analytical and interpretive literature. Quincy Adams even as a surprising convert to Republicanism was predictable. His predictability was a disadvantage because endorsing the American System resurrected some ghosts best left dead. Jackson was less predictable. Perhaps that was possible because he said or wrote so little. It is doubtful that he was never the democrat he proclaimed himself to be, but more telling he could never be painted as the elitist that his opponents could be. Jackson could dilly-dally, could speak out of both sides of his mouth and act in a way that many Americans may have understood almost instinctively. Quincy Adams and his coterie were not instinctive; they were deliberative. They laid out an argument that made sense for their time, as many historians of our time have enthusiastically suggested. But Jackson gained the upper-hand not because he laid out the argument but because he spoke and acted in a way that Americans understood without knowing the argument. It was not that Jackson was universally admired, although he had far more admirers than his principal adversaries. The National Republicans and Whigs kept it close some years, elected a couple of presidents who sounded more like Jackson than Clay and generally failed to enact much of what was meant to distinguish them from their opponents. The first half of the nineteenth century belonged mainly to the Jeffersonians and Jacksonians, Republicans and Democrats, because more Americans felt at ease with a message that reaffirmed, not always intelligently or straightforwardly the idea of leave the individual to his pursuits. The idea of a society of self-ruling individuals had sunk its roots.
The events that helped to realign the political landscape did not disappear. The Missouri Line was viewed by some as settling the slave question but it didn’t. That slavery could have any place in a society of liberated individuals was increasingly being discussed publicly in ways that caused slaveholders concern. A new tariff, the Tariff of 1828 or Abominations, was crafted by John C Calhoun of South Carolina in such a way that neither pro- and anti-tariff forces could support it. To his dismay the Congress passed the bill and Adams signed it months before the presidential election. Because of these odd and unexpected circumstances – a tariff introduced by a southern senator who represented a region that opposed tariffs – the idea of nullification, first broached in the Kentucky and Virginia Resolutions a quarter century earlier, will reappear in the public arena in a somewhat more vigorous and to some a more frightening form. Calhoun who had championed the misguided tariff legislation was also the author of several disquisitions on how and why nullification represented a proper safeguard of the rights of states to protect their citizens and interests. The rising threats against slavery may have been more of a motivating factor than tariffs, although slaveholders linked higher tariffs to an attack on southern economic and cultural foundations.

While tariffs highlighted regional differences that spilled over into a simmering slavery cauldron, the major economic debate concerned the 2BUS. The Bank charter expired in 1836, and nearly a decade before that had to be decided the forces pro and con began to line for the battle over its future. Even though the Bank had performed well under its charter after initial missteps, it had aroused antagonism in many different quarters and regions, especially under the leadership of the Philadelphian Nicholas Biddle. Biddle tried publicly at least to maintain contacts with the various camps, but, being more the Whig than the Democrat in his own political temperament, he eventually joined forces with the opponents of Jackson and pushed for recharter four years before the actual expiration date. He never fully comprehended how to read the leadership of the Democratic Party with respect to recharter, in part because the Party sent mixed signals about the future of the bank, which he failed to unravel, and in part because the Democrats had a simpler message, which amounted to no without worrying much about an alternative. When the ruling Democratic Party launched the Bank War, not only to deny an extension of the charter but also to diminish the Bank before the charter expired, the argument used against the Bank was framed in terms of what was best for the nation versus what would best serve the individual. Since individual pursuit was the preferred avenue to prosperity and progress and the Bank was a monopoly that could curtail, not advance pursuit, it lacked legitimacy as well as necessity. Even as the nation was caught up in debates over other issues – Indian removal, internal improvements, political scandal – the Bank Crowd and their political
supporters made sure by their actions that the Bank War would subsume all other issues.

Andrew Jackson easily won the 1828 presidential election against John Quincy Adams. The slander had begun with the “Corrupt Bargain” in 1824 when Clay threw his support to Quincy Adams instead of Jackson who had pluralities in both popular and electoral votes, after which Adams named Clay Secretary of State. The smear campaign only intensified as the 1828 election drew near. From Jackson’s controversial marriage to a divorcee before her divorce was completed to Adam’s turning over a servant girl desired by the Russian Czar while Adams was minister to Russian, the campaigns and their adherents dug up as much dirt, often unsupported, as they could find to blacken the opponent’s record.

Despite the down-and-dirty tone of the campaign – not the first or the last time in American political campaign history – a far more significant feature was that more than a million Americans cast ballots for president, more appropriately for presidential electors. They were exclusively white males, but that in itself was significant because no more than a third of the total white males participated during the Jefferson Era. As property restrictions eroded and local politics flourished, white males participation grew to 70 to 80 percent of the total. The politics of deference, which some would characterize the behavior of American voters in the previous half century had given way to the politics of the common man. Although common man has been embraced and criticized by historians, it does convey the spirit of the change. More ordinary citizens were engaged in the political process as registered voters or elected officials than ever before. The general impact of this was to shift the focus of political parties away from the elders or sachems to the base. Some deplored the shift because they did not believe that ordinary citizens had the experience or preparation to assume the levers of governments. To be sure, many were novices especially on the frontier or in the west where few settlers who could qualify under the old criteria. In some western communities offices went begging because of the lack of candidates or could only be filled if officeholders assumed additional responsibilities. There was a response to the complaint that the quality of governing would suffer as more and more ordinary citizens became involved. And the response was one that Americans could identify with – keep government simple. Whatever else Andrew Jackson may be famous for as a military leader or a political opportunist, he tended to convey a simple message about government that could only have reinforced the image that he embodied and extended the Jeffersonian model of minimal government.
Demographic changes had political implications. The nation counted nearly 13 million. The distribution of the population showed that almost 2 million lived in New England and more than 3.5 million in the Middle Atlantic and South Atlantic States. Adding up the figure for the states and territories west of the Appalachians more 3.5 lived in the West an number equal to the populations of the Middle and South Atlantic regions. (It must be noted that over 2 million of the 13 million were slaves located primarily in the South Atlantic and South Central). More than a quarter, almost a third, of the population lived west of the Appalachians. In 1790 the inland United States beyond the Appalachians had fewer than a half million. In 40 years the growth was seven-fold. Since the 1820 census alone the population had grown by a third. Internal migration and the problems attendant to it could not be ignored with respect to political and economic policies. Also important was the growth in urban population. By 1830 it had reached 1.1 million, several hundred thousand higher than ten years before. Rural and urban interests could overlap, but they could also diverge. The parties in 1830 unlike their predecessors operated in a different demographic context that required different approaches and responses.

The concept of minimal government, as applied to America in 1828, had to confront some unexpected developments since Jefferson introduced it in his first term. Americans had breached the Appalachian Mountain barrier that had served as the western boundary for the colonies and then the early states. Kentucky and Tennessee were admitted in the 1790s and shortly after Jefferson assumed office Ohio would be admitted. Even though the Jeffersonians moved aggressively to add territory (Louisiana, 1803, Florida, 1819), they may not have been fully prepared for the changes that the westward expansion was leaving in its wake. Their agrarian model assumed a society of producers whose dependence on government would naturally diminish as they realized the direct benefits of their own talents and skills without fear of intrusion or confiscation. The details of how the model would work on a day-to-day basis were never spelled out. All social theories fall short in that regard, and yet, despite the absence of a blueprint, the idea of positive outcomes from individual pursuits without institutional incentives had wide appeal in America by 1800. It was not at all difficult to draw certain lessons about the capacity of the individual from the Revolutionary Era. Nor certain taboos about political and social organizations. And since America acquired the land between the Appalachians and the Mississippi there was no doubt that these territories would be settled and perhaps the land to the west of the Mississippi plus Florida would be acquired and settled. Jefferson in particular mused in his correspondence

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with his friends and allies about what the purchase of Louisiana meant for America’s security and how the land should be settled. No specific plans were ever promulgated after the Lewis and Clark territorial survey, and the land west of the Appalachians began to fill up, faster, I suspect, than the Jeffersonians had assumed. The Federalists observed what might happen and opposed the Purchase out of fear that the focus of the nation would shift from the east, especially the coast region, to the west. I have often wondered (recall John Taylor’s letter to John Breckinridge of Kentucky) if the Jeffersonian model was ever truly suited for the westward drive that came to dominate politics and economics in the first quarter of the eighteenth century. The model has an implied element of tranquility and calmness, as if once the model was launched there would be little occasion for conflict, hostility, disruption, uncertainty unless exterior forces (including unwarranted government intrusion) came into play. It is not clear to what extent the model could accommodate the rapid domestic changes that early-nineteenth-century America exhibited.

Despite Virginians’ contributions to America’s early political developments the Virginian Constitution was far more restrictive in terms of popular government than other state constitutions. Western Virginians (now West Virginia) did not like the property-qualification clauses that limited voting to large landowners. Westerners owned smaller plots and yet could not vote. This became a battle between old and new, Tidewater and interior, deferential and democratic that caused some Revolutionary Virginians’ concern about the future of the nation. Republicans could wax eloquent about the capacity of individuals to govern their lives and pursue their dreams without government’s guiding hand, but when these political ideals were converted into concrete actions, the results could pit Republican against Republican. Butting heads over how to realize fully the ideals may have been more evident in states like Virginia that had both a settled and a less settled area and a long period in which one region had dominated in the directing the state. Beyond Virginia, say, in Illinois or Missouri, newly settled, were battles over deference also taking place? Less likely, certainly less likely in the Virginia mold. The debates ironically took place at a Virginia constitutional convention in 1830, 200 years after its founding over a Constitution that had been written during the Revolutionary Era and over a provision that diminished rather than exalted the capacity of the individual to govern himself concerned a shift in political behavior and participation in territories and in the states created from territories where conditions were not unlike western Virginia and became the basis for the frontier thesis. When Frederick Jackson Turner wrote his seminal “The Significance of the Frontier in American History” in 1890, he quoted from these Virginia debates to advance an essential point about politics on the frontier. The
westerner went about things, political and cultural, that reflected how the environment affected one’s outlook. The behavioral patterns and mental frames that guided the easterner would not work effectively on the frontier. The response of a western Virginian to a Tidewater Virginian placed the frontier as an adapting experience in the highest possible relief:

But, sir, it is not the increase of population in the West which this gentleman ought to fear. It is the energy which the mountain breeze and western habits impart to those emigrants. They are regenerated, politically I mean, sir. They soon become working politicians, and the difference, sir, between a talking and a working politician is immense. The Old Dominion has long been celebrated for producing great orators; the ablest metaphysicians in policy; men that can split hairs in all abstruse questions of political economy. But at home, or when they return from Congress, they have negroes to fan them asleep. But a Pennsylvania, a New York, an Ohio, or a western Virginia statesman, though far inferior in logic, metaphysics, and rhetoric to an old Virginia statesman, has this advantage, that when he returns home he takes off his coat and takes hold of the plow. This gives him bone and muscle, sir, and preserves his republican principles pure and uncontaminated.  

I’m not interested in trying to determine whether or not Turner got it right. The irony of this is that the state in which its leaders argued so compellingly for individual sovereignty was getting around to doing what conformed to their political convictions and was being put into practice in the new western states. The words of the western Virginian in a long-settled state with a frontier underscore, the attributes that Turner wrote about as distinguishing the frontier from the east: ingenuity, resourcefulness, more open to experimentation and less bound by tradition. And since a third of the states voting in the 1828 election were west of the Appalachians, the western factor in American political development served to reinforce the role of the individual.

As I indicated earlier, at the heart of the controversy over governing since the birth of the nation was the question of sovereignty. Although the framers could hardly have anticipated how rapidly the nation expanded and developed, they shared the outlook that the national fabric would be torn to shreds unless the autonomy of the

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sovereign states could be checked. In structure the new government was to
function as a national republic (republic was not a term that appeared in many state
constitutions), not as an autocracy or a democracy, but the idea confronted
suspicion and resistance on the grounds that republic to work properly had to be
small, compact and close to then people. That occasioned the writing and
publishing, as just discussed, Madison’s #14 in the Federal Papers. Madison was
fully committed to the idea that the Constitution had properly established a
national government with supreme sovereign powers, and yet, as his participation
with Jefferson in the Kentucky and Virginia Resolutions showed, he like nearly
everyone had trouble drawing that line that separated the multiple sovereignty. And
by the time he had reached the presidency, nearly two decades of battling over
sovereign powers, he had grown, for the lack of a better term more conservative,
with respect to the rationale for and delegation of authority to national
government. At one point in the constitutional debates he had offered for debate
the creation of a nation that actually erased state boundaries as they then existed –
a single, supreme, sovereign government. In other words the parties that had
agreed to write a new charter would have laid the foundation for their own
elimination if they had embraced Madison’s idea. Such a course had little chance
of ever being implemented, and Madison wisely backed away from pursuing it.
What evolved was a somewhat untidy arrangement of dual sovereignties – national
and state – without clear instructions as to how the duality should be understood. It
was relatively easy to draw the lines with respect to foreign affairs; it was almost
impossible to do so with respect to many questions concerning domestic policies.
The ratification debates made that abundantly clear. What the ratifiers debated in
almost every state convention was how should the lines between national and state
sovereignty be drawn? In the end the proponents of the Constitution reassured the
opponents and indirectly the citizenry at large that the duality could be maintained
because the powers delegated to the national government were only those required
to preserve the Union. No one was prepared then or could have been prepared to
anticipate the manifold ways in which the dual sovereignties came into conflict.
Whatever Madison’s genius in helping to find a way to create a national
government that could co-exist with previously-established state governments, the
grey area was huge and mostly uncharted. The devil being in the details took on
real meaning in the 1820s.

The Stanford Encyclopedia of Philosophy states that sovereignty has a “core
meaning” of “supreme authority within a territory”. But the historical
development of concepts of sovereignty has been more complex than the core

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definition might suggest. One of those definitional dilemmas is how can sovereignty be both absolute and non-absolute, for indeed that was where America landed after the ratification of the Constitution. It may not have been intended, for in the minds of the founding fathers like Madison some form of ultimate supremacy had to be exercised by the nation, although it was clearly hoped that conflicts arising from the duality could be managed. In our contemporary world some of us think that the supremacy of the nation government is so vast that the duality which the early nation debated is marginal; others, of course, who resist and resent the spread of national sovereignty, would beg to differ. Can sovereignty ever be partial? Some have argued it can only be “present or absent” and can’t be divided. And yet in many modern political systems, not just the United States but among western democracies, sovereignty has not been viewed in absolutist terms. And then there is an additional complication – individual sovereignty. From Jean Bodin through Thomas Hobbes, John Locke, the French philosophes and the English skeptics, original sovereignty rested with the individual. What the individual could or should do with that sovereignty was what sparked the debate that had no ending. For some writers like John Taylor and perhaps many Jeffersonians a dual sovereignty was incomplete. It left out the original holder, the sovereign individual. They never explored all the ramifications of a “tripartite” arrangement. Rather they sketched an arrangement in which the individual retained sovereignty after surrendering it. Was it possible to surrender just part of original sovereignty – part to the entity called the state and part to the entity called a nation – or when the original holder agreed to surrender sovereignty was all of it surrendered? Some Jeffersonians answered the latter question was a resounding no! For the purist the surrender was not only partial – and more importantly could be taken back – but it was small – small in the sense that individuals retained most of their endowed sovereignty and were capable of exercising. Their preferred governmental system was one in which supremacy remained with the individual except in those areas where some form of collective action would be beneficial.

It should not be forgotten that before modern political thinkers invoked the uniqueness of individual sovereignty, there was another approach to the origin and development of governmental systems. It was the school of natural law. Social organization had its origin in nature itself. The individual, who possessed unique qualities, was nonetheless part and parcel of the natural world that was governed by laws that required obedience and respect. In the mid-twentieth century the famous French Catholic philosopher, Jacques Maritain, actually urge an end to any further discussion of the sovereignty of the individual. The concept stood in opposition to the theory of natural law where human and non-human activities were directed along paths that were implicit in the creation of the natural world.
Nature would rule justly and fairly so long as its laws were acknowledged and embraced. Individual sovereignty was a mistaken conception of how existence began and progressed. Such an approach had little appeal to sovereignists. They accorded the individual a special status within the natural world, and bestowing sovereignty upon the individual was what made him unique.  

The American system of government had essentially three levels of government: local, state and federal or national. The idea of local government or local control appeals even today to many Americans. Although in the earliest days the colonies were organized on the basis of charters obtained from the King, the establishment of towns or counties on a slowly moving westward frontier was a driving force behind the settlement of the interior. Local entities arose out of a need to preserve property rights and to provide local services. Citizens generally knew their leaders and could approach them formally or informally to discuss problems. Unlike state or federal governments local governments seldom involved the act of convening a convention and ratifying a charter. Local governments generally owed their existence and derived their authority from a higher governing body such as colonial assemblies and after that to state legislatures.  

The tasks undertaken by local governments did not vary significantly from state to state or region to region. They had responsibility for road and bridge maintenance, weights and measures, property assessments and tax collections and police and court operations. Crucial through they were in ministering to local needs, they had few if any independent powers. Local governments ran the gambit from corrupt and sloppy to honest and efficient and relied heavily on the willingness of the citizenry to volunteer and to serve. The political commentary of the early nineteenth century had little to say about local government. Whatever affections Americans had for local government, two aspects associated with it may have shaped their thinking about governing in general. One was proximity, and the other was participation. Most local officials were elected and therefore accountable at the neighborhood bar as well as the voting booth. And citizens participated not only by voting but also through service. The geographic mobility had the effect of pulling more and more ordinary citizens into the political process irrespective of their background or experience. For many, especially on the frontier where personnel were limited, governing was a fact rather than a theory. Local governments played a role in the ensuing debate over state versus federal rights by submitting petitions and holding forums. Localities could refuse to enforce state or federal mandates and had in the past taken up arms

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83 One can add school districts, special authorities and other entities authorized by state legislatures to meet certain local needs.
against higher authorities. Local governments did not qualify as holders of sovereign powers even though many local citizens treated their local governing institutions as if they did.

Any description of the state must start with the acknowledgement that the original Thirteen occupied a special position in the minds of the Revolutionary generation. They had established the governing template upon which a more encompassing governmental system might be built. Had there been an overarching colonial government with greater power or influence than the states, it might well have been revered as the template by the Revolutionary and post-Revolutionary generation the way states were. Moreover, there was a cultural bias toward the states in the sense that people identified themselves as participating and sharing in the life that had evolved where they lived. While geographic mobility was a characteristic of colonial America, it was much more measured in the pre-revolutionary period than the post-Revolutionary era. It took a couple hundred years to move across the territory from the Atlantic to the Appalachians, and yet less than a century to settle much of the land between the Appalachians and the Pacific. The state with its boundaries and its way of life within those boundaries and not a united colonial entity won the allegiance of the people.

The British government perhaps unconsciously had reinforced the political ties that citizens felt for their colonies. The term “benign neglect” was introduced earlier, and whether it accurately reflected all the relations between the imperial government and the colonial governments it offers a useful perspective. Over the course of 150 years because of a fairly loose imperial structure the colonial assemblies were able to stake out in behalf of their own citizens a domain that over time they came to believe was their entitlement, not subject to imperial regulation. These were mainly domestic issues concerning taxation, property, currency, transportation, defense and safety. The institution through which they had developed their ideas and techniques was the colonial assembly. Colonial governors and judges often required royal approval, and while assemblies were not yet as popularly elected as they would become, they were generally accepted to be the voice of the people. Increasingly, as the imperial rulers sought to tighten up colonial administration, the colonial assemblies came to be regarded as the bulwark against further incursions. After Independence state legislatures emerged as the most powerful of the various branches, and the assemblies, popularly elected, were the most powerful within the state government. State went through an extended constitution-making process during and after the Revolution and actually wrote and approved the Articles of Confederation. Some of the participants at the Federal Constitutional Convention had already had experience
in constitution-writing at the state level. There was no doubt in anyone’s mind that people of the states had in effect reaffirmed the legitimacy of colonies reborn as states by a transfer of sovereign powers from individuals or citizens to the states. Before the Federal Constitution, individuals as citizens of states had not engaged in a transfer of sovereignty to a national entity. The Federal Constitutions unlike the Articles of Confederation did involve a transfer of sovereignty, not from the states but from individuals, and how a dual transfer should be managed or disputes connected with the duality should be resolved became the problem.

The people of the original states joined together to create a union of states, which the people within their respective states ratified. The states survived intact, although they or the people in the states were less powerful in that they had ceded powers to the new national government. The supporters wanted this complicated transaction to be considered an action by the people not by the states even though they had acted as citizens of states for the simple reason it would be harder to undo their actions if the governments of the states were displeased with the policies of the national government. Opponents or skeptics of the new constitution never fully accepted that point of view. For them, as under the Articles of Confederation, the creation of the national government was or should be an act of the people as New Yorkers or Virginians. The complications in the debate over who was empowering whom only grew as western lands were organized into territories because this procedure was the work of the national government rather than of the individual states. The new states, which were created out of the western territories (New Hampshire and Maine were not western territories), were said to be sovereign and independent like the original Thirteen, but, as noted earlier, they were sovereign and independent only because the federal government had approved the manner in which they had declared their sovereignty and independence. That was at the heart of the Missouri Debates: what powers individual citizens could choose to cede to a new state that was dependent on a national government for its very existence. How independent and sovereign a state was had everything to do with the issue that provoked the Missouri controversy, the existence and extension of slavery. It is not that the original states had any greater powers than the newly added states; it was rather that the latter depended on the approval of the national government to become a state. There was an abstract act of ceding power by individuals of territories through state constitutional conventions so that state governments could be set up but simultaneously there a direct requirement that the constitutional powers already held by the national government be fully recognized. By the 1830s as many new states existed as original states. In the end, what may have mattered most was who settled the western territories. The interests of the settlers may well have determined what they expected of their state (and local) governments. Strictly
from a strategic viewpoint, slaveholders had to worry about how many new states were admitted and where they were organized.

Unlike the Federal Constitution, which has been amended but never revised or rewritten, state constitutions have undergone many rewritings. Many of the original states’ constitutions were written in the Revolutionary or Confederacy Periods and, and once the Federal Constitution was ratified, some pressure existed to redo state charters. In general, state governments consisted of three branches, although the form of each branch varied from state to state. The legislatures met once a year or once every two years with the latter the more popular. State charters were specific about terms and conditions of office-holding. The vote was extended to white males with few qualifications. In many but not all the state charters it was declared that the authority to govern derived from the people of the state. It was not assumed that any state powers derived from the federal government, although state charters might acknowledge areas in which the people had delegated supremacy to the federal government. State charters contained details on boundaries, terms of office and other internal matters. One area that has often puzzled me falls under delegation of powers. Recall that much of the debate over the federal charter had to do with inherent and explicit powers. States constitutions did not always detail the powers that the people allegedly had surrendered. Some constitutions had more of a grey area than might be assumed. Generally, though, states could levy taxes (often uniform across all classes), could charter corporations (such as banks) and could initiate projects (roads, canals, etc.). Law enforcement was a major concern so that state constitutions contained many provisions dealing with legal matters and juridical systems. As we take up the growing intensity of debate about federal versus states rights one must be careful not to assume state governments were governing behemoths, constantly in session and passing legislation. In some areas they preempted the federal government just as the federal government had supremacy in other areas. In more states than not the legislative sessions were confined to a couple months every two years. I’ve never tried to figure out an average for days state legislatures were in session, but I’d expect it to be far less than an average for the Congress. The debate over states rights was not about grabbing power from the federal government but protecting what some states saw as federal intrusion. Earlier I had mentioned the governmental pie, and as the nation had grown, the governing pie had grown, that is, more actions were required to keep up with the demands of the citizens. How large? How active? A quantitative answer may never be possible (although I wouldn’t be surprised if some enterprising computer specialist doesn’t find a way to measure governmental activity). Strictly in terms of the time in session and the time needed to pass any bill, it hard to see how either the state or the federal
governments could have greatly expanded their authority. Was it possible that at both levels the governing philosophy was minimalist as opposed to maximalist, and the battle lines were drawn over some specific issues.

The points to be kept in mind as we proceed through the nineteenth century was, first, the concept of governance was hardly finely tuned because Americans disagreed about the most fundamental questions, and, second, the growth of the nation made the exercise of governance a thorny and controversial action. This was more visible in the national government, where unlike state or local governments, conflicting interests arose out of the diversity of the nation itself. The Congress was in session for many more days than the state legislatures, with session every year, sometimes up to six months in duration, and the opinions were so diverse that debates lasted over days and sometimes weeks. Two of the most notable in the 1820s concerned the Missouri Compromise and the American System, but then there long debates about land sales, treaty obligations and money bills. Even a minor legislative proposal could spark a notable debate on the basis of what members feared might undermine state sovereignty or disadvantage individual freedom. Thus, when Samuel Foot (AJ-CT) introduced a bill to abolish the office of the Surveyor-General and to terminate all western surveys until the land already surveyed and on the market was disposed of, it set off a firestorm. It cannot be missed that Foot represented a New England state and that New England had concerns about whether growth in population would be sufficient to supply the workers needed in the newly-emerging factory-based regional economy as people exercised their option to resettle in the West. Speaking in opposition to the Foote Resolution, which would simply have authorized an inquiry and no more, Robert Hayne, (J-SC) used the opportunity to expand the debate into a sectional issue. In the wake of an accusation by Missouri Senator, Thomas Hart Benton, that the Foote Resolution was a ploy to serve the economic interests of the northeastern states, Hayne declared unabashedly that he wanted to talk about land policy: “I mean the policy that ought to be pursued in relation to the public lands. Every gentleman who has had a seat in Congress for the last two or three years, or even for the last two or three weeks, must be convinced of the great and growing importance of this question.” It was Hayne’s opinion that, after many debates about public lands, the Congress had dallied, and therefore the “whole west” was not as enthralled with federal land policy as non-westerners might assume: “…we [non-westerners] have treated them from the beginning, not like heirs of the estate, but in the spirit of a hard taskmaster, resolved to promote our selfish interests from the fruit of their labor.”

Hayne with a launch pad to criticize a range of federal government policies. His ultimate aim was to unite southerners and westerners around an approach that minimized the role of the federal government and accentuated the sovereignty of the state governments. In his mind not only federal land policy but also federal tariff policy imposed penalties that denied citizens their just economic rewards. States governments knew better. If they were in charge of land sales, they would deposit the proceeds in the state treasuries: “to be returned back to the people in some of the various shapes in which a beneficent local government exerts its powers for the improvement in science and the arts, how much of individual and social happiness, would have been diffused throughout the land!” Really cheap land without restraints on the settlement and development of the land would appeal to free-spirited westerners, and for southerners the more they could embolden the sovereignty of the state the better their chances to stave off further attempts to restrict or abolish slavery. By the 1830 southerners were well aware that if slavery were to survive, it had to be pushed into as many regions as possible and it had to depend on state power and resist federal incursions. His attitude toward the federal government was neither benign nor trusting. Echoing Taylor he declared innocently “Sir, I may be singular--perhaps I stand alone here, in the opinion, but it is one I have long entertained that one of the greatest safeguards of liberty is a jealous watchfulness on the part of the people, over the collection and expenditure of the public money....” He regarded a large national treasury a permanent danger.

My life upon it, sir, they would not. I distrust therefore sir, the policy of creating a great permanent national treasury, whether, to be derived from public lands or from any source. If I had, sir, the powers of a magician, and could, by a wave of my hand, convert this capitol into gold for such a purpose, I would not do it. If I could, by a mere act of my will, put at the disposal of the federal government any amount of treasure which I might think proper to name, I should limit the amount to the means necessary for the legitimate purposes of the government. Sir, an immense national treasury would be a fund for corruption. It would enable congress and the executive to exercise a control over states, as well as over great interests in the country -- nay, even over corporations and individuals, utterly destructive of the purity, and fatal to the duration of our institutions. It would be equally fatal to the sovereignty and independence of the states.  

another skilled orator, Daniel Webster.

Before Webster spoke, Foote introduced an amendment to his original motion (which had asked for an inquiry into limiting the sale of public lands and abolishing the Surveyor-General’s office) that would clarify that it was an inquiry to establish the expediency of limiting further sales and of abolishing the Surveyor-General’s Office without detriment to the public interest.\footnote{Foote Speech, Senate, \textit{Register of Debates}, 1\textsuperscript{st} Session, 21\textsuperscript{st} Congress, 12 January 1830, 11 & 20 January 1830, 35. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwrd.html}.} Webster made it clear that the Foote Resolution itself hardly deserved the attention it was receiving. It was within the purview of the committee to undertake an investigation of the question or to take action without an investigation. No, the reason that Webster rose to speak was to respond to comments by Senator Hayne concerning fundamental issues on the nature of the American governmental system. Relative to the matter of land sales, Webster presented data that suggested because there was more land than buyers there was no need to rush to open up more western land. He favored cheap land, but he opposed a policy that encouraged land speculation, which would not benefit either the individual or the government. The implication was land should be made available as needed. To the larger issue of the federal government acting like a step-mother in its relations with the new territories and states, Webster took exception. He argued instead that

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it has been the invariable object of the government, to dispose of the soil, according to the true spirit of the obligation under which it received it; to hasten its settlement and cultivation, as far and as fast as practicable; and to rear the new communities into equal and independent states, at the earliest moment of their being able, by their numbers, to form a regular government.\footnote{Webster Speech, Senate, \textit{Register of Debates}, 1\textsuperscript{st} Session, 21\textsuperscript{st} Congress, 20 January 1830, 35-36. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwrd.html}.}
\end{quote}

Webster then reviewed certain congressional actions and resolutions to prove his point that the federal government has been more often generous than harsh in executing its land policies. He made it clear that the Congress as guardian of public lands had certain obligations to fulfill and on the whole it had done so wisely. By his own admission he was surprised by Hayne’s negative reference to the national treasury. The idea that the national government “should not possess a shilling of permanent revenue” out of fear of too much consolidation was to deny the potential good that such revenue can bestow upon the nation. Webster regretted such a sentiment because it eroded the very bond that was needed to keep the
nation strong and viable. Webster said that he understood that some people outside the government viewed the union with indifference and disparagement. He hoped that the Senator from South Carolina was not among those. He could not understand how preservation of the union was not of utmost importance among all citizens.

The union to be preserved while it suits local and temporary purposes to preserve it; and to be sundered whenever it shall be found to thwart such purposes. Union, of itself, is considered by the disciples of this school as hardly a good. It is only regarded as a possible means of good; or, on the other hand as a possible means of evil. They cherish no deep and fixed regard for it, flowing from a thorough conviction of its absolute and vital necessity to our welfare.

He deplored such disregard of the union: “I am a unionist, and in this sense, a national republican. I would strengthen the ties that hold us together.” At this point Webster turned to a defense of New England and the Northeast against charges that through the tariff and other policies they had sacrificed the economic and financial interests of other regions to bolster their own. Finally, after quoting passages from earlier debates, Webster moved postponement of the resolution since he had said at the outset that the resolution was unnecessary. Clearly the purpose of his speech had little to do with the resolution, and everything to do with defending the union.

The nation had been moving slowly like a glacier toward a great divide since the 1790s. The Kentucky and Virginia Resolutions may be interpreted as a harbinger, but the idea that states had sovereign powers with which they could override federal laws of which they disapproved required more time and more controversy to be developed. That became a reality after the War of 1812 and the Missouri Debate. Jefferson and to a limited degree Madison had proposed in Kentucky and Virginia state intervention as an extraordinary act once other recourses had been exhausted. By 1830, as Webster himself made clear in his debate with Hayne, the nation had two distinct parties: one whose allegiances were local and parochial and one whose allegiances were expansive and national. A great nation could not arise out of the former. It required the latter. A simple resolution to review the future of land surveys and settlements became a fill-blown debate over sovereign powers.


The following day (21 January) Hayne observed that the Senator from Massachusetts was in his seat, after a request had been made to postpone debate because Webster had another engagement, and that the Senator could remain for the debate today because he [Hayne], feeling rankled by the Senator’s comments, “from which he desire, at once, to relieve himself.” Webster interjected “I am ready to receive it. Let the discussion begin.” The discussion did begin, but first with Benton being allowed to finish his speech, started the previous day in response to Webster’s speech and then with Hayne making his response. Hayne opened speech with a sense of shock and bewilderment that Webster was on the attack, an attack on him, his state, his party and his region.” Sir, I questioned no man’s opinion; I impeached no man’s motives; I charged no party, or State, or section of country, with hostility to any other; but ventured, I thought in a becoming spirit, to put forth my own sentiments in relation to a great national question of public policy. (He also claimed to be puzzled why Webster attacked him rather than Senator Thomas Hart Benton of Missouri who had originally attacked the resolution as an effort to shut down western settlements in order to preserve cheap labor pools for eastern factory owners, but he demurred from fighting Benton’s battle.), His reply was intent on setting the record straight about the claims that the South’s land system was injurious to the West economic development and the federal land policies were the beneficial results of a caring parent. It was a very speech, covering 40 pages when reprinted in Niles’ Weekly Register.

The crux of the dispute, everyone knew, was not land policies, labor pools or federal revenues, but was slavery, although fewer words were devoted to it than the other issues. Webster had raised the name of Nathan Dane of Beverly Massachusetts because Dane had been instrumental in having a prohibition against slavery added to the Ordinances of the Northwest Territories under the Confederation government. Hayne expressed surprise that Dane had been elevated to such prominence because in the South he had been remembered as one of the members of the Hartford Convention, assembled to pass resolutions against the union of states that Webster was so anxious to declare as a cherished legacy among New Englanders. “So much for Nathan Dane, of Beverly, Massachusetts” extolled Hayne. He then restated his earlier argument but in far greater detail. He reminded

90Proceedings, Senate, Register of Debates, 1st Session, 21st Congress, 20 January 1830, 41-42. Hayne’s Speech was given over two days, 20 January and 25 January, but was printed in full on the latter day. Available on-line at http://memory.loc.gov/ammem/amlaw/lwrdd.html.

the Senate that in 1825 Webster had spoken on the floor about the folly of treating public land as primarily a source of income for the national treasury, and now five years later he had reversed his position. To treat public land as just so much treasure was to deny the basic principle that land not only belonged to the public but should be used for the benefit of the public. Hayne excoriated Webster for advancing policies like the American System (which, Hayne reminded the Senate, Webster had once opposed in the House) because they created dependence on a federal government that was anathema to the basic principles on which the nation was founded. The aim of the Revolution and the charters that followed was to chart a course that rejected dependence and fostered freedom. “In a free government, this principle of abject dependence, if extended through all the ramifications of society, must be fatal to liberty,” he declared. With respect to slavery Hayne pointedly warned that the South “was ready to meet the question promptly and fearlessly.” After reminding the Senate that slave-trading had made New England merchants wealthy, he avowed that the South had accepted its obligation to care for those “whose physical, moral, and intellectual habits and character totally disqualified them from the enjoyment of the blessings of freedom.” Unlike the North where Negroes lived in destitution and despair the institution of slavery demanded that they be treated well and humanely. Citing the economist and writer, Matthew Carey, not a friend of the South, Hayne tried to show that while condemning the South for its attachment to slavery northerners were eager to enjoy the benefits from doing business with slave-owners. In what would become a rallying cry among southerners Hayne reiterated what many Americans understood:

…we ask nothing of our northern brethren but to ‘let us alone.’ Leave us to the undisturbed management of our domestic concerns, and the direction of our own industry, and we will ask no more. Sir, all our difficulties on this subject have arisen from interference from abroad, which has disturbed, and may again disturb, our domestic tranquility just so far as to bring down punishment upon the heads of the unfortunate victims of a fanatical and mistaken humanity.92

Hayne demanded that the South’s critics show how the presence of slavery had made southerners any less devoted to the ideals of liberty than the critics themselves. It was not slavery, averred Hayne, that should drive this debate; rather it was consolidation of the government. Consolidation threatened the very foundation of the American system. Even though the nomenclature has changed,

National Republicans could hide their true sentiments behind the change – they were the sentiments of the Federalists, which, Hayne proudly declared, his party had been fighting since the days of ratification. Sadly the centuries-long political battles had been wages between the lovers of freedom and the advocates of power, and once again the United States found itself in the midst of such a battle. Although Hayne had implied that he had made his case, he had in fact only reached the halfway point in his speech. The remainder consisted of a much more personal attack on Webster (and a few others) as well as the citizens of Massachusetts. It was almost as if all the blame for all that was wrong with America could be laid at the doorstep of Massachusetts. His speech actually ended on an obvious historical precedent – Jefferson and Madison, Kentucky and Virginia. The principle at risk was that the federal government under the “consolidators” would bring “the states and the people to the feet of the federal government, and leaves them nothing they can call their own.”

There was no doubt that Webster would reply, and his reply is considered by some to be one of the great orations, if not the greatest oration ever delivered in Congress. It came the day after Hayne had concluded his speech. It has been reprinted in several volumes dedicated to great speeches. Webster took the Senate back to square one, asking the Secretary to read the Foote Resolution. He observed that he had been accused of sleeping “on” Hayne’s Speech. “Sir, I must have slept on it, or not slept at all.” Since Benton, Hayne’s good friend from Missouri, “with much honeyed commendation of the speech, suggested that the impressions which it had produced were too charming and delightful to be disturbed by other sentiments, or other sounds,” he urged the Senate to adjourn. On these terms, self-mockingly, Webster chose to be amiable and not intrude for fear of destroying sensations so pleasing.” Was it not much better and kinder, both to sleep upon them myself, and to allow others, also the pleasure of sleeping upon them?” But it was true, he confessed, “I did sleep on the gentleman’s speech, and slept soundly; and I slept equally well on his speech yesterday, to which I am not replying.” Webster saw a certain advantage in this because having slept his temperament was much cooler. Such playfulness belied the seriousness of the task, which to Webster was simply to defend the concept of nationhood against Hayne’s attack, an attack that was far more dangerous than Benton’s attack on New England. Since Hayne had spoken first, Webster began by reiterating for the Senate what had sparked the debate, a modest inquiry into the review of a particular public policy. He sought to

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instill the idea that Hayne had not addressed the crux of the resolution. Instead Hayne had used the motion to consider the resolution to launch a different debate. (Hayne acknowledged as much in his first speech.) After sparring over issues not directly pertaining to the argument in Hayne’s speech, Webster turned to the speech itself. He went to great lengths to describe how much opposition slavery without any restriction had aroused from the time of the ratification of the Constitution. Although he understood an agreement had been struck, he did not accept that the agreement could be extended unalterably. And, more importantly, he made no apology for undertaking that reassessment. If, as the Hayne had charged, Webster had become a spokesman for northern interests that wished to crush the South, he replied that he and his colleagues were dedicated primarily and unapologetically to the defense of the Constitution and the preservation of the Union. Specifically Webster saw nothing inconsistent about the national government fulfilling its duty of serving the national interest by selling public land at reasonable and just prices that would encourage settlement and by using the money collected from the sales to underwrite programs that would improves the lives of the settlers themselves. Where was the evidence, demanded Webster, that New England had hatched a cabal that sought to continue the sale of land in order to nourish the national treasury and thereby to expand the power of the federal government at the expense of the sovereignty of the state? In general, Webster ridiculed the idea that public-land sales were intended as a devious and corrupt scheme to secure the financial footing of the national government so that the moneyed interests could further consolidate their control over the lives of the citizens. Indeed, the idea that land sales yielding revenues of a few million dollars each year could ever provide such an opening was far-fetched. But Hayne’s charge was broader than that. Sale of public lands alongside of protective tariffs under something called the American System posed a threat to the idea that a nation should rule as a collection of sovereign states and not as a nation sovereign in and of itself. Hayne made much of the fact that not too many years before Webster had opposed some of the policies he now defended, and the about-face was ample evidence to Hayne that something far more sinister was at work than met the eye. It was that perception that Webster sought to dispel. And, of course, some very large egos and reputations were also at stake. A crucial debate, to be sure, but not without the flourishes and embellishments that come from titans doing battle.

95Webster Speech, Senate, Register of Debates, 1st Session, 21st Congress, 27 January 1830, from p. 58 through p. 80 the speech, from p. 80 through p. 82, Webster’s Notes and Extracts. Hayne replied from p. 82 through p. 92, followed by Webster’s conclusion from p. 92 through p. 93, after which the Senate adjourned. The first dozen pages of Webster Second Reply are well worth reading. His oratorical skills are fully manifest, from whether Hayne ever used the word “rankling” to muted anger portrayed as surprise and disappointment. Much will be learned about how to interpret the behavior of Banquo and the ghost of Banquo in William Shakespeare’s Macbeth. Available on-line at http://memory.loc.gov/ammem/amlaw/lwrd.html.
The point that Webster wanted to make the central focus was the assertion by Hayne that the East was conspiring to retard development in the West in order to prevent any alliance between the South and the West, all of which would serve the new economic regime of the eastern states.

The real question between me and him is, Has the doctrine been advanced at the South or the East, that the population of the West should be retarded, or at least need not be hastened, on account of its effect to drain off the people from the Atlantic States? Is this doctrine, as has been alleged, of Eastern origin? That is the question. Has the gentleman found any thing by which he can make good his accusation? I submit to the Senate, that he has entirely failed; and, as far as this debate has shown, the only person who has advanced such sentiments is a gentleman from South Carolina, and a friend [Thomas Hart Benton] of the honorable member himself. The honorable gentleman has given no answer to this; there is none which can be given. The simple fact, while it requires no comment to enforce it, defies all argument to refute it. I could refer to the speeches of another Southern gentleman, in years before, of the same general character, and to the same effect, as that which has been quoted; but I will not consume the Senate by the reading of them.

Federal policies must reflect a basic and unyielding commitment to the raison d’être for creating a national government – to suppress local and parochial interests in the name of advancing the power and majesty of a union. A collection of states that preferred to act on their own, even to the extent of overriding national legislation, that diverged from their self-interest would always remain a collection and never become a union. Webster stated his view did not rest on the assumption that power of the national government should be enlarged, although he had been accused of that – No, his position was that the national government should be allowed to exercise without interference those powers that it had been granted. A minor issue, at most, was the Foote Resolution, and yet it invoked a debate about the most more fundamental question: how was the national government to carry out its delegated powers if at every turn, even with relatively-minor and mostly-harmless resolutions designed to make inquiries upon which to base public policies, can be thwarted by the a state threat to ignore or nullify?

But when it is believed that a power does exist, then it is, in my judgment, to be exercised for the general benefit of the whole. So far
as respects the exercise of such a power, the States are one. It was the very object of the Constitution to create unity of interests to the extent of the powers of the general government. In war and peace we are one; in commerce, one; because the authority of the general government reaches to war and peace, and to the regulation of commerce.⁹⁶

He reminded the Senate that he had said in an earlier speech and will repeat now that if the *ayes* by New Englanders were stricken from the voting record on various western internal-improvement bills, the bills would fail because of the *nays* of the southern representatives. Contrary to what has been said, the North and the East have been more generous towards the West than the South. Hayne had charged that after 1825 and the election of John Quincy Adams and the launch of the American System by Henry Clay, Webster and other New Englanders had taken a different stance. Before it was not in their interest to contemplate restricting western development, but now it was in order to secure a labor pool. It was hypocritical, argued Hayne, for Webster and others to wrap their selfish ambitions in the banner of the preservation of the union. All Americans desired to preserve the union, but not all were prepared to acquiesce in the manner laid out by New Englanders. Webster acknowledged that certain of his views had changed since 1815 because times had changes, and that was a positive rather than a negative.

It appeared plainly enough to me, as well as to wiser and more experienced men, that the policy of the government would naturally take a start in a new direction; because new directions would necessarily be given to the pursuits and occupations of the people….With the peace of Europe, it was obvious there would spring up in her circle of nations a revived and invigorated spirit of trade, and a new activity in all the business and objects of civilized life. Hereafter, our commercial gains were to be earned only by success in a close and intense competition….The crops of our plains would no longer sustain European armies, nor our ships longer supply those whom war had rendered unable to supply themselves. It was obvious, that, under these circumstances, the country would begin to survey itself, and to estimate its capacity of improvement. And this improvement, -- how was it to be accomplished, and who was to accomplish it? We were ten or twelve millions of people, spread over

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almost half a world. We were more than twenty States, some stretching along the same seaboard, some along the same line of inland frontier, and others on opposite banks of the same vast rivers. Two considerations at once presented themselves with great force, in looking at this state of things. One was, that that great branch of improvement which consisted in furnishing new facilities of intercourse necessarily ran into different States in every leading instance, and would benefit the citizens of all such States. No one State, therefore, in such cases, would assume the whole expense, nor was the co-operation of several States to be expected….It could not be done, therefore, but by the general government. The same may be said of the large inland undertakings, except that, in them, government, instead of bearing the whole expense, co-operates with others who bear a part. The other consideration is, that the United States have the means. They enjoy the revenues derived from commerce and the States have no abundant and easy sources of public income. The custom-houses fill the general treasury, while the States have scanty resources, except by resort to heavy direct taxes.  

After detailing his own political evolution including his cooperation with other South Carolinians like John C Calhoun, Webster then introduced the matter of consolidation. Obviously his admiration and support of the general government opened him to charge of using the authority of the Constitution not only to advance his own agenda but to do so by further empowering the national government. 

I repeat, Sir, that, in adopting the sentiment of the framers of the Constitution, I read their language audibly, and word for word; and I pointed out the distinction, just as fully as I have now done, between the consolidation of the Union and that other obnoxious consolidation which I disclaimed. And yet the honorable member misunderstood me. The gentleman had said that he wished for no fixed revenue, -- not a shilling. If by a word he could convert the capitol into gold, he would not do it. Why all this fear of revenue? Why, Sir, because, as the gentleman told us, it tends to consolidation. Now this can mean neither more nor less than that a common revenue is a common interest, and that all common interests tend to preserve the union of the States. I confess I like that tendency; if the gentleman dislikes it, he is right in deprecating a shilling of fixed revenue. So much, Sir, for

consolidation.98

Shifting back and forth between defense of himself and of New England Webster wove his way through all the pertinent issues raised by his adversaries and related issues until after several hours (according to the Register of Debates) he closed his speech. Before reaching the end of his speech he piqued the anger of Hayne by referring to his constitutional stance as a call for “the right of revolution… to maintain, that, without revolution, without civil commotion, without rebellion, a remedy for supposed abuse and transgression of the powers of the general government lies in a direct appeal to the interference of the State governments.” Hayne’s rose to object. He said that under extreme violations of the covenant the states had a right to interpose, i. e., a form of resistance that is constitutional. Webster would have none of it, and his response was powerful, to say that having heard Hayne’s brief rejoinder he was more convinced than ever that he understood what was behind the so-called South Carolina doctrines:

If the gentleman had intended no more than to assert the right of revolution for justifiable cause, he would have said only what all agree to. But I cannot conceive that there can be a middle course, between submission to the laws, when regularly pronounced constitutional, on the one hand, and open resistance, which is revolution or rebellion, on the other. I say, the right of a State to annul a law of Congress cannot be maintained, but on the ground of the inalienable right of man to resist oppression; that is to say, upon the ground of revolution. I admit that there is an ultimate violent remedy, above the Constitution and in defiance of the Constitution, which may be resorted to when a revolution is to be justified. But I do not admit, that, under the Constitution and in conformity with it, there is any mode in which a State government, as a member of the Union, can interfere and stop the progress of the general government, by force of her own laws, under any circumstances whatever.99

He did not leave it there. He made clear his belief that states are sovereign only so far as their behavior does not conflict with the supremacy of the national government. Lest it be forgotten, asserted Webster, the people have granted sovereign powers to both the general and the state government. Neither is theoretically supreme. National authority is delegated whereas state authority is


residual, i.e. states may exercise all the powers not specifically delegated. (Recall in an earlier discussion that I noted that state constitutions were more specific about procedures than about powers.) But the people’s decision to delegate supremacy to the general government in certain areas “effectively controlled” state sovereignty relative to those areas. States were not free to decide what was or was not constitutional and therefore had no legal authority to interpose. Webster then recalled the case of John Fries (discussed earlier) in which the militia was called in to put down a potential insurrection over federal-tax collections.

If John Fries had produced an act of Pennsylvania, annulling the law of Congress, would it have helped his case? Talk about it as we will, these doctrines go the length of revolution. They are incompatible with any peaceable administration of the government. They lead directly to disunion and civil commotion; and therefore it is, that at their commencement, when they are first found to be maintained by respectable men, and in a tangible form, I enter my public protest against them all.  

Webster then closed on a note that could not have pleased his adversaries. He proposed that the opponents of the general government seemingly believe that only the state government can save the people from the assault of the consolidators. What happened, asked Webster, to the power of the people? These gentlemen “do not seem to recollect that the people have any power to do anything for themselves.” The people have not entrusted their safety to the state legislature contrary to what such advocates might argue. “They have required other security, and taken other bonds. They have chosen to trust themselves, first, to the plain words of the instrument, and to such construction as the government themselves, in doubtful cases, should put on their own powers, under their oaths of office, and subject to their responsibility, to them just as the people of a State trust their own State governments with a similar power.” Moreover, continued Webster, they put their trust “in the efficacy of frequent elections, and in their own power to remove their own servants and agents whenever they see cause.” Equally important they have trust in the judicial power, “which, in order that it might be trustworthy, they [people] have made as respectable, as disinterested, and as independent as was practicable.” Fourthly, the people knew that they had the ultimate power “to alter or amend the Constitution, peaceably and quietly, whenever experience shall point out defects or imperfections. Finally, let it be stated forthrightly that “the people of the United States have at no time, in no way, directly or indirectly, authorized any

State legislature to construe or interpret *their* high instrument of government; much less, to interfere by their own power, to arrest its course and operation.” In short, if the people were capable of rendering judgment in creating a new government, why were they now incapable of rendering their judgment in disputes among politicians over the proper exercise of federal or state sovereignty? Why must it be assumed that only state legislatures, their own creations, have superior judgment? It was not “Liberty first, and Union afterwards” but “Liberty and Union, now and forever, one and inseparable.”

The sparing did not end with these words. Hayne was allowed a rejoinder concerning his ideas on the nature of the compact, after which came Webster’s rejoinder. The words of Hayne and Webster have a different import for us because we know what happened 30 years later. They could not know, and those who heard their speeches could not know. In 1830, as powerful a statement as Webster might have made in defense of the Union, it should not be forgotten that Americans North, South and West would have been comfortable with Hayne’s stance. Suspicion of the general government evoked fear and safety in the bosom of a state legislature had resonance among the citizenry. No polls existed to gauge public sentiment, and the Jackson years will transmit an ambiguous message on questions of dueling sovereignties.

The debate on the Foote Resolution continued until the end of the session in May, 1830, when it was defeated. The speeches that followed tended to pick away at misstatements, factual errors and distortions and added little to the substance of the debate between Hayne and Webster. Benton, who had more or less launched the larger debate that transcended the simple intent of the Foote Resolution because of his charge that support for the resolution from New England was designed to bolster its economic growth by strangling western development, took the podium several days after Webster. A notable point made by Benton was that he regretted that slavery had been introduced (pointing his finger primarily at Webster) into the debate since the nation had reached a settlement on existence and expansion of slavery. Then Benton himself expressed his own position. Slavery arose because it had utility, and it will die when utility no longer applied. In time that will happen to slavery in America. Religious and moral attacks on slavery have never accomplished their goals. Slavery, he acknowledged, had its cruel masters but so too did the non-slave society: “….it extends to the white apprentice, to the orphans that are bound out, and to the children of the poor that are hired to the rich. Many of these can, and often do, tell pitiable tales of stinted food and excessive work.

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and merciless beatings, brutal indignities and precocious debaucheries.”

Other speakers took sides not only on slavery but also on the role of individuals and states in the creation of the new government. John Rowan (J-KY) deplored the existence of slavery but firmly espoused the view that because states preceded a general government (at least the original Thirteen), they had a pre-existing obligation to protect its citizens. Governments were “contrivances” by which “the people govern themselves—by which the governed govern…” All free governments must be vigilant to deter selfish impulses that agents of governments can display and pursue, and state governments because of history and proximity are more zealous in this endeavor than the general government. Just as passionately, David Barton (NR-MO), defended the national government (as had Webster) in its treatment of the West. He deplored the fact that within ten minutes after the debate began it “abandoned the resolution…and assumed a party character…” And as for his colleague, Senator Benton, he had “like a modern Herod or Pharaoh breathed slaughter and destruction against it [Foote Resolution]” Not only did Barton defend the “lights of New England” who helped to create the Union, but he also took a stand against the emerging sectionalism that would ultimately destroy the nation. In some of the most colorful language of the entire debate he called for a celebration of the “jubilee”, the instructions to Moses to allow the land to lie fallow every fifty years and to “proclaim liberty throughout the land to all its inhabitants; it shall be a jubilee for you, when each of you shall return to his property and each of you shall return to his family.” He regretted that the majority that could do so much good for the country had failed “to fix some bounds, beyond which sectional prejudice and strife should not be permitted to run.” How long would sectionalism be allowed to run its course before being rubbed out at which point the nation could start again? Barton did not know and did not end his speech on an optimistic note that under the current administration the time for jubilee had arrived. “‘Farewell! A long farewell to all our greatness’—until some other revolution shall restore us to our


103Rowen Speech, Senate, Register of Debates, 1st Session, 21st Congress, 8 February 1830, 137. Available on-line at http://memory.loc.gov/ammem/amlaw/lwrdd.html. A common position among the apologists of slavery was that even on slavery states were more enlightened about how to manage the institution.


105Leviticus, chapter 25, verse 10, Revised Standard Version of the Holy Bible.

pristine elevation, under the protection of Union and Liberty…."

Time and again the debate until adjournment of the Senate accentuated a rocky road to be traveled from Liberty to Union. Few were prepared to argue that liberty was a gift of government, but some were prepared to argue that a union could expand and enhance liberty. A retreat to a local or sectional position would render a union unworkable. Without a “jubilee” the nation would devolve toward its own destruction. At the core were the dueling sovereignties. What had been assumed – the sanctity of individual sovereignty – and what had been ignored – the partition of individual sovereignty – will drive the political debate until the duel must be ended. The ill-will engendered by the hotly-contested presidential election of 1824 and the barrage of attacks on the administration of John Quincy Adams could no longer be masked with the triumph of Jackson and Calhoun in the election of 1828. Another turning point, but unlike 1800 Thomas Jefferson was a known quantity and Jackson was not. Jackson came to the White House with a blemished private and public record (Jefferson’s record was not entirely clean) and a politics that only heightened the fears of the “nationalists”. After all, as the voting rolls had expanded the commoner like the new president was an unpredictable force. Few politicians were ready to stand in opposition to the leveling of America, but for those who had reservations the appeal to Union was to retard and reverse the divisive and fragmented character of a society on the move. Even the Jeffersonians who liked to distinguish themselves from the Federalists by their faith in the capacity of the individual were inclined to draw a line between their capacity to rule one’s life and where necessary to rule others’ lives. The line was never strongly defended and had now disappeared. Jackson, who had expressed misgivings about the Electoral College and other constitutional restrictions, had become the champion of popular rule. Where would this lead? In large measure the Webster-Hayne Debates were about who should rule a second time round.

Jackson’s military credentials, unlike his political credentials, were well known. Admitted to the bar after the American Revolution he had served in the House of Representative and the Senate briefly and on the Tennessee superior state court. He was a planter and slave-owner. He had speculated in western land and participated in a state-chartered-bank venture and had lost money on both. His wealth, best exemplified in his magnificent estate, Hermitage, was made primarily through his law practice and his Tennessee political connections. He was a part of the revolutionary generation as a young soldier and British prisoner but not of the post-Revolutionary generation that debated the form of government that was best

for America. He cut his political teeth on the more rambunctious and less gentile frontier politics, and not unlike many westerners Jackson embraced the Jeffersonian/Republican approach to governing. But, as many of his biographers have rightly pointed out, Jackson the minimalist was not afraid to be an interventionist. His attitude toward public policy like Jefferson was at times doctrinaire and pragmatic. Their lives overlapped, but their experiences did not. America had added another quarter century to its historical timeline, including another war, westward expansion, economic change and wrenching domestic controversies. The idea of nationhood had gained strength but had also acquired several interpreters. Jackson will prove his devotion to the idea of nationhood, but he would also demonstrate his abhorrence for consolidation. He was probably closer to the public than his enemies. As elevated as the oratory was in 1830, the Union in the hands of the consolidators had grave implications for how America had to adjust. Jackson was untested as a national leader but was less feared than his opponents.

What did Jackson want for America? After a raucous campaign and election Jackson delivered his First Inaugural less than a year before the contentious Hayne-Webster debates. Let me note that two drafts exist, one written by Jackson and the other Andrew Jackson Donalson in addition to the official version published in various newspapers. The second draft was marked “Inaugural address as delivered” and yet it differs from the official version. As a statement of what the nation could expect, the First Inaugural contained no earth-shaking sentiments or declarations. As I read the two drafts, I was struck by the fact that Jackson version seemed to offer a more personal expression of how he would approach the presidency than was revealed in the Donalson version. In particular, I was struck by a sentence in Jackson’s own version that did not appear in the Donalson or the official version:: “…to administer the affairs of a government deriving all its power from the will of the people—a government whose vital principle is the right of the people to controul [sic] its measures, and whose only object and glory are the equal happiness and freedom of all the members of the confederacy….” The emphasis on the control by the people would certainly have found a large, sympathetic audience. In the official version he began with sentiments that might baffle modern-day Americans. He affirmed that he would “execute the laws of the United States” and then in language that tended to emphasize a confederation rather than a union of states: “to superintend their foreign and their confederate relations, to manage their revenue, to command their forces, and, by communications to the Legislature, to watch over and to promote their interests generally.” Jackson along with many contemporaries, friend and foe, had not yet embraced a national identity that erased state boundaries. This is not to say that
Jackson rejected a union *per se* but rather that the union’s constitutional obligations were to be undertaken in behalf of the components of the union. The emphasis is important in light of what the Hayne-Webster debates will address a year later and how Jackson will react when he was faced with the nullifications based on South Carolina’s doctrines, as discussed by Hayne and Webster. I suspect, although I cannot prove (without poll data), that a majority of Americans would have applauded the governmental hierarchy that he envisioned. Many Americans had not yet come to terms with the idea that a national interest on a given question could not simply evolve from tending to the interests of the states. Upon occasion they could see clearly the essentialness of declaring in behalf of a national interest, but too often that phrase implied a scope and a practice of power that was potentially dangerous to their own liberties.

In administering the general government Jackson firmly declared that “In such measures as I may be called on to pursue in regard to the rights of the separate States I hope to be animated by a proper respect for those sovereign members of our Union, taking care not to confound the powers they have reserved to themselves with those they have granted to the Confederacy” Specifically, Jackson promised to manage public revenues – “the searching operation of all government” – strictly and faithfully with an eye to the extinguishment of the federal debt. Internal improvements and other domestic programs had “high importance” so long as they met the appropriate constitutional tests. The military to which Jackson owed much of his reputation would not be enlarged under his administration. He made it quite clear that as long as governmental action and policy were in line with what the people believed were legitimate ends, the nation could count for defense on a dedicated people acting through the militias:

As long as our Government is administered for the good of the people, and is regulated by their will; as long as it secures to us the rights of person and of property, liberty of conscience and of the press, it will be worth defending; and so long as it is worth defending a patriotic militia will cover it with an impenetrable aegis.

He called for a just Indian policy, reform of executive patronage and preservation of free and uncorrupted elections. In conclusion he referred to a “diffidence” with respect to this own qualifications and would rely upon insights for governing set forth by his “illustrious predecessors”. All in all, Jackson expressed sentiments that were intended to calm the agitation aroused by his election and to reassure
continuity rather than divergence in his governing style.¹⁰⁸

The underlying theme of his First Inaugural was continued in his First Annual Message, delivered on 8 December 1829, just weeks before the Hayne-Webster debate began. Let me point out again that various drafts exists including one by Jackson plus his aides such as Donalson, Amos Kendall, James Hamilton and several Cabinet members including a future president, Martin Van Buren. The First Annual is also ten times longer than the First Inaugural. Jackson’s version of the First Annual like his version of the First Inaugural had a more personal touch and a less manicured gloss. (Speech writers and presidential handlers were already fully employed.) In his version Jackson devoted one or two paragraphs to foreign affairs, but Kendall and then Van Buren will add so much that it became a third or so of the official Message. After a introductory paragraph and then a paragraph on foreign affairs, Jackson’s version turned to a subject – “as first in importance” – close to his heart and soul, presidential balloting. The inflation of the international section pushed the balloting issue into the middle of the official version. With respect to foreign policy, he noted that, while there were some potential trouble spots and some unfinished diplomatic business, he was satisfied that the United States could maintain generally pacific relations with other countries while negotiating outstanding differences. Then came constitutional reform of presidential-election procedures that included direct election of president. Jackson was, of course, the victim of the existing procedures in 1824, when John Quincy Adams with fewer popular votes won in a House vote over Jackson. In both his version and the official version he indicates with utter sincerity that the people, while capable of misjudgments, were still better able to choose than some contrived system. He was firmly of the opinion that the Founding Fathers viewed the new government as experimental and subject to change, and to abandon, therefore, the Electoral College was not in any sense disrespectful of their efforts. In his version he avoided making specific recommendations, but in the official version he suggested that consideration be given to a presidential term of four to six years. In his draft he was more expansive and optimistic about the experiment than what appeared in the official version where the language was reigned in. “Our greatest cause of wonder is, that in a theory so new, our success should have been so ample!” Missteps must be recognized and more importantly dangers must be anticipated. “A country so prosperous, & a government so well calculated to

secure the happiness of the people, should leave nothing to chance and accident, but carefully guard every avenue, thro which possibly danger may be anticipated.” For a man known to be a risk-taker, he showed, as president, a preference for removing the incalculable for fear that it could adversely affect the happiness of the nation. His presidency, however, will prove to be more incalculable than these remarks suggest.

Patronage and corruption had long agitated political discourse, and in this connection Jackson crafted a phrase that historians have latched onto as the perfect distillation of Jackson’s political philosophy. He wrote that

> The duties of all public officers are, or at least admit of being made, so plain and simple that men of intelligence may readily qualify themselves for their performance; and I cannot but believe that more is lost by the long continuance of men in office than is generally to be gained by their experience. I submit, therefore, to your consideration whether the efficiency of the Government would not be promoted and official industry and integrity better secured by a general extension of the law which limits appointments to four years.

Term limits for elective offices had been intensely debated during Ratification, and to extend it to appointive offices (most especially to federal judgeships) was hardly revolutionary. Behind the rationale, however, was the assumption shared by many Jeffersonians that allowing government to grew into a complex machine, lacking transparency or defying explanation was the root cause of temptation and iniquity. “Plain and simple” are of the same word-pool as “simple and frugal” from Jefferson’s Inaugural. Hamilton’s fiscal program and now Clay American System were meant by their opponents to be seen as opposites of plain, simple, frugal government.

The remainder of the First Annual Message dealt with the “three cardinal interests” of agriculture, commerce and manufacturing. He made it clear once again that the task of government with respect to any of these interests was to avoid complicating individual pursuit with restriction or interference that will only retard overall growth and development. Federal finances were sound with the extinction of the debt possible in a few years. Unless tariffs, primary sources of treasury income, were adjusted, the national government would soon have to undertake discussions on how to dispense the surpluses now directed towards the reduction of the debt. Their application to domestic projects would provoke further contentious debate over the constitutionality of such actions, and, therefore, Jackson proposed
consideration of the idea of distributing surpluses based upon population among the states. Again, not a new approach in that the Jeffersonians had considered it. Intelligent financial management by the federal government would in his opinion redound to the benefit of the states treasuries, which with improved finances, could undertake domestic projects that cause so much contention at the federal level. Throughout the discussion of finances Jackson repeated several times his belief that when governments commanded large sums of money, individual enterprise was dented (although he did not explain exactly how).

Perhaps a first for presidential pronouncements was the attention he gave to bankruptcy. A decade earlier Jackson had faced bankruptcy and quite naturally took the side of the dispossessed. “All experience,” he declared, “proves that oppressive debt is the bane of enterprise, and it should be the care of a republic not to exert a grinding power over misfortune and poverty.” America will enact lenient bankruptcy laws on the basis of the belief, as expressed by Jackson, that it was better to erase the debt and allow the victim to rejoin society as a productive citizen than to exact penalties that he could not pay and impose punishments that the state would have to pay for the indigent’s care.

Indian policy was by his own admission a troubling matter. In brief, while saying that the treaties and conventions had to be supported, he drew a line at the creation of a separate and independent tribal government within sovereign states. In some cases, such as Georgia and Alabama, Jackson advised Indians residing in those state to resettle on the other side of the Mississippi River. He warned all indigenous nations not to expect the accommodations that they sought within the existing state.

This emigration should be voluntary, for it would be as cruel as unjust to compel the aborigines to abandon the graves of their fathers and seek a home in a distant land. But they should be distinctly informed that if they remain within the limits of the States they must be subject to their laws…. But it seems to me visionary to suppose that in this state of things claims can be allowed on tracts of country on which they have neither dwelt nor made improvements, merely because they have seen them from the mountain or passed them in the chase. Submitting to the laws of the States, and receiving, like other citizens, protection in their persons and property, they will ere long become merged in the mass of our population.

A stout defense of the primacy of the state in handling such matters was hardly an
accident in Jackson’s political evolution.

On the issue that for some defined Jackson’s presidency, he warned the Second Bank of the United States not to press early for rechartering the institution. “In order to avoid the evils resulting from precipitancy in a measure involving such important principles and such deep pecuniary interests, I feel that I can not, in justice to the parties interested, too soon present it to the deliberate consideration of the Legislature and the people.” He used the word “privileges” to describe what the 2BUS enjoyed in a context that suggested that many others did not. He also stated that constitutional questions about the power of the government to legislate a monopoly remain unanswered. Alluding to one of the chief goals of chartering a bank – to establish a “sound and uniform currency” – he was the skeptic – “it must be admitted by all that it has failed….” 109 A fair warning. It has always seemed to me, that recharter was a long shot. I am aware, of course, of Marvin Meyers’s admonition many decades ago that with the Jacksonians one has to watch their feet while listening to their words.110

If one could measure the tone of Jackson’s remarks in his First Inaugural and in his First Annual one might find that it would register firm but measured and not yet pugnacious and defiant, qualities that he was known for. In a matter of weeks after the First Annual, the Senate will engage in one of its most contentious debates ever that will change the political tone from the White House to the frontier. Intense political combat appeared to be cyclical, and the Jackson Era like the Federalist Era a quarter century earlier would set off political fireworks that historians have been puzzling over ever since. When all was said and done Americans will reaffirm some old beliefs about how the nation shall be governed and who shall govern within a more robust model for growth and development.

The program laid out by Clay under the “American System” can appeal to the rational mind. Why not try to organize the society around a set of agreed-upon goals and then use the power of the state to work toward the goals. It must be stressed that the American System was never as systematically set forth as the name may imply. But the implied was almost as powerful as the actual. What was wrong with a unified approach? The nation was rich in resources and, as Hamilton


110 Marvin Meyers, Jacksonian Persuasion, Politics and Beliefs (Palo Alto, CA: Stanford University Press, 1960) remains one of my favorite Jacksonian studies, not because it resolved all the issues surrounding the Jacksonians but because it asked so many good questions.
argued, it was self-defeating to ignore the potential of creating a broadly-based economy that could employ those resources. In fact, with or without a systematic approach, the nation was pursuing a multi-track strategy. By 1830 the population was more urban, the economy more diversified and the society more acquisitive than ever before. What the systemists were arguing was that tariffs, banks and improvements initiated under a national mandate would make the development more orderly. To be more orderly, however, required a more aggressive and intrusive national government than the Jacksonians were comfortable with, no less so than the Jeffersonians. Perhaps even more damning for the systemists was an assumption that orderliness was a ruse for control. Jackson’s underlying conviction, which had wide appeal, was that control was tantamount to privilege and at its very worst monopoly and, therefore, antithetical to the most basic American ideal. Systematizing was an uphill battle no matter the merits, and once the dust had settled on the Jacksonian political wars, the nation was even less orderly in the way the systemists wanted to implant orderliness.

Jackson like other presidents before him spent much of his time during the first year wrestling with patronage. And he, like his predecessors, vowed to rid the government of corrupt practices associated with patronage, and yet his actions only induced more charges of favoritism and corruption. Americans believed then, as they professed to believe now, that good governance must be based on principles and laws derived from those principles, and when governance fails people are to blame for choosing the wrong principles or subverting the principles chosen. Bipartisanship is the occasional dream come true but only occasionally. Conflict in its various forms makes the political world tick. By 1830, in a young nation that to a large extent had set forth a political system that matched up with certain basic ideals out of the Revolutionary generation, the contentiousness, whether recognized or not, arose from the very point that Jackson stressed more than once – at heart America was an experiment. Two hundred years after the Declaration the experiment may seem wearying, but, 50 years after, it was still freshly challenging. The experiment, however, was creating a wake that could be messy. Nothing perhaps was becoming as messy as how the law, so fundamental to the public’s conviction of the workability of the system, and the interpretation of the law, a corollary to being governed by laws that citizens often ignore, were evolving.

The history of the law and the judiciary is a large and complex topic. I only wish to identify some threads in the evolution of the legal system that help to advance the discussion of self-government. In particular interest was how did legal traditions and innovations come to terms with such an expanded role for the individual
within the society. Legal codes of one kind or another existed in all social systems. It should not be assumed that in authoritarian societies, where a monarch or an oligarchy issued and enforced the laws, legal systems were any less conflicted. For those of us who have studied the Spanish legal system, as it evolved in the New World, we are aware of how inconsistent monarchical rule by fiat could be. In the English and then American systems the interpretation of the law by an independent branch could lead to unexpected ambiguities and conflict. On top of that the American legal system entailed a multi-layered court system. In certain areas federal law took precedence, and in other areas state law took precedence, and when the two came into conflict the remedies were not always clear. One of the complaints that the Jeffersonians had about competing social structures was that they needed far more laws to manage the lives and activities of the citizens compared to agrarian societies. For them, owning and working the land as well as reaping its beneficence, would enhance morality and declaw greed. By their estimate, a manufacturing society, as it was emerging in England and on the continent, would impel the dishonest and the avaricious to an extent that complex legal codes would have to be enacted. The reasoning behind this was that in an agrarian system ownership tamped down evil predilections and in a manufacturing society, where ownership was narrow and dependence was broad, those predilections were aroused. Jacksonian America was still basically agrarian and yet was rapidly developing other sectors. Had it remained almost totally agrarian would the society have needed fewer laws, or was its economic diversification the cause of an upsurge in legal controversies? Unfortunately, the question will remain moot because we cannot replay the period from the constitution to Jackson.

Demographic data compiled from various sources clearly show what was happening. In 1800 74 percent of the population was classified as agrarian labor. By 1830 it had dropped to 70 percent, still sizable but clearly shrinking. Agrarian though it still was, some regional trends deserve comment. The Middle West had the highest with 87 percent of the labor force while New England had the lowest with 68 percent. The Middle Atlantic was slightly higher than New England and the South slightly lower than the Middle West. In 1830 New England and the Middle Atlantic had fallen to 59 and 58 percent respectively and even the South and the Middle West had fallen, although not as low, to 78 to 80 percent. The Middle West had dropped by more than 6 percent, while the South decreased by only a couple percentage points. The labor force, as a percentage of the total population, grew by slightly more than a percentage point in the same period so that the regional changes represented shifts in how people were employed.111 How

they were employed also has to do with where they were employed, and where they were employed increasingly had an urban slant. Accompanying growth in urban labor meant growth in cities and towns because that was obviously where the jobs were. How towns and cities grew in relationship to the areas around them and in relation to each other is not yet fully understood. Clearly, though, by the 1830s, compared to a half-century earlier, American had many more towns and cities, some cities of which were developing into urban systems, precursors of metropolitan areas. Towns and cities often grew up along with emerging market and exchange systems that had a highly local character. And that was still true in the Jackson Era. Rapidly, though, because of the continuing investment in transportation infrastructure, some cities were becoming hubs for market and exchange systems that linked not only the nearby countryside but other urban centers. Urbanization was force that grew from the city outward and well as from the countryside upward. And, as Stuart Blumin reminds us, this had important political implications: “…content of partisan discourse was itself a cosmopolitan force, for it was centered on the question of how the state should oversee the development of the interregional capitalist economy….” As rational and efficient as arguments for nationalizing policies and programs sounded, first under the National Republicans and, then under their successors, the Whigs, they also failed because “nationalizing” sounded fearful. The manner in which the “second party system” came in to existence contributed to the magnification of the differences. Political institutions became crucial conduit for “directing the attention of the most parochial of citizens to the issues and symbols of national political life,” and Democrats with their techniques for mass mobilization were better at this than Whigs. The Whigs will eventually adopt the same techniques, but they will remain wedded to national solutions for a population that often took its cues from local political networks.112

Speculating about whether or not agrarians needed fewer laws is less profitable than examining how the laws themselves worked within the system that was emerging. The legal wrangling occurred on several levels. Inevitably, with a new federal judiciary important constitutional issues had to be resolved. With the long tenure of John Marshall as Chief Justice, nearly 30 years, the Supreme Court espoused a national perspective long after other branches had limited theirs. Some of the Marshall Court decisions were highly controversial and provoked threats of defiance – after one decision regarding Indian territories Jackson, unhappy with the decision, thundered the Court had ruled but let it try to enforce the ruling – but below the august constitutional level state courts issued hundreds of rulings that

had perhaps more of an impact on the lives and activities of its citizens. America never developed a unitary, uniform national legal code that would have obviated the need for state codes. With two dozen state judiciary systems, hearing arguments and issuing opinions, Americans had to learn to navigate a legal thicket. Legal scholars disagree over how to interpret the impact of the legal component on the development of the nation, especially in matters relating to business and property. The issues that divided the scholarly heavyweights were the degree to which freedom advanced development or hindered it. J Willard Hurst, more than a half century ago, thought the condition of freedom accounted for the burst of an “entrepreneurial energy” especially among the middle class. In contrast, Douglass C North concluded that the institutional structure promoted economic growth but with some important undesirable inefficiencies and outcomes. In a review of the debate Tony Freyer, attempting to bridge the divergent institutional views, offers an interpretation that incorporates not only the standard juridical and economic analytical tools but also adds a dose of modern sociological constructs that could be called “constitutive theory of institutional multiplicity”, put forth by Clifford Shearing. If nothing else, writes Freyer, Shearing’s approach allows for a different perspective on the assumption in both Hurst and North that “the Constitution… created a national market for free-trade.” Any such assumption should acknowledge that until the New Deal in the 1930s the way in which the Constitution was applied accepted variations in the rules governing rights of property and contract. “Moreover, different rules governing identical property or contract claims frequently existed side by side in the same place, making conflicted outcomes virtually inevitable.” In Freyer’s opinion:

From Ratification to 1860, the new federal system constituted a fragmented public space in which contract, property, and constitutional rules provided incentives for both promotion of laissez-faire entrepreneurialism and the protection of a producer majority – people who were employed in small, generally unincorporated enterprises or who were principally agrarians – based on the republican fear of concentrated power, monopoly, and corruption.

A struggle emerged between those reflecting the “producer ideology” that stressed independence and opportunity and those representing the “corporate and mercantile capitalists”. Both the federal and state judiciaries became involved in skirmishes that often pitted ideas of whether the advancement of freedom and opportunity would be better served with more or fewer uniform standards and

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controls. Because state legislatures were more directly engaged in economic development than the federal government many of the conflict were argued in state courts and only in federal courts when a clear constitutional issue was raised.

A producer ideology captures a crucial component of Jacksonian society. It also provides continuity with the Jeffersonians who often distinguished between those who actually produced “things” and those who lived off what others produced. The implication was that one activity was fundamental and progressive and the other was parasitic and destructive. The more pervasive the parasitic forces the less freedom and independence for producers to reap the benefits of their efforts. Hamiltonian’s grand scheme along with Clay’s American system extended the potential power of the parasitic forces to manipulate and contrive with the result that producers became victims rather than beneficiaries. When government and business entered into alliances, whatever form they took, the independent producer had few defenses. One must take care in not pushing the presumed dichotomous economic worlds too far. Even when producers were fully rewarded, they could reap those rewards only if other economic agents who did not so easily fit into the producer ideology were empowered to offer the services that producers needed to operate successfully in a markets economy. Moreover, what further complicated the equation was that the definition of producer was changing. The agrarian producer that so dominated the thinking of the Jeffersonians was now bundled together with producers of other “things”, not what was just grown and reaped but what was fabricated from those growing and reaping activities and beyond that what was fabricated to make economic pursuits as well as personal pursuits better. Farmers and artisans had a long association in local markets, but, as local markets expanded into regional, national and even international markets, the way in which these traditional vocations had operated had to adapt to a less stable but potentially more lucrative business plan. Producers came to embody groups that both cultivated and fabricated, and no longer were producers identified so strictly within a rural context.

In terms of the evolving legal system, however, the battle abrewing was between a generalized version of the independent producer and an equally generalized version of the incorporated business. How to accommodate the other socio-economic elements that made up Jacksonian society is less easy. The main-stage battle between the unincorporated and the incorporated was portrayed as large versus small, national versus local and privileged versus everyman. Freyer points out that the financial advantages for the incorporated were “attained through risk, economies of scale, and political and legal influence.” The unincorporated, even lacking these financial advantages, were not without some clout. Their counter-
offensive was political. The fact that producers could dominate the public discourse during the Jacksonian period only meant that their appeal struck a sympathetic chord in the public discourse. Within the democratic framework of dual sovereignties that was evolving the clout held by the producers rested with their control over “juries and other local institutions.” The appeal of the unincorporated was that to promote economic development the public and private power of the corporate sector had to be checked. They stressed the values of accountability and legitimacy to external authority as crucial to the survival of a constitutional government. But there were several external authorities from the national to the local, and the consequence, perhaps unexpected, was the rise of an independent judiciary. Despite much criticism of judges and courts Americans used them with ever-increasing frequency to untangle the conflicting elements that naturally arose from such divergence in rule-making. For better or worse, the judiciary became the defender of individual rights, although legal historians disagree about whether judges lent a conservative or liberal bias to legal interpretation. In the end, it must be recognized that with the elected part of the local judiciary the external authority of the voter would come into play.\textsuperscript{114} Freyer is careful to lay out his “brief”, if you will, because there was not a “singular” quality to how rule-making evolved before 1860. He tries to capture the profound changes that arose because western economies were moving from an agrarian to an industrial order, and yet he also tries to keep in view the continuing commitment that was felt toward the old but disappearing agrarian order that was so closely allied with concept of a society of self-governing individuals. In effect, what the American legal establishment had to accomplish was to preserve the “continuum of those engaged more in local activity to those whose enterprise was nationally and even internationally oriented.”\textsuperscript{115}

The word “hustle”, which carries a uncomplimentary connotation, comes to mind in the Jacksonian context. It can point to an American trying to march to a different drumbeat in the post-War-of-1812 era. People were on the move and in an acquisitive frame of mind. Opportunity became the operative term. Not a new term, by any means, but used in a more activist sense. Embracing an opportunity was repetitive not singular. A word of caution. The mobility and the opportunity that derived from it could be wrenching and unrewarding. Success was not assured (as it was not assured under a more static model), but it could not be realized without the chance. And, if I have read Freyer correctly, it was the chance that


people expected to be able to exercise that influenced how the legal system would evolve. The law and the interpretation of the law was to “promote” opportunity, which could apply to the small landholder who wanted the freedom to improve his holdings in order to sell them so he could invest in new lands or new ventures as well as the corporation which wanted the freedom to develop its business and exploit its market to benefit its investors. They occupied different points on the economic spectrum, but they shared an outlook on a legal system that promoted their interests. But they also shared an outlook on a system that protected those interests. The perception of the world in which they operated could be fundamentally different. What both objected to were “deals” that did not serve their interests. Deals were part of the game, but they were also suspect. Freyer makes clear that despite the existence of a federal judiciary that might have been better equipped to have sorted out the conflicts among the various parties in conflict over how to divide up the economic pie and lay down a set of national standards that compromised some the differences for the public good, it established some general guidelines after which it more or less tuned over economic policy to the states. States tended to look after their own interests, and therefore the laws governing contracts, landholdings, bankruptcies, etc. could show considerable variation from state to state. Economic development continued apace in a more “hands-off” manner that would have been the case if the business of growing had more of a national perspective. The phrase “creative destruction” has been applied to this decentralized approach. Of course, there was no assurance that more centralization and consolidation would have reduced the destructive and yet maintained the creative.

Jackson’s first term except for the final year lacked the public fireworks of his second term. Much of his first term was taken up with reorganizing the national administration, and that involved, as it always must, making appointments, in other words, patronage. Civil Service did not exist, and that meant that many Adams’s appointees were removed in favor of Jackson’s supporters. Whether or not patronage served the national interest, the fact remained that few National Republican appointees would sign on to how Jackson envisioned the role of the national government in the life of the nation. In a curious turn, besides the flak over dismissals and appointment, Jackson had several serious internal personnel matters to deal with. In May 1830 the President learned what he had long suspected that Calhoun, as Secretary of War under Monroe, had initiated a plan to censure Jackson for his conduct of the war against the Seminole Indians. Jackson demanded an explanation, which came in the form of a fifty-page letter that in Jackson’s mind only further confirmed his suspicions. Calhoun was more or less assigned him to exile. In the meantime, the (second) marriage of Jackson’s
Secretary of War, John Eaton, and a barmaid, Peggy O’Neil, in 1829 had roiled the social life of the Washington establishment. Mrs. Eaton was being shunned by other Cabinet wives, most especially by Floride Bonneau Calhoun, the Vice-President’s wife. Jackson took the attack (“dark and sly insinuations”) against Mrs. Eaton personally because his own marriage to a divorced woman (now deceased) had provoked scandalous talk. In 1831, when a member of his own family, the wife of his nephew (Andrew Jackson Donalson), in her capacity as White House hostess refused to invite Mrs. Eaton, Jackson was furious and with his Cabinet assembled he demanded an explanation. There was silence (out of deference, one assumes, to their wives) except for Martin Van Buren, who was widowed and who defended Jackson and then resigned as Secretary of State. John Eaton followed suit, and a reshuffle in the Cabinet began that doomed any chance that Calhoun would ever have any influence in this Administration. Van Buren had become Jackson’s surrogate.

On the legislative front, Jackson did veto the Maysville Road Bill that would have committed federal funds to highway construction in Kentucky, but, whatever the merits for building a road, Jackson had, as had several predecessors, expressed his desire for a constitutional amendment to clear the way for such federal funding. An amendment was not forthcoming, and Jackson’s veto shifted any further federal funding of internal improvements to specific projects relating to waterways and harbors, both of which could be treated constitutionally as federal domains (to be discussed later). Finally, the Congress was consumed for months with issues raised in the Hayne-Webster debates, and while Jackson and his Administration were invoked from time to time, both critically and admiringly, the debates and their ramifications had a way of limiting other legislative initiatives.

A famous toast at Jefferson’s Birthday dinner on 13 April 1830 had both symbolic and substantive importance. Senators Hayne and Webster had just completed their debates, although the Senate was still arguing over what had initiated the debates. The Eaton Affair was gaining traction, and Jackson had already learned of Calhoun’s role in the Seminole Affair. What was said in the two toasts, totaling a few sentences, offered by the President and the Vice-President respectively, what was meant by what was said and who put them up to saying what they said has become a minor historical industry. We can begin with the simple assumption that Jackson and Calhoun did not trust each other and did not like each other. At a time when the Jacksonians as the opposition party in 1828 were metamorphosing into the Democratic Party, a degree of harmony and unity was needed to meld the southern, western and northern interests that had much to disagree about. It showed where the dispute over self-rule had landed America. Limited government
was an noble ideal except, argued Webster in his recent debate with Hayne, when the parties to the compact have different ideas about whose definition should prevail. Was not the national government created to allow such conflicts arising out of peculiar attitudes and historical experiences to be resolved to preserve the Union, not to allow the conflicts to dictate the Union’s own demise? The President’s toast, so far as the guardians of these matter can ascertain consisted of six words: – “Our Union, it must be preserved”. Senator Hayne had apparently leaned on the President to have the published version read “Our Federal Union”. To insert “Federal” in front of “Union” was to specify a particular union: the Union that the states had created, not surprising given his recent Senate speeches. Calhoun’s toast was longer by nearly two-dozen words. He started with “The Union” (recall that Senator Barton in the Senate debates had placed Union before Liberty), but then qualified it with “Next to our liberties the most dear.” and then declared Liberty can only be preserved if the distribution of the Union’s benefits and burdens were equal. Of interest is that before Jackson spoke his toast he heard two-dozen other toasts, many of which could be interpreted as supporting the sovereignty of the states and the right of nullification when state sovereignty were in jeopardy. Jackson’s toast, whether in spoken or written form challenged those sentiments directly, and Calhoun’s toast after Jackson’s only reinforced the insuperable disagreement between the Calhoun branch and the Jackson branch of the emerging Democratic Party. When a South Carolina Congressman, greeting Jackson (a native South Carolinian) several days before leaving for home and several days after the celebrated toasts, now in wide, public circulation, asked if Jackson had any words for his constituents, Jackson was alleged to have answered: “Yes, I have. Please give my compliments to my friends in your state, and say to them that if a single drop of blood shall be shed there in opposition to the laws of the United States, I will hang the first man I can lay my hands on engaged in such treasonable conduct, upon the first tree I can reach.” If this were what Jackson said, it did not take long for it to spread among other South Carolinians It may have led later to an exchange between Senators Hayne and Thomas Hart Benton in which Hayne implored that Jackson surely wouldn’t hang anyone. To which Benton replied, “I tell you, Hayne, when Jackson begins to talk about hanging, they can begin to look out for ropes.” In a few years Calhoun and Jackson will square off in real not symbolic terms, when Calhoun, in the name of Liberty, will lead the nullifiers and Jackson, in the name of Union, the nationalists, even though they shared a basic philosophy that individual liberty was the bedrock of the American experience. No blood was shed, but the ropes may well have been visible.\footnote{Numerous printed articles and Internet links exist. See Haysville Community Library, Haysville, Kansas, at \url{http://haysvillelibrary.wordpress.com/2009/03/15/andrew-jackson-the-nullification-crisis/}}
The essential problem with the concept that all formal government originated with the sovereign individual was limits. Specifically, once authority had been delegated, could it be retrieved either in protest to how it was used or in response to how circumstances had changed. In other words, how malleable was this grant of authority? One can put forward the standard interpretation dating back to the seventeenth-century political empiricists that the charters could be revised but only under the direst circumstances should they be dumped. The American experiment was complicated because in theory individuals had created two sovereign agencies, and the federal charter in which some powers were reserved only for the general government was not always clear about other powers. Having delegated, did the individual simply step back and let the formal governmental agencies pursue their duties? The wellbeing of individuals, their sovereignty and liberty, was often referred to as the ultimate objective of all government policies, but disagreements, profound disagreements in some instances, could shatter that ideal. When the formal sovereign governments disagreed, then what? Did individuals enter the fray by some vehicle that allowed them to resolve the disagreements, or were they powerless, at the mercy of the competing agencies, once they transferred powers from themselves to those agencies? Individuals still reserved to themselves the powers not conferred, but what powers exactly had been reserved and, if they had been invaded, what could be done? None of this business of transferring authority could ever be worked out precisely. No one ever detailed all the sovereign powers that individuals possessed in original forms, although everyone agreed they were related to “life, liberty and property”. We admire the Constitution now for not having dotted all the “i’s” and crossed all the “t’s”, and even though some framers had spoken in language that emphasized the need for flexibility, if the Constitution were to endure, the next generations were arguing about that flexibility.

John C Calhoun, among the post-Revolution/post-Constitution generation, probably went as far as anyone in laying down the principles by which states and their citizens could defend themselves in conflicts over sovereignty. When Calhoun came to the House as a Republican and a nationalist during the War of 1812, he was less concerned about federal-state relations than later. He could even support a moderate tariff as a part of a broader plan to allow the United States to strengthen its own self-sufficiency. He joined Henry Clay, also a Republican and nationalist but a southern westerner, in sponsoring internal improvements and other programs that Old Jeffersonian Republicans could not bring themselves to support. In 1820s Calhoun began to pull back from his nationalist stance. Receiving the majority of the vice-presidential electoral ballots even though the presidential election had been thrown into the House, Calhoun ended up serving
under Quincy Adams instead of Jackson whom he supported. Increasingly, he expressed fears over the future of slave-holding South as the locus of power shifted away from Virginia and the southern Atlantic to North and the West. The Missouri controversy plus protective tariff legislation that culminated in the Tariff of Abominations (1828) transformed his nationalist sentiments into a narrow, parochial view that placed the states at the center of the formal governmental system except for the very limited authority granted the general government. And when confrontations occurred between the two sovereignties the power of the state to nullify actions of the general government could be invoked on the grounds that states, as creators of the general government, could never allow it to presume authority beyond the limited, specific powers stated in the compact.

In December, 1827, the 20th Congress convened under the leadership of Jackson men. They were aiming arrows at the forthcoming presidential election, trying to find a way to embarrass Adams and Clay and boost the popularity of Jackson, who was already more popular than Adams within the general electorate. Nonetheless there was the fear that the electors might disregard a popular majority for Jackson and re-elect Adams. The plan that they concocted was to introduce such a high, protective tariff that no section could support it. The manufacturing interests in both New England and the mid-Atlantic region wanted some protection, but the plotters assumed that they would not support an excessively protective tariff, the bill would go down to defeat and the Adams administration would be blamed. The aim of the Jackson strategists was to unite the middle states with the South and West against Adams even though protective tariffs were opposed in the South. In the view of the strategists New Englanders could never support a tariff that actually taxed imported raw materials that they needed to expand their manufacturing base, and if the leaders made sure the tariff bill could not be amended, then the no-vote of New England plus the South would sink the bill and those in the Middle and Western states that favored tariffs would blame the Administration. After months of floor debates and legislative skirmishes both chambers unexpectedly passed what came to be known as the Tariff of Abominations and Adams signed it into law.

The outrage in the South was palpable. Even if Jackson won the election, the tariff could not be rescinded easily or quickly. Southern states took matters into their hands, and their state legislatures began to debate proposals on how to react to what was clearly not in their economic self-interest. Not surprisingly South Carolina took the lead. The South Carolina Legislature appointed a Committee of Seven to consider the Message of the Governor and other Memorials concerning the Tariff of 1828, and that Committee issued a Report, which was nearly 60
pages, covered the prior constitutional and legislative history of the nation and was probably written by Calhoun. The Report was referred to as the *Exposition* and the Eight Resolutions at the end as the *Protest*. At the end of the conclusion was the name of the Chairman of the Committee, J Gregg. Calhoun’s names did not appear anywhere. In 1855 Richard Crallé who edited and printed much of Calhoun’s writings, published an edition of the *Exposition* and *Protest* that appeared later in a collection of Calhoun’s papers. According to the editors of Calhoun’s papers, Calhoun made a “rough draft” that survives, but the “fair copy” from that draft did not survive. Crallé apparently published the “fair copy”, while the public knew the Legislative version that contained their revisions. I do not know the extent to which the copies have been studied for their differences, but the differences I found were hardly major or substantive. They usually involved omission of words or changes of syntax. Both editions essentially cover the same ground.

In the most general terms the document declared that the Tariff of 1828 was unfair and unjust and, as such a sovereign state, i. e., South Carolina, suffering under these iniquities had the right to declare the act null and void. Because the compact was agreed to by parties of equal status the General Government could not pursue policies that disadvantaged a state or a region under the banner of helping other states or regions without an explanation and justification. Under these terms the aggrieved state was not required to defend itself except in describing the injury, but the General Government was obligated to show why such policies should be pursued. In the end the injured party can declare itself unwilling to abide by the law. The *Exposition* emphasized an unmistakable link between Jefferson’s Kentucky Resolution and Madison’s Virginia Resolution in opposition to Alien and Sedition and related matters and the protest being undertaken by South Carolina with respect to the tariff. “Interposition” was unavoidable and required when the government under the compact steps beyond the language and the authority to which all the parties had agreed; it was less fatal to union than the ultimate act of secession. Other southern state legislatures followed with their own resolutions over the next several months. The vexing question was: what could state legislatures do individually or collectively? It has

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119 This was the tariff that Calhoun had helped to pass. The political trickery had come back to bite him. He made it clear in the Exposition that *tariff* was the soul of Clay’s American System, a name, Calhoun regarded, as a “perversion”. *Reports*, 15. Available on-line at [http://www.mcclellanlibrary.org/section1.htm](http://www.mcclellanlibrary.org/section1.htm).
been argued that Calhoun’s *Exposition* for all of its explosiveness was probably more measured with respect to the sovereignty controversy than some other writings of his southern allies, in particular South Carolina’s other senator, George McDuffie. While secession was clearly an option for aggrieved states, nullification was an important intermediate step. Calhoun provided a theoretical framework for such action in which a individual state could disobey a federal mandate. His thinking pushed the sovereignty question into a new realm. No one had yet made the case for nullification in a logical and reasoned fashion.

Calhoun’s *Exposition* raised as many questions as it tried to answer. Under a representative system in which the majority ruled, was it not possible that every state or region or locality would suffer to some degree under all legislation that tried to advance a national agenda? Was it not possible that, if interposition were practiced by all states, the General Government would end up being totally powerless? Was not the judiciary set up to adjudicate the very questions that Calhoun was trying to address with a more radical and dangerous position? It became evident that Calhoun actually considered majority rule part of the problem. Such questions were cynical. South Carolina’s adversaries were driven by self-interest (the very self-interest or self-love that Jeffersonians argued could work to the advantage of self-rule.) Calhoun was not optimistic about self-interest. “If, in the ardent pursuit of gain, such a thought had occurred [reducing the South ability to consume], it would seem impossible, that all the sophistry of self-interest, deceiving as it is, could have disguised from their view our deep oppression, under the operation of the system.”

Calhoun did not think that what was happening in South Carolina and elsewhere in the South was so complicated that it could not be discerned simply by looking. The aggrieved explained how injurious the tariff was but the proponents preferred to ignore what was plainly manifest. If the South regained free trade, it would flourish – “the most flourishing people on the globe” – and that is precisely why it will not be restored because the opponents of free trade would be the losers. If there was a “political proposition universally true” that “springs from the nature of man”, it was that “irrepressible power is inconsistent with liberty, and must corrupt those who exercise it.” Thus, people delegated powers and continue to be “interested in their just and proper exercise.” Representatives much report to their constituents through “frequent periodical elections, in order to enforce a faithful performance of their delegated trust.” Without such fidelity the political community would suffer a disease that would erode liberty itself. The disease, already apparent in the fabric of government in

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the loss of frugality, economy, accountability and uniformity, had dimmed the hope for the “duration of liberty.” The governed should govern but the tyranny of the strong had abused the liberty of the weak. This led Calhoun to declare more than once in the remainder of his political life that majority rule was fully capable of becoming tyrannical. “No government based on the naked principle, that the majority ought to govern, however true the maxim in its proper sense and under proper restrictions, ever preserved its liberty, even for a single generation.”

Majorities like tyrants preferred to ignore the obvious because it did not serve their “self-interest”. Only when the rules and boundaries to check the majority, just as such rules and boundaries are needed to check government by one or the few, only then can the despotism of the majority be prevented. Such a system of restraint and restriction must accompany constitutional government in order for that government to distinguish itself, to be the source of “virtue, patriotism, power and happiness.” But Calhoun made it unalterably clear that constitutional government, and the government of the majority, are utterly incompatible. Constitutional governments by their nature must impose limitations and checks upon the majority as majorities sought to impose limits on monarchs and oligarchs. An unchecked majority amounted to despotism, and government could only be free in proportion to the number, complexity and efficiency of the checks, by which its powers were controlled.\(^\text{122}\)

Calhoun was not the first to entertain the idea that majorities could themselves become despotic. How to accommodate differing political interests, what was sometimes referred to the balance between majorities and minorities within a constitutional system had been debated since the Revolution. In earlier debates it was postulated that under representative government with frequent elections and rotation in office the power of the majority to do harm would be mitigated. For Calhoun and other southerners federal policies was effectively relegating the South to minority status. The way of life to which southerners were accustomed and which suited their climate and soil was being downgraded because of the desirability of the manufacturing and commercial interests to hijack the nation’s resources, especially its capital, in support economic development that was not competitive with the international market. Calhoun did not believe that the economic goals of the New England and the Mid-Atlantic States could be realized with what amounted to subsidies in the form of protective tariffs. The grievances were real, but Calhoun cautioned that while interposition or nullification was immediately justifiable such actions should be delayed until every opportunity was exhausted to remedy the abuses. Indeed, the Inauguration of Andrew Jackson (to

\(^{122}\text{Reports, 32-34, 47. In the list “virtue, patriotism, power, and happiness”, patriotism is omitted in some versions. Available on-line at http://www.mcclellanlibrary.org/section1.htm.}\)
be sworn in on 4 March 1829) was a hopeful sign that the general government would assure the “complete restoration of the pure principles of our government.” South Carolina did not pass any resolutions to nullify or secede, nor did any other southern state, but several legislatures expressed displeasure and disapproval of the Tariff of Abominations. And, Jackson did not remain his hope for long.

The idea of “restoring” became a standard theme of the Jacksonian Era. The restoration of the pure principles that permeated the thinking and the writing of not just Southerners but Northerners too must have rung true for many Americans who were caught up in the uncertainties of the times. Jackson’s Inaugural Address certainly advanced the idea that plain and simple would represent restoration. Whether or not Jeffersonianism should be the model or, more importantly, could be the model in a rapidly changing social order was worthy of debate, but as a working theory it was easier to understand and perhaps to trust than the countervailing theories. Even if pure Jeffersonianism did not have much relevance in a rapidly-changing social order, it had the language that Americans understood but did not always agree upon. Letting individuals rule except where formal political institutions were absolutely essential – an area of huge disagreement – was admirable but was it any longer workable? What the nationalists laid out in their models was promise but also predicament. Getting from here to there, well, that required this this happen and that happen. The end result of promising more was enlarging government, complicating the machinery government and mudding the vision about who shall rule. Events unanticipated were driving the course of development in Americas, but the rationale for managing this development was not easily transformed. If government sponsorship or endorsement was required, it was easier to reconcile a state role than a federal role with the ideal of self-governing individuals. It was not always a reconciliation that made sense, since the consequences of state intrusion could be just as damaging to the cause of liberty. The election of Jackson will restart a debate about the form of government but in a context of a nation beginning but of a nation growing.

After parrying with Calhoun over the preservation of the union in their Jefferson Birthday Dinner Toasts, Jackson stood his ground in his Second Annual Message in December, 1830. In the last quarter of the address (the on-line version numbers about 25 pages) Jackson introduced the subject of the tariff. He acknowledged that the Tariff of 1828 was not popular, but he declared that, defective though it was, a bad tariff did not negate the power of the federal government to enact tariff

legislation. He made no distinction between a revenue tariff and a protective tariff because the Constitution made no distinction. Contrary to the view of the opponents, Jackson did not believe that because the people of South Carolina or other states were of the conviction that the tariff was so erosive of their economic wellbeing they had an inherent right to choose whether or not to obey federal law. It was not easy to prove exactly what caused any erosion, if in fact erosion had occurred. Moreover, the nation would face a political “anomaly” if it could not protect one group of citizens and their economic interests such as those who favored tariff because they were in the businesses protected by tariffs in order to satisfy another group that claimed to be injured by the tariff. The proper response was to adjust the tariff, which actually was done with the Tariff of 1832. Jackson wrote:

I am persuaded that the advocates of these conflicting views do injustice to the American people and to their representatives. The general interest is the interest of each, and my confidence is entire that to insure the adoption of such modifications of the tariff as the general interest requires it is only necessary that that interest should be understood.

A paragraph later his response was even more direct:

While the chief object of duties should be revenue, they may be so adjusted as to encourage manufactures. In this adjustment, however, it is the duty of the Government to be guided by the general good. Objects of national importance alone ought to be protected. Of these the productions of our soil, our mines, and our work shops, essential to national defense, occupy the first rank. What ever [sic] other species of domestic industry, having the importance to which I have referred, may be expected, after temporary protection, to compete with foreign labor on equal terms merit the same attention in a subordinate degree.

The present tariff taxes some of the comforts of life unnecessarily high; it undertakes to protect interests too local and minute to justify a general exaction, and it also attempts to force some kinds of manufactures for which the country is not ripe. Much relief will be derived in some of these respects from the measures of your last session.124

He expressed confidence that if partisan interests were put aside with the aim of finding what was best for the nation at large – Jackson actually used the phrase common good – then the tariff question could be resolved satisfactorily. He also made it clear that the action of the majority must be respected because majoritarianism (in obvious contrast to Calhoun) went to the heart of the American political system. To assume that small minorities with special grievances could band together to thwart the will of the majority acting properly and within their constitutional mandate would destroy the ideal upon which the nation was founded. This entity called “nation” bounded by “common good” had evolved to a new level by Jackson’s time. He laid out a position that may have stuck many Americans, even some of those who were staunch defenders of state sovereignty and individual liberty, as basically sound and perhaps necessity. It was not hare-brained, although quite correctly it did not support the extreme positions of some state sovereignists, who wanted the compact to be interpreted in a way that was not preferred by the framers. The problem remained and will in fact grow because objections by the smallest minorities singly or collectively could be framed in terms of individuals exercising their ultimate authority to determine when their liberty was a stake or in jeopardy. While the extreme state sovereignists could not have won a vote to dissolve the Union the idea that legislation or jurisprudence could not be challenged in the name of individual liberty and defense thereof became the template of the emerging democratic system. The tariff offended regional and local politicians who believed that they were defending or had to defend their constituencies, but it did not offend enough Americans. With other issues where overreach of authority came into play the threat to individual liberty was more persuasive.

Jackson dismissed the usual charge that foreign countries paid lower prices for American exports to compensate for our tariffs against their exports. Jackson observed that since falling prices on commodities and manufactures were was a world-wide phenomenon, Americans tariffs could not be blamed. Southern planters and exporters were paid less and therefore could buy less because of lower prices as well as scarcity of specie. Since gold and silver were produced in countries where unrest was manifest, the cost of mining and transporting metals was rising as the supply of gold and silver was shrinking. Under these circumstances diversifying the American economy to make the nation less dependent upon international markets may be a policy that will eventually benefit all economy sectors and geographic regions.

While the chief object of duties should be revenue, they may be so
adjusted as to encourage manufactures. In this adjustment, however, it is the duty of the Government to be guided by the general good. Objects of national importance alone ought to be protected. Of these the productions of our soil, our mines, and our work shops, essential to national defense, occupy the first rank. What ever [sic] other species of domestic industry, having the importance to which I have referred, may be expected, after temporary protection, to compete with foreign labor on equal terms merit the same attention in a subordinate degree.\textsuperscript{125}

It should not be assumed that protection was permanent; nor should it be assumed that economic diversification was evil. In a direct response to Calhoun’s position that majorities could themselves become tyrants, Jackson underscored his belief that under legitimate majority rule the liberty of the individual was safe. Who was this majority that Jackson was referring to? The Tariff of Abominations had been passed under dubious circumstances that may have had little to do with what the majority opinion either in the Congress or in the public. Tariff policy had allies across the economic spectrum, but this particular tariff had also made enemies beyond the southern planting class. Jackson was not addressing the majority opinion on a particular tariff but was fully intent on elevating the authority of the national government when acting in a proper manner for the “general good” against a contrary view that such authority could be segmented in accord with local objections. The “general good”, however, was subject to debate.

The Tariff of 1828 was revised in the Tariff of 1832 but not sufficiently to satisfy Calhoun and his allies. In the middle of the 1832 presidential campaign – a campaign in which Calhoun, having resigned as Vice-President, was replaced by Martin Van Buren from New York – the South Carolina’s governor called a special session of the Legislature, which met in November, to enact an ordinance nullifying the Tariffs of 1828 and its 1832 revision. The ordinance fully reflected the theory, being propounded by Calhoun and others”, that duties were not to be collected within the state, “test oaths” were required of all state official (except legislators), appeals to the federal judiciary, that is the Supreme Court, were forbidden and use of force by the federal government would lead to secession. To enforce the ordinance the Legislature authorized the raising of a military force and the arms to enforce the ordinance. There was no doubt what was happening. If acceded to, the state could by its own choosing decide what legislation of the general government could or could not be enforced. Dual sovereignty, which had

never been spelled out in full detail, had been replaced by ultimate sovereignty of
the state over the general government. It did not work the other way any longer.

That Jackson would react was never much on doubt. He had warned that there was
a limit to the authority of the state regardless of the argument that the state would
more likely defend personal liberty than any other entity. But South Carolina’s
action came after the fall election but before the Electoral College met. It surely
was designed to test Jackson who had won nearly 55 percent of the popular vote.
When the electoral vote was counted he had 80 percent, having carried 16 of the
24 states. Henry Clay, the nominee of the Whigs (formerly National Republicans)
carried six states and two others one state each. Jackson did not win the electoral
vote of South Carolina (not did Clay) because the electors decided to vote for John
Floyd who was not even a candidate as a protest. The campaign was not about
South Carolina or nullification, although the issue was certainly invoked from time
to time. The campaign was about the Bank of the United States, whose charter
passed by a majority of the Congress Jackson had vetoes in the summer before the
election. Jackson will deal with South Carolina’s brazen action, but first things
first.

The history of the 2BUS has been written and rewritten. I will not attempt to
revisit the many interpretations that have flowed from the Bank War. After a shaky
start the management and performance of the 2BUS improved during the 1820s.
Under Nicholas Biddle, who became president in 1822, the 2BUS pursued its
duties under the charter assiduously with the result that the operation of US credit
and currency facilities had attained a level of stability and uniformity that was
lacking at the time of its charter. Once again, as was the case with the BUS, a 20-
year charter meant that the future of the bank would be openly debated. Despite his
accomplishments Biddle and his bank had powerful enemies. At the very core was
the notion that a national bank was needed and given its monopolistic presence,
whether useful or not, was it constitutional. The popularity of Jackson and his
election to the presidency raised concern among the Bank Crowd that Jackson who
had reservations about monopolies as well as banks could be persuaded to support
recharter. Almost as soon as Jackson had been elected, discussions, often behind
the scenes, to reach a rapprochement with Jackson, were started. The Bank’s
friends agreed that certain changes in the charter to make the 2BUS subject to
more oversight by the executive and legislative branches could not be avoided.
During these negotiations between the Bank and his staff Jackson was described as
coy, indifferent and vacillating. What seems to be unmistakable from his public
statements is the belief that recharter should be put off until later, closer to the
actual date of 1836. The Bank’s supporters argued in response that the Bank
needed a longer lead-time either to close down if the charter were denied or to make changes that might be required by charter revisions. They wanted to know sooner rather than later the 2BUS’s future.

