

bureaucratic rule. Far from being the enemies of bureaucracy, the Jacksonians were among its principal architects.

Impersonal administrative systems, like the spoils system, were "devices for strengthening the government's authority over its own civil servants"; These bureaucratic methods were, in turn, intended to "compensate for a decline in the disciplinary power of social institutions" such as the community, the professions, and business. If public servants, like men generally in a rapidly growing and diversifying society, could no longer be relied upon "to have a delicate regard for their reputations," accurate bookkeeping, close inspections, and regularized procedures would accomplish what character could not.

Amos Kendall, Postmaster General under President Jackson, set about to achieve this goal with a remarkable series of administrative innovations. To prevent corruption, Kendall embarked on two contradictory courses of action: He sought to bring every detail of the department's affairs under his personal scrutiny and he began to reduce and divide the authority on which that scrutiny depended. Virtually every important document and many unimportant ones had to be signed by Kendall himself. At the same time, he gave to the Treasury Department the power to audit his accounts and obtained from Congress a law requiring that the revenues of the department be paid into the Treasury rather than retained by the Post Office. The duties of his subordinates were carefully defined and arranged so that the authority of one assistant would tend to check that of another. What was installed was not simply a specialized management system, but a concept of the administrative separation of powers.

Few subsequent postmasters were of Kendall's ability. The result was predictable. Endless details flowed to Washington for decision, but no one in Washington other than the Postmaster General had the authority to decide. Meanwhile, the size of the postal establishment grew by leaps and bounds. Quickly the department began to operate on the basis of habit and local custom: Since everybody reported to Washington, in effect no one did. As Leonard D. White was later to remark, "the system could work only because it was a vast, repetitive, fixed, and generally routine operation." John Wanamaker, an able businessman who became Postmaster General under President Cleveland, proposed decentralizing the department under 26 regional supervisors. But Wanamaker's own assistants in Washington were unenthusiastic about such a diminution in their authority and, in any event, Congress steadfastly refused to endorse decentralization.

Civil service reform was not strongly resisted in the Post Office; from 1883 on, the number of its employees covered by the merit system expanded. Big-city postmasters were often delighted to be relieved of the burden of dealing with hundreds of place-seekers. Employees welcomed the job protection that civil service provided. In time, the merit came to govern Post Office personnel almost completely, yet the problems of the department became, if anything, worse. By the mid-20th century, slow and inadequate service, an inability technologically to cope with the mounting flood of mail, and the inequities of its pricing system became all too evident. The problem with the Post Office, however, was not omnipotence but impotence. It was a government monopoly. Being a monopoly, it had little

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presidential candidates. No bureaucracy proved easier to control, at least insofar as its size and purposes were concerned.

### A "MILITARY-INDUSTRIAL COMPLEX"?

The argument for the existence of an autonomous, bureaucratically led military-industrial complex is supported primarily by events since 1950. Not only has the United States assumed during this period worldwide commitments that necessitate a larger military establishment, but the advent of new, high-technology weapons has created a vast industrial machine with an interest in sustaining a high level of military expenditures, especially on weapons research, development, and acquisition. This machine, so the argument goes, is allied with the Pentagon in ways that dominate the political officials nominally in charge of the armed forces. There is some truth in all this. We have become a world military force, though that decision was made by elected officials in 1949-1950 and not dictated by a (then non-existent) military-industrial complex. High-cost, high-technology weapons have become important and a number of industrial concerns will prosper or perish depending on how contracts for those weapons are let. The development and purchase of weapons is sometimes made in a wasteful, even irrational, manner. And the allocation of funds among the several armed services is often dictated as much by inter-service rivalry as by strategic or political decisions.

