



---

GW Law Faculty Publications & Other Works

Faculty Scholarship

---

2016

# The Narrowing of Federal Power By the American Political Capital

David Fontana

*George Washington University Law School, [dfontana@law.gwu.edu](mailto:dfontana@law.gwu.edu)*

Follow this and additional works at: [http://scholarship.law.gwu.edu/faculty\\_publications](http://scholarship.law.gwu.edu/faculty_publications)

 Part of the [Law Commons](#)

---

## Recommended Citation

Fontana, David, The Narrowing of Federal Power by the American Political Capital (March 23, 2016). *William & Mary Bill of Rights*, Vol. 23, No. 733, 2015; GWU Law School Public Law Research Paper No. 2016-18; GWU Legal Studies Research Paper No. 2016-18. Available at SSRN: <http://ssrn.com/abstract=2753633>

This Article is brought to you for free and open access by the Faculty Scholarship at Scholarly Commons. It has been accepted for inclusion in GW Law Faculty Publications & Other Works by an authorized administrator of Scholarly Commons. For more information, please contact [spagel@law.gwu.edu](mailto:spagel@law.gwu.edu).

# The Narrowing of Federal Power By the American Political Capital

David Fontana

---

## Repository Citation

David Fontana, *The Narrowing of Federal Power By the American Political Capital*, 23 Wm. & Mary Bill Rts. J. 733 (2015), <http://scholarship.law.wm.edu/wmborj/vol23/iss3/5>

Copyright c 2015 by the authors. This article is brought to you by the William & Mary Law School Scholarship Repository.  
<http://scholarship.law.wm.edu/wmborj>

# THE NARROWING OF FEDERAL POWER BY THE AMERICAN POLITICAL CAPITAL

David Fontana\*

## ABSTRACT

This Essay—prepared for a symposium hosted by the William & Mary Bill of Rights Journal on the future of the District of Columbia—argues that American federal power can be better understood by considering the features of the metropolitan area that houses the most important parts of the American federal government. In other American metropolitan areas and in most capital metropolitan areas elsewhere in the world, local life features multiple and diverse industries. Washington is the metropolitan area that houses the most important parts of the American federal government, and Washington is dominated by the government and related industries. Washington is, in other words, a “political” capital. The ambition of this Essay is to make a descriptive point related to the status of Washington as a political capital. Because of its location in a metropolitan area dominated by a single industry, federal officials and those whom federal officials interact with are a narrower slice of the large and diverse American republic. While the American Constitution might permit a range of federal outcomes, the American political capital narrows that range of outcomes. This narrowing has a number of implications. On the one hand, the American system is less responsive to the range of interests existing in the United States. On the other hand, the American political capital plays a particularly important role in limiting the access by, and creation of, damaging private or governmental forces.

INTRODUCTION . . . . .	734
I. WHAT KIND OF METROPOLITAN AREA HOUSES THE AMERICAN FEDERAL GOVERNMENT? . . . . .	737
<i>A. Washington as Capital</i> . . . . .	737
<i>B. What Kind of Metropolitan Area Is Washington?</i> . . . . .	738
II. HOW A POLITICAL CAPITAL NARROWS FEDERAL POWER . . . . .	743
<i>A. Federal Officials in a Political Capital</i> . . . . .	744
<i>B. The Networks of Federal Officials in a Political Capital</i> . . . . .	747

---

\* Associate Professor of Law, George Washington University Law School. My thanks for their helpful comments to other participants at the William & Mary symposium on the future of the District of Columbia, and also to Michael Abramowicz, Joseph Blocher, Jon Michaels, and Naomi Schoenbaum for their comments on earlier drafts.

III. THE IMPLICATIONS OF NARROWING OF FEDERAL POWER BY THE	
POLITICAL CAPITAL . . . . .	750
A. <i>Democratic Responsiveness</i> . . . . .	750
B. <i>Stability and the Political Capital</i> . . . . .	754
1. Constraining Private Forces in the Political Capital . . . . .	754
a. <i>Existing Threats</i> . . . . .	754
b. <i>Constraining New Threats</i> . . . . .	755
2. Constraining the Government in the Political Capital . . . . .	756
CONCLUSION . . . . .	757

#### INTRODUCTION

In the years before and during the creation of the American Republic, the location of the federal government was a crucial and controversial issue. In *The Federalist Papers*, there are many discussions of how the metropolitan area to house the federal government should operate, led by James Madison's discussion in *Federalist 43*.<sup>1</sup> The Constitution itself addresses the issue in Article I.<sup>2</sup> In the first Congress of the United States—between 1789 and 1791—one-third of the recorded votes in the first Congress of the United States were about where key parts of the federal government would be located.<sup>3</sup>

The location of the federal government evoked such passionate concerns because the nature of the metropolitan area housing the federal government was thought to play a significant role in shaping how that federal government would operate. Constitutional design was important to the Founders, and urban (capital) design was seen as a form of constitutional design. A generation concerned about the “science of politics”<sup>4</sup> was also convinced that the “science of the capital” would shape the nature of federal power in the new American Republic.

---

<sup>1</sup> See THE FEDERALIST NO. 43, at 279–80 (James Madison) (Modern Library College ed., 1960). I have written elsewhere about how the selection of *one* metropolitan area influences features of constitutional law. See David Fontana, *The Spatial Separation of Powers* (2015) (manuscript on file with author). This Essay is more limited to how *specific features* of that metropolitan area influence constitutional law.

<sup>2</sup> See U.S. CONST. art. I, § 8, cl. 17 (“Congress shall have power to . . . exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may . . . become the Seat of the Government of the United States .”).

<sup>3</sup> See JOHN H. ALDRICH, WHY PARTIES? THE ORIGIN AND TRANSFORMATION OF POLITICAL PARTIES IN AMERICA 68 (1995); see also KENNETH R. BOWLING, THE CREATION OF WASHINGTON, D.C.: THE IDEA AND LOCATION OF THE AMERICAN CAPITAL 206 (1993) (describing the location of the federal government as “the first major crisis” of the early Republic).

<sup>4</sup> See GORDON S. WOOD, THE CREATION OF THE AMERICAN REPUBLIC, 1776–1787, at 593 (1969) (describing the “American science of politics” that would harness social forces to create better institutional designs).

Competing visions of the metropolitan area to house the federal capital emerged among early political leaders. On one side were those who wanted the federal government located in a metropolitan area like London or Paris—a metropolitan area that was an urban Noah’s Ark, with two of every social force.<sup>5</sup> On the other side were those who wanted a federal capital to be located in a less substantial and more focused metropolitan area.<sup>6</sup> Was the federal capital to be a diversified capital, or a capital limited to those working in government—in other words, a “political” capital?<sup>7</sup> The Compromise of 1790 meant that the latter perspective triumphed. Since metropolitan areas have important path-dependent dynamics,<sup>8</sup> the best way to ensure that federal power was to be located away from other social forces was to create a new metropolitan area, one specializing in government. In the years to come, the American Republic might make the American capital city a new London or Paris, but for many years the hope was that it would become a single industry town.<sup>9</sup>

---

<sup>5</sup> At the time, the major debate was about keeping the government in Philadelphia, the major American commercial center at the time. See BOWLING, *supra* note 3, at 15–16.

<sup>6</sup> Thomas Jefferson and his supporters in particular were skeptical of the more established, more substantial, and more diversified metropolitan areas. See 10 THE WRITINGS OF THOMAS JEFFERSON 173 (Andrew A. Lipscomb & Albert E. Bergh eds., 1904) (“I view great cities as pestilential to the morals, the health and the liberties of man.”). For a similar argument, see ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 278–79 (J.P. Mayer & Max Lerner eds., 1969).

<sup>7</sup> I will use the phrase “government” capital and “political” capital interchangeably throughout this Essay simply to avoid repetition. I use these phrases to refer to a rather simple notion: that those who work in or with the federal government dominate the American capital. For earlier attempts conceptually to distinguish between capital cities—although without discussing the implications of these differences—see Peter Hall, *Seven Types of Capital City*, in *PLANNING TWENTIETH-CENTURY CAPITAL CITIES* 8 (David L. A. Gordon ed., 2006); Scott Campbell, *The Changing Role and Identity of Capital Cities in the Global Era* (2000), available at <http://www-personal.umich.edu/~sdcamp/AAG2000.html>; Rajiv Rawat, *Capital City Relocation: Global-Local Perspectives in the Search for an Alternative Modernity* (2005), available at <http://prayaga.org/documents/paper-capitalcity.pdf>; Hal Wolman et al., *Capital Cities and Their National Governments: Washington, D.C. in Comparative Perspective* (George Washington Inst. of Pub. Policy, Working Paper No. 30, 2007), available at <http://www.gwu.edu/~gwipp/papers/wp030.pdf>.

<sup>8</sup> For discussions of this in the context of metropolitan areas, see Edward L. Glaeser, *Urban Colossus: Why Is New York America’s Largest City?*, *FED. RES. BANK N.Y. ECON. POL’Y REV.*, at 7, 13, (Dec. 2005), <http://www.newyorkfed.org/research/epr/05v11n2/0512glae.pdf>; Edward L. Glaeser, *Reinventing Boston: 1640–2003*, at 13, 47 fig.1 (Harvard Inst. of Econ. Research, Discussion Paper No. 2017, 2003). For a general discussion of this as a social or political dynamic, see Paul Pierson, *Increasing Returns, Path Dependence, and the Study of Politics*, 94 *AM. POL. SCI. REV.* 251, 252 (2000) (“The farther into the [larger] process we are, the harder it becomes to shift from one path to another.”).