The battle over this Bank as well as its predecessor had always been more political and ideological than economic. Not all Republicans were opposed to the Bank, but as politicians began to choose sides in the newly-evolving party system, the anti-Jacksonians were much stronger advocate of recharter than the Jacksonians. The party structure were fluid in Jackson’s first term, and even the President who personally disliked and distrusted the Bank and politically preferred directness to the give-and-take that accompanied the revised-charter negotiations had to restrain so long as the politics remained murky. The longer the indecision, however, the more worried became the Bank’s president. He had no more trust in Jackson than Jackson did in him. The emerging opposition held an opinion that on the Bank question Jackson might be vulnerable. The Bank, like the tariff, was much disputed but the dispute had less of a regional stigma and had yet to reach a level was where invoking interposition. Besides the charter had to be renewed for the Bank to continue in existence, and Republican opposition to the Bank had more or less decided that the battle would take place. Thus, Jackson’s insistence that recharter was not urgent and should be delayed. Despite warnings from the Administration, Biddle ignored Jackson’s warning and petitioned Congress, as he had a right to do, to take up the recharter issue before the 1832 presidential election. Biddle was persuaded of the necessity of this action because of the “indefatigable” crusade by Senator Thomas Hart Benton (J-MO), a hard-money advocate, against the Bank and recharter. Bentónica began his attacks shortly after the election of Jackson (December 1828) and persisted through the July 1832 veto. His most ardent effort came on 2 February 1831 when he spoke in opposition to a report by the Committee of Finance, which had so revised his earlier resolution not to renew the charter, after being assigned to that Committee, that the Committee came out in favor of recharter. Benton asked that a special parliamentary rule be enforced that no member with a private interest in the matter under debate could be present, in fact, he must withdraw from the chamber. [Not reported if anyone did.] As Benton began his recital of objections, the Vice-President [John C Calhoun], presiding over the Senate, attempted to rule Benton out of order but after an exchange between them allowed Benton to proceed. His first and primary objection was that “the bank as an institution [was] too great and powerful to be tolerated in a Government of free and equal laws.” He presented evidence on how

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126“Indefatigable” was used by Ralph C. H. Catterall in his The Second Bank of the United States (Chicago: University of Chicago Press, 1902), 205, the first monographic and still useful study of the Second Bank, especially the political intrigue behind the scenes.
“pernicious”, “anti-republican” and “monopolistic” the Bank was. He presented charts, cited figures, referred to British history and offered alternatives. Recharter could not proceed because it made a sham of the principles upon which the Republic had been founded. He closed with a thunderous refrain against the heartland of the Bank, the Northeast.

And where would all this power and money centre [sic]? In the great cities to the northeast, which have been for forty years, and that by force of federal legislation, the lion’s den of Southern and Western money--that den into which all the tracks point inwards; from which the returning track of a solitary dollar has never yet been seen. And, this is the institution for which a renewed existence is sought--for which the votes of the people’s representatives are claimed! But, no! Impossible! It cannot be! The bank is done. The arguments of 1816 will no loner apply. Times have changed; and the policy of the Republic changes with the times. The baleful planet of fire, and blood, and every human woe, did bring the pestilence upon us; and benignant star of peace shall chase it away.  

As soon as Benton finished, Webster rose to demand the yeas and nays to allow the introduction of the Benton Resolution [not to renew], and his motion carried by a vote of 23 [not to introduce the resolution] to 20. The vote on the Webster motion was mainly along party lines – Jackson supporters mainly from the South (15 of the 20) although New Hampshire, New York (including the anti-Jacksonian senator) New Jersey and Pennsylvania provided the remaining five votes. No other western except Benton vote for his Resolution. The five who did not votes included three Jacksonians and 2 Anti-Jacksonians, and had they voted as their colleagues did they would have changed the outcome.  

An amended House bill was approved by the Senate on 11 June by a vote of 28 to 20, and that bill, amended by the House, was approved on 3 July by a vote of 107 to 85. The Senate concurred also on 3 July. When the Congress voted on recharter (more than a year after the close vote on Benton’s Resolution) in the summer of 1832 the make-up of the two chambers based upon a Jacksonian (Democratic) versus anti-Jacksonian (Whig) formulation favored the former. In the Senate the Jackson Party counted 24, the anti-Jackson party 22 and the Nullifiers from South


Carolina 2 for a total of 48 senators. Seven Jacksonians voted in favor of recharter, two of them from Pennsylvania, the home of the Bank. In the House the Jacksonians had a sizable majority of 126 of the 213 seats, but the vote for the Bank was more lopsided than in the Senate. On 2 July the House took up the recharter bill (officially numbered 147), and after wading through a series of amendments it agreed to postpone action until the following day. When the vote came, it was basically the Senate bill, as amended, with one amendment by the House. The vote was 107 to 85 (of 213 total). Although support for the Bank was spread across the country, it was concentrated in the Northeast. A block of nearly two dozen votes in favor of recharter was cast by the Pennsylvania delegation where party affiliation carried little weight. Seventeen of the Pennsylvania House delegation were classified as Jackson Men and only one voted against recharter. (The remaining two did not vote). If the Pennsylvania delegation had voted nay, as did many other House Democrats, the vote to recharter would have been much closer and may not have succeeded. The fact that Bank was headquartered in Philadelphia influenced how the Pennsylvania delegation voted irrespective of the merits or the defects of the recharter bill. Support for the Bank may have been softer than the Congressional tallies suggest. It was no secret that the nation was ambivalent about the need for a national bank. And with little apparent fear Jackson and his advisors used that ambivalence to make their case against the Bank.

His Bank Veto is one of those singular presidential pronouncements. Most modern economic historians believe that the 2BUS’s record was satisfactory, if not outstanding, and the Bank should have been rechartered. A good case can be made for that on economic grounds. And the same case could have been made a year or two after the election. But historical hindsight is no substitution for history. Despite vacillations on recharter Jackson’s position on timing was fairly clear. There was no hurry. The Bank had another four years before the charter expired. His opponents, the Bank’s closer allies, miscalculated on two levels: Jackson’s first-term controversies, especially the looming nullification crisis, had not eroded his popularity to the degree that his opponents assumed; and the acknowledged benefits for the credit and currency systems because of the Bank’s attentive

129The final votes in both House and the Senate can be followed in the respective Journals and in the Register of Debates. From the Journals: on 3 July in the House after an amendment stipulating that interest rates on bank loans could not exceed 5 percent approved approved (106 to 84) [p.1069], following which the House agreed to allow the amended bill to be read a third time (124-61) [p. 1071] and finally to be voted on (107-85) [p. 1074]; on 3 July the Senate approved the bill as amended in the House without the vote being recorded. [394]; but the bill the Senate sent the House had been reported and amended and then passed by the Senate on 11 June with a vote of 28-20 [p. 345]. On the following day, 4 July, each chamber reported the bill rechartering the bank was duly enrolled. Available online at http://memory.loc.gov/ammem/amlaw/lwhj.html, http://memory.loc.gov/ammem/amlaw/lwsj.html & http://memory.loc.gov/ammem/amlaw/lwrd.htm.
management had less appeal because it was harder to explain than the simpler contention that the Bank was a monopoly and monopolies were incompatible with how Americans viewed their political ideals. Americans were ambivalent about what was good or bad about banking, but they were less ambivalence about privileged power. Jackson was hardly reticent about pushing the theme that the Bank’s powers were so vast across the country and in the Congress that a veto was compatible with preserving the Republic itself.

Issued on 10 July, 1832, he established the context for his disapproval in the second sentence: having weighed the bill, presented to him on 4 July 1832, “with solemn regard to the principles of the Constitution which the day was calculated to inspire” it deserved to be vetoed. In the next paragraph he stated that the usefulness of the Bank did not obviate the fact that “some of the powers and privileges possessed by the existing bank are unauthorized by the Constitution, subversive of the rights of the States, and dangerous to the liberties of the people….”. He would not only put an end to an unconstitutional institution but he would also offer a plan for a new financial agency that would perform some of the essential duties of the 2BUS without the constitutional overhang. In what might strike some modern-day market traders as irrational Jackson condemned the charter because it allowed bank stockholders to make money on their stock-holdings. Early on in Veto Message, Jackson decried the fact that because of “the powers, privileges, and favors bestowed upon it in the original charter” the 2BUS had increased “the value of the stock far above its par value” and had yielded “a gratuity of many millions to the stockholders”. Jackson and his allies did not object to making money per se, but they did object to making money under special arrangements available to a few and protected by the government. States chartered banks, but state charters lacked the overarching authority and exclusivity of the 2BUS. On the face of it, Jackson’s remark linked the stockholder’s good fortune not to good business practices but to bad public policies.\textsuperscript{130}

Technically the 2BUS did not have a monopoly. It was the only national bank, and as such it acted as if it were a central bank, an institution that the United States would not have until the early twentieth century. The most visibly contested arena in which both the 2BUS and the state banks operated concerned the issuance of bank notes that circulated as paper money. Paper money was regarded as soft money unlike hard money (gold and silver), but it had come into existence out of necessity to help to supply the capital needed to underwrite an expanding economy. In 1830 about a quarter of the total circulating paper had been issued by

\textsuperscript{130} Veto Message 10 July 1832, available online (among other sites) at http://avalon.law.yale.edu/19th_century/ajveto01.asp. Unpaginated.
the 2BUS. The remainder had been issued by hundreds of state banks. The use of paper money had long been contentious. With a gold or silver coin the value was fixed (let us ignore for the moment defaced coins). Paper was different in that it had no intrinsic value. Notes were designated as having value for transactional purposes, but in the end its value depended on whether upon redemption the paper would yield in gold or silver what was marked on the note. The only way to insure that a note was worth what it was marked was to take the note to the issuing bank and ask for specie. Convertibility was generally assumed – and that’s what gave credibility to paper currency – but infrequently practiced. Immediate and full convertibility by any bank including the 2BUS was not possible and not expected unless a panic ensued. No bank had enough specie in its vault to redeem all its paper. Moreover, there was an additional problem. Banks accepted deposits, which were the financial resources from which they made loans. Loans like notes were liabilities and just as a person could walk into a bank (then) with a bag of notes issued by that the bank and demand specie, the same person, if he were a depositor, could demand his deposit be returned also in specie. Every bank in Jacksonian America was on the hook for far more specie than it had in outstanding obligations. All banks – the 2BUS was no exception – operated on the principle that with prudent management banks would never have to maintain specie equal to their liabilities.\textsuperscript{131}

Although not stated anywhere directly in its charter that 2BUS was by far the most active practitioner of convertibility. It pursued an active convertibility policy through its mandate to maintain a uniform currency. Like an individual the 2BUS had the right to present any bank issuing paper its notes for redemption. And since under Nicholas Biddle the Bank had expanded the number of branches to almost two dozen it received a quantity of state-bank notes in payment of federal obligations. Its policy was not to hold these notes but to demand their redemption. Since states had beefed up reserve requirements for state banks in the 1820s, most state banks, expecting the requests, could be accommodative without serious impact on their own reserves. Besides, state banks could offset 2BUS requests by presenting its notes for redemption in specie. In certain remote areas where specie was scarce, notes filled the void, and yet the argument against soft money was that its existence was what drove specie out of circulation. End soft money and specie will flow once again even in out of the way places. Redemption was punitive, and the aim was to make for a stable currency without having to revert to punishment. The discounting of bank-issued notes (the equivalent of adding a premium) as part of any transaction on the grounds that the real value of the bank paper was not

\textsuperscript{131}Specie was a fraction of the money supply. See Peter Temin, \textit{The Jacksonian Economy} (New York: W. W. Norton & Co, 1969), 71. Money supply is defined as more than just coins and notes.
known, was what redemption attempted to reduce if not eliminate. Thus, the 2BUS labored to reduce as much as possible the discounting of paper without necessarily reverting to redemption. The whole procedure had become fairly sophisticated, which I dare say, made it a harder sell. Rules and procedures, incentives and punishment were not necessary, so the argument went, in specie-based economies.  

Whatever ambivalence circumspection Jackson may have shown before the passage of the bill, he became Biddle worst possible nemesis. From the initial paragraphs of the message the rationale for the veto was unmistakable. The General Government should not be in the business of favoring one group’s pursuit of wealth over all the rest in the same pursuit. “It is but justice and good policy… to confine our favors to our fellow-citizens, and let each in his turn enjoy an opportunity to profit by our bounty.” It was, as other scholars have highlighted, the “us and them” scenario. Jackson’s veto reviewed some specific sections of the revised charter and also reviewed in detail the debate on the constitutionality of the Bank including the Supreme Court decision in McCullough versus Maryland. Although the Maryland law permitted the state to tax all notes issued by banks not chartered in Maryland, the only non-Maryland-chartered bank doing business in Maryland was a branch of the 2BUS. The Court, relying on the necessary and proper clause, denied that Maryland could extend its authority into a “sphere of action” reserved for the General Government. Indeed necessary and proper became a subtext in the veto message. The Bank’s past performance and the Congress’s revised charter, measured against any definition of necessary and proper came up short in Jackson’s opinion. Other historians have explored the merits of the veto message, almost line-by-line, but however accurate or relevant Jackson’s arguments the necessary and proper reiteration, like a chorus, tried to raise doubts about not only its constitutionality but about its usefulness. Winning the argument that it was proper for the General Government to charter such an institution did not automatically make it an institution that was beneficial and needed. For the Jacksonians who opposed the 2BUS the necessary component was undercut because the 2BUS, typical of many monopolies, had fallen under the control of the few to the disadvantage of the many. Toward the end of the message Jackson clearly identified the problems and the culprits. Ostensibly the Bank operated under the auspices of the Executive Branch (because of its association with the Treasury), and yet the Executive Branch had no voice in what shape the revised charter should take. Jackson made it clear there was another way to

132 For data concerning fiscal operations I have relied heavily on Temin’s Jacksonian Economy.

achieve the national goals of sound credit and uniform currency (essentially a bank of deposit only), but the Congress had refused other options. The reason for that was that a cadre of Bank investors and allies feared the loss of their control over the financial system.

It is to be regretted that the rich and powerful too often bend the acts of government to their selfish purposes. Distinctions in society will always exist under every just government. Equality of talents, of education, or of wealth can not be produced by human institutions. In the full enjoyment of the gifts of Heaven and the fruits of superior industry, economy, and virtue, every man is equally entitled to protection by law; but when the laws undertake to add to these natural and just advantages artificial distinctions, to grant titles, gratuities, and exclusive privileges, to make the rich richer and the potent more powerful, the humble members of society-the farmers, mechanics, and laborers-who have neither the time nor the means of securing like favors to themselves, have a right to complain of the injustice of their Government. There are no necessary evils in government. Its evils exist only in its abuses. If it would confine itself to equal protection, and, as Heaven does its rains, shower its favors alike on the high and the low, the rich and the poor, it would be an unqualified blessing. In the act before me there seems to be a wide and unnecessary departure from these just principles.

If the technical and legal exposition of the message were lost on the average citizen, the above statement would resonate. And when the next paragraph in the veto message decrying “invasions of the rights and powers of the several States” was added the circle was complete: the people should realize that the recharter of the 2BUS was government gone amok. In the above quotation, an often-overlooked phrase is Jackson’s assertion that government was not evil in and of itself, but rather evils arise out of abuses of government. To prevent such abuses government must step back and assume the role that was intended for it.134

Support for Jackson in the election of 1832 has been intensely scrutinized by historians. What is not debatable is that Jackson won 219 electoral votes to Clay’s 49 and 52 percent of the popular vote. Jackson was weak in New England, not surprisingly, and strong everywhere else. He drew support from many occupational quarters: farmers, laborers, entrepreneurs, capitalists, planters,

artisans and professionals in some numbers voted for Jackson. Contrary to what the Bank’s backers had predicted, the Bank Veto helped the Jackson Party to galvanize support for reelection of Old Hickory. The Bank Veto cut several different ways. Some wanted easy money and viewed the Bank as too restrictive on currency; others wanted hard money and viewed the Bank as well as the corporate banking system as perpetrators of depreciated currency; still others opposed the Bank because they considered it to be an obstacles to the advancement of their own business agenda. A strict construction approach to the Constitution could be one argument made against rechartering the Bank. A more compelling argument may have been expediency. Simply put, did the nation need a national bank that depended on a government mandate for its very existence? Short-sighted or not, Americans were dubious. In retrospect the economic argument in favor of a central-banking function can be made quite effectively, and yet that may miss the point. The downfall of the Bank in addition to the ineptness of its supporters might be understood as the result of the Bank having become a misfit in a society that instinctively, at least, favored less not more control.

Historians have long understood that the debate over the 2BUS had two faces. One face was the operational side of the Bank, a powerful institution that presided over an expanding sector of the American economy in a time of change and adaptation. The other face was the symbolic side of the Bank that might be summed up in the question, was this the direction in which America should be moved? It is worth recalling that with the election of Jackson in 1828 the nation embarked on the new political course. The established political parties had dissolved, and new parties, known as Democratic and Whig, would contest for the presidency by 1832. In between the demise of the old and the emergence of the new political discontent showed up in various reform movements, some of which tried to compete as political parties. While dissent or reform movements had complaints not directly related to the 2BUS, they latched onto the idea that many of the social and economic ills could be remedied by ending the tenure of the Bank and prohibiting similar social and economic agencies. It is not always easy to sort out the political arrangements and alliances nor the economic worries and fears in such a fluid situation. One dissenting movement that played a role in the rapidly shifting political landscape was the so-called, urban-based Workingmen’s Movement.

The term “workingmen” has long been troublesome. If by working men or working people one means semiskilled or unskilled common laborers earning a

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135 In more states than the previous election voters cast ballots for Jackson and for electors pledged to Jackson; in other states they voted for electors pledged to Jackson. Either way the vote for Jackson was more diverse than had been anticipated.
wage, then that definition is too limited to describe who constituted workingmen in the 1830s. It should also be remembered that working people came to include increasingly unskilled women and children. By 1850 there were far more common laborers in the work force than in 1820 because of the steady rise in the manufacturing sector. The number of common laborers in 1820 is unknown. What is known is that common labor was both urban- and rural-based, although in the wake of mechanization demand for rural labor probably declined. The core, then, of the Workingmen’s Movement was not just the common or manual laborer but more broadly men who used their hands to produce a product or achieve an end. As such they had a stake in how the economy was evolving in the 1820s. Lee Benson in his seminal study on voting patterns in New York during the Jacksonian Period boldly stated that “we need not take literally the title Working Men. The proletariat banner waved over merchants, lawyers, physicians, bank directors, clerks, cashiers and speculators, as well as some farmers, mechanics, and working men with calloused hands made their credentials more bona fide.” Important, then, to remember that the term “workingmen” did not necessarily mean membership of only real working people but rather represented a point of view shared by working people and others who hardly had calluses on their hands. The other point to stress is that “workingmen” did not automatically and universally endorse Jackson, even though many of the workingmen shared the same goals as the Jackson Party.

Philadelphia has been credited as the city where the Workingmen’s Movement got its start, at least in a formal sense. During the 1820s Philadelphia had its share of labor unrest, and in 1827 journeymen in the carpentry trade went on strike. They referred to their working conditions as “grievous and slavelike” and as such they could not fulfill their roles as productive citizens and responsible parents. Other workers joined their ranks and the result was the organization of the Philadelphia Mechanics’ Union of Trade Association. Within a year came the formation of the Workingmen’s Party and the organization of a labor newspaper. By all accounts, contemporary and historical, Philadelphia was on the cusp of a rapid industrialization. It was noted that Philadelphia had two essentials, access to raw materials and access to skilled labor. One commentator writing as early as 1818 said: “There is no part of the world where, in proportion to its population, a greater number of ingenious mechanics may be found than in the City of Philadelphia, or


where, in proportion to the capital employed, manufactures thrive better.”

The vigor of the manufacturing sector can be noted in the work of the Franklin Institute, named, of course, for eighteenth-century entrepreneur, politician, writer and favorite son, Benjamin Franklin. In 1825 the Institute had an exhibit in which 82 branches of manufacturing vied for prizes. Further, Matthew Carey, in his capacity as the president of the Pennsylvania Society for the Promotion of Manufactures and the Mechanic Arts as well as a writer and economist, not only endorsed a high-tariff policy to protect American manufacturing, but also defended the 2BUS and paper money as necessary to underwrite the transition. Numerous examples of the change taking place could be cited, from 104 warping mills that employed “4,500 weavers and more than 5,000 spoolers, bobbin weavers and dyers” in 1828 to a quarter of the nation’s steel production in 1830. In short in a matter of a decade or more there was a proliferation of “foundries and factories” in and around the city, especially along the banks of the Schuylkill and Delaware rivers. “Unfortunately, the accomplishment achieved in transferring the making of products from the home or small shop almost totally neglected the human factor….The result was a labor problem of novel aspect to employers, who saw no reason to respect the ‘rights’ of laborers. They had no rights; if they were dissatisfied, let them go elsewhere; there were plenty of men available…."

In 1827 William Heighton, a cordwainer, addressed the plight of workingmen by organizing the Mechanics Union and launching the Mechanics Free Press. More than a dozen trade societies sprung up, and their members were not afraid to use stoppages and strikes to highlight their grievances. Out of this came the creation of the Workingmen’s Party in 1828. Within months Workingmen’s parties appeared in New York and New England.

Before undertaking to a closer look at what Workingmen achieved or tried to achieve I want to provide a context. Let me begin with an assertion that Jeffersonian America was being eclipsed, although the Jeffersonian ideology remained more or less in place with some revisions that may have made it even more robust. The change in how people worked or were expected to work had deep resonance because it struck at the core of how Americans perceived the experiment itself. Robert Margo writes that in 1800 the American economy was essentially agricultural. “Work for wages as a way of life was uncommon, and families sought economic independence in ownership of land of physical

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As more and more Americans worked for someone other than themselves, there were important changes in informal and formal relations among employer, employee, and to a far lesser extent, the government. The artisanal shop of masters, journeymen and apprentices where orders were piecemeal and rules enforced — not necessary an egalitarian system — the apprentice, then journeyman, could become a master, and with that came economic independence and social status. The factory regimen was fundamentally different, not only because the path to independence was less assured but the style of work embodied specialization, routine and alienation. The transition was made harder because workers had to learn how to be factory workers, and many failed. They could be blacklisted within the labor pool, and that simply led to greater alienation. To maintain a steady supply of workers, factory owners turned to women and children and to immigration to fill the pool. “The stirring of the factory system alarmed journeymen who foresaw devaluation of their hard-won skills, social standing, way of life.” It is important to stress that the pre-Civil-War manufacturing sector was transitional. Many factories were small and non-mechanized, but the trend was unmistakable. Some have described the reaction among workers in radical terms. The demands of the workers may have been radical for the times. They moved between pragmatic and utopian.

On the utopian side were the communitarians who wanted to push America away from such a strong individualistic stance that could at times deny the value of collective action. They had a harder task than the pragmatists who wanted to reform the system to enhance individualistic action.

In 18 March 1829 a “town meeting” composed of “working men and others” convened in Philadelphia. At this initial meeting a chair (James Ronaldson) and two secretaries (John Thompson and George Erety) were appointed. The meeting approved a Memorial (presumably prepared ahead of time) in opposition to corporate banking was addressed to the Pennsylvania governor, assembly and senate. The meeting then approved an Address to other workingmen throughout the state to join in the effort to end corporate banking. A committee was named to promote the goals of the organization. The resolution proposing such a committee stated that membership should not be confined to the working classes. It was also resolved that Pennsylvania governors should show the same resolve that Simon Snyder (a Jeffersonian Republican who served three terms from 1812-1818) did by vetoing a bill to incorporate several banks. It also resolved that three former state legislators – George Emlen, Charles Roberts and Henry J Thompson – and a former senator – Condy Raguet – from Philadelphia be thanked for their effort in

the past few years to stop renewal of the bank charters from a decade before. Finally, it resolved to publish the proceedings of the meeting in as many newspapers as possible in order to advance the cause of sound currency and the “comfort and happiness of the working fellow-citizens.”

Boldly declaring in its opening paragraph that “the class of persons who exercise the arts”, i.e. workingmen, create through their exertions the wealth of society, the Memorial then laid out the argument that the issuance of bank paper in amounts far exceeding what the economy needed left the workers unable to “satisfy every necessity”. Closer to the truth was that fact that the most diligent and frugal were hardly able to “lay by a sufficiency against the day of distress.” Local philanthropists, according to the Memorial, had determined that people in need was as great in American as in Europe. The culprit was paper currency. Incorporated banks had legislative mandates to issue notes that were not based on the capacity to produce but on the ability to print. It was a way without any hard work to become rich quickly and easily. The amount of paper in circulation should not exceed the quantity of specie in the nation, but when it did, as has been the case increasingly, the excess paper inflated prices and deflated wages. The productive classes who should be rewarded for their frugality and diligence were instead punished. Their well-being was in decline because they were paid in a currency that carried as much as a six percent premium, the amount by which paper was discounted in transactions, and because they never saw an increase in their wages to cover the devaluation. Moreover, while bank paper can be legitimately employed to make large transactions easier, it has no such legitimacy in small transactions. The abundance of paper currency had the tendency to drive specie out of circulation and out of the country because specie had greater value in other circumstances or places, and without adequate specie every bank was subject “to a run for specie” that led to bankruptcies of the banks themselves as well as the businesses that depended on their credit. Laborers were not only paid in devalued currencies but they lost their livelihood when the banks and their business clients, the employers of workers and the purchasers of services went out of business.

The Address made the same argument with more emphasis on the impact of the current banking crisis on the distressed working classes. The address was, after all, an appeal to working people to join the crusade. Putting a stop to further incorporations was essential. if the cycle in which those (bankers) who produced

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nothing were to continue to live off those who produced wealth. The increase in the number of banks was proportional (no statistics cited) to the increases in the prices of houses, land and all goods and services. Even if the workingman received more money for the services he provided, it went less far because of rising costs. In an interesting allusion the Address claimed that everyone who had any knowledge based on experience or age knew that the economic woes had grown in proportion to the rapid increase in banks. It was time to put forward the power represented by producers and workers “to prevent the wider spread of this evil and to save ourselves.” Banks came with privileges not enjoyed by working people. We cannot perceive that a bank “has increased the necessities or comforts of life. We ask ourselves, whence does this gain come? We can think of no source from which it is drawn, save that of the people’s industry.”

Whether or not banks and their creation, paper currency, were to blame for what the critics claimed – that the producing classes were being denied their livelihood – will be a continuing debate. The hardest question to answer is what was the connection between the surge in banking, which began in the Jeffersonian period, and the transformation that was driving the American economy? It seems reasonable to conclude that the emergence of a banking system that strategically or accidentally eased credit paved the way for an expensive economy. More to the point, however, the idea that individuals could pursue various avenues to their goal of economic or financial success beyond the agrarian model, which itself was undergoing change, had appeal, although it is not easy to measure that appeal. It is a fairly easy argument to make that holding fast to a currency based solely on transactions in specie would not have allowed for the expansion in the economy that had potential benefit for all economic classes. The expansion which the easier credit underwrote had certain implications and ramifications. By the Jackson Period the easing of credit and the issuing of paper in a basically unregulated environment except for constraints imposed by the 2BUS on state banks and imposed by the state chartering procedures had become the universal. Specifically, the changing economic profile exacted some costs that meant some traditional businesses would fall by the wayside in the face of new modes of production and distribution. Workingmen’s parties, with diverse membership despite their name, wanted to participate in the expansion without ceding their place or rank. Workingmen or small-scale producers, potential beneficiaries of an expanding economy and the loosening of credit, viewed the rise in large-scale competition not only as a threat to themselves but to the America that they had envisioned. Other activists shared the Workingmen’s concern about the economic transformation and

the rapacious competition because of disruptions and dislocations to the social order. Reform was needed to save the ideal of productive and independent citizens, and it should start with the financial sector. With credit and currency policies that encouraged undue risk-taking to the detriment of workers and laborers the American Dream of self-governing individuals will itself collapse.

The Philadelphia Workingmen’s Committee appointed to promote the objectives laid out in the Memorial and Address reported a week later on 25 March 1829. By resolution the committee urged the publication in as many newspapers as possible a remonstrance against the expansion of the banking system that was more detailed than the Memorial and the Address. The membership of the committee is of interest because that appointees were not confined to the traditional working classes. Although not all the 28 members could not be properly identified (after various searches on Google and in published accounts), about half could be. Few if any of those so identified would qualify as working people with calloused hands. At an earlier stage they may have possessed such hands, but at this moment they were businessmen (in artisanal fields to be sure), philanthropists, journalists, politicians, reformers and activists who may well have been sincere in their advocacy in behalf of working people but who were also motivated by the unsettling impact that broad social and economic changes were creating. The chairman of the committee (as well as the initial assembly) was James Ronaldson, a prominent local entrepreneur. He owned a type foundry, but his business and social connections went far his company. He was also president of the Franklin Institute and the founder of Philadelphia Cemetery also known as Ronaldson Cemetery. Condy Raguet and William Gouge were professional journalists and political activists (and probably wrote the various proclamations); William Duane, a printer, and his son, William J. Duane, a lawyer, were both national political figures and local reform advocates; several Quakers were active in the persons of Roberts Vaux, lawyer and reformer, Charles Roberts, former legislator and investor in road and rail construction and social reformer, William English, activist and politician. Other artisanal businessmen and philanthropists included James McAllister, John Thompson, Paul Beck, jr. and Thomas Hulme, and several other politicians and reform activists included George Emlen, Peter Benner and Henry J Williams. Working people were less evident in committee membership than those who were advocates of working people.145

The remonstrance to be submitted for publication contains 16 points. They were mainly an attack on the creation of corporate banking – paper money. In fact, as

the final half-dozen paragraphs indicated, these critics of corporate banking actually understood the need for banking, although in a very different form from corporate banking. Not surprisingly, the first point had to do with fixed standards. Specie had a determinable value and paper did not. Authenticating the value of a currency was no different from establishing standards for weights and measures. Paper unlike specie could fluctuate in value to such an extent that it could cause investment in business to decline and unemployment to rise. With specie one knew what one had and trade would proceed on that basis; with paper no such assurance existed. In addition, since paper was so readily available, it allowed people to live beyond their means. Banks being more interested in having people consume than save denied the nation the pool of capital that derived from people’s savings.

Thus far, the rap against paper money and the issuing banks was about value. All could agree that hard money like coins had an intrinsic value whereas soft money like paper did not have. The value of a paper currency had to be assumed – accepted on faith as it were and still is. Some paper was heavily discounted because it was not trusted, but all paper in an age when financial information was limited was suspect. For working people (and for others), as the above points indicated, paper posed risks to their livelihood. The obvious question was what would the petitioners do in light of the fact that there was an insufficient quantity of gold and silver to satisfy the demand in an expanding economy? Their answer fit onto an ideological spectrum that many Americans may have understood even though they may have had less understanding about how the changing economic circumstances could manage the proposed solutions. Point 6 laid out the rationale for action.

By creating monied corporations, much of the capital if the country is collected into large masses; and the individuals who are selected to manage it are endowed with more power than they have the wisdom to exercise properly. Every man ought to lend his own money, with the intervention of boards of directors. No man, in a republican country, should desire more power than his own wealth, talent, character, fairly entitled him to.

Was not the message clear and unequivocal? Institutions were not needed to accomplish what individuals could do. Lending money was a business not different from farming, retailing or manufacturing in which individuals applied their own abilities and, if they succeeded, they would reap the benefits. Banks lend in order to speculate, but individuals would lend in order to prosper. If the stockholders of all the banks had used the money with which they bought stock for speculative
purposes (buy stock at a low price with little or no actual cash to sell at a higher price) had actually lent the money to producers, these loans would actually have increased the nation’s productive capacity and at the same time added jobs and enriched workers. Loans made in this way would be advantageous to both borrowers and lenders, and, through them, to the whole community.” Speculation denied the need for people to be industrious and frugal. Worse yet, “What one man gains by such speculations, another man loses. The community [sic] will never be happy till the individuals who compose it shall be content to grow rich in the way that nations grow rich; that is, by industry and economy.” The many industrious farmers and mechanics gain little from current corporate banking system. They lack the collateral needed to borrow from banks who generally restrict personal-security loans to 60 or 90 days. Not only do farmers and mechanics need more than 60 or 90 days to bring their endeavors to fruition, they live with the uncertainty of losing their line of credit and can be thrust into bankruptcy. In addition, they pay an interest rate a point or two higher than the customary rate of 5 percent (which in the eyes of some was as high as the rate of interest ought to go). No farmer or mechanic can afford to pay a higher rate in the face of uncertainty that their loans will be revoked. “A system of credit on the mutual confidence that men might repose in one another’s honesty, industry, economy, and general ability for business, would be productive of much benefit.” Details on how this would exactly work were lacking. I suspect, though, it was not hard for individuals, who shared a dislike of banking embraced for better or worse the idea individuals dealing among themselves, perhaps with a handshake, could create the capital pool needed to advance the interests of the individuals themselves as well as the nation. Many students of matters financial and economic at the time and now would find this utterly naïve. But in a society that had for decades stressed the capacity of the individual to act in a way to optimize his best interests a “simpler” system had widespread appeal. The point is not to advocate the position of the anti-corporate, anti-institutional advocates but rather to illuminate how the language of a self-ruling society became intertwined with the debate over banking.

Did organized banking have any legitimacy? The final point (16) considered that issue. The idea that banking operations themselves increased by way of a multiplier effect the pool of capital was dismissed outright on the grounds that banks preferred (no statistics given) to buy stocks in companies at a yield of 5 percent instead of making loans to them even at a 6 to 6.5 percent yield. More banks would simply accentuate this trend. By buying stocks instead of making loans the banks were hoping to realize not only from the dividends but also from the rise in stock prices. In issuing paper and making loans the banks and their stockholders were speculating on what would happen to the value of these
instruments rather than advancing the economy. The petitioners admitted that banks, as agencies for deposit and transfer of funds, can serve a useful function. At the same time the business of lending money for the short- or the long-term and of dealings in exchange “can be carried on with more advantages to the community by individuals. Why should not the trade in money, be conducted on the same principles as the trade in flour or the trade in cotton?” Further, in a Jeffersonian vein, why should corporations be granted privileges to carry out what individuals were capable of doing? The few benefits gained from corporate banking were heavily outweighed by the many evils in “unsettling the standard of value, encouraging speculation and extravagance, discouraging industry and economy, deranging every kind of business, and laying the foundation of artificial [sic] in equality of wealth, and, thereby, of artificial [sic] in equality of power.” The petitioners refused to recognize that rapid growth in corporate banking had much to do with vast improvements in the economy, in particular the new technology. In their view the nation’s richness in natural resources and talented workers, not speculation in paper, accounted for these advancement. At some point the paper had to be redeemed, and when that happened the banks suffered a run on their vaults that led to bankruptcies of banks as well as businesses. “Paper had the same effect on the body politic, that ardent spirits have on the body natural.”

What may strike readers as inflammatory rhetoric did not necessarily intend revolutionary outcomes. The petitioners made it clear that “mechanics” who attended the meeting authorized the committee but in selecting the membership of the committee they made “no distinction of occupation”. The committee took seriously the concept of “a common concern” and therefore addressed the fact that the capitalist, laborer, mechanic, farmer, manufacturer and merchant shared a common fate under the weight of corporate banking and paper money, i. e., an inability to acquire property in the first place or to hold onto it if they already owned it. As pernicious as they regarded the banking system, they were not calling for any sudden change. The primary aim was to halt the expansion of the system and then reform the existing system to the extent possible until the charters had expired. “Violent measures would render the fulfillment of contract impossible, derange all the relations of supply and demand, make productive, and deprive laborers of employment.” The evils have accumulated over time, and time will be needed to eliminate them. But they cannot be eliminated so long as legislatures continued to expand the corporate banking system.\[146\]

A Workingmen’s Movement appeared in New York shortly after workingmen in

\[146\]Previous four paragraphs quoted from The Free Trade Advocate and Journal of Political Economy, (1828-1829), 313-316. Many of the Remonstrances lacked specificity, but they meant as a political statement.
Philadelphia organized. Since the New York movement has been studied in far greater detail than the Philadelphia movement, we have a clearer idea of how the movement arose, who joined it, how it evolved and what ideological goals and political reforms shaped its agenda. New York politics were complicated because of not only the demise of the Republican and Federalist Parties but also the overthrow of something known as the Albany Regency that had dominated New York politics for years. The relevancy was that the unraveling of the political system in 1824, New Yorkers entered an era in which equality became the operative term. Lee Benson wrote in 1961 that “If 1824 was the year when the movement for political equality reached its climax, 1827 was the year when political equality became the weapon of the movement for social and economic equality.” The People’s Party organized in 1824 under DeWitt Clinton, who had been expelled from the Regency, had “established the proposition that, in the eyes of the law, all white men were politically equal.” By opposing Masonry as secret, exclusive and dangerous, the Anti-Masonry Party, whose origins are much contested but began with local election victories in Western New York in 1827, perhaps raised the stakes by linking political with social equality. The slogan “Free, and therefore equal”, according to Benson, conveyed the upward shift of what New Yorkers and perhaps other Americans began to demand from their political system.  

It is worth taking a moment to reflect on the concept of equality within in the context of a society of self-governing individuals. That individuals in their “natural” state shared an equality in the sense that they were all endowed with the capacity to shape their own destinies would be defensible. But as they organized themselves into societies they displayed different talents. They did not necessarily share a condition of social equality. Nor in fact did they share a condition of political equality. The Jeffersonians had to contend with the idea that some of these self-ruling individuals were better qualified by temperament, education and interest to be leaders than others. John Adams and Thomas Jefferson argued the question of artificial aristocracies versus natural aristocracies. Jeffersonians accused Adams and the Federalists of using the power of government to create an aristocracy by granting to some privileges not enjoyed by others. Adams’s response was that even in Jefferson’s own ideal world an aristocracy of which he and his fellow Virginians were a part of arose to take the reins of governing. But the essential difference, which favored the Jeffersonians, at least in a rhetorical sense, was that a natural aristocracy did not arise out of a network of legislative

147 Benson, Concept of Jacksonian Democracy, 11-12. Chapter 2 must be read for Benson’s extensive analysis of the role of the Anti-masonry Movement.
contrivances that empowered a few against the many.¹⁴⁸ John Taylor of Caroline, often depicted as a member of and an apologist for the Virginia elite who dominated national politics for so many years, preferred to emphasize the idea of a society in which formal government was so small that the average citizen would, he should, devote his time and energy to managing his own affairs. A national political order under the management of an elite devoted to strict construction would be less likely to engage in nefarious and self-serving actions that he and others blamed the Federalists for. Benson and other historians have described Federalist policy as mercantilist in the sense that government played a role in determining which economic sectors should be protected and encouraged and in providing an overall plan for future growth and development. By the Age of Jackson privilege was under attack on several fronts. Jacksonian American was far less a deferential society. Privilege was probably never popular among Americans, but as the society became more mobile and acquisitive in the nineteenth century, it was repeatedly attacked because it came to be identified as an obstacle or impediment to an individual’s pursuit. Benson proposed a novel connection between the impact of the Transportation Revolution and rising individual aspirations. In Benson’s view projects like the Erie Canal, completed in 1825, carried the message that opportunities could be created where obstacles previously existed. This was a message that opposing political camps embraced, although the specifics of how to turn obstacles into opportunities differed. What might well have been a sideshow – opposition to Masonry – became in New York at least a main attraction. Masonry, a highly secret and exclusive club, came to represent what aspiring Americans feared most – secret deals and special immunities that a few enjoyed. A passage from the *Albany Evening Journal* (1830) cited by Benson (among many to choose from) made the case for eliminating the obstacles by opposing the Masons, whose actual power to obstruct may have been more symbolic and substantive: “No man in our country long adheres to any principles which exclude him from popular favor. Here the people are emphatically sovereign: on their will depends the existence of all political men.”¹⁴⁹ The vehicle for clearing the way was the ballot box. The expansion of the franchise, not accidentally, coincided with the expansion of the economy. As the second political party system was taking shape during Jackson’s first administration, political and economic access assumed a higher status than ever before within the American consciousness.

¹⁴⁸The correspondence that resumed between Adams and Jefferson around 1812 and continued off and on for a decade included the aristocracy debate.

The Anti-Masons were organizing in February, 1829, as an anti-Regency and anti-Jackson Party. It was mainly a single-issue movement, although the attack on privilege cut a wide swath. At the same time working people independent of the Anti-Masons were organizing and would, to the surprise of many, win some important fall elections. At the outset of his *Jackson Democracy and the Working Class* Walter Hugins stated his premise for why despite the election of Andrew Jackson, a “common-man” president, working people were launching a political protest and reform movement. On one level it was driven by economic concerns like high unemployment and working conditions; but on another level it was driven by worries over status. They saw their role in society as diminished or marginalized, and they blamed “banks and other ‘aristocratical tendencies’” for their plight. They also had a beef with Tammany Hall, the local political machine. “In many instances disenchantment with apparent obstacles in the way of the popular will was reinforced by specific complaints against the ruling party.”

According to Hugins “mechanics and others”, reacting to employers’ attempts to re-institute the 11-hour day, met in New York on 23 April 1829. Although sparsely attended, the meeting launched the New York Workingmen’s Party several months after the Philadelphia party was founded. A second meeting with a larger attendance was held on 28 April 1929. In addition to a resolution announcing that employees would refuse to work more than a 10-hour day, they appointed a Committee of 50 to collect funds to support the unemployed – funds that actually were little used because the employers backtracked on the 11-hour-day plan – and, more importantly, to prepare a report on why economic conditions had deteriorated so far. The committee was said to have no “bosses” (a difference with the Philadelphia committee) and a majority of journeymen. The report was completed in the fall (amid agitation for other reforms such as free education), and when made public at an October meeting, two figures, neither of whom was a journeyman, assumed prominent roles. Robert Owen, a utopian Welshman, who had taken over New Harmony (Indiana) in 1824 and, after abandoning it, had moved to New York City and had become involved in education reform, was appointed one of the secretaries. The second figure, Thomas Skidmore, was a machinist and author. His book, *The Rights of Man to Property!*, served as a model for the committee’s report, which denounced inheritance of wealth, favored Owen’s plan for equality in education (including provisions of clothing and food for all children) and blamed banking institutions for the economic turmoil that could only be remedied if banks were destroyed. Workingmen – “‘those who live

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on their own labor, AND NONE OTHER”’ – to join together in a few days later to approve a slate of candidates for elections in two weeks.\textsuperscript{151} The Philadelphia Workingmen made an effort not to portray themselves as too radical, if radical at all. They tended to harken back to an earlier time when artisans and craftsmen were admired for their accomplishments and earned social status because of that. New York workingmen had among their ranks more radical social thinkers and operated in a climate of greater political disorder. Part of the impetus for organizing was to change the politics of the city and the state, above all to remove the caucus system and to end the reign of Tammany Hall and Albany Regency. Philadelphia workingmen enjoyed some success, although they were eventually absorbed into the two new parties, whereas the New York workingmen attempted to remain outside the two recently-organized national parties and to do so joined forces with other third-party movements like the Loco-Focos. Irrespective of the paths chosen both Philadelphia and New York workingmen identified the corporate banking system with its privileged role as a main source for the economic upheaval.\textsuperscript{152}

The impulse for reform grew in step with the nation’s expansionary drive. Obstacles had to be cleared to allow broad political participation. As so often happens, a set of obstacles for one group to rail against became a set for another group to defend. In the decades ahead reform will show many faces and initiate many causes only then to be subsumed in the abolition movement. The election of Jackson and the political contests between the Democrats and the Whigs will paradoxically share a common perspective, i.e., the expansion of popular rule combined with the expansion of economic opportunity had become a cornerstone upon which Americans wanted to erect their future. How to manage these expectations would be what separated the major national parties and will agitate the minor three parties. As noted above, the third parties or the reform movements with political agendas did not naturally flock to Jackson, who tried to portray himself as a reformer, especially after the debacle of the 1824 election. Jackson favored extending the franchise, and yet he was a product of the caucus system, which many of the “new-light” reformers hated, and, more importantly, he did not embrace some of their reforms. Eventually, though, many reformers will find their way into the national parties simply because the parties, now more responsive than ever to popular government, saw the political advantage in advocating some of the reforms. Jackson’s veto of the Second Bank recharter bill won him and his party

\textsuperscript{151}Hugins, \textit{Jacksonian Democracy}, 13. Quote from \textit{Working Man’s Advocate}, 31 October 1829.

\textsuperscript{152}Consult Hugins for how the New York Workingmen’s Party evolved and changed especially during Jackson’s Second Administration.
approval, grudgingly perhaps, across the reform spectrum. Rightly or wrongly, the 2BUS became the symbol for stood in the way of self-realization. And no one made the case against the Bank and to extend the argument for what came to be known as the “free banking” movement than William Gouge.

Gouge was not the only Jacksonian journalist and editor to write extensively about banking and currency, but his book, *A Short History of Paper-Money and Banking*..., published in 1833, was well-received among the critics of corporate banking and paper money. He was born into the family of an apothecary in 1796 in Philadelphia and died in 1863 in Trenton, after a career as a crusading journalist, financial historians and government official. Not a great deal is known about his early life – on a personal level he was reserved – but in 1823 he and Stevenson Smith bought the *Philadelphia Gazette and Daily Advertiser*, which they operated until the early 1831. The paper, which showed some promise, ultimately failed because of the lack of financing. Holding onto subscribers in a rapidly-changing economic and political environment proved difficult. The paper had a reputation for reporting business news such as shipping lists and harbor movements. In the late 1820s, about the time that the workingmen’s protest was beginning, the paper’s editors decided to become more political, and in doing so they asked the readers’ indulgences. A year before Philadelphia workingmen organized, they editorialized about the risk of approving more charters. They “create an artificial inequality of wealth and power” because “some twenty or thirty men, bribed by an act of incorporation, have always more power in such cases than the same number of individuals acting on their own responsibility….”\(^{153}\) Moreover, with every additional legislative charter the political clout of the charter faction grew so that legislators who were supposed to represent general interests of individual citizens were increasingly beholden to special interests of privileged citizens. These themes will show up in the published protests by Philadelphia workingmen the following year.

It is important to underscore that critics like Gouge were mounting their protests against all corporate banking. The 2BUS may have been the worst example of what corporate banking could become, but, even if the bill to renew its charter were rejected, the nation still had a problem – too many banks issuing too much paper. Gouge’s *Short History* consisted of two parts. It was primarily a history of banking in the United States from the colonial period to the Jackson Period at times year by year. Several chapters analyzed banking in each geographic region, and not surprisingly several chapters analyzed the operations of the 2BUS. Affixed

to the history was an essay that Gouge entitled “An Inquiry into the Principles of the System, with Considerations of its Effects on Morals and Happiness…” that addressed how incorporating banks with powers to expand credit and issue paper tilted the system in favor of a privileged minority and destabilized the economy by accentuating the cycles of expansion and contraction.\textsuperscript{154} The late Joseph Dorfman has described Gouge as “an agile writer, shy in personal contact and adverse in speech-making, but possessed of a persuasive pen, steeped at times in wit and satire.”\textsuperscript{155} At the core of Gouge’s argument was a strong anti-institutional bias. In an unencumbered economic system individuals singly or collectively would establish and manage the businesses that were needed for the economy to grow and, more importantly, to reward the participants. Collectively must be understood to mean setting up a business without relying on the limited-liability and stock-ownership model, more like partnerships rather than corporations. Incorporation granted “exclusive privileges” to companies as well as exemptions from liabilities that individuals in pursuit of their own livelihood did not share. This was “repugnant to the fundamental principles of American government…,” and the extent to which banks can exercise their powers over individuals made them among the most “pernicious” of all businesses.\textsuperscript{156} Because Gouge considered banking to be the most ubiquitous of any business activity he had no doubts about its influence and power, for better or worse. They received deposits, issued notes, granted credits to merchants and transferred credits from merchant to merchant, discounted commercial paper, bought and sold publicly-traded stocks and originated and traded bills of exchange, in short, almost every aspect of commerce and business was affected by how they operated. If any one of these functions was mismanaged, the impact for businesses and workers could be profound. In his mind “every individual” was affected. “Banking is not a local, temporary, or occasional course. It is general and permanent….Its effects are felt alike in the palace and the hovel.” Banks contributed little to production, and yet they “furnish the means to many for the acquisition of wealth….” More threateningly, they had gained so much power over business activity (as listed above) that they also affected the “distribution of wealth”. Employers and employees no longer can

\textsuperscript{154}A small-print edition was published by B & S Collins in 1835 at a very modest price. It consists of two parts. The first part of 42 pages was “An Inquiry into the Principles” and the second part of 64 pages was “A Short History of Paper-Money and Banking.” My citations are mainly from the “Inquiry,” but a few are from the “History.” To direct the reader to the proper section I have appended “Inquiry” or “History” prior to the page reference. The abbreviated title is for the published work, \textit{A Short History of Paper-Money and Banking in the United State…To Which is Appended an Inquiry into the Principles of the System…}, 2\textsuperscript{nd} Edition (New York: B & S Collins, 1835).


\textsuperscript{156}Gouge, \textit{Short History}, “Inquiry”, 4.
expect to manage their affairs with real money, i.e., coins, because banks have essentially removed specie from circulation by replacing it with paper.\textsuperscript{157} The corporation, as evolving in early nineteenth-century America, was at odds with a society of self-governing individuals.\textsuperscript{158} Gouge distrusted and disliked the America corporate system, not just in banking but in general. “Against corporations of every kind, the objection has been brought, that whatever power is given to them, is so much taken from either the government or the people.” In addition, since corporations held powers unavailable to individuals, the system was incompatible with a basic tenet of “equality of rights.” Finally, corporations were “unfavorable to the progress of national wealth” because they depended on “stipendiaries” (like investors who were owed a sum or stipend each year) who were “less trustworthy than the clerks of the merchants or the laborers of the farmers.” In other words, the values and modes that Gouge idealized about American life and society were the most adversely affected by the engulfing corporate monster.\textsuperscript{159}

The larger question was whether or not banks despite their corporate character performed necessary and useful functions in an expanding economy. No subject was (or is) as impenetrable to the average person as how banks operated. The banking sector of the 1830s was far more complicated than in the 1790s, when the nation was divided over Hamilton’s Bank of the United States because of the addition of hundred of state-chartered banks. Some statistics provided by Gouge indicate how the sector had grown: bank capital [technically assets] had risen from $53 million in 1811 to $145 million in 1830; the volume of bank notes had more than doubled from $28 to $62 million; and the amount of specie held by banks had only increased by 50 percent. On one level the figures illustrate how much larger the banking sector was and therefore how much greater its reach was. On another level they illustrate, at least in Gouge mind, how perilous the system was. While notes in circulation as a percent of capital had fallen from 52 percent to 42 percent, specie reserves as a share of capital and of notes had also fallen – 54 to 36 percent and 29 to 18 percent respectively.\textsuperscript{160} The emerging concept that banks could and should employ their assets to enlarge the credit and currency base to underwrite economic expansion – what we do in modern banking – had neither the protection

\textsuperscript{157}Gouge, \textit{Short History}, “Inquiry”, 7.

\textsuperscript{158}Legal historians have weighed in on the question of how American corporate charters differed from their European counterparts.

\textsuperscript{159}Gouge, \textit{Short History}, “Inquiry”, 17.

\textsuperscript{160}Gouge, \textit{Short History}, “History”, 61. Gouge went to great length to warn the reader about the inadequacy of the data on banking operations. For banking data see, Studenski & Krooss in \textit{Financial History}, 107. Under the Second Bank after the War of 1812 the percentage of notes to capital had reached 76 percent but fell as the 2BUS began to demand convertibility of state bank paper.
nor oversight that now exists.\textsuperscript{161} But, more importantly, even though some commentators and writers had the foresight to argue for a more dynamic banking sector, they were addressing a skeptical and increasingly outspoken public. Gouge and other critics were not whistling in the dark; they were speaking to that segment, possibly the largest, that had not yet abandoned the ideal of individual self-rule in order to advance an institutional or collective framework that seemed at odds with the ideal. It was always easier to describe the evils of corporate banking with all of its complicated features than whatever benefits might accrue to individuals. Gouge wrote about those complicated features, but, like Jackson on the art of governing, he disdained the need for complication. Tear away the structures built by the creators of the structures for their own selfish ambitions, and a simpler economic system will emerge (or more precisely re-emerge) once again under the control of individuals who knew best how to manage their affairs. The economic progress so declared under corporate banking and large-scale business operations was neither wholesome nor welcome.

Gouge not only rejected corporate banking on the grounds of exclusivity but also on the grounds of utility. Gouge recognized that banking had a role to play but albeit limited. He left no doubt that banking, as it was evolving, posed more risk than benefit, and to reinforce his argument Gouge addressed often-repeated rationalizations for and against banking. He boiled them down to 14 points. I will not try to summarize all of them but rather to focus on those that related directly to how Americans could manage without banks. Let it be understood that the point is not to demonstrate that Gouge’s propositions would work better than the system that he opposed – in all probability he was out of step with the way the modern world was moving – but to underscore why they had appeal. In response to the common assertion that much good came from banks lending money to individuals, Gouge posited the opposite: less good than when individuals who actually owned capital as opposed to banks who had to use other people’s capital performed those tasks themselves. Individuals could reward themselves by managing their own affairs whereas banks ended up rewarding not the owners whose capital they used but the directors and investors who benefitted from banks doing business with other people’s wealth.\textsuperscript{162}

Gouge dismissed as self-serving the common refrain that a banking system allowed individuals to employ their financial potential, namely their credit, more fully than under the old system. He agreed that men should be allowed to use their

\textsuperscript{161}As I write this, the financial meltdown 2008 is well underway. Perhaps I should revise the above sentence.

\textsuperscript{162}Gouge, \textit{Short History}, “Inquiry”, 18.
credit – “Exactly so” in his words – but not through incorporated banks that “give credit to some, by taking from others.” Banks had no capital of their own; they had to create credit in the form of loans or notes by borrowing from its depositors who owned the capital. In simplest terms, the holder of capital had lent money through a bank that will earn money by charging interest on the loan drawn from capital which it did not own and for which the owner of capital did not receive any interest. It was not common for deposits in banks to earn interest, since the money could be withdrawn upon demand. How did this serve the individual to allow the bank to earn money from his capital without sharing those earnings? Why shouldn’t the owner of capital make the loan directly to the individual who needed capital and thereby enjoy the benefit of the transaction?163

Other shibboleths concerning convenience could also be disregarded. Citing estimates by Albert Gallatin and the Director of the Mint, Gouge noted that only a fraction of the tens of millions of gold and silver coins suffered from such “wear and tear” that they had to be replaced. Moreover, the convenience of paper over specie in large transactions was specious because if one deducted speculative trades in bank notes the convenience factor relative to other large commercial transactions ceased to have merit. In other words, using coins in lieu of notes in non-speculative trades posed no unusual burdens for individuals and businesses. Finally, that banks offered safe-keeping of an individual’s money was only true until the bank contracted or failed and those with deposits received back only a few pennies on the dollar if that.164

Gouge did not exactly envision a society and economy without banks. Indeed, it was his opinion that if corporate banks including the Second Bank of the United States were terminated the void would be filled by private banks. Banking was no different from other business undertakings – if a need for a business that made money by soliciting funds and making loans existed, someone would fill the need without any special legal standing. Individuals who started and patronized such businesses would behave no differently from how they would behave if engaged with other businesses. After all, Gouge posited, private banking had been around since the Classical Age. He cited a litany of banking operations from the shops around the Grand Forum of Rome that kept accounts and drew checks to the goldsmiths of London that accepted deposits on which they paid interest and made loans from which they earned interest or to merchants in America that advanced credits to planters and artisans for purchases against pending sales. “The trade in


money is as simple in its nature as the trade in flour or the trade in tobacco, and ought to be conducted on the same principles.” Abolishing corporate banking – first and foremost by withdrawing bank notes in steps from the smallest to the largest denominations – would lead to the emergence of banking on the basis of need. “In most villages, all the call there is for bankers could be answered by the postmasters. Offices of deposit, of transfers, and of loan are not necessary in villages.” The postal service was fully equipped to transfer money from the debtor to the creditor, even if distances were involved. [Today the French postal service performs numerous banking services.] In larger towns or cities, where extensive more banking services were needed, individuals would become agents for lenders and borrowers. In Philadelphia, instead of currying the favor of one corporate institution to manage his affairs under the current system, a merchant could choose from say different agents under a true private banking system based upon who would best safeguard and expedite his business affairs. “The competition amongst them [private agents] would be so lively, that after the manner of the Bankers of Europe, they would allow an interest on deposits. Being in the whole amount of their private fortunes, they would seldom extend their loans to cherish the wild spirit of speculation.” When an individual’s own financial wellbeing was at stake, believed Gouge, he would not venture down the road taken by corporate entities whose loyalties were to stockholder and directors. The only restriction that Gouge could think necessary for these agents was that they could not issue notes. Some of Gouge’s colleagues argued that such restrictions were not necessary because if private bankers began to issue notes, they would eventually come to ruin because they could not compete with those who shunned notes. Non-note-issuing banks would be valued because they were deemed to be safer. Gouge took a more defensive position: “if we can prevent it, why suffer it at all?” Gouge admitted that clearing-houses might facilitate the redemption of certificates of credit or bills of exchange, perhaps even a government-sponsored bank of deposit and transfer in behalf of private banks would be useful, but these would not operate as banks but as agencies to assist private banks. “Men who wished to borrow, would deal with a private Banker as with an equal, instead of dealing, as at present, with an overgrown corporation, as with a superior. The business of dealing in exchange… would be left to individuals, and they would show the same disposition” to serve and satisfy their clients as “is now evinced by the dry goods merchant, or the importer of groceries.”165 In an economic system that based credit and currency on real value, in particular the use of gold and silver to determine value, the ordinary citizen would have little or no need for banking operations.

As a hard-money man Gouge believed that gold and silver (or precious metals in general) were the preferred currencies because they were divisible, they were universally accepted, they were neither scare or abundant, they could be stamped and, most importantly (from Gouge’s viewpoint), they were “liable to less variation than any other article, from changes in the relations of supply and demand…. ” Gold and silver were real wealth. One hundred dollars in silver could not be considered to represent one hundred dollars worth of flour any more than one hundred dollars worth of flour could be considered to represent one hundred dollars worth of iron. Each was simply the equivalent of the others since all represented real wealth, real value. Precious metals were not used because they had inherently superior value but because they can be fabricated in a way to facilitate exchange. Lugging around a small bag of gold or silver coins was easier than bushels of grain or pounds of timber. It was important, according to Gouge, that when one received coins in exchange for flour that the medium of exchange represent real value for what was traded. Otherwise, the value of the flour would be lost to the producer or the miller. “Money is simply that valuable article by reference to which the value of other things is estimated, and by the instrumentality of which the interchange of other things is affected.” Bank notes were no more than “evidences of debt due by the Banks.” At some point the issuing banks had to redeem their notes, i. e., to pay the face value of the note to the holder just as any borrower must pay the face value of a loan to the lender. In the case of the banks, of course, they could only redeem their notes on the basis of the specie that they owned and they owned probably less than a third of the gold and silver needed to redeem their notes. Even though banking proponents agreed that no bank including the 2BUS held enough specie in reserve to redeem all its notes, such was not necessary because it was in the bank’s own self-interest to maintain a prudent ratio between notes outstanding and its reserves. For those banks that did not, the redemption policies of the 2BUS would be adequate to reign in the miscreant banks. Part of the reason why Gouge wrote a history of American banking was to show how often runs on the banks occurred and how devastating they could be for ordinary citizens.

Exactly how, though, were bank notes any different from commercial bills, which merchants had long relied on to facilitate business transactions? In theory, at least, both the holder of the bank note and the holder of a commercial note could “call it in”, i. e., demand payment in specie. “As mere evidences [sic] of debt [bank notes] differ not from the promissory notes of merchants. They are also, in common with

bills of exchange and business notes, a commercial medium…. There was an essential difference, however. Running accounts (often kept among merchants doing business with each other), promissory notes (loans between two merchants that may be sold and resold to other merchants at a premium), bills of exchange (drafts or checks to cover transactions but to be paid at a future date), all of which entailed certain risks, had specific uses. Although each was “an auxiliary of gold and silver money” and could be bought and sold either at a premium or a discount among merchants and traders, they remained a commercial medium. “They are neither standards nor measures [sic] of value. The amounts expressed in them are the estimations made of goods, by reference to the article [specie] which law or custom has made the standard of value.” A commercial medium but not a circulating medium like money. They can be used for speculative purposes as were bank notes, but unlike bank notes at the end of a period of time the balances in running accounts must be paid and the promissory notes and bills of exchange must be paid in money. To be sure, they perform like money when they are being traded, but, then, unlike paper money at some date they must be cleared. Bank notes have no such clearing provisions, and, even worse, if attempts were made to clear them by redemptions for specie, it would fail because the banking system lacked the specie. Bank notes continue to circulate as money because holders have no other options. Gouge’s advocacy of a metallic currency – what he called “solid money” – did not mean the elimination of commercial paper, just paper money.168

Gouge remained active as a writer and activist until his death in 1852. He remained staunchly opposed to corporate banking and paper money, although he will introduce some refinements on credit instruments in later publications. As a polemicist prior to the 2BUS veto, he spoke a language that rejected corporate privileges and praised individual pursuits. His guiding principles were drawn from Adam Smith, David Ricardo and Jeremy Bentham. The French Physiocrats had adapted laissez-faire in opposition to a mercantilistic trade system, but by the Age of Jackson, thanks in part to Jefferson’s elevation of the concepts of minimal government and individual liberty, laissez-faire came to embody economic independence and even competition. It is impossible to read Gouge without becoming aware of repeated references to unleashing the energies and ambitions of individual. Risks and unforeseen consequences had to be reckoned with, but they did not in and of themselves neutralize the principles. Bad public policies did.169


GROWTH AND GOVERNANCE

It is a perfectly legitimate question for the historian to ask, did all this back-and-forth about corporate banking and paper currency mean much at the grass roots? Just how controversial was the rise of corporate banking and its sidekick, paper money, across America in the 1820s? To what extent did citizens know or care about the intricate theories of paper versus bullion or business loans versus accommodation loans? Can it be safely assumed that then as now the average citizen wanted assurances that money in some form was at hand or could be accessed? Over time paper rather than specie became the standard currency, and it was already well-entrenched in the Age of Jackson. Although today’s “gold bugs” can be vocal, few propose total banishment of paper money. In the Age of Jackson, however, that was precisely the case that the gold bugs made. Eliminate bank notes, which circulated mainly in small denominations under $20, and the outcome will be a strong, stable currency founded on coins with value plus the elimination of any need for note-issuing banks and all the financial misbehavior would cease. The demise of the 2BUS eliminated one source (even though its notes continue to circulate for a time), but the real challenge, as the Bank critics knew, lay with state legislatures. A few states had forbidden state banks to issue for circulation notes of $5 and under, and presumably they depended on specie for small transactions. The majority of the states allowed banks to issue small notes, and chief among the issuers of small notes was the Second Bank. Ordinary citizens did less business with the Second Bank than they did with a local bank, and local banks, owing to smaller specie holdings, depended upon paper to service their clients. While the call to restore specie as the circulating medium had wide appeal, it had little traction. To deprive local businesses or ordinary consumers of paper money, even when it was discounted, making what was purchased more expensive, had repercussions that the gold bugs could not ignore. Restricting bank notes to large denominations or phasing it out slowly did not solve scarcity of coin, and it may have had other ramifications in curtailing commerce. Americans did not use paper money in increasing volume because they were comfortable with it or devoted to it; they used it because that was in effect their currency. Their situation was dictated not by theoretical niceties but by economic circumstances.

It was not clear that by legislating notes out of existence specie would be restored to circulation. There was probably sufficient specie to secure a paper-money system but not enough to substitute for paper. Specie was scarce because it was in demand. Based on Peter Temin’s analysis of monetary data, the country may have actually registered an increase in specie from inflows of silver in the middle and late 1830s from Mexico.170 Such inflows had other consequences; not the

elimination or reduction of paper but its expansion. That had been one of the critics complaints that unless paper were outlawed banks would simply used more specie to issue paper. One could argue that under the idea of individuals in pursuit of the economic goals that included banking, they might choose to use the very paper that critics were denigrating. The response was that it was only useful because special charters granted special privileges that made it useful. Remove the charters and destroy the notes, and the natural currency will take hold. The battle over paper was also a battle over privilege. Those with privileges would use them however they could to secure their status. Chartered banks made that easier. Where the public could connect with the critics of chartered banks and paper notes was at the intersection of privilege and power. The public was learning about banking along with the bankers themselves and the officials who regulated banking. The disagreement were not over to bank or not to bank, but what were the banks legitimate functions and how can financial chicanery, long associated with lenders, be contained. Unfortunately, historian don’t have the whole story, and too often the story is written in terms of whether or not one has a certain economic/political viewpoint about modern banking operations. Most of the economic analysis sides with the Bank Crowd. It just seemed to make sense that because the 2BUS was performing its duties with vigilance and responsibility that stabilized and extended credit and currency, its charter should have been renewed. What caused the paradox was that the 2BUS performed its duties but could only do so under a special monopoly. Even states were criticized on the same score. The Bank War (and other wars) are summed up in phrases like Marvin Meyers oft quoted sentiments about the Jacksonian dilemma: squaring “simple yeomen values” with free pursuits of economic interests, both of which “were hopelessly splitting apart.” I am not sure it was yeomen values that worried Americans as chartered privileges whose limits and intents were not always understood. The case has been made for the so-called Jacksonian Paradox in terms of Gouge’s favorite subject – paper money – that pitted inflationists like western farmers, who sought a looser monetary policy than adherence to a strictly metallic currency would allow against the deflationists like urban workingmen who felt cheated when dealt paper instead of coin. What exactly was the contest between them? In the historical section Gouge treated each region and attempted to show how the rise of corporate banking and the erosion of sound credit and currency affected their lives. Although he and his colleagues may have revealed an urban bias, all suffered under a paper system that originated in the privileges granted by the charters. Dorfman saw this not in paradoxical terms but pragmatic terms, There was a good way to serve the interests of all citizens and a bad way. The good way was to return to an “orthodox monetary policy” in which sound money meant circulation as widely as possible of coins rather than notes, and sound credit meant private-bank lending based on a
bank’s capital and time deposits (savings accounts).

In later writings Gouge would modify some of the positions that he took in *A Short History*, but he remained orthodox in his approach to money and money. There may have been an idyllic past that the Jacksonians wanted to restore, but, if restored, it would encourage in this hurly-burly economic environment that its robustness must derive from the recognition of the pursuit by the individual.

As attractive as the paradox thesis is – easier to tag than explain a conundrum – does it overstate or perhaps misstate the circumstances? We can probably all agree that America was suffering from some doubt and fear at the end of the “Era of Good Feeling”. Both the rapidity and breadth of the economic changes had been robust. Recall that the 1820s also had to deal with scorching political debates at the heart of which was the future of slavery. It is hardly surprising that given the changes and controversies the rose began to lose its bloom. One way to approach the economic stressfulness is to try to tease as much information out of the available datasets as possible. Gouge’s own inquiry, presented in *A Short History* year-by-year from 1821 to 1832 and month-by-month in some years, found much evidence of economic stress mainly caused, in line with his general outlook, by an unreliable monetary system. He made the point that despite the presence of the 2BUS state-chartered banks operated within their own spheres irrespective of what was happening in other spheres. But the push for more and more profits encouraged banks to move beyond their own spheres in search of business. The result was greater swings between stable and erratic growth. He compared the body of banks to a street full of drunken sailors: “There is motion...vacillating, tottering. It is seldom in a straight line.” By assembling published figures on the state of the currency he found expansions were almost always followed by contractions with a commensurate effect of business activity. Expansion of currency ramped up business activity, and contraction had the opposite effect. Perhaps, more telling, was that no more than a year separated one action from the other so that over the course of the decade citizens were repeatedly subjected to the euphoria of expansion and the dismay of contraction. So much speculation was associated with these gyrations that “villainy” (to use Gouge’s term) was suspected and in some cases proven. Perhaps the worse spillover from such currency vacillations was on prices that were inflated with expansion and deflated with contraction. For consumers and producers, retailers and entrepreneurs, price fluctuations eroded living standards and business confidence. Underlying Gouge’s critique was a lament for a stable, predictable market structure.171

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Following the lead of Milton Friedman and Anna Schwartz Peter Temin assembled a dataset that gave the supply of money and more pointedly its “determinants” from 1820 to 1839.172 The monetary stock consisted of bank notes and deposits plus whatever coins were held by the public and not stored in bank vaults. Banks held specie in reserve because they were obligated upon demand to redeem their notes or deposits in specie. The total quantity of specie consisted of what was in circulation and what was in reserve. The more specie in reserve, theoretically, the more “soft money” the banks could create. Conversely, the less specie in reserve the less they could create. Fluctuations in total specie could affect the stock of money. According to Temin’s calculations, the nation had $41 million of specie in 1820 after which it declined to its nadir of $29 million in 1825 before rebounding to $33 million in 1829. Of the estimated total specie banks held on average just under 60 percent with the remainder in circulation. If the specie in circulation were subtracted from the total money stock, then the calculation would yield the non-specie currency. The question, raised repeatedly by paper money critics, was how much of that paper was backed by specie reserves. The answer was about 23 percent with a range of a high of 32 percent in 1820 to a low of 18 percent in 1828. The total money stock rose during the decade, although in an irregular fashion: from $85 million in 1820 to $105 million in 1829 with a low of $81 million in 1822 and with a high of $114 million in 1828. The paper component was also fluctuating: from $65 million in 1820 and $92 million in 1829 but as low as $62 million in 1822 and as high as $101 million in 1828. Total specie fell during the decade, sharply so in 1822. The specie in banks rose, fell and then edged up close up to the 1820 figure. The more interesting figure in light of the opposition to paper currency was the decline in specie in circulation between 1820 and 1829. The variability in the level of specie in circulation was 5 to 10 percent greater than the variability of specie in reserve or total specie.173 In brief, the amount of paper in circulation increased as the amount of specie in circulation declined but the amount of specie in reserve attained a level where it remained for most of the decade. That level may have been sufficient to overcome whatever fears arose because of the reduction in circulating bullion. Temin points out that banks did not “maintain a fixed reserve ratio.” They adjusted it to the circumstances. In the 1820s, he continues, discounts on notes – receivers of notes, not knowing the quality of the notes, might demand a premium of a few percentage points above the notes’ face value as protection from the payer – actually fell because the public

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172Temin explains the procedure in the Appendix of *Jacksonian Economy*, 179-194.

173Based on a simple coefficient of variation calculation of the three series: total specie, specie in reserve and specie in circulation from Temin, *Jacksonian Economy*, 71 & 186-187.
was more willing “to hold them in place of specie.” Notes were being less frequently returned to issuing banks, and, as a result, banks could issue more notes or reduce reserve holdings for circulating notes because of the public’s greater faith in paper currency. It is also important to repeat that for Temin and others who share his analysis the 2BUS played an important role by policing issuances of notes by the growing number of state-chartered banks.174

The research and analysis of Temin leaves the impression that monetary stability characterized the 1820s. Bad banks existed and depreciated notes circulated, but the system was manageable. What followed in the 1830s was less stable and less manageable. Temin’s constructive historical view of the 1820s, however, was not shared by contemporaries like Gouge. It must be noted that Temin was concerned with the banking and currency system broadly, whereas Gouge in his history of the 1820s often cited troubled local banking operations. And Gouge, having spent two years in the library in order to uncover as much as he could contemporary sources about the state of banking found much to worry about. I referred above to his attempt to summarize “the vibrations” (as he called them) in the money market for each year during the decade. It was the vibrations and the consequences of those vibrations that Gouge wanted to bring to the attention of the public. He cited a score of examples from the 1820s to make his case.

Let me summarize a few to illustrate how Gouge saw far more instability than stability in the financial system. In Gouge’s survey of the first half of the 1820s he took the position that “over-banking” led to “over-trading” by which business decisions were based on speculation rather than calculation. More banks were being chartered and more funds being deposited (some from government surpluses175), the consequence of which was that the money had to be employed. What was reported by the widely-read Niles Register in 1821 was “little demand for money, except to answer the current purposes of life, and to pay old debts….” Apparently New York City banks complained that they could find few opportunities to invest their funds, and sheriff sales were common in parts of Western Pennsylvania. Then, business activity began to pick up in the middle of 1821 and continued to improve through the first half of 1822. The financial clouds returned in the second half of 1822. The excess of paper issued in 1821 and 1822 (Temin reports that the money stock rose as the specie supply fell) eventually had to be reckoned with. A sure sign in Gouge’s mind of the impending crisis in 1822 was that the outflow of specie and bullion jumped to a level five times greater than

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174Temin, Jacksonian Economy, 72-73

175For the figures, see Strudenski & Krooss, Financial History, 92-94.
what was imported. Boston banks had also seen their specie holdings fall from nearly two and a half million dollars to less than a half of a million dollars, while at the same time the specie in the vaults of the 2BUS and its branches had fallen from $7.6 to $3.3 million. *Niles Register* reported numerous business failures, amounting to $3 million. Other failures were reported in New York and Philadelphia. In 1823 with some prodding from the 2BUS the banking industry turned more cautious. Some cites had been flooded with small-denomination notes that entered the retail trade, usually at a discount, and some effort was made to reduce the volume and to stabilize the currency. But the reigning-in was short-lived. Because money was abundant again, the rush to invest and expand returned. In 1825, for example, New Jersey had applications for new charters from banking, insurance and transportation companies with a nominal capitalization of $55 million. Then, according to Gouge, after the companies had been authorized, sometimes fully subscribed and sometimes not, the moneyed classes began to speculate in the stocks of these new-chartered companies. Money had become so abundant (see Temin’s own figures for the middle 1820s) it had to be spent. The energy that drove this next economic surge was “That everyone was in haste to grow rich….” Gouge further commented that “The Banks were liberal in their discounts [loans], and the spirit of speculation showed itself in various forms.” News of the rise in commodity (cotton, sugar, coffee) prices in Liverpool and London led brokers in New York, Philadelphia and Charleston to bid up prices for products being exported or imported. Gouge’s information indicated that southern corn acreage was “rooted up” to make way for cotton. When the wave crested (ca July 1825) when boom turned to bust and commodity prices plummeted. The repercussions were immediate in United States. Those who had bet on higher prices now needed money to cover their bets. Business and bank failures began to rise in the second half of 1825. Money was scarce. This showed up in how bank notes were discounted. In the spring New Orleans bank notes were discounted at 2 to 3 percent in Philadelphia, and then as the speculative mania grew they were discounted between 15 and 56 percent. By December because of the shortage of currency they had risen in value as discounting fell to 4 percent. For us in the contemporary world the thought that a dollar is not equal to a dollar – of course, a dollar may buy more or less depending on inflation – is hard to fathom. But in the 1820s with hundreds of different bank notes in circulation, the

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176 Price trends have not yet been addressed but will be. A wholesale-price index published by Temin shows that prices were 10 to 15 percent higher in mid-1825 than in the earlier months or in the following year until the mid-1830s. *Jacksonian Economy*, 69.

177 One aspect of the plantation economy in antebellum America was that during periods of high demand and high prices for cotton plantations converted as much land as possible to cotton production, even if they had to import food to feed their slaves. When the cycle reversed, the converted land might be returned to food production.
note holders never quite knew how they would be valued. If a Philadelphian held New Orleans bank notes in a time of rising speculation and inflation, he may incur an enormous penalty (50 percent was heavy, up to 10 percent or slightly above was not) for trying to use them. As the speculative mania cooled, he may have found his New Orleans bank notes worth more because failures had a way of reducing total circulation of paper instruments like notes and of adding value to those that remained in circulation.178

Since much of the discussion ahead will concern money, it may be helpful to summarize how the system of currency operated at the time. The Constitution assigned the federal government the power to coin money, and Congress established the US Mint under the Coinage Act in 1792. Alexander Hamilton sought to establish a currency based on gold but because of the scarcity of the metal in the new country and because so many foreign coins (both gold and silver but mostly silver) circulated in the economy, a bimetallic system of gold and silver came into existence against his better wishes. The trick in bimetallism was to get the ratios of the values of gold and silver right. If the mint mispriced one against the other (technically the number of grains of gold or silver in a coin), then the availability of the metals for minting would be affected. Hamilton sought ratios based on the world market, not the American market, in order to avoid mispricing. But he confessed that he lacked the information as well as the time to find out, and in the end he set a ratio that favored silver over gold, and the result was that gold became less abundant because it was underpriced compared to other economies. Thomas Hart Benton, the staunch Jacksonian bullionist accused Hamilton of purposely undervaluing gold in order to advance the system of paper money because silver was a heavier metal and paper became a preferred substitute to carrying around silver. Hamilton’s choice was close for his time but, since ratios change on the basis of many unpredictable factors in the multifaceted world economies, it did not serve the US Mint well over the next 40 years. Gold was undervalued and, conversely, silver was overvalued. The volume of gold coins minted seldom rose above a half million dollars (in 1820 it skyrocketed to $1.3 million) silver coins ranged between a half million and two and a half million dollars. Albert Gallatin wrote Andrew Jackson’s Secretary of the Treasury that the ratio had been off since the earliest days, although there was much disagreement

178It is not clear from the text whether Gouge was referring to notes issued by the 2BUS branch in New Orleans or a private bank. They were simply called “New-Orleans notes”. The details in the above paragraph may be found in Gouge, Short History, “History”, 49-50.
among the nations themselves as to what the ratios should be.\textsuperscript{179} This brief summary of a fairly technical subject on how values of coins were determined should be understood as background for the dispute over paper money. Although American coins plus foreign coins circulated, gold coins were scare, silver coins were more abundant but not uniformly so and the volume of paper money increased out of a need to transact business.

The United States was not the only country in conflict over paper versus specie. Some European countries had outlawed or restricted paper money, although they were caught in the same dilemma as the United States: too much specie to meets demands for currency. Merchants, brokers and dealers had transacted business within their countries as well as with foreign countries with paper for centuries, but bank notes represented a different kind of paper. In the warfare over paper money in the United States, commercial paper was not of concern because it had an underlying value – something of value, a commodity or a product was being exchanged – that bank notes. There was also an endpoint when commercial paper had to be redeemed for the specie that the goods being exchanged were valued at. Bank notes were issued on the basis of what the bank claimed were its reserves – never sufficient to cover all its issuances – and traded endlessly or until presented for redemption. In our world paper money is printed with the imprimatur of the government and only one paper currency exists, but in early modern America banks, not the government, printed money and with hundreds of banks more than a single system existed.

It is fairly easy to mock the opponents of paper money for being “unmodern” and “backward-looking” compared to the enlightened like Alexander Hamilton or Henry C. Carey, (whose essays on financial matters few Americans could ever have understood), but the proponents of paper were defending a system that Americans were having to adapt and adaptation can be troublesome. Alexander Hamilton was not regarded as a “miracle-maker”, and that is the historical condition that we have to deal with. Besides, small bank notes (under $5) had also been criticized by the founder of modern economics, Adam Smith. He wrote that when small notes are allowed, “many mean people are both enabled and encouraged to become bankers.” Bankruptcies often fall upon those “beggarly bankers” who traffic in small notes to the great inconvenience of all dealers and consumers and to the “great calamity” of the poor who more than others depend on small notes.

\textsuperscript{179}Although more than a century old, J. Laurence McLaughlin’s \textit{The History of Bimetallism in the United States} (New York: D. Appleton and Company, 1900). The on-line version is divided into Part, Chapter and Page. The text above may be found in Part I, Chapter II, Pages 8-33. The pertinent pages are 8, 13, 17, 19, 27 & 33 (footnote 21). Available at (at \texttt{http://www.econlib.org/library/YPDBooks/Laughlin/lghHBM.html}).
Smith also observed that where restraint was practiced in the issuance of small notes gold and silver remained in circulation, and where not they were driven out. 180

Howard Bodenhorn has tried to separate folklore from reality and give the paper-money controversy a more perspective. The absence of small coins was serious almost everywhere. Under the initial coinage act the mint was empowered to coin gold, silver and copper. Gold eagles were the equivalent of $10, half eagles $5 and quarter eagles $2.50. Silver was to be minted in a dollar (the equivalent of the Spanish peso) and in smaller units of half-dollars, quarter-dollars, dimes and half-dimes. 181 (Copper was not further described) No Silver Dollars were minted after 1805 and up to that point only about $1.5 million had been minted in a population that had grown from several million to 10 million. Smaller silver coins continued to be minted along with gold coins, but the total value of gold and silver barely averaged $1 million per up to 1820. In comparison to other countries the volume of coinage was considerably smaller. The volume of silver coins (under the Silver Dollar) increased in the 1820s but the volume of gold coins slid. In 1834 under a new coinage act the United States abandoned bimetallism and, while silver coins continued to be minted along with Silver Dollars the volumes were not much greater than they had been in the 1820s. Gold coinage rose but not enough to supply what was needed. 182 Against this backdrop of minted money – what the bullionists wanted – the metals were scarce as were the coins in a society that was enjoying a both robust demographic and economic growth. The case for paper money seemed ready-made. Bodenhron observed that the standard view was that “early American bankers engaged in the questionable practice of issuing great quantities of small notes” because they could do so without too much fear of “equally rapid redemption.” There were limits, however. Small notes were only useful in small transactions, and if banks issued more than the public was willing to accept, they found themselves facing numerous and steady redemptions, which were costly not only because the banks had to part with specie but also because they had to absorb certain administrative costs. Bodenhorn professes more faith in the capacity of the individual to judge the worthiness of the paper that he was dealt, and that was not shared by contemporary critics or later historians. I suspect, though, we could all agree that selectively people learned how to distinguish


182 Figures, United States, France and Belgium in McLaughlin’s History of Bimetallism, Appendix V.1, 2, 3. Available on-line at http://www.econlib.org/library/YPDBooks/Laughlin/lghHBM.html.
between good and bad banks and on the basis of that which bank notes to trust or not to trust. Several states had banned notes under $5 between 1790 and 1820, and later during the Jackson Period more states outlawed small notes. I would note, however, that people having to make such judgments was part of the argument for getting rid of paper money. Such judgments did not have to be made about hard money (chipped coins and other abuses notwithstanding). Further, outlawing small denominations was not enough. Paper money could cross state borders, as it did, and the crucial matter of increasing specie flows had to be addressed if scarcity of currency that had sparked the rise in paper was to be resolved. Bodenhorn provides a corrective lens on technical aspects of bank notes, but the war was being waged on grounds other than technicalities.

The financial crisis of 1825 later became part of a House Report in 1832. Biddle submitted written testimony to a special House Committee under Augustus Clayton (D-GA) to investigate charges of fraud and deception in the conduct of the Bank’s business. The financial crisis of 1825 was the most serious of Biddle’s tenure before Jackson’s Veto, according to Temin, because it reached a point where the Bank, as the lender of last resort, should have acted. Opinion as to whether or not it acted properly is divided. What caused Gouge to focus on Biddle’s activities was how enmeshed Biddle himself became in the crisis. Signs of stress in the banking system began showing up in late 1824, and yet intervention to reduce the stress did not begin until late summer or early fall of 1825. According to a rumor cited by Gouge, the financial status of state banks as well as the 2BUS had so deteriorated that a director of the Bank, on the floor of the Philadelphia stock exchange, spoke openly of a potential run on the banks (to redeem notes already heavily discounted in the retail market) and of a subsequent suspension of specie payments. It is worth noting that according to Temin’s figures the total money stock in 1825 rose to $105 million – its highest level ever – of which $95 million

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184 The Clayton Committee Report, officially known as House Report 460, 1st Session, 23rd Congress, has been widely-discussed and -ridiculed. Two banking historians, Ralph Catterall in Second Bank, 230-231 and Hammond in Banks and Politics, 393-397, wrote critically and mockingly of the Committee’s efforts. The relevance of the Report to the present discussion is that the Biddle extract, cited by Gouge, came from material on the 1825 financial crisis that Biddle, who did not testify in person, sent the Committee. The Committee’s Report made reference to the crisis (p. 29) and the chairman, August Clayton specifically referred to the events, highlighted by Gouge (Short History, “History”, 50-51), in his remarks from the House floor. See Register of Debates, 1st Session, 23rd Congress, 30 April 1832, 2653-2654. Available on-line at http://memory.loc.gov/ammem/amlaw/lwrd.html.

185 Temin, Jackson Economy, 54. Temin and others have argued that what was needed was expansion of credit rather than further regulation, which is how the Bank’s actions should be understood. (p. 56-57)
were bank notes – also a new high – backed by only $19 million in specie or a reserve ratio of less than 20 percent – a new low. Lots of notes, to be sure, a third more than the average for the previous four years. If the huge discounts, cited by Gouge, were actually in force, traders and consumers had reason to fear for the safety of their money and for the dependability of their currency.¹⁸⁶

Three sets of circumstances, separate but related, collided in the second half of 1825. First came a collapse of the British banking system with repercussions for the American system. Biddle was hardly chary in pointing the finger of blame. British banks and businesses collapsed because they had created a bubble by over-speculating in American mining companies and agricultural commodities like cotton. Americans followed the British lead. Over-investing, or more precisely over-speculating in stocks and in land eventually proved to be folly. The bubble burst, and defaults began. In addition, American banks were under pressure to remit specie to cover international bills and drafts that had the effect of draining their vaults of reserves. Biddle’s own assessment was that until the British collapse began to wash across the American shores in late summer and early fall of 1825, he never felt any fear about American banking. In the midst of the spillover the Federal Treasury with large surpluses on hand decided on 1 October to pay off more than $7 million of its outstanding bonds, $3.4 million of was held in the city of Philadelphia. As the custodian of federal funds, the 2BUS was obligated to pay the bondholders, many of whom were foreigners, in specie. In fact, according to Biddle, “The payment of this sum by the Bank…diminished its means for active business, and brought it largely in debt to the State Banks both of Pennsylvania and New York” because it had to borrow to stay in business.¹⁸⁷ Not only did the 2BUS have to address the problems relating to bank and business failures, but it also had to protect its own balance sheet. It set about to sell some of its government bonds and its own stock and trimmed operations (meaning fewer notes and loans), and by late October it had seemingly weathered the storm. But a third crisis intervened unexpectedly (so often the case): further demands for redemptions in specie from the Bank’s already-depleted vault (1) by agents in order to finance British army in Canada and (2) by a single investor in order to pay his capital subscription for a new bank in New Orleans. The effect of these two events within a troubling economic environment “was to inspire a general distrust and alarm” that by the middle of November “denoted an approaching panic…..” Biddle understood the risk. The failure of the most important and prominent bank


¹⁸⁷Presumably the state banks had to lend specie in order for the 2BUS to meet its obligations. Gouge, Short History, “History”, 50-51.
in America could not be allowed to happen (too big to fail, as it were), as it would bring down the whole banking system. The time was at hand to take “a decided and resolute step, to rally the confidence of the community.” How he set about to accomplish this was intriguing, to say the least. Biddle decided to board a conveyance and to travel all night from Philadelphia to New York City to meet with the New Orleans investor and to try to persuade him to accept a draft drawn on the 2BUS’s New Orleans Branch and, importantly, to be payable at a later date. The plan worked but not without some cost. Although the draft made sense in terms of how funds should be moved through the banking system – paper was easier to manage than coins or ingots – Biddle’s “midnight ride” became public knowledge and served to underscore the many doubts about the utility of his institution. Whatever public embarrassment he suffered, Biddle came to recognize the need to energize the banking system His request by which the subscriber basically accepted a note from the Bank to be paid off later was the equivalent of the expansion of lending rather than the restriction of lending, the policy that the Bank and the system at large had been following for weeks. Biddle like a modern John Maynard Keynes ordered the New York branch to start lending again and urged other New York City banks to do the same. In explaining his actions to the Clayton Committee, he declared “I have never doubted that the delay of a week would have been of infinite injury, and the prompt interposition of the Bank was the occasion of protecting the country from a general calamity.” American escaped a severe panic but the Biddle’s behavior prompted Gouge and like-minded critics with the opportunity to ask the fundamental question: “It is very possible that the means taken by Mr. Biddle were the only ones by which a panic could be prevented; but what ought we think of a system by which the pecuniary salvation of the country is made to depend on one man’s hurrying by night from Philadelphia to New-York [sic] to prevail on another man to accept drafts on New-Orleans [sic] in place of specie?” If banking institutions were supposed to stabilize and underwrite economic growth that so many embraced, why did they leave so much distress in the wake of their allegedly constructive actions? Under these conditions who needed them except those who had an invested interest in their continuing existence? In a nation that idealized the self-governing individual, such an argument must have carried some weight.

Biddle remained in Gouge’s crosshairs as he examined financial development between the 1825 panic and the Jackson Veto. Gouge’s diagnosis of post-panic developments may not achieve the level of accuracy and precision that a modern economist can bring to an analysis of the same developments, but it may also

188 Gouge, Short History, “History”, 50-51
capture the basic underlying forces at work as the banking system recovered from the panic and resumed a role that led to an expansion of the money supply. Temin’s data show that the money supply grew by 40 percent between 1825 and 1832 while quantity of specie remain in a narrow range between $29 million and $33 million and reserves ratios fell from near 30 percent to around 20 percent and as low as 15 percent. It must be emphasized that these changes were not necessarily unmanageable. It depended (then as now) on how much gain or risk the public perceived because of the revived banking operations. No measure of public sentiment during the years between the panic and the veto exists. Although we know that Jackson will veto the recharter bill and that his veto will set off a new round of unexpected crises, Gouge’s public did not yet know that. What Gouge reported was shakiness after the panic, and his best source turned out to be Biddle himself. Gouge acknowledged that excessive expansion of paper currency did not occur in America prior to 1825, as was the case in England, because the domestic economy was still recovering from the 1818-1819 credit debacle. The fallout from 1825 was less severe than it might have been because banks could ill-afford to print more notes with so many notes from the earlier crisis still circulating at substantial discounts. Having survived the 1825 crisis with less carnage than occurred in England, what assurance could the public expect that the banking system would resist actions that would lead to another disruption? Precious little, concluded Gouge. And Biddle was his foil. Bankruptcies slowed in 1826 and 1827 but the supply of money continued to grow. By the middle of 1828 money had grown scarce, again even though the money stock had grown. The reason, according to Biddle, who wrote an essay for the National Gazette and Literary Register (10 April 1828), was “over-trading brought on by over-banking. The remedy is to bank less, and to trade less.” He expressed little confidence that the banking system could reign in pecuniary ambitions. Banks came under pressure from needy persons, who borrowed too much or from sanguine persons who expected too much, neither of whom exercised the responsibility required. “The constant tendency of Banks is, therefore, for banks to lend too much, and to put too many notes in circulation.” He added that even though notes could be exchanged for coins, the total impact of so much money was to push up prices. He continued that the “superabundance” of paper and coin would eventually push coin out of the country and require banks to reduce the paper in order to preserve the remaining coins. “We, therefore, get back our coin by diminishing our paper, and it will stay until drawn away by another superabundance of paper. Such is the cycle that a mixed currency is always describing.” He included many more details about the effect of too much paper on prices, exports, tariffs and exchanges. There was no doubt in his explanation that at some point the banks had to stop making loans and start calling them in so as to save the system from a far worse bubble. And that
was what the banks were initiating in the spring of 1828. And it would continue, according to Gouge, for 12 more months. It was not his own bank that was at fault, argued Biddle, but rather the state banks. With some gleefulness, I can imagine, Gouge quoted Biddle himself: “what interest has the community in propping up many of these institutions? Let any sedate man look at the returns made this winter [1827-1828] of the state of the Banks in various parts of the United States, and then answer whether they need further exemptions from the necessity of accommodating their business to their means…. ” Needless-to-say, Biddle’s own words were all that Gouge and his allies needed to indict corporate banking, paper money and Mr. Biddle himself, who as the nation’s chief banker, was unable to do much. The argument had moved beyond technical issues about how much paper or how much specie to the efficacy of the system that Biddle and his corporate-banking friends had created. They had made it complicated without making it workable, and that failure, highlighted by the financial critics, embodied in Jackson’s veto.189

The paradox of the Jacksonian Era, as it has been described, arose from eliminating the institution or policy that could have helped to manage the instability of the system. That was not how the critics including Jackson saw it. There was a paradox for the critics who measured the results of corporate banking against its aims, as there will be a paradox for later historians and economists who will measure the results of the Veto against its intentions. Over the next twenty years, in the aftermath of the Veto, however, the nation will function without a central bank and with banking largely under state supervision, a relationship that Jacksonians and their heirs would not be displeased with. In a paradoxical manner, perhaps, we have blown the Veto out of proportion by not looking as closely as we should at other forms of financial and economic adventurism that even a rechartered Bank and a re-energized Biddle could not have managed.

In the early 1830s, as the controversy over the future of the 2BUS heated up, the banking landscape was changing in a significant manner. The money supply jumped from slightly above $100 million to more than $150 million between 1830 and 1832. Since circulating coins fell to single-digit millions, most of the increase was through bank-note issues, and according to Gouge the 2BUS was active in expanding its paper currency and as it did so (for a variety of reasons) it directly contributed to broadening the financial base of the state banks that could also issue

189The Biddle extracts as quoted by Gouge appear in Short History, “History”, 52-53. It is revealing to check some of Biddle’s remarks about prices and the money supply with Temin, Jacksonian Economy, Tables 3.2 (p. 69) & 3.3 (p. 71). Rhetoric may be more important than accuracy. Gouge did not believe that European events had much to do with the US crisis. Rather it was too many notes and too few reserves that caused a loss of confidence in the currency.
more notes. By Gouge’s reckoning the total gross circulation of 2BUS paper was about $14 million in January 1829 and had risen to about $25 million by January 1832. (Between 80 and 85 percent were bank notes.)\footnote{See Gouge, \textit{Short History}, “History”, 55-57. Gouge’s explanation was complicated. The simplest part was that silver imports from Mexico rose sharply in 1830 and since that increased the specie base, more notes could be printed. The more complicated part was that, as 2BUS paper, either as notes or drafts, circulated more widely across the country, it came to be treated “as good…as specie, or even better”, and as state banks accumulated 2BUS paper, they used it in lieu of specie to print more notes.} Clearly, as the amount of specie in circulation fell, America found itself almost solely dependent on various forms of bank paper. Such an explosion in paper currency could have set off a new round of inflation, but based on Temin’s wholesale commodity index prices were tame in the years immediately leading up to the veto.\footnote{Temin, \textit{Jacksonian Economy}, 69.} By his own testimony, provided to the Clayton Committee in the spring of 1832, Biddle alluded to the potential for the recurrence of stress and breakdown like 1825. Sounding like a Federal Review Chairman, Biddle reviewed how a series of events between March 1831 and March 1832 could have spelled trouble if he had not intervened. The alarm bells were: large importations requiring large remittances overseas; large sums accruing from duties owed to the government by merchants and importers, perhaps beyond what they could pay; and large delays in harvests of southern commodities that drive import-export trade. The Bank chose not to deal with the potential disruption to its balance sheet by lending less or calling in loans, but rather to treat the commercial community, especially New York, with “utmost gentleness”. Branches of the 2BUS were ordered not to demand unduly redemptions of bills and drafts that they held to be drawn on New York City merchants and banks. The aim of the 2BUS was to allow time for adjustment to the new economic realities. Moreover, the 2BUS took it upon itself to redeem about $5 million worth of its own paper with the result it pumped money into the general banking system. Biddle meant to leave the impression that under the guidance of the Bank the occasional dislocations originating from the new credit and currency instruments could be contained. These new instruments helped to underwrite economic expansion, and the Second Bank helped to manage potential trouble.\footnote{Gouge summarized Biddle’s testimony with long quotation from his letter and report attached to the Clayton Committee Report, House Report 460, 1\textsuperscript{st} Session, 23\textsuperscript{rd} Congress, 30 April 1832. See \textit{Short History}, “History”, 58-59.}

To Gouge this testimony was not straight-forward. It must be recalled that the Clayton Committee was charged to determine if the 2BUS had violated provisions of the charter and in so doing had engaged in mismanagement and fraud that threatened the entire banking system. The aim was to identify problems and suggest remedies to strengthen the charter and protect both the government and the
economy from further deficiencies, perhaps gratuitous given the distrust of the Bank. But the manner in which Biddle conducted the affairs of the Bank and its branches vis-à-vis other banks as well as the commercial community, as described above, were specific points that the Clayton Committee considered to be part of its mandate.\textsuperscript{193} Many commentators, especially twentieth-century historians and theorists, have contended (at times harshly) that the Committee simply did not understand how the banking system had to operate in this changing economic environment. Perhaps that was true (and perhaps, further, it made no difference). For Americans, being inexperienced with such a complex banking operations, in particular branches, which had always been controversial extensions, and the issuance and negotiation of various credit instruments, it did not make immediate sense as to why national banking policy should be based on treating one region less equitably than another region. And that, in effect, was what Biddle had to do in order to relieve the financial stress in New York City and along the Atlantic Coast. He was attempting to loosen credit in the East by restricting it elsewhere, and he admitted as much: “The whole force of the institution [2BUS] was...directed to strengthen that place [NYC], and the distant branches were directed to avoid incommoding it…by drafts upon them, but to pay their balances with them…”, as convenience allowed. Biddle further implied that he understood how this could cause dismay but given the system it was necessary.\textsuperscript{194} The Clayton Committee’s response – at least from the majority – may have been naïve in light of the evolving theories of modern national banking system, but they were not in light of how Americans viewed politics of banking. These actions of relaxing calls on bills and notes in one region, while discouraging such call in another region smacked of unfairness. Under any monetary such was bound to happen when national intervention overrode local control. But economic theories and applications have political consequences especially in self-governing societies. In short, why shouldn’t local communities expect that their local institutions will act in their behalf?\textsuperscript{195} But Gouge, who understood both old and new theories, went further with his criticism. He agreed with the Clayton Committee. “It may be doubted if any Board of men sitting in Philadelphia, is able to direct money operations, in many and remotes parts of the Union, without inflicting injury” on various communities. He disputed Biddle’s figures on how much the Bank had actually remitted to reduce its own paper. But his ideological critique was more telling than his economic critique. He was quick to point out a quote from letters sent to branch cashiers by the Bank’s chief cashier from Philadelphia that the

\textsuperscript{193}House Report 460, 1\textsuperscript{st} Session, 23\textsuperscript{rd} Congress, 30 April 1832, 1-2.

\textsuperscript{194}Gouge, \textit{Short History}, “History”, 58, quoting Biddle.

\textsuperscript{195}House Report 460, 1\textsuperscript{st} Session, 23\textsuperscript{rd} Congress, 30 April 1832, 18.
Bank’s effort was no more than to “‘assist the operations of nature, and the laws of trade, which can always correct their transient excesses,’” and then to ask how satisfactory was it for Biddle and his Board to substitute their policies for the “‘operations of nature, and the laws of trade,’ which if left to themselves, ‘can always correct their own transient excesses?’”¹⁹⁶ Not only was it inconsistent but it was unnatural.

Gouge quoted a section from Biddle’s written testimony to strengthen his case. This plan of operation adopted in October 1831, summarized above, had allowed time for laws of trades to operate:

> the country is recovering from the temporary inconveniences; the over-stocked market, by checking prices, has checked farther [sic] importations; the southern crop so long delayed, is coming forward; the exportation of specie has ceased; the importations of specie, postponed by the troubles of Mexico, are resumed; and in a short time, the whole operation will rectify itself.

Gouge might as well have replied nonsense, although he didn’t. After declaring that the inconveniences continued (i. e., writing of these events for a book published a year later) he expressed some astonishment that

> a man of Mr. Biddle’s great powers of mind, still thinks the embarrassments of the people are such as spring only from “vibrations of trade,” having their origin in natural causes, and that they are in no way increased by Banking operations, it must be that his situation at the head of the Banking System, has an influence on his judgment. He speaks of its [sic] being natural for men to look for the cause of their sufferings everywhere but in themselves. With equal truth it may be affirmed that statesmen, are apt to attribute their sufferings of the community to any cause but their own measures.¹⁹⁷

Another issues that complicated Biddle’s banking program prior to the veto was that the Federal Treasury decided (as it had in 1825) to use its surpluses to pay off $9 million in bonds. This could have further drained the vaults of the 2BUS and its branches of specie, and Biddle asked for a delay, a request that did not endear him to the current administration. Deposits of swelling federal funds from land sales,

¹⁹⁶Gouge, Short History, “History”, 58.

¹⁹⁷Gouge, Short History, “History”, 59.
import duties and specie imports mainly in the 2BUS and its branches but indirectly in some state banks accounted for the upsurge in the money stock. As Gouge concluded his remarks on the events from 1830 to 1832, prior to the veto, he wrote that if, after the expiration of the 2BUS charter the government refused to receive any payment not specie and refused to employ any bank as an agent or depository, “the evils of the system would be greatly diminished.” His answer for where the Federal Government should keep its money was something called the Independent Treasury, but that is a matter for later consideration. His history and analysis up to the veto laid the blame at the doorstep of a privileged system of chartered banking (national and local) that could not perform as it claimed it could, and when it did perform the harm across the system was palpable. He knew it will take time and perseverance to modify what consolidationists had decreed was in the best interests of the nation and the individual, but once accomplished it will achieve once again that “conjoined equality of commercial privileges with equality of political rights.”*198

Jackson’s ambivalence or vacillation of the first term had evaporated by the second term. Part of the reason was that the Bank Veto required some important adjustments in the nation’s fiscal policies. And, as if the dismantling of the Chestnut Street Monster and reshaping of the national banking system were not of sufficient magnitude, non-economic issues, lingering on the fringes, suddenly exploded across the political stage. Two themes can be identified. The dismantling of the Second Bank did not end corporate banking and paper money by any means. According to various published figures the number of state banks grew from 329 in 1829 to 788 in 1937, the end of Jackson’s second term. The money supply more than doubled, and although specie reserves also more than doubled, that increase simply led to more bank notes and other paper instruments. America entered a period that has been described as “free banking” in the sense that expansion of banking fell solely under the purview of the states. It was not always a reckless expansion. States had use for the banks to help finance infrastructure projects and transfer government monies. Without a national bank the credit and currency system had less uniformity and reliability, although the degree to which the absence of these retarded the antebellum economy is open to debate. It could be argued that despite the dislocations caused by the winding down of its business the case that was so hard to make was that the 2BUS was not essential for Americans to accomplish their economic goals. Efforts were made and votes were taken to revive the Second Bank but it barely had a chance of revival. We can speculate to the end of time about how America might have been better off with a national bank

198 Gouge, Short History, “History”, 58, 59-60, 63-64.
at the helm of its banking system, but that is not the story. And even if Biddle and his Bank had survived, what assurances were there that they could have prevented the inflationary spiral that eventually induced a crash? None. The revisions to the 1832 Bank bill would not have given him or the institution the powers they needed to put a brake on the economy. And, besides, the politics of the times were against him, as the Whigs will find out even after they win control of the national government. In the quarter century before the Civil War after the demise of the 2BUS and its state-chartered successor economic growth continued at varying rates. The fact was that the absence of the Bank did not significantly deter and erode growth of the economy. Would it have been more orderly or qualitatively different? Who knows. America got what a segment, perhaps a majority, wanted: the elimination of a national bank whose own behavior and utility (unjustifiably, some would argue) were called into question. Under this interpretation, why make the effort. The Second Bank had performed an important role relative to the federal government’s fiscal operations, and considerable controversy emerged over how to accommodate these obligations. To assume the orderly flow of federal funds, prominent state banks, which critics called “Pet Banks”, were appointed to act in behalf of the federal government – accepting money from land sales and for tax payments, distributing money to finance obligations and transferring funds from one region to another. The net effect of more money being deposited in state banks was that their loan pool grew as the loan pool of the 2BUS shrank. Paper issuances increased, as shown by Temin’s money-supply figures, although the unexpected inflow of Mexican silver also contributed. Temin’s price index reveals the effect of so much more money circulating around the economy, even if state banks were not all irresponsible, and that was inflation, rampant inflation. In 1837 the federal government, to protect its fiscal house announced the Specie Circular, a decree that declared all land sales had to be paid in specie. Of course, the refusal by the federal government to accept bank notes made all paper currency suspect. A bubble had developed – too much money chasing too few goods – and when it burst the economy collapsed into a panic or depression that lasted until 1840. It was the worst economic reversal in the nation’s young history, and, not surprisingly, the banking system continued to be blamed. The time that it came and the form in which it came might have been different, if a national bank had been in place, but whether a national; bank could have prevented it is open to debate. The Panic did not re-burnish the image of the Second Bank. Panics were thought to be the work of bankers, so, unlike the movement to create a national banking system to help manage the debt after the War of 1812 and stabilize credit and currency, the movement during the the Panic was to reform banking charters and to regulate

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199 As noted earlier, I have followed Robert Gallman’s lead on nineteenth-century economic growth. Gallman, “Economic Growth,” in Engerman & Gallman, eds., Cambridge Economic History, 2:Table 1.3, p. 7-8.
banking operations, by the states without the federal government. Paper money did not disappear, but the inflation it had induced moderated. A federal “Sub-Treasury” with no note-issuing power took over the government’s public treasury functions.

A second theme in this time of suspicion or opposition toward government initiative or intervention, at least on the national level, concerned the nature of government itself. The possibility presents itself that in light of a string of nettlesome events – Virginia & Kentuck, Hartford Convention, Missouri Debates, Hayne-Webster Debates and Nullifier Party – the union created under the Constitution was so fundamentally flawed that like the above discussion of national banking any further effort was wasted. I have read from time to time but not seen any specific count that in celebrations like the Fourth of July more oratory referred to the Declaration than to the Constitution. The charter for governing had not yet achieved the status of the revolutionary document and would not until after the Civil War. However disgruntled the nation was over the Constitution, Jackson was not about to preside over the dismemberment of the union and, to the surprise of both opponents and supporters, he acted on his conviction. Under the influence of Calhoun’s strong, perhaps extreme, views on state sovereignty, to the point that states could in their own self-interest refuse to enforce federal law, South Carolina had been restive for nearly a decade. Convinced that matters would not improve with Jackson’s re-election (Calhoun having resigned from the Vice-Presidency had lost most of his influence in the national party) South Carolina decided not to allow the collection of duties under the revised protective tariff of 1832. And even though some of the most punitive provisions of the Tariff of Abominations had been removed, it was not well received in South Carolina nor other southern states. In addition to the tariff, which was bad enough, was the behavior of the President himself. Could he really be counted on to defend state sovereignty and planter culture or had he betrayed beyond redemption his unionist sentiments in his exchange of toasts with Calhoun and his veiled threats to punish disunionists. If there was any hope that he would relent, it was misplaced. Any challenge to the national government in the form of nullification or secession carried more weight in the 1830s than in the twentieth century because the mortar that held the union together was still hardening. The question of how far states could go in behalf of their citizens had narrowed since the 1790s but had not been fully resolved. In many quarters the state was still thought to be a more trustworthy partner in defending personal liberties than the national government. What was not expected was Jackson’s aggressive response, when South Carolina actually endorsed nullification or interposition. What Calhoun and his allies provoked was the Force Act, which would authorized the President to dispatch troops to South Carolina to enforce federal law.
As the controversy was gathering steam Jackson penned a letter (13 January 1833) to Martin Van Buren, the new Vice-President. The falling out between Jackson and Calhoun, had sparked verbal exchanges between them on the preservation of the union. Jackson had already declared the limits in the debate over sovereignty – the sovereignty of the states would be maintained but not at the expense of the Union. Jackson made it clear that the nullification must be put down once and for all because if allowed to exist it will excite the spirit of secession everywhere. “I have to look at both ends of the union,” wrote Jackson, “to preserve it.” If one state or region were allowed to dictate federal policy why shouldn’t other regions or states demand the same thing? He presumed that Calhoun and his allies were misleading the “good citizens” of South Carolina: many nullifiers were willing to “disgrace” the country and the current administration in order to save the political career of his former running-mate. He also assured Van Buren that citizens in the South as in other regions would not tolerate the insurrectionist position taken by the South Carolina Convention (rather than the Legislature). The 1833 Nullification Crisis revealed once again the fault-line embedded within the concept of dual sovereignty, as assumed by the constitutionalists. In the South Carolina Nullification Proclamation the principal charge against the Jackson and his Administration was that the Constitution demanded equality in the imposition of taxes, and the tariff clearly burdened some states in order to reward others. The central charge was followed by a series of “Whereases” prohibiting interference with the mandate by state or local officials. Were the national government to decide to impose its authority by force, South Carolina served notice that it was free to declare its separation from the Union.

