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The Erosion of Checks and Balances in Argentina and the Rise of Populism in Argentina: An Explanation for Argentina's Economic Slide from the Top Ten

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Abstract

The future looked bright for Argentina in the early twentieth century. It achieved high levels of income per capita and was moving away from authoritarian government, towards a true democracy, with a system of checks and balances. Unfortunately, the 1930s witnessed a reversal in the legitimacy of the rule of law in Argentina. To stay in power in the 1930s, the Conservatives in the Pampas resorted to electoral fraud, which neither the legislative, executive, or judicial branches checked. The decade of unchecked electoral fraud led to the support of citizens for the populism of President Juan Peron and the impeachment of the majority of the Supreme Court. The aftermath of Peron has been political and economic instability, which partially accounts for the fall of Argentina from the top ten of income per capita countries in the world.

While economic growth can occur in the short run with autocratic regimes, long-run economic growth entails the development of the rule of law and the protection of civil and political freedoms. [North (1995), p. 25]

The separation of powers is a fundamental principle upon which all the Western democracies rest but in none of them is interpreted or, above all, "lived" in the same way. That there are differences should not occasion surprise if one bears in mind that the principle itself promotes no logical organizational advantages. It is dictated by a fundamental imperative: power must be checked by power. [Meny and Knapp (1998), p. 5]

Introduction

Adherence to the rule of law, particularly within a legitimate system of checks and balances is the exception rather than the norm for most countries. The development of the rule of law entails solving a coordination problem in which the actors refrain, particularly during crises, from acting in their short-run interests.¹ Either authoritarian or democratic governments can establish adequate protection under the rule of law so as to foster economic growth but the difference is in the legitimacy and beliefs in the

¹ We found Weingast (1997) particularly insightful for highlighting the difficulty in establishing the rule of law.

system. In the longer run economic growth and higher income per capita induces a transition from autocratic regimes to democracy [North, 1990]. For those countries who have managed to consolidate democracy with a system of checks and balances each weathering of a crisis along the way added to the likelihood that they would take stay on the path of a legitimate system of checks and balances that maintains the rule of law. For example, with today's hindsight it may not surprise analysts that the public rebelled against Roosevelt's effort to stack the U.S. Supreme Court in 1937 but it surely came as a surprise to Roosevelt and his policy team.

North [1995] and Glaesar and Shliefer [2002] in analytical narratives and La Porta, Lopez-de-Silanes, Pop-Eleches and Shliefer [2002] in cross-country regression analysis stress the importance for economic growth on restraining governments from becoming confiscatory. La Porta, Lopez-de-Silanes, Pop-Eleches and Shliefer [2002] find an important impact on political freedom from the existence of constitutional review. Le Porta *et. al.* measure *de jure* constitutional review. No doubt *de jure* is a first step in ensuring rule of law but constitutional review *de facto* can be eroded if there is insufficient public belief in its importance or the integrity of the courts.² In short, seemingly good constitutions, with provisions for checks and balances abound around the world, some work in practice while others do not. We present a case study of the erosion of the budding beliefs in the rule of law and the rise of populism in Argentina, a country that was in the top ten of GDP per capita countries in the early twentieth century while in the early twenty-first century it has declined considerably.³ In many ways our article is the mirror image of the analysis presented in North and Weingast (1989). In their analysis the Glorious Revolution set in place a system of checks and balances while in our analysis the fraudulent elections in Argentina in 1930s gave rise to populism. The lesson from our study for emerging democracies today is that adherence to the rule of law requires more than a constitution; it also requires the cultivation of a belief structure in which both the elites and citizens refrain from short-run opportunistic behavior. Most recently North (2004) places particular emphasis on the importance of a belief structure to buttress the formal institutions in a country. In our example, elites acted opportunistically eroding a nascent belief in checks and balances with the long-run result of fostering populism and political and economic instability.

Since the establishment of the consolidation of the Federal government in 1880, we divide the political history of Argentina in four main periods. The first period, from 1880 to 1912, the conservative

² As Weingast (1997) notes: "...citizens in stable democracies not only must value democracy but also must be willing to take costly action to defend democratic institutions against potential violations."

³ From 1890 to 1950 Argentina ranked between 7th and 13th. From 1900 to 1948, Argentina had 15 years in the top ten. These rankings are in GDP per capita in 1990 purchasing power parity. If we adjust by real prices calculated in the Penn World Table 6, Argentina ranked 37th in 2000. Australia and Canada, to whom Argentina is frequently compared, fared much better. Australia was in the top ten from 1890 to 1980 and reached its nadir at 14th in 1990. It now stands in 8th place. Canada started slower than Australia and Argentina, not reaching the top ten until 1910. Except for the Great Depression, Canadians remained in the top ten (Maddison, 1995 and own calculations, Penn World Table 6.0).

elite authoritatively controlled the government and established a constitution close to their economic and political interests.⁴ Furthermore, the Supreme Court justices had the same vision about the society as the governing elite [Adelman, 1999]. By the late nineteenth century, Argentina achieved high rates of economic growth in the presence of a conservative, authoritarian government [Cortes Conde, 1979; Cortes Conde, 2000; Cortes Conde, 1998; Rock, 1986; Di Tella and Zimelman, 1967; Diaz Alejandro, 1970 and Ferrer, 1967]. The stability of the political governance and its adherence to protecting property rights prompted considerable economic growth, foreign investment and immigration: “the immediate pre-world War I years marked the high point of foreign influence in Argentina, with foreigners amounting to around two-fifths of the labor force and owning, directly or indirectly, a large share of fixed capital stock.” [Diaz Alejandro (1970): 31] [Di Tella and Zimelman, 1967, Cortes Conde, 1979 and Taylor, 1997].⁵ At the advent of the 20th century, the future looked bright, perhaps comparable to Australia and Canada. Unlike Australia and Canada, the conservative political regime maintained its power through coercion and fraud at elections. Nevertheless, as North argues, the high levels of income encouraged electoral reform, the most prominent being the secret ballot in 1912 [Crawley, 1984; Halperin Donghi, 1995; Pucciarelli, 1983; Rock, 1975 and Yablom, 2003].⁶ Accordingly, the second stage, from 1912 to 1930, was one of transition to a democratic regime with fair elections and an independent Supreme Court. The introduction of free election gave the opportunity to the Radical party, a party with ties to the Conservative elite but with wide support from the middle class in the cities and rural areas, to control the presidency, some provinces and the Chamber of Deputies [Rock, 1975]. We consider this a significant milestone on the way to legitimate democracy from authoritarian rule. In the next eighteen years with some bumps in the road, Argentina maintained its economic growth while it was in transition to an open democratic system with a *de jure* and *de facto* independent court and more

⁴ For analyses of this period political and economic developments see Adelman, 1999; Azaretto, 1983; Cortes Conde and Gallo, 1967; Gallo and Cortes Conde, 1995; Halperin Donghi, 1995; Halperin Donghi, 1988; Hora, 2002; Pucciarelli, 1986; Rock, 1975; Rock, 1985 and Tulchin, 1986)

⁵ See Diaz Alejandro (1970) for an account of the importance of migration and foreign capital in Argentina during this period. “Between 1857 and 1930 there was a net immigration of about 3.5 million into a country whose total population was 1.7 million in 1869.” (Diaz Alejandro, 1970, p. 23). Foreign capital was very important in the development of the country, “...the stock of long-term private foreign investment reached roughly one-half of the value of the total fixed capital stock in 1913... One-third of foreign investments were in railroads, and 60 percent of foreign capital was British. The stock of long-term foreign investments in Argentina in 1913 was only 18 percent lower than the equivalent figures for Canada in 1914. By 1930-31 United States investments in Argentina had reached according to what source one uses, either one third or two fifths of the amount of British investments in that nation.” (Diaz Alejandro, 1970, pp. 30-32.)

⁶ Among the causes of the Saenz Peña Law in 1912, Canton (1973) mentions: “Argentina’s growth relied in the capital inflow and immigration that benefited the ruling class. It was convenient for both a progressive evolution of the institutions and political practices with the objective of protecting the peaceful environment that foster trade, and to control immigrants...” (Canton, p. 80). Another historian argued that “The similarity in the social evolution of Argentina and the U. S., models of young nations in this period, made natural and inevitable the openness of the political system.” [Sabato, (1988) p. 160]. For an analysis of the evolution of suffrage institutions in the new world, see Engerman and Sokoloff (forthcoming). Of the South American countries, Argentina was the first to adopt the secret ballot, perhaps setting the example which other countries followed.

importantly the formal institutions bolstered the beliefs by the lower and middle class that they were part of the process of government.