<sup>9</sup> In the late nineteenth century, as America started to assert itself on the world stage, many hoped that Washington would become “the Rome of the America in the arts, the Berlin of America in education and the Paris of America as a city of beauty and pleasure.” Carl

The argument of this Essay is that the federal capital today is still a political capital, and that this has an important influence on how the federal power being exercised in that federal capital operates. A political capital *narrows* the federal power that derives from that political capital. The federal government is not as capable of producing as diverse a range of policy outputs as the American constitutional system otherwise contemplates because of the metropolitan area<sup>10</sup> in which most of those policy outputs are produced. The federal officials entrusted to create and enforce federal law—from elected officials to other important federal officials—will be a narrower slice of the American population because of the incentives generated by the political capital to focus on a single industry. The peer influences on these federal officials will likewise be narrower because of the narrower range of influences in a political capital. The result is that whatever policy output is meant to come out of Washington will fit into narrower boxes when it crosses metropolitan borders to leave Washington because Washington itself is a political capital.

This has important implications, and implications that are essentially flip sides of the same descriptive coin. On the one hand, the narrowing of federal power makes the federal government less responsive to the “large republic” that Madison wanted represented in Washington.<sup>11</sup> Many interests will struggle to have their policy perspectives represented in Washington because their perspectives are not represented in the types of people and networks that inhabit a metropolitan area dedicated to government. On the other hand, this narrowing limits the access to, and creation of, problematic private and governmental forces that undermine democratic governance.

An important caveat is in order before proceeding further. The ambition of this Essay is to identify a series of system-wide and consequential dynamics that derive from the siting of the American capital, and the normative implications of these dynamics. While identifying the nature and implications of federal power in a political capital, this Essay is not meant to take a normative position on whether this situation is normatively desirable or undesirable in the aggregate.

---

Abbott, *International Cities in the Dual Systems Model: The Transformations of Los Angeles and Washington*, 18 URB. HIST. 41, 43 (1991).

<sup>10</sup> I will use the phrase “metropolitan area” more often because social scientists have found that this is the most accurate unit of analysis to describe modern life. Cities were the older, denser, urban areas of the past. Metropolitan areas—meaning a broader range of area stretching from downtown to suburb to exurb—are the relevant units in today’s urban life. Indeed, the Census Bureau now uses the term “metropolitan statistical areas” to refer to regions, and includes any locations within that region that is connected to other locations as measured by commuting interactions. *See About Metropolitan and Micropolitan Statistical Areas*, U.S. CENSUS BUREAU, <http://www.census.gov/population/metro/about> (last visited Mar. 11, 2015).

<sup>11</sup> *See* THE FEDERALIST NO. 10, at 78 (James Madison) (Clinton Rossiter ed., 2003) (“The two great points of difference between a democracy and a republic are: first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens, and greater sphere of country, over which the latter may be extended.”).

## I. WHAT KIND OF METROPOLITAN AREA HOUSES THE AMERICAN FEDERAL GOVERNMENT?

### *A. Washington as Capital*

The Washington metropolitan area houses and employs the large majority of the most important officials of the American federal government. The Constitution implies that there will be a single metropolitan area dominating the federal government.<sup>12</sup> The Residence Act of 1790 states that there will be a single federal capital metropolitan area,<sup>13</sup> and that the District of Columbia will be this “permanent seat of the government.”<sup>14</sup> Later statutes and regulations have solidified Washington as the “headquarters” for most important federal offices.<sup>15</sup> Given that federal law requires that the “headquarters” of most important federal offices be located in Washington, the large majority of major federal officials are working in Washington. For some specific parts of the federal government, other statutes are even more specific, and identify Washington as the location of that part of the federal government,<sup>16</sup> and some of these laws require that those in office reside in the Washington metropolitan area as well.<sup>17</sup>

There are some—if not many—powerful federal officials operating outside of Washington. Members of Congress have offices in their home districts or states to deal with “constituency services.”<sup>18</sup> Executive agencies have regional enforcement offices.<sup>19</sup>

---

<sup>12</sup> See U.S. CONST. art. I, § 8, cl. 17 (referencing a single “District” with “ten miles square” as “*the* Seat of the Government of the United States” (emphasis added)); U.S. CONST. amend. XXIII, § 1 (referencing “*the* District constituting *the* seat of Government of the United States” and how its representation in Congress would compare to “*a* State” (emphasis added)). For further discussions of the Constitution’s treatment of this issue, see *Phillips v. Payne*, 92 U.S. 130, 134 (1875); Whit Cobb, *Democracy in Search of Utopia: The History, Law, Politics of Relocating the National Capital*, 99 DICK. L. REV. 527, 588 (1995).

<sup>13</sup> See Act for Establishing the Temporary and Permanent Seat of the Government of the United States, ch. 28, 1 stat. 130 (1790).

<sup>14</sup> See *id.*

<sup>15</sup> See L. ELAINE HALCHIN, GOVERNMENT AND FINANCE DIVISION, CONG. RESEARCH SERV. RS21390, LOCATION OF FEDERAL GOVERNMENT OFFICES (2004) (summarizing these statutes and regulations).

<sup>16</sup> See 28 U.S.C. § 127(a) (2006) (“The Eastern District comprises the counties of . . . Arlington, . . . Fairfax, Fauquier, . . . Loudoun . . . . Court for the Eastern District shall be held at Alexandria [and other places].”).

<sup>17</sup> See 28 U.S.C. § 44(c) (2006) (“While in active service, each circuit judge of the Federal judicial circuit . . . and the chief judge of the Federal judicial circuit, whenever appointed, shall reside within fifty miles of the District of Columbia.”).

<sup>18</sup> See MORRIS P. FIORINA, CONGRESS: KEYSTONE OF THE WASHINGTON ESTABLISHMENT 56 (1990).

<sup>19</sup> See *About OCR*, U.S. DEP’T. EDUC. (May 29, 2012), <http://www2.ed.gov/about/offices/list/ocr/aboutocr.html> (mentioning the regional enforcement offices that enforce substantial civil rights laws like Title VI, the Age Discrimination Act, and the Americans with Disabilities Act of 1990).

Federal judges on the district and appellate courts operate outside of Washington, although the Supreme Court operates in Washington,<sup>20</sup> as does the hugely important United States Court of Appeals for the District of Columbia Circuit.

Some metropolitan areas besides Washington have concentrations of federal employees. Colorado Springs and Virginia Beach, for instance, have sixteen percent of their workforce in federal employment, compared to just fourteen percent in Washington itself.<sup>21</sup> However, the federal officials in these and other metropolitan areas outside of Washington tend to be smaller in their policy importance. These officials are farther down the organizational chart of the executive agencies they usually represent. These officials tend to be focused on particular areas of the government. For instance, Colorado Springs focuses on certain parts of the military.<sup>22</sup>

### *B. What Kind of Metropolitan Area Is Washington?*

One means of classifying a metropolitan area is by its internal cultural and economic homogeneity or heterogeneity. Most metropolitan areas are relatively narrow, focusing on a singular industry and creating a metropolitan area that relates to that industry. For instance, Detroit was focused on the automotive industry for some time.<sup>23</sup> By contrast, other metropolitan areas are more internally diversified. Consider New York City, home to a finance industry that constitutes about one-third of the local economy,<sup>24</sup> but also a technology industry that is rapidly approaching that size and rivals Silicon Valley.<sup>25</sup> Washington is more Detroit than New York City.

---

<sup>20</sup> The Residence Act sets Washington as the “seat of government,” and another federal law states that “the Supreme Court shall hold at the seat of government a term of court.” 28 U.S.C. § 2 (2006).

<sup>21</sup> See Richard Florida, *America’s Federal Employment Belt*, CITYLAB (Nov. 15, 2013), <http://www.citylab.com/work/2013/11/americas-government-employment-belt/7576>.

<sup>22</sup> See *id.*

<sup>23</sup> See Edward L. Glaeser, *The Death and Life of Cities*, in *MAKING CITIES WORK: PROSPECTS AND POLICIES FOR URBAN AMERICA* (Robert P. Inman ed., 2009); John F. McDonald, *What Happened to and in Detroit*, 51 *URB. STUD.* 3309 (2014). Because economic capital is geographically mobile, this can cause problems for that metropolitan area when and if that economic capital decides to flee. See Richard C. Schragger, *Rethinking the Theory and Practice of Local Economic Development*, 77 *U. CHI. L. REV.* 311, 327 (2010) (noting the problems that mobile automobile-related capital caused for Detroit and therefore that “Detroit’s long history of dominating the automobile industry could have led to its current deteriorated state”). In this sense, a single-industry capital city is not as vulnerable, because governments are much more costly to relocate than are private firms.

<sup>24</sup> See James Orr & Giorgio Topa, *Challenges Facing the New York Metropolitan Area Economy*, available at [http://www.newyorkfed.org/research/current\\_issue/ci12-1.pdf](http://www.newyorkfed.org/research/current_issue/ci12-1.pdf).

<sup>25</sup> See Jillian Eugenio, *The Most Innovative Cities in America*, CNN MONEY (Oct. 10, 2014) [http://money.cnn.com/gallery/technology/2014/10/07/most-innovative-cities/index.html?iid=HP\\_Highlights](http://money.cnn.com/gallery/technology/2014/10/07/most-innovative-cities/index.html?iid=HP_Highlights).



Washington has always been “a special case among American cities.”<sup>26</sup> At the beginning, the United States was intended to have two centers, one economic, and the other governmental.<sup>27</sup> The Washington metropolitan area economy was from the beginning dominated by the political industry. As Stanley Elkins and Eric McCitrick recall, quoting a newspaper from the time, Washington in its first decade did not have a “single great mercantile house” and had “a total absence of all sights, sounds, or smells of commerce.”<sup>28</sup>

Washington still stands out among American metropolitan areas for the primacy of federal government activity, and the primacy of that activity to the exclusion of other activity.<sup>29</sup> Forty percent of the Washington metropolitan economy is directly dependent on federal spending.<sup>30</sup> The federal government directly employs thirteen percent of those in the labor force in the Washington metropolitan economy.<sup>31</sup> The other twenty-seven percent is otherwise reliant on federal government payments.<sup>32</sup> This includes the rise of private firms receiving federal contracts from departments like the Department of Defense or the Department of Homeland Security.<sup>33</sup> Empirical studies of business networks find Washington far outside of the top metropolitan areas.<sup>34</sup>

These figures understate the centrality of the business of government to the Washington economy. The presence of the substantial and stable federal government transforms the incentives facing private firms. Private firms develop government-related specialties that exist because of their co-location with the federal government in Washington, and yet these private firm activities are not counted towards the measured economic output of the federal government in Washington.

