

Interchange: Corruption Has a History

Since Donald J. Trump took office in January 2017, his presidential administration has been beset with accusations of corruption. The charges range broadly, from conflicts of interest to receipt of emoluments, from campaign finance violations to conspiracy to defraud. Such allegations raise questions about the history of corruption in the United States. To better understand that history, the *JAH* invited seven scholars to join us in an online conversation between October and November 2018. We asked these participants fundamental questions about the definition, nature, practice, and periodization of corruption in the United States. Read together, their answers offer views of corruption in an array of public institutions: in elections; in local, state, and federal governments; in banking and finance; in industry and unions; and in law enforcement.

Though they chronicle an astonishingly rich and sweeping history of corruption and reform, these historians challenge us in unexpected ways. They force us to acknowledge that the power of corruption to mobilize resources and marshal energies has, at times, promoted the public good. They compel us to admit that the capacity of corruption to redistribute wealth has, on occasion, benefited poor and underserved communities. They oblige us to recognize that crusades against corruption have, in many instances, advanced the ends of partisanship rather than the aims of democracy. Corruption, these scholars agree, blunts good government and corrodes the public faith. Yet, corruption is often a matter of political perspective. It can be functional. It resists most efforts at eradication. Corruption does indeed have a history. But that history is more intricate—more ethically and politically complex—than we might readily imagine.

The *JAH* is indebted to all of the participants for their thought-provoking engagement. (And I, as a newcomer to the *Journal*, am particularly grateful to our editorial team—especially Stephen Andrews, Cynthia Gwynne Yaudes, and Andrew Clark—for coaching me through my first Interchange.—Benjamin H. Irvin)

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JAH: We will begin with fundamental questions. What is corruption? How have historians defined the term? In what ways do scholars distinguish corrupt and non-corrupt behaviors? How do law, ethics, political theory, or other systems of belief

shape our understanding of corruption? What varieties of corruption have been most prevalent in, or have most forcefully shaped, U.S. history?

MARY FRANCES BERRY: Some historians seem to regard misbehavior that causes public controversy and harm to reputation as corruption. But that would mean that Ted Kennedy's 1969 Chappaquiddick "incident" was corruption, as was Richard M. Nixon's claim that the only gift he ever received was his dog Checkers, or Sherman Adams and the Vicuna coat. These, however, were scandals, not corruption. Political corruption requires proof that officials acted illegally either for financial gain or to achieve a policy objective. A link must exist between the gift and the official act. Accepting a bribe would qualify, as would accepting campaign contributions in exchange for voting on an issue or executing a program. A legal definition requires punishable behavior.¹

At the local and state levels, corruption that has shaped elections consists of trying to "game" the usually rather low turnout rates, either by purging rolls, wrongly labeling people as felons ineligible to vote, or giving money or favors to poor voters in exchange for their vote. As I explain in *Five Dollars and a Porkchop Sandwich* (2016), in some venues vote buying is an ever-present practice. Candidates distribute small amounts of campaign money to poor people, or do favors for the poor, such as offering money to see a doctor or food at the end of the month or simply a meal at the polls. The corruption lies with the campaign and candidates, not the embattled poor. Vote buying is just another means of voter suppression, and any illegal voter suppression is corruption.²

BARBARA HAHN: As Bruce Baker and I argue in *The Cotton Kings* (2016), corruption is a way of using an institution to effect goals opposite to its purposes. The New York Cotton Exchange was a place for members to trade cotton futures, where cotton prices were determined and where everybody's trades coalesced into predictions about future supply and demand—predictions in the form of prices. In the early twentieth century the exchanges and the prices were corrupted by the introduction of deliberately misleading information, by rather technical maneuvers regarding cotton grading, and by stealing crop information from the U.S. government. In that interesting 1904 case, Edwin S. Holmes Jr, an associate statistician for the U. S. Department of Agriculture (USDA) sold cotton crop information by lowering or raising a window shade in the room in which crop reports were compiled. The next year he fudged USDA crop reports to help the New York brokers keep the prices low. He made a fortune and did not keep it quiet. When his scheme was uncovered, he was fired. The president of the self-regulating exchange claimed to be "shocked" by the "venality in the Department of Agriculture." No one went to jail; the practices were not outlawed until 2008. But disinformation corrupted the exchange and the commodity prices it existed to set.³

¹ Roger Morris, *Richard Milhous Nixon: The Rise of an American Politician* (New York, 1989). The chief of staff to Dwight D. Eisenhower, Sherman Adams was forced to resign in 1958, when a House subcommittee revealed that he had accepted an expensive vicuna overcoat and an oriental rug from a Boston textile manufacturer who was under investigation for some business dealings. The attention led to his resignation. See Sherman Adams, *First-Hand Report: The Story of the Eisenhower Administration* (New York, 1961).

² Mary Frances Berry, *Five Dollars and Porkchop Sandwich: Vote Buying and the Corruption of Democracy* (Boston, 2016).

³ Bruce E. Baker and Barbara Hahn, *The Cotton Kings: Capitalism and Corruption in Turn-of-the-Century New York and New Orleans* (Oxford, 2016), 84.

DAVID WITWER: My guiding principle as a labor historian has been that corruption occurs when someone violates the trust, duty, or obligation inherent in their position. Corrupt officials misuse their authority when they betray the responsibilities that had justified their power—for example, if a politician elected to represent the needs of her or his constituents instead betrays their interests to achieve a private end. In labor history, the classic example is a union official who takes a bribe in return for agreeing to more lenient contract terms with an employer and thus violates his or her duty to the membership.

Historically, antiunion groups have asserted a much broader meaning of the term *corruption*, claiming that aggressive strike tactics, such as secondary boycotts or organizational picketing, are also forms of corruption because they violate the law, or that such tactics are corrupt because they give too much power to union officials. In such moments, we see a divergence of views. Employers and sympathetic news media might denounce a particular union or union leader for corruption, calling for “reforms” that will curb union power in general. Union members, by contrast, might see the same aggressive union official in a more sympathetic light; members might conclude that although aggressive strike tactics are illegal, they are not corrupt because the union leader has used them to strengthen the organization, not betray it.

The situation is usually much cloudier. The International Brotherhood of Teamsters official James R. Hoffa, for example, was involved in acts that betrayed the interests of his union’s members, such as steering investments from a union pension fund to borrowers connected to organized crime in return for kickbacks. At the same time, antiunion groups lumped those allegations together with denunciations of the Teamsters union’s aggressive organizing activities and used both to denounce union power. In 1959 conservatives adopted that strategy to win passage of the Landrum-Griffin Act, promoted as a way to protect the country from Hoffa but that imposed limits on the organizing activities of all unions. This politically useful way to frame union corruption has taken center stage in moments when the American labor movement has been on the rise, in the early 1900s, in the late 1930s and early 1940s, and especially during the union movement’s peak, following the merger of the American Federation of Labor–Congress of Industrial Organization in 1955.⁴

The distinction I am asserting here separates public concern about union corruption from the reality of union corruption as union members experience it. Public concern is episodic; it emerges in the wake of a journalistic exposé, such as Westbrook Pegler’s Pulitzer Prize–winning reporting work to expose racketeering in Hollywood labor unions in the early 1940s, or the McClellan Committee hearings of 1957–1959 to investigate illegal activities in U.S. labor unions. Those events, in turn, reflect larger political forces at work, as antiunionists seek to use isolated misdeeds to strike political pay dirt. Meanwhile, the quotidian reality of union corruption from the members’ perspectives is more constant. Corruption in the form of bribery or embezzlement tends to be an endemic problem in particular low-wage sectors of the union movement or in industries where a pattern of collusion has fostered the presence of organized crime, such as New York City’s garbage-hauling businesses.⁵

⁴ David Witwer, *Corruption and Reform in the Teamsters Union* (Chicago, 2003), 176–79. Labor Management Reporting and Disclosure Act, 73 Stat. 519 (1959).

⁵ On Westbrook Pegler’s reporting work, see David Witwer, “Westbrook Pegler and the Anti-union Movement,” *Journal of American History*, 92 (Sept. 2005), 527–52. On the McClellan Committee hearings, see David Witwer,

NAOMI R. LAMOREAUX: When Edward L. Glaeser and Claudia Goldin edited *Corruption and Reform* (2006), they instructed those of us who were contributing essays to distinguish between corruption and fraud, with corruption involving improper use of public resources and fraud involving private resources. That distinction has always seemed to me to be useful, though the line between public and private is not always obvious. I do not think that the term *corruption* should be confined to activities that are illegal. If we stuck with that standard, nothing could be called corruption in many parts of the world. Moreover, activities usually must be widely considered corrupt before they can be made illegal. I do agree, though, that whether one regards an action as corrupt depends on one's position in society—for example, union members versus others.⁶

Another distinction that I think it is important to make is between what John Wallis calls systematic corruption and venal corruption. A society is systematically corrupt when the elites in control of the government are able to award valuable privileges to consolidate their power. Most societies throughout history have been systematically corrupt, as are most societies around the world today. A good example of systematic corruption in U.S. history is Martin Van Buren's Albany Regency, which doled out bank charters to important supporters of the machine. Howard Bodenhorn has written two excellent papers showing how this corruption worked. One appears in *Corruption and Reform*, and the other will, I hope, be published soon. The use of bank charters for systematic corruption came to an end in New York after the panic of 1837. The Albany Regency's opponents effectively said "never again!" and passed the New York Free Banking Act in 1838. That did not mean that bankers stopped trying to use their wealth to shape policy or their influence to secure favors (venal corruption), but never again would the award of bank charters be a tool of political control in New York.⁷

DANIEL J. CZITROM: I am also skeptical of limiting the definition of *corruption* to requiring "proof that officials acted illegally." In the post-Citizens United world, this limitation would mean turning our eyes from what, in effect, has become a system of legalized bribery undergirding campaign finance and our political system. Historically, I have found much of the language and debate around corruption to have been shaped by partisan politics. Generations of historians and journalists have held up Tammany Hall as the ultimate expression of corrupt municipal politics; rarely do they acknowledge that "machine politics" was a bipartisan affair. How do we compare bribing the local police captain for allowing a brothel to run, for looking the other way at gambling, or for ignoring an open saloon on Sunday with bribing entire legislatures on behalf of railroads or the insurance industry? In Gilded Age New York City, the economic elite—the Chamber of Commerce, real estate interests, wealthy merchants, banks, large hotels—did not

⁶ "The Acid Attack on Victor Riesel and Fears of Labor Racketeering in Cold War America," *Labor History*, 55 (no. 2, 2014), 228–47. On corruption in New York City's garbage-hauling business, see James B. Jacobs, Coleen Friel, and Robert Raddick, *Gotham Unbound: How New York City Was Liberated from the Grip of Organized Crime* (New York, 1999), 80–97.

