

of a foreign dictator. He knew that much. This president and his supporters would seem to have a mind for only one thing – to take power, to remain in power, and to use that power for the sake of themselves and their friends.

A war will do that as well as anything. You become a wartime leader. The country gets behind you. Dissent becomes inappropriate. And so he does not drop to his knees, he is not contrite, he does not sit in the church with the grieving parents and wives and children. He is the president who does not feel. He does not feel for the families of the dead, he does not feel for the 35 million of us who live in poverty, he does not feel for the 40 percent who cannot afford health insurance, he does not feel for the miners whose lungs are turning black or for the working people he has deprived of the chance to work overtime at time-and-a-half to pay their bills - it is amazing for how many people in this country this president does not feel.

But he will dissemble feeling. He will say in all sincerity he is relieving the wealthiest 1 percent of the population of their tax burden for the sake of the rest of us, and that he is polluting the air we breathe for the sake of our economy, and that he is decreasing the quality of air in coal mines to save the coal miners' jobs, and that he is depriving workers of their time-and-a-half benefits for overtime because this is actually a way to honor them by raising them into the professional class.

And this litany of lies he will versify with reverences for God and the flag and democracy, when just what he and his party are doing to our democracy is choking the life out of it.

But there is one more terribly sad thing about all of this. I remember the millions of people here and around the world who marched against the war. It was extraordinary, that spontaneous aroused oversoul of alarm and protest that transcended national borders. Why did it happen? After all, this was not the only war anyone had ever seen coming. There are little wars all over the world most of the time.

But the cry of protest was the appalled understanding of millions of people that America was ceding its role as the last best hope of mankind. It was their perception that the classic archetype of democracy was morphing into a rogue nation. The greatest democratic republic in history was turning its back on the future, using its extraordinary power and standing not to advance the ideal of a concordance of civilizations but to endorse the kind of tribal combat that originated with the Neanderthals, a people, now extinct, who could imagine ensuring their survival by no other means than pre-emptive war.

The president we get is the country we get. With each president the nation is conformed spiritually. He is the artificer of our malleable national soul. He proposes not only the laws but the kinds of lawlessness that govern our lives and invoke our responses. The people he appoints are cast in his image. The trouble they get into and get us into, is his characteristic trouble.

Finally, the media amplify his character into our moral weather report. He becomes the face of our sky, the conditions that prevail. How can we sustain ourselves as the United States of America given the stupid and ineffective warmaking, the constitutionally insensitive lawgiving, and the monarchal economics of this president?

He cannot mourn but is a figure of such moral vacancy as to make us mourn for ourselves.

The novelist E.L. Doctorow has a house in Sag Harbor.

[Home](#) | [Index](#) | [News](#) | [Arts](#) | [Food](#) | [Outdoors](#) | [Columns](#) | [Editorials](#) | [Letters](#) | [Real Estate](#) | [Events/Movies](#) | [Classifieds](#) | [Archives](#)

Bill Clinton Was No Champion of the Poor

by Paul Street
September 29, 2005

"We Had a Different Policy"

It's interesting to see former Democratic President William Jefferson Clinton speaking for the poor and against those who would distribute wealth yet further upward in America. Two Saturdays ago, Clinton told ABC News that "you can't have an emergency plan that works if it only affects middle-class people and up and when you tell people to do something they don't have the means to do you're going to leave the poor out." Clinton added that Tropical Storm Katrina pointed up steep "class division[s] that often play out along racial lines" in America.

Before making these comments, Clinton reminded ABC that poverty fell in the United States (U.S.) during his presidency. As Clinton knows, American poverty has risen during every single year of the George W. Bush presidency -- the first time that the nation's official deprivation gauge has gone up for five consecutive years.

The White House was so stung by Clinton's comments that Bush spokesman Scott McClellan was compelled to make a curiously reflective announcement. "There is a deep history of injustice that has led to poverty and inequality" in the U.S., McClellan noted, "and it will not be overcome instantly."

"From Day 1," McClellan added, Bush "has been acting boldly to achieve real results for real Americans."

By Clinton's accurate account, Bush's "real results for real Americans" have included the redistribution of money and wealth from real lower and middle-class Americans to really rich Americans.

Whether it's race-based or not," Clinton told ABC, "if you give tax cuts to the rich and hope everything turns out alright and poverty goes up and it disproportionately affects brown and black people, that's a consequence of the action made. That's what they did in the 80s; that's what they've done in this decade." "In the middle," Clinton reflected, "we had a different policy." (Phillip Shenon, "the Ex-President: Clinton Levels Sharp Criticism of the President's Relief Effort," *New York Times*, 19 September 2005, A17).

How "Different?"

Fair enough on Reagan and the two Bushes. But how "different" and more socio-economically and therefore (by Clinton's analysis) racially democratic was administration policy under Bill Clinton, the self-appointed post-Katrina champion of the poor? By Clinton's account, McClellan's "deep history of injustice" was under egalitarian federal assault during the years of the Clinton regime. The record suggests otherwise.

A good place to check that history against Clinton's populist claims is the thirteenth chapter, titled "The Clinton Presidency," of Howard Zinn's magnificent modern history counter-text *The Twentieth Century* (New York, NY: Harper Perennial, 2003). Another place to look is progressive economist Robert Pollin's excellent *Contours of Descent: U.S. Economic Fracturing and the Landscape of Global Austerity* (New York, NY: Verso, 2003).

What emerges from a careful reading of these and numerous other texts and sources is a Clinton administration that defied mainstream public support for socially democratic policies by conducting the public business in regressive accord with the interrelated neoliberal and racially disparate imperatives of empire and inequality.

Clinton's domestic agenda was first announced as a gigantic jobs-creation program coupled with a determined effort to guarantee health care for all. But, Zinn notes, Clinton quickly betrayed these declared campaign priorities by "concentrating on reduction of the deficit, which under Reagan and Bush I had left a national debt of \$4 trillion." This emphasis, Zinn argued, "meant that there would be no bold programs of expenditures for universal health care, education, child care, housing, the environment, the arts, or job creation." Clinton's "small gestures" toward social democracy did "not come close to what was needed in a nation where one-fourth of the children lived in poverty, where homeless people

lived on the streets in every major city, where women could not look for work for lack of child care; where the air, the water were deteriorating dangerously."

