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## The Rise of Institutional Mortgage Lending in Early Nineteenth-Century New Haven

**ABSTRACT.** This Note presents a case study in local financial development, placing particular emphasis on the role of local political institutions in facilitating economic growth. It presents original primary research on mortgage lending in New Haven, Connecticut in the early nineteenth century. Before 1837, lending institutions primarily made loans to the city's social and economic elite. But a shift occurred in the market at 1837: lending institutions abruptly began to make significant volumes of mortgage loans to non-elite individuals with less wealth and social standing. The Note argues that this change was driven partly by lending by the Town of New Haven itself, which established a Town Deposit Fund with federal and state support. As the first mortgagee to lend to a broad range of individuals, the Town expanded the city's mortgage market and contributed to its economic development.

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## INTRODUCTION

Financial institutions promote economic development. Empirical economic research has established that the presence of financial intermediaries leads to wealth creation.<sup>1</sup> While theorists have long disputed whether financial institutions are a cause or effect of economic growth,<sup>2</sup> the balance of the argument has tipped in favor of those recognizing a causal role for banks and other financial intermediaries.<sup>3</sup> The last few centuries have borne out the wisdom of Alexander Hamilton: “[m]ost commercial nations have found it necessary to institute banks; and they have proved to be the happiest engines that ever were invented for advancing trade.”<sup>4</sup>

Where these happy engines come from is much more of a mystery. A lively scholarly debate continues over which factors contribute, or are essential, to the creation of sound financial institutions.<sup>5</sup> This debate is not merely academic: much of humanity lives without financial institutions or substantial economic development. If the current debate produces coherent accounts of how and why financial institutions form, then these insights could inform legal and policy choices in the many jurisdictions seeking to promote economic development.<sup>6</sup>

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1. See Robert G. King & Ross Levine, *Finance and Growth: Schumpeter Might Be Right*, 108 Q. J. ECON. 717 (1993); Ross Levine et al., *Financial Intermediation and Growth: Causality and Causes*, 46 J. MONETARY ECON. 31 (2000); Raghuram G. Rajan & Luigi Zingales, *Financial Dependence and Growth*, 88 AM. ECON. REV. 559 (1998).
  2. Compare JOSEPH A. SCHUMPETER, *THE THEORY OF ECONOMIC DEVELOPMENT: AN INQUIRY INTO PROFITS, CAPITAL, CREDIT, INTEREST, AND THE BUSINESS CYCLE* (Redvers Opie trans., Transaction Books ed. 1983) (1934) (asserting that financial intermediaries and credit expansion are necessary for economic growth), with JOAN ROBINSON, *THE RATE OF INTEREST AND OTHER ESSAYS* (1952) (deemphasizing the role of financial development as a cause of economic growth). See also King & Levine, *supra* note 1 (introducing competing theories of the importance of financial intermediaries and offering empirical evidence in support of Schumpeter).
  3. Ross Levine, *Financial Development and Economic Growth: Views and Agenda*, 35 J. ECON. LITERATURE 688, 688-89 (1997) (reviewing the literature and concluding that “[a] growing body of work would push even most skeptics toward the belief that the development of financial markets and institutions is a critical and inextricable part of the growth process . . .”).
  4. Letter from Alexander Hamilton to Robert Morris (Apr. 30, 1781), in 3 *THE WORKS OF ALEXANDER HAMILTON* 342, 362 (Henry Cabot Lodge ed., Federal ed. 1904).
  5. See, e.g., Sambit Bhattacharyya, *Political Origins of Financial Structure*, 41 J. COMP. ECON. 979, 979 (2013) (“In spite of growing policy interest on the role of financial structure in promoting development, very little is known about how different financial structures emerge and evolve.”).
  6. See Stephen Haber et al., *Political Institutions and Financial Development*, in *POLITICAL INSTITUTIONS AND FINANCIAL DEVELOPMENT* 2 (Stephen Haber et al. eds., 2008) (offering

This Note seeks to contribute to this debate with an original case study. It examines the development of institutional mortgage lending in New Haven, Connecticut in the early nineteenth century. It focuses on this period and this market because, around 1837, new lending institutions appeared in New Haven and began to make a significant volume of mortgage loans to middle-class New Haven citizens.<sup>7</sup> Prior to 1837, the city's lending institutions primarily made mortgage loans to an elite segment of the city's population. The speed of this shift, as well as New Haven's documentation of mortgage lending in its Land Records office, make the city an attractive case study. Moreover, land and improvements to land constituted a huge portion of the nation's wealth in this early period, and mortgage lending was an important part of the financial system.<sup>8</sup> The importance of accessible mortgage markets continues to the present day. Modern development theorists have hailed the economic and social virtues of empowering holders of real assets to borrow against them.<sup>9</sup>

In focusing on the development of a more broadly accessible mortgage market in antebellum New Haven, this Note addresses two particular conversations within the wider debate over the origins of financial institutions. First, the economic history of the United States in the early nineteenth century has served as an important case study for how and why financial institutions emerge.<sup>10</sup> The country's enviably rapid expansion during this period is surely the primary reason for this sustained historical attention. But the early nineteenth-century United States is also attractive because it was so diverse. Different regions walked different paths to economic development but shared some initial conditions, allowing scholars to compare the effects of regional policy choices while controlling for other factors like cultural and legal

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different policy prescriptions based on whether the legal-origins or political-institutions view of financial institution development prevails).

7. See *infra* Figure 1.
8. See Robert E. Gallman, *American Economic Growth Before the Civil War: The Testimony of the Capital Stock Estimates*, in *AMERICAN ECONOMIC GROWTH AND STANDARDS OF LIVING BEFORE THE CIVIL WAR* 79 (Robert E. Gallman & John Joseph Wallis eds., 1992).
9. See HERNANDO DE SOTO, *THE MYSTERY OF CAPITAL* (2000) (promoting land titling as a means of putting the value of real assets to economic use through mortgage lending). *But see* Timothy Mitchell, *The Work of Economics: How a Discipline Makes Its World*, 46 *EUR. J. SOC.* 297 (2006) (questioning the implementation and premises of de Soto's ideas).
10. See, e.g., HOWARD BODENHORN, *STATE BANKING IN EARLY AMERICA: A NEW ECONOMIC HISTORY* (2003); RICHARD EUGENE SYLLA, *THE AMERICAN CAPITAL MARKET, 1846-1914: A STUDY OF THE EFFECTS OF PUBLIC POLICY ON ECONOMIC DEVELOPMENT* (1975); John Joseph Wallis, *Answering Mary Shirley's Question, or: What Can the World Bank Learn from American History?*, in *POLITICAL INSTITUTIONS AND FINANCIAL DEVELOPMENT*, *supra* note 6, at 92 [hereinafter Wallis, *Answering Mary Shirley's Question*]; John Joseph Wallis et al., *The Interaction of Taxation and Regulation in Nineteenth-Century U.S. Banking*, in *THE REGULATED ECONOMY: A HISTORICAL APPROACH TO POLITICAL ECONOMY* 121 (Claudia Goldin & Gary D. Libecap eds., 1994).

heritage.<sup>11</sup> This Note makes a novel contribution to the literature on New England's development.<sup>12</sup> In particular, it offers New Haven's mortgage experience after 1837 as an exception to the pattern of "insider lending," which prevailed throughout New England at the time.<sup>13</sup> This Note also adds some nuance to the division of the early United States into separate regions. In New Haven's case, money from the sale of western lands by the federal government had a direct impact on the city's mortgage market. Even at this early stage in America's economic history, federalism and national policy choices had important, even transformative, consequences for the nation's development.

The second conversation addressed by this Note concerns the role of legal and political institutions in the development of financial institutions. In the wider debate over the drivers of financial development, commentators have found it useful to delineate between theories that emphasize the legal origins of financial institutions and those that cast financial development as the result of politics and political institutions.<sup>14</sup> While this Note considers possible legal origins for the 1837 shift, it ultimately sides with the political-institutions camp. In particular, it offers an account of how the Town Deposit Fund, a local body created with the direct political participation of New Haven's citizens, contributed to the shift in the city's mortgage market. Many political-institution accounts focus on the incentives and actions of governments at a higher level—considering, for instance, the incentives of state governments to regulate financial institutions.<sup>15</sup> This study adds greater depth to the political-

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11. See, e.g., HOWARD BODENHORN, *A HISTORY OF BANKING IN ANTEBELLUM AMERICA: FINANCIAL MARKETS AND ECONOMIC DEVELOPMENT IN AN ERA OF NATION-BUILDING* (2000) [hereinafter BODENHORN, *A HISTORY OF BANKING*]; BODENHORN, *supra* note 10; Hugh T. Rockoff, *Varieties of Banking and Regional Economic Development in the United States, 1840-1860*, 35 J. ECON. HIST. 160 (1975).
  12. For examples of this literature, see BODENHORN, *A HISTORY OF BANKING*, *supra* note 11, at 188-89; PETER J. COLEMAN, *THE TRANSFORMATION OF RHODE ISLAND 1790-1860* (1963); and NAOMI R. LAMOREAUX, *INSIDER LENDING: BANKS, PERSONAL CONNECTIONS, AND ECONOMIC DEVELOPMENT IN INDUSTRIAL NEW ENGLAND* (1994).
  13. See LAMOREAUX, *supra* note 12. But see Ta-Chen Wang, *Banks, Credit Markets, and Early American Development: A Case Study of Entry and Competition*, 68 J. ECON. HIST. 438 (2008) (observing a decrease in insider lending in Plymouth County, Massachusetts in the late 1830s and early 1840s).
  14. See Haber et al., *supra* note 6, at 1-2. Compare Thorsten Beck et al., *Law and Finance: Why Does Legal Origin Matter?*, 31 J. COMP. ECON. 653 (2003) (emphasizing the importance of legal origins in financial development) with Daron Acemoglu et al., *Institutions as a Fundamental Cause of Long-Run Growth*, in *HANDBOOK OF ECONOMIC GROWTH* 385 (Philippe Aghion & Steven N. Durlauf eds., 2005) (emphasizing the role of political dynamics in shaping economic institutions).
  15. See, e.g., Bhattacharyya, *supra* note 5; Stephen Haber, *Political Institutions and Financial Development: Evidence from the Political Economy of Bank Regulation in Mexico and the United States*, in *POLITICAL INSTITUTIONS AND FINANCIAL DEVELOPMENT*, *supra* note 6, at 10;

institutions perspective by providing a local example of how political institutions shape financial development. Given that New England, in particular, had a large number of small banks during the early nineteenth century,<sup>16</sup> this more local perspective is valuable.

Part I of this Note introduces some terminology to describe the changes in New Haven's mortgage market. It distinguishes capital allocation that relies on pre-existing social networks, dubbed "Elite" lending, from capital allocation that does not depend on pre-existing social networks, termed "Democratic" lending. Part I also presents two datasets documenting mortgage lending in New Haven between 1800 and 1844 and discusses the entry of new institutional lenders into the market around 1837. The next two Parts of the Note explore this change and its context more fully. Part II examines mortgage lending in New Haven before 1837, describing how banks primarily conducted Elite lending through pre-existing social networks. Part II concludes by discussing mortgage lending by the State of Connecticut before 1837. Part III looks at mortgage lending during and after 1837. It first examines loans made by New Haven itself in 1837. Next, it discusses the rise of the New Haven Savings Bank in the late 1830s and early 1840s. Throughout, it documents key differences between the Elite mortgages made before 1837 and the later mortgages made by the Town and the Savings Bank. Ultimately, Part III casts these post-1837 loans as Democratic and more accessible to a broader range of lenders in the community, indicating a transition in New Haven's financial development.

Part IV proposes possible theories to explain this transition, introducing economic, legal, and sociopolitical accounts. It supports a political-institutions account, suggesting that government action in markets, particularly at the local level, can encourage further economic development by private actors. In particular, Part IV argues that political participation by a broad range of New Haven residents in the creation of the Town Deposit Fund spurred more widespread mortgage lending by private banking institutions. This model of government trailblazing of markets offers several lessons for modern development efforts. Part IV explores these lessons and points out avenues for further research.

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Richard Sylla, *The Political Economy of Early U.S. Financial Development*, in *POLITICAL INSTITUTIONS AND FINANCIAL DEVELOPMENT*, *supra* note 6, at 60.

16. See BODENHORN, *A HISTORY OF BANKING*, *supra* note 11, at 32; see also SYLLA, *supra* note 10, at 79 tbl.II-13 (noting that, as of 1850, New England banks had an average of \$210,000 in capital per bank, compared with \$267,000 for Middle Atlantic and \$395,000 for Southern banks); Sylla, *supra* note 15, at 79 tbl.3.3. Nationally chartered banks, with the exception of the Banks of the United States, did not appear until 1863. See National Bank Act of 1863, ch. 58, 12 Stat. 665.

## I. MODES OF CAPITAL ALLOCATION AND MORTGAGE LENDING IN ANTEBELLUM NEW HAVEN

This Part introduces some terminology and the empirical foundations of this Note. Part I.A defines and explains two terms used to describe different types of lending in New Haven. I refer to lending before 1837 as “Elite” and after 1837 as “Democratic.” The next two sections present the empirical foundation of this Note: two datasets constructed from primary research in the New Haven Land Records. The first, less detailed dataset, shown in Part I.B, examines New Haven’s total mortgage market at several points in the early nineteenth century. The second, more detailed dataset, shown in Part I.C, documents institutional mortgage lending in the city between 1800 and 1840. Both datasets confirm that New Haven’s mortgage market changed significantly in the late 1830s, as institutional lenders began to lend in substantial volumes for the first time.

### A. *Elite Versus Democratic*

This Note uses two theoretical terms to describe New Haven’s mortgage market: “Elite” and “Democratic.”<sup>17</sup> I use these terms as shorthand to refer to several interrelated but distinct attributes of lending within an economy. These features include the participation of a financial intermediary, the methods of identification and evaluation of borrowers and their ability to repay, the complexity of loan terms, and the means of pooling capital to make loans. Because several different loan attributes are incorporated into the terms “Elite” and “Democratic,” it is best to think of loans as existing along a spectrum bounded by these terms. Particularly during periods of economic change, many loans will have both Elite and Democratic characteristics. My purpose in using these terms is not to delineate hard-edged analytical categories, but rather to concisely describe a complex shift in New Haven’s mortgage market.

I use “Elite” to describe a mode of lending in which capital remains within pre-existing social networks, usually populated by wealthy borrowers and lenders known to each other. Elite lending is characterized by the identification and evaluation of borrowers through social connections (rather than through financial intermediaries with bureaucratic expertise) and capital pooling methods that require significant wealth for individuals to participate as lenders. An idealized Elite loan might be a bespoke mortgage from one wealthy landowner to another, funded with the lender’s individual wealth. In several

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17. For a more comprehensive review of capital allocation methods across economic history that inspired the terms used here, see generally Peter Temin, *Financial Intermediation in the Early Roman Empire*, 64 J. ECON. HIST. 705 (2004).

respects, mortgage lending in New Haven prior to 1837 can be characterized as Elite.