But despite all this, the military has not been able to sustain itself at its preferred size, to keep its strength constant or growing, or to retain for its use a fixed or growing portion of the Gross National Product. Even during the last two decades, the period of greatest military prominence, the size of the Army has varied enormously—from over 200 maneuver battalions in 1955, to 174 in 1965, rising to 217 at the peak of the Vietnam action in 1969, and then declining rapidly to 138 in 1972. Even military hardware, presumably of greater interest to the industrial side of the military-industrial complex, has often declined in quantity, even though per unit price has risen. The Navy had over 1,000 ships in 1955; it has only 700 today [in 1975]. The Air Force had nearly 24,000 aircraft in 1955; it has fewer than 14,000 today. This is not to say the combat strength of the military is substantially less than it once was, and there is greater firepower now at the disposal of each military unit, and there are various missile systems now in place, for which no earlier counterparts existed. But the total budget, and thus the total force level, of the military has been decided primarily by the President and not in any serious sense forced upon him by subordinates. (For example, President Truman decided to allocate one third of the federal budget to defense, President Eisenhower chose to spend no more than 10 percent of the Gross National Product on it, and President Kennedy strongly supported Robert McNamara's radical and controversial budget revisions.) Even a matter of as great significance as the size of the total military budget for research and development has proved remarkably resistant to inflationary trends: In constant dollars, since 1964 that appropriation has been relatively steady (in 1972 dollars, about \$30 billion a year).

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But even those could account for less than one fourth of the increase in employment during the preceding 40 years.

What was striking about the period after 1861 was that the government began to give formal, bureaucratic recognition to the emergence of distinctive interest in a diversifying economy. As Richard L. Schott has written; "whereas earlier federal departments had been formed around specialized governmental functions (foreign affairs, war, finance, and the like), the new departments of this period—Agriculture, Labor, and Commerce—were devoted to the interests and aspirations of particular economic groups."

The original purpose behind these clientele-oriented departments was neither to subsidize nor to regulate, but to promote, chiefly by gathering and publishing statistics and (especially in the case of agriculture) by research. The formation of the Department of Agriculture in 1862 was to become a model, for better or worse, for later political campaigns for government recognition. A private association representing an interest—in this case the United States Agricultural Society—was formed. It made every President from Fillmore to Lincoln an honorary member, it enrolled key Congressmen, and it began to lobby for a new department. The precedent was followed by labor groups, especially the Knights of Labor, to secure creation in 1888 of a Department of Labor. It was broadened in 1903 to be a Department of Commerce and Labor, the parts were separated and the two departments we now know were formed.

There was an early 19th-century precedent for the creation of these client-serving departments: the Pension Office, then in the Department of the Interior. Begun in 1833 and regularized in 1849, the Office became one of the largest bureaus of the government in the aftermath of the Civil War, as hundreds of thousands of Union Army veterans were made eligible for pensions if they had incurred a permanent disability or injury while on military duty; dependent widows were also eligible if their husbands had died in service or of service-connected injuries. The Grand Army of the Republic (GAR), the leading veterans' organization, was quickly to exert pressure for more generous pension laws and for more liberal administration of such laws as already existed. In 1879 Congressmen, noting the number of ex-servicemen living (and voting) in their states, made veterans eligible for pensions retroactively to the date of their discharge from the service, thus enabling thousands who had been late in filing applications to be rewarded for their dilatoriness. In 1890 the law was changed again to make it unnecessary to have been injured in the service—all that was necessary was to have served and then to have acquired a permanent disability by any means other than through "their own vicious habits." And whenever cases not qualifying under existing law came to the attention of Congress, it promptly passed a special act making those persons eligible by name.

So far as is known, the Pension Office was remarkably free of corruption in the administration of this windfall—and why not, since anything an administrator might deny, a legislator was only too pleased to grant. By 1891 the Commissioner of Pensions observed that this was "the largest executive bureau in the world." There were over 6,000 officials supplemented by thousands of local physicians paid

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culture, begin receiving massive subsidies, but the government proposed, through the National Industry Recovery Act (NRA), to cloak with public power a vast number of industrial groupings and trade associations so that they might control production and prices in ways that would end the depression. The NRA's Blue Eagle fell before the Supreme Court—the wholesale delegation of public power to private interests was declared unconstitutional. But the piecemeal delegation was not, as the continued growth of specialized promotional agencies attests. The Civil Aeronautics Board, for example, erroneously thought to be exclusively a regulatory agency, was formed in 1938 “to promote” as well as regulate civil aviation and it has done so by restricting entry and maintaining above-market rate fares.