⁷ Edward L. Glaeser and Claudia Goldin, eds., *Corruption and Reform: Lessons from America's Economic History* (Chicago, 2006).

⁷ John Joseph Wallis, "The Concept of Systematic Corruption in American History," in *Corruption and Reform*, ed. Glaeser and Goldin, 23–62, esp. 25. Howard Bodenhorn, "Bank Chartering and Political Corruption in Antebellum New York: Free Banking as Reform," *ibid.*, 231–58. "An Act to Authorize the Business of Banking," April 18, 1838, in *Laws of the State of New York, Passed at the Sixty-First Session of the Legislature, Begun and Held at the City of Albany, the Second Day of January, 1838* (Albany, 1838), 245.

really care about police corruption or brutality as long as the New York Police Department (NYPD) kept a boot firmly on the neck of trade unionists and radicals. The NYPD became the manager of the city's vice economy with the tacit approval of those more worried about maintaining social order than curbing municipal corruption. In 1894 the New York State Senate appointed the so-called Lexow Committee to investigate allegations of widespread vote fraud, bribery, blackmail, and corruption involving the police. But while the ensuing revelations forced a police shake-up, business interests continued to buy and sell state legislators, as revealed most clearly in the 1905 probe, led by Charles Evans Hughes, into the New York State insurance industry.⁸

Regarding urban corruption: we should remind ourselves what politics meant to so many working-class and immigrant city dwellers. We tend to forget just how tough life was in a world without Social Security, Medicare, unemployment insurance, workmen's compensation, or welfare. Pledging one's vote and allegiance in exchange for services—help with the law, finding a job, getting a new apartment after a fire, access to food and coal during hard times—reflected the often-grim realities of urban life. Is that corrupt?

Finally, Naomi Lamoreaux invokes Wallis's distinction between "systematic corruption and venal corruption," which sounds to me similar to George Washington Plunkitt's famous separation of "honest graft" (money made from inside information) from "dishonest graft" (money taken from the vice economy).⁹

BERRY: On Daniel Czitrom's point about the importance of help that campaigns and political officials gave the urban poor in the 1890s, as I point out in *Five Dollars and a Porkchop Sandwich*, the poor today benefit from the same kinds of help that he describes. Vote buying lives on, whether it's "street money" in Philadelphia, "walk-around money" in Baltimore, or the precinct captain's little favors in Chicago. Vote buying assists the person trying to get on the list for subsidized housing, to get the snow plowed, or to get a road repaved. It corrupts democracy because it is illegal in most places and done solely to increase turnout, but policies promised in exchange for votes—policies that would help the poor bought voters—do not materialize. Perhaps legal incentives for voting, such as lottery tickets, along with "I voted" stickers, for example, would increase turnout and avoid corrupt practices.¹⁰

If the definition of corruption is not limited to what is illegal, it may become whatever we say it is, leading to sting operations, endless special investigations, and advertising campaigns that are as offensive as actual corrupt behavior.

JAMES T. KLOPPENBERG: Americans have been railing against corruption—and practicing it—for much longer than the United States has existed. Understandings of the term have been elastic. Many of the early European settlers of North America, including those we now call Pilgrims, Puritans, Pietists, and Quakers, set sail to escape what they

⁸ *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010). On the Lexow Committee, see Daniel Czitrom, *New York Exposed: The Gilded Age Police Scandal That Launched the Progressive Era* (New York, 2016). On Charles Evans Hughes and the insurance industry, see Robert F. Wesser, *Charles Evans Hughes: Politics and Reform in New York, 1905–1910* (Ithaca, 1967).

⁹ Wallis, "Concept of Systematic Corruption in American History"; On George Washington Plunkitt's "honest graft," see William L. Riordan, *Plunkitt of Tammany Hall: A Series of Very Plain Talks on Very Practical Politics, Delivered by Ex-Senator George Washington Plunkitt, the Tammany Philosopher, from His Rostrum—the New York County Court-House Bootblack Stand—and Recorded by William L. Riordan* (New York, 1905).

¹⁰ Berry, *Five Dollars and Porkchop Sandwich*.

perceived as the pervasive corruption of the degenerate (or at least unregenerate) cultures of England, the Protestant regimes of northern Europe, and above all the reign of the Antichrist in Rome. They savaged indigenous peoples and enslaved Africans in part because, with striking unconcern for consistency, they judged those cultures at once primitive and corrupt. When Euro-Americans found themselves unable to live up to their own ideals, they turned their critiques inward and lamented their own religious, moral, economic, and political corruption. There was much not to like: when New England merchants such as the notorious Robert Keane were fined for price gouging, they were enjoined, as Keane was, to “bemoan his covetous and corrupt heart.” Colonial officials padded payrolls and stole revenues; merchants bribed to evade customs duties; land speculators bilked Indians and settlers. New York’s Benjamin Fletcher, governor of the colony from 1692 to 1697, took bribes to protect pirates, cheated customs officers, embezzled funds from the colony’s treasury, and bragged about how he managed to afford the lavish spending that eventually got him sacked. Among the many sparks igniting the American Revolution were the colonists’ anxieties about the corruption practiced by royal governors and their lackeys on colonial councils, officials chosen by the Crown rather than elected by white male property-owning colonists. Colonists also worried that the rumored appointment of an Anglican bishop signaled a creeping Catholicism, an especially insidious form of corruption that had to be nipped in the bud.¹¹

The constant invocations of virtue in American discourse during the 1760s, 1770s, and 1780s, whether derived from roots in Christian, civic republican, Lockean, or Scottish philosophical traditions, distinguished admirable forms of behavior oriented toward the good of the community from those oriented toward the narrow self-interest of individuals or particular groups. Of course, every identifiable group, from the Alexander Hamilton–Robert Morris clique of bankers to scrambling urban artisans, rough-hewn backwoods farmers, and women and slaves shut out from the new democracy, hurled the charge of corruption against its rivals. The seventeenth- and eighteenth-century meanings of the term, in other words, multiplied along with the number of people able to express their outrage that the ideals ostensibly animating the colonies, and then the new nation, were betrayed by their opponents.¹²

So it has continued throughout American history, from the sharp dealing of real estate swindlers as the nation expanded to the systematized graft of urban political machines, police forces, and the businesspeople in cahoots with them. Partisan loyalties inspired forgiveness of one’s own party’s underhanded dealings and fueled outrage about the other

¹¹ Richard S. Dunn and Laetitia Yeandle, eds., *The Journal of John Winthrop, 1630–1649* (Cambridge, Mass., 1996), 165. For Robert Keane’s own explanation of his behavior, see Bernard Bailyn, “The ‘Apologia’ of Robert Keane,” *William and Mary Quarterly*, 7 (April 1950), 568–87. For critical discussions of the issues raised by Keane’s case, see Bernard Bailyn, *The Apologia of Robert Keane: The Self-Portrait of a Puritan Merchant* (New York, 1965); Stephen Innes, *Creating the Commonwealth: The Economic Culture of Puritan New England* (New York, 1995), 160–91; James T. Kloppenberg, *Toward Democracy: The Struggle for Self-Rule in European and American Thought* (New York, 2016), 67–88; and Daniel T. Rodgers, *As a City on a Hill: The Story of America’s Most Famous Lay Sermon* (Princeton, 2018), 96–120. Alice Davis, “The Administration of Benjamin Fletcher in New York,” *Quarterly Journal of the New York Historical Association*, 2 (Oct. 1921), 213–50; James S. Leamon, “Governor Fletcher’s Recall,” *William and Mary Quarterly*, 20 (Sept. 1963), 527–42.

¹² For interpretations of the struggle to shape the political and economic structures of the new nation, see Max M. Edling, *A Revolution in Favor of Government: Origins of the U.S. Constitution and the Making of the American State* (New York, 2003); Woody Holton, *Unruly Americans and the Origins of the Constitution* (New York, 2007); Jürgen Heideking, *The Constitution before the Judgment Seat: The Prehistory and Ratification of the American Constitution*, ed. John P. Kaminski and Richard Lefler (Charlottesville, 2013); Michael Klarman, *The Framers’ Coup: The Making of the Constitution* (New York, 2016); and Kloppenberg, *Toward Democracy*, 364–453. On the process

side's behavior. Agitation to rein in public and private corruption rose in waves throughout the nineteenth century. As William Novak showed in *The People's Welfare*, local and state authorities regulated business practices they labeled corrupt in the name of the common good. During the Gilded Age and the Progressive Era, movements aiming to shift power from party insiders to "the people" resulted in civil service reform, restrictions on corporate campaign contributions, open primaries, the initiative and the recall, city manager governments, trust busting, and the use of regulatory commissions to oversee the economy. Not surprisingly, those who saw such measures as threats to practices they considered legitimate features of American democracy—as forms of service provided for those who needed it most—resisted all those measures. For a few progressives, among the most troubling forms of corruption were those that justified limiting political participation to native-born white men; for others, of course, the opposite was true: preventing African Americans, immigrants, and women from voting was the key to staving off corruption of the nation's civic life.

