

# The People's Privilege: The Franking Privilege, Constituent Correspondence, and Political Representation in Mid-Nineteenth Century America

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In his book *The Dignity of Legislation*, Jeremy Waldron bemoans the lack of attention legal philosophers have paid to legislatures and legislation. This oversight, Waldron suggests, has impoverished our understanding of legislatures as legal institutions, and has led jurists to see only the “indignity of legislation.”<sup>1</sup> Legal historians have hardly been more attentive, preferring to leave legislatures to political historians and political scientists. So although we have myriad studies of roll call votes, for example, we lack a genuine understanding of the legal history of legislatures or legislation. Our failure to appreciate the role of legislatures and legislation is especially characteristic of studies of the pre-Civil War period, a period in which the state has been famously described as a

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1. Jeremy Waldron, *The Dignity of Legislation* (Cambridge: Cambridge University Press, 1999).

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“state of courts and parties,” and characterized by the legislature’s “decline of authority.”<sup>2</sup> Even those who have uncovered a rich governmental theory and practice in the nineteenth century have focused more on courts and statutory interpretation.<sup>3</sup> Willard Hurst criticized this inattention to the legal history of legislatures years ago, noting the “tendency to identify legal history with the history of courts and court-made doctrine.”<sup>4</sup> Our court-centered approach has left us with only a partial understanding of the role of law in American history. “In order to see law in its relations to the society as a whole,” Hurst continued, “one must appraise all formal and informal aspects of political organized power— observe the functions of all agencies (legislative, executive, administrative, or judicial) and take account of the interplay of such agencies with voters and nonvoters, lobbyists and interest groups, politicians and political parties. This definition overruns traditional boundaries dividing the study of law from study of political history, political science, and sociology.”<sup>5</sup>

The franking privilege is a striking example of this emphasis on the indignity of legislation. Not only has it been largely ignored by historians, but most studies have focused on questions concerning abuse of the privilege.<sup>6</sup> There is good reason for this focus. Virtually from the beginning of

2. Stephen Skowronek, *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920* (New York: Cambridge University Press, 1982); and L. Ray Gunn, *The Decline of Authority: Public Economic Policy and Political Development in New York, 1800–1860* (Ithaca: Cornell University Press, 1988).

3. William J. Novak, *The People’s Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1996). But see Novak, “A State of Legislatures,” *Polity* 40 (2008):340.

4. James Willard Hurst, *Law and Social Process in United States History* (Ann Arbor: University of Michigan Law School, 1960), 26; see also Hurst, *The Growth of American Law: The Lawmakers* (Boston: Little, Brown & Co., 1950); and Hurst, *Law and Economic Growth: The Legal History of the Lumber Industry in Wisconsin, 1836–1915* (Cambridge: Belknap Press of Harvard University Press, 1964).

5. James Willard Hurst, *Law and Social Order in the United States* (Ithaca: Cornell University Press, 1977), 25–26. Part of the explanation for this neglect may be source based. Whereas the *Congressional Globe* and *Congressional Record* provide detailed accounts of debates in the United States Congress, state legislatures rarely published their debates. The debates were often covered in newspapers, but the lack of an official report poses many problems for the legal historian. Even constitutional histories of Congress tend to treat it as a political more than a legal institution.

6. Frank L. Davis, “The Declining Role of the Frank in House Elections: The Withering Effect of Sunshine?,” *Polity* 32 (2000): 415; Albert D. Cover and Bruce S. Brumberg, “Baby Books and Ballots: The Impact of Congressional Mail on Constituent Opinion,” *American Political Science Review* 83 (1989): 347; Albert D. Cover, “The Electoral Impact of Franked Congressional Mail,” *Polity* 17 (1985): 649; Cover, “Contacting Congressional Constituents: Some Patterns of Perquisite Use,” *American Journal of Political Science* 24 (1980): 125; Cover “Congressional Perquisites and Fair Elections: The Case of the

the privilege, legislators were apt to abuse it. This abuse seemed particularly rampant in the early republic, when members of Congress were franking "all manner of things, including books, dirty laundry, and even pianos."<sup>7</sup> Henry Clay's description of the privilege in this period gives some indication of the extent of the abuse. "The franking privilege," he explained,

has been most direfully abused. We have already reached a point of abuse, not to say corruption, though the government has been in operation but about fifty years, which it has taken Great Britain centuries to attain. Blank envelopes, I have heard it said, ready franked, have been enclosed to individuals at a distance, who openly boasted that their correspondence if free of charge. The limitation as to the weight is now extended, I believe, to two ounces. But what of that, if a man may send under his frank a thousand of these two-ounce packages? The limitations should be to the total weight included in any single mail, whether the packages be few or many. The report of the post-master general, at a former session, states the astounding fact, that, of the whole amount transported in the mails, *nintey-five per centum*, goes free of all duty, and letters of business and private correspondence have to defray the expense of the whole. It is monstrous, and calls loudly for some provision to equalize the charge.<sup>8</sup>

Not just abuse, then, but "corruption" has long characterized Americans' view of the franking privilege. Clay may or may not have been overstating the extent of abuse in the early republic, but clearly, the franking privilege was a tool that members of Congress used to maintain their power.

However legitimate this attention to abuse may be, I would like to shift our view a bit to explore a more dignified dimension of the privilege. To do this, we first need to appreciate the fact that the franking privilege not only allowed members of Congress to send letters for free, it also allowed their constituents to send them letters for free. By the mid-nineteenth century, corresponding with one's federal representatives had become a common practice.<sup>9</sup> By and large, however, this correspondence has been "used

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Franking Privilege," *Yale Law Journal* 83 (1974): 1055; Alfred A. Porro Jr. and Stuart A. Ascher, "The Case for the Franking Privilege," *University of Toledo Law Review* 5 (1974): 259; Robert F. DeMeter, "Franking Privilege – A Threat to the Electoral Process," *American University Law Review* 23 (1973–74): 883; and Andrew Wasmund, "Use and Abuse of the Franking Privilege," *Loyola L.A. Law Review* 5 (1972): 52. There has been very little historical work on the franking privilege.

7. Richard R. John, *Spreading the News: The American Postal System from Franklin to Morse* (Cambridge: Harvard University Press, 1995).

8. Henry Clay, *The Life and Speeches of the Hon. Henry Clay*, 2 vols. Daniel Mallory, ed., 4th ed. (New York: Van Amringe and Bixbey, 1844), 2:554.

9. For important collections of letters written to presidents, see, for example, Harold Holzer, ed., *The Lincoln Mailbag: America Writes to the President, 1861–1865* (Carbondale: Southern

mostly to provide color and drama in historical narratives, or to document societal-level and group level generalizations based on other primary sources, social science theory, or manipulation of aggregate data taken from published, mostly official, sources, such as census records.”<sup>10</sup> Rarely has it been studied in its own right.<sup>11</sup> This oversight has truncated our knowledge and understanding of the franking privilege. Shifting attention from how legislators used the privilege to how constituents used it should broaden our perspective and enable us to explore aspects of the franking privilege other than abuse. The ability to write to their representatives for free facilitated an unmediated dialogue between constituents and their representatives. As David Gerber has observed, a letter “is the closest approximation that both parties involved in a correspondence may come to that which they most desire, but cannot obtain—an intimate conversation.”<sup>12</sup> As an “intimate conversation,” the letter helped to close the spatial and social distance between senator and citizen. In other words, it drew representative and represented into a direct, personal relationship, and gave it a materiality.

The material dimension to political representation was not limited to the letters themselves, however. The franking privilege, and one particular manifestation of it, the government document privilege, enabled people to receive things from their federal representatives. This exchange had three main effects. First, it created a point of contact between representative and represented beyond voting and elections. The ability to receive things, especially government documents, encouraged many people to write to their federal representatives, making the distribution of information one of Congress’ representational duties.<sup>13</sup> Second, and related, these artifacts,

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Illinois University Press, 2006); and Jack McLaughlin, ed., *To His Excellency Thomas Jefferson: Letters to a President* (New York: W.W. Norton & Co., 1991).

10. David A. Gerber, *Authors of Their Lives: The Personal Correspondence of British Immigrants to North America in the Nineteenth Century* (New York: New York University Press, 2006), 31.

11. The new political historians tended to dismiss it because it lacked empirical value, although there was some sense that it might somehow be useful. Margaret Susan Thompson and Joel H. Silbey, “Research on 19th Century Legislatures: Present Contours and Future Directions,” *Legislative Studies Quarterly* 9 (1984): 319. For an interesting use of correspondence (although not constituent correspondence) by a legal historian, see John Phillip Reid, *Law for the Elephant: Property and Social Behavior on the Overland Trail* (San Marino, CA: Huntington Library, 1980).

12. Gerber, *Authors of Their Lives*, 2.

13. Richard Brown has downplayed the federal government’s role in the diffusion of information based on outlays. But questions remain about the impact that the information actually distributed by the federal government had. See Richard D. Brown, *The Strength of a People: The Idea of an Informed Citizenry in America, 1650–1870* (Chapel Hill: University of North

both letters to federal representatives and the documents and other things received from them, gave the representative relationship between senator and constituent a materiality. This was particularly important in the case of United States senators, as they were among the few government officials—and the only legislators—to remain unelected by the 1850s. This materiality made both representative and represented present in the daily lives of the other. The epistolary form itself, as a literary device designed to make the writer present to the reader, also allowed correspondents to close the spatial and representational distance between them and their senator. But the epistle also allowed letter writers themselves to think more deeply about their relationship to their senator. And they took advantage of it to develop a theory of constituency by which they hoped to compel their federal representatives to respond to their requests.

To begin to understand the dignified side of the franking privilege, I have examined the constituent correspondence of United States Senator Stephen A. Douglas, one of the most important politicians of the mid-nineteenth century. Douglas served as a United States senator far longer than the average senator, and his decade-plus service in the Senate offers the opportunity to study correspondence over a relatively broad period of time. His correspondence includes over 15,000 letters covering thirty-six boxes.<sup>14</sup> I examined 1142 letters in sixteen boxes, covering two periods: from 1844, when Douglas entered the House of Representatives, to early 1858, and from 1860 to 1861, when Douglas died in office.<sup>15</sup> The letters surveyed include all those from Illinoisans in the boxes covered, as well as a handful of letters from out-of-state residents.<sup>16</sup> My intent was not to

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Carolina Press, 1996); and *Knowledge is Power: The Diffusion of Information in Early America, 1700–1865* (New York: Oxford University Press, 1989).

14. The Douglas Collection has been at the University of Chicago for 60 years, and was opened to the public in 1994. Another collection was kept in Greensboro, North Carolina until 1992, when it was added to the University of Chicago collection. Additional documents can be found in other collections, including the Illinois State Historical Society in Springfield, Illinois. Robert W. Johannsen, *Stephen A. Douglas* (Urbana: University of Illinois Press, 1997 [orig. pub. 1973]), viii–ix; and Daniel Meyer, *Stephen A. Douglas, and the American Union* (Chicago: The University of Chicago Library, 1994), 3–4.

15. For this article I have focused on the correspondence from Douglas' Senate years. There is only one box covering the years of his House service.

16. Surprisingly, the bulk of the letters were written from people outside of Illinois, and the percentage of out-of-state letters increased notably over time. I focus on the letters from Illinois because political representation in the United States is typically understood in territorial terms. Although Douglas' correspondence challenges this conception on a number of levels, several of which I discuss here. I nevertheless focus on what Americans have generally understood as the basis of political representation.

do an exhaustive study. Rather, it was simply to get an idea of the dimensions and structure of Douglas' correspondence.