More than being merely inadequate to the needs of America's millions of truly disadvantaged citizens, the Clinton administration actually attacked the disproportionately non-white poor in numerous interrelated ways. Clinton signed a punitive neoliberal welfare "reform" bill that ended the federal government's guarantee of financial help to impoverished families with dependent children. By forcing poor families getting federal cash assistance (such families were mainly non-white single-parent units) to find employment without establishing concomitant government programs to create or directly provide livable wage jobs, Clinton flooded the nation's low- and poverty-wage and no-benefits job market with hundreds of thousands of defenseless new proletarians. He also scored points with the grinders of the poor by taking welfare benefits away from legal as well as illegal immigrants.

It was all done in the name of "Personal Responsibility," "Work Opportunity," and "Reconciliation," to use the key Orwellian phrases of the Clinton-Gingrich welfare-elimination regime.

Clinton enthusiastically signed a "Crime Bill" that expanded federal prison construction, helping turn the "land of freedom" into the world's leading incarceration state. Poor blacks made up a wildly disproportionate number of the Clinton era's massive and expanding army of prisoners and felony-marked "ex-offenders".

Meanwhile, Clinton increased economic insecurity in poor and working-class American communities by signing the North American Free Trade Agreement (NAFTA). NAFTA destroyed tens of thousands of American industrial jobs by tearing down long-established regulatory barriers to the movement of corporate capital and commodities across the U.S.-Mexican border.

Clinton claimed that "the era of big government is over." He was more than content, however, to sustain funding for the regressive, repressive, and militaristic "right hand of the state." His concern with balanced budgets did not extend to the prison- and military- industrial complexes. As Zinn notes, Clinton's federal government "continued to spend at least \$2 billion a year to maintain the military machine." Clinton "accept[ed] the Republican claim that the nation must be ready to fight two regional wars simultaneously, despite the collapse of the Soviet Union in 1989."

It was only the left hand of the state, the part that serves the poor and non-affluent majority, that Clinton targeted in his quest for deficit reduction.

"The Traumatized Worker"

Ironically (or fittingly) given its insistence on throwing poor people onto the mercies of the "free" labor market, where most Americans obtain (uniquely among industrialized states) their health insurance, the Clinton administration ended without any serious effort to meaningfully deliver on its initial health insurance promises. It also failed to advance any meaningful initiative to protect the beleaguered rights of workers or to increase the woefully inadequate minimum wage. "Both the average wages for non-supervisory workers and the earnings of those in the lowest 10 percent of wage earners," notes Robert Pollin, "not only remained well below those of the Nixon/Ford and Carter administrations, but were actually lower than that even than those of the Reagan/Bush years. Moreover, wage inequality -- as measured by the ratio of the 90th to the 10th wage decile -- increased sharply during Clinton's tenure in office, even relative to the Republican heyday of the 1980s." To make matters worse, the percentage of Americans living at or below the poverty level during the Clinton administration (13.2) was only minimally smaller than the corresponding statistic for the Reagan/Bush era (14.1). The circumstances of the officially "poor" population actually worsened under Clinton. This partly reflected the Clinton administration's neoliberal slashing of federal family cash assistance for jobless single mothers and its related reliance on the capitalist labor market to improve the conditions of society's most vulnerable.

As Pollin shows, following the testimony of Federal Reserve Chairman Alan Greenspan, the leading explanation for the exceptionally low level of wage growth that occurred even amidst a tightening labor market during the 1990s was the reluctance of workers to demand higher incomes. This reluctance emerged from the weakness of labor's bargaining power in an increasingly global economy where employers widely and quite credibly threaten to close their shops and relocate if workers voted to unionize. It also emerged from the neoliberal pro-corporate-globalization stance of the Clinton

administration, which did virtually nothing to enhance workers' bargaining power vis-à-vis business, thereby making it certain that the "traumatized [American] worker" (as Greenspan described American-working people to Congress in 1997) would accept historically minor wage increases during the 1990s boom.

"Putting People First?"

Clinton's heralded fiscal transformation (from deficit to surplus) was achieved only at extraordinary public cost. The single leading factor behind this transformation, Pollin shows, was neither faster economic growth nor the Clinton administration's modest reversal of massive Reagan-Bush tax cuts for the wealthy, but the significant reduction of federal government spending as a percentage of American GDP from 22% in 1992 to 18% in 2000. While post-Cold war cuts in military spending explained part of this reduction, a bigger share came through significant declines in federal spending on education, poverty-reduction, environmental protection, economic regulation, and equity promotion -- all while wealth exploded at the top and the "poverty gap" (the amount of money required to bring all poor people exactly up to the official poverty line) rose from \$1,538 to \$1,620 from 1993 to 1999. At the same time, Pollin notes, the U.S. military budget remained "more than the amount spent by all the rest of NATO plus Russia, plus all the countries in the Middle East and North Africa, including Israel, combined."

Finally, the significant, albeit limited and uneven, economic expansion that occurred under Clinton was purchased against the future. It was fueled primarily by an inherently tenuous, debt-financed stock market bubble that fueled primarily upper class consumption and which inevitably burst, with recessionary consequences passed on to the presidency of Bush II. The dramatic and dangerous over-escalation of stock prices could have been stemmed with elementary regulatory measures the Clinton administration refused to undertake because of its allegiance to neoliberal prescriptions against government intervention in the workings of the supposed "free market" to limit the excesses of private economic elites.

This performance made a mockery of Clinton's 1992 campaign slogan, "Putting People First," which communicated a populist message Clinton rapidly abandoned once he attained the White House, and his Treasury Secretary Robert Rubin (former head of Goldman Sachs) reminded him that extremely wealthy folks are the people who matter most when it comes to running the country. Even before Rubin's reminder, however, Clinton was a veteran of the Republican-light Democratic Leadership Council (DLC), formed to increase the influence of big business and reduce the influence of labor and other progressive forces within the Democratic Party. The Clinton Democrats' basic commitment to business-class neoliberal values poisoned the 2000 presidential election, when Al Gore could see nothing better to do with Clinton's federal surplus than to pay down the national debt even as nearly 700,000 African-American children lived in "deep poverty" (at less than half of the nation's notoriously inadequate poverty level) and beyond.