In the decades since the 1972 Watergate scandal, more charges of corruption have been leveled against members of presidential administrations than in the preceding two centuries. Perhaps the most lasting achievement of Ronald Reagan's presidency was the astonishingly successful campaign to delegitimize government itself, at least in the eyes of many citizens, and to enshrine individual economic self-interest, manifested in unregulated "private enterprise," as the paramount value of American life. That transformation, like the rise of so-called rational choice and utility maximization as the governing paradigms in the social sciences, has encouraged citizens to seek wealth—and to avoid paying taxes or participating in civil society—as the only sensible strategy. As a result, the homely virtues of self-discipline, moderation, and reciprocity preached by Enlightenment thinkers such as Benjamin Franklin, John Adams, and Abigail Adams now strike many Americans as outmoded advice for suckers. If "greed is good," as the *Wall Street* character Gordon Gekko asserted, then Donald J. Trump's career of swindling, debt dodging, and tax evasion might serve as a model to emulate rather than an object lesson in the mainstreaming of corrupt business practices.¹³

If charges of corruption have been so pervasive for so long, does that mean the forms of self-dealing and the flaunting of norms we are witnessing now are just more of the same? Should we, as American historians, pocket our fury and point out that what we are enduring is just the latest in an endless chain of overwrought accusations of corruption? Not necessarily. There are multiple reasons why we should distinguish what has happened in recent years and what is happening now from the many forms of corruption identifiable earlier in U.S. history.

PAULA BAKER: For me, part of the point is that "corruption" has a history. Teaching *Plunkitt of Tammany Hall* over some decades is illustration enough: there have been stretches (we are in one now) where George Washington Plunkitt seems so obviously

whereby the uncertain significance of the Constitution began to take on the meanings now mistakenly understood by some interpreters to have been originally fixed by those who framed the U.S. government, see Mary Sarah Bilder, *Madison's Hand: Revising the Constitutional Convention* (Cambridge, Mass., 2015); Jack N. Rakove, *A Politician Thinking: The Creative Mind of James Madison* (Norman, 2017); and Jonathan Gienapp, *The Second Creation: Fixing the U.S. Constitution* (Cambridge, Mass., 2018).

¹³ William J. Novak, *The People's Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill, 1996). *Wall Street*, dir. Oliver Stone (Twentieth Century Fox, 1987).

corrupt that it is difficult to get students beyond “honest graft,” which they see as a ridiculous idea, to any deeper understanding of machine politics. Cynical stretches have occurred, where no one is surprised. It is easy to trace how Americans have added to the stock of behaviors understood as political corruption but I cannot think of behaviors once thought to be corrupt that have been rehabilitated.¹⁴

Making behaviors and ideas understood as “corrupt” has been the subject of political fights, although crimes such as bribery were always illegal and corrupt. These fights were sometimes partisan, as Czitrom points out, and sometimes less so. Jacksonians campaigned on the classic “corruption” of the Adams administration in the distribution of offices. Whigs wailed against the corrupt band of Democrat officeholders who, dependent on political jobs, lacked free political will. Complaints about corruption that gave the Gilded Age its reputation as almost uniquely corrupt rightly pointed out the urban, state, and national grafting of politicians and their business allies. But the charges served a purpose in largely successful attempts to roll back government in northern cities and reconstructed southern states and to leave the federal government, too, under the cloud of crookedness and incompetence.¹⁵

My point is not to cheer on cynicism as much as to caution against the reflexive attachment of a halo to anticorruption rhetoric. We should not expect to arrive at a definition detached from history.

LAMOREAUX: James T. Kloppenberg’s response led me to check the Oxford English Dictionary. Since the early modern period, at least two different relevant strands of meaning have existed for the word *corruption*. One is general—in a nutshell, it is “moral deterioration or decay; depravity.” The other is more specific to the operation of government: “Perversion or destruction of integrity in the discharge of public duties by bribery or favour; the use or existence of corrupt practices, esp. in a state, public corporation, etc.” Part of our problem with definition is that historical actors often elide these two meanings, using the general definition to charge political opponents with perverting the duties of their offices. As Paula Baker notes, corruption has a history, so part of uncovering that history is to track how the content of these charges changed over time, how the sense of what is appropriate behavior for public officials changed, how the law (and institutions more generally) evolved (or did not evolve) in response, and how behavior changed (or did not).¹⁶

For example, in the United States, favoritism by government officials has been considered corrupt, even when it was not illegal. In the early nineteenth century, the bulk of legislative business, particularly at the state level, consisted of the enactment of private bills on behalf of specific individuals or groups. A political revolt against such practices took place during in the antebellum period, and Indiana’s 1851 constitution pioneered in forbidding the state legislature from enacting many types of private or local bills (including corporate charters), mandating instead that laws had to be general. Almost all state governments followed Indiana’s lead in the second half of the nineteenth century and revised their constitutions accordingly. The national government did not, but the states’ constitutional revisions changed norms about how governments should act, though prac-

¹⁴ Riordan, *Plunkitt of Tammany Hall*.

¹⁵ For a famous example of Whig claims, see “Campaign Circular from Whig Committee, January [31?], 1840, in *Collected Works of Abraham Lincoln*, ed. Roy P. Basler (4 vols., New Brunswick, 1953), I, 203.

¹⁶ Oxford English Dictionary, s.v. “corruption,” <http://www.oed.com>.

tices were reformed over a long period of time. Another example is that, after Congress restricted immigration to the United States in the 1920s, representatives frequently secured passage of private bills to admit specific individuals to the country. In the 1940s Congress revised its procedures in ways that put a stop to most but by no means all such favoritism. A similar practice survives in a partially disguised way in earmarks in tax bills. Earmarks are not illegal, but they are generally regarded as corrupt, and efforts have been made to curb the practice.¹⁷

HAHN: I find myself struggling with the categories “public” and “private.” I am not sure that nineteenth-century actors, especially powerful men gathered in clubs and business firms, thought about the difference between the two in the same ways that I do. Perhaps part of the task of outlawing various corrupt behaviors has been lodging the activity they corrupt into the public realm. For example, freight rates on the railroads: is it possible to conceive of regulating them without somehow thinking of railroads and freight movements as a public good?

BERRY: It seems to me that “moral deterioration or decay; depravity” are in the eyes of the beholder at any particular time, and policy disagreement may be offensive, but whether a particular action is corrupt or not, barring some illegality, is a political judgement. Behavior can be labeled corrupt because that makes it sound offensive.¹⁸

***JAH*: Corruption mobilizes public resources for the advancement of private interest, sometimes to the benefit of the people and sometimes to their detriment. In a capitalist society such as the United States, in which public policy often produces private profit, is corruption endemic, or even functional? Does corruption act as an engine for governmental action in the absence of a cohesive vision of the public good?**

HAHN: What an interesting way to put it. Long ago, in my article “Union Terminal: Businessmen, Railroads, and City Planning in Cincinnati,” I argued that city planning should be traced back not only to progressive reformers but also to business interests, especially their interests in local freight movements. The Cincinnati Commercial Club succeeded in building the city’s Union Terminal, between the late 1920s and 1933, and in redesigning the city for their interests. The difficulty in getting railroads to work together to build a true union station matched the difficulty of getting government to act. Government action was accomplished through the development of a profession called city planning that guided the public control of private property. At the time, the effort consisted only of a series of laws proposed by the local businessman and progressive reformer Alfred Bettman, regulations that were later adopted around the nation. City planning and its regulatory apparatus developed, of course, after the end of the corrupt

¹⁷ Immigration Act of 1924, 43 Stat. 153 (1924). On the bulk of the business of early legislatures being private bills, see Robert M. Ireland, “The Problem of Local, Private, and Special Legislation in the Nineteenth-Century United States,” *American Journal of Legal History*, 46 (July 2004), 271–99. On the revision of congressional practices, see Maggie McKinley, “Petitioning and the Making of the Administrative State,” *Yale Law Journal*, 127 (April 2018), 1538–1637.

¹⁸ Oxford English Dictionary, s.v. “corruption.”

“machine politics,” which had its own means of balancing local interests, as characterized in Zane L. Miller’s *Boss Cox’s Cincinnati*.¹⁹

LAMOREAUX: The idea that corruption is functional, of course, has a long history, going back at least to Robert K. Merton’s famous essay on latent and manifest functions. I always liked that piece, but I would generalize the point to say that corruption always has a redistributive side. Sometimes the poor may benefit (as impoverished immigrants may have benefited from urban machines in the absence of a social safety net), but this is by no means invariably the case. I think we can all easily come up with examples of corruption that redistributed resources to elites. And sometimes corruption may redistribute from one part of the elite to another or from one group of poor to another. Corruption always serves a purpose for someone, but that is not the same thing as being functional in societal terms. The late Will Baumol wrote extensively about the institutional mechanisms that encourage productive versus unproductive entrepreneurship. He argued that societies with institutions conducive to corruption (he used the term *rent seeking*) deflect talented individuals into activities that do not benefit the larger society and might even be downright harmful. In his view, modern successful (capitalist) societies shift the mix of institutions to those that encourage investment of talents and resources into activities with wider benefits, such as technological innovation. I always liked that argument too.²⁰

HAHN: This raises the problem presented by our two definitions: corruption in the legal-political sense versus the corruption that simply means “moral deterioration or decay; depravity.” If corruption always benefits someone and often or always has a redistributive side, does a noncorrupt system benefit anyone in particular? If not—if the good it achieves is general but hard to recognize specifically for individuals—does it therefore have no ready-made advocates, despite many stakeholders?²¹

BERRY: I am sticking with the legal definition of corruption. Corruption is endemic in capitalist societies because greed is not uncommon, and public officials who will act for illegal gains can always be found. There were, of course, specious land sales, and pork-barrel infrastructure projects such as the flurry of road and canal building in the early national period. These were functional in that they provided needed transportation but offered the opportunity for taxpayer-abusive public-private partnerships.