Shifting focus to correspondents does not mean that we should forget about what was happening in Washington, however. That is where I begin. But instead of looking at how members of Congress used the franking privilege, I will explore how they thought about the privilege, and how that thinking changed over time. There were important changes over the first half of the nineteenth century. Originally, the privilege was conceived of simply as a tool to facilitate the business of government. As one of the "sinews of power" that dated back to the early modern English state, it was used by legislators and lobbyists to acquire information needed to make policy decisions.<sup>17</sup> But the most common correspondents in nineteenth-century America were constituents not lobbyists. And in a debate over what would become the Post Office Act of 1845, the franking privilege would be reconceptualized as "the people's privilege." This conception emerged as a defense against efforts to abolish the privilege, and centered on the government documents privilege. By reframing the franking privilege as one of the people rather than of the legislator, defenders were able to save the government document privilege. But it could only be plausibly reframed because of the massive amounts of correspondence the legislators received. Recovering the dignity of the franking privilege therefore requires uncovering the different relationships between it and constituent correspondence.

### **A Privilege of the People**

Despite the fact that the privilege has always been understood as a personal privilege,<sup>18</sup> there were several conceptions of it in the nineteenth century. The most common understanding was that it was a device to facilitate the business of governance, mostly covering communications between public officials. This seems to have been the understanding in early modern England, where literacy rates were low and letter writing limited to elites. A slightly different conception of the privilege was "to facilitate communication between [members of Congress] and their immediate

17. John Brewer, *The Sinews of Power: War, Money, and the English State, 1688–1783* (New York: Alfred Knopf, 1989).

18. Luther Stearns Cushing, *Lex Parliamentaria Americana: Elements of the Law and Practice of Legislative Assemblies in the United States of America* (Boston: Little, Brown, 1856), 223; Fortunatus Dwaris, *A General Treatise on Statutes and Their Rules of Construction* (Philadelphia: J.S. Littell, 1835); and William Blackstone, *Commentaries on the Laws of England* (Oxford: Clarendon Press, 1765–1769).

constituents.”<sup>19</sup> This conception seemed to view the franking privilege as part of the scheme of political representation. This view of the privilege, though, was still legislator centered. The legislative history of the franking privilege reveals a conception emergent in the 1840s that de-centered the privilege, and recast it as a privilege of “the people” rather than of the legislator.

The history of the franking privilege in the United States begins, for our purposes, with the Post Office Act of 1792 when Congress conferred this privilege to members of both houses of Congress and certain executive officials.<sup>20</sup> Congress gradually expanded the franking privilege between 1792 and 1825, dealing primarily with three aspects. The most basic issue was who could claim the privilege. Principally, it was a privilege for members of Congress, but it was occasionally extended to members of the executive branch and to select private individuals as well. A second area of expansion involved when the privilege could be used. While there was general agreement that members of Congress could use the privilege when Congress was in session, the main problem was how long after adjournment members could continue to use it. This was an issue that Parliament had faced too, where the concern was with cost. In England, the privilege was limited to 40 days before and after a session, and members of Parliament were also limited in the number of letters they could frank.<sup>21</sup> The 1792 Post Office Act allowed members of Congress to send and receive letters weighing no more than 2 ounces while they were attending a session of Congress, and up to 20 days after the end of the session. In 1816, Congress extended the time members of Congress could exercise the privilege to 30 days before and after a session. And in 1825, it was extended further to 60 days.

The extension of the temporal dimension of the privilege entailed a subtle shift in the ways in which members of Congress began to think of the privilege. For example, when one senator tried to reduce the 1816 allowance of 30 days to 20, others denied that the privilege was a personal one.<sup>22</sup> If it was a personal privilege, there might be good reason for limiting the privilege to when Congress was in session; as a privilege of office, it should only be allowed while in office. The expansion of the time period in which the privilege could be used is thus an indicator of the growing

19. Cushing, *Lex Parliamentaria Americana*, 223.

20. Matthew Eric Glassman, “Franking Privilege: Historical Development and Options for Change,” *CRS Report for Congress* (December 5, 2007): 6. It was not until 1963 that the House and Senate developed different rules on the franking privilege. *Ibid.*, 8. On the importance of the 1792 Post Office Act more generally, see John, *Spreading the News*.

21. Blackstone, *Commentaries*.

22. *Register of Debates*, 18th Cong., 2d sess., 698 (March 1, 1825).

business of the new national state, and the increased need for information by federal representatives.<sup>23</sup> As John Brewer has described the early modern English state, “To be more effective government required greater knowledge; skilled government needed more detailed and precise information,” to both implement policy and to determine its effectiveness.<sup>24</sup> Expanding the time when members could make use of the franking privilege is evidence of the growing need for a lifeline to information that helped to make government more effective.

More significant, however, was the question of what could be franked. It was this question that would be the key to a more fundamental conceptual and practical transformation of the privilege. The diffusion of information had been an important part of postal policy since the 1792 Post Office Act. For the first few decades of the new republic this meant reduced postal rates for newspapers.<sup>25</sup> But in 1825, Congress allowed members to send government documents “printed by the order of either House of Congress”<sup>26</sup> under their franking privilege. Section 27 of the 1825 Post Office Act was one of the most important innovations in franking policy in the early republic. Initially, it appeared to be a part of the business-of-government idea of the franking privilege. Several members characterized the franking privilege generally as “enabl[ing] members to receive and transmit letters relating to public business, of their constituents, &c.”<sup>27</sup> But two things happened in the second quarter of the nineteenth century that changed how members of Congress viewed the privilege. One was that letter writing began to spread down the social ladder.<sup>28</sup> This meant that more people could take advantage of the franking privilege. Second, members of Congress, largely in response to this growing literacy, used section 27 of the 1825 Act—what I am calling the “government documents

23. Cf. Brewer, *The Sinews of Power*, 221–30.

24. *Ibid.*, 221–22.

25. John, *Spreading the News*, 25–42; Richard Burket Kielbowicz, *News in the Mail: The Press, Post Office, and Public Information, 1700–1860s* (New York: Greenwood Press, 1989); and Kielbowicz, “The Press, the Post Office, and the Flow of News.” Interestingly, magazines and pamphlets were not afforded reduced rates. Kielbowicz explains that, “their dissertations on religion, the arts, and professional matters were not deemed as significant as the political discourse and commercial intelligence that filled most newspapers.” *Ibid.*, 267–68. Even when mailing was allowed, the added bulk discouraged delivery. *Ibid.*, 269.

26. Stat. 102, sec. 27, sess. II, Ch. 64 (March 3, 1825).

27. *Register of Debates*, 698.

28. William Merrill Decker, *Epistolary Practices: Letter Writing in America Before Telecommunications* (Chapel Hill: University of North Carolina Press, 1998); and David M. Henkin, *The Postal Age: The Emergence of Modern Communications in Nineteenth-Century America* (Chicago: University of Chicago Press, 2006).



privilege”— to fill their districts with documents. As early as 1828, government documents accounted for over 30% of the weight of mail leaving Washington, D.C. By the 1850s, “laws, books, newspapers, periodicals, government documents, and the *Congressional Globe* poured through the mails in one mighty torrent, diffusing information certainly, if not knowledge or wisdom.”<sup>29</sup> The impact of the government documents privilege had become quite clear by 1844, as United States Senator William Allen explained in a debate over a new post office bill. “Questions of fact,” he began,

were often started at a thousand miles from the Capitol, pending elections, when it was of the first importance to have authentic documents to refer to for their solution. For his own part, he was in the habit of sending to the printers of newspapers in his State copies of all the important documents which he received for distribution; and he believed it was the practice of those printers to preserve them as a sort of library for reference, which was generally found exceedingly convenient to the surrounding neighborhood. He had no doubt the same was done by others. *So that a great want of information would be felt, if this source were cut off.*<sup>30</sup>

For Allen, at least, the new privilege had fundamentally changed the character of the franking privilege from a personal privilege of the legislator to a right of the people to be informed about the “doings” of the federal government. The privilege also meant that Congress had taken on a new function, the distribution of information.

What was also becoming clear was that the expanded privilege was open to greater abuse. By the 1840s, the franking privilege was coming under serious attack. As Senator William King of Alabama explained in a debate over the 1845 Post Office Act, “It was a privilege which was more abused than any other sanctioned by the Government.”<sup>31</sup> The franking privilege had always been controversial, but by the 1840s, abuse seemed particularly rampant. And in 1844, just before the debate over a new post office bill began, several members of Congress began introducing petitions and memorials urging the abolition, restriction, or regulation of the privilege. Senator William Merrick of Maryland, chairman of the Senate Post Office Committee, estimated that he had received over 15,000 such petitions.<sup>32</sup> Although much of the criticism was aimed at abuse by deputy postmasters, members of Congress were not immune. And there were both

29. Wayne E. Fuller, *The American Mail: Enlarger of the Common Life* (Chicago: University of Chicago Press, 1972), 109; see also John, *Spreading the News*, 57–59.

30. *Congressional Globe*, 28th Cong., 1st sess., (April 4, 1844), 470 (emphasis added).

31. *Ibid.*, (January 18, 1844), 152.

32. *Ibid.*, (April 17, 1844), 521.

charges and admissions of abuse. For example, Senator (later President) James Buchanan admitted that, “The franking privilege had been abused, and it was abused, even by the best in either body. They could not avoid doing it. Was there a senator present who did not receive letters under cover to himself, directed to some person in this city? It was the only abuse of the franking privilege he had ever himself committed.”<sup>33</sup>

Others remained dubious about the extent of abuse by members of Congress. According to Merrick, the real source of franking abuse lay with postmasters, not with members of Congress. “The loss of revenue by the abuse of the franking privilege on the part of 300 members of Congress,” he argued, “was a mere bagatelle compared with the abuse of the privilege on the part of postmasters.”<sup>34</sup> Senator Samuel Phelps thought that the root of postal abuse was the use of mail contracts for patronage purposes, not the franking privilege.<sup>35</sup> Ultimately, Congress limited its franking privilege in the 1845 Act. According to one senator, it was simply “impossible to stand still, [as] the public voice [was] calling unanimously for a revision of the whole subject, for a great reduction of postage, and for the abolition of the franking privilege. . . .”<sup>36</sup> However, Congress retained the government documents privilege, although not without a brief struggle.

Senator Silas Wright of New York was one of the more vocal opponents of the franking privilege, and wanted to repeal section 27 of the 1825 Post Office Act. He argued that the government documents privilege encouraged the publication of documents that were “of no general interest for circulation,” and that it was simply more efficient for the press to disseminate this information. “He had not the least apprehension that the public would not be as well informed by the public journals on all matters, as they are now by the dissemination of the printed documents through the mail.”<sup>37</sup> Wright’s attempt to repeal section 27 forced several senators to the floor to defend the privilege. Allen, for example, argued that there was “too little than too much of the documents printed for general dissemination among the people—of those important doings of Congress which most deeply and vitally affected the interests of the people.” More importantly, “These are

33. *Ibid.*, (April 22, 1844), 555. This practice of forwarding mail for those not entitled to the franking privilege dates back virtually to the beginning of the privilege in early modern Britain. F.E. Dixon, “Irish Postal History,” *Dublin Historical Record* 23 (1970): 127, 129; Ogilvie, “The Rise of the English Post Office,” 451.

34. *Congressional Globe* (January 18, 1844), 152–53. On the importance of the franking privilege to postmasters, see John, *Spreading the News*, 123–24.

35. *Congressional Globe* (April 4, 1844), 466.

36. *Ibid.*, (April 1, 1844), 458.