In response Jackson issued his own Proclamation several weeks later. Jackson said unequivocally that the Ordinance of Nullification, if allowed to stand, would destroy the Union. The risk was that others would make the same argument as South Carolina when they had grievances, and to contain the risk Jackson intended to spell out clearly why such actions were incompatible with being a nation. Jackson pointed out that the resistance by South Carolina did not take the form of insurrection, which the nation could mobilize to put down, but took the form of

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200 Letter from Jackson to Van Buren, 13 January 1833, from Martin Van Buren Papers, Library of Congress, on-line American Memory, Words and Deeds..., available at http://memory.loc.gov/ammem/mechtml/corhome.html. The idea behind using a “convention” as opposed to an installed legislature was that the people of the state must be convened to reaffirm the sovereignty of the state as was required when the South Carolina ratified the transfer of power under the federal charter as well as the transfer of power under the state charter. It was also desirable to remove the procedure from politics associated with legislatures.

201 Ordinance of Nullification, People of South Carolina, 24 November 1832,. Available on-line at http://avalon.law.yale.edu/19th_century/ordnull.asp

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opposition, which the nation had to deal with carefully. The reason for the care was that a profound disagreement existed within the body politic about what the Constitution permitted and forbade. In Jackson’s mind it was self-evident that if states could interpose in order to abrogate, the result was chaos. The Union could not survive under such a battering. Federal judicial or legislative review was the prescribed procedure to remedy the disagreements, but if the outcomes were unacceptable, what should the aggrieved do? It was at this stage that some dissidents argued that states as the original parties had the authority through the convening of a convention to interpose and abrogate. Under this scenario the state’s sovereignty was greater than the nation’s sovereignty, and on that point Jackson was ready to draw the line. By ratifying the federal charter the state had surrendered its ultimate claim to sovereignty. It now shared sovereignty with the national government. In addressing the particulars – that South Carolina suffered economically at the hands of other states – Jackson admitted that bad law can be written or that one group or sector will suffer more than another, but he stoutly refused to accept the argument that such inequalities disqualify a law that met the constitutional threshold, even though its effects were unsatisfactory. To argue the right of interposition because of effects would subject virtually every law to scrutiny and rejection. Nor did the language or spirit of the Constitution allow such a strategy. Constitutional review based upon alleged motives of those passing the laws was an invitation to disorder and disharmony. For Jackson, the most troubling argument was that states actually possessed superior sovereignty to the national government. He reminded South Carolina and that “the people” established the federal government not the states. Importantly, the Constitution led to the formation of a wholly sovereign government, not a confederation of states. That was tried after the revolution and failed. By creating such a government, the states knowingly ceded certain powers to the federal government because the people in their capacity determined what belonged to the national government and the state governments and what they retained. This was sovereignty divided, not concentrated. That America had and needed a legitimate national government was not to be doubted. One may be surprised that he was not more conciliatory, especially because he had just vetoed the Bank’s recharter partly on the grounds that constitutional authority was dubious. It was also known and even implied in the Proclamation that Jackson had reservations about certain tariff legislation. One might expect him to be more sympathetic. That was not to be for the simple reason that the actions taken by South Carolina exceeded the bounds. Tariffs were constitutional, and objections to the effects of the legislations that threatened to abrogate Congressional authority were unacceptable. So long as Congress acted
within its constitutional boundaries states must accept its decisions.\textsuperscript{202} Jackson, as warrior against the Bank and the warrior for the Nation, defended the Constitution in terms of what it did not permit. It did not permit an extension of authority beyond the powers so delegated and it did not permit insurrection. Although many southern states condemned South Carolina’s actions, the Force Bill did not have smooth sailing in the Congress. The final bill was a compromise in which (additional) tariff reductions were combined with military authorizations, and it was largely engineered through the efforts of Jackson’s nemesis, Henry Clay. South Carolina attempted to nullify the Force Bill, but, by then, the contesting parties had pulled back from an ultimate confrontation. Even though Henry Clay did not truly believe the Force Bill would be needed, he viewed the standoff as potentially dangerous. The extent to which any compromise could end disputes without settling the disputes themselves was limited.\textsuperscript{203} South Carolinians, at least those who supported abrogation could not have felt reassured. The use or threatened use of the military was an option that raised the stakes for and complicated relations between the states and the federal government. There was no standing army, and if force were to be used it would have to be the activation of the state militias. And while many states in one form or another condemned nullification, at least in the abstract, they were uneasy about becoming involved in a dispute between the President and his former Vice-President, now a Senator and leading the abrogationists. Furthermore, underlying all of this was the contentious (only to become more contentious) issue of slavery. Since the Missouri Compromise through the Hayne-Webster Debates into Nullification, the fate of slavery was like a closing circle that would eventually lock in all issues and policies. The divergence over slavery might have encouraged politicians to step up to the plate, so to speak, and forge a national solution; instead and not surprisingly, given the evolving political ideology, the reverse was true. Defending the nation without diminishing respect for the states was essential at a time when citizens themselves were pulled in both directions. The national sovereignty, as expressed in Jackson’s Proclamation, was dependent upon state acquiescence just as state sovereignty relied on sharing joint responsibilities. Neither had an inherent power to destroy the other and, therefore, the inevitable disputes that must arise over jurisdictions and demarcation had to be respected but also resolved for the sake of both parties. The advantage lay with the United States because it was hard to see how South Carolina could survive as an independent nation among not-so-friendly

\textsuperscript{202} Jackson’s Proclamation from Elliot’s Debates, Volume 4, 582-593. Available on-line at http://memory.loc.gov/ammem/mechtml/corhome.html

\textsuperscript{203} Clay was not trying to do his adversary any favors. Clay condemned Jackson’s Proclamation as unduly punitive but he also wanted to save the tariff because it was a important component of his American System.
neighbors. Whether South Carolina ever envisioned itself as an independent nation is dubious. Nullification was to make the point that the national government must remember the boundaries. Keeping the federal government in line would prevent challenges such as nullification. Jackson has been often praised for his strong response in behalf of national sovereignty, and South Carolina often condemned for its disrespect of that sovereignty. The debate, though was not settled.

Just days before South Carolina nullified its own Nullification Ordinance (11 March 1833) Jackson delivered his Second Inaugural (4 March 1833). He acknowledged the difficulties of his first term and set out to explain how he would manage, more unerringly, his second term. The difficulties had little to do with foreign affairs because the United States was at peace with the rest of the world except for a few minor disputes. In the domestic arena a different story had to be accounted for. Jackson declared two basic principles were at stake: first, to preserve the rights of the states and, second, to preserve the integrity of the Union. Jackson left no doubt that if the General Government encroached upon legitimate state prerogatives, the result would be anarchy. Moreover, for the General Government to do so would result in greater mistrust of its motives and ambitions and further frustrate its effort to serve the nation’s best interests. With Nullification fully in mind Jackson extolled the citizenry to think of the Union as essential to furthering the goals of peace and prosperity. Twenty-four separate countries would be unthinkable:

- internal trade burdened with numberless restraints and exactions;
- communication between distant points and sections obstructed or cut off;
- our sons made soldiers to deluge with blood the fields they now till in peace;
- the mass of our people borne down and impoverished by taxes to support armies and navies, and military leaders at the head of their victorious legions becoming our lawgivers and judges. The loss of liberty, of all good government, of peace, plenty, and happiness, must inevitably follow a dissolution of the Union. In supporting it, therefore, we support all that is dear to the freeman and the philanthropist.

Once again Jackson affirmed his belief that the Union must be protected against any threat that would lead to weakness or dissolution. But that affirmation was accompanied by an understanding that Americans expected its government to be bounded.

At the same time, it will be my aim to inculcate by my official acts the
necessity of exercising by the General Government those powers only that are clearly delegated; to encourage simplicity and economy in the expenditures of the Government; to raise no more money from the people than may be requisite for these objects, and in a manner that will best promote the interests of all classes of the community and of all portions of the Union. Constantly bearing in mind that in entering into society "individuals must give up a share of liberty to preserve the rest," it will be my desire so to discharge my duties as to foster with our brethren in all parts of the country a spirit of liberal concession and compromise, and, by reconciling our fellow-citizens to those partial sacrifices which they must unavoidably make for the preservation of a greater good, to recommend our invaluable Government and Union to the confidence and affections of the American people.

Also once again Jackson tied the goals of General Government to “simplicity and economy”, having used similar terms in earlier addresses. Money will be raised and spent only for “requisite” needs because that was the best way to reassure Americans who had individually surrendered certain liberties that their sacrifices were justifiable. Thus, the surest policy for maintaining a strong Union in which people had faith was by action and deed to the “partial” surrender of liberty was necessity to preserve the rest that they retained. Although polls measuring people’s sentiments did not exist, I can imagine but not prove that his prescription was not alien to their own beliefs in spite of a near confrontation of sovereignty.204

As unsettling as the Nullification Crisis was for a nation that had not yet resolved the dual sovereignty question, the unwinding of the operations of the 2BUS would engage the Jackson Administration until the end in 1836. There was and is debate about what course Biddle and Jackson should have taken, but the fact was that they were intent on pursuing their own agendas. In the summer, 1833, Jackson embarked on a policy of removing deposits from (more like depositing less in) the 2BUS in order to force the Bank to curtail business. William Duane was appointed Treasury Secretary in June, 1833, to direct the removal policy, but he refused and was dismissed. His successor, Roger B. Taney, did launch the program in September, 1833. The Bank’s public deposits fell a third from $10 to $6 million. Losing deposits not to be replenished from other sources meant the Bank had to curtail lending. How far it had to go in curtailing lending and how far Biddle decided to go have been widely debated, but what can be observed is that the

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Bank’s contraction did not lead to a panic on the scale of the Panic of 1818-1819, as might well have happened. The banking system continued to make loans and to print notes even as Biddle was lending less and redeeming more in order to preserve capital. The explanation for why the system did not melt down, as some had predicted, was in part due to the inflow of bullion, mainly silver, a phenomenon that had to do with the relative value of the British pound and the American dollar as well as gold and silver. In short inflows swelled reserves in general. The quantity of specie rose from $68 million in 1833 to $65 million in 1835 (58 percent) and the money stock from $168 million to $246 million (46 percent). The Bank’s curtailment certainly had some negative impact but only mildly so. By 1837, however, with the suspension of payments in specie by banks, the nation entered a panic of several-years duration. The conditions that could induce a panic were becoming more manifest, but how the economy actually fell into one is another complicated story that scholars do not agree upon. One thing for certain, prices rose significantly, beginning in 1835 and continuing through 1836 and into 1837. Temin’s analysis of existing data suggests that rising specie inflows played a major role. Contemporaries did not have the advantage of Temin’s analysis, and many of them blamed the banking system.

Even though Jackson’s Veto removed a major component of the banking system it did not address the larger issue of the proliferation of corporate banking and paper money. In an 1837 publication on dispensing with banks and paper money Gouge had no doubts what produced the evil. “A simple arithmetical equation” was to illustrate his point: 1 Bank of the United States plus 25 branches plus 700 state banks with 120 branches with nearly $300 in capital of which 12 percent ($35 million) belonged to the 2BUS. The 2BUS was the driver but it had plenty of mischievous company in perpetuating the evil of paper money. “The simple truth is, that paper money banking is radically wrong [sic].” It was one thing to say that paper was convertible to specie, but it was another thing to guarantee it. Paper was essentially debt, and under most arrangements the party contracting the debt must pay interest. The banks as contractors of debts pay no interest on the notes that they issue. Even worse, they trade at a discount and may not be redeemable. For Gouge this was the destruction of wealth. Moreover, corporate banking can destroy the foundation of a republican society, which preferred the “indivisibility of its citizens” where individuals dealt with each other on the basis of equality. But corporate banking had allowed for the confederation of people in control of

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206 Price index found in *Jacksonian Economy*, 69, and events leading up to Panic of 1837 in Chapter 4.
wealth, thereby creating a “moneyed aristocracy”. In his mind the business of banking should be completely divorced from the business of government – hardly the case starting with the charters of incorporation and including deposits of government funds – being no different from the trading in flour or tobacco. “[T]he free competition of individuals” should take care of “receiving deposits, making discounts, and dealing in exchanges….” He feared that allowing incorporated banks to continue would ultimately require an agency so powerful that the Republic itself would be at risk. Shifting federal funds from the 2BUS to selected state banks was not a solution, only a change in words but not in effects. To end this madness, the United States needed to establish a Sub-Treasury system to handle the federal government’s receipt and dispersal of funds.

Gouge was not alone, of course, in pushing for fundamental changes in the aftermath of the Bank Veto. Efforts were made to save the 2BUS by introducing bills to continue the charter with revisions or to write a new charter. Little likelihood the Bank would be saved. One such proponent, not surprisingly, was Daniel Webster. During the Senate debate on the bill Jackson vetoed, Webster proposed not the elimination of paper currency but the regulation of it. He acknowledged too many small notes, some as small as $1, had caused much dismay and disruption in commerce. During the recharter debates he approached the issue not from the wide angle that bank notes were so evil that they should be totally eliminated but from the narrow angle that notes filled a perceived need but circulated “too freely”. Reduce as much as possible notes smaller than five dollars, and specie will return. How to do that was the question that not only Webster asked but also the paper-money critics?. He proposed the revised charter contain a provision that allowed Congress to order the withdrawal of “a pretty large part of” the 2BUS’s notes as an inducement to the state governments to initiate similar policies with regard to their banks. (He would preserve notes of higher dominations.) Since 1816, when a member of the House, Webster had harbored doubts about the utility of paper currency, but by 1832 he had focused his doubts on small notes. During the debate over the Removal of Deposits [1834] he posited that the restoration of specie and the abolition of paper were “not suited for

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208 Gouge, An Inquiry, 11.


the times.” He reiterated his concerns about the loss of specie and the flood of small notes, but he also warned that the consequence of eliminating all paper was to concentrate trade in the hands of large capitalists, since they had more access to specie that other traders. With rhetorical flare, which critics like Gouge dismissed as such, Webster portrayed the channels of transportation – turnpikes, rails and steamboats – as being “encumbered” with daily specie shipments. In an interesting exchange with himself during the debate to revive the Bank’s charter [also 1834] Webster proclaimed: “The poor! We are waging war for the benefit of the poor! We are waging war for the benefit of the poor! We slay that monster, the bank, that we may defeat the unjust purposes of the rich, and elevate and protect the poor!” He asked what was the fate of the poor and the “middling classes” after the Bank was slain? “Are they well feed, well clothed, well employed, independent, happy, and grateful? They are at the feet of the capitalists; they are in the jaws of usury….Look at the rates of interest, mounting to twenty, thirty, fifty per cent….And this is called putting down the moneyed aristocracy!” Webster highlighted the virtues of a paper system – efficiency and expediency – but he also warned against excesses. He would authorize Congress to “restrain” the Bank from issuing notes of less than $20 after March 1836. In the meantime, the state governments should demand that all state banks withdraw small notes, although he apparently did not propose forcing states into a redemption policy. Only after small state notes had been withdrawn, would the ban on small notes issued by the 2BUS go into effect. It is curious that Webster took this position on small notes because the efficiency of circulation in this region was quite high compared to other regions. In other words the value of bank notes was stable and the ratio of notes to capital was fairly manageable. In other regions this was less so. At the time of Webster’s proposal the volume of bank notes in circulation had been growing with uncertain repercussions, which differred from region to region. The critics had long portrayed the 2BUS as the epitome of the moneyed aristocracy and not as the protector of the “poor” and “middling” classes. They would agree with Webster that small notes were a curse, but they contended the curse was cured by eliminating (gradually) all corporate banking. Rechartering the 2BUS would hardly purge the system of paper transactions (notes and other instruments) and thereby allow interest rates to return to a “natural” level. It was the systemization or the institutionalization of banking that motivated the critics. Unlike them, Webster believed that systems and institutions (to wit: post-veto events) properly organized could positively affect individual behavior.212


212Webster, “Senate Speech, 22 February 1834,” Writings and Speeches, 7:89-90, 92, 100.
Webster raised a fundamental issue that went beyond the excess of small bank notes in circulation and the outflow of specie. Implicit in Webster’s remarks were ideas about individuals and the institutions that would not endear him to small-government adherents. Since the Revolutionary Generation the task had been to find a blueprint that would balance the self-interests of the individuals with the security and welfare that a community of individual could provide. By the 1830s, more than one blueprint had been drawn up. The dominant blueprint was a political community that basically “let the individual be”, although there were variations to this as well. The blueprint that Webster embraced acknowledged the centrality of the individual but within a governing structure that would set boundaries, impose restraints and prescribe remedies in the name of the public good. It was an appropriate role for the government to charter banking institutions with the power to issue instruments for improving commercial transactions but under regulation and supervision that protected individuals. Webster was prepared to invoke more governing at a time when less was in vogue. The poor and middling classes with or without a national bank had little chance of competing against those who by talent, education or background controlled important economic and financial institutions. Both the powerful had to be restrained and the less powerful had to be protected. In Webster’s political lexicon collective-governing was required along side of self-governing, and national governance must assume pre-eminence over local governance in order to achieve these goals.

A prominent Whig economic theorist and later Republican activist was Henry C. Carey, of Philadelphia. He was son of another prominent writer (and businessman), Matthew Carey. He joined his father’s company, Carey, Lea & Blanchard, in 1817, but twenty years later he took leave of the company to devote full-time to writing on political and economic affairs, and over his long life he published dozens of article, pamphlets and books. In a real sense he was a developmental economist before there was such animal. His economic principles, not always easy to comprehend, were shaped by the growth that he saw around him and the opportunity for even greater growth that began with investment in land of which there was abundance in America. This set him apart from the English School that viewed land in terms of a diminishing utility. Promoting American economic development was key to his political outlook. As a businessman he was also an investor along with a dozen other Philadelphians in the Franklin Fire Insurance Company, chartered by the State of Pennsylvania in 1829. (It bore the name of Benjamin Franklin because he had founded an insurance company 75 years earlier. The auction of the stock was at a local tavern and fully-subscribed.) Insurance was a “big business” in early nineteenth-century America, and this became one of the largest insurance companies and is still doing
business as Franklin Mutual Insurance Company.) In 1835 because of deteriorating conditions in the London financial market Carey sold his businesses and devoted the rest of his life (death in 1879) to being a professional economist and writer. Between 1837 and 1840 he published three volumes under the title of *Principles of Political Economy*. In the Introduction Carey declared what his “principles” intended to show:

> The predominant desire of man is *to maintain and to improve his condition*. That desire prompts him to two actions. First, to seek a partner of his pleasures and his cares--of his joys and his sorrows--by which he is enabled to continue his species--and second, to endeavour to acquire the command of those commodities which constitute wealth.

With respect to matters of currency Carey described the evolution from “the infancy of society” where barter was the principal mode of exchange toward more complex modes of exchange. The move was from reliance on specie to bills of exchange and finally to currencies founded upon paper. What mattered, in Carey’s view, was confidence. As traders and workers gained confidence in the uses of various paper forms, there would be an increase in overall productiveness.

> It would, however, be only by degrees that the labouring classes would acquire sufficient confidence in those agreements to accept them [notes] in lieu of gold or silver which they might be entitled to receive as wages. In the commencement of such a system there would be few notes used except of the larger denominations, such as would pass among merchants or traders on an extensive scale; but as the small shopkeeper and the labourer became accustomed to them, notes of 5, 10, 15, and 20 dollars, and perhaps even of smaller denominations, would be brought into use; and with every increase of confidence, there would be found an increase in the productiveness of flavor.

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213 In a recent paper Richard Sylla notes that the United States had three times as many insurance companies as the United Kingdom where insurance was written by private rather than corporate entities. Also, in terms of stocks of companies listed on various exchanges (US had exchanges in several cities compared to UK’s single exchange), American insurance companies were as numerous (77) as incorporated banks (75). Of the more than 220 listed companies trading stocks around 1830 the financial sector (banking and insurance companies) comprised almost half. “Comparing the UK and US Financial Systems, 1790-1830,” paper prepared for conference on The Origins and Development of Financial Markets and Institutions, 2007, able 2, pp. 17-18, p. 19. Available on-line at https://netfiles.uiuc.edu/ineal/www/EH412/SyllaComparing%20the%20UK%20and%20US.doc.

Paper money was a mode of exchange that was ultimately efficient. He compared money to wagons. Many more wagons were needed to transport goods when the roads were bad and transport was slow, but as the facilities improved with the introduction of turnpikes and rails fewer wagons were needed. So too with money:

Every increase in the facilities of intercourse, resulting from the increase of population and of capital, would thus be attended with a diminution in the quantity of currency required for the performance of any given number exchanges. Every increase of confidence in bank notes would tend to diminish the proportion of the currency required to be in gold or silver. Further increase of confidence would be attended with the substitution of individual checks, drafts, &c., for bank notes, gold or silver.\textsuperscript{215}

Carey’s thinking about uses of paper currency had moved beyond hard and soft money. He foresaw that trade would come to rely on the exchange of checks and drafts (common in our times) by which one party “guaranteed” payment to another party, as had been done for centuries under bills of exchange to avoid the actual transfer of a ingot or coin, except the receiving party had to assume the piece of paper could be cashed or deposited.

It was the wont of confidence that Carey wised to address. It was lacking under many different economic systems. In the United States he found it to be the strongest in Massachusetts and New England. Moving south and west confidence diminished. Citing many examples of how banks performed with respect to credit and currency operations within the context of the needed confidence among traders Carey found much to be encouraged about. Losses were not greater than at the Bank of England. Examining (heavily statistical) the development of the American economy under the banking system Carey concluded it had provided numerous services at reasonable costs. They provided people of modest wealth the same opportunity to trade as people of wealth. They provided facilities to allow for the transfer of property “from hand to hand, and from place to place” and they have acted as “great labour-saving machines. As a consequence both the labourer and the capitalist have seen an “increase of reward for their time, their talents and their capital.” There was “unsteadiness” but not as bad as in many other economies. The reason for the unsteadiness was

the erroneous idea that banking is different from all other trades; that it affords the means of making large profits; and that the right to bank should be held as a privilege to be sold to a few individuals. Communities, acting under this false impression, demand large bonuses for its use, thus imposing upon the parties a necessity of trading much beyond their capital.

The fault for the unsteadiness lay with communities (broad sense), “who limit the number of bankers, “thus close one of the markets for capital, while they make it the interest of those to whom they grant the privilege to act in a manner that shall render capital superabundant, to remain in their hands as deposits yielding no profit to the owners.” The fault did not lay with bankers because they simply behaved in a manner dictated by the privileges thus granted.216

A few years later Carey published a pamphlet, Answers to Questions: What Constitutes Currency...?, that drew upon the Principles of Political Economy but also tried to address the origin of the Panic of 1837. Carey published a series of pamphlets that were designed to be educational, to make the citizenry better informed about money and credit and how they worked. This pamphlet probably left the average reader bewildered. Currency systems are complex by their very nature, and in the Age of Jackson, with an emphasis on simplicity, I doubt if Carey won many converts. It was not even clear that his political allies, like Daniel Webster, could be persuaded. His intent, however, was honorable. He set forth a series of questions about currency (again with its “unsteadiness” in mind) and, then, offered a remedy. The analysis of banking functions as they relate to capitalization, currency and conduct was similar to what appeared in the Principles of Political Economy. According to the remedy, to prevent future “unsteadiness” remove those legal obstacles, imposed by liability laws, that distorted the way in which financial markets would work without them. Eliminating privileges and encouraging limited-liability incorporations (investors in companies suffering losses less liable for those losses) would push banking companies toward greater productivity in the same way that other companies operated. “The common sense of mankind leads them, when left free, to the adaption of those measures which tend to render their labour most productive, and their property most secure.”217

There is a side of Henry Carey that might have appealed to the defenders of self-

216Carey, Principles of Political Economy, 264.

ruling individuals. He was at times as much interested in explaining the technical components of paper money as he was trying to relate economic activity and human nature. And the language that he had a Jeffersonian cast. It must be understood that by the time that Carey was writing the doctrine of the capacity of the individual to manage his own affairs was no longer so widely ridiculed. Whigs like Jacksonians accepted the basic proposition that individuals could be their own best guardians. Organized or institutionalized authority had its limits. Carey wrote that “Wherever power exists there is a danger that it will be abused; and the greater its amount the greater the danger.” People addicted to power learn how to use it to “destroy the happiness of those around them…for the gratification of their own selfish views and feelings….” Even when people were activated by the purest motives “to do right” the possession of power in and of itself was still dangerous. Except in matters of war and peace it was too dangerous “to invest individuals with power, as in regard to currency, and…it is desirable to find the system that is most nearly self-acting: that which affords the least scope for the exercise of caprice”, whatever the source. Self-acting in this sense was a currency system “that afforded the least scope for the exercise of caprice, and is least like to be affected by panics, whether produced by the apprehension of political changes, the failure of crops, or the desire of promoting individual interests.” Every restraint on the use of capital will reduce the productiveness and cause instability. Currency was a form of capital, and if it were not fully and fairly employed, it would become unproductive. This was an indictment of commercial banking or of paper money, however. It was an indictment of bad policies that prevented the formation of capital, and certain banking policies led to that condition. “The more perfect the freedom of employing capital is the greater will be the productiveness of labour [sic], and the smaller will be the proportion which currency will bear to production. Every restraint upon the application of capital, tends to diminish production….” Properly employed the deposits that banks accepted, the loans that banks made and the notes that the banks issued could yield “a constant improvement in the condition of man, and a constantly increasing disposition to assert his right to freedom of trade, a necessary consequence of which is a constantly increasing tendency to an equality of profits and of condition….This tendency to equality is greatest where labour is most productive, and labour is most productive where freedom most exists.”

Carey accepted the supposition that individuals may be endowed with certain rights, but he also noted that possessing rights did not automatically translate into exercising rights properly and benignly: “…as men improve in their physical,
moral, and intellectual condition, and as they obtain more fully the power of self-government, and are enabled to judge for themselves of the mode of applying their time, talent, and capital…” their progress will become obvious and beneficial. The context for this was the question of associations along lines different from how most states authorized them. The goal was to allow individuals to choose their own arrangements, some of which may involve incorporations (never with special concessions). It was a process. The theory was that “They feel more quickly than they think”, with the “increase in civilization, a constantly increasing tendency to security and freedom…,” will become evident. Even though opposition to diminution of restraints on associations the idea has gained greatest momentum where men have the greatest freedom to “the right of self-government.” In the context of economic associations Carey had no doubt that the greater the freedom the better the result. Despite concerns that without limitations and restraints the liabilities would become so large that individuals would not be able to assume their full debts. Carey cited the “Golden Rule” – do unto your neighbor as your neighbor would do unto you. Again in an economic context (for there may be other non-economic restraints required) these principles combined with the increase of self-government were pointing to “abolition of restrictions upon external and internal trade.” On the surface, in the rhetoric, Carey seemingly wanted “free up” the individual to do what he presumably was capable of doing on his own.

Eliminating the obstacles to development would then open the way to realizing a system that could act on its own. But, as one might say, there was more than would not endear him to the Jeffersonian idealists. With reference again to human behavior, Carey observed that people often believed because they were told that corporations represented an advance in civilization and therefore “desire to unite their exertions and their capitals for attainment of such objects are deemed likely to enable them to improve their condition…” The act of associating was not the problem. Rather, legislators added the restrictions and impediments that stigmatized associations: “privileges to A. B. C., the exercise of a right that is refused to D. E. and F.” Legislators engage in their actions to please and favor their own constituents in their own neighborhoods. The public at large, however, expected something different. They regarded associations as a more enlightened for them to manage their own affairs based on the premise that they were better at managing than legislators: “to trade with their neighbors on such terms as they think most advantageous, whether of limited or unlimited liability, they are more

219 Carey, *Answers to the Questions*, 72-73, 78.

220 Carey will later write a book entitled *Harmony of Interests: Manufacturing and Commercial* (1851) that had protectionism at the heart of its analysis but explored it as if eliminating the disharmonies within the economic system would pave the way for a more harmonious system. I will return to these ideas in Volume 3, Governing Impasse.
likely to promote their own improvement and that of the community of which they are members, than when compelled to trade in a certain manner established by law….” Carey’s philosophical stance was based on the idea that individual would naturally and willingly embrace associations – hundreds and hundreds of them that would tie communities together into a nation – and both individuals and communities would proper. Incorporation should be open to everyone who could meet a few minimal standards and not the preserve of special interests including politicians, but it would become the preferred strategy by which a social order in search of order and progress would organize itself. “Either the whole system should be abolished, or there should be a general law authorizing all to associate as they may think proper, and to trade with others on such terms, and with such liabilities or securities as they may mutually judge advantageous or necessary.” (In the aftermath of the Panic of 1837 states did move toward general-incorporation statutes and away from privileged charters.) Replacing privileged charters, general incorporation was a tool for the development of the economy and Carey’s version of *laisser-faire* – an American model, if you will – to promote development in a smooth and steady way. Protective tariffs could have smooth the way; bank notes too; manufacturing and farming could thrive along side of each; using proper tools and choosing good public policies would push the economy ahead and open it to new technologies and enterprises. It was not a vision that discounted the role of the individual but it was a vision in which the system counted than the individual. If Americans wanted an economic free-for-all, Cary had other ideas. He was not in a battle of individuals against institutions but in a search for a system that melded together the private sentiments and ambitions with public policies and goals that would benefit the whole community. At the most basic level Americans had to learn – the purpose of his pamphlets – how an economy worked and how various tools and instruments could be adapted to a progressive and harmonious development.221

A long list of journalists, essayists, polemicists, economists and politicians weighed in on the question of business charters.222 During the Jackson Era few subjects commanded as much print attention. Banks notes and other paper transactions were widely criticized, but they were symptomatic of an economic malaise that grew out of the rush to grant corporate charters. Unless the root cause

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221Carey, *Answers to the Questions*, 71-72. Sylla also placed great stress on the value of limited-liability, joint-stock companies that became fairly commonplace. That alone was not enough to achieve the smoothness and steadiness Carey deserved. See Sylla, “Comparing the UK and US Financial Systems,” 6, 15-16. Carey, however, was still complaining about privileged charters during the period that Sylla praised them.

could be removed, the malady would remain. (Even Carey was among the critics of badly-designed charters.) How to remove the root cause was not agreed upon. The idea of granting privilege and monopoly, even if for a specified time, i. e., legislative review and renewal, failed on two levels: it was antithetical to free trade and it was incompatible with American ideals. I have no idea how many charters were applied for and how many were approved since 1800 – certainly in the hundreds, perhaps in the thousands. And no one could predict the outcome, if all corporations were abolished. The act of purging the system of the vices, however that was undertaken, would be sufficient to allow the virtues that individuals were inclined toward to blossom (again). It is worth recalling that the idea of political self-government evolved from a Christian tradition of moral self-discipline, and the first act was to purge the system so that virtue could flow unimpeded. Corporations were not abolished in America, but some states revised the rules and unexpectedly the U S Supreme in the Charles River Bridge case (1837) loosened the interpretation of exclusivity in contracts and charters. A charter to build a bridge and to collect a toll to cover costs and repay investors did not prevent the legislature from granting other charters for other bridges over the same river. In short, the Charles River Bridge Company did not possess a sole proprietary right to all income that bridge traffic might generate. The vigorous debate over exclusivity, privilege and monopoly that charter could endow reflected the underlying assumption that when the system ran amok, the finger was pointed at the abandonment of the first principle – let the individual practice the virtue that he was inherently endowed with. It was not the individual but the system.

As Americans wrestled with ideals and realities that were not always in harmony, a Frenchman, one of many visitors to the new nation, was traveling from east to west and south to north. Alexis de Tocqueville, a nobleman, arrived with his companion Gustave de Beaumont in New York City in May 1831 and traveled for the next 10 months; they departed in February 1832. During his travels de Tocqueville kept a record of his observations and interviews in a set of notebooks. Three years later he published the first two volumes of *De la démocratie en Amérique*, and five years after that he published the final two volumes. The volumes were translated, not always rigorously, by Henry Reeve and then published under the title *Democracy in America* (1838 and 1840). His notebooks have also been translated and published as *Journey to America*. Scores of editions and translations of *Democracy in America* and hundreds of articles and books on de Tocqueville and his writings exist, and I make no attempt to incorporate this vast body of literature into my current undertaking. My own reading of his published notebooks and *Democracy in America* over the years has worked both ways: his writings on American life influence how I think about American history.
and my thinking about American history influence how I read him.

Let me begin with what will probably be anticipated by those familiar with de Tocqueville and Jacksonianism – his introduction and examination of *individualisme*. When I started working on this topic more than four decades ago, *individualisme* was thought to be de Tocqueville’s creation and that Reeve, to anglicize it, simply chopped off the final e.223 Recent scholarship has established a far more complicated path for the origination and use of the word. Since individualism was concerned with individuals and rights, a pre-eminent manifestation of the eighteenth-century revolutionary spirit, in particular the French Revolution, French intellectuals and reformers shortly thereafter began to debate the role of the individual in the society. Initially a negative view emerged because too much individuality threatened the solidarity of the society. It is possible that in 1820 the counter-revolutionary essayist, Joseph de Maistre, originated the term *individualisme* to underscore the potential for atomization and fragmentation within society from too much individual activity, although the term was used in a conversation and not in a written text. Other anti-individualistic advocates, the Saint-Simonians, actually used the term in print in 1825, although their founder (Claude Henri de Saint-Simon) until his death preferred terms like egoism and anarchy to describe too much individual liberty. By the 1830s the term *individualisme* was in common usage and was added to the French dictionary in 1836. Surely, de Tocqueville knew the term and how it was used. It should be kept in mind that despite some radical ideas among social reformers, their reactions to expanding individual liberty were conservative, even religiously conservative, in defense of a preference for a better-functioning social order.224

Could the term individualism have originated elsewhere? One possibility was England because of the rising opposition to the ramifications of *laissez-faire* economics. Around 1817 Robert Owen, the famous Welsh reformer, who in the late 1820s would organize a utopian community at New Harmony, Indiana, drew a distinction between the social system and the individual system. “Allied to this

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223Henry Reeve’s own comment was as follows: “I adopt the expression of the original, however strange it may seem to the English ear, partly because it illustrates the remark on the introduction of general terms into democratic language which was made in a preceding chapter, and partly because I know of no English word exactly equivalent to the expression. The chapter itself defines the meaning attached to it by the author.” Gutenberg EBook edition of *Democracy in America*, 2:60 at [http://www.gutenberg.org/ebooks/815](http://www.gutenberg.org/ebooks/815) & [http://www.gutenberg.org/ebooks/816](http://www.gutenberg.org/ebooks/816). On the matter of Reeve attributions, see Steven Lukes, “The Meanings of ‘Individualism’”, *Journal of the History of Ideas*, 32:1 (1971), 63 and Gregory Claeys, “‘Individualism,’ ‘Socialism,’ and ‘Social Science’: Further Notes on a Process of Conceptual Formation, 1800-1850,” *Journal of the History of Ideas* 57:1 (1986), 81. Claeys also noted that Auguste Comte, according to one claim, used the term in 1825 (p. 81).

doctrine of freedom of will [in the individual system], and hence also opposed by Owen, was the contempt of ‘competition of interests.’” Owen did not believe that the competition of interests could be harmonized “by individualizing man in his proceedings, either in a cottage or in a palace.” Keeping man “individualized” and therefore outside of any community structure would only perpetuate and expand the evils of the present system. During the 1820s Owen continued to refine his argument against the individual society while at the same time he was searching for a term that better represent the social system. Owen eventually embraced but did not originate the phrase “social science” to describe how the social system should be regarded. Social science became juxtaposed with individual science with particular reference to the acquisition of wealth. By the 1830s individualism had found its way into the vocabulary and language of the Owenites, but apparently not before, and perhaps equally interesting at the same time that de Tocqueville was advancing his argument about American individualism some Owenites, perhaps even the founder himself, had begun to scrub the term of its negative connotations. In his 1836 publication, according to a quotation in Gregory Claeys’s essay, conceded that “The individuality of man, unavoidable by his nature, which is now, through ignorance, a cause of so much of the disunion of the human race, will become the cause of the more intimate union, and of the increase of pleasure and enjoyment.” As the Owenites had to come to terms with the force of individuality, they found a way to reconcile the principles of individualism with unity, cooperation and harmony. The competition component, an earlier barrier, would not be eliminated but altered. In all probability, while the English used phrases like individuality, individual system and individualistic, they followed the French in adding it to their political lexicon.

Even though de Tocqueville was not the first to use individualisme, it is not a word that I have ever encountered in printed or archival sources before the late 1830s. I’ve run across numerous references to individuality, individual, individualistic but never individualism. I have also encountered the usage of individualism by scholars to describe American political behavior prior to the publication of Democracy in America. Such usage is not inappropriate, but the word was yet to be invented. Individualism is of such common usage in American society that many may assume it’s been around forever. Surely the word would have been created by someone else if the French hadn’t. The first documented use of the


226 John Stuart Mill had a role in these discussions about social science in the 1820s and 1830s. See Claeys, “‘Individualism,’ ‘Socialism,’ and ‘Social Science’”, Journal of the History of Ideas, 57:87-89.

word individualism actually preceded the Reeve translation of the de Tocqueville volume where it appeared (English translation 1840). It appeared in the United States Magazine and Democratic Review in an article by an anonymous American Democrat.\textsuperscript{228} Individualism may have been a part of the spoken language before it was written, although there is no way to test that.

Whether or not the word existed before de Tocqueville, the Frenchman accorded it a special definition, as it appears below in both the French and the Henry Reeve translation (from Volume or Book Two, Section Two, Chapter Two):

\begin{quote}
Individualism is a mature and calm feeling, which disposes each member of the community to sever himself from the mass of his fellows and to draw apart with his family and friends, so that after he has thus formed a little circle of his own, he willingly leaves society at large to itself.\textsuperscript{229}

L’individualisme est un sentiment refléchi et paisible qui dispose chaque citoyen à s’isoler de la masse de ses semblables, et à se retirer à l’écart avec sa famille et ses amis; de telle sorte que, après’être ainsi créé une petite société à son usage, il abandonne volontiers la grand société à elle-même.\textsuperscript{230}
\end{quote}

It has always struck me that the key words were three verb forms: s’isoler de, se retirer and abondonne: the first verb to isolate was translated as to sever; the second to withdraw or retire as to draw apart; and the third abandons as leaves. (All three French verbs could be translated as English cognates.) Other words might have been chosen, but the overall impact was to portray a society of individuals who preferred to act on their own, perhaps within a small circle of others they were close to but not beyond that. To talk about a society of individuals who chose to live outside of or in isolation from the agencies that constitute societies seemed to diminish the value of or the need for society in any form. Cannot one conjure up the image that America was composed of many, small,

\textsuperscript{228}Swart, “‘Individualism’” Journal of the History of Ideas, 23:86. Swart is somewhat confused about the title of the magazine. The title was not American and Democratic Review, as given in the text, but The United States Magazine and Democratic Review, popularly called Democratic Review, founded by John Sullivan in 1837, whose masthead read “The best government is that which governs least,” another well-known American phrase.


\textsuperscript{230}De Tocqueville, De la démocratie en Amérique, 2 volumes (Paris: Librairie de Médicis, various dates), 2:135.
atomized units of individuals unconnected to any larger system? But, of course, Americans did not live in such isolation (although then as now Americans might want to believe that was a preferred arrangement). By the Age of Jackson America was more complicated than that such a simplistic portrait, and de Tocqueville could observe that. America had far more territory than its population could occupy, and some Americans lived in such remote areas that they had little contact with the larger society. Most Americans lived in far less remote areas, and with a substantial rise in the urban component in step with the industrializing of the economy the inter-connectedness between the individual and the social order may have been firming up. How easy was it to sever or withdraw or leave in the sense that de Tocqueville wrote for urban dwellers or for market participants? So, as bold and encompassing as de Tocqueville’s statement was, it may have had less to do with geographic or physical and more to do with social and psychological behavior.

We can assume, although we do not know, de Tocqueville’s portrayal of how individuals conceived of their relation to and within society stemmed from what he learned in his travels. In his “Pocket Notebook #3” on 30 September and 1 October, 1831, not yet six months since his arrival, he was already toying with ideas that he would later expand upon in his chapters on individualism. He identified, as he wrote on the last day of September, the “two great social principles”, markers, if you will, for understanding the American and the order he had created. The first was that the majority may be mistaken but can never be overruled, and the second was, apropos to our present discussion, that “every individual, private person, society, community or nation is the only lawful judge of its own interest” and provided that no one does harm to another no one can interfere. The next day he wrote down a series of questions about the judiciary that he should ask the people whom he planned to interview, and in addition he wrote a further comment on the individual as a judge: “Another principle of American society of which one must never lose sight: every individual being the most competent judge of his own interest, society must not carry its solicitude on his behalf too far, for fear that in the end he might come to count on society,” and if he did, the society might not be able to perform because it was not expected to do so. Even though on these particular days de Tocqueville was thinking about crime, divorce, trials and juries (he had ostensibly traveled to America to study the prison system), he recognized that how Americans approached the judicial system derived from what they thought about the capacity of the individual. It is worth pointing out that that this was written in New England, not somewhere in the West where the idea of the individual as a “competent judge of his own interest” might have
had broader appeal.\textsuperscript{231}

Along with the idea of individualism de Tocqueville addressed the long-standing fear in his society (“Our fathers”) that elevating the individual would invite égoïsme. “Selfishness is a passionate and exaggerated love of self, which leads a man to connect everything with himself and to prefer himself to everything in the world.”\textsuperscript{232} Despite the “mature and calm feeling” that might distinguish individualism from egoism, de Tocqueville was not ready to become an advocate of the American attitude. “Selfishness originates in blind instinct; individualism proceeds from erroneous judgment more than depraved feelings; it originates in deficiencies of mind as in perversity of heart.” A back-handed endorsement from a person who identified what he thought was the unique quality of democracy in America but who harbored misgivings about empowering individuals. Being governed, under enlightened rulers as a Frenchman might argue, might ensure better outcomes than governing oneself. Selfishness was profoundly insidious because it “blights the germ of all virtue.” The downside of individualism was experienced over time. In the initial stage it “saps the virtues of public life; but in the long run it attacks and destroys all others [virtues] and is at length absorbed in downright selfishness.” Selfishness was as old as the history of humankind, and because it could be so destructive it impelled the search for social stability. At this point de Tocqueville, a member of French aristocracy, underscored the value of aristocratic values and customs, mainly because it fixed the place of the individual with respect to others. The bonds, even if hierarchical in character, established the bonds that social stability required. Society was not necessarily best served by expanding the power of the individual but rather by strengthening the bonds by which individuals were joined. Fixity was important to de Tocqueville: in aristocratic societies “citizens occupy fixed positions, one above another, the result is that each of them always sees a man above himself whose patronage is necessary to him, and below himself another man whose cooperation he may claim.” The importance of this remark was that Tocqueville feared the lack of an attachment to a structure that would moderate unpredictable behavior by and among individuals. “Men living in aristocratic ages...[are] almost always closely attached to something placed out of their own sphere, and they are often disposed to forget themselves.” Individualistic societies produced the opposite. While few individuals ever achieve the rank or wealth that allows them to exercise much influence over others, they have acquired enough to satisfy their own wants and

\textsuperscript{231}De Tocqueville, \textit{Journey to America} (New York: Doubleday & Company [Anchor Books], 1971), 148-149. Translation by George Lawrence from a 1957 French publication, and J. P. Mayer was the editor of the American edition.

\textsuperscript{232}De Tocqueville (Bender, ed.), \textit{Democracy in America}, 395.
needs. “They owe nothing to any man; they expect nothing from any man; they acquire the habit of always considering themselves as standing alone, and they are apt to imagine that their whole destiny is in their own hands.” The operating principle was change, indeed, constant change. Continuity through custom, habit, tradition or status was shunned. Even links to descendants and families had little influence: “the woof of time in every instant broken and the track of generations effaced.” In individualistic societies the individual had so severed every link that he was inescapably thrown back on himself alone and threatened “in the end to confine him entirely with the solitude of his own heart.”

De Tocqueville’s own history, family and rank might explain why individualism provoked so many doubts and fears. Indeed, he argued that equality (in America) was more fundamental than liberty or freedom. Liberty existed in limited and modified forms before the age of equality but had been subsumed since within equality. He lamented that the excesses of liberty became more visible and thereby manageable than the excesses of equality. Liberty required some sacrifice, in de Tocqueville’s opinion, but “pleasures of equality were self-proffered.” Societies will seek and cherish liberty, but with equality the passion was “ardent, insatiable, incessant, invincible; “they call for equality in freedom; and if they cannot obtain that, they still call for equality in slavery.” For de Tocqueville it was both regrettable and dangerous that the age of equality so elevated the goal that every man should seek opinion within himself because it turned all feelings toward himself alone.

De Tocqueville met American who shared his concerns and fears about the excess of equality but probably stopped far short of endorsing aristocracy of other European institutions. When de Tocqueville visited Cincinnati in December, 1831, he interviewed a young Salmon P. Chase, later to become prominent in state and national politics as Governor of Ohio and a member of Lincoln Cabinet. At the outset Chase asserted that democracy had been pushed to its limits, especially on the local level. Chase claimed that suffrage was now nearly universal and the result was that many without qualification were elected or appointed to office. In spite of this, Chase told de Tocqueville that the leaders from Congress down the political ladder to counties and cities were often persons of some experience and talent. There was no doubt from Chase’s comments that he was of the opinion that the nation would be better off with a governing class based upon education and experience. His family had Massachusetts roots, and he averred that there “people

233De Tocqueville (Bender, ed.), Democracy in America, 395-397.
234De Tocqueville (Bender, ed.), Democracy in America, 390-394.
are sufficiently enlightened and masters enough of the passions to elect the most remarkable men. But I believe that that is an exception.” Turning to the topic of the judicial system in which de Tocqueville had a keen interest, he queried Chase (as he had others) about the appointment of judges by legislatures. Chase’s response was that such appointments were dangerous but they were based on political rather than juridical considerations. Independence was the hallmark of the justice system, especially in a democracy where prudent and impartial judgments were needed to arbitrate between contesting parties. The function of justice was “to oppose the impetuosity and mistakes of democracy.” Chase was even more critical of Vermont where judges were elected annually.

In a conversation with another lawyer and Massachusetts’s transplant, Timothy Walker, de Tocqueville heard a similar message. De Tocqueville began with a question about judicial appointments, but soon the conversation turned to Walker’s observations and perceptions of how democracy worked. While he thought that the method of appointing judges in Ohio was dangerous, he had larger concerns. Democracy was too “unlimited”, and in Ohio in particular he thought the legislature too small to represent all constituencies. De Tocqueville then shifted gears, asking about agriculture and mobility. Walker answered that yields per acre were twice what they were in Massachusetts, and as rich as the soils were Ohioans were already pulling up stakes and heading across the Mississippi River. Walker described what he saw happening: those with land stayed; those without land – sons of landowners, for example – moved west; “every year a crowd of workmen, proletarians from other States or from Europe, arrive in our towns…,” work at jobs paying twice the wages of New England and then move West. After explaining the state of education, held back in large measure because of the absence of qualified teachers, the first conversation came to an end. In a second and longer conversation, recorded as important, one day later, Walker continued to discuss Ohio’s government. Ohio, admitted in the Jeffersonian Era (1803), had a democratic and weak government, which was weaker than most any other place. One feature that made it so weak was its frequent turnover. In a perceptive remark Walker credited Ohio among the new western states with the choice of a bold and innovative course: “mistrust of the past and of caution, the need to have a clean slate and to shake free from legal technicalities [sic] so as to get quickly to the bottom of things.” Walker continued: “There is this same freedom of mind everywhere. Nothing is fixed, nothing regulated with us, neither in lay society nor even in religion. Everything is driven by individual impulse which shows a complete absence of established opinions.” De Tocqueville followed up with the

235De Tocqueville, Journey, 84-86.
obvious question: under the circumstances do the people make good choices. Walker’s answer was most of the time not. In Massachusetts, he averred, political canvassing was unknown but it was the path to election in Ohio. And was he worried about the future, asked de Tocqueville. Walker responded by first admitting he would never reveal this publicly, but, yes, he was worried. The insistence upon an unlimited democratic system could potentially erode the stability of the society. He had to wonder if a weak federal government could survive. The trouble signs were that states under the impulse of democratization naturally chafed at any restrictions imposed by the central government that would interfere with what its citizens want and expect. At the very end of the conversation, according to de Tocqueville’s notes, Walker lamented the desire for changes in laws – “Incessantly. That is one of the greatest disadvantages of our democracy” – and yet despite his lament he added to end the interview without further elaboration the comment that “many parts of our legislation are good.”

In addition to matters of judging and governing the discussion between de Tocqueville and Walker ranged across other contentious topics. Walker acknowledged what many Americans probably knew – the equilibrium between the slave states and non-slave states had been shattered, as witnessed in the events of the last decade since Missouri. Walker expressed fears that even though “at the bottom of our hearts a strong interest” attached us to the union, the conflicts were becoming deep and perhaps unbridgeable. In his mind Nullification had exposed the depth of the resistance when local authority was challenged. He compared Ohio and its neighbor, Kentucky. The latter had a temperate climate with fertile soils, but when compared to Ohio, which was settled 20 years later, Kentucky was lagging. Ohio had three times the population and ten times the wealth – Kentucky’s population was growing but its prosperity was “stationary”. In a response that captured the contradiction in America, Walker told de Tocqueville:

The only reason one can give for this difference is that slavery reigns in, but not on Ohio. There work is a disgrace, here it is honorable. There, there is idleness, here endless activity. Kentucky receives no emigrants; Ohio attracts industrious people from all parts of the Union; the South, which moreover receives none, sends its inhabitants there; the poor classes from the South come to Ohio because they can work there without disgrace; I can see no reason why slavery should cease in Kentucky. The existing population, though recognizing the evils it causes, is unable to learn to do without it; there is no

236 De Tocqueville, Journey, 83-84, 87-92.
emigration. Walker’s scorn for slavery – it retarded not advanced the American ambition – raised in de Tocqueville’s mind the question of the legal status of blacks in Ohio. Walker admitted that Ohio law was written and enforced to “discourage them in every possible way.” Ohio had laws that allowed them to be expelled at will, and if not expelled blacks were “hampered…in a thousand ways”: blacks had no political rights, could not serve on juries or give evidence against white. Walker found it a revolting injustice that “free” blacks who had been wronged could not even initiate a suit.237 De Tocqueville’s interview with Walker was just one of scores that he conducted during his journey, and not all his interviewees agreed with Walker’s observations. But from interviews like this de Tocqueville’s admiration for the democratic experiment was easily tempered. The headlong drive for equality may have, he mused from time to time, sowed the seeds for the ultimate collapse of democracy in America.

Democracy in America has been analyzed on many different levels and from many different angles. In my own reading I have elevated the notion of individualism arising out of the search for equality to preeminence because it helps me understand so much else about the book. I have not made an original discovery by any means, but over the years some criticism has arisen over how de Tocqueville portrayed equality in Jacksonian America. Thomas Bender in his edition of Democracy in America has written that equality, as analyzed by de Tocqueville in Democracy in America, which is not so much a travel book as a philosophical inquiry “ramifies through every aspect of culture. Political democracy is only one of its consequences.”238 It addressed manners, family, customs, literature, economics, religion and many other topics that seem to be most accessible when drawn together under the rubric of individualism. To be sure, ambiguities, inconsistencies and contradictions remain in de Tocqueville’s majestic edifice, but they seem less provocative and more amenable. More importantly, from my perspective, de Tocqueville captured a basic tenet of the evolving American social order that self-rule was a two-headed imperative that recognized and promoted even as social and economic conditions were changing the proposition that individuals could and should rule their own lives literally. It was certainly a more complicated endeavor in the 1830s than decades earlier, but as the complications had grown the presumption that individuals could know and act in their best interests had only favor.

237 De Tocqueville, Journey, 91-92.

238 Bender, “Introduction,” in Democracy in America, xvi.
I close this section with de Tocqueville front and center and no apologies. I began with the Jeffersonian image of what America should become and I end with the Jacksonian image of where things had gone wrong or were going wrong and how the course should be altered. There was much disagreement over the course in the past and the course for the future but the most powerful proposition, I have argued and will continue to argue, was that if America lost the goal of a society of self-ruling individuals it would lose it special and unique character. Without knowing what was going to happen in America, de Tocqueville laid down a marker, based on his own experiences and instincts, that a crisis may overwhelm and sink the social order so dependent on individuals acting in their best interests. Let’s see.
The history of the Jacksonian economy is a thicket to begin with, and the history of the Panic of 1837 is almost a separate thicket unto itself. In dealing with the Panic and its aftermath we cannot escape once again dealing with banking. It is unlikely that the average American spent as much time thinking about or interacting with the banking world as we must do in trying to reconstruct what happened. At the time of the ratification of the Constitution and the establishment of the Nation few could have anticipated how fast the banking industry would expand from a handful of private banks into hundreds of institutions, some private but most with state charters. Much of the focus of historians has been the two nationally-chartered banks – BUS and 2BUS – but in fact Americans were more directly engaged with their local banks usually holding state charters. According to Congressional sources, the nation in 1792 had a dozen banks including the Bank of the United States. New York and Massachusetts each had two banks and five states – New Jersey, Delaware, Virginia, North Carolina and Georgia had no banks. The District of Columbia had one of the 12 banks. (Warren Weber has revised the number effective 1 January 1793: 10 banks plus the BUS, adding South Carolina to the no-bank list and adding a second bank in Connecticut.) The Congressional sources state that the total capital of the state banks (plus DC) was about $9 million dollars, slightly less than the $10 million capitalization of the BUS. Forty years later 320 by Weber's count not including branches) state banks were in operation with a capitalization of $110 million plus the 2BUS with $35 million. All 25 states listed had had a bank, although four – Kentucky, Indiana, Illinois and Missouri (three, Kentucky had bank in Weber count) – did not in the year 1830. Banks also existed in the District of Columbia and the Territory of Michigan. Most of the state banks were concentrated in the Northeast and Middle-Atlantic regions with Massachusetts having 66 (63), Rhode Island 47, New York 38 (add two branches) and Pennsylvania 33 (31 plus 2 branches). After 1830 came an explosion in the number of banks. By the middle of the decade the Treasury reported to Congress 700 banks and by 1840 900. (Weber's figures are lower: 527 with 78 branches for 605 and 712, 133, 845.) Whatever the exact count, there were two to three times more banks after the Panic than in 1830. Between 1790 and 1840 the ratio dropped from one bank for each 400,000 persons to one bank for each 20,000. Between

239 I have used the Congressional figures in Annual Report of the Comptroller of the Currency, submitted to House of Representatives, 2nd Session, 44th Congress, (1876), Executive Document #3, Table #85. I have noted the revisions by Warren Weber, “Early State Banks in the United States: How Many Were There and Where Did They Exist,” Federal Reserve Bank of Minneapolis Quarterly Review, 30:2 (2006), Tables 1 & 2. While the totals for 1830 appear close – 329 versus 320 – Weber adds another 58 branches to his total for 378. On a state-by-state count his figures are significantly different in some cases. He also provides a more precise definition of what constituted a bank in the antebellum period to which I will return.
1830 and 1840 the rise in the number of banks moved more or less in step with the
growth in the population: the ratio in 1830 was almost the same as in 1840.

Why in the midst of the so-called Bank War, a battle that was waged not only
against the Second Bank but also against all chartered banking, why such explosive
growth in such a maligned industry?240 The collapse in 1837 led to bank failures,
and yet during the interlude between phase one and phase two of the Panic the
number of banks grew. After 1840 the banking sector will undergo some important
changes, to be considered later. But the rush to expand the sector has some
intriguing implications. Bray Hammond in his monumental study of antebellum
banking a half century ago highlighted the drive by state banking interests to
expand their own turf by bringing down the Second Bank, if necessary. The rivalry
between Chestnut Street in Philadelphia and Wall Street in New York City was
particularly intense as New York had replaced Philadelphia as the nation's financial
center.241 Even though Hammond entitled his book “Banks and Politics”, he can be
dissemissive toward the politics of the Bank War. It may be that his central-banker's
bias tended to rule in how the politics should be understood. Whether Andrew
Jackson as opposed to members of his Administration ever seriously entertained
the idea of permitting an extension of the charter or more specially ever seriously
entertained the idea of acting on recharter in his first term is dubious. Nicholas
Biddle had a “cordial” meeting with the President in November 1829, he
apparently came away from the meeting with a more optimistic view of the future
for the Bank than he should have.242 The President did thank him and Bank for
assistance in dealing with the national debt, which he said he would acknowledge
in his Annual Message, but he remained distrustful of not just the Second Bank but

240Weber noted two especially active months, August 1832, shortly after Jackson's veto of the 2BUS, and August
1836, just months before the onset of the Panic of 1837. Many of the new banks were in New England, specifically
in Massachusetts. The existence of the Suffolk Bank, a private bank whose clearing operations endowed it with a
quasi-central banking function, could have been a factor because of the implied stability and safety, although Weber
could find no specific explanation for such activity. “How Many,” Minneapolis Quarterly Review, 31, 33. Ham-
mond's discussion of the Suffolk Bank noted that prior to suspension of specie payments in 1837 Suffolk notified
some banks in the system that they were overdrawn, i. e., their paper could no longer be honored. This suggests that
the system was overextended. Banks and Politics, 554-555.

241Hammond makes his case most directly in Chapter 12, Banks and Politics.

242There has been much back-and-forth over this meeting. Biddle left an undated memorandum in his papers so we
do not know exactly when it was written. What we do know is that a week after the meeting, Alexander Hamilton jr
warned Biddle the President would not support support recharter in his Annual Message to be delivered in Decem-
ber. The recently-edited and -published presidential papers of Andrew Jackson certainly reveal that many of the let-
ters and memoranda that crossed the President's desk did not favor recharter then or later. Van Buren, Secretary of
State and close to the Kitchen Cabinet, stated his his Autobiography there was no sentiment to extend the charter.
Buren,” John Fitzpatrick, editor, Annual Report of the American Historical Association for the Year 1918, 2 volumes
(Washington DC: Government Printing Office, 1920), 2: 619-620, with footnotes citing Biddle's two letters express-
ing optimism, letters added by volume's editors to correct Van Buren's judgment, which now seems more accurate.
all banks.

If those were the sentiments of the President, they were hardly a ringing endorsement. The Annual Message, as noted earlier, would dispel any expectation of the Bank's recharter. The Bank War had begun, and at its core it was a political war. It had to do with the direction of the nation. The historical judgment may be that a central bank would have introduced financial stability in an economy that was fast-changing, but that was not necessarily how the participants saw it. When the "political magician", Martin Van Buren, included the Bank War in his *Autobiography* a quarter of a century later, he made it clear that politics played as big a role as economics. He observed that despite the Panic of 1837, which he alluded to but did not discuss because at the time of his death his manuscript had reached the mid-1830s, the dire predictions by supporters of the Bank and critics of had not materialized: “...the usefulness of such an institution has been so thoroughly exploded in this Country as to prevent any attempt of its re-establishment among us....”

Showering praise on Thomas Jefferson and the organization of the Jeffersonian Party to counter the tactics of Alexander Hamilton and the Federalists, Van Buren observed that “when men are brought under one government who differ radically in opinion as to its proper form, as to the uses for which governments should be established, as to the spirit in which they should be administered, as to the best way in which the happiness of those who are subject to them can be promoted, no less in regard to the capacity of the people for self-government,” it can be expected that divisions will occur and parties will be organized to advance their respective views, and that will become an enduring feature of the nation's political system.

The Jeffersonian Party offered a model based on limited government that unleashed initiative and enterprise not dependent on central direction but on individual effort. States could erect barriers but were less likely to do so because they were more directly attuned (debatable, of course) to to the needs and objectives of their citizens. Was it so surprising, then, that under these circumstances state interests opposed the national bank and engaged in actions to neutralize the intrusion of the national bank?

By the time of the Jackson Veto the nation had lived with a national bank for more than 30 years. In many quarters despite the arcane nature of banking the role of the 2BUS was fairly well understood. This was especially true in the West because

243“Autobiography,” 2:632. His autobiography ended in the mid-1830s, but Van Buren had also digressed to reconstruct the history of the American party system, which his sons published as a separate volume under the title, Inquiry into the Origin and Course of Political Parties in the United States (New York: Augustus M Kelly, 1967 [Reprint 1867 Edition]), several years after his death.

244*Political Parties*, 10-11. This sentence with some variation also appeared in Autobiography,
often the branches of the 2BUS were the only banking facilities available in less-populated areas. Not only did the Second Bank filled a need, it also developed a reputation in doing so that was not always positive. As state banking grew in the late 1820s and early 1830s, reliance on a national bank with indirect authority through note redemptions and other credit controls was less appreciated. Critics and enemies in cities and the countryside spoke openly that the Bank's own behavior was a destabilizing force. Indeed Van Buren made reference as did many of his contemporaries that the Bank's use of banknotes and other credit instruments had led all banks to emulate these policies with the result that the growth in the money supply had become unwieldy. (Indeed Van Buren blamed the Panic on the 2BUS's currency policies.) Expecting or asking the 2BUS to ride herd on a financial system that emulated its policies, most manifestly in regard to banknote issuances, made little sense to its opponents. In the government circles including Jackson's own advisors the question was raised whether it would not be better to replace the 2BUS with an agency under the control of the Congress to manage the transfer of funds between citizens and the government without the power to make loans and issue notes. Presumably these functions were to be left to state banks under the control of state legislatures. Indeed there was even a movement towards “free-banking” in the sense that anyone who met capital requirements and other qualifications could open a bank. Free-banking was controversial within some states because legislatures chartered banks to perform certain tasks and invested in stocks of banks they chartered in order to limit or avoid taxes to finance state business. While the constitutional argument against a national bank was the most vociferously debated (Van Buren's *Autobiography* devoted pages and pages to that issue) the utility question – did the national need a national bank – was very much part of the debate.

Based on the assets (reserves + loans) of state-chartered banks, compiled by Jane Knodell, the total was about $158 million in 1830, $220 million in 1832 (year of veto), $338 million in 1834 (after removal of deposits) and $596 million in 1836 (election year). In 1837, when the Panic started, they fell slightly to $567 million. The US Treasury collected data on loans and discounts, which more or less corresponded to loans (without reserves) in Knodell's tables, although the figures differed from Knodell’s. For 1834 the Treasury reported about $325 million compared to Knodell's $264 million; and in 1837 the former reported about $525 million to Knodell’s $424 million. Knodell's data ended in 1837, but Treasury data continued: about $463 million in 1840 and $364 million in 1850. Whatever dataset we use, we cannot miss the fact that the banking sector was expanding at the same time that the 2BUS was contracting. Was it too much, too fast? Were banks overextended, having issued too many loans and too many notes in connection
with those loans? Economic historians have spent a lot of energy analyzing balance sheets of state-banks in order to answer that question. Since we know what happened after 1837 – some banks folded and several state defaulted on their debt obligations – it is a short step from the expansion in bank credit and currency to a bubble that had to burst eventually.245

The backstop for banks was specie. It comprised one component in what comprised a bank's reserves, but it was regarded as the most important because the first overt sign that a bank was in trouble was when it had inadequate specie holdings to meet calls on its notes. It was assumed that banks should not nor could not hold specie on a one-to-one basis and that an average of 15 to 20 percent in specie would be adequate to meet most calls without causing further disruptions. Specie was scarce item in the early nineteenth century, and the flow of specie in and out of a country could be influenced by exogenous events as well as domestic circumstances. It is fairly well established that the United States enjoyed an inflow of gold and silver (mostly silver) during the 1830s, and it showed up in the banks' balance sheets. According to Knodell state-chartered banks had about $10 million in specie in 1830, and during the middle decades of 1834, 1835 and 1836 specie holdings rose to $26 million, $31 million and $37 million respectively. In 1837, after the Panic had set in, they fell to $29 million. The Treasury reported totals for the middle years that included more than state banks: they were about $27 million in 1834, $46 million in 1835, $45 million in 1837. By 1840 specie holdings had fallen to $37 million but by 1850 they had risen to $57 million in 1850.246 During the expansion of the middle years of the 1830s banks on average were better capitalized than they had been earlier.247 As noted earlier, Temin identified the rise in bank-held specie as resulting from a combination of factors involving Chinese imports of opium and Mexican exports of silver. At the simplest level more gold and silver in vaults meant more that overall state banks could expand their lending and their note issuance. And even though they had other resources to undergird their businesses any sign of financial trouble or uncertainty could lead to a demand


247Bank assets were comprised of loans outstanding, specie funds and banknotes and other bills held as payable by other banks; liabilities were comprised of deposits, private and public, banknotes in circulation, banknotes and other paper held as due by other banks and capital subscribed by investors. When Knodell summed these to determine the financial health of the state banks between 1830 ad 1837, she came up with Liabilities in excess of Assets on average of about $4 million in 1830, 1831 & 1832 but the reverse on average of $17 million from 1833 through 1837.
for redemptions in specie. No matter how strong the balance sheets looked in terms of total assets and liabilities, the key in troubled times was specie in the vaults. Banks (or the nation) never had enough specie to cover all the notes or the deposits if a run on banks should develop, and under such conditions banks had to suspend redemptions to preserve what they had or to quit business. And suspensions could cascade swiftly through the system, as happened in the second half of 1837.

Was Temin right? With respect to inflow-outflow of bullion his data are drawn from the import-export accounts compiled by the Treasury annually, and his figures match those found in the accounts. On average inflows were about $7 million more than outflows between 1830 and 1839, and the banking sector gained about $23 million in gold and $45 million in silver. That's a sizable increase in precious-metal reserves. Temin is quite explicit. Of the traditional view that Jackson's Bank Veto by rendering the 2BUS less powerful in controlling note issuances by state banks opened the floodgates to more lending, mainly to trade in land, and ignited an inflationary spiral, “This view is wrong,” writes Temin. Whatever the reasons for shifts in bullion/specie inflows, banks had more specie because it “stayed” in the country, and with more specie banks had more assets and could undertake more business. Banks were not expanding the money supply from a fixed based but from a larger base. In fact, while “inflation undoubtedly spurred land the land boom, the land boom acted to retard inflation” (actual small relative changes in land prices). More importantly, even under a different Administration the results would have been the same. If the Bank had been rechartered in 1832, the nation’s financial history would have been different in detail, but the outcome from the inflows of specie would have been the same. “The retention of Mexican silver, and the resultant expansion of the money supply, would have taken place whether or not the Second Bank of the United States had continued to exist.”

The revised charter, passed by Congress, did not add any significant regulatory powers, and while the presence of a “national” bank might have had an ameliorative effect, the fact remained that the banking system simply had more assets, which could be translated into more business.

American policymakers were aware that imports of bullion and coins had grown during the 1830s. The Bank Veto in effect launched other policy changes that consumed the time and energy of Congress for several years. These debates took place against the backdrop of the recognition of the shift in specie inflows. (Congressmen then apparently read Treasury documents.) One of the most contentious was the designation of state banks as federal depositories beyond the

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248Temin needs to be read carefully by those unfamiliar with his analysis because there are several moving parts to his argument. The above quotes from *Jacksonian Economy*, 90-91.
so-called Pet Banks, which had received funds after Jackson had announced the policy of the Removal of Deposits in the Fall of 1833. A bill to authorize the establishment of “deposits banks” split the Congress until 1836 when it was finally approved. Opponents claimed that the crippling of the national banking system had left the financial system vulnerable and unstable and the depositing of money in state banks would only make matters worse. Of course, the proponents would hear none of that. In early 1835 James K Polk (J/D-TN), soon to become Speaker of the House, was shepherding a deposit-bank bill through the House and responded to Horace Binney (AJ/W-PA), who had proposed a series of restrictive amendments, by arguing that any uncertainty imparted to the financial system was traceable to the malicious efforts by the Bank's directors and allies to discredit the Administration program. The debate grew technical, as Polk responded to a frequent charge that with an increase in specie imports over exports, especially in 1834 (surplus of $16 million), came a diminution in merchandise imports. Polk said that as specie imports had increased merchandise imports had not diminished. He reminded Binney that the nation was enjoying prosperity because state banks were deploying their new resources: “...to the new [economic] impulses Springing out of the employment of State banks as fiscal agents of the Government, to which the bank and its friends had been the most inveterate enemies, and did all in their power to sweep them from the face of the earth.” Binney was not ready to back off from pushing his amendments, one of which stated that state deposit banks must cover at least one-fifth of their notes and deposits with specie actually residing in their vaults. Seaborn Jones (J/D-GA), having opposed the 2BUS, favored the creation of deposit banks but also favored Binney's amendment for the 20-percent reserve.\footnote{Temin reminds us that there was no standard reserve requirement; it varied form bank to bank and state to state. Not even the charter of the 2BUS set a requirement.} He considered a reserve requirement a precaution – “conducive to their [state banks] safety” – at a time when the risk was that new pools of capital would become a temptation to over-extend. Jones made it clear that federal monies in state banks would benefit local communities to a far greater degree than when federal funds were deposited in the 2BUS and its branches. “A principal reason why the banks should be the depositories of the public money is, that they may lend it to the community. By this the burdens of taxation are lessened. A merchant who has a large amount of duties to pay, can more easily do it by getting an accommodation from the bank than if he had to pay the money in cash.\footnote{Proceedings, House, \textit{Register of Debates}, 2\textsuperscript{nd} Session, 23\textsuperscript{rd} Congress, 19 February 1835, 1135-1443 (columnar). Available on-line at \texttt{http://memory.loc.gov/ammem/amlaw/lwrd.html}.} Banking \textit{per se} was not under attack, just that form of banking identified with privileges and monopoly that benefited the stockholders and disregarded the needs of communities or their citizens. Another year would pass before a deposit-bank bill
would emerge from Congress, but concern existed across the political spectrum that a combination of rising specie imports, federal surpluses and entrepreneurial ambitions could without some restraint leave the nation's financial structure in disarray. Temin’s basic proposition that specie inflows made a difference in how banks managed their operations – and they did so not always recklessly, it should be added – has considerable weight, although it does not necessarily reduce other factors to insignificance. From the point of view of some Congressmen how the national government managed its own funds, which were growing rapidly, was part of the concern, and from the above exchange boosting the reserves of banks to reduce overall bank lending had friends among Jacksonians and anti-Jacksonians. On the other hand, was a 20-percent requirement or some other number sufficient to do the job? Advancing the cause of more highly-regulated “deposit banks” did not allay the fears of the spokesmen for a strong, national bank, even though the chances of resurrecting the 2BUS in some form were receding. Debate over growing inflationary pressures and how to contain them involved efforts to revive the 2BUS but more directly involved changes to federal fiscal policies beyond whether or not the nation had a national bank.

The longstanding battle over a national bank had some unintended consequences and ramifications both economically and ideologically. I begin with a simple proposition that only a few, a handful, foresaw a need for a financial sector at the outset of the national experience, and yet by the Age of Jackson that sector was a driving force within the American economic growth. Coming to terms with this is not an easy trail to follow, and while Americans may have remained skeptical and ready to pile on bankers and their supporters when the financial sector began to unravel, they were nonetheless converts to the extent that they used banks, repeatedly, and some became investors in banks. In his recent study of state banking Howard Bodenhorn provides a telling example of the deep-seated suspicion toward formal banking agencies. In Vermont in 1803, Bodenhorn writes, bank “promoters felt obligated to justify their schemes in terms of the benefits... [to] the surrounding community.” One petitioner went so far as to say all in the local community would benefit. The Vermont Legislature by a slim margin passed a banking bill, but the Governor and his Council were unimpressed. Their objections are worth noting: banks would deplete already scare specie, distract youth from honest industry, promote gambling and speculation and erode republican principles by creating financial oligarchy. The bill was returned to the Legislature. As Bodenhorn follows the path of bank incorporations across New England, where bank charters were soon being granted liberally, promoters dropped the “benefit-to-all” approach in favor of a straightforward approach of “private gain” for investors and stockholders. Citing “paid-in bank capital per
capita” Bodenhorn shows that it rose from $10 in 1820 to $27 in 1840. In other words banking caught on. To illustrate the growing importance of the banking sector Bodenhorn constructs a revealing chart that links growth in Gross National in current dollars with growth in number of banks in the first half of the nineteenth century. The general effect is to suggest a close relationship between expansion in the banking sector and growth of American economy. If these correlations are correct, they reinforce the view put forth by others that the robust economic growth of the first quarter of the nineteenth century could not have occurred without an attendant banking system that put money to work. It fell to the Jacksonians, some of whom retained deep suspicions about banks and their topsy-turvy growth, to try to sort out the ramifications of killing a national banking system but encouraging a state banking system because the power of the economy resided not only in the country’s rich demographic and natural resources but also in turning the resources into uses. Like all statistical calculations these are quantitative findings in that two numeric series converge on an outcome that implies improvement (economic growth could mean more for everyone) but not necessarily qualitative in that outcomes yielded changes that were not always welcome. Banking, as it developed between 1820 and 1840, may have had appeal and purpose, and may have performed well, but it also represented modes of economic and political engagement that did not fit certain images that Americans guided their lives by or envisioned their futures. Once the 2BUS was pushed off the stage, the next scene involved charters, purposes and reforms of state banks. A new national bank was proposed over and over again to no avail; but state banks remained, grew in number and importance and helped to underwrite much of the antebellum economic development

Growth in numbers cannot be the only criterion. Bank organizations and functions were in transition. As state banking took off in the 1820s, banks came in two basic forms, although each had variations. One form was for states to establish a state bank that more or less functioned as a monopoly, often times with branches, like the national bank. A second form was for legislatures to charter a number of banks (some with branches) but no single bank had a monopoly, even though some such chartered institutions might have special privileges in exchange for fulfilling certain obligations. Other forms existed, but the vast majority of the state banks fell


252 Bodenhorn, State Banking, 290. Bodenhorn cites the developmental economist Raymond Goldsmith's “rough parallelism” between economic and financial growth from Financial Structure and Development (New Haven, CT: Yale University Press, 1969), 48. I confess some confusion over Bodenhorn's Chart 11.1 The left vertical axis is millions of dollars for GNP, although the figures, as given, make it more than millions. Whatever the correct description should be, the point of correspondence is manifest.
into these two categories. Procedures and practices varied widely among the state banking systems, although most state banks accepted despots, made loans, issued notes and exchanged bills. All state banks were expected to maintain specie reserves in addition to the capital subscribed to organize the banks. The frequent complaint by contemporaries was that charters were secured nefariously and corruption was widespread and the working capital was not paid in specie as often required at great risk to depositors and borrowers. Banking was not exclusively demand-driven but a combination of the two. If we arbitrarily chose 1800 or 1820 in which to examine the business of banks, we would find from the accounts that survive most of their business was related to short-term mercantile landing. Being unable to accommodate risk they may have been reluctant to change their mode of lending to accommodate the emerging manufacturing sector. Their behavior was more supply- than demand-led. By the middle of century (in the aftermath of the Panic of 1837) they had begun to transform themselves by moving away from the agrarian-mercantile nexus that had defined their business operations since the late eighteenth century into what, for the lack of a better term, can be called investment in development. This did not occur in every region or with every bank and did not necessarily result in successful or efficient allocation of resources. Bodenhorn makes note of an interesting and perhaps understated change in the banking business by 1850: how banks named themselves. Egalitarian names (befitting the Jacksonian Period) like *Peoples* or *Citizens* banks or sector names like *Mechanics* or *Manufacturers* banks; even banks with names like *Butchers and Drovers* and *Grocers and Producers* banks showed up. Naming alone cannot be trusted as sole measure for judging how banks operated, but Bodenhorn's point must be taken seriously – that banking, as controversial as it was, was transforming itself to meet the demands of an economic system that was no longer restricted to an agrarian ideal.²⁵³

Opposition to the Bank of Biddle and the symbolism that it invoked was both a part of and apart from the banking controversies. It was a national monopoly with few of no local constituencies. This is not to say that it abused or ignored its local obligations. In many remote areas the branch of the national bank was the primary custodian of credit and currency operations. State banks, in some cases quasi-monopolistic and prone to corruption or at least favoritism, more often than not were linked to local constituencies. Even more significantly, following up on Bodenhorn’s analysis, the utility of a local bank, even if requiring a state charter, was present and visible. After experimenting with charters granting privileges or

²⁵³Bodenhorn, *A History of Banking in the Antebellum America* (Cambridge: Cambridge University Press, 2000), 216-220. These remarks are based on Bodenhorn's Conclusions, but the analysis from which his conclusions are derived occur mainly in Chapters 2 & 3.
imposing obligations, states will alter their course by instituting general-incorporation laws that will banks to be established with private capital on the basis of presumed needs. This was not foolproof because it meant some regions got more banks than they needed and some got no banks. And the controversy over the type and extent of private banking will continue down to the Civil War and beyond. It is worth recalling, however, in light of research on early American banking, that banking was viewed as a business that served a clientele with plans and needs by which to execute those plans. Americans may love or hate their bankers or the way in which bankers manage their businesses, and that was certainly true in the first half of the nineteenth century. Increasingly, though, as the economy grew in complexity and diversity, banking was a recognized tool for solving financial problems. Banks failed, bankers were stupid and corrupt, the system was far from perfect. But other businesses failed, other businessmen were corrupt and stupid, but what Americans had to learn to deal with was that failed banks could have widespread repercussions for individuals who did business with those banks. The manner in which banks will be established and the laws by which they operate will change, but America needed banks and Americans used banking services. It is worth recalling the Jackson Veto Message. The political animosities aside, the recharter 2BUS was rejected on two grounds: constitutional and utilizable. The second was in some ways more revealing than the first because constitutionality had been debated since Hamilton’s first plan. But utility was another matter. A case could be made for both national banks on the grounds of utility. By 1830, however, utility could no longer counterpoise the Bank’s constitutionality. The national bank could be replaced without necessarily jeopardizing banking. And to recall Temin’s proposition, with or without a national bank, based upon the charter at hand, the fuel driving the economic expansion was not to be extinguished until it burned itself out.

Were their special circumstances in way that the banking sector managed itself (with or without the 2BUS) as bank assets (identified by Temin) ramped up? Contemporaries were aware of this, and critics like William Gouge warned about the explosive nature of the lending business. Banking was fundamentally unsafe. They sought to make money for themselves and therefore assumed high-risk positions relative to liquidity. Bodenhorn presents some data to try to advance the debate about risk beyond the usual partisan disagreements. Since it was possible that growth in the financial sector was not “disproportionate to growth in aggregate economic activity”, was it possible that banks increased their “leverage ratios” (banknotes and deposits supported by specie) to such levels as to jeopardize the finances of their clients? Calculating a specie leverage ratio from 1820 to 1860 Bodenhorn found a spike in the dataset during the 1830s that contrasted noticeably
with an otherwise flattish trend, i.e., of between $4.50 and $6.50 of notes and deposits for each dollar in specie. In the 1830s, as the specie reserves rose, much higher ratios were recorded. Was this a more efficient use of specie reserves or was this assuming more risk to make more money? The evidence is incomplete, writes Bodenhorn, but the latter may be the appropriate response. What were banks doing? In simple terms they “were responding to the profit motive.” Before the 1830s banks mostly issued short-term commercial loans – 30 to 90 days – but after 1830 (in part from pressure by state officials) they began to write loans for longer terms. The spread between short-term and long-term rates increased during the 1830s so that bankers could borrow money at lower short-term rates and lend it at higher long-term rates with the difference accruing to their profits. Since they also had larger specie reserves with favorable spreads they simply took on as much business as possible. With more banks and more loans the spreads began to narrow and what banks had exploited to their advantage began to work against them – funding costs rose as profits fell. At some point the vulnerability would lead to a run on the banks as depositors and investors demanded redemptions. “Did bankers,” asks Bodenhorn, “get caught up in a speculative bubble? Almost certainly. Did legislators also get caught up in the bubble? Almost certainly.” For the times (less so by modern standards) banks probably went too far in leveraging up – taking on obligations, sometimes at the behest of state officials, that compromised their own stability.254

The 1st Session of the 24th Congress (December 1835-July 1836) proved to be contentious. Both parties were aligning themselves for the upcoming presidential election in the Fall (1836) in which the incumbent would not run. In addition, for the first time in years, a single party held the Presidency and controlled the Congress. Even after thrashing Clay in the presidential race in 1832, Jackson confronted a divided 23rd Congress (1832-1834). The House was heavily Democratic after the election of 1832, and the Democratic majority would only grew in the off-year election of 1834. In the Senate, however, the Whigs (some prefer to call them anti-Jacksonians) won a majority from the Democrats (again some prefer Jacksonians), and that was the chamber in which Jackson's policies came under fierce attack. Democrats won back the Senate in 1834, and while the Democratic majority was more friendly toward the White House, it was not always compliant. The Democrats would retain their majorities under Jackson's successor, Martin Van Buren, until 1840, when the Whigs won the Presidency and the Congress in the aftermath of the Panic of 1837. During the 24th Congress, the last

254 Bodenhorn, State Banking, 291-294. Bodenhorn offers some pertinent insights on the introduction of “free-banking” models that changed the way in which incorporation of banks (and other businesses) took place. I will treat that matter in due order.
to serve under Jackson, the contentiousness was evident between Democrats and Whigs but also among Democrats. Financial policy was at the heart of the differences.

The President was himself concerned about the state of the economy and the state of the public finances. Half of his Seventh (and next to last) Annual Message (7 December 1835) was devoted to several pending financial matters, prompted in large part by rise in land sales and in federal surpluses. Jackson's message lacked any bold initiatives, but he made clear where he stood on some specific issues. He opened his discussion of public finances on a positive note: “The condition of the public finances was never more flattering than at the present period.” What was flattering, of course, was a government surplus that would allow the Treasury to redeem the remaining debt and for the first time since the founding of the nation would be in the black. Behind the rising surplus was a knotty question – what to do with it and how far to let it grow. Jackson preferred not to tamper with the surplus until the debt was totally extinguished. Moreover, according to Jackson, since the Secretary of the Treasury saw a diminution in federal revenues until 1842 when the falloff would be significant, Congress must approach the surplus question with caution and prudence. Even with 1836 expenditures set at $24 million, a surplus of several tens of millions will accumulate. This sum can, in my judgment, be now usefully applied to proposed improvements in our navy yards, and to new national works which are not enumerated in the present estimates or to the more rapid completion of those already begun. Either would be constitutional and useful, and would render unnecessary any attempt in our present peculiar condition to divide the surplus revenue or to reduce it any faster than will be effected by the existing laws.

Since Jackson expected major revisions to existing tariff duties in the future, he advised against any major undertakings until that time. His aim was to shrink the government in such a way that it would need less revenue and fewer taxes, duties and fees. “Let us trust that by the continued observance of economy and by harmonizing the great interests of agriculture, manufactures, and commerce much more may be accomplished to diminish the burdens of government and to increase still further the enterprise and the patriotic affection of all classes of our citizens and all the members of our happy Confederacy.” He was pleased with the rise in land sales because that assured America of the vitality of its noblest industry. He

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255The diminution was primarily related to a decline in and then expiration of tariff duties.
asked Congress to consider reforms for the General Land Office, in particular by reducing the amount of paperwork required of the land officers. The extinguishing of the public debt will also mean the elimination of certain government offices. No effort should be spared in completing the shutdown of the Second Bank of the United States and the discontinuation of the Bank's governmental services. He was hopeful that adjustments in the content of the Mint's gold coins would help to elevate specie over paper so that “the use of gold and silver as circulating medium will become general in the ordinary transactions connected with the labor of the country.” But he recognized more was required. There was no doubt in his mind the 2BUS had caused more harm than good since its inception, and its recent behavior since the Veto and Removal were notably nefarious. The chance that a new national bank would be erected during his watch were worse than zero.

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

Monopolies and “corporations clothed with privileges” could no longer be tolerated. Corporations and the power that they could wield flew in the face of the most basic principle of the American democratic system – “distrust of the popular will as the safe regulator of political power”. He was more sanguine about state banks, which operated under state charters and as state corporations. He took up the matter of using state banks as federal depositories, and he not only stoutly defended the Removal of Deposits, but he also expressly endorsed the system that had evolved since Removal. While not opposing oversight of state banking operations, he offered a different perspective from the critics, some in his own party.

The collection and custody of the revenue, being, on the contrary, a source of credit to them, will increase the security which the States provide for a faithful execution of their trusts by multiplying the scrutinies to which their operations and accounts will be subjected. Thus disposed, as well from interest as the obligations of their charters, it can not be doubted that such conditions as Congress may
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see fit to adopt respecting the deposits in these institutions, with a view to the gradual disuse, of the small bills will be cheerfully complied with, and that we shall soon gain in place of the Bank of the United States a practical reform in the whole paper system of the country. If by this policy we can ultimately witness the suppression of all bank bills below $20, it is apparent that gold and silver will take their place and become the principal circulating medium in the common business of the farmers and mechanics of the country.\(^{256}\)

This was a message of holding to the status quo: paying off or setting aside money to pay off the national debt (bondholders made the decision), winding down the business of the Second Bank and counting upon the states banks to act as federal depositories, maintaining a frugal government but assigning some of the surplus to approved and needed national projects and restoring a sound currency in line with basic political principles. In a sense Jackson almost considered his work done.

In a rough symmetry (foreign affairs aside) the Congressional debates that ensued between December 1835 and July 1836 followed the course laid out by Jackson except in the end some different outcomes emerged. Rechartering the Second Bank or chartering a new national bank was dead. A Fortification Bill and a Land Bill were introduced in January, but the most vigorous debates on these bills did not begin until late Spring. Both bills provoked debate much beyond the Bills' actual provisions because both were concerned ultimately with what to do with government revenues and surpluses. These debates spawned other bills that went beyond what Jackson had asked of Congress. Although Jackson's Message had an upbeat tone, some of the debate tended to dwell on unhealthy developments that could put the economy at risk. In addition, to the positioning for the presidential election ahead, politicians seemed to be struggling with a less than clear reading on where the economy was. Neither Democrats nor Whigs could boast of offering comprehensive plans, and the fieriest debates were attacks on the opponents positions. The language and imagery were rich and memorable, but that only highlighted how far apart the combatants were. In both the majority and minority parties there were divisions with the result that hundreds of amendments and substitutes had to be voted before final bills were approved at the end of the session. The corruptibility issue was raised throughout the session. Jeffersonians/Jacksonians were charged with political malfeasance because of the way they made appointments and spent funds, while Federalists/Whigs were so charged because they pursued policies meant to tie the moneyed power to the political system.

The President's Message to Congress was accompanied by departmental reports including the Annual Treasury Report. It estimated a surplus after all obligations were met of about $10 million. Toward the end of the session (July 1836) it was clear that the surplus would be several times what had been estimated. While the deposit of federal moneys in state banks was not a matter of concern when the Congressional session began, it became a major concern by the end of the session. In mid-June (17 June 1836), seven months after the session began, the Senate will pass the Deposit Act, and several days later the House will concur. A portion of the Act was reconsidered and amended before the Congress actually adjourned in July. The bill may never have seen the light of day, if the President had not indicated his acquiescence after originally opposing any plan to redistribute the growing surplus, estimated to be up to $30 million. How to handle the surplus was not dealt with directly in House debates but was part of two different debates, one on appropriations for fortifications and another on transfers of funds from public-land sales to state treasuries. Over a period of several days Henry A Wise (VA), a renegade Jacksonian, first elected to the House in 1832 as a Jacksonian, then broke with Jackson and the party over rechartering the Second Bank and finally became a Tyler Whig (Democrat) tried to open a debate in the House on deposit banks and surplus allocations. On 11 April 1836 Wise offered a resolution that called for a select committee to investigate relations between the Treasury and the deposit banks, in particular the role of Reuben M Whitney. Whitney, a bankrupt merchant and former Director of the Second Bank, had leveled charges of favoritism by Nicholas Biddle as President of the Bank and T Biddle & Co, a family business. Whitney later became a Treasury officer with responsibility for monitoring the deposit banks. Wise and other anti-Jacksonians wanted to know about Whitney's role in dealing with deposit banks and the source of his compensation. The House refused to suspend the rules to consider his resolution. Two days later, George C Dromgoogle (D-VA) introduced a resolution to request information from the Secretary of the Treasury concerning the care and safekeeping of public money in deposit banks. Wise objected because it would not constitute a necessary inquiry in the conduct of the Treasury, but the House refused to hear his objections. Dromgoogle made it clear he would reintroduce his resolution the following day, which he did, followed by a substitute amendment by Wise, who could then speak to the issue. He recalled that the Senate had conducted a similar inquiry in 1833-1834, but he was unconvinced that the investigation had been as demanding as it should have been. He wanted to keep the investigation narrow – who paid Whitney? Was he a public servant paid out of the Treasury or was he an agent of the deposit banks who paid him for work on their behalf? He was fearful that the ruling party had resorted to the same tactics – patronage with the purse – of
which they accused the Second Bank. “Is it not well known that numbers of
stockholders and bank officers have already been converted or neutralized by the
power of the deposits [sic]?” The solemn question was: “‘Shall the people be ruled
and governed by their own money?...I have the utmost confidence that in the
people, who have ever, as yet, proved more virtuous than their rulers.” Upon
finishing his speech, which any Jacksonian might have given with different
sinners, of course, the House voted to take up the agenda for the day without
further comment on the resolution and the amendment.257 Technically, that ended
the direct consideration in the House of the deposit banks, although over the next
two months the surplus question showed up in extended debates about
fortifications and other public improvements and about disposition of moneys from
public-land sales.

The House (21 March 1836) took up discussion of whether resolution received
from the Kentucky Legislature should, as requested by Sherrod Williams (AJ-KY),
be referred to the Committee on Ways and Means for the purpose of writing a bill
that would call for the distribution of proceeds from land sales among the states to
be used for internal improvements and public education. Another Kentucky
Congressman, Chilton Allan (AJ), took the floor to deliver a long speech in favor
of the resolution and Williams proposal. Both Williams and Allan were anti-
Jacksonians. Allan began with the assertion that that the Treasury had more than
$30 million deposited in state banks, much of it from land sales, and they could
expect more in future months. He considered the debate up this point about the
state of the Treasury useless because it did not address the issue directly – how to
dispose of the surplus properly and how not to allow additional surpluses to accrue.
His great fear was that if the money were allowed to remain and to accrue, it will
be spent, not if it will be spent (familiar ring?). It should be spent, therefore, by
those who made the payments. Jackson, who promised to preside over a
government that would elevate the nation over party, had in fact made the nation
subservient to the party. He and his officers cannot be trusted with the nation's
money. Lacking any charges of actual malfeasance, Allan laid out a plot-line of
potential rather than documented evil. Despite elections that favored Democrats
over Whigs he expressed doubt as to their validity or accuracy. “Whenever the
exercise of this right shall cease to proceed from a free and virtuous people, and
shall be guided and corrupted by the influence of the Federal Government, the
power and freedom of the people are gone.” Of course, the Jacksonians and before
them the Jeffersonians had made the same allegations about their opponents when

257Proceedings, House, Register of Debates, 1st Session, 24th Congress, 11-14 April 1836, 3231-3232, 3243-3244,
the latter ruled. Allan eventually got to the heart of the matter, which was that the Kentucky banks had been less the beneficiaries of the federal largess than other state banks have been. He produced a table that showed how much more money was being deposited in the banks of “new states” than older states like Kentucky. Whether or not these figures were accurate, the debate over the distribution of federal funds was not driven so much on the merits of using state banks but on the politics of distributions. Allan then alleged that the “public treasure is unsafe”, the reason being that once the public treasure had been deposited in state banks, it was converted to paper currency. If the money ever had to be returned to the Treasury, it would show up as notes that could prove to be worthless. He calculated that the 35 “pet banks” had $72 million in liabilities – public and private deposits plus notes – and only $10 million in specie. When “the commercial shock” (not specified) occurred, most of the public treasure would be lost.

Distribution among the states for purposes cited was the only way to prevent the ruling party from squandering the public treasure.

The fate of the public-land bill was not promising. Several weeks later, it was brought up for consideration again but postponed. Several weeks after that the House voted a second reading on a bill received from Senate that allowed for a limited (in time) distribution of revenues from land sales. The Senate remained in parliamentary limbo, as the House was still trying to decide to which House committee the bill should be assigned. On the question of assignment the debate turned into wrangling about how much of a surplus existed or would accrue, and about whether it would be sounder fiscal policy to use the surplus or “non-surplus” to finance federal projects that needed to be undertaken or completed. Two New York representatives with opposing views had several exchanges. Ranson Gillet (J/D-NY) favored the Ways and Means Committee because he was skeptical about a surplus, while Francis Granger (AJ/W-NY) objected because there was a tendency for that Committee to misspend Federal money. For sure, the debate was shifting from committee assignment (even the presiding officer observed the same) the party in power misappropriating and the party out power safeguarding. At one point Gillet asked Granger if he was prepared to shift federal moneys out of the Treasury and away from much-needed projects like military installations and customs houses (which Gillet considered great monument for a great nation) to which Granger replied with a question: “For, sir, while that gentleman [Gillet] as taken good care to call my attention to that point [appropriations for arms], he has


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taken equally good care...not to inform me or the House what sum will be necessary to carry out this project.” Gillet declared that he had given a figure, that being $22 million. Granger shouted “Twenty-two million! Well, sir, that I should think would guard the republic very respectfully. The gentleman asks me whether I am willing to spend that sum in addition to the appropriations for our defense. I will answer him in less than two words – in two letters. No! I am not prepared to do any such thing, nor is any other gentleman in this hall.” And so the debate went – how big was the surplus, how much money had been misappropriated, how best to safeguard the public treasure – until time had expired, no action having been taken on assigning the Senate bill. But, in fact, the same debate continued under the House’s “Special Orders” [the prescribed agenda item] for 11 May 1836, that being the Fortification Bill, the subject that Gillet and Granger had just sparred over. The House moved on to another item. The Fortification Bill debate lasted for hours until the House adjourned without a vote.

The following day (12 May) the House resumed debate on the Senate bill for distributing proceeds of land sales, but when the time arrived for the House to return to “its orders of the day”, the Senate bill was set aside once again. Debate resumed on the Fortification Bill. A point of contention concerned an amendment to the Bill to add $700,000 to the naval appropriations. Richard French (J/D-KY) had the floor and gave a moderately long speech that went well beyond the amendment. His aim was to counter the attack upon the President and his Administration by his Kentucky colleague, Chilton Allan (AJ/W-KY). Halfway through the speech, having presented figures on the rise in imports-exports and, in particular, the rise in cotton exports, French asked how could the Presidency of Jackson be accused of pursuing policies that stymied economic growth and development. With regard to banking he expressed bewilderment that the rise in “the number of State banks and banking companies” should be attributed to “the influence of the General Government, or rather to the opposition of the President to the recharter of the Bank of the United States....” He offered data that showed, as of 1 January 1835, there were 558 banks with 146 branches with a capitalization of more than $231 million. “When we reflect upon the vast amount in the United

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States, the pervading wealth arising from the agricultural, manufacturing, and commercial prosperity of the whole country, I think there is but little danger of the anticipated shock” [the economic disruptions that the pro-Bank forces had predicted]. He asked why should the General Government and the Chief Magistrate be blamed for the rise in the number of banking companies? Chartering banks was not the business of the General Government: “does not the censure of the chief Magistrate equally fall upon the people of the States, who, through their Legislatures, have made the banks?” He reminded the House that the President had vetoed the bill to recharter and by their vote the people had sustained the President's veto in the election of 1832. They quite literally chose the Government over the Bank. “The great principle at the foundation of this Government is, that the people govern: as, then, the governing power (the people) put down the bank, the censure cast upon the President falls equally upon them in their sovereign capacity.” French then modulated his attack by assuring (perhaps with tongue in cheek) his adversaries that they did not mean “to censure the people, but such is the effect” of the current debate. The President had acted in behalf of principles with which the people of the nation were in agreement, and similarly the people of the States have acted upon principles that reside in the doctrine that States can manage “their own business in their own way.” French was not prepared to say if there were more state banks than there should be, but he was prepared to defend the cause of civil liberty has much less to be concerned about because state were exercising powers that they rightly possessed than would be the case if the national government had chartered another national bank.264 He then turned to the patronage question and tried to show (with some interruptions) that Kentucky had fared well in appointments since Jackson assumed office in 1829, contrary to the accusations of his Kentucky colleagues.265 French made clear that his purpose was to speak of the accomplishments of the Administrations. He believed that the distribution of federal funds, as proposed by his Kentucky colleagues, violated the Constitution because those funds had been collected, as mandated, by the Constitution. He had seen no need, therefore, to speak directly to the question of distributing proceeds from land sales. Rather, he had spoken in defense of the Administration because the distribution of land-sales revenues had served as a vehicle for attacking the Administration. He left no doubt that the distribution of federal funds from land sales [the debate concerned an amendment to the Fortification Bill] was intended to embarrass the Administration and to arouse hostility toward the Party in a Presidential election year. He closed by stating that


“I never expect to see any administration exempt from errors and imperfections.” But in his view all the negative expectations propounded by Jackson's enemies had failed to materialize. The nation was at peace with the rest of the world and was prosperous as well. It was his hope that all nations could achieve the political happiness of the United States: “freedom of thought, freedom of speech, freedom of conscience, and freedom of action, fortified and secured by free governments, based on the will of the people.”

The Fortification Bill was tabled once again. For another month the House wrangled over various amendment to a bill that was originally drawn up in the previous (23rd) Congress. On the 17 June 1836 the Fortification Bill, as amended including the Kentucky appropriation, was approved without any instructions covering state distributions. In the meantime, though, the Treasury surplus continued to grow, and some plan on how to safeguard federal deposits had to be considered before adjournment. Furthermore, the House still had the Senate bill on distributing federal dollars from land sales on its docket.

The Senate bill, first read on 10 May 1836, had appeared on the House agenda more than a half-dozen times, not because House was debating the merits of the bill but rather because the House was still arguing over which committee should receive the bill. The Senate bill, it will be recalled, provided for appropriation of funds from land sales for a limited time and for granting land to the states. The real fight was procedural: for the Jacksonians how to bury the bill, and for the anti-Jacksonians how to prevent that. The final debate occurred on 16 June 1836 with no agreement or vote on where to assign the bill. James Bouldin (J/D-VA) had the last word. Echoing the Jeffersonian sentiments that an ideal government was a minimal government, Bouldin declared his opposition to big surpluses and to federal distributions: surpluses were sign that the federal government was collecting more money than it needed (he was especially critical of tariff duties, which contributed to the surpluses), and while that was bad enough, to try to remedy the problem by distributing the money among other public functionaries would “corrupt all the channels of virtue and information to the people, and cause our simple republican institutions to totter on their foundations...[because] sums as large as these cannot be safer any where, either in regard to themselves (looking only to their own security,) or in regard to the purity of those who may be tempted by them.” Why, asked Bouldin, should the nation continued to collect moneys, especially duties, for which it had no apparent use. The moneys collected, will they not “hazard the peace and security of the Union, and endanger every thing that can

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be dear to freemen.” At which point Bouldin speech was interrupted by the House rule for debate on “special orders”, and that was a rather unceremonious end to the debate on the Senate land-distribution bill.268

As the end of the session approached both chambers scampered to complete their legislative agenda. In an interesting tit-for-tat, the Senate after some debate will agree to the House Fortification Bill (with some modifications), and the House, having terminated without a vote debate on the Senate bill for distribution of land-sale revenues, will accept a Senate bill to establish more deposit banks and to transfer moneys already deposited in such a way as to achieve equalization among the states based on population after more or less. (Another controversial bill related to government finances was Senator Thomas Hart Benton’s Specie Circular that failed in the Senate and was never considered in the House.) The Senate debate on fortification had a somewhat more serious tone than the debate in the House. The Senate first took up the fortification issue in February 1836, and although it will agree to the House appropriation of about $2 million before the end of the session it also took a look at the long term by examining how much had been spent and how much more should be spent to achieve long-term security of the nation. The debate in the Senate also had the same political overtones that the House debate underscored in that some members saw defense spending as an ever-deepening financial hole. It was hard to argue against “defense”. From the estimates received by the Senate it was said that from $40 to $50 millions should be spent to provide a sufficient network of forts and arsenals. The problem, raised by those who opposed such expenditures, was that the nation was at peace and did not face any significant external threats, real or potential. Support of or opposition to larger continuing defense expenditures was more of a local or regional issue instead of a party issue. Several times times during the Spring the bill, which was summarized as “making appropriations for the purchase of sites, the collection of materials, and for the construction of fortification,” was debated and tabled. On 19 May, in a final push to get the bill passed, Silas Wright (J/D-NY) gave a lengthy speech in response to an earlier speech on opposition by John C Calhoun (AJ/N-SC). Calhoun, showing his fiscally conservative side, had called the bill expensive and unnecessary because it would appropriate moneys to part of the country where new or renovated fortifications were not needed. Even the reports from the appropriate cabinet officers in support of the appropriations were dismissed by Calhoun. One charge that Wright tried to refute was that because of the recent fire that laid much of the city (New York) to ashes the labor needed to build the fortifications would be unavailable. Wright claimed on the basis of his information from local builders

that much of the rebuilding was finished and labor was readily available. He was
struck by the unreasonableness of the argument that money for New York ought to
be delayed (in part, falsely, because of the fire) until all the preliminary plans were
drawn up in order to protect the Treasury from misappropriations, when those
making that argument were prepared to give federal moneys as deposits with no
interest to state banks across the country. He demanded a fairer stance on the part
of the opposition to the fortification bill because their real design was to preserve
as much money in the Treasury as possible for the distribution of those funds
among the states. Debate should be about fortification and not something
unrelated. Wright underscored what was becoming obvious to everyone – spending
a surplus was harder than creating a debt. Wright asked, what possessed the
opposition to take the stance that they had taken? For the first time in the history of
mankind this was a nation without any debt. And yet every attempt to spend the
surplus, which was overflowing, was countered by the argument (in the case of
New York City) that money could not buy the labor and material needed for the
job. Wright put his finger on the nub of the problem: anticipating for years the pay-
off of the national debt and developing budgets and spending plans around that
goal had Congress unable to come to terms with the reality of their financial
condition they would both pay off the debt and enjoy a surplus, and unexpectedly
they had to decide what to do with the surplus. It was shifting gears in a way that
was unfamiliar. It struck him as odd that having worked as hard as we had to
achieve a surplus, we were not willing to work as hard to assure the defense of the
nation that was now debt free. He noted that the Constitution provided that the
government was charged with collecting revenues to pay its debts and to provide
for the common defense and the general welfare. The first had been accomplished
(federal debt to be paid off) and the fortification bill was intended to accomplish
the second goal. He preferred the expenditure of the money for constitutionally-
mandated purposes than to distribute it among the states, which was also under
consideration in the Senate.269

Wright was followed by John Ruggles (J/D-ME). Ruggles chastised the Senate for
letting the bill lie without action for two months. America has been demanding
(apparently without much effect) where was the defense appropriation bill? He was
ready to conclude that misinformation was being deliberately delivered to senators
in order to prevent action on the bill. He took some time to repeat what the various
cabinet officials had said about the need to apply money to national defense
project. “No measure is more imperiously demanded by the exposed condition of
the exposed seaboard” and yet action on it came too late to do more than allow for

269Wright Speech, Senate, Register of Debates, 1st Session, 24th Congress, 19 May 1836, 1485, 1487-1488, 1490.
preparations for next year. There was not much doubt that the Treasury at the moment had at least $32 million in surplus and by the end of the year would have $42 million. He dismissed the argument as facetious, that increased fortification expenditures was simply a scheme to rob the Treasury. The surplus had become untouchable, and yet its piling up could in fact imperil the nation. Opposition to appropriations for Maine and the northern border incensed Ruggles because while the South and the Southwest shipped more in tonnage than any other part of the country, Maine in particular and New England in general built the ships that carried southern exports. For that reason these regions ought to be concerned that the defense of the northern border be sound.\textsuperscript{270}

Despite the efforts of Wright and Ruggles the bill was not brought up for a vote. Thomas Hart Benton, who generally favored the fortification bill (although he had offered some amendments) said that the issue was not whether money should appropriated because it was needed but rather because many senators opposed the fortification bill in anticipation of a favorable vote on a federal distribution bill, and the more money that could be preserved for distribution the more money to be distributed. He applauded the “wise and patriotic sentiments” of those who favored fortification. Such sentiments “soar above all the sordid and mercenary considerations. They repulse the gilder bait. They despise the seduction of money. They go for the country and the constitution; they scorn the unconstitutional distribution bill... Benton reminded the Senate that two bills were before the Congress: the House bill for slightly $2.1 million was for work already underway and was really the same bill as the one that the House and Senate could not agree upon in the previous Congress; and a Senate bill added another million to the House appropriation of $2 million. While this was forward-looking – to enhance the nation’s security – it was actually backward-stepping in that the “new projects” had been recommended 40 years ago. Moreover, two years without any appropriation, argued Benton, put the nation at even greater peril.\textsuperscript{271} Over the next few days, more debates and more amendments until on 26 May, after a series of barbed exchanges between Benton who favored an amended fortification bill and John King (J/D-GA) who opposed it plus speeches by their allies, the Senate passed a fortification bill, 31 to 9.\textsuperscript{272} A month later (29 June) the Senate took up the Fortification Bill received from the House (the House had its own bill plus the

\textsuperscript{270}Ruggles Speech, Senate, Register of Debates, 1\textsuperscript{st} Session, 24\textsuperscript{th} Congress, 19 May 1836, 1490-1491, 1495-1496. Available on-line at http://memory.loc.gov/ammem/amlaw/lwrd.html.

\textsuperscript{271}Benton Speech, Senate, Register of Debates, 1\textsuperscript{st} Session, 24\textsuperscript{th} Congress, 21 May 1836, 1515-1516, 1523. Available on-line at http://memory.loc.gov/ammem/amlaw/lwrd.html.

