

Defenders of Crony Capitalism: Why Historians Ridicule Andrew Jackson

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This year is the 200th anniversary of one of the most corrupt organizations in American history: the Second Bank of the United States. This organization is beloved by the vast majority of historians. It is close to untouchable. The American establishment in the broadest sense reveres this institution. Yet it was the central institution of American crony capitalism for two decades, 1816–36.

Today, we see a similar phenomenon. Within the American establishment, one institution remains beyond reproach, or close to it: the Federal Reserve System. It is the only institution of which official apologists of democracy say with a straight face: “The Federal Reserve System’s great benefit is that it removes the nation’s monetary policy from the control of politics.” This is surely an accurate assessment of the FED’s independence from Congress. And it is surely a benefit from the point of view of the spiritual heirs of the crony capitalists of the periods 1791–1811 and 1816–36.

The only exception to this choir of praise is the supposed failure of the Federal Reserve from 1930 to 1933 to expand the money supply by expanding the monetary base. This was Milton Friedman’s accusation back in 1963, in his jointly written book, *A Monetary History of United States*. As a matter of fact, he was wrong. The Federal Reserve did expand the monetary base, but the number of banks that went bankrupt offset this expansion. So, M1 declined by one-third, despite the fact that the Federal Reserve was expanding the monetary base. I have provided the evidence here:

<http://www.garynorth.com/public/6153.cfm>

With this lone exception in the FED’s history, which has now become universal in economic history monographs, American history textbooks, and financial websites, the Federal Reserve has remained untouchable. The academic guilds accept the legitimacy of this institution, and they regard any suggestion that it is a liability economically as nothing short of crackpottery.

This outlook has dominated American historians’ consideration of the two previous banks in United States history, conveniently called the First Bank of the United States and the

Second Bank of the United States. The first one operated from 1791 until 1811, and the second one operated from 1816 until 1836.

HAMILTON'S BANK

The First Bank of the United States was promoted by Alexander Hamilton in 1791. He wanted to centralize American political power in the hands of the federal government. To achieve this, he wanted a large federal debt and a central bank. He got his way. The central bank received a monopoly of control over the issuing of original credit; nevertheless, this bank was privately owned. There was a token ownership of shares by the national government, but most of the profits went to the shareholders. In other words, it would have the full trappings of federal sovereignty, but in fact would be run for the benefit of the insiders who invested in it, and also for those businessmen who borrowed from it in order to fund entrepreneurial ventures.

James Madison, who co-authored the *Federalist Papers* with Hamilton, presented himself initially as a man who wanted only moderate centralization of power. When the Federalist Congress passed the Alien and Sedition Acts in 1796, he and Jefferson anonymously wrote protests, known today as the Kentucky and Virginia resolutions. Madison called for a kind of civil resistance, although he was vague about exactly what ought to be done.

As soon as he got into the White House, he became a centralist. He persuaded Congress to start a war with Great Britain. His timing was off. A few weeks before he signed the declaration of war, Parliament had rescinded the orders. The news arrived after the war had begun. Madison immediately ordered the invasion Canada, which failed, just as Gen. Washington had in 1775.

He had opposed the First Bank of the United States before he got into power, but once he was in power, he advocated the re-chartering of the Bank, whose charter would automatically lapse in 1811. His Secretary of the Treasury strongly recommended the extension of the charter. Albert Gallatin had gotten his start politically as a protester against the whiskey tax of 1792, and he had been involved in the resistance movement that Hamilton had labeled the Whiskey Rebellion. But, once in power, he became a centralist. He became the great advocate of the re-chartering of the First Bank. That attempt lost by one vote in the Senate. The Vice President voted against re-chartering the Bank in a tie vote in the Senate.

MADISON'S BANK

In 1816, the final full year of Madison's administration, Madison and Gallatin persuaded Congress to create a replacement central bank, which is remembered today as the Second Bank of the United States. As with the first bank, it was privately owned. Here is a standard description of the second bank that appears on Wikipedia.

The Second Bank of the United States, located in Philadelphia, Pennsylvania, was the second federally authorized Hamiltonian national bank in the United States during its 20-year charter from February 1816 to January 1836. The bank's formal name, according to section 9 of its charter as passed by Congress, was "The President, Directors, and Company, of the Bank of the United States."