37. *Ibid.*, (April 4, 1844), 470.

doings which the people *have a right to be informed of*, in the most ample, authentic and satisfactory manner.<sup>38</sup> Allen had subtly begun to change the conception of the franking privilege, and its purpose. More than simply concerned with the business of government, the privilege was now rooted in the public's right to know and to be informed about the government. As Senator Samuel Phelps explained, "It is a privilege not for the benefit of the member of Congress, but for the information and satisfaction [sic] of the people. They have a right to know what is doing in Congress, and by means of this privilege they are put in possession of that knowledge."<sup>39</sup> Therefore, "The franking privilege was of more consequence to the people than to members of Congress."<sup>40</sup> It was, in fact, "a matter of great convenience to the people. It was the great means of communication between them and their public servants."<sup>41</sup>

Wright conceded that all this might be true, but he could not forget the 15,000 plus petitions urging its abolition. Therefore, "he thought members of Congress should not force a privilege of this sort upon them against their will; and, so far as he knew, this action of Congress was supposed to be in obedience to the strong expression of public opinion against the existing Post Office regulations."<sup>42</sup> Most members of Congress remained unconvinced by Wright's opposition. One senator noted "that a large majority of the Senate was opposed to the abolition of the franking privilege."<sup>43</sup> Senator Ephraim Foster, who favored reform of the privilege,<sup>44</sup> disputed the idea that the people were against the privilege. Instead, he argued, the franking privilege "was indispensable for the perpetuity of our institutions, that the freest and fullest communication should exist between the people and the representatives; and that the doings of Congress should be scattered over every portion of the country."<sup>45</sup> The franking privilege, in other words, had now become an important element in political representation, a means of communication by which representative and represented kept one another informed.

As the debate wore on, the popular and representative dimensions of the franking privilege grew stronger. The crux of this new dimension was the

38. *Ibid.*, (April 4, 1844), 470 (emphasis added).

39. *Ibid.*, 466.

40. *Ibid.*, (April 17, 1844), 520 (remarks of Foster).

41. *Ibid.*, (April 22, 1844), 562.

42. *Ibid.*, (April 17, 1844), 521.

43. *Ibid.*, 522.

44. Jabez D. Hammond and Erastus Root, *The History of Political Parties in the State of New York from the Ratification of the Federal Government to December 1840* (Syracuse: Hall, Mills & Co., 1852), III: 392.

45. *Congressional Globe*, 522 (April 17, 1844).

availability of government documents. As Phelps pointed out, the privilege had created a set of expectations among the populace. "The people have been so long accustomed to receive congressional documents from their representatives free of postage," he argued, "that the moment this privilege is suppressed there will be a universal clamor from one end of the country to the other."<sup>46</sup> As the people's privilege, the government document privilege had become an important element of a fully informed citizenry, and its retention meant that Congress would continue to play a role in the dissemination of information. Congress expanded the government documents privilege two years later in the 1847 Post Office Act, when it allowed members of Congress to "send and receive public documents free of postage" whether or not ordered printed by either house.<sup>47</sup> By the time Stephen Douglas entered the Senate, then, the franking privilege in general, and the government documents privilege in particular, were well-established institutions, and increasingly understood as a right or privilege of the people.

There remains, however, the question of why members of Congress deployed this popular language. Cynically, we could say it was out of self-interest. The franking privilege was conceptualized in a way to maintain their power and office. This has been the principal critique of the franking privilege. This is a fair and probably even a justified interpretation. It is also a bit too easy. Just as Senator Wright could not forget the 15,000 plus letters he received, neither should we. However self-interested, the construction of the franking privilege as a privilege of the people still had to be plausible. And what made it plausible was the constituent correspondence that kept Stephen Douglas and other members of Congress so busy.

The growth of correspondence and its impact was the result of a number of factors. One was the creation of a postal system that penetrated beyond the seaports along the Atlantic coast into the farthest reaches of the federal government's jurisdiction. Richard John and others have demonstrated nicely how people in both the center and the periphery had easy access to the mail system. But this system required people both willing and able to take advantage of it. For much of the early republic, a "taxation on correspondence" and limited literacy rates largely limited letter writing to elites.<sup>48</sup> But even before the postage on letters was reduced by the 1845

46. *Ibid.*, (April 4, 1844), 466.

47. 9 Stat. 147, sec. 3, Sess. II, Ch. 33 (March 1, 1847).

48. But see Michael S. Foley, "A Mission Unfulfilled: The Post Office and the Distribution of Information in Rural New England, 1821–1835," *Journal of the Early Republic* 17 (1997): 611. According to Richard D. Brown, "Prior to the major letter-rate reductions in 1845 and 1851, letter writing remained confined mostly to merchants, the well-to-do, and public figures who enjoyed the franking privilege, which permitted them

and 1851 Post Office Acts, correspondence had grown from 2,000,000 letters a year in 1800 to 40,000,000 in 1840.<sup>49</sup> While much of this correspondence may have been the result of increasing population and business correspondence, in addition to the expansion of the postal system, it appears that more people were learning how to write as well. In the 1830s, popular instruction in letter writing began to emerge and letter writing habits began to spread down the social structure.<sup>50</sup> By the 1850s, Americans in growing numbers had the literacy, instruction, and opportunity to write letters. That they took advantage of their newfound literacy and the franking privilege is evidenced by the congressional debates over the privilege, and the 15,000-plus letters written to Douglas. To understand the new meaning attributed to the franking privilege, we need to turn to the nexus of the new relationship, and to see how, in practice, the privilege operated. The new privilege had implications not only for political representation, but also for the state. We will see that as the state grew, so too did representation. Understanding the franking privilege as the people's privilege allows us to shift attention from the sender to the recipient, or at least the nexus between them. Government document requests were the most common requests made by Douglas' correspondents. It was these requests that lay behind the congressional construction of the franking privilege as a privilege of the people. And it forces us to ask a couple of questions: what were correspondents requesting, and what were the consequences of this interaction between letter-writer and reader?

### The Government Document Nexus

Examining the franking privilege together with the correspondence it helped to generate exposes the dignified dimension of the privilege. When we look at the process of the franking privilege, and the content of the documents requested, we can see that document requests were not

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to send or received [sic] an unlimited number of letters free of charge." Richard D. Brown, *Knowledge is Power*, 64–65. But see Henkin, *The Postal Age*.

49. Brown, *Knowledge is Power*, 60.

50. Lucille M. Schultz, "Letter-Writing Instruction in 19th Century Schools in the United States," in *Letter Writing as a Social Practice*, eds. David Barton and Nigel Hall (Philadelphia: John Benjamin Publishing Co., 2000), 109–30 (noting that epistolary instruction begins to appear in textbooks in the United States in the 1830s); Frances Austin, "Letter Writing in a Cornish Community in the 1790s," in Barton and Hall, *Letter Writing as a Social Practice*, 43–61; see also Foley, "A Mission Unfulfilled"; and Tony Fairman, "English Pauper Letters 1800–34, and the English Language," in Barton and Hall, *Letter Writing as a Social Practice*, 63–82.

simply requests for information. They also strengthened the ties between federal representatives and constituents. As Richard McCormick has explained in a slightly different context, “distribution strengthened the parties and helped build bridges between voters, leaders, and representatives in office.”<sup>51</sup> This worked in a couple of different ways. Letter writers were drawn in and made dependent on the state, and they encouraged further efforts by the state. In this way, constituent correspondence served as both policy-making and state-building.

The policy-making and state-building functions of constituent correspondence was the result of its role in the diffusion of information. As Richard Brown has reminded us, “knowledge is power,” and the diffusion of information is a tool of empowerment. “Knowledge of crops and livestock empowered farmers to pursue their calling no less than knowledge of classical learning and cosmopolitan affairs enabled colonial American gentlemen to command high social rank and to wield political power.”<sup>52</sup> Through the franking privilege, especially the government documents privilege, members of Congress filled their districts and states with an array of information compiled by the federal government. As we have seen, document requests were made possible by the Post Office Acts of 1825, 1845, and 1847, which allowed members of Congress to send out government documents under their franking privilege. Nor were these requests trivial. Until the 1760s, Richard Brown has shown, public information was a scarce commodity for Americans. This changed with the first communications revolution that spanned the 1760s to the 1840s, so that by the mid-nineteenth century, information “was abundant and under no control other than the interests and appetites of a vast, popular public of consumers.”<sup>53</sup> This information revolution was undergirded by a belief in the idea of an “informed citizenry” that committed Americans “to an ethos that prescribed the diffusion of knowledge as essential to the well-being of society.”<sup>54</sup> Brown, however, downplays the significance of the federal government in the diffusion of this information. “Politicians repeatedly back their advocacy of an informed citizenry with money from the public treasury,” he argues, “but overall private expenditures on information diffusion dwarfed those in the public sector.”<sup>55</sup> Although there may have been a difference in financial outlays for the distribution of information, Douglas’ correspondence suggests that the federal government still played

51. Richard L. McCormick, “The Party Period and Public Policy: An Exploratory Hypothesis,” *The Journal of American History* 66 (1979): 279, 287.

52. Brown, *Knowledge is Power*, 3–4.

53. *Ibid.*, 286.

54. *Ibid.*, 287.

55. *Ibid.*, 288.

an important role in the compilation and distribution of information. The federal government was producing information not being produced by any other institution, through ventures such as the Pacific Railroad survey, as well as information compiled simply through the normal course of governing. And acquiring this information was an important aspect of early American citizenship; one, as we will see in the next section, that correspondents found indispensable to their personal and political lives.<sup>56</sup> In this section, however, I begin to outline the role that the franking privilege played in the production and diffusion of information.

One of the most important things that the federal government did in the 1850s was compiling and distributing information. Constituents registered their approval of this work in their repeated requests for documents in which this information was compiled. They also implicitly approved of the Senate's role in the distribution of that information. In making requests for documents and other information, letter writers were implicitly offering their approval of the work of the federal government, and encouraging further efforts. In effect, this is the converse of Richard John's observation that these documents provided publicity for the federal government.<sup>57</sup>

The federal government produced a wide variety of information, information that only it was producing. This information was contained in the reports of various departments of the federal government which contained a wide range of information. The amount of information generated by the federal government was staggering. Many of the reports, such as the Treasury Department reports, were published annually, and simply contained lists of information. The Treasury Report was an itemized account of the receipts, appropriations, and expenditures of the federal government. This included such items as a \$3.84 expenditure for "Repairing the brancings and repairing the injuries to the iron screwpile lighthouse on Brandywine shoal, Delaware," and a \$781,623.14 expense for steam mail service. But here was information about what the federal government was actually doing. This was the federal government in its most basic form: a 569-page list of how the federal government received and spent its money.<sup>58</sup>

56. Richard R. John, "Recasting the Information Infrastructure for the Industrial Age," in *A Nation Transformed by Information: How Information has Shaped the United States from Colonial Times to the Present*, eds., Alfred D. Chandler Jr. and James W. Cortada (New York: Oxford University Press, 2000), 55–106.

57. John, *Spreading the News*, 59.

58. *Treasury Report*, 345, 347. It should be noted, however, that reports such as the treasury report and the census could also be used for "combat." The treasury report, for example, contained lists of defaulters. Johannsen, *Douglas*, 77, 79.

The Patent Office Report was a multivolume annual report of the patents granted and expired in “agriculture” and “manufacturing,” important no doubt for inventors, farmers, industrialists, and entrepreneurs of all sorts. In issuing these reports, the Patent Office was furthering its “democratic” mission. As Zorina Khan has explained, patent policy was designed to attract “wider participation from relatively ordinary people,” and “the rise in patenting was associated with a democratic broadening of the ranges of patentees to include individuals, occupations, and geographic districts with little previous experience in invention.”<sup>59</sup> The Patent Office reports, though, were also directed toward a popular audience beyond potential patenters.<sup>60</sup> This was particularly true after the appointment of Charles Mason as Commissioner of Patents in 1853, as he expanded considerably the annual agricultural report.<sup>61</sup> This report contained information that could be used by beneficiaries of new technology and the information that went along with it. Therefore, the reports not only included lists of patents expired and granted in the preceding year, they also included short essays on various topics related to agriculture and manufacturing.