Agriculture, of course, provides the leading case of clientelism. Theodore J. Lowi finds “at least 10 separate, autonomous, local self-governing systems” located in or closely associated with the Department of Agriculture that control to some significant degree the flow of billions of dollars in expenditures and loans. Local committees of farmers, private farm organizations, agency heads, and committee chairmen in Congress dominate policymaking in this area—not, perhaps, to the exclusion of the concerns of other publics, but certainly in ways not powerfully constrained by them.

### “COOPERATIVE FEDERALISM”

The growing edge of client-oriented bureaucracy can be found, however, not in government relations with private groups, but in the relations among governmental units. In dollar volume, the chief clients of federal domestic expenditures are state and local government agencies. To some degree, federal involvement in local affairs by the cooperative funding or management of local enterprises has always existed. The Northwest Ordinance of 1784 made public land available to finance local schools and the Morrill Act of 1862 gave land to support state colleges, but what Morton Grodzins and Daniel Elazar have called “cooperative federalism,” though it always existed, did not begin in earnest until the passage in 1913 of the 16th Amendment to the Constitution allowed the federal government to levy an income tax on citizens and thereby to acquire access to vast sources of revenue. Between 1914 and 1917, federal aid to states and localities increased a thousandfold. By 1948 it amounted to over one tenth of all state and local spending; by 1970, to over one sixth.

The degree to which such grants, and the federal agencies that administer them, constrain or even direct state and local bureaucracies is a matter of dispute. No general answer can be given—federal support of welfare programs has left considerable discretion in the hands of the states over the size of benefits and some discretion over eligibility rules, whereas federal support of highway construction carries with it specific requirements as to design, safety, and (since 1968) environmental and social impact.

A few generalizations are possible, however. The first is that the states and not the cities have been from the first, and remain today, the principal client group for grants-in-aid. It was not until the Housing Act of 1937 that money was given in

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Most of the major new social programs of the United States, whether for the good of the few or the many, were initially adopted by broad coalitions appealing to general standards of justice or to conceptions of the public weal. This is certainly the case with most of the New Deal legislation—notably such programs as Social Security—and with most Great Society legislation—notably Medicare and aid to education; it was also conspicuously the case with respect to post-Great Society legislation pertaining to consumer and environmental concerns. State occupational licensing laws were supported by majorities instead in, among other things, the contribution of these statutes to public safety and health.

But when a program supplies particular benefits to an existing or newly created interest, public or private, it creates a set of political relationships that make exceptionally difficult further alteration of that program by coalitions of the majority. What was created in the name of the common good is sustained in the name of the particular interest. Bureaucratic clientelism becomes self-perpetuating, in the absence of some crisis or scandal, because a single interest group to which the program matters greatly is highly motivated and well-situated to ward off the criticisms of other groups that have a broad but weak interest in the policy.

In short, a regime of separated powers makes it difficult to overcome objections and contrary interests sufficiently to permit the enactment of a new program or the creation of a new agency. Unless the legislation can be made to pass either with little notice or at a time of crisis or extraordinary majorities—and sometimes even then—the initiation of new programs requires public interest arguments. But the same regime works to protect agencies, once created, from unwelcome change because a major change is, in effect, new legislation that must overcome the same hurdles as the original law, but this time with one of the hurdles—the wishes of the agency and its client—raised much higher. As a result, the Madisonian system makes it relatively easy for the delegation of public power to private groups to go unchallenged and, therefore, for factional interests that have acquired a supportive public bureaucracy to rule without submitting their interests to the effective scrutiny and modification of other interests.

### BUREAUCRACY AND DISCRETION

For many decades, the Supreme Court denied to the federal government any general "police power" over occupations and businesses, and thus most such regulation occurred at the state level and even there under the constraint that it must not violate the notion of "substantive due process"—that is, the view that there were sharp limits to the power of any government to take (and therefore to regulate) property. What clearly was within the regulatory province of the federal government was interstate commerce, and thus it is not surprising that the first major federal regulatory body should be the Interstate Commerce Commission (ICC), created in 1887.