\textsuperscript{272}Proceedings, Senate, Register of Debates, 1\textsuperscript{st} Session, 24\textsuperscript{th} Congress, 26 May 1836, 1591. Available on-line at http://memory.loc.gov/ammem/amlaw/lwrd.html.
Senate version passed a month earlier) under the management of Senator Wright (J/D-NY) who had spoken before the previous Senate vote in favor a enlarging the appropriation. Attempts to sidetrack the bill under the direction of Senators Calhoun and Clay (who wished to reduce it by a third) failed, and after further parliamentary maneuvering the Senate approved the House version on 30 June by a substantial margin 28 to 9. On 2 July the bill, now containing nearly $3 million in appropriations – nearly everyone who wanted money got money – became law. It was one of the largest fortification appropriations in years. It was not the only legislation to appropriate money for securing the nation. There was also bills to appropriate money to repair naval and army installation and to build arsenals in North Carolina and Charleston, South Carolina, The Fortification Bill had a broader intent, specifically to build more forts in more places to enhance national security. The argument relative to cost of fortification had little to do with the state of the federal treasury. The money was available, but should it be spent at a time when nation seemed to have few enemies (Indians not withstanding). More to the point – no one with a straight face could deny the political pork contained in such bills – the cost-cutters, mostly Southerners, opposed not just these expenditures (they were willing to accept their pork in other ways, such as arsenals) but also an ever-growing federal agenda that would favor the North or Northeast over the South. The controversy over surpluses had a sectional component based upon the divergence occurring in the American economy.

As several speakers had pointed out, the Fortification-Bill debate become intertwined with debates on other bills. Within the Congress during the first half of 1836 there was strong sentiment to deal with Treasury surpluses by removing the money from the Treasury. There was little doubt that since Henry Clay had first proposed the idea of distributing federal money from land sales among the states, that the opponents of the Jacksonians was bent on finding ways to restrict what the Democrats could do with the surpluses. But, the idea of distribution appealed to some Jacksonians as well. For them, distribution seemed preferable to other options, such as larger and larger federal budgets. Whigs wanted to keep Democrats away from the honey pot, and Democrats wanted to get rid of the honey hot. If Whigs could have found ways to have appropriated the surpluses in behalf of national improvements, they would have done so. With the Congress and the Presidency in the hands of Democrats, they had little leverage at the national level.


Redistribution to the states would allow state governments to invest in the infrastructure and other useful projects (without the national coordination that Clay and others preferred) and not arouse the Jeffersonian/Jacksonian disapproval of overriding state sovereignty. Of course, there was the constitutional objection (although redistribution had been considered at other times) that Congress lacked the specific power to make such distributions, no matter how attractive it was to state sovereigntists. Whigs did not find surpluses as objectionable as Democrats, even though they hardly had the votes by which to designate how best to use the surpluses. Redistribution among the states was a tactic that might win support Democrats disenchanted with ever-increasing federal revenues and the prospect of ever-increasing federal expenditures. It was hardly a secret in Congress, given the allusions in many speeches to the Whig strategy of undercutting Democratic fiscal policies, what Clay and his allies were up to. Since part of the surplus derived form tariff duties, part of the strategy for dealing with surpluses was to save the tariff.

For minimal government advocates, those traditional Jacksonians, surpluses did not have to be permanent and could be reduced by charging federal policies with respect to import duties and federal land prices. A truer course for the minimalists was to address what caused the surpluses, not to devise plans that led to greater expenditures of public moneys whether by a state government or the federal government. Allotting federal funds (on the basis of population to state treasuries) was bad public policy and lacked constitutional authority. It did not appear that Clay’s idea for dealing with the surplus could ever win support in a democratic Congress.

An alternative approach that was actually introduced as a resolution was another idea that had been bandied about before. Cede public lands and the revenues they produced to the states and allow them to use the funds to develop their own internal infrastructure. (There was precedent for this in the territorial organizing acts that permitted territories to use a portion of the money from land sales to build and maintain roads.) Such a plan would reduce federal revenues from land sales but not require any action on import duties. This plan also had constitutional objections for the same reason that redistribution of federal funds did.

On 27 April 1836 the Senate took up a bill that combined public-land allotment and land-revenue distribution among the states. It called for a temporary appropriation of proceeds from land sales plus it transferred public lands in certain states. Thomas Hart Benton was a fierce opponent and spoke in behalf of tabling the bill until the Fortification Bill, which was then under consideration, could be
passed. He proclaimed that the introduction and debate on the land bill was holding every other bill hostage and the debate in the Senate on such important issues as national security were stalled. The reason top focus on the land was clear enough (to him): “It is to make a fictitious, delusive, and unreal surplus, to excite the cupidty of the distributees, and to form the new rallying point of the same party which has had the career of so many new projects and changes in a few years past.” They now claim a surplus of $30 million, and how have they gotten us there? “By stopping the appropriations; by delaying every bill that they can; by cutting down every appropriation to the lowest dollar.”275 The motion to table was disapproved, and the debate continued with further amendments. Some of the lands specified in the bill were tribal lands, and that led Alexander Porter (AJ/W-LA) to object. He held that the removal of Indians from lands that they had long occupied to lands that did not serve their needs an unworthy policy, which, had he known what the effects of the removal policies would be, he would have opposed such policies from the outset. He would oppose the Senate land bill. In reply to Porter on removal policies, Louis Linn (J/D-MO) noted that, as desperate as the situation was, the tribal nations in proximity to white society were probably doomed because the demographic tide could not be contained. The plight of the tribes would not be affected significantly by a vote on the land distribution bill.276 The Senate will vote in favor of the temporary public land/revenue distribution by a small margin of four votes – 25 to 21.277 The House will receive this bill but will refuse to consider it two months later.

The idea, however, of the temporary distribution of a federal largesse will come to play a role in how the Congress ultimately dealt with the surplus before the end of this session. Distributing money temporarily from public-land sales among the states will morph into a plan to use state banks as temporary depositories of surplus moneys. In the end what Congress will agreed to was not a land-revenue distribution plan but a surplus-bank-depository plan.

Other contentious issues were before the Congress and had to be disposed of before any plan for dealing with the surpluses could be agreed to. The Spring agenda, especially in the Senate, was very heavy. In the midst of the public-land and the fortification-appropriation debate the Senate was also engaged in another


fiery money dispute. This was almost a one-man show. Thomas Hart Benton (J/D-MO), long an opponent of paper money, proposed legislation that would undercut (at least he hoped) the expanding role of bank notes by granting the national government more resources to mint gold and silver coins and by restricting payments of federal obligations to specie. In early April (1836) he asked the Senate to consider a two-part bill: to accelerate the operations of the mints, since they were under utilized, by repealing the mint tax (señorio) and all minting fees, thus providing incentives for holders of coins to remint them at little cost to the federal treasury; and to stipulate that all money owed to the federal government had to be paid in specie directly to the mint or a branch of the mint, but not to banks holding government deposits (or any other bank) because they would simply add the bullion to their own accounts and issue more paper. Given the enlarged facilities of the mint, according to Benton, up to $40 million in new coins could be available each year and return the United States to its constitutional currency. In fact, the mints and its branches could slowly replace the deposit banks as the agencies to handle receipts and disbursements. The Benton bill was referred to the Committee of Finance, and while that ended more or less any further debate on the enhanced role for the US Mint, Benton would offer a bolder plan to restore hard money a few weeks later.²⁷⁸

Formally known as the Specie Payment Bill, Benton submitted a resolution continuing the contents of what he outlined earlier in his speech from the floor of the Senate on 22 April. Benton had made numerous attempts to introduce resolutions or to amend resolutions by other members that would reduce the role of paper money in small denominations (under $20) and restore what he regarded as the constitutional currency, gold and silver coins. An example of how he operated can be observed in a 6 April speech concerning Revolutionary pensions. He had introduced an amendment to the pension appropriation bill that declared no one should receive bank notes of $20 or under in lieu of gold and silver or in lieu of notes that could not be immediately redeemed in gold and silver. in what currency to pay pensioners their allotments. He then accepted an amendment by John Niles (J/D-CT) that started first with the elimination of notes of $10 and under and worked toward the elimination of $20-notes. As the debate on the Benton amendment (as amended) to the pension-appropriation bill continued, other issues were raised. Alexander Porter (AJ/W-LA) presented another amendment, declaring that even though some small-denomination notes would continue to circulate this should not be interpreted to mean that anything except gold and silver were the nation's official currency. This led to a comment by Senator Calhoun (N-SC) that

Benton's amendment would do little to remedy the mess in which the nation's currency was found because the foolish policy of depositing federal moneys in state banks had laid the foundation for the heavy issuance of paper without proper regulation and supervision. Benton himself replied to this by saying he had an amendment ready to regulate deposit banks and then asked the Secretary of the Senate when that bill would be returned to the calendar (it was currently eighth). At this point the debate veered away from pension payments *per se* to the impact of Jackson's Removal Policy after his Bank Veto, Calhoun having opposed Removal and Niles having favored it. After these comments the Senate voted in favor of Porter's amendment to Benton’s Amendment, and the pension bill was ordered to a third reading. ²⁷⁹

On the 22 April, when he formally presented the Specie Payment Bill, he devoted most of his very long speech (he was known for very long speeches) specie payments rather than mint operations. (This was a busy day for Benton because he had also offered a major amendment to the Land Bill, which, as noted above, he opposed.) His aim was to show that paying government obligations would work without imposing any hardships, especially on westerners who often favored paper money because they lacked specie. He observed that Missouri had no chartered paper-issuing state banks and was visibly miffed over the national policies that had the effect of eroding Missouri's preference for hard money by allowing the deposits banks to accept banks notes from other state banks (usually at a discount) for payment of federal obligations after which these notes circulated as currency. No Missouri state banks issued bank notes and yet bank notes circulated. That would end or at least be reduced with his plan to make payment in specie uniformly mandatory at all deposit banks The specie-payment bill proposed that western lands, purchased from the government, had to be paid for after a certain date and with a few exceptions in gold and silver. In his drive to restore hard money Benton was as harsh on state banks including those that were designated as federal depositories, as he had been of the Second Bank over the volume of paper money.

For Benton the paper-money system was a signal of difficult times ahead.

Why, that the whole paper system had run wild? Bank charters were granted for millions: paper issues to exceed all bounds; loans to any amount to any body; to speculate,...to gamble in stocks, public lands,

²⁷⁹*Proceedings, Congressional Globe, 1st Session, 24th Congress, 6 April 1836, 325-327. The Globe will replace the Register, having started with the 23rd Congress and continuing through the 42nd Congress. The distinction between House and Senate printed editions is no longer needed because the Globe will print both in the same editions. Available on-line at [http://memory.loc.gov/ammem/amlaw/lwrd.html](http://memory.loc.gov/ammem/amlaw/lwrd.html).*
and what not, until the public treasury is filled to distension with bank paper. The effect of all this uncontrolled state of the paper system has been most signally manifested in the public lands, where the sales have increased from four millions per annum to five millions per quarter, causing the treasury to be filled with paper, the Congress to be harassed with projects for getting rid of surpluses, while the new States have been overrun with speculators bidding up the lands against cultivators and settlers, and introducing myriads of strange note into place where they were wholly unknown.

The farmer or planter, who would actually make the land productive, was a victim in money whirl. The winner, the culprit, not surprisingly, was the speculator who borrowed from banks tens of thousands in small notes, which were presented for the purchase of land while the farmer or planter had limited amounts of specie or bank paper and could not compete with speculators who bid up the price. Thus, the eventual producer ended up paying higher prices than if he could deal straightforwardly in specie with the land office. Having access to paper of dubious value (Benton used terms like “piles” and “bags” to underscore the “worthlessness” of paper money), speculators had no incentive to constrain the prices they paid for auctioned public lands. The magic of reintroducing specie to prevent speculation in public-land sales was not spelled out in any detail. Hard money, it would appear, made it more difficult for speculators to do their business. Without access to paper, reasoned Benton, land prices would fall and distribution would increase, all to the benefit of the cultivators and settlers.280

Land speculation was surely a fact of life in the West. Eastern investors set up land trusts to funnel money into land purchases and networks of agents to find and develop choice sites, usually recommended by important public figures (General Winfield Scott, a later presidential candidate, advised New York City investors on sites in the Upper Midwest), with the result that public lands when sold to the public were more expensive than when originally auctioned by the federal government. John Jacob Aster, whose fur business suffered as tribal communities, a source of cheap labor, were forced to move further west. He acquired numerous land claims in exchange for debts he held against local businessmen whose bankruptcies were connected with the decline in fur trading. In other words, trading in real estate become a big business in the 1830s. The growth in population, both native-born and foreign-born plus an increase in the supply of money, led to a

280 Benton Speech, Senate, Register of Debates, 1st Session, 24th Congress, 23 April 1836, 1257-1258. Speech was not printed in full until following day, 23 April. Downside was that prices might fall because the supply of specie was insufficient to support sales or trades. Available on-line at http://memory.loc.gov/ammem/amlaw/lwrd.html.
“land-buying frenzy”. In the 1830 the federal government sold about 2 million acres. That figure jumped to 4 million in 1833, 12 million in 1835 and 20 million in 1836 (when Benton was giving his hard-money speech). For the original investors, sometimes sleazy speculators but often conservative bankers and financiers, the returns could be handsome indeed, from 20 percent to 500 percent. Their was a thirst for land, and there was a segment of the population that had figured ways to make money satisfying that thirst. Paper money played a part in the expansion, not only because it represented an increase in the quantity of money but could be moved easily and quickly to where it was needed.281

Speculation and speculator were only part of the story of land and the westward movement. There was a serious business side to investing in and making money from real estate. Eastern companies, often with “insurance” or “trust” in their names, were organized with domestic and foreign capital to make money by acting as real-estate lenders and agents. New York Life Insurance and Trust Company, backed by some of the City’s most prominent and wealthy families was set up in 1830 to invest in western farm mortgages. Their agents would appraise the land to be purchased and run credit checks before agreeing to any mortgages, not unlike current lending procedures. Mortgages were usually refused to “pioneer settlers, subsistence farmers, or “men who are irresponsible, improvident and intemperate” with a preference for those applicants who were said to be of good character and of sound finances. Within a decade two dozen more such firms were established. They did not always play by the rules, since they had investors to, but they represent a second track in how land was acquired and traded. There was the speculator culture along side of which was the financier culture. The expansion in banking and the use of paper (whether banknotes or commercial bills) that more or less replaced exchange in specie served the interests of both cultures. The image that Benton and other critics wanted to portray was that the moneyed classes through their contacts with the banking sector had effectively blocked the intended disposal of public land in which an individual arrived at the federal land office, exchanged his money for a title and started his life as a western cultivator or rancher. Few individuals had the financial resources or the personal means to acquire property in that way. Buying land, developing it, reselling it and moving on and buying more required a structure that came into existence in several forms. Was it popular, even the more serious financier form? Not always, and certainly not ever with people like Benton. Not always. Dependence on eastern capitalists sparked outrage when economic conditions turned less favorable. They were accused of draining the west of its capital in order to satisfy their own pecuniary

aims that were not necessarily in harmony with the economic goals of Westerners (including Southwesterners). Even homegrown banking institutions came under fire when most of their shareholders were identified as eastern capitalists. The context for the attack on paper money and related banking practices by Westerners like Benton and the call for the restoration of specie as the standard currency was that the moneyed interests had destroyed the ideal of a land-based social order that the acquisition of territory by the United States was intended to advance. In the hands of the speculators and capitalists that ideal deal had been perverted.

If Benton failed to provide the details on how the replacement of paper with specie could be affected without unintended consequences for western landowners and potential landowners, he had worked out in his mind the general goal to be sought: “...the return to hard money for the payment of the public lands was the only thing that could give permanency, uniformity, and equality, to what is called land office money.” He assumed that if hard money were required for land purchases (banning all bank notes under $20 for payment of land), the effect would work its way back across the country into older states where paper money was more entrenched. Not all agreed with Benton, in particular Daniel Webster, who found much in the Jacksonian policies to blame. The nation's finances suffered from two evils: “superabundance of the treasury and its insecurity. We have more money than we [Government] need; and that money, not being in custody under any law, and being in hands over which we have no control is threatened with danger.” Of course, Webster could trace the evils to their causes: rejection of an 1833 land bill that would have prevented the rise of treasury surpluses and absence of a national bank that would have provided the safe-keeping of federal money. “The country,” charged Webster, “is the victim of schemes, projects, and reckless experiments.” He had no doubt that the vetoed bills had set the nation on dizzying track that past experience should have advised against. The wisdom of the Congress was ignored in an attempt by the Administration and its adherents “to diminish the constitutional power of Congress.” The culprit in words that Webster savored: “Constitutional doubts of the power of Congress!” Returning to a specie standard was “totally idle and illusionary.” It did not accord with sound fiscal practices. “Let them cause every man in the West, who has a five dollar note in his pocket, to set off, post haste, to the bank, lest somebody else should get there before, and get out all the money, and then buy the land. How long would the western banks stand this?” (Recall a few years earlier Webster had proposed that small-denomination banknotes be outlawed.) Congress's hands were tied by the veto. To Webster the

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obvious solution was to impose control, much needed because under the current situation in which states tended to duplicate each other’s actions (chartering note-issuing banks) out of fear of losing ground. Webster was pessimistic that much could be done to alter the present course. At some point the nation will awake to the fact that a sound currency was needed and “with it a general security of property, and the earnings of honest labor, were things of too much importance to be sacrificed to mere projects, whether political or financial.” Whatever Webster’s specific plans might have been to remedy the situation, they remain hidden. although the implied plan was a national bank, tougher regulations over states and the election of Whigs.283

Webster’s spirited commentary sparked responses. A New England Jacksonian, John Niles (J/D-CT), asked Webster to provide proof that the vetoes had led to the current controversy. Stopping short of calling Webster a “blow-hard”, Nile questioned Webster’s so-called “gift of prophesy”. His prediction two years ago among others was the country would face “destitution,” not surpluses: “an exhausted treasury” not “an overflowing one....” Niles acknowledged that overextension was a matter to be addressed, but this was not, so far as he could determine, the result of schemes, projects or experiments. Webster had insinuated that the Administration had undertaken all this to create the problem when in fact the Administration had simply allowed the economy to operate without inference. Outcomes were not always predictable, and while Niles had faith in the capacity of the people to decide their course, he observed that not only must the veto of the 2BUS stand but also all state-chartered banks must be removed. Then “the will of the people could be carried out....” If their voices could be heard, they would favor the end to all corporations that “interrupt the national diffusion of wealth, and concentrate it in the hands of a few....” Even though Benton's bill concerned specie payments Niles endorsed the land/revenue “distribution bill” (which Benton did not) as necessary to advance Benton's cause and to cleanse the system. If the surplus was such a serious matter, returning money to that states and to the people to which it belonged would be less “dangerous and corrupting....”284

The debate grew livelier with less discussion about the implications and ramifications of specie-payment policies and more about what was right or wrong with Jacksonian monetary policies. Alexander Porter (again), the anti-Jacksonian


senator from Louisiana, had no reluctance to raise, as Webster had, the instability that Jackson's Veto had caused and continued to cause. Indeed, he declared, “we should be faithless to our trust if we did not, on all proper occasions, place it before the eye of the American people. The cause of our present evils, and the proper remedies for them, are best found in the contemplation of the past.” In short, if the Second Bank of the United States had been saved, the situation would be manageable. The charge that under the guidance of the Second Bank the currency system had grown less stable was unsustainable. Between 1820 and 1830, according to the Secretary of the Treasury, argued Porter, bank notes in circulation had grown from $45 million to $62 million, a moderate increase, in light of the growth in population and wealth. Porter expressed doubt that “in the history of the world” no other nation could offer such a model of “sound management than this; and the recollections we all have of the steady and progressive improvement of the country during the period just stated, its absence from all sudden changes, prove triumphantly how well the system worked.” And what happened under Porter's scrutiny? The volume of bank notes in circulation since 1830 had doubled, and even worse in the four years during which the Bank had to stave off fierce attacks by its opponents, it was forced to pursue policies that made its management of the currency less effective. As desirable as gold and silver were for anchoring a currency, they did not exist in sufficient quantity to satisfy the commercial needs of an expanding economy. Even if Benton's plan were enacted, it would fail to achieve the goal of restoring a hard-money currency simply because the supply of gold and silver were insufficient. He noted that a doubling of the population and a quadrupling of the wealth could not be continued without a more robust currency system. Even with ill-conceived and “ill-regulated” actions that have helped to create the current instability, a system of paper currency was more likely to energize the economy than a system of specie. He was fully convinced that, even though the Senate should debate the Benton Plan and vote it up or down, the people now accustomed to paper money would never allow for its elimination. And the debate came to an end, without a vote except for adjournment.285

Adjournment for the day effectively killed the bill. It was not ordered up again for debate and vote. Benton would have his day because in July after Congress had adjourned President Jackson issued the Specie Circular as an executive order that embodied much of what Benton had sought in his ill-fated bill. The outcry against the Specie Circular was loud and virulent, and when Congress reconvened in December, 1836, after the presidential election, in which it was an issue, efforts to undo the order failed in part because Jackson successor, Martin Van Buren,

indicated his support for it.

As the Senate (and House) edged toward adjournment (also a contentious issue), the bill that more than any other will define the work of the 24th Congress in its 1st Session remained to be decided: the disposition of the federal surplus and indirectly the future of the so-called “pet-bank” system. Using state banks had been controversial from the start. In 1834 the House passed a bill to regulate said banks, but the Senate rejected it. In (February) 1835 the House failed to pass a similar, although much amended, bill. Meanwhile, the Senate passed a bill regulating deposit banks proposed by John C Calhoun (SC), but it failed in the House. On 29 December 1835 Calhoun introduced several bills that included the deposit-bank bill the Senate had passed the previous year, but the House had rejected. (No similar bill, so far as I could determine, was re-introduced into the House during the 1st Session of the 24th Congress.) Calhoun's other bills called for a constitutional amendment that provided for the distribution of surplus revenues among the states until 1843 and a bill to regulate the appointment of certain federal officers. Calhoun also introduced a resolution that called for the repeal of protective tariffs that in part were responsible for the growing surplus. As a Southerner and South Carolinian, Calhoun had long opposed tariff, and now in his view their presence had not only penalized the South but now were also threatening basic republican principles. His short speech dealt solely with that resolution. In his opinion, the rising surplus would led to a battle between “liberty and power”. Calhoun equated control over an immense national treasure with potential for usurpation and abuse of political authority by the Executive. The only remedy readily at hand was to cut off the source of unneeded revenue. By eliminating tariff duties the Congress would not only correct a grievance that the South had long endured but would also reduce the national treasure to a point where it would no longer offer the temptation that currently existed.\footnote{Calhoun Speech, \textit{Congressional Globe}, 1st Session, 24th Congress, 29 December 1835, 55. Calhoun’s resolution regarding deposit banks was listed as S-42 and was passed on 27 February 1835 without any action in the House. Confusing though it may be, the deposit-bank bill that Calhoun introduced in December 1836 (1st Session, 24th Congress) had the same number because it was essentially the same bill that the Senate had passed in the previous Congress. \textit{Bills and Resolutions} for the 2nd Session, 23rd Congress & 1st Session, 24th Congress. Available on-line respectively at \url{http://memory.loc.gov/ammem/amlaw/lwcg.html}, \url{http://memory.loc.gov/ammem/amlaw/lhbsb.html}.}

Calhoun’s bills were read and then ordered for second readings. The deposit-bank bill deserves further comment because in its final form compared to its original form it was unrecognizable. Calhoun's bill was restrictive and limited. It granted to the Secretary of the Treasury authority to establish rules and regulations for deposit banks but with strict Congressional oversight. It also prohibited the transfer of funds among deposit banks without Congressional approval. Other provisions were
even more controversial. It called for deposit banks to pay interest of 2 per cent on deposits above $50,000, to maintain specie equal to one-fifth the outstanding notes and bills plus the private and public deposits (all of which were considered liabilities) and to require all transactions with the Treasury to be in the “lawful currency of the country.” The bill remained tabled for nearly three months, although there were references to Calhoun's bill in debates on other bills – specie, fortifications, land – because those bills involved the disposition of the surplus. But Calhoun's bill was brought to the fore in mid-March, 1836, when Daniel Webster asked for a vote to approve the printing of a report from the Secretary of the Treasury concerning deposit banks. The report suggested to him that all was not well with these banks, and as such the public treasure may be in jeopardy. Members from both sides of the aisle agreed, and a printing was ordered. By ordering a printing the treasury report could be debated. In the course of debating the motion to order a printing, several senators squared off over some longstanding disagreements. In particular Calhoun and Wright (J/D-NY) sparred over why New York deposit banks had such large holdings (estimated at $15 million). Whatever their past differences, Calhoun reminded the Senate that its docket included several measures (proposed by him) to deal with surpluses and depositories, yet to be taken up, and this was “the greatest and most momentous question that had ever occupied the attention of the nation.” Benton entered the debate with the observation that there may not be any surplus because the Senate was in the fourth month of the current session without having acted upon any important appropriation bills. He illustrated his complaint by repeating that when a vote was about to be taken on the fortification bill, it was tabled so that the Senate could take up the debate on a bill “to giveaway the public lands.” Benton was of the opinion that once the President had submitted details about coastal fortifications “everything which could be spared ought to be expended on the fortifications.” Having had their say on “other” grievances not directly related to the motion to print a report, a printing was approved.

In early April Senator Wright carried through with his intention. Following the

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287 To the final point, the bill stated all Treasury bills or drafts drawn upon deposit banks to be paid in gold and silver if demanded, and any payment made to the Treasury “shall not be expressed in ‘current bank bills’ or any other medium.” “To regulate the deposits of the public money,” Senate Bill # 42, read twice, 29 December and 30 December 1835, Bills and Resolutions, 1st Session, 24th Congress. The actual bill is accessed by its number (42) rather than by page. Available on-line at http://memory.loc.gov/ammem/amlaw/lwhsb.html.


debate on amendments to the Revolutionary-pension bill he introduced an
amendment that rewrote Calhoun's deposit-bill after the first clause “Be it
enacted....” It did not specifically prohibit transfers among deposit banks nor did it
require them to pay interest on deposits. It granted the Secretary of the Treasury
farm more discretion in dealing with selection and operation of deposit banks but
with periodic Congressional oversight. He raised the specie requirement to one-
fourth of notes and bills in circulation plus accounts due to other banks (deposits
were not mentioned). All notes and bills were to be redeemed in specie upon
demand, but also all notes and bills under $20 were to be removed from circulation
over a period of several years. This was not Calhoun's bill, and while it was more
restrictive than some pro-bank forces may have preferred, it showed more trust in
the Executive to manage the safe-keeping of the federal moneys among the state
banks. \textsuperscript{290} Without any reference to the contents of Wright's amendment Calhoun
stated he was pleased that Wright (and Benton who was also planning an
amendment) would shepherd his bill forward. Wright's amendment was ordered to
be printed. \textsuperscript{291}

Several days later without further debate on Calhoun's bill and Wright's
amendment, Senator Benton announced he would introduce a short amendment
that required all deposit banks to proceed as speedily as possible, if they wished to
remain deposit banks, to convert to the legal currency of gold and silver with the
elimination of all bank notes under $20 within two years. \textsuperscript{292} The Benton
amendment was announced and published as such in the Congressional Globe, but
an announcement under Senate rules did not constitute a formal motion. It was
common practice to announce one’s intention to introduce a resolution, a bill or an
amendment before a motion to do so was made, and during the period between the
announcement and the motion the sponsor might consult with other members, try
to build a coalition of support or change his mind about proceeding at all.

A week later, the debate over deposit banks took a new turn when Thomas Ewing
(AJ/W-OH, first elected to the Senate in 1830 as a National Republican but
defeated in 1836 a Whig) introduced a resolution that demanded that the Secretary
of the Treasury inform the Senate as to the validity of a Circular [pamphlet],
published (1 April 1836) by the Clinton Bank of Columbus, Ohio, that it would not

\textsuperscript{290}Amendment, Senate Bill #42, 6 April 1836, \textit{Bills and Resolutions}, 1\textsuperscript{st} Session, 24\textsuperscript{th} Congress. Amended bill appears after the original bill under #42. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwhbsb.html}.

\textsuperscript{291}Proceedings, Senate, \textit{Register of Debates}, 1\textsuperscript{st} Session, 24\textsuperscript{th} Congress, 6 April 1836, 1101. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwrd.html}.

\textsuperscript{292}Amendment, Senate Bill #42, nd, \textit{Bills and Resolutions}, 1\textsuperscript{st} Session, 24\textsuperscript{th} Congress. Benton’s amendment also appears after the original bill under #42. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwhbsb.html}. 

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longer honor notes of other Ohio banks (except deposit banks) if the banks did not agree to redeem their paper “so received, by drafts on New York, Philadelphia, or Baltimore, payable thirty days from date, at par!” The cost and hardship of converting this paper into funds that the Treasury Department would accept in these cities where most of the funds were assigned was becoming too great. Ewing wanted to know the extent of this practice. Ewing laid out the problem: since the Clinton Bank was notifying receivers (agents) of moneys from land sales that it will no longer accept notes from the other 32 note-issuing banks, even if they were redeemable, the purchaser of land must secure either notes from the deposit banks or specie, both of which represented an inconvenience. Ewing’s resolution was agreed to, and thus began in a formal sense an inquiry into the role of the deposit banks and the disposition of the federal surplus.293

When the Secretary's Report arrived, it did not confirm what Ewing had alleged in his speech, based on the contents of the Clinton Bank Circular. He apologized for the error, although the Secretary's Report left some important questions unanswered. What the Secretary could report was that only small amounts of federal revenues had been reallocated to East-Coast deposit banks from Midwestern deposit banks, a practice that the current rules governing deposit banks required in order to equalize distributions. The issue that remained unresolved was whether the Treasury was enforcing the law that land sales should only be paid for with notes from the Second Bank, now winding down its business or in specie. What notes were being accepted for land sales and later converted to acceptable tender for the Treasury was clearly becoming a problem.294

At the same time that Secretary’s Report was received, both Calhoun and Wright submitted further amendments, which were ordered printed but which were not debated, to the bank-deposit bill.295 Then, in mid-May Senator Ewing returned to the issue he had raised earlier and had thought resolved. Upon studying the report by the Secretary of the Treasury, he was more confused than ever. He wanted to reaffirm the intent of his earlier resolution to demand of the Secretary how much money had been ordered transferred from Ohio's deposit banks to their Eastern correspondents. He believed that the small amount of $45,000 referred to were
funds not including proceeds from land sales. He was now asking that the Secretary report on all transfers regardless of the source. Senator Webster stated that he hoped that Ewing's request would not interfere with a prompt resolution of the pending inquiry into the current behavior of the deposit system. Six months had passed, he noted, and the deposit-bank controversy remained unresolved. Fearful that neither the land bill nor the distribution (land proceeds) bill would pass, he urged that at the very least a bill for proper governance of the deposit-bank system ought to be passed. After further comments, Ewing's resolution was approved.  

At the end of May Calhoun moved that the Senate should take up his deposit-bank bill and his proposed amendment, which would actually enlarge the debate to other issues not yet decided. (His amendment was in addition to the Wright amendment, which the Senate had yet to debate.) Calhoun's amendment proposed that at the end of each year the Treasury shall be permitted to deposit with the states (not in the banks of the states) any unexpended balances; the distributions shall be calculated proportionally (in accord with 2\textsuperscript{nd} Section, 1\textsuperscript{st} Article of the Constitution); the governor of each state will be notified of the distribution with a warrant drawn upon the Treasury; the governor will decide where to deposit the money; and most importantly, the sums deposited with the states shall be retained by the states until requested by the Treasury and shall not entail any charges of interest while in the care of the states. Because some states had laws prohibiting such transactions, their sums would be held by the Treasury until the enacting legislation was passed. The plan would expire in 1842. This was, in modern parlance, a game-changer. Up to this point the bills, amendments and resolutions concerned the existing deposit-banks and whether or not they were operating as intended. In fact, Calhoun’s original bill, first introduced in the previous Congress, had followed this script. In his amendment to his own bill he was proposing that money belonging to the federal government would be on loan to the states subject (with one month's notice) to recall. Because of the lateness of the hour the Senate agreed to postpone debate until the next day, although amendment was not brought up for debate until the day after that (27 May).  

When John C Calhoun's turn came to defend his amendment (and also to respond to Silas Wright's criticisms of his amendment), he not only addressed each of the objections to the amended bill but also tried to provide a historical and ideological  

\begin{footnote}[1]{Provisions, Speeches, Senate, Register of Debates, 1\textsuperscript{st} Session, 24\textsuperscript{th} Congress, 19 May 1836, 1464-1479. Webster's full remarks were recorded in pp. 1470-1471, and were summarized in the final paragraph before the vote on Ewing's motion (p. 1479). Available on-line at http://memory.loc.gov/ammem/ammem/aclaw/lwd.html.}  

\begin{footnote}[2]{Calhoun Speech, Senate, Register of Debates, 1\textsuperscript{st} Session, 24\textsuperscript{th} Congress, 25 May 1836, 1577. Available on-line at http://memory.loc.gov/ammem/aclaw/lwd.html.}
context for his plan to dispose of the surplus. Since his election to the Congress prior to the War of 1812, as a Jeffersonian nationalist, Calhoun had moved to the opposite pole on the devilish question of dual sovereignties. States were not just equal partners with the nation in governance, they superseded the nation. He had broken with Jackson and the Democratic Party and had, as discussed earlier, introduced resolutions of nullification and interposition, which effectively denied national sovereignty where states objected. He was certainly far from the mainstream in America, whatever that might encompass. This basic philosophical shift will influence his thinking about deposits and surpluses as it had about tariffs and manufactures. After detailing his specific differences with Wright, he turned to an appraisal of the most recent financial report from Treasury and how the nation's changing finances should be viewed within the context of what Americans expected from their governments. It is important to reaffirm that, as a southerner and an advocate of slavery, he regarded the protective tariff as wrong-headed and unnecessary. Furthermore, he was not persuaded, as were others, that the pace of land sales would continue at the current level. The elimination of duties and falling land revenues might, in his opinion, reduce or eliminate the problem of surplus now being address. By his own calculations, upon reviewing the Treasury's figures, he ascertained that the deposit banks at the end of the first quarter (March) had between $33 on account for the federal government. About $11 million had entered the Treasury from land sales and tariff levies during that quarter and, if one assumed $11 million for each of the three remaining quarters, the total for the year would be $44 million. In his opinion, the receipts would more than likely fall to around $26 million, the total for the year coming in at $37 million. If $26 million were added to the balance at the end of the first quarter, the total at the end of the year would be $59 million. Add that to the market price of the stock of the Second Bank held by the Treasury the total would be $66 million. Calhoun readily admitted the total could be as high as $73 million. This was an unprecedented and perhaps an unreasonable level of income for this government to have to dispose of. “The very magnitude of the sum,” he declared, “decides the question against expenditure. It may be wasted, thrown away, but it cannot be expended.” There were not enough projects to absorb that much money. Many appropriations, he noted, in bills passed or under consideration had been raised significantly over their normal levels – both the navy and fortification expenditures were double what was normally allocated – and, even if the aggregate expenditures reached a staggering $35 million – four to five times what they were a decade earlier – the Treasury would still show a balance of $30 million. The obvious conclusion: the federal government had access to too much money.

Calhoun asked his colleagues to conceive of how it would expend such large
soms? Was it possible to create an organizational system or to find skilled officers to allocate and spend so much money? Even if the government tried, he was afraid it would produce outcomes that would further burden the country with heavy loss and “inextricable confusion.” But suppose, asked Calhoun, a way were found to have the government spend the money? How wise could it be “to draw so vast an amount of productive labor, to be employed in unproductive objects, in building fortifications, dead walls, and in lining the frontier with a large military force, neither of which would add a cent to the productive power of the country?” Calhoun stepped back to say that the $30 million was incorrect, and the actual surplus will closer to $48 million because it was unlikely the Executive would be able spend much more than $18 million, still several times more than he thought should be spent. Calhoun marveled at how, in pursuit of freedom, the nation had achieved such growth and productivity. In that lay the lesson for the future. Drawing productive labor away from how it should be used was sure to make the nation less productive. “Leave the resources of individuals under their own direction to be employed in advancing theirs and their country's wealth and prosperity with the extraction of the least amount required for the expenditure of the Government; and draw off not a single laborer from their present productive pursuits to the unproductive employment of the Government, excepting such that the public service may render indispensable.” Who can doubt this, he asked?

How will the liberty of the country be affected if the congress should decide on some policy of federal distributions? At present, Calhoun did not believe that the country was as stable and secure as it has been in the past. Many believed, he averred, that the country was on a dangerous course, and some of those believe that “a vast increase of the patronage and influence of the Government is the cause of the great and fearful change which is so extensively the character of our people and institutions.” Expending the surplus or a part of it “would be to double the number of those who live, or expect to live, by the Government...,” all of which would accelerate the nation's downward course. Calhoun tried to estimate what the surpluses in the future might be, and he came up with figures as high $150 million. Accumulating and holding such large surpluses at the national level was riddled risk and an invitation for even greater corruption than now existed. (He did not detail what that corruption was.) The answer: return money to the people to whom it belonged through the states, which, as the supreme agent of the people, can best determine how it should be cared for until the federal government might need it. The precise scheme for distributing it remained to be worked out, but it must be done. Calhoun had made the case mainly on ideological grounds that a government with so much money became a risk to itself and its citizens, a pronouncement that
old-line Jeffersonians as well as their Jacksonian heirs could identify with.\textsuperscript{298}

Not all agreed with Calhoun's diagnosis and forecast, but he had given a masterful speech. James Buchanan (J/D-PA and future President), spoke both in support of Calhoun's bill, as amended, and in opposition. He was not yet ready to abdicate the authority of the federal government over what was rightly its resources. Avoiding Scylla might throw us into the arms of Charybdis, he warned. He agreed that the danger of too much government must be recognized, but he also argued that to continue to denounce and demean the institution upon which the nation depended for protection and progress was counter-productive. He remained to be tutored about how the surplus would be distributed in such a way as to be available to the national government when needed. The bill provided that the Treasury would receive "certificates of deposit" from the states and could redeem them when the Treasury needed its funds, but under such a system, never tried before, any redemptions had to be managed in "just and equal proportions, among all States," and that was an issue of some disagreement among the Senators. Buchanan was of the strong opinion, however, that the surplus had to be solved now for the sake of the nation, and the Senate had before it as good a plan as it could fashion. Even Nullifiers, apparently, could advise on how to save the financial interests of their constituents. Federal money deposited with state treasuries and under the control of state governors proportional to the population could be windfall in millions of dollars.\textsuperscript{299}

Thus, crucial debate on a form of "revenue-sharing" never conceived in quite this way before, began with about six weeks left in the session. The Senate took the unusual step of appointing a Select Committee to write the actual legislation because the Senate had not decided if deposit-bank regulations and dispensing the surplus ought to be one or two bills. What seemed to be generally accepted was an urgency that had been building since the session began that some action was needed immediately and could not be delayed until the next session because, by some descriptions, the money was just rolling in. In addition, the Senate had approved some appropriations bill (appropriations had to originate in the House) and was considering others, and the total could not yet be determined. Hence, the size of the surplus by the end of the session was not clear. Rather quickly by 3 June a bill emerged from the Select Committee (which included Wright as chair, Calhoun, Webster, Ewing among others), and as expected, in light of Calhoun’s

\textsuperscript{298}Calhoun Speech, Senate, \textit{Register of Debates}, 1\textsuperscript{st} Session, 24\textsuperscript{th} Congress, 28 May 1836 [correct date is 27 May], quotes from pp. 1623-1624, 1633-1634. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwrd.html}.

\textsuperscript{299}Buchanan Speech, Senate, \textit{Register of Debates}, 1\textsuperscript{st} Session, 24\textsuperscript{th} Congress, 28 May 1836 [correct date is 27 May], 1639-1641. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwrd.html}.
recent amendment to his own bill, it bore little resemblance to the original Calhoun bill or to the proposed amended version by Wright. In fact, Wright did not support the bill, reported by the Committee, the only member not to do so.\textsuperscript{300}

The Committee bill, as reported, became the basis for the final act except for Section 13, which will be amended in the House. Sections dealt with the deposit banks and the powers of the Secretary of the Treasury and the oversight of the Congress. The Secretary had the authority, indeed was under the mandate, to name deposit banks in the states and territories in order to carry out the business of the government. All banks receiving federal funds were to record them as specie transactions, and while the bill did not prohibit the exchange of bank notes, it clearly stated that redemption in specie upon request was required of all deposit banks (Sec. 4). Although Benton's specie-payment bill had failed, his work was not in vain. This bill prohibited banks that continued to issue notes under $5 after 4 July 1836 to serve as depositories (Sec. 5). Provisions that the Senate had vigorously debated concerned interest, transfers, and distribution. The bill provided that if the Secretary should determine that a bank had deposits in excess of one-quarter of its paid-in capital, he was permitted to collect interest on those excess funds at the annual rate of 2 percent (Sec. 11). Transfers in general among banks, deposit or non-deposit banks, were prohibited except “for purposes of equalization under the provisions of this act, in consequence of too great an accumulation of depositories [sic] in any bank....” (Ewing’s complaint to Treasury had concerned equalization provisions.) The transfer had to be made to “the nearest deposite [sic] banks which are considered safe and secure” and could receive the moneys without themselves coming into violation of the bill (Sec. 12). Finally, the keystone of the bill, Section 13, was changed from the Committee version: money in the Treasury on 1 January 1837 in excess of $5 million shall be deposited with the treasurers of the states proportionately as stated under Article 1, Section 2, of the Constitution; upon receiving said money states had to issue certificates could be redeemed (essentially cashed in) to recover its money in a way that did not burden the states; and upon the transfer of the money the states would pay 5 percent interest, calculated quarterly. The distributions were to be made at the end of each quarter during the year 1837 (Secs. 13 & 14).\textsuperscript{301}

The bill also allowed for the creation of more deposit banks for safekeeping of public money and the receipt and disbursement of that money after it was


\textsuperscript{301}The amended S-42 can be read (under #42) in \textit{Bills and Resolutions}, 1\textsuperscript{st} Session, 24\textsuperscript{th} Congress. Available on-line at http://memory.loc.gov/ammem/amlaw/lwrdd.html.
deposited with few or no strings attached in the state treasuries. In lieu of a federal system for holding and managing public money collected from several sources the national government was returning it to the states to be used in whatever manner they decided but subject to recall. How serious or risky was the “subject to recall” for the States. Not very. From the debates many members seemed to assume that once the money departed from the federal treasury, it would not return.

The Senate bill was brought to the floor several times only to be tabled without a vote. A final push began on 17 June when Silas Wright, who favored deposit banks but disliked the idea of passing out money from revenues raised constitutionally and intended to be spent for the good of the nation, detailed his opposition to the bill he has reported on behalf of the Select Committee. He argued that the bill eroded the sovereignty and authority of the nation and elevated the states to a level and role that violated the carefully-crafted system of shared authority agreed to by the Founding Fathers. He also doubted that the surpluses anticipated would materialize, and therefore the issue that ought to be addressed solely was the condition and regulation of deposit banks. Finally, he staunchly opposed any distribution plan, if that were to be ordered, that did not take into account the proportion of the federal revenue contributed by the citizens of a state. (New Yorkers, for example, contributed more than it was receiving in return.) Thomas Hart Benton, as expected, opposed the bill for all the reasons that he had spoken of many times – too much paper and not enough specie. Daniel Webster had mixed feelings about the bill. He expected the scheme for “apportioning the State deposits [sic] to the presidential electors” to be opposed in the House (as it was), and he rejected in principle the proposition that federal money should be collected in order to be distributed among the states. (The national government had the authority to collect and spend its own money without regard to the states.) He disagreed with Wright's chart of expenditures – twice the amount that his calculation revealed – so that in fact the nation did have surplus emergency. He thought surpluses were not to be expected in the future, and therefore the current effort (surprisingly bipartisan) should prevail. James Buchanan was more ecstatic about Congress's ability to bridge its differences. He wished to allay the fear that this was a donation instead of a temporary assignment of public money until the federal treasury needed it to be returned. The final speech – and one of the longest – was delivered by Nathaniel Tallmadge (J/D-NY) who presented the case for expediency – that the bill mainly addressed a combined concern: the health of the system of deposit banks and the surplus. He had no doubt that a surplus would exist at the end of the current year (Congress could not conceivably appropriate all the money in the Treasury) and under the circumstances the Select Committee had proposed a reasonable plan to improve the regulation of the deposit banks and to
manage the surplus. He made it clear that he was prepared, as in the past, to appropriate money liberally for the defense of the country, but he was not prepared to appropriate money simply to eliminate the surplus. The cause of the surplus as well as the use of it was an issue that the Congress will have to address continually in the future. With respect to the credit and currency, he was of the opinion that we should do what must be done to preserve and strengthen it. “Preserve and regulate, but not destroy, is my motto. He then listed what should be done, in general terms: “enlarge your specie basis; introduce...a gold currency, by the prohibition of small notes;...prevent excessive issues of bank paper, and the unnecessary increase of bank incorporation; repeal your restraining laws...to permit...investment of foreign capital.” The abuse of the system was not in its existence but in its administration. He did not favor, however, the total abandonment of banknotes because some regions would face disaster under an exclusive metallic currency, but he did favor more constraints and stronger regulations. In the end, he advised, members should listen to the common man who will tell you that the surplus “is in a situation to be productive of immense mischief...[and] ought to be deposited with the States, because it will there be safely kept and carefully used, for the benefit of the people, who contributed towards it...will be forthcoming whenever the wants of the Government require it.” Tallmadge trusted the citizens because he had been brought up among them. It was wrong to assume that because there was a surplus that citizens would demand it be spent: “...they will not instruct their representatives to do that which they would not do themselves.” If the Congress did not approve the current bill, the two options left were unpleasant: the first was “extravagant appropriations, without reference to the real wants of the country” or “to leave them in the deposite [sic] banks, to become the prey of the speculators, and the foot-ball of party.” The debate concluded during an evening session, and the bill was approved by a substantial margin, 40 to 6.\textsuperscript{302}

The House began debate on the Senate bill on 20 June and ended during the evening on 21 June. On 20 June the debate was mainly procedure. An attempt was made, as had happened in the Senate, to split the bill. That failed. More votes were taken on other motions as to how the House should proceed, and the members finally decided to set the Senate bill as a “special order” to be debated by the Committee of the Whole House on the State of the Union on the following day.

At the outset of the debate a motion to by-pass in effect the Senate bill and to take up the House bill (HR-436 from the Committee on Ways and Means), but it was defeated. After disposing of other business the House turned to the “special order” of the day, S-43. Late in the afternoon, after a recess, the House began to debate the crux of the matter, Section 13. Determining the how the deposits should be distributed was controversial in the House. The Senate bill had stipulated “in proportion to their representation in the Senate and House...” Joseph Anthony (J/D-PA) who had earlier favored splitting the bill, introduced an amendment to substitute for Section 13. His amendment also read “in proportion to their respective representation in the Senate and the House...,” but Anthony made it clear in his speech that first considered basing distribution on the basis of House membership only because that was the closest to the division of the population. After consultations he realized that small states had a legitimate complaint because populations had changed since the last census (1830), and their populations might be larger (ergo, more House members) than the last official tally indicated. For fear of losing the whole amendment, he reluctantly added the Senate to the calculation so that his amendment contained the same language as the Senate bill. He added that if any House member moved to strike the Senate component, he (Anthony) would support it. In other ways, however, his amendment altered the intent and language for the use of certificates of deposit. The states must sign certificates that specified the normal, legal obligations of “common depositories” for safekeeping and repayment and that pledged the states to honor their obligations as needed in a timely and equitable fashion. The charge of interest was eliminated. Overall, the House version was more lenient toward repayment than the Senate version. The option of holding and selling certificates to recover federal deposits was virtually abandoned. Amendments, primarily changes in wording, to the Anthony substitute were offered, and one or two were agreed to. By a vote of 142 to 66 the House approved the Anthony substitute (Section 13), and after voting to engross and print, the House voted overwhelmingly in favor of the amended Senate bill – 155 to 38.

work before the Fourth of July adjournment, the Senate approved the amended bill on 22 June. President Jackson, who had earlier opposed distribution proposals on both constitutional and fiscal grounds, notified the Congress on 24 June he had signed the Deposit Act, as it was entitled. One further action was required. On 4 July the Congress approved an amendment that allowed the Secretary of the Treasury to transfer public deposits, not just among designated banks within a state but also across state lines. This had been a contentious issue because flow of funds tended to drain specie from the West or South to the East to meet large commercial transactions, but after the Act was passed the Secretary reported he could not meet the provision of restricting public-money deposits to a share of a bank's capital stock without the specific authority to make interstate transfers, authority which the amendment provided him. Jackson signed the supplementary bill after Congress adjourned, and on the same day 11 July he also issued his famous executive order known as Specie Circular – the often-defeated Benton plan to require land be paid with specie.

With the Deposit Act and the Specie Circular the national government had ventured into an unknown territory. What would be the combined effect of transferring millions of dollars across a rapidly expanding banking system, of placing tens of millions of dollars in the hands of state governments with virtually no strings attached and imposing currency restrictions on certain government transactions? The sheer size of the banking system, the volume of loans and notes, the rise in public (state) indebtedness – all these developments, as the Congressional debates of the prior six months had revealed, all these developments had become worrisome even as the federal government found itself flush with money and a reluctance to spend it. Adding to the uncertainty was the impact of the Specie Circular, which underscored Jackson's basic hard-money convictions. Scholars have debated the tandem effect of these two policies with reference to the Panic of 1837, but recently Peter Rousseau, having re-examined some of the data collected by the Treasury and submitted to the Congress, offers important revisions of prevailing interpretations. There was little doubt that the federal treasury had a surplus, one that would grow after the last bonds were redeemed in the coming

305Senate vote was not recorded in the Register of Debates, [1st Session, 24th Congress], 22 June 1836, 1857-1859 Congressional Globe or Journal of the Senate, 22 June 1836, 465. That suggests concurrence was by voice vote or was unanimous. Available on-line at http://memory.loc.gov/ammem/amlaw/lwrd.htm.

306Proceedings, Senate, [House also notified], Register of Debates, 1st Session, 24th Congress, 24 June 1836, 1870. The vote on the supplementary act of 4 July recorded in the Senate and House Journals [Senate p. 550 & House p. 1222]. In Statutes-at-Large, 1st Session, 24th Congress, the Deposit Act was listed under Chapter CXV, pp. 52-56, with a date of 23 June 1836. The supplementary act (of one paragraph) was designated as Chapter CCCLIV, pp. 115-116 with the date of 4 July 1836. Available on-line respectively at http://memory.loc.gov/ammem/amlaw/lwrd.htm & http://memory.loc.gov/ammem/amlaw/lwsl.html.
year. By comparison the outlays of the federal government would absorb no more
than $5 to $10 million. As these estimates were being drawn up no financial panic
was in sight, and yet once it began more harshly than anyone could have predicted,
the surpluses disappeared quickly. Managing surpluses turned out to be a short-
term challenge, but a challenge that extended beyond what was sitting in the US
Treasury. Jackson did not enthusiastically sign the Deposit Act, and in his Eighth
and Last Annual Message (December, 1836) he laid out in some detail his strong
reservations. But, between the bill's passage and implementation the Treasury had
to make sure that “deposit-designated” banks did not hold an excess of federal
funds once the Deposit Act took effect with the first distribution on 1 January
1837. Rousseau refers to these as “Supplemental Transfers”, which actually began
on 1 August 1836, nearly six months before the actual distributions. The net effect
for some eastern banks, especially New York City, where international-settlement
transfers took place, was a decline in specie reserves. On top of that came the
Specie Circular, which went into effect 15 August 1836 and drew further on those
specie holdings as western banks in need of specie demanded settlements with
eastern banks be in gold and silver or at least bills that could be converted to
specie. Thus, even before the distributions began, specie reserves were being
readjusted and the result would be to reduce specie holdings in the east and
increase them in the west.

During the Summer 1836 the situation relative to specie in America's major
international port was as follows: New York City deposit or “pet” banks held $5.8
million in specie. This was more than a third of total specie in all the nation's
deposit banks, a sixth of the total specie in all state banks and nine-tenths of total
specie in New York state banks. In other words, a substantial amount of specie was
concentrated in a handful of New York City banks. In New York City alone specie
holdings were 10 times that of another important port, New Orleans, and three
times that of deposit in a half dozen southern or southwestern states. Total specie
holdings, give or take a few million, probably exceeded $70 million with not quite
half in private hands. The amount of specie per capita in reserves was modest:

The modest specie base, which amounted to $4.60 (about $68 in year
2000 value) for every man, woman and child, supported a money
stock of $230 million. The reserve ratio of 15.6 percent for the nation
as a whole, when combined with a system of convertibility to the base
on demand and a willingness of the public to hold and use coins,
produced a vulnerability to precautionary demands for specie. In such
a unit banking system, a drain of specie due to international calls,
government-directed balance transfers, or an initiative such as the
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Specie Circular could easily generate runs.307

The documents from which Rousseau has assembled his dataset were ordered up during the 2nd Session of the 24th Congress (5 December 1836-3 March 1837), the last session before Jackson turned over the Presidency to Van Buren and during the 1st Session of the 25th Congress (4 September-16 October, 1837), the first under President Van Buren.308 Two important documents – one on Transfers of Public Money and another on Deposit Banks – were submitted by the Secretary of the Treasury, Levi Woodbury, on 26 December 1836, in response to a resolution introduced by Daniel Webster on 20 December 1836. Webster requested the information because the day before Thomas Hart Benton had charged in his long-running campaign to replace paper money with hard money that “sundry banks” had been steadily enlarging their paper circulation since last summer, when the Congress had passed the Deposit Act. Webster responded that there was nothing new in Benton's charge, for all knew that the volume of bank notes was rising in spite of the Specie Circular but what was not known was which banks were responsible. He called the Senate’s attention to the fact there were more than 1,000 banks of which 70 to 80 were currently-designated deposit banks. Webster wanted the Treasury Secretary to communicate to the Senate on the state of the operations of the Deposit Banks and the public moneys that had been transferred to them. He also wanted to know the state of the transfers (supplementals) of the public moneys in order to prepare for the distribution of federal surpluses. Webster did not approve of the Specie Circular and was of the understanding that it had result in shifts of funds to areas that did not need money and away from areas that needed money. Furthermore, it was his understanding that Deposit Banks had to pay interest on funds that exceeded their limits, and in order to cover those interest payments they could make loans from the “extra” funds. In making such loans they would increase the issuance of notes, and while the Specie Circular was intended to reduce the level of paper currency, the Supplemental Transfers could have the effect of enlarging the currency base.309 After some clarification on how much

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307Rousseau “Jacksonian Monetary Policy, Specie Flows, and the Panic of 1837,” The Journal of Economic History, 62:2 (2002), 458, 462-463. A document used to determine distributions, attached to President Jackson's Eight (and final) Annual Message, was the 1830 census of 12 million total population. That figure divided by $70 million in specie would yield a slightly higher per capita specie-base of $5.80. Clearly, the population had grown by 1836, and that would yield a smaller per capita figure. See Senate Document #1, “Documents Accompanying the President's Message...,” 2nd Session, 24th Congress, p. 25. It is arguable how much specie was enough, but given the size of the money supply and operating principle that banks must redeem upon demand, Rousseau had staked out a solid position.

308There was a special session of the US Senate during the first week of March, 1837.

309Webster's opposition to Jackson banking policies should not disguise the fact that he also had reservations about too many small bills in circulation. In fact, his support of a properly-designed national banking system was premised in part on a need to regulate and remove the excess of small notes, both those of the old 2BUS and of state banks.
documentation Webster wanted (limited to last reporting period) Webster's resolution was approved. The two documents submitted a week later (and a core part of Rousseau's documentation) grew out of a dispute mainly concerning the impact of the Specie Circular. Indeed, on the same day the Senate was debating a joint resolution (as was the House) to overturn Jackson's Specie Circular on both legal and pragmatic grounds: the President did not have the power to issue such a proclamation and the proclamation itself had adversely affected banking operations. The latter concern – banking operations – more or less was at the heart of Webster's resolution.

Once the vote on Webster's Resolution was taken, John J Crittenden (AJ/W-KY) took the floor mainly to speak in opposition to the Specie Circular and in support of a resolution by Thomas Ewing (AJ/W-OH) to rescind the Circular and also to reconsider the Deposit Act. With respect to the Circular he began by noting that Federal revenues were almost equally split between between land sales and import duties. Westerners who bought land had to pay in specie whereas Easterners who owed duties could pay in notes. The distinction was harshly unfair, penalizing Westerners for engaging in a normal business transaction of buying and selling land. The unfairness was only compounded because under certain circumstances some Westerners were allowed to pay for land in other ways. “Invidious distinctions” was how Crittenden referred to the Government's policies. The consequence of this unjust policy was to drain gold and silver from the West to the East in order to cover the transactions in paper that dominated economic activity in the eastern mercantile centers. Crittenden claimed never to have attended a land auction, but he was certain that those who made a living doing that could figure out ways to game the system. If the aim was to enlarge the circulation of specie and suppress the circulation of paper, it often failed. He described the practice at the Bank of the Metropolis in the Capital. A land purchaser could obtain a draft drawn on the bank, and then he could present it to the bank's cashier who would ask if he intended to use it to buy land. Answering in the affirmative, he would withdraw silver (specie was required for buying land), which he would put in a keg in a wheelbarrow and wheel it across the street to the Treasury where the appropriate certificate of purchase would be approved. The little wheelbarrow made the trip so many times it became a laughing stock because no coin entered circulation but simply crossed the street from the Bank of the Metropolis to the Treasury. There were more serious concerns, however. When the government demanded specie in its business transactions it placed all banks under duress. Was this a sign that banking institutions were unsafe? Should depositors or holders of

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bank notes view government action as reason to demand specie to cover their deposits or notes? And if this led to runs on banks, would not banks have to call in loans only to cause defaults among borrowers who lacked specie to repay their loans? Would this not put the whole banking system at risk because a disproportionate amount of money would flow out of the vaults of regular banks into the vaults of deposit banks where specie used for land purchases would end up. (One reason for Webster's resolution was to ascertain if disproportionate holdings existed.) In short, the Specie Circular had not increased the circulation of coin in any significant way. It has been argued, posited Crittenden, that the Circular had done no evil. But, he asked, had it done any good? “Money...if left to itself would always move according to the ordinary course of business transactions.” It will reside first and foremost in the great commercial centers, as it should. Trying to disrupt the natural flow by artificially forcing it west in order to pay for transactions that most would prefer to use the cheaper form of paper money. The government may try, but it cannot redirect the natural flow. As it continued to pursue an unwise policy, it will leave in its wake not a new financial model but disruption and dismay until the natural course was restored. “The specie of the country must resume its natural course. Man might as well escape from the physical necessities of their nature, as from the laws which govern the movement of finance; and the man who professed to reverse or dispense with the one was no greater quack than he who made the same profession with regard to the other.”

Crittenden then turned to the Deposit Act, about which he claimed still to be “a learner” He granted that the Treasury might have managed the transfers in a way that would have served to increase the prosperity of the country. Instead

the Government had proceeded, like a porter or drayman, to carry the public money from one quarter of the country to the other. Thus, millions of specie had been carried from New York to Kentucky, but the people of Kentucky would have preferred that it should have remained in New York, for there they might have disposed of it at a premium of one or two per cent. This would have fallen in with the course of business, and have been beneficial to the country. But, as it was, the effect was the reverse.

Taking aim once again at the remarks of Benton, Crittenden reminded his colleagues how Benton had described the recent and current disruptions and distresses in the business community as panic – “a little starveling, no bigger than a

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church mouse” style of panic – which the Deposit Act had headed off. It was as if, argued Crittenden, Benton had shouted panic, intending to malign the enemies of President Jackson in order to hide the fact that the Treasury's own policies had been the cause. But, then, the Senator of Missouri returned once again to the ill-begotten Specie Circular as the panacea. Transferring assets and then insisting on federal payments in gold and silver would accomplish the restoration of a sound currency. It was true, said Crittenden, that the opposing party was more the “lover” of gold and silver than his party. And it would seem that the actions that the Senator from Missouri favored were intended ultimately to drive out all paper money. “Is it to annihilate the entire paper system, and give us in place of it showers of gold and showers of silver? Sir, to attempt to transact the affairs of the American community by a medium of gold and silver coin, would be little better than going back to the old Spartan expedient of bars of iron.” As a defender of the Second Bank of the United States, Crittenden wished to remind Senator Benton that he was a member of the party that proposed a national bank to establish a sound currency convertible to gold and silver, even though the nation had come to depend on paper currency that could be sound so long as the agency to determine that soundness was allowed to do its work. Without that agency the result was to be chaos since the restoration of gold and silver was impossible and the expansion and depreciation of paper was inevitable.312

Beyond the debates among long-time adversaries, what did the data collected by the Treasury and analyzed by Rousseau reveal?313 It is Rousseau's view that the Specie Circular was far more crucial to the financial collapse in 1837 than previously acknowledged, even though prior historians have argued but have not been able to demonstrate satisfactorily that the Circular played a role. By following the movement of bank funds during the 12 months before the onset of the Panic, he has provided some of the evidence that those historians needed. It is possible, he writes, “Had the circular not been enacted, the original set of transfers ordered [in 1836] by the Treasury, both official and supplemental, could have been executed as planned.” The transfers were especially disruptive for New York banks, although in the absence of a Circular they could have made ample preparations. “It was the Specie Circular that exacerbated the drain from New York to fuel the continued growth and governance.

312Crittenden Speech, Senate, Register of Debates, 2nd Session, 24th Congress, 20 December 1836, 75-77. Available on-line at http://memory.loc.gov/ammem/amlaw/lwrd.htm. I remind the reader that these were not always verbatim renderings of the floor speeches.

313The data that Daniel Webster requested may have already been assembled, at least in preliminary form, because it took only a week from the time of the request to the time of the delivery. Besides Thomas Hart Benson had cited Treasury data in his speech that set off the request by Webster.
sales of public lands, and even forced a frantic effort by the Treasury to alter the orders to redirect specie from West to East late in the Fall of 1836.” In addition specie imports slowed, and international specie demands rose. Some urged that the Circular had to be repealed to prevent a run on New York banks that saw their specie reserves dwindle, but the newly-elected President, Martin Van Buren, refused. An unexpected consequence of the Circular was that Americans chose to hold more specie then before, and in doing so they further limited what banks held as reserves. The internal drain of specie against New York banks made it impossible for them to meet their many, different obligations, and as a result “specie demand both domestically and from abroad combined to render the panic inevitable.”

Rousseau has offered an impressive dataset to support his thesis, but, I suspect, despite his efforts the debate over the origins of the Panic of 1837 is not over. The task of gathering data on financial operations of scores of “deposit banks” and then overseeing the transfer of funds, often the metals themselves, was fraught with uncertainty and error. It is important to underscore that federal funds, which amounted to tens of millions of dollars, was kept in state-chartered banks, which were under the obligation to receive and disperse funds at the request of the Treasury. Federal funds had to be moved about the country in response to needs. For example, federal revenues had to be shifted from large interior states to small coastal states to cover contracts at ship-building yards. Under the Second Bank, which acted as the Treasury's fiscal agent, such transfers could be conducted through the branches and did not necessarily involve the transport of specie. But with the Veto and Removal the Treasury now had many different agents, and while drafts could still be used among the banks holding federal funds, the calls against these drafts often required the transfer of specie itself. During the reallocations undertaken by the Treasury after the Deposit Act and the Specie Circular shipments of specie became frequent.

A set of documents provided by the Treasury in addition to its annual report as a result of Congressional requests were assembled in late December 1836. They concerned supplemental transfers, deposit banks and specie payments. The long letter from the Secretary, Levi Woodbury, accompanying the first – Public Transfers – of the three reports revealed the difficulty of the task at hand. One

314Rousseau, “Jacksonian Monetary Policy,” Journal of Economic History, 486. I might take exception to the term inevitable on the grounds that it is ahistorical. The panic happened for the reasons that Rousseau presented and not because some force was driving the economy and nation into panic. It’s a small quibble.

315Rousseau actually traces the routes that were taken. Facilities for transporting specie entered into decisions about where and how money was transferred. “Jacksonian Monetary Policy,” Journal of Economic History, 469, 472.
should not lose sight of the fact that the Deposit Act of 1836 was a compromise. Congress originally intended to allocate the surplus, based upon population, to the states as a gift. Jackson indicated that he would veto such a measure as lacking constitutional authority, even though, according to Richard Latner, Jackson had once supported such a policy but changed his mind because he feared that this would make the state governments dependent on the federal government and erode their own sovereignty. Both Democrats and Whigs favored distribution – too popular to be opposed to – but overriding a presidential veto may have proven difficult. The compromise was in the language of the bill: not a gift or a donation to the state governments but a transfer of federal funds to state banks subject to call by the Treasury. But since federal revenues far exceeded federal expenses (at the time the bill was debated) it was assumed that states would have access to the funds to finance their own projects such as internal improvements. In effect, federal distributions loanable funds to state treasuries with no strings attached. (The money was never repaid or requested to be repaid.) Criticism of the “pet banks” set up after the Removal of Deposits led to the inclusion in the bill of new rules governing state banks that received federal funds.

It became Woodbury's task to enforce a law that was originally intended to distribute the federal surplus among the state treasuries but was revised to authorize the distribution of that surplus among state banks that met certain qualifications. The law stated the aim:

to establish an agency, or agencies, in the States, Territories or Districts so destitute of banks, as banks of deposite; and to receive through such agencies such depositees of the public money, as may lie directed to be made at the points designated, and to make such disbursements as the public service may require at those points; the duties and liabilities of every bank thus establishing any such agency to be the same in respect to its agency, as are the duties and liabilities of deposit banks generally under the provisions of this act.

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316Report from the Secretary of the Treasury...Transfers of Public Moneys...,” Senate Document 29, 20 December 1836, 2nd Session, 24th Congress; “Report from the Secretary of the Treasury...Deposit Banks...,” Senate Document 21, 26 December 1836, 2nd Session, 24th Congress; “Report from the Secretary of the Treasury...Gold and Silver...,” Senate Document 38, 29 December 1836, 2nd Session, 24th Congress. The first document has an incorrect date. It was probably received by the Senate and filed with the appropriate committee on 26 December, not 20 December, because 20 December was the day the information was requested and the accompanying letter from the Secretary has the date 26 December. Moreover it was unlikely that the report could received and filed on the very day it was requested.I could not find an on-line depository so I read the actual documents.


The “Public Transfers” or supplementals, with which the first report dealt, concerned the Treasury's action in the six months since enactment. The official distribution of federal funds among state banks had been delayed until 1837 because the size and location of federal deposits had to be redirected in order to conform to the law. The process was messy to say the least because the deposits were a moving target. At any given moment it was difficult for the Treasury to determine how big the deposits were and what constituted funds as surpluses versus funds to cover federal expenditures. Even though Woodbury's December 1836 letter included several tables, reconciling the figures cited in the latter with the figures in the tables is not easy. At the time of the June passage of the Deposit Act it was estimated that $37 million would be available for distribution. A table, based on state populations, was drawn up to show how much each state could expect from that $37-million total. The actual dollars lying state-bank vaults may have been less than that. According to the table on 20 June 1836, three days before the enactment of the bill, $31 million was on deposit. In his letter Woodbury stated that the day of the enactment (23 June 1836), $34 million was on deposit in various banks. Another complicating factor was that more than $6 million was obligated to cover federal outlays, what Woodbury described as “under transfer to different places...affording facility to future disbursements.” Had this already been deducted from the $31 million or the $34 million? If not, then the available money for distribution was between $25 and $28 million if the distribution had taken place in June. But the actual distribution was to be delayed until 1837. Nonetheless, $37 million remained the official figure and the planned distributions based on state populations were calculated from the $37-million figure.319

The Treasury encountered complications immediately after the Act was passed. By the language of the Act it was not clear that the Treasury had the power to move funds from banks in states with excesses to banks in other states with deficiencies before the actual distributions were to begin in January 1837. In other words transfers across state lines were necessary to bring some state banks into compliance with the three-quarters provision (because the exporting states had too few banks) and the population-ratio provision. Under the original law unless transfers were necessary to meet federal expenditures, such transfers would be regarded as allocations of the surplus and could not begin until January 1837. An amendment to the Deposit Act eased the Treasury's burden, a large one because by the Secretary's reckoning more than $18 million had to find new homes in different states. Part of the $18 million was only to reside temporarily in different states and and would return to the exporting states once their banking system was enlarged.

The configuration of the final distributions may be different from what was being reported six months after the Deposit Act was passed.

The distinction between permanent transfers is adverted to...because, though that distinction does not, any more than the cause of the transfer, appear on its face, yet it often happens...that transfers are made from one place to another on account of its being more easy in the course of trade and exchange to have the money go to that other place in the first instance, temporarily, and afterwards be forwarded further by new transfers, and with greater public convenience, to the place where it is permanently to remain till expended.\footnote{320}

When Woodbury submitted his Public-Transfers Report in December 1836 total deposits in state banks had grown to $43 million. This was $12 million more than the June figure (if one reduces the $37-million estimate by $6 million for outlays, money no longer in the government coffers). At this point the accounting in the Secretary's letter became complicated and did not reflect exactly what was in the accompanying tables. Since June $25 million had been transferred from bank to bank with more than $18 million crossing state borders and $12 to $13 million of the original $37 to $38 million had been delayed until after 1 January 1837 in order to achieve equalization within the banking system in accord with the Deposit Act. So how much money would be available to \textit{distribute} to the states as stipulated by law? Woodbury stated that the amount, estimated in December 1836, for distribution after 1 January 1837 was between $30 and $31 million. What was the source of that figure? Not entirely clear. In his letter Woodbury noted that during the six months when $25 million was moved, almost three-quarters of which crossed state lines, another $22-$23 million was deposited in state banks, “most of which, being at first paid into the banks where an excess already existed, and hence not by law retainable there, has also been, necessarily, placed under transfer to some other banks.” By Woodbury's calculation, counting the necessary transfers to reach equalization among the banks plus transfers to cover current government obligations more than $40 million had been shifted among the designated deposit banks (with a small amount being transferred to the Mint). According to Table B, the total amount of federal money residing in state-bank coffers had risen from $31 million in June 1836 to $43 million. In other words, expediency required some exceptions prior to the actual distributions, but when time came to authorize the distributions, Woodward reassured, they would be in accord with Deposit Act.\footnote{321}

\footnote{320}{“Report”, Senate Document, #29, 20 [26] December 1836, 2nd Session, 24\textsuperscript{th} Congress, Letter, 4-5.}

\footnote{321}{Letter to Van Buren, 26 December 1836, Senate Document, #29, 20 [26] December 1836, 2-3.}
Following a Congressional amendment granting him authority to initiate supplemental transfers, Woodbury had quickly selected banks to receive surplus allocations or distributions and the amount each state was allowed under the population-proportion formula. He had determined that $37-plus million would be available to be distributed, but an almost equal amount in equalization transfers would have to be initiated before the distributions could begin in 1837. More than $26 million were reallocated during the remaining months of 1836 with more than half the amount crossing state lines. Rousseau details with a series of valuable tables how the Treasury attempted to move funds around the country in order to prepare for the actual distributions. At the same time as the Treasury was ordering supplemental transfers, it was having to deal with a continuing upsurge in land sales that only added to the balances of federal funds in state banks. Of course, with the Specie Circular in effect, land had to be paid under most circumstances with gold and silver. The pattern that emerged (with exceptions) was that federal funds (specie) moved from the North to the South because the South had fewer federal deposits based upon population than any other region and from the West to the East because the continuing growth in land sales meant excessive deposits. Miscalculations were made (not surprisingly) and the vulnerability inherent in the system was becoming manifest. Rousseau follows the path of the money as the Treasury tried to stay abreast, if not ahead, of changes in the balance sheets of the state banks as well as its own operations. By his own calculation about 57 percent of the transfers crossed state lines.

Banking was an arcane business to begin with, and although statistics and other measures demonstrate the growth and spread of banking, they should not mislead us. Banking remained mysterious and because of that controversial. When banks suspended specie redemptions, as they periodically did, they were attempting to protect their capital reserves since banks never had as much specie (or bullion) in their vaults to cover all the notes they had issued. Suspending redemptions also meant banks were probably curtailing the business of lending, which according to Bodenhorn's analysis, was still dominated by short-term commercial paper during the Jackson Era. For customers and clients, these actions aroused anger in two ways: during suspension bank notes that they held could suffer further depreciation and if they could trade them at all, they had pay a higher premium; and during suspension if they needed a short-term loans to cover business expenses, they might find banks unaccommodating. One of the curiosities – some call it a paradox – of the Jackson banking squabbles was that Americans may have preferred hard money but in fact had come to reply on soft money since the quantity of gold and silver coins was inadequate and would remain so. That’s clear in Temin's money-
stock figures because specie could only account for a small part of the total money in circulation. Many of the critics of banknotes since the 1820s had called for a reduction in the supply and greater regulation of issuing banks to little avail. At the heart of the debate about paper money prior to the Panic of 1837 was not the increase in the supply – that was evident to all – but an unhealthy rise as a result of the Bank Veto and the subsequent reallocation of federal money from the Second Bank to state banks, which lent money and issued paper in a less prudent manner than existed under the Bank's more rigorous redemption policies. Temin has argued that Jackson's Veto of 2BUS did not unleash an inflationary flood. The money supply grew after the Veto mainly because of larger than usual inflows of silver from Mexico. Equally important was the fact that more capital was retained within the American banking system because less was being exported. Certainly import-export data covering specie and bullion compiled by the Treasury for the Congress that I have examined bear out Temin's analysis. On the Mexican side – most of the silver entered as Mexican pesos or bullion – the production and export data indicate that Mexico could have provided the boost in American silver reserves. What is much harder to work out is how exactly the inflow took place in time and circumstance. What contemporaries, especially critics observed, was that as specie inflows rose, more paper money, not more gold and silver, was circulating. They could assert a diabolical connection that banks used their larger reserves to boost the circulation of their own notes. More paper drove coin out of circulation. Temin stresses that the acceleration in the volume of paper money was possible because banks were operating not from a fixed capital base but from an expanding capital base. In terms of modern growth theory increases in a nation’s capital base and the attendant changes in availability of credit for economic growth and development were not undesirable. With more specie in hand, more notes could be printed. The risk was how much more, and the downside was that with more to spend demand could outpace supply, a condition with inflationary implications. In the 1830s America had more specie, more paper, and more assets than ever before. One result was the boom in land sales. Was that where the inflationary bite was the greatest? Temin cautions that the inflationary surge because of booming land sales may be overstated. Buying land could act as a restraint on the inflation because the supply of land was so large that prices, despite speculation and manipulation in the face of higher demand, were generally inelastic, certainly relative to prices of other goods. In general, land prices not prices were rising but not to the same degree.

Specie inflows may be the root cause of the inflationary spiral, but how and why?

322 My thanks to Richard Salvucci and Alejandra Irigoin for providing relevant data.
And were specie inflows the whole story or part of a larger story? Inflow of silver mainly from Mexico has its own problems. Based on figures of net flows (imports minus exports), Temin finds that the net flow was in balance during the 1820s, although toward the end inflows exceeded outflows. Most of the outflows were Asian-bound. In the 1830s the net flows began to favor the United States as outflows to China fell and inflows of mainly Mexican silver but also some gold began to rise. Two events must be explained: why the net flow grew in favor of the United States and why specie, in particular silver, remained. The United States had long maintained a negative balance (importing more than they exported) of trade with China, and to cover the imbalance specie, principally silver (long valued China more highly than gold), was exported to Asia. By Temin’s reckoning the increasing consumption of opium in China affected Chinese fiscal policy. Opium was shipped from British India to China under the control of British merchants. Instead of specie (expensive to carry and ship) China began to pay for opium imports with bills of exchange drawn on London agents. A British merchant received a bill in lieu of silver and would eventually be presented for collection in London. The demand for American silver to cover trades imbalances declined because American bills could used to pay the Chinese just as the Chinese were now using more bill to pay Indian opium dealers and traders. For America, by Temin’s calculation, the annual value of the silver (largely Mexican silver) not being shipped to China rose from a small amount in the late 1820s to nearly $4 million in the mid-1830s. Despite America’s continuing negative balance with China, silver exports were not any longer necessary. As the Chinese reverted to bills of exchange, an American merchant could draw a bill on London (where it would ultimately be paid), use it to buy opium, sell the opium to the Chinese and use the proceeds from the sale to cover the purchase of merchandise. Thus, bills of exchange, not specie, drove the transactions, and American silver that formerly was exported to cover merchandise purchases remained in the country.323

Having established the changing commercial relationships in the Far East as a prime factor in the domestic buildup of gold and silver reserves, Temin enlarges the canvas.324 Not only were bank vaults filling up with specie formerly exported, but British investors continued to add specie to said vaults in the form of investments in public-works projects across the states. If America's inflation was

323Temin, Jacksonian Economy, 79-82, Table 3:5, p. 81. Given the way international trade worked, what Temin described could have happened, although his footnotes do not direct the reader to any sources that demonstrate this was happening.

324Temin looks at the inflationary spiral from several angles. For example, why didn’t Americans use their assets to purchase stock and bonds instead of goods? The answer may lie in the arcane world of interest rates, which were low returns, relatively speaking, and the less arcane world of cheaper goods generated consumption. Jacksonian Economy, 82-83.
cased by retention of silver, it came about in two ways: “...this retention was made possible by capital imports from Britain. The inflation was thus the product of two factors---the change in the Oriental trade and the capital imports from Britain---not just one.” write Temin. If Britain had not exported capital, then the silver used to pay British merchants for Chinese opium imports would have flowed to England; if China had not purchased opium, then the the flow of specie to America would eventually have required intervention by the Bank of England. It took both events to lead to a large stock of specie that provided Americans with more money to bid up prices of goods that probably were not produced in a larger enough supply. Finally, Temin underscores that while the proportion of specie to paper in circulation was low – about 5 percent – Americans were unwilling, it would appear to let it fall any lower.325

Statistics can lead the way in trying to resolve difficult economic question such as how did America get into the financial mess that resulted in the Panic of 1837. That the retention of specie, namely silver, represented a change in the monetary condition of the United States seems beyond dispute and may have served as the impetus to print more paper and that in turn ramped up consumption that launched an inflationary surge. Can it be said that the point where contemporary observers and critics of the Jacksonian banking system and modern economists and historians join forces concerned the supply of the money? They may disagree about how the money supply grew or why it should or should not have been allowed to grow so large or the best course of action to restrain its growth, but the size of the money pot was alarming. Contemporaries lacked the quantitative assemblage of scholars like Temin, Sylla, Rousseau, Knodell and Bodenhorn (to name just a few), but they had some information that pointed to a less familiar financial regime unfolding. What was most notable in the public debates inside the Halls of Congress (debates inside state legislatures would be another valuable source) was how rapidly the public coffers (only a small part of GNP in the 1830s) were filling up. Quarterly revenue estimates were revised upward almost before the Congress could decide how to deal with the previous estimates. They also had information on banking operations, specie flows and international commercial transactions (data modern scholars have dug through with such good results) that reinforced their suspicions or fears about how the economy was moving. The warfare was not over growth, which few were prepared (even if they knew how) to arrest; the warfare was over sources and ramifications of growth. Debates often boiled down to the pace of growth, the distortions caused by growth and the potential for mischief. Anti-Jacksonians blamed Jacksonians for removing the anchor of the emerging system

325Temin, *Jacksonian Economy*, 89-91
of credit and currency that was needed to fuel economic growth by rejecting a national bank, and the Jacksonian responded that a national bank was a monopoly in a society that favored individual opportunity and rejected governmental privilege; reformers blamed governments for imposing too few rules on banking and currency operations or pursuing the wrong policies; and Westerners blamed Easterners for draining specie from the West to underwrite their nefarious financial schemes and making the West more dependent on depreciated paper to do business and make money. Temin observes, appropriately I believe, that the interplay between all the forces and variables at work probably left the Jacksonians and the public bewildered. A flood of money, which one would idealize as desirable, was proving hard to manage. And when managing showed up in public policies, the results were even more bewildering.

The swelling of the currency begat a financial bubble – more money chasing fewer opportunities – and at some point it had to stop. And when it burst in mid-1837, it pushed the nation into the worst economic collapse yet experienced. In the wake of the wreckage to lives and communities some re-examination of what was needed and what was expected took place. It was with some irony that the initial protests by working people against the collapsing economy occurred in the home state of the new President, Martin Van Buren, who had a hand in establishing the Democratic machine, in principle, at least, dedicated to protecting and serving the people who were now losing their jobs and facing bankruptcy. Against the backdrop of a rickety economy he delivered his Inaugural Address on 4 March 1837 but devoted little time to the economic perils that were looming. Not surprising, perhaps. No politician wanted to launch his presidency by predicting collapse. Six months later, however, he will find it necessary to call a special session of Congress and deliver a different speech. That was the future, not the present. The “good times” with some dark distant clouds still prevailed at the time of the Inaugural Address, which, like many delivered before him, was devoted mainly to praise for the constitutional and political system to which he was commanded to defend and support. His views were certainly uncontroversial in the sense that he regarded the national government as having limited sovereign powers and that the sovereignty of the states must be respected and honored. All governmental systems were tested, and the United States was not an exception. He believed that the nation had endured the past challenges and tests well because of the “capacity of the people for self-government” and their willingness to accept necessary restraints in order to make the system work. Despite “partial and temporary evils” that afflicted the system from time to time, the “patriot has reason to be satisfied” with the general result. Assuming “illegal power” can only abridge the “liberties of the people”, and while instances of a few seeking those powers can
be acknowledged, the efforts tended to reinforce in the “great mass” that idea that they had little to gain from endorsing such actions. He stated clearly that the national government was mainly responsible for foreign affairs and the states for “protecting and developing local interested and individual welfare….,” There was an issue that had burst onto the national stage in an unprecedented manner during the previous administration that he, the new president, had a role in trying to resolve, and that was slavery and more specifically the extension of slavery. This was the first inaugural address to devote as much attention to slavery as Van Buren did, and potential threat from anti-slavery forces was to his mind more daunting than the spreading economic malaise.\textsuperscript{326}

Much of Van Buren’s Inaugural might be treated as boilerplate: deference to the founders and his predecessors; acknowledgment of dueling sovereignties; and capacity of the people to defend the nation from external threats and to push the nation towards greater triumphs. That was standard political rhetoric not just for Jacksonians and Democrats but for the opposition as well. The emphases could differ, and those differences could matter in how political opponents faced off against each other. Recognition of the discord arising from slavery against the backdrop of basic American principles was a departure from previous inaugural addresses. He underscored the wisdom of the “forefathers” to view it with such delicacy that until the present time that they showed the “forbearance” necessary to prevent any serious disturbance of the national tranquility. In short, despite every “sinister foreboding” they kept the issue for the most part out of the public arena. Should this not become the standard once again, asked Van Buren, because recent events have made plain “that the least deviation from this spirit of forbearance is injurious to every interest…?” He further added that “Amidst the violence of excited passions this generous and fraternal feeling has been sometimes disregarded; and standing as I now do before my countrymen, in this high place of honor and of trust, I can not [sic] refrain from anxiously invoking my fellow-citizens never to be deaf to its dictates.” Van Buren then set out his own position, which he intended to pursue as president. He reminded his audience what he had said during the campaign: “‘I must go into the Presidential chair the inflexible and uncompromising opponent of every attempt on the part of Congress to abolish slavery in the District of Columbia against the wishes of the slaveholding States, and also with a determination equally decided to resist the slightest interference with it in the States where it exists.’” He declared without qualification that “If the agitation of this subject was intended to reach the stability of our institutions, enough has occurred to show that it has signally failed, and that in this as in every

other instance the apprehensions of the timid and the hopes of the wicked for the
destruction of our Government are again destined to be disappointed.” The
violence that some citizens have actively pursued in behalf of change in
longstanding policies has been met with “public indignation”. He expressed
confidence that the public will defend the union so long as the government did not
tamper with the principles that have guided the nation since its founding. In other
words slavery was off the table – not to be discussed or debated or in any way
interfered with within the national political arena. The agitators, to which Van
Buren referred, were abolitionists whose campaign against slavery had included
the presenting of petitions to Congressmen and the mailing of pamphlets to
Southerners with the aim of not just stopping the extension of slavery but also of
ending slavery itself. Demands from southerners to intercept the mails and deny
the petitions had earlier set off a debate in Congress as to how to respond. Both
intercepting the mails and disregarding the petitions to redress grievances raised
serious legal and constitutional questions. The Federal Post Office more or less had
refused, under orders, it may be assumed, to address the failure to deliver mail in
form of pamphlets, even though it was in violation of statutory and constitutional
provisions. How to deal with petitions addressed to but unacknowledged by
Congress proved to be even more troubling. Petitioning the government was a
longstanding tradition. Under Van Buren’s tutelage as Vice-President and Presiding
Officer of the Senate he helped to engineer a procedure known as the “gag rule”:
all petitions would be received and then tabled. The grievance was that slavery was
inconsistent with American democracy, and the response was to ignore, not to
discuss, the grievance. Van Buren’s position on slavery and how to deal with it
were not outside the mainstream in Jacksonian America. The majority of American
were not ready to tackle the question of the extension or the existence of slavery.
But to postpone the debate was not to remove it from the public arena. The fears
that Van Buren raised in his Inaugural were rooted in earlier public disputes that
came close to causing a disruption. From a national prospective, nothing had
changed. The implication of Van Buren’s sentiments was that future disruptions
could be avoided only if the politics of slavery were left in the hands of local
officials. No issue in America was so bound up with the concept of a society of
self-governing individuals on both sides: those who defended it because any other
course of action would deny them the right to use their property and those who
opposed it because without another course of action their own freedom would be
compromised. Prophesy of future discord, unparalleled discord it will turn out, was
implicit in Van Buren’s defense of slavery.327

327 Inaugural Address, 4 March 1837. Unpaginated. Available on-line at
http://www.presidency.ucsb.edu/ws/index.php
The discord that grew more manifest daily was not how to deal with slavery but with a financial crisis. Hands-off, the standard operating procedure advised for managing the slavery controversy became the standard operating procedure for managing the financial crisis. Of the national government did not intervene, the crisis (or crises) will pass. It is imperative to ask, how bad was the financial crisis? The slavery controversy had pushed America close to a brink – Nullification and Secession were threatened if the government interfered with slavery – and the compromise was not to disturb the status-quo. Was financial crisis bad enough to push Americans toward another brink that might have disrupted some established precepts about the role of government in pursuit of one’s “economic happiness”? Apparently not. Nearing the brink but never falling off. If Van Buren were said to have a doctrinal or philosophical stance, “hands-off” would seem an apt description, and it could apply to multiple crises.

Describing an economic crisis, it turns out, is not easy. Panics and depressions have three sides: the cause, the effect, the remedy. Seventy years after the Great Depression in America, the debate over how to portray it still simmers. And one year after the financial meltdown of 2008-2009, I have been told by people who kept their jobs that the whole thing was blown out of proportion. A repairman in my house told me that he had detected no change in the traffic on the Interstate that he traveled daily and therefore had concluded that most people still had jobs. I was left to reckon the obvious from that comment. Of course, we have lots of statistics and anecdotes even from 1837 that fail to convince one way or the other. Temin has also asked the same question: how bad was the Panic of 1837? His chosen expression was “dramatic” but not “disastrous”. Historians who presumably read the sources left by the contemporaries can develop views that contemporaries who live during the crisis might scratch their collective heads over. The Panic of 1837 can pose a challenge because as bad as some of the statistics suggest it was, the reactions do not always match up with the alleged severity and hardship. For example, when Van Buren laid out the problem of specie suspension, failing business and rising unemployment he kept to a very narrow view: state banks receiving federal deposits as the result of the Deposit Act passed on 24 June 1836 were required to redeem paper for specie upon demand, and since some banks had failed to do so, the Congress had to offer a remedy. That was the problem to be solved, and Van Buren long, detailed speech was devoted just that.

Whether or not it was to state the obvious, Van Buren observed that America had a money supply that was 40 to 50 percent greater in 1836 than in 1834. The money supply was mainly banknotes, and banknotes were issued on the supposition that they were redeemable. That banks had suspended redemptions affected nearly
everyone – depositors, borrowers, businesses, consumers – but most particularly the federal treasury. He listed the “the objects” for the immediate attention of the Congress:

They are, to regulate by law the safe-keeping, transfer, and disbursement of the public moneys; to designate the funds to be received and paid by the Government; to enable the Treasury to meet promptly every demand upon it; to prescribe the terms of indulgence and the mode of settlement to be adopted, as well in collecting from individuals the revenue that has accrued as in withdrawing it from former depositories; and to devise and adopt such further measures, within the constitutional competency of Congress, as will be best calculated to revive the enterprise and to promote the prosperity of the country.

In pursuit of these objectives, he reiterated unequivocally, the renewal of a national bank was unacceptable. When the nation had a national ban, it was not spared financial embarrassment and economic crisis. By his interpretation of the Constitution the Federal Government was not authorized to “assume the management of domestic or foreign exchange.” It had the power to regulate commerce between states and to mint coins but not the power to “aid individuals in the transfer of their funds….” Commercial exchange should be conducted by private individuals under the same conditions that other business transactions were managed without recourse to legislative privilege or governmental assistance. He asked Congress to consider the creation of a federal unit that would be responsible for receiving payments (from land sales, e. g.) and making disbursements (for veterans’ pensions, e. g.) through offices in appropriate locations. Not only was Van Buren dismissing the need for a national bank, but he was also delinking the Federal Treasury and the state banks. The nation’s fiscal transactions, which Van Buren assumed would be minimal, could be handled in-house away from the corporate and private banking system. It was realistic enough to accept the inevitable that even without federal deposits on their books banks and their minions would continue to speculate and misuse credit and currency facilities, but at the very least the Federal Treasury would not party to these misadventures. How Van Buren envisioned a financial system that separated public from private transactions is worth reviewing, for it elevated again the principle that government had a minimal role in the daily affairs. With respect to the banking system, did the Federal Government have a need for or realize a gain from reliance upon these institutions? His answer was no:
…an agency is in many respects convenient to the Treasury, but it is not indispensable. A limitation of the expenses of the Government to its actual wants, and of the revenue to those expenses, with convenient means for its prompt application to the purposes for which it was raised, are the objects which we should seek to accomplish. The collection, safe-keeping, transfer, and disbursement of the public money can, it is believed, be well managed by officers of the Government. Its collection, and to a great extent its disbursement also, have indeed been hitherto conducted solely by them, neither national nor State banks, when employed, being required to do more than keep it safely while in their custody, and transfer and pay it in such portions and at such times as the Treasury shall direct.

It apparently struck him as untenable that banks were better able to protect federal funds than the Treasury itself.

Surely banks are not more able than the Government to secure the money in their possession against accident, violence, or fraud. The assertion that they are so must assume that a vault in a bank is stronger than a vault in the Treasury, and that directors, cashiers, and clerks not selected by the Government nor under its control are more worthy of confidence than officers selected from the people and responsible to the Government—officers bound by official oaths and bonds for a faithful performance of their duties, and constantly subject to the supervision of Congress. \(^{328}\)

He repeated that the task before the Congress was narrow but important: in the present emergency it was to provide for the “safe-keeping and transfer of public moneys.” He was adamant that the Federal Treasury should not receive payments in non-redeemable notes and that its specie policy had not triggered the currency embarrassments. Besides the constitutional requirement to protect public moneys he viewed the specie policy as the right step to dampen the enthusiasm for and the reliance upon banks notes and paper transactions. The shrinkage in bank notes (estimated at the time to be at nearly $150 million) and paper instruments ($450 million) would by Van Buren’s understanding of current economic theory restore gold and silver to their intended pre-eminence in the nation’s system of currency and credit. In this way the General Government would perform its constitutional

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\(^{328}\)Van Buren was aware of the temptation for governmental officials, being political appointments, to engage in shenanigans that benefitted themselves or their friends. Patronage was a longstanding complaint, but it had no easy solution.
duty of maintaining a sound and uniform currency. He did not regard it as unfair for the Treasury to impose a stricter standard with respect to what constituted a valid currency than what individuals or institutions might prefer. Individuals were free to trade in paper if that was what they chose. But they had to understand that the Executive and the Congress had a duty to protect the fiscal integrity of the national treasury. Finally, he recommended that the law regarding banks that suspended specie redemption be denied federal deposits, the Specie Circular be maintained and enforced, the final distribution of the federal surplus be delayed to avoid a larger federal deficit and to limit a greater currency base and the enactment of a new federal agency for deposit and transfer be created.

Modern theory teaches that restricting credit can only prolong an economic downturn, and that was what Van Buren along with many of his contemporaries recommended. He acknowledged the current fiscal crisis would delay plans for further distributions of the Treasury’s surplus in order to supplement the public revenues that were in decline. In the end, what the federal government or any government could do was limited. He was hopeful that what the federal government could do constitutionally would relieve the suffering of individuals. But he warned that

Those who look to the action of this Government for specific aid to the citizen to relieve embarrassments arising from losses by revulsion in commerce and credit lose sight of the ends for which it was created and the powers with which it is clothed. It was established to give security to us all in our lawful and honorable pursuits, under the lasting safeguard of republican institutions. It was not intended to confer special favors on individuals or on any classes of them, to create systems of agriculture, manufactures, or trade, or to engage in them either separately or in connection with individual citizens or organized associations. If its operations were to be directed for the benefit of any one class, equivalent favors must in justice be extended to the rest, and the attempt to bestow such favors with an equal hand, or even to select those who should most deserve them, would never be successful.  

A bailout was not to be expected.

In December, 1837, when Van Buren delivered his Annual Message, he was, as

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perhaps he had to be, upbeat about the economic prospects. The economic fallout was most pronounced in eastern and southern states with heavy commercial interests combined with large improvement programs. He had also discovered that his advocacy of the idea to place the business of receiving, dispensing and transferring federal moneys through a separate “Independent Treasury” was highly unpopular in the states because of the financial toll that state governments and state banks would suffer. In his Message he praised citizens for their “industry and prudence” because they were helping to alleviate the pecuniary embarrassments. Despite the opposition he advocated once again the creation of new agency like the Independent Treasury for managing federal funds. He continued to voice his opposition to a new national bank and to other corporate entities and to maintain that such legislative privileges only furthered endangered republican principles. In the end Van Buren put forward no proposals to aid individuals or households in need. In fact, most of his recommendations and actions had the effect of making the contraction worse.

Neither Van Buren nor the federal government had much leverage over suspension policies of state banks, The law required deposit banks to redeem in specie, but if they lacked the reserves or chose to protect those reserves, the government had no recourse except to end their status as deposit banks. Suspensions of redemptions had triggered the financial crisis, but as, Temin explains, suspensions did not necessarily mean banks were bankrupt. While suspensions spelled trouble for those who depended on bank credit, many banks still had specie in their vaults. They were not inclined, as economic conditions worsened, to release more specie through note redemptions; nor were they inclined to make new loans or to extend existing loans. On the one hand, by suspending specie redemptions they tried to preserve their reserves; on the other hand, by not making or extending loans they issued fewer notes and thereby restrained claims against their reserves. The communities that they served were hit hard by these steps, and some banks lost so much business that they collapsed. Other banks survived, and the long-term effect of preserving capital was stronger balance sheets that would allow banks to resume lending and redemption. Although suspensions were denounced by the President and in Congress, they were not incompatible with the government’s own stance on how to deal with the “revulsion”, as Van Buren described it. Time will produce a correction.

Suspensions imposed hardships, which were the subject of many newspaper stories. The urban, commercial centers felt the brunt of the contraction because their economies were more intimately linked to banking institutions. Relief for those caught up in the maelstrom was a patchwork of local, private or familial
endeavors. The national government played no role in extending relief, and the burden fell upon local governments, which were ill-equipped to tackle the problem in any systematic fashion. The cry for reform could be heard everywhere, but the direction and scope of that reform was never fully envisioned. The Panic happened on the Democrat’s watch, and they will be punished for. From Van Buren’s Inauguration (March 1837) to the next Congressional elections (November 1838) the news for Democrats was bad and getting worse. Even as the economy began to show signs of recovery in the second half of 1838, the elections revealed widespread discontent. The Whigs and their conservative allies blamed the Democrats and their radical allies like the Loco-Focos for the economic mess and the federal inaction in dealing with the crisis. They were careful, having learned from earlier elections, not to resurrect the Hamiltonian ghosts for how to fix the system. It was corruption, it was radicalism, it was incompetence that the Whigs stressed, and above all they reminded the voters that the freedom and opportunity promised by the President and his Party had into individual despair and economic chaos. The Whigs narrowed the Democrats' majority in the 26th Congress (1839-1841) and then in 1840 they won outright control of Congress as well as the Presidency, the latter with the same candidate, William Henry Harrison, who had lost resoundingly to Van Buren in 1836. The initial recovery from the Panic of 1837 began in the Summer of 1838, continued for about a year until the middle of 1839, when banks again suspended specie redemptions and the economy experienced another tailspin. Van Buren’s chances for re-election were doomed with the double-dip, although he could present to the electorate his success in winning passage of a bill in the Summer of 1840 to establish an Independent Treasury – also known as a “Subtreasury” – to manage federal funds. He had called for such an agency in his Inaugural Address and various Messages to Congress as a way to reform the financial system and hopefully to prevent further “revulsions”. A year after the Whigs took control, they abolished Van Buren’s legislative centerpiece, but what they could not do was muster the votes to find a replacement, namely a new national bank.\textsuperscript{330}

In 1838 and again in 1840 the electorate used its power at the ballot box, as the Jeffersonian had sternly proclaimed a necessary good, to throw the “bums out”. The bums , I hasten to add, were the legitimate heirs of the Jeffersonian traditions and ideals, but the Jeffersonians never said the bums should be protected. They may have felt dismay but could not disagree with the will of the electorate unless

\textsuperscript{330}Various sources can be consulted with regard to Van Buren’s final two years. An older but still useful study is Reginald C. McGrane, The Panic of 1837: Some Financial Problems of the Jacksonian Era (Chicago: University of Chicago Press, [first published in 1924], reprint, 1965), Chapter 5. Also Temin treats the Panic years in Jacksonian Economy, Chapters 4 & 5. I will return to McGrane and Temin later in this volume to assess the economic implications of the Panic of 1837.
some corrupt force had stolen the election. No, the electorate voted to let the
opposition have a chance. What did the electorate want and what did it expect?

In the 11 October 2008 Opt-Ed Page of the New York Times, everyone’s favorite
literary scholar, Harold Bloom, wrote a piece about panics – not personal panics,
although that could be read into his comments, but financial panics, specifically the
Panic of 2008 against the backdrop of the Panic of 1837. When Bloom sets pen to
paper, the result is never linear, A to B to C, but rather transcendent. The essay is
titled “Out of Panic, Self-Reliance”. The central focus, not surprisingly, was
Ralph Waldo Emerson, who in Bloom’s words, “was electrified by financial
storms.” Bloom closes the circle with his declaration that Emerson meant by self-
reliance “the recognition of the god within us…. It is certainly possible to imagine
as well as follow the thread between Jefferson’s self-governing individual through
de Tocqueville’s individualism to Emerson’s “self-reliant” American. As I was
finishing up the pre-1840 era and and thinking ahead to how to launch post-1840
era, I had Emerson, the Transcendentalists and Romantic Reform on my mental
agenda but to be introduced later. Then, I read Bloom’s piece and decided to push
up the introduction of one of America’s foremost thinkers about nature of society
and the place of the individual. Bloom’s essay seemed almost tailor-made for the
transition from the Jackson to the Post-Jackson Period.331

Bloom provided some statistics about the Panic of 1837, and none of them would
provoke much dissent because others have described the crisis in the same way. It’s
fairly easy to track down the figures that he cited. In light of Bloom’s metaphor of
an “electrified” Emerson it is worth quoting passages from Emerson’s own
Journals that may account for such: On "April 22 (1837) – Cold April; hard times;
men breaking who ought not to break; banks bullied into the bolstering of
desperate speculators; all the newspapers here a chorus of owls." He also recorded
what he said were rumors that 60,000 workers were "presently thrown out of work
and these made a comfortable crowd to break banks, and rob the rich, and brave
the domestic government."332 It is also worth noting that Emerson’s brother,
William, was a victim of the Panic because he could not pay off his debts or
arrange loans to cover his debts and had to call upon his brother for financial help.
So Emerson observed what was happening around him and reporting what was
being said as well as trying to deal with the financial plight of a family member.
All of this may have combined to paint a more desperate scene than may have


332Leonard Eskowitz’s, “Emerson, Brook Farm, and the Panic of 1837”. Available on-line at
www.pointandcircumference.com/hexagon/Brook-Farm-LE.htm/.
existed for other Americans or in other places, or it may be a reflection of what
many Americans and many places underwent as the banking system froze up. The
figures may or may not be accurate, but that mattered little. The Panic dealt a
psychological “punch in the stomach” that can be distinguished from its economic
blow. On visceral level the financial collapse, however it may ultimately be defined
or explained on an analytical level, was a blow to confidence, ambition and hope.
That is why recalling Emerson has significance.

Bloom cites passages from three different Emerson sources: his *Journals*,
*1819-1874*, (Volume IV, 1836-1838); “American Scholar”, an oration presented at
Harvard University in 1837; and “Self-Reliance”, an essay written in 1839-1840.
A passage from each source offers a glimpse into Emerson’s thinking about
America’s crisis but also how Americans should confront the crisis. Rereading
Emerson for the first time in decades against the backdrop of the current narrative,
I’m more aware than ever – perhaps more than I wish – of how futile it may be to
capture the essence of Emerson with a few examples. I am not a scholar of
Emerson or the Transcendentalists, but, as I reread Emerson and pay heed to
Bloom and other scholars, who’ve spent a lifetime studying his writings, I am
heartened in a sense by Emerson’s own words – “let the inner voice speak without
regard to the sages who represent their Emerson not mine. Ah, but I tread softly
still.”

The Bloom quote from the *Journals* is a good place to start, however. Make no
mistake, Emerson thought the Panic devastating, although instructive: “a good in
such empathetic and universal calamity as the times bring, that they dissatisfy me
with society.” Emerson recognized that the burdens were enormous. “Society has
played out its last stake; it is checkmated. Young men have no hope. Adults stand
like day-laborers idle in the streets. None calleth us to labor.” It was perfectly
understandable that the failures of the past would diminish the hopes of the future.

The present generation is bankrupt of principles and hope, as of
property. I see man is not what man should be. He is a treadle of a
wheel. He is the tassel at the apron-string of society. He is a money-
chest. He is the servant of his belly. This is the causal bankruptcy, this
the cruel oppression, that the ideal should serve the actual, that the
head should serve the feet. Then first, I am forced to inquire if the
ideal might not also be tried. Is it to be taken for granted that it is
impracticable? Behold the boasted world has come to nothing.
Prudence itself is at her wits’ end.

Bloom highlights Emerson’s message is both the Party of Memory and the Party of Hope. In a passage I cannot resist quoting (nor could Parrington or Bloom) the path from Memory to Hope was in place:

Pride, and Thrift, and Expediency, who jeered and chirped and were so well pleased with themselves, and made merry with the dream, as they termed it, of Philosophy and Love, — behold they are all flat, and here is the Soul erect and unconquered still. What answer is it now to say, “It has always been so?” I acknowledge that, as far back as I can see the widening procession of humanity, the marchers are lame and blind and deaf; but to the soul that whole past is but one finite series in its infinite scope. Deteriorating ever and now desperate. Let me begin anew. Let me teach the finite to know its master. Let me ascend above my fate and work down upon my world.

“Let us begin a new”, that was a message that Americans had taken to heart before, although given the personal failures and fears of the late 1830s, some may have found these words suspect. But, in his writing throughout the Panic of 1837 and into the 1840s, Emerson returned repeatedly to the belief that the American would find within himself the power to overcome the “cruel oppression” that was so widely experienced.

In the same year for which the Panic was named, Emerson delivered his Phi Beta Kappa Lecture at Harvard University (31 August 1837). The electrifying character of the financial panic, according to Bloom, helped to shape the contents of his oration entitled “The American Scholar”. The theme was rebirth, renewal, reinvigoration, reorientation, any and all of these could arise out of the hardship and despair that engulfed America. “The literature of the poor, the feelings of the child, the philosophy of the street, the meaning of the household life, are the topics of the time. It is a great stride. It is a sign — is it not? — of new vigor, when the extremities are made active, when currents of warm life run into the hands and

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333 I have used Edward Waldo Emerson and Waldo Emerson Forbes, editors, *Journals of Ralph Waldo Emerson*, with Annotations, 10 volumes (Boston, 1909-1914), 4:242. This was the source used by Vernon Parrington, who quoted the above passage in *Main Currents in American Thought*, 3 volumes (New York: Harcourt, Brace and Company, 1927-1930), 2:388-389. I do not know Bloom’s source.

feet.”  Emerson clearly saw this as an auspicious sign, although the auspiciousness of it must have escaped many Americans. But “The American Scholar” deserves attention as a reflection on the Emersonian model. On one level Emerson sought to elevate the practical and the active over the speculative and the passive. Moreover, the present was more useful than the past in trying to navigate the crisis. In other words, Emerson saw little of value in calling upon history and its muses to find the path out of the morass. It was precisely that history that was weighing on the American now. He must instead turn to himself and recognize that what he himself could bring to the fore will lay the groundwork for the recovery that will ultimately reward him for his effort. He must show “self-trust”, another one of those self-hyphenated words that belonged to the American lexicography in the nineteenth century. Throughout the oration there was a strong emphasis on acting, a constant recourse to doing. By definition and imputation a scholar was a thinker, a recluse, a devotee of books, more disengaged from than engaged in life.

In the right state, he is, Man Thinking. In the degenerate state, when the victim of society, he tends to become a mere thinker, or, still worse, the parrot of other men's thinking.

In this view of him, as Man Thinking, the theory of his office is contained. Him nature solicits with all her placid, all her monitory pictures; him the past instructs; him the future invites. Is not, indeed, every man a student, and do not all things exist for the student's behoof? And, finally, is not the true scholar the only true master?

Thinkers (not to be confused with Men Thinking) who become writers of books about their thinking, perhaps widely applauded, start wrong – they “set out from accepted dogmas, not from their own sight of principles.” What was the outcome? “Hence, instead of Man Thinking, we have the bookworm…the book-learned class, who value books, as such; not as related to nature and the human constitution, but as making a sort of Third Estate with the world and the soul.” Emerson had no doubt that thinking implied acting. “The mind now thinks; now acts; and each fit reproduces the other.” When ideas and books give way the individual “has always the resource to live [sic]. Character is higher than intellect. Thinking is the function. Living is the functionary. The stream retreats to its

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source. A great soul will be strong to live, as well as strong to think. The Man Thinking must covert and embrace self-trust. By giving up “the ease and pleasure of treading the old road, accepting the fashions, the education, the religion of society....” He must accept the possibility of “poverty and solitude” and of course, the self-accusation, the faint heart, the frequent uncertainty and loss of time, which are the nettles and tangling vines in the way of the self-relying and self-directed; and the state of virtual hostility in which he seems to stand to society, and especially to educated society. For all this loss and scorn, what offset? He is to find consolation in exercising the highest functions of human nature. He is one, who raises himself from private considerations, and breathes and lives on public and illustrious thoughts. He is the world's eye. He is the world's heart. He is to resist the vulgar prosperity that retrogrades ever to barbarism, by preserving and communicating heroic sentiments, noble biographies, melodious verse, and the conclusions of history.