As opposed to Elite, I use the term “Democratic” to describe a mode of lending where access to credit does not depend on pre-existing social networks. Democratic lending typically involves financial intermediaries that rely on bureaucratic expertise to evaluate borrowers and methods of capital pooling that enable the non-rich to lend money to others. An idealized Democratic loan would be a standardized mortgage from a deposit-taking bank to a borrower identified and approved by specialized bank staff. After 1837, mortgage lending in New Haven became significantly more Democratic.

Before putting these terms to use, I would like to offer a few caveats and clarifications. First, I do not mean to cast either Democratic or Elite lending as necessarily more normatively desirable than the other. To modern ears, Elite lending may sound socially objectionable or unfair. It is true that Elite capital allocation may overlook or undervalue economic opportunities that exist outside of established social networks. But when information is costly and transactions costs are high, Elite lending may offer significant benefits. Parties can quickly and cheaply use pre-existing relationships to evaluate each other as borrowers and lenders. For instance, Naomi Lamoreaux has documented how kinship networks facilitated the allocation of capital throughout industrializing New England.<sup>18</sup> Early New England banks were often controlled by directors who used the corporate form to accumulate capital and then direct funds to their own economic projects, making themselves the primary borrowers of their banks’ money. According to Lamoreaux, these insider banks were “[e]ngines of economic development” for the region.<sup>19</sup>

Second, I should distinguish my terminology from that of Lamoreaux. Lamoreaux uses the term “insider lending” to describe the pattern of bank directors’ lending to kin or friends.<sup>20</sup> In Part II.A, I argue that institutional mortgage lending in New Haven before 1837 can properly be considered “insider lending.” However, throughout the remainder of this Note, I use “Elite” instead of “insider” for several reasons. First, the Elite-Democratic terminology better highlights the shift in New Haven’s mortgage market that is the main subject of this Note. My focus on greater accessibility in a local mortgage market is narrower than Lamoreaux’s, as she makes far-reaching observations about lending patterns and industrial development across New England. Second, outright kinship networks do not appear to play as great a role in New Haven as in other areas of New England, and I have not been able

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18. LAMOREAUX, *supra* note 12; Naomi R. Lamoreaux, *Banks, Kinship, and Economic Development: The New England Case*, 46 J. ECON. HIST. 647 (1986).

19. LAMOREAUX, *supra* note 12, at 52.

20. *Id.*



to document the social status and social ties of borrowers and lenders as thoroughly as Lamoreaux. In light of this, I want to avoid overextending or misapplying her term. Nevertheless, it does appear that New Haven's Elite lending can be understood as a version of Lamoreaux's insider lending, and the lower frequency of kinship lending may simply be a minor aberration in an otherwise uniform New England landscape.

One final point on terminology: I have chosen the term "Democratic" with an eye to the political context of the shifts in the mortgage market. In the 23rd Congress, in session from 1833 to 1834, the entire Connecticut delegation was either Anti-Jacksonian or Whig (with the possible exception of Ebenezer Young, whose partisan affiliation is unclear but who began his political career as a Federalist).<sup>21</sup> In the 1834 elections, every Connecticut Representative was replaced by a Jacksonian or Democrat; neither of the Connecticut Senators were up for election. In 1836, the Senators' time came, and by the 25th Congress (1837-1838), every member of Connecticut's delegation was a Jacksonian Democrat. The details of Connecticut's political history and the Jacksonian sweep are beyond the scope of this Note, but in choosing the "Democratic" label, I do wish to suggest the possible connections between the political backdrop of the times and New Haven's economic democratization.

#### *B. Institutional Versus Non-Institutional Lending in New Haven's Mortgage Market*

In order to map New Haven's mortgage market, I constructed two datasets using the archives of the New Haven Land Records. Before introducing these datasets, some background on land records and mortgage law in early nineteenth-century Connecticut may be useful. At the time, mortgages consisted of a promissory note or other instrument pledging repayment of a debt and an associated deed transferring ownership in real property to a mortgagee. As legal documents transferring title, these mortgage deeds were recorded in local land records. Most of them took the form of warranty deeds and, in New Haven at least, were recorded on standard warranty deed forms or using standard warranty deed language—the same forms and language used for warranty deeds transferring title upon sale. However, unlike warranty deeds transferring title upon sale, mortgage deeds contained (always-handwritten) voiding provisions invalidating the deed if the associated

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21. See *Biographical Directory of the United States Congress: 1774-Present*, U.S. CONG., <http://bioguide.congress.gov/biosearch/biosearch.asp> (search "Connecticut" in the State field and "23" in the Year or Congress field). For a brief biography of Ebenezer Young, see *Young, Ebenezer, (1783-1851)*, U.S. CONG., <http://bioguide.congress.gov/scripts/biodisplay.pl?index=Y000034> [<http://perma.cc/48JQ-DDF4>].

promissory note was timely repaid. The language of these voiding provisions suggests that mortgage deeds transferred title from mortgagors to mortgagees outright, with satisfactory repayment of a debt reversing the transfer. In legal terms, however, mortgage deeds did not transfer title on their own. In 1843, the Supreme Court of Errors of Connecticut confirmed that mortgagees held only a security interest in a mortgaged property, subscribing to the lien theory of mortgages.<sup>22</sup> Title remained with the mortgagor until a mortgagee obtained a foreclosure decree from a local superior court.<sup>23</sup> Even the foreclosure decree did not transfer title to the mortgagee. It merely began a redemption period during which a mortgagor could make good on her debt and retain title to her land. Redemption periods varied depending on the foreclosure decree, but they appear to have lasted six months to a year.<sup>24</sup> Only once this redemption period expired did a mortgage deed effectively transfer title from a borrower to a lender.<sup>25</sup>

In New Haven, all recorded deeds are held in archives attached to the Town Clerk's Office. Assembling the mortgage deeds for a given period allows for reconstruction of the size and details of the city's mortgage market at a certain time. The first dataset I constructed documents New Haven's total mortgage market in the 1830s and 1840s. I reviewed every mortgage deed recorded in the archives for three six-month periods—the first six months of 1830, 1835, and 1844—and checked whether an individual or an institution made each mortgage loan. I chose the time periods for the first dataset to detect and confirm when institutional lenders began to account for a substantial share of New Haven's mortgage market. I focused on the institutional status of the lender on the admittedly rough assumption that individual lenders would be unable to engage in substantial volumes of Democratic lending. Individuals generally lack the expertise and bureaucratic resources to evaluate large

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22. See *Cooper v. Davis*, 15 Conn. 556, 560 (1843) (“The mortgagee has merely a lien upon the property for the security of his debt . . .”). The Connecticut Supreme Court had previously referred to a mortgage as a “lien” without addressing the exact lien versus title theory issue. See *Hubbard v. Savage*, 8 Conn. 215, 218–21 (1830).
23. See *Bassett v. Mason*, 18 Conn. 131, 132–33 (1846).
24. See, e.g., *Atwood v. Vincent*, 17 Conn. 575, 578 (1846) (citing a February 1842 foreclosure decree “limiting the time of redemption . . . to the first *Monday of September 1842*”); *Cooper v. Davis*, 15 Conn. 556, 557 (1843) (citing a January 1842 decree of foreclosure limiting the time of redemption to the first Monday of July 1842); *Avery v. Kellogg*, 11 Conn. 562, 562–63 (1836) (citing a March 1833 decree of foreclosure limiting the time of redemption to the first Monday of January 1834).
25. Connecticut mortgage law operated under a “strict foreclosure” regime, under which land was transferred to the mortgagee even if its value exceeded the original debt. See *Bassett*, 18 Conn. at 137. For more background on redemption periods and strict foreclosure proceedings, see generally GRANT S. NELSON & DALE A. WHITMAN, REAL ESTATE TRANSFER, FINANCE, AND DEVELOPMENT 112–16 (7th ed. 2006).

numbers of strangers as trustworthy borrowers. A mortgage market without institutional lenders will therefore likely be dominated by Elite lending.<sup>26</sup> To construct the dataset, I located the volumes in the archives that contain deeds for the relevant periods, noted whether each deed was a mortgage deed, and, if so, recorded whether the lender was a financial intermediary or a private individual (or a group of private individuals) and the amount of the mortgage. This process involved reviewing 2,172 individual deeds recorded in the Land Records.<sup>27</sup> Table 1 summarizes the dataset<sup>28</sup>:

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26. My assumption is that institutional lending is a necessary but not sufficient condition for Democratic lending: institutional lenders, of which New Haven had several before 1837, do not necessarily lend Democratically. In Part II, I consider the question of whether institutional lending before and after 1837 was Elite or Democratic.
  27. Note that the dataset may nonetheless not include 100% of the mortgages for these periods. Deeds are organized into roughly three categories in the Land Records archives: warranty deeds printed on forms containing some basic warranty deed language, quitclaim deeds printed on forms containing some basic quitclaim deed language, and bespoke “manuscript” deeds that contained no printed form language. All of the deeds contain some individualized handwritten material. For instance, as previously mentioned, mortgage deeds were generally recorded on warranty deed forms with handwritten voiding provisions. But the manuscript deeds are entirely handwritten. They often continue for many pages and are generally used for explaining more exotic real estate transfers. For instance, many probate transfers are recorded in manuscript form. Most of the volumes in the Land Records archives contain warranty deeds or quitclaim deeds (or some combination of both). I reviewed all of the relevant warranty and quitclaim deed volumes for the first six months of 1830, 1835, and 1840. However, I did not review the manuscript volumes for these periods. Doing so would have required deciphering many hundreds of pages of handwritten early nineteenth-century script. Accordingly, the dataset may underestimate the total number of mortgages originated during this period. This underestimation should be minimal. One estimate of its magnitude comes from the database introduced in Part I.C, which contains detailed information on the hundreds of institutional mortgages originated from 1800 and 1844. Of the 174 mortgages originated by the New Haven Savings Bank during the period, only six, or 3.4%, were recorded in manuscript volumes. (Mortgage deeds in manuscript volumes originated by specific mortgagees can be located easily using the archives’ indexes.) Consistent with the unusual nature of many of the manuscript deeds, it appears, then, that mortgages were only rarely recorded in the manuscript volumes. Based on the proportion of New Haven Savings Bank mortgages appearing in manuscript form, it is probably safe to say that the dataset underlying Table 1 underestimates the total number of mortgages in New Haven by around 5%.
  28. The dollar amounts in Table 1 are given in terms of 1830 dollars. I adjusted the amounts for inflation using a time series from the Federal Reserve Bank of Minneapolis. See *Consumer Price Index (Estimate) 1800-*, FED. RESERVE BANK OF MINNEAPOLIS, [https://www.minneapolisfed.org/community\\_education/teacher/calc/hist1800.cfm](https://www.minneapolisfed.org/community_education/teacher/calc/hist1800.cfm) [<http://perma.cc/C5TD-VWK3>]. Prices are presented in contemporary, nominal values except where inflation-adjusted as noted.

Table 1.

## TOTAL MORTGAGE LENDING IN NEW HAVEN

	First Six Months of 1830		First Six Months of 1835		First Six Months of 1844	
	<i>Number</i>	<i>Amount (1830 USD)</i>	<i>Number</i>	<i>Amount (1830 USD)</i>	<i>Number</i>	<i>Amount (1830 USD)</i>
Mortgages Originated by Individual Lenders	85	\$70,402	137	\$145,813	175	\$167,013
Mortgages Originated by Institutions	1	\$800	0	\$0	36	\$58,686
Total Mortgages	86	\$71,202	137	\$145,813	211	\$225,698

Table 1 displays several important trends in New Haven's mortgage market. First, it confirms that the early nineteenth century was a period of dynamic growth. The town's mortgage market more than doubled between 1830 and 1844, in terms of the number of loans and the total amount lent. Second, the market share of institutional lenders abruptly increased in the late 1830s, from virtually 0% in 1830 and 1835 to 26% of the total amount loaned in 1844. In addition, although the number of mortgages made by non-institutional lenders increased by 27% between 1835 and 1844, the total dollar amount loaned increased by only 15%. This pattern suggests that a structural shift took place in the New Haven mortgage market in the late 1830s: as the total amount of capital disbursed by individuals hit a ceiling, financial intermediaries appeared and began to provide another source of capital to borrowers. Moreover, although not shown in Table 1, the average size of a non-institutional mortgage in the first six months of 1844 was \$835, whereas the average institutional mortgage was \$1,426.29. The relative sizes of institutional and non-institutional mortgages further support the view that New Haven's mortgage market progressed from one type of capital allocation to another in the late 1830s. Because they could assemble larger amounts of capital and pool risks beyond social networks, expertise-based lenders may have been better equipped to make larger loans than private individuals. Overall, Table 1 and the data behind it indicate that the changes in New Haven's mortgage market between 1835 and 1844 were different from the changes between 1830 and 1835. The changes between 1830 and 1835 were changes of degree: mortgage activity, although consistent in character, became

29. See Database of Total Mortgages (on file with author).

more frequent. But the changes between 1835 and 1844 included a shift in sources of capital and the type of lending.

This is not to say that financial intermediaries categorically replaced individual mortgage lenders after the late 1830s. By 1844, institutional lenders constituted only about a quarter of the mortgage market—although it is possible that this proportion increased as the New Haven Savings Bank and similar institutions grew. Regardless of the exact market shares of institutional and non-institutional lenders during the rest of the nineteenth century, private individuals continued to play a significant role in New Haven's mortgage market into the early twentieth century.<sup>30</sup> However, the increased participation of financial intermediaries after 1837 appears to have been a permanent shift, with ostensibly profound economic consequences over a long period of time. For example, the New Haven Savings Bank, founded in 1838 and responsible for the bulk of the institutional lending in the 1840s, remained active until 2004, when it underwent a successful merger with two other regional banks.<sup>31</sup>

The remainder of this Note sets aside the question of the relative magnitude of institutional versus non-institutional lending in New Haven. Instead, it focuses on why, when, and how the shift towards institutional lending occurred. It also asks whether the shift towards institutional lending was in fact a shift towards Democratic lending. This Note concentrates on the shift itself instead of documenting the extent of its ramifications because a turn to institutional and Democratic lending in a developing economy is an important but by no means inevitable step. The social, legal, and economic forces responsible for such shifts are poorly understood. With this puzzle in mind, the following section introduces the second dataset drawn from the Land Records. It presents the story of institutional lending in New Haven in much greater detail.

### *C. Institutional Lending in New Haven: 1800-1844*

The dataset introduced in Part I.B does not provide much clarity on when exactly the shift in New Haven's mortgage market occurred or what entities were responsible for it. In order to examine these issues more closely, I constructed a second dataset of the 355 mortgages in New Haven originated by a state-chartered bank or the state or local government between 1800 and 1844.

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30. Lisa Marshall, *New Haven's Mortgage Markets in an Era of Urbanism* (2004) (unpublished manuscript) (on file with the New Haven Museum) (documenting the prevalence of mortgage lending between private individuals, including neighbors, in late nineteenth- and early twentieth-century New Haven).

31. *Merger Decisions*, FED. DEPOSIT INS. CORP. 3 (2004), <http://www.fdic.gov/bank/individual/merger/2004/Merger2004.pdf> [<http://perma.cc/RJ3E-FM4K>].