What does cause, if not surprise, then at least dispute, is the view that the Commerce Act actually was intended to regulate railroads in the public interest. It has become fashionable of late to see this law as a device sought by the railroads

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Division of the Justice Department, the Federal Trade Commission (FTC), the Food and Drug Administration (FDA), the National Labor Relations Board (NLRB)—all these were intended to be genuinely regulatory bodies created to handle under public auspices matters once left to private arrangements. The techniques they were to employ varied: approving rates (ICC), issuing cease-and-desist orders (FTC), bringing civil or criminal actions in the courts (the Antitrust Division), defining after a hearing an appropriate standard of conduct (NLRB), or testing a product for safety (FDA). In each case, however, Congress clearly intended that the agency either define its own standards (a safe drug, a conspiracy in restraint of trade, a fair labor practice) or choose among competing claims (a higher or lower rate for shipping grain).

Other agencies often grouped with these regulatory bodies—the Civil Aeronautics Board, the Federal Communications Commission, the Maritime Commission—were designed, however, not primarily to regulate, but to *promote* the development of various infant or threatened industries. However, unlike fostering agriculture or commerce, fostering civil aviation or radio broadcasting was thought to require limiting entry (to prevent “unsafe” aviation or broadcast interference); but at the time these laws were passed few believed that the restrictions on entry would be many or that the choices would be made on any but technical or otherwise noncontroversial criteria. We smile now at their naïveté, but we continue to share it—today we sometimes suppose that choosing an approved exhaust emission control system or a water pollution control system can be done on the basis of technical criteria and without affecting production and employment.

### MAJORITARIAN POLITICS

The creation of regulatory bureaucracies has occurred, as is often remarked, in waves. The first was the period between 1887 and 1890 (the Commerce Act and the Antitrust Act), the second between 1906 and 1915 (the Pure Food and Drug Act, the Meat Inspection Act, the Federal Trade Commission Act, the Clayton Act), the third during the 1930s (the Food, Drug, and Cosmetic Act, the Public Utility Holding Company Act, the Securities Exchange Act, the Natural Gas Act, the National Labor Relations Act), and the fourth during the latter part of the 1960s (the Water Quality Act, the Truth in Lending Act, the National Traffic and Motor Vehicle Safety Act, various amendments to the drug laws, the Motor Vehicle Pollution Control Act, and many others).

Each of these periods was characterized by progressive or liberal Presidents in office (Cleveland, T. R. Roosevelt, Wilson, F. D. Roosevelt, Johnson); one was a period of national crisis (the 1930s); three were periods when the President enjoyed extraordinary majorities of his own party in both houses of Congress (1914–1916, 1932–1940, and 1964–1968); and only the first period preceded the emergence of the national mass media of communication. These facts are important because of the special difficulty of passing any genuinely regulatory legislation: A single interest, the regulated party, sees itself seriously threatened by a law proposed by a policy entrepreneur who must appeal to an unorganized majority, the

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## BUREAUCRATIC INERTIA

Regulatory agencies are slow to respond to change for the same reason all organizations with an assured existence are slow: There is no incentive to respond. Furthermore, the requirements of due process and of political conciliation will make any response time-consuming. For example, owing to the complexity of the matter and the money at stake, any comprehensive review of the long-distance rates of the telephone company will take years, and possibly may take decades.

Deregulation, when warranted by changed economic circumstances of undesired regulatory results, will be resisted. Any organization, and *a fortiori* any public organization, develops a genuine belief in the rightness of its mission that is expressed as a commitment to regulation as a process. This happened to the ICC in the early decades of this century as it steadily sought both enlarged powers (setting minimum as well as maximum rates) and a broader jurisdiction (over trucks, barges, and pipelines as well as railroads). It even urged incorporation into the Transportation Act of 1920 language directing it to prepare a comprehensive transportation plan for the nation. Furthermore, any regulatory agency will confer benefits on some group or interest, whether intended or not; those beneficiaries will stoutly resist deregulation. (But in happy proof of the fact that there are no iron laws, even about bureaucracies, we note the recent proposals emanating from the Federal Power Commission that the price of natural gas be substantially deregulated.)

The operation of regulatory bureaus may tend to bureaucratize the private sector. The costs of conforming to many regulations can be met most easily—often, only—by large firms and institutions with specialized bureaucracies of their own. Smaller firms and groups often must choose between unacceptably high overhead costs, violating the law, or going out of business. A small bakery producing limited runs of a high-quality product literally may not be able to meet the safety and health standards for equipment or to keep track of and administer fairly its obligations to its two employees; but unless the bakery is willing to break the law, it must sell out to a big bakery that can afford to do these things, but may not be inclined to make and sell good bread. I am not aware of any data that measure private bureaucratization or industrial concentration as a function of the economies of scale produced by the need to cope with the regulatory environment, but I see no reason why such data could not be found.