In his recasting of the American Scholar Emerson was turning the focus away from persons of power and knowledge, who rely too much on the paths already tried and traveled, and toward persons who know the world because they live in it and act upon it. Emerson’s scholar must show the confidence that he will not be distracted by the fetishes and controversies in which the learned engage.

Let him not quit his belief that a popgun is a popgun, though the ancient and honorable of the earth affirm it to be the crack of doom. In silence, in steadiness, in severe abstraction, let him hold by himself; add observation to observation, patient of neglect, patient of reproach; and bide his own time, — happy enough, if he can satisfy himself alone, that this day he has seen something truly. Success treads on every right step. For the instinct is sure, that prompts him to tell his brother what he thinks. He then learns, that in going down into the secrets of his own mind, he has descended into the secrets of all minds.

He reminded his audience (of “scholars” by any definition) that he was “adverting to a doctrine that man is one.” He averred that man had been wronged as man had

wronged himself. Men have become “of no account.” Both in history and today men “are bugs, are spawn, and are called ‘the mass' and ‘the herd.’” In acquiescing to their political inferiority they were “content to be brushed like flies from the path of a great person, so that justice shall be done by him to that common nature which it is the dearest desire of all to see enlarged and glorified.” It was not surprising to learn that they had been led to seek what they thought would they gain from: they sought money and they sought power because power was the equivalent of money, the rewards of the so-called spoils of an office. “And why not? for they aspire to the highest, and this, in their sleep-walking, they dream is highest.” But, then, Emerson advised: “Wake them, and they shall quit the false good, and leap to the true, and leave governments to clerks and desks.” One man’s private life “shall be a more illustrious monarchy,” sweeter and more serene in its effect than “any kingdom in history.” To emphasize the private did not also dispatch man to isolation. Indeed the opposite occurred. Emerson’s new scholar joined a universality, properly understood, “comprehendeth the particular natures of all men.” The universality that was omnipresent. “It is one light that beams out of a thousand stars. It is a soul which animates all men.”

Emerson fully acknowledged that he had portrayed his Scholar around an abstraction. In delineating the “oneness” or the “identity of the mind through all individuals” he accepted the fact that it was a process: from the classical to the romantic and now to the reflective. The Age of Reflection had been tagged, perhaps derisively as the Age of Introversion. Granted, replied Emerson, and what was so evil about that? Despite the turmoil, the uncertainty, the despair, this may be the best of times, like the Age of Revolution when the “old” and the “new” stand side-by-side. The trick was to figure out what to do with the opportunity.

Emerson found positive signs – glimmers to be sure – across the spectrum of life: “the near, the low, the common,” that which was “trodden under foot” for longer journeys to foreign places now was seen to be richer than that which was sought. Another important sign was “the new importance given to the single person” in a political movement that was “analogous” with a changing literary and religious attitude. In language that would surely have pleased the noble Jeffersonians and perhaps even the more crass Jacksonians and would have just as surely been understood by de Tocqueville, Emerson closed with the apotheosis of the individual: “Every thing that tends to insulate the individual, — to surround him with barriers of natural respect, so that each man shall feel the world is his, and


man shall treat with man as a sovereign state with a sovereign state; — tends to true union as well as greatness.” The world was nothing without man, and such “confidence in the unsearched might of man belongs, by all motives, by all prophecy, by all preparation, to the American Scholar.” The current plight will find its resolution in the single man ignoring the much trodden paths and planting himself “indomitably on his instincts, and there abide, the huge world will come around to him. Patience, — patience....” The time will come when “We will walk on our own feet; we will work with our own hands; we will speak with our own minds.” For the first time ever this will become a nation of men, each of whom “believes himself inspired by the Divine Soul which also inspires all men.”

Did Americans read “The American Scholar”, and if they did, did they understand it? There were certainly words, phrases and lines that would cause any American reading or listening to nod in agreement. (And some who would nod in disagreement.) At the risk of arousing the ire of Emerson scholars, who have probed the depths of his thinking and writing more than I have, Emerson was talking about an ordinary American becoming an American scholar. Perhaps a more appropriate way to characterize the American in Emerson’s lens was the American who was the producer. Producer and scholar may seem incongruous, but under Emerson’s formula the scholar was not a bookworm but a doer. Doing always seemed to be more basic a trait in American than contemplating, even today. It is patently obvious that Emerson was not an “ordinary” American – he was among America’s foremost writers and thinkers – nor was he a producer except for his time at the communal experiment Brook Farm. He wrote in “The American Scholar” as if he belonged to the class he idealized and yet he was more an observer and an advocate than a participant. Still, this incongruity should not diminish the importance of the stance taken in his Harvard oration. It captured with more flourish than most statements the essential character of the “new democrat” – more interested in the future than the past, more inclined to acting and living than speculating and learning and more tending toward instinct than knowledge.

A few years (1841) after the Phi Beta Kappa oration Emerson published “Self-Reliance”, the third source cited by Harold Bloom, as he reflected on “panics”. By 1841 the economic depression (in the parlance of the economist) had bottomed and an economic turnaround was underway. Emerson remained committed to the ideal pursued in “The American Scholar”, although “Self-Reliance” will broaden the scope and the energy of the ideal. Not surprisingly “self-trust” was the launching pad.

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Trust thyself: every heart vibrates to that iron string. Accept the place
the divine providence has found for you, the society of your
contemporaries, the connection of events. Great men have always
done so, and confided themselves childlike to the genius of their age,
betraying their perception that the absolutely trustworthy was seated
at their heart, working through their hands, predominating in all their
being. And we are now men, and must accept in the highest mind the
same transcendent destiny; and not minors and invalids in a protected
corner, not cowards fleeing before a revolution, but guides,
redeemers, and benefactors, obeying the Almighty effort, and
advancing on Chaos and the Dark.”

The risk in any and every social order is that the person, as a member (Emerson’s
analogy was that society was like a “joint-stock company”), will lose himself
because he must conform. Conformity was the aversion of self-reliance. “I am
ashamed to think how easily we capitulate to badges and names, to large societies
and dead institutions.” The implications of his stance were not always charitable.
For example, did he have an obligation to help the poor? No, although from time to
time he succumbed to their plea and gave them a dollar. “Are they my [sic] poor? I
tell thee, thou foolish philanthropist, that I grudge the dollar, the dime, the cent, I
give to such men as do not belong to me and to whom I do not belong.” For some
“to whom by all spiritual affinity I am bought and sold; for them I will go to
prison, if need be; but your miscellaneous popular charities; the education at
college of fools; the building of meeting-houses to the vain end to which many
now stand; alms to sots; and the thousandfold Relief Societies…”

It was easy to
live in the world as others would want you to live or in solitude as you would
want to live, but the most difficult was to live among the crowd and preserve “with
perfect sweetness the independence of solitude.” In this new experiment where
individuals were to trust their instincts and to govern their lives mediating between
solitude and society was indeed treacherous and challenging. In trying to conform
“to usages that have become dead to you…it scatters your force.” Emerson thought
it impossible to detect who you were if you continued to maintain old ties with
churches, political parties or households. Instead “do your work, and I shall know
you. Do your work, and you shall reinforce yourself.” Individuals feared the
displeasure that came from nonconformity when they should learn how to read it –

343I have used an on-line version of “Self-Reliance” at www.emersoncentral.com/. Unpaginated. I have counted the
paragraphs and the combination letter (P) and number that follows each citation refers to a paragraph. The above
citation is P-3.

disapproval of the “cultivated classes” was less dangerous than that of the lower classes. This may scare the person from self-trust as may “reverence for the past”, which led to one of Emerson’s most enduring axioms: “A foolish consistency is the hobgoblin of little minds, adored by statesmen and philosophers and divines. With consistency a great should simply has nothing to do.” He advised to say today what contradicts what was said yesterday. Why fear being misunderstood any more than being non-conforming? “To be great is to be misunderstood.”

What Emerson was laying out for the Self-Reliant was by his own reckoning hard and required discipline and confidence. “Act singly, and what you have already done singly will justify you now.” Being firm in what you believe was right for today could only mean that you have “done so much right before….The force of character is cumulative.” Emerson proposed that an end be put to the worship of conformity and consistency.

How should self-trust be understood? What was its source? To pinpoint the origin required a leap of faith. The source was “at once the essence of genius, of virtue [recall the Jeffersonians], and of life, which we call Spontaneity or Instinct.” It can also be denoted as Intuition (whereas teachings should be known as tuitions). Beyond that it was impossible to analyze or define. How the “sense of being” arose in the soul was not and could not be known; but the sense of being was not “diverse from things, from space, from light, from time, from man, but one with them, and proceeds obviously from the same source whence their life and being also proceed.” Emerson described man as lying “in the lap of immense intelligence, which makes us receivers of its truth and organs of its activity. When we discern justice, when we discern truth, we do nothing of ourselves, but allow a passage to its beams.” Even though we persist in asking from “whence this comes, if we seek to pry into the soul that causes, all philosophy is at fault. Its presence or its absence is all we can affirm.” And yet when man put his mind to it he could discern the difference “between the voluntary acts of his mind, and his involuntary perceptions” and that to “his involuntary perceptions a perfect faith is due. He may err in the expression of them, but he knows that these things are so, like day and night, not to be disputed.”

These sentiments were an essential prelude to the intended analysis of self-reliance
because acquiring the power to “cast off the common motives of humanity…and to trust himself for a taskmaster” did not occur in a vacuum.\footnote{On-line version of “Self-Reliance” at www.emersoncentral.com, P-32.} In Emerson’s universe there was a Supreme Force: “Self-existence is the attribute of the Supreme Cause, and it constitutes the measure of good by the degree in which it enters into all lower forms….Power is in nature the essential measure of right. Nature suffers nothing in her kingdom which cannot help herself.” All observed in nature from genesis to maturation were “demonstrations of the self-suffering, and therefore self-relying soul”?\footnote{On-line version of “Self-Reliance” at www.emersoncentral.com, P-29.} Having taken note of a universal context Emerson proceeded to how a self-reliant person should see himself within the “social order” that bounded his daily life. Here was the crucible in which power of “self-relying” individual had to unfold. At a time when society seemed bent on drawing out the “sinew and heart of man…,” when it had made people “afraid of truth, afraid of fortune, afraid of death, afraid of each other,” Emerson could conjure up (whether based on observation or imagination) a formula that highlighted the quality and strength of the self-reliant person.

For example, he drew a comparison between a young urban entrepreneur and a young rural producer. Emerson had a bias, even though he was not a farm boy, for the country life where people grew calluses on their hands. When the urban lad failed in running his business or advancing in his profession, it was said of him, according to Emerson, he was “ruined”. In contrast, a study New England lad practiced multiple professions: “who teams it, farms it, peddles, a school, preaches, edits a newspaper, goes to Congress, buys a township, and so forth, in successive years, and always, like a cat, falls on his feet, is worth a hundred of these city dolls.” This sturdy lad strode into his day, undeterred that he had not studied a profession, “for he does not postpone life, but lives already.” In doing so he had within his reach not “one chance, but a hundred choices.” Again, invoking self-trust, Emerson wrote that a self-trusting lad like a farmer from New England can claim new powers that will ultimately heal the nation because he (and those like him) acts for himself – Having tossed “the laws, the books, idolatries, and customs out the window,” he will command our respect – “we will thank and revere him” – and he will no longer command our pity. Most importantly, Emerson stated unequivocally that examples of “greater self-reliance must work revolutions in all the offices and relations of man; in their religion; in their education; in their pursuits; their modes of living; their association; in their property; in their
speculative views.”

The idealization of the farming youth – the model for the self-reliant – was more backward-looking than forward-looking. Industrialization and all that it portended for the future of the country had taken root by 1840. But as historian after historians has remarked, the agrarian ideal grew stronger as the agrarian economy shrunk. In the remainder of the essay on “Self-Reliance” Emerson dismissed a social order (mainly the one he found himself in) that counted upon religion and prayer, travel and study or imitation and idolization to bring about improvement. Numerous phrases catch the eye: “Discontent is the want of self-reliance: it is infirmity of will”; or “Regret calamities” if it will make a difference but if not “attend your own work” and the calamity will be repaired; or “Insist on yourself; never imitate”; or “Abide in the simple and noble regions of thy life, obey thy heart, and thou shalt reproduce the Foreworld again”; or finally “All men plume themselves on the improvement of society, and no man improves” and why? Because “Society never advances. It recedes as fast on one side as it gains on the other. It undergoes continual changes; it is barbarous, it is civilized, it is christianized, it is rich, it is scientific; but this change is not amelioration.” Society drained the spirit: “For every thing that is given, something is taken. Society acquires new arts, and loses old instincts.” In a society that had trouble figuring out how much of a society it wanted, Emerson’s language and imagery exalted what many Americans understood instinctively (and still do), the potential of an unencumbered individual.

For all the intensity of Emerson’s appeal that the individual instinctively connect with his inner self, the real world loomed large, perhaps larger than ever at the time he was thinking and writing. By the Age of Jackson property had become a measure of how an individual estimated worth. The Jeffersonians had elevated possession of property to the utmost level because then individuals would have incentives to work hard, to act responsibly and to exhibit those values that made a self-governing society work. But possession of property had many different faces. For example, speculating in property may have yielded more than working the property. Or laws of privilege and charter granted property rights to some, but not to others. Or the accumulation of property by a few, which then sought protection of the government, could swell the ranks of the property-less. It was not the acquisition of property that agitated Emerson, but rather how the individual viewed

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350 On-line version of “Self-Reliance” at www.emersoncentral.com/, P-33/34. This description of the country lad may remind the reader of how Frederick Jackson Turner described the the frontiersman and the tasks he had to assume. I treat Turner in Volume 3.

351 On-line version of “Self-Reliance” at www.emersoncentral.com/, P-35, 37, 43, 44, 45.
that acquisition. “And so the reliance on Property, including the reliance on governments which protect it, is the want of self-reliance…. They measure their esteem of each other by what each has, and not by what each is.” The self-reliant must not act toward property like those who appeal to state, church or rank to guard their property, even though they have acquired those properties “by inheritance, or gift or crime.” The acquisition of property must be rooted in the activity of the individual: “that which a man is does always by necessity acquire, and what the man acquires is living property, which does not wait the beck of rulers, or mobs, or revolutions, or fire, or storm, or bankruptcies, but perpetually renews itself wherever the man breathes.” An uphill battle though it must have been, Emerson returned repeatedly to the idea that if the individual looked outside himself for strength, he will be weak and fail, and only if he looked inside himself – “power is inborn” – will he succeed: a man who stands on his feet will always be stronger than a man who stands on his head.352

His final paragraph acknowledged the temptations of Fortune and the lessons of History:

So use all that is called Fortune. Most men gamble with her, and gain all, and lose all, as her wheel rolls. But do thou leave as unlawful these winnings, and deal with Cause and Effect, the chancellors of God. In the Will work and acquire, and thou hast chained the wheel of Chance, and shalt sit hereafter out of fear from her rotations. A political victory, a rise of rents, the recovery of your sick, or the return of your absent friend, or some other favorable event, raises your spirits, and you think good days are preparing for you. Do not believe it. Nothing can bring you peace but yourself. Nothing can bring you peace but the triumph of principles.353

One can search the Jeffersonian writings including its most published advocate, John Taylor of Caroline, for more than an abstract expression of how the self-ruling individual would actually behave. It’s hard to find, perhaps impossible to find. Ralph Waldo Emerson went further than others in defining how the individual should present himself in a world that favored social orders, He tried to flesh out the behavior of an individual who had or must come to terms with that intangible quality of doing, acting or living for oneself. De Tocqueville observed the behavior but was puzzled over the source. He was not optimistic about the outcome.

352 On-line version of “Self-Reliance” at www.emersoncentral.com/, P-49.

Emerson tried to identify the source that would inform the behavior that would assure a desirable outcome.

One of America’s most learned had turned his back on learning. With reference after reference to the cumulative knowledge of the human past, its originators and transmitters, he dismissed such knowledge as inferior to the worth and power of instinct or a more refined form intuition. (No foolish consistencies in his approach.) There was more to all this than raw instinct, however. There was a universal, transcendent force, a god or a God, that an individual had to connect with in order for the inner strength buried in instinct and intuition to be his guide or to inform his activity. And if he made that connection he would behave more like the sturdy lad from Vermont than the cloistered scholar at Harvard. How did this transcendent journey square with the practical journey that he prized for every American and that every American found himself confronting daily? To elevate the doer above the thinker would not have baffled many Americans – I grew up in a household that still practiced that. To rationalize this in terms of a transcendent world, as described by Emerson, probably never had much of a chance. It was in the end, despite Emerson’s protestations, too intellectual. In my family work was not transcendent but necessary; it was not deplorable, by any means, but it was not always pleasurable. There may have been another angle that Emerson, the ultimate thinker, could never accommodate – this self-relying, self-activating, self-ruling person would simply call upon self-redemption. He bought into salvation that came in a thousand different forms as a way to undergird the daily challenge of doing, acting, trusting.

As I have mused over the writings of Emerson after many years of a lack of interest, I have wondered, out loud at times, how much of Emerson’s most important writings – certainly most quoted – were driven by the events of the late 1830s. Could they have been written as they were in 1830 or in 1850? My gut reaction – at the moment that’s all I have – is that they could not have been. America was caught in the worst economic reversal to date following upon the heels of a series of political confrontations that remained for all intents and purposes unresolved. Add to this the rising tide of reform that addressed a wide spectrum of the American social order that had a tendency to affirm a sense of crisis even as the dimensions of crisis were being debated. It was highly unlikely that as Americans navigated their way through the economic malaise they were going to embrace boldly an appeal to more government and regulation. Compared to any other society America was hardly the exemplar of strong institutional rule. The absence of restraint was the more prominent feature, and yet the tendency was to resist any effort to maintain restraint as opposed to unleashing individuals from
existing restraints.

Think about the crisis of 2008 in which, after decades of removing government, the call was for nationalization, regulation and institutionalization, whatever the cost to personal liberty. There was a response among so-called “Tea-Baggers” that personal liberty was all and should be expanded, not curtailed. More government to ameliorate and protect; less government achieve the same. Such reactions to a national crisis are not unexpected. Do something. Change something. Restore something. The call for government intervention was not the tack taken in response to the Panic of 1837. Reforms were urged, but with few exceptions reforms envisioned stricter adherence to limited government. A call for government aid and assistance to individuals and businesses was issued, and had it been might have invoked more opposition than support. Ideally, as Emerson argued with passion and verve, erase the slate to let the individual write his course of action on the clean slate.

Hearing the plea of such an eminent person as Emerson, how should we treat the Panic of 1837 within the context of the times? As with many such historical questions, the answer will be “it depends”. I dare say the history of the Panic of 1837 remains to be written. Economists have had a field days in assembling banking data, for after all it would a banking crisis. The results have served historians well. And the World Wide Web has scores of posts on the Panic and it usually entails a battle between libertarians and interventionists because it would appear that, as deep and wide as the Panic was, a recovery allegedly came about under normal self-correcting economic forces. In his 1924 study Reginald McGrane sought from the first page to place the economic events inside of the political battles between the Jacksonians and the Whigs and argued to the last page that the absence of a coherent response caused the depression to endure into the mid-1840s. Econometricians like Peter Temin and Peter Rousseau have ably examined the available data and pinpointed the weaknesses and missteps as the system began to unravel. Robert Gallman (and others) have provided a wider perspective for understanding the economic “revulsion” by offering some estimates of how the American economy recovered and in particular how the deflation, so evident in the price indices, was accompanied by growth in output and consumption.\(^\text{354}\) The public debate in the Congress or in the state legislatures has

\(^{354}\text{Panic of 1837, 1; Temin, Jacksonian Economy, Chapters 4 & 5; Rousseau, \textquotedblleft Jacksonian Monetary Policy,\textquotedblright Journal of Economic History, Conclusion; Gallman, \textquotedblleft Economic Growth,\textquotedblright in Engerman & Gallman, eds., Cambridge Economic History, 2:Tables 1.6, 1.7 & 1.8, 22-25 & 39-41. The list of contributors not meant to be exhaustive. Price Indices compiled by Walter Smith and Arthur Cole and published in Fluctuations in American Business, 1790-1860 (Cambridge, MA: Harvard University Press, 1935), 158. Smith and Cole explained how the base years were chosen. Other series exist, but Smith and Cole’s series with some modifications remains the standard.}
not been as closely studied as it should be. Such debates are often seen as no more than political posturing, and yet, as we have seen with other debates, they may capture the strains that were helping to pull the political system apart.

It began with the 1st Session of the 25th Congress that upon a call by President Van Buren opened in September 1837 (instead of the normal December). In the fall election (1836) the Whigs had cut the Democrats margin by almost 20 votes but lacked a majority by about the same number of votes.\(^\text{355}\) The economic issues raised by the President in his Special Message were assigned to the Committee on Ways and Means. One recommendation to emerge by October was “Resolved, That it is inexpedient to charter a national bank.” (That agreed with Van Buren’s recommendation.) An amendment was offered to substitute “at this time”, and that launched a debate about what the Committee on Ways and Means was up to. John Quincy Adams (W-MA) took the floor to charge the Committee with ignoring numerous and various citizens’ petitions presented by House members on the merits of establishing a national bank and the Committee had not read or considered any of them. The Committee’s resolution was not based on any inquiry and, therefore, was inappropriate and uninformed.\(^\text{356}\) When the vote came the next day (5 October) the Democrats prevailed. With 213 (of 241) voting the resolution was accepted, after several failed attempts to amend it, by a vote 122 to 91. Jesse Bynum (J-NC) gave the final speech before the vote in which he laid out where the political division was:

Let the American people see what party support a national bank; let them see their strength, and what prospect there is for them to succeed, and they will be satisfied. The farmer and mechanical interests are now satisfied. Who, then, are making all these complaints? It is the bankites, the rag barons, and the stockjobbers. These are the men who are endeavoring to render the Government unpopular with the people, and make them discontented with their country.\(^\text{357}\)

In the early phase of the debate over the economic malaise Democrats hewed to the Jacksonian view that nothing was to be gained by reviving a national bank and

\(^{355}\) Anti-Masons and Nullifiers each had about the same number of votes, and how they voted could increase the Democratic majority but could never give the Whigs a majority.


GROWTH AND GOVERNANCE

showed little inclination to change their course. On the Whig side the call was not an outright demand for a new bank but was for an inquiry based on citizen petitions (which, it cannot be assumed, always arrived in Congress unsolicited).

By the Fall of 1837 the nation knew it had entered very troubled waters. New York City, which had supplanted Philadelphia, the home to the Second Bank, as the nation’s financial center, took a heavy and early blow. Even before specie suspensions and bank failures, riots over food and lodging prices had welcomed Van Buren to the Presidency. So-called “Flour Riots” broke out in February of 1837 after a local rally of Loco-Focos had sent the attendees into the streets, not to protest banking irregularities, but to march on commercial warehouses where flour was stored in protest of rising prices, induced, they claimed, by merchants who were selfishly hoarding their supplies in order to exact higher prices for local residents. 358 This was not the first time that New Yorkers had taken to the streets, and, as noted earlier, some of the most radical reforms, in particular to organize unions and other collective agencies to protect individuals and workers, arose from such demonstrations. This was probably more costly for Democrats because they publicly claimed to be the urban worker’s protector. Prices for commodities had risen across the country, perhaps more so in the Northeast than anywhere else, and while merchants and dealers were quite capable of manipulating supplies to affect prices, higher flour prices were not exclusively a New York City problem.

Flour prices were troubling, to say the least, but New York City’s financial dilemma was more daunting. According to Rousseau, New York City banks faced a triple whammy: drain of specie in transfers of funds out of New York City, ordered by the Treasury for purposes of equalization, plus an increasing flow of specie from the East to the West to cover land purchases under the Specie Circular, and accommodating international demands to honor bills of exchange. The Congress had passed legislation to roll back the Specie Circular, which was by presidential fiat, not by an act of Congress, but Van Buren refused to sign it. 359 Not surprisingly, under a dwindling supply of specie, New York City banks began to fail or to suspend redemptions in specie to avoid failure, and the ripple affect was immediate. Not only were depositors and borrowers affected by the suspensions, but correspondent state banks also depended on New York City City banks to

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358 Temin opened Chapter 4 (p. 113) in Jacksonian Economy with a reference to the food riots. The remainder of the Chapter, however, returned to an examination of the financial sector: suspended redemptions, Specie Circular, federal surpluses and cotton markets. For more on citizen reaction, see Joshua Greenberg, “The Panic of 1837 as an Opportunity for Radical Economic Ideas”, with special reference to union and political organization. Available online at http://www.librarycompany.org/economics/2007conference/papers.htm.

honor specie redemptions. Lacking specie, banks across the country began to fail with perhaps as many as a third (300 to 400) of the state banks closing their doors. Bank failures reduced as well paper in circulation, although some badly depreciated notes circulated for years. For individuals and businesses the collapse of the banking system meant a loss of wealth, a decline in assets, and for New Yorkers alone it may have reached $100 million dollar. No doubt total losses for Americans were hundreds and hundreds of millions, an impact that had to be felt even though it is hard to measure.

Some “business-cycle” statistics can be helpful. The first step is to recognize that Panic of 1837 had several phases. The contraction began in 1837 but was short-lived. The next year witnessed a reversal of the downturn, but then in 1839 the contraction resumed with greater severity and duration. For a half-dozen years until the mid-1840s (in sharp contrast to the 1830s) the economy followed a deflationary path, i.e. prices falling, not rising. This should be expected during a recession or depression. Rising unemployment and declining incomes reduced aggregate demand and depressed prices. When scholars constructed an historical index of wholesale commodity prices, they found that prices rose from early 1835, when the index was around 100, into early 1837, when it peaked at around 130. That represented a 30-percent increase over a two-year period. By way of comparison, wholesale prices from 1830 to 1835 rose approximately 15 percent. Once the Panic was underway, as might be expected, prices started to fall in the second half of 1837 and during September (when Van Buren called the Congress into a special session) the index fell below 100, a 30-point drop or nearly 25 percent in six months. During the fall, however, they stabilized at at slightly above 100 where they remained for the next year. As noted earlier, economic conditions improved during 1838, and that was reflected in the behavior of prices. Prices actually began to rise in the second half of 1838, as the banking crisis subsided (redemptions resumed), employment stabilized and perhaps improved and aggregate demand picked up. But the double-dip came in the middle of 1839 and lasted well into the 1840s. Banks, faced again with dwindling specie reserves, suspended redemptions, and that choked off the recovery and pushed the economy back into recession or depression. Prices began to fall, and by 1840 they were at the lowest levels (index numbers in the mid-80s) since 1830, and they would continue to fall (irregularly reaching the upper 60s and lower 70s) into the mid-1840s. The economy from the standpoint of price behavior entered a period of
deflation that endured until almost 1850.\footnote{Temin (Jacksonian Economy, 68-69) used the Index compiled by Walter Smith and Arthur Cole and published in Fluctuations in American Business, 1790-1860 (Cambridge, MA: Harvard University Press, 1935), 158. Smith and Cole explained how the base years were chosen. Other series exist, but Smith and Cole’s series with some modifications remains the standard.}

As The Panic of 1837 was a political and economic turning point. It was by far the worst economic crisis that the nation had yet faced. As bad as it was, the prevailing political ideology more or less left government on the sidelines. The apotheosis of the individual – his talent, his will, his scrappiness – was secured in concrete, although in reality he must have felt bewildered and beleaguered. For more than a decade the voices of protest and reform had warned that the nation was heading in the wrong direction. The causes and remedies were as disparate as the groups advocating change. Most but not all tended to blame government for the missteps and therefore were not ready to turn to government for solutions. Indeed, a characteristic of the expanding reform movement after 1840 was it tended toward individual self-redemption. The individual was not the problem as much as the social order was. Even those who may have viewed the emphasis on individual action as part of the problem were careful not to usurp the almost sacrosanct place of the individual in the both the American past and the dream. So after four years of economic stress what can be expected from William Henry Harrison, the first Whig to be elected to the presidency? As a Whig in the same camp as Clay and Webster, how would he distinguish himself and his administration from the policies of Jackson and Van Buren? Of course, it must be underscored that Harrison lived only a month after his inauguration, and he was followed by a Vice-President, John Tyler, who brought to the White House a curious blend of Jacksonianism and Whiggism.

At the same time that Emerson urged Americans to turn their back on classical learning, Harrison asked them to recall the warnings of a Roman Consul: candidates for office – even under enlightened forms of elective governments – can violate people’s confidence and trust.\footnote{Harrison, Inaugural Address, 4 March 1841. On-line version at http://www.bartleby.com/, see paragraph #2. Paragraphs are numbered, and I have used those numbers to cite contents of the Inaugural Address.} Even Harrison, the Whig, embraced the concept that the nation’s political foundation – the Constitution – rested on the will of the people and not on the institution of government or any branch thereof. That being the case, declared Harrison, the aim of any elected official must be to shape “measures so as to produce the greatest good to the greatest number.”\footnote{Harrison, Inaugural Address, 4 March 1841. On-line version at http://www.bartleby.com/, #4.} Implicit in the American political experience from the outset was the aim of governing in a
manner that would benefit the majority – a sizable majority – of the population, and that had been cast into a phrase – the greatest good for the greatest number. How Americans then (and now) understood the phrase would be crucial to what they expected of their governments. Once again, however, the devilish duel over sovereignties demanded attention. It is known that Daniel Webster had prepared an Inaugural Address, which Harrison refused to deliver because the people would know that it was not his. But Webster spent a day editing Harrison’s version, apparently informing his wife that evening he had “killed seventeen proconsuls, as dead as smelts, everyone of them.” Indeed, Harrison’s approach, as laid out in his Inaugural Address, must have worried Webster as well as his fellow Whig, Henry Clay, both of whom were competing for influence over the president. Of course, Harrison would be dead in a month, and they would resume their contest for influence with Tyler, Webster staying on as Secretary of State and Clay operating out of the Senate. Harrison’s version of the Inaugural Address presented a dilemma for other Whigs about the history of government. His opening reference to the advice of a Roman Proconsul was intended to warn against too much trust in a powerful Executive – as personified in Andrew Jackson – when, in fact, despite their embrace of individual sovereignty and democratic institutions and their dislike of Jackson, the evolving Whig political theory actually favored a strong executive branch as a way of bolstering a national perspective. Harrison’s stance was baffling. Take for example, the following: “The majority of our citizens, on the contrary, possess a sovereignty with an amount of power precisely equal to that which has been granted to them by the parties to the national compact, and nothing beyond.” They possess sovereignty “equal” to what was granted them? One can surmise where he was going with it, and yet it was never fully resolved.

On an examination of...[the Constitution] it will be found to contain declarations of power granted and of power withheld. The latter is also susceptible of division into power which the majority had the right to grant, but which they do not think proper to intrust to their agents, and that which they could not have granted, not being possessed by themselves. In other words, there are certain rights possessed by each individual American citizen which in his compact with the others he has never surrendered.

Some of these rights – the *inalienable* ones – cannot be ceded. Other, less fundamental rights can be ceded and without putting too fine a point on Harrison’s language, the government so created can grant rights to citizens – an idea however

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it may be qualified was not acceptable to the staunch advocates that all sovereignty rested with the individual. What individuals had done was to allow a collectivity to possess certain powers in order to accomplish tasks to let the social order function. Harrison held the view that the sovereignty of the individual was limited, as was the sovereignty of the government: “Notwithstanding the limited sovereignty possessed by the people of the United States and the restricted grant of power to the Government which they have adopted, enough has been given to accomplish all the objects for which it was created.” Equally, he saw not inherent problem with these limitations. They had been powerful components. The nation had defended itself in war, and justice has been administered. The “intimate union effected, domestic tranquility preserved, and personal liberty secured to the citizen” spoke to the success of the experiment.\textsuperscript{364} (One can only wonder if the raggedness of these ideas may have resulted from Webster’s editorial intrusion.

The remainder of the Inaugural Address did not necessarily dispel the confusion. Harrison set about to list the evils, based upon misplaced trust in American leadership. Some of these evils arose because of defects in and misconstructions of the Constitution. After declaring he would not accept a second term – no restriction being a constitutional defect – he took up the presidential veto – “a conservative power” – to be used to undo what were clearly violated constitutional principles or hasty legislative actions.\textsuperscript{365} Far more serious was the undercurrent of disharmony between the General Government and the states. Harrison acknowledged that

\begin{quote}
The great dread of the...[opponents of ratifications] seems to have been that the reserved powers of the States would be absorbed by those of the Federal Government and a consolidated power established, leaving to the States the shadow only of that independent action for which they had so zealously contended and on the preservation of which they relied as the last hope of liberty. Without denying that the result to which they looked with so much apprehension is in the way of being realized, it is obvious that they did not clearly see the mode of its accomplishment. The General Government has seized upon none of the reserved rights of the States.
\end{quote}

Not all would agree, but the split was not irrevocable yet, and Harrison offered as a remedy to root out one practice that threatened the bond, i.e. patronage, which had grown more corrupt since Jefferson, including the promise never to fire a Secretary

\textsuperscript{364}Harrison, Inaugural Address, 4 March 1841. On-line version at http://www.bartleby.com/, #5.

\textsuperscript{365}Harrison, Inaugural Address, 4 March 1841. On-line version at http://www.bartleby.com/, #9.
of the Treasury (a reference to Jackson’s firings because of disagreement over policies).\footnote{Harrison, Inaugural Address, 4 March 1841. On-line version at \url{http://www.bartleby.com/}, #10.} Turning to economic matters, the central concern, Harrison refused to endorse a sole metallic currency, a demand of various reform groups, some of whom voted for the Whigs in 1840, because such an idea was no more than a scheme. It had no “relation to the personal rights of the citizens” and would in fact make their rights more vulnerable: “If there is one measure better calculated than another to produce that state of things so much deprecated by all true republicans, by which the rich are daily adding to their hoards and the poor sinking deeper into penury, it is an exclusive metallic currency.”\footnote{Harrison, Inaugural Address, 4 March 1841. On-line version at \url{http://www.bartleby.com/}, #14.} He had little else to say about the economy. After a few comments on territorial and foreign affairs he reminded his audience that while the Union had secured real benefits for its citizens, it had also acknowledged that profound differences among the institutions of the states. The nation must forebear in the face of principles and practices held by one state were repugnant to another state, e. g. slavery, although it was not directly discussed. In another curious statement Harrison urged citizens to be content “with the exercise of the powers with which the Constitution clothes them.” No one state should attempt “to control the domestic institutions of another”, as this could “only result in feelings of distrust and jealousy, the certain harbingers of disunion, violence, and civil war, and the ultimate destruction of our free institutions.” “Our Confederacy” depended on a “common copartnership.” Indeed, it was incumbent for citizens and governments to encourage states to find their own solutions in light of their own histories, customs, and needs. Even in the current economic crisis criticism of states’ over-expansion or unwise financial choices, they should not be discouraged from arranging for their own relief and recovery. Clearly, this was not a role for the General Government: encourage them “to the extent of our constitutional authority to apply their best means and cheerfully to make all necessary sacrifices and submit to all necessary burdens to fulfill their engagements and maintain their credit, for the character and credit of the several States form a part of the character and credit of the whole country.” In words not unfamiliar to Americans he declared that the “resources of the country are abundant, the enterprise and activity of our people proverbial, and we may well hope that wise legislation and prudent administration by the respective governments, each acting within its own sphere, will restore former prosperity.” No actual proposals or plans were to be announced in an Inaugural Address longer than any prior address.\footnote{Harrison, Inaugural Address, 4 March 1841. On-line version at \url{http://www.bartleby.com/}, #16-19.} The electorate had repudiated the Democrats and the policies of Van Buren, and yet they got a President (not necessarily a Congress)
who sounded like the one leaving office.

Harrison scolded the nation as much as he addressed it. Harrison was under no obligation to announce his intentions or plans since the Whig had chosen not to produce a platform. The message, which was tailored to regional politics, was a declaration in favor of high principles. The nation had fallen on hard times because it had lost its way through the patronage and corruption of the Jackson Party (not what modern economic historians have found). Harrison’s nobility was portrayed not as if he were a savvy Roman Pro-Consul but a trustworthy, avuncular neighbor:

an honest high-principled farmer who lived in a log cabin with the latch string always out, a coon skin nailed to the door and a barrel of cider (sweet cider in prohibition areas) for the refreshment of visitors…. [T]hey contrasted this democratic simplicity with the… luxury that surrounded 'Sweet Sandy Whiskers' Van Buren at the White House.369

The Democratic platform had a concrete message that proved to be unpopular or unappealing. It denounced internal improvements, national banks, protective tariffs and interference with slavery, hardly a departure from past elections, although for the first time it presented its views as a platform. The platform supported the much-disliked Independent Treasury that Van Buren pushed through Congress in his final year. The Fourth Resolution sought to reaffirm the proposition that had driven the Jacksonian Persuasion:

That justice and sound policy forbid the federal government to foster one branch of industry to the detriment of another, or to cherish the interests of one portion to the injury of another portion of our common country — that every citizen and every section of the country, has a right to demand and insist upon an equality of rights and privileges, and to complete and ample protection of person and property from domestic violence, or foreign aggression.370

But it must have sounded hollow after the pronounced economic swings of the previous four years, even though the Whigs offered an image rather than a program. Van Buren was portrayed as conniving whereas Harrison as trusting. Van


370On-line version of the Democratic Platform at http://www.presidency.ucsb.edu/
Buren sipped champagne, Harrison cider; Van Buren aristocratic, Harrison humble. Image was everything even before Madison Avenue was born.

The boom of the 1830s had its origins in the expansion of the money supply. Like many, if not most booms, inflation was a component. Aggregate demand outpaced the capacity of the economy to produce. Having looked at the Jacksonian economy from various angles, Temin concludes: “The productive resources of the economy were already fully employed at the start of the boom, and there was no way for them to be increased rapidly enough to satisfy the increased demand arising from the rapid rise in the supply of money.” The collapse of the boom had two important effects: individuals began to demand and hold more specie and banks in response added to their reserves while reducing their obligations. “The supply of money fell, and prices fell to clear the market.”

How did the nation go from inflation to deflation, and what were the effects? Deflation can result because aggregate demand, output and employment stagnate or fall, and weak demand combined with excess capacity can have a negative impact on economic growth. On the other hand, deflation may arise out of positive changes such as improvements in productivity, advances in technology changes in policy that affect the prices of inputs. According to Temin, the question to be asked of post-Panic America was “…why the fall in demand deriving from the decline in the supply of money was reflected in a fall in prices rather than unemployment and a fall in production.”

From the nineteenth-century perspective a decline in demand could lead to a fall in prices but not necessarily to a concomitant fall in production. This is the so-called classical view that may or may not apply any longer in the contemporary world. Just as inflation had its downside, deflation had its upside. The deflation may have been as “dramatic as the preceding inflation”, and yet “its effects on national income appears to have been as small.” The failures of some businesses and the shrinkage of some sectors did not mean the collapse of the economy. Rather as ownership changed, investment was redirected. It appears that neither agriculture nor industry was adversely affected under deflation. Even the impact on trade and commerce was small. It is hard to prove that economic distress especially as it related to unemployment arose solely from deflation. Add to the mix that from 1839 to 1843 an estimate of GNP showed a rise of 16 percent. Echoing Temin Hugh Rockoff writes: “The greater flexibility of prices and the prominent role of agriculture (where employment is less sensitive to short-run changes in demand) may account for the comparatively strong performance of the

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372 Temin, *Jacksonian Economy*, 158-160
By asking some questions about money Temin was putting to the test what economic historians had been saying about the economic disaster Jackson’s anti-Bank policy may have spawned. Temin has moved the argument away from banking in the context of a national bank. Such an institution to stabilize credit and currency transactions made sense at the birth of the nation and during the transition to a more diversified economic base a half century later. True though that may be, responds Temin, any analysis of money flows and transfers does not support the anti-Jackson explanation. The debate will continue, but the deluge of pro-Bank, anti-Jackson writing that predominated in the middle decades of the last half century has waned.

What is harder to divine than laying out the statistics and models and following the money is how this impacted the society at large. As shown above, debates about banking were more complicated than the role and legitimacy of the 2BUS. Americans had mixed emotions about banking not just national banks but all banks. Lots of journalists and critics had told Americans for years all corporate banking as were all bank notes were bad and should be done away with. Given the events of the 1830s why shouldn’t they believe them. Bankers and their allies engaged in activities that few Americans could fully comprehend, and yet despite however opposed they were to banking they also knew that banks offered services and programs that few Americans could do without. Expanded banking was a part of the expanding economic landscape, and for both the BUS and the 2BUS the essential problem was not that they had failed in their missions but they came to seen as unnecessary and untrustworthy. By 1840 the nation after a war and several panics had nearly a thousand banks. The day-to-day services that citizens needed from banks were available in many local communities irrespective of the debates over reserve funds and international transfers. Under the prevailing political ideology, which did not a priori reject banking, a preference for a banking system without the privileges and exemptions accorded under the chartering system should not be surprising. More than once in his attacks on corporate banks, William Gouge evoked the image of doing your banking business with local moneylenders who belonged to the same retail establishments as the baker, grocer and cabinet maker. The efficacy and efficiency of banking institutions may be relevant and important to historians assessment of the performance of the economy may also miss the point that Americans inhabited a world of their own construction and not what we historians try to construct.

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Even for the nontechnical the course of economy during the 1830s and into the 1840s can be understood. The question that the most sophisticated economic analysis cannot answer was how did Americans manage the tumult of the 1830s and how did they prepare themselves for the 1840s? In the face of job losses, bank failures, currency depreciations, how did John Q Public fare? All economic classes suffered, and in their suffering what did they expect? There are some hints, of course, but no one can lay it out the way that Temin so brilliantly laid out the trials and tribulations of the nation’s economic performance. The Jacksonian/Democratic stance of non-intervention was tested in the 1840 presidential election after the crisis of 1837 was repeated in 1839 and was rejected. In rejecting it, however, what were Americans embracing? Two points need to be understood. The first is that Whiggery was not Federalism, although the Jacksonians and Democrats loved to hang the ghosts of Adams and Hamilton around the necks of the Whigs. Whig could talk about individual opportunity as readily as the Democrats, even though the two camps had different approaches. The second point is that growth itself – geographic, demographic and economic – had poised challenges that had to be accommodated within the governing models. To fit the individual, long praised for his innate capacities, into a society more driven than ever by ambition, acquisition and achievement posed some problems. This was no more evident than in Harrison’s Inaugural Address. One might expect a restatement, given the economic crisis, of a multi-pronged attack not unlike Clay’s American System. That was not the core of Harrison’s speech. Restoring trust seemed to be Harrison’s preoccupation, and certainly destruction of trust by the Jackson political machine was the main campaign message. The Whigs won the Presidency and the Congress, and yet Harrison’s death made the issue of what would he have done to carry out his campaign promises moot. His successor, it so happened, turned out to be more of a Jacksonian than a Whig and the legislative agenda proved to be sparse.

An agrarian America, envisioned as the ideal model, was giving way to a more complex tableau. More and more Americans were contesting with social, economic and cultural forces that eroded the paradigm of a land-owning, commodity-producing, self-ruling social order. Self-ruling perhaps but less and less agrarian. The 6th US Census (1840) asked many more questions about individuals, families and households than previous censuses. Thanks to digital technology we can create a national profile from the census data that few contemporaries could have observed. Because less detailed questions about occupation and status were asked in prior censuses, the 1840 findings represent a new benchmark from which to chart the nation’s path. In general terms, however, since 1790 or 1800, when the population was concentrated between the Atlantic and the Appalachians and was
engaged in agricultural pursuits, the 1840 census revealed how broad and deep the changes were.

First, the distribution of the population (map below).\textsuperscript{374} By 1840 the territory west of the Appalachians across the Mississippi Valley and into the Louisiana Purchase had densities comparable to some Atlantic-bound states. Since these were virgin lands, they had to be developed and settled, and that had in fact occurred. There were three times more Americans in 1840 than 1800, and more than a third lived beyond the Appalachians. If Americans in 1800 had a impression of what America should be based upon where they lived and what they did, Americans in 1840 had to have a different impression or perhaps a more complex impression.

\textsuperscript{374}From Tocqueville’s America” available at \url{http://xroads.virginia.edu/~Hyper/detoc/census/map.html}. Whites and nonwhites, slave or free, were counted to meet constitutional requirement for creating congressional districts. Recapitulations available on-line at \url{http://www2.census.gov/prod2/decennial/documents/1840b-01.pdf}. 
Add to where they were living with how they were making a living and the mosaic becomes more intriguing (maps above & below). Agriculture remained predominant with heavy concentrations in all regions (check the red squares). The sparseness of settlement on the western side of the Mississippi and of Florida (acquired in 1819) is evident, although packets of more dense patterns were showing up in the three states west of the river and only slightly in the Panhandle of Florida. When compared to the distribution of manufacturing and trade, agriculture still had much greater densities almost everywhere (check the numbers). The concentration of manufacturing in the Northeast should not be surprising, given what we know from other quantitative data, but the variations in the densities among the regions should be noted. For more than half the nation, manufacturing, based on numbers employed, was modest or non-existent. Where greatest densities had seeped out of the Northeast, they could be found mainly in the Upper Mississippi, although a few locations in the South can be identified.
Manufacturing required capital inflows, and wherever manufacturing densities were high so too were capital investments. In the highest regions investments in the hundreds of thousands of dollars compared with thousands in the lightest.
Manufacturing begat other projects (infrastructure, for example) that required more capital and further distinguished a manufacturing from an agrarian region.

Beyond the size of the population and the character of the economy, the 1840 Census revealed other divergences between the North and the South (maps below). Literacy, for example. Whites persons under 20 years, unable to read or write, was more prevalent in the South than the North, although the North too had pockets of illiteracy.\textsuperscript{375} The public-school was in its early phase, and results across the nation should be uneven, as they were. Enumerators also asked about distribution of public and private schools, academies and universities. So far as I could determine, those data have not been mapped. Lower literacy levels in the South suggest that academic institutions were too few or were not being added in sufficient numbers to improve basic skills. In addition, of course, the slave population, numbering several million, was largely illiterate. So the unintended consequences that illiteracy may have extend beyond the poorly-educated white class.

Another indicator related to literacy levels was number and distribution of people with “learned professions”. Being a learned professional generally signified a degree of literacy. Moreover, “learned profession”, which included engineering, might be expected to overlap with regions of a more diverse economic profile, as

\textsuperscript{375} The on-line Recapitulations indicate that the figures refer to “whites” under 20 who could not read or write.
was the case. A swath of states from New England into the Upper Mississippi have the greatest densities of learned professions. Architects, draftsmen, engineers and designers were far less in demand in agricultural regions especially of the monoculture type than in industrial regions.

A most troubling indicator was the profile of slave-holdings (map below). We know that slave densities were much heavier in the South than in the North, but to see it mapped so as to compare it with the maps above leaves an unmistakable impression of the divergence, almost bipolar, in America’s development. It was not lost on Southerners or Northerners that demographic densities were changing, and that would have, had to have, an effect on how the nation’s political questions were resolved. Total population distribution in 1790 was about 50-50 between North and South. By 1860 it was about 65 to 35 percent. Immigrants preferred the North to the South (6 percent of the southern 1860 population was foreign-born compared to 20 percent in the North). More disturbing was that the southern slave population was going faster than the white population. The 1840 census mapped the divergence.
A Whig victory was likely even before a presidential candidate was officially chosen. At least it was to Daniel Webster, one of the most astute Whig politicians. He sensed a Whig victory in early 1840. In letters and conversations he could tick off the states that were leaning for the Whigs, and he was of the opinion that an elderly Harrison would do as well as any other Whig candidate with the caveat that Tippecanoe might not survive the ordeal. The state of the economy and the acrimony in the Capital clearly favored the Whigs. What did Webster, who had carried his share of water for the Party in the Senate, not always with the deep appreciation he might have hoped for, what did he expect from a Whig Administration under Harrison? Webster’s opposition to Jackson and Van Buren and their politics was well known, although like many other Whigs he had come to accept the notion that government by a privileged elite had little support across the
society. What Webster believed ill-served the nation was a national government with patchwork policies. He opposed the Independent Treasury, enacted in the last months of the Van Buren Administration, for example because it did not address the crisis or what caused the crisis. The Independent Treasury was nothing more than paymaster which received and dispersed money. The nation needed a regulator and overseer that could ride herd on a banking system that was prone to excesses. Not everyone including some Whigs shared Webster’s commitment to the utility of a national mandate. He understood the peril in trying to wean America away from what he thought was a chaotic Jacksonian approach toward a stronger federal system. Strengthening the federal system also meant consolidating political authority, a concept, he knew, that troubled many Americans. He was not convinced that Harrison was the man to lead the charge for change, although he was determined to work with the Administration and, therefore, joined the Administration as Secretary of State. Whether or not Harrison was the man for the job became moot with his death. Webster, who remained in the Cabinet even after his colleagues had quit their secretaryships over dismay with the un-Whig-like behavior of Harrison’s successor, quickly realized Tyler was not the man for the job. Almost from the outset, despite loyalty to Tyler, he perceived a Party in potential disarray.

Before the 1840 election he wrote Joshua Bates (Massachusetts-born international financier associated with Baring & Brothers, London) that the times were “sad” because the Senate would pass the bill creating an Independent Treasury to manage federal funds, rather powerless to address “the real evils which so much afflict us.” In addition, the Treasury would be authorized to issue short-term notes (paper with interest) to cover the shortfall in revenue instead of negotiating a loan from the private sector because the Government was terrified to authorize another national debt in times of peace. Loans were acceptable in times of war but not in peace. Notes in place of loans were deemed not to be borrowing, to which Webster added “humbug.” He described support for Harrison as a “popular out-break”, giving him a fifty-fifty chance of winning election: Jackson’s “personal weight” was “felt no more” and Van Buren’s failure to establish a popular base was palpable. What would Harrison bring to the table? A military figure Harrison, according to Webster, inspired patriotism because the economic turmoil had made Americans realize what was at stake. They were turning to Harrison, “an honest man, & an amiable man”. He would surround himself with good people who would not pursue in ignorance and obstinacy the misguided policies of the previous administrations. Webster then turned to state indebtedness. The collapse of the boom had affected state treasuries more than the Federal Treasury because states were more limited in how they could raise money in lieu of revenues from taxes and fees, and
bankruptcies of chartered companies (especially in internal improvements) and defaults on state bonds had left them in precarious financial condition. The Senate had just debated and defeated a bill for the national government to assume state debts (recall Hamilton’s program), and Webster was dismayed to say the least. “The discussion was enough to make one heart-sick. Our locofocoism [sic], the spirit of which has too much invaded the Gov’t itself, is not a wit better than your [English] socialism. We need a Conservative party, more than you do.” Webster then listed a few states – Massachusetts, New York, Pennsylvania, Ohio and perhaps Indiana – whose assets could be relied on, as if advising Bates and Baring, but feared for the rest of the states. The further deterioration of the finances of the states made it unlikely that the federal government would have adequate funds to redeem its own notes it was about to issue.376

To link American Loco-Focoism and English Socialism and to distinguish them from Conservatism requires some explanation. Loco-Focos had almost no national constituency. It was primarily a New-York-State movement, although because it had its origins in the Workingmen’s Movement, it had allies in other states. Its agenda of opposition to privilege, charter and exclusivity was not so radical by American expectations, and its support for educational, economic and electoral reforms had appeal. Like the Jacksonians and the Democrats, Loco-Focos were more inclined to build a social order around the capacity of the individual in so long as the individual had the opportunity to exercise that capacity. Unfortunately, and especially in New York under the Albany Regency, which Van Buren had helped to create, Loco-Focos openly denounced and campaigned against political and economic barriers that denied opportunity and eroded equality. Loco-Focos were often at loggerheads with the Jacksonian or Democratic political leaders, although they may have shared some common ideals. Only a small percentage of the body politic would have identified themselves as Loco-Focos, and yet in the 1840 campaign the Whigs effectively linked the Loco-Focos and the Democrats. Loco foco was a Spanish terms for matches (crazy lights).377 The insinuation of being loco or mad was probably more important than how matches were used. The Loco-Foco reference in Daniel Webster’s letter was not accidental; it lumped together all the opposition – democratic, liberal, individualistic, egalitarian – under a term that was less than flattering, even though, when Webster was flaying Loco-


377On the origin of the name Loco-Focos one story was that members of the movement used this recent invention to illuminate the rooms or halls where they met after the gas lighting had been shut off. In my youth those long-stick matches were called Barnburners, and in fact some Loco-Focos were accused of using such matches to set fire to property of opponents. As with many, neologisms there is disagreement about the origin of Loco-Focos.
Focos of all stripes, some had become so disenchanted with the Jacksonians, their natural allies, that they began in the late 1830s and early 1840s to support Whig candidates. Walter Hugins relates that in the 1830s the motto of the Jackson newspaper, the Washington Globe, was The World Is Governed Too Much and while those were the sentiments of Jacksonians and reformers alike, they did not always agree on how to execute them.\(^{378}\) For Webster the nation was not governed too much, but in the hands of the “crazies” it was governed too little and very badly.

What should be made of the reference to socialism? Socialism like its neologistic counterpart, individualism, may have also originated in the early 1820s, although in a manuscript rather than in print. By 1834 both terms were in use because we have Pierre Leroux’s “De l’individualisme et du socialisme” in the Revue Encyclopédique.\(^{379}\) (De Tocqueville’s second volume that contained the discussion of individualisme did not appear until 1840.) As a former follower of and missionary for Saint-Simonianism, Leroux had by the mid-1830s changed his mind about the dangers inherent in the Enlightenment ideals that gave rise to individualism and liberalism. In his essay (and affirmed by Monique Canto-Sperber) Leroux rejected with equal horror both socialisme absolu and individualité absolu, the extreme versions of both ideologies. The anti-individual stance of Joseph de Maistre, Louis de Rouvroy, duc de San Simon and their followers, stemmed in large measure from their belief that the adverse ramifications of the Enlightenment and especially its anti-clericism could be seen in the terror of the French Revolution and the decline of social stability. In other words, much of the thinking that went into French socialism was reactionary. What was needed was more social cohesion and less individual liberty. Even in the less militaristic economic world, the socialists had complaints. Unleashing the individual had unleashed a level and intensity of competition that was helping to destroy society by creating disharmonies. Leroux never abandoned the need for

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\(^{378}\) Hugins, Jacksonian Democracy, 148.

\(^{379}\) Jeremy Jennings in “Socialism: An Introduction” writes that “The word ‘socialism’ first entered into our language in 1822.” See, Socialism: Critical Concepts in Political Science (London: Taylor & Francis, 2003), 1, of which he is editor. I could not find a citation for his statement. His source could have been Gregory Claeys, “‘Individualism,’ ‘Socialism,’ and ‘Social Science,’” p. 83, footnote 7, citing Jacques Gans and others in a letter (2 November 1822) from Edward Cowper to Robert Owen. The use of the term socialism by the Owenites (in particular William Thompson) may have stemmed from a discussion on what set of principles under the rubric “social science” could best serve the distribution of wealth (p. 84). On the other hand, Monique Canto-Sperber recently wrote that “It is well known that Pierre Leroux is considered to have coined the term ‘socialism’ in 1834 to give a name to the philosophy that defined itself in opposition to individualism and liberalism.” in“Proudhon, the First Liberal Socialist”, available on-line http://www-sul.stanford.edu/depts/hasrg/frnit/pdfs_gimon/canto.pdf. Her essay was included in a book of essays edited by Mary Jane Parrine, A Vast And Useful Art: The Gustave Gimon Collection on French Political Economy (Palo Alto, CA: Stanford Libraries, 2004). See also Jack Bakunin, “Pierre Leroux on Democracy, Socialism and the Enlightenment,” in Jennings, Socialism, 127-146.
and the power of social membership. He never became an individualist in the manner defined by de Tocqueville, but he recognized the value of embracing the capacity and nobility of the individual but within a well-defined social system. What the system accomplished was to harmonize the conflicting competitive interests and to advance the wellbeing of the individual and the society.\textsuperscript{380}

Whenever the English term \textit{socialism} entered the language – whether a translation of the French or whether a decade earlier by the Owenites – Webster had something concrete in mind. Robert Owen, a prominent English utopian or communitarian, had came to the United States in the late 1820s and founded the New Harmony community in Indiana. His son, Robert Dale Owen, became a US citizen and was active in reform circles in New York and other states. The communitarian movement in the United States – scores of communities and thousands of adherents but few long-term successes – was at its core anti-individualistic. The model communities were based on common ownership of property and strict adherence to equality, both of which were designed to remove the disharmonies of the newly emergent industrial society. Robert Owen preached that society, not the individual, was responsible for the deteriorating state of society and the ideals of the Enlightenment had eroded the social fabric and had left many rest off than before.\textsuperscript{381} English and French social reform in the early nineteenth century followed different paths, and, therefore, socialism and \textit{socialisme} were not synonymous among reformers. French intellectuals did not heartily embrace the utopian and communitarian islands being organized within the existing social order, preferring instead of idealized communities a more radical reshaping of the existing social order, what later became the bedrock of Marxism. It was not the French version of socialism that Webster cited but the English version, the Robert-Owen version. And the distinction, it would appear, was that Loco-Focoism allowed for a too liberated an individual and socialism allowed for a too controlled an individual. Socialism as such never had much appeal in a society so acquisitive and oriented toward private property despite the obvious risks and disruptions. Even Owen’s son, Robert Dale, turned away from utopianism after he became a resident and devoted his attention to social change through expanded public education.

Loco-Focoism offered too little restraint to insure social stability and socialism too much. The answer for Webster was conservatism, which he did not define in this


\textsuperscript{381}Jennings, ed., \textit{Socialism}, contains several essays that delineate the distinctions between English and French “socialism” for anyone who wishes to pursue the topic.
letter but which can be drawn together from other letters and pronouncements. What did it mean to be a conservative in America in the 1840s? What was Webster conserving? For Webster it was less conserving and more ordering, moire restraining. Ironically, when Tyler assumed the presidency in the Spring of 1841, he was conserving in the sense that he was attempting more as a Democrat than as a Whig to reassert certain basic and entirely familiar principles about the role of government. Webster’s ideas about government and society could certainly be linked to a longstanding tradition on the need for citizens to be governed with an important distinction that governing could help the individual improve his lot. What had driven politics in America was whether individual could do better with or without government. It is important to understand that with the demise of the Federalists the link between privilege and governing was severed, and the Clays and Websters who came to fore after the War of 1812 accepted the basic democratic ethos but presumed that in a nation as large and diverse as America collective self-rule could enhance rather than oppress. A Webster conservative unlike a Jacksonian liberal placed more emphasis on collectivity without necessarily denying the individual’s sovereignty. Constructive governing, whether one calls it conservative or something else, was what motivated the dissenters with the Old Republican Party and the New Democratic Party but constructive governing was subject to interpretation. Hence, when the Whigs came to power the in-fighting over policies and program in the name of constructive governing took on a new virulence

Webster, as Secretary of State, was the most prominent member of the Tyler Cabinet. And the first major item, not surprisingly, was whether or not to re-establish a national bank. As unsettling as the economic conditions were, the nation at large was not ready to embrace a new national bank. For a portion of the population the 2BUS was the cause of the Panic, and, therefore, a clone of it could not be the cure. Henry Clay, despite his failure to secure the nomination in 1840, acted from his Senate seat as if he were the leader of the Whig Party, not Tyler. He wanted to push ahead with the enactment of a banking bill that essentially would re-constitute the 2BUS. His proposal was not a carbon copy of the charter of the 2BUS, but it contained one provision that Whigs were to split over – state branches. Clay preferred a banking structure that could function independent of state interests and link various regions in the effort to create a stable and uniform currency. Anything short of that was to perpetuate the status quo of a fragmented banking system. But Tyler, a states-rights advocate, opposed such a system. His Secretary of the Treasury, Thomas Ewing, submitted a plan to Congress that called for a “bank of discount and deposit” that would have a branch in the District of Columbia and in any state that approved such an operation. Tyler was
uncomfortable with this proposal, even with the proviso for state approval. Placing the organization of a branch under the purview of the state was unacceptable to Clay and his allies because it would water-down the need for a truly national operation. For the Tyler wing versus the Clay wing the long-standing issue of constitutional authority was still at the crux of the controversy over a national bank. In the midst of this donnybrook Webster tried, as he had done in other legislative battles, to find a middle ground and failed. Webster wrote three unattributed reports for the Whig newspaper, *National Intelligencer*, in which he made the case for a national response to the current crisis but in the spirit of compromise. He had no doubt—“it is true & notorious…”—that the past administrations and their policies were responsible. But repudiation of past administrations was not enough. Whigs despite their differences must put the nation first, remain cool in the face of criticisms and divisions and work incessantly toward a resolution that underscores unity not disunity.382

In an attempt to rally Whigs around a compromise between the Clay and Tyler wings, he reminded readers that what brought the nation to its economic knees was vicious and unwarranted denunciations of those who supported the Second Bank, including those who had reservations about the operations of the Bank but still favored its retention after reform. Indeed, Webster almost equated those who were relentless in their attack on the Bank as duplicitous and dangerous. Was it possible for a nation to survive under such conditions?

It is not to be denied, that in the discontinuance of the late Bank of the United States, & in the popular support which followed that measure, ignorance & prejudice had a powerful agency. Loud clamor against monopolies, ceaseless railings against the secret operations of a monstrous monied institution, cries, enough to rend the heavens, against a corporation, which was represented as a master over the Government, & as standing up with authority to overawe & put down the Representative of the People, were the modes of political discussion, which have brought the country to its present condition.

To counter this kind of demagoguery Webster hastened to remind his readers that the new bank was to be located in the Capital, near where the people’s business was conducted so that the nation could observe what was happening. More importantly, the new bank or agent was to be accountable to Congress not to the Executive. “The best way to allay the fright of children, who think they have seen a

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ghost, is to lead them up & show them that it is not a ghost.” And the best way to counter the demagogues, who declare ceaselessly and unjustifiably they see a Monster, which notably the people did not see, was to invite the people to observe the operations of the so-called Monster. Rivalries among cities and regions that helped to sound the death knell of the Second Bank can be minimized by placing the new bank’s headquarters in Washington next to the Government itself. Webster left no doubt that complexity of the economy required an agency to oversee the business of “discount, exchange & collection” and whatever form that agency took it could no longer be portrayed a privileged and corrupt institution. Congress, wrote Webster, may “make a Bank” that will not satisfy some Whigs, “but if it should not make some [sic] Bank” it will dissatisfy all. The people will pardon leaders and representatives for what they cannot accomplish but not pardon them for actions that weaken the power of the people by disunion.\textsuperscript{383}

On the constitutional question, especially as it related to branch operations without the approval of the states, Webster’s position was more pragmatic than doctrinaire. Even if the final bank bill had a provision that required state approval, he saw no reason why states with the exception of one or two, would not choose to allow branches. Representatives and senators would hardly vote for a bank bill, even with a restricting provision, if they did not see advantages for their states in having such a national institution, and, as such, they would eventually support the establishment of branches in their states and implore the governments of the states to accept them. The constitutional questions were moot because the continuing debate had not settled the issue and yet two national banks and their branches had actually operated under their charters as had other government programs not directly sanctioned in the language of the Constitution. Through their elected officials the people had acquiesced and by their acquiescence had clothed the banks with legitimacy. In the present situation where constitutional objections continued to be raised, the aim was to create an institution that would achieve the fiscal goals set forth without granting the opposing camp enough ammunition to shoot down the proposal. Strict construction today is a conservative tool, but in the first half of the nineteenth it was a liberal tool to render the authority of government to the smallest role possible. For a conservative like Webster his defense of a national bank was also a defense of a central government, in the case of America, an elected government as opposed to a hereditary or autocratic, that would provide the stability and solidity that a society needed, a traditional view of how government was necessary.\textsuperscript{384}

\textsuperscript{383}From Webster’s Second Report, 16 June 1841, in Papers, 5:127-129.

\textsuperscript{384}From Webster’s Second Report, 17 June 1841, in Papers, 5:130-132.
Despite Webster’s efforts, the President and the Congress failed to agree on a banking bill. Two bills passed the Congress in August and September of 1841, and both were vetoed on constitutional grounds, specifically in relation to the branch issue. The first bank bill had allowed for branches unless the states objected, and the revised bill (which also reduced the size of the bank’s capitalization from $30 to $21 million) did not contain a provision requiring state approval of branch banks. After the first veto, Webster wrote his wife that Tyler’s message had caused a split between the President and Henry Clay that probably could never be healed. Webster also told his wife that the President was “much agitated” over the bank bill and that he Webster did not know how the conflict would be resolved since the Congress, unable to override the veto, had decided to draft a second bank bill (which was submitted to the President within days and also vetoed shortly thereafter). At the same time, in a confidential letter to two political colleagues, Isaac Chapman Bates and Rufus Choate, several days after he wrote his wife, he commented on the bank controversy but also on the accomplishments of the current session of the Congress in cooperation with the President. He noted again that the President was deeply troubled over the bank and wished that the Congress would delay a new bill in order for the parties to try to forge a compromise. It did not help that the House, again under Whig leadership, was going to force the President’s hand with a new bill, which it had already passed and had sent to the Senate. In addition there was continuing agitation over the letter from Congressman John Minor Botts (W-VA) in which he accused the President of setting himself up with the Loco-Focos and warned it would end badly for him. “He will be the object of an execration with both parties, with one for vetoing our bill, which was bad enough – with the other for signing a worse one, but he is hardly entitled to sympathy.” Webster believed that the aim behind the House’s action as well as the letter by fellow Whigs was to embarrass the President. Webster wanted offhandedly to rebuke the Whigs who had taken up this course by brokering an agreement not to delay a final vote on the banking bill for three months. Webster, of course, was in the uncomfortable position of defending the President out of loyalty and yet was not totally in agreement with course that the President was following. On the other hand, he thought that the Whig Administration had chalked up more legislative attainments than any of the recent administration. They included financial relief for the Treasury, improved fortifications, end of the Independent Treasury and revision of bankruptcy laws,

385Letter from Webster to Caroline Le Roy Webster, 21 August 1841, in Papers, 5:145.

386This excerpt from the letter, dated 16 August 1841, first posted in a Richmond, VA, coffee house, and then published, 21 August, in the Washington journal, Madisonian, appears in the editorial footnote #2, following Webster’s letter to his wife, cited above. I have not seen the entire letter.
and the Administration and the Congress was in accord on a land bill. Banking and its component, currency stabilization, remained the important unfinished business (the 1\textsuperscript{st} session of 26\textsuperscript{th} Congress was about to end), and despite its legislative achievements the Whig Party will be judged almost solely on how it handled the bank question.\textsuperscript{387} Webster’s fears proved to be unerring.

Webster remained in the Tyler Cabinet until 1842. As closely as he followed domestic political disputes, he also negotiated the Webster-Ashburton Treaty that set the eastern boundary between Canada and the United States. His personal and political life, however, was in some disarray. Almost always in financial straits, he was accused of making ambassadorial appointments in return for loans and gifts. And embarrassments were not confined to his personal life. In his private correspondence and public statements he continued to support President Tyler, even though he clearly was uncomfortable and perhaps personally opposed to the President’s policies. In early 1842 he was accused of writing a letter in which he disparaged both Tyler and his son who was his personal secretary. The letter was never found, and in a letter to Edward Curtis (former Whig Congressman from New York), who was alleged to have received the disparaging letter, Webster denied ever having disparaged the President and his son and briefly alluded to “Clay’s friends” as being determined to drive him from office by investigating corruption in New York Port Custom Office, which Curtis headed.\textsuperscript{388} The spillover from the escalating Clay-Tyler feud was having an impact. Webster received a letter from William Wolcott Ellsworth, Whig Governor of Connecticut, who urged him to remain in the Cabinet despite the public criticism and who assured him that while Connecticut Whigs would have preferred a national bank, they had long since abandoned hopes for its re-establishment and were instead prepared to accept the proposal for an Exchange Bank under consideration in Congress and even though their colleague, Senator Jabez Huntington (W-CT) opposed it. Ellsworth believed that the Whigs would hold their own in Connecticut in spite of these intra-party feuds. He noted that the “abolitionists” will take some votes from both parties (Whigs and Democrats) but only small numbers. The relevance of this is that an “abolition party” was new and potentially unsettling for the American party system. In addition to abolitionists, the Governor alluded to a “conservative party”, made up of former Loco-Focos who had lost faith in the Democratic Party and of discontented Whigs who supported the Tyler Administration and presumably opposed the Clay camp. What the Governor meant by conservative was not

\textsuperscript{387}Letter from Webster to Isaac Chapman Bates and Rufus Choate, 25 August 1841, marked “private and confidential”, in Papers, 5:147-148.

\textsuperscript{388}Letter from Webster to Edward Curtis, 24 February 1842, in Papers, 5:191.
explained. By supporting Tyler were they, unlike the Clay Whigs, in favor of preserving state sovereignty in areas where according to the Whig dogma a national approach was preferred? On a theoretical level the differences were profound but on a practical level of enacting legislation and setting policies the differences may have little relevance. The governor observed that the disgruntled Loco-Focos will have little impact and the conservatives will rejoin the mainstream of the Whig Party. “There are but two parties in Govt and there can be but two [sic]”. He made clear that the voices calling for a different party will not prevail in Connecticut. In other words, discontent should be understood for what it was – malcontents operating on the fringe.389

Events did not follow the Governor’s script. Webster resigned shortly after corresponding with Curtis, the Exchange Bank under consideration after the Congress failed to override Tyler’s veto of the Fiscal Bank never materialized and so-called fringe politics assumed increasing importance. The Democratic Party, out of power for the moment, was already committed to a system of government in which the sovereignty of the state should not only be respected but not unnecessarily intruded upon. They were not disunionists, but eventually they will have to make some wrenching decisions about the future of the union. The Whigs, by contrast, were far less willing to acknowledge the same degree of equality or supremacy for the state. With the ascension of Tyler to the Presidency, however, they were far from united on the balance between the two sovereignties. The continuing duel will be no more evident than with the bank bill, introduced shortly after the 1st Session of the 27th Congress opened on 31 May 1841.

After the session opened, several memorials for and against the establishment of a Bank of the United States were received.390 All of these petitions were referred to a Select Committee on a Uniform Currency, proposed by Clay, that was appointed on 2 June with Clay as Chair. A week after the Select Committee went to work, Clay made a report and moved that the bill have its first reading by title, a date be set for debate and a printing be ordered. He was asked to explain the bill, and Clay read from a handwritten version. Some notably-contested features of the previous bank charter were changed – as noted earlier, the headquarters was Washington DC – but the bill was similar to the earlier charters. Even so debate on the report got off to a


390 Three memorials (and perhaps more) were received, two from New York and one from Maine. Two of the three asked for a new national bank, and one was opposed. It is worth noting that the petition in favor and the petition came from the same body, The New York City Chamber of Commerce. Apparently, the Chamber was split. This may reflect an earlier split over recharter of the Second Bank when some New York City banks opposed recharter in part because they lost business to the national bank. Proceedings, Congressional Globe, 1st Session, 27th Congress, 27, 8 & 14 June 1841, 22, 29, 48-49. Available on-line at http://memory.loc.gov/ammem/amlaw/lwcg.html.
rocky start. John C Calhoun (D-SC, having rejoined the Party) reminded Clay and the Whigs that a new charter was doomed because it would result in movement for repeal that would undo any such charter. The problem for Clay, as the leader of the bank crowd, was not only to hold the Whigs together but also to answer the attacks of the Democrats. Branching was only one of many different provisions that Democrats attacked, although they had a similar problem of keeping their members in line. The re-establishment of a national bank, even under a new name as a “fiscal” bank, re-introduced the question of redemption of banknotes. Democrats tried to insert a provision that would disallow the bank to issue new notes for notes redeemed. That prompted a spirit debate in which Clay’s voice became an issue. James Buchanan (D-PA) chided Clay in modern jargon “to cool it”. Buchanan feared that the Kentucky against Senator was about to “lose the proper intonation of his voice if he pitches it on so high a key.” Clay responded “Not unlikely, as you put my voice so often in requisition.” Following that rejoinder Buchanan replied that what the debate needed was not a whirlwind but “a calm and quiet manner.” Clay asked the Senate to have confidence in the Executive and Treasury to carry out the intent of the bill relating to banknotes, and Buchanan answered that he, the senator of a sovereign state, had no such confidence. The reference to a “sovereign state” is interesting in and of itself, but of more interest was Clay’s appeal for confidence in an Executive Branch with which he was not totally in agreement. Clay’s reply (in “mellifluous tones” according to the Congressional Globe) was that he would modulate his voice to suit the “delicate ears” of the Senator from Pennsylvania. Why no confidence, asked Clay. According to the old adage “there’s honor among thieves, and there is no association of men but what place confidence in each other. The true principle of liberty was to limit and control, but still confide.” Further, asked Clay, did not the Senator from Pennsylvania vote for a bill to allow the Executive to borrow millions, and how could that not show more confidence than was being asked for in the current bill? Besides, added Clay, the question of reissuing notes was not a part of the bill. It was not germane. Buchanan applauded the improved manner of the Kentucky Senator and was happy that he had taken on a more financial role, “proof that a poor critic could sometimes improve a great author.” But how was it, inquired Buchanan, that Clay was asking for confidence in the Executive after having preached for years no confidence in such – honor among thieves applied only to the opposition. At this point the debate returned to a Democratic amendment that would have specifically prohibited the Treasury from replacing redeemed notes. The amendment was defeated, but the potential dilemma for Clay

and his friend would grow ever larger.392

Once the bill (S-5) got to the Senate floor numerous amendment, some of which were intended to cripple the bank, were introduced. One amendment especially concerned Clay because it would have made branching subject to state approval. Henry Clay made it clear that the electorate expected action to solve a national economic crisis and not to reassert the authority of the state. He referred to the President, known to be a strong state-rights defender, as an exalted figure but added dismissively that he did not know Tyler’s position and did not want to know. On the branching proposal within the sovereign states, Clay and his allies, approximately two dozen, were not prepared to accept the amendment put forward by William Rivers (W-VA) to subject branches to state approval. Clay proposed an amendment to the amendment. It stated that unless the state legislature gave its absolute assent or dissent at the first meeting of the legislature after the bill became law, the Congress could then “presume” that a branch may be established. The defenders of this amendment believed that some states would assent or take no action and only a few, one or two, would refuse. All states as well as all members of Congress understood what the risks were for those states that did not accede, since they would be at a disadvantage in dealing with the new bank and its principal sponsor, the Treasury. Clay knew exactly what was at stake. His amendment, as written, was made even less unacceptable to state sovereignists because of an additional provisions that stated in the absence of a direct vote for or against citizens who owned at least 2,000 shares of stock in the new bank could petition the federal government to assess the need for branches in order for the bank to carry out its constitutional obligations and to proceed to organize them to meet its obligations. Clay made it crystal clear that if the Constitution granted a power, there would be no hesitation in asserting that power. Clay also tried to tamp down any hostility to the last qualification by saying there was no intention to use that provision broadly, and if the Congress decided that it had to used, there would be ample opportunity to debate the matter. Further, argued Clay, even if the banking bill became law, it would take up to 12 months to get the bank organized, and in that period every state would have ample opportunity to examine the provisions of the charter and make their concerns or objections known to Congress, although Clay was unlikely ever to support any changes that diminished the scope and power of a national bank. In proposing the amendment he operated on the assumption that most states would accept a strong banking bill, and those that didn’t would have come on board out of need. Stabilizing credit, regulating exchange, reviving business and promoting prosperity were the goals in which all

the states shared an interest.\textsuperscript{393}

When Albert S. White (W-IN) took the floor he was less reticent about his stance on national sovereignty. He did not agree with the effort by Senator Rives to rally support about the committee report to grant states the power to decide. He made it clear that once that provision was approved the national became a state bank. According to the Congressional Globe, which did not always provide word-by-word transcription, White declared that his “definition of a sovereignty in a State is not the possession of all power but of the highest and paramount power with the sphere of its agency.” White dismissed as illogical the idea that the Congress under the authority of the Constitution could not determine on its own what was necessary for the good of the country. The Congress where it had the authority to do so could initiate policies without the approval of the states to achieve its goals. With reference to a national bank he thought that there was sufficient judicial precedent and popular approval to move ahead with their recreation for such an institution. Besides the opponents had no alternative to suggest, and without an alternative they were prepared to let the system of credit and currency fall apart. In White’s mind a different bill that erected a legitimate national bank instead of a junior-size fiscal bank would have been preferable, but given the need of the country to address a severe national crisis the current bill so long as it included the Clay proviso would be acceptable.\textsuperscript{394} Clay’s amendment with some changes narrowly passes, 25 to 24, after which the bill was engrossed (27 July) and passed the following day (28 July) 26-23.\textsuperscript{395} Clay’s bill survived in the House when (6 August) it voted 125 to 98 in favor.\textsuperscript{396}

The so-called compromise proposed by Clay, would hardly satisfy those Whigs with a strong states-rights outlook. The “nationalist” perspective, so often ascribed to the Whigs, could not exist along side of a view of state sovereignty that alters the balance in favor of the states. The internal problem for the Whig Party was how to accommodate southern Whigs, who had to protect state sovereignty against too strong a national government that could interfere with slavery even though the Party had yet to take a position on slavery. Southern Whigs may have been

\textsuperscript{393}Clay Amendment, Appendix, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 27\textsuperscript{th} Congress, 27 July 1841, 362. Available online at \url{http://memory.loc.gov/ammem/amlaw/lwcg.html}.

\textsuperscript{394}White Speech, Appendix, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 27\textsuperscript{th} Congress, 27 July 1841, 362-364. Available online at \url{http://memory.loc.gov/ammem/amlaw/lwcg.html}.

\textsuperscript{395}Proceedings, \textit{Journal of Senate}, 1\textsuperscript{st} Session, 27\textsuperscript{th} Congress, 27 & 28 July 1841, 123-124 & 125. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwsj.html}.

\textsuperscript{396}Proceedings, \textit{Journal of House}, 1\textsuperscript{st} Session, 27\textsuperscript{th} Congress, 6 August 1841, 324. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwhj.html}.
genuinely opposed to a national bank on the long-debated constitutional grounds, but how they ever expected to incorporate themselves within an ideology, as both Clay and White argued, that declared with an unmistakable lack of equivocation that the sphere in which the national government could act was determined in part by the charter itself and in part by precedent – the fact that two national banks had been chartered and had been accepted by a substantial, if not a majority, of the population. Neither Clay nor White and perhaps many of their allies (with the exception of Webster) were in a mood to quibble any longer over the national government could or could not do, especially in the midst of an economic crisis. And Clay’s adamancy became more public in his reply to Tyler’s veto, which came on 16 August and which the Senate could not override (19 August).

Clay pulled no punches from the outset: Congress had shown a spirit of compromise, Tyler had not. Clay’s anger was palpable. Betrayal was what Clay implied. Tyler knew what form the banking bill would take, and even though in his own Inaugural Address he said that he would support a banking bill, which was in accord with prevailing constitutional standards and then added his view on government would be drawn from the advice and instruction of the “great Republican school”. It was possible that to have said this as a Democrat or a Loco-Focos would carry one meaning and as a Whig, or to use Webster’s term, a conservative carry another meaning. There was no doubt in Clay’s mind what Tyler, Harrison’s running mate, should have meant. To Clay it meant what he called “the Madison ground” and certainly not Jackson ground. Tyler was explicit about the need for a program that would stabilize the currency and lay the foundation for a new prosperity. How else was this to be accomplished without a national bank? The claim of some of Tyler allies including his own Treasury Secretary was that Tyler was misunderstood with respect to a national bank and the emphasis should be dual – a national bank in conformity with the Constitution. The branching provision even as revised remained a most serious constitutional issue. Clay response was not surprising: the revision allowed the state to opt in or out and to doom the banking bill – now just a Fiscal Bank, not any longer a national bank as understood in prior legislation – on the revised branching provision was indefensible, one might add, for a Whig. Clay then proceeded to respond to each of Tyler’s objections. At one point he asked why the President did not let the bill become law without his signature, a way of avoiding criticism and of not becoming an obstacle. It was galling to Clay that acceding to the demands of one or two states was and ignoring the views of more than two dozen states was acceptable presidential behavior. Clay chastised the President for taking the extreme position instead of recognizing the spirit of compromise on branching from a co-partner in the management of the national government. Tyler made note in his veto message
that state sovereignty was compromised because once a branch had been established it could not be disestablished without the approval of the Congress. If the state had the option to allow or not allow a branch, it should also have the authority to end the relationship. Clay response, echoing comments made to de Tocqueville that the desired stability in governing the nation could be assured if states could change the rules of participation to suit their own agendas. If the states truly wanted to act like a nation, then they had to concede to the nation the authority perform its national duties. Since the Congress was near its pre-determined adjournment, Clay asked if Congress should adjourn. “No! No! No! A higher, nobler, and a more patriotic career lies before us. Let us here at the east end of Pennsylvania avenue, do our duty, our whole duty, and nothing short of our duty, towards the common nation,” was how the Congressional Globe recorded it. He then listed what the Congress had passed and what remained to be passed before adjournment (a list comparable to what Webster reported), and the latter should include a new national bank bill, even if vetoed a second time. “Let us do all—let us do everything for the public good,” At least, then, Congressmen could honestly tell their constituents they had made the effort.  

One response to Clay came from the chairman of the Committee on Ways and Means. Senator Rives (VA) sought to offer an interpretation of the “Republican ground” that accorded with Tyler’s constitutional reservations from Clay’s interpretation. The “Republican ground” relative to the constitutionality and utility of a national bank was subject to different interpretations. To be sure, Jefferson and Madison signed onto the Bank of the United States and the Madison signed on to the 2BUS, but that in and of itself did not silence the opposition among Republicans. Was it possible, inquired Rives, that Clay was misrepresenting the positions on a national bank of both Tyler and Harrison in order to advance his own political agenda? Rives reminded his audience that Clay failed to win the Party’s nomination at the Harrisburg Convention in part because of his commitment to a national bank. Neither Harrison nor Tyler had made such a commitment. Much of the rest of Rives’s remarks with interruptions by Clay concerned what Harrison might or might not have done, what Clay actually said or did not say and what course of action should be taken before adjournment. The debate on how to assess Tyler’s Veto and the personal debate between Rives and Clay continued through several more speeches. In the end, the Congress would agree to a slightly revised “fiscal” bank bill that the President would veto again.

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and the Congress will adjourn without any banking legislation.\footnote{Rives Speeches (two responses to Clay), Appendix, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 27\textsuperscript{th} Congress, 19 August 1841, 366-368, 369-370. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwcg.html}.}

As the next presidential election neared, in late 1843, Daniel Webster, having returned to Boston, confided to Edward Everett that the future of the Whig Party was cloudy. Webster wrote to express condolences on the death of Everett’s daughter, Anne Gorham Everett.\footnote{Note following the letter, marked private, dated 30 November 1843, by the editors states that Everett’s daughter died in London on 21 October 1843. A letter written by Edward Everett and reprinted in a \textit{Memoir of Anne Gorham Everett}…., edited by Philippa Call Bush and published in 1857 placed her death on 18 October 1843 (pp. 308-309).} Everett, former Congressman and Senator, was the ambassador to Great Britain at the time of his daughter’s death and will be future president of Harvard. The letter also brought Everett, who would return to the national political stage in the 1850s after his Harvard tenure, up-to-date on the political scene. On a much-contested issue, the annexation of Texas, Webster anticipated that President Tyler will announce his support for annexation in his Annual Message, although rumors in Boston intimated that the President had changed his mind. (In fact he did not publicly support annexation until the Spring of 1844 after Congress approved it.) Webster was certain annexation would cause a stir – it would be met “by a general remonstrance throughout the North.” If annexation were to occur, it will shape the next election. Without annexation, the likely candidates would be Clay (Whig) and Van Buren (Democrat), and such a contest, Webster concluded, did not favor the Whigs.

Our Whig politics are sadly mismanaged, all over the Country, & most especially in this State [MA]. Young men take the lead, ardent, sanguine, & who seem to think nothing is to be done but to utter warm words of rally to friends, & of unmeasured depreciation of adversaries. A general election has come to be on all sides, quite too much a matter of mass meetings, of commemorations & celebrations, of banners & trophies. A spirit for such things ran high in 1840, & there seems now quite an attempt to revive it. The Whigs cause cannot be maintained, any long time, in Massachusetts, without new counsels.

Massachusetts, a bedrock of Whiggery, had Webster worried the most. It was not just the nature of campaigning but it was more directly the intrusion of the Liberty Party, which was organized in New York in 1839 and put forward James Birney as presidential candidate in 1840. It opposed slavery but, unlike the more radical abolitionists, it sought to use the power of government to end the institution. It also
opposed the annexation of Texas because it permitted slavery. It was also a strong proponent of the Union. It shared some of the values and goals of the Whig Party, but the latter had not taken a stand on slavery because, unlike the Liberty Party, it had northern and southern branches. In Massachusetts, according to Webster, the only reaction to the rise in the membership of the Liberty Party was for Whigs to issue “a louder cry for Whigs to ‘come out!’ – but the Whigs go over.” Whigs need a [news]paper that was prudent, energetic and conciliatory. Such we have not.” Whigs need counsel, “mild, but comprehensive and long-sighted…such we have not.” Since Whigs predominate in the State’s large cities, the Party will probably continue to lead State Government but its foundations were weak. His language revealed his bias – “comprehensive and long-sighted” – neither of which seemed attainable or maintainable under the rapidly evolving political and social circumstances. The prospects for the Whig Party, despite a big win in 1840, were dim.  

The party dedicated to cleaning up the Jacksonian mess had stumbled. The internal feuding had drawn attention away from actually ending governmental corruption and restoring economic growth. In the first instance, there was never much of a commitment since patronage, which the Whigs tried to hang around the neck of the Jacksonians, drove the politics of both parties. Daniel Webster himself was the subject of comments and queries about who was paying his bills and guaranteeing his debts. Even the economic case – the loss of the national bank, which Whigs repeatedly claimed, had destabilized credit and currency and plunged the economy into a depression – was not uniformly endorsed. In many quarters the 2BUS was in fact the problem not the solution. Opposition to the bank and other such national program remained a divisive discussion. It is clear that re-instituting a national bank was never viewed as the cornerstone of the Whig economic program (as it certainly was for Alexander Hamilton) In the election of 1840 the Democrats published a platform – the first in modern American politics – and the Whigs did not. A slogan (in addition to the oft-quoted “Tippecanoe & Tyler too”) was meant to emphasize the differences without committing to a course of action: “Harrison and Prosperity or Van Buren and Ruin”. But since the Democratic platform denounced protective tariffs, internal improvements and national banks, it didn’t take much imagination to figure out what the Whigs favored. Even without a published platform, Americans must have understood that the Whig approach was to embrace active government, not passive government. It must be remembered that for 40 of the 50 years since 1790 the nation had a national bank. Americans were familiar with a national bank as they were with protective tariffs and internal

400Letter from Webster to Edward Everett, 30 November 1843, in Papers, 5:321-323.
improvements, which had been argued over and enacted and retracted since the Jefferson Administrations. Whigs may have wanted to shift the debate to honest government and frontier life, but they and their ideas had been around long enough to let the electorate distinguish between the two choices. In 1840, in the middle of the worst economic crisis of the Republic, Whigs got the green light to move ahead, in a moderate not radical sense, to experiment with governmental programs to ease the crisis. Harrison’s death may have dealt an irretrievable blow to any and all efforts. They did accomplish a few small goals, but if they had a blueprint in mind by which to persuade Americans that, as Johns Quincy Adams had proclaimed, that government could be constructive and positive, they failed. They will lose a close election in 1844 with the titan of the Party, Henry Clay failing to carry New York and opening the door to a “dark horse” (for the first time), James K Polk.

Both major parties issued platforms in the campaign of 1844. The Whig Platform in under 400 words reaffirmed the Party’s principles – “inseparable from the public honor and prosperity”…: a well-regulated currency; a tariff for revenue to defray the necessary expenses of the government, and discriminating with special reference to the protection of the domestic labor…; the distribution of the proceeds of the sales of the public lands; a single term for the presidency; [and] a reform of executive usurpations….” In managing the government and administering the policies the Whigs would place a premium on “the greatest practicable efficiency, controlled by a well regulated and wise economy.” The rest of the Platform praised the capacity of Clay and his running mate, Theodore Frelinghuysen (NJ), to carry out the Party’s goals. It is worth noting that the tariff clause lacked any reference to protection but included a somewhat cryptic reference to be “discriminating” in regard to how it should impact domestic labor. No reference to banks (except indirectly by favoring a stable currency), but continuing support for distribution among states of federal revenues from land sales. The anti-corruption theme was restated with reference to the executive. In contrast The Democratic Party (National) Platform was three times longer and largely consisted of a series of negatives: against tariff, internal improvements, bank, revenue distributions and abolition. It opposed federal policies that favored one industry over others. It embraced strict interpretation of the Constitution and rigid adherence to economy in government. It supported the addition of Oregon and the annexation of Texas. It declared that the veto power should be retained. The term “liberal” appeared in the following proviso that addressed a new issue – immigration:

That the liberal principles embodied by Jefferson in the Declaration of Independence, and sanctioned in the Constitution, which makes ours
the land of liberty and the asylum of the oppressed of every nation, have ever been cardinal principles in the Democratic faith; and every attempt to abridge the present privilege of becoming citizens, and the owners of soil among us, ought to be resisted with the same spirit which swept the alien and sedition laws from our statute book.

The position of the Democratic Party on the national government could not be mistaken as fundamentally different from the Whigs: it had limited powers enumerated in the Constitution, and to apply a different construction was inexpedient and dangerous.\textsuperscript{401} Despite the clear differences on policies and powers, what may have turned a close election in the Democrats favor was the emergence of a third party in New York, the Liberty Party.

It can’t be missed that the election of the Whigs after the worst economic collapse was not accompanied by a groundswell for change. The in-fighting among the Whigs indicated that Party was not organizing itself around a program to advance the principles by which the Party was identified. The Whig candidate had spent little time talking about what they would do and more time about the evils of Jackson, Van Buren and the Democrats. When it came time to act, they had to figure out what actions to take. Not even a national bank was a sure thing. And, surprisingly, the economy was not their ally for change. That slice of history called the Panic of 1837 and its reprise in 1839 was surely calamitous on an personal level, especially for wage earners in urban areas, but was it so calamitous from a larger or wider national perspective? Concrete data on the former – who suffered, how much and for how long – are harder to come up than similar data on the latter. A persistent problem for historians is trying to match up the anecdotal with the statistical, at least the statistical based on some sound estimates. Stories of hardship and despair abounds, and yet the demand to relieve hardship and despair through government intervention may not have had much appeal even though the electorate had put the Whigs in charge. Economic calamities were played out within a political context of what was best for the American experiment in self-government. Let me restate what the data and the estimates drawn from those data say about the economy during the Van Buren and the Harrison-Tyler Presidencies. The depth and the length of the panic were not uniform across the economy. Citing Peter Temin, Hugh Rockoff observes that although often compared to the Great Depression, the Panic of 1837 was less severe. Real GNP may have risen by as much as 16 percent between 1839 and 1843, while prices fell by 42 percent, that is, economic growth within a deflationary environment. Why this could happen happened in 1840s and

\textsuperscript{401}Platforms available on-line versions at http://www.presidency.ucsb.edu/ws/.
not in 1930s was because of greater flexibility in prices and greater prominence of agriculture, which was “less sensitive to short-run changes in demand”. From a statistical standpoint this meant that in the aftermath of the boom (Jackson) and the bust (Van Buren) the economy barely paused in its growth trajectory. Robert Gallman, whose pioneering work on nineteenth-century growth is often cited, offers an array of analytical tools with which to try to unravel the contours of that growth. When looking at GNP by per capita (in 1860 prices) he found that in the 20 years between 1830 and 1850 it rose from $85 to $96 and then to $116. Short-term rates of change in GNP per capita between 1830 and 1850 varied from 1.3 to 2.5 percent per year. Despite wrenching economic times for some citizens and regions because of the economic collapse the broader economy was only temporarily sidetracked. All of this seems statistically plausible.

The word “Panic”, as Scott Sandage reminds us, was derived from the Greek term for “sudden fear with no obvious cause” and was related to the pranks of goat-god Pan. Beginning in 1819 American experienced a Panic once every generation or so until the Great Depression. It is easy to conclude from these facts that Americans got used to being surprised and got through such panicky times. On a personal level, however, as Sandage’s many stories reveal, it was not easy. Not only did people lose jobs and go broke, but they ended up in debtors prisons. It is not surprising that as the Congress debated Clay’s bank renewal in 1841 they were also debating (again) the bankruptcy laws, as the Congress had received hundreds of petitions since the Panic for relief from their debts. On 19 August 1841 an Act to Establish a Uniform System of Bankruptcy became law. It provided that individuals and businesses could present petitions for bankruptcy once their assets and liabilities were listed and the court could appoint an assignees to “sell, manage and dispose” of the assets to satisfy creditors except for certain household goods. For those filing the most important part was Section 4, which stated that once the filings and dispositions were completed, the “bankrupts” would be “entitled to a full discharge from all...debts and the court would so certify. There were penalties for falsification and perjury. Creditors would be entitled to shares of assets without any priority except all debts to the United States would be given preference. Most of the Act concerned procedures, appointments, salaries and other administrative matters, but the crux of personal or business bankruptcy in the United States was

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405 Sandage, Born Losers, 24-27, for some examples.
that upon completion the records of the “bankrupts” were cleared.⁴⁰⁶ Throughout
the bankruptcy debates, which can be followed along side of debates on currency
and credit, an argument often made was that the times, driven by enterprise and
ambition, required new laws for dealing with failure. This was more generally the
outlook of the Whigs than the Democrats. Whigs tended to join stability with
progress, and setting up a judicial proceedings allowing debtors and creditors to
resolve their disputes and to avoid, if possible, debtors’ imprisonment made sense.
In studying bankruptcy cases in Massachusetts and a few other places Sandage
discovered that while the financial obligation was lifted, the moral obligation
remained an issue for the debtor and the creditor. The proceedings were often
tedious and the outcomes fell short of the Act’s aims. In the face of an almost
doctrinal view that debt was a contract and should be honored bankruptcy carried a
stigma.⁴⁰⁷ The economy was stronger at the time of the repeal, but personal
indebtedness had not by any means disappeared. It was almost as if, to use
Sandage’s words, “Going Bust in the Age of Go-Ahead” was required and
unavoidable. Sandage writes that “Failure was intrinsic, not antithetical to culture
of individualism. ‘‘Not sinking’ took both self-reliance and self-criticism, lest a
dream become a night mare.”⁴⁰⁸ As Sandage traces story after story of failure, one
cannot help but be struck by the fact that it happened not infrequently to the same
persons more than once, almost as if the temptation to take a chance was
irresistible.

While a new national bank to provide balance and restraint in the American pursuit
to acquire and succeed was at the top of the Whig agenda, at least for a while,
chartered banks continued to provoke scorn and rebuke. In one of the respected
magazines – Hunt’s Merchants’ Magazine – on commerce and trade, Freeman
Hunt, its editor, received a long letter from a subscriber whose remedy for the
recent banking calamities was discussed in the context of the volume and scope of
personal and business bankruptcies. He noted that of every 100 people who entered
commerce in Boston, 95 died in poverty. And while the proportion were different
in New York City and Philadelphia, the results were basically the same. Looking
back on 1841, when Congress passed a new uniform bankruptcy law, as the nation
struggled to recover, the writer provided these statistics:

⁴⁰⁶The Act was published as Chapter IX in Statutes-at-Large, 1st, 27th Congress, 19 August 1842, 440-449. It was

⁴⁰⁷Sandage followed the career of Henry Hill, a bankruptcy lawyer in Massachusetts, whose journals spoke despair-
ingly over the work he had to do. Bankruptcies were not easy or simple, and they took a toll on the parties as well as
this lawyer. Escape from bankruptcy did not change the fact that individuals were frequently if not constantly on the

⁴⁰⁸Title of Chapter 1 in Born Losers & p. 67.
Applicants for relief 33,739
Creditors returned 1,049,603
Debts states $444,934,615
Valuation of property surrendered $43,697,307

Noting that he made allowances for errors and misconstructions, the writer described the loss of $400 million by 1.1 million creditors as immense and then concluded there was something wrong with the system:

When a long life has been passed in meritorious pursuit, and the result to the individual is not incompetence, but poverty, it is evident that there must be some great and fundamental error at the basis of the system, which it behoves those who are interested to ascertain and remedy, or counteract. I know that plentiful reasons for bankruptcy, such as accusations of extravagance, imprudence, speculation, &c., are always adduced in individual cases; but the effect being general, not individual, the cause must also be general, and adequate to produce the effect.

The letter writer had a cause: “The cause is the too high rate of interest.” The search had ended, as far as he was concerned. If the cause, what was the remedy? A law would be useless. How about a banking system? That was the answer: “a true banking system, based on the mutual principle.” True banking that was safe for the depositor and fair to the borrower would not be found in establishing another national bank but in establishing mutual banks what we could call savings banks. These banks “producers and exchangers” could “establish...at once, without asking permission of any other authority than their own will.” Banking as it had developed in America favored stockholders of the banks and wealthy clients who borrowed from the banks. Vast segment of the commercial classes were left without appropriate recourse. Mutual banks of discount and deposit (recall William Gouge) was the answer. Having proposed mutual banks as the remedy, he went into some detail about how they would work and why they would provide the security and confidence that Americans needed to regain trust in a banking system.

Some Americans called into questions the value of staking our future on progress. Sandage quoted a line from Henry David Thoreau’s Journal: ”Our progress is only

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from one such speculation to another, and only at rare intervals do we perceive that it is no progress.” As bumpy as the ride had become, progress was not about to be overthrown. Several years later Richard Hildreth wrote that when speculation worked, “however wild it may have appeared in the beginning,” it was then to be seen as “an excellent thing,” and was viewed as “enterprise”. Hildreth did not think that enterprise or improvement could exist without “a spirit of speculation” (which may be different from the act of speculation). The message of Sandage’s study is that Americans failed, vast numbers of them, but in a society that depended on the individual to muscle through failure could not be admitted and should not be acknowledged. Toward the end of his study, Sandage quoted Arthur Miller, the playwright who dramatized the impact of failure so movingly: “The whole idea of people failing with us is that they can no longer be loved.”

Herein lay the dilemma for the reformers. The crises existed but the failures that arose out of the crises were seen as the price one paid for the risk one took.

The Whig victory in 1840 was surely a reflection of dissatisfaction with the Democrats and in particular Martin Van Buren, and perhaps Americans were in a more accepting mood of Henry Clay’s vision of a national economic program to deal with an economy as it grew or stumbled. What is striking about the Whig victory and the initial efforts to reverse the economic downturn was how “unradical” the proposals were. The dispute between the major contesting parties was hardly new or unfamiliar. For the Whigs better public policy can assist the individual and the economy; for the Democrats less public policy would do the trick. Neither of the major parties addressed the slavery question, but the fringe parties will force it into the public arena. Over the next four years, however, very little of Clay’s vision was enacted, and because the economy did not continue a downward spiral in the absence of a broadly-conceived national program the public attitudes began to change. Dissatisfaction with the Democrats turned to dissatisfaction with the Whigs. It showed up in the congressional and presidential elections ahead. The Whigs won both the House (142 to 98) and the Senate (29 to 22) in 1840, lost the House (72-147) but held the Senate (29 to 23) in 1842 and failed to regain the House (79 to 142) and lost the Senate (24 to 34) plus the presidency in 1844. It is true that Clay might have won the presidency if the Liberty Party had done less well in New York, but there is no escaping the fact that


411 Sandage, Born Losers, 91, citing Richard Hildreth, Banks, Banking, and Paper Currencies (Boston: Whipple and Damrell, 1840), 159-160.

412 Sandage, Born Losers, 276.
the Whig campaign with its brief and vague platform on what the Party wanted to accomplish failed to spark much enthusiasm. In contrast the Democratic Platform signaled a continuation of a weak national government except in those areas like defense and diplomacy where the constitutional prerogatives were clear.

In these economic circumstances, when the case could be made that a more active government might be useful, that approach had little traction apparently with the electorate. The growth in GNP along side a continuing deflation indicate some important structural changes. The non-agrarian sphere of the economy was growing, and it was having an impact on how the economy was organized and managed. By Gallman’s calculations in the first period, 1800-1840, real GNP grew at a rate of 3.92 percent per year, and in the second period, 1840-1900 by 4.10 percent. The rate of growth in Total Factor Productivity went from .59 to .74 of which labor and land registered declines but capital an increase. Productivity increased in the second half of the nineteenth century in large measure because of growing capital inputs. Gallman writes: “The shifts in the relative importance of...two factors, labor and capital, speak to an important development, the extraordinary rate at which capital was formed in the nineteenth century. The share of capital...for the expansion of output is shown to grow rapidly, relative to the share of labor. Again, following Gallman’s argument from the numbers, we note that for the whole nineteenth century there was an obvious shift in the relative importance of capital and labor as components of total growth. In the period 1800 to 1840 labor contributed 54 percent compared to 29 percent for capital, but in the period 1840 to 1900 capital rose to 34 percent and labor fell to 45 percent. When calculated on a per-capita basis the results are even more impressive than the aggregate figures, and the role of capital is even more striking. In the aggregate productivity showed up as residual and small, but in per-capita terms productivity became the principal driver.

When economic growth is measured in terms of aggregate real output, the responsibility of productivity improvements for growth [15 and 18 percent respectively]. But when growth is measured in terms of real GNP per capita...productivity improvements...account for a substantial fraction of total growth....The growth of factor inputs was thus sufficient to increase aggregate output as fast as population, and somewhat faster but the pronounced increase in output per capita depended importantly on the rising productivity of inputs....

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413 Gallman, “Economic Growth,” in Engerman & Gallman, eds., Cambridge Economic History, 2:14-16, Table 1.4 & 2:22-23, Table 1.7.
Being more productive was certainly not antithetical to the Jeffersonian agrarian model. John Taylor of Caroline became a spokesman for raising output by applying smart farming techniques. The aim was to make the farmer more prosperous to keep him attached to the farming life. Little did he or any other Jeffersonian agrarian expect to see gains in productivity across the economic system and most particularly in those sectors that Jeffersonian agrarians did not wish to encourage. Not only were productivity gains realized because of the growth in manufacturing with its emphasis on the machine but also surprisingly because of the expansion in infrastructure. Overbuilt though segments of the American infrastructure were by the 1840s, the so-called Transportation Revolution offered many efficiencies that did not exist before 1800. The act of building out the infrastructure lowered the cost of transporting goods but also led to greater efficiencies in techniques of construction. The spillover effect helped to boost productivity across all economic sectors from agriculture to manufacture. What antebellum America had to contend with were the implications of moving from an agrarian ideal to a more robust and diverse economic order.

In the previous decade during the 1832 debate over tariff revision, Henry Clay in a three-hour speech spanning several days and frequently interrupted and delayed (he was reported to be exhausted afterwards), laid out a massive argument in scope and detail why United States needed tariffs. He was prepared to revise the Tariff of Abominations (1928) but not to abandon protective tariffs. In the course of the debate he apparently coined the phrase “self-made men.” Another self-hyphenated word that few Americans would have trouble understanding. A Whig might view the phrase through a different prism from a Democrat, but the basic idea that an American could make a life for himself was hardly missed. The context of Clay’s remark, however, is of interest. In the debate Clay was sparring with a long-standing adversary, Robert Hayne, over the merits and possibilities of manufacturing, which the tariff was designed to protect and promote. Opponents including Hayne had raised the specter that expansion in manufacturing would be accompanied by entrenchment of aristocracy. There was nothing new about this linkage – since the Hamiltonian period, sectors like manufacturing and banking carried a stigma because they were engaged in economic activities that were antithetical to the world of idealized producers whether as a farmer or artisan or tradesman. Manufacturers and bankers (plus some others) needed special treatment – manufacturers in the form of tariff protection because they could not compete with more advanced manufacturing economies and bankers in the form of legislative immunity not available to other businessmen. Manufacturers and bankers did not fit the Jeffersonian profile of the enterprising American whose efforts were meant to benefit himself but not to harm others. This was the
stereotype that Clay was trying to undermine when he answered Hayne. As long manufacturers were excluded from the economic pantheon, the rationale behind not just specifically the tariff but generally the American System would falter.

In his response, Clay proclaimed his regret that the debate had taken this turn. Clay thought that it was bad policy for the nation to remain dependent on foreign suppliers but even worse it was wrong to believe that manufacturing companies were somehow exemplars and enablers of aristocracy. It was his understanding that these “joint-stock” companies were business associations in which individuals had made investments, often small investments, in hopes that the incorporated companied would be able “to prosecute under one superintending head, their business to better advantage. Nothing can be more essentially democratic, or better devised to counterpoise the influence of individual wealth.” The real threat of an aristocratic system was when one individual or a few could control the avenue to wealth. At this point he introduced the self-made men. “In Kentucky, almost every manufactory known to me is in the hands of enterprising self-made men, who have acquired whatever wealth they possess by patient and diligent labor.” He turned to a comparison that others must have thought of and some must have feared: “…is there more tendency to aristocracy in a manufactory, supporting hundreds of freemen, or in a cotton plantation, with its less numerous slaves, sustaining, perhaps, only two white families – that of the master and the overseer?” Not an outright condemnation of slavery – Clay represented a state with slavery – but asking instead which is more aristocratic? Clay did not dwell. He returned to the economics of a protective tariff. First, he proposed that the American System would bring into the marketplace locally manufactured goods that were cheaper than the same imported goods. He cited the example of bar iron in the United States. Since the Tariff of 1828, when bar-iron protection was enacted, the price had fallen from about $100 per ton to $75-81 per ton. The industry including the producers and those ancillary business now employed nearly 150,000. Most importantly, the quality of American bar iron was superior to what had been imported. Clay readily admitted that protection raised many questions. Should the fabricator of products from iron bars be protected along with the maker of the iron bars? Or should the grower of cotton and the manufacturer of cloth from the cotton both be protected? Generally, responded Clay, the two arms of the industry may not agree; errors may result, but they can be remedied and, therefore, the overall benefit survived.