The government had the difficult task of governing with the Federal Senate and provinces controlled by Conservatives, which generated numerous interventions and confrontations [Crawley, 1984; Giacobone and Gallo, 1983; Halperin Donghi, 1995; Hora, 2002; Pucciarelli, 1993; Pucciarelli and Torti, 1995 and Rock, 1975]. Yet this is a sign that the country was moving to a system that allowed political confrontations with some compromise as the solution. Regrettably Argentina was unable to solidify the political transition to a democratic regime with checks and balances. The second period, from 1930 to 1943, represents the departure from open legitimate elections.⁷ The political tensions between the Radical party in office and the displaced Conservative elite coupled with the effects of the Great Depression, led to a military coup and electoral fraud, which restored the Conservatives to power [Halperin Donghi, 2004]. The Argentina courts began to erode the foundations of their independence and their crucial role in shaping the beliefs about a system of checks and balances. The Supreme Court openly approved the military coup of 1930 and countenanced electoral fraud throughout most of the 1930s. These actions paved the way for the populist policies and institutional reforms of Juan Peron, which started the final fourth period from 1943 to today.⁸

The populist rise to power of Peron in 1947 was partially a result of the fraudulent elections in the 1930s by the conservatives in the Pampas, and the countenance of the Supreme Court of the military coup of 1930 and the electoral fraud throughout the 1930s. As punishment for their countenance of fraud and perceived thwarting of the populist will, the Peron ruled government impeached four of its five justices. From 1947 to 1983, a cycle of military democratic governments has produced a highly volatile political and economic environment because of the loss of rule of law.⁹ Both the military and the democratic governments have interfered with the Judiciary. Furthermore, the establishment of democracy since 1983 has not reduced the economic and political volatility, continuing with the same behavior as in the previous decades. Indicative of the lack of separation of powers has been the high levels of turnover in the Supreme Court through impeachment and forced resignations.¹⁰ This is critical

⁷ For analyses of this period of Argentine history see [Halperin Donghi, 2004; Ansaldi et. al., 1995; Botana et. al., 1997; Peralta Ramos, 1992; Pereira, 1983; Potash, 1969; Rouquie, 1983; Sanguinetti, 1975 and Schilizzi Moreno, 1973]

⁸ There is an abundant literature on the origins and consequences of Peronism, see [Brennan, 1998; Ciria, 1983; Crawley, 1984; Di Tella, 1998; Elizagaray, 1985; Fayt, 1967; Ferrero, 1976; Gay, 1999; Germani, 1973; Gerchunoff, 1989; Halperin Donghi, 1975; Halperin Donghi, 1994; Horowitz, 1990; Jones, et. al., 2002; Kenworthy, 1975; Little, 1973; Matsushita, 1983; Murmis and Portantiero, 1972; O'Donnell, 1973; Rock, 1985; Romero, 1988; Sabato, 1988; Smith, 1972; Smith, 1974; Torre, 1990; Torre, 1989; Torre, 1988 and Waisman, 1987]

⁹ Spiller and Tommasi (2003) argue that the political institutions in Argentina, especially since 1947 have lead directly to volatility of economic policy. They report that Argentina's economic policy from 1970-1990 ranked as the 7th most volatile out of 106 countries.

¹⁰ Spiller and Tommasi (2003) also make the point about the lack of independence of the court. We also note the recent impeachment proceedings and forced resignations under President Kirchner. Prominent in the proceedings has been Senator Kirchner, the President's wife.

because we maintain that it was the erosion of a belief system in the rule of law, and the failure to solidify this system during the 1930s that lead to the initial populist appeal of Peron. We suggest that the policies put in place by Peron in turn offer some understanding of the subsequent oscillations in political governance and policy instability. The recent events in the twenty-first century once again bear witness to the importance of a belief system in checks and balances so that governments are not forced to take short-run opportunistic actions. Populism simply will not deliver sustained economic growth.

The Institutional Foundations and Political Evolution of Argentina

During the first period (1880-1912), the Argentine Constitution, established in 1853, was the foundation of the political system. In many respects, it resembled the U.S. model, in which the separation of powers and democratically elected government officials are the foundation of the political system. Like its U.S. counterpart the Argentine political system was Presidential with two legislative chambers, the Deputies (seats according to population) and the Senate (seats by Province), and an independent Judiciary to “check and balance” the power of the other two branches. The political foundation of Argentina was federalist with *de jure* though not *de facto* rule of law.

Separation of powers, especially in the case of an independent judiciary represents a key component for the sustainability of a legitimate political and economic system. As Madison expressed it:

The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of a tyranny.[Madison in The Federalist Paper No 47, in Quinn [1993]]

An important element in a democracy is the protection of the rights of the minorities.¹¹ In the case of Argentina, the protection of the property rights of the landholders in the Pampas was instrumental in promoting investment and growth [Adelman, 1999; Diaz Alejandro, 1970; Cortes Conde, 1998]. Protecting property rights is not an easy proposition for the judiciary is in “continual jeopardy of being overpowered, awed or influenced by its co-ordinate branches” [Hamilton, Federalist Paper No. 78, in Quinn [1993]]. Hamilton like others saw the solution for independence in the appointment of life tenure for Supreme Court Justices. Argentina followed suit.¹²

Argentina started with an institutional framework that produced considerable economic growth [Adelman, 1999]. North [1990] and North and Weingast [1989] credit the establishment of Parliament as a check on the power of the crown as the essential political ingredient in the economic success of England. The Argentine case is an outlier, one where the initial institutions also generated growth but,

¹¹ See in particular, Federalist Paper 51 by Madison. See also Meny and Knapp (1998).

¹² As we will see subsequently, until 1947, the public viewed appointments to the Supreme Court as permanent but, following the impeachments in 1947, tenure at the Supreme Court is most likely to be only for an administration. In short, as Hamilton feared the Supreme Court has become “overpowered, awed or influenced by its coordinate branches.”

unlike England and most of the Western world, the institutions ultimately could not withstand the trauma inflicted by shortsighted political and economic interests in the 1930s and 1940s. Our study is an examination of the long-run hazards of violating growth-enhancing institutions on the pretext of economic crisis.¹³

From 1862 until 1930, Argentina provided a good example of political stability, though not an open democracy until 1912.¹⁴ In 1912, Argentina passed legislation adopting the secret ballot and it went into effect in the election of 1914 [Rock, 1975]. In the period up until 1914, Conservative governments controlled the Presidency and both houses of Congress. Prior to 1914, the Conservatives secured their hold on power through intimidation and fraud, particularly in the Pampas, which was the dominant force in the Conservative party. Conservatives across Argentina were not homogenous but they shared the overall vision of the structure and operation of government. It appears as if the President dominated the legislative agenda but this most likely resulted from similar interests because Congress had the power to veto.¹⁵ The Supreme Court exercised some independence though the narrative accounts indicate that they shared a similar ideological view to that of Congress and the President.¹⁶ Accordingly, the division of power, and political institutions, were in place to sustain the Conservative elite in power and foster their economic interests.

With increased migration in the late 19th and early 20th centuries, pressure mounted for a more open political system.¹⁷ In an effort to maintain legitimacy the Conservative government introduced the Saenz Peña Law in 1912, which established the secret ballot and a more strict control of the electoral roll [Rock, 1975; Halperin Donghi, 1995; Smith, 1974].¹⁸ As a result of the Saenz Peña Law, Yrigoyen from the Radical Party won the Presidency in 1916 and the Radical Party controlled the House of Deputies. The Conservative Party continued to hold a majority in the Senate. Divided governance held through the elections of the 1920s. In this second stage, from 1912 to 1930, the political system became more transparent and we characterize it as period of transition to the constitutional precepts of rule of law in a democratic regime. In our view, it was the “Camelot Period” for Argentina: the President had some agenda setting power but was constrained by veto power of the Senate and constitutional review. This was true not only for legislation but also for nominations to the Supreme Court. Within this institutional

¹³ See Higgs [1987] for an analysis of the role of crises in promoting government intervention.

¹⁴ We begin in 1862 because of the previous split between Buenos Aires and the rest of Argentina.

¹⁵ For a current view of the agenda setting power of a President, see Alston and Mueller [2004]. Spiller and Tommasi (forthcoming) argue that the President in Argentina has considerably greater de facto agenda setting power than Congress. They apply their analysis primarily to the period from Peron to the present.

¹⁶ See Iaryczower, Spiller, and Tommasi [2002] for an analysis of judicial independence from 1935-1998. They argue that the Court was able to achieve some independence at the risk of impeachment.

¹⁷ In the 1890s, the Radical party organized a revolt (La Revolucion del Parque) in order to overthrow the government. It was unsuccessful, and the Conservatives continued controlling the electoral system.

¹⁸ The Radical Party was the most instrumental player forcing the passage of the Saenz Peña Law. Hipolito Yrigoyen, the head of the Radical Party, called voters to abstain from voting until the government reformed the balloting process. Canton [1973]

setting, the Supreme Court exercised some independence from the executive and legislative branches. For example, in 1922 a Supreme Court verdict struck down an emergency law that controlled urban rents on the constitutional grounds that: “Once a right to property is vested it can neither be destroyed nor altered by later rulings or laws”.¹⁹ Before the 1930s the Supreme Court had the support of the Conservative, Radical and Socialist parties.

Compared to the past, elections were generally clean. The Radical party constrained by the Senate continued to operate the same export driven economic model of the former Conservative dominated governments [Llach, 1985; O’connell, 1986; Cortes Conde; 1998 and 2000]. But, there were some significant domestic departures from previous policy. In particular, the Radical party was able to introduce some new legislation favoring agricultural tenants [Solberg, 1987; Ansaldi, 1993]. However, the political tension with the Conservatives, which controlled some small provinces, increased, leading to several federal interventions and strong confrontations. The Radical party retained its power until 1930, when a military coup, backed by Conservatives and some dissident Radicals overthrew an aging Yrigoyen.²⁰ This was the first military coup in Argentine history and was an affront to the electoral process of the constitution. The military coup marked the beginning of the third stage, from 1930 to 1943, where Conservatives reversed the democratic reforms, and the Supreme Court openly supported a political side. Once the military government took power on September 6, 1930, they looked for legitimacy. Paradoxically, despite acting outside of its jurisdiction, the Supreme Court gave its approval to the military coup [Pellet Lastra, 2001]. It appears as if the Court was acting on its political preferences rather than its constitutional authority

It is evident that the Justices (of the Supreme Court) proceeded as they did because they were ideologically with the coup, which is historically described as a rebellion... Nevertheless, the Justices described it as “a triumphant revolution”. ...²¹

According to the Constitution, the role of the court should have been to wait for someone to contest the rule of the military government in a civil suit. The other alternative for the Supreme Court Justices was resignation, the path supported by only one Supreme Court Justice, Figueroa Alcorta. [Pellet Lastra, 2001]. The military coup, coupled with the approval of the Supreme Court, was a significant reversal in Argentina’s transition to an open democracy, with strict adherence to rule of law [Smith, 1974; Pereira,

¹⁹ Cited in *Horta v. Harguindeguy* [Fallos, 137-47, 1922]. The court based its ruling on Article 17, which assures that “neither legislator nor judge can, by a new law or decision, divest one of a property right once it has been acquired under previous legislation.” The *Horta* decision also struck down, on constitutional grounds, emergency rent controls.” Bidart Campos [1982], page 52.