I began the dataset at 1800 and ended it at 1844 for several reasons. First, although the overall ratios between institutional and non-institutional lending given in Table 1 for 1830 and 1835 are broadly representative of the period, the almost complete lack of institutional lending in 1830 and the total lack of institutional lending in 1835 are slightly anomalous. Financial intermediaries did make some loans before the late 1830s. To understand this early institutional lending, I examined the earliest decades of the century as well. I extended the dataset through 1844 to gain as much visibility after the Panic of 1837, a nationwide financial crisis, as possible. Although it may have been useful to extend the dataset further into the 1840s, the New Haven Savings Bank was making so many mortgages by 1845 that assembling comprehensive data on later years became arduous. A less rigorous review of deeds through the end of the 1840s confirmed that the trends shown in the dataset continued throughout the decade. To construct the dataset, I used the archives' grantor-grantee indexes. For each mortgage originated by one of the seven state-chartered banks and two government entities active as mortgagees before 1844, I recorded the date of the mortgage, its amount, its term (if given), all mortgagors, and all mortgagees.<sup>32</sup> Figures 1 and 2 present the results of this primary research, in terms of volume of mortgages originated by institutions and the total amount lent.<sup>33</sup>

These graphs tell the story of Table 1 in greater detail: in the late 1830s and early 1840s, institutional lenders began to make more mortgages and lend out more money overall.<sup>34</sup> But the shift was not as abrupt as Table 1 might make it seem. Institutional lenders were active, although erratically and at relatively low levels, before 1837. Moreover, the increase in institutional lending was not monotonic. After a flurry of loans in 1837, institutional lending fell back, although never to its pre-1837 levels, before picking up steam again in the early 1840s. Further analysis reveals that the 1837 peak was driven by a different lender than the bank driving the rise of institutional lending in the early 1840s.

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32. I also coded the property description given in the mortgage based on whether it used an address, physical landmarks, neighbors' holdings, or other more technical methods to describe the mortgaged property. Although I ultimately did not use this data in this Note, most mortgages during the period described the property at issue with reference to streets and neighbors' landholdings.

33. I adjusted the dollar amounts of mortgages per year in Figure 2 for inflation using a time series made available by the Federal Reserve Bank of Minneapolis. See FED. RESERVE BANK OF MINNEAPOLIS, *supra* note 28.

34. A third aspect of this same shift, which is harder to see in Figures 1 and 2, is that the average size of mortgages also decreased after 1837 because the volume of mortgages rose more rapidly than the total amounts loaned out. The social significance of this shift is discussed in greater detail in Part III.B.

Figures 3 and 4 show institutional lending from 1800 and 1844 broken down by mortgagee.

Figure 1.

VOLUME OF INSTITUTIONAL MORTGAGES PER YEAR

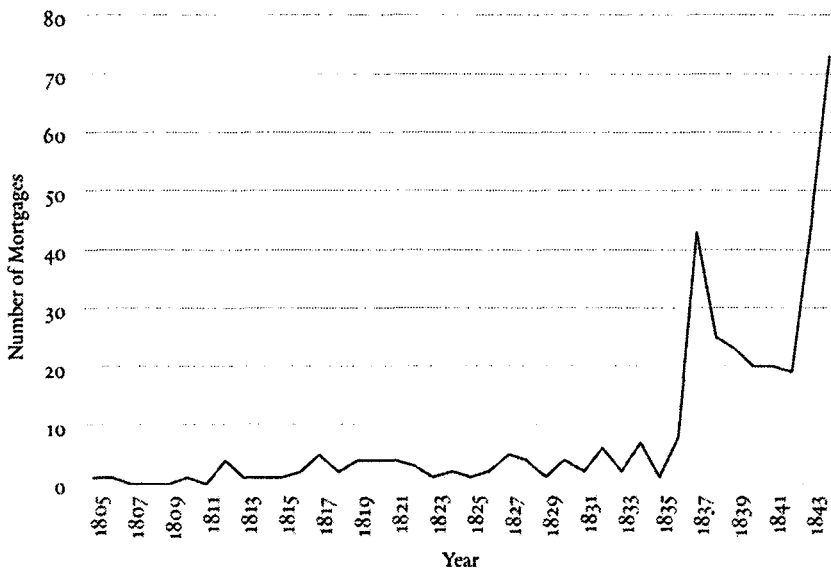
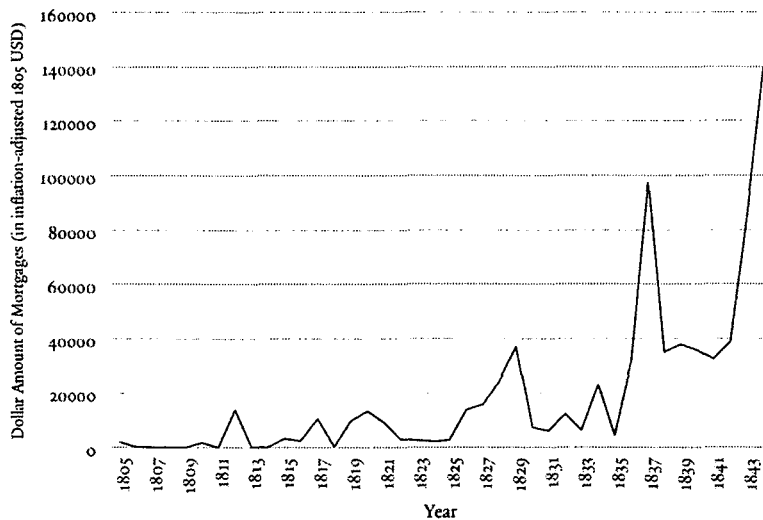


Figure 2.

DOLLAR AMOUNT OF INSTITUTIONAL MORTGAGES PER YEAR



MORTGAGE LENDING IN NEW HAVEN

Figure 3.

VOLUME OF INSTITUTIONAL MORTGAGES IN NEW HAVEN, BY MORTGAGEE

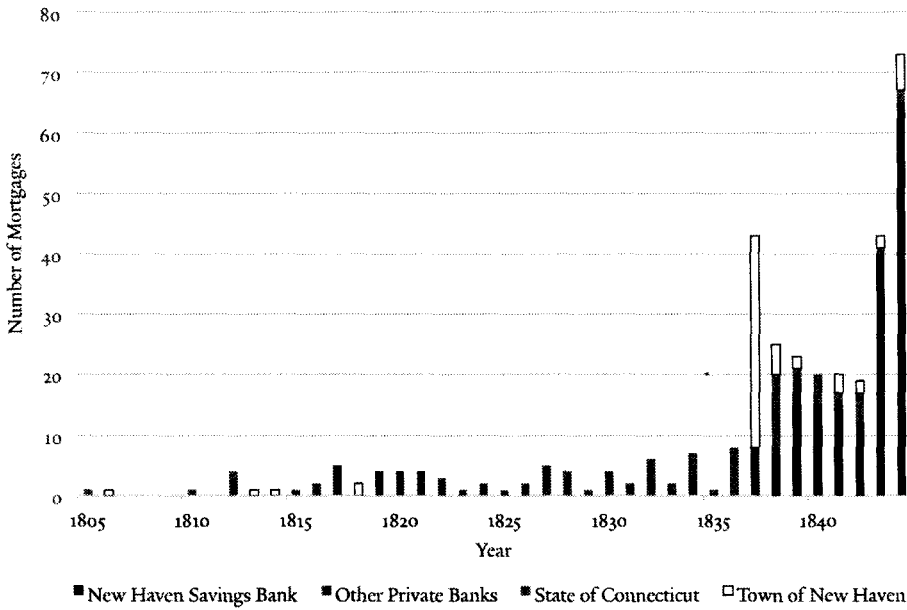
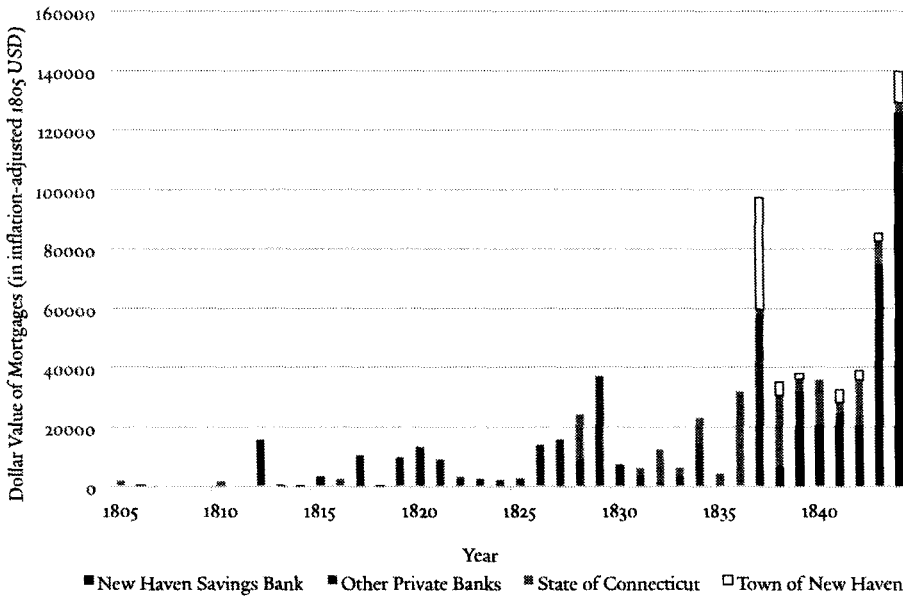


Figure 4.

AMOUNT OF INSTITUTIONAL MORTGAGES IN NEW HAVEN, BY MORTGAGEE





While the lending data presented in Figures 1-4 confirm that the city's mortgage market underwent a shift in the late 1830s, they raise several important questions. First, given that banks did make mortgage loans earlier in the nineteenth century, can the shift at 1837 be cast as a transition from Elite to Democratic lending? Second, given that two of the most active institutions in New Haven's mortgage market were public entities, how did governmental activities shape the city's financial development? Finally, why did the change happen when it did? Parts II, III, and IV address these questions.

## II. MORTGAGE LENDING IN NEW HAVEN BEFORE 1837

This Part examines institutional mortgage lending in New Haven before 1837. Part II.A discusses bank lending activity and considers whether pre-1837 bank lending had more Elite or Democratic characteristics. In particular, it asks whether bank lending before 1837 fits with the "insider lending" model of New England banking in the nineteenth century. Part II.B focuses on mortgage lending by the State of Connecticut before 1837. Overall, both bank lenders and the State before 1837 are more appropriately categorized as Elite lenders because they relied on pre-existing social networks to allocate capital.

### A. Bank Lending Before 1837

Early institutional lending complicates the claim that the increased participation by institutional lenders in the late 1830s can be cast as a straightforward transition from Elite to Democratic lending. In particular, it suggests that the shift in 1837 was more of an acceleration of existing Democratic activity than a discrete transition from Elite to Democratic lending. However, categorizing early bank mortgages in New Haven as Democratic activity would be an oversimplification, one that mistakenly equates institutional lending with Democratic lending. In early nineteenth-century New England, the prevailing pattern was in fact for banks to operate within pre-existing social and kinship networks instead of solving information- and transaction-cost problems through specialized expertise.<sup>35</sup> Lamoreaux has dubbed this phenomenon "insider lending" and has documented its dominance throughout New England in the nineteenth century.<sup>36</sup> However, Connecticut banks do not feature prominently in Lamoreaux's extensive work on insider lending. Bodenhorn mentions some New Haven banks but also does not focus

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35. See BODENHORN, *supra* note 10, at 91 ("Records from the period show that many, if not most, banks loaned predominantly to insiders."); LAMOREAUX, *supra* note 12; Temin, *supra* note 17, at 711.

36. See LAMOREAUX, *supra* note 12.

on Connecticut.<sup>37</sup> Examining New Haven's early nineteenth-century mortgage market therefore provides an opportunity to test the prevailing account of New England's early banking system as well as to determine whether early mortgage lending was more Elite or Democratic. The following sections consider the banks that made mortgage loans in the city prior to 1837.<sup>38</sup> The overwhelming majority of these loans – about 87% – came from the New Haven Bank, and its origins and practices receive the most scrutiny. But other bank mortgagees are also discussed in Part II.A.2. Overall, New Haven's pre-1837 bank mortgage market fits with the insider-lending account of New England banking during this era: mortgage loans were made by institutions controlled by the city's socioeconomic and business elite and for members of this same group.

### 1. *The New Haven Bank*

The New Haven Bank, New Haven's oldest bank and the twelfth-oldest bank in the United States,<sup>39</sup> was born at the home of Thomas Atwater, a scion of one of New Haven's most historically prominent families.<sup>40</sup> New Haven residents gathered at a meeting there on February 16th, 1792, to draft a petition to the Connecticut General Assembly to charter a bank in New Haven.<sup>41</sup> The petition was approved later that year.<sup>42</sup>

The New Haven Bank accumulated capital through sale of stock, which its Act of Incorporation set at \$200 per share.<sup>43</sup> The Act of Incorporation also established that the Bank would be led by a nine-person Board of Directors, voted into office by its shareholders.<sup>44</sup> The Bank's Directors not only controlled

37. BODENHORN, *supra* note 10, at 72, 86.

38. The city's ill-fated first mutual savings bank, the Saving Bank of New Haven, made one mortgage loan during this period. Because of the later success of the New Haven Savings Bank, the city's second mutual savings bank, this mortgage and the short and unhappy life of the Saving Bank of New Haven are discussed in Part III.B instead of here.

39. Sylla, *supra* note 15, at 78 tbl.3.2.

40. WILLIAM F. HASSE, A HISTORY OF BANKING IN NEW HAVEN, CONNECTICUT 5 (1946) (citing an advertisement in *The Connecticut Journal* on Feb. 15th, 1792).

41. *Id.* at 5-6. At the time, the legislature had to pass a specific act to create a banking corporation. In practice, however, this was not much of a barrier. New England had a de facto "free banking" system by the early nineteenth century – meaning that state legislatures generally granted charters to just about anyone who petitioned for one. See Wallis, *Answering Mary Shirley's Question*, *supra* note 10, at 111.

42. See HASSE, *supra* note 40, at 5-6.

43. An Act to Incorporate the New-Haven Bank, in THE PUBLIC STATUTE LAWS OF THE STATE OF CONNECTICUT, AS REVISED AND ENACTED BY THE GENERAL ASSEMBLY, IN MAY 1821, at 69 (Zephaniah Swift et al. eds., 1821).