More serious was the charge that the decline in iron-bar prices was part of a downward trend in prices of many domestic commodities, especially cotton and tobacco, with adverse effects on producers and workers. Clay acknowledged such
but had an explanation that dismissed protection tariffs as a cause. One should look at supply and demand for the explanation. As more was produced, prices could be expected to decline. Even where products were protected, the protection itself spurred production and reduced prices. Opposition to the tariff was mainly from the producers of cotton and tobacco for export because they had no desire to change the system of exporting raw materials in exchange for manufactured goods, many which were subject to duties. If they continued to resist manufacturing, opportunities for self-made men in the South would falter. Of course, the very premise of Clay argument – self-made men – flew in the face of how the South’s social and economic structure had evolved. Self-made had limited applicability in slave-labor systems.414

The self-made man had entered the American vocabulary. Whether or not Clay was the first to use the term the idea behind the description of Kentucky manufacturers (mainly whiskey makers) was not alien to American ears. Benjamin Franklin had argued for prudence, thrift and diligence as ingredients for a successful and productive life. Those qualities may have been lost or at least were revised in the hustle and bustle of the Jacksonian Era, but the basic proposition making it on one’s own had become standard fare. It could be a tortuous ride, as the second quarter of the nineteenth century had shown, and failure was as frequent as, perhaps more frequent than, success. The battle over tariff (and other issues) had to do with the old self-made versus the new self-made. The idea that an individual's status derived from birth or rank or background had been wrung out of the American social lexicon. It was not that America lacked social distinctions, for indeed some were richer, better educated, more powerful than others, but rather that the distinctions were not meant to represent fixed social categories. To aspire was widely applauded, even if it entailed risk. The debate since the mid-1820s was not how to defend traditional social systems in which individuals were ruled and ranked but how to create a system that would complement individual effort. Americans had yet to settle the debate about how much to intrude. The diversification of the American economy since 1800 had opened the door to scammer as well as the entrepreneur. The agrarian dream was still the dominant ideal but not the only way to make it. In the two most contentious areas, manufacturing and banking, the opposition was not to the endeavors but to any endeavor requiring special legislative treatment. The Jeffersonians were doubtful that certain non-agrarian pursuits could serve the goals of a society of self-governing individuals. When Clay invoked the image of the self-made man, Americans had already broadened the economic playing field. It included the

manufacturer along with the farmer, planter, artisan, shopkeeper and even the banker and the speculator. They had acquired a taste for acquisition, and, more importantly, they were looking beyond the presumed channels.

When we look back upon the boom and bust cycles within the longer perspective of the first half of the nineteenth century, we can note some important patterns. Available data indicate that per-capita income (statistically) did indeed rise during the first half of the nineteenth century. Higher per-capita incomes do not prove that the expanding economic pie made each and every individual’s life better, but they point to a general improvement in the wellbeing of the population. According to Gallman’s estimates (1860 prices) GNP had risen from about $150 million during the American Revolution to $2 or 2.5 billion at the nineteenth-half-century mark. Even in the aftermath of the worst panic real GNP per capita (1860 prices) rose in the decade 1839-1848 to $102 from $97 in the previous ten years. In general, when per-capita data rise, the conclusion is that people are better off. Even when the GNP annual growth per-capita is compared to Net National Product (NNP excludes the latter is lower than the former but still exceeds 1.5 percent per year. The change in consumption may be a better gauge of wellbeing, and Gallman’s calculations indicate that per-capita consumption was on the rise as well, although at a lower rate than per-capita income GNP because capital goods, being a component of GNP, assumed a increasing share of GNP, thereby reducing the share of consumption. An interesting set of consumption figures is that when a percentage distribution among three classes – perishables, semi-durables and durables – is calculated, the consumption of semi-durables and durables increased significantly after 1840, while consumption of perishables declined slightly. The flow of goods and commodities on a per-capita basis continued to rise between the 1830 and 1860. Anthropometric measurements are also used to assess wellbeing, and while the income and consumption data look favorable height within age-cohort look less favorable. Height within quinquennial cohort between 1830 and 1850 decline slightly (although white males were already considered to be very tall), the significance of this decline remains to be determined. Such factors as the Civil War, disease, immigration pollution and public health may influence why these cohorts suffered a decline of about one to two centimeters. Still Americans were young, healthy and energetic because the level of nutrients per-capita were high by prevailing measures. Gallman noted examples such as stoves that were

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415 Gallman, “Economic Growth,” in Engerman & Gallman, eds., *Cambridge Economic History*, 2:Table 1.3, 7 for GNP & Table 1.9, 27 for NNP.


more efficient for heating and cooking and balloon frames that allowed for quicker
and cheaper construction. Even indoor plumbing and central heating became more
widely diffused.\(^\text{418}\) The “revulsion” of the late 1830s should be taken seriously, but
within the context of a growing and changing social order.

Even personal savings rose during the post-Panic decades. “In the decade 1839
through 1848 Americans saved about 14 percent of the gross national product..., a
large savings rate by recent standards.” Savings continued to rise in the last decade
before the Civil War and after the War. By the end of the century the figure had
reached 23 percent. Since economic theory treats savings as equal to investments
\([S=I]\) what was being measured was the potential for investment and these
calculation may be read as gross investment of GNP.\(^\text{419}\) Savings were as a share of
GNP had probably been on the rise since the late eighteenth century, and while
they contributed to domestic capital formation, they were inadequate for what was
needed. Savings were what was left after spending. That individuals were
consuming and saving meant that they had income, and that they could save more
meant that their incomes were rising or their expenditures falling relatively
speaking. Under deflation with falling prices individuals could save more. That
they had money to save meant they had incomes. Under these circumstances
deflation did not mean unemployment, at least we cannot assume that as prices
were falling unemployment was rising. How did individuals manage their savings?
Certainly some used their mattresses, not surprising after the financial meltdown,
during which tens of thousands lost all or part of their savings. The other option
was a bank or financial agency like an insurance company. Few invested in the
stocks or bonds simply because the mechanism for doing so was inchoate. When
individuals placed their savings with financial institutions, they expected to paid
interest. What the financial institution did with the money was to invest it in hopes
of earning a return that would pay for the interest and the expense connected with
the saver’s account. That savers directly invested their funds was less practiced
then than now because the mechanism, known as intermediation, needed to bring
the saver with money together with the investor or the entrepreneurs in need of
money was barely developed. However, banks and other financial agencies
undertook the task of turning savings into investments. The demand for capital
grew as the nation grew, and financial institutions filled the void. Not all capital

\(^{418}\)See Gallman's more extended discussion in “Economic Growth,” in Engerman & Gallman, eds., *Cambridge Eco-
nomic History*, 2:24-38.

\(^{419}\)Gallman also offers data described as net-investment as a percentage of NNP in constant prices and projected as
far back as the Revolutionary Period. Since he referred to them as less reliable than the “gross” figures, I have de-
cided not to include them in this discussion. Gallman, “Economic Growth,” in Engerman & Gallman, eds., *Cam-
bridge Economic History*, 2:Table 1:12, Panel B, 40, 43.
that was needed could be raised within the country. Since the founding of the nation, foreign capital made up the difference. Europeans were more experienced and savvy about investing and undertook projects, often short-term in nature, that Americans shied away from. Gallman observes that “clusters of American savers...were willing to risk their accumulations in enterprises far removed from their everyday experiences” but most were not. Saving Americans understood, but investing was something they still had to learn. In pre-modern economies transfer of capital was often a personal transaction between the lender and the borrower. For modern capital markets to develop, savers had to learn to accept a “depersonalized” transaction. In studying the rise of modern capital markets a half century ago, M. M. Postan found that savers had to be educated in what he called symbolic capital, i.e., buying a piece of paper (bond, stock or other investment instruments) that designated ownership in an asset as acceptable and in fact as preferable to buying the asset itself. The learning curve was steeper in America because of certain obstacles. According to Lance David and Robert Cull, “because of the greater geographical distances between the savers in the East and investors in the South and West” as well as the “marked disparity between the new expanding industries that required finance and the older traditional activities that were the source of the savings”, it took longer, perhaps well into the middle of the nineteenth century before domestic capital formation was adequate. In the 1830s, for example, foreign (British) capital assumed a prominent role once again not so much because of the volume, which was small but not insignificant, but because how it was targeted. It moved into areas such as infrastructure investment where American investors were still uncomfortable or inexperienced. During the boom of the 1830s net foreign capital movement (inflows minus outflows) amounted to a plus $180 million while in the next decade it amounted to a minus $80 million. Following the boom, many states with infrastructure projects financed by foreign investors could not meet their debt obligations and defaulted. Foreigners began to pull their money, and that accounted for more outflow than inflow. One proposal put forward by the Whigs was to distribute federal funds to the states in order to ease their financial burdens. They had overspent, and, as the economy contracted, they lacked the income to pay dividends or redeem bonds. Constitutional objections derailed that project. States were pretty much left to their own resources, and since those resources had disappeared, states defaulted on various debt obligations and that in turn caused companies and individuals doing business to declare bankruptcies. Foreign returned the American market after the recovery was underway, but after 1840 a with a rising savings rate the domestic capital pool

There is much debate in the economic literature whether or not banking or financial institutions are needed, fundamentally speaking, to stimulate growth. Intermediation provided by a banking structure would seem useful and perhaps essential for allocating capital and organizing credit. The pre-modern idea of individual savers hooking up with potential investors without a structure seemed inefficient and unworkable in this new economic environment. Let me return to Howard Bodenhorn’s research on antebellum banking. Although his analysis of the relationship between intermediation and economic growth is technical, the question that he asks is straightforward: did banks matter to the economic growth which Gallman others have identified in the three decades before the Civil War? In particular, did banks matter in the decades following the “revulsions” of the 1830s? Recall that several hundred banks disappeared after the Panic of 1837 and its reprise in 1839, but banking did not disappear. The number of banks plus the volume of credit and money after the panics actually grew during the next two decades. Money, i.e., banknotes, was important to economic growth, and in time credit, i.e. lending, became important. “Banks monetized the economy, developed credit channels which fostered investemnt in new regions and new industries, and helped to integrate a number of distinct regional markets into a unified whole.” Integration may have been the most important result for the rise and evolution of financial intermediation prior to the Civil War. How growth occurs, as Bodenhorn points out in his methodical discussion of many different economists and their models, is an unending debate. An important effect of the growth in banking – and Americans seemed to understand this, although they disagreed about how to achieve – was a reduction in “the great dispersion of the rates of return on various financial assets.” Hence, all the controversy aroused by the Bank War and the subsequent events did not put an end to banking. States reformed banking laws, and the national government, despite efforts by Clay, Webster and others, played a minimal role in matters relating to financial intermediation. By Bodenhorn’s reckoning states with more advanced financial intermediation enjoyed somewhat faster economic growth than states with less advanced financial intermediation. The Panic of 1837 was a financial crisis, caused in part by exogenous circumstances and in part by banking excesses, but, as severe as the collapse was, it did not lead to the disappearance of banks. It led to new rules, a growth in private

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421Capital movements plus distribution of foreign capital in Davis & Cull, “Capital Movements,” in Engerman & Gallman, eds., Cambridge Economic History, 2:Table16:2, 737, Table 16.3, 741 & 773.

422Recall Gouge’s assertion that the business of trading in money was no different from the business of trading in shoes; people with money would find people in need of money, and they would agree on terms to complete the transaction without any intermediaries or privileges.
banking outside of state-chartered institutions and, perhaps most surprisingly, to more sophisticated paper instruments by which banks brought together the saver with the investor.\footnote{I have only scratched the surface in terms of how Bodenhorn undertakes his analysis. Chapters 2 (“Financial Development and Economic Growth”) and 3 (“Financing Entrepreneurship....”) are crucial to an understanding of the relationship between growth and money/credit and to the performance of intermediation based on a small sample of four banks. \textit{History of Banking}, quote above from pp. 225-226. For a detailed discussion on changes in state banking see Jane Knodell, “State Banking, Payment Technology, and Private Banking in the U. S., 1840-1860,” a paper delivered before the New York University Financial History Seminar, 9 March 2007. Available on-line at \url{http://w4.stern.nyu.edu/emplibrary/Knodell.NYU_seminar_paper.pdf}. Citations only with permission.}

Bodenhorn reports that the number of banks had more than doubled between 1830 and 1840, reaching 900 and total loans had risen from $55 million to $460 million. By the mid 1840s due in part to the Panic and its aftermath the numbers had fallen to about 700 banks and $289 million. In the next 15 years when Democrats controlled the White House 12 of those 15 years, the number of banks more than doubled to 1,562 and loans more than doubled to nearly $700 million. Bodenhorn argues that the federal system allowed for the “freedom to establish systems reflecting local needs and preferences.” When the state banking systems are compared, the variables them that separate are far greater than the variables that unite them. Let me highlight some of the differences.

- In New England, regarded as having the “most stable and conservative” banking system, banks “were relatively small, unit banks; their stock were closely held;” they made loans to farmers, merchants and artisans who managers usually knew; and states “took little direct interest in their daily operations.”

- In the Middle Atlantic region the patterns were difficult to summarize. In Pennsylvania the state took an active interest in banking operations (to the extent that bribery may have been involved in chartering one bank); banks tended to be organized around groups that they were intended to serve such as merchants, farmers or mechanics, as reflected in their names; short-term (30 to 90 days) commercial loans were common but banks serving farmers and mechanics offered mortgages. New York, by contrast, moved from a system of state-chartered banks to free-banking where by observing a few rules anyone with capital (which was invested in state bonds and held by the state treasury) could start a bank; New York also introduced the idea of a “sinking fund” (liability insurance like FDIC now) to protect against failure.

- Western and southern state banks were distinguished by their branch systems
(branch banking failed in Pennsylvania) because banks were involved promoting economic development in areas that might become important commercial centers; states took a financial interest in banks and in some cases actually owned the banks; different types of bank charters were used – banks for manufacturers, mortgages, railroads – to meet specific needs; states used charters to create banks (known as relief banks) to help distressed borrowers through difficult times.

Bodenhorn concludes that despite the differences state banking systems had a common goals – to help regions develop their economic potential. They did this in two ways: “banks monetized economies, which reduced the costs of transacting and helped to smooth consumption and production across time.” For example, for every farm family it was no longer necessary “to inventory their entire harvest. They could sell most of it, and expend the proceeds on consumption goods as the need arose until the next harvest brought a new cash infusion.”

In his writings Bodenhorn makes an impressive case for the value of the antebellum banking system to grease the wheels for economic development. But the battle over banking had a political and ideological component, not just with regard to the obvious symbol of the Monster of Chestnut Street, but in the states where banking had a direct and personal identity. Banks charters did not create perfect institutions, and they were often granted powers that legislatures regretted. Recall that critics of corporate banking whether authorized by the national government or by state legislatures was bad policy because charters in and of themselves erected barriers and invited corrupt practices. And yet hundreds of banks were chartered while the fighting over banking took place. In the second half of the second quarter, partly in response to the devastation caused by Panic state legislatures took up banking reform agendas. Despite inconsistencies between egalitarian ideals and legislative charters politicians on both sides whether or not they full understood recognized that chartered banks could aid in what was becoming mainly a state responsibility – guiding and supporting economic development. Why asks Professor Bodenhorn, who is very much focused on numeric analysis of the banking system, couldn't the players simply match up their

424 Howard Bodenhorn, “Antebellum Banking in the United States.” Available on-line at http://eh.net/encyclopedia/article/bodenhorn.banking.antebellum. He offers essentially the same conclusion in his major monograph, A History of Banking in Antebellum America, Financial Markets and Economic Development in an Era of Nation-Building (Cambridge: Cambridge University press, 2000), 225-226. His argument is more sophisticated than I have presented here. Using a wide array of datasets and statistical tools he attempts to show that in accord with modern development theory the American banking system despite the lack of a permanent national banking system helped to reduce “the great dispersion of rate of return on various financial assets.” Pushing returns toward equality across regions and sectors probably meant that banks were making efficient use of their capital stock.
needs without the intervention of financial intermediaries? The short answer was, financial institutions allow “household and businesses to move resources through time to better meet their temporal consumption preferences.” There would be no need for financial institutions in a world where households and businesses took in exactly what they needed to meet expenses. But that was not the world in which Americans found themselves: merchants needed advances to build up their inventories, farmers to pay for preparation of land for planting, manufacturers to cover labor and raw-material costs – in other words the need for money before production or transaction could yield any income. What financial institutions did was to “bridge the gap between the often incompatible preferences of borrowers and lenders.” With intermediaries two facts stand out: banks narrow the prohibitively-expensive gap that occurred when individual borrowers tried to find lenders (and vice-versa) and when their preferences for liquidity or risk or security had to be negotiated. In other words banks were more efficient at working out the deals than individuals acting on their own were.425 And of course the instruments used by banks – paper currency and commercial paper – were needed if they were to be more efficient than self-acting individuals.

Even though Bodenhorn and other economic historians are convinced that the American banking system, despite its fragmented and diffused character – hundreds of banks operating under different charters and regulations – performed the tasks necessary to create a degree of integration in credit markets across geographic regions and economic sectors. But they also recognize that the banking systems were almost under constant attack because they were businesses created by special legislative acts. Granting charters had a long history, but uniform standards did not exist. In the initial decades after the nation was established, state legislatures, which usually met for a few weeks once every two years, devoted much of their time to granting charters for various undertaking, and yet they seldom wrote charters from a prescribed code detailing duties and obligations of the charter-seekers. Within the banking sector that led to undercapitalized or mismanaged banks that failed with adverse consequences for the communities and parties they served. Legislators were certainly complicate in these failures, but more often than not it was the act of chartering that came under attack. By the end of the first quarter of the nineteenth century or the beginning of the second banking reform was pursued in various states. Proponents of the Second Bank did not necessarily foresee the institution of national standards for banking had clearly established itself as a state function, but they certainly considered a national bank as the proper institution to monitor the activities of so many state banks created an

425 Bodenhorn, History of Banking, 49.
array of legislative acts. For the opponents of national banking, the answer was not to insert a questionable federal institution into the affairs of the states but rather to reform state codes and simply to end corporate banks. As noted above ending corporate banking was harder than reforming. Reforming banks also proved contentious.

Accounting for all the reforms or attempted reforms across more than two dozen states is beyond the scope of this inquiry. What has relevance for this inquiry is how were the arguments for reform made? In what ways if any had proponents of reform offered a different view of how individuals envisioned their activities within a troubled economy? That in itself is not any easier to summarize since the debates and discussions involved hundreds of proposals over more than a decade. But some general patterns can be highlighted. In the earliest decades, say, until the 1820s, charters were generally written for specific undertakings, although content and language could be similar from one charter to another. Since charters originated because special needs existed that states were ill-equipped to handle, each had an exclusionary purpose. In time charters lost their exclusionary quality and became the procedure by which a business could incorporate. In the case of banks states did not charter one bank, which would operate as a monopoly within a state, but they chartered instead scores if not hundreds of banks. Hence, the movement away from special charters toward standardized charters. In trying to come up with standards that would apply to all banks, for example, there was disagreement about what functions banks should be permitted. Among the most contentious in all states was currency. The circulation of paper money, especially small notes, had long been controversial. State-chartered banks could issue various paper instruments including notes, and in states or regions of states where specie was scarce paper currency was of vital importance. But hard-money advocates wanted all paper currency eliminated, and part of the debate over bank and charter reform had to do with this most contentious of issues. The “hards” versus the “softs” was probably more disruptive for Democrats than the Whigs, but even Whigs their disagreements. And the Panic of 1837 made the issue of currency even more contentious.

Figuring out how much America had changed between 1800 and 1840 and further figuring out how to explain those changes are daunting. Stuart Blumin has undertaken, as I have noted before, the task of trying to describe the intersection between economic development and social change. James Madison's idea that over time the population would “equalize itself” was no longer relevant. It was most

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evident in the fact that population concentrated itself in places where it already abounded.\footnote{Blumin, “Social Implications” in Engerman & Gallman, eds., \textit{Cambridge Economic History}, 2:824.} The percentage of people living and working in urban centers only rose from 5 percent in 1790 to 11 percent in 1840, small in percentage terms but large in absolute terms because the population was growing so fast. Some cities, mostly in the Northeast, had grown from tens of thousands to hundreds of thousands. Blumin's point is that a lot people, far more than ever envisioned in the initial years of the new nation, pursued urban rather than rural lives. \textit{Local} systems of inland towns serving rural hinterlands survived, but \textit{extra-local} systems of regional centers “etching a deepening path from countryside to town and from town to city” were in the rise. While more research is needed on how these lines of exchange and communication evolved and how they affected individual perceptions and actions, some manifestations of social transformation accompanying the economic development were evident. In the political arena Blumin suggest that the Second Party System unlike it predecessor was truly a \textit{system}. The political discourse and activity since the 1820s had taken on a distinctly different character – Blumin calls this a “cosmopolitan force”. The heart of the issue was the role of the state (and I would add the role of the individual) in guiding the nation along this new trajectory. Whigs advocated a federally “integrated” program, and the Democrats endorsed no such program without constitutional revision, an unlikely event. This is well known, but in an age of “mass political mobilization” both parties erected a “durable, hierarchical” organization – thus, a real \textit{system} – that operated from every corner of the expanding nation. It was no longer possible to escape or ignore the presence of a “national political life.” On one level the nation remained parochial, but on another level it was becoming cosmopolitan – urbanization and its impact on economic and social configurations had introduced a cosmopolitan force into American life.\footnote{Blumin, “Social Implications” in Engerman & Gallman, eds., \textit{Cambridge Economic History}, 2:826.}

When de Tocqueville presented individualism as an overarching characteristic of America's social and political experiment, he coupled it with something described as voluntary associations. In the Introduction to \textit{Democracy in America} he introduced the term, thusly:

\begin{quote}
With every individual in the possession of rights which he is sure to retain, a kind of manly confidence and reciprocal courtesy would arise between all classes, removed alike from pride and servility. The people, well acquainted with their own true interests, would understand that, in order to profit from the advantages of the state, it is
\end{quote}
necessary to satisfy its requirement. The voluntary association of the citizens might then take the place of the individual authority of the nobles, and the community would be protected from tyranny and license.\textsuperscript{429}

In various sections of the book he elaborated on the impetus for and the role of associations. They were “formed to resist evils...exclusively of a moral nature as if to diminish the vice of intemperance.” De Tocqueville observed that in America associations were created for many purposes – from public safety to public morality, from economic assistance to political organization. “There is no end which the human will despairs of attaining through the combined power of individuals united into society.” De Tocqueville claimed that the idea of associating was inherited from England, and he made clear that lacking “natural associations” like a noble or well-to-do class, which can check abuse of power (not an idea most Americans would buy), democratic societies run the risk of the most galling tyranny: “...a great people may be oppressed with impunity by a small faction or by a single individual.”\textsuperscript{430} De Tocqueville made a distinction between political and public or civil associations. The former were organized to deal with dissatisfaction or disagreement with the policies of parties or governments and to chart a different course. Public or civil associations were different to the degree that Americans created them “to give entertainment, to found seminaries, to build inns, to construct churches, to diffuse books, to send missionaries to the antipodes...in this manner they found hospitals, prisons, and schools. If it is proposed to inculcate some truth or to foster some feeling by the encouragement of a great example, they form a society.” De Tocqueville then noted that after meeting with some associations he came away impressed with how skillfully and enthusiastically Americans approached the tasks that brought associations into existence: how well they succeed “in proposing a common object for the exertions of a great man men and inducing them voluntarily to pursue it.”\textsuperscript{431} De Tocqueville's proposed that if men living in democratic societies did not have recourse to associating (admittedly a given), their very freedom would be jeopardized by those who wished to control them, although they might nonetheless “long preserve their wealth and cultivation....” But, if they lacked the right to associate in ordinary life (as opposed to political life), “civilization itself would be endangered.” Where things could not be achieved single-handedly, collective action even if voluntary would prevent the

\textsuperscript{429}De Tocqueville, (Bender ed.), Democracy in America, 11.

\textsuperscript{430}De Tocqueville, (Bender ed.), Democracy in America, 102, 104.

\textsuperscript{431}De Tocqueville, (Bender ed.), Democracy in America, 403-404.
What is the link between a new emerging social geography and voluntary associations? Before 1790, Blumin claims, “most Americans participated in few institutions beyond the essentially local and locally interlocking triad of family, church, and community.” Between 1790 and 1840 voluntary associations grew in number and size. Some remained local and temporary, but other became national and permanent. They included American Bible Society, American Education Society, American Sunday School Union, American Home Missionary Society, American Anti-Slavery Society and American Temperance Union, and unlike the strictly local associations these tended to be organized along “central-place pathways” – those lines connecting urban centers with outlying towns and farming areas along which trade and exchange took place – that had the end result of connecting local inhabitants with wider worlds. These societies had leaders, bureaucracies and programs. They may have been voluntary, but they seemingly acted like institutions designed to draw the individual out of his own private preserve and into a larger interlinked system. Specifically, urban centers served to coordinate activities of these societies in their efforts to advance their causes. Had the individual surrendered his faith in ruling himself for something more institutional direction and assurance? Without commenting directly on the state of self-rule, Blumin saw the process of integration across space in which voluntary associations, fraternal orders, newspapers and novels and “not the least the cities and towns that nurtured them came within the horizons of ordinary country and village people....” The flow of commodities from cities to the countryside and vice-versa was a driving force that led to “the widening of local horizons” as well as “to a relocation of authority within the community, and to a redefinition of social relations.” The growth in religious and secular voluntarism meant, according to Blumin, that choice was becoming more than ever a component of lives either in the city or the countryside. In the latter, in particular, the “coming of capitalism” did not necessarily change modes of production so much as modes of consumption. And with that came social awareness about living styles and living standards and how individuals saw themselves relative to others. Hierarchy did not disappear but social relations were less differential and prescribed: “... new social identities formed in a world of commodities, information, and institutions...imposed themselves, from outside, on the face-to-face communities.”

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432 De Tocqueville, (Bender ed.), *Democracy in America*, 405.


Social hierarchy had always been present in America. Who was at the top and who was at the bottom, however, were more a function of achievement than of birth. Persons born to wealth or to poverty might not see much change in their own status over a lifetime, but they could nonetheless observe changes in how the pecking order was arranged. Fluidity rather than fixity tended to characterize the American social order. De Tocqueville wrote in the first sentence of his book that among the many novel objects “nothing struck me more forcibly than the general equality of condition among people....” His allusion to an equality of condition has stirred debate. In a literal sense and in spite of its egalitarian and democratic tendencies Americans were not equal. Some were rich, some poor; some were powerful, some were enslaved; some achieved, some failed. De Tocqueville must have observed this, and in fact he did. America lacked certain institutions and customs which other societies used to erect a social order: “The last trace of hereditary ranks and distinctions is destroyed; the law of partition has reduced all to one level.” There was no lack of wealth in America, wrote de Tocqueville. The “love of money” has a strong hold “on the affections of men” accompanied by a “contempt...for the theory of the permanent equality of property.” At the same time wealth circulated “with inconceivable rapidity with the result that it was hard to find “two succeeding generations in the full enjoyment of it.” This was a tricky business. Americans claimed to love both equality and liberty. But did they love equality more than liberty? Did they not predicate their liberty on the fact that they were all equal – equal in power, wealth and rank? If the passion to be equal overwhelmed the passion to be free, would not the consequence be that both equality and liberty would disappear? Since the American Revolution and the Constitutional Convention American thinkers had struggled with the idea that one's self-interest would know its limits. (That it wouldn't was why Europeans equated individualism with egoism.) In considering these matter de Tocqueville returned to the idea of voluntary associations, not unlike what Blumin addressed.

As soon as several of the inhabitants of the United States have taken up an opinion or a feeling which they wish to promote in the world, they look out for mutual assistance; and as soon as they have found one another out, they combine. From that moment they are no longer isolated men, but a power seen from afar, whose actions serve for an example and whose language is listened to. The first time I heard in

435 A more popular translation of this first sentence is “No novelty struck me more vividly during my stay in the United States than the general equality of conditions among the people." The quote I have used is from Henry Reeve's translation, as revised by Francis Bowen and further corrected by Phillips Bradley in Thomas Bender's edition, cited earlier: De Tocqueville, Democracy in America, 3. The meaning is the same.

436 De Tocqueville, (Bender ed.), Democracy in America, 42.
the United States that a hundred thousand men had bound themselves publicly to abstain from spirituous liquors, it appeared to me more like a joke than a serious engagement, and I did not at once perceive why these temperate citizens could not content themselves with drinking water by their own firesides. I at last understood that these hundred thousand Americans, alarmed by the progress of drunkenness around them, had made up their minds to patronize temperance.

Nothing, in my opinion, is more deserving of our attention than the intellectual and moral associations of America. The political and industrial associations of that country strike us forcibly; but the others elude our observation, or if we discover them, we understand them imperfectly because we have hardly ever seen anything of the kind. It must be acknowledged, however, that they are as necessary to the American people as the former, and perhaps more so. In democratic countries the science of association is the mother of science; the progress of all the rest depends upon the progress it has made.\footnote{De Tocqueville, (Bender ed.), \textit{Democracy in America}, 407-408.}

The analogy to temperance can be extended to many other endeavors, especially with reference to the changing social relations imposed by the changing spatial imperatives. By 1840 the “logic of sufficiency” had given way to the “logic of accumulation”, and with that came the need for adjustment. Not all adapted to the logic and joined their colleagues to resist; and some, perhaps the majority, adapted and joined with their colleagues to pursue. In Blumin's words, a “tangible constellation of changes” had “intangible, cultural” effects that showed up in how Americans pushed ahead.\footnote{Blumin, “Social Implications” in Engerman & Gallman, eds., \textit{Cambridge Economic History}, 2:833-834.} Whatever framework Americans were employing and adapting they were pushing ahead.
The election of 1844 was a spirited affair in which Henry Clay, in his third presidential contest, came closer than ever. He failed to carry New York, which he needed, because of the presence of the Liberty Party. James Birney, little known outside of the Northeast, received votes that might have gone to Clay and thereby assured James K. Polk, a Democrat and a “dark-horse”, victory. After issuing no platform in 1840 the Whigs issued a short one in 1844 that barely addressed the issues of the day – expansion, slavery and reform. The Democrats, by contrast, issued another long platform that defended their past positions of no interference with slavery, continuing territorial expansion and limited government that will emphasize honesty and competence. The Liberty Party platform had a single issue – the abolition of slavery. They called themselves abolitionists and took the position that since the Constitution did not permit slavery and both the Declaration of Independence and the Constitution were dedicated to the protection of liberty slavery must be abolished. Unlike those who argued that the Constitution implicitly accepted slavery, the Liberty Party declared that at the time of the Declaration and the Constitution it was understood that slavery was a derogation of the American principle of liberty and should never be extended and should eventually be ended. The Liberty Party epitomized a shift that was occurring in American attitudes about the future of slavery. This shift will test some principles about how the society should govern itself.

Since the American Revolution Americans spoke proudly of their accomplishments. The Declaration of Independence was more the template for how we saw ourselves than the Constitution because it rested on ideals rather than constructs. The way in which the society had evolved from its revolutionary phase had more to do with the complexities of governing, however, than with assumptions about governing. Putting ideals into practice had stirred debate and controversy because the nation fell short from time to time. By the second quarter of the nineteenth century what had emerged alongside of the rise of political parties, the westward movement and the expansion of economic opportunities was a reform impulse. Not everyone was convinced that the course taken was appropriate. It was not a single course, but whatever the course was, it was more likely than not to be framed by the idea that the individual and his capacity to manage for himself was central. If the Federalists had espoused the view that it was best, even in a system founded upon popular government, for the elite – those with background and experience – to lead, they had lost the ideological battle. Across the leadership spectrum – local to national – many who had become leaders would not fit any standard definition of elite. America had its own brand of elite, but it
had to contest for influence with the old elite, with the newly-emerging elite and with the masses. Since many different voices and hands participated in how American society should be organized and led, it should come as no surprise that there were many voices and hands at work in trying to reform it. Unlike the European class system that a de Tocqueville could highlight as the ballast to provided focus and direction for reform, the less rigid and more open system in the United States induced greater dissent about what was wrong and how to fix it. Reform like the society that it belong to had a bit of a free-for-all characterization.

Years ago I was much intrigued when I first read John Thomas's “Romantic Reform in American Before 1815.” I'm fully aware that other have taken up the subject of antebellum reform and reached somewhat different conclusions. But Thomas's reference to reform as it emerged in the united States after the War of 1812 still rings true. Where I would quibble is with the term “romantic”. The more I thought about early American reform, the more I realized that reform imposed from within an institutional framework would be incompatible with the American experience and ideology. Within the prevailing social and political theory about the relationship of the individual to his society and government, an institutional setting through which individual behavior could be refashioned flew in the face of a widespread if not universal belief that institutions were the cause, not the relief. When individuals went looking for trouble’s cause, they almost always found in some institutional setting. If individuals organized themselves into groups, orders, ranks or whatever, they invariably sought to interfere with or intrude upon the actions of individuals whom they wished to control. The idea of romantic reform, according to Thomas, derives from the religious concept of perfectibility. Earlier in this essay, I made note of the fact that in trying to track down the phrase self-government, I ran smack into the religious admonition that people should learn to govern their motives and desires in accord with religious precepts to live a moral life. So too in the political arena. Inculcate and practice sound political principles, and a political system that protects rather than denigrates individual rights will emerge. In both instances the aim was to achieve progress and, if possible, perfection. Just as not any old religious precept would yield the desired effect, so not just any old political principle. Perfectibility had seeped from its religious origins into the political debates and then into the reform debates to correct the political structure. As Thomas himself acknowledged, it was almost circular to reason that efforts to correct a system founded upon individual governance could be redirected by trying to perfect or redeem the individual himself outside of any institutional force. A romantic view of reform, in effect. Expecting individual redemption across the board to right the ship of state could be a pipe-dream simply because the act of redeeming had as many outcomes as there were advocates or
participants. In a purely abstract sense, using institutional reform – a collective approach – focused attention and limited diffusion. In a society with a strong individualistic outlook and a stout institutional aversion personal perfectibility seemed almost unavoidable.\(^{439}\)

According to Thomas reform began in earnest after the War of 1812 as a conservative response to a perceived rising social disequilibrium. Some of those civic associations cited by de Tocqueville and Blumin – American Bible Society, American Home Missionary Society, American Sunday School Union and American Tract Society – were conservative to the degree that they saw their mission as “moral rather than social, preventive rather than curative.” These Christian evangelical preachers wanted to use their societies to inject morality into the social order riven by infidelity, intemperance and indecency. Sunday would be restored as a day of worship and instruction with no more pleasure-seeking, and each family with its own Bible would resume reading and studying the Scripture and would refrain patronizing beer halls and popular entertainments. These societies loosely cooperated, but they had their own agendas, leaders and goals. They directed their efforts at strengthening social institutions like the family, but in doing so, they reflected the difficulty of pulling together a broadly-based institutional attack on social ills that they all agreed arose out of the irreligious character of democratic, egalitarian tendencies. In a paradoxical way they were victims of what they were trying to reform – strategies based on particularistic visions. Their successes were modest, and by 1830 reform took a new and more assertive path.\(^{440}\)

Both in number and intensity reform accelerated after 1830 until mid-century. The ills had to be attacked not by rebuilding social units or strengthening religious practices but by striking at the heart of the problem – redeem the individual. Both strategy and message changed. Over time institutions in almost any form came to be viewed as sources rather than preventers of evil, and from time to time the language took on a radical or revolutionary tone that institutions generically speaking had to be uprooted and destroyed. Their wrath, in particular, was directed at political parties and associations. This led to feuds among the adherents as to who could be the “purist” in their approach. The end result for the redeemed was that once they had earned their status, they could govern themselves and would become the force for whatever remedial action was needed. Abolition was not the only example but sowed the most discord among anti-slavery groups and across


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society. The candidacy of Birney represented a turning point because many abolitionists dismissed using the political process to end slavery. The history of how political parties had dealt with the question of slavery up to this point provided ample proof that they will always compromise on an issue beyond control. On the failure of political parties – any and all – William Lloyd Garrison, was the most outspoken and vociferous critic in antebellum America. Quoting him is a gambler's game. He was both moderate and bombastic: “Thank God I was born in the United States – that my field of labor lies in the United States” and yet it was so bad that he had to ask “Are we enough to make a revolution? No, but we are enough to begin [sic] one, and, once begun, it never can be turned back. I am for revolution, were I utterly alone. I am there because I must be there. I must cleave to the right. I cannot choose but obey the voice of God.” Few doubted his fervency, but many thought him too incendiary – his dedication to war if necessary to eradicate the evils inside the political and social system. He was a religious man, but not necessarily tolerate. He knew whose side God was on. Peace was impossible so long as bondage survived and thrived. By any definition he was an individualist: “I solicit not man's praise---I fear no man's censure.” The one “distinct and emphatic lesson” for his children was “to take nothing upon mere authority” but to judge doctrines and institutions on whether they meet the standards that you have chosen as right for your own life. “Human governments are to be viewed as judicial punishments.” For Garrison religion was not blindly following but intelligently pursuing. To believe everything in the Bible was a “bold fiction”. Every man had the right to worship God according to the dictates of his conscience. Therein lay the problem, as religious thinkers had pointed out, beginning with Martin Luther. The prospect of every individual deciding for himself was chaos. Garrison believed that it was “theoretically right” and “practically attainable” to achieve perfection. How? When cleansed and reconciled – that certainly meant the end of slavery in any and every form immediately – then perfection would be achieved.441

Garrison launched The Liberator, his newspaper, in 1831 with an apology. Two years before he had argued in behalf of gradual emancipation. In the initial editorial he denounced gradualism as pernicious and warned all who defended slavery or took positions less than total emancipation to be immediately on guard – in his words they should “tremble” – because his paper was dedicated to securing their freedom in whatever way was required. “I will be as harsh as truth and

uncompromising as justice. On this subject, I do not wish to think, or to speak, or write with moderation. No! No!.” He will not be swayed by the criticism that he will set back emancipation, not advance it. He warned he would be heard, and furthermore he was not alone in thinking that bold, unwavering action no matter its consequences must be undertaken.442

In simplest terms slavery was a sin and slaveholders and supporters were sinners; only by repenting personally and individually could the sinners be redeemed. With the launching of The Liberator Garrison aimed at destroying slavery by condemning its enablers and by converting its victims. It was “direct and intensely personal”.443 Two years after the first edition of The Liberator, “A Declaration of Sentiments...” was issued in behalf of the American Anti-Slavery Society. It was Garrison's response to earlier abolition movements that proposed a less radical and more gradual solution. Slavery was denounced, as would be expected, but in the middle the “Sentiments” an acknowledgement was made that states had the power to “legislate exclusively on the subject of the slavery...tolerated within its limits.” In Garrison's mind, the federal government also had the authority but not the wherewithal. Efforts to enact statutory or constitutional remedies were impractical because slave states could block them. The only conceivable remedy was direct action by people in non-slave states. It would rest upon the shoulders of God-fearing Christians to carry the fight to the sinners themselves: “send forth agents”, “circulate...anti-slavery tracts”, “enlist the press and the pulpit”, “purify the churches”, “bring the whole nation to speedy repentance”.444 The message was repent, and the strategy was encounter. A few years later in a fiery and controversial editorial in The Liberator, he denounced all governments “whatever their titles or forms...in their essential elements” because they embrace the Anti-Christ and “...they can never be brought...into conformity to the will of God....” There was no chance that the Kingdom of this World would ever work because, as slavery clearly showed, the driving force among individuals was to rule over other individuals. At the end of the editorial he declared the goal was universal emancipation – “to redeem woman as well as man from servile to an equal condition”. This seemed like an natural extension of the anti-slavery crusade, and yet universal emancipation was not universally applauded. The obvious question for Garrison was, without formal government how were people to manage their


daily lives? Was this ultimate individualism? No government except for the
governing forces that individuals could call upon within themselves? Probably
not. This was a call to create a Christian theocracy in lieu of a secular government
in an individualistic society. Although he preached individual perfection, he did so
within a Christian framework. In that same editorial he warned that it was
necessary to emancipate “our whole race from the dominion of man, from the
thraldom of self, from the government of brute force, from the bondage of
sin.”

As a reformer in pursuit of individual redemption (the means by which
slavery would be destroyed) he disavowed and denounced all collective or
institutional strategies to reach his goals. He was the ultimate self-acting
individualist. If one were attempting to find a societal-based solution to slavery
(among other problems), Garrison had little to offer. In a society fraught with “self-
action”, he was the epitome of such. No matter where he hoped individual
redemption would lead – no assurances – the focus upon saving the individual and
thereby cleansing society simply enhanced and extended the idea of the supremacy
of the individual, an idea that some reformers and commentators might consider as
much the problem as the solution to the problem. Did reform in American need
more stress on letting the individual take charge of his own redemptive powers?

I will return to the abolition movement, the split between the moral crusaders like
Garrison and the political reformers like Birney and the way in which abolition
came to subsume all other reform movements. Before that, let me expand on
Thomas's overview of how romantic reform worked. Perfectibility was an
eighteenth-century Enlightenment ideal that tended to emphasize finding the right
political mechanism for balancing “selfish interests” and “private passions” with
social and economic progress. Rational rather than emotional. But Enlightened
thinking had more than one master. Under Jefferson and later under Jackson (with
a different emphasis) the focus turned away from developing mechanisms and
toward liberating individuals. Perfecting the individual took precedence over
perfecting the institution. “In appealing to the liberated individual, perfectionism
reinforced the Jacksonian attack on institutions, whether the ‘Monster Bank’ or a
secret Masonic order, entrenched monopolies or the Catholic Church.” The
outcome of pushing for individual perfection was millenarianism. It became an
“alternative to Jackson politics.” Thus, “social evils were simply individual acts of
selfishness compounded,” and the effort to reform the individual was educating
him or her as to what good behavior was. “As the sum of individual sins social
wrong would disappear when enough people had been converted and rededicated

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to right conduct.” If we step back from the abolitionist cause that came to dominate the reform stage, we find other reformers pursuing the same ideals – to improve society by improving the individual within both religious and secular modes. First, Thomas argues, Americans had to be made aware of the divergence between the ideal of a perfect society and the reality of a society with widespread “deprivation and suffering”. Then, the next step was to translate the idea of self-improvement, which Americans understood, into a reform program. Dorthea Dix, for example, shunned reform agencies in favor of a daily immersion in human suffering in order to work directly and personally with people. Following a different track, Bronson Alcott envisioned a lifetime of education in which “individuals learned to obey the laws of their own natures and in so doing to discover the laws of the good society.” Some like Charles Loring Brace resurrected the agrarian life by arguing through his Children’s Aid Society that relocating the children of “squalid poor” in rural communities for “moral disinfection” by learning the good life from hard-working farmers. Transcendentalists, so prominent among the writers and intellectuals of the antebellum period, was more interested in reforming the human spirit than the human circumstance and focused on releasing the power of the individual rather than on enacting political reforms. The list of reformers and strategies was long, and while not all accepted the irrelevance of organized institutional or governmental reform, the vast majority preferred to a course of action that would lead to the uplifting of the individual and from that would derive the basis of a well-functioning society. The communitarian reformers (who considered self-action as part of the problem) will alter that basic strategy in a curious way. As Thomas writes, “The communitarian experiments in effect were anti-institutional institutions.” They sought to build perfect communities because of a belief in a “perfectionist definition of the free individual.” These communities could be succeed, so the argument went, because they held the larger society at bay. With the confines of the communities individuals seek the perfection that they were capable of. In the end they suffered considerable instability and conflict for the same reason that the larger society did. The code for perfection was based on the will of the individual within a prescribed social setting that did not automatically

446 Thomas, “Romantic Reform,” American Quarterly, 17, 659.
448 Thomas, “Romantic Reform,” American Quarterly, 17, 663.
 Reform of American society did happen. There are many examples from the expansion of public schooling to the upgrading of prison or asylum care, from passing blue laws to reduce alcoholic consumption to enactment of 10-hour work days. On the most contested of issues, abolition, even Garrison could acknowledge an occasional advance in changing long-established and -accepted practices. At an 1855 celebration of the ending of separate schools for colored children in Boston, Garrison, never one to lose faith in the individual, declared that “societal reform begins in the heart of a solitary individual,…grows strong among ‘humble men and women….having faith in what is just and true, they engage in the work….” The reforms that resulted in legislative remedies at the local and state levels (federal government remained mostly aloof) can be counted as positive responses to demands for change. On one level these were institutional reforms – changes in the way governments performed duties assigned to them. Many of the perfectionist reformers noted above, however, discounted the role of government. If human nature did not change, governments, which could be manipulated or neutralized in any effort to enforce their laws, legislative remedies could not be trusted. That would take us back to the human nature. Legislative remedies might not actually change human behavior or arise from changes in human behavior. (Anyone my age who was active in the 1960s Civil Rights Movement may remember the debate over whether laws could actually change hearts.) For the perfectionist reformers, only when individuals recognized the immorality of their own lives and the world around them, could a change in attitude lead to a change in behavior that would change in society. In a fundamental way it was an endorsement of the ultimate power of the individual to govern himself properly and in so doing to make society a reflection of his good behavior rather than the other way around – that society could set the code by which he ought to behave. How they thought this would play out was never made clear. Just how was all the sinning related to enslaving or overworking or mistreating people to cease on the basis of individual redemption? It's easier to comprehend the potential for improvement by people who had to obey laws relative to that improvement than to understand how improved behavior would occur when multitudes of individuals were trying to improve their behavior almost on an individual basis. Was this not why from the outset a social order in some form or another came into existence to enact laws and erect institutions to


direct good behavior and prevent bad behavior? Romantic reform and individual perfection, it would seem, rejected social control on the dual grounds; it refused to recognize the capacity of the individual to manage his own life and it refused to acknowledge that controlling the individual was what led to his bad behavior. American society by the second quarter of the nineteenth century was subject to less formal governing than known in other societies, and yet, despite this or perhaps because of this, it had fallen on evil times. Something had gone a wry, and in the eyes of many reformers the only way to restore the individual was to reassert his individuality through a redemptive process and in so doing to strip away the institutional fabric that had misled the individual. Under such reasoning collective or institutional reform was unlikely and inappropriate. More self-action, not less was the remedy. A conundrum within American Individualism.

Against this backdrop on the reforming impulse let me return to the political arena. The Liberty Party will become a wedge in the political system. While Garrison dominated the abolition headlines, he was not the only voice. By the late 1830s his voice had driven out more moderate abolitionists like the Tappen Brothers because his dismissal of the political process and his appeal to personal redemption seemed to be divisive and uncompromising. Faith in the individual notwithstanding, trying to reach and convert every American to abolition was improbable and not without risk. It may be easier and safer to develop a political program that focuses on using the power of government to stop the extension of slavery, which with the precedent of the Northwest Ordinances, the Missouri Compromise and other measures it could lay claim to, and then ending slavery wherever it existed. The battle within the abolition movement and other reform movements (Peace, Temperance or Public Health) was mirrored in the larger political world whether formal government, beefed up into a more powerful version than many Americans were accustomed to, or individual initiative should set the course for eradicating slavery or any other evil.

The election of 1845 represented a turning point in the sense that intervention by government in the most controversial issue became a permanent part of the political debate. The Democratic Party would continue until the outbreak of war itself to defend the existence and extension of slavery by way of state sovereignty much like the language contained in the 1844 Platform. Indeed, Democrats were paralyzed by any thought of an active government for fear that such activity would spill over into debate over slavery. After 1844, despite the rising tide of criticism over extension of slavery and less so over the existence of slavery, the Party held North and South together. The Whigs fared less well even though they won the presidential election in 1848. Since the Party had southern members, conflicts
arose between Northern anti-slavery and southern pro-slavery Whigs and over time could not be accommodated. The Liberty Party, which helped to launch a movement for political abolition, never had much success, but its ideals and goals became suffused into other political parties such as the Free-Soilers and later the Republicans. During these years Congress passed back and forth between Whigs and Democrats until the demise of the Whigs in 1852 at which point Congress fell almost by default into the hands of the Democrats until the election of 1860. The manner in which the new political generation dealt with a long-standing but powerful distrust of government was to incorporate Jeffersonian and Jacksonian ideals into a political rhetoric that demanded political action to save those ideals.

James K. Polk is remembered for two things: Manifest Destiny and the War with Mexico. The two were linked. Since the Louisiana Purchase Americans had their eyes on the West that remained outside US borders. In Jefferson’s mind Louisiana would protect his agrarian ideal for centuries A half-century later Americans were less interested in protecting the agrarian ideal than adding territory. In 1839 William Sullivan, a Democratic journalist, had coined the term “divine destiny” that had morphed into Manifest Destiny. Texas, the immediate objective, had won its independence from Mexico in 1836, but Mexico never officially recognized the new nation of Texas. Efforts to annex Texas had begun shortly thereafter, led in large part by Southerners, who had come to believe that maintaining existing slave boundaries was inherently dangerous. Spreading the slave population was preferable to concentrating it. Not all Northerners bought into the goals of Manifest Destiny, but those who did were not necessarily advocates of the extension of slavery. The independence of Texas led to its annexation, and that in turn led to the War with Mexico. In Polk’s presidential term, not only did Texas join the Union but Mexico ceded most of the land of what now constitutes the Southwest plus California. To the chagrin of Northerners (and a few Southerners) who opposed annexation of Texas and the War with Mexico, America had just added more land than ever before. Enlarging the nation’s boundaries became, as it had in the past, a political issue as much as a territorial issue.

Polk was the seventh of the eleven Presidents from a slave-owning state. He owned a few slaves and will be a vigorous defender of the South, although not necessarily of slavery. In his Inaugural Address he recognized that he was speaking to nation that was strikingly different from the nation he had known when he entered politics in the early 1820s as a Tennessee legislator. He also acknowledged that his political background and relative youth (youngest president yet at 50 years) could raise doubts about how he would steer the nation within the body politic. His response to allay these fears (beside his trust in the Almighty) was to defend the Constitution to
the best of his ability. Not a new theme by any means. Such a view was almost required in Inaugural Addresses. Perhaps not so reassuring either because in the mid-1840s American attitudes toward the Constitution were shifting. What Constitution would he defend?

Polk listed the principles that would guide him – principles most Americans would know because they’d heard them expressed repeatedly. The Constitution delegated limited authority to the federal government, but under dual sovereignties the powers of the states were also limited. He would adhere to the widely-revered idea that the states managed domestic concerns while remaining the bulwark against “antirepublican tendencies”, and the national government served “as the sheet anchor of our peace at home and our safety aboard.” Foreign affairs plus a few other enumerated powers rested with the federal government. This arrangement left “individuals, over whom it casts its protecting influence, entirely free to improve their own condition by the legitimate exercise of all their mental and physical powers.” He declared:

This most admirable and wisest system of well-regulated self-government among men ever devised by human minds has been tested by its successful operation for more than half a century, and if preserved from the usurpations of the Federal Government on the one hand and the exercise by the States of powers not reserved to them on the other, will, I fervently hope and believe, endure for ages to come and dispense the blessings of civil and religious liberty to distant generations.

Since Polk had responsibility for the federal system, he vowed not to step beyond the enumerated powers in executing his authority in order to preserve and strengthen the harmony envisioned by the framers.

Polk stressed the dynamism of the nation: 12 [Rhode Island entered later] to 28 states; 3 million to 20 million people; “multitudes” from “Old Europe...flocking to our shores” to join the experiment; with peace and prosperity at hand the citizenry was left free to devote “itself to man's true interests in developing his faculties and powers and the capacity of nature to minister to his enjoyments”; the genius of the people let loose to “announce its inventions and discoveries”; their hands set “free to accomplish whatever the head conceives not incompatible with the rights of a fellow-being”; the first among nations where “distinctions of birth or of rank have been abolished”; citizens, whether native or adopted, have been “placed upon terms of precise equality”; under the law “[a]ll are entitled to equal rights and
equal protection”; church and state remained unlinked, and yet freedom of opinion has been guaranteed to all sects and creeds. Several million [slaves] were left out, but that was not unintentional; he specifically warned those who would alter this portrayal of the dire consequences for the Union.

Paraphrasing President Jackson, Polk declared that the Union had to be preserved. But it must be preserved in a way that recognized the “many States and distinct communities, of such diversified habits, interests, and domestic institutions....Any attempt to disturb or destroy these compromises, being terms of the compact of union, can lead to none other than the most ruinous and disastrous consequences.” Agitation was misguided and must be curtailed. On more practical matters he would restore the practice of frugal, debt-free government. Melancholy was “the condition of...people whose government can be sustained only by a system which periodically transfers large amounts from the labor of the many to the coffers of the few. Such a system is incompatible with the ends for which our republican Government was instituted.” He was grateful that sound credit was being restored, although some states were financially precarious. (Federal debts fell from $27 million to $25 in 1845 and to $17 in 1946, while state indebtedness was estimated at $190 million in 1841 and still rising.) As compassionate as the argument for federal assistance to states may sound, the larger argument is that states must bring their fiscal ledgers as quickly as possible without expecting any federal aid. He did not believe the fault lay with the citizens, who preferred frugality but rather with the public officials. He stated his opposition to a tariff of protection and would only support legislation for a tariff for revenue. Incidental protection could be excused, but nor general protection. All sectors must be treated with equality. He favored the annexation of Texas, and he believed that America had a rightful claim to all of Oregon as far north as 54º40'. He dismissed the fear that America was growing so large that it would not be able to defend itself or its economic interests. and he promised to defend its border and American international commerce.454

The Democrats won back the White House after having lost it in 1840, the first time this had occurred in American politics. The Panic of 1837 had contributed to the Democrats loss against Whigs. By 1844 the Panic had receded even though some consequences lingered. The position of the Democratic Party with respect to the economy and in particular banking had hardened in the sense (and excuse the pun) that the nation should return to “hard-money” policies. Hard-money was catch-all for restricting bank paper, expanding circulation of specie, encouraging private as opposed to chartered banking and limiting government intervention. This

was the stance of the Van Buren presidency and would become the stance of the Polk Presidency. With the demise of the 2BUS, the enactment of the Specie Circular and the recreation of the Independent Treasury (Sub-Treasury) Democrats tried to align the national government with their economic goals. most of the banking in America was under the control of the states, and if state Democratic leaders shared the views of the national leaders (and that’s not clear in every instance) the task of restoring a hard-money system was beyond their reach.

As contentious as banking had been for the past two decades, it will pale in significance to the fight over Texas and the War with Mexico. By the end of the first year of Polk’s Presidency (December 1845), Texas had been annexed. In May 1846, after some skirmishes that resulted in American deaths, war was declared on Mexico. Only a dozen or more Representatives including John Quincy Adams voted against the declaration of war, and a handful of Senators either voted no or abstained including John C. Calhoun. Opposition to the war in both chambers was based primarily on whether a war was necessary. Was it not possible to push the Mexican army back to a border that would satisfy Texans but avoid, as Calhoun had proclaimed, all the domestic and international complications that came with a declaration of war. At the very least, what he and a few others wanted was time to assess whether war was necessary or would accomplish what it was supposed to.

In his First Annual Message, before war was declared, Polk had more than Texas and Mexico on his mind. He resurrected the Monroe Doctrine (1824) that had warned European government not to interfere with the independence of former colonies. Under Polk's reading the United States could not tolerate objection or inference by European powers who feared that extension of America's borders might upset the “balance of power” in Europe. This warning was directed at Great Britain, which was thought to be advising Mexico to prevent the loss of California and trying to block US influence on the Pacific rim. The intention to block American expansion was in and of itself sufficient grounds for the United States to warn and act. A month (15 June 1846) after war was declared on Mexico, an Oregon compromise was achieved with Great Britain and the United States agreeing to a boundary along the 49th parallel. Polk was criticized in his own Party for not defending the territorial interests of the United States in negotiations with Great Britain. In the meantime Polk made good on other campaign promises. He

455 The resolution to annex Texas was recommended by President Tyler before he left office and passed by Congress on 28 February 1845 before Polk assumed the Presidency. After further negotiations Texas accepted the invitation on 29 December 1845.

signed bills that lowered the tariff (Walker Tariff, 30 July 1846) and reestablished the Independent Treasury System (6 August 1846), both of which the Whigs fervently opposed. Robert Walker, former US Senator from Mississippi, was Polk’s Secretary of the Treasury and among Polk’s most influential advisors. The Walker Tariff reduced rates on average by 25 to 35 percent, which, as Walker had predicted in a Report to Congress, would increase trade and revenue. The revised tariff most directly favored trading relations between the United States and Great Britain at a time when Polk was also negotiating the Oregon question. The Subtreasury was designed to remove the national government from any banking functions and served as a depository for federal funds instead of state banks, which could use such deposits to increase the volume of banknote circulation, receiving and dispersing money to cover its federal obligations. These policies were much more favorably received in the South than the North and tended to portray Polk as a “southern president” first and foremost. Nonetheless, the Oregon Treaty, the Walker Tariff and the Independent Treasury represented three of Polk’s major goals, and accomplishments that would help to rank him among the “near-great” presidents. Territorial questions, however, related to the annexation of Texas and the War with Mexico will present Polk with a new dilemma. How to manage the opposition to the extension of slavery that came with the acquisition of territory. Manifest Destiny had some unintended consequences.

The unintended consequences appeared even before the Treaty of Guadalupe was signed in 1848. Several months after the declaration of war the prospects were that the United States would not only secure Texas's border along the Rio Grande but would also gain new territories. The Polk Administration won a vote on declaration of war fairly easily, but it encountered opposition from the Whigs, mainly from the Northeast, on various appropriation bills and peace overtures after the declaration. The Mexican government and army were in disarray, and there was never much doubt who would emerge victorious. What was less clear was what would the United States gain and what would Mexico lose.457 In the end, after the United States occupied Mexico City and peace negotiations began. Mexico ceded to the United States California and New Mexico (which consisted of modern states of Arizona, New Mexico, and parts of Nevada, Utah and Colorado). The United States agreed to pay $15 million to Mexico and to cover all claims by US citizens against Mexico from the period before the war. The boundary was set at the Rio Grande River. In March 1848, the Senate approved the Treaty by a notable margin, although less than enthusiastically, after deleting one article from the documents. A separate battle was being waged in Northern California where the Mexico forces

457The War with Mexico has been covered by many scholars. Territorial acquisitions as a consequence of the wear will prove to be more nettlesome than the war itself.

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finally surrendered in early 1847. Although technically still a part of Mexico, it was under the control of the US Army. With settlers trickling into Northern California, while the war with Mexico was being fought in and around Mexico City and other places, James Marshall discovered gold at Sutter's Mill in Coloma in January, 1848. Eventually, especially after President Polk confirmed the discovery of gold in his Annual Message in December, 1848, the discovery set off the famous “Gold Rush”, and by the next year, 1849, California had several hundred thousand settlers. Far more quickly than anyone had anticipated, California was ready for statehood. As most wars had, and despite mining bonanzas, the War and the Peace with Mexico increased the Treasury’s red ink. That will become a hotly-contested debate.

The War did not slow demographic growth. The population had risen sharply in the decade of the 1840s, both from internal and external factors. The total population rose by a third between 1840 and 1850. Part of the increase stemmed from the heaviest inflow of immigrants yet, about 1.5 million. Even without immigration internal growth was have been substantial. The inflow of immigrants has an important economic effect. Immigrants brought wealth either in the form of material possessions (including money) or in the form of personal skills. Estimating this, say, in terms of the impact on Gross National Product is difficult, but Gallman, who worked assiduously to reconstruct GNP estimates and the contributions of GNP components, agreed with Paul Uselding that “human capital acquired by the United States from immigration was probably almost as large as the volume of conventional investment made in the United States” before the Civil War.458 The heavy immigration had political costs, even as it provoked a rise in xenophobia that led to the establishment of the anti-immigration, anti-Catholic Know-Nothing Party.459

America was hardly a crowded nation, especially in the 1840s with acquisitions of Texas and the Mexican Cessation. In the midst of economic calamities, war and sectional disputes Americans continued to move to West, perhaps in greater numbers than before. Assuming the East to be the Atlantic Coast states and everywhere else as the West, about two-thirds of the nation lived in the former and the remaining third in the latter. By 1850 the ratio was about 60-40 and by 1860 it was 50-50. In the meantime the size of the nation in square-miles had grown from 1.5 billion aces to about 2.5 billion and the total population including immigration


459It had several names: American Republican Party, Native American Party and American Party.
from 17 million (1840) to 23 million (1850) to 32 million (1860). The densities based on all land (productive or clearable land would be more accurate) did not change much as the nation added land and people. It is not clear that heavy immigration alone was much of a factor. Why, then, did people move West, especially in times of turmoil? The question has been asked many times, and the answer remains elusive. In a recent paper, highly technical, Guillaume Vandenbroucke has tried to account for the westward movement across the nineteenth century. What he found by testing a series assumptions, some factual and some counterfactual (what might have been), he determined that cheaper transportation “induced the westward movement” and population growth in the East where continued investment in productive lands would not yield as much as such investment in the West. As others had assumed, population growth played a role but within a specific context of the value of investment in land. Productivity was more fixed in the East more than the West. Using Gallman’s “Stock of Improved Land” data Vandenbroucke found that from 1840 to 1860, the US total of “improved acres” rose from about 75 million acres to 150 million acres, and the share of western acreage rose from 25 million (33 percent) to 90 million (56 percent). The “safety-value thesis, for example, that people needed a place was static by comparison with Vandenbroucke’s model in that he tried (mathematically if you will) to ascertain how certain forces influenced a westward movement.\(^{460}\)

The President, as Commander-in-Chief, could lead the military effort, but he still needed the support of Congress to provide the money. These included not only appropriations to pay for troops and supplies but also to pay off Mexico as part of the peace plan. It was with appropriation bills that money, slavery and expansion set off fireworks in Congress. In 8 August 1846, without warning, President Polk’s allies in Congress introduced a bill (known as the Two Million Dollar Bill) to advance negotiations for a settlement with Mexico. Congress was expected to adjourn in a few days, and the reaction in Congress to this maneuver was not favorable, even among Democrats. Congressman David Wilmot (D-PA) with the help from some colleagues moved to attach an anti-slavery proviso to the bill. The proviso was straightforward and simple: slavery could not be extended to territories acquired from Mexico as a result of the war, and the House approved the appropriation and the proviso on the day it was introduced. There was surprise, joy

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\(^{460}\) Vandenbroucke, “The U. S. Westward Movement,” 1-3 9-10, 17, 19. The following paragraph, not being laden with mathematics, although based upon mathematical models, illustrates how the author approaches this multi-faceted topic. “Reduction in transportation costs have expected effects. First, the transportation cost for house- holds dictates the East-West wage gap. As it declines, more households move to the West, reducing the wage rate there and increasing it in the East. Second, a reduction in the transportation cost for the intermediate good induces the western firm to use more of it. This results in an increase in the marginal product schedules for western land and labor and, in turn, raises the demand for labor and improved land. (p. 10). I could not determine if this paper has been published yet. Available on-line at [http://economics.ucr.edu/seminars/fall06/ets/Vandenbroucke12-4-06.pdf](http://economics.ucr.edu/seminars/fall06/ets/Vandenbroucke12-4-06.pdf).
and consternation, as this was the first time such an action had been taken. There were by 1846 many more northerners in the House than southerners, and the South had long ago decided that it could only protect slavery if it could block any such legislation in the Senate. Thus, the importance of maintaining parity in the Senate. Even though many southerners believed that under the Constitution slaves, as property, could be taken anywhere in the Union, the South had more or less assumed that the line drawn in the Missouri Compromise (1820) extended to the Pacific. To deny slavery in California and other territories south of the line would be to scrap the assumed pledge. Wilmot and other northerners did not accept this interpretation. Mexico had abolished slavery, and the United States should not be party to its re-introduction.

There was little likelihood that Wilmot's Proviso would ever be approved in the Senate or be withdrawn in the House. As a result of more than a decade of agitation the anti-slavery crusade had laid the foundation or created the climate for a more skeptical attitude if not an outright opposition to the unlimited expansion of slavery. Abolitions talked about the extinguishment of all slavery, but that was more of a debate among the crusaders themselves than across the public spectrum. The western movement was always identified with pursuit of opportunity, and the southern strategy to extend slavery as far as possible or at the very least to prevent constitutional or legal exclusion of slavery looked increasingly to be a strategy at odds with the basic western ideals.

On 8 August the House took under consideration a communication from the President, addressed to both Senate and the House. The communication was read to the assembled House, the key passage being that the President sought an advance of a sum of money to facilitate the peace with Mexico. By Polk's reasoning boundary adjustments were inevitable, would no doubt involve payments to Mexico by the United States under any treaty and would be satisfactory to Mexico if money were made available immediately and openly antecedent to any prolonged treaty negotiation and confirmation. No amount was contained in the communiqué, and Polk promised to prosecute the war until treaty was secured. Although the President's message was referred to the Ways and Means Committee, the House voted to convene as the Committee of the Whole on the State of the Union, a procedure that opened the house floor so long as a quorum existed to debate pertinent, if not controversial resolutions and bills. Congressman James McKay (D-NC) introduced an actual bill to meet the request of the President with a Two Million Dollar price tag for “defraying any extraordinary expenses” arising from the War. After which Charles Carroll (W-NY) took the floor to condemn the request on the grounds that the United States went to war to get compensation from
Mexico for “spoilations” of property held by Americans. Was Mexico really demanding more money than it was owed in a war that was originally justified to force Mexico to pay? [I'm reminded of Peter Seller's comedy, “The Mouse That Roared”.] Carroll answered his own question with NO – the purpose was a down-payment to Mexico for eventual acquisition of California and other Mexican territories. After parliamentary wrangling over the time for debate about the President's message and a recess, the House agreed to debate the message for two hours, staring at five o’clock, after the recess. Once deliberations resumed in the evening session, Hugh White (W-NY) in a speech from the floor objected not just to the Mexican War but numerous bills (i.e., subtreasury bill), proposed and passed by Democrats, what he called “experiments” that no wise person would ever have permitted. After several speeches, pro and con, Wilmot took floor to introduce the Proviso. A group of Congressmen with whom Wilmot associated had leanings toward political abolition and decided (meetings had occurred before 8 August) at some point to test the will of the Congress on the question that Congress had tried assiduously to avoid – a stand on the power of the Congress to prohibit the extension of slavery. Wilmot’s Proviso did not address the existence of slavery, but in the eyes of many on both sides of the issue, to limit the expansion of slavery was to attack the very foundation of the institution. Over the next several years the Proviso was introduced at least three times and each time it passed in the House it was blocked in the Senate. The first test came on the Two Million Dollar bill.

Who wrote the Proviso sparked controversy about who wrote the Proviso. According Ohio Democrat House member, Judge Jacob Brinkerhoff, he scribbled out the words of the Proviso based on his recollection of the text of the Northwest Ordinances. Brinkerhoff, Wilmot and several other dissident Democrats had been consulting for a while on the territorial question so the writing of Proviso may have been a collective. What is fairly well-established is that Wilmot was loyal to Polk, an important consideration since he may have been the only one of the group that could be recognized from the House floor during the debate on the money bill, given the way in which parliamentary rules operated during such debates. Brinkerhoff, who later described Wilmot as “fat and phlegmatic” and ascribed his choice to his relative anonymity, a foil rather than participant, may have been trying to elevate his own standing. Wilmot was recognized to speak from the floor and hence the Proviso became a part of the history that preceded the Civil War. He did oppose the appropriation requested by the President if an amendment he was about to propose were attached; he favored the War “as necessary and just” and would have opposed it if it had been primarily for

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461 In an older study by William Craven, *The Coming of the Civil War* (Chicago: University of Chicago Press, 1957), 222-223, Wilmot later claimed authorship of the Proviso, and Craven more or less accepted that version.
conquest; he accepted the President's rationale that the money was to expedite the peace; he did not approve using the money to settle boundary claims along the Rio Grande River, the rightful border, or to settle property claims against Mexico, but he would approve using the money to acquire new territories especially around San Francisco Bay; but his support was conditional – his amendment would forbid the extension of the “peculiar institution” into these newly-annexed territories. He had supported the annexation of Texas with slavery in this session, but he would oppose annexation of territories where slavery did not exist. He then offered the following amendment:

Provided, That, as an express and fundamental condition to the acquisition of any territory from the Republic of Mexico by the United States, by virtue of any treaty which may be negotiated between them, and to the use by the Executive of the moneys herein appropriated, neither slavery nor involuntary servitude shall ever exist in any part of said territory, except for crime, whereof the party shall first be duly convicted.

And the battle was joined. Congressman Washington Hunt (W-NY) took the floor to say he was opposed the Two Million Dollar Bill and was opposed to the acquisition of California unless it were done properly and included Wilmot's amendment. Hunt was followed by Alexander Sims (D-SC) who observed that it was strange that members who had voted against the War but then voted millions for prosecuting the War would now deny money to secure the peace. And to Wilmot he declared his amendment was improper and troubling because it had nothing to do with the reason for the request from the President. Because the House had limited debate to two hours, the speeches were not unduly long. Among a nearly dozen speakers, some who gave speeches and some whom raised points of order, was John Quincy Adams (W-MA) who said he could support the President's request because he wanted peace as quickly as possible but he would prefer that James McKay (D-NC), Chairman of the Committee on Ways and Means, introduce an amendment to specify that the money be used solely for advancing the peace. As for Wilmot's amendment, he was sympathetic and hoped the House would eventually pass such resolution, but the fact was that because slavery did not now exist in Mexico it could not be authorized in the future unless it were made an article in the treaty. While sympathetic to the amendment by Wilmot, it was unnecessary at this time. What was necessary was to press for peace. In a general way that was what the President's request was aimed at.

Whether the war was right or wrong, we have a war, there is not doubt
of that. The two nations are at war, if ever two nations were at war, and by the laws of warfare we might invade the whole of Mexico – might annex the whole of Mexico, if we were able....The peace must be made by the Executive, with the negotiation of the peace this House has nothing to do; but let me not be misunderstood; I suppose the will of this House may, and ought to, have a great influence.

As an ex-president Adams, who was an ardent opponent of slavery, sought to be clear about the task before the House. More comments about the request, some of which bore on Wilmot's amendment, were allowed until the time for debate expired. McKay then withdrew the bill under discussion and introduced a revised bill that was longer, consisting of a Preamble and two section. The preamble summarized the President's request, Section 1, authorized the expenditure of $30,000 to enter into negotiations with Mexico to secure a peace and an expenditure of $2 million, if necessary, to fulfill any obligations contained in a treaty signed by Mexico. Joseph Ingersoll (W-PA), proposed an amendment that was closer to the language of the original bill, followed by Wilmot's amendment. After discussion about which section of the McKay revision Wilmot's amendment should be attached, the vote was taken in favor of the amendment (83 to 64). Ingersoll's amendment was rejected along with other attempts and after considerable parliamentary maneuvering the “Two Million Dollar Bill” with Wilmot's Proviso was approved (87 to 64). The Senate refused to accept the Wilmot amendment, as expected, but before the Senate version could be taken up, the House, having a faster clock, had adjourned.

I am not the first to observe that after the annexation of Texas and declaration of war on Mexico civil discourse in Congress took a turn for the worse. I have not taken a count of the number of interruptions and points of order from the floor in either chamber, but they occurred daily and frequently, when the topic turned to slavery, territories or war. In the 2nd Session of the 29th Congress (7 December 1846-3 March 1847) it was not the “Two Million Dollar Bill” (that, when re-introduced, would become the “Three Million Dollar Bill”) that would relaunch the dispute over extension that was at the heart of Wilmot's Proviso, but rather it was a somewhat more mundane military appropriation bill. On 29 December 1846 Congressman Preston King (D-NY) announced his intention to introduce a bill (HR-576) to grant the President an appropriation Two Million Dollar, to secure the peace. Several days later (4 January 1847) during a debate on a request from the President on a bill “to raise for a limited time an additional military force, and for

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other purposes.” King asked that the debate be postponed so he could introduce his aforementioned bill. His request was denied. The President's request for additional forces, like the Two Million Dollar Bill in the previous session, created waves. While the request was assigned to the Military Affairs Committee, the Chair asked that the Committee be discharged of its duty and assign the bill to the Committee of the Whole on the State of the Union, that is, for the whole House to consider. At the outset of this debate, which consumed several days, King was called to account asked because he had been criticized in a local newspaper for asking that debate on the forces bill be postponed in order to consider his Two Million Dollar Bill. By asking for a postponement, he replied, he not taking a negative position on the enlarged forces bill; rather he was trying to introduce a bill to assist the President in his goal for peace. King then explained the two points of his bill, and the second point revealed why he was being opposed. The bill's first aim was to put an amount of money at the disposal of the President should the opportunity to conclude a peace arise, and the second aim was to resubmit the proposal of Wilmot to exclude slavery from all territories acquired from Mexico, a proposal that the House had approved and King favored as part of a new money bill. Objections were raised, but King was permitted to continue on the grounds that he was allowed to set the record straight within the time given him. He declared that the United States will gain territories from Mexico and must now accept the duty not to extend slavery. King was aware of the “whispers” that if slavery were not extended, the South would not approve any territorial acquisitions and therefore no restrictions should be tried. He said that he would not abide by any such warning. He had reluctantly approved the admission of Texas where every inch “was yielded to slavery” because its residents already depended on slaves. That was to be the end, so he understood, and that slavery was not to be extended to lands where it had not existed or had been forbidden. It was clear to King and others that slave and free labor could not exist in the same area, and since the Northwest Ordinances (1787) the powerful “commonwealths” from Ohio to Iowa have sprung up “within the memory of a single generation, free, populous, and flourishing”, King continued for some minutes with remarks that left no doubt that progress was the mantle of free labor and degradation the mantle of slave labor. He was not a proponent of “abolitionism” and in unmistakably clear language declared the Constitution did not permit the abolition of slavery where it had existed (the Missouri Compromise posed a conundrum, to be sure) but in equally clear language he declared:

With the abolition of slavery the Congress of the Union can have nothing to do; but it would be equally wide departure from the Constitution, and from every sound principle upon which our republican institutions are founded, that the Government of the United
States should be instrumental in extending slavery in any direction, or in converting free territory into slave territory....Whenever any territory shall have obtained a population...and shall have formed a State constitution, and been admitted into the Union as a State, then the responsibility of the Federal Government on the question of slavery for that territory and people admitted as a State, ceases.

He dismissed as “specious” the argument of defenders of slavery that the Proviso was irrelevant. The States and the people themselves should decide whether a state were to be slave or free, they said, but, responded King, to try to decide slavery after slaves had bee introduced (territorial phase) would always favor the “pecuniary” interests represented by owners of slaves. No doubt, said King, a territory or state of only free people would never allow slavery. Therefore, slavery should not be allowed beyond its current borders. To exclude slavery would, in his opinion, “improve the condition and character of labor in the whole country. And who will deny that, in a republic, it should be one of the chief objects of the Government to elevate and dignify the condition and character of labor?”

Time expired and the parliamentary wrangling began.

Upon the completion of King’s “personal explanation” George Houston (D-AL) asked permission to introduce a resolution to end the “great fraud which has been practiced on the indulgence of the House...that no member shall be permitted to make a personal explanation, or pretended explanation, if upon a vote twenty-five members be found objecting to the same.” It was necessary for Houston to move that the House rules be suspended, but lacking the votes he was ruled out of order, although not before he was able to announce that hereafter he will oppose every request for a personal explanation.

The next day (6 January 1847) the debate over the forces bill resumed and the members once again became embroiled in a debate over the war itself and specifically whether or not this was a war of conquest. Caleb Smith (W-IN) secured the floor and in extended remarks frequently interrupted, he derided the idea that the War with Mexico was not a war of conquest. Preston King among others from the floor interrupted to correct Smith. Several times King reminded Smith he had not used the term conquest anywhere in his “personal explanation” and that he supported the war, even though acquisition of new territory might

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result. Smith thanked King for the clarification with words to the effect that King's "gratifying assurances" would "certainly disarm their fears." And, then, he continued with his denunciations. He had opposed the annexation of Texas because he was certain that it would unleash a demand for more territory until all the land above the Rio Grande was acquired – if not conquest, then an act of "manifest destiny" – and it would push the nation ever closer to dissolution. He again referred to King's remarks of the day before in which King stated the North would never consent to the extension of slavery and would dissolve the Union before it did, only to be interrupted once more by King who protested (correctly) that he had never expressed such sentiments, had no fear of the dissolution of the Union and simply wanted the question to be discussed to which Smith replied (with laughter across the chamber) that King took him up before he was down. Smith then declared his support for the Wilmot Proviso but then added it was inadequate. It was an abstract statement that could easily by circumnavigated. During the annexation phase slavery might be excluded, but then once a state the people could insist it was their sovereign right to decide if slavery should or should not be excluded. If these territories were settled by southerners, they had every right irrespective of any proviso to "shape out for themselves their own institutions."

While Smith supported peace with Mexico, he also opposed the acquisition of these territories, even with a Proviso, because they had acquired by conquest.

Following Smith was Henry Bedinger (D-VA) who expressed approval of the debate that was occurring. In fact, he was almost willing to forego any other debates for the next day or two if it should lead to a thorough examination of the Administration's purpose for and conduct of the war. Moreover, he "rejoiced" at the opportunity for Democrats to rally around the ideals that served to honor and secure the nation against "the recklessness of the Opposition." After railing against several opposition, i. e., Whig, speakers and highlighting the trickery and barbarism of the Mexican nation, he closed on a solemn note. He regretted that slavery had been introduced into the discussion, and, as agitated as he felt, he would not pursue the topic except to counsel a "pause" on the part of those who want to pursue it. No one should mistaken the Southern position. Southerners loved "this glorious Union", he proclaimed, "But there may be evils less easily borne than its dissolution." He alluded to the effects of a complaining sister or a complaining wife who had no cause to complain. If their taunting continued, he

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465Both Democrats (Wilmot, recall, was a Democrat) and Whigs supported the Proviso for different reasons. King had supported the war, Smith had not; King favored an appropriation to foster peace, Smith did not; but both accepted the proposition that the federal government had the power to permit or exclude slavery from the territories.

would have no choice but not to love them. And so to the North, if the taunting continued, if no rest from it was allowed, then the crisis of dissolution will arrive.  

The warning markers had been laid down on both side of the debate, not the appropriation for the enlargement of the forces but rather the extension of slavery. The debate came to an end as scheduled on 7 January and several days later the House approved the appropriation without any restriction (156 to 45). A Million Dollar Bill was not introduced until 20 January, when Joseph Ingersoll (W-PA), a member of the Foreign Affairs Committee, announced that HR-622 was ready for debate, which was set for 1 February. It could be expected that the anti-slavery forces would make another run that in all likelihood would succeed.

On the prescribed day the Million Dollar Bill (now Three instead of Two) was called up as a special order of the day. Although Ingersoll moved to delay consideration for another week, Wilmot with support from King asked to read amendment that he was going to propose. There was not much doubt as to what the amendment was. Wilmot's request was declared to be out of order, but after an appeal by King to the House, permitted under the rules, the amendment was read. The Proviso in the form of an amendment was longer than its original form:

\[And it shall be further enacted\], That there shall be neither slavery nor involuntary servitude in any territory on the continent of America which shall hereafter be acquired by, or annexed to, the United States, except for crimes whereof the party shall have been duly convicted: \[Provided\], always that any person escaping into such territory from whom labor or service is lawfully claimed in any one of the United States, such fugitive may be lawfully reclaimed and conveyed out of said territory to the person claiming his or her labor or service,

Even though the rules allowed the Proviso to be read, they did not permit it to be debated or printed. The House voted to postpone debate on The Three Million

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Dollar Bill until the next Monday with Wilmot and King voting no. The amendment read by King was different in two respects: Wilmot's original referred only to territory acquired from Mexico as a result of the war and made no mention to fugitive slaves, an issue potentially incendiary; the amendment read by King referred to any territory on the Continent and guaranteed that return of lawfully claimed runaways.

On the Saturday (6 February) before the rescheduled debate on Monday (7 February) both Wilmot and King read sets of resolutions from their constituents to the House concerning war and slavery. Wilmot's called for the Congress not to acquire any territories from which slavery was not excluded, in accord with his Proviso, and King's offered somewhat greater detail: exclusion of slavery from them called for an honorable peace; assumption by Mexico all claims against the government; and exclusion of slavery from all territories gained from Mexico.

When debate resumed on 8 February Congressman Ingersoll (W-PA) for Committee on Foreign Affairs explained that the amount requested was needed to purchase New Mexico and California, a worthy purpose, and the Proviso, which his colleague from Pennsylvania was about to introduce, should be opposed. The rationale for appropriating millions of dollars had changed as the course of the war had changed. Originally, it was to secure the peace when the opportunity arose; now it was acquire territory with the outcome of a war no longer in doubt. After a brief interruption to receive a conference report on the military enlargement bill, the full House resumed its consideration of the Three Million Dollar Bill with Wilmot recognized to speak. On a point of order, George Dromgoole (D-VA) tried to get the floor away from Wilmot but failed. Wilmot made clear he would submit an amendment, the contents of which were known, but his immediate concern was to defend his right to speak against House rules that might deny him the opportunity. (He also claimed he did not fully understand the House rules, a somewhat gratuitous remark.) He retraced the history of the original Proviso, declaring that it was debated and passed in the House without threat of disunion and in his opinion would have passed in the Senate, if that body had had more time to deliberate. In trying to pave the way for a new vote, he refused to condemn those who opposed the amendment. He left the impression that much of the supposed opposition was a fabrication of the press. He reaffirmed that he was not

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an abolitionist and continued to believe that the South was prepared to “acquiesce” with respect to the original Proviso.

From the floor Alexander Sims (D-SC) was permitted to interject that he supported the previous Two Million Dollar Bill until the Proviso was added and he took the same position now concerning the Three Million Dollar Bill. To which Wilmot responded that he did not expect the South to approve, and he added that since the Proviso had passed, he was hopeful (it would be more difficult now, he admitted) that the South would accept as legitimate the action of the House. “Why, sir, in God's name, be dissolved for this? What do we ask in this matter? We ask but sheer justice and right.” Compromise was a possibility, as the North had done before, but not this time. “But it is a question of naked and abstract right,” and then paraphrasing James Thompson (D-PA) – the sooner they should draw my right shoulder form its socket than I would yield one jot or tittle on this issue. On the larger question of the future of slavery Wilmot supported neutrality on the part of the national government. He declared without equivocation that he had opposed the abolitionists at home in their own meetings and would continue to do so. He was not an abolitionist, and every effort to paint him as one was illicit and distorting. Indeed, when the day came, the North and South may have to reach a compromise on the question of the further existence of slavery. He had supported the admission of Texas with slavery because that was the character of the territory, and now he and others will ask that the character of the territory be recognized with respect to California. That was the fundamental law at work in this dispute. He had no doubt that slavery could be established or re-established in states like Pennsylvania or Ohio, if government remained totally neutral, but this would be a violation of their character. The neutrality of the government must be dictated by what constituted the basic nature and outlook of the state or territory, and when slavery was present, that had to be accounted for, and when absent, that too had to be accounted for. He refused to accede to any policy that would “fritter away” the powers of government. This raised the old chestnut of individual sovereignty, which the South continued to assert was the ultimate authority. A phrase that sometimes showed up in the debates was: “the powers of sovereignty are one thing, its exercise being another.” Exercising sovereignty was not the same as possessing it. Wilmot claimed not to understand this. For him: “I understand by sovereignty, the power which makes law; which demands of its citizens to yield to its authority; which executes the laws, and enforces obedience....I know of no sovereignty distinct from its attributes.” Wilmot defined sovereignty by its “attributes and acts. The theory of our Government places all sovereignty in the hands of the people. But in the technical and legal sense, sovereignty resides in the State Legislatures and in this Congress.” The sovereignty of each was expressed in
the state and federal constitutions, and the respective sovereignties can be altered at the behest of the people. The contrary argument, he continued, stated in “one breath” that sovereignty resided in the people; and in the next breath in the States; and then the states are made “joint-tenants and co-sovereigns over the Territories of the Union. Well, what acts of sovereignty can these co-sovereigns exercise over this territory?” Can South Carolina or Pennsylvania legislate for it? Obviously not. Only the General Government can and must within the limits of the Constitution. In a point that was being made with greater persistent by both the political and radical abolitionist, Wilmot underscored the fact that the nation that allowed slavery to continue after 1788 was not the same nation a half century later. Of the original thirteen six were slave and seven were free. Their population was almost equal but the South had more acreage. A half century later the seven free states have twice the population of the six slave states. How did this happen? “Not from want of patriotism, on the part of the South – for they were foremost in that glorious struggle – but from the want of ability, growing out of this question of slavery. Where the men who labor in the field are slaves, you cannot place arms in their hands.” Rather it was the laboring man, “the man who toils in the field, who constitutes and will constitute the strength and defense of his country....” In the current war, said Wilmot, free states will send more men (I did not make a count) than slave states, and therefore free men will demand their sacrifices be justified. Finally, Wilmot closed his remarks by contrasting slave states with free states in terms of progress and wealth, and he declared freedom always trumped slavery. The most poignant example, “Old Dominion” (Virginia) once the most “ascendant” of all states, now “she is outstripped by some States that have grown up within the memory and lives of the present generation.” Slavery, that is “the whole secret.” And Wilmot's time had expired. A speech both conciliatory and unyielding. It would provoke a response, but, more than that, the severity of the situation, after decades of compromise and avoidance a solution seemed hardly within reach.472

The following day, Howell Cobb (D-GA and later to be Speaker of the House) responded to Wilmot's remarks on an amendment yet to be officially introduced, although everyone was certain what was coming. Cobb's aim, to refute every proposition put forth by Wilmot, beginning with the Pennsylvanian’s assertion that he had planted himself on “the right”, that being that the “North occupied the

472Proceedings and Wilmot Speech, Congressional Globe, 2nd Session, 29th Congress, 8 February 1847, 352-355. In this case I have checked the Wilmot's speech as recorded in the Globe with the “edited” version that a representative was permitted to insert in the Appendix, 314-318. There are some differences Some elocutions such as “Well” or “Now sir” are dropped from the written version. Paragraphing was changed, and some language was added to the written version that did not appear in the spoken version. The quotes from the Globe in the above text appeared basically in the same form in the written version. Quoting from the proceedings, as published in the Globe, may not always be in accord with what the speaker later submitted in written (and edited) form. Available on-line at http://memory.loc.gov/ammem/amlaw/lwcg.html
right...and the South the wrong.” Succinctly stated, the South was to be allowed to participate in the war but not to participate in the settlement of any territory won by its valor and sacrifice. It was Cobb's opinion that Wilmot did not properly explain why his amendment was necessary, but some of those associated with his cause such as Columbus Delano (W-OH) spoke in his behalf. Delano had said in an earlier speech that he opposed acquisition but if it occurred, the result would be free states encircling the South “to light up the fires of liberty, to burn the shackles that bound our slaves in servitude.” Will this not, asked Cobb, invoke a chorus of amens from the floor among those who favor the amendment? The compromises that Northerners seek from Southerners on slavery deny the full extent to which the Founding Fathers embraced compromise. It was not just a compromise over slavery contained in several sentences, it was a document that enshrined a compromise that was to guard and protect sectional interests and to prevent one region from imposing its interests on another. That was the great compromise that made the Constitution possible. This amendment will destroy that compromise, one region subverting the interests of another region. To the gentleman from Pennsylvania who was defending “the right”, was not the South defending its culture, and was not the North imposing its culture? What must end was the idea that the North should have what it wants and the South should be allowed to exist at the behest of the North.

For several hours the debate continued including a floor exchange over who actually wrote the Ordinances of Northwest Territories and that section, which found its way into the Wilmot Proviso, Thomas Jefferson or Francis Dana of Massachusetts. Time had expired and the House move on to other business.473

Several more days of debate followed until 15 February, when the House had agreed to end debate and take a vote. Preston King (D-NY) and Hannibal Hamlin (D-ME) made motions to insert Wilmot's Proviso, and Stephen Douglas (D-IL), then a House member, proposed a substitute amendment that would have restored the Missouri Line to the Pacific (a line he will later as Senator regard as unconstitutional), but it failed. When a vote was finally taken on Hamlin's motion to insert Wilmot's Proviso, it passed, 110-89. Further parliamentary maneuvering – more amendments and more motions – was finally brought to a close with a vote to accept engross and print the Three Million Dollar Bill with Hamlin's (Wilmot's) amendment, the vote being 115 to 106, Then came a final vote on the Bill itself and it passed with about the same margin. For the second time the House had rebuffed the South and those Northern Democrats who sided with the South on the

extension of slavery.\textsuperscript{474}

While the House was debating its version of the Three Million Dollar Bill, the Senate was moving ahead with its bill (S-105). Even though there was sympathy for Wilmot's proviso among Northern senators, there was little likelihood such an amendment could ever win approval. And yet the debate in Senate as in the House raised many of the same questions about the war and the consequences of the war. The Senate bill, introduced by Ambrose Sevier (D-AR) on 19 January 1847 on behalf of the Foreign Relations Committee, was straightforward and simple in that it authorized up to three million dollars for the President to use at his discretion to defray any costs for concluding the War with Mexico. Straightforward and simple, however, did not preclude debate. Members of the Senate like members of the House had opposed the war and wanted to alter the bill on how the President could spend the appropriation. Questions concerned expansion of the war, payment of indemnities and acquisition of territories and led to numerous amendments being proposed over the next several weeks. Commenting on the original bill and subsequent amendments, John C Calhoun (D-SC), whose view of the future of the union had grown gloomier since the Missouri Debates, again announced that American had reached a perilous place because “We are not only in the midst of a war, a very difficult and expensive war [he had opposed], but we are involved in a domestic question of the more irritating and dangerous character.”\textsuperscript{475} On 9 February Calhoun addressed the Senate on the question of how to reach the objectives that the declaration of war set out to achieve. He saw two strategies: to prosecute the war from an offensive position “until Mexico is compelled to yield to our terms,” or to opt for a defensive position in which to maintain and secure our control over territory already in our possession. A defensive position was Calhoun's preference, and he presented a long argument in support of that view. Since the rationale for the war was disputed boundaries, the first and foremost objective was to settle that issue. That would be difficult enough to settle, and to expand the war to include other objectives will only make ending the war more complicated. For Calhoun the consequences of war dictated a policy of defense instead of offense. In addition, he urged the Senate to put aside all the arguments for war or against war (including his) and concentrate on what to do with the war we have. Ultimately, Calhoun had to come around to how also to deal with territories, even though he wanted to keep the focus on the defensive position. If one section, i. e., the North, insisted on imposing policies that will punish another section, it can expect push-
back. Those who want more war regardless of the cost (it could reach hundreds of millions) and then want to exclude a section that is needed to expand a war should remember such a policy will fail. Having stated his case, he announced that given the amendments under consideration, he reserved judgment on whether to support the Three Million Dollar Bill.476

One of the amendments pending (5 February 1847) had been offered by Lewis Cass (D-MI). His amendment was meant to clarify what the appropriation was for: to prosecute the war (which he blamed entirely on Mexico) aggressively and to demand an indemnity from Mexico, which, when agreed to, would constitute the first step in initiating treaty deliberations. Cass's position was far more hawkish than the original bill (which his amendment would replace) and any other amendment put forth. It was his amendment that Calhoun was addressing. When Cass responded to Calhoun and others, he expressed an enthusiasm that verged on boosterism. He declared at the outset that, unlike Calhoun, he arose not with the “visibly felt” and “eloquently described” emotions of his colleague: “I do not consider this country, or its institutions in the slightest danger. Never was it more free, powerful, or prosperous, than at the present moment, when untimely warnings come to assail us. The public sentinel may sleep on his watchtower. In the distant horizon, not a cloud as big as the prophet's hand, is to be seen....” America could withdraw at any time, but that would provoke disgrace for the country and the military. It saddened him to hear any mention of dissolution of the Confederacy. “It is no longer an experiment, but experience; no longer promise but performance. It has fulfilled all, and more than all, its most sanguine advocates dared to predict.” Acquisition and settlement of territory were not a regional question but an American question because they could only benefit the whole of America. On the matter of money, the nation had to take the President at his word – money must be available, if needed, to advance the peace. One is tempted to add period. It was not bribery or corruption; it was strictly for what the President said. Several time Cass was asked to yield the floor, and most of the time he acceded, but, finally, he refused a request from Daniel Webster because he did not want to reduce what allotted time remained to him. And time he needed. Before he finished, he talked about warfare in America and elsewhere, about civil and military strategies and costs financial and emotional.477


On 2 March the Three Million Dollar Bill, as reported by the Foreign Relations Committee, was approved without any crippling amendments. Days later the House concurred (without Wilmot's Proviso). The Three Million Dollar Bill became law and the 2nd Session came to an end. The wording of what became Chapter 50 of the Laws and Statutes of the 2nd Session of the 29th Congress, (modified several times within the Committee) declared the President was granted money with which to deal with any complications that arose in the seeking of peace between the United States and Mexico. No stipulations or restrictions were imposed upon the President except the constitutional requirement that he consult with the Congress on matters relating to any treaty.478

Having made his response to Lewis Cass and others, John C Calhoun was not yet finished with the furor that the House's actions had provoked among defenders of slavery and their allies. Before the Three Million Dollar Bill was finally approved without any amendment Calhoun introduced a series of resolutions that set out in unmistakable terms a southern strategy. On 19 February 1847, after a series of resolutions for the restriction or abolition of slavery from Northern petitioners, presented to the Congress in their behalf by Northern senators, Calhoun took the floor to introduce his own resolutions:

Resolved, That the territories of the United States belong to the several States composing this Union, and are held by them as their joint and common property.

Resolved, That Congress, as the joint agent and representative of the States of this Union, has no right to make any law, or do any act whatever that shall directly, or by its effects, make any discrimination between the States of this Union, by which any of them shall be deprived of its full and equal right in any territory of the United States, acquired or to be acquired.

Resolved, That the enactment of any law, which should directly, or by its effects, deprive the citizens of any of the States of this Union from emigrating, with their property, into any of the territories of the United States, will make such discrimination, and would, therefore, be a

violation of the constitution and the rights of the States from which such citizens emigrated, and in derogation of that perfect equality which belongs to them as members of this Union – and would tend directly to subvert the Union itself.

Resolved, That it is a fundamental principle in our political creed, that a people, in forming a constitution, have the unconditional right to form and adopt the government which they may think best calculated to secure their liberty, prosperity, and happiness; and that, in conformity thereto, no other condition is imposed by the Federal Constitution on a State, in order to be admitted into this Union, except that its constitution shall be republican; and that the imposition of any other by Congress would not only be in violation of the constitution, but in direct conflict with the principle on which our political system rests. 479

In his speech before the Senate, Calhoun dwelt extensively on the changing demographics (to which I have already alluded). When the Constitution was approved, the division between slave and non-slave states was about equal. A half century later non-slave states (including those in the process of admission) were twice as many as slave states. In all governmental agencies – House, Senate, Electoral College, etc. – the South was outnumbered. If the North continued its aggressive policies toward the South, what was the South to do to preserve its culture and, more importantly, its place within the Union? Calhoun made no apology for who he was and whom he represented. He was a Southern planter and slave-owner, and he intended to defend the system without any compromise or equivocation. (More about compromise later.) The core of Calhoun's speech embraced a concept of governance that had been evolving for decades. The dilemma was obvious to all. As the non-slave interests of the nation grew, the point would come when they could unite to outlaw the institutions and practices that the slave interests depended on. The options before the slave interests were limited: accede or rebel. Calhoun acknowledged as much when he said: “It is a question for our constitutes, the slaveholding States—a solemn and a great question.” For himself (perhaps others): “I say for one I would rather meet any extremity upon earth than give up one inch of equality....What acknowledge inferiority!” 480


Calhoun was an intelligent man who had thought long about the institution that would define his career and the history of the South. His theory of government was driven by his defense of slavery, and although components of his theory were not far outside the ideological mainstream, slavery pushed his thinking in a direction many Americans would reject. His two famous expositions – *A Disquisition on Government* and *A Discourse on the Constitution and the Government of the United States* – were formally published after his death in 1851 by Richard Crallé, a distant relative and personal confidante, as Volume One of *The Works of John C. Calhoun*, edited by Crallé. Even though the original manuscripts have not been found and all subsequent publications derive from Crallé’s edition, the ideas expressed (and more fully developed in the expositions) were stated in various speeches, letters and papers during the previous half century. Their publication came at a time of respite from the political crisis that had been building during and after the War with Mexico and had climaxed in the Great Compromise of 1850, Calhoun's last political engagement with his longtime Senate adversaries but colleagues, Daniel Webster and Henry Clay. Many did not believe that the Great Compromise had settled the matter of the extension of slavery let alone the more controversial question of the existence of slavery, and post-Compromise (to be discussed) sentiments could be bleak. The *Disquisition* in particular but also the *Discourse* became part of the intellectual arsenal used in the 1850s to defend slavery and the southern system.

The basic ideas, laid down more carefully and rigorously in the two expositions, had shown up in one form or another during Senate speeches. He had frequently drawn a distinction between the individual and the government, and he found the two elements to be often in conflict. Liberty and security, he claimed in the *Disquisition*, were “indispensable”. Simply put, liberty empowered the individual “to promote his interests and happiness”, and security assured the individual that he would “not be deprived of the fruits of his exertions to better his condition.” Conflict arose when the government in pursuit of a policy under the umbrella of security infringed on the liberty of some individuals to realize their ambitions. To extend liberty beyond what was assigned would weaken government to fulfill its basic duty, and conversely to extend security in such a matter as to contract liberty would have the same effect on the individual. “The causes calculated to enlarge the one and contract the other, are numerous and various.

A community may possess all the necessary moral qualifications, in so high a degree, as to be capable of self-government under the most adverse circumstances; while, on the other hand, another may be so sunk in ignorance and vice, as to be incapable of forming a conception.
of liberty, or of living, even when most favored by circumstances, under any other than an absolute and despotic government.

A balancing act in almost every sense. Actions by individual or by governments can tilt too far one way of the other. In determining the principles that any community will employ to account for the “numerous and various causes”, the individual's liberty and the government's power must be properly assigned their spheres:

To allow to liberty, in any case, a sphere of action more extended than this assigns, would lead to anarchy; and this, probably, in the end, to a contraction instead of an enlargement of its sphere. Liberty, then, when forced on a people unfit for it, would, instead of a blessing, be a curse; as it would, in its reaction, lead directly to anarchy – the greatest of all curses....And hence, although it may be true, that a people may not have as much liberty as they are fairly entitled to, and are capable of enjoying – yet the reverse is unquestionably true – that no people can long possess more than they are fairly entitled to.

As noble as the pursuit of liberty may be – “the greatest of blessings” – it cannot be so great as to eclipse the need for security: the individual could only seek “progress and improvement” within the “protection and preservation” provided by government. The juxtaposition of liberty and security was not in any sense an unique observation. Minimal government was often defined as negative government – to protect the noble individual in realizing his potential from those who would deny him his natural right. The concept of self-government evolved from that original premise to how much and what level or degree of security, and for some the strictly negative role assumed a positive character that government could act in a manner that would not only protect but enhance. Government was never to become a substitute for what the individual had the capacity to perform on his own.481

It was clear from Calhoun's Resolutions in his 1847 speech even before the Disquisition was published that he espoused a form of liberty, which government was constitutionally and morally obligated to protect, that Americans in increasing numbers were calling into question. His defense of liberty without equality had troubling ramifications for the concept of individual self-government itself. His

views on equality might well disqualify many ordinary Americans who were not personally predisposed to embrace abolition of slavery:

...it is a great and dangerous error to suppose that all people are equally entitled to liberty. It is a reward to be earned, not a blessing to be gratuitously lavished on all alike; – a reward reserved for the intelligent, the patriotic, the virtuous and deserving; – and not a boon to be bestowed on a people too ignorant, degraded and vicious, to be capable either of appreciating or of enjoying it....its proudest distinction is, that an all-wise Providence has reserved it, as the noblest and highest reward for the development of our faculties, moral and intellectual. A reward more appropriate than liberty could not be conferred on the deserving; – nor a punishment inflicted on the undeserving more just, than to be subject to lawless and despotic rule....from a lower to a higher point in the scale of liberty, is necessarily slow; – and by attempting to precipitate, we either retard, or prematurely defeat it.

There is another error, not less great and dangerous, usually associated with the one which has just been considered. I refer to the opinion, that liberty and equality are so intimately united, that liberty cannot be perfect without perfect equality.

That they are united to a certain extent – and that equality of citizens, in the eyes of the law, is essential to liberty in a popular government, is conceded. But to go further, and make equality of condition essential to liberty, would be to destroy both liberty and progress. The reason is, that inequality of condition, while it is a necessary consequence of liberty, is, at the same time, indispensable to progress. In order to understand why this is so, it is necessary to bear in mind, that the main spring to progress is, the desire of individuals to better their condition; and that the strongest impulse which can be given to it is, to leave individuals free to exert themselves in the manner they may deem best for that purpose, as far at least as it can be done consistently with the ends for which government is ordained – and to secure to all the fruits of their exertions. Now, as individuals differ greatly from each other, in intelligence, sagacity, energy, perseverance, skill, habits of industry and economy, physical power, position and opportunity – the necessary effect of leaving all free to exert themselves to better their condition, must be a corresponding
inequality between those who may possess these qualities and advantages in a high degree, and those who may be deficient in them. The only means by which this result can be prevented are, either to impose such restrictions on the exertions of those who may possess them in a high degree, as will place them on a level with those who do not; or to deprive them of the fruits of their exertions. But to impose such restrictions on the exertions on them would be destructive of liberty – while, to deprive them of the fruits of their exertions, would be to destroy the desire of bettering their condition. It is, indeed, this inequality of condition between the front and rear ranks, in the march of progress, which gives so strong an impulse to the former to maintain their position, and to the latter to press forward into their files.  

For those who deserved to enjoy liberty and equality, others had to be denied participation, perhaps not permanently but almost so. What Calhoun's liberty with security meant was less for some and more for others. His speech in defense of his Resolutions sounded antiquated because it was founded upon ideas of deference and submission that American self-government, both individually and collectively, had replaced. A more modern version of John C. Calhoun made an appearance during and after the War of 1812, but in the face of the rising opposition to slavery and the regimes that it begat, he had began to evidence a more restricted view of the capacity of the individual. Americans had or were in the process of discovering a larger sphere in which self-rule could operate. That this sphere was open to all Americans would be to overstate the case. Northerners and Southerners shared overt racial attitudes, but Calhoun's sphere was far too narrow and far too proscriptive for the America that had emerged.

His Resolutions and later his Disquisition and Discourse offered little room for any compromise. To deviate from the original idea that the North and South must preserve a balance that originated with the founders themselves would end the Union:

Sir, the day that the balance between the two sections of the country – the slaveholding States and the non-slaveholding States – is destroyed,

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482 Calhoun, Disquisition on Government, 37-38.

483 In several debates on contentious issues like internal improvements after the War of 1812, he dismissed the debate over the Constitution as irrelevant on the grounds that what America wanted was a plan of action that would unite the country. He recognized that his thinking had changed over the decades out of a need to defend his culture and region.
is a day that will not be far removed from political revolution, anarchy, civil war, and widespread disaster. The balance of this system is in the slaveholding States. They are the conservative portion always have been the conservative portion – always will be the conservative portion; and with a due balance on their part may, for generations to come, uphold this glorious Union of ours.

Destroy the balance, destroy the nation was his warning. The Constitution was a “Federal Constitution” by which he meant that “States are its constituents, and not the people.” The twenty-eight or twenty-nine states or twenty-nine millions of individuals under the current government were confronting a consolidating power. “No, Sir; [Federal Constitution] was made for higher ends; it was so formed that every State, as a constituent member of this Union of ours, should enjoy all its advantages, natural and acquired, with greater security, and enjoy them more perfectly.” The intent was to prove for a governing system that guaranteed “justice and equality – perfect equality between the members of this republic.” But for some states to determine the fate of other states was inconsistent with equality because it will “make this public domain a monopoly on one side – which, in its consequences, would place the whole power in one section of the Union, to be wielded against the other sections? Is that equality?” Of course, Calhoun answered his own query. The United States were simply the States united. And territories were “the property of the States united; held jointly for their common use.” How could it be consistent with justice or equality “that any portion of the partners, outnumbering another portion, shall oust them of this common property of theirs – shall pass any law which shall proscribe the citizens of other portions of the Union from emigrating with their property to the territories of the United States?” How could it be consistent “with the idea of a common property, held jointly for the common benefit of all....Would it not be considered the most flagrant outrage in the world, one which any court of equity would restrain by injunction – which any court of law in the world would overrule?” That a state can be denied admission to the Union because it will not prohibit slavery violate the most basic principle: that people have a right to establish the government that they “think proper for themselves” and that “every State about to become a member of this Union “has a right to form its government as it pleases....” Only one qualification for admission existed – that the government be republican. Although not specifically stated, it must be assumed because the charter itself was to “guarantee to every State...a republican form of government.” At this point Calhoun departed from the standard view of self-government.

It is proposed, from a vague, indefinite, erroneous, and most
dangerous conception of private individual liberty, to overrule this great common liberty which a people have of framing their own constitution! Sir, the right of framing self-government on the part of individuals is not near so easily to be established by any course of reasoning, as the right of a community or State to self-government. And yet, Sir, there are men of such delicate feeling on the subject of liberty – men who cannot possibly bear what they call slavery in one section of the country – although not so much slavery, as an institution indispensable for the good of both races – men so squeamish on this point, that they are ready to strike down the higher right of a community to govern themselves, in order to maintain the absolute right of individuals in every possible condition to govern themselves!

Why not compromise, he had been asked. He had expressed willingness to endorse an extension of the Missouri Line, but the House had voted it down at least twice. The point had been reached where he must reject the “shifting sands of compromise” in favor of the solid ground of the constitutional principle. “Let us be done with compromises. Let us go back and stand upon the constitution!” He then demanded a vote on his Resolutions as an affirmation of these great truths.484

Thomas Hart Benton rose to demand instead that the Senate put aside “this string of abstractions” and proceed with important business. This prompted a reply from Calhoun who expressed disappointment that the Missouri Senator held the principles of the Constitution in such low regard, and, after a retort by Benton who said he knew the difference between what was abstract and what was business, the Senate ordered the Resolutions be printed.485 Although Calhoun announced several times, as the Senate debated other bills and as the session neared its end, that he wanted a date for debate on his Resolutions, he did not succeed. In one instance, Daniel Webster, who introduced his own resolutions relative to slavery, suggested that the two sets of resolutions be debated at the same time, but for both Webster and Calhoun time ran out, and the Congress adjourned on 3 March 1847.

The presidential election of 1848 was not exactly a showdown over the slavery question. Both advocates and opponents of slavery argued from the “foundations” principle – the Constitution prevented interference, the Constitution permitted regulation. For the average American, it may have been more of a pragmatic issue:


slavery was long identified with a special economic activity in a particular region and should not be expanded to compete with free labor in other regions. They may have been less interested in the philosophical issues, although that is hard to validate one way or the other. It was wholly inconsistent to argue against the extension of slavery on philosophical moral or religious grounds and not also demand the end of slavery. The dilemma for the two major parties, both with supporters in the North and the South, and under pressure from competing parties that were local or regional, was how to address the various interests.