For example, the 1855 Patent Office Report included an essay on “Insects” by D. J. Brown, head of the agriculture division, which included sketches of insects. An explanation of one of the sketches gives an indication of the type of information included more generally in the report, as well as the purpose of such information. “In order to make a practical farmer acquainted with the structure and transformations of insects, as well as the names of some of their principal organs, it will be necessary to give a very short and consequently imperfect sketch of their anatomy and metamorphoses, which may perhaps aid him in his future investigations.”<sup>62</sup> The report then included a sketch of the “larva,” “pupa,” and “perfect insect” and their body parts. The report went on to give a brief description of the sketch. But Brown declined to get too specific, noting that the aim was more practical than theoretical. “It is unnecessary to enter into details or describe the several grand divisions into which insects are classed,” he concluded, “as it would only perplex and be of no practical utility to the agriculturist, unless he intends to enter more minutely into the

59. B. Zorina Khan, *The Democratization of Invention: Patents and Copyrights in American Economic Development, 1790–1920* (New York: Cambridge University Press, 2005), 9.

60. Philip J. Pauly, *Fruits and Plains: The Horticultural Transformation of America* (Cambridge, Mass.: Harvard University Press, 2007), 105.

61. *Ibid.*, 106. For contemporary praise of these reports, see “Patent Office Reports,” *The New England Farmer* 8 (1856): 552.

62. *Report of the Commissioner of Patents for the Year 1854: Agriculture*, 33d Cong., 2d sess., Ex Doc. No. 42 (Washington: Beverly Tucker, 1855), 58.



study of entomology. The principal thing most desired is to be able to identify the species most injurious and beneficial to his crops, to know their habits, and repel or destroy those which are the most obnoxious, either in the larva, pupa or perfect state.”<sup>63</sup> This essay appears to be introductory to a longer essay by Townend [sic] Glover on the threats and benefits of particular insects to specific crops.<sup>64</sup>

This was just the beginning. In the 1855 Report, there were several essays on domestic animals, insects, fertilizers, improvement of land, the cultivation of specific crops, and meteorology. Some of these appeared to have been prepared for the Report, while others were statements or reports to various societies around the country from the preceding year. The essays were often followed by “correspondence” from people from around the country discussing their experiences with the related topics in their areas. Some items discussed new crops, or crops that were growing in demand. There was an article from the Singapore Free Press on “Textile and Forage Crops,” noting that “As the fibres of Indian plants are now beginning to attract the attention of European manufacturers, it may be of some use to publish the results of experiments which have been tried to prepare them for the English market...” The article went on to discuss how the demand for flax, hemp, silk, cotton and hair was not being met and that India was being looked to as the source of meeting demand. Perhaps serving as both warning and opportunity, the article pointed out that “Flax, hemp, and cotton are the substances most urgently called for. . . .”<sup>65</sup> The article then provided details on cleaning the fibers.

The Patent Office understood well that ordinary people were reading their reports, and relied upon them for information about agricultural practices. In a section on “Gardening” in its 1855 Report, the Office noted that, “As frequent applications have been made to the Patent Office for information relative to the cultivation of garden vegetables and flowers, it has been deemed advisable to insert in this Report some general directions on the subject, together with a few of the leading principles which govern this art. This may appear unnecessary to those who are familiar with the pages of the excellent treatises on gardening. . . ; but when we take into account that there are thousands of people in retired or remote parts of the Union, who are not aware of the existence of any of the works named above, it will be obvious that these directions, when read in this volume, will be justly appreciated

63. *Ibid.*, 59.

64. Townend Glover, “Insects Injurious and Beneficial to Vegetation,” in *ibid.*, 59–89.

65. “Textile and Forage Crops: Remarks on Cleaning Fibres of Textile Plants [condensed from the Singapore Free Press],” in *ibid.*, 174–77.

and thankfully received.”<sup>66</sup> The Patent Office could only make this claim, however, because of the franking privilege and the extensiveness of the postal system that reached deep into the interior of the country.<sup>67</sup>

The Patent Office did not just distribute printed material, it also distributed genetic material: seed. There had long been a seed trade in North America, but until the nineteenth century it typically involved the export of American seed to Europe.<sup>68</sup> The federal government began procuring and distributing seeds in the 1830s, when Patent Commissioner Henry Leavitt Ellsworth enlisted diplomats and naval officers to help collect foreign seed. Agricultural inventors also contributed seeds even though they could not patent them. This was part of Ellsworth’s plan to make the Patent Office “the clearinghouse for a national friendly community of seed sharers.”<sup>69</sup> Demand for seed began to take off in the early 1850s, on the heels of which Congress appropriated \$50,000 for the purchase of foreign seed in 1855. The Patent Office then published notices in newspapers encouraging people to contact their senators and congressmen to get the seed for free under the franking privilege. In 1857, the Patent Office issued a report in response to this appropriation, which listed the Office’s purchases of fruit, vegetable, grain, and herb seeds from Europe.<sup>70</sup> Although the seed quality was often questionable, it was

66. *Report of the Commissioner of Patents*, 322.

67. This was the Patent Office’s main advantage over the commercial seed distribution system. Pauly, *Fruits and Plains*, 113.

68. Brooke Hindle, *The Pursuit of Science in Revolutionary America, 1735–1789* (Chapel Hill: University of North Carolina, 1956), 1–35, 302–9.

69. Pauly, *Fruits and Plains*, 105. Seed distribution would later form an important part of the Department of Agriculture’s broader mission of distributing information. Both Pauly and Daniel Carpenter have been critical of this mission, referring to it as “pork-style distribution” and as “one of the characteristic boondoggles of the Gilded Age.” Daniel Carpenter, *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1862–1928* (Princeton: Princeton University Press, 2001), 179–80; Pauly, *Fruits and Plains*, 114.

70. *Report of the Commissioner of Patents*, in obedience to the Act of August 18, 1856, respecting the purchase of seeds by that department, Ex.doc. 61, 34th Cong., 3d sess. (February 16, 1857). On seed procurement, see, generally, Nelson Close, *America’s Crop Heritage: The History of Foreign Plant Introduction by the Federal Government* (Ames: Iowa State College Press, 1950); see also Carpenter, *The Forging of Bureaucratic Autonomy*; Jack Ralph Kloppenburg Jr. *First the Seed: The Political Economy of Plant Biotechnology, 1492–2000* (New York: Cambridge University Press, 1988); David E. Hamilton, “Building the Associative State: The Department of Agriculture and American State-Building,” *Agricultural History* 64 (1990): 207; Alan I. Marcus, “The Wisdom of the Body Politic: The Changing Nature of Publicly Sponsored American Agricultural Research Since the 1830s,” *Agricultural History* (1988): 4; and Knowles A. Ryerson, “History and Significance of Foreign Plant Introduction Work of the Department of Agriculture,” *Agricultural History* 7 (1933): 110.

designed to foster experimentation by farmers, which they did.<sup>71</sup> These experiments were often reported back to the Patent Office, which then included them in its annual report. For example, John Danforth of New London, Connecticut reported in 1855 that, "Last May, I planted in my garden a small parcel of Oregon peas, which I obtained from the Patent Office. They fully matured, and stood our climate well. It is my belief that these peas will make excellent feed for cattle, sheep, and hogs. I have on hand from my little crop about a pint of peas, which I have saved for seed for another year." A correspondent from Missouri not only reported his experience with planting Oregon peas, but also noted that he "carefully cultivated [them] according to the directions of given by R. A. Rozell, in the last Agricultural Report."<sup>72</sup> Although this may have been an "unsystematic" introduction of seed,<sup>73</sup> it nonetheless incorporated ordinary people into the circulation of knowledge. Many of them became active participants in the production of that knowledge as well.

Other types of reports involved specific projects in which the federal government was involved. One of the most important projects was the exploration and surveying of the continent. The federal government had sponsored such endeavors since at least 1803 with Lewis and Clark, but slowly there emerged an element within the U.S. Army devoted to exploration and survey: the topographical engineers. They became a stand-alone unit in 1813, and as their duties expanded over the 1820s and 1830s they became a corps in 1838. The engineers were formally trained in civil engineering at West Point, the first, and until 1829 the only, civil engineering school in the country. They also maintained contacts with American and European scientists, often in working relationships that furthered their training.<sup>74</sup>

71. According to Kathy Cooke, "congressional seed distribution stimulated a more widespread interest in new and unusual plants, and encouraged the small trade in seed." Kathy J. Cooke, "Expertise, Book Farming, and Government Agriculture: The Origins of Agricultural Seed Certification in the United States," *Agricultural History* 76 (2002): 524, 528. By the late nineteenth century, there were more than 800 companies engaged in seed production and distribution. Marina Moskowitz, "Broadcasting Seeds in the American Landscape," in *Cultures of Commerce: Representation and American Business Culture, 1877–1960*, eds. Elspeth H. Brown, Catherine Gudis, and Marina Moskowitz (New York: Palgrave, 2006), 9–26.

72. *Patent Office Report*, 196. For a similar report of experimentation, see "J.C. Orth's Report," *Cincinnati* 1 (1856): 371. See also H. W. Wiley, *The Northern Sugar Industry: A Record of its Progress During the Season of 1883* (Washington: Government Printing Office, 1884), 71–73.

73. Pauly, *Fruits and Plains*, 101.

74. William H. Goetzmann, *Army Exploration in the American West, 1803–1863* (Austin: Texas State Historical Association, 1991), 3–21.

In 1838, the newly-created Corps of Topographical Engineers began to undertake more systematic exploration. Its most important expeditions occurred in the late 1840s and early 1850s. Starting with the Mexican Boundary Survey, and later including the Pacific Railroad and Wagon Road Surveys, the 1850s witnessed a great collaboration of the Army and civilian scientists, who were sponsored by a number of learned societies as well as the newly formed Smithsonian Institution, to map the continent, an endeavor that has been described as “crucial to the nation’s future.”<sup>75</sup> Although these explorations were sometimes political failures and ultimately led to the demise of the Topographical Corps, the new scientific approach to exploration produced an enormous amount of information. Many of the reports that resulted from these expeditions were widely read, both popularly and professionally.<sup>76</sup>

The most important and ambitious of these expeditions was the Pacific Railroad Survey. The various expeditions were charged with compiling a range of information, from meteorological, magnetic, and geological observations to sketches of flora and fauna, and the gathering of natural history collections, in addition to surveying the land for railroad routes. The initial reports were mostly accounts of the various expeditions. They varied in detail, with some offering details of potential routes, passability, costs, distances, and elevations and grades, and others only journal-like accounts of what had been done. Considerably more significant was the multivolume *Explorations and Surveys for Pacific Railroad*, which was produced over a four-year period, and consisted of twelve volumes.<sup>77</sup> These reports

75. Brian Balogh, *A Government Out of Sight: The Mystery of National Authority in Nineteenth-Century America* (New York: Cambridge University Press, 2009), 11.

76. William H. Goetzmann, *Exploration and Empire: The Explorer and the Scientist in the Winning of the American West* (New York: Knopf, 1966); and Goetzmann, *Army Exploration in the American West*, 231–331; see also A. Hunter Dupree, *Science in the Federal Government: A History of Policies and Activities* (Baltimore: Johns Hopkins University Press, 1986); and Robert V. Bruce, *The Launching of Modern American Science, 1846–1876* (New York: Knopf, 1987), 187–214.