One particularly outrageous example of corruption surfaced recently in the widely publicized “kids for cash” scandals in 2008, when two state judges in Pennsylvania profited from giving long, unfair sentences to juveniles and sending them to private prisons from which the judges profited. The scandal was an example, also, of how corruption inside law enforcement systems goes unpunished because the prosecutors, judges, and police work together and are unlikely to charge each other. As usual in such cases of state and local corrupt practices, federal enforcement was required.²²

¹⁹ Barbara Hahn, “Union Terminal: Businessmen, Railroads, and City Planning in Cincinnati, 1880–1933,” *Journal of Urban History*, 30 (no. 5, 2004). Zane L. Miller, *Boss Cox’s Cincinnati: Urban Politics in the Progressive Era* (Oxford, Ohio, 1980).

²⁰ Robert K. Merton, *Social Theory and Social Structure* (New York, 1968). William J. Baumol, “Entrepreneurship: Productive, Unproductive, and Destructive,” *Journal of Political Economy*, 98 (Oct. 1990), 893–921.

²¹ Oxford English Dictionary, s.v. “corruption.”

²² William Eckenberger, *Kids for Cash: Two Judges, Thousands of Children, and a \$2.8 Million Kickback Scheme* (New York, 2013).

Arguably, in a socialist society, since there would be ostensibly no financial gain, corruption would not exist. However, the example of socialist societies suggests that corruption is not a matter of economic systems. Where there is greed and power, corruption is possible.

WITWER: I would modify the statement in question 2 to assert that where corruption is endemic and ongoing it performs a functional role that benefits a collection of interests, meeting needs that the state is unwilling or unable to address. In labor history this applies to recurring cartel arrangements between groups of small employers and local unions, a common pattern in the local cartage sectors that the Teamsters sought to organize in the early 1900s. In *The Racketeer's Progress* Andrew Wender Cohen detailed how such arrangements served the needs of some local unions and groups of locally based small businesses. These cartels fostered union corruption, as union leaders conspired with employers to enforce the cartels' rules, but the cartels also provided a way to manage economic competition without state assistance. For the workers, unions, and businesses that operated inside such cartels the tangible benefit was security, higher wages, and better profits. The price was that organized-crime figures often assumed a management role in these cartels; in the language of criminology, the mob licensed an illegal arrangement by levying a tax on its participants.²³

Instead of functioning as an engine for governmental action, endemic corruption often emerged in sectors where the government did not act, in this case by not regulating sectors that would benefit from regulation. Not everyone profited from such cartels; businesses kept out of particular markets were clear victims as were consumers who paid inflated prices. But for the insiders the benefits were apparent. This fact made them wary of anticorruption efforts. In New York City's garment district, for instance, from the 1950s through the 1970s, the Federal Bureau of Investigation (FBI) received no cooperation in their antiracketeering probes from dress manufacturers, who viewed the presence of organized crime as beneficial.²⁴

Prolific police corruption, conversely, often reflected the conflict between governmental regulations and public sentiment. Recurring police scandals in post-World War II American cities, such as New York City, Detroit, and New Orleans, revolved around the widespread popularity of illegal gambling, which fostered graft. One such scandal involved Harry Gross in New York City in 1951. It entailed corrupt arrangements to protect and regulate some two hundred illegal bookmakers. Over \$1 million a year in payoffs were made, and the graft extended up to the highest echelons of police leadership. In that case, as in others, government regulation that lacked cohesive public support acted as an engine for corruption.²⁵

KLOPPENBERG: Why do people obey the law? Why do they consider illegal activity corrupt? As others in this interchange have noted, what some have considered corruption has often helped others. Charges of corruption often elicit the defense that the activity serves a useful purpose. How does the standard applied by those who accuse others of corrup-

²³ Andrew Wender Cohen, *The Racketeer's Progress: Chicago and the Struggle for the Modern American Economy, 1900–1940* (New York, 2004).

²⁴ David Witwer, "The Dress Strike at Three Finger Brown's: The Complex Realities of Antiracketeering from the Union Perspective in the 1950s," *International Labor and Working-Class History*, 88 (Fall 2015), 166–89, esp. 176.

²⁵ Norton Mockridge and Robert H. Prall, *The Big Fix* (New York, 1954).

tion emerge, and how does it acquire the force of law? One of the central aspirations of Enlightenment thinkers was to replace patron-client relationships by systematizing law and making the rules apply equally to everyone, a radical departure from a world of inherited legal privileges and inescapable dependency. Different thinkers advanced different reasons for that change. Adam Smith thought autonomous individuals, freed from their subservient status, would behave ethically because of the moral sense imparted by God to man, a view shared by thinkers as diverse as John Adams, Judith Sargent Murray, Benjamin Rush, and Thomas Jefferson. Smith explained conscience by imagining an “impartial spectator” whose judgment of an individual’s activity would constrain a person within the boundaries of moral behavior. Conscience, Smith believed, would help prevent the abuses rampant in earlier, precapitalist cultures. Smith would have been appalled by the idea that capitalism makes corruption endemic. From his perspective, it was aristocracy, patron-client relations, and mercantilism that led to corruption. Capitalism, by making people autonomous actors in the economic sphere, would make it possible for individuals to act morally rather than forcing them to kowtow to those on whom they depended, those of superior rank whose authority they could not challenge.²⁶

Immanuel Kant thought individuals should follow a universal maxim, the categorical imperative, which would prevent them from treating others as means and require them to treat others as ends. Jeremy Bentham imagined that maximizing the pleasure of the greatest number of people could be accomplished by a thoroughgoing revision of legal codes. Michel Foucault argued powerfully against such ideas and contended that they were merely masks for new regimes of power now bolstered by “enlightened” knowledge rather than enforced by raw violence. Foucault’s ideas remain provocative, but I would argue that both the American and French Revolutions were fueled, at least in part, by the aspiration toward universality rather than particularity. Where traditional patterns of authority and patron-client relations continued to be strong, as in France, resistance to efforts to enforce new norms through law was stronger than it was in the United States, where aristocracies of birth were outlawed (even though slavery and the exclusion of women from public life were reinforced). Older patterns of deference and hierarchy, and the forms of corruption that they excused, persisted in the early national period, as has been noted in this interchange, and with the coming of the Jackson party and the unapologetic use of spoils, one can argue that those norms were bolstered through much of the nineteenth century.²⁷

Progressive reformers aimed to root out the sensibility that they thought made corruption possible and to replace both Plunkitt’s dishonest and honest graft with what they considered the rule of law. At that moment, Max Weber tried to make sense of the movement away from earlier forms of justice by proposing that a shift had occurred, or was occurring, from one form of reasoning to another. Whereas in earlier periods and

²⁶ On the “impartial spectator,” see Adam Smith, *The Theory of Moral Sentiments*, ed. D. D. Raphael and J. I. Macfie (Oxford, 1976), 137. On the lasting significance of Scottish moral philosophy for late eighteenth- and early nineteenth-century American thought and culture, see Daniel Walker Howe, *Making the American Self: Jonathan Edwards to Abraham Lincoln* (Cambridge, Mass., 1997); and Kloppenberg, *Toward Democracy*, 252–55, 589–710.

²⁷ For Immanuel Kant’s formulations of the categorical imperative, see Immanuel Kant, *Groundwork of the Metaphysics of Morals*, ed. and trans. Mary Gregor and Jans Timmermann (Cambridge, Eng., 1998). On Jeremy Bentham’s principles of psychological and ethical hedonism underlying his utilitarian moral philosophy, see Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation*, ed. J. H. Burns and H. L. A. Hart (Oxford, Eng., 1970). For an overview that locates Bentham in the longer history of utilitarianism, see Michael Rosen, *Classical Utilitarianism from Hume to Mill* (London, 2003). On Michel Foucault’s multidimensional oeuvre, see Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. A. Sheridan (Harmondsworth, 1985). For critical commentaries, see Gary Gutting, ed., *The Cambridge Companion to Foucault* (Cambridge, Eng., 2005).

in other cultures what was considered rational was determined by tradition or values, in Weber's day those forms of reasoning were being challenged by, and perhaps supplanted by, instrumental rationality, or means-ends reasoning. Accompanying that change was the emergence of bureaucracy to replace earlier ways of exercising authority. Bureaucracy embodies the enlightenment ideal of universal laws, applied without exceptions. Because officials lack discretion, they can neither prefer nor penalize particular individuals or groups. Some of the earlier practices of patron-client relations, in which the person in power could dispense favors to which the person lacking power otherwise had no access, have been fleshed out by contributors to this interchange, using examples drawn from business-government relations, boss-immigrant relations, mob-union relations, and judge-police relations. Champions of instrumental rationality and bureaucratization, Weber argued, were then replacing such personal interactions, inflected with all sorts of traditional assumptions about hierarchy and legitimacy as well as what counts as reasonable behavior, with new standards, according to which many long-standing practices were now deemed corrupt. Contemporary scholars, such as those writing in the September 2018 issue of *Daedalus*, devoted to anticorruption efforts worldwide, have found that rooting out corruption requires enforcing standards of universality rather than particularity, even though—or especially because—the latter often have tradition on their side. Otherwise, people both within and outside government and the legal system simply do not internalize the rule of law or respect the legal system.²⁸