²⁰ Yrigoyen was President from 1916 to 1922 and again from 1928 until the coup in 1930. Despite being from the Radical Party, some dissidents still considered Yrigoyen part of the upper class elite. In the interim years, 1923-1928, Alvear, also a Radical, was President.

²¹ Pellet Lastra [2001] page 63.

1983; Rouquie, 1983; Sanguinetti, 1975; Potash, 1969]. Importantly, the unwarranted actions of the Supreme Court tarnished its reputation in the eyes of the public²².

The military government called for a return to elections in 1932 but forbade any candidates from the Radical Party who had been in government during Yrigoyen's last term.²³ In a protest response to the prohibition, the Radical Party chose not to participate in the election. As a result, the Conservatives with their allies returned to power [Halperin Donghi, 2004].

When the Radical party returned to electoral competition in 1934, they expected that the Conservatives would run clean elections. The first test was the gubernatorial and provincial congressional elections on November 3, 1935. Fraud pervaded the election. Police intervened and ejected Radical and Socialist monitors from the polls [Halperin Donghi, 2004; Sanguinetti, 1975]. The Conservatives replaced votes and induced people to vote against their wishes. Many newspapers reported the fraud. Three of the five members of the Electoral Board, which oversees elections, ruled that the election should be nullified. But, based on a law passed by the Conservatives in 1934, nullification required the support of two-thirds of the Electoral Board, i.e., four of the five members.²⁴

The fraud enabled the Conservatives to gain control of the government in the most populous and powerful province of the country. The Supreme Court did not intervene on the grounds that the issue was political and not constitutional. But the Supreme Court could have acted because federal judges from the Province of Buenos Aires ruled on the fraud; they reached a verdict confirming the irregularities denounced by the Socialist and Radical Party. Furthermore, the President of the Supreme Court of the Province of Buenos Aires, who was part of the Electoral Board voted to declare the election null [Sessions Diary Deputies Chamber, 1936].

Fearing similar fraud at the national Congressional elections in 1936, Radicals petitioned the government for guarantees against fraud. The election was important because it was the prelude to the Presidential election in 1937. Though the National Electoral Board had authority over the election, the Radicals still feared that fraud would rule the day:

²² In retrospect, historians have argued that the recognition of the coup and subsequent behavior in the 1930s caused citizens to view the Supreme Court as aligned with the interests of the conservative capitalist class. See Gay (1999) p. 22: "But fourteen years later, in 1945, the Supreme Court was lacking prestige, not just because of its criteria against social legislation at that time, but because of the manifest complicity from 1930 to 1943 to the facts that constituted the decline of the institutions and the repression of the citizenship."

²³ The imposition of the ban on Radical Party candidates resulted from the electoral results of an election in 1931 for the Province of Buenos Aires. In the 1931 election there was no prohibition of candidates from the Radical Party. The Conservatives anticipated a victory because of the disarray in the Radical Party; its leader was in jail. Nevertheless, the Radicals won the election. The military government nullified the election and imposed the prohibition on Radical candidates for the National election of 1932. [Schillizzi Moreno, 1973].

²⁴ The Conservatives changed the Provincial Constitution in 1933, which contained a new electoral system for the elections in the province. Detractors labeled the new electoral law, Provincial law No 4,316, as "the Law of Fraud" (*Ley del Fraude*). The new law created a system in which the electoral board was controlled by the Conservative government which in practice meant that the electoral board reject any fraud reports. (Congreso Nacional, Diario de Sesiones Honorable Camara de Diputados de la Nacion, 1936, Reunion No 11, June 18th 1936, pages 10-11.)

Great suspicion exists with respect to what will happen today in the Province of Buenos Aires... If citizens find the path of voting obstructed again, the Congress will have a new reason to discuss this. It will have to consider reestablishing the republican government system. This system of government cannot exist if the majority wish -within the constitutional limitations- is not respected or when we cannot tell what the legitimate majority is [La Prensa, March 1, 1936].

True to the worries of the Radicals, the Conservative Party won the election by fraud. Officials monitoring elections reported fraud before and during the elections.²⁵ The Deputies from the Radical and Socialist parties proposed a declaration in the Deputies Chamber to nullify elections in the Provinces of Buenos Aires, Corrientes, Mendoza, and Santa Fe. The case went to the Petitions and Power Commission (*Peticiones y Poderes*), which had advisory power to the whole Chamber of Deputies.²⁶ After reviewing the evidence, the Commission advised the Chamber of Deputies to declare the national election in the Province of Buenos Aires null [Halperin Donghi, 2004]. If the Radical party obtained the nullification and then won in clean elections, they would most likely win the Presidential election in 1938. The situation looked good for Radicals. They had a strong case and the questionably elected Conservative Deputies from Buenos Aires could not vote. This gave the opposition a majority in the Chamber of Deputies.

Facing an almost certain loss, the members of the conservative coalition, *Concordancia*, only hope was to prevent a vote. Instead of being in the Chamber for the debate or vote, the members of the *Concordancia* voted with their feet and did not appear in the chamber. The absence of the *Concordancia* made it impossible to form a quorum and vote for the resolution. Without a quorum, the Deputies Chamber petitioned the President to use his executive power to force the recalcitrant *Concordancia* Deputies to occupy their seats. The President denied the request. The Deputies continued in session waiting in vain for the *Concordancia* Deputies to return. Finally, the Senate, dominated by the Conservatives, decided to put an end to the struggle [Halperin Donghi, 2004]. Without constitutional authority, the Senate declared the election legitimate.

Not accepting defeat, the deputies from the Radical and Socialist parties continued to push for the nullification of the election. They even tried to introduce a bill to impeach the President for allowing the Senate intervention. But again, the *Concordancia* retired their deputies and there was not a quorum. The Congressional session ended with the *Concordancia* still in power. Newspapers and other narrative accounts widely document the electoral fraud in the province of Buenos Aires. In part, because of the fraud, historians refer to the 1930s as the “infamous decade.” [Moreno, 1973; Privitellio and Romero, 2000]

²⁵ Reports of fraud were common. See Diary of the Deputies Chamber [1936] for a complete list of the reports of fraud in the Provinces.

²⁶ The Deputies Chambers elects the members of the Petitions and Powers Commission on the first day of ordinary sessions.

Given that the Conservatives managed to “win” the election by fraud in 1936, they continued to resort to fraud and intimidation through the remainder of the 1930s and up until the military coup in 1943 [Crawley, 1984].²⁷ Most of the fraud was located in the Pampas, the richest and most productive region of the country. In Table I we show that the Province of Buenos Aires alone accounts for 28% of the denouncements. If we consider all of the Provinces in the Pampas they account for nearly 55% of the total reports from 1934-1942. It is important to point out that in Cordoba the Conservatives refrained from fraud but consistently lost the elections to the Radical Party in the 1930s. Exactly why the Conservatives did not engage in fraud in Cordoba is a bit of a puzzle. Most studies conclude that the Conservatives felt strongly about their chances against the Radicals in that province because they defeated them in the 1930 election [Halperin Donghi, 2004]. Furthermore, Donghi [2004] argues that the Conservatives were ideologically opposed to acquiring power through fraud. We believe that it is not coincidental that the province of Cordoba was the only province of the Pampas in which Peron lost to the Radical Party in 1946. The Radical Party held approximately the same degree of support across provinces in the Pampas. (See Table II).

Table I
Fraud Reports By Province (1932-42)

Table II
The Vote for Radicals in the Pampas - 1920-1942

The accusations of fraud in the Pampas produced a backlash amongst the electorate, despite a relatively good performance of the Argentine economy compared to the rest of the world during the depression of the 1930s.²⁸ Increasingly so, the electorate viewed the rule of the Conservatives as illegitimate (Gay, 1999). This sentiment against the so-called oligarchy accounts for the widespread popularity of the military coup in 1943 and the subsequent policies of Peron. Diaz Alejandro (1970, pp. 107-108) argues that “the Conservative regimes of the 1930s, in spite of their flirtations with fascist reformism, brought to a halt the modest momentum for political and social reform started by the Radical governments. Their failure to buttress the relative healthy economic structure with social and political arrangements allowing for growing security and political participation for rural and urban masses

²⁷ The only exception was President Ortiz, who tried to return to legitimate open democracy in 1940.

²⁸ For a convincing account of the positive policies implemented by the Conservative governments and general economic performance in the 1930s, see Della Paolera and Taylor [1998], [1999] and [2001]; Alhadeff, [1989]; Balsa [1992]; Diaz

contributed to the creation of revolutionary possibilities.” In short, the Conservatives appeared to have won the battle by fraud but lost the war by abandoning the rule of law.