---

<sup>26</sup> Carl Abbott, *Dimensions of Regional Change in Washington, D.C.*, 95 AM. HIST. L. REV. 1367, 1370 (1990).

<sup>27</sup> EDWIN G. BURROWS & MIKE WALLACE, *GOHAM: A HISTORY OF NEW YORK CITY TO 1898*, at 306 (1998).

<sup>28</sup> STANLEY ELKINS & ERIC MCCITRICK, *THE AGE OF FEDERALISM, 1788–1800*, at 181 (1993).

<sup>29</sup> See Stephen F. Fuller, *Market Conditions and Dynamics in the Washington Metropolitan Area: 1990–2003*, [http://cra.gmu.edu/pdfs/research\\_reports/other\\_research\\_reports/NVBIA\\_report\\_2007/Market\\_Conditions\\_and\\_Dynamicsin\\_WMA.pdf](http://cra.gmu.edu/pdfs/research_reports/other_research_reports/NVBIA_report_2007/Market_Conditions_and_Dynamicsin_WMA.pdf) (“The Washington area economy is different than any other metropolitan area economy in the nation. Federal spending is what differentiates it from the others.”).

<sup>30</sup> See Lokesh Dani, *The Changing Labor Force and Sectoral Structure of the Washington D.C. Metropolitan Economy* (Ctr. for Regional Analysis, Working Paper No. 2013-04) available at <http://cra.gmu.edu/pdfs/CRA2013-4LDani.pdf>.

<sup>31</sup> See *id.* at 2.

<sup>32</sup> See *id.*

<sup>33</sup> For excellent discussions of this trend, see Jon D. Michaels, *All the President’s Spies: Private-Public Intelligence Partnerships in the War on Terror*, 96 CALIF. L. REV. 901 (2008); Jon D. Michaels, *Deputizing Homeland Security*, 88 TEX. L. REV. 1435 (2010); Jon D. Michaels, *Privatization’s Pretensions*, 77 U. CHI. L. REV. 717 (2010).

<sup>34</sup> For examples, see Zachary R. Neal, *The Causal Relationship Between Employment and Business Networks in U.S. Cities*, 33 J. URB. AFF. 167 (2011); Zachary R. Neal, *Differentiating Centrality and Power in the World City Network*, 48 URB. STUD. 2733 (2011).

For instance, metropolitan areas have their own, distinctive labor supplies.<sup>35</sup> In Washington, the labor that dominates that labor supply are those with human capital related to the federal government. The number of important federal opportunities in Washington creates an abundance of opportunities related to the federal government. This lowers search costs and makes political employment opportunities easier to find.<sup>36</sup> Job market depth also provides a form of risk pooling for those in the political industry, insuring against “firm-specific shocks.”<sup>37</sup> This depth also ensures higher returns for those who specialize in this dominant government industry, because the risk pooling created by market depth permits them to specialize in an area that best suits their talents.<sup>38</sup>

Private firms located in Washington face incentives to specialize in government-related work because of their comparative advantage in accessing government-related social networks. Transaction costs are lower when people are more proximate to one another,<sup>39</sup> and so relationships are stronger<sup>40</sup> and information flows more cheaply.<sup>41</sup> Private firms located in Washington can lure former federal officials with the promise

<sup>35</sup> For some representatives of the literature demonstrating this, see Sukkoo Kim, *Expansion of Markets and the Geographic Distribution of Economic Activities: The Trends in U.S. Regional Manufacturing Structure, 1860–1987*, 110 Q. J. ECON. 881 (1995); Sukkoo Kim, *Regions, Resources, and Economic Geography: Sources of U.S. Regional Comparative Advantage, 1880–1987*, 29 REGIONAL SCI. & URB. ECON. 1 (1999); Christopher H. Wheeler, *Cities and the Growth of Wages Among Young Workers: Evidence from the NLSY*, 60 J. URB. ECON. 162 (2006).

<sup>36</sup> See Edward L. Glaeser, *Are Cities Dying?*, 12 J. ECON. PERSP. 139, 141–42 (1998); Paul Krugman, *Increasing Returns and Economic Geography*, 99 J. POL. ECON. 483, 484 (1991).

<sup>37</sup> See Glaeser, *supra* note 36, at 146.

<sup>38</sup> See James Baumgardner, *The Division of Labor, Local Markets, and Worker Organization*, 96 J. POL. ECON. 509, 510 (1988) (providing evidence of increased specialization in deep labor markets); Wheeler, *supra* note 35, at 65 (providing evidence of increased wages in deep labor markets because of specialization).

<sup>39</sup> For discussions of the continued importance of transport costs for human interaction, see generally Guy Dumais et al., *Geographic Concentration as a Dynamic Process*, 84 REV. ECON. & STAT. 193, 193 (2002); Edward L. Glaeser & Janet E. Kohlhase, *Cities, Regions and the Decline of Transport Costs*, 83 PAPERS REGIONAL SCI. 197, 198 (2004); David Schleicher, *The City as a Law and Economic Subject*, 2010 U. ILL. L. REV. 1507, 1517–20 (2010).

<sup>40</sup> Alejandro Portes, *Social Capital: Its Origins and Applications in Modern Sociology*, 24 ANN. REV. SOC. 1, 11 (1998) (“Leaving a community tends to destroy established bonds, thus depriving [the movers] of a major source of social capital.”); Naomi Schoenbaum, *Mobility Measures*, 2012 BYU L. REV. 1069, 1193–1212 (2012); see also Luis M.A. Bettencourt, *The Origins of Scaling in Cities*, 340 SCIENCE 1438, 1439 (2013) (“[The] average number of local interactions per person . . . is affected by their spatial distance.”).

<sup>41</sup> The classic account of this is by the British economist Alfred Marshall. See ALFRED MARSHALL, *PRINCIPLES OF ECONOMICS* 271–72 (8th ed. 1953). For modern, empirical evidence, see Robert E. Lucas, Jr., *On the Mechanics of Economic Development*, 22 J. MONETARY ECON. 3, 39 (1988); Paul M. Romer, *Endogenous Technological Change*, 98 J. POL. ECON. S71, S75 (1990); Paul M. Romer, *Increasing Returns and Long-Run Growth*, 94 J. POL. ECON. 1002, 1006 (1986).

of the lower transaction costs these officials face in maintaining their connections to the government. Others working for private firms and wishing to create these networks with those in government can do so more easily in the capital metropolitan area.

This generates private firms that exist just in Washington. But it also means that private firms that exist in other metropolitan areas—and exist apart from political life—therefore have incentives to focus more on the federal government when branch offices are located in Washington. A private firm in Washington is therefore never truly a private firm. For instance, consider the operation of private law firms. Lawyers that have served in the federal government can bring human capital generated by this public service to the private practice of law, and add value to the services that their clients are receiving. Law firms located in Washington can more easily recruit these lawyers because of their more proximate location. Law firms located in Washington can more easily facilitate these lawyers maintaining networks with those in the federal government. This is part of the reason why there is over seven billion dollars spent every year in Washington on lobbying the federal government, much of it spent on law firm lawyers lobbying.<sup>42</sup> The networks that will assist these law firms with their other efforts—say, in the financial industry—will be more costly to operate from their more distant Washington offices. These combine together to lead one study to rate Washington as the top metropolitan area in which to be a lawyer.<sup>43</sup>

Describing Washington as a political capital is an accurate reference beyond just economic markets. The economic domination of the political industry shapes other features of Washington in its image.<sup>44</sup> Cultural regions are related to economic regions, since professional interests are strongly related to personal interests.<sup>45</sup> Scholars have defined the United States as having several cultural regions,<sup>46</sup> and because of its unique metropolitan situation Washington has its own “values, customs, and other cultural information.”<sup>47</sup> Cultural regions are often defined by “first effective settlement,” meaning that “variations in the cultures of the peoples that dominated the first settlement and secondarily by variations in the cultures of people that dominated later settlements.”<sup>48</sup>

---

<sup>42</sup> See Timothy M. LaPira & Herschel M. Thomas, *Just How Many Newt Gingrichs Are There on K Street? Estimating the True Size and Shape of Washington's Revolving Door* (manuscript on file with author) (2014).

<sup>43</sup> See Daniel J. Sernovitz, *D.C. Tops Nation as Best Town for Law Firms*, WASH. BUS. J. (Oct. 31, 2012), [http://www.bizjournals.com/washington/breaking\\_ground/2012/10/dc-tops-nation-as-best-town-for-law.html](http://www.bizjournals.com/washington/breaking_ground/2012/10/dc-tops-nation-as-best-town-for-law.html).

<sup>44</sup> See Abbott, *supra* note 26, at 1370 (“[C]ultural and economic models of regional patterning are complementary rather than exclusive, since both types of pattern are manifested by shared behaviors that structure the perceptions and orientations of individuals.”).

<sup>45</sup> See Victoria C. Plaut et al., *The Cultural Construction of Self and Well-Being: A Tale of Two Cities*, 38 PERSONALITY & SOC. PSYCHOL. BULL. 1644, 1647–53 (2012).

<sup>46</sup> See RAYMOND D. GASTIL, CULTURAL REGIONS OF THE UNITED STATES 26–33, 180, 190, 196 (1975); Bruce Bigelow, *Roots and Regions: A Summary Definition of the Cultural Geography of America*, 79 J. GEOGRAPHY 218 (1980); Plaut, *supra* note 45.

<sup>47</sup> Abbott, *supra* note 26, at 1370.