77. The initial 118-page Report was divided into five sections, for each of the assigned expeditions. The bulk of the report (the first 99 pages) was devoted to the northern-most route. *Reports of Surveys, &c., of Railroad Routes to the Pacific Ocean*, H. Ex. Doc. 46, 33d Cong., 1st sess. (1854). The first volume of the fuller reports appeared on February 27, 1855, and the last volume was published almost exactly 4 years later on February 29, 1859. *Explorations and Surveys for Pacific Railroad, Vol. 1: Routes, Indians, Meteorology, etc.*, 758 S. Ex. Doc. 78, 33d Cong., 2d sess. (February 27, 1855); *Vol. 2: Reports of Beckwith, Lander, Pope, Parke, and Emory*, 759 S. Ex. Doc. 78 (February 24, 1855); *Vol. 3: Whipple’s Route, Geology, Indians, etc.*, 760 S. Ex. Doc. 78 (February 24, 1855); *Vol. 4: Whipple’s Route, Botany, Zoology, etc.*, 761 S. Ex. Doc. 78 (February 24, 1855); *Vol. 5: California Route, Geology, Botany*, 795 H. Ex. Doc. 91 (December 31, 1854); *Vol. 6: California to Oregon Route, Geology, Botany, Etc.*, 763 S. Ex. Doc. 78 (February 24, 1855); *Vol. 7: West California and Rio Grande, Geology, Botany, Official Review of Surveys*, 764

were among the most popular documents Douglas' correspondents requested, and were intended for popular consumption.<sup>78</sup>

One of the army's major partners in its exploration of the continent was the Smithsonian Institution (created in 1846), whose own report by the 1850s became another popular favorite. The Smithsonian Institution was not a department of the federal government, but the federal government was the trustee of a bequest by Englishman William Smithson, "to found at Washington, . . . an Establishment for the increase and diffusion of knowledge among men."<sup>79</sup> In the 1850s, Stephen Douglas, who took an interest in the diffusion of knowledge, served on the Board of Regents and became good friends with Secretary Joseph Henry.<sup>80</sup> The Institution was (and still is) charged with the increase and diffusion of knowledge, as well as the practical application of that knowledge. In the 1850s, its Annual Report contained a journal of the proceedings, collections donated and what they contained, a list of meteorological stations and some basic observations, and a list of expenditures. In 1858, the Report began to include an Appendix, which included lectures, papers, and reports on various subjects, that met with success. According to Secretary Joseph Henry, the Institute's first and most important secretary, this material "proved highly acceptable to a large number of intelligent persons in every part of the country." Henry also indicated how these reports were being used by people like Douglas' constituents, noting that "copies

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S. Ex. Doc. 78 (February 24, 1855); *Vol. 8: Mammals, Text and Plates*, 765 S. Ex. Doc. 78; *vol 9: Birds, Text*, 766 S. Ex. Doc. 78 (February 24, 1855); *Vol. 10: Reptiles, Fishes, and Miscellaneous Zoology, with Plates*, 800 H. Ex. Doc. 91 (February 14, 1859); *Vol. 11: Explorations 1800–1857, with maps, profiles, etc.*, 769 S. Ex. Doc. 78 (February 24, 1855); and *Vol. 12: "Narrative and Final Report"*, 2 bks, 992 S. Ex. Doc. 46, 35th Cong., 2d sess. (February 28, 1859). In addition to the initial *Reports* and the *Explorations and Surveys*, there was also a multivolume report of the surveys themselves. *Pacific Railroad Surveys, Vol. 1: Humphrey, McClellan, Jessup, and Stevens*, 736 H. Ex. Doc. 129, 33d Cong.; *Vol. 2: Beckwith, Whipple, and Pope*, 737 H. Ex. Doc. 129, 33d Cong.; and *Vol. 4: Maps*, 739 H. Ex. Doc. 129, 33d Cong.

78. Bruce, *The Launching of Modern American Science*, 115.

79. Leonard Carmichael and J. C. Long, *James Smithson and the Smithsonian Story* (New York: Putnam, 1965), 14 (quoting Smithson's will). On Smithson and the Smithsonian Institute, see Heather P. Ewing, *The Lost World of James Smithson: Science, Revolution, and the Birth of the Smithsonian* (New York: Bloomsbury, 2007); Nina Burleigh, *The Stranger and the Statesman: James Smithson, John Quincy Adams, and the Making of America's Greatest Museum: The Smithsonian* (New York: Morrow, 2003); Bruce, *The Launching of Modern American Science*, 187–200; Curtis M. Hinsley, *Savages and Scientists: The Smithsonian Institution and the Development of American Anthropology, 1846–1910* (Washington, DC: Smithsonian Institution Press, 1981); Dupree, *Science in the Federal Government*, 66–90; and William Jones Rhees, *James Smithson and His Bequest* (Washington: Smithsonian Institution, 1880).

80. Johannsen, *Douglas*, 466; Bruce, *The Launching of Modern American Science*, 192.

of [the Smithsonian Reports] were especially solicited by teachers,” because they contained information “not otherwise attainable.” These reports, he continued, also served as publicity for the Institute, “which tends to increase the number of its friends and co-operators,” which in turn tended “to elevate popular conceptions in reference to science, as well as to increase the number of its cultivators.”

By 1860, the secretary was able to report that “this Institution had done good service in placing prominently before the country the importance of original research, and that its directors are entitled to commendation for having so uniformly and persistently kept in view the fact that it was not only for educational or immediately practical purposes, but for the encouragement of the study of theoretical principles and the advancement of abstract knowledge.” And “gratifying evidence” of the Smithsonian’s success in this regard was “that Congress has been so favorably disposed, even during the depressed condition of the treasury, towards the distribution of [the Reports].” These remarks were part of Henry’s campaign to continue congressional funding of the reports, which was a constant battle in the 1850s,<sup>81</sup> but Congress likely continued to fund the distribution of these reports because they were so popular with their constituents.<sup>82</sup>

These reports were not a systematic introduction of knowledge,<sup>83</sup> but neither did they need to be from the perspective of political representation. The continuing dialogue and interaction between state and citizen, or more precisely between representative and represented, was more important. As an active player in the diffusion of information, the federal government empowered citizens in their quest for knowledge, and consequently in their quest for liberty. As Richard Brown has explained, “The ‘power of utterance’ and literacy were not merely necessary technical skills, they were crucial to the identity of a free man. They revoked ‘the great law of subordination,’ and permitted the fulfillment of liberty.”<sup>84</sup> If Brown is right, then, in distributing this information, and doing it for free, Congress’ role as a clearinghouse of information was important for both state-building and citizenship-building. Although one among many players in the diffusion of information in the early republic, the federal government helped to constitute the citizen, empowering individuals to acquire

81. Bruce, *The Launching of Modern American Science*, 193–95; and Dupree, *Science in the Federal Government*, 83–86.

82. *Annual Report for the Board of Regents of the Smithsonian Institution, showing the Operations, Expenditures, and Condition of the Institution for the Year 1859* (Washington, DC: Thomas H. Ford, 1860), 7, 13. “Report of the Secretary,” *Smithsonian Report* (1860) 14, 17, 32, 33.

83. Dupree, *Science in the Federal Government*.

84. Brown, *Knowledge is Power*, 244.

information and accumulate the materials for self-improvement and greater control over their own lives. Through the production and distribution of information, the federal government subtly insinuated itself into the lives of ordinary people. In many respects, those people brought the federal government into their homes, planting the seeds of its growth in their own gardens. The opportunity to receive this information encouraged people to write to Douglas. Many wrote solely for the purpose of receiving information. Yet in writing to their United States senator they engaged Douglas in what was considered an important element in the duties of a senator: to distribute information.

### **The Epistolary Construction of Political Representation**

Although the franking privilege drew represented and representative into a more direct relationship, it also enabled correspondents, through the epistolary form, to creatively imagine their relationship to their United States senator. This was particularly important for Douglas' correspondents, given that United States senators were elected by state legislatures rather than by direct popular vote, a method that would remain until the early twentieth century. The epistolary form enabled correspondents to bridge that divide quite easily. Writing a letter to a federal representative encouraged reflection on what it meant to be a citizen, and on the duties and responsibilities of both citizens and representatives. This reflection was the result, in part, of the circumstance of correspondence, which is rooted in the separation between writer and reader. As the epistolary studies have demonstrated, this circumstance begs for explanations for writing.<sup>85</sup> "Letter-writing, after all," Nancy Hewitt has written, "is a technique of union: we write letters to make ourselves more present to another (or others). Were there no distance (physical, epistemological, psychological), there would likewise be no occasion for epistolary."<sup>86</sup> This circumstance, this separation, is bridged by a process that Altman has termed "mapping." According to Altman, "To write a letter is to map one's coordinates—

85. Janet Altman coined the term "epistolary." Janet Gurkin Altman, *Epistolary: Approaches to a Form* (Columbus: Ohio State University Press, 1982). See also Gerber, *Authors of Their Lives*; Decker, *Epistolary*; Barton and Hall, *Letter Writing as a Social Practice*; Rebecca Earle, ed., *Epistolary Selves: Letters and Letter-Writers, 1600–1945* (Brookfield, VT: Ashgate Publishing Co., 1999); Elizabeth Hewitt, *Correspondence and American Literature, 1770–1865* (New York: Cambridge University Press, 2004); and Bruce S. Elliot, David A. Gerber, and Suzanne M. Sinke, eds., *Letters Across Borders: The Epistolary Practices of International Migrants* (New York: Palgrave Macmillan, 2006).

86. Hewitt, *Correspondence and American Literature*, 55.

temporal, spatial, emotional, intellectual—in order to tell someone else where one is located at a particular time. . . . Reference points on that map are particular to the shared world of writer and addressee: underlying the epistolary dialogue are common memories and often common experience that take place between the letters.”<sup>87</sup> Altman, as a literary scholar, is speaking of the specific personal relationship between writer and reader, but “mapping” can be understood socially as well.<sup>88</sup> As patterns emerge in correspondence, it can tell us about the relationships between types of writers and readers, not just the particular writer and reader in a specific correspondence. Constituent correspondence allows us to explore the relationship between representatives and represented, at least as understood by the represented.

Douglas’ correspondents, in fact, spent a great deal of time explaining why they were writing to him. Some correspondents appeared to write simply as constituents. S.R. Moore for instance asked Douglas to “please consider the undersigned one of your constituents and occasionally favor him with Public documents, speeches, etc.”<sup>89</sup> Most correspondents, however, feared “trespassing too much on your time,” and asked to be “pardon[ed]” for doing so. As personal strangers to Douglas, correspondents often felt that they were imposing themselves on Douglas. Not only was his “time and goodness” limited, but they felt that it was appropriate to write to their senator only under certain circumstances, such as when they felt “constrained to offer you my hearty, genuine acknowledgments to your recent position in the U.S. Senate,” always hoping, of course, “it will not offend you,” and apologizing for “obtruding my *private opinions* upon you.” Despite their trepidations, these people wrote, “believing that every thing that pertains to your own beloved State, will be, and ever has been, a matter of interest to you.”<sup>90</sup> But it was in these trespasses that correspondents thought most deeply about why they were writing and how they understood their relationship to Douglas. As their explanations of why they wrote and the connections they drew to Douglas

87. Altman, *Epistolarity*, 119–20.

88. On letter-writing as a “social practice,” see Gerber, *Authors of Their Lives*; Barton and Hall, *Letter Writing as a Social Practice*; Earle, *Epistolary Selves*; and Elliot, Gerber, and Sinke, *Letters Across Borders*.

89. S.R. Moore, Kankakee, to Stephen A. Douglas, April 16, 1857, box 5, folder 9.

90. A. Bainbridge, South Pass, to Stephen A. Douglas, January 18, 1861, box 34, folder 15; George Stowell, Polo, to Stephen A. Douglas, March 28, 1856, box 3, folder 25; Obadiah Jackson, Chicago, to Stephen A. Douglas, December 31, 1857, box 8, folder 15; Michael Tait, Joliet, to Stephen A. Douglas, January 1, 1858, box 8, folder 22; Samuel Ashton, Chicago, to Stephen A. Douglas, May 9, 1858, box 4, folder 3 (emphasis in original); and W.L. Deneen, Lebanon, to Stephen A. Douglas, December 21, 1857, box 7, folder 20.



developed into epistolary patterns and conventions, they revealed popular conceptions of about the rights and duties of representatives and represented.