A private corporation with public duties, the bank handled all fiscal transactions for the U.S. Government, and was accountable to Congress and the U.S. Treasury. [This is nonsense. The government exercised zero control, just as it had with the First Bank. This is the standard Party Line in academia: pretending that privately owned central banks were in any way inhibited by Congress. The same nonsense is standard today in discussion of the Federal Reserve.] Twenty percent of its capital was owned by the federal government, the bank's single largest stockholder. Four thousand private investors held 80% of the bank's capital, including one thousand Europeans. The bulk of the stocks were held by a few hundred wealthy Americans. In its time, the institution was the largest monied corporation in the world. [This is accurate. It was the ultimate crony capitalist institution of that era.]

The essential function of the bank was to regulate the public credit issued by private banking institutions through the fiscal duties it performed for the U.S. Treasury, and to establish a sound and stable national currency. [Again, this is the standard hype. In fact, the Second bank was wildly inflationary. Its inflation, 1816–1818, led to the first boom-bust cycle in American history, ending with the panic of 1819. It repeated this, 1834–36. In this case, however, it was the deliberate policy of the head of the Bank, Nicholas Biddle, to plunge the nation into recession. He did it to embarrass President Andrew Jackson, who had vetoed a bill to re-charter the Bank in 1832.] The federal deposits endowed the BUS with its regulatory capacity. [This is accurate]

Modeled on Alexander Hamilton's First Bank of the United States, the

Second Bank was chartered by President James Madison in 1816 and began operations at its main branch in Philadelphia on January 7, 1817, managing twenty-five branch offices nationwide by 1832.

It is the standard Party Line in the textbooks to portray Jackson as an economic ignoramus for opposing the Second Bank in 1832. The lone exception in this was Murray Rothbard, who wrote his Ph.D. dissertation in 1956 on the panic of 1819. This was published by Columbia University Press in 1962: *The Panic of 1819*. It immediately became the definitive historical monograph on the panic. It received praise in the academic journals – the only book by Rothbard to do so. He traced Jackson's hostility to the Bank back to this incident. This was the birth of the Jacksonian movement.

JOHN MARSHALL: CENTRALIST

The most important person in the federal government in the first half of the 19th century was Supreme Court Chief Justice John Marshall. He was appointed Chief Justice in the final days of John Adams' administration, and he served from 1801 until his death in 1835. He was a centralist. He was a Federalist. He wrote approximately half of all of the decisions handed down by the Court during this period.

He wrote the two most famous opinions in the Court's first half century. One was *Marbury v. Madison* (1803), in which Marshall affirmed the doctrine of judicial review of Congress and the President by the Supreme Court. This had been implied by the Constitution, but it had not received definitive acceptance. The second case, far more important, was *McCulloch v. Maryland* (1819). This decision declared the constitutionality of the Second Bank of the United States, which had received implicit constitutionality because of the First Bank of the United States, which had not been challenged constitutionally during its 20 years of existence.

The textbooks never reveal the origin of this court case. The textbooks tell us that an official at the Baltimore branch of the Second Bank refused to pay a tax imposed by the government of Maryland on this branch of the second bank. The textbooks do not tell us that James McCulloch and the other senior official at the bank, James Buchanan, had borrowed something in the range of half a million dollars (1819 dollars, worth at least \$15 million today) of the Bank's money in order to invest in the real estate boom that the Bank had fostered through an expansion of the monetary base. In 1819, there was a collapse of land prices in the panic, and McCulloch and his partner faced bankruptcy. In those days, you went to debtors' prison for bankruptcy. McCulloch desperately needed time to repay the bank, and the tax threatened the solvency of the bank. It was likely to be audited by the main branch.

So, McCulloch refused to pay the tax. The case went to the Supreme Court. The bank's case was argued by the most famous orator of the era, Daniel Webster. Webster was the chief publicist of the bank, and he served on the board of directors of the Boston branch. He was extremely well paid for his services. It was he who coined the phrase, lifted by Marshall: the power to tax is the power to destroy. But the context was this: the power of the state to tax the Bank was the power to destroy the Bank, which Webster insisted was a government agency. So, the state had no right to tax this government agency.

It was not a government agency; it was the largest financial corporation in the United States.

This is where it gets interesting. Arguing in favor of the state's right to tax the Bank was Joseph Hopkinson. Nobody remembers Joseph Hopkinson today. He had recently become a private citizen. He had served in Congress.

He argued against the bank on several grounds, including its constitutionality. But the key argument that he made was this one: a private, profit-seeking Corporation is subject to state taxation. In fact, he went further than this. He argued that any federal government agency could reasonably be taxed, except those associated with explicit constitutional authorization: "Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings."