<sup>48</sup> WILBUR ZELINSKY, THE CULTURAL GEOGRAPHY OF THE UNITED STATES 77 (1973).

Settled by and for its place as a political capital—and structured that way ever since—the Washington culture is a political one.

The metropolitan area that preoccupies itself with government during business hours desires to hear about government after hours. One of the leading theatres in the region, The Arena Stage, is staging a play about originalism.<sup>49</sup> As Frank Rich of *The New York Times*—a Washingtonian by upbringing—put it years ago, “Washington’s idea of a Hollywood sex symbol is a cast member in *The West Wing*—no matter whom—because what could be more erotic than a powerful government bureaucrat?”<sup>50</sup> Because of its focus on government, the cultural critic Edward Wilson once said of Washington culture that it had “little personality of its own and [had] come to taste rather flat.”<sup>51</sup>

Washington differs from (most) capital cities in its singularity as a political capital.<sup>52</sup> Many other capital cities are like “London, Paris, Amsterdam, Berlin, Vienna, Rome, Madrid, [and] Lisbon” in their status as “hubs of national politics, business and culture.”<sup>53</sup> Consider, for instance, London, the capital of the United Kingdom. In London, approximately seventeen percent of the work force is in the public sector.<sup>54</sup>

---

<sup>49</sup> See Peter Marks, *Coming to a Theater Near You: Scalia! The Play!*, WASH. POST (Feb. 26, 2014), [http://www.washingtonpost.com/entertainment/theater\\_dance/coming-to-a-theater-near-you-scalia-the-play/2014/02/26/6f59c916-9e6a-11e3-878c-65222df220eb\\_story.html](http://www.washingtonpost.com/entertainment/theater_dance/coming-to-a-theater-near-you-scalia-the-play/2014/02/26/6f59c916-9e6a-11e3-878c-65222df220eb_story.html).

<sup>50</sup> Frank Rich, *The De Facto Capital*, N.Y. TIMES, Oct. 6, 2002, at MGZ1. The rest of the Rich essay is equally amusing, if equally disparaging of Washington:

The city’s idea of an intellectual is a Sunday-morning talking head; its literary apotheosis is the trade journal. Its loudest academic posturing emanates from the so-called university without students, the think tank, invented by the Brookings Institution in 1927 and a major Washington growth industry since the 1970’s. The think tanks’ tenured “professors,” with grandiose titles that might have been lifted from the Marx Brothers’ “Duck Soup,” are often out-of-office ideologues with more position papers than books to their credit. Only in this heady environment could William Bennett be mistaken for Harold Bloom and CNN’s “Capital Gang” for the Algonquin Round Table.

*Id.*

<sup>51</sup> EDMUND WILSON, *THE AMERICAN EARTHQUAKE* 535 (1958).

<sup>52</sup> The Turkish capital of Ankara and the Australian capital of Canberra are notable exceptions. The Canberra example is particularly apt. The Australian government was moved there because there were no other existing institutions and were not likely to be any others. See K. F. Fischer, *Canberra: Myths and Models*, 60 TOWN PLAN. REV. 155 (1989).

<sup>53</sup> *Id.*

<sup>54</sup> See *London: Public Sector Employment 2012*, OFFICE NAT’L STATISTICS (Mar. 6, 2013), <http://www.ons.gov.uk/ons/rel/pse/public-sector-employment/regional-analysis-of-public-sector-employment--2012/sty-london.html>; *The Percentage of People in Employment Who Work in the Public Sector is at the Lowest Since Records Began*, OFFICE NAT’L STATISTICS (Sept. 11, 2013), <http://www.ons.gov.uk/ons/rel/pse/public-sector-employment/q2-2013/sty-public-section-employment.html>.

London is also a global center for finance,<sup>55</sup> so nearly twenty percent more of the work force is in finance than is in the public sector.<sup>56</sup> If London were a nation-state, it would have the seventeenth highest GDP, meaning that it is a hub for other industries as well—artistic, tourism, and so on.<sup>57</sup> While Washington loses many of its leading cultural figures to more significant culture-producing metropolitan areas,<sup>58</sup> London imports not just elected members of Parliament but also leading actors and artists.

If anything, this understates the situation. Most other capital areas do not just have other industries, but other powerful and substantial industries. The capitals are not just political capitals but also cultural or educational or technological capitals. Combined together, this means that most capital cities in the world are “primate cities,” meaning that they are the primary location for so many industries that their importance dwarfs other metropolitan areas.<sup>59</sup> Nearly one-fourth of British economic activity transpires in London.<sup>60</sup> London is not just an artistic hub, but also the artistic hub of a country that produces many cultural products.

## II. HOW A POLITICAL CAPITAL NARROWS FEDERAL POWER

The consequence of the American metropolitan area housing most of those exercising American federal power is to narrow the people in power and the networks

---

<sup>55</sup> See SASKIA SASSEN, *THE GLOBAL CITY: NEW YORK, LONDON, TOKYO* 147, 207, 235 (1992).

<sup>56</sup> See Brian Smith & Gordon Douglass, *London's Economic Outlook: How is London Performing?*, GLA ECON. (June 26, 2014), <https://www.london.gov.uk/sites/default/files/In%20house%20presentation%2026th%20June%202014.pdf>.

<sup>57</sup> See MCKINSEY GLOBAL INST., *URBAN WORLD: CITIES AND THE RISE OF THE CONSUMING CLASS* 19 (2012).

<sup>58</sup> Think of figures like Duke Ellington, who left Washington in his 20s and was based in New York City for the remainder of his career. See TERRY TEACHOUT, *DUKE: A LIFE OF DUKE ELLINGTON* 105 (2013).

<sup>59</sup> Scholars talk about primate cities, meaning a metropolitan area that is by leaps and bounds the single dominate metropolitan area in the entire country. For the classic treatment, see Mark Jefferson, *The Law of the Primate City*, 29 *GEOGRAPHICAL REV.* 226 (1939). For more modern treatments, see Alberto F. Ades & Edward L. Glaeser, *Trade and Circuses: Explaining Urban Giants*, 110 *Q. J. ECON.* 195 (1995); Arnold S. Linsky, *Some Generalizations Concerning Primate Cities*, 55 *ANNALS. ASS'N. AM. GEOGRAPHERS* 506 (1995); Sebastian Galiani & Sukkoo Kim, *Political Centralization and Urban Primacy: Evidence from National and Provincial Capitals in the Americas*, in *UNDERSTANDING LONG-RUN ECONOMIC GROWTH: GEOGRAPHY, INSTITUTIONS, AND THE KNOWLEDGE ECONOMY* 121 (Dora L. Costa & Naomi R. Lamoreaux eds., 2011). Capital cities are usually the primate cities of their countries, while the United States has no primate city. See Ades & Glaeser, *supra*, at 196 (“[C]ountries such as Argentina, Japan, and Mexico [have large amounts of] urban concentration when the United States’ largest city contains only 6 percent of its population.”); Galiani & Kim, *supra*, at 121 (“[I]n almost every country, the primate city [is] usually a capital city.”); *id.* at 122 (“[I]n the United States . . . [the] national capital is not the largest city in the nation . . .”).

<sup>60</sup> See *id.* at 2.

of those people. While our Constitution might contemplate a range of different potential, constitutionally legitimate policy outputs from the federal government, the political capital narrows which of those policy outputs are possible.

#### *A. Federal Officials in a Political Capital*

Our federal constitution leaves many decisions to the discretion of federal officials. By one measure, the Constitution is one of the shortest in the world,<sup>61</sup> and it uses general language like “commerce”<sup>62</sup> and “executive power.”<sup>63</sup> Our system features deference rules that provide officials with room in applying and interpreting legal rules.<sup>64</sup> The identity of those serving in office—from the President to staffers in Congress—will therefore play an important role in shaping how these constitutional rules are implemented.<sup>65</sup> Washington’s situation as an exclusively political metropolitan area selects for a narrower range of officials than do other forms of capital metropolitan areas by lowering the benefits for a broader range of officials to live and work in Washington, and raising the costs on this broader range of officials.

People are more likely to stay closer to where they were raised, *ceretis paribus*.<sup>66</sup> Longstanding Washingtonians will therefore exercise an outsized influence on the supply of federal officials in Washington because they reap the benefits of working for the federal government without having to endure relocation costs. The features of the metropolitan area where someone is raised have a persistent influence on one’s behavior and preferences.<sup>67</sup> This means that the distinctive experience of being a Washingtonian enjoys a distinctive hold on those in the federal government.

<sup>61</sup> See Stephen Gardbaum, *The Myth and the Reality of American Constitutional Exceptionalism*, 107 MICH. L. REV. 391, 399 (2008) (“[T]he U.S. Constitution is exceptional among written constitutions . . . in . . . its brevity.”).

<sup>62</sup> U.S. CONST. art. I, § 8, cl. 18.

<sup>63</sup> See U.S. CONST. art. II, § 1.

<sup>64</sup> This is featured in doctrines like the judicial presumption that Congress acted constitutionally. See, e.g., *Sinking-Fund Cases*, 99 U.S. 700, 718 (1878) (“Every possible presumption is in favor of the validity of a statute, and this continues until the contrary is shown beyond a rational doubt.”); *Legal Tender Cases*, 79 U.S. (12 Wall.) 457, 531 (1871) (“A decent respect for a co-ordinate branch of the government demands that the judiciary should presume, until the contrary is clearly shown, that there has been no transgression of power by Congress . . .”).

<sup>65</sup> See Adrian Vermeule, *Selection Effects in Constitutional Law*, 91 VA. L. REV. 953, 953 (2005) (“Constitutional rules . . . should focus not only on the creation of optimal incentives for those who happen to occupy official posts at any given time, but also on the question of which (potential) officials are selected to occupy those posts over time.”).