Beyond Centrist-Democratic Snakeoil

You can't blame Clinton for trying to help his wife and his party make some pseudo-populist political hay out of the Bush administration's pathetic performance before and during Tropical Storm and Societal Failure Katrina. Clinton has always had a strong sense of when to push populist buttons and when (more commonly) to return to standard corporate-neoliberal rostrums. Since he does in fact come (as he told ABC News) "out of an environment with a disproportionate amount of poor people," he's always been more genuinely comfortable around the sort of non-affluent people that tend to make the aristocratic Bush clan wince. Still, Americans who wish to substantively overcome McClellan's "deep history of injustice" would do well to remember that the sociopolitical construction of American inequality is a richly bipartisan affair. Real solutions will require dedicated activism against reactionary agents of class and race privilege within both wings of the U.S. Chamber of Commerce Party. They will not emerge from the superficially populist rhetoric of past American presidents, no matter how accurate those ex-presidents' critical take on current Republican policy.

Paul Street is an historian, journalist, and public speaker in DeKalb, IL. He is the author of three books to date: *Empire and Inequality: America and the World Since 9/11* (Boulder, CO: Paradigm Publishers, October 2004); *Segregated Schools: Class, Race, and Educational Apartheid in the Post-Civil Rights Era* (New York, NY: Routledge-Falmer, 2005); *Still Separate, Unequal: Race, Place, Policy, and the State of Black Chicago* (Chicago, IL: The Chicago Urban League, April 2005). Street's next book, *Racial Apartheid in the Global Metropolis* (New York, NY: Rowman-Litfield) will be published in late 2006. He can be reached at: pstreet@niu.edu

Peter Woll
 CONSTITUTIONAL
 DEMOCRACY AND
 BUREAUCRATIC POWER

The administrative branch today stands at the very center of our governmental process; it is the keystone of the structure. And administrative agencies exercise legislative and judicial as well as executive functions—a fact that is often overlooked. . . .

How should we view American bureaucracy? Ultimately, the power of government comes to rest in the administrative branch. Agencies are given the responsibility of making concrete decisions carrying out vague policy initiated in Congress or by the president. The agencies can offer expert advice, closely attuned to the most interested pressure groups, and they often not only determine the policies that the legislature and executive recommend in the first place, but also decisively affect the policy-making process. Usually it is felt that the bureaucracy is politically "neutral," completely under the domination of the president, Congress, or the courts. We will see that this is not entirely the case, and that the president and Congress have only sporadic control over the administrative process.

The bureaucracy is a semi-autonomous branch of the government, often dominating Congress, exercising strong influence on the president, and only infrequently subject to review by the courts. If our constitutional democracy is to be fully analyzed, we must focus attention upon the administrative branch. What is the nature of public administration? How are administration and politics intertwined? How are administrative constituencies determined? What is the relationship between agencies and their constituencies? What role should the president assume in relation to the administrative branch? How far should Congress go in controlling agencies which in fact tend to dominate the legislative process? Should judicial review be expanded? What are the conditions of judicial review? How do administrative agencies perform judicial functions, and how do these activities affect the ability of courts to oversee their actions? These questions confront us with what is called the problem of administrative responsibility: that is, how can

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we control the activities of the administrative branch? In order to approach an understanding of this difficult problem, it is necessary to appreciate the nature of the administrative process and how it interacts with other branches of the government and with the general public. It is also important to understand the nature of our constitutional system, and the political context within which agencies function.

We operate within the framework of a constitutional democracy. This means, first, that the government is to be limited by the separation of powers and Bill of Rights. Another component of the system, federalism, is designed in theory to provide states with a certain amount of authority when it is not implied at the national level. Our separation of powers, the system of checks and balances, and the federal system help to explain some of the differences between administrative organization here and in other countries. But the Constitution does not explicitly provide for the administrative branch, which has become a new fourth branch of government. This raises the question of how to control the bureaucracy when there are no clear constitutional limits upon it. The second aspect of our system, democracy, is of course implied in the Constitution itself, but has expanded greatly since it was adopted. We are confronted, very broadly speaking, first with the problem of constitutional limitation, and secondly with the problem of democratic participation in the activities of the bureaucracy. The bureaucracy must be accommodated within the framework of our system of constitutional democracy. This is the crux of the problem of administrative responsibility.

Even though the Constitution does not explicitly provide for the bureaucracy, it has had a profound impact upon the structure, functions, and general place that the bureaucracy occupies in government. The administrative process was incorporated into the constitutional system under the heading of "The Executive Branch." But the concept of "administration" at the time of the adoption of the Constitution was a very simple one, involving the "mere execution" of "executive details," to use the phrases of Hamilton in *The Federalist*. The idea, at that time, was simply that the president as Chief Executive would be able to control the Executive Branch in carrying out the mandates of Congress. In *Federalist 72*, after defining administration in this very narrow way, Hamilton stated:

... The persons, therefore, to whose immediate management the different administrative matters are committed ought to be considered as Assistants or Deputies of the Chief Magistrate, and on this account, they ought to derive their offices from his appointment, at least from his nomination, and ought to be subject to his superintendence.

It was clear that Hamilton felt the president would be responsible for administrative action as long as he was in office. This fact later turned up in what can be called the "presidential supremacy" school of thought, which held and still holds that the president is *constitutionally* responsible for the administrative branch, and that Congress should delegate to him all necessary authority for this purpose. Nevertheless, whatever the framers of the Constitution might have planned if they could have foreseen the nature of bureaucratic development, the fact is that the

system they constructed in many ways supported bureaucratic organization and functions independent of the president. The role they assigned to Congress in relation to administration assured this result, as did the general position of Congress in the governmental system as a check or balance to the power of the president. Congress has a great deal of authority over the administrative process.