He also argued that the government had no right to create a corporation. That was a hopeless argument, since the First Bank United States had been a government corporation. In fact, in the first 50 years of the nation's history, only two corporations were ever created by Congress: the two Banks.

Hopkinson and his argument on the unconstitutionality of imputing to a private corporation the national sovereignty of the federal government went down the memory hole. John Marshall made sure of this. He refused to respond to Hopkinson's argument in his final statement. He focused on the issue of incorporation, which was easy to do. He referred back to the First Bank.

He then said that state governments had no right to tax any institution of the national government. The Constitution said no such thing. Marshall's obiter dicta established this principle, and it has never been violated since then. This established *final sovereignty* in the federal government. Critics of the decision understood this from the beginning, and Andrew Jackson never accepted it. He was not alone in his refusal to accept it. The final sovereignty of the federal government became an unbreakable tradition at Appomattox Court House in April of 1865.

Alexander Hamilton had always believed that final sovereignty lodged in the national government. He restrained himself, and he did not say this as clearly as he believed it when he wrote his *Federalist Papers*. He knew better than to argue this way, because it might have undermined the case for ratifying the Constitution. It was John Marshall who, on his own authority, made this the law of the land.

Marshall summarized in detail all of the arguments made by all of the lawyers on both sides of this case. This is why we know what Hopkinson said. But this portion of the decision was not reprinted in books dealing with the decision during the 20th century. Only in specialized research law libraries could historians find Hopkinson's argument. Marshall self-consciously refused to mention it in his final opinion. It disappeared from public view immediately.

I discovered it only because of the World Wide Web. The complete transcript was reprinted a few years ago.

BIDDLE'S BLUNDER

In 1832, Nicholas Biddle decided that he had a majority of support in both houses of Congress. He persuaded Henry Clay and Daniel Webster to introduce a piece of legislation that would extend the charter of the Second Bank by 15 years. Otherwise, the charter would automatically expire in 1836.

Webster had been on the payroll of the Second Bank from the beginning. Henry Clay had lost \$40,000 in the panic of 1819, but the Second Bank intervened. It hired him repeatedly to argue cases, and he received multiples of \$40,000 as a result. So, these two politicians were legally on the take. There was nothing neutral about their support. Prior to 1816, Webster had publicly opposed the creation of the Second Bank. But he surely took advantage of it when he had the opportunity.

Biddle decided that he had better get the extension through Congress while he still could. This was a politically fatal miscalculation. He forgot about the ability of Jackson to veto the bill. The moment Jackson vetoed the bill, Biddle and his political supporters would have to get a two-thirds majority in both houses of Congress. He did not have this majority.

Then Henry Clay made a huge mistake. He decided to run against Jackson for President, and he made the Bank his primary platform. He did not think the public would turn against him and vote for Jackson, once they realized that Jackson had opposed the extension of the charter. He was wrong.

In the first half of the 19th century, American voters paid a lot of attention to the issues of banking. Enough of them understood the threat of central banking to their own financial sovereignty to constitute a major political voting bloc. Jackson won overwhelmingly in November.

What is never discussed in the textbooks or even the monographs is this: *Jackson's veto reproduced many of the arguments that Hopkinson had originally presented to the Supreme Court.* There was consistency between the opposition to the bank in 1819 and in 1832. This indicates that the arguments were commonly understood at the time.

The central argument that Hopkinson had raised was this: Congress had created a monopoly for the bank in the United States, despite the fact that the bank was privately owned and run exclusively for the benefit of the shareholders. Yet it had been vested with political sovereignty, which the bank claimed immunized against all forms of taxation by any government except the federal government. The federal government paid no attention to the Bank, and never attempted to impose a tax on it.

I am not suggesting that Andrew Jackson wrote the highly detailed veto. But he approved of it. He signed it. It was consistent with the Jacksonian movement's opposition to the Second Bank, beginning in 1819. There was a consistent set of principles of the Jacksonians that led directly to Jackson's veto.

Rarely is any graduate student assigned the complete text of the veto. Occasionally a few sentences are cited in a textbook or monograph. But the heart of the argument of the veto was that the *states did have the right to tax the Bank*, just as they had the right to tax any corporation. It was an argument that denied the constitutionality of the Bank's supposed sovereignty as an agency of the national government.