<sup>66</sup> See Jae Hong Kim, *Residential and Job Mobility: Interregional Variation and Their Interplay in U.S. Metropolitan Areas*, 51 URB. STUD. 2863 (2014); Raven Molloy, Christopher L. Smith & Abigail Wozniak, *Declining Migration Within the U.S.: The Role of the Labor Market* (Nat’l Bureau of Econ. Research, Working Paper No. 20065, 2014), available at <http://www.nber.org/papers/w20065>.

<sup>67</sup> For some examples from this voluminous literature, see David Knoke, *Networks of Political Action: Toward Theory Construction*, 68 SOC. FORCES 1041 (1990).

Metropolitan areas have their own distinctive attractions and repulsions that lead some to move there and others not to do so. A major influence on what attracts people to a metropolitan area is the amount of economic opportunities in that metropolitan area, particularly for longer-distance moves.<sup>68</sup> The growth of the Washington metropolitan area in the past decades plus relates to the “gap in job growth between the Washington region and the rest of the United States.”<sup>69</sup>

For the higher-skilled workers that occupy the most important positions in the federal government, relocation choices will be more influenced by *what type* of work is available rather than *how much* of it. For a political capital like Washington, that means the benefits of a relocation to Washington are greatest for those more interested in the political opportunities uniquely presented by the political capital.<sup>70</sup> Because Washington features so many important federal positions, there are many opportunities for government work. Given the many policy domains that the federal government regulates, there is a depth of opportunities across a lot of government-related domains. Those interested in economic policy, health policy, and science policy alike will all find thousands of rewarding employment opportunities in Washington.

With a depth of government opportunities, aspiring or actual federal officials can specialize even more. A specialty is worth developing in a deeper labor market because there are many different opportunities to utilize that specialty.<sup>71</sup> This specialization then encourages federal officials to focus on the policy areas they have comparative advantages in learning.<sup>72</sup> Deep labor markets therefore generate higher returns to workers, in this case federal officials performing specialized policy tasks.<sup>73</sup> Added to that specialization is the greater power that the federal government exercises in our system of federal supremacy.<sup>74</sup> The benefits of relocation to Washington for those interested

---

<sup>68</sup> See DAVID K. IHRKE ET AL., U.S. CENSUS BUREAU, CURRENT POPULATION REPORTS, GEOGRAPHIC MOBILITY: 2008 TO 2009, at 16 (2011), <http://www.census.gov/prod/2011pubs/p20-565.pdf>; Yong Chen & Stuart S. Rosenthal, *Local Amenities and Life-Cycle Migration: Do People Move for Jobs Or Fun?*, 64 J. URB. ECON. 519, 519 (2008).

<sup>69</sup> See Lisa A. Sturtevant & Maurice B. Champagne, *Domestic Migration to and from the Washington DC Metropolitan Area: 1985–2010* (George Mason Univ. Ctr. For Reg'l Analysis, Working Paper No. 2012-01, 2012), available at [http://cra.gmu.edu/pdfs/Domestic\\_Migration\\_2012\\_01.pdf](http://cra.gmu.edu/pdfs/Domestic_Migration_2012_01.pdf).

<sup>70</sup> See Chen & Rosenthal, *supra* note 68, at 530 (“[T]he willingness of households to migrate in search of jobs . . . is an important driver of local shifts in the supply of skilled labor.”).

<sup>71</sup> See, e.g., James Baumgardner, *The Division of Labor, Local Markets, and Worker Organization*, 96 J. POL. ECON. 509, 510 (1988) (providing empirical evidence of more specialization in labor markets with greater depth).

<sup>72</sup> See *id.* at 145–46.

<sup>73</sup> Cf. Edward L. Glaeser & David C. Maré, *Cities and Skills*, 19 J. LAB. ECON. 316, 317 (2001) (providing empirical evidence of a thirty-six percent wage premium in deeper labor markets).

<sup>74</sup> See U.S. CONST. art. VI (“This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land.”).

in government are substantial—and those interested in government are not a particularly diverse cross-section of the country.<sup>75</sup>

By contrast, other highly skilled and ambitious people with minimal interest in government will find fewer benefits to relocating to Washington. The returns of relocating to the diversified capital for those interested in working in government will be substantial, as they are in the political capital. The difference is the return to those interested in other industries in the political compared to the diversified capital.

Without the quantity of opportunities outside of government, the search costs to locate these other opportunities are higher. Returns to employment in other industries will be lower without the specialization afforded by deeper labor markets in those industries. Those who wanted to reap the greatest rewards from a career in finance move to New York because finance opportunities and compensation will be greater there because of deeper labor markets for finance.

At the highest levels of the federal government, the political nature of the capital shapes relocation decisions, but shapes them less. For instance, the returns of relocating to Washington to serve as a member of Congress or as President are substantial. While in office, intangible compensation is enormous.<sup>76</sup> After serving in office, private sector opportunities in a political capital will be substantial.<sup>77</sup> If need be, the return on the important position in Washington can be realized by relocating again to a metropolitan area with more than just political opportunities.

The result of all of this is an additional constraint on federal power because of the identity of the federal officials exercising that federal power. Let us say, for instance, that there are *x* number of possible understandings existing in the country regarding how to use the Commerce Clause to regulate health care. One or more of those understandings will be shared by a collection of people who do not reside in Washington and have no interest in relocating to a metropolitan area dominated by a single industry. If these people are not represented in the Office of Legal Counsel or in the House of

---

<sup>75</sup> See Morris P. Fiorina & Matthew S. Levendusky, *Disconnected: The Political Class Versus the People?*, in *RED AND BLUE NATION? CHARACTERISTICS, CAUSES AND CONSEQUENCES OF AMERICA'S POLARIZED POLITICS* 55 (Pietro S. Nivola & David W. Brandy eds., 2006) (discussing how Washington selects for “people who are active in politics [and] tend to have more extreme views”); John P. Heinz & Ann Southworth, *Political Lawyers: The Structure of a National Network*, 36 *L. & SOC. INQUIRY* 892, 896 (2010).

<sup>76</sup> See Vermeule, *supra* note 65, at 966–67 (“Compensation can take many forms, of which cash salary is only one. A given position may yield a stream of implicit compensation in the form of inherent interest, the opportunity to promote the officeholder’s vision of good government, prestige, [and] power . . . . [I]t is unlikely that the pool of candidates for President would be greatly affected . . . if the presidential salary were cut in half, . . . because the nominal salary is dominated by the in-kind compensation, in the form of power and prestige, that the office confers.”).

<sup>77</sup> It is worth noting that fifty percent of senators and forty-two percent of representatives remain in Washington and become lobbyists after leaving office. See MARK LEIBOVICH, *THIS TOWN: TWO PARTIES AND A FUNERAL—PLUS PLENTY OF VALET PARKING!—IN AMERICA’S GILDED CAPITAL* 330 (2013).



Representatives, the Commerce Clause understanding that would have resulted from their inputs becomes less possible. Some federal powers will be pushed to their constitutional limits because the population of officials that exists in Washington wants to do so, and those who disagree are not represented in Washington. Other federal powers meant to be used will fall into disuse. A pattern of those in the political capital initially not wanting to use these powers—and then fearing that reviving these powers will flaunt existing precedent<sup>78</sup>—will lead to these powers being underemphasized.

*B. The Networks of Federal Officials in a Political Capital*

Scholars in the social sciences have demonstrated the power of social networks on individual behavior. As Cass Sunstein has written, “[p]eople frequently think and do what they think and do because of what they think relevant others think and do.”<sup>79</sup> Scholars have demonstrated in particular the power of social networks on political actors like federal officials.<sup>80</sup> It is still the case that our networks are dominated by those living most closely to us, even with all of the technological improvements of the past century.<sup>81</sup> This means that the network of federal officials is dominated by others living in Washington, and therefore by a narrower slice of the American population.

For personal networks, face-to-face interactions provide the most meaningful form of interpersonal interaction.<sup>82</sup> The connection and intimacy that is essential for close personal relationships occurs more easily when sitting across the table from one another than when sitting across the country.<sup>83</sup> Personal social networks are therefore more localized and place-specific. In the political capital, that means the personal social networks of federal officials will be in the political capital, and will disproportionately include others involved in the political industry.

---

<sup>78</sup> See Gerry Mackie, *Ending Footbinding and Infibulation: A Convention Account*, 61 AM. SOC. REV. 999 (1996).

<sup>79</sup> Cass R. Sunstein, *Deliberative Trouble? Why Groups Go to Extremes*, 110 YALE L.J. 71, 77 (2000).

<sup>80</sup> For some examples from this literature, see Matt Grossman & Casey Dominguez, *Party Coalitions and Interest Group Networks*, 37 AM. POL. RES. 767 (2009); Gregory Koger, Seth E. Masket & Hans Noel, *Partisan Webs: Information Exchange and Party Networks*, 39 BRIT. J. POL. SCI. 633 (2009); Seth Masket, *It Takes an Outsider: Extralegislativ Organization and Partisanship in the California Assembly, 1849–2006*, 51 AM. J. POL. SCI. 482 (2007).

<sup>81</sup> See Glaeser & Kohlhase, *supra* note 39, at 208–10.

<sup>82</sup> See Elizabeth F. Emens, *The Sympathetic Discriminator: Mental Illness, Hedonic Costs, and the ADA*, 94 GEO. L.J. 399, 435–38 (2006); Avery M. Guest & Susan K. Wierzbicki, *Social Ties at the Neighborhood Level: Two Decades of GSS Evidence*, 35 URB. AFF. REV. 92, 96, 108 (1999); see also Schoenbaum, *supra* note 40, at 1196 (“Many of our most basic needs can only be met with in-person contact.”).

<sup>83</sup> See EDWARD L. GLAESER, CITIES, AGGLOMERATION, AND SPATIAL EQUILIBRIUM 1 (2008) (“[Some behaviors] are often highly localized; they usually thrive because of the speedy exchange of new ideas along city streets.”); Diana Mok et al., *Does Distance Matter in the Age of the Internet?*, 47 URB. STUD. 2747, 2747 (2010) (“The frequency of face-to-face contact among socially close friends and relatives has hardly changed [since] the 1970s.”).