Peron’s Rise to the Presidency: the Military Rule 1943-1945

The military coup of 1943 opened a new era in Argentina, one characterized by political and economic instability. In this section we show that the political and economic reasons that led to the new institutional setup, was strongly tied with the failure of the democratic transition in the previous decades. When the military coup ousted the Conservative government in 1943, many thought that the new government would limit its action to restoring democracy in the country and establishing an alliance with the U.S. against the Axis powers. This might have happened but a branch of the army with a nationalistic ideology shortly replaced the initial military government [Crawley, 1984; Rouquie, 1983 and Ciria, 1975]. Peron was part of this branch called the *Grupo de Oficiales Unidos (GOU)*.²⁹ Peron occupied several important positions: First he was Vice-minister of the Ministry of War and Head of the newly created Secretary of Labor in 1943; he also was Vice-President and Minister of War when Colonel Farrell, a friend of Peron’s assumed the Presidency of the Country in 1944. From his position as the Head of Labor, Peron lured labor union leaders into backing him politically. Peron used both the carrot and stick with unions. He proposed legislation improving work conditions for labor and he jailed union leaders who disagreed with him [Matsushita, 1983]. As a result, the emerging Labor Party would form the backbone for his bid for the Presidency in 1946.³⁰

From his position as Secretary of Labor, Peron created unions loyal to the government and grouped them in the *Confederacion General del Trabajo* (General Work Confederation), which brought all unions under its jurisdiction. To capture the support of rural workers Peron instituted the *Estatuto del Peon Rural* (Peasant Statues) which sought to improve working conditions. To capture urban worker support Peron intervened in negotiations between business owners and urban workers. To monitor and enforce working conditions Peron created branches under the Ministry of Labor in all the provinces and federal territories. This was an important institutional change, because previously enforcement of federal laws was in the hands of provincial governments. Finally, a few months before the election in 1946 the military government issued a decree giving all workers in the country an extra monthly payment each year. This bonus payment increased the already high popularity of Peron [Mackinnon, 1995].

The largest traditional political parties formed the opposition to Peron: the *Unión Cívica Radical*, *Comité Nacional*, Socialist, Progressive Democrat and Communist parties. They formed the *Union*

Alejandro [1970]; Di Tella and Zimelman [1967]; Cortes Conde [1998]; Di Tella [1979]; Pinedo [1971]; Vazquez-Presedo [1978].

²⁹ The GOU drew their inspiration from Hitler and Mussolini. [Crawley, 1984]

Democratica, and sought to capture power once the military government called for national elections. The Conservatives, who had been in government during the 1930s, supported the *Union Democratica*, but they were not part of it.³¹ The traditional parties emphasized the lack of democracy of the military regime and its political heir, Peron. They called themselves the “defenders of Democracy and the Constitution.” They vowed to return to the provisions of the Constitution, which meant that they planned to nullify many of Peron’s policies.³² The political confrontation was a clash of two different political models of government. On one side, the Democratic union wanted to restore the rule of law as framed by the Constitution. On the other side, the Peronist coalition represented a populist movement that opposed the Constitutional dictates of rule of law.

The Peronist movement promised future revolutionary changes in institutions for its constituencies.³³ Before the election, the population viewed the changes that Peron had put in place as temporary, with the charisma of Peron as the only guarantee for their durability. The reason why Peron alone appeared so instrumental is that the military government began to distance themselves from Peron. In early October 1945, the military government put Peron jail. Meanwhile negotiations for a smooth transition to democracy were proceeding between the military government and the opposition. The opposition wanted the military government to cede power to a transition cabinet presided by the President of the Supreme Court. In a popular uprising, workers organized and marched toward Buenos Aires and petitioned the government to release Peron. The government released Peron and he was now in command of the military government prior to the election [Alexander (1979) and Torre (1995)]. The popular uprising enabled Peron to personify himself as the hope for the future of workers’ rights against the oligarchy of international capitalists and their supporters, the Democratic Union.³⁴ Though they may not have known it at the time, citizens in Argentina found themselves not just electing a new president but also choosing between two different systems that would determine the institutional structure of the country for many decades to come. Though close, the citizens choose populism over a system of rule of law.

The appeal of Juan Peron was in part a reaction to the electoral fraud in the 1930s. The vote for Peron was a vote against a return to the existing constitution and rule of law championed by the *Union*

³⁰ The labor party endorsed Peron but they had hoped to maintain their independence. See Gay [1999].

³¹ Indeed, the *Union Democratica* initially formed in 1942, hoping to win against the Conservatives in what would have been an election in 1943.

³² Foreign capital and the U.S. embassy aligned with the Democratic Union and declared their distaste for Peron’s policies.

³³ The Peronist movement in Argentina shares an ideological space with the late 19th century Populist Party in the US. The U.S. Populists opposed big business and drew its support from the Mid-West and the South. Like the Peronists, the U.S. Populists saw the Supreme Court as aligned with big business. After the U.S. Supreme Court nullified the income tax, some members of the Populist Party in Congress called for impeachment of the Justices who sided with the majority in declaring the income tax unconstitutional.

³⁴ During the military government, the Supreme Court was the only check on populist rule. They declared several pieces of legislation unconstitutional.

Democratiza.³⁵ As a test of the importance of fraud in the election of Peron, we estimated the following model:

$$Peron46 = \alpha_0 + \alpha_1 RadicalFraud + \sum_{i=2}^n \alpha_i X_i \alpha_2$$

where:

Peron46 is the percentage of votes the Peronist party obtained in the 1946 election,

RadicalFraud is the difference in the share of votes for the Radical party between the elections of 1940 and 1938. This variable captures the importance of fraud because the 1940 election was relatively clean.³⁶ Furthermore, in the heavily populated Provinces Peron captured the allegiance of former Radicals who were dissatisfied with the “old regime.”

X_i represents a set of different economic and social factors closely related to the vote for Peron (See Appendix B)

In order to understand the different cleavages of the electorate in the 1946 election, we run different models considering different characteristics of the electorate, maintaining some political and social variables throughout the analysis.

Table III: Descriptive Statistics

In Table III, we present the descriptive statistics. In Table IV, we present the regression results. The results indicate that the vote for Peron increased in counties where fraud was the greatest in the 1938 election. The importance of this coefficient, as well as the robustness it shows, relates the emergence of Peron and *Peronismo* as an answer to the fraud in the 1930s. As the results show, the vote for Peron depended positively on the size of the industrial sector of each county and also on the average wage.³⁷ More urbanized places (population) and with bigger cities supported Peron. Those counties with higher rate of unemployment also supported Peron, and his industrialization and distributive policies. In the case of the rural sector we have mixed results. Those areas with a more unequal distribution of land and closely related to cattle, that is where Conservatives had power, voted against Peron, but areas with more intensive agriculture production, that is where renters and farm workers were more numerous, favored

³⁵ In the U.S. race for President in 1896, the platform of the Populist Party offered voters a similar stark choice between continuation of the old or a change to rule by popular opinion. The Presidential candidate William Jennings Bryant proposed impeachment of several Supreme Court Justices. Not until the New Deal would there be another threat to the independence of the Supreme Court when FDR proposed a bill to enlarge the Supreme Court.

³⁶ By all accounts, the election of 1938 was fraudulent but the election of 1940 was clean. President Ortiz vowed to prevent fraud in the 1940 election of Deputies and Governors. When confronted with fraud in the electoral contest for governor of Buenos Aires, President Ortiz nullified the entire election. In the re-election, the Radical party won a majority of seats in the Deputies Chamber. If the voters most discouraged by the old regime were those who voted for Radicals in the clean election of 1940, we expect that they voted for Peron in 1946.

³⁷ This result is consistent with the theories that suggest the initial support of traditional unions to Peronism. It is expected that these traditional unions had members in industrial sectors with higher level of wages.

Peron. It is interesting to notice that regions with higher proportion of foreigners voted for Peron, indicating the appeal of Peron policies and proposals among immigrants. Most importantly for our narrative of the rise of populism, those countries where the Radical party was stronger in the 1940 election tended to vote against Peron and maintained their belief in rule by checks and balances and legitimate constitution.

The result of fraud in the 1930s is especially important since it demonstrates that the success of Peron in the 1946 election did not depend just on his populist policies but also on the lack of democratic participation of the 1930s. It is important to note that Peron won the national election by a margin of just **1.8%** of total votes. As a consequence, we maintain that a reasonable counterfactual world is one where Peron would not have been elected had it not been for the electoral fraud in the 1930s and its countenance by the Supreme Court.

Table IV
Electoral results of Peronist Coalition in 1946 Presidential Election

The Presidency of Juan Peron

When Peron won the election in 1946, he embarked on a campaign to solidify his political support and in so doing dramatically changed the political and economic institutions within which Argentina had prospered. At the heart of his economic and political plan was an assault on the property rights of landowners in the Pampas [Mora y Araujo and Llorente, 1980]. His political support came from urban labor in Buenos Aires, rural tenants and labor in the Pampas and small landholders in the smaller provinces outside the Pampas. The support of urban labor for Peron is well documented and not controversial so we will not discuss it here. Support from the provinces outside of the Pampas was critical for Peron because of the influence of Senators from these regions. Before Peron, the political representatives from these regions had voted with the Conservatives from the Pampas. By the end of his first term, Peron through persuasion and coercion brought the various constituents together under the Peronist Party.³⁸

Institutional Change in the Outlying Provinces³⁹

To capture the support of the small provinces Peron relied on two institutional changes, ironically introduced by the Conservatives in the Great Depression: the Co-participation System and the

³⁸ Fearing a jail sentence, some recalcitrant members of the Radical Party fled to Uruguay. Peron lured the rural Conservatives from the smaller provinces with transfers from the Federal government as we discuss in the following section. In later elections, Peron engaged in extensive redistricting in order to increase the number of Peronists elected.

³⁹ For an elaboration on how the institutions created or maintained by Peron played out in the latter half of the twentieth century, see Spiller and Tomassi (forthcoming).

Central Bank.⁴⁰ The Co-participation System authorized the Federal Government to use the tax base of the Provinces in return for a rebated share of the revenue raised. This gave the central government enormous leverage over the politicians in the provinces. In addition, Peron used the Central Bank for political purposes. Essentially, he would “ask” the Central Bank to cover debts of provincial governments.