One more word about the relation between these complex dynamics and capitalism. Many social theorists since Weber, including John Dewey, have tried to understand how the profit motive that drives economic activity under capitalism can be squared with the concern for the common good that democracy requires if the powerful, or the majority, are not simply to run roughshod over the powerless, or the minority. The problem, as Weber and Dewey both saw, is the tension between the instrumental rationality that governs calculating, capitalist behavior, on the one hand, and the ethical imperative of equal treatment for all individuals, whether grounded in religious or moral precepts, on the other. The most incisive analyses of that tension in recent decades, from my perspective, are those growing from Jürgen Habermas's argument that the capitalist "technostructure" has been allowed to invade the ethical "lifeworld" of interpersonal relations.²⁹

Many of the efforts to address the problems of our current moment have focused attention on what Nancy Fraser calls "recognition": the realization that minority groups and women have been treated unequally. Those crucial efforts have been inadequate,

²⁸ On Max Weber's concept of rationalization, see James T. Kloppenberg, *Uncertain Victory: Social Democracy and Progressivism in European and American Thought, 1870–1920* (New York, 1986), 298–415. Robert J. Rothberg, "Accomplishing Anticorruption: Propositions and Methods," *Daedalus*, 147 (Summer 2018), 5–18; Alina Mungiu-Pippidi, "Seven Steps to Control of Corruption," *ibid.*, 20–34; Bo Rothstein, "Fighting Systematic Corruption: The Indirect Strategy," *ibid.*, 35–49; Michael Johnson, "Reforming Reform: Revising the Anticorruption Playbook," *ibid.*, 50–62; Matthew M. Taylor, "Getting to Accountability: A Framework for Planning and Implementing Anticorruption Strategies," *ibid.*, 63–82; Paul M. Haywood, "Combatting Corruption in the Twenty-First Century: New Approaches," *ibid.*, 63–97; Susan Rose-Ackerman, "Corruption and Purity," *ibid.*, 98–110; Zephyr Teachout, "The Problem of Monopolies and Corporate Public Corruption," *ibid.*, 111–26.

²⁹ On the contrast between John Dewey and Max Weber, see James T. Kloppenberg, "Democracy and Disenchantment: From Weber and Dewey to Habermas and Rorty," in *Modernist Impulses in the Human Sciences, 1870–1930*, ed. Dorothy Ross (Baltimore, 1994), 69–90. Jürgen Habermas, *The Theory of Communicative Action*, vol. I: *Reason and the Rationalization of Society*, trans. Thomas McCarthy (Boston, 1984); Jürgen Habermas, *The Theory of Communicative Action*, vol. II: *Lifeworld and System: A Critique of Functionalist Reason*, trans. Thomas McCarthy (Boston, 1987); Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg (Cambridge, Mass., 1986).

though, because they have not been accompanied by equal attention to “redistribution,” the leveling of the playing field by taking steps that make possible real rather than merely formal equality of opportunity. I mention that problem because I think, with Barbara Hahn, that challenges to corruption in U.S. history have tended to be undercut by the fact that particular interests benefit by illegal, unfair, or “depraved” practices, which they defend tenaciously, while those aiming to root out corruption speak on behalf of changes to the system for the sake of the common good, changes from which no particular group seems likely to benefit more than any other. That is another version of the asymmetry between the dictates of instrumental reason, rational choice, profit maximization, and marginal utility functions, on the one hand, and the dictates of moral universalism, on the other. Under the pressures exerted by the dynamics of what Weber identified as bureaucratization and rationalization, the countervailing resistance, fueled by aspirations to equality, has few cultural or political levers to pull. Thus did Smith’s dream of autonomous individuals interacting with each other peacefully in the marketplace, to their mutual benefit, become the nightmare of contemporary life, in which Thucydides’s maxim from the Melean dialogue, that the powerful do what they will and the powerless suffer what they must, has again come to be taken as an inevitable feature of human society rather than a sign of its degradation, or its corruption, under the conditions of unregulated finance capitalism.³⁰

LAMOREAUX: I found James Kloppenberg’s response to the second question interesting, but I would like to add that much of the history of the last 150 years has involved working out a middle ground between the particularity of the old regime and universality. Kloppenberg writes that “one of the central aspirations of Enlightenment thinkers was to replace patron-client relationships by systematizing law and making the rules apply equally to everyone, a radical departure from a world of inherited legal privileges and inescapable dependency.” He argues that there were strong popular aspirations to universality during the age of revolutions. I agree, but I would argue that these aspirations were far from realized by the new governments that emerged. As I have already written, in the first half of the nineteenth century, approximately 70 to 90 percent of the acts passed by state legislatures were private bills that benefited specific persons or localities—that allowed a person to receive a pension, get a divorce, be relieved of debts, or form a corporation, among other activities. Beginning with Indiana in 1851, almost all states enacted constitutional provisions that banned such bills, mandating that all laws be general. But what did the word *general* mean? Most people clearly thought it was acceptable to regulate some industries differently, and the same Indiana constitution that required laws to be general included provisions regulating corporations differently from other businesses and banks differently from other corporations. Many people at the time also thought it was acceptable to discriminate against some categories of people. The same constitution took the right to vote from “Negros and Mulattos” and even barred them from moving into the state.³¹

³⁰ Nancy Fraser and Axel Honneth, *Redistribution or Recognition? A Political-Philosophical Exchange* (New York, 2003). On the resolution of the so-called Adam Smith problem, the purported inconsistency between his *Theory of Moral Sentiments* and *The Wealth of Nations*, see Kloppenberg, *Toward Democracy*, 244–48. Thucydides, *The Peloponnesian War*, trans. Rex Warner (Harmondsworth, 1954), 400–8.

³¹ Indiana State Constitution, 1851, *NBER/Maryland State Constitutions Project*, <http://www.stateconstitutions.umd.edu>.

All these types of classification schemes and discriminatory practices would be challenged in the courts and in the public arena over the next 150 years. Some categorizations, particularly those that differentiated among types of businesses, would continue to be recognized as vital policy tools, so long as all entities within a given class were treated the same. Especially in the late nineteenth and early twentieth centuries, corporations frequently challenged such classifications on Fourteenth Amendment grounds and, contrary to popular mythology, they almost always lost. Other distinctions, particularly those involving race and gender, gradually lost legitimacy, though, of course, those battles are still ongoing. The Fourteenth Amendment also played an important role in those efforts, ultimately more successfully. But let us return to the topic of corruption. Early nineteenth-century Americans came to regard legislative favoritism as inherently corrupt, and they stripped their legislatures of the power to confer privileges on select individuals. Classification schemes have sometimes been seen as masquerading for legislative favoritism and, hence, corrupt, but they have also been recognized as serving legitimate purposes. Charges of corruption have been useful weapons wielded by many different groups as they push against schemes that disadvantage them in some way.³²

Hahn: This Enlightenment-and-beyond effort toward universality does seem to me to describe a movement against the particularity that resembles corruption—patron-client relationships, laws that make special and individual dispensations. I am not sure that particularity of that sort counts as corruption unless an ideal version exists to be corrupted by it. But is it possible that this universality enlarges the public arena to the point that new particularities emerge to fill in some of the gaps? I am thinking of private institutions such as cotton exchanges, and of the way that machine politics has been defended for doing the work left undone by more legitimate government institutions.

Berry: Early nineteenth-century Americans did not regard legislative favoritism as corrupt though it might permit an opportunity for illegal acts of gain, such as bribing legislators. They seem to have acted to create general laws, to remove some classifications and add others, and to repeal laws based on their views about certain enterprises and groups of people. Put differently, legislative favoritism was seen, as Andrew Jackson thundered about the Bank of the United States, as antidemocratic, unjust, and open to corruption though not necessarily corrupt.³³

Czitrom: Our exchange is touching on a wide variety of definitions, historical examples, and theoretical claims. Let me once again raise the issue of legal and illegal corruption. I presume we agree that corruption is not limited to capitalist societies, and that historians can trace its evolution over time. In the United States, politics has always meant different things to different people. Many progressives, for example, had a hard time grasping, or empathizing with, the service view of politics that millions of city dwellers accepted as simply part of their struggle to make a living and survive. Good evidence exists that this

³² Ruth H. Bloch and Naomi R. Lamoreaux, "Corporations and the Fourteenth Amendment," in *Corporations and American Democracy*, ed. Naomi R. Lamoreaux and William J. Novak (Cambridge, Mass., 2017), 268–325.

³³ Andrew Jackson, "Veto Message against Rechartering the Bank of the United States," July 10, 1832, in *A Compilation of the Messages and Papers of the Presidents, 1789–1908*, ed. James Richardson (2 vols., Washington, 1908), II, 576–91.

ethos, at least in big metropolitan areas such New York City, was partly rooted in the trauma of the “great hunger” in Ireland.³⁴

But these voters and their “bosses” were not the only folks engaging in “corrupt” behavior, in the sense of mobilizing public resources for the advancement of private interest. Industrial, and later finance, capitalism in the United States brought systematic and often-successful efforts to bribe and buy municipal governments, state legislatures, and Congresses. By these means, mass transit franchises, favorable tax rates for insurance companies, railroad concessions, and other advantages were obtained. Perhaps this is just the historical extension of James Madison’s argument in Federalist 10, that “the most common and durable source of factions has been the various and unequal distribution of property.”³⁵

Our political system today embodies the problem of legal corruption. If we limit our understanding of corruption to what is illegal, how do we address what we might call the corruption of democracy? If money enjoys the same protection as speech (as decided in *Citizens United v. Federal Election Commission*), if our campaign laws accelerate and privilege the influence of big, often-anonymous donors, if political campaigns are judged first and foremost by how much money they raise, if laws in Washington are too often drafted using the exact language of lobbyists—are these not corrupt even if they are legal? Does our system have the capacity—or the will—to change this state of affairs?³⁶

LAMOREAUX: I think the exercise of definition is preventing us from seeing the broad areas of agreement in our answers. Jackson did not use the word *corruption* in his veto message, but he used innuendo to suggest that corruption was rife:

Suspicious are entertained and charges are made of gross abuse and violation of its charter. An investigation unwillingly conceded and so restricted in time as necessarily to make it incomplete and unsatisfactory discloses enough to excite suspicion and alarm. In the practices of the principal bank partially unveiled, in the absence of important witnesses, and in numerous charges confidently made and as yet wholly uninvestigated there was enough to induce a majority of the committee of investigation—a committee which was selected from the most able and honorable members of the House of Representatives—to recommend a suspension of further action upon the bill and a prosecution of the inquiry.