For personal networks in the political capital, other political industry veterans are not just physically closer, but they are likely to have overlapping personal interests and relationships. Personal networks tend to connect generally similar individuals, often known as “homophily”—birds of a feather flocking together.<sup>84</sup> This generates overlapping relationships, so that personal networks are tighter not just because friends share more in common, but because friends are shared among one another—if I am a friend with someone else, you are more likely to be so as well.<sup>85</sup>

Personal networks can cross industry lines, particularly because participants in other industries can have previous personal connections or generate new ones because of similar educational or recreational interests. The political capital raises the costs of generating these personal connections across industry lines. The personal search costs of finding those outside of the political industry are higher because there are fewer people outside of the political industry. The motivation to endure these greater costs is lower, because a deep bench of personal connections can be created with colleagues or others not just with personal overlaps but also with shared professional interests.

More intense professional relationships are also more easily created and maintained from closer together rather than far away. Scholars have demonstrated the power of “weak ties,” meaning those relationships characterized by some but lesser emotional connection and reciprocity.<sup>86</sup> Weaker ties can be maintained more easily from greater distances.<sup>87</sup> Stronger professional ties require more frequent and more immediate personal interaction, and thus are more difficult to create or maintain from greater distances.<sup>88</sup>

Professional networks are concentrated in the political industry in the political capital not just because of homophily, but also because of professional incentives. Networking within the political industry generates larger professional returns. There are more and more heavily rewarded opportunities in the political industry, and connections open the doors to these opportunities. Many organizations in Washington exist because of the desire of those in the political capital to generate these intra-industry

---

<sup>84</sup> See generally Miller McPherson et al., *Birds of a Feather: Homophily in Social Networks*, 27 ANN. SOC. REV. 415, 416 (2001) (“[C]ontact between similar people occurs at a higher rate than among dissimilar people.”).

<sup>85</sup> See Damon Centola & Michael Macy, *Complex Contagious and the Weakness of Long Ties*, 113 AM. J. SOC. 702, 704 (2007).

<sup>86</sup> See Mark Granovetter, *The Strength of Weak Ties*, 78 AM. J. SOC. 1360, 1361 (1973).

<sup>87</sup> See Mark Granovetter, *The Strength of Weak Ties: A Network Theory Revisited*, 1 SOC. THEORY 201, 209–13 (1983); Barry Wellman, *Physical Place and Cyberspace: The Rise of Personalized Networking*, 25 INT’L J. URB. & REGIONAL RES. 227, 234 (2001).

<sup>88</sup> See Damon Centola, *The Spread of Behavior in an Online Social Network Experiment*, 329 SCIENCE 1194, 1197 (2010) (noting that human interactions of all sorts are “shaped by location, and virtual interactions are more often compliment than substitute”); Meric S. Gertler, *Tacit Knowledge and the Economic Geography of Context, or the Indefinable Tacitness of Being (There)*, 3 J. ECON. GEOGRAPHY 75, 79 (2003) (identifying “language, conventions, codes, or communication, and trust” as hard to transmit across distance).

connections that open these intra-industry opportunities. Organizations like the Council on Foreign Relations or the National Press Club deepen professional ties among those in the political industry.

The returns to these professional networks in other industries in the political capital are not as substantial. Networks outside of the political networks are more difficult to generate because participants in these networks are more difficult to identify in a metropolitan area dominated by the political industry. The professional returns to these networks in non-political industries are more difficult to generate, and if realized are more likely to be in another metropolitan area. Building professional networks in private finance in the political capital, for instance, means more employment opportunities, but opportunities that are more likely to be in another metropolitan area with all of the transaction costs that relocating generates.<sup>89</sup>

The narrower social networks generated by the political capital are still dispersed into multiple—at least two—different networks. Ideologically homogeneous political factions organized around the two parties generate incentives for at least two different political networks. Personal connections formed with those from another ideological persuasion are less likely to generate meaningful dynamics of reciprocity and trust.<sup>90</sup> Professional connections across partisan networks do not promise future professional rewards to the same degree that intra-partisan connections do.<sup>91</sup> Because social class determines housing preferences as well, it is often the case that the political capital generates inter-partisan networks because neighbors are from opposing parties. By and large, though, this is an exception, and the narrower networks of the political capital mean there are two networks within the same industry rather than networks of many industries.

The result of these narrower personal and professional networks for those exercising federal power is a narrower possible range of policy outputs. Networks perform an epistemic role, providing people with new ideas and either legitimizing or delegitimizing ideas that people previously held.<sup>92</sup> Since Washington features more and more prominent individuals tied to the government, that epistemic community shapes preferences for those in federal power. Ideas about government that federal officials might have had before or might be hearing from their constituents or friends and

---

<sup>89</sup> For the evidence that individuals—all things being equal—do not wish to relocate across metropolitan areas, see, for instance, Portes, *supra* note 40, at 11 (“Leaving a community tends to destroy established bonds, thus depriving [the movers] of a major source of social capital.”); Schoenbaum, *supra* note 40, at 1193–1212.

<sup>90</sup> See Shanto Iyengar et al., *Affect, Not Ideology: A Social Identity Perspective on Polarization*, 76 PUB. OPINION Q. 405 (2012); McPherson, *supra* note 84.

<sup>91</sup> *But see* Eric A. Posner & Adrian Vermeule, *The Credible Executive*, 74 U. CHI. L. REV. 865, 865 (2007) (“[A] well-motivated executive can credibly signal [credibility by] bipartisanship in appointments to the executive branch.”).

<sup>92</sup> See, e.g., Robert M. Cover, *Nomos and Narrative*, 97 HARV. L. REV. 4, 42 (1983); Harold Hongju Koh, *Why Do Nations Obey International Law?*, 106 YALE L.J. 2599, 2603 (1997); Peter M. Haas, *Introduction: Epistemic Communities and International Policy Coordination*, 46 INT’L ORG. 1 (1992).

colleagues elsewhere will face the more and more frequent epistemic influences of their local Washington community. Whatever these federal officials are hearing from the agricultural community in Nebraska or the Canadian trade community in Upstate New York is less likely to be represented in the daily, regularized epistemic community of those involved in political life in the political capital.

Networks also perform a facilitative role, lowering transaction costs and therefore making transactions easier to achieve within a network rather than outside of it.<sup>93</sup> Because federal officials will have closer and more network connections to other Washingtonians—and therefore disproportionately those in the political industry—this means it is easier for them to engage in transactions with those in that industry as compared to another industry. To bargain and complete a transaction with others, someone must endure a greater cost. Either that industry must pay for permanent Washington representation or arrange for a Washington meeting (with all of the transaction costs that must be endured by bargaining with professional strangers rather than professional intimates<sup>94</sup>).

### III. THE IMPLICATIONS OF NARROWING OF FEDERAL POWER BY THE POLITICAL CAPITAL

Many constitutional rules narrow federal power. Indeed, one of the purposes of a written constitution is to remove outcomes that politics might deliver from the realm of the acceptable. This Part discusses the implications of the specific means by which the political capital narrows power. The narrowing of the political capital poses problems for a vision of a responsive, democratic system, but at the same time constrains and prevents the creation of problematic private and governmental forces.

#### *A. Democratic Responsiveness*

Our constitutional system was meant to create “a government responsive to public interest and opinion.”<sup>95</sup> Some scholars talk about this as a principal-agent relationship, with the dynamic between agent politicians and their constituents as principals “riddled with agency problems.”<sup>96</sup> Nicholas Stephanopoulos has discussed this as the “alignment” interest.<sup>97</sup> A single-industry capital metropolitan area increases these problems by narrowing the range of officials who work for the federal government and

---

<sup>93</sup> See, e.g., Lior Jacob Strahilevitz, *A Social Networks Theory of Privacy*, 72 U. CHI. L. REV. 919, 953 n.119 (2005) (summarizing the relevant literature).

<sup>94</sup> See *id.*

<sup>95</sup> HANNA FENICHEL PITKIN, *THE CONCEPT OF REPRESENTATION* 234 (1967).

<sup>96</sup> Jacob E. Gersen, *Unbundled Powers*, 96 VA. L. REV. 301, 310 (2010). See generally Robert J. Barro, *The Control of Politicians: An Economic Model*, 14 PUB. CHOICE 19, 22–26 (1973); John Ferejohn, *Incumbent Performance and Electoral Control*, 50 PUB. CHOICE 5, 5–9 (1986).

<sup>97</sup> See generally Nicholas O. Stephanopoulos, *Elections and Alignment*, 114 COLUM. L. REV. 283 (2014).

narrowing the range of influences on those officials. This leads to many interests in the country not having the capacity to find enough of their officials to serve in the political capital or to have their perspectives represented in the capital.<sup>98</sup> In other words, the narrowing of federal power is not equally distributed. The political capital has distributional effects on political power.

This notion that capital diversity is crucial to representing diverse democracies was not lost on those creating other democracies—or on the Founders of the American Republic. One of the arguments for capital cities like London or Paris is that a representative democracy requires a representative capital metropolitan area.<sup>99</sup> Some countries have relocated their capital to create a more representative capital. Nigeria moved its capital from Lagos to Abuja so that there would be more Muslims who would be closer to the central government and therefore more able to work for the central government.<sup>100</sup> Most American state capitals have been placed in locations meant to equalize access for state populations.<sup>101</sup> In the United States, Carl Abbott has written of the ways that Washington was justified as the capital city for the first hundred years of the country because it was a “domestic border cit[y]”<sup>102</sup> and because it was not captured by particular economic or political interests like the existing metropolitan areas of the North or the South.<sup>103</sup>

The problem for Washington, though, is that its single industry focus undermines any ambition for it to be a representative capital. Some interests in the country will have no problem ensuring their people are in Washington even given its status as a political capital. It could be that the benefits of political relationships that come from time in the political capital are substantial to supporters of these interests. The

---

<sup>98</sup> This critique of Washington has sometimes originated on the political left, and sometimes originated on the political right. In the more recent political past, conservatives have made this claim. For instance, Ronald Reagan—then an actor and journalist—delivered a famous speech in 1964 urging the election of Barry Goldwater as President in which he makes this genre of argument. See Ronald Reagan, *Address on Behalf of Senator Barry Goldwater* (Oct. 27, 1964), <http://www.reaganfoundation.org/pdf/ATimeForChoosing.pdf> (“[I]t’s time we ask ourselves if we still know the freedoms that were intended for us by the Founding Fathers . . . . [W]hether we believe in our capacity for self-government or whether we abandon the American Revolution and confess that a little intellectual elite in a far-distant capital can plan our lives for us better than we can plan them ourselves.”).