Through the use of a set of epistolary ethics and discourses, correspondents constructed Senator Douglas not as their agent, to whom they made demands or gave directions, but as their patron, of whom they made requests or begged for favors. Douglas's correspondence was suffused with deferential postures. This was most evident in the deferential way in which correspondents addressed Douglas — with humility and politeness. This was the first step in the creation of the idea of the worthy constituent, a central component in constituents' conception of representation.

Humility was one of the most common forms of epistolary etiquette that constituents used when writing to Douglas. One constituent, for example, asked Douglas to "Excuse a humble, but devoted Democrat, for troubling" him. An "obscure individual" wrote to suggest a secession compromise, hoping that "it may not be objected to as a party measure, and therefore will meet more general favour." John McBride of Red Bud tied this humility to status. "You no doubt will think it some what strange to receive a Note from one of my rank," he wrote, "but when you think of the interest that is felt for your success And the party in these parts and the great effort that your opponents are making to cause your defeat I hope you will overlook my impudence." Humble constituents asked for favors. As one explained, "I think you will find that any service you render me in this matter [securing a printing contract] will be reciprocated by your humble servant when opportunity offers."<sup>91</sup> The represented was the "humble servant" not the representative.

Humility was closely related to the ethic of politeness. This was achieved largely through diligent attention to form; it was constantly emphasized in letter writing manuals and other prescriptive literature.<sup>92</sup> Indeed, mastering epistolary protocol provided "a way of staying-in-line

91. W.D., Paris, to Stephen A. Douglas, November 23, 1857, box 6, folder 10; Horace Hickox, Springfield, to Stephen A. Douglas, February 10, 1861, box 35, folder 12; John McBride, Red Bud, Randolph Co., to Stephen A. Douglas, July 23, 1860, box 32, folder 16 (emphasis added); and William Moore, Paris, to Stephen A. Douglas, December 7, 1857, box 6, folder 18.

92. Eve Tavor Bannet, *Empire of Letters: Letter Manuals and Transatlantic Correspondence, 1688–1820* (New York: Cambridge University Press, 2005); Hewitt, *Correspondence and American Literature*; Dierks, "The Familiar Letter." Schultz, "Letter-Writing Instruction"; see also Arthur M. Schlesinger, *Learning How to Behave: An Historical Study of American Etiquette Books* (New York: The Macmillan Co., 1946); and Deirdre Mahoney, "'More Than an Accomplishment': Advice on Letter-Writing for Nineteenth Century American Women," *The Huntington Library Quarterly* 66 (2003): 411.

and succeeding in polite society.”<sup>93</sup> What was considered polite depended upon one’s status. Therefore, a social superior could write “dear brother,” whereas “obedient servant” was a subscription addressed to a social superior.<sup>94</sup> Correspondents’ subscriptive use of “your obedient servant” when writing to Douglas was part of the mapping of their subordination. Yet the deferential discourse in the correspondence went beyond subscriptive practices and other formal practices. Politeness permeated constituent epistolary discourse.

Apology was an important characteristic of discursive politeness. As Andrew Harvie wrote, “Perhaps my relations with you will not, in your opinion, justify the liberty I am about to take; but I hope you will do me the justice to believe that I am actuated by no other [interest] than a warm regard for yourself personally, and a disinterested solicitude for the welfare of the Democratic party.” Another letter writer asked Douglas to “pardon me for approaching you as I am entire stranger to you,” before requesting “Patten office reports.” Magnus Miller meanwhile felt a “great reluctance” in writing to Douglas, “being a stranger to you.” These correspondents did not want to “be considered presumptions in asking a favor on so short an acquaintance.” They feared being seen as “impudent,” “audacious,” or “troublesome.” They “begged” of Douglas to “forgive this intrusion upon you,” as it was only “with extreme reluctance that I obtrude myself upon your notice at this time.” Therefore, “If I appear too imputant I am sorry but there are times when one must speak strongly for themselves.” Some wrote to Douglas out of need, and asked his assistance because “I don’t know of anyone but you to write to for a favor,” or because, “I know of no one who would be better able and more willing to help me than you.” Some simply wrote because they “could no longer forbear expressing my gratification in the bold and independent stand you have taken...” As a result, when asking for help, they were apt to “leave the matter entirely in your hands and ... be fully satisfied with any action you may see fit to take,” since “you have more important duties to attend than to read what I write.”<sup>95</sup> These apologies gave due deference to Douglas’ position as both senator and party leader.

93. Decker, *Epistolary Practices*, 14; Lucille M. Schultz, “Letter-Writing Instruction. Konstantin Dierks, “The Familiar Letter and Social Refinement in America, 1750–1800,” in Barton and Hall, *Letter Writing as a Social Practice*, 31–42. See also Susan Whyman, “‘Paper Visits’: The Post-Restoration Letter as Seen Through the Verney Family Archive,” in Earle, *Epistolary Selves*, 15–36.

94. Altman, *Epistolarity*, 65–66.

95. Andrew Harvie, Chicago, to Stephen A. Douglas, November, 11, 1853, box 3, folder 1; C.C. Alexander, Sterling, to Stephen A. Douglas, November 24, 1857, box 6, folder 10; Magnus Miller, Rock Island, to Stephen A. Douglas, June 17, 1857, box 5, folder 18; O.B.

A correspondent's sense of obligation was yet another ethic. It furthered the bond between senator and constituent, and did so in paternalistic terms. W.J. Stephenson, for example, wrote to Douglas to inform him that the post office in Ashly had been "placed off into the hands of a Black Republican of the worst lot." He assured Douglas that, "if you Release us of this called for officer we will be under lasting obligation to you." Obligations meant that requests were understood as favors. A writer from Pittsfield, for example, asked if Douglas would "do me the favour" of sending a speech. And if so, "perhaps the time may come when I can return the compliment." A postmaster from Wilkesboro, meanwhile, told Douglas that he would "confer a lasting favour on one of your old Friends who stood by you in the days of M.L. Covell when Democrats was scarce in Bloomington," if Douglas would vote for the currency bill. And Isaac McCann "would esteem it a great favor if you would forward a copy of [the Smithsonian report] at your earliest convenience." Some merely promised not to be so meddlesome in the future: "If you will grant this favor I will promise to ask no other, except the privilege of remaining as ever your devoted and uncompromised friend."<sup>96</sup> Requests portrayed as favors led to obligations, not entitlements. Favors were bestowed by superiors; they were gifts that generated obligations on the part of the recipient.

The paternalism that shaped the relationship between senator and constituent extended beyond these formal epistolary ethics. It can also be seen in correspondents' use of "political friendship." In the mid-eighteenth century, the term "friendship" implied dependency. According to Gordon Wood, "every variety of personal attachment and connection, no matter

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Maples, Chicago, to Stephen A. Douglas, December 4, 1857, box 6, folder 17; Arthur Windett, Chicago, to Stephen A. Douglas, December 29, 1857, box 8, folder 13; B. Cameron, Chicago, to Stephen A. Douglas, April 5, 1856, box 3, folder 26; Mrs. Adaline Buffum, Joliet, to Stephen A. Douglas, March 4, 1861, box 36, folder 4; James Fee, Camp Point, to Stephen A. Douglas, December 23, 1857, box 8, folder 1 (emphasis added); Fayette Walker, Evanston, to Stephen A. Douglas, June 11, 1857, box 5, folder 18 (emphasis in original); J.J. Brown, Charleston, to Stephen A. Douglas, December 30, 1857, box 8, folder 14; B. Caulfield, Chicago, to Stephen A. Douglas, March 9, 1857, box 5, folder 2; and William A. Monroe, East Paw Paw, to Stephen A. Douglas, January 14, 1861, box 34, folder 12.

96. W.J. Stephenson, et al., Ashly, to Stephen A. Douglas, August 29, 1857, box 6, folder 6 (emphasis added); William Ross, Pittsfield, to Stephen A. Douglas, December 21, 1857, box 7, folder 22; R.L. Wheeler, Elgin, to Stephen A. Douglas, January 1858, box 8, folder 20; James Barnard, PM, Wilkesboro, to Stephen A. Douglas, January 8, 1861, box 34, folder 3; Isaac McCann, Ashmore Station, to Stephen A. Douglas, December 14, 1860, box 34, folder 11; and E.A. Collins, Galena, to Stephen A. Douglas, January 11, 1861, box 34, folder 7.

how unequal, could be described as a friendship. . . . 'Friendships' were what a person's age and rank would lead him to form—they were euphemisms for all sorts of dependencies."<sup>97</sup> Although by the 1850s the term had acquired partisan connotations, it still retained the older paternalistic meaning. Political friendship was used by correspondents to form a more individualized bond with their senator, with political acquaintance, or partisanship, helping to bridge the personal distance separating the correspondent and Douglas. People who wrote as "polytical friends" were not writing to Douglas as equals or as "brothers," but as partisans within a hierarchical party structure.

Through these discourses and ethics of deference, correspondents displayed proper manners that not only respected Douglas' position as a United States senator, but also demonstrated their understanding of their own sociopolitical status by inscribing it in their letters.<sup>98</sup> This deference demonstrated that constituents knew their place as well as their senator's. By taking a deferential posture, correspondents largely performed their obligations as partisan constituents. These formalities should not be dismissed as mere formalities. For one thing, the examples of constituent letters in letter writing manuals offered more business-like forms.<sup>99</sup> There was no hint of deference in them. Moreover, these formalities persisted well into the twentieth century when humility eventually came to be understood as "boot-licking" rather than deference.<sup>100</sup>

However, the deference contained in these letters was different; there was a hint of willfulness in it. Deference was not necessarily addressed to a social superior, but to a political one. The vast increase in political participation was giving deference a new tone. There was a suggestion in many of the letters, if only implicit, that they had helped Douglas attain

97. Twenty-six people identified themselves as "political friends" or supporters. For a discussion of the related concept of "political brotherhood," see Jean Baker, "In Eclipse: Democratic Culture and the Crucible of the Civil War," in *Democrats and the American Idea: A Bicentennial Appraisal*, ed. Peter Kovler (Washington, DC: Center for National Policy Press, 1992), 101–26; and Gordon S. Wood, *The Radicalism of the American Revolution* (New York: Vintage Books, 1992), 58.

98. Bannet, *Empire of Letters*; and Hewitt, *Correspondence and American Literature*, 2.

99. See, for example, *The New Universal Letter-Writer, or, Complete Art of Polite Correspondence*. . . (Philadelphia: Hogan & Thompson, 1836); and *Chesterfield's Art of Letter-Writing Simplified*. . . (New York: Dick & Fitzgerald, 1857).

100. See, for example, E. Frailey, "Writing Letters Today," *The English Journal* 28 (January, 1939): 64; and Maurice H. Wesen, "Business English: Going and Coming," *American Speech* 1 (1926): 447. Both criticized the subscription "obedient servant," but Wesen also criticized the humility ethic more generally. "'Believe me to be, Sir, your most humble and obedient servant,'" she wrote, "is even more ancient and intolerable. Advertising one's humility is in poor taste to-day. It is called 'boot-licking.'"

his position of authority through their participation as partisans and voters. This imposed certain obligations on Douglas as a party leader by making his status dependent on maintaining the faithful partisan constituent. The dependence of the patron on the client is one of the ironies of paternalism,<sup>101</sup> but in Douglas' correspondence there are hints of a growing awareness of this dependence. Parties and elections thus formed an important aspect of the epistolary construction of representation.