He then went on, two paragraphs later, to define the core problem as the grant of special privileges:

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

³⁴ Terry Galway, *Machine Made: Tammany Hall and the Creation of Modern American Politics* (New York, 2014).

³⁵ [James Madison], “Federalist Papers: No. 10: The Same Subject Continued the Union as a Safeguard Against Domestic Faction and Insurrection From the New York Packet,” Nov. 23, 1787, *Avalon Project: Documents in Law, History, and Diplomacy*, http://www.avalon.law.yale.edu/18th_century/fed10.asp.

³⁶ *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010).

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.”³⁷

This is a common rhetorical pattern from the time: attacks on privileges buttressed by charges (usually unspecific) of abuse and corruption. At the same time that early nineteenth-century Americans complained about grants of privileges, they tended to take for granted that governments dispensed favors. But by midcentury, when Indiana rewrote its constitution, that view was disappearing. Many types of legislative discretion were regarded as inappropriate. Indiana’s 1851 constitution declared that corporations “shall not be created by special act, but may be formed under general laws.” Yet it also prohibited special and local legislation in numerous areas, including the punishment of crimes and misdemeanors; the change of venue in civil and criminal cases; the granting of divorces; the change of persons’ names; the construction of highways; the assessment and collection of taxes; the sale by executors, administrators, guardians, or trustees of real estate belonging to minors or other persons laboring under legal disabilities. This list concluded with the statement: “In all the cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the State.” A debate occurred during the convention about whether a statement that all laws had to be general would suffice. To me, the delegates’ insistence on enumerating specific areas where there would be no more special legislation suggests a determination to root out whole categories of privilege.³⁸

JAH: Taking both the long view of the past and a broad perspective on the present, what have been the costs and who have been the victims of corruption in the United States?

HAHN: Prisoners and their families have been victims of the privatization of once-public services. I do not know if we established that as a definition of corruption, but it seems to be closely accurate. Soldiers, and other people who serve in the military, have probably also been on the receiving end of some shoddy goods. Certainly, aftercare for veterans has gone downhill considerably since the midcentury G.I. Bill.³⁹

BAKER: The classic answer was taxpayers and bondholders, who were stuck with the tab for 1870s railroads built or unbuilt, for the funds embezzled by “redeemer governments,” and for the William M. Tweed courthouse. Yet taxpayer revolts, of course, created their own set of costs.⁴⁰

³⁷ Jackson, “Veto Message against Rechartering the Bank of the United States.”

³⁸ For the Indiana State Constitution provision about corporations, see art. XI, sec. 13, Indiana State Constitution, 1851, *NBER/Maryland State Constitutions Project*, <http://www.stateconstitutions.umd.edu>. For the provision listing special and local laws prohibited, see art. IV, sec. 22, *ibid.* For the provision stating that laws should be general, see art. IV, sec. 23, *ibid.*

³⁹ Mark Boulton, *Failing Our Veterans: The GI Bill and the Vietnam Generation* (New York, 2014).

⁴⁰ Michael W. Fitzgerald, *Splendid Failure: Postwar Reconstruction in the American South* (Chicago, 2017); Mark Wahlgren Summers, *The Era of Good Stealings* (New York, 1993); Iver Bernstein, *The New York City Draft Riots: Their Significance for American Society and Politics in the Age of the Civil War* (New York, 1990).

I am running a short class on “gilded ages” for a program, OWLS (Older Wiser Lifelong Scholars), for retired people. In establishing what a “gilded age” might be, we picked apart definitions of corruption. One participant suggested that the current Environmental Protection Agency fell under the broad category of corruption. She had in mind not only the sorts of favors that the former administrator enjoyed, which would be classic corruption, but also the rolling back of Obama administration regulations. We launched into a discussion of whether we were really talking about corruption or instead about mere policy differences. Would evidence of cash or benefit payoffs be essential to determine corruption? Or does the fact that some people benefit from those policies, while others are more directly or diffusely harmed, meet the standard of corruption? If that is the case, would any policy, including the Obama administration’s, be corrupt?⁴¹

KLOPPENBERG: The costs of corruption have been incalculable. The victims include all citizens of the United States. As the architects of self-rule have understood since the first Englishmen to experiment with what they called “democracie” gathered in New England villages in the 1630s, popular government depends on trust. Unlike autocracies such as divine-right monarchies and military dictatorships, democracy functions best when authority is understood to rest with the people and when government is seen as doing the people’s business, embodying the people’s will. For that reason, evidence of corruption is corrosive. It saps the people’s confidence in the trustworthiness of the institutions of governance. I agree with Barbara Hahn that a persistent gap exists between the universalism proclaimed by Enlightenment thinkers and the partiality of the actual practice of government. That is why the title of my study of self-rule in Europe and America is *Toward Democracy*. Democracy is a horizon we can only approach. We never arrive because, as John Dewey argued, democracy is an ethical ideal, a way of life, more than merely a set of institutions.⁴²

One of the reasons Madison and others initially opposed the idea of a bill of rights is that they considered it self-contradictory: Why would the people, who control the government, need to protect themselves against themselves? By codifying the Bill of Rights, Americans defined government as something alien, a power that could be exercised against the people, a view rejected by many champions of the Constitution although fervently embraced by others. When Alexis de Tocqueville visited the United States in the 1830s and reflected on his experience in *Democracy in America*, he was struck by the difference between the vibrant associational life in New England towns and the torpor characteristic of civil society in his native France. Americans believed that they could shape and control their communities through formal institutions, such as town meetings and the juries on which they served, and through the informal groups they joined for multiple purposes. The bustle of that nonstop activity, which he witnessed throughout the North and on the frontier, was the lifeblood of democracy in America. Nothing equivalent existed in the southern states, Tocqueville thought, because slavery authorized hierarchical rather than egalitarian sensibilities, just as the persistence of monarchy, aristocracy, and a

⁴¹ “OWLS,” n.d., *Ohio Living*, <http://www.ohioliving.org/communities/ohio-living-westminster-thurber/about/owls>.

⁴² Kloppenberg, *Toward Democracy*, 61–93. On Dewey’s conception of democracy as an ethical ideal, see Kloppenberg, *Uncertain Victory*, 298–415; Kloppenberg, “Democracy and Disenchantment,” 69–90; Robert B. Westbrook, *John Dewey and American Democracy* (Ithaca, 1991); and Andrew Jewett, *Science, Democracy, and the American University: From the Civil War to the Cold War* (Cambridge, Eng., 2012).

particular form of Catholicism did in France. Evidence of corruption encourages citizens to see government as the French saw it, and as many Americans now see it—not as the people's own but as a power run by a small number of insiders for their own benefit. Of course, those who benefit, as contributors to this interchange have correctly pointed out, consider those benefits appropriate, necessary, and unproblematic. But repeatedly such arrangements have been rooted out, sooner or usually later, as a result of demands that everyone must play by the same rules. Whereas in Europe, centuries of experience with inherited privileges prevented people from challenging the rule of elites, in the United States the ideal of equality undergirded the founding documents and the notion that the rule of law applies equally to every citizen. (I hope it goes without saying that “every citizen,” for most of U.S. history has meant only white male property holders, but achieving even that limited degree of universality was an advance toward equality over the different kinds of legal status enjoyed by monarchs, aristocrats, and subjects in eighteenth- and nineteenth-century Europe.)⁴³

My point, then, is that corruption drags democratic government into a ditch by showing that insiders can access power and privileges not available to others. Whenever distrust replaces trust in the integrity of the persons and institutions of government, recovery is difficult, which is why periodic crusades against perceived corruption have tended to be so strident and why they have so often failed. When those accused of corruption are one's friends, it is easy to say “everybody does it,” and that complicity undercuts efforts to hold everyone to a higher standard. That dynamic has been at work at least since the Democratic Republicans and the Federalists, then the Whigs and the members of the Jackson party, extolled their own virtue and accused each other of corruption. Campaigns for civil service reform and city manager government in the late nineteenth and early twentieth centuries were, at least from the perspective of their partisans, attempts to restore (or achieve) respect for the law after it had been shown to be tarnished at all levels of government.

More recently, charges of corruption have been a central feature—perhaps the central feature—of U.S. public life. The willingness, even eagerness, of elected officials, from city councilmen to presidents, to benefit personally from the positions they hold, either during or after their terms in office, is now so completely taken for granted that former president Jimmy Carter's still-modest life in Plains, Georgia, seems bewildering to many because of its uniqueness. When Reagan proclaimed that government is the problem, not the solution, his words marked a watershed in American history. From that moment, distrust of all the activities of government, and, thus, the assumed illegitimacy of all taxes necessary to fund public services, has cast a shadow over American democracy. The evidence of venality, philandering, and self-dealing has mushroomed over the same decades. The maxim that the rules governing public service are different from those governing the private sector has been trampled. The idea that government is a swamp to be drained rather than a precious achievement has taken hold of the public imagination. People across the political spectrum have begun to see their opponents as enemies, traitors even, rather than people with whom they respectfully disagree. Efforts to uncover corruption in the rise of Bill Clinton go back thirty years now, and the cumulative effect of those efforts was visible in the 2016 presidential campaign. That there was not a whiff of corruption in the life or presidency of Barack Obama—or, to be fair, the governorship and candidacy of

⁴³ Alexis de Tocqueville, *Democracy in America*, ed. J. P. Mayer, trans. George Lawrence (New York, 1969).