<sup>99</sup> It was said of Berlin before World War II, for instance, that “Berlin will require us to become aware of arising social conflicts more directly than Bonn would” because it was a metropolitan area featuring a little of everything. See BERLIN-WASHINGTON, 1800–2000: CAPITAL CITIES, CULTURAL REPRESENTATION, AND NATIONAL IDENTITIES 15 (Andreas Daum & Christof Mauch eds., 2005).

<sup>100</sup> See Omolade Adejuyigbe, *The Case for a New Federal Capital in Nigeria*, 8 J. MOD. AFR. STUD. 301, 304 (1970).

<sup>101</sup> See Erik J. Engstrom, Jesse R. Hammond & John T. Scott, *Capitol Mobility: Madisonian Representation and the Location and Relocation of Capitals in the United States*, 107 AM. POL. SCI. REV. 225 (2013).

<sup>102</sup> Abbott, *supra* note 26, at 1369.

<sup>103</sup> See *id.* at 1370.

informational insights about how federal regulators operate or the capacity to influence these regulators could be particularly great. It could be that the direct and opportunity costs of them leaving their existing lives are small enough that a temporary or permanent relocation to the political capital is desirable.

Consider the financial elite from New York, for instance. There is a long tradition of top officials from Goldman Sachs in New York temporarily serving in the federal government (e.g. Robert Rubin, Henry M. Paulson, Jr.).<sup>104</sup> The financial industry finds it in its interests to secure a substantial degree of permanent Washington representation.<sup>105</sup> The lost time in the financial industry in New York City is not as concerning because of the enormous returns to success in the financial industry—given the profits during a given year, missing a few years is not a substantial opportunity cost.

For some other interests, though, representation and then government responsiveness to their interests will be more difficult to achieve. Some other interests will be represented in Washington for reasons unrelated to their economic power. A political capital attracts and generates the politically engaged. Washington does not lack those who follow politics and government closely, or who write about government and politics, regardless of the resources of these politically engaged individuals and organizations.

For other interests, though, Washington representation will be more costly to achieve. For certain interests, engagement with political life either is or is seen as less central to what those interests hope to achieve. The cultural and economic life of people active in these groups does not match with what a political capital has to offer.

This suggests that these interests would not otherwise be represented in Washington, and must even go to the lengths of paying people to move there to work on their behalf. Some of these interests can afford to do so, but some (perhaps most) cannot afford to do so. These interests might not have the financial resources to generate Washington representation if its stakeholders are not otherwise interested in Washington. These interests might face particularly challenging hurdles. Certain industries are located in geographically distant places from Washington and thus face great costs to relocating their stakeholders to Washington.<sup>106</sup> Most interests tend to have a strong regional focus—most businesses, for instance, are regionally concentrated.<sup>107</sup> If the

---

<sup>104</sup> See Julie Creswell & Ben White, *The Guys from 'Government Sachs'*, N.Y. TIMES, Oct. 17, 2008, at BU1 (“Goldman’s presence . . . around the federal response to the financial crisis is so ubiquitous that other bankers and competitors have given the star-studded firm a new nickname: Government Sachs.”).

<sup>105</sup> The financial industry spent more than five billion dollars on lobbying between 1998 and 2012. See Arthur E. Wilmarth, Jr., *Turning a Blind Eye: Why Washington Keeps Giving in to Wall Street*, 81 U. CIN. L. REV. 1283, 1363 (2013). It employs 3,000 lobbyists. See ESSENTIAL INFORMATION & CONSUMER EDUCATION FOUNDATION, SOLD OUT: HOW WALL STREET AND WASHINGTON BETRAYED AMERICA 100–01 (2009).

<sup>106</sup> See *supra* note 66.

<sup>107</sup> See *supra* note 35.

regional focus of these industries is someplace other than and far from Washington, then the opportunity cost of foregoing that location and the experience and relationships established in that location can be substantial.<sup>108</sup>

For these interests, another means of ensuring their influence in Washington is to exercise even greater influence from outside of Washington. If they cannot send their people to serve in elected or appointed office, or to be in Washington otherwise, at least they can force elected officials to take notice at election time.<sup>109</sup> Any outside of Washington influence must be operationalized into a federal statute or federal regulation, and this presents agency costs. A powerful interest in Nebraska with no connection to the political capital will occasionally attract the interest of Washington. But what happens when members of Congress or agencies sit down to write laws or regulations quite different than what that Nebraska interest desired? In other words, there is an agency cost facing even the powerful outside-of-Washington interest simply because they are not in Washington.

Many of the same reasons why certain interests struggle to have a presence in Washington will complicate their efforts to have a presence outside of Washington. If a constituency is not interested in politics enough to relocate to Washington, it is not likely to care about politics far from Washington. If it cannot afford to retain influence in Washington, it cannot afford to influence elections outside of Washington. This is not uniformly true, of course. The technology industry was for some time very powerful in state and federal California politics before it achieved a real Washington presence.<sup>110</sup>

Washington's status as a political capital therefore serves as another "vetogate" on change advocated by certain interests that have no representation in the political capital. For those interests that are represented in Washington because they have reason to invest in the political capital, the normal vetogates of the separation of powers must be endured. For other interests not represented in Washington because of the limitations they face in investing in the political capital, there is a political vetogate as well. Without their people in federal office or interacting with those in federal office, it will be

---

<sup>108</sup> For this dynamic more generally, see Mark Granovetter, *Economic Action and Social Structure: The Problem of Embeddedness*, 91 AM. J. SOC. 481, 490 (1985); Frank P. Romo & Michael Schwartz, *The Structural Embeddedness of Business Decisions: The Migration of Manufacturing Plants in New York State, 1960 to 1985*, 60 AM. SOC. REV. 874, 879 (1995). Federalism is often a solution to this problem. See, e.g., Steven G. Calabresi, "A Government of Limited and Enumerated Powers": In Defense of *United States v. Lopez*, 94 MICH. L. REV. 752, 762 (1995) ("If minorities are concentrated geographically to some degree and if the nation is willing to cede control over key issues to constitutionally established subunits of the nation, then federalism can help maintain social peace.").

<sup>109</sup> See Jane Mansbridge, *Rethinking Representation*, 97 AM. POL. SCI. REV. 515, 516–25 (2003). For an overview of this role for elections, see ROBERT A. DAHL, *DEMOCRACY AND ITS CRITICS* (1989).

<sup>110</sup> For a nice history and overview, see George Packer, *Change the World: Silicon Valley Transfers Its Slogans—and Its Money—to the Realm of Politics*, NEW YORKER (May 27, 2013), <http://www.newyorker.com/magazine/2013/05/27/change-the-world>.

harder for them to get their issues on the agenda or their perspectives on these issues to be considered. The American system will not respond as much to them because they are not located as much in Washington.

### *B. Stability and the Political Capital*

Madison wrote in *The Federalist Papers* that a central challenge of constitutional design was that “[y]ou must first enable the government to control the governed . . . and in the next place, oblige it to control itself.”<sup>111</sup> A political capital limits the responsiveness of the federal government to the full range of American interests. At the same time, the political capital’s inaccessibility constrains troubling private and governmental forces. Some studies have suggested that political capitals contribute to democratic stability by distancing the government from harmful private forces and creating additional transaction costs for them to operate, while at the same time constraining the government by distancing it from other power centers in a country.<sup>112</sup>

#### 1. Constraining Private Forces in the Political Capital

##### *a. Existing Threats*

First, the fact that a capital is a political capital means it is exposed to fewer factions—that is why the federal government is less responsive. This mitigates the risk facing a government by decreasing the chances that a problematic faction will emerge that has access to the capital metropolitan area. The political capital therefore enjoys a probabilistic relationship with threatening interests: the fewer the interests represented in the capital, the less of a chance that there will be a threatening interest in the capital.

In some situations, the threat to the national government can emerge from subnational factions located elsewhere in the country. In comparative politics, one of the variables that undermines democratization in emerging democracies is geographically concentrated, subnational interests that are opposed to democratization.<sup>113</sup> If the capital metropolitan area is a diversified area, that means all or almost all interests will have easy access to power—including these problematic subnational interests.

Indeed, this concern was one of the reasons why Washington was made the capital in the first place. Philadelphia was the nation’s capital during the Revolutionary War, and there was a generalized concern that it would feature interests threatening to the fledgling American government.<sup>114</sup> In 1783, Revolutionary War soldiers who had not

---

<sup>111</sup> THE FEDERALIST NO. 51 (James Madison), *supra* note 1, at 160.

<sup>112</sup> See Ades & Glaeser, *supra* note 59.

<sup>113</sup> See Edward L. Gibson, *Boundary Control, Subnational Authoritarianism in Democratic Countries*, 58 WORLD POL. 101 (2005).