44. *Id.* at 69-70. Each Director had to be a shareholder of the Bank as well. *Id.* at 6.

the Bank but also likely served as major sources of capital for it. Its Boards during the early nineteenth century were made up of the city's social and business leaders: the annual results of its internal elections read like a "who's who" list of New Haven's patrician elite.<sup>45</sup> Moreover, despite a provision in its Act of Incorporation requiring that "[n]ot more than three fourths of the directors in office . . . shall be eligible as directors the next succeeding year,"<sup>46</sup> the Board's membership was quite stable across the early nineteenth century.<sup>47</sup> Many of the Bank's Directors shared the same last name.<sup>48</sup>

It is unsurprising that the oldest bank in New Haven would be helmed by the city's elite. The composition of its borrowers is the real test of insider lending.<sup>49</sup> Outright kinship bonds appear to have existed between the Bank's Directors and its mortgagees in twenty-eight percent of its mortgage loans before 1837.<sup>50</sup> While this is on the low end of Lamoreaux's examples, it still represents a significant portion of the Bank's mortgage portfolio.<sup>51</sup> Other details suggest that, even when Directors were not related by blood to the Bank's mortgagees, its borrowers were drawn from a wealthy, sophisticated segment of New Haven society. First, the loans were relatively large, averaging \$2,358 dollars, a large sum of money at the time.<sup>52</sup> Because borrowers had to put up sufficient real estate to secure these large loans, most likely only

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45. See Record Books of the New Haven Bank (on file with the New Haven Museum) [hereinafter Record Books].
46. An Act to Incorporate the New-Haven Bank, in SWIFT, *supra* note 43, at 70.
47. Record Books, *supra* note 45. Caleb Brintwall, for instance, left the Board in 1838, only to return in 1840.
48. *Id.* For instance, Stephen Huggins was a Director in 1822; Henry Huggins was a Director in 1836.
49. While the Bank conducted substantial non-mortgage activities, the present analysis is confined to its mortgage lending.
50. I calculated this number by comparing the last names of pre-1837 mortgagees with the last names of Directors for this period. Eleven out of the Bank's thirty-nine mortgages between 1800 and 1837 went to individuals who shared a surname with a past or future Director. This estimate may be conservative because loans to businesses were coded as non-kinship loans, although kinship ties may have existed between business leaders or firms may have had interlocking Boards. I stress, however, that this is only an estimate: using last names as proxies for kinship relationships is, at bottom, an uncertain inference.
51. While Lamoreaux reports examples in this neighborhood, she also finds instances of extremely high rates of insider lending. See LAMOREAUX, *supra* note 12, at 15-17, 16 n.13. However, in some of the highest cases she found, banks were controlled by specific families. For instance, up to eighty-four percent of one Rhode Island bank's loans were to "three interrelated families that controlled the bank." *Id.* at 16. The New Haven Bank does not seem to have been so firmly under the control of a single kinship group.
52. Database of Institutional Mortgages 1800-1844 (on file with author) [hereinafter Database of Institutional Mortgages].

members with considerable wealth and social status received them.<sup>53</sup> Few residents of New Haven had “new brick dwelling houses” like the ones mortgaged by Ira Atwater and Addin Lewis in 1826 and 1827.<sup>54</sup> Second, the terms and structure of many of the Bank’s loans were sophisticated, in that they varied loan-to-loan and could grow quite complex. For instance, in 1817, the Bank, Russell Hotchkiss, Walter Budington and several other citizens participated in a complicated deal in which the Bank purchased a mortgage securing a bundle of Budington’s loans, including one originally from the Bank itself, from Hotchkiss.<sup>55</sup> In addition, in contrast to many post-1837 institutional mortgages, the terms of the Bank’s mortgages were not standardized, suggesting that they resulted from specific negotiations between the Bank and savvy customers.<sup>56</sup> In 1821, for example, the New Haven Bank made four

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53. Note that this point and others throughout this Note rely on a link between wealth and social status. Land holdings constituted the main source of wealth in the American economy in the early nineteenth century. See Gallman, *supra* note 8. In addition, a wealthy, land-owning patrician elite descended from long-established families controlled New Haven politics. See generally ROBERT DAHL, WHO GOVERNS?: DEMOCRACY AND POWER IN AN AMERICAN CITY (2d ed. 2005) (describing the sociopolitical development of the city). The socioeconomic realities of the time justify the inferential step from wealth to social status.
54. Mortgage Deed at Vol. 74, p. 444 of Land Records (Aug. 28, 1827); Mortgage Deed at Vol. 74, p. 276 of Land Records (Oct. 4, 1826); Mortgage Deed at Vol. 74, p. 268 of Land Records (Sept. 14, 1826).
55. Mortgage Deed at Vol. 66, p. 91 of Land Records (Mar. 17, 1817).
56. By current standards, most of the mortgages in New Haven in the early nineteenth century were very short-term, with many coming due in a matter of months. This is consistent with American antebellum banking more broadly. See BODENHORN, *supra* note 10, at 55 tbl.3.1. However, renewals appear to have been common practice during this period as well, although there was substantially more regional variation in this respect. *Id.* at 56. Renewal rates in New Haven are unclear as few of the promissory notes associated with the mortgage deeds survive. However, a promissory note issued by the New Haven Savings Bank in 1843 that includes the actual repayment schedule of the loan suggests that banks were comfortable with renewals and that the short terms of some loans were not as harsh as they appeared: the borrower of the surviving note did not begin to make principal payments until 1851, despite the note being “payable on demand, for value received.” See Promissory Note between New Haven Savings Bank and unknown individual, Oct. 6, 1843, New Haven Historical Society, Manuscript File # 76, Box 4, Folder A. Moreover, analysis of releases for some of the mortgages in this Note’s database suggests that many loans were not repaid on time or were renewed. This analysis is inconclusive, however, because the Land Records do not contain an associated release for every mortgage deed. It should also be noted that interest rates were largely set by usury laws during this period. The mortgage deeds do not contain interest rates for their associated loans, but, most likely, all of the loans were close to the legal limit of 6%. For an extended discussion of the effects of usury laws and interest rates in antebellum capital markets, including New England, see BODENHORN, *supra* note 10, at 72-94.

mortgages, none of which became payable on the same schedule.<sup>57</sup> Finally, some of the Bank's loans were used to finance commercial activities, such as two mortgage loans totaling \$7,000 to the New Haven Tontine Company in 1827 and 1828.<sup>58</sup> The Company operated the Tontine Hotel, the city's main hostelry and an important local business enterprise. Lending to commercial ventures suggests that the New Haven Bank aimed for more sophisticated clients with greater financial resources than the average New Haven individual.<sup>59</sup> In sum, then, the mortgage activities of the New Haven Bank and, by extension, most of the mortgage lending made in the town prior to 1837 were not accessible to individuals outside of the city's socioeconomic elite. Although only twenty-eight percent of the mortgage loans were prototypical examples of insider lending—loans where some kinship relationship existed between the borrower and the Bank Board—other attributes of the remaining loans place them within Elite networks.

## 2. Other Bank Lenders

Few banks besides the New Haven Bank were active in the mortgage market before 1837. However, loans made by these other banks appear to be even more embedded in pre-existing social and economic arrangements. The only years with significant mortgage lending activity by other banks were 1812 and 1829.<sup>60</sup> In 1812, the Bank of Bridgeport made a \$15,000 loan to Elisha Atwater, Ward Atwater, and Henry Daggett. The purpose of this loan is unclear, but its size and the involvement of the Bank of Bridgeport were anomalous.<sup>61</sup> The Atwaters and Daggetts were socially prominent families within the New Haven community, and both were represented on the Board of the New Haven Bank.<sup>62</sup> In 1829, the Mechanics Bank of New Haven, which

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57. See Mortgage Deed at Vol. 69, p. 116 of Land Records (Feb. 21, 1821); Mortgage Deed at Vol. 70, p. 218 of Land Records (Dec. 11, 1821); Mortgage Deed at Vol. 70, p. 317 of Land Records (Dec. 17, 1821); Mortgage Deed at Vol. 70, p. 322 of Land Records (Dec. 27, 1821).

58. Mortgage Deed at Vol. 75, p. 103 of Land Records (Nov. 23, 1827); Mortgage Deed at Vol. 75, p. 171 of Land Records (July 18, 1828).

59. Note that, although the New Haven Tontine Hotel was a more sophisticated mortgagee than the average New Haven individual, the hotel itself was financed with significant community participation: 300 New Haven residents bought into the tontine at \$100 per share. See *Prize for 83-Year Futurity Matures*, N.Y. TIMES, Sept. 29, 1908, <http://query.nytimes.com/gst/abstract.html?res=9CoDEoDF1731E233A2575AC2A96F9C94997D6CF> [<http://perma.cc/9JRH-WKAJ>].

60. See *supra* Figure 4. Again, the much smaller mortgage made by the Savings Bank of New Haven is not discussed here but is considered later in the Note. See *infra* Part II.A.

61. Mortgage Deed at Vol. 60, p. 485 of the Land Records (Jan. 4, 1812).

62. See Record Books *supra* note 45.

had been chartered in 1824 to finance the Farmington Canal,<sup>63</sup> made a \$26,328 mortgage loan to the Farmington Canal Company.<sup>64</sup> The Company mortgaged nearly the entire canal and threw in a wharf for good measure.<sup>65</sup> The Mechanics Bank would eventually place \$200,000 of its roughly \$500,000 capital stock in ownership of the Farmington Canal Company; after the Canal failed, the bank lost this investment, a huge blow.<sup>66</sup> Because of the Bank's significant ownership interest in the Canal, the Canal's fraught history, and the significant assets transferred in the 1829 mortgage deed, it is not clear exactly how to interpret the Canal mortgage—it was likely part of a larger, complex financing arrangement between the Mechanics Bank and the Farmington Canal Company.<sup>67</sup> Regardless of the details of any such arrangement, it seems safe to cast the loans made by the Mechanics Bank and the Bank of Bridgeport as complicated, commercial mortgages that came out of pre-existing social and economic relationships.

Overall, this section's examination of mortgage lending by banks in New Haven before 1837 affirms the characterization of the later shift in the market as a shift from Elite to Democratic lending. In particular, lending before 1837 underscores the fact that banks can operate more like friends and family of borrowers than as impersonal financial intermediaries relying on expertise to interact with unknown economic actors. New Haven's banks before 1837 were profoundly patrician and operated as Elite rather than Democratic lenders. However, in order to fully characterize the shift as Elite to Democratic, it is necessary to establish that the loans after 1837 were not of the same patrician character. Part III undertakes this analysis. Before moving on to this question, however, an important and largely unexplored historical wrinkle in New Haven's financial development must be addressed. Specifically, Part II.B considers the role of the State of Connecticut as an important mortgage lender in New Haven before 1837.

### *B. State Lending Before 1837*

A substantial volume of loans in early nineteenth-century New Haven were made by state and local governments. In particular, before 1837, the State of

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63. HASSE, *supra* note 40, at 21.

64. Mortgage Deed at Vol. 77, p. 437 of Land Records (Aug. 13, 1829).

65. *Id.*

66. HASSE, *supra* note 40, at 22-23.

67. The fraught history of the Canal is discussed in some detail in *NEW HAVEN & NORTHAMPTON RAILROAD, AN ACCOUNT OF THE FARMINGTON CANAL COMPANY; OF THE HAMPSHIRE AND HAMDEN CANAL COMPANY; AND OF THE NEW HAVEN AND NORTHAMPTON COMPANY, TILL THE SUSPENSION OF ITS CANALS IN 1847* (1850).

Connecticut was the largest and most frequent individual mortgagee in the city after the New Haven Bank.<sup>68</sup> This section considers the State's pooling and dissemination of capital during this period and whether State lending activities had Elite or Democratic attributes.

The classic method by which governments pool capital is taxation. Taxation, at least in its modern form, has many Democratic attributes. Systems of taxation are designed to capture all individuals, regardless of their social connections. They are bureaucratic and rely on standardized processes.<sup>69</sup> But the State of Connecticut did not fund its pre-1837 loans through taxation. Even if the political will had existed for such an arrangement, there was not a great deal of wealth to reallocate so early in the State's development. Instead, the State pooled capital through starkly different means—not through taxation, but conquest.

Under Connecticut's original 1662 charter, the State stretched westward in a long strip through present-day Illinois.<sup>70</sup> Over time Connecticut's claims to these lands conflicted with those of New Yorkers and "Pennamites," or residents of present-day Pennsylvania.<sup>71</sup> In 1782, a Court of Commissioners appointed by the Continental Congress sided with the Pennamites, awarding the Wyoming River Valley to Pennsylvania.<sup>72</sup> Apparently in recompense, when Connecticut ceded its other western claims to the Continental government in 1785, it was allowed to keep approximately three million acres of its originally chartered territory, the so-called Connecticut Western Reserve.<sup>73</sup> In 1795, the

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68. See Database of Institutional Mortgages, *supra* note 52; see also *supra* Figures 3 & 4. The Town of New Haven also made five loans during this period, but their average size was barely \$100 and they are not discussed here.
69. *But see* NICHOLAS R. PARRILLO, *AGAINST THE PROFIT MOTIVE: THE SALARY REVOLUTION IN AMERICAN GOVERNMENT, 1780-1940*, at 183-220 (2013) (describing tax ferrets, a non-bureaucratic system of collecting taxes).
70. CHARTER OF CONNECTICUT (1662), [http://avalon.law.yale.edu/17th\\_century/cto3.asp](http://avalon.law.yale.edu/17th_century/cto3.asp) [<http://perma.cc/RMB9-H5A6>] (granting Connecticut "all that Part of [King Charles II's] Dominions in . . . America . . . to the South Sea on the West Part"). The "South Sea" referred to the Pacific Ocean, although Charles II could only grant the land up to the Mississippi River.
71. At various points, disputes over the lands boiled over into armed conflict, though the "battles" of the Pennamite-Yankee War were far from spectacular. See Anne M. Ousterhout, *Frontier Vengeance: Connecticut Yankees vs. Pennamites in the Wyoming Valley*, 62 PA. HIST. 330 (1995).
72. FREDERICK W. GNICHTEL, *THE TRENTON DECREE OF 1782 AND THE PENNAMITE WAR* 8-9 (1920), <https://archive.org/stream/trentondecreefioognic#page/8/mode/2up> [<http://perma.cc/S5EU-2T2U>].
73. Deed of Cession of Land from Connecticut to the United States (1786), <http://www.fold3.com/document/6603899> [<http://perma.cc/BNT9-JK6P>]; AMY DEROGATIS, *MORAL GEOGRAPHY: MAPS, MISSIONARIES, AND THE AMERICAN FRONTIER* 21 (2003).

State sold the Connecticut Western Reserve for \$1.2 million, a huge pool of capital at the time, to a group of speculators operating as the Connecticut Land Company.<sup>74</sup> However, at the time of sale, the State, the federal government, and the settlers all lacked clear title to the Reserve. Native Americans remained in possession of the bulk of the lands into the early nineteenth century.<sup>75</sup> The Connecticut Land Company began to survey and divide the Western Reserve into townships in 1796, ignoring Native claims in the process or buying out some claims for vastly less than it paid Connecticut.<sup>76</sup> Native title may not have been legally extinguished until the Treaty of Fort Industry in 1805, which was the result of armed conflict.<sup>77</sup> From one perspective, then, Connecticut got the money for its nineteenth-century mortgages in New Haven through theft, in that it sold someone else's land and then allowed the buyers to violently drive the original owners from the premises. However the (il)legal details of Connecticut's land sale are described, this Note's Elite-Democratic terminology for capital allocation is not much help. The State's methods of pooling capital were too anomalous and geopolitically fraught to be called Elite or Democratic.

What of the State's dissemination of its pooled capital? At first blush, the State's method of making loans appears sufficiently bureaucratic to support Democratic lending. With the proceeds from its sale of the Western Reserve, the State created the Connecticut School Fund, which made loans and investments, including mortgages in cities like New Haven.<sup>78</sup> By statute, "the nett [sic] amount of interest, received yearly on said fund, [was] to be

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74. See Claude L. Shephard, *The Connecticut Land Company: A Study in the Beginnings of Colonization of the Western Reserve*, in *THE CONNECTICUT LAND COMPANY AND ACCOMPANYING PAPERS* 71-72 (1916), <https://archive.org/stream/connecticutlandcoowest#page/72/mode/2up>.