Three candidates vied for the presidential honors: Lewis Cass (MI) Democrat, Zachery Taylor (LA) Whig and Martin Van Buren (NY) Free-Soil. Cass and Taylor won the same number (15) of states but Taylor had more electoral votes (163 to 127) as well as more popular votes. By endorsing the Treaty of Guadalupe Hidalgo that ended the War with Mexico, and nominating a General who was a hero of the War, the Whigs had seemingly reversed course, having generally opposed Polk's war but now having endorsed one of its heros. Like earlier campaigns slavery hardly entered the public debate. The extension of slavery into newly-acquired territories from Mexico troubled many Americans – some party-switching was underway – but the candidates tended to dwell on each other's character flaws or alleged flaws. Even Van Buren, former president and Jacksonian operative who did all he could to exclude debate over slavery from the Halls of Congress, now represented a party that opposed the extension of slavery and yet his character, not the Free-Soil position on slavery, was the issue. Michael Holt has compared the election in 1848 with earlier Whig and Democratic contests and has concluded that issues drove the previous contests whereas in 1848 by design the Whigs demoted the importance of issues by presenting regional messages. The fact that one party opted out of the issues debate yielded a lower popular (white males) vote – only 53 percent compared to 70 to 80 percent in the previous three elections. The story leading up to the Election of 1848 is more interesting and complicated than the election itself. The Free-Soil Party posed a threat to both major parties but particularly the Whigs. Fervor rather than discipline dominated the Buffalo Convention. The platform took a strong stand against the extension of slavery, as expected, but included planks on other controversial issues. The Whig Platform was devoid of specific programmatic planks. It concentrated on past accomplishments and potential contributions of Taylor relating to Peace, Prosperity and Union. It declared (to avoid embarrassment) that if Taylor had voted in 1844 (he had never voted) he would have voted Whig. The Democratic Platform, on the other hand, spelled out a commitment to the principles of limited, frugal federal

government and opposition to monopolies, debt, internal improvements and distribution of proceeds from sales of public lands. Most importantly, it stated unequivocally that Congress had no power to interfere with “the domestic institutions of the several States, and it declared that “all efforts of the Abolitionists or others made to induce Congress to interfere with questions of slavery...are calculated to lead to the most alarming and dangerous consequences....diminish the happiness of the people, and endanger the stability and permanence of the Union, and ought not to be countenanced by any friend to our political institutions.” It also included praise for the recent revolution (again) in France to destroy monarchy and all its oppressive feature and to embrace liberty, equality and fraternity. The Platform re-affirmed “the liberal principles embodied by Jefferson in the Declaration of Independence, and sanctioned in the Constitution, which makes ours the land of liberty, and the asylum of the oppressed of every nation” and opposed any effort to abridge the “privilege of becoming citizens and the owners of soil among....”

Debate on the issues was a risk for the Whigs who knew that Taylor, a slave owner, was not in some northern states and slavery itself was utterly divisive. Thus, the strategy was to convince the faithful and faltering by launching regional campaigns built upon trust in local leadership and to drive as many Democrats as possible into the arms of the Free Soilers. One result was to turn off many voters – hence the low turnout – and as well as to siphon enough votes from Cass to give states like New York to the Whigs. The Whig victory was hardly a mandate, and shortly into his administration Taylor himself put the Whig Party at greater risk.

The Whigs won the election but lost their way thereafter. Think back to the founding of the National Republicans, driven by Henry Clay's vision of a comprehensive program to promote economic development. National Republicans and later Whigs gradually backed away from Clay's vision because the proposition that development required a expansion of the national government on several fronts raised alarms. It certainly handed the Democrats the opportunity to reaffirm their core Jeffersonians principles. Clay's defeat in 1832 after some encouraging signs that the National Republicans might leverage a backlash against the President's Veto (Congress after-all had passed recharter) into a victory gave pause to the party leaders. From that point forward, although Clay continued to argue for his program (modified, to be sure), the party chose vagueness over specificity as to


488Michael Holt, The Rise and Fall of the American Whig Party, Jacksonian Politics and the Onset of the Civil War (New York: Oxford University Press, 2003), 332-345. This remains the most detailed account of the rise and fall of the Whigs, even though some have questioned the interpretation that flowed from his massive retelling.
what their goals were. By 1848 that had devolved into a platform praised the candidate without attaching him to any programs except for a sentence or two about Peace, Prosperity and Union.

In his short Inaugural Address (fewer than a 1,100 words) Taylor said little about his specific agenda. He declared support for extending “civil and political liberty” across the world – an aspect of Manifest Destiny – but “to exhaust every resort of honorable diplomacy before appealing to arms.” At home he will recommend after study and in consultation with Congress measures to encourage and protect the “great interests of manufactures”, to improve rivers and harbors, to extinguish as rapidly as possible the public debt, to demand accountability and to administer the government frugally. But he made it quite clear that how any such legislation was shaped would be a matter for the Congress. Not a word about slavery or territory or any of the issues that will come to dominate the political debate.489

Zachery Taylor was tested early. California, in part a result of gold discoveries, was ready for admission as a state to the union in 1849. In the California Constitution, adopted in 1849, Article 1, Section 18, contained the following clause: “Neither slavery, nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this State.” Admission of California as a free state would have altered the balance of 15 free and 15 slave states in the Senate. Taylor, to the surprise of some and the chagrin of others, proposed letting the settlers decide, in both California, which was ready for admission, and New Mexico, which he declared soon would be. A southerner and a slave-owner, Taylor outraged southerners who wanted guarantees – no interference. Free-Soilers were not mollified either because they wanted guarantees in the opposite direction. Wilmot's Proviso, never adopted in the Senate, remained alive in the House. Taylor's position helped to keep Wilmot's Proviso alive. Taylor's approach was passive acquiescence to the will of the settlers (either way, it must be stressed) in contrast to an active approach by Democrats under the banner of Popular Sovereignty.

And months later in his First Annual Message (December 1849) he added little vision but lots of small details. Almost half the message was devoted to foreign affairs. Relations with more than a dozen countries were noted including prospect for trans-isthmus canal. In that section was the only reference to slavery or more accurately trading slaves. It concerned “sea letters”, which Americans secure from the US Consul when they purchase ships in Brazil and then sail to Africa to deal in slaves rather than to the US to register their ships. Taylor simply noted the.

violation of American law but offered no solution. On the domestic side Taylor presented a list of relatively minor changes to postal fees, debt management, subtreasury charter, military facilities, etc. One section dealt with the new territories of California and New Mexico. The former had approved a constitution (November 1849) that excluded slavery and was awaiting Congressional approval while the latter would, in Taylor's opinion, soon be (New Mexico and Arizona had to wait until the twentieth century). Slavery was not mentioned except by indirection: While waiting for the process to be implemented, Americans, advised Taylor, should embrace “the harmony and tranquility so dear to all...[and] abstain from the introduction of those exciting topics of a section character which have hitherto produced painful apprehensions in the public....” He cited a quote from George Washington that called on the nation to avoid ““any ground for characterizing parties by geographical discriminations.””

He was satisfied, we can safely assume, with the course followed in California with regard to slavery.

If Taylor and his allies were operating ad hoc on the question of the extension of slavery, the Democrats were having their own problems with their own position. The Democratic leadership understood the dilemma even if they lacked a solution. The southern position was both unpopular and untenable in the North and the West and some Democrats like some Whigs were edging toward a “no-extension” position.” In the presidential election of 1848 the idea of Popular Sovereignty was advanced and became a standard response for many Northern and Western Democrats. What it meant was the sovereignty of the people. Sovereignty of the people, as noted earlier, was an inspiring ideal, but, as it evolved in America, it generated some contradictions that remained unresolved. It was always easiest to deal with the original thirteen states because they did come together to create a union. After that new states were carved out of existing territories or newly-acquired territories under the purview of the federal government. Unlike the original thirteen the new states had no a priori claims, and yet by the very definition of being a state they assumed the same position relative the national government as the original thirteen. As a matter of course, those who held that the people's sovereignty – to rule themselves – was first and fundamentally a transactions between individuals and their states, and of course the next step was for states on behalf of their citizens to transfer some sovereignty to a national government. The ratifiers debated the question of whether the states party to the new charter could exercise the ultimate authority of overriding federal actions. But those powerful first three words of the Preamble to the Constitution, We the People, did not admit such an interpretation. The most ardent nationalists took the

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position that the people had chosen to transfer a portion of their sovereignty to a larger entity that did not replace the states but subsumed those powers that any effective union needed to survive and progress. Many more Americans probably (I know of no poll-like results), if they followed the debate at all, took a less extreme position – sovereignty rested with both entities – but like all middle positions it was messy. And slavery made it even messier. By supporting Popular Sovereignty, however, Cass and his wing of the Democratic Party had endorsed the supremacy of the territory or the state to determine the fate of slavery. Treated as essentially a domestic issue allowed the core of the Democratic Party to invoke the Jeffersonian model of the supremacy of the nation in dealing with foreign affairs and the supremacy of the state in domestic matters. This was not satisfactory to all Democrats. Popular Sovereignty, by its very definition, could undo what it had previously permitted and could challenge a fundamental component of the American experiment – to enjoy the rewards of one's labors. Finding a mechanism, more specifically an institutional mechanism, was not easy. Certainly, the Democratic Party was unprepared to confront their southern branch. Popular Sovereignty suited their circumstances. The 1848 Platform made that clear:

that all efforts of the Abolitionists or others made to induce Congress to interfere with questions of slavery, or to take incipient steps in relation thereto, are calculated to lead to the most alarming and dangerous consequences; and that all such efforts have an inevitable tendency to diminish the happiness of the people, and endanger the stability and permanence of the Union, and ought not to be countenanced by any friend to our political institutions.491

Northern dissidents could join the emerging Free Soil Party whereas Southern dissidents had few alternatives. For southern slave-owning unionists like Alexander Stephens the best alternative was to create a new regional party, which he spearheaded in Georgia under the name of the Constitutional Union Party. Its aim was to defend the Union but also to defend the Constitution that relied heavily on strict construction. In another episode, when the nation confronted political realignments, the Democratic Party will, as before, survive, but the Whigs will not. New parties will emerge and disappear, but in the course of shuffling political alignments a different perspective on sovereignty and government will enter the tattered and torn public forum. A year into Taylor's Presidency, however, the storm clouds in the form of Wilmot's Proviso and Senate deadlock were threatening what comity remained.

The oratory in both chambers during and since the War with Mexico had grown more strident and less conciliatory in part because a segment of the population and the Congress had decided that slavery's future had to be debated. Probably for the first time in the sixty years since the first presidential election the issue that the Founding Fathers could not or would not resolve had taken center stage. A “nightmare of an institution” was coming into full view in a way that the country had never experienced before. The eighteenth-century dogma that the southern economy would eventually collapse under the weight of such an archaic system as slave labor and therefore slaveholders would recognize the risks and let slavery die while pursuing other economic options. On its face slavery was so out of step with enlightened economic and political models that its survival not to mention its growth were hard to comprehend. If slavery were to wither and die, as some predicted, the aftermath – how to incorporate millions whose purpose for being here was to provide labor under conditions of bondage rather than choice – was hardly addressed. Slavery did not disappear; worse than that, it worked. The southern planters proved that they could make forced labor generate productivity gains that allowed them to compete in the world market. Cotton was their commodity, and even as the world price of cotton had fallen in the first half of the nineteenth century, southern planters turned a profit. Stanley Engerman reminds us that slaveholders had gains in two categories: slaves could be forced to work in places and under conditions free workers would not choose, and slaveholders could exploit the difference between what they demanded slaves to produce and what they allowed slaves to consume. While slave labor and free labor might under most circumstances be interchangeable, the fact was that slavery existed and thrived in tropical regions specializing in monoculture production like sugar, cotton, rice, tobacco and coffee. The result was that while some advocated a natural death for slavery the return on investment from slavery worked against curtailment and manumission. Then came the explosion in cotton production that more or less sealed the fate for the defense of and the expansion of slavery. Cotton production became dominant, accounting for one-fifth of “overall southern output” and for 50 percent of total exports during the second quarter of the nineteenth century. “The slave plantation,” wrote Engerman, “was an integral aspect of the U. S. economy, solidly linked to the world market, and entailing a wide range of distribution services to market this production.” Engerman acknowledges that scholars differ over whether the slave economy of the South was “pre-, non-, or a-capitalist” in nature, but a breadth of agreement exists around the notion that “the plantation itself had many of the characteristics of modern industrial firms, being described as
'a factory in the field.'”492 Without an increase in the demand for cotton across the world, the plantation economy would have developed less robustly. The ultimate test for planters was to what extent they could offset fluctuations in the price of cotton with improvement in productivity. What this required on the part of the planter was that a way be found to increase output per man (slave) hour to realize any profit in a economic climate of declining prices. And while the numbers can arouse controversy, there is evidence that was happening. Under these circumstances the drive to open up new fertile land can be understood. In addition, of course, stopping expansion of slavery not only had economic implications but also social considerations – the region with millions of slaves because of curtailment or manumission would be left with managing social, political and demographic issues that were bound to arise. Slavery had evolved its own internal dynamic that made any hope that it would gradually melt away untenable.

The South's attitude toward slavery had evolved over centuries, not years. There was probably no single, universal position to which all southerns subscribed. There is ample evidence that Southerners had misgivings about slavery, but as the slave population and the cotton economy grew in tandem, there was a hardening of their view about the institution and its future. If, as some historians have argued, attitudes toward slavery had migrated from necessary evil to benign good in order to accommodate the new utility that slave labor had assumed within the plantation culture, if that were true, it was also true that southerners came to understand the importance of investing in development that would complement the system to which they had tied their future. The diversification of the northern economy – the crucible for the American industrial revolution – mainly resulted from the re-direction of capital with no federal subsidies except for indirect effects of protective tariffs and with state participation that ranged from granting monopolies to legislating subsidies. The mix between private and public heavily favored private encouraged by some important governmental incentives. Ironically, of course, cotton, grown in the slave South, served as the basis for the first factory system – textiles – in the North or more accurately the Northeast. The early phase of industrializing, as Engerman and (Kenneth) Sokoloff have described, was complex. It was not one giant leap but many small steps. Some steps proved to be more transformative than others, but at the outbreak of the Civil War there were more manufactories and greater reliance on machines and machine technology driven by new power sources. Both factor and labor productivity grew faster before 1860 than after. Writing in broad terms Engerman and Sokoloff averred that

In early industrial America it appears that substantial increases in productivity were realized through incremental changes in the organization of production and in design of tools and products. These are the sorts of technical changes that could well have been realized continuously in response to investments in inventive activity, and with the participation of a broad cross-section of the population in their discovery and implementation. The growth of manufacturing productivity (especially in less-intensive industries) and of patenting appear to have spread out together from urban districts after 1820, along with the extension by individuals with rather ordinary skills and backgrounds. The record of productivity growth is, therefore, quite consistent with the hypothesis that during the initial phase of industrialization investments in inventive activity that followed the pattern of demand yielded technological advances across a wide range of industries.  

As one reads this summing up, one tends to think of the North, not the South. The South did not imitate the North and remained fundamentally agricultural and rural. Improvements in crop cultivation and processing can be cited, but one area in which the South was aggressive was in expanding its infrastructure. It was viewed as essential not to transform but to strengthen the plantation economy public investment was widely common.

Without wading into the complex economics of building out transportation systems with competing components of road, canal and rail, I will simply observe that the imperative was simple: as more and more production moved away from the ports and coasts into the interior and because the South depended on exporting agricultural goods and importing finished goods, having a cost-effective transportation system was a sound business decision. By the 1840s railroad building had become the preferred infrastructure solution. Most of the investment in rails before 1850 was concentrated in the Northeast but for part of the second quarter the South was a player. Between 1825 and 1843 and 1844 and 1850 $137 million and $172 million was invested in rails. About a quarter of the total for the first period was in the South. During the post-depression (1837) period, however, it fell off sharply to about 10 percent. Albert Fishlow makes the case that railroad

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494One can read a brief summary of transportation-investment theory in Fishlow, “Internal Transportation in the Nineteenth and Early Twentieth Centuries,” in Engerman & Gallman, eds., Cambridge Economic History, 2:544-548.
building was not so much looking to the future as realizing immediate profits. Investors crowded into regions where money was to be made, and when all the money that could be made was made, not all the roads survived. Private investment was the main engine. Little if any federal aid was available, and states as well as municipalities that had subscribed public funds got burned with the economic collapse in the late 1830s and more or less got out. The southern states were especially hard hit, and as they withdrew public funding, private investment was slow to make up any difference. The river system in the South served as an alternative, and state governments allocated funds to improvements of harbors and rivers, and southern congressmen favored federal appropriations for the same.\textsuperscript{495}

Southern politicians and merchants had long discussed moving the economy toward commercial independence. The introduction of protective tariffs after the War of 1812 had resulted in the North developing a manufacturing sector that was virtually lacking throughout the South, which depended on a steady flow of imported consumer goods. Diversifying the economy required better transport facilities than were in place. In the 1830s southern complaints about tariffs and other northern policies took on a more formal character as southern businessmen began to organize chapters and clubs aimed at improving the commercial structure. A regional conclave in Augusta, Georgia, opened in the Fall, 1837, shortly after the nation had plunged into a panic. One observer and supporter independent southern action was Calhoun, who in a letter to his brother called this an opportunity for the South to loosen the economic shackles imposed by the North. Calhoun ridiculed President Van Buren and especially the New York banking system that came under stress and urged a strong showing at the conference. While only 70 to 80 people from two states attended, the resolutions established a precedent for what was to come. The business of commerce, they stated, should be conducted by southern cities and ports, and when the “terms of trade are equal” preference should be given to southern commercial establishments. Immediately southern citizens should be informed of the economic advantages in carrying on trade directly with foreign entities instead of relying on northern agents. Another meeting was scheduled for the following year, and the idea of regional conclave began to spread across the South. In the next 20 years at least 14 such conclaves were held in various southern cities with hundreds in attendance.\textsuperscript{496}

Calhoun served as presiding officer at a convention in Memphis in 1845. More

\textsuperscript{495}Fishlow, “Internal Transportation in the Nineteenth and Early Twentieth Centuries,” in Engerman & Gallman, eds., \textit{Cambridge Economic History}, 2:575-583.

than 500 people from 12 states were in attendance. This had a more national character than most conclaves. This one focused on a vague-sounding idea of commercial independence; it took up the matter of internal improvements that had to be the foundation of any independent economic development. Panels were organized to discuss specific issues such as improvements of the Ohio and Mississippi River, canal between the Upper Mississippi and the Great Lakes, rails linking Mississippi to southeastern ports, national funding for upgrading harbors and docks in souther ports, also national funding for levees along the Mississippi and postal and military road construction. The conclave came up with 17 resolutions, all of which in some way or another called upon the national government to make funds available. In addition, Calhoun and others prepared a memorial to be presented to Congress and to citizens across the South.\footnote{David, “Commercial Conventions,” \textit{Alabama Historical Society}, 5, 167-169.}

In one resolution the wording was absolutely clear: \textit{“Resolved}, that the improvement and preservation of the navigation of those great rivers are objects as strictly national as any other preparation for the defense of the country....” These were \textit{national} internal improvements, which Calhoun had supported in his early days in the Congress after the War of 1812 but had voted against for the past several decades. In a speech to the Senate (1 April 1840) on the perennial Cumberland Road Bill, he remarked that the Federal Government was “wholly unfit” to undertake internal improvements. A bill (S-159) introduced on behalf of the Committee on Roads and Canals on January (1840) had a single section that called for an appropriation of $450,000 to be distributed among Ohio, Indiana and Illinois for maintenance and expansion of the Cumberland Road. A related bill (S-26) from the Committee on Public Lands, stipulating that public land could be allotted to (and sold by) states for the purposes of public improvements, had been introduced a few days before. The problem with S-159 was that the Treasury's 2-Percent Fund, administered to maintain the national highway, was thought to be exhausted. S-26 was viewed by some as a way of using sales from donated public lands to underwrite internal improvements that Congress was always reluctant to embrace. Several amendments to S-159 were proposed, including one that added scores of projects costing millions, and it was a successful amendment by Clement Clay's (D-AL) that returned the bill essentially to its original form, mandating that proceeds be paid out of the 2-Percent Fund\footnote{Calhoun, “Remarks on the Cumberland Road Bill,” 1 April 1840, Wilson, \textit{et al.}, eds., \textit{Papers of Calhoun}, 15:107. Proceedings on S-26 and S-159, \textit{Journal of the Senate}, 1\textsuperscript{st} Session, 26\textsuperscript{th} Congress, various dates, 49, 107, 191, 312 and 103, 143, 249, 265, 276, 281, 285. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwsj.html}.} as they accrued. Calhoun supported the amendment because he thought it was fair, in the spirit of compromise and might “put an to this distracting question and the system of which it constitutes a part.”\footnote{Calhoun, “Remarks on the Cumberland Road Bill,” 1 April 1840, Wilson, \textit{et al.}, eds., \textit{Papers of Calhoun}, 15:107. Proceedings on S-26 and S-159, \textit{Journal of the Senate}, 1\textsuperscript{st} Session, 26\textsuperscript{th} Congress, various dates, 49, 107, 191, 312 and 103, 143, 249, 265, 276, 281, 285. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwsj.html}.}
It was remarks like these that constituents and others remembered when Calhoun on behalf of the Memphis Convention (1845) offered his memorial to Congress.

In changing his mind (although he claimed he had not absolutely done so) he offered a curious analogy during his opening address at the Memphis Convention: the Mississippi was in “reality an inland sea.” Consequently, since the general government was empowered to provide for the national defense and regulation of commerce, improvements appropriations on the Mississippi fell within the purview of the federal government. In reporting his remarks the widely-read De Bow's Review paraphrased his remarks as follows: the genius of our government was that what “individual enterprise could effect alone was left for individual enterprise; what a state and individuals could achieve together, was left to state and individuals; but what neither of these separately or conjointly were able to accomplish, that and that only was the province of the Federal Government.” Calhoun further argued that in lieu of money the Federal Government had the authority to grant land for the construction of roads, rails and canals.499

Despite the hoopla surrounding the Memphis Convention and Calhoun's advocacy for internal improvements, not much change can be documented. In fact the resolutions aroused opposition in the South. New Orleans and Louisiana were upset with the projects to develop other regions because that would come at their expense. It also enraged promoters in the West and their eastern allies who considered this diversionary on the part of the South – internal improvements for Calhoun's region but not necessarily for other regions. Beside the natural commercial linkage was East and West, not by way of the South. The South was on the move but not without risk and controversy.

In the final days of the 1st Session of the 29th Congress (1846-1847) Congress passed a bill to provide federal funds “for continuing certain works in the Territory of Wisconsin, and for other purposes”, which Polk vetoed because of the other purposes. In his message (15 December 1847) he noted that a small amount ($6,000) had been set aside for Wisconsin but a half million had been authorized for various river and harbor improvements across the country. Polk's Veto Message was devoted not to the projects themselves but to Presidential and Congressional actions with regard to federally-funded internal improvements during the past 50 years. On the one hand, Polk argued that the federal government was committed to financing the war and adding to the national debt to finance internal improvements was irresponsible. He made note of the fact that while the bill contained no

appropriations for building roads (the House had rejected several amendment to
finance the Cumberland Road), he could see no difference between earlier
packages of internal improvements (mostly concerned with road-building) that
Andrew Jackson and other other presidents had vetoed because their scope exceeded what the Constitution permitted and this package of more than three
dozen river and harbor projects costing nearly $600,000 that also qualified as
constitutional overreach. Wryly Polk observed that every harbor and river in the
country could qualify in some minor way for federal aid.

Regarding only objects of improvement of the nature of those
embraced in this bill, how inexhaustible we shall find them. Let the
imagination run along our coast from the river St. Croix to the Rio
Grande and trace every river emptying into the Atlantic and Gulf of
Mexico to its source; let it coast along our lakes and ascend all their
tributaries; let it pass to Oregon and explore all its bays, inlets, and
streams; and then let it raise the curtain of the future and contemplate
the extent of this Republic and the objects of improvement it will
embrace as it advances to its high destiny, and the mind will be
startled at the immensity and danger of the power which the principle
of this bill involves....In all this vast country, bordering on the Atlantic
and Pacific, there are many thousands of bays, inlets, and rivers
equally entitled to appropriations for their improvement with the
objects embraced in this bill.

He openly deplored what he saw as an unhealthy tendency for local interests to
join forces in trying to secure federal largess, a form of you scratch my back and
I'll scratch yours:

We have seen in our States that the interests of individuals or
neighborhoods, combining against the general interest, have involved
their governments in debts and bankruptcy; and when the system
prevailed in the General Government, and was checked by President
Jackson, it had begun to be considered the highest merit in a member
of Congress to be able to procure appropriations of public money to
be expended within his district or State, whatever might be the object.
We should be blind to the experience of the past if we did not see
abundant evidences that if this system of expenditure is to be indulged
in combinations of individual and local interests will be found strong
enough to control legislation, absorb the revenues of the country, and
plunge the Government into a hopeless indebtedness.
Voluntary associations by congressional delegations. Under Democrats and Whigs deal-making carried little of the broad national vision that one could argue lay behind Henry Clay's original American System. During the debate (20 February 1847) on the so-called Wisconsin bill more than a dozen amendments totaling more than one million dollars were introduced and rejected. They included efforts by Ohio and Kentucky congressmen trying to get money from the federal government to purchase the remaining stock in the Louisville and Portland Canal that it did not own so that all fees could be dropped and traffic could move freely through the canal, or Ohio Valley representatives trying to get money to complete a marine hospital, or a spectrum of Congressmen trying (once again) to procure money to extend and improve the Cumberland Road. Polk pointed to a better arrangement: “cleaning harbors, improving rivers” could be assumed by states in cooperation with the national government. States could not on their own establish fees and duties to underwrite such projects but they could with the consent of Congress so long as the venture was reasonable.

The Constitution provides that “no State shall, without the consent of Congress, lay any duty of tonnage.” With the "consent" of Congress, such duties may be levied, collected, and expended by the States....The subject was fully considered by the Convention....It appears in Mr. Madison's report of the proceedings of that body that one object of the reservation was that the States should not be restrained from laying duties of tonnage for the purpose of clearing harbors....Madison, treating on this subject in the Federalist, declares that--

The restraint on the power of the States over imports and exports is enforced by all the arguments which prove the necessity of submitting the regulation of trade to the Federal councils. It is needless, therefore, to remark further on this head than that the manner in which the restraint is qualified seems well calculated at once to secure to the States a reasonable discretion in providing for the conveniency [sic] of their imports and exports, and to the United States a reasonable check against the abuse of this discretion.

The States may lay tonnage duties for clearing harbors, improving rivers, or for other purposes, but are restrained from abusing the power, because before such duties can take effect the 'consent' of Congress must be obtained. Here is a safe provision for the
improvement of harbors and rivers in the reserved powers of the States and in the aid they may derive from duties of tonnage levied with the consent of Congress. Its safeguards are, that both the State legislatures and Congress have to concur in the act of raising the funds; that they are in every instance to be levied upon the commerce of those ports which are to profit by the proposed improvement; that no question of conflicting power or jurisdiction is involved; that the expenditure, being in the hands of those who are to pay the money and be immediately benefited, will be more carefully managed and more productive of good than if the funds were drawn from the National Treasury and disbursed by the officers of the General Government; that such a system will carry with it no enlargement of Federal power and patronage, and leave the States to be the sole judges of their own wants and interests, with only a conservative negative in Congress upon any abuse of the power which the States may attempt.500

The dismay in the South over Polk’s veto was palpable especially among those southerns who were heirs of the Whigs. Slavery was incompatible with enlightened social and political ideals but not with capitalism itself. If, as many ardent capitalist believe, slavery and capitalism co-exist because capitalism at its root embraced the sanctity of the dignity of the individual in his pursuit of economic wellbeing, and slavery denied that universal condition. But, of course, modern thinkers have found that capitalism has several faces, some not so pure and ideal, as investment for profit that leads to more investment for more profit regardless of the social ramifications. Human greed, not human dignity, could drive capitalists. If slavery could be incorporated in the name of optimizing capital, then use it. Sir Eric Williams made a strong case against the commonly-touted principal that the great increment in personal wealth since the eighteenth-century was due in large part to the expansion of and dedication to capitalist modes. In short, wealth-creation under capitalism had a dark side in that it worked without stipulating the freedom of the worker.501 In purely economic terms capitalism was a system by which the means of production and distribution were privately owned, and economic development

500 Polk, Veto Message (actually a pocket veto), 15 December 1847. Available on-line at http://www.presidency.ucsb.edu/ws/index.php?pid=67965. Unpaginated. In this version the quotations above from pp. 1-3. The passage attributed to James Madison from Federalist No. 44 – Restrictions on the Authority of the Several States, 25 January 1788. Polk's rendering was accurate. House debate and vote on the Wisconsin bill (HR-84) from Congressional Globe, 2nd Session, 29th Congress, 20 February 1847, 471-472. HR-84 was materially amended after it was first introduced to fund several Wisconsin projects stated in fewer than a dozen sentences. All but one of the Wisconsin projects was dropped, and the remainder of the projects noted above were added in committee. In the floor debate before the final vote no amendments were approved. Days later the Senate agreed without amendment.

came about from investment and reinvestment of profits from that private ownership in free market. But there is a political corollary. Capitalism is also considered to be a social system that is premised on principles of individual rights. Details about both the economic and political definitions may differ, but at the heart of capitalism was freedom and choice. Slavery by its very nature ran counter to what many believed was an essential principle of the capitalist system that freedom of the individual to pursue and enjoy economic rewards based upon his own effort. Slave societies appeared to be at odds with capitalistic models, and yet the practitioners and advocates of slavery seemed to operate inside a capitalistic framework. Without engaging too much a long-standing debate the fact that southern planters could rely on an archaic and immoral labor system and even push it well beyond its traditional boundaries in order to make money. Whatever how one may describe the southern economy and its strategy – feudal, proto-capitalistic, capitalistic – southerners apparently understood a basic consideration: investment in infrastructure had to accompany continuing profitability of the plantation economy. Engerman stresses that a distinction must be made between whether the South “would have been better off with free than slave labor” and whether the South could earn “a market return from ownership sufficient to justify the costs of purchasing and/or raising of slave.” And the answer to the second question appears to be that planters did enjoy competitive returns and, perhaps more importantly, expected to do so into the future. Furthermore, on the crucial statistics as to the distribution of wealth in the South and the North the differences were insignificance. For a variety of reasons related to size and location of plantations and slave ownership patterns the inequality of the distribution of wealth in the South may have grown slightly in the decades before the Civil War. How could wealth distribution between North and South be so close? If just rural North and South were measured the inequality of the rural South was much greater because of the impact of the large plantations. At the same time the North had a larger urban population that barely qualified as “wealthholders” than the South, and that tended to bring per-capita wealth of the two region into closer proximity. These calculations count only the free population and exclude slaves or indentures. In the South that meant millions were not counted because they possessed no wealth, and if they were, the figures would look quite different. The relevance of the research by Engerman and others is that from an economic standpoint – the investment and yield of capital to serve an external market – slave labor was not a deterrent.

One cannot miss the aberrations between advocacy of equality and liberty and

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practice of exclusion in American society. Slavery stood out because it was so manifestly at odds with the American Dream. Even worse 300 years after bondage was introduced it was not being curtailed or restricted or terminated, it was being expanded. Alexis de Tocqueville wrestled with this contradictions, although he did not necessarily come down on the side of the issue that the logic of his analysis of equality and liberty might demand. \textit{Democracy in American} was based upon travels and conversations across the country. Slavery came up frequently if not constantly from day one. When de Tocqueville conversed with John H. B Latrobe, a distinguished Baltimore attorney, Latrobe answered the Frenchman's inquiry about slavery with the observation that it still existed and efforts were being made to get rid of it. He noted without elaboration that slaves could not be imported but could be exported. Enfranchisement had been extended to some free “Negroes”, but then Latrobe added that a “freed Negro finds himself more unhappy and unable to help himself than a slave.” He noted that the Negro population was growing faster in western Maryland than eastern Maryland, and he assumed that the large estates, dominating western Maryland, were more suitable to Negroes than the other side of the state. Portents for the future were troubling, Latrobe offered, because Maryland may pass oppressive laws that will cause Negroes to leave. Latrobe concluded that whites and blacks were in a state of war and could never find accommodation and harmony. In Louisiana during a conversation with Etienne Mazureau, who had served as state's attorney-general, de Tocqueville was told of how the lives of slaves had improved during the past 20 years. “Time was that they lodged in wretched huts which gave them...no protection from bad weather...; in addition they received a blanket and a barrel of corn for the month. Now, according to Mazureau, without any details, slaves were well-fed, -housed and -clothed. He also remembered as attorney-general prosecuting a slave-owner for killing a slave and winning the death penalty. During his visit to Ohio de Tocqueville made notes to the effect that while slavery was forbidden, blacks were not permitted to live there unless they posted bail. It was not clear the bail requirement was ever put into effect, but even so perhaps no more than 3,000 freed blacks lived there. Finally, in an oblique remark de Tocqueville composed a note on the legislative history on slavery in New York that found “first laws” were atrocious but rapid legal changes came after American Revolution – “very curious,” he added.

\begin{footnotes}
\item[504] De Tocqueville, \textit{Journey}, 65, 234.
\item[505] De Tocqueville, \textit{Journey}, 97.
\item[506] De Tocqueville, \textit{Journey}, 279-280.
\item[507] De Tocqueville, \textit{Journey}, 267.
\end{footnotes}
How did all these encounters and remarks shape his passages on slavery, equality and liberty in *Democracy in America*? De Tocqueville established a major premise that equality was more passionate among advocates of democracy than liberty.\(^{508}\)

Let me issue a warning that de Tocqueville's treatment of American slavery has stirred much controversy, some of whom believe he was naive and inconsistent and others who have worked to underscore the continuity in his analysis of American democracy. De Tocqueville wrote an especially long chapter on the three races in America in which with regard to blacks he concluded that freed blacks do not fare well in the North because they lack density whereas, if blacks ever acquired their freedom in the south, they could demand and, perhaps in some areas where they held a demographic advantage, they could win a share of the wealth production. He was of the opinion that Northerners could more easily talk about black emancipation because they had so few blacks to deal with, whereas the South tamped down (using the power of the state) such talk about emancipation. He could envision two courses of action, neither of which augured well for the South: emancipate the slave but try to mingle or to isolate whites and blacks; or maintain slavery forever. He found in his discussions that southerners did not uniformly believe that slavery was necessary for economic prosperity (the early 1830s) but conversely uncertainty about the utility of slavery stiffened resistance to emancipating slaves. The unknown was what could be expected of emancipated slaves in a society or culture that had originally enslaved them? (Caribbean uprising against slaveowners were not lost on Southerns.) From a legal standpoint the laws of some southern states regarding slavery (and notwithstanding what some believed) allowed for “unparalleled atrocities” in order to maintain and secure slavery. How could emancipated slaves forget that? The promise and the hope of liberty had been held out at various times but seldom delivered on. De Tocqueville saw the inconsistency between slavery and democracy. There was no clear-cut position, no statement without qualifiers. In the final paragraphs of the chapter on three races (I have not dealt with the Indian question), he stated that slavery could not survive no matter how diligently the South tried. The final sentence reads: “If liberty be refused to the Negroes of the South, they will in the end forcibly seize it for themselves; if it be given, they will before long abuse it.” In the context of the entire discussion, they would abuse it because they were not ready and because they were not welcome.\(^{509}\)

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\(^{508}\)De Tocqueville, (Bender, ed.), *Democracy in America*, 390-395.

\(^{509}\)De Tocqueville, (Bender, ed.), *Democracy in America*, 234, 236-238, 242, 244, 246-247, 248. The colonization movement, de Tocqueville insisted, had no chance of success because blacks will not want to leave American shores. In de Tocqueville’s view the insistence on equality above everything else including freedom could lead to odd outcomes such as a refusal to grant equality to blacks could be used to justify their continued enslavement.
Other oddities can be cited. It is generally argued that under the influence of British economists labor came to be treated as a commodity that buyers and sellers negotiated. Persons who had labor to sell and those who had labor to buy would agree upon a price, that is, a wage. Since the formalization of capitalist theory and its counter-theory, Marxism, debates about the contribution of labor to value of a product have raged. The problem has been how to separate the act of laboring from the laborer actually laboring. Everyone recognized that when a laborer agreed (theoretically) to a wage, he surely would never enter an agreement that would impair his ability to labor. That he agreed to use his capacities to produce a product in which he would share, by his wage in the value of the product was a plausible arrangement, but where the disagreement emerged was the share and how it should be arrived at? Under capitalism with its emphasis on incentive and competition, the market would recognize the differences in types of labor and skills of laborers, and out of natural forces would emerge wage levels that were just compensations. Growth and prosperity in capitalism depended on allocation of capital but also on expansion of consumption to create markets and opportunities from which capital pools would be refurbished. But numerous obstacles and pitfalls arose to distort the theory. Even Adam Smith foresaw that the advantages lay with the employer who could organize into associations and not with the employee who were forbidden to organize to counter employers' combinations. Wage-earners were often exploited for the sake of profits than being treated as potential beneficiaries. As a result, wage-earners could be become unruly and disruptive over what they concluded was inadequate and unfair compensation. Labor, a commodity, was attached to a laborer, a person, who protested that his ability to operate a machine, assemble a part, package a product was being used to enhance the producer's profitability and not the worker's wellbeing. Humans talked back, grains didn't. Before the modern period when labor was an obligation or assignment outside the control of the possessor compensation for work was based not on the market value of the labor component but on protocols and codes imposed rather than agreed to. Wages existed but they tended to be set rather than negotiated. They could be paid in cash and in kind and often the latter was bigger a bigger component than the former. As the idea of competitive markets rather than regulated markets took hold, wage-labor, competed for, was a natural fit. But other forms of labor that belonged to an earlier time did not disappear and in some cases were preferred to free wage-labor. Indenture and slavery, both forms of bondage, operated along side of free labor in America until the middle of the nineteenth century (and even beyond). And they survived because they were thought to be more efficacious than free labor. Matthew Carey, businessman and editor as well as a staunch free-trader, endorsed the idea of employers and employees negotiating and yet continued to view some
less free labor systems as preferable under certain conditions.Indentures had been recruited for canal-building in part because the tight labor market made hiring free workers expensive. Indentures proved troublesome, however, because the demand for workers made it worthwhile to skip out on their contract obligations. Carey and others understood the workings of a tight labor market, and in 1827 Carey recommended that Virginia, where slavery was still legal, put slaves to work in textile mills, having calculated that 100 slaves who were not paid wages could be more productive than 100 women, who were paid wages albeit modest. About the same time Thomas Jones, an industrialist, recommended slaves in textile manufacturing because they were more docile, less raucous and more efficient in routines that textile manufacturers now were following. In Baltimore, apparently, businessmen were reluctant to jettison slavery because they had found that free workers, often distracted by their civic duties, were not as productive as slaves. In fact, they were known to declare a willingness to pay a wage and to dangle manumission before the slave to make slavery more palatable (if possible). Seth Rockman, having analyzed these examples of “unfree labor” in democratic America, concluded that while forced labor might be more efficient and orderly it denied a basic principle of capitalism – expanding markets depended on rising levels of consumption, an unlikely prospect under bondage.\textsuperscript{510}

As slavery expanded (other forms of bondage certainly did not) and perhaps more importantly as profitability under slavery continued, an economic argument for the efficacy of the institution became a part of the public discourse. Not all southerners were in agreement about the future of slavery, even as southerners were mounting a more aggressive campaign to protect and expand slavery. Disagreements existed between large slaveholders and small slave holders, between southerners from the Upper South and from the Lower South, the Tidewater and the Mississippi and, of course, between slave-owners and non-slave-owners. Even the concept that slavery was a positive institution had southern critics. But the overarching fear was that gradual manumission would lead to pressure for immediate manumission and manumission itself would create an impossible social condition of whites and blacks trying to live side by side. To counter this fear, southern slavery advocates used the metaphor of community to describe how free whites and enslaved blacks co-existed. Both understood and by extension accepted the protocols and rules as best for the interests of all. It was incumbent on all to support not only the community but to resist intrusion to reform and remake the community. Factions within the community were as dangerous as factions from outside. Not every southerner bought into the community metaphor but even with the skeptics the

dissolution of the bonds based on the separation of the races was unfathomable and therefore undesirable. The hand held by the most extreme defenders of slavery, i.e., tampering with the institution would wreak havoc and, therefore, advancing the cause of slavery and constantly strengthening its bonds within the community was was preferable to any other course of action. It was also the easiest argument to make. Trying to argue for gradual manumission, limited or no expansion, even if framed as gradual with instruction on assuming the mantle of citizenship constituted unknowns, and if they failed, the South would bear the brunt of the failure. Not just southerners but northerners, even some who opposed expansion, stood against tampering with the system out of fear of unintended consequences. Drumming up support for public projects that built out the infrastructure could be sold as measures to improve the economy but also to improve the prospects of slavery.

The logic of the argument may be less than convincing within the framework of a democratic society, and, yet on the grounds of exclusion alone, bondage was only part of the problem. Others groups were also denied participation in the American democratic experiment at various levels. Although barriers to the franchise had been cut away for white males, they were still very much in place for women, native Americans, some immigrants and even freed blacks as well as slaves. Economic limitations and social restrictions existed as well. The principal beneficiaries of the democratic ethos that featured liberty and equality were white males, and the degree to which others could share the benefits depended on the generosity of white males. The reform impulse of the second quarter of the nineteenth century had, as noted earlier, many faces, but at the heart of American reform was a preoccupation with corruptibility – the grand ideal that liberating the individual from the shackles imposed by centuries of being ruled would unleash a drive toward perfectibility. Of course, some never had such unbounded faith in the individual, and even among those who hailed liberation there were disagreements about how it would happen. To the extent that the individual had been liberated, imperfectability, not perfectibility, had invaded the American experiment. Slavery was the ugliest of the defects, but Americans spent a lot of time and energy cataloging the failures. When Elizabeth Cady Stanton and Lucretia Mott called for a conference to address some imperfections, they were ready to agitate. Both women had been active in the abolitionist crusade, and, yet in London at a world anti-slavery meeting, Mott had been denied the podium because she was a woman. The American anti-slavery movement by the late 1840s was beginning to engulf other reform activities, but the The Declaration of Sentiments that more than 100 participants (two to one women) signed in Seneca Fall on 20 July 1848 against the backdrop of a nation squaring off over the disposition of the new territories and the
extension of slavery made an impact in the overall reform agenda. The title echoed William Lloyd Garrison's Declaration of Sentiments at an antislavery convention in 1833 and the contents read like the Declaration of Independence. By design the Seneca Falls reformers intended to link the exclusion of women to the most basic and fundamental assertion of liberty and equality in America.

The Seneca Falls Sentiments opened with:

When, in the course of human events, it becomes necessary for one portion of the family of man to assume among the people of the earth a position different from that which they have hitherto occupied, but one to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes that impel them to such a course.

With perhaps the most famous line from the Declaration the Seneca Falls Sentiments added to “We hold these truths to be self-evident that: all men and women are created equal”. The significance of the revision was apparent to all. In that most often quoted paragraph, several similar word changes were made: “Governments are instituted among Men” became “governments are instituted” and “Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government.” became “Such has been the patient sufferance of the women under this government, and such is now the necessity which constrains them to demand the equal station to which they are entitled.” If there were doubts about the views of the signatories, the next paragraph, not from the Declaration, should have dispelled them: “The history of mankind is a history of repeated injuries and usurpations on the part of man toward woman, having in direct object the establishment of an absolute tyranny over her. To prove this, let facts be submitted to a candid world.”

While the “sentiments” of the Declaration of Independence are the most quoted, the crux of the document was the causes that justified such extraordinary action. Similarly, the Seneca Falls Declaration evolved from general principles to a list of grievances. A sample of the of grievances:

He has never permitted her to exercise her inalienable right to the elective franchise.

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He has withheld from her rights which are given to the most ignorant and degraded men--both natives and foreigners.

He has made her, morally, an irresponsible being, as she can commit many crimes with impunity, provided they be done in the presence of her husband....

He has monopolized nearly all the profitable employments, and from those she is permitted to follow, she receives but a scanty remuneration....

He has monopolized nearly all the profitable employments, and from those she is permitted to follow, she receives but a scanty remuneration....

What was to be done? Let it be noted that the protest in the Declaration of Independence as in the Declaration of Sentiments was directed at government, a government by men that violated the law of nature and God.

Whereas, the great precept of nature is conceded to be that “man shall pursue his own true and substantial happiness.” Blackstone in his Commentaries remarks that this law of nature, being coeval with mankind and dictated by God himself, is, of course, superior in obligation to any other. It is binding over all the globe, in all countries and at all times; no human laws are of any validity if contrary to this, and such of them as are valid derive all their force, and all their validity, and all their authority, mediately and immediately, from this original; therefore....

Followed by a dozen Resolves, the Declaration of Sentiments was unflinching in what must be done. God's moral law superseded man's law, and when man's law denied women their “true and substantial happiness” women and men must pursue every “righteous” act to undo man's law. Once again the institution of government, a government presumably created to foster and protect the happiness of the individual had failed to abide by its covenant. Individuals, in this case men and women, must not permit human agencies to guide them to happiness. A preeminently religious document, its secular impact was that the individual must allow himself or herself to be governed by the moral endowment from the supreme
being and not by perverse laws that some individuals impose upon the rest. Taking righteous action was not a direct call for open rebellion, but it could serve as an appeal to a longstanding ideal that individuals endowed with a moral compass could act against and without formal authority. American reform was staking out a claim to authority that if pursued would ultimately bring Jefferson's two self-governments – the individual and the collective – into conflict. Even though women's direct participation in the American democratic experiment would not be realized for another half century, the stance taken at Seneca Falls would echo in other venues.512

The aim of the Jeffersonians was to create a government that would serve the individual in his own pursuits but it had grown, as the nation was expanding and the economy was shifting, into a contested institution. The goals of the Declaration of Sentiments were unattainable at the half-century mark as they were at the start of the century, but the language, the appeal, the outrage of the Declaration resonated with others whose agendas were different but whose fears were similar. The revolutionary rhetoric had never faded from the political debates. The long, contentious debate over sovereignty always carried the threat not so much of overthrow as departure. Throughout the Congressional debates of the 1840s, when certain issues were now being debated more openly than before, there was less reluctance to refer to disunion, separation or secession. The language was more explicit, various shades of threat and retort without becoming unequivocal. The secession threats were not certain, but not idle. Although still contentious, sovereignty gained some clarity because John Calhoun had given speeches and written essays that spelled out a theory of concurrent majority that was fully controversial but less ambiguous. Calhoun made the argument that since the states were the instruments by which the nation was created under a fundamental charter, they not only shared sovereignty with the national government but on issues that directly bore on the welfare of the citizenry they could call upon their governments of their states to protect their interests. Under this rubric states could exercise their sovereign power to overrule the claimed sovereignty of the national entity. Concurrent majority apparently only worked in one direction. The sovereignty of the state was preeminent. It was unthinkable (to Calhoun) the the national government could ever overrule what citizens of states wanted. The anti-slavery movement had by the time of the Seneca Falls conference split over political action versus radical reform outside the political sphere. Other groups had lost faith in the authority of the government to act on their agenda if, as Calhoun argued, states had

512The Elizabeth Cady Stanton and Susan B. Anthony Papers Project for text of the Sentiments and Resolutions and a discussion of how the events of the two-day conference unfolded. Available on-line at http://ecssba.rutgers.edu/docs/seneca.html.
supremacy implied by concurrent majority.

If the voting public had trouble figuring out how Taylor and the Whigs would shape a presidential administration, the Democrats left little room for doubt. Their vision of the national government remained fixed to the Jeffersonian-Jacksonian ideological spectrum that raised both philosophical and constitutional objections to expanding the authority or the scope of government. After reading their platform, one is left with the distinct impression that the federal government should promote goods relations with foreign country to protect American markets, manage the sales of public lands and proceeds therefrom, defend a reasonable tariff for revenue and protection, maintain a stable money supply and fiscal operation with the help of an Independent Treasury and above all count on the sovereignty of the people and their capacity for self-government. Slavery was the flash-point that could hobble any administration. The Democrats would permit no interference by way of the federal government with the right of every citizen to move his property wherever he wished, the Whigs were non-committal and the Free-Soilers would draw one or more lines (they differed among themselves) to halt the expansion of slavery. The vote in the Election of 1848 indicated that Americans were uneasy about what to do. The Whigs won the presidency but the Democrats retained a majority in the Senate and were only a few votes shy of a majority in the House (third parties accounted for a dozen members). The emerging political divisions were mirrored in the House, however, where the members struggled for months to elect a Speaker. Whatever program Taylor intended to pursue, he was in for some rough sledding.

Before Taylor assumed the Presidency (4 March 1849), as the 2nd Session of the 30th Congress tried to finish its business (the last months of Polk’s Presidency), the docket was almost unmanageable. This Congress, elected in 1846, gave the Whigs control of the House by a slim majority and the Democratic control of the Senate by a substantial margin.513 (The new 31st Congress, elected with Taylor but not in session until December 1849, nine months after the President’s Inaugural, was worse than split with a Democratic majority in the Senate and no majority in the House. The Whigs had a plurality, not a majority, and had to depend on minority-party members or dissident Democrats.) Staggering as the unfinished business was, it was made worse because the Wilmotites continued to press for restriction. Under the treaty with Mexico, the United States had agreed to cover settlers' claims against Mexico. Article XII of the Guadalupe Treaty stipulated that the United States should pay the $15 million in annual payment of $3 million with interest at 6

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percent. HR-684, introduced in December 1848, authorized said payment for 1849. It came up for debate on 17 February 1849, and David Wilmot spoke from the floor. Since the Missouri Compromise, a fragile consensus to avoid agitation and confrontation had existed, but with expansion and development that consensus had eroded. Wilmot's Proviso laid bare the failure of do-nothing strategy. The first time Wilmot's Proviso was introduced, it was done by parliamentary manipulation. After that it was openly submitted. The House had enough votes to pass it but the Senate had enough to block it. Surely the Congress could not miss the significance of the debate surrounding Wilmot's Proviso. The extension of slavery had become a part of the national debate. Agitation for and blockage of this and similar amendment as a strategy could not have inspired confidence among lawmakers. Coming late in the final session of a lame duck Congress with a new President about to be inaugurated added to the sense of frustration and hostility. But in those final weeks neither the Senate nor the House could avoid the territorial issues nor David Wilmot.

When Wilmot took the floor to debate the treaty appropriation (HR-684), the story he was to tell could only have stoked the flames. His story was about a conversation between him and President Polk. According to Wilmot he had learned that Alexander Stephens, a Georgia congressman and slave-owner, had made reference to an event involving Wilmot and President Polk. During the 2nd Session of the 28th Congress prior to the introduction of the “Three Million Dollar” bill, to which the House wanted to add Wilmot’s Proviso, the President requested Wilmot's presence at the White House. Wilmot said the President was worried that his Proviso, if attached to the bill, would lead to the defeat of the bill and a delay in terminating the war and concluding a peace. Polk, in replying to Wilmot's skepticism that such an appropriation would yield an early peace because it would only inflame the Mexican people against their own rulers, stated that he had “confidential agents” inside Mexico that assured him of the efficacy of the bill. Wilmot reported that he assured the President that he had no intention to embarrass the Administration and yet was committed to the Proviso, although he was willing to allow Congress to express strongly and clearly its opposition to the extension of slavery in whatever form it might choose. Wilmot then suggested to the President that perhaps a joint resolution by Congress would have the desired effect. Then Wilmot, recalling “substantially, and I think almost literally” what the President said: “Mr. Wilmot, bring it forward in that form; I assure you such a declaration would not be unpopular in Mississippi.” Wilmot apparently made note of the fact that Polk had cited Mississippi rather than his own state of Tennessee to try to persuade Wilmot of the sincerity of his belief. To which the President added (again Wilmot quoting the President) that he had been “brought up surrounded with this
institution...that all his habits and associations were connected with it....” What the President said next with unmistakable earnestness was: “I do not desire to see it extended one foot beyond its present limits....” The President's rationale was straightforward – the nation's “peace and safety” was at risk.514

In Wilmot's recounting to the House, he said that several days later he told Joseph Woodward (D-SC) who occupied the seat in front of his, about his conversation with the President. Woodward asked if the conversation could be made public, and Wilmot replied that it should remain confidential. Wilmot admitted, however, during the previous session (1st Session, 30th Congress), after he had his conversation with the President, he had repeated the story to a group of Congressmen at which Alexander Stephens (W-GA) was present. Again, Wilmot reiterated his wish that the conversation not be publicized, even though he remained committed to the cause and would swear before God that he had described correctly what took place. Wilmot’s public revelation of this conversation, which was clearly known among some of his colleagues, was intended to provide him some cover, as he sought once again to attach the Proviso on extension of slavery to the treaty appropriation bill (HR-684) under debate.

His public revelation has raised questions among commentators and scholars as to Polk’s sincerity and Wilmot's gullibility. The invitation came at the start of a crucial vote on Title XII to which the Proviso was to be added. Wilmot was absent. Later comments by Wilmot may have reinforced the trickery interpretation. The fact is that Polk's sentiments, had they been expressed publicly, may have resonated with many Americans in middle of the nineteenth century. The nation faced a dilemma. To expand slavery seemed unworthy of the American experiment, but to contain seem fraught with danger. There was no Congressional consensus on how to resolve the dilemma. That the Wilmotites kept coming back, as they said they would, even as a new administration was about to begin, indicated the depth of commitment to stopping the spread of slavery after years of maintaing a status quo. Polk reassurances were not helpful in that he did not want slavery to spread, so he claimed, but he was unwilling that would achieve that. Joshua Giddings (W-OH), the outspoken abolitionist, put forward the case for departure from the old ways without apology. On the same day, 17 February 1849, in a different debate, Giddings tore into the position of those who favored the status quo:

When I first took my seat in this Hall, the positions of our people asking to be relieved from the burden, the guilt and disgrace of

supporting the slave trade, were not received, nor were they permitted to be read; but they were treated with the most marked contempt. I found here that distinguished statesman whom history will describe as the great champion of popular rights, [Mr. J. Q. Adams:] he was laboring to regain the right of petition....

At my first entrance to this Hall, no member was allowed to speak irreverently of the slave trade, or of slavery. A more unrelenting tyranny never existed in a Turkish divan than reigned here. The gentleman who now fills the Presidential chair {Polk} then presided over our deliberations, and most effectually did he exercise his authority for the suppression of truth and of liberty. For years my lips were hermetically sealed on the subject of humanity....But how changed the scene! I can scarcely realize that this is the Hall in which I have witnessed the display of deadly weapons, exhibited for the purpose of intimidating northern members to keep silence in regard to the crimes and disgrace of slavery. Here, sir, in this body has been displayed, in the most striking manner, the power of truth. The freedom of speech has been regained.  

Giddings believed that blood dripped from the hands of both Democrats and Whigs. Both parties protected these evils. It was time, therefore, when the parties had to “separate on this absorbing question.” Those who continued to support the outrage of slavery were be openly countered by those to “adhere to the 'self-evident truth' of man's equality.” Giddings then raised the cry for a new political order: "‘Free soil, free men, and free speech.’” No doubt in Giddings' mind the instrument of change will be the national; government because it of all governing bodies was the guardian of individual equality and liberty.  

The mechanism by which the national government would change the course of the nation without adding to the growing disharmony was not yet clear.

For those who favored the status quo, to preserve the regional balance, the Senate remained the last defense. Whatever the sentiments of individual senators, the states that they represented lined up with an equal number for and against legislating on the question of slavery. In retrospect one can only imagine that defenders of slavery must have sensed, as Polk's remarks foretold, that the pro-
slavery forces and their allies could not prevail much longer. Abolition had gained adherents, although no one knows exactly how many Americans felt compelled to take a stand. It was hard to ignore the controversy whose grip was growing, but it cannot be said how many had actively joined the cause. That the small cadre of hundreds of anti-slavery advocates of the 1830s had turned into a small army of thousands in the 1840s was a safe bet, but beyond that figures were elusive. Part of the problem was that abolitionists had split over how to advance the cause. The Garrisonites had taken a radical position that the destruction of the social and constitutional order was necessary to purge society of slavery and slavery-lending apologists. They referred to the pro-slavery constitutional views as “an agreement with Hell.” A Massachusetts Garrisonite and lawyer, Henry Bowditch, wrote a book, the aim of which was to prove that the Constitution sanctioned slavery (citing the usual articles concerned with apportionment and trade) and therefore needed to be replaced in order to remove slavery.\(^{517}\) Beginning with the rise of the Liberty Party in the late 1830s and early 1840s political abolitionists, rejecting need for a radical or revolutionary overhaul of American society, favored a strong declaration against the expansion of slavery as constitutionally sound and pragmatically possible. The outcome of either of these approaches was a matter of speculation. Without espousing the rhetoric of the radical abolitionists even moderate abolitionists put the Constitution at risk. Would the nation once again face secession if slavery were restricted? Would violence engulf the nation if slavery were allowed to expand. The \textit{status quo} might be maintained but less and less likely. A half century after Jefferson had laid down the marker that the nation would prosper and thrive under a limited national government, leaving the details to be worked out, the national government was now being asked, with repeated frequency and intensity, to assume a burden it had manifestly never wanted. Wherever or however one dates the change, the Congressional debates of the late 1840s prefigured the collapse of a longstanding tradition. In the final stanza of a famous poem written as a part of the \textit{Biglow Papers}, James Russell Lowell, a Massachusetts radical abolitionist, declared what may crossed the minds of many Americans:

\begin{quote}
Ef I 'd \textit{my} way I hed ruther  
We should go to work an' part,  
They take one way, we take t' other,  
Guess it would n't break my heart;  
Man hed ough' to put asunder  
Them thet God has noways jined;
\end{quote}

GROWTH AND GOVERNANCE

An' I should n't greatly wonder
Ef there 's thousands o' my mind.518

To be sure, how minds had contemplated and endorsed just such a view.

In those final weeks of the 2nd Session (30th Congress) the House was trying to complete work on two money-related bills – HR-684, Three Million Dollar payment under the treaty, and HR-692, an omnibus appropriations bill for all civil and diplomatic expenditures such as salaries (including the White House gardener), office expenses and sundry outlays (from harbor fortifications to congressional travel reimbursements) for the next year (until 30 June 1850). A provision like Wilmot’s could have been added to either of these of these bills but was not. But territorial governing issues kept intruding into the debates over these and other bills as the Congress moved toward adjournment. The Senate, on the other hand, had its own version of HR-684, known as S-313, introduced by Thomas Hart Benton in the previous session and amended once or twice but not yet approved. Daniel Webster also had an amendment, but while it had been printed, as if it were to be added to HR-692, he preferred not to do that out of fear it would further slow down the deliberations over HR-692, which the Senate had had on its docket since late January 1849. He wanted to add it to a later House revenue bill, i.e., a bill authorizing a payment of money rather than one appropriating money. His amendment straightforwardly stated that the President was empowered to maintain “the authority of the United States” and this shall remain in effect through the next Congress unless the Congress shall act to organize the territories, even to impose martial law. Without a territorial plan California was still being governed under Mexican codes, which had led to some heated legal disputes. Moreover, the influx of people after the discovery of gold had placed a heavy burden on the few federal officials to preserve the peace. The aim of Webster’s amendment was to reaffirm that the territories belonged to the national government and the President, as Chief Executive, could act to protect its possessions even in the absence of a territorial government. A harmless amendment except it was a direct assault upon those who took the position that the power of the national government was limited.519 Even though S-313 had been around for more than a year, senators were prepared to continue to do battle over the language and scope of S-313. This was the character

518Lowell’s poem had a date of June 17, 1846, several years before the debate over California, which he alluded to in the 8th stanza – “They jest want this Californy/So’s to lug new slave-States in” – even before the official outcome of the War with Mexico was determined and a peace was concluded. Lowell like many other abolitionists believed the war was waged to gain more territory for slave-owners. The vocabulary and spelling of the poem was to underscore the “unlettered” status of Hosea Biglow. Poem reproduced in Thomas, ed., Slavery Attacked, 110-114.

of the debate, starting on the 22 February and continuing for several days. Many senators, both pro- and anti-slavery senators, participated with the result that evening sessions were ordered. Some northern abolitionist senators wanted broader action even at the risk of tying up S-313 or HR-692, than the Whig leadership was comfortable with, and some southern senators searched for possible middle ground that would avoid an all-out-battle. When Webster took the floor on 23 February, he stated his stance and his fear unequivocally. He reminded everyone that “I had no hand in producing the present state of things, connected with these territories which we have acquired.” He declared once again that he had opposed the war by which the territories were acquired and the treaty by which the transfer was completed. In typical Websterian understatement he ascribed no “considerable sagacity” to himself by saying “that the state of things which exists to-day – bought about, perhaps, a little sooner by accidental circumstances than otherwise would have been the case – was as evident to me as the sun in heaven, ever since the notion prevailed of new acquisitions....” Webster stated he would not replay the past. Instead he was calling all “prudent and practical men” who want peace for the country and protection for all its citizens. Webster thought trying to manage the future was hard enough without digging back through the past. He used the term evils, threatening both individuals and communities, to caution that looking down the road too far was dangerous. His short-term approach that all practical men could embrace was to impose a military government for the recently-acquired territories until the future became clearer. A military government would protect property and person and assure the enforcement of the laws for the settlers.520

The bill to which Webster chose to attach his amendment was HR-734, a bill to allow for the collection of duties and imposts at various ports in Upper California, which had been received from the House on 23 February, a day after Webster had made his speech. It was numbered HR-734, no more than three pages with six sections. It was intended, however, to do nothing more than provide for extending United States revenue laws “over the main land and waters” of that territory known as Upper California (from San Diego to Oregon), appointing customs officials and establishing court jurisdiction.521 It was tailor-made for what Webster had in mind. William Dayton (W-NJ), however, wanted a broader mandate and introduced a


substitute that went beyond Webster’s simple and straightforward declaration. Efforts to amend HR-734, however, failed at almost every turn. On the final day of the session the Senate voted on HR-734 in the form it had been reported by the Senate Commerce Committee without amendment.

When the debate turned to HR-692 (civil and diplomatic expenses) on 24 February, the territorial question was raised once again. Two days later (26 February) an amendment, proposed earlier by Isaac Walker (W-WI), came up for debate. Walker’s amendment to extend the authority of the federal government, as prescribed by the Constitution and inherent in laws currently in effect on matters such as protection of ports, collection of duties, sales of land and relations with Indians in all territories acquired from Mexico as well as appoint officers, establish postal routes, etc., until otherwise “provided by Congress.” This was an amendment that extended presidential prerogative to manage the affairs of the territories until Congress took action organize the territories. Henry Foote (D-MS), William Dayton, (W-NJ) and John Bell (W-TN) offered a substitute for the Walker amendment that was an similar to Webster’s amendment. During this debate Webster took the floor to declare his opposition to any such bill because it would delay approval of HR-692, which was much needed, and would only worsen relations at a time when dampening the fires was needed. In an ironic twist Webster who was known for frequent and long speeches enough had been said by him and others since the duty of the Senate was to approve HR-692 without delay. The substitute was soundly defeated (8 yeas, 47 nays), but the Walker amendment squeaked through (29 yeas, 27 nays.) True to his word, Webster voted against both amendments.

But the lame-duck 30th Congress had set adjournment for 3 March 1849, one day before Taylor’s Inauguration, and yet important bills remained to be considered: army and naval appropriations, lighthouse repairs and the all-important “civil and diplomatic expenses of the government,” The path from debate to amendments to passage for HR-692 was treacherous, to say the least. Because the House originated appropriations there was no comparable bill in the Senate. Upon receiving the House bill the Senate, as noted above, began to revise and amend

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H-692. On 28 February it passed the Senate with scores of amendments and was returned to the House. The House concurred in 25 amendments, amended five of the Senate’s amendments and refused to concur in 23 amendments including the controversial 53d, (Walker amendment). The House was in no mood to face the daunting prospect of an extended debate over territorial matters. Simultaneously, on the last day the House received Senate bill S-313 (treaty payments) that the House had approved in bill HR-684. S-313 was assigned to the House Foreign Relations Committee, which by evening had readied a report with amendments, which the House approved, but in approving the House added it as a section to HR-692 because it was essentially a money bill. The House also refused to accept certain Senate provisions, particularly those concerned with settlement of claims by Americans against Mexico. The treaty-payment clause, when added to H-692, more closely resembled the earlier House version (HR-684) than the Senate version (S-313). Richard Thompson (W-IN) tried twice to bring the House version in line with the Senate bill but failed. Eventually the House passed HR-692, a different bill from what it had originally sent the Senate and then received from the Senate, and when the bill was returned to the Senate for a concurring vote, the Senate refused. A quickly-assembled conference committee could not resolve the differences. In the wee hours of the morning (4 March) Webster who was ready to accept the House version of HR-694 pleaded with his colleagues to act in terms of the national interests instead of personal or regional interests. Finally, the clock dictated that the Senate had to accede to the House version. although the House had approved half of its amendment to HR-694. What Webster and others had fought for – delay organization of California and other territories – will by the actions of the House fall onto Taylor’s plate. Congress finally adjourned around 7 o’clock on the morning of 4 March, a few hours before Taylor’s Inauguration.

The 31st Congress convened for its 1st Session on 3 December 1849 (ignoring a Special Session of the Senate concerning credentials after Taylor’s Inauguration), which lasted until September, 1850. It was tumultuous by any measure. In retrospect, one can observe that this was where the Congress was headed. No one in the Congress could have foreseen how severe the strains could become. Holman Hamilton in Prologue to Conflict, The Crisis and Compromise of 1850 has properly given attention to the members of the Thirty-First. The membership combined continuity with significant turnover. So many new faces meant


realignments within the respective chambers had to be taken into account. The three Senate and stentorian Titans – Clay, Webster and Calhoun – returned, elderly and less energetic, but still able to rally their regions or their allies. Clay and Webster spoke as nationalists, although they had their differences, and Calhoun who begun his career in the nationalist camp had become the spokesman for sectionalism. There were other Old Guard such as Lewis Cass (D-MI), Thomas Hart Benton (D-MO), Sam Houston (D-TX), Henry Dodge (D-WI), Andrew Butler (D-SC) and John Bell (W-KY). Newcomers, beginning with the previous Congress, who will share the limelight with the Old Guard were William Seward (31st Congress, W-NY), Jefferson Davis (30th Congress, D-MS), Henry Foote (30th Congress, D-MS), Stephen A. Douglas (30th Congress, D-IL) and Salmon P. Chase (31st Congress, FS-OH). Senators were mainly selected by state legislatures and less inclined to be party men than their House peers. Democrats had a majority of ten over the Whigs, but they had some unpredictable adherents, as did the Whigs. The Senate now had two Free-Soilers along with several Democrats and Whigs who flirted with Free-Soil principles. Hamilton also noted that half the Democratic Senators were under 50, while only five of the Whigs fell in that cohort. More than half of the Democrats lived in slaves states, whereas slightly less than half of the Whigs did. Half of the slave-state Whigs resided in border states that were more inclined to negotiate differences, and the majority of the free-state Democrats came from northwestern states, which had closer economic ties with the South than the Northeast. Hamilton concluded that four political groupings could be identified in the 31st Congress: 1) Northern Whigs with two exceptions wanted to exclude slavery from the territories; 2) most Southern Democrats favored extension of slavery into the territories; 3) most Northern Democrats and several Southern Democrats favored compromise around the concept of Popular Sovereignty; and 4) most Southern Whigs and several Northern Whigs also favored compromise around Popular Sovereignty. Hamilton recognized that since senators owed their seats to state legislators, their “motives were exceedingly complex and elusive. Ambition, gratitude, jealousy, hope, selfishness, esprit de corps, and the power of personalities played their parts, as well as instructions from state assemblies.”

Without actual roll-call tabulations I'm not sure how to interpret these descriptive attributes except to say that, if any kind of middle ground existed in the Congress toward the national nightmare it was shattered by the War with Mexico. The hold-over business including the Calhoun Resolutions and the Wilmot Proviso from the previous Congress faced a Senate that had a different temperament.

In the House of Representatives business was hardly as usual. Hamilton declared

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without much qualification that “People who otherwise would have busied themselves with constructive programs busied themselves with words.” Endless words instead of constructive actions. although I should point out that much of Hamilton's study reflects a fairly skeptical view of congressional behavior. Constructive behavior is always what we want and expect, except no one has ever figured out how to institute a plan or strategy that insures such behavior. What was the constructive approach to be settled on in 1850? Politics is what it is, and the divisions in 1850 were, whether or not we approve, were deep and deepening. To begin with, the electorate had not given any party a majority. The House took almost three weeks simply to organize. Robert Winthrop (W-MA) had served as House Speaker for the past few sessions but he lacked support within his own party and in the opposition party. In time the House agreed upon a Southern Democrat, Howell Cobb, a young, moderate, savvy Georgian. A year earlier, 48 slave-state senators and representatives, after a series of meetings, signed unto (22 January 1849) what has been called Calhoun's “Southern Address”. It embodied many of the charges leveled earlier by Calhoun against the repeated aggressive, hostile anti-slave actions by Northerners and Westerners. After his election the Address reappeared in a number of northern newspapers. Cobb's name did not appear as a signatory, one of a handful of southern congressmen who did not sign. The point of the Address was certainly not in doubt. Besides raising the much-debated constitutional questions, the Address proclaimed that the anti-slave crusade, picking up steam in the North, was intent upon undermining social relations in the South:

There remains to be noticed another class of aggressive acts of a kindred character, but which instead of striking at an express and specific provision of the Constitution, aims directly at destroying the relation between two races at the South, by means subversive in their tendency of one of the ends for which the Constitution was established....This agitation...[has] been continued with more or less activity for a series of years, not without doing much towards effecting the object intended. We regard both object and means to be aggressive and dangerous to the rights of the South, and subversive, as stated, of one of the ends for which the Constitution was established. Slavery is a domestic institution. It belongs to the States, each for itself to decide, whether it shall be established or not; and if it is established, whether it should be abolished or not...That [such aggression] would be perverted to such a use [without appeal to arms],

528 Hamilton, Prologue to Conflict, 34.
never entered into the imagination of the generation which formed and
adopted the Constitution, and, if it had been supposed it would, it is
certain that the South would never have adopted it.529

This was indeed a strong statement of the evolving position in the South to a
intensifying opposition to the interests of the slave states in the North and the West.
Not all southerners agreed with Calhoun's Address, but those who did not took
certain risks. In the case of Cobb, however, it worked to his advantage because he
won admiration from northerners for the stand he had taken, but he also won
respect from southerners because of the power he could wield as Speaker.

While the leadership of the House involved intelligent and competent members,
the body of the House had become unpredictable. The Democrats had a plurality
but not a majority, and they had to count on dissident Whigs or new kids – Free-
Soilers of which there were nine. The Free-Soil leader was Joshua Giddings (OH),
a former Whig, who supported Van Buren in the recent presidential sweepstakes
because of his strong opposition to the extension of slavery. After more than a
dozen years in the House he had the reputation as a fierce debater – a bull-dog by
some accounts. He was allied with several other strong-willed, anti-slavery
members including Preston King (NY), another former Whig, and David Wilmot
(PA), as much a Free-Soiler as a Democrat. Returning – two terms or more –
House members of all political stripes numbered more than a hundred, but in a
membership of 233 that was not a majority. In other words 117 were new. “Green”
was how Hamilton, who compiled some of these statistics, portrayed them. The
House membership was less likely to fall in line behind the leadership than was
true of the Senate.530 This is treacherous analytical ground because the disarray in
the House might well have happened, even if a more seasoned membership had
been returned. Was it the membership or the issues that drove the proceedings in
the House as well as the Senate? From the deliberations in both chambers in the
first few weeks the rhetoric was strong strong and vitriolic. Drawing lines was a
common reference in the Senate, and risking disunion was equally common the
House. Speeches were fiery and ill-tempered. It was not clear from whence the
constructive behavior would arise.

The unfinished business, inherited by the 31st Congress California and the

529“The Address of Southern Delegated in Congress, to their Constituents,” [adopted January 22, 1849] in Wilson, et
al., eds., Papers of Calhoun, 26:225-243 with long editorial note on sources that published parts or all of the Ad-
dress, 26:243-244. The quote above is a condensation of a long paragraph, pp. 230-232.

530Hamilton, Prologue to Conflict, 40, 44-45. Hamilton’s assumption is that more seasoned members would have
been less provocative, provocation was certainly practiced by some of the most seasoned members.
southwestern territories. Unfinished because the last session had failed to pass any organizing legislation and had left the military in charge but with few resources of powers. In the aftermath of the Gold Rush Californians, unhappy with the disorder that had ensued with military rule, urged upon the Military Governor to call for a meeting at Monterey (September 1849) to write a constitution. Even though Congress had failed to legislate a territorial government, Californians had taken it upon themselves to call for a “territorial” convention to present Congress with a constitution under which the territory should be admitted to the Union. Within a few weeks the convention produced a constitution that excluded slavery. That's what the 1st Session of the 31st Congress had to confront, perhaps with a membership that was in a less accommodating mood.

The alleged disarray may well have had a legitimate source, that being Wilmot's Proviso, now several years old and not yet resolved. As time passed and debate continued, sentiments favoring restrictions had intensified in both chambers because the nation itself was moving in that direction. Polls did not exist, of course, but those who were taking stronger stands against extension of slavery were winning elections. The Senate could still mount opposition to the incorporation of any such restrictions but, by Calhoun's own calculus (cited earlier) it was getting harder and harder. Hence, the Senator's call for Southern states to unite against any further compromises. In the House, though, an almost opposite force was at work. Since the initial vote on Wilmot's Proviso, the membership of the House – especially now with eight declared Free-Soilers – was more titled than ever in the direction of restriction. Surely, this was not lost on the leadership of the two major parties. Disarray arose out of a situation that had not existed in many decades. Ruling by a form of coalition was untested, and yet either the Democrats or the Whigs had to consider just such a strategy. The two chambers had been led by different parties in the same session, but a political party ruled with a majority in each chamber.

On 12 December 1849 after convening the House took it 40th ballot for the Speakership. William Brown (D-IN) had been the front runner, and on this ballot (18 members received votes, 6 of whom just 1 vote) he came within two votes. Following this ballot, however, his fortunes sunk rapidly. The reason – Wilmot's Proviso. After the House failed once again to elect a Speaker, Edward Stanly (W-NC) and a candidate who had received 18 votes took the floor to introduce a resolution that called for the two parties to appoint three member to serve on a committee to bring forward a slate of candidates to serve as officers of the House. He made it clear that he did not share the view that the House was devolving into disorder and disorganization. “There was no danger of that. This government was
not coming to an end yet, no matter what gentlemen may say about Free Soilism, Wilmot Provisoism, and all such tomfoolery. There was no danger of that.” He then added, as long as Henry Clay and Thomas Hart Benton were in the Senate and Zachery Taylor was in the White, the Union was safe. It was time, in his opinion, to find a member whose candidacy did not automatically block a section from voting for him. If the Democrats were to choose the Speaker, let them put forward a serious candidate that would not use electioneering and trickery to secure the office. Only then could the Democrats expect the support that they needed form the opposition parties. 531

Stanly’s remarks did not pacify the House membership but, conversely, set off a raucous debate that continued until adjournment. Thomas Bayly (D-VA) took the floor to respond that the disorganization could not be laid at the feet of the Democratic Party because it was the opposition who addressed the great issues confronting the Congress by taking positions that reflected the views of whatever regions had voted for the President. In short, there was no leadership because the leader of the nation had not embraced it. In his remarks, Stanly had spoken of “something is rotten in Denmark”, while looking straight at the other side of the aisle. The insinuation, declared Bayly, was a clever ploy to elevate a rumor circulating through the chamber that the Democrats and the Free-Soilers had struck a deal. Stanly’s speech in favor of consensus was actually designed to further the suspicions about a deal. Thus, his speech initiated a long, spirited verbal brawl over what had transpired, if anything, between Democrats and Free-Soilers. Bayly was then asked if there was not correspondence in which Brown, the Democrats leading contender for Speaker, had agreed to constitute the committees in such a way as to please the Free-Soilers. Bayly replied by asking the inquirer, did he not know that “a common rumor is a common liar?” He then turned to Brown and asked if a pledge had been made, and Brown said none had been made. 532

Minutes later Armistead Burt (D-SC) won floor at the same time that Brown had sought recognition, and since Burt assumed that Brown wanted to speak to the point that Burt was about to question him on, he was prepared to yield the floor to Brown. As his candidacy had gained momentum, Brown had discussed his record in conversations with representatives from the North and the South and from the opposing parties. The particular meeting that was the subject of the rumor involved Wilmot and Preston King who had made it clear that they could not vote for Brown 531 Proceedings, Stanly Speech, Congressional Globe, 1st Session, 31st Congress, 12 December 1849, 18-19. Available on-line at http://memory.loc.gov/ammem/amlaw/lwcg.html.

because he was seen to be a candidate of the South. He assured Wilmot and King
that while he did not favor the Proviso, he would constitute committees to
represent all sections and not just one section. At this point Burt, who had yielded
his time, asked Brown to read correspondence between him and the Free-Spoilers,
and Brown responded that he would shortly after a few more remarks. Before he
could read the letter that he wrote in response to a letter he had received from
Wilmot after their meeting, the subject of the rumor noted above, members with
little regard for procedure demanded that the letter from Wilmot to Brown be read
first. Brown replied he did not have the letter, and after some minutes turned to
Wilmot to ask him to summarize the letter. Members from the floor again
demanded that Wilmot's letter be read, but Wilmot said he could not read it
because he did not have it. His summation of the events more or less agreed with
Brown's: no pledges had been made beyond Brown's assurance that he would treat
all sections fairly. According to the *Congressional Globe*, Wilmot declared on the
floor that he and his allies would accept appointments of the best men from the
South and from the North to present their respective views before the relevant
committees and that the purpose of the meeting with Brown was not to win
appointments to the committees but to be assured that their views would not be
“smothered.” There was no *quid pro quo* because there was no need for such. The
assurances that Wilmot and King had sought were given. (It should be noted both
Wilmot and King voted for Brown in the balloting just held.) As Wilmot was
finishing, he yielded to his fellow Pennsylvanian, Thaddeus Stevens, newly elected
as a Whig to Congress after a distinguished career in the Pennsylvania Legislature.
Stevens asked if Wilmot had any indication from Brown that the appropriate
committees would be “composed of a majority of members who were in favor of
free soil?” Wilmot answered that as a result of his conversation the only inference
he could draw was that the “committees would be composed of fair northern men.”
With that comment the House was rocked by laughter, applause and hoots. The
give-and-take continued until the House managed to adjourn without a vote being
taken.533

Before Brown commerced with a reading of the letter that wrote to Wilmot, he
yielded the floor to a fellow-Hoosier, John Robinson (D-IN). Robinson noted
“something like a ground-swell” or something akin to “a very unnecessary and
gratuitous state of excitement against him [Brown]....” The excitement, remarked
Robinson, arose from alleged correspondence between Brown and the Free-
Soilers. Robinson did not know about the correspondence, but once he saw it he
realized no bargains had been struck, no pledges made that should frighten

southerners. Nor should they assume that Brown had Free-Soil sentiments they were unaware of. Specifically, stated Robinson, Brown did not favor Wilmot's Proviso, but he, like many from northerners from free states, opposed extension. Reconciling these two views, difficult though it was, had been managed for years under the code of non-interference, that is, Congress should not set policy nor enact legislation relative to the extension of slavery. Brown was a non-interference man. Such a position was the opposite of Wilmotites and others of his persuasion. Congress, they argued, had both the power and duty to decide. Although non-interference seemed no longer tenable, it had adherents, mainly among the Old Guard. Popular sovereignty, which had been Lewis Cass's campaign pledge and was becoming Zachery Taylor's presidential pledge, was a more formal expression of non-interference. For southerners, however, supporting non-interference was no longer safe. Something more concrete and definite was needed to protect southern interests. Thus, the occasion for Robinson to speak in behalf of Brown. Brown had received a letter from Wilmot in which Wilmot asked no special favors for himself or his allies in appointments to committees that dealt with territorial matters (including the District of Columbia) but at the same time asked for assurances that Brown would make committee appointments fairly to present all views: “We want the voice of no section or party stifled or smothered by packing the committees,” And Brown's response was not what southerners wanted to hear. In defending Brown, his colleague declared that Brown should not, under the circumstances where every sentence was parsed and an every action scrutinized, have written any such response to Wilmot, but while writing the letter was “impolitic”, he proclaimed its contents were not “dishonorable”.

After Robinson's remarks Brown read his letter to Wilmot. It was not dishonorable. But it could not have been reassuring to the South.

...I will state that, should I be elected Speaker...I will constitute the Committees on the District of Columbia, on Territories, and on the Judiciary, in such manner as shall be satisfactory to yourself and your friends. I am a Representative from a free [sic] State, and have always been opposed to the extension of slavery, and believe that the Federal Government should be relieved from the responsibility of slavery, where they have the constitutional power to abolish it.

In his accompanying remarks Brown assured the House that if he had been elected speaker, he would favor no section in naming committee members. After which he announced the withdrawal of his name. Even after announcing his withdrawal southern members spoke with some indignation with regard to what they had been
told of Brown's approach to the territories and what Brown wrote to Wilmot. There were demands from the floor to publish all the correspondence, which Brown agreed to but only if he could make further remarks. (He was speaking on time granted him by one of his critics, Armistead Burt.) He reminded the House that he was opposed by a Whig who favored Wilmot's Proviso, and while he [Brown] had no intention to vote for the Proviso, he believed that his constituents, many of whom favored it, deserved a hearing. He would allow it to pass and let the President decide whether to favor it or veto it.534 The debate continued until adjournment. Southerners continued to claim that the Hoosier whom they had supported turned out to be a Free-Soiler, Northerners offered the countervailing view that no pledges had been demanded or offered and Brown, now withdrawn from the Speaker's race, took the floor from time to time to defend his reputation. No doubt Brown was who he said he was – a non-interference man. But he also said he came from a free state that opposed the extension of slavery and he would have to vote against any measure that extended slavery.535

The following day (13 December 1849) Brown introduced a resolution (without any prior consultation by his own words) to elect Howell Cobb (D-GA) Speaker of the House. He was certainly the front-runner among southern Democrats, but they did not have enough votes to elect him. And Brown’s endorsement did not change that, as the debate and the balloting continued for another ten days. The debate ranged form the high-minded to gutter-sniping and even embraced the literary. A common argument (often made but not exclusively so by southerners) was that the matter of the election of the Speaker should be separated from the matter of the conduct of the Speaker. In other words, choose an honorable man and a competent parliamentarian and let him decide how the business of the House should be conducted including committee appointments. A Northerner Democrat, David Cartter (OH), seemingly took opposite approach. He offered a resolution prohibiting the Speaker from making appointments to the committees that dealt with the District of Columbia and the territories without the approval of the House. In his view such a restriction would allow the House to elect its Speaker without any fear that he could make pledges in advance of his election. From the floor he averred “that the House was involving itself in a premature controversy on the subject of slavery, and was presenting itself before the country in a ridiculous attitude of making a grave issue upon a mere ceremonial matter.” Electing a


Speaker was to organize the House “to carry out the sentiments of the people,” not to signal ahead of the actual debate how the sentiments should be represented. The Speaker's “local views” were far less important in his selection than his knowledge of the rules and the procedures of the House. His argument, it would appear, supported the aforementioned view of electing a Speaker on the basis of his skills, but his restriction prompted a negative response. Not good enough, declared Richard Meade (D-VA) because the issue of slavery should not be subject to procedural restrictions. What was needed was a coalition of the conservative elements in both major parties to end any possibility that the pending legislation, which all knew about, to restrict if not abolish slavery, should not be introduced in the name of preserving the Union. If restrictive legislation in whatever form, procedural or substantive, shall become law, “there will be but one determination at the South—one solemn resolve to defend their homes and defend their honor. Let this issue come when it may, and you will find every southern sinew converted into a spring of steel.” Meade had no doubt that brave and committed men existed on both side of the controversy, but there will be a difference between “those contending for their firesides, and the robbers who are seeking to despoil them of their rights, and degrade them before the world.”

Joseph Root (FS-OH) took the floor to demand clarification as to what the debate concerned. By his count three propositions were before the House: 1] to elect a Speaker by ballot; 2] to deprive the Speaker of powers usually accorded him to name committees; and 3] “to moderate the spirit of anarchy which was abroad in the land.” Relative to the first proposition, a resolution (offered by several members) to have a secret ballot for the Speakership was unacceptable and in Root's view unconstitutional. Citizens had a right to know how representatives voted. The second proposition inspired a literary analogy. To deprive the Speaker of the power of appointment was akin to what he had once heard about a performance in which the role of Hamlet was omitted. He avowed that a man to be elected Speaker, third in line for the presidency, should not be divested of his most important role – to appoint members of committees. Besides, counting on the House as a whole to agree on appointments to committees would be harder to achieve than electing a Speaker.

The same old question would arise; the same terrible demon [sic] would have its horns up. It would not answer for a good dodge. If it were intended to open a hole for tender-footed Free Soil Democrats to escape by, it would not answer the purpose....No, they must face the

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music—God help them! This House would continue to present itself in a “disorganized attitude,”...a good while before those gentleman escaped through such a loop-hole....

On the third proposition before the House in which anarchy was code for disunion, said Root, the counsels of the gentleman from Virginia (Meade) should make us feel that we can get along without disunion (laughs in the chamber, according to the Globe.) “Nothing was better calculated to allay all such agitation than the kind of speeches of which they had just heard a specimen from that gentleman.” (More laughter) He observed that if “dissolution must come, why, the sooner the better. Let it come before the House was organized...that if they were to dissolve in their present 'disorganized attitude' it would not be binding [sic].” If the fight over slavery came after organization, then would come the fight “in defense of the wife, the little ones, the household gods, and all other household gods.” He made additional remarks that continued to underscore the disillusions that southerners operated under if they thought they could use trickery and bluff to cause the Free-Soilers and other sympathetic representatives to retreat from insistence that slavery shall not be extended. He returned to the Hamlet analogy – there would be no performance of Hamlet without Hamlet. He closed with his own shot across the bow: Southerners should bear in mind when disunion comes the North will fight for the territories and that includes the Mississippi River and the land on either side from the source to the mouth. “Depend upon it, depend upon it...depend upon it, that the Mississippi runs free as long as the water runs down hill!” The Globe reported that Root “resumed his seat amid much merriment.”

Attempts were made to move back from the charged rhetoric of the cited speakers, but the damage for this day was done. The 41st vote was taken (without the candidacy of Indian's Brown) and Robert Winthrop (W-MA), the former speaker, had the highest number (59) but far short of the needed 113. The Georgian, Howell Cobb, only garnered 40 votes. The list of others receiving votes was 28 so that all toll members cast ballots for 30 different persons. Twenty of the 30 received two or fewer votes. The principals from the aforementioned debate split their votes among an array of candidates. The House had more work to do.

Several days after this testy debate the House approved a resolution offered by Joseph Woodward (D-SC) that the election of the Speaker proceed without any further debate. The number of ayes and nays was not recorded, but the ayes

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apparently carried the day, although voting was accompanied by hoots and boos.\textsuperscript{538} While speech-making in favor of or against candidates was now forbidden, the members found ways under the rules to extend the proceedings beyond the simply casting ballots until a Speaker was chosen. From time to time members took the floor to try to debate the efficacy of the Woodward Resolution, but it remained the rule of the House. The point was raised more than once from the floor that, while the Resolution barred debate on candidates, it did not bar debate about the Resolution itself. Continuing efforts were made to modify or set it aside entirely.\textsuperscript{539}

As the balloting continued Linn Boyd (D-KY) emerged as the leading candidate with between 80 and 90 votes (but no more). Then Robert Winthrop (W-MA), the former speaker, assumed first place with approximately 90 votes. Perhaps a positive sign was that the total number of candidates receiving votes dropped by half. Another positive sign was was a personal explanation by Thomas Bayly (D-VA) on behalf of Richard Meade (D-VA) and William Duer (W-NY) whose sharp words several days ago were regretted by both.\textsuperscript{540} In the absence of debate about candidacies Winthrop's numbers continued to rise by one or two additional votes with each ballot until his total came close to 100. There it peaked and began to slide back toward the mid-80s. On 20 December 1849 a new rumor spread through the House that the leaders of the two major parties had agreed to split the major offices of the House and to isolate the Free-Soilers. As proof, letters written by the chairs of the Democratic and Whig caucuses, pledging support for a meeting among representatives of the two party, were produced. A move to rescind the Woodward resolution in light of the letters failed, and the balloting for the Speaker resumed.\textsuperscript{541} Winthrop's support appeared to dissolve since he received only slightly more than a dozen votes. The new leader was another Whig, a southerner, William Stanly (NC). When the House found itself tied up in procedural knots, members would move adjournment, and once in a while that worked. On 22 December Frederick Stanton (D-TN) introduced a resolution that altered the rules for balloting. In effect, in the next cycle of balloting the candidate that received the most (a plurality, not a majority) in successive ballots would be declared Speaker. By a large majority the House bought this rule change. In balloting sixty through

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\item \textsuperscript{538} Woodward Resolution, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 14 December 1849, 34. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwcg.html}.
\item \textsuperscript{539} See, for example, exchange among various members including Woodward, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 18 December 1849, 42. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwcg.html}.
\item \textsuperscript{540} Bayly Speech, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 19 December 1849, 44. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwcg.html}.
\item \textsuperscript{541} Proceedings, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 20 December 1849, 48-50. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwcg.html}.
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sixty-three Howell Cobb (D-GA) received 95, 96, 97 and finally 102 votes, and by resolution he was declared Speaker.\textsuperscript{542} The House had a leader who was widely regarded as competent and even fair-minded, and whose fortunes had risen and fallen dramatically, partly on the basis of rumor, during the three and a half week. The campaign for Speaker was simply a dry-run for what was ahead.

The Senate had managed to organize without the turmoil of the House, but the territorial question was at the top of the agenda. In his First Annual Message Zachery Taylor offered few initiatives. In a paragraph Taylor dealt with the territorial question. He noted that since no civil government existed yet in California of New Mexico (military rule of the past year proving harder to maintain as enlistees headed to the gold fields), Californians had met in a special session in November at Monterey to draft a constitution to allow their admission to the Union. Taylor was unequivocal that “should their constitution be conformable to the requisitions of the Constitution of the United States, I recommend their application to the favorable consideration of Congress.” In the case of New Mexico he believed as had Polk before him that the people of New Mexico would be ready in the not “very distant period [to] present themselves for admission into the Union.” If they had met the requisite that “the people of each will have instituted for themselves a republican form of government,” founded on principles and powers that they believe will most effect “their safety and happiness,” they should be admitted. It was appropriate, in Taylor's opinion, to await their actions (and not to dictate their actions) because it would allow that

all causes of uneasiness may be avoided and confidence and kind feeling preserved. With a view of maintaining the harmony and tranquillity [sic] so dear to all, we should abstain from the introduction of those exciting topics of a sectional character which have hitherto produced painful apprehensions in the public mind; and I repeat the solemn warning of the first and most illustrious of my predecessors against furnishing "any ground for characterizing parties by geographical discriminations."

Taylor was speaking the language of Popular Sovereignty, favored by his presidential adversity, without saying so. The Address did not contain the word slavery (so far as I could determine), although he mentioned slave and slaves with reference to his request for new legislation to close the loopholes and suppress “African slave trade” (still permissible in Brazil, with a spillover effect in other

New World countries), a trade he described “barbarous traffic”. There can be no doubt that Taylor was aware of the uncivil nature of the political debate. His final paragraph addressed the abstract possibility of secession and disunion:

But attachment to the Union of the States should be habitually fostered in every American heart. For more than half a century, during which kingdoms and empires have fallen, this Union has stood unshaken. The patriots who formed it have long since descended to the grave; yet still it remains, the proudest monument to their memory and the object of affection and admiration with everyone worthy to bear the American name. In my judgment its dissolution would be the greatest of calamities, and to avert that should be the study of every American. Upon its preservation must depend our own happiness and that of countless generations to come. Whatever dangers may threaten it, I shall stand by it and maintain it in its integrity to the full extent of the obligations imposed and the powers conferred upon me by the Constitution.\footnote{Taylor's First Annual Message, 4 December 1849. It was not received in the Congress until the day before Christmas after the House had completed its organization. Even though the Senate had organized, it was not published in the \textit{Journal of the Senate} until 24 December 1849, 16-29. In addition to the above matters, Taylor also requested some small appropriations to cover expenses relating to border operations, mint facilities, customs officials and harbor repairs. Available on-line at \url{http://www.presidency.ucsb.edu/ws/index.php?pid=29490} \& \url{http://memory.loc.gov/ammem/amlaw/lwsj.html}.}
existed prior to acquisition;  

- Western boundary of Texas with New Mexico was to be adjusted with the result that Texas would be a smaller state;  

- Compensation should be paid to eliminate the public debt (Texas bonds) accumulated prior to acquisition and to cover the loss of impost revenue after acquisition;  

- Inexpedient for Congress to end slavery in the District of Columbia without the consent of the citizens of Maryland, where slavery existed, and the citizens of the District, and without just compensation to slave owners.  

- Expedient to prohibit slaver trading within the District since the sales involved slaves brought to District from other slave markets or slaves destined for other slave markets;  

- More effective legal proceedings for restitution or compensation for slaves in transit when they escape to another state;  

- Congress had no power to legislate trading of slaves between slaveholding states, and the admission or exclusion of slaves brought from one or another of these states depends strictly on the legal customs of the states.

Clay's proposals elicited reactions from all contending parties, and finally debate was put off until the following week. On 5 and 6 February 1850 Clay gave a long oration on the resolutions he had offered the week before. The theatrics surrounding the appearance of Clay, said to be feeling ill with a cough and cold, were reported almost in as much detail as the speech itself. As Clay began, there was so much noise in the anteroom of the chamber and in the street outside that the Sergeant-at-Arms was called for. Lewis Cass felt compelled to ask if the Sergeant-at-Arms was actually in the chamber. He was, and he was trying to perform his duties, it was reported. From the beginning, whatever his physical state, Clay was at the top of his oratorical game. Violence of Party was his theme. From the selection of the Speaker of the House to the selection of the Doorman in the Senate members had abandoned any sense of comity and purpose: “...passion, passion—party, party—and intemperance; that is what I dread...At this moment, we have in the legislative bodies of this Capital, and in the States, twenty-odd furnaces, in full

blast, generating heat, and passion, and intemperance....”545 He then proceeded (for two days) to address each resolution with regard to the current political climate and within a larger context of the many legislative battles he had fought. California (1st Resolution) received less attention than the others because based on his operating premise the people had decided through a legitimate convention what they desired and Congress had no reason to interfere. Other resolutions required more time and detail and numerous analogies. Clay left no doubt, though, that if the Congress were to try to end slavery in states where it existed, “my voice would be for war”. He drew repeatedly the distinction between what he described as “outside” the States (pre-state) and “inside” the States (post-state). The power of Congress was limited to the “outside” and did not extend to the “inside”: “that all outside the States is debatable; that all inside the States is not debatable.”546 The core of his oration was built around this distinction and the dangers of ignoring it. Clay did not believe, given the events of the past few months, that slavery would be introduced in any of the territories. Since that was his conviction, he had crafted a compromise that he hoped would allow each section something but would recognize the reality of the crisis for the Union. Having completed his remarks about the first two resolutions, Clay agreed to a motion for the Senate to adjourn.

The Kentucky Senator continued resolution by resolution the following day. Considerable attention was paid to the question of fugitive slaves, and this will become one of the most controversial components of the compromise that will emerge. Clay offered essentially a technical, legal argument for the return of fugitives at a point when the issue had grown into a question of what was morally correct. In Clay's mind, officers of the national government as well as any state government take an oath to uphold the law. The return of fugitives came down to upholding the law, and nothing else.547 An obvious question arose during the proceedings (Clay's Speech and remarks from other senators to whom Clay yielded) concerned the Missouri Line, which Clay had championed in 1820. By his own admission the Missouri Compromise was no longer applicable. The Compromise had “interdicted” the extension of slavery above the line but had not guaranteed slavery below the line. It simply acknowledged the existence of slavery south of the line. Any attempt now to resurrect the Compromise would be useless. “Is there anybody who believes you can get twenty votes in this body, or a


proportionate number in the other House to declare in favor of the recognition of slavery south of the line...?” Not possible. All that could be expected “is action [exclusion] north of that line, and non-action as regards slavery south of it. It is interdiction upon the one side, with no corresponding provision for its admission on the other side of the line....” To mandate the extension of the line now would not only lead to the demand (naturally) for the interdiction north of the line but also in contrast to the earlier compromise to the demand for the admission of slavery south of the line in lands where slavery did not exist. Impossible to achieve. Besides southerners proclaimed the opposite – let us be – and yet to mandate admission would be a denial, a contradiction of that position.\textsuperscript{548} In closing, Clay turned to a favorite theme of his: a nation of “unbounded prosperity” because measures passed by the national government, though hotly debated, had enriched all sections. He referred to his long-time colleague and adversary, John C. Calhoun, who was ill and not in attendance, and how they had found ways to reach conciliation. In that spirit Clay, ever the Nationalist, could never support secession or separation. If disunion occurred, he warned, there would be three major confederacies, North, South and West, and, even worse, minor confederacies would arise within the major ones. And the war that destroyed the Union would simply induce interminable warfare. In words that were meant to stir a passion (notwithstanding) for Union, Clay asked if the parties were prepared to allow the rise of a despot “treading down the liberties of the people...that the final result will be the extinction of their last and glorious light which is, leading all mankind, who are gazing upon it, to cherish hope and anxious expectation, that the liberty that prevails here will sooner or later be advanced through the civilized world?”\textsuperscript{549} And the Senate adjourned.

Clay's proposal had competition. Other senators had introduced their own proposals or were waiting for the opportunity to do so. And, of course, everyone knew that Calhoun and Webster would eventually respond to Clay. Two days after Clay had concluded his speech, the Senate took up a resolution that Sam Houston had introduced a month before. His resolution took an narrow constitutional stand that the national government possessed only delegated authority, and as such had no power to interfere with slavery where it existed or where it might be introduced. In the name of harmony and cooperation, however, be it resolved that the “inherent right of self-government” of the people below the line of 36° 36' to decide to exclude or to admit slavery be guaranteed with no reference whatsoever to any

\textsuperscript{548}Clay Speech, Appendix, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 6 February 1850, 125-126. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwg.html}.

\textsuperscript{549}Clay Speech, Appendix, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 6 February 1850, 126-127. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwg.html}.
change in the exclusion of slavery above that line. In other words, let the Missouri Line be extended and the question of the presence of slavery be confined to territories below the line. Houston regarded this (given the preamble of his resolution) as concession by the South. Houston began with the basic assumption that all territories upon request for admission as states had the right to choose their institutions including slavery. His resolution by protecting exclusion of slavery north of the Missouri Line (even though that violated the most basic assumption) asked no specific concessions from the North. Allowing the people in the territories below the line to choose was their inherent right. “Would it be too much concession to the spirit of conciliation, to discountenance a few fanatics at the North who are rabid on the subject of abolition...it is not the sons and descendants of those who united in establishing the liberties of this country...of whom the South now complains.” No, the rabid northerners were “the bastards...the aliens to their fathers' principles.” Their numbers cannot be ascertained. Whatever their numbers their aims were to destroy harmony and to advance discord. Houston was pinning his hopes on the presumption that the great majority of northerners and westerners did not endorse the radicalism of the abolitions. As so many mid-nineteenth-century orations proclaimed, dissolution of the Union was unthinkable not for Americans alone but for those around the world that looked to America as a force: “the great moral, social, and political lever that has moved, is moving, and will to move the world.”

Houston was followed by another southerner, Henry Foote (D-MS), known for both staunchly defending simultaneously slavery and the Union. In the Senate, even as a newcomer, he took it upon himself to try to find a permanent solution to the developing impasse over the admission of the territories. Although devoted to his cause, he could be unpredictable and quirky in debate and was capable of outbursts of frustration as well as humor in pursuit of his cause. After hearing the President's Message (24 December 1849) that called for admission of California without further delay Foote announced his intention in a few a days to introduce a Resolution that called upon the Senate to begin serious deliberations on establishing a basis for government in California, New Mexico and Desert. That was all the Resolution of two to three printed lines asked for. He added that he had intended to introduce a more comprehensive bill, but he was not ready because he was still in consultation with other Senate members, i.e., lining up support.

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week later (3 January 1850) he actually introduced the brief proposal for debate, although the first debate did not occur until almost three weeks later. In the meantime, before Clay's compromise Cass took the opportunity to make a long speech over two days that embodied mainly an attack on Wilmot's Proviso. Cass condemned the Proviso crowd because they had asserted mistakenly the sovereign power of the national government to determine the course of slavery. And they had done so by minimizing or ignoring the fundamental importance of individual rights. In other words, a national sovereignty was being proclaimed where none existed in the basic charter. He found the false proclamation of a national sovereignty to violate the most fundamental sovereignty, the right of the individual to his property and independence. The Constitution contained limited powers, not general authority from which unenumerated powers could be assembled, such as the Wilmoters were attempting. With respect to California and an advocate of popular sovereignty (as was Taylor increasingly) he favored granting California Statehood without any amendment such as Wilmot's Proviso. Following his speech (22 January 1850) Andrew Butler (D-SC) moved to table Foote's Resolution. Foote responded by asking that Butler to yield to Samuel Phelps (W-VT) who had the day before yielded to Foote who in turn yielded to Cass. Before that could occur Seward introduced an amendment to Foote's Resolution that no slavery or involuntary servitude (except for a crime) should be permitted in any territory organized by Congress. Foote immediately moved to table his Resolution (to avoid any further debate or vote). All of this preceded Clay's speech and would become intertwined in the debate after his speech.

Foote took the Senate floor again on 8 February to respond to Clay's speech of the previous several days but also indirectly to Houston speech on 14 January. Houston's approach was far less comprehensive than Clay's, and Foote's response to Clay consisted of 11 resolutions that he intended to introduce as an amendment to Clay's propositions. He did so, he said, in the spirit of harmony and justice: Be it resolved that Congress had the authority to admit or refuse to admit a territory as a state; that Congress had no legal power to determine whether slavery should or should not exist in a territory; that Congress should allow the organization of the territories without trying to restrict, limit or exclude slavery and in accord with its duty to provide for protection of life, liberty and property; that Congress should as a matter of expediency accept the admission of California with a constitutional exclusion of slavery, even though part of the state fell below 36° 36' so long as any

territory organized out of the adjusted Texan border be done under the same articles that Texas was admitted. The remaining half-dozen resolves dealt with Texas boundaries, slavery and slave-trading in the Capital and fugitives. Even though he was in general agreement with Clay on some matters, Foote wanted stronger protections for the South. It was Clay's compromise rewritten by a stauncher pro-slavery advocate than Clay was. His resolutions were ordered to be printed.\textsuperscript{553}

On 14 February 1850, when the Vice-President announced that the President had submitted a copy of the Constitution of California for consideration by the Senate, the debate involving several sets of resolutions and amendments took on new intensity. Douglas immediately moved that the President's Message and accompanying documents be assigned to his Committee on Territories. From the floor Benton said that it was his expectation that Clay would move for a special committee to be formed to consider the Constitution and other issues contained in his plan, to which Clay responded that while he and Benton had discussed such a committee several days ago, he did not feel that he should make such a proposal. After some parliamentary wrangling Benton moved the creation of a special committee, chaired by Clay, to consider the President's message on California. The Vice-President, as presiding officer, declared that Benton's motion required a unanimous vote in order to supersede the business at hand, an unlikely possibility since Foote immediately objected. Again, he waved in the air the resolution, which he had intended to introduce later but now explained called for a Committee of Fifteen to examine all facets of the current controversy and to present a comprehensive bill to settle them. He objected a piecemeal approach of the Benton motion because it dealt only with California. Thus will begin a storied battle for influence between Benton and Foote. Douglas rose to state that, while he would not stand in the way of a “select committee”, he did not understand the reason for an approach that departed from a longstanding precedent of assigning territorial matters to the committee he chaired. Foote replied that he did not yet wish to make a formal motion to introduce his resolution because the schedule for the day did not permit ample time to consider it. He moved to table any motion to assign the President's message, although he agreed to have the California Constitution printed. The Senate turned to other agenda items.\textsuperscript{554}

\textsuperscript{553}Foote Speech, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 8 February 1850, 323-324. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwcg.html}.

\textsuperscript{554}Proceedings, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 14 February 1850, 355 & \textit{Journal of the Senate}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 14 February 1850, 151. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwcg.html} & \url{http://memory.loc.gov/ammem/amlaw/lwsj.html}.
While the Senate was debating the territorial question an ancillary debate was heating up. Since the beginning of the government, citizens had the right to present petitions and memorials to Congress. Increasingly, during the second quarter of the nineteenth century, slavery was the subject of petitions. During the nullification crisis of the Jackson presidency the Congressional leadership decided that the best way to cool tempers was to table certain classes of petitions and memorials (or pigeonholed) to avoid having to debate them. The aim was to avoid public debate about subjects like slavery and to reassure southerners that the Congress would not undertake any action relative to slavery that would jeopardize their interests. But the rule had come under attack in the 1840s, more so in the House than in the Senate. By 1850, a flood of petitions, often originating among Free-Soilers, made rule of non-acknowledgement almost unenforceable. In this Congress Free-Soilers and their citizen allies presented scores of petitions and memorials dealing with all aspects of slavery. On 7 February 1850, one day after Clay's speech ended and one day Foote spoke, John Hale (NH), an aggressive and stubborn Free-Soiler, introduced at least a dozen such petitions and memorials including one from citizens in Pennsylvania and Delaware (not his state) that declared slavery was so opposed to divine laws and republican principles and the effort to unite freedom and slavery was so riddled with evil that the Union could not and should not survive. Therefore, the petitioners asked Congress “to propose without delay some plan for the immediate and peaceful dissolution of the American Union.” The presiding officer called for vote on whether to receive this petition, when Hale and several others demanded a count of yeas and nays. The record did not show that the vote to receive was ever taken because the call for yeas and nays led to further debate on the powers of Congress. Joseph Underwood (W-KY) announced that he had voted in favor of receiving every description of petition and memorial both as a House member and now as a Senator, but with this petition he drew the line. Underwood noted that two limitations on receiving petitions existed: one was when the body receiving the petition had no power to answer the petitioner; and the second was when the petitioner was asking for an action that would not directly

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555 I have puzzled over the hundreds of petitions received each session for assistance from the government. This seemed to fly in the face of a nation profoundly distrustful of government or from another angle the Tocquevillian version of individuals withdrawing from society into their own narrow social units. I know of no study that has systematically examined the volume, range and context of the petitions or the background of the petitioners. Many of the petition were from war veterans asking for financial or legal assistance. Others were from citizens demanding bridges, roads, repair of docks and harbors reduction in postal rates, all of which had an economic ramification. And by 1850 there were scores of petitions annually on the subject of slavery. There were also petitions that objected to government initiatives and programs. The fate of these petitions could be action, no action or indifference. In the few cases where my curiosity caused me to follow up on how a petition was dealt with, I found that more were rejected than accepted, but those results should not be taken unqualifiedly.

affect his person or property but was designed to affect perhaps adversely other persons and their properties. In his view this petition was disqualified on both counts. Underwood considered it a form or “tyranny and despotism”. Congress should declare that it had no duty to receive petitions that fell within the limitations just cited. Stephan Douglas then took the floor to remind his colleagues that the day before he had been one of two votes against a petition from North Carolina that opposed any interference with the extension of slavery and should such interference be legislated the Union would be dissolved. Douglas did not see how the resolution from North Carolina differed in character from the petition under debate; he would oppose the Pennsylvania-Delaware petition for the same reasons that he opposed the North Carolina resolution. Douglas, serving his first term as one of Illinois's two senators, deplored the fact that the agreed-to policy of a decade ago had come apart. To allow debate on these petitions, memorials and resolutions could only lead to the result at hand. A debate on Douglas's remarks was about to get underway when the Chair announced the death of a House member, and the Senate postponed “further proceedings” to consider the message from the House. A debate then broke out over how to memorialize the death of Alexander Newman, who had died during the previous recess and was barely known, even by the Virginia senator who memorialized him. Henry Clay took the floor to introduce an amendment to the resolution, noting Newman's death and calling for the appropriate badge of mourning be worn for 30 days. Should the Senate, though, interrupt its proceedings to acknowledge the death of a member of the Congress months ago during recess with the same “marks of respect” to be accorded a member during a session of Congress? Clay wanted the tradition to be altered. Cass opposed Clay's amendment after which other senators joined the debate for and against Clay's amendment. More than likely, proponents for maintaining the tradition wanted adjournment to prevent a vote. In the end, Clay withdrew his amendment, and the Senate ostensibly out of respect adjourned. The status of the Hale resolution remained unresolved until 11 February when after further debate the Senate voted 51 to 3 not to receive with only two Free-Soilers, Hale and Chase, and one Whig, Seward, voting yea.557

Debate on Clay's proposal and ancillary issues continued for several more weeks before John C. Calhoun made what all expected would be a full-scale defense of the southern position. In addition to Clay's compromise the Senate now had received a second compromise, introduced by border-state Whig, John Bell (TN). It was narrower in scope and more technical in content. It recognized the Missouri

compromise line as its operating principle: in states above line slavery prohibited and in states below no restriction. Of its nine sections the first five dealt with Texas and the states to formed out of the Texas territories; the sixth called for the admission of California in accord with its constitutional prohibition against slavery; and sections six and seven called for congressional stipulations that no state henceforth (unlike California) could organize without the consent of Congress; and the final section instructed the Committees on Territories to report a bill in line with the foregoing provisions. The Bell Resolutions were ordered printed.\textsuperscript{558}

Calhoun's much anticipated response to Clay came on 4 March 1850. That same day the House had a vigorous debate a bill introduced by James Doty (D-WI) to admit California and a response by William McWillie (D-MS) in opposition mainly on constitutional grounds. But the day belonged to Calhoun in the other chamber. After disposing of “Petitions and Memorials”, several committee reports, etc., the Senate proceeded to the special order of the day – to allow Calhoun to reply to Clay. Calhoun thanked the Senate for granting him the opportunity and had hoped to deliver the speech himself, but being indisposed (he called it a cold but he was gravely ill with tuberculosis) he had named James Mason (D-VA) to read the speech. At the outset of the speech being read, he asked how had the Union become so endangered? His answer was straight-forward and unequivocal – agitation in the North. He reminded the Senate that for years the “leaders and presses of both parties in the South were very solicitous to prevent excitement and to preserve quiet.” Without such restraint the parties of the South knew that they could maintain their political ties with their respective parties in the other section. He believed that parties in both sections appreciated how this effort had worked to suppress agitation and preserve the quiet. But it could not contain the current discontent. Something “deeper” was at work. For the people of the South, according to Calhoun, the discontent had reached the point that southerners could no longer “remain...consistently with honor and safety, in the Union.”\textsuperscript{559} One reason, perhaps the most important reason, was the increasing agitation and aggression on the part of the North, but he preferred first to discuss the changing balance between the two sections since the ratification of the Constitution. This had become a favorite theme of Calhoun in recent years, and his speech contained a “brief statistical statement” (presumably without charts and graphs) that

\textsuperscript{558}Bell Speech, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 28 February 1850, 439. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwcg.html}.