<sup>114</sup> See BOWLING, *supra* note 3, at 10 (quoting someone at the time being concerned about the negative influences of “commerce, local politics, luxury and mobs” in Philadelphia); JOSEPH STORY, COMMENTARIES ON THE CONSTITUTION 120 (1833).



been paid for military service wanted redress from the Revolutionary Congress. Their violence directed towards the Congress forced it to relocate to New Jersey.<sup>115</sup> In the years following, there was concern related to Shays Rebellion and related to British sympathizers that might have easy access to a Northeastern capital city.<sup>116</sup> The decision to create a capital that was not and would not be part of any state was meant to minimize the threat of unwise state political leaders capturing the federal government for their own usages.<sup>117</sup>

*b. Constraining New Threats*

Another version of this concern is that more massive metropolitan areas—those that are primate cities and not just political capitals—do not just feature dangerous interests but generate them more easily and make them more dangerous when generated. Modern social science has proven this, and even the founding generation knew the threats posed to stable government by the greater capacity of urban areas to generate mobs.<sup>118</sup> Mobs are scaled goods, meaning they need lots of people involved in them to be truly successful.<sup>119</sup> Urban areas provide larger numbers of people and

---

<sup>115</sup> See BOWLING, *supra* note 3, at 30–34.

<sup>116</sup> See ROBERT J. TAYLOR, WESTERN MASSACHUSETTS IN THE REVOLUTION 143–49, 154, 156–57 (1954).

<sup>117</sup> This was the reason for the District Clause in the Constitution prohibiting state control over the federal government. See U.S. CONST. art. I, § 8, cl. 17 (“The Congress shall have power . . . To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may . . . become the Seat of the Government of the United States.”); see also BOWLING, *supra* note 3, at 76–77; Peter Raven-Hansen, *Congressional Representation for the District of Columbia: A Constitutional Analysis*, 12 HARV. J. LEGIS. 167, 170–71 (1975). Madison wrote that “[w]ithout [exclusive jurisdiction at the capital] . . . a dependence of the members of the general government on the State comprehending the seat of the government, for protection in the exercise of their duty, might bring on the national councils an imputation of awe or influence, equally dishonorable to the government and dissatisfactory to other members of the Confederacy.” THE FEDERALIST NO. 43, at 279 (James Madison) (Modern Library College ed., 1960).

<sup>118</sup> See BOWLING, *supra* note 3, at 10–11 (“Many Americans and their spokesmen in Congress believed that cities, with their commerce, local politics, luxury and mobs, were by definition anti-republican, and insisted that the United States should abandon the European precedent of placing capitals in large cities.”); KRISHAN KUMAR, UTOPIA AND ANTI-UTOPIA IN MODERN TIMES 74 (1987) (“[F]or Jefferson, . . . America’s pastoral utopia was the product of design, enterprise, and toil. America was potentially a cultivated garden, halfway between the wilderness of untouched nature and the refinements (too many) of commercial urban society.”).

<sup>119</sup> See Filipe Campante & Edward L. Glaeser, *Yet Another Tale of Two Cities: Buenos Aires and Chicago*, (NBER Working Paper No. 15104, June 2009); Filipe R. Campante & Quoc-Anh Do, *A Centered Index of Spatial Concentration: Axiomatic Approach with an Application to Population and Capital Cities*, (HKS Faculty Working Papers RWP09-005, 2009); Denise DiPasquale & Edward L. Glaeser, *Incentives and Social Capital: Are Homeowners Better Citizens?* (Harvard Institute of Economic Research Working Papers 1815, Harvard-Institute of Economic Research, June 2009).

therefore a greater chance of attracting mob supporters. Urban areas are more densely connected, and therefore lower the transaction costs for mobs to operate.

The political capital marginally reduces the risks of the threatening mob because it is a smaller place and thus has fewer warm bodies to staff mob activity. The political capital is not a city on the scale of a New York City or London. It cannot generate quite the same number of bodies in the streets that those primate metropolitan areas can. Other interests in the country—but interests represented outside of the capital—have to be coordinated with for these riots to scale up even more. Coordinating with these other interests in other metropolitan areas generates transaction costs.

The political capital also avoids suffering from all of the chaos and violence that metropolitan areas endure. The United States has had its share of urban riots. During World War I, Washington faced riots generated by different social movements.<sup>120</sup> In 1968, Washington's U Street burned.<sup>121</sup> Washington has only faced some of the notable American riots. Other notable riots—such as the Haymarket riots in Chicago or the draft riots in New York—did not influence Washington.

The political capital marginally reduces the risks of the threatening mob because it increases the costs for an insurrection to gain attention. Destabilizing efforts rely on media—particularly free media—for their message to spread more widely. The political capital generates many symbols that can be used to generate media attention. The March on Washington occurred on the Washington Mall, but left the Empire State Building or the Golden Gate Bridge untouched. The political capital does not provide all of the major symbols of the nation as a marketing tool in the way that a primate city does.

Not only are the chances of chaos left in the political capital, but also the risks if it happens are less. An insurrection only threatens the major institutions of the federal public sector, but not the private sector. Contrast that with the diversified capital. It used to be said of Germany after the Nazis controlled the government that “whoever took Berlin ruled Germany.”<sup>122</sup> In the capitals of Egypt and Tunisia, the capacity to control Cairo and Tunis proved crucial because it meant revolutionaries controlled all of the major institutions of national life.<sup>123</sup>

## 2. Constraining the Government in the Political Capital

In non-democratic countries, the existence of a political capital is often a conscious tool of institutional control.<sup>124</sup> Leaders wish to maintain control of large portions of

---

<sup>120</sup> See CHRISTOPHER CAPOZZOLA, *UNCLE SAM WANTS YOU: WORLD WAR I AND THE MAKING OF THE AMERICAN CITIZEN* 125 (2010).

<sup>121</sup> See BLAIR A. RUBLE, *WASHINGTON'S U STREET: A BIOGRAPHY* 2 (2012).

<sup>122</sup> Gordon A. Craig, *Berlin, The Hauptstadt: Back Where It Belongs*, 77 *FOREIGN AFF.* 161, 165 (1998).

<sup>123</sup> See Ellis Goldberg, *The Urban Roots of the Arab Spring* (2014) (manuscript on file with author).

<sup>124</sup> See Ades & Glaeser, *supra* note 59.

the government. Monitoring and therefore controlling of the government is achieved more cheaply from up close rather than from afar because information travels more easily when others are more proximate.<sup>125</sup> This centralizes governmental power in a particular metropolitan area.<sup>126</sup>

Private firms have similar reasons to co-locate with governments in autocratic countries. Private firms located in the same metropolitan area as the government are less threatening to autocrats than when they are located farther away because these private firms can also be more cheaply monitored and controlled.<sup>127</sup> Without much private firm activity because of a massive, autocratic state, private firm co-location does not overwhelm institutions of government.

In the United States, there are many metropolitan areas of enormous relevance outside of the political capital. New York City is usually ranked as the single most important metropolitan area in the world.<sup>128</sup> The increasingly important technology industry is focused on Silicon Valley in California.<sup>129</sup> This distribution of relevant and powerful institutions has “no parallel in the Western world” and creates a “separation of powers as emphatic as anything in the Constitution.”<sup>130</sup> The federal government in Washington faces greater costs in exercising its power because Washington is a political capital. Information needed to regulate these industries is more costly to obtain because it must be obtained from farther away.<sup>131</sup> If the latest trends in private equity are to be understood by the federal government to decide if it wants to regulate them, they will need to send officials to New York City or Silicon Valley, or open regional federal offices there. The federal government also faces greater costs in obtaining information about compliance with regulations.<sup>132</sup> The political capital therefore serves as a vetogate on federal power. When the federal government wishes to regulate private interests, it must expend greater efforts to do so.

#### CONCLUSION

Washington was always a different kind of place. In its early years of the American Republic, while New York was a bustling port of over 30,000 residents, Washington was a sleepy Southern town with mostly part-time residents who commuted from

---

<sup>125</sup> See EDWARD L. GLAESER, *CITIES, AGGLOMERATION AND SPATIAL EQUILIBRIUM* 149 (2008); ALFRED MARSHALL, *PRINCIPLES OF ECONOMICS* 271–72 (8th ed. 1953); Schleicher, *supra* note 39, at 1521–23.

<sup>126</sup> See Ades & Glaeser, *supra* note 59.

<sup>127</sup> See *id.*

<sup>128</sup> See MCKINSEY GLOBAL INST., *supra* note 57.

<sup>129</sup> For an excellent overview, see ANNALEE SAXENIAN, *REGIONAL ADVANTAGE: CULTURE AND COMPETITION IN SILICON VALLEY AND ROUTE 128* (1996).

<sup>130</sup> See BURROWS & WALLACE, *supra* note 27, at 306 (1996).

<sup>131</sup> See *supra* note 39.

<sup>132</sup> See *id.*

other metropolitan areas to work in Washington when government was in session.<sup>133</sup> Washington grew gradually as the federal government grew gradually, while New York grew rapidly as the American economy did.<sup>134</sup> Even now, as Washington becomes more of a creative class capital like New York or San Francisco, its creative class is dominated by those tied to the presidential administration of Barack Obama.<sup>135</sup>

The fact that Washington is a different kind of place has led it to be a commonly used proper noun in the American political language. Washington is the word we use to refer to the federal government, and Washington is the profanity we use to curse the federal government when it is dysfunctional. The point of this Essay is that Washington refers to something deeper than a political advertisement. Washington refers to a metropolitan area dominated by government, and that domination narrows the outputs of the American federal government. Life inside the Beltway constrains what policies exit the Beltway.

---

<sup>133</sup> See Abbott, *supra* note 26.

<sup>134</sup> Compare *id.* at 1375 (“A rapidly rotating population of soldiers and war contractors raised the District of Columbia from 75,000 to 132,000 residents [between 1860 and 1870]”), with Glaeser, *supra* note 8, at 10 (“Between 1790 and 1860, New York City’s population rose from 33,131 to 813,669. The annual rate of increase rose from 1.8 percent to 4.7 percent.”).

<sup>135</sup> See Ashley Parker, *All the Obama 20 Somethings*, N.Y. TIMES, May 2, 2010, at MM46 (“The young Obama crowd is polite and gracious, but they are uninterested in mingling with the old guard. They’ve taken their social network from the campaign trail and transplanted it to Washington.”).