If we compare the power of Congress and the president over the bureaucracy it becomes clear that they both have important constitutional responsibility. Congress retains primary control over the organization of the bureaucracy. It alone creates and destroys agencies, and determines whether they are to be located within the executive branch or outside it. This has enabled Congress to create a large number of *independent* agencies beyond presidential control. Congress has the authority to control appropriations and may thus exercise a great deal of power over the administrative arm, although increasingly the Bureau of the Budget and the president have the initial, and more often than not the final say over the budget. Congress also has the authority to define the jurisdiction of agencies. Finally, the Constitution gives to the legislature the power to interfere in high level presidential appointments, which must be "by and with the advice and consent of the Senate."

Congress may extend the sharing of the appointive power when it sets up new agencies. It may delegate to the president pervasive authority to control the bureaucracy. But one of the most important elements of the separation of power is the electoral system, which gives to Congress a constituency which is different from and even conflicting with that of the president. This means that Congress often decides to set up agencies beyond presidential purview. Only rarely will it grant the president any kind of final authority to structure the bureaucracy. During World War II, on the basis of the War Powers Act, the president had the authority to reorganize the administrative branch. Today he has the same authority, provided that Congress does not veto presidential proposals within a certain time limit. In refusing to give the president permanent reorganization authority, Congress is jealously guarding one of its important prerogatives.

Turning to the constitutional authority of the president over the bureaucracy, it is somewhat puzzling to see that it gives him a relatively small role. He appoints certain officials by and with the advice and consent of the Senate. He has directive power over agencies that are placed within his jurisdiction by Congress. His control over patronage, once so important, has diminished sharply under the merit system. The president is Commander-in-Chief of all military forces, which puts him in a controlling position over the Defense Department and agencies involved in military matters. In the area of international relations, the president is by constitutional authority the "Chief Diplomat," to use [presidential scholar Clinton] Rossiter's phrase. This means that he appoints Ambassadors (by and with the advice and consent of the Senate), and generally directs national activities in the international arena—a crucially important executive function. But regardless of the apparent intentions of some of the framers of the Constitution as expressed by Hamilton in *The Federalist*, and in spite of the predominance of the presidency in military and foreign affairs, the fact remains that we seek in vain for explicit

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constitutional authorization for the president to be "Chief Administrator."

This is not to say that the president does not have an important responsibility to act as chief of the bureaucracy, merely that there is no constitutional mandate for this. As our system evolved, the president was given more and more responsibility until he became, in practice, Chief Administrator. At the same time the constitutional system has often impeded progress in this direction. The president's Committee on Administrative Management in 1937, and later the Hoover Commission of 1949 and 1955, called upon Congress to initiate a series of reforms increasing presidential authority over the administrative branch. It was felt that this was necessary to make democracy work. The president is the only official elected nationally, and if the administration is to be held democratically accountable, he alone can stand as its representative. But meaningful control from the White House requires that the president have a comprehensive program which encompasses the activities of the bureaucracy. He must be informed as to what they are doing, and be able to control them. He must understand the complex responsibilities of the bureaucracy. Moreover, he must be able to call on sufficient political support to balance the support which the agencies draw from private clientele groups and congressional committees. This has frequently proven a difficult and often impossible task for the president. He may have the *authority* to control the bureaucracy in many areas, but not enough power.

On the basis of the Constitution, Congress feels it quite proper that when it delegates legislative authority to administrative agencies it can relatively often place these groups outside the control of the president. For example, in the case of the Interstate Commerce Commission . . . Congress has delegated final authority to that agency to control railroad mergers and other aspects of transportation activity, without giving the president the right to veto. The president may feel that a particular merger is undesirable because it is in violation of the antitrust laws, but the Interstate Commerce Commission is likely to feel differently. In such a situation, the president can do nothing because he does not have the *legal authority* to take any action. If he could muster enough political support to exercise influence over the ICC, he would be able to control it, but the absence of legal authority is an important factor in such cases and diminishes presidential power. Moreover, the ICC draws strong support from the railroad industry, which has been able to counterbalance the political support possessed by the president and other groups that have wished to control it. Analogous situations exist with respect to other regulatory agencies.

Besides the problem of congressional and presidential control over the bureaucracy, there is the question of judicial review of administrative decisions. The rule of law is a central element in our Constitution. The rule of law means that decisions judicial in nature should be handled by common law courts, because of their expertise in rendering due process of law. When administrative agencies engage in adjudication their decisions should be subject to judicial review—at least, they should if one supports the idea of the supremacy of law. Judicial decisions are supposed to be rendered on an independent and impartial basis,

through the use of tested procedures, in order to arrive at the accurate determination of the truth. Administrative adjudication should not be subject to presidential or congressional control, which would mean political determination of decisions that should be rendered in an objective manner. The idea of the rule of law, derived from the common law and adopted within the framework of our constitutional system, in theory limits legislative and executive control over the bureaucracy.

The nature of our constitutional system poses very serious difficulties to the development of a system of administrative responsibility. The Constitution postulates that the functions of government must be separated into different branches with differing constituencies and separate authority. The idea is that the departments should oppose each other, thereby preventing the arbitrary exercise of political power. Any combination of functions was considered to lead inevitably to arbitrary government. This is a debatable point, but the result of the Constitution is quite clear. The administrative process, on the other hand, often combines various functions of government in the same hands. Attempts are made, of course, to separate those who exercise the judicial functions from those in the prosecuting arms of the agencies. But the fact remains that there is a far greater combination of functions in the administrative process than can be accommodated by strict adherence to the Constitution.

It has often been proposed, as a means of alleviating what may be considered the bad effects of combined powers in administrative agencies, to draw a line of control from the original branches of the government to those parts of the bureaucracy exercising similar functions. Congress would control the legislative activities of the agencies, the president the executive aspects, and the courts the judicial functions. This would maintain the symmetry of the constitutional system. But this solution is not feasible, because other parts of the Constitution, giving different authority to these three branches, make symmetrical control of this kind almost impossible. The three branches of the government are not willing to give up whatever powers they may have over administrative agencies. For example, Congress is not willing to give the president complete control over all executive functions, nor to give the courts the authority to review all the decisions of the agencies. At present, judicial review takes place only if Congress authorizes it, except in those rare instances where constitutional issues are involved.

Another aspect of the problem of control is reflected in the apparent paradox that the three branches do not always use to the fullest extent their authority to regulate the bureaucracy, even though they wish to retain their power to do so. The courts, for example, have exercised considerable self-restraint in their review of administrative decisions. They are not willing to use all their power over the bureaucracy. Similarly, both Congress and the president will often limit their dealings with the administrative branch for political and practical reasons.