Peron initiated his own changes in governance as well as utilizing extant institutions. He exercised control over labor through the Provincial branches of the Secretary of Labor. Peron created the branches when he was Secretary of Labor during the military government and expanded on their use. Peron also nationalized many utilities, which he used for employment of loyal followers.

The use of these diverse instruments permitted the Federal government to overcome political resistance from provincial governments to changes in the economic structure. However, the use of them also increased the fiscal dependency of the Provinces on Federal government resources.

Institutional Change in the Pampas

The main political enemy of Peron was the Conservative Party in the Pampas. The leaders of the Conservative party consisted of the big landowners (*estancieros*) and their allies, foreign capitalists. The Pampas was the fertile wheat and cattle-producing region and accounted for the majority of the country’s exports. To work the land, the *estancieros* relied on tenants and sharecroppers.⁴¹ Prior to Peron, the tenants, sharecroppers and smallholders voted with the Radical Party. Peron aimed to help the tenants (and thereby hurt the owners) through controlling rents and the prices of output [Diaz Alejandro, 1970; Lattuada, 1986; Sandoval, 1988]. Legislation helping tenants was not new: the Radicals in the Deputies Chambers passed two reforms in the 1920s, though the conservative dominated Senate reduced the impact of the reforms. Peron faced no such check on his power. It is important to note that Peron’s legislation applied almost exclusively to the Pampas.⁴² The legislation established local boards that controlled rents and prohibited evictions. The government also controlled the price of wheat and cattle by establishing monopoly power over purchases. After purchase, the government sold much of the wheat on the international market and used the surplus to finance public expenditures, to transfer funds to the smaller provinces in return for political support and some subsidies to industry [Novick, 1986].

Legislation of rural rents began with the military government. In 1943, the government fixed all rents to 1940 prices minus 20%, and declared all contracts extended until 1945. The decree contained

⁴⁰ The Conservative government created the Central Bank in 1935 as an instrument to better control the monetary policy during the Depression. On the importance of an independent Central Bank in eventually leading to the privatization of Provincial banks in the 1990s, see Alston and Gallo, 2002.

⁴¹ As Taylor [1997] shows, the system of rent and sharecropping worked well.

⁴² From 1943 to 1946, the legislation of the Military government was limited to the Pampas. The law regulating rents in 1948 applied to the whole country, but it affected primarily the Pampas because of the high level of rent and sharecropping contracts.

this provision just for contracts in the Pampas region. The government renewed the rural rent controls in 1945, and then approved by law in Congress in 1948. As result, owners tried (partially successfully) to switch to cattle [Elizagaray, 1985]. The result was a decline in cereal production and a bigger decline in investment in the Pampas [Veganzones and Winograd, 1997].

Peron designed his policies in the Pampas not simply to punish his enemies to help his constituencies but he needed the policies to fund the overall institutional changes in the economy, e.g. the nationalization of most utilities and many industries. With his allies in Congress, Peron had little difficulty in passing the legislation that proved so punitive to the Pampas. However, the actions taken surely represented a legislative “taking” which seems unconstitutional. So the question is: where was the Supreme Court?

The Impeachment of the Supreme Court

An independent Supreme Court represented the government’s guarantee that they would uphold the constitution.⁴³ Unfortunately for the sanctity of property rights, the Peronists viewed the Supreme Court as an obstacle to their populist policies. For example, one month prior to the election, the Supreme Court declared as unconstitutional the provincial branches of the Secretary of Labor.⁴⁴

The military government naturally denounced the decision while the opposition, i.e., non-Peronists voiced their approval. The rural constituencies that favored federal intervention in the provinces saw the election of Peron as instrumental in continuing the federal presence. Peron, attacked the decision stating:

The truth is that this decision, adopted a few days before the elections, is intended as a rude strike to the Secretary of Labor and it constitutes a first step toward undoing the social improvements reached by the workers.⁴⁵

Shortly after being elected, Peron made it clear that he viewed the Supreme Court as illegitimate:

In my opinion, I put the spirit of justice above the Judicial Power, as this is the principal requirement for the future of the Nation. But I understand that justice, besides from being independent has to be effective, and it cannot be effective if its ideas and concepts are not with the public sentiment. Many praise the conservative sentiment of the Justices, believing that they defend traditional beliefs. I consider that a dangerous

⁴³ “The Supreme Court’s major contribution to the development of constitutional law arises from three simple propositions. First, all laws, decrees, administrative orders, and judicial decisions must obey the Constitution. Second, the judiciary is entrusted with guaranteeing the supremacy of the Constitution. Third, the Court, as the final arbiter and custodian of the rights granted under the Constitution, is the place all turn to for definitive interpretations and applications of constitutional principles.” Bidart Campos [1982], p.13.

⁴⁴ “The Supreme Court decided that the Executive Power Decree of November 27, 1943, that created the Secretary of Labor and Prevision (which established that the departments or offices of labor established in each Provinces be converted to Regional Branches of the Secretary of Labor and Prevision) has violated the Constitution by transforming a provincial institution into a federal institution. The Secretary of Labor also gave to a federal institution jurisdiction to operate in the provinces. Not even the Congress has the authority to do such a thing.” [Newspaper La Prensa, 2/3/46]

⁴⁵ Diario de Sesiones del Honorable Senado de la Nacion Constituido en tribunal, T. VI, December 5th 1946, page 90.

mistake, because it can put justice in opposition with the popular feeling, and because in the long run it produces a rusted organism. Justice, in its doctrines, has to be dynamic instead of static. Otherwise respectable popular yearnings are frustrated and the social development is delayed, producing severe damage to the working classes when these classes, which are naturally the less conservative, in the usual sense of the word, see the justice procedures closed they have no other choice than to put their faith in violence.

[Diario de Sesiones del Honorable Senado de la Nacion Constituido en tribunal, T. VI, December 5th 1946, page 89].

With this speech the battle line was drawn: Peron embarked on a mission to impeach any Justices that did not tow the Peronist line. In July 1946, the Peronist Congressman Rodolfo Decker proposed the impeachment of all but one Justice. In submitting the impeachment bill, Decker stated:

If the charges we report are not made effective (impeachment) then all the social improvements that the Honorable National Congress passes will collide with the reactionary and class feeling of the sitting members of the Supreme Court, with the mentioned exception (i.e. the judge named by the military government). The seriousness of such a situation is easy to understand. Because, if the workers that achieved electoral victory are denied the source of justice, they would not have any choice but revolution, the authentic proletariat revolution that would destroy all existent state, social and economic organization.

Everybody's obligation is to avoid such a thing happening by facilitating the social work to be done with a rapid evolution within the framework of our democratic institutions. But, for this to happen, it is indispensable to dismiss the Supreme Court Justices and disqualify them from occupying any other honor or confidence of paid National office.

[Diario de Sesiones de la Camara de Diputados, 1946, T. 1, page 515]

To a large extent, the words of Decker echoed public sentiment: the constituents, e.g. union workers and rural tenants, who voted for Peron believed that the Court was illegitimate and an obstacle to social policies (Gay, 1999, pp. 22-32).

The Peronism divided the charges against the members of the Court into two main categories: 1) those charges in which the Court attacked Peron and his revolutionary changes, (I.a.2, I.a.3, I.a.4, I.a.6, I.b.1, II.b and II.c in Appendix A.); and 2) those charges in which the Court seemed to be acting favoring the old regime., (I.a.1, I.a.7, I.a.8, I.a.9, I.b.2, and II.a. in Appendix A). In the first set of charges, Peron's constituency saw the Court as a clear threat to Peron's policies and reforms that favored workers against the conservative elite. In the second set, the charges resulted from the Supreme Court's active role in legitimating the military government and the more passive role in permitting vote fraud in the 1930s. It is clear that with these wide sweeping charges, Peron's goal was to transform the basic institutional framework in Argentina. In the accusation of the Deputies chamber to the Supreme Court we can extract the sentiment against the old system and all that it represented:

Since a military government interrupted the normal cycle of constitutional government [1930], and after the Court granted this victorious movement both a title and its overt recognition, the country saw the disconcerting show of arbitrariness. This episode lasted

almost 17 years. Those were seventeen long years in which the basic principles of our constitutional system have expired right in front of those in charge of keeping them with all the integrity with which they were created. This fact has been stated by respected sectors of public opinion and the general media. After this military government legitimized by the Court recognition, there was a succession of arbitrary governments of fraud, treason and lie. Governments openly called constitutional, which in fact were merely -or better said continued to be- *defacto*. They applied the theory wrongly used by the Court when it legalized an unconstitutional government violating the Constitution. The initial mistake of the Court and its lack of courage to impose the return to the true constitutional path cost the country a new military movement [1943]. Luckily, it would have the glorious deed of honor after a hard path filled with ups and downs, surrounded by difficulties –which the Court also experienced- to restore the entire rule of the Constitution. These difficulties were overcome by a magnificent movement of social justice led by the creator of the Secretary of Labor and Prevision, Colonel Peron. The recognition of two outlaw governments and its guilty passivity during the years of the reign of arbitrariness and unruliness have given the highest justice tribunal of the Nation a loss of reputation. The role of the Court played in the latest years until recently has reinforced it.⁴⁶

The Deputies went to great lengths to tie the impeachment of the court not only to their denial of reform but to their duplicity in passively accepting the fraud perpetuated by the Conservatives in the 1930s. Not surprisingly, Congress impeached the accused Justices. Naturally, Peron replaced them with Justices who favored his agenda. The impeachment proceedings represented the last hurdle for Peron to change the institutional trajectory of Argentina. Following the impeachment, the Peronists began to craft a new Constitution which they submitted for approval in 1949. Without a backstop of an independent judiciary, and a new constitution in hand the Peronists were able to have their way until the next military coup in 1955.⁴⁷

The Aftermath of the Impeachment

After the impeachment process and new constitution, Argentina has never been able to return to its former institutional path of upholding property rights through the rule of law. The aftermath of Peron witnessed a definitive departure from its historical growth trajectory compared to other high-income countries. The debate on the precise moment of Argentine economic decline has been highly debated. The main two dates proposed have been 1913 [Taylor, 1992; Di Tella and Zimelman, 1967] and 1930 [Diaz Alejandro, 1970 and 1985; Cortes Conde, 1979 and 1998]. We do not discuss the external shocks suffered by Argentina during the First World War and the Great Depression, but we claim that the

⁴⁶ Report from the Deputies Chamber to the Senate accusing the Supreme Court members. Sessions Diary of the Honorable National Senate Constituted in Tribunal. Tomo VI, 1947, page 29.