75. DEROGATIS, *supra* note 73, at 32-35 ("But despite the Connecticut Land Company's assurance to would-be settlers that they had 'cleared' the land of indigenous peoples, their continual presence was undeniable.").

76. *Id.* (describing the process of erasure of Native claims by European surveyors); Shephard, *supra* note 74, at 74-75.

77. See Treaty with the Wyandot, July 4, 1805, 7 Stat. 87, in 2 *INDIAN AFFAIRS: LAWS AND TREATIES* 77-78 (Charles J. Kappler ed., 1904), <http://digital.library.okstate.edu/kappler/Vol2/treaties/wyao077.htm> [<http://perma.cc/PUC8-7JKC>].

78. See HARRIET TAYLOR UPTON & HARRY GARDNER CUTLER, 1 *HISTORY OF THE WESTERN RESERVE* 11 (1910). The School Fund is significant not only because it was an unusual mechanism of public finance but also because of the State's active participation in the capital markets. Essentially, to fund one of North America's earliest public school systems, the State of Connecticut functioned as a relatively large bank, albeit one that, unlike other banks of the period, could not issue currency. The Fund's existence also underscores one of the most important facts of early American history: the States, although largely industrially undeveloped by the end of the seventeenth century, were nonetheless wealthy in one crucial respect—land.



distributed, for the benefit of the public or common schools."<sup>79</sup> In practice, the School Fund operated as one of the nation's earliest administrative agencies.<sup>80</sup> It was headed by a Commissioner, who took the oath prescribed in the state constitution for executive officers and was among the State's highest-paid salaried officials.<sup>81</sup> The Commissioner apparently had real discretion, as the Act that established his duties and responsibilities contained no specific guidance from either the General Assembly or the governor regarding how loans and investments were to be made.<sup>82</sup> The Commissioner was, however, constrained by a web of bureaucratic requirements, including registration of all the Fund's investments and regular reporting to the state treasurer and comptroller.<sup>83</sup> The administrative attributes of the School Fund suggest that it could have operated as a modern Democratic financial intermediary, building out a lending portfolio through expertise and institutional competence.<sup>84</sup>

Before 1837, however, this was not the case: the School Fund's borrowers were of the same profile as the New Haven Bank's. The available evidence for the School Fund's mortgagors is not as conclusive as the New Haven Bank's, but along each of the aspects discussed in the context of the Bank's lending

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79. See *An Act Relating to the School-Fund*, in Swift, *supra* note 43, at 405-07. Although the schools statute also provided for a general tax as a source of school financing, it stated that "whenever, in any year, the amount of interest arising from the school-fund, and to be divided to the school societies, shall exceed sixty-two thousand dollars, the amount of such excess shall, for said year, so far diminish the sum hereby appropriated, from the avails of the state tax." *Id.* § 12. Thus, the Fund was legally the primary source of funding for Connecticut's first public schools. The size of the School Fund's returns for this period are unclear, so the Fund's interest may never have decreased the tax. However, it would have taken only slightly more than a five percent return on the Fund's initial \$1.2 million dollars to clear sixty-two thousand dollars in interest. Accordingly, the Fund may have been the primary source for school funding in practice as well as in theory.
80. See WILLIAM J. NOVAK, *THE PEOPLE'S WELFARE: LAW AND REGULATION IN NINETEENTH-CENTURY AMERICA* 202 (1996). Novak has claimed that the "first real administrative agencies in the United States" were state and local boards of health founded in Massachusetts, New York, and Pennsylvania in the late eighteenth and early nineteenth centuries. While the School Fund Commissioner could not promulgate regulations to the extent of these boards, the other administrative attributes of the office suggest the School Fund may also be a contender for this distinction.
81. See *An Act Relating to the School-Fund*, in Swift, *supra* note 43, at 405; *An Act for Regulating Salaries and Fees* § 1, in Swift, *supra* note 43, at 387-88. The Commissioner was paid \$1,000 a year from the Fund. It appears the only state officials paid more were the governor, who was paid \$1,100, and the justices of the Supreme Court of Errors, who were paid \$1,100 (for the chief justice) and \$1,050 (for each associate justice).
82. See *An Act Relating to the School-Fund* § 1, in Swift, *supra* note 43, at 405.
83. *Id.* § 5-6.
84. Unlike other banks of the period, however, the School Fund did not issue currency. Connecticut's Upper House voted down a proposal to charter a true Bank of the State of Connecticut in 1806. See HASSE, *supra* note 40, at 9-10.

except one, the State's borrowers appear just as patrician. While calculating a rate of kinship relationships between individual borrowers and the State of Connecticut would be incoherent, many of the State's pre-1837 borrowers are identifiably elite. Among others, they included Seth Staples, a founder of Yale Law School; James Hillhouse, a United States Senator; and James Brewster, a leading business magnate.<sup>85</sup> In addition, the average size of the Fund's pre-1837 mortgages was \$2,355 (compared to \$2,358 for the New Haven Bank's), suggesting that borrowers had considerable wealth.<sup>86</sup> While the record does not provide clear visibility on the purpose of these loans, several of them appear to have been related to business activities. For instance, a John Calhoun mortgaged his factory lands in 1834.<sup>87</sup> While business activities do not necessarily imply that a borrower was patrician, they suggest greater than average economic and social clout among New Haveners of the period.

The only dimension along which the Fund's pre-1837 mortgages do not align with the Bank's is the variety and sophistication of their terms. The Fund's mortgages were standardized; all of them contained essentially identical voiding clauses. These voiding clauses provided that interest would be paid annually on September 2nd and that every mortgage became payable on the September 2nd after it was made.<sup>88</sup> These standardized components coincide with the reporting requirements of the Fund's Commissioner under state statute: the Commissioner was required to deposit duplicate copies of accounting materials for the Fund in a vault in Hartford on September 2nd every year.<sup>89</sup> The bureaucratic origins of the loans, then, appear to have affected their terms. In addition, all of the voiding clauses set out "penal sums" for which the borrower would be liable if his loan was not satisfactorily repaid.<sup>90</sup> These penal sums were generally twice the principal of the mortgage. There is little evidence that these harsh terms were enforced to their legal extent.<sup>91</sup> One likely explanation for their inclusion is that the State, or more accurately the Fund's Commissioner, wanted to secure the maximum-possible

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85. See Obituary, *James Brewster of New-Haven*, N.Y. TIMES, Nov. 25, 1866, <http://query.nytimes.com/gst/abstract.html?res=9C01E6D9153DE63ABC4D51DFB767838D679FDE> [<http://perma.cc/S56-PPT8>]; see, e.g., Mortgage Deed at Vol. 54, p. 315 of Land Records (Oct. 31, 1805) (lending to Staples); Mortgage Deed at Vol. 76, p. 227 of Land Records (Nov. 10, 1828) (lending to Hillhouse); Mortgage Deed at Vol. 91, p. 110 of Land Records (June 1, 1836) (lending to Brewster).

86. Database of Total Mortgages, *supra* note 29.

87. Mortgage Deed at Vol. 85, p. 145 of Land Records (May 30, 1834).

88. The Fund's mortgages were, accordingly, short-term. See *supra* note 56 for an explanation of the short terms of antebellum loans.

89. See An Act Relating to the School-Fund § 3, in Swift, *supra* note 43, at 405-06.

90. See, e.g., Mortgage Deed, at Vol. 89, p. 54 of Land Records (Nov. 25, 1835).

91. See *supra* note 56.

legal protections when loaning out public money. Given their origins, the standardized terms of the Fund's mortgages are not inconsistent with the patrician borrower profile established by the loans' other attributes. Overall, then, the School Fund appears to have located borrowers using the same pre-existing social and economic networks as the New Haven Bank. Despite being a public institution, the Fund loaned to the socioeconomic elite.

In sum, New Haven's mortgage market before 1837 was characterized by large, often sophisticated loans to New Haven citizens with significant wealth and social status. Institutional lenders operated as Elite lenders, relying on insider networks to locate and evaluate borrowers. Even the State did not behave as a Democratic lender in its pooling or dissemination of capital. The next Part asks if this patrician mortgage market lasted and finds that it did not: bank mortgages soon became accessible to a wide range of non-elite New Haven residents.

### III. MORTGAGE LENDING IN NEW HAVEN DURING AND AFTER 1837

This Part examines the New Haven mortgage market after 1837. It finds a profoundly different landscape from the pre-1837 market considered in Part II. In particular, after 1837, the most active bank, the New Haven Savings Bank, made loans to a broad population of residents and does not appear to have relied on pre-existing networks of wealth and social status to allocate its capital. However, the New Haven Savings Bank was not the first institution to lend outside of New Haven's elite. In 1837, the year before the Savings Bank was chartered, the Town Deposit Fund, a local, public institution, made a significant volume of loans to a wide range of people. Part III.A documents the Town's lending activities and the mortgage market in 1837. Part III.B focuses on the New Haven Savings Bank and how it continued the 1837 shift into the 1840s and beyond. Based on the greater accessibility of the market and the interactions of later institutions with borrowers, the shift in 1837 can be characterized as a transition from Elite to Democratic capital allocation and therefore as an important step in New Haven's financial development.

#### A. *Mortgage Lending in New Haven in 1837: The Town Deposit Fund*

1837 was a big year in the New Haven mortgage market.<sup>92</sup> Private banks made \$37,100 in mortgage loans. These loans were typical of pre-1837 private bank mortgages: there were only six of them, and their average size was \$6,183. However, in the same year, another institution made five times as many loans

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92. See *supra* Figures 3 & 4.

as any private lender had previously made in a single year. This lender was not a bank, but the Town of New Haven itself. Because the Town abruptly made such a large volume of loans, this section considers its funding sources and lending activities in detail.

Like the State of Connecticut, the Town did not use taxation to accumulate its capital but instead acquired a windfall through the sale of western lands. However, the Town's windfall, and the seizure of Native American lands that lay behind it, was filtered through several more layers of politics and history than the State's. After the Eastern states ceded their western holdings to the federal government, it began a long process of selling them to settlers and speculators. By 1836, the federal government had accumulated a substantial surplus through these sales.<sup>93</sup> The question of what to do with the surplus generated significant political controversy, until Congress decided to divide it up and distribute it to the states.<sup>94</sup>

In an early commitment to state-local federalism, Connecticut continued to divide and distribute the surplus funds downwards—into the hands of Connecticut towns. In 1836, the Connecticut Legislature passed a statute creating “[T]own [D]eposit [F]unds” in each Connecticut town that wished to receive part of the surplus.<sup>95</sup> These Funds were to make loans and investments, and the profits they earned were to go, in part, towards funding local school systems.<sup>96</sup> When faced with another windfall from the sale of western lands, Connecticut essentially created a set of miniature School Funds, each in its own municipality. Like the School Fund, the Town Deposit Funds were examples of active participation by early American government in the capital markets. This time, however, all levels of government, including the federal and the local, were involved: almost a century before the formation of Fannie Mae, the federal government's money was already shaping the mortgage market in New Haven.<sup>97</sup> Like the State's pooling activities before 1837, then, the Town's acquisition of capital to fund its 1837 mortgages cannot be considered Elite or Democratic.

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93. See EDWARD G. BOURNE, *THE HISTORY OF THE SURPLUS REVENUE OF 1837; BEING AN ACCOUNT OF ITS ORIGINS, ITS DISTRIBUTION AMONG THE STATES, AND THE USES TO WHICH IT WAS APPLIED* 12-20 (1885).

94. See *An Act to Regulate the Deposites of the Public Money* [sic], 5 Stat. 52 (1836); BOURNE, *supra* note 93, at 21-26.

95. *An Act Relating to Moneys Received from the Government of the United States* ch. 2, in *THE STATUTES OF THE STATE OF CONNECTICUT 686-93* (Henry Dutton et al. eds., 1854). Connecticut also required that the funds eventually be paid back and attached various conditions to their disbursal. *Id.* § 7.

96. *Id.* § 17. Sections 17 and 18 of the Act authorize the towns to use any portion greater than half for schools.

97. See *National Housing Act Amendments of 1938*, 12 U.S.C. § 1701 (2012).

The Town's dissemination of capital in 1837 appears to have been significantly more Democratic than the State's earlier activities. The statute creating the Town Deposit Funds also required towns to establish small administrative agencies to manage them: "An agent or agents, appointed by each town at an annual town meeting, or at a special town meeting warned for that purpose, shall from time to time be the manager or managers of the fund belonging to their respective towns, and shall at their discretion make loans therefrom . . . ."<sup>98</sup> In practice, the State actually devolved the surplus funds two levels down, skipping over mayors and existing local government structures to give authority over the money directly to townspeople in public meetings. While the Town Deposit Funds did not have the bureaucratic heft of the Connecticut School Fund, they did have two hallmarks of modern administrative agencies: discretion authorized by statute and additional legitimacy arising from direct public input.

New Haven's Town Deposit Fund began making mortgages early in 1837.<sup>99</sup> Its loans, however, did not look like the pre-1837 bank or State mortgages. First, there were a lot of them: thirty-five in 1837 alone, almost as many as the New Haven Bank had made between 1800 and 1837 in total. Second, they were small, averaging \$814 (compared to \$2,358 for the New Haven Bank and \$2,355 for the State of Connecticut before 1837). None of the Town's mortgages exceeded \$1,000. Third, they were standardized, in part because the statute creating the Town Deposit Funds regulated the mortgages they could make. Every Town mortgage contained an essentially identical voiding clause, making the loan payable on the upcoming September 28th and requiring annual interest payments on September 28th, days before the October 1st date required by statute.<sup>100</sup> However, the Town does not appear to have taken full advantage of these terms. I located release documents for nineteen of the Town mortgages; the average period between issuance of the loan and recorded release of obligations was seventy-nine months.<sup>101</sup> Finally, and most

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98. An Act Relating to Moneys Received from the Government of the United States § 13, *in* Dutton, *supra* note 95.

99. Mortgage Deed at Vol. 92, p. 472 of Land Records (Apr. 7, 1837).

100. An Act Relating to Moneys Received from the Government of the United States § 13, *in* Dutton, *supra* note 95. The statute also required that each loan be secured by real estate worth twice the value of the loan. *Id.*

101. See Database of Institutional Mortgages, *supra* note 52. See generally *supra* note 56 (providing background on terms and renewal rates in antebellum lending markets). To locate the release documents, I searched later archive indexes for deeds listing the Town of New Haven as grantor and, by comparing names of grantees, amounts of mortgages, or dates, was able to match release documents (usually quitclaim deeds) to original mortgages. These data suggest that the Town did not always enforce the legal terms of its mortgages to the fullest extent and, indeed, was quite lenient with renewals and repayment schedules. However, this conclusion is tentative. It is possible that quitclaim deeds for some of the

importantly, many of the borrowers from the Town Deposit Fund were identifiably not patrician. Determining the social status of the mortgagors is difficult, but New Haven began publishing a city-wide Directory in the early 1840s.<sup>102</sup> Many of the Town's initial thirty-five borrowers are listed in the 1841 Directory, although not all. Appendix I provides the Directory information for each borrower in full. The list includes several joiners (carpenters), a blacksmith, a shoemaker, and other middle-class occupations. The list is not universally middle class: a few manufacturers, a state senator, and a sheriff appear. But the leading social and business lights of New Haven are not present. The Town's loans went to a more diverse crowd with less wealth and lower social standing.