Mitt Romney—did nothing to prevent their critics from charging them with all manner of unsavory, underhanded, and even illegal behaviors. We will have a chance to address the particularly egregious forms of personal and partisan corruption that we are currently witnessing later in this interchange. I want only to argue here that signs of corruption have a different kind of significance and pose a different kind of threat in a democracy because it depends so much on trust.⁴⁴

WITWER: When considering the costs and victims of corruption in U.S. history, it seems to me that we need to consider both the direct, practical effects of corruption where it has been endemic, and the political effect of corruption charges. Kloppenberg's post offers a compelling description of the latter, depicting a debilitating downward spiral of corruption charges that undercut the public's faith in government and in the democratic process, and plummeting us down to our current political morass. In my work on the history of union corruption, I have sought to highlight a similar political effect. The cumulative impact of corruption scandals, dating back to the 1940s, undercut organized labor's public image, leaving the movement vulnerable to legislative defeats. Those defeats stripped away key organizing tactics and, in turn, set the stage for a later employer counteroffensive that has had devastating results for American workers.⁴⁵

But I have always sought to balance this political analysis with an acknowledgement of the real, quotidian impact of corruption on the lives of workers who labored in settings where corruption was endemic. In letters to journalists and congressmen pleading for intervention, and in interviews with investigators, I encountered union members who laid out how sweetheart contracts and backroom deals betrayed their trust and laid extra burdens on an already-overburdened workday. That the least powerful in society are most often the victims of such corruption is one reason the charge has proved so potent for political use. Populists from Pegler to Trump have raised an issue to which they know their constituents can relate: the rigged system that sacrifices their interests to those of the better connected. My point here is that the political potency of this issue stems from the real experience of corruption that average Americans have encountered in all kinds of settings, including their working lives. Here in Pennsylvania, recent exposure of the Catholic Church's role in covering up abuse cases by priests offer one more example of the harm corruption imposes on the most vulnerable and why corruption as an issue has so much power. It is a reality that the electorate encounters repeatedly in the news, and that reality fosters the disillusionment and cynicism that shapes our political landscape.⁴⁶

LAMOREAUX: Taking a long view, I think it is uncontested that the elimination of what Wallis has called systematic corruption (that is, ruling elites' award of special privileges to maintain their political dominance) improved people's lives by making possible sustained economic growth. That does not mean, of course, that everyone has been made better off, but living standards in general rose dramatically. What Wallis calls "venal corruption" is much more difficult to assess. I think the answer depends on the magnitude (Plunkitt's

⁴⁴ In his inaugural address, President Ronald Reagan declared that "in this present crisis, government is not the solution to the problem; government is the problem." "Ronald Reagan 1981 Inaugural Address," Jan. 20, 1981, *C-SPAN*, <https://www.c-span.org/video/?182163-1/president-reagan-1981-inaugural-address>.

⁴⁵ David Witwer, "The Racketeer Menace and Antiunionism in the Mid-Twentieth-Century U.S.," *International Labor and Working-Class History*, 74 (Fall 2008), 124–47.

⁴⁶ David Witwer, *Shadow of the Racketeer: Scandal in Organized Labor* (Chicago, 2009), 103–17.

distinction between honest and dishonest graft) but even more on the specifics. In the absence of an adequate social safety net, corruption that provides welfare services to the poor in exchange for political support may not be on net harmful. But corruption where government officials turn a blind eye to actions that pollute public water systems or lead bridges to fail obviously does much harm. My sense is that the amount of venal corruption in the United States has ebbed and flowed over time. It can, of course, undermine faith in democratic institutions, but I wonder how important that effect ultimately is relative to other factors. Obama's squeaky-clean administration did not seem to counter the general public cynicism about government, and I am not sure that the rampant corruption we are seeing from Trump is having much effect in the other direction.⁴⁷

HAHN: I was struck by Naomi R. Lamoreaux's remarks about "government officials turn[ing] a blind eye to actions that pollute public water systems or lead bridges to fail"—how much work it takes to prevent bridges from failing and how many standards and laws it takes to keep water clean. While those things have to be in place to be corrupted, I wonder if corruption is what prevents them from being decided and enacted in the first place. Maybe there are other ways than corruption for a system to fall apart.

JAH: Should the history of corruption in the United States be periodized, and, if so, why and how? Are there eras or epochs in U.S. history in which the nature and consequences of corruption have so fundamentally differed that they require distinctive treatment?

WITWER: I think one could periodize corruption by looking at how different eras in American history framed the threat posed by corruption. Corruption matters in different ways in different eras, according to Americans' changing understanding of society's vulnerability. In the Cold War era, my area of focus, growing union power combined with a fear that moral complacency was spreading across society, leaving the country vulnerable to the unrelenting Soviet threat. Corruption scandals, from college basketball to radio payola, were framed as symptoms of the country's vulnerability, its declining moral and physical vigor, and its lack of unity. Thus, when Robert F. Kennedy summed up the threat of labor racketeering in his 1960 book *The Enemy Within* he put it in the context of the other contemporary scandals, such as the one surrounding quiz shows, to argue that, "corruption, dishonesty and softness, physical and moral, have become widespread in this country." Corruption was significant, Kennedy argued, because the nation faced a "period of heightened international competition," in which our enemies constantly looked for signs of weakness. "Premier Khrushchev has said that we are a dying house, a decadent society," Kennedy warned. And corruption scandals, such as the ones uncovered in the labor movement, threatened to validate Nikita Khrushchev's denunciation, Kennedy asserted, by demonstrating that "dangerous changes are taking place in the moral fiber of American society."⁴⁸

Half a century earlier, Progressive Era muckrakers such as Lincoln Steffens, argued that corruption mattered because America's democratic institutions were under threat from

⁴⁷ Wallis, "The Concept of Systematic Corruption in American History." Riordan, *Plunkitt of Tammany Hall*.

⁴⁸ Lee Bernstein, *The Greatest Menace: Organized Crime in Cold War America* (Boston, 2009). Michael Kazin, *The Populist Persuasion: An American History* (Ithaca, 2017); Robert F. Kennedy, *The Enemy Within* (New York, 1960).

the social and economic changes wrought by the urban and industrial revolution. In *The Shame of the Cities* Steffens argued that corruption threatened to “turn our municipal democracies into autocracies and our republican nation into a plutocracy.” Like Kennedy, Steffens put municipal corruption scandals into the broader context of other types of corruption, including union corruption, arguing that corruption was a prevalent phenomenon across society. Steffens warned that corruption was a “common practice,” with an effect that “is literally to change the form of our government from one that is representative of the people to an oligarchy, representative of special interests.” In other eras, Americans fretted over other vulnerabilities, and framed corruption accordingly; that pattern could form the basis for periodization.⁴⁹

HAHN: I like the idea of using traditional periods and seeing how people during those times conceptualized corruption, which is what I think David Witwer is suggesting. That may make more sense than coming up with a single definition, as we have tried to do. But my current book project reaches its climax with the repeal of the Corn Laws in 1846. And my first book found that moment in the 1914 Federal Warehouse Act, and my second got there with the 1914 Cotton Futures Act. (You know you are an agricultural historian when . . .)⁵⁰

I tend to structure historical narratives around laws, scandals, and legislative efforts. That might be a reasonable way to periodize corruption that is true to the historical actors’ conception of the word. It seems to capture a moment when they agreed something was wrong. I would start with the XYZ affair. High points along the way would include Whig mendacity over internal improvements (as written about by John Lauritz Larson) and those midcentury state constitutions. We would perhaps hit the three-quarter mark at the Sherman Anti-Trust Act.⁵¹

LAMOREAUX: At the risk of sounding repetitive, I think Wallis’s distinction between systematic versus venal corruption is a useful starting point. Systematic corruption is the distortion of the economic system in service of political domination, and venal corruption is basically the reverse, or as Richard L. McCormick put it a long time ago, “the discovery that business corrupts politics.” In the case of the United States, systematic corruption has a definite periodization in that it was largely eliminated by the mid-nineteenth-century state constitutional revisions mandating general laws. A relatively small number of other countries went through similar transformations in different ways and at different times. In most of the rest of the world, however, systematic corruption is still pervasive. Venal corruption is, in my view, much more difficult to periodize. It ebbs and flows and, at different times, affects different levels of government and different sectors of activity. In the case of the United States, the shift in the means of remunerating government employees from fees to salaries mattered (as Nick Parrillo has documented) as did civil service reforms and the formalization of ethical

⁴⁹ Lincoln Steffens, *The Shame of the Cities* (New York, 1904), 12, 24.

⁵⁰ Barbara Hahn, *Technology in the Industrial Revolution* (Cambridge, Eng., forthcoming). P. J. Cain and Antony G. Hopkins, *British Imperialism: 1688–2015* (New York, 2016), 87–91. Federal Warehouse Act of 1914, 7 U.S.C. sec. 241–273.2 (1914). United States Cotton Futures Act of 1914, 38 Stat. 693 (1914).

⁵¹ Carol Berkin, *A Sovereign People: The Crises of the 1790s and the Birth of American Nationalism* (New York, 2017). John Lauritz Larson, *Internal Improvements: National Public Works and the Promise of Popular Government to the Early United States* (Chapel Hill, 2001). Sherman Antitrust Act, 26 Stat. 209 (1890).

standards for government officials and employees. So, evidence exists for a trend toward improvement over time.⁵²

But I think McCormick was on to something when he highlighted the concern for corruption in the Progressive Era, which resulted from the rise of large-scale business organizations, and documented the flurry of reforms, especially campaign finance laws, enacted in response. These reforms have largely been undone in recent years, and we seem to be enmeshed in another era of rampant corruption. The big question for me is whether we are also at risk of slipping back into a world where systematic corruption is endemic. There are certainly worrying signs, for example the businesses' individual abilities to secure exemptions from tariffs imposed by the Trump administration.