In the final analysis, we are left with a bureaucratic system that has been fragmented by the Constitution, and in which administrative discretion is inevitable. The bureaucracy reflects the general fragmentation of our political system. It is often the battleground for the three branches of government, and for outside pressure groups which seek to control it for their own purposes.

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Part Three/Classic Statement

"Bureaucracy" from Essays in Sociology, by Max Weber¹

Introduction

While Weber's essay on bureaucracy certainly is not directed exclusively at America or American government, it does deal with the way in which both governments and all large private enterprises in the modern world organize themselves and operate. It is thus relevant not only to our study of the executive power of government but to the other branches, to the political parties, to privately incorporated businesses, and indeed to much of the human environment in which we live our lives in modern times.

Weber proceeds by comparing and contrasting how the major activities of human life were organized in traditional society and how they are organized in our own times—"gemeinschaft" and "gesellschaft," in his terminology. Face-to-face interactions based on personal loyalties give way to large, impersonal organizations run by abstract rules and loyalty to the organization itself—whether private or public.

As you work your way through this section, ask yourself at how many points in your own life you come into contact with bureaucracy as Weber portrays it.

Characteristics of Bureaucracy

Modern officialdom functions in the following specific manner:

1. There is the principle of fixed and official jurisdictional areas, which are generally ordered by rules, that is, by laws or administrative regulations.
 1. The regular activities required for the purposes of the bureaucratically governed structure and distributed in a fixed way as official duties.
 2. The authority to give the commands required for the discharge of these duties is distributed in a stable way and is strictly delimited by rules concerning the coercive means, physical, sacerdotal, or otherwise, which may be placed at the disposal of officials.
 3. Methodical provision is made for the regular and continuous fulfillment of these duties and for the execution of the corresponding rights; only persons who have the generally regulated qualifications to serve are employed.

In public and lawful government these three elements constitute 'bureaucratic authority.' In private economic domination, they constitute bureaucratic 'management.' Bureaucracy, thus understood, is fully developed in political and ecclesiastical communities only in

¹ Max Weber, a German scholar, is widely referred to as the father of sociology, yet his writings cover a variety of different fields and have been influential in many of them—political science being no exception. His essay on bureaucracy, from which this selection is taken, comes from *Max Weber: Essays in Sociology*, edited and translated by H. H. Gerth and C. Wright Mills (New York: Oxford University Press, 1946).

the modern state, and, in the private economy, only in the most advanced institutions of capitalism. Permanent and public office authority, with fixed jurisdiction, is not the historical rule but rather the exception. This is so even in large political structures such as the ancient Orient, the Germanic and Mongolian empires of conquest, or of many feudal structures of state. In all these cases, the ruler executes the most important measures through personal trustees, table-companions, or court-servants. Their commissions and authority are not precisely delimited and are temporarily called into being for each case.

II. The principles of office hierarchy and of levels of graded authority mean a firmly ordered system of super- and subordination in which there is a supervision of the lower offices by the higher ones. Such a system offers the governed the possibility of appealing the decision of a lower office to its higher authority, in a definitely regulated manner. With the full development of the bureaucratic type, the office hierarchy is monocratically organized. The principle of hierarchical office authority is found in all bureaucratic structures: in state and ecclesiastical structures as well as in large party organizations and private enterprises. It does not matter for the character of bureaucracy whether its authority is called 'private' or 'public.'

When the principle of jurisdictional 'competency' is fully carried through, hierarchical subordination—at least in public office—does not mean that the 'higher' authority is simply authorized to take over the business of the 'lower.' Indeed, the opposite is the rule. Once established and having fulfilled its task, an office tends to continue in existence and be held by another incumbent.

III. The management of the modern office is based upon written documents ('the files'), which are preserved in their original or draught form. There is, therefore, a staff of subaltern officials and scribes of all sorts. The body of officials actively engaged in a 'public' office, along with the respective apparatus of material implements and the files, make up a 'bureau.' In private enterprise, 'the bureau' is often called 'the office.'

In principle, the modern organization of the civil service separates the bureau from the private domicile of the official, and, in general, bureaucracy segregates official activity as something distinct from the sphere of private life. Public monies and equipment are divorced from the private property of the official. This condition is everywhere the product of a long development. Nowadays, it is found in public as well as in private enterprises; in the latter, the principle extends even to the leading entrepreneur. In principle, the executive office is separated from the household, business from private correspondence, and business assets from private fortunes. The more consistently the modern type of business management has been carried through the more are these separations the case. The beginnings of this process are to be found as early as the Middle Ages.

It is the peculiarity of the modern entrepreneur that he conducts himself as the 'first official' of his enterprise, in the very same way in which the ruler of a specifically modern bureaucratic state spoke of himself as 'the first servant' of the state [Frederick II of Prussia]. The idea that the bureau activities of the state are intrinsically different in character from the management of private economic offices is a continental European notion and, by way of contrast, is totally foreign to the American way.

IV. Office management, at least all specialized office management—and such management is distinctly modern—usually presupposes thorough and expert training. This increasingly holds for the modern executive and employee of private enterprises, in the same manner as it holds for the state official.

V. When the office is fully developed, official activity demands the full working capacity of the official, irrespective of the fact that his obligatory time in the bureau may be firmly delimited. In the normal case, this is only the product of a long development, in the public as well as in the private office. Formerly, in all cases, the normal state of affairs was reversed: official business was discharged as a secondary activity.

VI. The management of the office follows general rules, which are more or less stable; more or less exhaustive, and which can be learned. Knowledge of these rules represents a special technical learning which the officials possess. It involves jurisprudence, or administrative or business management.

The reduction of modern office management to rules is deeply embedded in its very nature. The theory of modern public administration, for instance, assumes that the authority

to order certain matters by decree—which has been legally granted to public authorities—does not entitle the bureau to regulate the matter by commands given for each case, but only to regulate the matter abstractly. This stands in extreme contrast to the regulation of all relationships through individual privileges and bestowals of favor, which is absolutely dominant in patrimonialism, at least in so far as such relationships are not fixed by sacred tradition. . . .