⁴⁷ The U.S. confronted a similar turning point in its institutional history but the electorate in 1896 came down on the side of maintaining the independence of the Supreme Court. In the election of 1896, the Supreme Court was under assault but one of its Republican defenders presaged the future of Argentina: "There are two places in this country where all men are absolutely

effects of the institutional changes introduced in the 1940s, which are endogenous to the country, have had the biggest impact on the economy. In 1947 Argentina was ranked 10th in the world in per capita income. Relative to various cohorts to whom Argentina might be compared, relative income per capita fell precipitously. In Figure I we show the GDP per capita ratio between Argentina and nineteen economies in the world market from 1875 to 2001.⁴⁸ We can clearly observe the effects of WWI on the Argentine economy, its posterior recovery in the 1920s and the negative effect of the Great Depression, with a quick recovery. In measuring the years of WWII, starting in 1938, we should be cautious. First, there are some countries that suffered sharp decline in GDP per capita (Austria, Belgium, Denmark, France, Germany, Italy, Netherlands, Norway and Japan). As a result, the inclusion of these countries should improve the performance of Argentina during these years. Second, other economies had a strong positive growth during the war as a consequence of the war effort (United States, United Kingdom, Australia, Switzerland and Canada). Accordingly, the comparison of these countries with Argentina will bias the result against Argentina, which did not take part of the war, and GDP per capita did not suffer either strong positive or negative effects. Finally, we have those countries that did not experienced any strong negative or positive effects on GDP per capita, which can be directly compared to Argentina (Finland, Portugal, Spain, Sweden and New Zealand). As the graph shows, Argentina's performance strongly improved with respect to the first group, declined with respect to the second group and improved with respect to the third group. Furthermore, in the immediate postwar years, when the country was engaged in extensive expansionary policies, we observe an improvement as compared with all groups of countries. As a result, we can conclude that the improvement in economic position up to three years after WWII is consistent with the expansion of the economy, despite the effects of WWII on other countries. Afterwards, we observe a continuous and sharp decline in the performance of the economy compared with all groups of countries.

Furthermore, if we compare the performance of Argentina with respect to other Latin American economies, which were not affected by WWII, we observe a similar evolution of the GDP per capita (Uruguay, Brazil, Chile, Colombia, Mexico and Peru) (Figure II). We can appreciate the shocks of WWI and the Great Depression, but afterwards Argentina's GDP per capita increased with respect to these countries, showing a continuous decline after late 1940s.

Figure I

Figure II

equal: One is the ballot-box and the other is the Supreme Court. Bryan (the Populist candidate) proposes to abolish the Supreme Court and make it the creature of the party caucus whenever a new Congress comes in..." [Westin, 1953, p. 37]

⁴⁸ These economies are: Denmark, Belgium, United Kingdom, Norway, Germany, France, Switzerland, Sweden, Spain, Portugal, United States, Australia, New Zealand, Canada, Japan, Italy, Austria, Finland and the Netherlands.

This dismal economic performance can be tied to the political instability, which in turn generated sudden changes in economic policies and institutions. Successive military and civilian governments appointed their own Supreme Court Justices in order to accomplish their political goals. But, without the court as a backstop, institutional volatility ensued. Examples of the institutional volatility are abundant: The military government in 1955 removed all the Justices of the Supreme Court and nullified the Peronist constitutional reform of 1949 by a simple Decree. In 1958 the new Democratic President replaced most of the Justices of the Court and introduced two new Justices. Successive governments frequently either forced judges to resign or impeached them. On the economic side, stop and go policies characterized the post-Peron years. As Spiller and Tomassi (2003) show, from 1970 to 1999 Argentina ranked as one of the countries with most volatile policies around the world. Some of the effects of this volatility are observed in monetary and exchange rates policies, which produced high inflation and sharp devaluations and stop and go economic policies. Furthermore, political instability also had effects on investment decisions at the firm level (Spiller and Tomassi, 2003).

In Appendix B we show the changes in the Supreme Court Justices before and after Peron's Presidency. As we show, until Peron, no Justices had been impeached or "forced" to resign. Following Peron, only 5 of the 58 changes in Justices has been due to death or retirement. Prior to Peron, governments appointed a new Justice approximately every two years. After Peron, governments appointed a new Justice every 11 months. An alternative measure of instability is tenure: pre-Peron tenure of Justices was nearly 10 years while in the post-Peron years tenure has fallen to approximately 6 years (See Table V). Oscillations between military and democratic governments matched the instability of the court.

Table V
Causes of Turnover of Justices in the Supreme Court (1863-98)

Furthermore, the political and institutional instability was closely related to abrupt changes in economic policy and the rules of the game. In order to analyze this relationship between political and judiciary instability with economic policy, we look at the changes in nominal exchange rate, in monthly basis, from 1914 to 2004 (Figure III). As we can see, before the 1940s, abrupt changes in nominal exchange rate followed international shocks and the government response to those shocks. However, after 1940s, the biggest changes in exchange rates are due to changes in government: the switching from military coups to democratic governments, which are coupled with changes in the Supreme Court. As a result, economic policy, the rule of law and political and policy instability are closely related since the postwar. This political and economic instability has led to the relative economic decline of Argentina.

Figure III
Nominal Exchange Rate Monthly Change

This instability on the exchange rate policy can be also related to instability on other indicators related to government policy (Table VI). As we can see, monetary policy become more unstable, with higher rates of inflation, which in led to hyperinflation. The confidence of the public in the banking system declined, as shown by the lower levels of M3/GDP. The government ran higher budget deficits, which produced high levels of debt and long periods of default. Finally, the economy became more closed to international trade and the level of foreign investment turned almost insignificant in terms of GDP. As it is well documented, this instability hurt growth performance in the economy (Tomassi and Spiller, 2003).

The only time when Executive, Legislative and Judicial branches were close to the ideal of the Constitution was the transition period of 1912-30. After the military coup of 1930, instead of returning to open democracy the conservative elite resorted to fraud in order to stay in office and dictate economic policy. The Conservatives may be given high marks for economic policy but their short-sightedness gave rise to oscillations between democratic/populist and conservative/military governments. In Figure IV, we illustrate the oscillating institutional path of Argentina from the late 19th century to the dawn of the 21st century. With this background we cannot be sanguine about the future institutional path of Argentina.

Figure IV –The Institutional Path of Political Systems in Argentina: 1870-1999

Concluding Remarks

The government of Argentina is given high marks for the policies that they implemented to fight the Great Depression. Unfortunately, to stay in office the Conservative governments in the 1930s engaged in electoral fraud. The fraud was no secret and was labeled “Patriotic Fraud.” Despite denunciations by the Radical Party in the Chamber of Deputies, the Senate and the President openly condoned the fraud, while the Supreme Court stayed passively on the sidelines. By eroding the still developing beliefs by citizens in the rule of law, the fraud kindled a desire for populism. The electoral fraud ended with a military coup in 1943, followed by a narrow Presidential victory by the populist Colonel Peron. To achieve their goal of redistributing land and income to rural tenants, and to finance populist policies and industry, the Peronists passed legislation controlling rents and forcing owners to sell their land to tenants. This legislation only pertained to land in the Pampas. Undoubtedly, an independent Supreme Court backed by a belief in the rule of law would have declared the legislation unconstitutional. But, the Peronists had no fear of their legislation being

overturned. They impeached four of the five Supreme Court Justices on the grounds of sanctioning illegitimate government in the 1930s, and obstructing legislation favoring urban and rural workers during the military rule of 1943 to 1946. Naturally, the Peronists replaced the impeached Justices with appointees favoring the redistributive policies of the Peronists.

Like their Conservative predecessors and military successors, the Peronists believed that the ends justified the means. The policies of the populists, like the policies of their conservative predecessors further eroded the possibility of achieving a government grounded in the belief in the rule of law buttressed with a system of checks and balances. The aftermath has been economic and political instability. Argentina is a dramatic case of a country that was on the path of solving the coordination problem in which the political actors refrain from acting in their short-run interests. During the Great Depression, Argentina strayed from the path of consolidating democracy within a legitimate system of rule of law and has yet to find its way back.

Appendix A

The charges leveled against the Supreme Court in the impeachment legislation follow:

I. Public office crimes

a. Abuse of Authority and Violation of Official's Obligations.

1. Court resolution of 1930 and 1943 legitimizing the military governments.
2. The Court was involved in political issues by trying to control and avoid the fulfillment of the social ends of the revolution of 1943 and dictating resolutions that involved political issues.
3. The Court failed to recognize the creation of the Appeals Chamber of Chaco.
4. The Court assumed political-administrative faculties by not accepting the exoneration of judges by the revolutionary government of 1943.
5. The Court impeded the fulfillment of the acephalia law, No. 252, by the president of the Court.
6. The Court did not recognize the judges of the Labor Ministry. This violated the decree creating the Ministry and retarded the functioning of the Labor courts.
7. The Court filled the annual list of aspirants to the Judiciary with lawyers from the belonging to the dominant oligarchy or their allies.
8. The Court applied different criteria on the solicitation for habeas corpus with respect to the political prisoners in 1930 and 1943. They went over the powers ceded to the Executive under martial law.
9. The Court exceeded their power by extending its jurisdiction on cases that were not authorized by the article 14th of the law 48.

b. Prevarication

1. The Court dictated verdicts contrary to the law by denying benefits of laws 11.729 and 9.688 to workers and employees with the pretext that they were affiliated to retirement systems.
2. The Court falsified citations in order to legitimize the military governments of 1930 and 1943.