Partisanship was the most important factor in constituting a representative relationship.<sup>102</sup> Cornelius Knapp, for example, felt "bold to intrude" upon Douglas' "senatorial duties." His "only apology is that you will not refuse to listen to a Democrat who is now and always has been an ardent admirer and firm supporter of the principles of Democracy as proclaimed by yourself in the Halls of Congress and before the people."<sup>103</sup> H.G. Weston, meanwhile, wrote "as a life long democrat; as an Illinoisan, as one who has tried to [support?] you in whatever way was proper for me to do..." Charles Eggleston identified party affiliation more explicitly as the basis for representation when he claimed to "Belong[] to the old school Democratic Party without any alloy, and . . . one of your constituents." Douglas' constituents were understood to be "very worthy," "unbending," "consistent" Democrats, as "the poorest democrat in our ranks is better than the best whig the country can produce." Therefore, Douglas' representational obligations should be those "satisfactory to the Democratic Party," and those "calculated to promote the Interests of the Democratic Party."<sup>104</sup>

This partisan construction of representation was most evident in the patronage correspondence. Douglas occupied a strategic position with respect to patronage as chair of the Senate Committee on Territories. Not only did he control patronage within Illinois, but he also played an important role in territorial appointments. Douglas' patronage power was in flux after the 1856 election, as his attempt to extend his authority over the entire Midwest met with resistance, but his role in Illinois and

101. Eugene D. Genovese, *Roll, Jordan, Roll: The World the Slaves Made* (New York: Pantheon Books, 1974).

102. Of the 1142 letters examined, 402 writers identified their party affiliation by name. Of this total, 394 identified themselves as Democrats, 4 as Republicans, 3 as Whigs, and 1 as *Loco Foco*.

103. Cornelius Knapp, Albany, to Stephen A. Douglas, January 28, 1861, box 34, folder 25.

104. H.G. Weston, Peoria, to Stephen A. Douglas, December 17, 1857, box 7, folder 11; Charles Eggleston, Peoria, to Stephen A. Douglas, January 8, 1852, box 2, folder 2; G.L. Iliet [?], Pottsville, to Stephen A. Douglas, February 2, 1852, box 2, folder 3; William McCormack, Danville, to Stephen A. Douglas, April 1, 1856, box 3, folder 26; and James Murphy, Williamsburgh, New York, to Stephen A. Douglas, March 13, 1856, box 3, folder 22.

territorial appointments remained influential. Throughout the 1850s constituents wrote to him about both appointments and removals, putting their partisanship front and center.<sup>105</sup> It was here that the idea of the worthy constituent became most obvious. As one correspondent wrote to recommend a postmaster, “There lives not a better and truer Douglas Democrat than Mr. Crane.—Nor any one, regardless of politics whose appointment to that office would find more general and universal satisfaction to the people at large in the State of Illinois.” Similarly, John Dickson, recommending his brother for a postmastership, claimed that his brother “was born a Democrat, once never was anything else.” And Joshua Rucker recommended “a reliable Democrat and a sober trustworthy gentleman, [whose] appointment would be very acceptable to the Democracy of this district.” Another writer sought the appointment of a friend who was “a good working democrat and if you should aid in getting him the appointment as keeper of the light house I am satisfied it would receive the approbation of a large majority of the democratic party.”<sup>106</sup>

James Vandevanter summed up the idea of the partisan constituent in a recommendation he wrote for a prospective postmaster. “He is,” he wrote, “a member of the Democratic Party[ , who] uses his best Efforts to perpetuate its harmony. He is a strong supporter and Advocate of the principles of Squatter Sovereignty as recognized in the Organic Law of Kansas and Nebraska. He regards the Fusionist and Factionist movements of the present day as being diametrically opposed to the genius of our free institutions.”<sup>107</sup>

Vandevanter’s construction shows how representation could be tied to the specific representative. Douglas’ notion of popular sovereignty, what Vandevanter referred to as “squatter sovereignty,” was controversial even within the Democratic Party. So although being a member of the party was key, membership of a faction within a party could draw the relationship even more tightly. Partisanship may have been more important when dealing with patronage requests as opposed to, for example, requests for seeds. Yet Vandevanter’s description nonetheless points to the centrality of partisanship to the worthy constituent. Some deemed partisanship so important that “recommending an abolition Black republican” could be

105. Johannsen, James Vandevanter, PM, LeRoy, to Stephen A. Douglas, Feb. 11, 1856, box 3, folder 15, 467, 550–60, 622.

106. Ward H. Lamon, Danville, to Stephen A. Douglas, May 2, 1856, box 4, folder 3 (emphasis in original); John Dickson, Camden Mills, to Stephen A. Douglas, April 15, 1857, box 5, folder 8 (emphasis in original); Joshua Rucker, Chicago, to Stephen A. Douglas, May 18, 1857, box 5, folder 14; and [Luke?] Wilson, Libertyville, to Stephen A. Douglas, June 3, 1857, box 5, folder 17.

107. James Vandevanter, PM, Le Roy, to SAD, Feb. 11, 1856, box 3, folder 16 (emphasis in original).

construed as a “criminal act” that should not be committed “during [one’s] natural life.”<sup>108</sup>

Partisanship was also a prominent theme in removal letters, especially when postmasters were involved. James McNulty, for example, recommended the removal of a Know-Nothing postmaster, simply because he was a Know-Nothing. A.W. Herrington wanted to get rid of his postmaster because he “is and always has been an abolitionist.” Isaac Dimmick, a former postmaster irate that he had been removed and replaced by a “Black Republican,” asked incredulously, “is this Democratic patronage?” These writers wanted to protect the integrity of their party, and control over the local post office meant control over the flow of information, which in turn meant an advantage in party-building. The postmaster thus held an important strategic position. As Richard John has pointed out, “Not only did postmasters have a built-in advantage when it came to securing up-to-date information on public affairs in transmitting their publications under cover of their official frank, but they also had a clear incentive to block the opposition from transmitting their newspapers in a timely way.”<sup>109</sup> Douglas’ constituents understood this power well. J.M. Anderson, for example, urged Douglas not to “send any thing to the Post Master here or it will go to the Black Republicans.” Allowing a member of another party to hold a postmastership amounted to putting “a Club in our Enemies hands to break our own heads with.” Therefore, at all times, “a responsible and reliable Democrat” must be kept in place over a member of any other party.<sup>110</sup>

This idea of the partisan constituent was not limited to patronage correspondence, however. It was also evident in requests for documents and seeds. In some letters it appeared in the negative. For example, some writers noted that they had attempted to contact their non-Democratic elected representative to obtain government documents or seeds only to be rebuffed. H. Tobias explained that “last winter I asked a like favor of our Repv. But he was a Republican and knew me to be a Democrat.”

108. John McCallister, Council Hill, to Stephen A. Douglas, February 27, 1857, box 4, folder 14. McCallister confessed to committing this criminal act. His apology was that, “I live in one of the damd. English abolitionist Black Republican holes in the U.S. . . . I am the only man in this Township that fights for the Democratic Cause.”

109. John, *Spreading the News*, 120.

110. James McNulty, Illinois, to Stephen A. Douglas, January 1, 1856, box 3, folder 16; A.W. Herrington, Seneca, to Stephen A. Douglas, February 11, 1856, box 3, folder 16; Isaac Dimmick, Ottawa, to Stephen A. Douglas, April 20, 1857, box 5, folder 10; J.M. Anderson, Summerhill, to Stephen A. Douglas, December 24, 1857, box 8, folder 3; A. Diller[?], Brighton, to Stephen A. Douglas, February 11, 1856, box 3, folder 22; and Unknown, Kankakee City, to Stephen A. Douglas, April 10, 1857, box 5, folder 7.

Even seemingly innocuous requests required a worthy constituent. Another correspondent explained that his “Representative in Congress has turned Shanghai [and so] we have not been favored with anything in the shape of Books or seeds from the Patent Office and we think the farmer is as much entitled to them as any part of the community. we would feel highly favored if you would remember the Riley Boys in your distributions.” The norm appears to have stood against attempts to forge non- or cross-partisan representational links. As one writer explained, “Not choosing to correspond with our representative from this district I have taken the liberty to send the [illegible] petition for changes of mail routes to your address.” C. C. Alexander, meanwhile, admitted that “our Representatives all are abolitionist,” hence he would not even attempt to make requests of them. Therefore, where “democratic representatives in Congress from the North part of our State are very scarce [Democrats] should claim consideration and attention from our Senator.”<sup>111</sup> These writers were not just making requests, they were constructing a representative relationship. Key to that relationship was partisanship, not elections.

That partisanship would form the basis of representation is not all that surprising, as it is “structured the receipt of government goods.” Party leaders often responded enthusiastically to requests for distributive policies, especially when it might affect their position in office.<sup>112</sup> But how it affected ideas and practices of political representation, and in particular the understandings ordinary people held about their relationship to federal legislators, is not one that historians have explored in great detail. The rise of mass political parties and the spread of suffrage and elections are often associated with the decline of deference.<sup>113</sup> The right to vote gave the representation system its motive power in the United States, and the enormous of expansion of who could exercise that right over the nineteenth century made elected officials increasingly responsible to popular demands. Even judges, when they became elective, grew more responsive to external, popular pressures.<sup>114</sup> However, Douglas’ correspondents were quite adept at

111. H. Tobias, Brickton, to Stephen A. Douglas, December 9, 1857, box 6, folder 20; A. Eddy, et al., Riley, to Stephen A. Douglas, January 1858, box 8, folder 18; E. Bursall, Jr., Edgington, Rock Island, to Stephen A. Douglas, February 28, 1856, box 3, folder 19; C. C. Alexander, Sterling, to Stephen A. Douglas, November 24, 1857, box 6, folder 10; and W. M. Learing, Princeton, to Stephen A. Douglas, December 22, 1857, box 7, folder 25.

112. McCormick, “Party Period and Public Policy,” 287, 290–95.

113. For a discussion of this theme, see Glenn C. Altschuler, and Stuart M. Blumin, *Rude Republic: Americans and Their Politics in the Nineteenth Century* (Princeton: Princeton University Press, 2000), 3–13.

114. Jed Shugerman, “The People’s Courts: The Rise of Judicial Elections in America” (PhD diss., Yale University, 2008).



blending these new participatory elements with deferential practices. A partisan constituent was still a worthy, deferential one. Nevertheless, Douglas' correspondents used the new party structure along with the franking privilege, postal system, rise of mass political parties, and an expanded franchise to forge new extraconstitutional links to their senator.

The main problem in the relationship between a United States senator and his correspondents was the mode of selection. Partisanship helped to cure this problem by equalizing the representational qualities of senators and popularly-elected officials. For example, if a constituent's territorial congressman was not responsive, party affiliation enabled the person to turn to another member of the party in Congress. John Philip of Arlington was one of many who turned to Douglas as a party representative rather than to his own territorial representative. Philip explained that he was "so unfortunate as to live in a district that is represented by the notorious Owen Lovejoy [a Republican congressman], I would write you as I had done during that last Congress, asking you to place my name on your list of correspondents." Another correspondent wrote more despondently about his lack of representation. "I am Doomed to tarry in this place for another Season and Sorry I am to be Found to live in such a cursed abolition District." A correspondent from Ottawa, Illinois made the point about representation explicit: "as we are not represented in the House we ask you as our Senator to look after our interests."<sup>115</sup> Even those who lived outside of Illinois turned to Douglas as a representative. A New Yorker wrote that, "Our Congressional district (the Fifth) is at present Represented by a member of the K.N. order and we neither receive nor do we ask any political favors from him and are therefore under the necessity of calling upon Our Friends in Other sections of the country." Similarly, a Wisconsinite asked Douglas "to put me on your list as we have no Democratic representation from this state." He could make such a request because "I am a Democrat, and all Democrats throughout the nation are brothers, and all feel, or should feel, the same anxiety for the success of the great principles for the maintenance of which, they have united in their present national organization."<sup>116</sup> As a "brotherhood" Democrats could represent Democrats from any part of the country, not just from their district or

115. John Philip, Arlington, to Stephen A. Douglas, January, 1858, box 8, folder 19; John McCallister, Council Hill, to Stephen A. Douglas, February 7, 1857, box 4, folder 14; and Cushman, Ottawa, Illinois, to Stephen A. Douglas, February 17, 1857, box 4, folder 18.