The Leveling of Social Differences

Bureaucratic organization has usually come into power on the basis of a leveling of economic and social differences. This leveling has been at least relative, and has concerned the significance of social and economic differences for the assumption of administrative functions.

Bureaucracy inevitably accompanies modern *mass democracy* in contrast to the democratic self-government of small homogeneous units. This results from the characteristic principle of bureaucracy: the abstract regularity of the execution of authority, which is a result of the demand for 'equality before the law' in the personal and functional sense—hence, of the horror of 'privilege,' and the principled rejection of doing business 'from case to case.' Such regularity also follows from the social preconditions of the origin of bureaucracies. The non-bureaucratic administration of any large social structure rests in some way upon the fact that existing social, material, or honorific preferences and ranks are connected with administrative functions and duties. This usually means that a direct or indirect economic exploitation or a 'social' exploitation of position, which every sort of administrative activity gives to its bearers, is equivalent to the assumption of administrative functions.

Bureaucratization and democratization within the administration of the state therefore signify and increase the cash expenditures of the public treasury. And this is the case in spite of the fact that bureaucratic administration is usually more 'economical' in character than other forms of administration. Until recent times—at least from the point of view of the treasury—the cheapest way of satisfying the need for administration was to leave almost the entire local administration and lower judicature to the landlords of Eastern Prussia. The same fact applies to the administration of sheriffs in England. Mass democracy makes a clean sweep of the feudal, patrimonial, and—at least in intent—the plutocratic privileges in administration. Unavoidably it puts paid professional labor in place of the historically inherited avocational administration by notables.

This not only applies to structures of the state. For it is no accident that in their own organizations, the democratic mass parties have completely broken with traditional notable rule based upon personal relationships and personal esteem. Yet such personal structures frequently continue among the old conservative as well as the old liberal parties. Democratic mass parties are bureaucratically organized under the leadership of party officials, professional party and trade union secretaries, et cetera. In Germany, for instance, this has happened in the Social Democratic party and in the agrarian mass-movement; and in England, for the first time, in the caucus democracy of Gladstone-Chamberlain, which was originally organized in Birmingham and since the 1870's has spread. In the United States, both parties since Jackson's administration have developed bureaucratically. In France, however, attempts to organize disciplined political parties on the basis of an election system that would compel bureaucratic organization have repeatedly failed. The resistance of local circles of notables against the ultimately unavoidable bureaucratization of the parties, which would encompass the entire country and break their influence, could not be overcome. Every advance of the simple election techniques, for instance the system of proportional elections, which calculates with figures, means a strict and interlocal bureaucratic organization of the parties and therewith an increasing domination of party bureaucracy and discipline, as well as the elimination of the local circles of notables—at least this holds for great states.

The progress of bureaucratization in the state administration itself is a parallel phenomenon of democracy, as is quite obvious in France, North America, and now in England. Of course one must always remember that the term 'democratization' can be misleading. The *demos* itself, in the sense of an inarticulate mass, never 'governs' larger associations;

rather, it is governed, and its existence only changes the way in which the executive leaders are selected and the measure of influence which the *demos*, or better, which social circle from its midst are able to exert upon the content and the direction of administrative activities by supplementing what is called 'public opinion.' 'Democratization,' in the sense here intended, does not necessarily mean an increasingly active share of the governed in the authority of the social structure. This may be a result of democratization, but it is not necessarily the case.

We must expressly recall at this point that the political concept of democracy, deduced from the 'equal rights' of the governed, includes these postulates: (1) prevention of the development of a closed status group of officials in the interest of a universal accessibility of office, and (2) minimization of the authority of officialdom in the interest of expanding the sphere of influence of 'public opinion' as far as practicable. Hence, wherever possible, political democracy strives to shorten the term of office by election and recall and by not binding the candidate to a special expertness. Thereby democracy inevitably comes into conflict with the bureaucratic tendencies which, by its fight against notable rule, democracy has produced. The generally loose term 'democratization' cannot be used here, in so far as it is understood to mean the minimization of the civil servants' ruling power in favor of the greatest possible 'direct' rule of the *demos*, which in practice means the respective party leaders of the *demos*. The most decisive thing here—indeed it is rather exclusively so—is the *leveling of the governed* in opposition to the ruling and bureaucratically articulated group, which in its turn may occupy a quite autocratic position, both in fact and in form. . . .

The Permanent Character of the Bureaucratic Machine

Once it is fully established, bureaucracy is among those social structures which are the hardest to destroy. Bureaucracy is *the* means of carrying 'community action' over into rationally ordered 'societal action.' Therefore, as an instrument for 'societalizing' relations of power, bureaucracy has been and is a power instrument of the first order—for the one who controls the bureaucratic apparatus.

Under otherwise equal conditions, a 'societal action,' which is methodically ordered and led, is superior to every resistance of 'mass' or even of 'communal action.' And where the bureaucratization of administration has been completely carried through, a form of power relation is established that is practically unshatterable.

The individual bureaucrat cannot squirm out of the apparatus in which he is harnessed. In contrast to the honorific or avocational 'notable,' the professional bureaucrat is chained to his activity by his entire material and ideal existence. In the great majority of cases, he is only a single cog in an ever-moving mechanism which prescribes to him an essentially fixed route of march. The official is entrusted with specialized tasks and normally the mechanism cannot be put into motion or arrested by him, but only from the very top. The individual bureaucrat is thus forged to the community of all the functionaries who are integrated into the mechanism. They have a common interest in seeing that the mechanism continues its functions and that the societally exercised authority carries on.

The ruled, for their part, cannot dispense with or replace the bureaucratic apparatus of authority once it exists. For this bureaucracy rests upon expert training, a functional specialization of work, and an attitude set for habitual and virtuoso-like mastery of single yet methodically integrated functions. If the official stops working, or if his work is forcefully interrupted, chaos results, and it is difficult to improvise replacements from among the governed who are fit to master such chaos. This holds for public administration as well as for private economic management. More and more the material fate of the masses depends upon the steady and correct functioning of the increasingly bureaucratic organizations of private capitalism. The idea of eliminating these organizations becomes more and more utopian.