II. Misconduct

- a) The Court named its own president in 1930.
- b) The Court let the General Prosecutor to accept a political position without forcing him to resign.
- c) The Court permitted the Secretary of the Court to participate in a political meeting.⁴⁹

⁴⁹ Diary of Sessions Senate Chamber [1946].

Appendix B: List of Variables Econometric Model

Variable

Peron Vote: Percentage of votes for Peron in each county

Radical Fraud: Difference in percentage vote for Radicals between the 1938 and 1940 national elections

Big Cities: equals to 1 if the county has a city with more than 5,000 voters

% Farms bigger 2000 Hectares * Share of Exploitations with Cattle: Percentage of farms bigger than 2,000 hectares multiplied by the share of farms with cattle.

Unemployment: rate of unemployment

Industrial Workers: natural logarithm of number of industrial workers per county

Industry Average Wages: natural logarithm of average industrial wages

Radical Vote 1940: percentage of votes received by the Radical party in the 1940 national election

Population: natural logarithm of county population

Foreigners: percentage of foreign population

Catholics: Percentage of catholics in the county

Male Population: percentage of male population

Farms with Agriculture as % Total Farms: Farms devoted to agriculture as percentage of total number of farms

Total Number of Farms: natural logarithm of total number of farms in each county

Retail Shops: natural logarithm of total number of retail shops in each county

Source: National Census 1947.

Appendix B

Supreme Court Judges Tenure

Year	Change	President	Political Regime
1863	The Supreme Court is formed	Bartolome Mitre (Liberal)	Limited Democracy
1864-1916	Changes in Justices accounted for by death, retirement (old age) or voluntary resignation.	Sarmiento (Independent) Avellaneda (1874-80) (Nacional) Roca (1880-86) (PAN) J. Celman (1886-90) (PAN) Pellegrini (1890-92) (PAN) L.S.Peña (1892-95) (Independent) Uriburu (1895-98) (PAN) Roca (1898-1904) (PAN) Quintana (1904-06) (PAN) F. Alcorta (1906-10) (PAN) R.S.Peña (1910-14)(Independent) De La Plaza (1914-16) (Conservative)	Limited Democracy
1916-30	Changes in Justices accounted for by death, retirement (old age) or voluntary resignation.	Yrigoyen (1916-22) (UCR) Alvear (1922-28) (UCR) Yrygoyen (1928-30) (UCR)	Democracy
1930-32	Changes in Justices accounted for by death, retirement (old age) or voluntary resignation.	Uriburu (1930-32)	Military Government
1932-43	Changes in Justices accounted for by death, retirement (old age) or voluntary resignation.	Justo (1932-38) (Independent) Ortiz (1938-42) (UCR Antipersonalista) Castillo (1942-43) (Conservative)	Limited Democracy
1943-46	Changes in Justices accounted for by death, retirement (old age) or voluntary resignation.	Ramirez (1943-44) Farrel (1944-46)	Military Government
1946-55	Impeachment of four of the five Supreme Court Justices.	Peron (1946-52) (Peronist) Peron (1952-55) (Peronist)	Democracy
1955-58	The military government forces resignation of the entire Supreme Court.	Lonardi (1955) Aramburu (1955-58)	Military Government
1958-62	The new constitutional government forces some resignations and added two new Justices.	Fronzizi (1958-62) (UCRI)	Limited Democracy (Peronist Party is banned from elections)
1962-66	Changes in Justices accounted for by death, retirement (old age) or voluntary resignation..	Guido (1962-63) (UCRI) Illia (1963-66) (UCRP)	Military Coup (Guido), and limited democracy (Illia)
1966-73	Military government forced resignations of all Justices. It reduced the number of Justices to five and made the appointments.	Ongania (1966-70) Levingston (1970-71) Lanusse (1971-73)	Military Government
1973-76	The new constitutional government replaces all the five Justices	Campora (1973) (Justicialista) Lastiri (1973) (Justicialista) Peron (1973-74) (Justicialista) Martinez (1974-76) (Justicialista)	Democracy
1976-83	The military government replaces all five Justices.	Videla (1976-81) Viola (1981) Galtieri (1981-83) Bignone (1983)	Military Government
1983-89	The new democratic government replaces all fives Justices.	Alfonsin (1983-89) (UCR)	Democracy
1989-2001	In 1990 President Menem added four new Justices to the Supreme Court in order to get a favorable majority	Menem (1989-95) (Justicialista) Menem (1995-99) (Justicialista) De La Rúa (1999-2001) (UCR)	Democracy
2001-2003	Congress started impeachment to the justices that named Menem. Duhalde forced resignation of one Justice	Primero Dec 21-Dec 23 2001 (Justicialista) Rodriguez Saa Dec 23-Dec 31 (Justicialista) Segundo Jan 1-Jan 2 2002 (Justicialista) Duhalde Jan-2002- June 2003 (Justicialista).	De La Rúa ousted, 4 Presidents in 14 days. Duhalde provisional President
2003-	Congress continued with impeachment. One justice impeached, other two forced to resign	Kirchner (2003-) (Justicialista)	

Source: Own elaboration based on Molinelli, et. al. 1999.

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Table I

Fraud Reports by Province (1934-42)	
<i>Province</i>	<i>Percentage of Total Fraud Reports</i>
Buenos Aires	28
Santa Fe	21
Entre Rios	6
Mendoza	6
Corrientes	13
La Rioja	9
San Juan	11
Catamarca	2
Salta	4

Source: Molinelli, et. al., 1999

Table II**The Vote for Radicals in the Pampas - 1920-1942**

Election	Federal Capital	Buenos Aires	Cordoba	Entre Rios	Santa Fe
Deputies 1918	44.2	60.3	31.1	40.0	29.9
Deputies 1920	36.4	48.5	46.9	56.6	61.0
President 1922	37.7	60.4	58.7	49.6	62.3
Deputies 1926	42.4	59.9	48.6	32.9	42.9
President 1928	54.6	59.2	69.5	53.7	62.7
Deputies 1930	28.0	47.1	47.3	46.4	34.8
Deputies 1936	51.9	40.9	62.3	50.4	34.5
President 1937	62.9	21.9	53.0	44.8	29.5
Deputies 1938	34.5	14.2	52.2	40.9	28.8
Deputies 1940	37.5	53.9	53.6	54.1	48.0
Deputies 1942	28.9	17.7	49.9	39.3	25.0

Note: The elections with bold font are for those elections in which Fraud was reported as pervasive (Canton, 1973; Sanguinetti, 1975; Schillizzi Moreno, 1973). The only districts of the Pampean region without fraud were the Federal Capital and Cordoba.

Source: Own calculations based on Canton (1968) and Molinelli et. al. (1999).

Table III: Descriptive Statistics

Variable	Mean	Standard Deviation	Minimum	Maximum
Peron Vote	0.47	0.133	0.1021	0.76
Radical Fraud	0.26	0.193	-0.2955	0.74
Big Cities	0.3	0.461	0	1
% Farms bigger 2000 Hectares * Share of Exploitations with Cattle	0.07	0.076	0	0.37
Unemployment	0.01	0.009	0.0018	0.09
Industrial Workers	6.17	1.604	1.7918	11.1
Industry Average Wages	7.46	0.296	6.5449	8.51
Radical Vote 1940	0.49	0.106	0.1495	0.98
Population	10.2	0.915	7.6372	13.2
Foreigners	0.09	0.062	0.003	0.27
Catholics	0.96	0.032	0.7398	1
Male Population	0.52	0.033	0.3841	0.62
Farms with Agriculture as % Total Farms	2.65	1.022	0	4.59
Total Number of Farms	12.1	1.324	5.8805	14.5
Retail Shops	5.81	1.017	3.3673	9.23

N= 234; Our data set consists of observations by county for the Provinces of Buenos Aires, Cordoba, Entre Rios, Santa Fe, Corrientes, Santiago del Estero, Tucuman and Mendoza.

Table IV: Econometric Model: Presidential Election 1946

Dependent Variable: Percentage Peron vote per county

Variables	Model 1	Model 2	Model 3	Model 4
Radical Fraud	0.2826 (***) (0.040102)	0.2955 (***) (0.046330)	0.3130 (***) (0.041682)	0.3400 (***) (0.040384)
Radical Vote 1940	-0.3155 (***) (0.075477)	-0.3642 (***) (0.077146)	-0.3491 (***) (0.077037)	-0.3784 (***) (0.078921)
Population		0.0290 (**) (0.013308)	0.0480 (***) (0.009123)	
Big Cities	0.0530 (***) (0.018985)	0.0718 (***) (0.021638)		0.0851 (***) (0.019590)
Unemployment	2.6455 (***) (0.857791)	2.7532 (***) (0.817571)	2.8507 (***) (0.84505)	2.3968 (***) (0.827576)
Catholics		-0.0060 (0.228695)		
Foreigners		0.3137 (**) (0.128953)		
Male proportion		0.13754 (0.31136)		
Industrial Workers	0.0180 (***) (0.006576)			
Industry Average Wages	0.0558 (**) (0.027667)			
Retail Shops				0.0278 (**) (0.011262)
Farms with Agriculture as % Total Farms	0.0152 (**) (0.007270)		0.0221 (***) (0.008301)	
% Farms bigger 2000 Hectares *	-0.3950 (***) (0.106157)		-0.3924 (***) (0.110585)	
Share of Exploitations with Cattle Total Number of Farms			-0.0156 (***) (0.005540)	
Constant	-0.0447 (0.216118)	0.1242 (0.312655)	0.1832 (*) (0.108261)	0.3464 (***) (0.069524)
R2	0.47	0.41	0.42	0.38
F-Test	F(8,222)=28.34	F(8,225)=21.74	F(7,224)=24.12	F(5,228)=30.69
Probability F	0.000	0.000	0.000	0.000
No. Observations	231	234	232	234

Note: The standard errors are robust standard errors.