\textsuperscript{559}I have chosen to cite the speech – “Speech on the Slavery Question”, March 4, 1850 – as printed in Calhoun’s collected \textit{Papers}, 27:188-189. It can also be accessed in the Appendix of the \textit{Congressional Globe}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, at \url{http://memory.loc.gov/ammem/amlaw/lwcg.html}.
compared the “relative weight” of the two section “in the Government between the .1790 and 1840 censuses. As a result of demographic, economic and geographic changes the North had come to predominate with a majority of the states and the majority of the population. “Whatever section concentrates the two [components just noted] in itself possesses the control of the government.” And it will only grow worse, declared Calhoun. Had this been allowed to operate on its own over time “without the interference of Government, the South would have had no reason to complain....” Government mischief had occurred in three different ways: 1) the South had been excluded by legislation from “common territory belonging to all the States”; 2) the South had been forced to accept a system of revenues and disbursements that was supported by a plan of taxation (tariffs) that penalized the South; and 3) the South was subject to a series of political measures “by which the original character of the Government had been radically changed.”

From the Northwest Ordinances through all the tariff legislation to the extended reach of the federal government, Calhoun cited numerous details to support his argument. The point was that a nation that began through an effort, in fact a guarantee by Calhoun's reckoning, to create and maintain an equilibrium that would preserve and balance the interests of the states and their citizens had become a nation that was to be ruled by certain interests and certain sections:

...what limitation can possibly be placed upon the powers of a government claiming and exercising such right? And if none can be, how can the separate governments of the States maintain and protect the powers reserved to them by the Constitution, or the people of the several States maintain those, which are reserved to them, and among others the sovereign powers by which they ordained and established, not only their separate State Constitutions and Governments, but also the Constitution and Government of the United States?

If true, the character of the government had been changed: it had turned from “a federal Republic, as it originally came from the hands of its framers, into a great national consolidated Democracy.”

Calhoun next took up the most controversial issue separating the two section. He


reminded his colleagues that the “hostile feeling on the part of the North towards
the social organization of the South, long lay dormant,” until, that is, those opposed
to slavery came to realize that they could use government itself to reach their goal
of abolishing slavery. What made their efforts so dangerous to the South was that
because of the expanding power of the national government (some might want to
debate that) opponents of slavery and the southern social organization had found to
weapon to advance their cause. In effect, they declared, contrary to how the framer
envisioned the system (according to Calhoun) that the national government could
enact legislation to curtail or abolish slavery. It was not just agitation against
slavery – a few had always proclaimed their opposition – but it was now
opposition in league with the government. As the government took a larger role,
unprecedented in any historical sense, the number of people joining the crusade
against slavery multiplied. He lay much of the blame at the feet of the abolitionists.
At one time both parties, averred Calhoun, hated the troublemakers because they
could only create mischief for the Union. The so-called Gag Rule, which had
begun as a simple resolution in Congress in the 1830s to stop any debate or
discussion about slavery, had actually been written into the rules of the chambers.
Petitions on slavery were not received because that made them debatable but were
ruled. In the 1840s departure from the Gag Rule began in the House and was soon
threatening a well-established protocol. By Calhoun's calculation, however, the
protocol had been disbanded in the House and was in the process of being
disbanded in the Senate. Can the agitation against the South be stopped or diverted
or controlled? The answer was no. Calhoun's warning was precise and clear. If it
were not stopped the South would have to choose “between abolition and
secession.” Calhoun expressed no doubt that march toward abolition would in and
of itself dissolve the Union, The South would not be required to take any direct
action. In his view the “cords” that bound the Union together were snapping one by
one. The church from local congregations to national assemblies, much like the
structure of the political system, had been dedicated to the dissemination of
religious information that supported the aim behind creating the Union. That cord
was now breaking apart as one denomination after another split over slavery.
Similarly, with the nation's political character. In the mind of Calhoun the “two
great political parties” (with some modification over time) have worked not to
divide the nation but to bind it together. At this moment the powerful political cord
was faring no better than the spiritual cord. The more cords broken the more likely
the Union would dissolve without any pronouncement declaring such.\footnote{Speech on the Slavery Question", March 4, 1850, Wilson, et al., eds., Papers of Calhoun, 27:196-200. Calhoun excluded the Catholic Church, which had a different organizational structure (p. 199). The Union quote was to recall Jackson's toast in response to Calhoun, a slight for which Calhoun never forgave Old Hickory.}
What to do? asked Calhoun. Remove the causes came his answer. Before explaining how to remove the causes, he spoke to what would not work. The Union will not be saved by eulogies. “The cry of 'Union, Union-the glorious Union!' can no more prevent disunion than the cry of 'Health, health-glorious health!' on the part of the physician can save a patient lying dangerously ill.” What made such eulogies so insincere was that they came from the assailants, those who would destroy the South. Nor can the Union be saved by appealing to the founders’ noble vision. Washington, Jefferson and others were southerners and slaveholders. Current proposals to save the Union will not work because when all the rhetoric was stripped away the plans actually endorsed Wilmot's Proviso, which the South could never accept. It was the duty of Congress to legislate with regard to the territories in accord with long-established constitutional precedents and principles and for the inhabitants to decide what inhabitants of other states have a right to do. Calhoun returned to the sovereignty question: Congress had the authority to legislate with regard to the territories, and until the admission of Michigan Congress guided the organization and admission of territories. A slight variation in the procedure with Michigan had evolved into a new and unconstitutional procedure in California, where the inhabitants without the express consent of Congress to organize the territory. In a series of questions he asked his colleagues if they were ready to cede the sovereignty of the United States over the inhabitants of the territories. In his view the Constitution of California was a sham The process had been reversed. The inhabitants had decided what would be contained in their constitution without the permission of the Congress. Calhoun was not objecting to the inhabitants of the territories writing their own constitutions. It derived from their right of self-government. But according to well-established precedent they could only activate their right of self-government once the Congress gave permission to do so. Calhoun did blame California for this gross departure from the established precedent but rather blamed the agitators. How to save the Union given the missteps that now occupy the Congress? End the agitation and the disregard for the Constitution; demand no more concessions from the South; and recognize that the North and South have equal rights based upon a compact that derived its authority from sovereign states.

The North has only to will it to accomplish it-to do justice by conceding to the South an equal right in the acquired Territory, and to do her duty by causing her stipulations relative to fugitive slaves to be faithfully fulfilled-to cease the agitation of the slave question, and to provide for the insertion of a provision in the Constitution, by an amendment, which will restore to the South in substance the power she possessed of protecting herself, before the equilibrium between
the sections was destroyed by this Government....

If you, who represent the stronger portion, cannot agree to settle them [differences] on the broad principle of justice and duty, say so; and let the States we both represent agree to separate and part in peace....If you remain silent, you will compel us to infer by your acts what you intend....

Having faithfully done my duty to the best of my ability, both to the Union and my section, throughout this agitation, I shall have the consolation, let what will come, that I am free from all responsibility.563

If Clay's address was designed to bridge the widening gap, Calhoun's was not. Despite the tortured logic of his discussion of the territorial question – when a state was or wasn't a state – his political argument was clear. Individuals possessed the right of self-government. Individuals joined together to organize civil societies based on their own local customs and institutions. A nation was forged out of an agreement to allow a central government to perform certain duties in behalf of all the states. The central government could not on its own assume powers not granted or use powers so granted to compromise the sovereignty of the agent, that is, the state, that created it. When a state believed that its own interests were being compromised or ignored, it could use its own sovereignty to declare such action as illegal and if necessary separate itself from the union. While Calhoun held that the powers of the national government were limited, severely limited, he also held that the acquiring of territory and the granting of statehood was an act of Congress. It needed the approval of Congress and by implication had to follow the procedures established by Congress. The inhabitants of a territory as in the case of California could not willy-nilly decide to write a constitution and seek statehood. The reason was clear and unalterable: to allow the inhabitants to exercise their own self-government while not yet a state or a member of the Union could result in provisions that jeopardized the sovereignty of other states. This had become such a basic foundation for Calhoun in his transition from nationalist to sectionalist that no further compromise could be admitted. For Calhoun to alter the format, modify the content, was worse than separation. Clay's aim was to preserve the Union, Calhoun's to test it.

The first to speak from the floor was not Clay but Webster. One almost has the

feeling that Webster had been waiting for Calhoun to speak before he offered his response to Clay. Webster welcomed Calhoun to the chamber, despite his serious illness: “not a man in country who will feel more satisfaction than myself when he shall be so far restored to health as to participate in these debates in the accustomed manner.” Having debated with Calhoun for 30 years, Webster was anxious that his colleague “will yet have an opportunity to perform much public service for the benefit of all portions of the country.” Since Webster was not scheduled to speak in the next few days, he hoped to find someone – he named several possibilities – who was scheduled to speak but would yield to him. Isaac Walker (WI), a Democrat, agreed to yield his spot, and the Senate and the Nation could look forward to hearing what was presumed to be the North's reply.\footnote{Proceedings, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 4 March 1850, 455-456. Available on-line at http://memory.loc.gov/ammem/amlaw/lwcg.html.}

Not all were happy with this arrangement. And when Walker also asked for further debate to be postponed until after Webster had spoken, William Seward (W-NY) complained that he had yielded his spot to Walker who was now asking him to yield again. He was willing to acquiesce since he assumed all would have a chance to speak. John Hale (FS-NH) wanted to voice his dismay that the South Carolina senator should portray the “‘Abolition excitement’” in a manner that sounded more like romance than history, although he too acquiesced. After his remarks the Senate adjourned, and the stage was set for Webster's famous \textit{Seventh of March} speech.\footnote{Proceedings, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 4 March 1850, 456. Available on-line at http://memory.loc.gov/ammem/amlaw/lwcg.html.}

For the next two days, until Webster much-anticipated oration, the jockeying for influence and priority continued. A week before Calhoun's address Foote had made another foray into the debate after earlier promises by calling for the appointment of a Committee of Thirteen to “exert themselves for the purpose of maturing a scheme of compromise for the adjustment of all the pending questions growing out of the institution of slavery, and to report by bill or otherwise.” Foote stated he had no desire to preempt any further discussion of Clay's compromise, although in effect that was what he intended. If a committee were assigned the task of coming up with a solution or plan, than the debate on Clay's proposal could come to an end. Because of the difficulty of assembling such a committee, not to mention the difficulty that such a committee would have in coming up with a solution wrangling over Foote's proposal meant putting off a decision.\footnote{Foote Resolution, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 21 February 1850, 418-421. Available on-line at http://memory.loc.gov/ammem/amlaw/lwcg.htm.} The morning after Calhoun's address Foote took the floor again to ask for a decision on his proposal
Calhoun was not in the chamber at the time. Foote acknowledged the important service of the South Carolinian and proceeded to delineate the differences between him and Calhoun. He was not the only southerner who found Calhoun's speech wanting. The interpretation given Calhoun's remarks was that if the North did not accede to the South's request as presented by him, secession was the only option. Southerners like Foote objected to such a stark appraisal of the situation. Although a staunch defender of slavery, Foote opposed further discussion of disunion. When Calhoun arrived in the chamber during the afternoon, he asked the Vice-President, who was presiding, what question was before the Senate at that moment. The Vice-President said no question was pending. Calhoun then voiced his dismay that Foote (without actually naming him) should take the liberty to comment on the contents of his speech without him being present to hear the comments and to reply to them. "'Did he accuse me of disunion? Did he mean to insinuate that?" asked Calhoun. Foote replied that he spoke because he did not expect Calhoun to be in attendance for many days and he took the opportunity to speak. Acknowledging Calhoun's patriotism, Foote then stated in language that further angered Calhoun that if the South Carolinian's prescription were followed the result might prove fatal to the Union. An amendment to the Constitution would be "sine qua non to a settlement of the existing difficulties" said Foote, adding that other Senators shared his view. If Calhoun were to pursue this approach, he would find him quite alone. Foote would not support him, and neither would others who were prepared to defend the Union. Foote then stated his right to disagree and to state his disagreement on the Senate floor.

While I aspire to be the leader of no man, I wish it to be understood that I recognize no man, either here or elsewhere, as my leader. I menace no one, and I will submit to no menace; I command to no one, and I will yield to no command. I practice courtesy, and I shall certainly exact it from all with whom I may have intercourse. Gentlemen who venture boldly upon the arena of debate must expect sometimes to have their favorite positions questioned, and their arguments responded to; and they have no right presume unkindness merely on the ground, that their speeches are not permitted to go wholly unanswered.

Calhoun's response was a further rebuke. He declared that he refused to lead or be led by any man: "When I speak, I speak only for myself—upon my individual responsibility—and not for the Senator from Mississippi, nor any other Senator." His hope was that his words would published for Americans to read without any
interpretation as offered by the Mississippian. Calhoun accused Foote of ignoring
the context of the speech. The South had lost its power (especially in Congress) to
protect itself against the abuse of the North and its radical abolitionists, and the
“disquiet” felt in the South could lead to the demand for a guarantee. Without a
promise the difficulties could not be addressed because the disquiet would
continue. “I said nothing about *sine qua non*; I did not allude to any *sine qua
non...*” averred Calhoun. That was strictly the language and interpretation of the
Mississippian.567

Foote had no intent of submitting. He stated his disagreement with Calhoun that
the questions could be settled and settled honorably. Calhoun repeated his question:
did Foote believe that the South could remain in the Union without any guarantee?
Foote's reply was that they could be resolved and without any amendment to the
Constitution. “There we disagree.” Calhoun acknowledge their disagreement but
sought the high road – he did not disagree with their ancestors. By implication
Foote was disloyal to his region and its history. Calhoun then summarized the
cause of the disquiet: a small band of northerners believed slavery to be immoral, a
larger band thought it criminal; and all thought it “a blot upon our national
escutcheon. What more did I say? I said whenever it came to a question, all parties
would join in fighting the South.” Foote accepted that explanation, which he found
to be very severe. There was no doubt where Calhoun stood with respect to how
the South was perceived and what it could expect, but having stated that, did he
favor disunion? That was the crux of Foote's complaint. As to the question of the
Union, stated Calhoun, “I talk very little about whether I am a Union man or not;
because I put no confidence in professions I leave it to my acts to determine
whether I am a Union man or not. Sir, I challenge comparison with any man
here....It is in vain for a man to say he loves the Union if he does not protect the
Constitution, for that is the bond that made the Union.” Calhoun and Foote
expressed friendship, but their verbal dueling belied that. Foote went on to say that
if based on Calhoun's explanation of the context of his speech, he had provoked
enmity between them over the question of disunion, he must accept that. His
feelings of amity toward Calhoun had not changed, but his feelings for the sanctity
of the Union may make him Calhoun's enemy. Calhoun had the last word: northern
senators from state like New York can only prove the case, as presented by Foote,
if they vote to allow southerners their rights in California – an act unlikely to
happen. According to the *Globe*, “Here the conversation was dropped.”568


It was against this backdrop that the Senate with the gallery and the anteroom full prepared to hear Daniel Webster on Thursday, the Seventh of March. At this stage it was unclear how much if at all the anti-slavery proponents, especially in the House, were prepared to compromise with slavery's defenders, a rapidly shrinking group. Disunion was explored and in some cases advocated, but the depth of such sentiments was hard to discern. The House knew about Clay's proposal, which certainly had support there, but hardliners from both sections were not evincing much interest in compromise. In the Senate, on the other hand, despite a mixture of praise and opprobrium for Clay's efforts, they were seen as a serious attempt to pull the nation back from the brink. There was almost a sense of resignation in the Senate, in part because of President Taylor's stance, and more so in the House, where the anti-slave forces had the numbers, that California would be admitted as a free state. What was more troubling about Clay's plan had to do with what might seem like a side issue – fugitives. His position that the laws ought to be enforced (without any regard for the legal condition of a runaway slave) struck the wrong chord for many northerners. Calhoun's response to Clay may have been designed to rally the South – demand for a guarantee to avoid disunion – was not well received, as Foote's exchange with Calhoun revealed. In his speech Calhoun showed no intention of supporting a compromise, and since his death will occur within a month, long before a final vote on Clay's proposals, his hard-line at the outset of the debate will remain his legacy. Calhoun's own view of his speech and its impact, however, was upbeat. He wrote his Charleston friend, Henry Conner, on the day it was read that “My friends think it among the most successful efforts, & it made a profound impression.” In curious wording he wrote that “I have made up the issue between North & South.” In other words, he had created a straw man of issues in order to get concessions or to justify secession. “If we flinch we are gone, but, if we stand fast on it, we shall triumph, either by compelling the North to yield to our terms, or declaring our Independce [sic] of them.”

Two days later, his long-time friend and South Carolina's former governor, James Hammond wrote that based on a few lines that he had seen, Calhoun had stated exactly what needed to be stated. Hammond had no faith that any deal with the North could ever be approved or if approved ever sustained. If the South cannot maintain the necessary balance, then disunion was the only choice. It was better to choose secession than to count on the likes of Benton, Clay, Houston or Bell (all senators from border or southern states) to defend southern interests. “If we do not act now—we deliberately consign our children—not our posterity, but our children [sic] to the flames. What a holocaust for us to place upon the alter of the Union, for which the

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South & West have had such a bigoted & superstitious veneration.” Hammond had no faith that the South and North could resolve their differences – “‘Free Government' & all that sort of thing has been I think a fatal delusion & humbug from the time of Moses” – and the South should prepare, perhaps through a convening of a Nashville convention, for the new Congress of the South where Life & liberty” will be secured under the guardianship of a society and civilization that understands true progress.570

At noon under “special orders” of the day the Senate convened to debate further the resolutions of Senator Clay. As Senator Isaac Walker (D-WI) had promised, he would yield his time to speak from thr floor to Senator Webster with these words: “Mr. President, this vast audience has not assembled to hear me, and there is but one man, in my opinion, who can assemble such an audience. They expect to hear him, and I feel it my duty, as well as my pleasure, to give the floor, therefore to the Senator from Massachusetts.” In what may strike the modern reader as a curious remark, Walker did not have to move for a postponement of the “special orders” to allow Webster to speak because the speech would address whatever question concerning Clay’s resolutions was at that moment before the Senate.571

Webster, a northerner but not a Free-Soiler, a Senator from a state and a region where abolition sentiments were strong and growing stronger, was a quantity both known and unknown. If he had needed some words to be remembered by (at this stage he didn't) the opening of his speech proper would have done it: “Mr. President, I wish to speak to-day, not as a Massachusetts man, nor as a northern man, but as an American, a member of the Senate of the United States.” Showering praise on the Senate where he continued to believe that wisdom and dignity would allow its members to fulfill their responsibilities, he could not ignore how dangerous the times were: “strong agitations” that threatened the institutions of government.

The imprisoned winds are let loose. The East, the West, the North, and the stormy South, all combine to throw the whole ocean into commotion, to toss its billows to the skies, and to disclose its profoundest depths. I do not expect, Mr. President, to hold, or to be fit to hold, the helm in this combat of the political elements; but I have a duty to perform, and I mean to perform it with fidelity—not without a


sense of the surrounding dangers, but not without hope. I have a part to act, not for my own security or safety, for I am looking out for no fragment upon which to float away from the wreck, if the wreck there must be, but for the good of the whole, and the preservation of the whole....I speak today for the preservation of the Union.\(^{572}\)

Calhoun would have a response, and from the opening lines what the response would be was clear. The more difficult discernment was how much of Clay's plan to save the Union would Webster embrace.

Webster took the position that California's Constitution unexpectedly, given its location and climate, excluded slavery. Despite a long history of slavery in the Western World, which Webster surmised for the members, he posited that since the founding of Christianity a new attitude had evolved. Christianity was meant to "touch the heart, purify the soul, and improve the lives of individual men. That object went to the first fountain of all political and all social relation of the human race—the individual heart and mind of man.” Slavery survived, but it was wrong. Webster accepted the fact that many religious people in the South continued to view slavery as useful and necessary and not as unlawful and immoral. As powerful a force as Christianity has been, it had yielded different viewpoints about many topics, at times leading to war. American Christians, much to Webster's regret and as Calhoun described, were separating over the question of slavery. Moreover, according to Webster, at the time of the writing and ratifying of the Constitution, slavery existed and was permitted to continue. He was of the opinion that in 1787 both sections, North and South, held slavery to be evil. He certainly intimated that the pressure to abolish slavery then was lacking. Webster wished to make three points about the Constitution and slavery. The first was that the termination of importation of slaves was premised on belief that slavery would eventually disappear, and the second was to the extent that Congress had the power to prohibit the extension of slavery that power was absolute and full. At this instance Webster was about to make a reference to Calhoun's speech, although he first noted that illness prevented him from attending, only to learn that Calhoun was in attendance. “He is here,” voiced one senator. Webster expressed his delight and his hope for long, good health for the South Carolinian. The reference he was about to make was to remind the Senate that even though Calhoun considered the Northwest Ordinance and related legislation a great mistake, the fact remained that all states had voted their approval. If a mistake were made, it was made openly and

\(^{572}\)Webster Speech, *Congressional Globe*, 1st Session, 31st Congress, 7 March 1850, 463. The entire speech was printed in the regular edition of the *Globe* as well as in the Appendix. It is also available on-line at many other sites including [http://memory.loc.gov/ammem/amlaw/lwcg.html](http://memory.loc.gov/ammem/amlaw/lwcg.html).
unreservedly.

The third point – perhaps his most important was that conditions in the Nation, both North and South, had changed since its founding. “But, sir, opinion have changed....Slavery is not regarded in the South as it was then....Sir, there is no generation whose opinions are not subject to be influenced by what appears to them to be their present, and emergent, and exigent interest.” And why the change in the South (not to be imputed to any inherent evil)? The thriving cotton/plantation system. When the Nation was formed, cotton was hardly important. But, as it became important, so too did slavery upon which southern planters depended. Webster further disputed Calhoun's description of the relations between North and South. For most of the years since 1787, the North had acquiesced to southern leadership. Further, the North had not blocked the interests of the South – to wit, the purchase of Louisiana and the annexation of Texas with inclusion of slavery at least in regions contiguous with other slave-holding regions. Webster described the resolutions governing such acquisitions as contracts, and he failed to understand, notwithstanding Calhoun's description and complaint, how a stronger guarantee could be made to the South. With respect to admission of Texas, which Webster opposed, he proceeded to tick off the names of the northerners who voted for such. He then declared that he had no doubt, based on the published diplomatic correspondence, that the acquisition of Texas was designed to “strengthen the slavery interest of the country.” Calhoun asked if Webster would allow an interruption, to which Webster answered “Certainly.” The interruption concerned the background for acquisition of Texas. Calhoun was President Tyler's Secretary of State and had intimate knowledge of these negotiations. They were not as Webster had just portrayed them, spoke Calhoun. Had Texas been allowed to remain independent, England would have used its influence to abolish slavery in Texas and then in the United States. The prospect of that was unacceptable to the South. Webster's response was, the result was the same. Texas was secured to protect southern slavery, and despite objections from Calhoun Webster stated that published diplomatic correspondence indicated England promised it would not exert such pressure on an independent Texas. Despite disagreements over details Webster's main argument was that except for the past few years even as the balance shifted to the North southern interests were often advanced by the region that Calhoun had condemned. Moreover, several northerners who had voted for annexation have become Free-Soilers and left the mess to the current Senate membership.  

Returning to his theme, what to do to resolve the crisis, Webster said that it was not so uncommon for individuals to declare that the world was changing but they were not. Webster more than once had avowed no more territory. The Spartan maxim: “Improve, adorn what you have, seek no farther.” The fact was Texas and all the states (limited to three or four) to be carved out of her dominion would enter as slave states. That was a guarantee. The North had kept its word. For California and New Mexico, a different contract or law prevailed: the law of nature, of geography, of the formation of the earth. Slavery did not exist in those territories. In some sense people there may feel “enslaved”, but a slave comparable to a slave in the South – property that could bought and sold, transferred from place to place – that slave could not be found in either California or New Mexico. Even the climate in the southwest was different, too different to support the introduction of slavery. The Southwest was so different that a provision like Wilmot's was unnecessary. The people of California had spoken on the basis of what was in their interests relative to their environment, and the people of New Mexico will probably speak with the same voice. In short, as Webster had said before, Wilmot's Proviso was a political strategy, not a legislative requirement. Nature, combined with history and culture, will decide the course of slavery. Inflammatory actions were not necessary. He had separated himself from the Free-Soilers and other radical elements. To be sure that all understood, if a proposition for a government for New Mexico were under consideration and a senator inserted a provision to provide for the exclusion of slavery, Webster would not vote for it. It was a source of agitation because it was meant to denigrate slave-owners by imposing what was not necessary. It is worth recalling, since this was a debate about Clay's plan, that Clay recommended that New Mexico be permitted to organize without any reference to slavery. Webster would, as he has done since 1837, work to exclude slavery where such good can be justified, but he will not lift a finger to demand that course where it was not necessary, especially when it “wounds the feelings of others....”

Webster next turned to fugitives, an issues that will come to dominate the abolition crusade. Webster's position was simple and clear, and not particularly welcome: the law must be enforced. For him Article 4, Section 2 of the Constitution that spoke of persons held to service or labor in one state escaping to another bound state legislatures to abide by federal statutes, in this case the Fugitive Slave Act of 1793. He stated explicitly his view that he had always thought that “the Constitution addressed itself to the Legislatures of the States themselves, or to the States themselves.” A personal liberty law enacted by Pennsylvania in 1826 was reviewed by the Supreme Court in Prigg vs Pennsylvania (1842) and founded

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unconstitutional. Webster confessed that he did not know if it was a “fortunate decision”, but it was nonetheless the decision of the Court and must be upheld. “My habit is to respect the result of judicial deliberations and the solemnity of judicial decisions.” At that time the Senate then had the question of fugitives under consideration in the Judiciary Committee, and Webster indicated that he might vote in favor of changes. But, until the law was changed or the Constitution amended, the North was wrong to ignore or bypass federal law. The position of the South, as expressed by Calhoun, was correct.

What right have they [sober-minded northerners], in all their legislative capacity, or any other, to endeavor to get round this Constitution, to embarrass the free exercise of the rights secured by the Constitution, to the persons whose slave escape from them? None at all – none at all. Neither in the forum of conscience, nor before the face of the Constitution, are they justified, in my opinion.

He admitted that during the current agitation it was easy to lose sight of the legal and constitutional restraints imposed on behavior and action, but that could not be used as an excuse to violate the right owed to southern slaveholders to recover runaways irrespective of what states had tried to prevent such. He had no regret, whatever the venue, to declare the South had been wronged because of misguided state enactments.575

On the matter of secession Webster spoke with boldness and fervor.

I hear with pain, and anguish, and distress, the word secession, especially when it falls from the lips of those who are eminently patriotic....Secession! Peaceable secession! Sir, your eyes and mine are never destined to see that miracle. The dismemberment of this vast country without convulsion! The breaking up of the fountains of the great deep without ruffling the surfaces! Who is so foolish—I beg everyone's pardon—as to expect to see any such thing!

He had no faith in a peaceable secession, i. e., “the concurrent agreement of all members of this great Republic to separate! A voluntary separation, with alimony on one side and on the other, Why? What would be the result? Where is the line to be drawn? What states are to secede? What is to remain American? What am I to be? An American no longer?” And the questions on how to divide up the nation

continued for several minutes, Webster was at the height of his rhetorical powers. Few of the questions could have been answered, even after time for reflection, and that was what Webster intended. He sought to describe the process as nothing short of destruction of America.576

Webster had one final comment: what to do about slavery, its “extinguishment or melioration.” He refused to offer any solution of his own, lacking the competence to do so. He was prepared, however, to support the resettlement of “free colored people” at federal expense “to any colony or any place in the world.” How? By returning to Virginia and through it to all the southern states the dollars (and the interest on those dollars) that Virginia would have received for ceding its western lands, an act it had undertaken without compensation. Quite frankly, Webster might well have added the question on how to proceed with colonization to the list of other impossible-to-answer questions. Still, Webster had made his case for preserving the Union and decrying its destruction. He closed with phrases like “founded upon the principles of equality”, “trodden down no man's liberty” and “crushed no State”, which under the circumstances may have lacked a certain authenticity.577

Calhoun was the first to reply. His short speech both praised Webster's speech (e.g. fugitives) and introduced correction (e.g. Northwest Ordinances). On the question of secession, Calhoun made no concession: “...the Union can be broken. Great moral causes will break it, if they go on. And it can only be preserved by justice, good faith, and a rigid adherence to the Constitution.” Webster replied briefly with the observation that, yes, the Union can be broken, as Calhoun suggested, but that was revolution, and revolution was not of what Webster was speaking. He was speaking about the impossibility of a peaceful separation, which he was prepared to debate further with Calhoun. Below is a summary of that exchange.

Webster: “I forebear from going further, because I do not wish to run into a discussion of the nature of this Government. The honorable member and myself have broken laces sufficiently often before on that subject.”

Calhoun: “I have no desire to do it now.”


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Webster: “I presume the gentleman has not, and I have quite as little.”

Webster: first he noted that he and Calhoun saw past events differently, and then he turned to California. On the question of California Webster had purposely kept his remarks general out of respect for Senators who have spoken and will speak, and when the question of the admission of California will be debated, he will have something to say “upon the boundaries of California, upon the constitution of California, and upon the expediency, under all the circumstances, of admitting her with that constitution.”

Calhoun: “One word, and I have done; and that word is, that notwithstanding the acquisition of the vast territory of Texas, represented by the Senator from Massachusetts, it is the fact that all that addition to our territory, made it by no means equal to what the northern states had excluded us from before that acquisition....”

In other words, what the South had lost, land – where slavery was excluded – from the Northwest Territories through Louisiana, Florida, Oregon and Texas, was greater than what it gained – where slavery was permitted – from these acquisition. Isaac Walker (D-WI) who had yielded his time to Webster moved postponement of further debate, and the Senate voted to adjourn.578

Was it possible that any citizen in the winter of 1850 could not have been aware, at least slightly, of the pending crisis? The framers had dealt with the institution of slavery marginally, but 60 years later it was front and center with the extremes for and against ready to chuck the Union, if necessary. In fact, the parties could not agree on what the framers had actually intended by limiting their actions. Their lack of clarity had built a rickety foundation from which to try to divine how the distribution of sovereignty was supposed to work. Recall Thomas Jefferson's proposition on individual and collective self-government, an appealing proposition because it implied a realm in which formal government with a long history of determining who shall rule had to co-exist with, if not acquiesce to, the individual. How to draw the line or more telling how to find the line over an issue that had grown more intense in large part because the institution of slavery, at the heart of the issue, had contributed to the prosperity of the South under rules derived from Jefferson's proposition. Clay's plan was to bridge the gap by trade-offs, as Americans had accepted before, but would they buy into trade-offs once again?

Calhoun and Webster squaring off not so much over the merits of Clay's plan but the much deeper and murkier issue of distribution of sovereignty. Not surprisingly, up to this point, the debate beginning with the acquisition of Texas and the declaration of war on Mexico had to do with the institution of slavery and almost not all with the slave so crucial to the institution.

The President's Annual Message contained a simple request – to admit California without restriction – but the debate that it sparked revealed a Gordian Knot. Both chambers were debating the President's request, but the debate in the House was more narrowly focused than the debate in the Senate. There was no doubt that the House could pass a bill admitting California with Wilmot's Proviso that would affect all future admissions. In the Senate a favorable vote on the admission of California with or without the Proviso was unlikely. Hence, Clay's plan, which went much beyond what the President had asked for and was more comprehensive than what the House was considering. The attention showered on the Senate arose from the simple fact that its actions would more or less determine the ultimate course to be taken in resolving the controversy.

Holman Hamilton has detailed the course of congressional debates in the weeks after Calhoun and Webster. A dozen Senate members and two dozen House members representing North, South and West, compromise and no-compromise, support for and opposition to President Taylor took the floor during the next several weeks. Hamilton's analysis led him to conclude that these efforts did not appear to help push the disputing parties toward an agreement. With respect to the House he wrote that its “performances were unimpressive.” In both chambers, however, he found the pattern of activity as “unproductive.” Even though some congressmen seriously sought a middle ground in order to tamp down vitriolic speech and raucous behavior, the nation at large seemed to be in the throes of continuing agitation, especially in the North where mass meetings in opposition to the extension of slavery as well as slavery itself. In a way, one could speculate, since polling evidence did not exist, that the nation and the Congress were caught in the same whirlpool from which there appeared to be no exit. While one can agree with Hamilton that the performance or pattern seemed less than encouraging, one must also acknowledge that the gulf was wider and deeper than it had ever been. Past encounters – Missouri and Nullification – took place against a different backdrop, a less restive population. The rise of the anti-slavery movement in its various forms represented a test for a nation that had promoted the idea of limited government. It would be a mistake to ignore the fact that formal government at all levels had grown since the days when the revolutionary spirit inspired a more pristine view of who should rule and how much rule was needed. The society
spawned by revolution was long gone. Riveting changes had accompanied the ambitious and acquisitive character many Americans had come to exhibit. Agrarian ideals remained strong even as the commercial and industrial sectors assumed greater prominence in the lives of many Americans. The role of government at any level was subject to debate and experimentation. Commitment to self-rule in the political as well as the economic arena arose from a deep-seated belief that governing in the past had been founded on a premise that allowed those who ruled systematically to deny individuals their natural liberty and concomitantly the just rewards that arose from their productive endeavors. The nobility of the individual, a phrase common among Jeffersonian writers, was not only expressed in praise of the innate capacity of the individual but in defense of his economic accomplishment. Southerners and northerners were appealing to the same political tradition, although from different perspectives: the former proclaimed, leave us alone, and the latter, let us decide. The implications of the two positions were not the same, and how to reconcile them was the dilemma of 1850. Neither the Congress or the public had a any clear sense of how to resolve the stand-off. There was virtually no precedent in policy-making that politicians could turn to for guidance except to try to win acquiescence to a trade-off that would satisfy all parties. The difficulty with another compromise was the presence in growing numbers of persons prepared to speak the language of “either/or”. Outcomes could not be predicted. Among southerners and northerners there were public renunciations of the charter from which the national government was born and of the government itself. Under these conditions a plan of action by which the government would end the debate over slavery and preserve the union seemed out of reach, not only because people had sharply divergent views but also ironically because they had little faith in government itself.

A persistent participant in these debates was the Mississippi Democrat, Henry Foote. After Webster’s speech his proposal for a Committee of Thirteen was still on the table. Repeatedly, he tried to induce the Senate to make a decision about constituting a Committee of Thirteen, divided between sections and parties to take up the various compromises and resolutions and report a bill to the Senate. From remarks and objections the road ahead for Foote remained rocky. Opponents of such a committee would continue to stall through parliamentary wrangling for as long as necessary. It was argued that such a select committee would usurp the authority of established committees, would only highlight the sectional and party differences and would deny members their constitutional obligations to represent their constituents. A select committee (there was precedent for such) struck many

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579 His original proposal was for a Committee of Fifteen.
as extra-legal. Besides, how would committee members be chosen? The last question became a most contentious issue with opponents declaring that Foote had met with Senate “leaders” in advance with the aim of securing their support in exchange for a commitment that some of them would be appointed to the committee. During a debate about Foote's resolution on 13 March 1850, the Mississippian kept trying to limit the debate to the procedural question on the formation of the committee when his opponents tried to shift the debate to resolutions that would come under such a committee and to the membership of the committee. The former was out of order because the question before the chamber concerned creating such a committee, but each time the opposition tried to introduce ancillary issues more time was spent arguing and wrangling without any decision on the original question. Words used by Foote in an earlier debate came back to haunt him. He had apparently said something to the effect that in presenting the resolution for the creation of a committee, he had consulted, in the words of Hale (FS-NH) with “nearly every leading [sic] member of the Senate,” after which Hale with some sarcasm asked “Well, now, sir, I do not know how many leaders we have got. I do not know....” Before he could finish Foote broke in: “I did not intend to include the honorable Senator from New Hampshire”, a remark that drew laughter. The sparring continued with Hale agreeing that he was not among the leaders but reminding Foote “I would not be exactly among the led.” Then, Hale pressed ahead by suggesting that some leaders had not been consulted, although he could not name them when asked by Foote. This was a ploy to drag out the debate and to sidetrack the Foote’s plan. Hale continued to focus on the “deal”. He wanted to know if the list of senator consulted was the same list of senators, which had a appeared in a publication, which said that Foote's Committee (it had not yet been approved) would be constituted with the following: Clay (W-KY), as chairman, Webster (W-MA), Phelps (W-VT), Cooper (W-PA), Cass (D-MI), Dodge (D-WI), Mason (D-VA), Soulé (D-LA), Butler (D-SC), Mangum (W-NC), Bell (D-TN) and Berrian (W-GA). (Note: according to this list, which may have been spurious, there were only five northerns against seven southerners. The thirteenth was to be elected by the Senate.) After more exchanges in which Hale persisted in his line of attack, Foote from his seat on the floor cried out “I am weary of this nonsense.” Finally the Senate took a vote, effectively allowing Foote's resolution to be debated, and it passed by two votes.580

Two pivotal days were ahead. Calhoun died in the early morning hours of 31 March and Foote was disarmed of a loaded, cocked revolver on Senate floor 17 April. Calhoun's health had been precarious for months, but he rallied from several

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setbacks. There was no doubt from the letters he wrote and the comments he made that he thought the country had reached a turning point, perhaps its most critical; and he was determined to play a role for as long as possible. Letters written by family members and friends before and after his death alluded to the toll that the current debates had taken. Four days before his death, his son John C. jr. had written to Richard Crallé, his longtime Richmond editor and publisher, that Calhoun's health (diagnosis severe cold) continued to improve and that they would soon travel south with a stop in Richmond to see Crallé. 581 When Joseph Scoville, Calhoun's private secretary for many years, recorded the events of the last day, as he remembered them, he stated that the evening before his death Calhoun's son (John jr.) cautioned the Senator, whose decline that day was obvious to all, not to occupy his mind with too much thinking. Calhoun's response, according to Scoville, “I cannot avoid thinking of the political affairs of the country. If I could have but one hour to speak in the Senate, I could do more good than on any previous occasion of my life.” 582 He would not be granted another hour. Two months later when John jr. could finally summon the energy to write a long, detailed account about his father's final weeks to his sister, Anna Maria, living in Brussels, he stated that when he arrived in Washington in late February he found the Senator frail and weak but in good spirits. “He continued perceptibly [sic] to improve, until he was provoked by Senators Cass and Foote, to enter into an exciting debate, which was entirely too great a shock....” Calhoun acknowledged (“despondingly”, according to John jr.) that he was in need of “physical vigor”. He did recover enough to return to the Senate floor several times only to suffer a relapse that eventually resulted in death. Within the family the attitude prevailed that continuing debates on matters Calhoun was known to hold strong opinions had drawn him into the Senate's proceedings more than his health should have allowed. 583 He believed, as did others, that his presence could turn the tide. James Hammond, former South Carolina governor and fellow nullifier, declared a week later that the death of Calhoun along with others of his peers would destroy “the last links of the chain of the Union.” 584 The nation may have mourned Calhoun's passing, but the Congress of 1850 was hardly prepared to follow his prescription in the weeks before or the weeks after his death. The belief was, as he himself


expressed and his friends shared, that despite his own hard-line on slavery he was one of the few who could help to forge a resolution to the conflict. Given the insurgency in the Senate and his own intransigence, it is hard to see where the agreements might exist. His death may have tempered the spirit of the debate for a while. Calhoun's funeral was set for 2 April and his casket was scheduled to leave Washington accompanied by six senators on 22 April. On some days between the two dates, especially the day Foote arrived with a pistol, the debates were contentious and the insults frequent. The case has been made that the votes tended to favor the South. As several important senators – Clay, Webster and Cass – warmed to the idea of Foote's bipartisan committee, important procedural votes did serve to move the Senate away from the extreme and back toward the middle. At the time of Calhoun's death Clay's plan was two-months old and had spawned competing proposals, some of which were more extreme than the Senate would ever accept including Calhoun's own plan. Foote continued to speak in behalf of a Committee of Thirteen that would in the great tradition of the Senate allow the leading lights to craft a bill that could win approval. After six week the nitty-gritty business of motions to amend, to table or to proceed, the Committee of Thirteen was still on the docket but gaining support. Whatever this meant for the South or the North, it meant for the Senate a turn in the deliberations back toward the middle. The unknown, however, remained. What would such a committee produce without some instructions from the Senate?585

Despite the leanings of Clay, Webster and Cass toward support, three other prominent senators – Douglas, Hale and Benton – continued in their efforts to stop Foote's plan. On 11 April 1850, Douglas, chair of the Committee on Territories, which would lose jurisdiction over territorial questions, moved to lay Foote's resolution on the table (again). Foote announced that he considered this a test vote. Actually, he had been working behind the scenes to line up support for just such a vote. The Senate voted 28 to 26 not to lay it on the table. As expected, the three aforementioned opponents plus another prominent northern Whig, William Seward (NY), voted aye, and Clay, Webster and Cass voted nay. The opposition to the Committee of Thirteen came in several flavors. One of the most persistent concerned the charge to the committee. Foote's idea was that the Senate elders appointed to the committee would weigh all the options and with no pre-conditions or “instructions” reach a decision that would settle the controversy and bind the nation. Did that mean, for example, that the committee, if it wished, could abolish slavery, prohibit slavery beyond where it currently existed or declare slavery to be subject to federal control, any one of which would overturn decades of tradition

585Hamilton, Prologue to Conflict, 91.
that slavery did not fall under the purview of the federal government. Missouri Compromise had not resolved the question of the reach of the federal government. Excluding slavery above the line and not restricting it below the line had not in and of itself expanded federal authority over practice or expansion of slavery. Not all agreed with this interpretation, arguing that ample precedent existed for the federal government to assume a substantial, if not determinant, role with regard to slavery. If the Congress could create a line, why couldn't Congress ultimately decide to exclude all slavery from the territories and even from the nation? There were narrower issues that concerned those who favored maintaining the status quo of federal non-involvement. A select committee might decide to restrict the sale and transport of slaves or might decide to regulate or abolish slavery in the District of Columbia over which the Congress had jurisdiction. If some worried that a special committee might threaten tradition and precedent, others feared that a committee in the hands of the Senate elders might simply try to maintain the balance between slave and non-slave constituencies without taking into account the mounting sentiment across the North in opposition to the extension and existence of slavery. Finally, after lying dormant for years, a thorny issue – fugitive slaves – was now a part of the debate having been addressed in both the Clay and Bell compromises, and there was discomfort in all quarters as to how a select committee would deal with fugitives.586

Benton, who opposed the creation of a special committee, made clear he would introduce a series of amendments that would serve as instructions on what the committee could and could not do. Foote's resolution was on the docket and could be amended, but the resolution itself – to create a committee – had not been voted upon. When the resolution was being debated amendments were proposed and, if approved, they would have effectively destroyed the committee. After the amendments had been defeated, the resolution itself would be tabled for later debate. This was the process with which Foote had exclaimed his weariness, but it continued. When the debate on Foote's resolution began on 11 April, Benton, not for the first time, introduced a series amendment containing 13 specific instructions. They stated that the select committee could not deal with California or slavery in the remaining territories yet to be organized and in the Capital or with the sale of slaves, in short, the very issues that Foote and others believed threatened national unity. Benton's personal position was that the Congress should stay out of the question of the extension of slavery in accord with the Missouri Compromise: slavery was excluded North of the line and was neither excluded or included in territories below the line. Benton, irascible in many debates, had

complained frequently about agitation North and South, especially as laid out in the recent speech of the deceased Calhoun. His amendment was defeated, but debate resumed continued after the vote to table (once again) the resolution had failed. That led Roger Baldwin (W-CT) to introduce an amendment that excepted California from the purview of the Committee of Thirteen. Benton was known to have said the Proviso was a raincloud without rain, and that phrase was repeated by Baldwin, who like Benton, wanted California admitted in accord with its constitution that excluded slavery. The raincloud analogy meant that the Congress and the nation need not veer from the established policy since 1820. Wilmot's Proviso was unnecessary and dangerous. Webster lamented that the steady stream of amendment was delaying what required a simple vote: to approve or disapprove the creation of a Committee of Thirteen. A vote was taken on whether to except California and was defeated by the same vote, 28-26, that had been recorded not to table Foote's resolution. There appeared to be a slim majority (developing) to approve the creation of a select committee. By the end of the day (11 April) the Senate had not voted on the establishment of the committee per se, but had agreed to take up the resolution on the following day.587

Nearly a week passed before the debate on the Foote resolution resumed. The debate on 17 April did not start off auspiciously. Several days before Benton had introduced another amendment to the Foote resolution that declared four exceptions relative to the committee's deliberations: Congress had no power to abolish slavery within the states, at federal forts or arsenals, in the District of Columbia or to suppress slave trade between the states. Clay's moved (apparently with Benton's approval) to amend the amendment to read as a paragraph rather than a series of points. The Vice-President, the presiding officer, opened the proceedings with a declaration to consider and vote on Clay's amendment to Benton's amendment at which point Clay introduced an amendment to his amendment to strike out all the wording of the Benton amendment after “provided” and to insert instead a brief sentence that said it was not necessary to instruct the committee in advance, something that Foote had argued for. He wanted the committee to have as wide a mandate as it needed to try to come up with a comprehensive settlement. Benton, showing some rancor, withdrew his amendment, an action that made any amendment to his amendment moot. He reintroduced his four-part amendment with an additional section that squarely restricted the scope of the committee unless the Senate so ordered. In other words, Benton's revised amendment would be even more restrictive. Clay responded with his amendment that substituted for Benton’s revised amendment in language that

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declared no need existed for Benton amendment. Thus, further wrangling ensued with Benton more or less declaring that Clay's amendment was technically not an amendment to his amendment but a prohibition against his amendment. Benton reminded the Senate that the bill (S-169) from the Committee on Territories simply provided for the admission of California and nothing else. The compromise proposals to be assigned to a Committee of Thirteen would begin to link other issues like fugitive slaves to the admission of California at which point Clay objected no such link existed. Benton retorted that the whole plan put forward by Clay was a set of compromises or trade-offs. How far will they go, how long will they last? asked Benton. One can imagine his pleasure in further asking, how long did the compromise on amendments between himself and Clay last? He asked for the ayes and nays on Clay's amendment to strike and insert. Douglas, chair of the Committee on Territories, surprisingly took the floor before a vote to express his intention to vote in favor of the Clay amendment and not to stand in the way of the formation of a Committee of Thirteen. He noted that the Senate had voted several times in a manner indicating that a majority of the Senate favored such a course. His preference was to consider the California bill at once (and nothing else, a clean vote), but what he wanted was not what the Senate wanted. He deprecated the path taken but in deference if he could not have his way he would not stand in the way of others to determine how the Senate should act.\footnote{Proceedings, \textit{Congressional Globe}, 1st Session, 31st Congress, 17 April 1850, 757-758. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwcg.html}.} He closed by saying he would oppose all further amendment including Benton's in order to move ahead with a decision. At this juncture various points of order were raised followed by various explanations for why points of order were being raised.\footnote{Hamilton also cited these remarks by Douglas but in neither his text or footnote was it clear that Douglas acceded on 17 April and not earlier. \textit{Proceedings, Congressional Globe}, 1st Session, 31st Congress, 17 April 1850, 757. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwcg.html}.}

What exactly was being debated? It may not have been clear to all the senators, although to question what was being debated could also be a delaying tactic. Even though the amendment had to do with how to instruct a select committee, a vote authorizing such a committee had yet to pass. A series of vote over the past weeks was simply to allow Foote's proposal to be considered – in parliamentary terms the proposal no longer lay on the table. But the battle over amendments, described above, was designed to slow down and, if possible, to prevent a vote on the creation of a committee. Benton made no apology for what he was doing – offering amendment after amendment that would either tie the proceedings in knots or reduce the effectiveness of any committee that might be authorized. But Benton was not alone because Free-Soilers like Hale were equally committed to stalling or
sidetracking the Foote proposal. One reason for the intense give-and-take on this day was that Foote had not asked for a vote on a select committee, which, if approved, could then be assigned its duties, but rather had moved that the plans of Clay and Bell be assigned to a Committee of Thirteen before the committee itself was approved. This opened the process to numerous amendment. At one point, Hale and Foote engaged in an acrimonious debate about whether Hale in his remarks was ascribing unfairly motives to Foote relating to his support for slavery that Foote claimed were not a part of the debate. Foote called it an “unparliamentary” remark and therefore raised a point of order, which if granted, would have forced Hale to change his tactics. The Chair ruled against Foote, and Hale continued to argue that this committee was no more than smokescreen to prevent the admission of California as a “free state”. This was precisely the debate that Foote did not want because it diverted attention from the matter at hand – approval for assigning the Clay and Bell plans to a Committee of Thirteen but not directly a vote on the establishment of the select committee. (As difficult or tedious as this may be, the parliamentary distinctions must be kept in mind.) A vote was called for on Clay's amendment, which struck out all the instructions proposed by Benton in his amendment, and Clay's amendment was approved 29 to 22. (Again evidence of the emerging majority in favor of a select committee.) That vote, however, only gave rise to more amendments to the Foote motion, as amended by Clay's amendment. There was a coordinated effort by Hannibal Hamlin (D-ME) and Benton, to reinsert the instructions for any such committee that Clay's amendment had just removed. Benton's amendment, reintroduced, had grown from four to at least nine instructions and he was also prepared to add five more instructions, all of which he had proposed in one form or another earlier in his effort to stop any proceeding that tried to do more than admit California. Joseph Underwood (W-KY) asked the obvious question: how could the Hamlin-Benton amendment be in order when the Senate had just voted to accept the Clay amendment?590

The Chair read from the Parliamentary Manuel (of the House) that an amendment could be rejected, if the matter had been decided (i.e. positive vote on Clay amendment), but it should not be allowed if doing so would subvert the will of the body, and therefore the Chair ruled Benton-Hamlin amendment in order. Clay rose to object and demand a vote after which Benton rose to state that the rules permitted him to offer amendment after amendment in order to prevent the Senate from taking a dubious action – an action in Benton's mind that violated existing Senate rules and precedents – and that Clay's amendment was intended simply to

cut off debate on what was a dubious action. “Sir, I intend by these amendment to
cut at the root of all that agitation, and to cut up the whole address of the southern
members, by which the country was thrown into a flame.” For Benton, the Foote-
Clay business was part of a concoction by the South to stir up sentiments in order
to protect slavery when no crisis existed: “I further propose to give to the people of
the United States the highest declaration that can be given on earth, that they have
been disturbed about nothing...we will see if they are abstractions or not; and if
these are abstractions, then the country has been alarmed about abstractions.”

Foote began to speak and then yielded to an angry Andrew Butler (D-SC) who said
to Benton that if he assumed “that the southern people are to be satisfied with votes
on truisms, or which all the country should regard as such, he is mistaken. He is
equally mistaken, if he supposes votes of that kind are to be safety values for the
dangerous and aggressive agitations of the North.” Butler ended his brief statement
by declaring (as had Calhoun earlier) that the South will no longer accept the mere
declaration that Congress had no power to interfere with slavery because the
behavior of the North had made it impossible for the South to take the North at its
word. Foote resumed his remarks by stating that the views just expressed were not
necessarily his views and that he had sought through his resolutions to find a path
that would unite all true patriots “in the pure spirit of fraternal conciliation and
compromise for the settlement of these questions. Patriots “should feel it their
bounden and imperious duty to do all in their power to quiet excitement, and save
the Republic from that danger which all of us do know has environed it for the last
six or eight months.” He openly declared that he had not entered the Senate on this
day to speak at all on these matters until “from a certain quarter” came attacks “on
myself and others with whom I am proud to stand associated.” Alluding to the
Southern Address (Calhoun’s speech), Foote without directly endorsing the
contents (which he had earlier criticized) did defend Calhoun – “whose decease a
nation now mourns, and over whose untimely death every good man in all
Christian countries...is now lamenting” – and the speech against certain
denunciations that “were fraught with mischief....” Those who supported Calhoun
and the Address were now being attached as agitators. Not intending to name the
denouncers, who inflamed the unrest, out of his respect for the decorum of the
Senate, he proceeded to name indirectly the most ardent denouncer: “By a
gentleman long denominated the oldest member of the Senate – the father of the
Senate. By a gentleman who, on a late occasion-----”

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591 Proceedings, Benton Remarks, Congressional Globe, 1st Session, 31st Congress, 17 April 1850, 762. Available on-

The *Congressional Globe* reported in brackets that Foote from his seat on the “outer circle, in front of the Vice-President's chair, retreated backwards down the aisle, towards the chair of the Vice-President with a pistol in his hand....” As Foote retreated toward the chair, Benton from another part of the chamber appeared in the aisle and, facing Foote, began to walk in his direction. Senators rose to their feet, shouts of order and for the Sergeant-at-Arms were heard throughout the chamber, and momentarily Henry Dodge (D-WI) intervened and escorted Benton back to his seat. Benton was alleged to have shouted “‘I have no pistol!” and “‘Let him fire’” among other remarks. Benton then broke away from Dodge and rushed to the front of the chamber, where he confronted Foote in front of the Vice-President's Chair before Benton was surrounded by other senators while Daniel Dickinson (D-NY) disarmed Foote, locking the piston in his desk. Butler (D-SC) escorted Foote back to his seat. Despite a frightfully shocking moment, once the senators had returned to their seats, verbal shouts between Benton and Foote continued, even as the Vice-President banned further remarks until order was restored. Benton could be heard denouncing Foote as a potential assassin, and Foote could be heard replying that he had to carry a pistol for self-defense. From his seat he was reported as saying that several days before he had been threatened by another member with a cane. Not surprisingly, (correct in a parliamentary sense since Foote had the floor before the incident) he tried to regain the floor to explain his actions, but he was ruled out of order as the Chair allowed the Senate to began a debate on the formation of an investigatory committee. Willie Mangum (W-NC) introduced such a resolution, with which Clay did not disagree but demanded that the resolution include a statement that the two parties be ordered “to keep the peace”, to which Benton took exception because he had not in any manner disturbed the peace. Clay's statement was one of the strongest, that both senators should declare no further aggressive acts, but other senators were more equivocating in their condemnation. More give-and-take including defense of Foote, not for his pistol-bearing behavior but for his past courtesies from a Free-Soil adversary, John Hale, before the Senate approved the Mangum Resolution for a special committee. A brief verbal skirmish occurred between the Chair and Clay who wished to withdraw his amendment that the Senate had earlier approved so he could attach it to the motion by Hamlin and Benton that excepted California from consideration by a select committee. Foote tried to take back the floor to finish his speech, but Butler called for adjournment, which Foote agreed to. Thus, at the end of an arduous day, the Senate had debated, amended but not yet approved the motion that initiated the debate and confrontation – to assign various compromises to a select committee to be formed – and, as the motion stood amended, the assignment would not contain any instructions, as Benton and others had
A context exists for how the confrontation involving a loaded revolver inside the halls of Congress developed. The debate over the California in both the House and Senate had turned truculent and nasty. Based upon the scores of memorials and petitions arriving in both chambers, citizens from all sections were riled up over territorial disputes. Congressmen on both sides used apparent or real citizen outrage to buttress their arguments on how to resolve the issues arising out of the War with Mexico. Congressmen disagreed over how serious the rhetoric of disunion and secession was. Some though it overblown. How to take the temperature of the public and the Congress was difficult. For two senators, one armed, to square off was not positive or encouraging. No matter where one stood on the political spectrum, the ideal that government was meant to advance the cause of liberty was tarnished at the very least. At what point had America arrived more than a half century after its founding? Since Foote had entered the Senate in 1847, he had cited mounting unrest as a call to action, especially in the South, whereas Benton viewed such language as hyperbole to reinforce certain sectional goals.\(^5\) But the animus between them was personal as well ideological. When Foote entered the Senate, Benton was Chair of the Committee on Foreign Relations. In 1844, before war was declared on Mexico, the Senate had met in executive session (secret deliberations) to consider the treaty for the annexation of Texas. Benton opposed that treaty because it assumed not only the annexation of land north (to the right) of the Rio Grande River but land to the south (to the left). Virtually all of northern Mexico could become part of the United States by way of Texas. Benton regarded this as unconscionable. Worse it would lead to a war with Mexico, which Calhoun and southerners may have wanted but could have been avoided through negotiations. Calhoun, he declared, was determined for the sake of the southern slaveholding class to grab as much new territory into which to expand the institution as far as it could, even at the cost of war. Benton opposed a war with Mexico but, once underway, he supported it, although he continued to try to restrict the outcome. Benton detailed his spat with Calhoun in his memoirs – *Thirty Years' View* – written some years after the events. Benton's relations with

503 Foote asked the *Globe* to correct its description of how he had moved through the chamber in order to emphasize his need to defend himself. A revision were added as a footnote. Proceedings, *Congressional Globe*, 1st Session, 31st Congress, 17 April 1850, 763-764. Available on-line at [http://memory.loc.gov/ammem/amnlaw/lwcg.html](http://memory.loc.gov/ammem/amnlaw/lwcg.html).

504 Foote and Benton disagreed fundamentally about the risk of disunion. It is difficult to ascertain if there was a general senatorial position. Douglas, for example, whose prominence in the Senate will grow, shared Benton's skepticism. His approach was that if Congress would return to the precedents and procedures that had served it well for the past quarter century, the agitation could be calmed and the business of governing could resume with less disharmony. In the aftermath of the battle over the Compromise of 1850, Douglas will lead a substantial contingent of the Senate in this direction.
Calhoun had deteriorated since the Nullification Crisis of 1833, and Benton's exposure of Calhoun's alleged contrivances surrounding his tenure as Secretary of State under Tyler sealed their split.\textsuperscript{595}

Upon entering the Senate Foote had already formed a negative view of Benton (as had others northern and southern) mainly because of his opposition to a war with Mexico that was driven as much by land acquisition as by the stated intent of defending Texas. Acquisition of land to expand slavery had become a singular goal for many southerners, and Foote who did not always share the hard-line positions was a staunch defender of slavery. According to Foote's memoirs, \textit{War of Rebellion; or Scylla and Charybdis}, Benton had become embittered over the loss of influence under Polk over the war question and was following an erratic course with respect to the newly acquired territories. It was Foote's opinion that the territories acquired under the Treaty were still under military rule and, therefore, should not yet be applying for admission, even though California had approved a constitution to accomplish just that. Benton was ready to admit California (a change of heart, said Foote), and Foote himself was ambivalent, though he preferred that conventional procedures should have been followed. During the summer of 1849, wrote Foote, Benton, who was then Chair of the Senate Committee on Foreign, having been elected during the Special Session (5-23 March 1849), was alleged to be in conversations with emissaries from Mexico to overturn the Treaty and “thus deprive the United States of the whole of that valuable domain recently acquired in California and New Mexico....” Since the Treaty was not overturned or revised, according to Foote, Benton failed in his mission and had to find a way to refurbish his reputation by advocating the admission of California without delay. In the meantime, Foote was attempting to win a commitment from Calhoun not to block the admission of California as a free state, if the vote came, and while Calhoun listened to Foote’s plea, he refused to endorse it. Foote had argued that the South stood to lose more than it would gain by opposing the admission of California. What Foote wanted was a bipartisan approach that would offer a solution, not just as to the disposition of the newly-acquired territories but to the range of issues that he thought, if allowed to fester, threatened the Union and, worse, the future of the South. Even though he had yet (at the start of the 31\textsuperscript{st} Congress) to unveil the details of his plan, he was certain that Benton would oppose it. When the 31\textsuperscript{st} Congress convened in December,

\cite[Barlow, A History of the Working of the American Government for Thirty Years From 1820 to 1850., 2 volumes (New York: Appleton and Company, 1873), 2:639-649. Ascribing motives, as Benton, did can be hard to documents. Speeches by Calhoun and others certainly supported a policy of expansion that would serve the interests of slaveholders. Benton was a strong proponent of expansion, although not in a confrontational manner whatever the benefits may be for certain regions or groups. Northern Whigs routinely voted against such expansionist policy on the grounds that it served the slave-owning sector.}
1849, Foote demanded that the Democratic Caucus not re-elect Benton as Chair of the Committee on Foreign Relations, and after several days of debate Foote prevailed. Instead of Benton, William R. D. King (D-AL) was elected Chair. Long involved in Democratic politics at the state and national levels, he shared many of Calhoun's views, although he was considered by some to be more pragmatic and reasonable.\textsuperscript{596}

The confrontation in the Senate between Foote and Benton, a few days before six senators were to accompany Calhoun's body to South Carolina, revealed the degree to which Senates rules on parliamentary procedures could influence the direction and intensity of debate. President Taylor's rather straightforward – it appears that way in retrospect – request to admit California had, as described above, prompted several bills, amendments and amendments to amendments, and, yet, after the four months the Senate appeared no closer to a resolution than before. More than one senator had expressed exasperation that individual members by parliamentary maneuvers could tie up legislative action indefinitely. Foote had spoken from the floor of his own weariness with the pace of the debate that was growing more acrimonious. On 3 April Vice-President Millard Fillmore, as the Senate's presiding officer, had made extended remarks about deterioration in decorum. Before his election as Vice-President, Fillmore had served in the House (until 1844) but never in the Senate. Lacking personal experience he had consulted with several senators on the practice of a presiding officer to interpose himself when debates were manifestly testing the bounds of behavior. The problem arose because Calhoun, when Vice-President and the Senate’s presiding officer, had changed the rules from allowing only the presiding officer to call a senator to order for inappropriate language or behavior to allowing all members to do so, and in a related rule change that further limited the prerogative of the presiding officer, the Senate could by a simple majority vote overrule the presiding officer if he called a senator to order. (There was, according to Fillmore, disagreement whether Calhoun's rule change applied as he had intended – that the presiding officer had no power to intervene.) Fillmore was of the opinion he had the prerogative but hesitated to use it. He cited Rule #6: “When a member shall be called by the President [presiding officer], or a Senator, he shall sit down; and every question of order shall be decided by the President without debate, subject to an appeal to the Senate; and the President may call for the sense of the Senate on any question of order.” Fillmore then reported on his study of the history of the matter. There was no doubt when the original rules were written the President of the Senate could call a member to order without debate, although he could “call for the sense of the Senate”. When Calhoun

\textsuperscript{596}Foote, \textit{War of Rebellion; or Scylla and Charybdis…} (New York: Harper and Brothers, 1866), 104-110.
announced to the Senate that he did not think that he had to power to call a member
to order, the Senate undertook to change the rules. Amendments to the rules after
some debate determined that the President could call a member to order with the
revision that his action was subject to appeal to the Senate and further decided that
a member could call another member to order but in doing so the offending words
had to be written down so the President could judge the validity of the call. Fillmore
was certain from his inquiry that he had the power to call a member to order
but the pressing question was it imperative for him to do so in order to
maintain the decorum of the Senate. The changes in the rules did not mandate, as
the House Rule (#22) did, that the President shall call to order a member who
transgressed by language or behavior. Fillmore said that he was confident he had
the power but he was less confident because of the imprecise language when and
how to exercise the power. Fillmore cited some other rules (many of the rules in
Congress and in state legislatures were based on Thomas Jefferson Manual of
Parliamentary Practice [1812]), in particular that senators should not interrupt a
member speaking but should address the chair. He asked the Senate to be cognizant
of the rules and to abide by them more strictly than had been evidenced recently. It
was voted that his remarks be entered into the record and be printed.597

A parliamentary call to order preceded the confrontation between Benton and
Foote. The details can be annoying for those who want a straightforward narrative.
Despite the Jeffersonian claim that a limited national government, frugal and
simple, would best protect basic individual sovereignty, the issues facing this
government, seen by some as not limited and by others as too limited, tested the
very foundation of how to govern. It was the expectation of republican government
to allow the representatives to debate the issues, take a vote and accept the
consequences. The ideal could lead to unintended and undesirable consequences,
and thus procedures that could delay or derail an action became part of the defense
of the sovereignty that Jeffersonians idealized. A noted earlier, Benton's proposed
amendment of instructions to a resolution by Foote to refer the compromises of
Clay and Bell to a select committee, not yet approved, sparked an amendment to
the amendment by Clay to gut Benton's instructions, and the Senate passed the
amendment as amended – that meant if the Senate agreed to the Foote resolution, it
would do so without attaching any conditions. Before that vote could be taken,
however, Hamlin moved to amend Clay's amendment (just passed) with a slightly
different set of instructions. Hamlin made it clear that he was reflecting what his
constituents demanded, not to allow the admission of any state without a strict
prohibition against slavery and, therefore, he was not obstructing but was making

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sure that the admission of California whose Constitution prohibited slavery not be part of any compromise that the select committee might deem necessary in order to resolve the other issues contained in the Clay and Bell plans. In short, the California case was to be treated as separate from the compromises that had been offered to deal with it. California had opted against slavery, and that closed the debate over whether California should be admitted as slave or free. Clay then reminded Hamlin that he had agreed to different wording before the vote to take California's current status into consideration, and, of course, Hamlin disagreed that the change in wording was not specific. The parliamentary question at hand was, could a new amendment, the intent and language of which was similar to the original Benton amendment, which was effectively excised by the Clay amendment, be attached under different wording to the amendment as amended? And for some minutes points of order were raised concerning a new amendment to the amended amendment. The parliamentary log-jam that Fillmore feared was in the making.

When Fillmore was queried on the status of the Hamlin amendment, he initially responded that he had determined that it had been submitted and withdrawn earlier before the recent vote and, therefore, was out of order. Hamlin’s appeal to the Chair was that his amendment, just ruled out of order, was different from the Benton amendment that had been superseded by the Clay amendment because it was narrowly focused on the matter of California and not on the array of provisions in the plans to be considered. Fillmore took a position that the Senate should decide at which point Benton, understanding that the Hamlin's amendment was pending, proposed an amendment (to Hamlin's amendment) that restated many of the instructions that he'd tried for several weeks to have added to any resolution to commit the compromises to a select committee. When the Chair was again asked exactly what the Senate was preparing to vote on, he indicated a change of mind, namely that the Hamlin amendment “was not so identical [to the Benton amendment] to make it the same.” Thus, if and when a vote were to be taken, it would be in two steps, first to append Benton's amendment to Hamlin's amendment and then on Hamlin's amendment to the Clay amendment with or without the Benton amendment. Citing the House Rules Manual, Fillmore proposed that to do otherwise, even if his rulings appeared to be inconsistent, might deny the Senate to express its will. Clay then rose (reluctantly) to take exception to the ruling of the Chair because what the Senate was about to vote on it had already decided to exclude when it approved his amendment. This led to further debate about the point of order. In the course of these inquiries Andrew Butler (D-SC) declared a veiled threat: pass any part of the Benton or Hamlin amendments and the “southern people” will treat it as “dangerous and aggressive agitations....” In short the
Calhoun position was reiterated: the Congress has no authority to interfere with slavery in the states. Foote then took the floor to restate his honorable intentions, to condemn Benton's (the oldest senator, the father of the Senate) obstructions….and the confrontation began.598

The following day the Senate reconvened. It normally handled general business (also know as the general orders) in the morning and debated special orders such as Foote’s resolution beginning at Noon or 1 PM. As part of the general business the Vice-President announced the names of the seven-man committee to investigate the confrontation of the previous day. Individual senators arose to object to their being named – apparently some if not all were consulted ahead of time – and except for Henry Dodge (D-WI), who was named chair, the Senate refused to accept their pleas for dismissal. Dodge because of his close friendship with Benton was allowed to refuse his nomination. A committee was formed and would report in several weeks. After further general business Benton returned to the offensive. He requested that all previous orders of the day be postponed and that Senate bill #169, which Stephan Douglas, as chair of the Committee on Territories, introduced on 25 March 1850, calling for admission of California, be debated. This bill consisted of 17 lines, which said: whereas the President had submitted a constitution from the people of California that appeared to be based on republican principles, the state of California be declared one of the United States with two representatives (until the census was completed). There was also a related bill concerning other territories, but that bill was not part of Benton's motion. The Missouri Senator was resurrecting a bill, whose author had decided to abandon because of mounting support for Foote’s resolution. A new squabble emerged. Was it appropriate for Benton to make the motion that he did, and exactly what did the motion entail? It was noted that since it was not yet 1 PM, the special orders could not be taken up, and, therefore, Benton's motion that dealt with unfinished business and not special orders was permitted in the minuted before special orders had to be considered. After further argument a call for a vote on the Benton motion was followed by a motion to lay it on the table by Clay who did not believe Benton's motion was proper, and the Senate voted 27 to 24 to table it. Mostly Democrats and mostly southern Democrats voted to table. In addition to Benton who voted No were Chase, Hale, Seward and Webster, northern Whigs and Free-Soilers.599


Since the hour had arrived for the special orders the Senate returned to consideration of the Foote resolution to assign the various compromise plans to a Committee of Thirteen. If the Senate approved of assignment, that action would bring into existence a Committee of Thirteen, since an assignment could hardly be carried out by a committee that did not exist. Some senators treated this as a side-door tactic, that the committee should first be approved and then the tasks and instructions for committee should be determined. Several senators expressed their opinions that senators should speak no more except to say aye or nay, a position that caused Benton to note sardonically that he had never seen the Senate so “harmonious”. He asked the Senate to recollect the great “encomium pronounced upon” Abbé Sayes, the French constitution-maker. According to Benton, “it was said by the wits and witlings, as the case may be” of the time that Sayes kept constitutions in “pigeonholes” and that he took down whichever constitution was appropriate for the occasion. “One of those constitutions contained a clause for a dumb Legislature; one that should vote and not speak.” A friend was alleged to have said, “Ah, Abbé Sayes, that dumb legislature will immortalize you”. Perhaps, concluded Benton, it was time for this chamber to vote without talk. He was determined to see the chamber do a lot of voting. His original motion to vote on S-169 had been tabled because unfinished business from the previous day took precedence. His motion had become unfinished business, and the hour had arrived to take up that unfinished business. Benton proposed his double motion again: to table the Foote resolution and to vote on SB 169 to admit California. Even if amendment were proposed to S-169, Benton believed all the voting – speedy action was what senators were demanding – all could be accomplished in the afternoon. Not surprisingly, Benton's motion was defeated by nearly the same margin (28 nays to 24 ayes) as before. But, to the dismay of some, even though talk was surely limited, voting took the rest of the session. The Senate was also faced with voting on the Hamlin amendment to the Foote Resolution, even though in the mind of some senators, it was hardly different from an earlier Benton amendment that had been turned down. In addition, Benton had proposed 14 amendments, which were similar to instructions he had offered earlier. One or two votes could have been taken, but to assure that the Senate got a full dose of voting Benton moved for a division of the house, which meant that each amendment was voted on separately.600

At this point mayhem broke out. Senators were disposed to explain why they were voting aye or nay on some or all of the provisions. The call for division ended up

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being a call for lots of comments. Cass spoke with passion and a hint of anger at the proceedings. He thought nothing was to be gained, time would be wasted and in the end the public would think even less well of the body. But a reading of the first Benton amendment was called for by Jefferson Davis (D-MS) and the voting commenced. Not one of Benton's amendments survived, and in most cases the margins between the ayes (approve amendments) and nays were lopsided. On matters relating to abolition of slavery or slave-trading about which Congress had long refused to legislate, the vote tally was extremely lopsided. Then, the Senate turned to a vote on the original Hamlin amendment, and after some parliamentary maneuvering it was defeated 25 to 20. The balloting was not over. New amendments were proposed including the assignment of all resolutions and petitions received by the Senate should be automatically referred to the same committee. This would have ended once and for all the rule, now under attack, that the Senate ignore these remonstrances. This amendment was eventually ruled out of order, after which the Senate approved the Foote resolution, as amended by Clay (but without the Benton or Hamlin amendments), 30 to 22. The Senate was preparing to vote on the composition of the committee (required by the Foote resolution) when a move to postpone until the following day was approved. A select committee to deliberate and recommend on issues that threatened to tear apart both chambers was close to a reality.\footnote{Proceedings, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 18 April 1850, 772-774, \& \textit{Journal of the Senate}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 18 April 1850, 292, which has a more extensive vote tally. Available on-line respectively at \url{http://memory.loc.gov/ammem/amlaw/lwgc.html} \& \url{http://memory.loc.gov/ammem/amlaw/lwsj.html}.}

The following day the Senate after dealing with some errors in the published voting records and other general business approached the special-orders hour of 1 PM, when a query was made as to what the day's special orders were. Before the previous day's adjournment, John Hale (FS-NH) had introduced an amendment that petitions and memorials concerning the questions assigned to the select committee (not yet appointed) be referred as received to said committee, an amendment offered during the debate on the Foote resolution but ruled out of order. Once the Foote resolution was approved, Hale introduced resolution again. The Senate then adjourned, but the amendment, having been read, became a special order for the following day. Willie Magnum (W-NC) reminded the Senate that such a motion to assign further duties to a committee (Foote’s Committee of Thirteen, although it had already receiving marching order) not yet in existence was impossible. Hale withdrew his motion with the comment “I submit, Mr. President, as I always do.”

The Senate then turned to the selection of the select committee. The chair was to be
elected first and to the surprise of no one Clay was so elected. The Vice-President was ready to nullify the vote because the Senate lacked a quorum, when Benton first announced he was late for the vote and then admitted he had refused to vote because he opposed the whole procedure but offered to vote to provide a quorum at which point he was saved from having to do so because a late vote by Webster in favor of Clay was counted. Ballots were then marked to name the remaining 12 members. Twenty-four members received votes but 12 of them received one to two votes each. The remaining 12 received from 28 to 31 votes and were so elected. They included six Democrats: Lewis Cass (MI), Daniel Dickinson (NY), Jesse Bright (IN), William King (AL and President Pro-Temp), George Mason (VA), Solomon Downs (LA); and six Whigs: Daniel Webster (MA), Samuel Phelps (VT), James Cooper (PA), Willie Mangum (NC), John Bell (TN) and John Berrien (GA). There were also six northerners and six southerners. Foote's plan for a committee with equal representation from the sections and parties (Not counting the chair) had been fulfilled. Phelps asked to be excused on the grounds of poor health but in a vote after assuring him his comfort and health would be of utmost concern, the Senate refused his request.602

After the membership of the committee was settled, spirited debate resumed. Benton tried to move a set of instructions (one short paragraph instead of usual dozen instructions) that the committee could not meld the Clay and Bell plans in such a way as to prevent the Senate from voting on each element. The Chair eventually ruled that a debate or a vote was out of order because it amounted to a resolution, which according to Senate rules had to “lay over” for another day before it could be considered. Benton objected, more humorously than strenuously, with the comment that by then the select committee could have met and decided on the great issues under consideration. Hale tried to reintroduce the plan to refer all petitions and memorials to the new committee now that the committee had attained existence, and he was ruled out order because having arrived at the hour for special orders the Senate must proceed to the debate on a motion by Douglas that the bill to admit California be taken up. What struck some senators as odd and may strike the reader as such was why was the Senate taking up a bill to admit California after having created a committee to consider that among other related issues? During the weeks of debates around the question of “raising” a committee, Douglas whose Committee on Territories had a bill to admit California ready for debate stepped aside to allow the Senate to decide on a select committee, which he personally opposed, and other members like Foote had assured their colleagues that they were ready to admit California irrespective of the raising of a committee. That very

morning the California bill was made a special order, and therefore with all unfinished business out of the way the Senate took it up. What they were taking up was a motion to admit California (with the acquiescence of Foote and others), even though a select committee had been assigned the various compromise proposals, all of which included the admission of California. At the same time, Douglas who se bill had been on again, off again, for months assured Clay and others that because of the departure of six members to accompany the body of Calhoun that the deliberations that he called for on his bill would not move toward a vote while the members were away. Clay called this “exactly in conformity with the course of the liberal, manly course of the Senator” and urged the debate on the Douglas bill to begin. In fact the absence of so many important members for up to two weeks finally convinced enough senators that proceeding on the California bill should be postponed. Hale was free to reintroduce his resolution concerning petitions and memorials, and before a debate could ensue or amendments be added it was moved to lay his resolution on the table, and by a surprisingly slim majority 24-23 both bills were tabled. The Senate adjourned with the selection of the committee of Thirteen its main accomplishment of the day.603

For the next several weeks the Congress moved ahead with general business that could include exchanges on the floor concerning territorial questions. The Senate, however, was under an obligation not to proceed on such matters until the six members had returned from South Carolina. Thomas Hart Benton, however, continued his crusade to “instruct” the committee by re-introducing a resolution that the committee could not “tack” the the Clay and Bell proposals together. The effort failed. On the House side the territorial debate was following a different course. The debate concerned President Taylor's Message on California – whether or not to admit it to statehood under the constitution that was submitted – and while the vote, if and when taken, was assumed to be a foregone conclusion in favor, opponents tried various delaying tactics such as calling for more documentation on how the constitutional convention carried out it mandate. Finally, on 14 May 1850 the House voted to end all debate on the second Tuesday of June, about a month away. In meantime, the House could continue the debate from the floor until by special orders before a vote on California would be taken.604

The next phase in the Senate's tortuous proceedings came on 8 May. Two separate deliberations took place on the floor. First, Jefferson Davis (D-MS) presented a


report from a select committee (not of the Senate) on federal and state relations that included a set of resolutions adopted by the Mississippi Legislature relating to slavery. Many of the provisions in the committee report and in the legislative resolutions were inspired by positions taken at various Nashville Conventions and then debated and approved by state conventions. The message was not surprising. The Constitution sanctioned slavery and any sanction against slavery violated the Constitution. One resolution from Mississippi demanded that the Congress enforce the Constitution (as interpreted by these defenders of slavery) without any qualification. That was all the people of Mississippi and by extension the people of the South asked for. Davis then commented that the Senate should take note how rational and non-threatening these resolutions compared to what emanated from recent Free-Soil conventions. In other words, by defending itself on strictly constitutional grounds the South was not the cause of tension and strife. Davis reiterated what other southern senators, namely the late South Carolinian, had said, that the South had responded to the radicals' demand by standing with the Constitution. Further, Congress had failed in its duty because it has allowed inflammatory rhetoric and misguided legislation that will in effect punish the South for being true to the basic charter. “Whilst Congress has failed to promote peace and security, by discouraging and refusing in any degree to be connected with fanatical agitation, blank petitions have been sent all over the country to procure signature asking for such hostile legislation by the Federal Congress as its conduct has permitted evil to hope for.” Davis continued along this line for many more minutes and then asked the report and attached resolutions be printed. It was ordered that the report be tabled and printed.605

Upon the conclusion of Davis's remarks, Henry Clay made an oral presentation from the Committee of Thirteen by reading it, much to the chagrin of some members who wanted a printed version, which was provided in the following days. The report had all the earmarks of Clay. By temperament Clay like Webster was a nationalist, and even though he had failed to enact his blueprint for consolidation in America, he continued to operate from a basic premise that the future of the nation lay in recognizing and maintaining a view that transcended the section and the sentiments that drove sectionalism. “The nation,” he read, “had been greatly convulsed, not by measures of general policy, but by questions of a sectional character, and, therefore more dangerous and more to be deprecated. It wants repose. It loves and cherishes the Union....A people so patriotic...will rejoice in an accommodation of all troubles and difficulties by which the safety of that Union might have been brought into the least danger.” Accounting for the blessings of

Providence – “His [sic] protecting care, His smiles, and His blessings” – Clay pronounced with certainty that the blessing will continue “to advance in population, power, and prosperity, and to work triumphantly for...man's capacity for self-government.” Even Clay could not ignore or escape the authority that Jefferson's dictum had fastened to the American political system. The capacity of the individual to govern, however, was a bit strained, frayed. Indeed, the debate was being carried on in behalf of individuals and protection of their rights, even though diversity of opinion about what they wanted and how they wanted their rights treated was making a consensus, necessary if any resolution was ever to be approved, hard to achieve.

In presenting his verbal report Clay said that the Committee of Thirteen recognized that one bill could not achieve the goal of reaching a consensus and therefore decided to offer two bills – S-225 called for the admission of California and for the organization of the territories of Utah and New Mexico and made proposals to resolve the Texas-boundary questions; S-226 called for the suppression of slave trade in the District of Columbia. Two related issues were treated in the report. First, the question of the abolition of slavery in the District of Columbia was deemed moot because the population of slaves in the District was falling so fast that soon slavery would be a minor incidence. Second, the question of fugitives would be dealt with by a new law that would conform with the Constitution and the body of law that had grown up in the various states, and the report contained a sample statute to achieve those ends. Thus, the report from the Committee of Thirteen consisted of two bills, a sample statute and comments about related issues. Clay wanted second reading immediately so that it could be made a special order but he was refused. Even though the committee, despite differing viewpoints of its members, was able to present a report with proposed legislation, members of committee as well other senators were preparing amendments to be introduced.

George Mason (D-VA) praised Clay's tenure as chair and declared that he entered negotiations with the deepest hope that the vexing issues could be settled in such a way as to satisfy the states. The difficulties, as severe as they were, “have not been removed,” according to Mason. In other words, the Senate nor the nation should expect the South to accede unconditionally. Unanimity on the proposals just presented was lacking in the committee, and this will lead, predicted Mason, to a protracted debate as amendments will be proposed from the floor to try to do what


the committee could not. Skeptical to be sure of the outcome, Mason continued to believe there was a chance that the body of the Senate will see the wisdom in backing away from the most damaging features for his state and his region.\textsuperscript{608}

The question before the Senate at this point was whether to order that the report be printed (so that the Senate could proceed to the second reading), but the question had, as Mason had just warned, led to a string of proposals to change, delete, or amend the report. Members of the committee in particular like Mason rose to assure constituents and colleagues that while they voted to issue the report they did not necessarily vote for the provisions in the report. And since no minority report was issued, they had to clarify what was be ordered to be printed. Even though some remarks verged on the merits of the propositions in violation of the rules and forced the chair or members to call for a point of order, the speakers simply replied that remarks were necessary to clarify what was being ordered printed. Hale (FS-NH) finally rose to ask if a simple motion to print allow for such a wide-ranging debate? The chair agreed, but to no avail as more speakers demanded to be heard. Even Hale, who had complained about the wide-ranging debate on a technical question, even Hale himself delivered extensive remarks on why it should be printed by taking up the provisions themselves. After several hours the Senate voted to order the bills to be printed.\textsuperscript{609}

Over the next few weeks the Report of the Committee of Thirteen was under attack on a variety of fronts. Some wanted to scrap the whole report, others wanted to extend the Missouri line through California to the Pacific and to require Californians to do their statehood procedures (under more direct federal control) and still others wanted simply to admit California, allow the other territories to organize as they wished and to detach the other controversies, as the President had proposed. Clay made an effort to reply to each of these with more reason than passion. His aim, he repeated again and again, was to present a framework from which a resolution could be fashioned. In the case of the extended Missouri line, proposed by Mason, in a minority on the committee, Clay announced from the Senate floor that he would take under advisement thet plan, which contained no stipulation about slavery north or south of the line if Mason could show that this had broad southern support, which it did not and Clay must have known that. Mason responded that he spoke only for himself. A Missouri line had little traction

\textsuperscript{608}Mason Speech, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 8 May 1850, 949. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwcg.html}.

\textsuperscript{609}Proceedings, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 8 May 1850, 949-956. Available on-line at \url{http://memory.loc.gov/ammem/amlaw/lwcg.html}.
The territorial question was not the only issue before Congress but in both chamber, especially in the Senate, it showed up on the docket weekly, sometimes daily. Clay took the floor on 29 May 1850 to announce that he had received petitions from citizens of Berks, Pennsylvania, complaining that because of the tariff, more directly the failure to revise the tariff, they were having to close down their blast furnaces and dismissing workers. Clay apologized that the work on the tariff had been delayed, but in all honesty he saw little likelihood of new tariff legislation, even though it was needed, until the territorial question was resolved. On that particular day, little was said about territories, but another contentious bill was under consideration – the construction of a mint in New York. The bill was bogged down in technicalities such as whether the State of New York had properly ceded title to the land for the building to the federal government plus an overlay of sectional resentment that a mint would only further enhance the financial and commercial power of the nation's biggest port. Later that day a vote to engross the bill was approved.

For the House a key day was 11 June. On that day that the vote for ending debate on the California question was set. It turned out that controlling the debate to end the debate was almost as hard as controlling the debate on the question of admitting California. The skirmishing was about a “resolution” that was not yet officially a “bill”. Checking the list of bills enrolled in the House during this session reveals that no California bill to vote on was ever brought to the floor. A resolution by James Doty (D-WI) on 18 February 1850 in the early afternoon stipulated that the Committee on Territories should report a bill to admit California (as President Taylor had requested) in accord with the constitution that its citizens had approved at Monterey. Straight-forward though Doty’s resolution may sound it was laden with controversy. It stipulated:

Resolved: That the Committee on Territories be instructed to prepare and report a bill providing for the admission of California into the

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Union on an equal footing with the original States, with the boundaries and limits in the Constitution of said State of California which was communicated to the House with a special message of the President of the United States on 13 February instant; said bill to embrace no subject or matter relating to territory without said limits of the proposed State of California.

Samuel Inge (D-AL) moved to lay the resolution on the table to which Robert McLane (D-MD) objected on the grounds that the House as a Committee of the Whole on the State of the Union had received the President Message and accompanying documents and two committee could not consider the same resolution. Both Inge and McLane wanted to derail the resolution, but Inge insisted on first a call to determine who was in attendance, after which the doors were locked and then a vote on his motion was scheduled. And the donnybrook began.613

For the next 12 hours the House sparred over the disposition of Doty's resolution. Southerners were determined to keep it out of the committee or to amend it or surround with so many instructions it would be buried. Various parliamentary tactics were employed but the most common tactic was to call for adjournment. No matter what motion preceded it, a motion to adjourn took precedence. Over the course of the session 21 motions to adjourn were voted on. All were defeated by sizable margins, and each one was accompanied by a call for the division of the vote, that is, each member’s vote had to be recorded. The rules required that back-to-back adjournment motions were unparliamentary, and therefore some motion had to be voted on before another call for adjournment. As the House approached the midnight hour and the quorum vanished, the debate turned to whether another call for adjournment (one just having been defeated) was permissible since the chamber lacked a quorum to vote on any other motion. [A quorum was not required for adjournment.] Another tactic was, as McLane had proposed, to end debate and reconvene as a Committee of the Whole on the State of the Union. That was tried more than a half-dozen times, and each time met with defeat. Members could also ask to be excused from voting on a given motion, and that too required a vote by each member. Some amendments were offered but generally rule out of order because there was an amendment to the resolution (Doty’s) and an amendment to the amendment on the floor being considered except there was no quorum. But those offering amendment were allowed to read them, if no one objected as long as the time needed was brief, and in several cases objections were

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raised after a member began to read and he was forced to sit down. Numerous
times the Speaker's rulings were appealed, and that could require another vote. As
the clock ticked past midnight the Doty resolution lost “force”, that is, the day had
ended (a new day had begun) without any decision and Doty would have to
reintroduce his resolution. At this point without a resolution to consider all other
related actions and motions ceased, and the House could vote to adjourn.\textsuperscript{614}

As noted earlier, resolutions introduced by members or petitions received from
constituents could be assigned to an appropriate committee, tabled or not received
(more a practice in the Senate than the House) or added to the docket for debate by
the full House or full Senate as a committee of the whole or some variation of that.
Recall that when the Senate was arguing the merits of a select committee to report
on various compromise proposals, it did so as a Committee of the Whole. Foote
and his allies did not want the resolution assigned to the Committee on Territories
because Douglas, as chair, opposed the plan. In the House, after receipt of the
President's Annual Message, it convened as a Committee of the Whole on the State
of the Union to consider the various provisions including the California and the
territorial questions. Each day, if a motion to convene as the Committee of the
Whole on the State of the Union was made, it had to be voted on with a quorum
present. Robert McLane (D-MD) had raised the objection when Doty had
introduced his resolution that the matter of California was being discussed by the
Committee of the Whole on the State of the Union and need not be introduced and
assigned, as Doty had proposed. The following day, 27 February 1850, after the
House convened as the Committee of the Whole on the State of the Union, Doty
introduced a two-part “proposition” that the House, having received the request
and the pertinent documents from the people of California, should approve the
admission of the state and should advise California should not interfere with the
dispersal of land under the control of the United States (a common provision). An
amendment that would have extended the Missouri line through California by
James Green (D-MO) was proposed but not read. McLane asked about the state of
the California bills, but so much confusion reigned on the floor the answer he got
was contradictory. It was cleared up somewhat the next day when Preston King
(D-NY) won a vote to have the Doty proposition printed, and that was so ordered.
The Green amendment remained in abeyance. For the next three and one-half
months, when the Committee of the Whole on the State of the Union convened to
debate the President's Message, the House failed to make any progress toward a
vote on the admission of California, even though by a vote count the majority of

\textsuperscript{614}Proceedings, \textit{Congressional Globe}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 18 February 1850, 375-385, & \textit{Journal of the
House}, 1\textsuperscript{st} Session, 31\textsuperscript{st} Congress, 18 February 1850, 540-577, Available on-line respectively at
\url{http://memory.loc.gov/ammem/amlaw/lwcg.html} & \url{http://memory.loc.gov/ammem/amlaw/lwhj.html}.
the House was ready to admit. A vote to end the debate was scheduled for 11 June but was never taken, again because of parliamentary maneuvers. On the 10 July 1850, President Taylor died unexpectedly, and in the aftermath of his death the course of the debate shifted significantly. Taylor and his administration had opposed linking California to any other legislative proposal such as the Clay and Bell compromises. Millard Fillmore, Taylor successor, had presided over many of the debates in the Senate and was more amenable to a different approach.

Caught in a stalemate neither the House nor the Senate could reach a vote that would end the debate on how to resolve issues surrounding the territories. Fillmore, a moderate Whig from New York and an adversary of New York City's Boss William Tweed, opposed slavery and favored the admission of California as a free state, but for the sake of preserving national harmony, he did not believe that the extension of slavery into southwestern territories could be prohibited. He was thought to have tried to convince Taylor to accept a compromise, while at the same time William Seward, a more radical Whig senator from New York allied with Boss Tweed was trying to persuade Taylor to continue to oppose any compromise. Fillmore had replaced Taylor's Cabinet and among his appointments was Daniel Webster, an advocate of compromise, as Secretary of State. The new cabinet was less inclined to follow the course being laid out by Seward and other radical Whigs. Fillmore's Special Message to Congress on 6 August on the matter of Texas and the related territories directly signaled a move toward compromise. His message acknowledged that, while the territory of New Mexico existed and came under the jurisdiction of the federal government, the boundary between Texas and New Mexico was yet to be determined. He asked Congress to settle the question of the boundary between that State of Texas and the Territory of New Mexico, but in the meantime he had ordered federal troops be deployed in the Territory to maintain order until the Congress could provide for the organization of the Territory. (The influence of Webster was clear?) In short, opposition from the Executive to some key provisions of the Clay plan had fallen away.

In the weeks after Taylor's death but before the Congress had received Fillmore's Special Message on Texas, an intense effort was made to push ahead on the so-called Omnibus Bill, that is, S-225 that dealt with admission of California, organization of and Utah New Mexico and proposals concerning Texas boundary


question. In May S-225 had been order printed along with a second part of the bill, S-226 that prohibited slave trading in the District of Columbia. The second bill can be ignored for the time being. After nearly three months, S-225 was unlikely to pass as a whole, but, if members were allowed to vote separately on the three parts of S-225, the goal of a compromise could be reached. On 25 March before the Committee of Thirteen had come into existence, Douglas's Committee on Territories had reported two bill: S-169 called for admission California and S-170 for organization of the territories of Utah and New Mexico. Obviously S-169 and S-170 overlapped with S-225. Debate on the various bills continued through the Spring and into the Summer. With positive signs from the Fillmore White House the momentum to reach a solution intensified in late July. Most of 30 and 31 July were devoted to votes on amendments – more than a dozen – concerning the Texas question, and several members expressed doubts that Southerners wanted to settle this issue at all. In other words, their tactics were meant to kill S-225, and if S-225 fell, it was unlikely any other bill would pass. Toward the end of the session on 31 July, David Atchison (D-MO) proposed an amendment that removed the first four sections of S-225 that dealt with California, and after several motions to amend or to adjourn failed, Atchison's amendment passed 34-25. Clay and Douglas opposed the amendment, but Foote and Bell favored it. S-225 now lacked the California provisions, and after a minor amendment (proposed by Douglas) to the remaining bill (New Mexico-Utah and Texas) interspersed with numerous failed motions to adjourn or postpone, S-225 was “engrossed” and ready to be “read for the third time”.

Since the admission of California could be accomplished under S-169, also on the docket, Douglas on the following day during the morning devoted to general business proposed that the Committee of the Whole take up S-169 as a special order of “this day” [1 August] and every day thereafter until disposed of. S-225 had been engrossed and was waiting to be voted on, and now S-169 was to be considered until it was voted on. There were objections to Douglas’s strategy. Solomon Downs (D-LA) objecting asked why? This subject, he said, had been “discussed in our ears for so long a time it has become quite disagreeable to hear it. Suppose, therefore, we let it rest as while.” Eventually Downs's remark was ruled out of order, and the vote on Douglas's motion was approved 35 to 23. But the parliamentary wrangling continued including a call for postponement until the following Monday (5 August) because of the oppressive and excessive heat. Foote pleaded for no recess on the grounds that “it is known that the Senator from

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617 The proceedings on the two days 30 and 31 July are easier to follow in the Journal of the Senate, 1st Session, 31st Congress, 489-515, with exclusion of California and final reading 513-515, than in the Globe for the same dates. Available on-line at http://memory.loc.gov/ammem/amlaw/lwsj.html.
Kentucky is to leave us on Saturday...” [3 Aug] along with some others who should not miss these proceedings. Finally, motions were withdrawn or defeated and at 12 Noon Douglas opened the debate on S-169 by introducing an amendment: they consisted of Section Three of S-225 that covered matters relating to federal rights that S-169 did not contain. Foote then moved to amend Douglas's amendment by specifying that the California boundaries were 42° north latitude to 36° 30' south latitude, three miles inland from the Pacific to the highest ridge of the Sierra Nevadas, and the land excluded was to be named Colorado. Of course, this was imposing the Missouri line as other southerners had urged. An intense debate ensued, the main argument against Foote's amendment, most forcibly given by Clay, was that to extend the line would destroy any chance of a compromise. Douglas then moved that further debate on S-169 be postponed until the following day and that the “engrossed” bill S-225 was read for a third time and passed with an amended title, An Act to Establish a Territorial Government for Utah. It was so ordered, with proper notification to the House.618

The following day (2 August) the Senate, after conducting some general business, voted to reject the Foote amendment and to approve the Douglas amendment. Clay voted against Foote and presumably for Douglas.619 The Senate then adjourned until the following Monday, and Senators got a bit of a recess that some had argued for. One could say that some progress had been made in these four or five days against that the log-jam created by competing bills. Although the Senate had a ways to go, the arrival of Fillmore's Special Message on 6 August actually pushed the process ahead on the most contentious issue, boundaries. It is worth emphasizing that S-225, the former Omnibus Bill, had now passed the Senate simply as a bill to organize Utah. That left, of course, California and New Mexico.

On 5 August, one day before the President's Message, James Pearce (W-MD) introduced Senate Bill 307 that proposed a northern and western boundary for Texas by which Texas would relinquish all claims to land “exterior” to those lines plus other claims on the United States. By unanimous consent it was read twice to be considered by the Committee of the Whole at which point Pearce moved to postpone discussion until the following day. The contents of this bill suggest that


the forthcoming presidential message was not to be unexpected. The Committee of the Whole also took up S-169 without any further progress. When the President's Message arrived the next day it was more technical than broad-ranging. In short, it announced, presumably with the consent of the Texas governor, to assign federal troops to maintain and protect the interests of the federal government in New Mexico. The implication was clear and meant to be reassuring to northerners that the federal government, not Texas, would dictate the course of action in that territory. Pearce's bill (S-307) was voted on several days later (9 August) after numerous amendments were introduced, most of which failed. The bill was engrossed, read for the third time and approved 30 to 20. As the Senate pushed ahead, various other pieces of the Omnibus Bill were called up for a vote (third reading) with bill numbers that had been originally assigned by either the Committee on Territories or the Committee of Thirteen, even though the contents of the original bills had changed. On 13 August S-169 (original bill from Committee on Territories with Douglas's amendment) was read for a third time and passed 34 to 18. S-170, also a bill from Committee on Territories for the organization of New Mexico and Utah was read for a second time and then debate was postponed until the following day. On 14 August, Douglas proposed an amendment to delay the enactment of S-170 until the boundary question was officially proclaimed settled by the President. The Senate concurred in the Douglas amendment and the bill was ordered engrossed. The third reading occurred the following day (15 August) and the vote was 27 to 10 in favor. The total vote indicated that a third of the Senate did not vote or was absent. The title was also changed (with proper notification to the House) to a bill An Act to Establish a Territorial Government for New Mexico. Thus, by the middle of August, despite protests from Southerners over the the passage of bills originating with different contents and titles, the Senate had admitted California (S-169) and organized Utah (S-225) and New Mexico (S-170). Approval by the House of the several bills were received in early September and on 10 September the President reported he had approved S-169, S-225 and S-307. S-170 was approved but could not be enacted until the President's certification concerning the boundaries had arrived. The New Mexico Legislature sent a protest to the Senate (received 12 September).

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It was assigned to the Committee on Territories, but S-170 did not become law before the current session expired.624

Two other items required action before adjournment, if the work of the Committee of Thirteen was to be completed. Clay had originally introduced two bills, S-225 and S-226. The latter was a bill to “suppress” the trading of slaves in the District of Columbia. The debate on S-226 by the Senate had been sporadic, but once the aforementioned territorial bills had been passed and signed, the Senate returned to S-226. Clay, who had returned to the Senate in late August, took an active role in debating S-226. Efforts were made, mainly by Free-Soilers, to attach amendments to abolish slavery and to protect fugitives in the District, but they were beaten back by those like Clay who wanted to keep S-226 a narrow bill. The bill was slightly amended from original form, and on 15 September it was “engrossed” and the following day read for the third time and approved by a vote of 33-19. The next day (17 September) House gave its approval. Trading in slaves could continue until 1 January 1851.625 Relative to the enforcement of fugitive-slave laws, the Senate passed S-23 on 18 September 1850, an amendment to the Federal Judiciary Act of 1793 that clarified and mandated that officials under the jurisdiction of the courts must enforce the laws relating to fugitive slaves as must the public, but the next day it refused to move S-347, an bill to prohibit enticing slaves to flee to the District of Columbia once slavery ended, to a third reading.626 The long nightmare had come to an end, at least for the moment. No one could predict the ramifications of these actions in a nation bulging with resentment.

Before closing the books on the 1st Session of the 31st Congress, which had meet for more than 300 days with some daily sessions lasting 10 to 12 hours, it may be useful to comment on the report by the select committee after the confrontation between Senators Foote and Benton. The report was delivered to the Senate on 30 July, which included a large appendix of documents. The report reviewed the events preceding the “disruption”, the official term what what had happened. Days before Foote had “indulged in remarks personal to” Benton, and Benton had complained to the Senate about such violent language and about its failure to protect its members and about his determination to protect himself come what may. “He also said, in substance, that a member offering such insults should be


cudgeled” The dispute between Foote and Benton had made headlines, and on the
day of the disruption Benton had entered the chamber with a newspaper that he
said contained an article, edited by Foote, that cast Benton in poor light. At this
point the report excerpted Benton speech from the floor in which he accused
southerners of making up for their own purposes lies about the intentions of
northerners like him. He refused to accept the southern line so prevalent in the
Congress and in the press that agitation by the North against the South was the
principal cause of the current distress; rather the South itself was to blame for
fomenting discord. Foote's response, cited by the report, was equally harsh and
severe. In my discussion of the debate on this day (17 April) I had quoted from
passages from both speeches. The report detailed the events of Benton walking
toward Foote, Foote cocking his pistol, other senators trying to intervene and the
much quoted Benton shouts: “I am not armed”, “I have no pistol”, “I disdain to
carry arms”, “Let him fire”, “Stand out of the way, and let the assassin fire”. The
committee concluded, not surprisingly, that this was a “discreditable” moment for
the Senate. It had been allowed to evolve because the members of the Senate had
not displayed the decorum of language that was required. Members should be
permitted to speak freely but “reviling, nipping or unmannerly words” must be
forbidden. The report regretted that recently “personalities” by which was meant
personal insults had grown in volume and frequency without a call for order as was
required. Specifically, the report declared that Foote had no intention to assassinate
Benton, but he had subjected Benton to “personalities” that could be provocative.
“These were suffered by Mr. Benton for a long time with great forbearance.” The
report noted that Benton's patience had given on 26 March to an outburst that the
Senate had failed to protect him and if necessary he would be forced to protect
himself. Benton had repeated his intentions on the 17 April, and Foote, without
being called to order, made further personalities. Thus, the confrontation began.
Benton was not armed and had never carried arms into the chamber, but Foote
declared he did not know that. Searching for precedent as to what should be done,
the committee found almost none to guide their deliberations. The committee
recommended no specific action or punishment with the hope that the members
themselves had learned that insults and denunciations had evil consequences and
would demand that members using such language would be publicly and uniformly
called to order.627

The Congressional Globe reported that upon the conclusion of the committee
report the Senate without any comment took up the next agenda item. The case
was closed. One can read the report in such a way as to regard Foote's behavior as

627 Report of Select Committee on Disruption, Congressional Globe, 1st Session, 31st Congress, 30 July 1850, 1480-
villainous. Benton spoke his mind and in doing so he may have offended those with an agenda to pursue. Benton was determined to the extent possible within the rules of the Senate to block not just Foote but Calhoun and Clay. In a Senate already weary from weeks and weeks of debate Benton's strategy was no doubt annoying and unsettling. Foote may well have been sincere in his hope of finding a comprehensive solution through a bipartisan committee, but that was in the view of Benton as well as other Democrats and certainly among Whigs and Free-Soilers a move to maintain the status-quo in which the South would continue to determine the agenda. Benton was not prepared to challenge the institution of slavery as were Free-Soilers and their allies, nor was he willing to accede to the demands of the likes of Calhoun and Foote that the attacks on the South should cease. He had stated publicly that Calhoun had spoken as an agitator and that Foote had criticized his speech as too aggressive, and, yet, upon Calhoun's death and during this period of mourning, Foote had praised the South Carolinian's wise counsel and Christian attitude. Benton saw this for what it was – hypocrisy. Calhoun, Foote and other supporters had the same goal of pursuing a strategy that preserved the predominance of a region now in minority. The Missouri line should prevail: no slavery above it and no restriction below it. Surely, Benton disliked or distrusted Foote and would battle him to the end, but he carried no weapon, and therefore he refused to apologize for his behavior. In his mind Foote provoked the confrontation. Foote who proudly proclaimed his devotion to harmony and conciliation between the sections had breached decorum and civility by bearing a loaded weapon on the Senate floor. Self-defense was his plea in remarks shortly after the incident and later in his memoir. It was not clear from the committee's report that his plea had much merit.

Mid-century, 60 years after the ratification of the Constitution and the installation of the first government under a concept of self-rule, the nation was at a crossroads. This was not a crossroads in a historic sense such as we, a century and a half later, views these events. We know what came next, but they did not. They were trying to avoid what they feared might happen next. The speeches and remarks provoked by the debates of the events surrounding the War with Mexico often alluded to the past – what their forebears were thinking, expecting, defining and proposing – without acknowledging or perhaps recognizing the inconsistencies of their allusions. Rereading hundreds of pages of speeches by nineteenth-century politicians to whom some rather vague principle of sovereignty had been entrusted, I was struck more than when I read these documents at an earlier age how literate they could be. I was reminded over and over again of Ralph Waldo Emerson's dictum that practical knowledge as practiced by the farmhand in New England would save the nation rather than classical knowledge as exhibited by many of its
politicians. Had the historical allusions of a Calhoun, Webster, Benton or even William Henry Harrison, who was repackaged as “Tippecanoe”, whose inaugural was more about ancient Rome than the United States of America, had they somehow diverted attention from trying to figure out the peculiar nature of the American political system and the contradictions that had emerged?