It is not clear why the Town Deposit loans went to this group of people. Several different economic explanations are possible. First, because the private banks were also active in 1837, there may not have been patrician demand for loans from the Fund. However, the first private bank mortgage that year was not made until April 22, 1837, by which point the Town had already made twenty mortgages.<sup>103</sup> Second, 1837 was a tough year economically: the Panic of 1837 began in the spring and plunged the nation into a severe depression.<sup>104</sup> The Town Deposit Fund may have been providing some financial relief to New Haven townspeople. Buried within this second economic explanation, though, is a political one: the idea that the Fund would help out average townspeople implies that they had some way to translate their economic hardships into action by the Fund. The statute that created the Fund supplied such a mechanism: the people of New Haven controlled the Fund through an agent they appointed at a town meeting. Regardless of the wider economic circumstances, then, the best account of why the Fund began lending to ordinary folks may be simply that state law put them in charge of the money. This would have been a profoundly Democratic means of disseminating capital, in that it would have set aside pre-existing social networks entirely and used a structured forum to assimilate information from and about strangers.

The mortgage lending activities of the Town Deposit Fund did not last long. After 1837, the Town made only seven more mortgages, although they

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mortgages were recorded much later than when an associated loan was repaid: mortgagors may have needed to demonstrate clear title for a later sale and requested that the bank record release documentation. This would explain why release documents were recorded for only some mortgages. Promissory notes would provide better evidence of repayment practices. However, very few promissory notes from the period survive.

102. See CITY DIRECTORY OF NEW HAVEN (2d ed. 1841) (on file with the New Haven Museum).

103. Mortgage Deed at Vol. 92, p. 495 of Land Records (Apr. 11, 1837); Database of Total Mortgages, *supra* note 29 (on file with author).

104. See Peter L. Rousseau, *Jacksonian Monetary Policy, Specie Flows, and the Panic of 1837*, 62 J. ECON. HIST. 457 (2002).

were typical of the 1837 loans in their size, terms, and the identities of the borrowers. The withdrawal of the Town from the market is not mysterious: the surplus funds were limited and, under the Connecticut and federal statutes, eventually had to be repaid. However, although the particular lending activities of the Town did not continue, the practice of making small, standardized loans to a socioeconomically diverse range of residents in New Haven did. A private bank founded in 1838 would carry these practices forward into the 1840s and beyond. The following section examines the rise of this institution, the New Haven Savings Bank, in detail.

*B. Mortgage Lending After 1837: The Rise of the New Haven Savings Bank*

Institutional mortgage lending after 1837 is primarily a story of the New Haven Savings Bank. In every year after it was founded in 1838, until at least 1845, it made a greater number of mortgage loans and lent more in total than all other private banks in New Haven combined. Indeed, the other banks largely abandoned the mortgage market after 1837, making only five more loans through the end of 1844. In that time, the New Haven Savings Bank made 169 mortgages, rapidly establishing itself as a force in the New Haven mortgage market. This section explores the origins and practices of the New Haven Savings Bank and concludes that it was the city's first genuinely Democratic financial intermediary, one that primarily relied on expertise and institutional competence instead of pre-existing social and economic networks to pool and allocate capital.

Unlike most other private institutional mortgage lenders in New Haven, the New Haven Savings Bank was a mutual savings bank rather than a full-service bank. In practice, this distinction boils down to two key differences. First, the New Haven Savings Bank did not issue currency like other banks of the period. A national currency would not emerge until the 1860s, and a key function of banks in the early nineteenth century was to provide paper money.<sup>105</sup> The second and more important difference is that the New Haven Savings Bank pooled capital primarily through deposits instead of sales of bank stock.<sup>106</sup> This meant that the bank pooled capital from a much broader and socioeconomically diverse set of private wealth holders than other banks. Recall that, under its Act of Incorporation, a share of New Haven Bank stock cost \$200—more than many of the individual mortgages issued by the New Haven

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105. For the Act creating a national currency, see the National Bank Act of 1864, 13 Stat. 99 (1864) (codified as amended at 12 U.S.C. § 38 (2012)).

106. LAMOREAUX, *supra* note 12, at 70. For a discussion of deposit-taking in nineteenth-century New England and “[d]irectors’ preference for stock issues over deposits,” see *id.* at 65-70.

Savings Bank.<sup>107</sup> In contrast, the New Haven Savings Bank took any deposit of one dollar or greater.<sup>108</sup> Indeed, the Savings Bank's cheerful yellow passbooks from the period, in which account holders recorded deposits and dividend payments, were explicitly targeted towards upwardly mobile depositors who had dreams of acquiring wealth but were not there yet. Adorned with a large image of a beehive, a symbol of industry, the passbooks contained a Remarks section explaining that

[The New Haven Savings Bank] has been established for the purpose of affording a secure investment to persons who have not the facilities of safely putting their income otherwise to use.

. . . By the *habit* of saving in small matters, riches are frequently acquired. . . . Many instances are known of persons beginning the world without anything, who have become rich by their own industry and frugality.

. . . .

The Savings Bank will be particularly useful to . . . persons who come in possession of money received by way of wages, gifts, or gratuities . . . .<sup>109</sup>

Materials like the Savings Bank's passbooks are quintessential attributes of Democratic financial intermediaries. The Savings Bank did not accumulate capital through existing social and kinship networks, bundling together the wealth of high-status individuals who already knew each other. Instead, the Savings Bank targeted essentially anonymous people and convinced them to part with their money by advertising its institutional competence and expertise. These Democratic strategies appear to have been effective. Founded in May 1838, the Bank had collected \$6,559.11 in deposits by October 1838.<sup>110</sup> By 1840,

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107. See An Act to Incorporate the New-Haven Bank, in Swift, *supra* note 43, at 69; see also *supra* note 43 and accompanying text.

108. Bylaws of the New Haven Savings Bank art. 8, in Depositor's Bank Book with the New Haven Savings Bank 4, on file with the New Haven Historical Society, Manuscript File #76, Box 1, Folder K [hereinafter New Haven Savings Bank Passbook]. The inside cover of the passbook is reproduced in *infra* Appendix II.

109. Remarks, in New Haven Savings Bank Passbook, *supra* note 108, at 5-7.

110. Letter from William G. Hooker, Treasurer, New Haven Sav. Bank, to Henry Kilbourn, Comptroller of Pub. Accounts for the State of Conn. (Oct. 9, 1838) (on file with the New Haven Historical Society, Manuscript File No. 76, Box 1, Folder K).



less than two years into its existence, the Savings Bank had 600 depositors in a town of around 14,000 people.<sup>111</sup>

It would be tempting to settle on the deposit structure of the Savings Bank as the reason it made loans to a more socioeconomically diverse set of borrowers. From this perspective, the whole shift in New Haven's mortgage market could be reduced to an innovation in capital pooling that subsequently opened the institutional lending market to a new class of mortgagors. However, there is a glaring counterexample to this theory. The New Haven Savings Bank was not actually the first primarily deposit-taking, mutual savings bank in New Haven: the earlier and confusingly similarly named Saving Bank of New Haven (SBNH) was chartered in 1820. The SBNH pooled capital and functioned more or less identically to the later New Haven Savings Bank—all the way down to the colorful passbooks, although the SBNH's were pink and had a reassuring quote from Benjamin Franklin on their cover instead of a beehive.<sup>112</sup> The SBNH was also successful at attracting depositors,<sup>113</sup> acquiring over one thousand by the mid-1820s.<sup>114</sup> Although it accumulated capital from a socially diverse range of individuals in New Haven, the SBNH did not lend to a wide range of them. It appears to have made only one recorded mortgage during its existence.<sup>115</sup> Most of the SBNH's capital went into the Eagle Bank, New Haven's second bank, founded in 1811.<sup>116</sup> The Eagle Bank seems to have been fully of the patrician mold of the New Haven Bank, although much less successful.<sup>117</sup> It failed in 1825, "giving New Haven its first

111. See HASSE, *supra* note 40, at 30.

112. Compare, e.g., New Haven Savings Bank Passbook, *supra* note 108, with, e.g., The Saving Bank of New Haven, Passbook No. 1010, belonging to Peter Apple, Inside Front Cover, New Haven Museum, Manuscript File #76 Box 1, Folder L [hereinafter Passbook No. 1010]. The front cover of an SBNH passbook is included in Appendix B, *infra*.

113. HASSE, *supra* note 40, at 17 (quoting from minutes of SBNH meeting that "255 persons in 10 months have made 401 deposits in the amount of \$23,199").

114. Passbook No. 1010, *supra* note 112. The New Haven Museum has passbooks for a significant number of SBNH depositors on file.

115. See Mortgage Deed at Vol. 76, p. 136 of Land Records (Jan. 29, 1828).

116. See HASSE, *supra* note 40, at 10, 16-17. The two institutions shared Presidents. For more background, see generally the facts of *Savings Bank of New-Haven v. Bates*, 8 Conn. 504 (1831); *Savings Bank of New Haven v. Davis*, 8 Conn. 191 (1830); *Catlin v. Savings Bank of New-Haven*, 7 Conn. 487 (1829); and *Homer v. Savings Bank of New-Haven*, 7 Conn. 478 (1829). All of these cases concerned the affairs of the Eagle Bank, but the SBNH was the captioned party in them.

117. Its president was elected mayor in 1822, in the middle of an era where patrician professionals controlled the office. See DAHL, *supra* note 53, at 12 tbl.2.1. In addition, an accounting of the Eagle Bank's holdings on its demise shows that it operated as a typical bank during the period. See Report of Investigators of Eagle Bank (Oct. 25, 1825) (on file with the New Haven Museum, Manuscript File #76, Box 1, Folder C).

real financial panic” and dragging the SBNH down with it.<sup>118</sup> The SBNH officially shut its doors in 1825 but managed to pay back its depositors, with modest interest, by 1832.<sup>119</sup> The unhappy details of New Haven’s first bank crisis are largely beside the point here. The lesson of the SBNH is that accumulating deposits from a wide range of individuals did not imply that a bank would lend to these individuals or that it would be beyond the control of the financial elite.<sup>120</sup>

The later New Haven Savings Bank was no exception to this latter point. Although it accepted deposits from a socioeconomically diverse set of people, it remained firmly under the control of New Haven’s elite. As of 1841, it had a President, four Vice Presidents, and nine Trustees.<sup>121</sup> Of these fourteen men, half either served on the Board of the New Haven Bank or shared a last name with someone who did. Of the remaining seven, four had borrowed money from the New Haven Bank at some point before 1837, including James Brewster, one of New Haven’s earliest industrial magnates. The final three included Ralph Ingersoll, a United States Congressman, and Roger Sherman, likely the son of the more-famous Roger Sherman, a Founding Father and New Haven’s first mayor. The only Trustee that did not have easily identifiable patrician bona fides was Henry White. But given his compatriots among the Savings Bank’s management, it is doubtful he was, in the words of the Savings Bank’s passbooks, a “person[] [who] beg[an] the world without anything.”<sup>122</sup> In addition, the New Haven Savings Bank was housed for many years “in a room in the rear of the New Haven Bank building,” which in 1839 at least, it was allowed to use rent-free.<sup>123</sup> For a time, the Board of the Savings Bank conducted meetings in the New Haven Bank’s boardroom.<sup>124</sup> Although its capital may have come from outside elite circles, the New Haven Savings Bank was still managed by the city’s patrician leaders.

But the New Haven Savings Bank differed from its predecessors in the volume and socioeconomic composition of its borrowers. Unlike earlier private

118. See HASSE, *supra* note 40, at 13, 17.

119. *Id.* at 17. Hasse reports that depositors received \$1.11 for every dollar deposited by the end of 1832. My own calculations based on the passbooks on file with the New Haven Museum put the number closer to \$1.20.

120. For a case study of two mutual savings banks that puts the experience of the SBNH and the New Haven Savings Bank into perspective, see Lance Edwin Davis and Peter Lester Payne, *From Benevolence to Business: The Story of Two Savings Banks*, 32 BUS. HIST. REV. 386, 398 tbl.3 (1958).

121. See CITY DIRECTORY OF NEW HAVEN, *supra* note 102.

122. See Remarks, *supra* note 109.

123. HASSE, *supra* note 40, at 29-30. Rent for the following year was set at seventy-five dollars. *Id.* at 30.

124. *Id.*

banks in New Haven and even the SBNH, the New Haven Savings Bank lent to a broad population of residents. Moreover, its lending practices indicate that it relied on expertise and institutional competence to locate and evaluate borrowers, operating as a Democratic financial intermediary. First, the sheer volume of mortgages originated by the Savings Bank would have strained reliance on pre-existing social and economic networks in New Haven. In 1844 alone, the Savings Bank made sixty mortgages, an order of magnitude more than any other private bank in a single year. The upward trend in the volume of the Bank's mortgages appears to have continued and accelerated in later years. In 1847, a few years outside the window of this Note's datasets, the Land Records began to accept printed form pages specifically for mortgages originated by the Savings Bank, ostensibly because their volume was so large.<sup>125</sup> Second, in keeping with developments like printed forms and unlike other bank lenders, the Savings Bank's mortgages were standardized, including essentially identical voiding clauses setting semiannual interest payments and making mortgages payable "on demand, for value received."<sup>126</sup> Unlike the

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125. See Vol. 124 in Land Records; see, e.g., Mortgage Deed at Vol. 124, p. 1 of Land Records (Oct. 15, 1847) (included in Appendix B). These printed forms were used at least until 1891. See Marshall, *supra* note 30, at 93, App. A.

126. See, e.g., Mortgage Deed at Vol. 105, p. 69 of Land Records (Oct. 4, 1841). Some of the Bank's early loans in 1838 deviated from this language, and there are exceptions in the record even in later years. For the most part, though, the language of the Savings Bank's mortgage deeds remained constant. The payability-on-demand term is puzzling. Taken at face value, it would give the Savings Bank the power to demand repayment of a loan at any time. Even given the short-term nature of many of the loans from this period, such a provision would be extreme. See *supra* note 56. In practice, it appears that loans were paid back over a period of years. Using the archives' indexes, I searched for deeds where the Bank was listed as a grantee. I located thirty-one release documents, generally quitclaim deeds, recorded before 1844 explicitly releasing mortgagors from obligations to the Bank and renouncing Bank claims to mortgaged land. As with the release documents for the Town mortgages, I matched these releases with earlier Bank mortgages using the name of the grantee, the date of the original mortgage (if given in the release), or the volume and page number of the original mortgage (in some cases this was included in the release document). The average length of time between the initial mortgage deed and the associated release was twenty-six months, implying that, in many cases, the Bank did not demand repayment of loans as early as it might have. However, release documents may not be valid indications of when loans were repaid. See *supra* note 101 for a fuller discussion of these issues. It is also possible that the language "payable on demand for value received" incorporated more lenient repayment terms contained in the promissory note associated with each mortgage. However, a surviving promissory note from this period contains no such extra terms and instead repeats the same provision: "On demand, for value received, I promise to pay the New Haven Savings Bank, at the office of said Bank, in the city of New Haven, the sum of Two Thousand Dollars, with the interest payable semiannually." Promissory Note, *supra* note 56 (noting, on the reverse side, that principal repayments did not begin for eight years). The legal and economic significance of the payability-on-demand terms is discussed in greater depth in Part IV.B.