T-statistics: (***) 1 %. (**), 5% and (*), 10%

Table V**Causes of Turnover of Justices in the Supreme Court (1863-98)**

Years	No. of Changes	Death	Retirement	Resignations		Impeachment	Removal ⁽¹⁾
				Involuntary	Voluntary		
1863-1945	38	20	12		6		
1946-1998	58	4	1	14	18	3	17

⁽¹⁾ Removed by military governments.

Source: Molinary, Guillermo, et. al. 1999. Page 690, and Pellet Lastra [2001]

Table VI

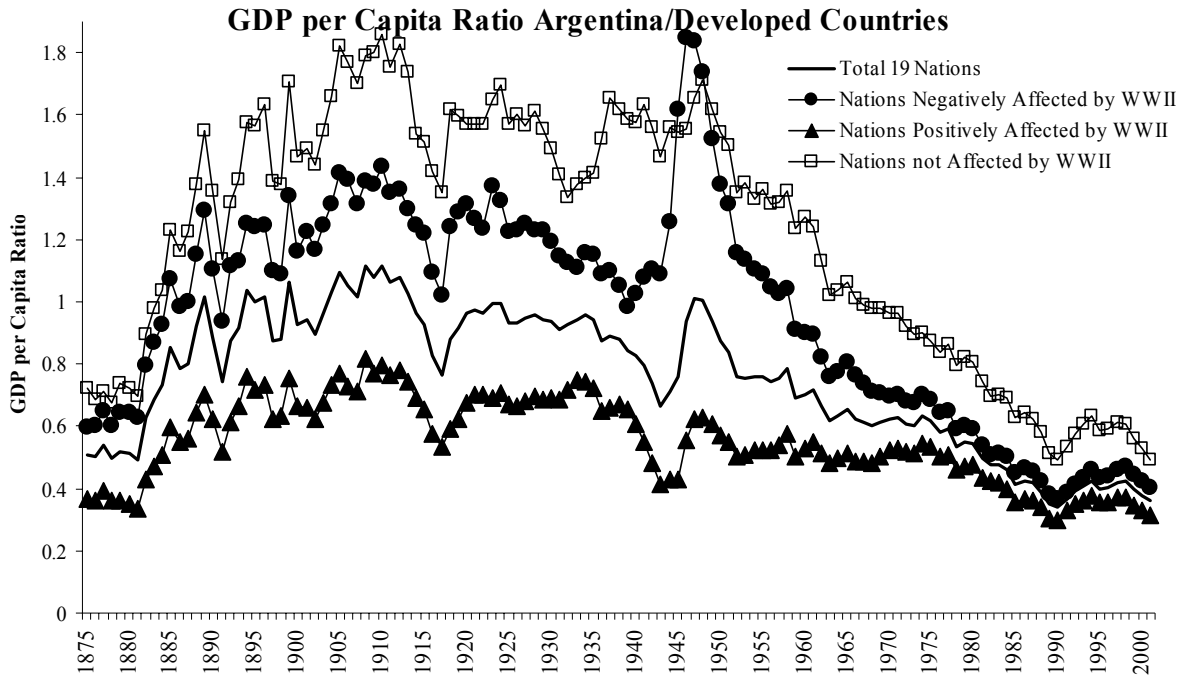
Policy Indicators Argentina 1900-2004					
	Inflation	M3/GDP	(X+M)/GDP	Federal Deficit (% GDP) (*)	Foreign Direct Investment % GDP (**)
1900-1905	2.41	0.56	35.29		6.52
1906-1910	2.66	0.51	48.98	4.19	8.44
1911-1915	2.00	0.52	46.73	2.21	7.71
1916-1920	11.70	0.54	39.06	0.67	0.74
1921-1925	-6.23	0.60	39.00	1.51	1.84
1926-1930	-0.70	0.60	40.92	2.32	2.24
1931-1935	-3.86	0.59	30.19	2.94	1.20
1936-1940	3.01	0.48	27.89	4.34	0.99
1941-1945	5.55	0.42	15.54	9.77	0.55
1946-1950	19.86	0.45	18.09	7.05	0.09
1951-1955	18.14	0.32	12.39	6.02	0.40
1956-1960	38.25	0.23	12.71	4.97	
1961-1965	23.20	0.16	13.42	5.04	
1966-1970	19.33	0.18	12.60	2.62	
1971-1975	64.43	0.18	12.16	8.56	0.18
1976-1980	192.89	0.16	16.37	9.04	0.29
1981-1985	322.63	0.16	17.94	12.14	0.44
1986-1990	583.80	0.12	18.00	5.58	0.81
1991-1995	32.23	0.17	20.06	0.64	1.60
1996-2000	-0.10	0.30	22.98	1.68	4.05
2001-2004	12.06	0.28	21.80	3.80	0.89

Notes: (*) Does not include Public Companies

(**) 1900-1955 Venganzones and Winograd, 1997; 1971-2004 IMF International Financial Statistics.

Source: Own calculations based on Venganzones and Winograd 1997, Ministry of Economy of Argentina and IMF, International Financial Statistics.

Figure I



Source: Our calculation based on Madisson (1995) and WPT 6.0

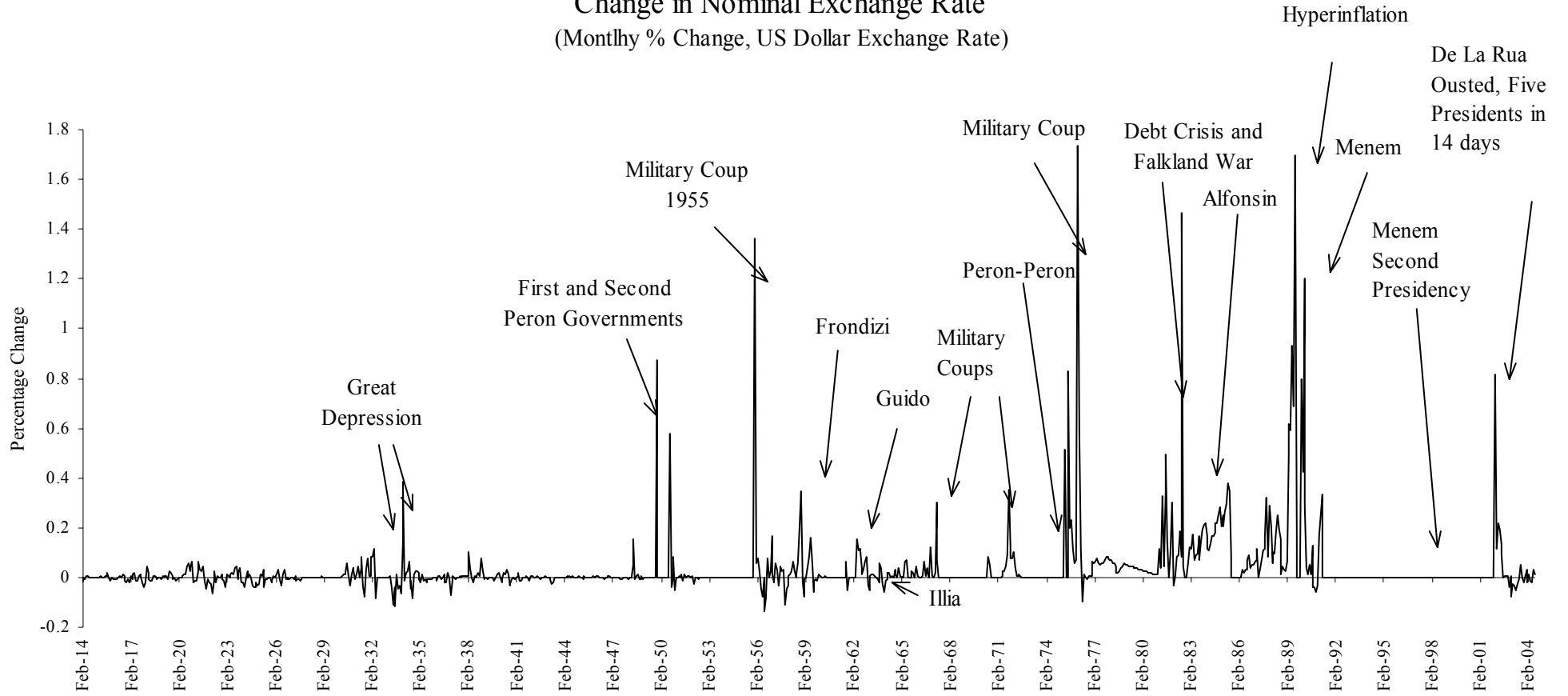
Figure II



Source: Our calculation based on Madisson (1995) and WPT 6.0

Figure III

Change in Nominal Exchange Rate
(Monthly % Change, US Dollar Exchange Rate)



Source: Our Calculation based on IMF International Financial Statistics, Central Bank of Argentina Monthly Report, Revista de Economia, Several Issues

Figure IV –The Institutional Path of Political Systems in Argentina: 1870-1999