The discipline of officialdom refers to the attitude-set of the official for precise obedience within his *habitual* activity, in public as well as in private organizations. This discipline increasingly becomes the basis of all order, however great the practical importance of ad-

ministration on the basis of the filed documents may be. The naive idea of Bakuninism of destroying the basis of 'acquired rights' and 'domination' by destroying public documents overlooks the settled orientation of *man* for keeping to the habitual rules and regulations that continue to exist independently of the documents. Every reorganization of beaten or dissolved troops, as well as the restoration of administrative orders destroyed by revolt, panic, or other catastrophes, is realized by appealing to the trained orientation of obedient compliance to such orders. Such compliance has been conditioned into the officials, on the one hand, and, on the other hand, into the governed. If such an appeal is successful it brings, as it were, the disturbed mechanism into gear again.

The objective indispensability of the once-existing apparatus, with its peculiar, 'impersonal' character, means that the mechanism—in contrast to feudal orders based upon personal piety—is easily made to work for anybody who knows how to gain control over it. A rationally ordered system of officials continues to function smoothly after the enemy has occupied the area; he merely needs to change the top officials. This body of officials continues to operate because it is to the vital interest of everyone concerned, including above all the enemy.

During the course of his long years in power, Bismarck brought his ministerial colleagues into unconditional bureaucratic dependence by eliminating all independent statesmen. Upon his retirement, he saw to his surprise that they continued to manage their offices unconcerned and undismayed, as if he had not been the master mind and creator of these creatures, but rather as if some single figure had been exchanged for some other figure in the bureaucratic machine. With all the changes of masters in France since the time of the First Empire, the power machine has remained essentially the same. Such a machine makes 'revolution,' in the sense of the forceful creation of entirely new formations of authority, technically more and more impossible, especially when the apparatus controls the modern means of communication (telegraph, et cetera) and also by virtue of its internal rationalized structure. In classic fashion, France has demonstrated how this process has substituted *coups d'état* for 'revolutions': all successful transformations in France have amounted to *coups d'état*.

Questions for Understanding and Discussion

1. What are the key characteristics of modern officialdom, and what terms are commonly used to designate the governmental and corporate varieties of bureaucratic authority?
2. In what country, according to Weber, is it accepted that the bureaucratic activities of the state are essentially similar to those of the private economy?
3. How does Weber insist that the term "democratization" should be used, and what is the effect of democratization in this sense?
4. What relationship does he say exists between democratization and bureaucracy?
5. Why, according to Weber, does bureaucracy tend to become permanent, and what does this do to the prospects for social or political revolution?

❖❖ The Political Roots and Consequences of Bureaucracy

With the exception of those executive departments that all governments need, such as State, Treasury, and Defense, *private-sector* political demands have led to the creation of American bureaucracy. In response to those demands, Congress has over the years created more and more executive departments and agencies to solve economic, political, and social problems. It is important to realize that the bureaucracy is not, as many of its critics have suggested, a conspiracy by government officials to increase their power. The following selection traces the rise of the administrative state and particularly notes how political pluralism has affected the character of the bureaucracy by dividing it into clientele sectors.

47

James Q. Wilson

THE RISE OF THE BUREAUCRATIC STATE

During its first 150 years, the American republic was not thought to have "bureaucracy," and thus it would have been meaningless to refer to the "problems" of a "bureaucratic state." There were, of course, appointed civilian officials: Though only about 3,000 at the end of the Federalist period, there were about 95,000 by the time Grover Cleveland assumed office in 1881, and nearly half a million by 1925. Some aspects of these numerous officials were regarded as problems—notably, the standard by which they were appointed and the political loyalties to which they were held—but these were thought to be matters of proper character and good management. The great political and constitutional struggles were not over the power of the administrative apparatus, but over the power of the President, of Congress, and of the states.

The Founding Fathers had little to say about the nature or function of the executive branch of the new government. The Constitution is virtually silent on the subject and the debates in the Constitutional Convention are almost devoid of reference to an administrative apparatus. This reflected no lack of concern about the matter, however. Indeed, it was in part because of the Founders' depressing

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experience with chaotic and inefficient management under the Continental Congress and the Articles of Confederation that they had assembled in Philadelphia. Management by committees composed of part-time amateurs had cost the colonies dearly in the War of Independence and few, if any, of the Founders wished to return to that system. The argument was only over how the heads of the necessary departments of government were to be selected, and whether these heads should be wholly subordinate to the President or whether instead they should form some sort of council that would advise the President and perhaps share in his authority. In the end, the Founders left it up to Congress to decide the matter.

There was no dispute in Congress that there should be executive departments, headed by single appointed officials, and, of course, the Constitution specified that these would be appointed by the President with the advice and consent of the Senate. The only issue was how such officials might be removed. After prolonged debate and by the narrowest of majorities, Congress agreed that the President should have the sole right of removal, thus confirming that the infant administrative system would be wholly subordinate—in law at least—to the President. Had not Vice-President John Adams, presiding over a Senate equally divided on the issue, cast the deciding vote in favor of presidential removal, the administrative departments might conceivably have become legal dependencies of the legislature, with incalculable consequences for the development of the embryonic government.

THE "BUREAUCRACY PROBLEM"

The original departments were small and had limited duties. The State Department, the first to be created, had but nine employees in addition to the Secretary. The War Department did not reach 80 civilian employees until 1801; it commanded only a few thousand soldiers. Only the Treasury Department had substantial powers—it collected taxes, managed the public debt, ran the national bank, conducted land surveys, and purchased military supplies. Because of this, Congress gave the closest scrutiny to its structure and its activities.

The number of administrative agencies and employees grew slowly but steadily during the 19th and early 20th centuries and then increased explosively on the occasion of World War I, the Depression, and World War II. It is difficult to say at what point in this process the administrative system became a distinct locus of power or an independent source of political initiatives and problems. What is clear is that the emphasis on the sheer size of the administrative establishment—conventional in many treatments of the subject—is misleading.

The government can spend vast sums of money—wisely or unwisely—without creating that set of conditions we ordinarily associate with the bureaucratic state. For example, there could be massive transfer payments made under government auspices from person to person or from state to state, all managed by a comparatively small staff of officials and a few large computers. In 1971, the federal

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government paid out \$54 billion under various social insurance programs, yet the Social Security Administration employs only 73,000 persons, many of whom perform purely routine jobs.