Town and the State, the Savings Bank was not constrained by statutory demands in standardizing the terms of its loans. Accordingly, the consistency of the voiding clause language across a large volume of mortgages suggests that the Bank sold a standardized product, perhaps familiar to its customers over time, and did not engage in extensive bargaining with sophisticated mortgagees. Third, the Savings Bank's mortgages were small—\$1,100 on average, less than half the size of those made by earlier banks. The smaller size of the mortgages suggests that they were made to less-wealthy borrowers, who were less likely to be plugged into patrician social networks. Finally, many of the Savings Bank's borrowers were identifiably not members of New Haven's elite, based on their occupations as given in the annual city directories. Because so many mortgagors are unlisted in the directories, they do not provide a complete picture of the socioeconomic composition of the Savings Bank's borrowers. However, they do confirm that the borrowers included joiners, painters, grocers, an African-American laborer, and various other middle-class folks.<sup>127</sup> There were upper-class, professional borrowers as well: a physician, whom the directories also identify as an "instructor in elocution," and a lawyer.<sup>128</sup> By the early 1840s, however, the Savings Bank was making more loans every year to carpenters and blacksmiths than the New Haven Bank made in a single year to all of its borrowers.

The composition of the Bank's borrowers, the details of its mortgages, and the way it presented itself through materials like its passbooks all show that the Savings Bank operated as a genuine Democratic financial intermediary. Unlike the earlier banks that accumulated capital and made loans primarily within elite social networks, the Savings Bank had the expertise and institutional capabilities to reach beyond existing social structures, attract capital from strangers, and allocate capital to strangers. Moreover, operating in this way was profitable for the Savings Bank: it grew in size, was still a force in New Haven's mortgage market in the late nineteenth and early twentieth centuries,<sup>129</sup> and remained in business into the early 2000s before undergoing a successful merger.<sup>130</sup> Its shift into Democratic lending was a permanent change in the city's financial development.

This Part has examined the 1837 shift in New Haven's mortgage market. During and after 1837, mortgages from institutions became broadly accessible to residents of the city who were not among its elite. A relatively small number were able to acquire mortgages from the Town Deposit Fund in 1837, and, soon thereafter, a greater number took out mortgages from the New Haven

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127. See CITY DIRECTORY OF NEW HAVEN, *supra* note 102.

128. *Id.*

129. See Marshall, *supra* note 30.

130. See *Merger Decisions*, *supra* note 31.

Savings Bank. While the Town Deposit Fund may not have acquired its capital in a Democratic fashion, it at least operated like a Democratic institution in that it relied on its institutional capabilities to find borrowers instead of pre-existing social networks. The New Haven Savings Bank was the city's first true Democratic financial intermediary: pooling as well as disseminating capital outside of pre-existing social structures. However, this discussion of the change in the city's mortgage market has not addressed a central question – and a particularly salient one if any modern lessons are to be drawn from New Haven's nineteenth-century experience: why did this change occur? Why did the city shift from Elite to Democratic capital allocation in 1837? The next and final Part proposes some answers to this question.

#### IV. WHY DID THE SHIFT IN NEW HAVEN'S MORTGAGE MARKET OCCUR?

This Part considers why New Haven's mortgage market shifted from Elite to Democratic capital allocation when it did. Understanding what drove the changes in the market could provide valuable insights into how to promote financial development and economic democratization in settings besides early nineteenth-century New Haven. The following sections consider, in turn, economic, legal, and sociopolitical accounts of why the change happened when it did.

##### A. *Economic Theories*

###### 1. *Macroeconomic Theories*

Macroeconomic conditions may have played a role in the shift in the New Haven mortgage market. The early nineteenth century was a period of amazing growth. Between 1800 and 1850, the city's population more than tripled, and the number of houses quadrupled.<sup>131</sup> One account of the shift in the city's mortgage market might be that it was primarily a product of this economic growth. However, this is too thin an account to fully explain the change. First, New Haven's economic development during this period unfolded over decades, but the shift in the mortgage market happened abruptly. Moreover, the particular moment when the change began was an exception to the long-term pattern of growth: the Panic of 1837 was among the most severe in American history and began a recession lasting through the mid-1840s.<sup>132</sup> Bank

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131. See NEW HAVEN CITY REPORTS (1860-1861) (on file with the New Haven Museum).

132. See Rousseau, *supra* note 104, at 457.

failures and loan losses were widespread.<sup>133</sup> More locally, the New Haven Bank, along with a consortium of New York City banks, suspended specie payments for a year in 1837-1838.<sup>134</sup> The late 1830s and early 1840s would be a counterintuitive time for macroeconomic conditions to spur financial development. A second problem with a purely macroeconomic account of the shift is that empirical research suggests that the causal process generally runs the other way, with financial development supporting economic growth.<sup>135</sup> The city's growth, particularly after 1837, was more likely a consequence of greater institutional lending instead of a cause. Moreover, economic research has documented situations in which significantly higher levels of economic development and complexity than those present in 1830s New Haven nonetheless did not lead to a shift from Elite to Democratic capital allocation.<sup>136</sup> In sum, while the general trend of economic expansion in the nineteenth century may have contributed to the city's financial development, it does not sufficiently explain the discrete shift in the market.

## 2. *Microeconomic Theories*

A microeconomic perspective may do a better job of explaining the shift. A microeconomic account would argue that the New Haven Savings Bank appeared when it did because, with its passbooks and form mortgages, it was able to lower the transaction and information costs of making mortgages in New Haven, capture some of this cost reduction, and thereby sustain itself as an institution. However, in order for this simple microeconomic story to explain the sudden rise of Democratic lending after 1837, the relative costs of Elite and Democratic lending must have changed abruptly. This defect is particularly striking because there were other active financial institutions in existence before 1837 that could have operated as Democratic intermediaries. New firms must pay upfront costs to form and become active in a market. If lower costs for lending by firms fully explained the appearance of Democratic

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<sup>133</sup>. *Id.*

<sup>134</sup>. *Id.*; Theodore S. Woolsey, *The Old New Haven Bank*, in 8 PAPERS OF THE NEW HAVEN HIST. SOC'Y 310, 326-27 (1914); Record Book, *supra* note 45. Banknotes at the time were backed by "specie," usually gold or silver, which holders could demand from any bank honoring the notes.

<sup>135</sup>. See *supra* note 1.

<sup>136</sup>. See, e.g., Rafael La Porta et al., *Related Lending*, 118 Q.J. ECON. 231, 233 (2003) (documenting the prevalence of "related lending," similar to insider lending, in modern Mexico and listing twenty-four other countries where banks are controlled by "persons or entities with substantial nonfinancial interests"); Edmund J. Malesky & Markus Taussig, *Where is Credit Due? Legal Institutions, Connections, and the Efficiency of Bank Lending in Vietnam*, 25 J.L. ECON. & ORG. 535 (2009) (documenting "connected" lending in Vietnam).

lending, then some existing firm, likely the New Haven Bank, should have shifted into broader mortgage lending practices over time to maximize profits. This is not a fatal flaw of the microeconomic account, but it does lead to a correlative question: what changed in 1837 that sufficiently shifted the economic calculations for institutional lending to justify the formation of a new firm and a novel project of providing small bank loans to a diverse group of borrowers?

*B. Possible Legal Changes in Incorporation and Contracting*

Legal developments can bring about changed economic circumstances. They are particularly important to consider in the development context because they point to discrete reforms that jurisdictions might make to promote development. This section considers two types of legal developments that could have changed the economic calculations behind Democratic lending in New Haven in the 1830s. However, legal changes do not seem to be the source of the changed circumstances driving the rise of Democratic lending. In particular, there do not seem to be relevant, specific changes that occurred before the shift.

First, changes in incorporation laws could have lowered the costs associated with forming a Democratic intermediary. This would place New Haven in line with New York State and its turn to free banking laws in 1838, which reduced the legal barriers to entering New York's banking market.<sup>137</sup> However, Connecticut did not embrace free banking. Indeed, in 1838, it added to the statute setting out the procedural steps necessary to petition the General Assembly for a bank charter.<sup>138</sup> Moreover, although Connecticut had these process requirements on its books, Connecticut and the rest of New England had established a de facto free banking system early in the 1810s and 1820s, essentially granting bank charters to all petitioners who followed the statutory procedures.<sup>139</sup> There simply were no developments in incorporation laws that would have lowered the entry costs for a new Democratic financial intermediary in the late 1830s.

Second, changes in contract or real property law may have precipitated the shift in the mortgage market. In particular, the standardized terms of the New Haven Savings Bank's mortgages may have included some drafting innovation

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137. See BODENHORN, *supra* note 10, at 183-218.

138. An Act in Addition to an Act Entitled "An Act Concerning Petitions and Memorials to the General Assembly," 1839 Conn. Pub. Acts 326.

139. See BODENHORN, *supra* note 10, at 78; Wallis, *Answering Mary Shirley's Question*, *supra* note 6, at 111 ("[New England states] had established de facto free entry in banking in the 1810s and 1820s.").

or term previously disallowed by law that substantially lowered its costs. The most likely such term would have been the provision making its loans “payable on demand.” Particularly given Connecticut’s usury laws, which capped interest rates at six percent, it may have been valuable to make loans immediately payable on demand.<sup>140</sup> However, there do not seem to have been observable, relevant changes in property or contract law during this period. Mortgages with “payable on demand” provisions were made between private individuals and recognized by courts many years before 1837.<sup>141</sup> Connecticut’s mortgage case law at the time seemed primarily concerned with notice-giving requirements and priority issues, not with adjustments that might have accommodated new institutional lenders.<sup>142</sup>

Moreover, the available evidence suggests that the “payable on demand” provisions of the Savings Bank’s mortgages were not consistently enforced. It is difficult to draw firm conclusions on this point because the Land Records contain release documents for only a portion of the Bank’s mortgage deeds.<sup>143</sup> However, at least thirty-one deeds explicitly releasing mortgagors from obligations to the Bank and renouncing Bank claims to mortgaged land were recorded before 1844.<sup>144</sup> The length of time between an initial mortgage deed and a release varied considerably but averaged twenty-six months.<sup>145</sup> Therefore, for at least a non-trivial portion of its mortgages, the Bank appears to have allowed its mortgagors some flexibility in the practical terms of their loans.<sup>146</sup> This is not to say that the Bank never foreclosed on its mortgagors.<sup>147</sup> However, when it did foreclose, it had to follow the same foreclosure procedures as any other lender: a deed of sale recorded in 1841 relates how the

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140. See BODENHORN, A HISTORY OF BANKING, *supra* note 11, at 147 tbl.4.5. If lenders cannot raise interest rates to fully compensate themselves for risk because of usury laws, one way to counteract such pro-debtor constraints is to structure repayment obligations to be as pro-creditor as possible—for instance, by making loans payable at any time upon demand by the creditor.

141. See, e.g., *Wheaton v. Wheaton*, 9 Conn. 96 (1831) (refusing to admit parol evidence to correct a promissory note that the parties may have intended to be payable on demand on the lender’s death).

142. See, e.g., *Sanford v. Wheeler*, 13 Conn. 164 (1839); *Hubbard v. Savage*, 8 Conn. 215 (1830); *Stoughton v. Pasco*, 5 Conn. 442 (1825).

143. See *supra* notes 101 and 126. As discussed in note 101, release documents may not be a good indication of repayment periods.

144. See *supra* note 126.

145. *Id.*

146. But see *supra* note 101 (explaining why deeds releasing mortgagor from obligations may have been recorded later than repayment of associated loans).

147. See, e.g., *Deed of Sale at Vol. 104 of Land Records*, p. 178 (noting that the bank had previously foreclosed on the property at issue).



Bank sought a foreclosure decree for the land in question and waited for the duration of a redemption period before taking title.<sup>148</sup> Overall, then, the legal details and context of the Bank's operations offer little explanation for why it appeared when it did. Explanatory shifts in corporation, contracting, or real property law are not apparent.

*C. The Town and the Bank: A Sociopolitical Story*

Although legal changes do not appear to have caused the shift in the market, one statutory development had a direct effect on institutional lending in New Haven: the creation of the Town Deposit Fund. The proximity of the activities of the New Haven Town Deposit Fund to the rise of the New Haven Savings Bank suggests a final theory for the shift in the mortgage market. This theory takes the microeconomic account of the formation of Democratic financial intermediaries as given and accepts that the Savings Bank formed and was successful because it had lower marginal costs of pooling capital, locating and evaluating mortgagees, and spreading risk. But before 1837, the relative efficiency of a Democratic institution like the Savings Bank might not have been known to the banks operating in the city. Although smaller mortgages to non-elite individuals during this period may have been profitable—as suggested by the existence of mortgages between individuals and the later success of the New Haven Savings Bank—patrician banks may not have made such mortgages because they gathered information through closed, elite networks that had no way of assembling this knowledge. Without any institution compiling the knowledge of profitability in a single place, it must have been dispersed across a volume of individual-to-individual loans throughout the city, many of them between individuals with whom the patrician banks probably did not communicate. The very tools used by the Elite banks to evaluate borrowers—pre-existing social status and wealth—made them institutionally blind to downmarket opportunities.

The reason the market shifted in 1837, then, may be because the Town solved this information problem by demonstrating the demand for and viability of Democratic lending. The Connecticut statute disbursing the federal surplus called for town meetings to appoint a manager for each Town Deposit Fund. The manager's appointment and his work were subject to the deliberative will of the community. It is possible, then, that the Town

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148. *Id.* (“[S]aid land and buildings hereby conveyed are the same premises which were mortgaged to the said New Haven Savings Bank . . . by deed dated July 15th 1839 and on which said New Haven Savings Bank obtained a decree of foreclosure from the Superior Court for the County of New Haven at its term for January 1841 . . . and the time limited by said Court for the redemption of said premises by all said parties has expired.”).

overcame the information barrier in the market simply by asking townspeople what they wanted to use the influx of capital for and then following their instructions. By creating a political forum where economic actors who were not plugged into pre-existing elite social networks could present and assemble privately held knowledge in a public setting, the Town performed an information-aggregating service with economically significant results. From this perspective, the Town's intervention can be seen as an anti-Hayekian moment, when economic information was too atomized to be useful until the Town made it legible through a public forum and subsequent public action.<sup>149</sup>

This information-aggregating theory must be accompanied by several qualifications. First, there is a lack of direct evidence shedding light on the town meetings creating the Deposit Fund or on the Fund's activities in selecting borrowers. The New Haven Clerk's Office contains extensive handwritten notes from several of New Haven's municipal government bodies at the time, including the City's Board of Aldermen and Court of Common Council. However, the archives of the Town's governing body, the Board of Selectmen, are missing volumes covering several early decades of the nineteenth century.<sup>150</sup> In particular, no record of the Town's political decision-making in 1837 appears to exist. While the absence of this evidence is not a direct counterargument to the sociopolitical account of the 1837 shift, it does indicate how much weight such a theory places on the simple proximity of the Town Deposit Fund to the formation of the New Haven Savings Bank. Without direct evidence that townspeople had real input into the creation and activities of the Town Deposit Fund, the link between the Fund and the wider changes in the market must remain speculative.