JAH: What have been the histories of reform or anticorruption in the United States, and what aspects of those histories are most useful to the present moment?

WITWER: From my viewpoint, the current political moment reminds us of how the label “anticorruption” can be easily adopted to mount politically motivated attacks on one’s opponents. Trump’s campaign rhetoric often invoked anticorruption, with repeated promises to “drain the swamp” of Washington, D.C., corruption and insider dealing; once in office, however, the president has made no real effort to pursue such an agenda. Instead, he and his supporters have sought to mobilize the investigatory process to achieve partisan gains and delegitimize institutions, such as the FBI, which they see as a threat. The current administration did not invent this tactic, nor is the Trump administration alone in its use today. China’s current leader has been using similar tactics to eliminate potential threats to his rule. Mark Wahlgren Summers, in his study of anti-corruption in the post–Civil War era, argues that the corruption issue served the interests of groups who opposed Reconstruction and who sought to strictly limit the role of the government. Summers acknowledges that corruption existed, but he asserts that its scale was exaggerated to achieve political ends. I make a similar argument in regard to the history of union corruption in the wake of organized labor’s rebirth in the New Deal era. Endemic corruption did exist in some unions, but organized labor’s opponents exaggerated its extent to curb union power.⁵³

Anticorruption is a forceful way to label an opponent’s power as illegitimate. Because of its potency as a tactic, groups across the political spectrum have tended to adopt the banner of anticorruption when it serves their needs. For instance, conservative opponents of the New Deal, such as the newspaper publisher Roy Howard, avidly sought to unearth corruption scandals that would vindicate their denunciations of Franklin D. Roosevelt’s administration. For his part, FDR dispatched investigators from the Treasury Department—the same group that had earlier brought down Al Capone—to Louisiana to prepare corruption charges that might bring down Huey Long, who was becoming a prominent critic of the New Deal.⁵⁴

⁵² Wallis, “Concept of Systematic Corruption in American History.” Richard L. McCormick, “The Discovery That Business Corrupts Politics: A Reappraisal of the Origins of Progressivism,” *American Historical Review*, 86 (April 1981), 247–74. Nicholas R. Parrillo, *Against the Profit Motive: The Salary Revolution in American Government, 1780–1940* (New Haven, 2013).

⁵³ Summers, *Era of Good Stealings*. Witwer, *Shadow of the Racketeer*.

⁵⁴ Witwer, *Shadow of the Racketeer*, 152; Thomas Stokes, *Chip off My Shoulder* (Princeton, 1940). Albert Fried, *FDR and His Enemies* (New York, 2015); Elmer Irey, *The Tax Dodgers* (New York, 1948), 96–117.

Does this mean that all anticorruption reform efforts have grown out of nothing more than political maneuvering? I think not, and systematic and venal corruption, as Lamoreaux has referenced, strike me as useful categories to describe such corruption. Just as real corruption exists and produces real harms to real victims, so too do legitimate reform movements emerge out of outrage over particularly egregious cases of corruption. Thomas Dewey's campaign as a special prosecutor in New York in the mid-1930s offers an example of such an anticorruption effort. Such examples, however, bolster the claims of other putative anticorruption campaigns, with more partisan goals. In our current political environment, I fear, many voters have become bewildered by the constant stream of conspiratorial corruption charges and are prone to accept uncritically the partisan use of anticorruption rhetoric, which resembles Senator Joseph McCarthy's political use of anticommunism.

KLOPPENBERG: "Corruption's such an old song that we can sing along in harmony. And nowhere is it stronger than in Albany." With those words in one of the most memorable numbers in *Hamilton: An American Musical* (2015), Lin Manuel Miranda both motivates Alexander Hamilton's decision to pursue a career in public service and encapsulates an ancient anxiety. The complaint that government becomes corrupt when those in power put their own interests ahead of the public's is as old as Aristotle's *Politics* and as fresh as the morning news. So is the anxiety that insiders can find a way to feather their nests by manipulating the levers of law and government, a technique perfected in recent decades, in different ways, by widely admired investment bankers operating behind the scenes and by a shady real estate tycoon turned politician. From the beginning of this interchange, I have argued that corruption should be seen as a threat to self-governance whether it proceeds from officials distorting the law to dispense favors or from private interests successfully bending public authority either to do their bidding or to evade legal constraints. Both public corruption and private corruption undermine citizens' indispensable commitment to respecting and obeying the law, the fundamental quality of stable government.

In his 2018 Harvard University doctoral dissertation, "Corporate America: A History of Corporate Statehood since 1629," Niko Bowie demonstrates the continuity, from the Massachusetts Bay Company to the present, of debates concerning the nature and responsibility of corporations. In contrast to monarchical and aristocratic governments, representative democracies have always conceived of government as the organ of popular authority, to be exercised by representatives chosen by the public, whose interest they have a responsibility to protect. That model was embodied in the earliest corporate charters as well as the founding documents of most towns and colonies. It provided the template for public and private governmental forms from the seventeenth through the nineteenth centuries, and it was invoked in the critiques of corporate malfeasance that stretched from William "Big Bill" Haywood's and Louis Brandeis's calls for industrial democracy in the Progressive Era to the reforms of the New Deal. Not until the Supreme Court's 1978 decision in *First National Bank of Boston v. Bellotti*, written by the notorious Justice Lewis Powell, did the idea that corporations could enter directly into the wider political sphere achieve legal standing. That ruling was cited thirty times in *Citizens United*, the decision that legitimated the infusion of unlimited corporate money into elections and referenda. As old as the debate about the proper relation between corporate self-governance and

politics is, our current situation, at least when viewed from the perspective of several centuries, seems anomalous.⁵⁵

The understandable inclination to let one's favorite politicians and causes off the hook and blame the opposition for corruption has fed the now-widespread cynicism that has infected people at all points on the political spectrum. Republicans since Reagan have argued that government is the problem and that individual initiative, unchecked and unregulated, is the solution. Democrats have argued that corruption stems instead from private power, which must be hemmed in rather than protected from public authority. Since the late 1970s, as is widely known, the changes in the American economy, including both deregulation and declining tax rates, have benefitted a small number of wealthy Americans while the vast majority has, for the first time in U.S. history, failed to see any improvement in their real income. Although those changes have come as a result of perfectly legal steps taken by the administrations of Reagan, George H. W. Bush, George W. Bush, and Clinton, they have undeniably increased the power and the wealth of a tiny minority of Americans and effectively minimized the political role of everyone else. The systematic targeting of African Americans by urban police forces and by the legal system, and the breathtaking rise of the prison industrial complex in the last half century, are other forms of "legal" corruption. While I am not sure any of those would be considered examples of systemic or venal corruption in the framework that has been offered in this interchange, the public's inability or unwillingness to do anything about any of those developments, and the remarkable persistence of voting patterns rooted in post-1960s cultural conflicts rather than economic or political conditions seems to me a reflection of the domination of twenty-first-century American public life by corporate money and power.

The results of that domination—that corruption of the public realm—are not hard to see: the suppression of voting by those thought likely to challenge the status quo, the systematic gerrymandering accomplished by the state legislators elected thanks to the infusion of big money, the continuing shrinkage of the percentage of Americans who belong to unions or hold jobs with benefits; and the accelerating degradation of the environment. An increasingly libertarian, dog-eat-dog sensibility has infected American culture in the last fifty years, with the predictable consequence that insiders equipped with the tools necessary to prosper have accumulated ever-larger shares of wealth and power while everyone else has slipped further toward subsistence and powerlessness. From my perspective, those forms of corruption constitute a threat to American democracy as serious as any others.

That is not to say that the more glaring forms of corruption practiced daily by members of the Trump administration do not deserve our attention. David Leonhardt and Ian Prasad Philbrick have provided the most recent of many attempts to keep track of the egregious flauntings of convention, and often the law, in their October 2018 *New York Times* article "Trump's Corruption: The Definitive List." Examples of self-dealing by the president and his family and cabinet members have piled up in multiple domains, including payments to the president's hotels by foreign governments and payments to Trump properties by American officials and citizens, all of which constitute a clear violation of the Constitution's emoluments clause; the use of presidential power to benefit foreign

⁵⁵ Niko Bowie, "Corporate America: A History of Corporate Statehood since 1629" (Ph.D. diss., Harvard University, 2018). *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978).

governments, corporations, and individuals doing business with Trump; the use of the presidency as a “branding opportunity” for the president’s family and friends; the use of taxpayer funds to subsidize the lavish lifestyle of Trump and his family; a laundry list of misdeeds committed by members of his cabinet; and finally, and perhaps most unsettling of all, at least according to Leonardt and Philbrick, the failure of Congress to rein in any of those excesses or police the abuses of office.⁵⁶

Whether the Congress elected in 2018 will show more backbone remains to be seen. At this stage, however, it seems safe to suggest that President Trump will leave a legacy not only of vulgar norm busting but also of corruption unprecedented in U.S. history. A lot will ride on what comes next: Will his tawdry record establish a new normal, or will it inspire his successors to return to, and uphold, the earlier standards of propriety to which U.S. presidents—including those with permanently tarnished reputations (Ulysses S. Grant, Warren G. Harding, Nixon, and Clinton immediately come to mind)—have been held? Historians quite properly refuse the temptation of trying to predict the future. Yet simply placing Trump’s presidency in the context of all those that have come before is enough to make clear that his stands to be the most corrupt administration in all of U.S. history. So far.

⁵⁶ David Leonhardt and Ian Prasad Philbrick, “Trump’s Corruption: The Definitive List,” *New York Times*, Oct. 28, 2018.