I have never come across an article or book that made the connection between Hopkinson's arguments and the arguments of Jackson's veto. There is probably some book out there, or some article in an obscure academic journal, that makes the connection, but I have been unable to find it. Hopkinson has been forgotten for so long, and the existence of John Marshall's summaries of the lawyers' presentation has been forgotten for so long, that nobody else has made the connection. Had I not had to read these documents in preparing two lessons for my American history course in the Ron Paul Curriculum, I would never have recognized this. It was only when I finally read the veto, on August 11, 2016, that what I should have been taught as a graduate student in 19th-century American history became clear to me. That was because I had gone through Hopkinson's arguments two weeks earlier for my lesson on *McCulloch v. Maryland*.

The historical profession has been blind for 200 years to the extraordinary power of

America's wealthiest men in the first third of the 19th century. Hamilton understood fully in 1791 that by consolidating the debts of the states, he would gain support of the leading investors of the country. He said this at the time. He did not go public with what he knew, namely, that the insiders who would invest in the First Bank of the United States would reap enormous rewards because Congress and the government had invested the Bank with the constitutional sovereignty of the national government, despite the fact that it was a profit-seeking corporation.

The man behind this in 1816 is probably the most important American in the first half of the 19th century that nobody has ever heard of. That man was Steven Gerrard. He ran the Gerard bank in Philadelphia, a solely owned proprietorship. He put up his personal fortune to buy bonds issued by Madison's government during the War of 1812. He was the main shareholder of the Second Bank of the United States. He died in 1831. This was the year before his employee, Nicholas Biddle, made a disastrous decision to try to get an extension of the Bank's charter.

Steven Gerrard was the richest man in America from 1810 until his death in 1831. He assembled the richest people in the country, such as John Jacob Astor, to fund the Bank. These people were not required to put gold and silver in the bank, as originally had been promised. Instead, they were allowed to buy in by putting up the bank's own shares, which they purchased with their own fiat money funds or borrowed funds. So, there was little gold or silver in the Bank. Then it started buying government bonds, and the branch banks began lending money to land speculators.

The two banks represented the most important examples of crony capitalism in 19th-century America. It was fully consistent with the crony capitalism that had been created in Great Britain in 1694 by the Bank of England.

The same crony capitalism governed the creation of the Federal Reserve in 1913. The Board of Governors is officially an agency of the government, but the 12 regional Federal Reserve banks are not. They are private. We know this simply by going to their websites. They are all .org. Only the Board of Governors is .gov.

From 1914 until the present, the head of the Board of Governors has told Congress what needs to be done, and Congress dutifully does whatever he or she says to do. The FRB is in charge; Congress is not. This pattern has not changed since 1791.

The great reversal came in 1832. The crucial document of this reversal was Jackson's veto of the bank. This is why I assign it to the students who take my course. Given the importance of that veto, and given the fact that there was no replacement of that bank until 1913, I regard Jackson's veto as the most important document issued by any

President in defense of limited government and personal liberty. This is why it is not assigned to students in the public schools, and never has been. This is why it is not assigned to graduate students who take graduate courses in 19th-century American history. It is easier to dismiss Jackson as an economic ignoramus than it is to read his veto in the light of the concept of the separation of federal sovereignty and central banking.

The good guys won that battle. In the year 1835/36, the United States government had zero debt. At the end of 1836, it had no central bank. That was a shining year in American history.

The Second Bank automatically became a private bank in February of 1836. It fell on hard times. Biddle resigned in 1839. It went bankrupt in 1841. Without its monopoly, it was just another overextended fractional reserve bank. It shut its doors in 1841. Biddle died in 1844, embroiled in civil suits. Jackson died in 1845.

Here is the complete text of his veto.

<http://www.garynorth.com/JacksonVeto.pdf>

Here is my analysis of Hopkinson's text.

<http://www.garynorth.com/Hopkinson.pdf>

Here is a word for word comparison between Hopkinson's legal brief and Jackson's veto.

<http://www.garynorth.com/HopkinsonJackson.pdf>

If you go to the trouble of reading these, you will understand the nature of the Federal Reserve system and the nature of crony capitalism that has prevailed since the FED opened for business in 1914.

The academic guild, leftist to the core, has been in favor of central banking ever since the Progressive era. They understand that the central bank is basic to the centralization of power in Washington, DC. They favor the centralization, and they do whatever they can to defend it, beginning with their defenses of the First Bank of the United States, and extending to the Second Bank. They ridicule the opponents of the Second Bank, just as they ridicule the opponents of the Federal Reserve today. They do not understand that the crony capitalism they officially oppose is the product of central banking more than any other institution. This was true in 1791, and it is true today.