A related and more substantive criticism of the sociopolitical account would push back on the idea that demand for downmarket mortgages was so atomized that private lenders could not put the information to use on their own, without the intervention of a government-backed Town Deposit Fund. Individual lenders were ostensibly profiting on their mortgages to individual borrowers. What if they came together to create an institutional lender to capture more of these profits? While this critique makes sense in terms of the theoretical incentives of the relevant economic actors, it suffers from a few defects. First, like a pure microeconomic theory explaining the New Haven Savings Bank as a more efficient mortgage lender, a story of spontaneous

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149. Cf. F. A. Hayek, *The Use of Knowledge in Society*, 35 AM. ECON. REV. 519 (1945) (extolling the powers of the price mechanism, rather than a central planning authority, to communicate knowledge about local conditions).

150. Records exist for meetings of the Board of Selectmen from 1771 to 1819 and again from 1863 onwards. It is an unfortunate coincidence that the Town Deposit Fund was administered during a period for which the minutes of the meetings of the Board of Selectmen are unavailable.

organization by individual lenders in New Haven begs the question of why the Bank appeared when it did. Individual mortgage lenders had been profitably making mortgage loans in New Haven for many years before the late 1830s; what would move them to act on their knowledge and form a bank in the teeth of a bitter depression? Second, the counterexample of existing private lenders coming together to create an institutional lender does not line up with the historical record. The New Haven Savings Bank was founded and operated by members of the patrician elite who were likely socially disconnected from at least a significant portion of the individual borrowers and lenders in the city. The Bank's formation was not the result of bottom-up economic knowledge and financial incentives guiding the efforts of entrepreneurs. The Bank was created because something caught the attention of the primary holders of social and economic capital in New Haven and convinced them that it was time to deploy their capital downwards. The innovative lending practices of the Town Deposit Fund may seem far-fetched as a source of inspiration for the likes of James Brewster and Ralph Ingersoll, but particularly in the absence of alternatives, they are a plausible catalyst.

A final qualification of the sociopolitical account is simply that it is incomplete. The theory cannot stand on its own. The Town may have served as an information gate, providing a public forum for aggregating information and demonstrating its accuracy through profitable loans. But this would have counted for little if the wider economic conditions in New Haven had not been conducive to a Democratic shift or if the New Haven Savings Bank had been legally or organizationally incapable of capitalizing on the information. Most importantly, the activities of the Fund alone would probably not have shifted the lending practices of the patrician leaders of the New Haven Savings Bank if they had not been already prepared for some change. The background sociopolitical dynamics in New Haven must have played an important role. In particular, the sociopolitical account rests on the assumption that a town meeting could adequately assemble dispersed community knowledge of profitable downmarket demand for credit. If patricians had totally dominated the town's political scene, then the relevant information about the lower segment of the mortgage market might not have been heard. However, the assumption that the town's political institutions allowed middle-class voices to be heard—particularly upwardly mobile middle-class voices asking for mortgages—is not unreasonable. At the time, New Haven was on the cusp of significant social change. Economic and social leadership was slowly shifting from the patrician elite to a new group of more self-made strivers. Robert Dahl identifies the election of P.S. Galpin in 1842 as the moment when political leadership shifted between these two groups.<sup>151</sup> If the Young Turks of New

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151. See DAHL, *supra* note 117, at 13 tbl.2.1.

Haven could capture the mayor's office in 1842, then they may very well have been able to influence the creation and activities of the Town Deposit Fund five years earlier.

Alongside the broader social changes taking place in the city, the statute creating the Town Deposit Fund also deserves credit for ensuring that citizens outside the patrician elite had some say in how the federal surplus funds were ultimately allocated. Had the statute simply placed the Fund under the control of the New Haven mayor in 1837, H.C. Flagg, a patrician lawyer, then the Fund might not have been able to serve the same information-aggregating purpose.<sup>152</sup> Accordingly, the statute can be seen as an early and successful example of federalism-all-the-way-down through its empowerment of a local population that had not yet won outright political control of the city.<sup>153</sup> From this perspective, the sociopolitical account offers some policy guidance for modern governments seeking to promote financial development. In particular, it suggests that modern governments might embrace robustly decentralized models of economic action to solve information gaps in local markets. It also highlights how unregulated local markets may have particular information problems that require public action. But the sociopolitical account does not call for sustained or large-scale government intervention in markets. Instead, it recommends government action on a local scale to assemble information that would otherwise be too diffuse or buried in the community to be economically useful. The real lesson of the shift in New Haven's mortgage market may be the value of small-scale legibility produced by local political structures.<sup>154</sup>

Overall, the sociopolitical account has strengths and weaknesses and is likely only a partial explanation for the changes in the city's mortgage market. However, this theory may be testable. The statute creating the Town Deposit Fund authorized and financed similar Funds in municipalities across Connecticut. These towns, like New Haven, kept land records. It would be possible to recreate the methodology of this Note in other cities, such as Hartford and Bridgeport. If the federal surplus funds were distributed in similar ways in other municipalities, then further research could determine if similar shifts occurred in other local mortgage markets. Moreover, cities in other New England states like Rhode Island and Massachusetts could be included in the sample. Lamoreaux and Bodenhorn have documented extensive

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152. *Id.* at 12 tbl.2.1.

153. Cf. Heather K. Gerken, *The Supreme Court 2009 Term Foreword: Federalism All the Way Down*, 124 HARV. L. REV. 4, 23-25 (2010) (identifying local institutions as potential "sites for pursuing federalism's values").

154. For an extended discussion of how governments produce legibility (and the negative consequences that can result), see generally JAMES C. SCOTT, *SEEING LIKE A STATE: HOW CERTAIN SCHEMES TO IMPROVE THE HUMAN CONDITION HAVE FAILED* (1998).

similarities among the nineteenth-century financial systems of these states.<sup>155</sup> But each state did not spend its share of the federal surplus in the same way. The financial markets of towns with active Deposit Funds could be compared with the outcomes of towns in neighboring states that lacked Deposit Funds. Further research along these lines could provide more compelling evidence that the Town Deposit Fund played a significant role in New Haven's development and could yield further recommendations for modern policy approaches.

## CONCLUSION

This Note has taken a detailed look at New Haven's transition from Elite to Democratic financial intermediation. It has no illusions that the experience of a mid-sized Connecticut city in the early nineteenth century is comprehensively representative of economic development in other times and places. However, the city's mortgage market did undergo a change in the late 1830s that is crucial for complex, sustained economic growth—namely the transition from capital allocation through pre-existing social networks to capital allocation through institutional expertise. This transition was not inevitable, and this Note has proposed several theories for why it happened when it did. In focusing particularly on the activities of the Town Deposit Fund, it has sought to develop a new perspective on how local political institutions can shape economic development. Ultimately, markets are powerful but fragile institutions, and historical and sociopolitical approaches can be valuable in understanding how to improve them.

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155. See BODENHORN, *supra* note 10, at 72-94; LAMOREAUX, *supra* note 12, at 52-83.

MORTGAGE LENDING IN NEW HAVEN

APPENDIX I

OCCUPATIONS OF THE BORROWERS FROM THE TOWN DEPOSIT FUND, 1837.

Date	Grantor	Mortgage Amount	Volume in Land Records	Page in Volume	Occupation as Stated in 1840 Directory
04/07/1837	John Anderson	\$400	92	472	listed without occupation
04/06/1837	Elihu Atwater	\$1,000	92	469	joiner
02/17/1837	Stephen Bishop	\$1,000	92	348	dealer in paints and groceries
01/26/1837	Ezekiel Chidsey	\$1,000	92	321	boot and shoe store
01/26/1837	Beriah Bradley	\$1,000	92	325	boot and shoe store
01/26/1837	George Bradley	\$400	92	326	blacksmith
04/06/1837	Oliver Bryan	\$1,000	92	471	merchant tailor
02/09/1837	Hannah Carr	\$850	92	330	unlisted
04/05/1837	Charles B. Linus & Abel Chamberlain	\$500	92	464	unlisted; cabinet manufacturer
04/22/1837	John Durrie	\$1,000	92	543	booksellers & publishers
01/31/1837	Mary Foster	\$500	92	328	listed without occupation
04/06/1837	Luther Gilbert	\$930	92	465	livery stable
04/06/1837	Eliazer Gorham	\$750	92	454	boot and shoe store
04/05/1837	Marcus Merriman	\$500	92	466	Senator (State)
03/15/1837	Rhodolphus Northrop	\$1,000	92	423	carver
04/06/1837	James Parker; James Parker Jr.	\$1,000	92	470	livery stable
01/31/1837	Asahel Pierpont	\$1,000	92	329	door lock and latch manufacturer (with Hotchkiss)
04/14/1837	Samuel Rowland	\$750	92	492	listed without occupation
01/30/1837	Anna Whittlsey	\$1,000	92	327	unlisted
04/07/1837	John Mitchell	\$1,000	92	467	listed without occupation
04/07/1837	John Mitchell	\$1,000	92	468	listed without occupation
02/09/1837	Washington School District	\$500	93	29	School District
07/12/1837	Chauncey Wells	\$250	95	237	joiner
07/05/1837	Alexander Stover	\$1,000	95	222	unlisted

06/06/1837	Minott Osborn	\$750	95	227	printers and publishers of Columbian Register (with Baldwin)
Date	Grantor	Mortgage Amount	Volume in Land Records	Page in Volume	Occupation as Stated in 1840 Directory
06/06/1837	Charles Monson	\$1,000	95	226	store 2 Elm c York, factory Whitney Avenue c First, h 4 Elm
06/05/1837	Joel Hartshon	\$400	95	221	shoe maker
07/05/1837	Samuel Bassett	\$1,000	95	223	unlisted (although S.M. Bassett has a looking glass manufactory)
07/22/1837	Treat Botsford	\$500	95	264	marble and stone yard
07/05/1837	Daniel Brown	\$1,000	95	224	builder
07/20/1837	Judson Curtiss	\$750	95	258	joiner
07/07/1837	Anson Colt	\$1,000	95	232	unlisted
07/10/1837	Abigail Bishop	\$1,000	95	233	unlisted
11/28/1837	Anson Colt	\$1,000	95	472	unlisted
07/18/1837	Stephen Cooke	\$750	95	252	unlisted

APPENDIX II

SELECTED IMAGES

To all People to whom these Presents shall come:—Greeting.

**KNOW YE, THAT** I *Alexander O. Coburn of the City and County of New Haven and State of Connecticut,*

for the consideration of *One Thousand Dollars* received to my full satisfaction of the New Haven Savings Bank a Corporation, located and doing business in the city of New Haven, New Haven County, and State of Connecticut, do give, grant, bargain, sell, and confirm unto the said New Haven Savings Bank, their successors, and assigns, a certain piece of *land* of said *land*, with all the buildings thereon, situated in said *city of New Haven*, of more or less, and bounded as follows, to-wit: *Beginning in Water Street about fifty feet; Eastely on Lane of New York Street; Southely by the water or Docks; Westely by the lot belonging to the heirs of William Livingston, CO. & Ethel; thenceforth, subject to a right of way over same that on the East side runs thereof.*

To have and to hold the above granted and bargained premises, with the appertences thereof, unto the said New Haven Savings Bank, their successors, and assigns forever, to them and their own proper use and behoof. And also I the said *Alexander O. Coburn*

do, for *my* heirs, executors, and administrators, covenant with the said New Haven Savings Bank, their successors, and assigns, that at and until the encasing of these presents *of* well seized of the premises, as a good indefeasible estate in fee-simple, and have good right to bargain and sell the same in manner and form as is above written, and that the same is free of all incumbrances whatsoever.

And furthermore, I the said *Alexander O. Coburn* do by these presents, bind *my* self and *my* heirs forever to warrant and defend the above granted and bargained premises to the said New Haven Savings Bank, their successors, and assigns, against all claims and demands whatsoever.

In witness whereof I have hereunto set *my* hand and seal this *15* day of *October* A. D. *1847*

It is condition of the above deed (is such), that whereas the said *Alexander O. Coburn* hath borrowed of the said New Haven Savings Bank, the sum of *One Thousand Dollars* and in consideration thereof, hath executed and delivered to said Savings Bank, *his* promissory note, dated *October 15* 1847, by which said note, the said *Alexander O. Coburn* doth promise, to pay to said New Haven Savings Bank, *One Thousand Dollars* for value received, the sum of *One Thousand Dollars* at the office of said Savings Bank, in the city of New Haven, with the interest payable *semi-annually*.

Now therefore, if said promissory note shall be well and truly paid, according to its tenor and effect, then this deed shall be void; but otherwise shall remain in full force and effect.

Signed, Sealed, and Delivered, }  
 In presence of }  
*Saml. Hooker* }  
*W. M. Howell* } *Alex O. Coburn* (S)

New Haven County, ss. New Haven, October 15<sup>th</sup> 1847.  
 Personally appeared *Alexander O. Coburn*

the signer and sealer of the foregoing instrument, and acknowledged the same to be *his* free act and deed, before me,

*J. W. Howell* Justice of the Peace.

Received for Record *October 15<sup>th</sup>* 1847, at 4h. 35m. P.M.:  
 and Recorded by *Alfred Perry* Town Clerk.

An example of a later mortgage deed recorded on a form specially printed for the New Haven Savings Bank (Mortgage Deed at Vol. 124, p. 1 of Land Records (Oct. 15, 1847)).





## THE SAVING BANK

Of New-Haven.

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“A PENNY SAVED IS TWO PENCE CLEAR.”

DR. FRANKLIN.

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### BY-LAWS.

ARTICLE I. The Saving Bank of New-Haven shall be open twice a month, on the first and third Mondays thereof, from ten o'clock till noon.

ARTICLE II. Deposits of one dollar or any larger sum shall be received. The lowest sum which shall be put on interest, shall be five dollars; and no fractional part of a dollar shall be received or be entitled to interest.

ARTICLE III. On the first days of January and of July in each year, there shall be declared a dividend of two and a half per cent, or five per cent per annum on all sums of five dollars and upwards, which shall have been deposited for the space of six months next preceding, and a proportional rate of interest on sums which shall have been deposited for a less period, allowing no interest for the fractions of a month.

ARTICLE IV. No interest shall be paid on any sums withdrawn, for the time which may have elapsed since the last dividend.

ARTICLE V. Dividends not called for within three months, shall be added to the principal, and bear interest from the declaration of said dividend.

ARTICLE VI. Whenever any person shall receive his principal or interest, he shall produce the original book or voucher given him, that the payments may be entered therein.

The cover of a passbook for the ill-fated Saving Bank of New Haven (Passbook No. 1010, *supra* note 112).

**Depositor's Bank Book**  
WITH  
**THE NEW HAVEN SAVINGS BANK,**  
IN THE  
**CITY OF NEW HAVEN.**



*Office, easterly side of Orange Street, (north of Chapel Street,) is open every business day, from 9 o'clock A. M., to 4 o'clock P. M.*

**READ THE REGULATIONS.**

NEW HAVEN:  
PRINTED BY J. H. BENHAM.  
1854.

The inside cover of a passbook for the much more successful New Haven Savings Bank, the city's first Democratic financial intermediary (New Haven Savings Bank Passbook, *supra* note 108).