Finally, regulatory agencies that control entry, fix prices, or substantially affect the profitability of an industry create a powerful stimulus for direct or indirect forms of corruption. The revelations about campaign finance in the 1972 presidential election show dramatically that there will be a response to that stimulus. Many corporations, disproportionately those in regulated industries (airlines, milk producers, oil companies), made illegal or hard to justify campaign contributions involving very large sums.

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authority in the hands of officials whose very existence—to say nothing of whose function—was not anticipated by the Constitutional Convention and whose effective control is beyond the capacity of the governing institutions which that Convention had designed.

### THE BUREAUCRATIC STATE AND THE REVOLUTION

The American Revolution was not only a struggle for independence but a fundamental rethinking of the nature of political authority. Indeed, until that reformulation was completed the Revolution was not finished. What made political authority problematic for the colonists was the extent to which they believed Mother England had subverted their liberties despite the protection of the British constitution, until then widely regarded in America as the most perfect set of governing arrangements yet devised. The evidence of usurpation is now familiar: unjust taxation, the weakening of the independence of the judiciary, the stationing of standing armies, and the extensive use of royal patronage to reward office-seekers at colonial expense. Except for the issue of taxation, which raised for the colonists major questions of representation, almost all of their complaints involved the abuse of *administrative* powers.

The first solution proposed by Americans to remedy this abuse was the vesting of most (or, in the case of Pennsylvania and a few other states, virtually all) powers in the legislature. But the events after 1776 in many colonies, notably Pennsylvania, convinced the most thoughtful citizens that legislative abuses were as likely as administrative ones: In the extreme case, citizens would suffer from the "tyranny of the majority." Their solution to this problem was, of course, the theory of the separation of powers by which, as brilliantly argued in *The Federalist* papers, each branch of government would check the likely usurpations of the other.

This formulation went essentially unchallenged in theory and unmodified by practice for over a century. Though a sizable administrative apparatus had come into being by the end of the 19th century, it constituted no serious threat to the existing distribution of political power because it either performed routine tasks (the Post Office) or dealt with temporary crises (the military). Some agencies wielding discretionary authority existed, but they either dealt with groups whose liberties were not of much concern (the Indian Office) or their exercise of discretion was minutely scrutinized by Congress (the Land Office, the Pension Office, the Customs Office). The major discretionary agencies of the 19th century flourished at the very period of greatest Congressional domination of the political process—the decades after the Civil War—and thus, though their supervision was typically inefficient and sometimes corrupt, these agencies were for most practical purposes direct dependencies of Congress. In short, their existence did not call into question the theory of the separation of powers.

But with the growth of client-serving and regulatory agencies, grave questions began to be raised—usually implicitly—about the theory. A client-serving bureau, because of its relations with some source of private power, could become partially

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ANSWER ON SEPARATE PAPER.

"Constitutional Democracy and Bureaucratic Power" by Peter Woll

1. Why is it possible or even desirable to describe the bureaucracy as the fourth branch of government?
2. What is often the relationship between a government agency and the constituency it is supposed to supervise and serve according to the law?
3. What are the constitutional responsibilities or controls that Congress exercises over the bureaucracy?
4. How is the ICC typical of a regulatory agency that Congress has placed beyond presidential purview?
5. Explain why a government agency with legislative, executive, and judicial functions is more of a threat to democracy than the constitutional branches that have these same powers?

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"The Rise of the Bureaucratic State" by James Q. Wilson

1. What is Wilson thesis?
2. What two examples does Wilson present to show that the number of employees and the size of a budget do not necessarily result in bureaucracy outside of control by democratic government?
3. What does Wilson mean by clientelism?
4. Explain Wilson's view of the Interstate Commerce Commission (ICC) as a different venture for bureaucracy in a democratic government?
5. Why is it so difficult to eliminate a clientele bureaucracy that shows itself to serve only the interest of a small faction?