116. James Murphy, Williamsburgh, New York, to Stephen A. Douglas, March 13, 1856, box 3, folder 22; B. O'Connor, Beloit, Wisconsin, to Stephen A. Douglas, November 22, 1857, box 6, folder 10; and M. [?] Peoples, Mt. Pleasant, to Stephen A. Douglas, January 7, 1852, box 2, folder 1.

state. Partisanship could thus help to leap over the constitutional boundaries between senators and constituents.

However, a representational relationship could not be fully meaningful if the representative was merely an alternate representative. Through voting and elections, ways were found to construct a more positive relationship. This correspondence is where we can see a different form of deference emerging. One way in which did this was by something we might call “vote transference,” a process of using a vote in one context to establish a representational relationship in another. Vote transference worked in several different ways. Past votes for Democrats in general, for example, were often used to establish a representational relationship to Douglas. “[F]rom my youth I have acted with the National Democratic Party,” wrote a Chicago resident demonstrating his party bona fides. Another staked his claim to Douglas’ time because he had “voted the Democratic ticket—without a single exception—for twenty years.” Henry Jones outlined his support of the Democratic Party “since Jackson’s first election” in a long paragraph before requesting documents. L.M. Chapman wrote “to introduce Myself to you as one of the Old School Democrats having voted for all the Presidential Democratick Candidates . . . from Jackson to Bucanon with the exception of Genl Cass . . . .” “I am a democrat Never voted for any other party in my life I have Been in Illinois 21 years—voted for you every time you have been before the people during that time,” wrote another. This vote transference from a member of the party who ran for popular election to another who was appointed allowed correspondents to compensate for the lack of more direct electoral ties.<sup>117</sup>

However, votes were not just transferred from one member of a party to another. Often men came to the Senate after serving in some other elective capacity. Douglas had served as a state legislator and United States congressman before becoming a United States senator. He had also run for elective office and lost. Correspondents could therefore utilize past votes for Douglas himself. R. Andrus, for example, wrote that “The first vote I ever gave was for you.” He added, that “if it be my last vote, my ballot shall have the same name inscribed upon it for President.” Meanwhile, “an old and well tried friend having supported you from the first time you offered for public office in Morgan Co.,” asked Douglas to send him documents. Joseph Thomas simply wrote, “I could and did vote for you at your last

117. George A. Schufeldt, Jr., Chicago, to Stephen A. Douglas, December 21, 1857, box 7, folder 22; H. Butler, Libertyville, to Stephen A. Douglas, Aug. 12, 1857, box 6, folder 3; Henry Jones, to Stephen A. Douglas, box 9, folder 4; L.M. Chapman, Sterling, to Stephen A. Douglas, December 4, 1857, box 6, folder 17; and John Liming, Perry, to Stephen A. Douglas, December 22, 1857, box 7, folder 24.

election.” Joseph Knox wrote that he and Douglas were in “almost perfect agreement in opinion and political opinions included up to a recent date.” However, he still felt the need to add “The fact that all my sons entitled to a vote (two) voted for you, at the last Presidential election.” Knox did not need to vote directly for Douglas as senator for purposes of representation. The connection was usually implicit, but a Blue Ridge resident made explicit the quid pro quo at the heart of this relationship: “we all voted for you for president,” he wrote. “Now I would like for you to do me a favor.” In other words, constituents were saying in effect that they had helped make Douglas a United States senator, and that he had an obligation to do favors, or to perform his representative duty.<sup>118</sup>

Prospective votes for Douglas or for Democrats could also be invoked. Douglas was a candidate for president (or at least the Democratic nomination) throughout the 1850s, and writers used their prospective votes as they did past votes. “Hoping that Illinois wil furnish the next President” was a common sentiment. Others wished “to see you elevated to the highest honor in the gift of the People whose cause you advocate.” A teenage girl, who wanted seeds and who had neither past votes to lean on nor future elections to look forward to, used similar language. “I know if ladies of this vicinity had to decide the question they would be one but one response and that would be unanimous that Hon SAD is our choice for the White house[.]”<sup>119</sup> These sentiments may have been superfluous rather than a precursor to a particular request. But they were typically followed or preceded by requests, suggesting that partisan affiliation, a correspondent’s voting behavior, and Douglas’ political career and aspirations offered constituents various opportunities to subvert the formal constitutional separation of the United States Senate from “the people.”

The epistolary construction of political representation, then, was a great deal more complex than elections and the right to vote. According to Douglas’ correspondents, the right to vote did not necessarily entitle the holder of the right to the attention of a representative much less a response. The constituent must be worthy of the representative’s largesse. And worth was determined by proper deference and party membership.

118. R. Andrus, Bloomington, to Stephen A. Douglas, February 5, 1852, box 2, folder 4; Rev. Wingate J. Newman, Franklin, to Stephen A. Douglas, January 8, 1861, box 34, folder 4; Joseph Thomas, Orange(?), to Stephen A. Douglas, December 20, 1857, box 7, folder 18; Joseph Knox, Chicago, to Stephen A. Douglas, March 10, 1861, box 36, folder 10; and John Lindesmith, Blue Ridge, to Stephen A. Douglas, January 16, 1861, box 34, folder 13.

119. W.(?) Gallahan, Meeny, to Stephen A. Douglas, February 9, 1852, box 2, folder 4 (emphasis in original); Mrs. M.B. Davis, Chicago, to Stephen A. Douglas, November 11, 1857, box 6, folder 8; and Kate Hipple, Plymouth, to Stephen A. Douglas, December 24, 1857, box 8, folder 3.

Responsibilities and obligations of representation were based in large part on roles as party leaders as party members. Non-party members were generally excluded, and understood that they were excluded, from the benefits of representation. This partisan representation helped to compensate for the Senate's increasingly anomalous electoral structure; it enabled correspondents to leap over the formal constitutional barriers separating the Senate from the people. Voting was still an important part of representation, but in less direct ways. Voting was (and remains) central to the idea of actual representation, which depends on the direct election of representatives by the represented. But we can see in Douglas' correspondence that voting did not mean that the representative voted for was necessarily considered the representative of the state or district from which he was elected. When combined with partisanship, the enormous spread of elections throughout the polity gave people opportunities to vote for members of the party, or even for a United States senator, albeit in an election for a different office. When political participation was exercised this way, voters created an official who was, paradoxically, virtually an actual representative. This form of virtual representation was not the eighteenth-century English version in which "election was incidental to the process of representation" because of the assumption that there was a singular homogeneous people with a singular common interest.<sup>120</sup> Rather, the mid-nineteenth century American version of virtual representation rested on the confluence of parties and elections, making a United States senator virtually an elected official.

### Conclusion

Recovering the dignity of the franking privilege has, I hope, broadened our understanding not only of the privilege itself, but of political representation and how it was practiced in the mid-nineteenth century. "Of all the conceptions of political theory underlying the momentous developments of the American revolutionary era," Gordon Wood has argued, "none was more important than that of representation."<sup>121</sup> For too long, however, we have focused on representation's most obvious manifestations in voting and elections. Rather quickly, Wood continues in another work, "Election in America became the sole criterion of representation," and "only with the

120. Gordon S. Wood, *Representation in the American Revolution*, revised ed. (Charlottesville: University of Virginia Press, 2008), 4–5.

121. *Id.* 1.

ballot would [a person] protect his interests.”<sup>122</sup> Certainly, the electoral nexus of political representation was an important step in the transformation of political authority, and it is no surprise that to the extent that historians of nineteenth-century America have studied political representation, we have focused on electoral and related political and constitutional structures, such as apportionment, rotation in office, length of terms, suffrage, and the location of capitals.<sup>123</sup> What we have overlooked, however, is the interactions between citizens and representatives between and beyond elections. As Suzanne Mettler and Andrew Milstein have explained, we have “given little attention to how [the state] affects the lives of individuals and the ways in which they relate to government. . . . As a result, we know little about how governance has influenced citizenship over time or how those changes have, in turn, affected politics.”<sup>124</sup> Although Mettler and

122. Wood, *Radicalism*, 259.

123. The best work on political representation has focused on the eighteenth century; see Willi Paul Adams, *The First American Constitutions: Republican Ideology and the Making of the State Constitutions in the Revolutionary Era*, expanded ed. (Lanham, MD: Rowman & Littlefield, 2001), 228–53; Gordon S. Wood, *The Creation of the American Republic, 1776–1787* (Chapel Hill: University of North Carolina Press, 1998); Jack N. Rakove, *Original Meanings: Politics and Ideas in the Making of the Constitution* (New York: Vintage Books, 1997); John Phillip Reid, *The Concept of Representation in the Age of the American Revolution* (Chicago: University of Chicago Press, 1989); and J.R. Pole, *The Gift of Government: Political Responsibility From the English Restoration to American Independence* (Athens: University of Georgia Press, 1983); and *Political Representation in England and the Origins of the American Republic* (Berkeley: University of California Press, 1966). For the nineteenth century, see, for example, Rosemarie Zagari, *The Politics of Size: Representation in the United States, 1776–1850* (Ithaca: Cornell University Press, 1987); Peter H. Argersinger, “The Value of the Vote: Political Representation in the Gilded Age” *Journal of American History* 76 (1989): 59; Johanna Nicol Shields, “Whigs Reform the ‘Bear Garden’: Representation and the Apportionment Act of 1842,” *Journal of the Early Republic* 5 (1985): 355; and J.R. Pole, “Suffrage and Representation in Massachusetts: A Statistical Note,” *The William and Mary Quarterly* 14 (1957): 560, “Representation and Authority in Virginia From the Revolution to Reform,” *The Journal of Southern History* 24 (1958): 16, and “Suffrage and Representation in Maryland From 1776 to 1810: A Statistical Note and Some Reflections,” *The Journal of Southern History* 24 (1958): 218; see also Alfred De Grazia, *Public and Republic: Political Representation in America* (New York: Knopf, 1951). There are also several studies on the right to vote. For a good synthesis of that work, see Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* (New York: Basic Books, 2000).

124. Suzanne Mettler and Andrew Milstein, “American Political Development From Citizens’ Perspective: Tracking Federal Government’s Presence in Individual Lives Over Time,” *Studies in American Political Development* 21 (2007): 110. Julian Zelizer has also recently encouraged historians to look beyond voting and elections to understand citizenship. Julian E. Zelizer, “History and Political Science: Together Again?” *Journal of Policy History* 16 (2004): 127, 130.

Milstein phrase this interaction between state and citizen in terms of citizenship, political representation might be more useful, as it emphasizes the interaction or the news between state and citizen that they deem so important.

Viewed this way, the franking privilege emerges as an important representational link in the nineteenth century, and allows us to see how individuals “related to government” in their own words. The ability to receive things from their federal representatives, especially information, created a nodal point where the representative of the state and the individual could engage in a direct relationship with one another. This opportunity helped to draw the people within the federal government’s orbit. Letter writers proved to be curious about its endeavors and how they could profit from them. They wrote wanting to share in the production of information that the federal government was engaged in, giving tacit approval for further efforts. Receiving things from their federal representative cemented their relationship. It also drew the federal government into the homes of correspondents, planting the seeds of the federal government’s growth in their libraries and gardens. The franking privilege, then, did not simply provide publicity for the federal government,<sup>125</sup> it was more fundamentally a “sinew of power.” Correspondents did not simply learn about the new American state, they helped to construct it. They ratified its efforts of compiling, producing, and distributing information, and redefined their relationship to their United States senator on their own terms. Although their democratization of the senate was constrained by paternalist letter-writing ethics, they were nevertheless able to scale the constitutional walls that attempted to make the United States Senate something other than a popularly-representative institution.

125. John, *Spreading the News*.