And though it may be harder to believe, the government could in principle employ an army of civilian personnel without giving rise to those organizational patterns that we call bureaucratic. Suppose, for instance, that we as a nation should decide to have in the public schools at least one teacher for every two students. This would require a vast increase in the number of teachers and schoolrooms, but almost all of the persons added would be performing more or less identical tasks, and they could be organized into very small units (e.g., neighborhood schools). Though there would be significant overhead costs, most citizens would not be aware of any increase in the "bureaucratic" aspects of education—indeed, owing to the much greater time each teacher would have to devote to each pupil and his or her parents, the citizenry might well conclude that there actually had been a substantial reduction in the amount of "bureaucracy."

To the reader predisposed to believe that we have a "bureaucracy problem," these hypothetical cases may seem farfetched. Max Weber, after all, warned us that in capitalist and socialist societies alike, bureaucracy was likely to acquire an "overtowering" power position. Conservatives have always feared bureaucracy, save perhaps the police. Humane socialists have frequently been embarrassed by their inability to reconcile a desire for public control of the economy with the suspicion that a public bureaucracy may be as immune to democratic control as a private one. Liberals have equivocated, either dismissing any concern for bureaucracy as reactionary quibbling about social progress or embracing that concern when obviously nonreactionary persons (welfare recipients, for example) express a view toward the Department of Health and Human Services indistinguishable from the view businessmen take of the Internal Revenue Service.

POLITICAL AUTHORITY

There are at least three ways in which political power may be gathered undesirably into bureaucratic hands: by the growth of an administrative apparatus so large as to be immune from popular control, by placing power over a governmental bureaucracy of any size in private rather than public hands, or by vesting discretionary authority in the hands of a public agency so that the exercise of that power is not responsive to the public good. These are not the only problems that arise because of bureaucratic organization. From the point of view of their members, bureaucracies are sometimes uncaring, ponderous, or unfair; from the point of view of their political superiors, they are sometimes unimaginative or inefficient; from the point of view of their clients, they are sometimes slow or unjust. No single account can possibly treat of all that is problematic in bureaucracy; even the part I discuss here—the extent to which political authority has been transferred undesirably to an unaccountable administrative realm—is itself too large for a single essay. But it

is, if not the most important problem, then surely the one that would most have troubled our Revolutionary leaders, especially those that went on to produce the Constitution. It was, after all, the question of power that chiefly concerned them, both in redefining our relationship with England and in finding a new basis for political authority in the Colonies.

To some, following in the tradition of [Max] Weber, bureaucracy is the inevitable consequence and perhaps necessary concomitant of modernity. A money economy, the division of labor, and the evolution of legal-rational norms to justify organizational authority require the efficient adaptation of means to ends and a high degree of predictability in the behavior of rulers. To this, Georg Simmel added the view that organizations tend to acquire the characteristics of those institutions with which they are in conflict, so that as government becomes more bureaucratic, private organizations—political parties, trade unions, voluntary associations—will have an additional reason to become bureaucratic as well.

By viewing bureaucracy as an inevitable (or, as some would put it, "functional") aspect of society, we find ourselves attracted to theories that explain the growth of bureaucracy in terms of some inner dynamic to which all agencies respond and which makes all barely governable and scarcely tolerable. Bureaucracies grow, we are told, because of Parkinson's Law: Work and personnel expand to consume the available resources. Bureaucracies behave, we believe, in accord with various other maxims, such as the Peter Principle: In hierarchical organizations, personnel are promoted up to that point at which their incompetence becomes manifest—hence, all important positions are held by incompetents. More elegant, if not essentially different, theories have been propounded by scholars. The tendency of all bureaus to expand is explained by William A. Niskanen by the assumption, derived from the theory of the firm, that "bureaucrats maximize the total budget of their bureau during their tenure"—hence, "all bureaus are too large." What keeps them from being not merely too large but all-consuming is that fact that a bureau must deliver to some degree on its promised output, and if it consistently underdelivers, its budget will be cut by unhappy legislators. But since measuring the output of a bureau is often difficult—indeed, even *conceptualizing* the output of the State Department is mind-boggling—the bureau has a great deal of freedom within which to seek the largest possible budget.

Such theories, both the popular and the scholarly, assign little importance to the nature of the tasks an agency performs, the constitutional framework in which it is embedded, or the preferences and attitudes of citizens and legislators. Our approach will be quite different: Different agencies will be examined in historical perspective to discover the kinds of problems—if any, to which their operations give rise, and how those problems were affected—perhaps determined—by the tasks which they were assigned, the political system in which they operated, and the preferences they were required to consult. What follows will be far from a systematic treatment of such matters, and even farther from a rigorous testing of any theory of bureaucratization. Our knowledge of agency history and behavior is too sketchy to permit that.

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BUREAUCRACY AND SIZE

During the first half of the 19th century, the growth in the size of the federal bureaucracy can be explained, not by the assumption of new tasks by the government or by the imperialistic designs of the managers of existing tasks, but by the addition to existing bureaus of personnel performing essentially routine, repetitive tasks for which the public demand was great and unavoidable. The principal problem facing a bureaucracy thus enlarged was how best to coordinate its activities toward given and noncontroversial ends.

The increase in the size of the executive branch of the federal government at this time was almost entirely the result of the increase in the size of the Post Office. From 1816 to 1861, federal civilian employment in the executive branch increased nearly eightfold (from 4,837 to 36,672), but 86 percent of this growth was the result of additions to the postal service. The Post Office Department was expanding as population and commerce expanded. By 1869 there were 27,000 post offices scattered around the nation; by 1901, nearly 77,000. In New York alone, by 1894 there were nearly 3,000 postal employees, the same number required to run the entire federal government at the beginning of that century.

The organizational shape of the Post Office was more or less fixed in the administration of Andrew Jackson. The Postmaster General, almost always appointed because of his partisan position, was aided by three (later four) assistant postmaster generals dealing with appointments, mail-carrying contracts, operations, and finance. There is no reason in theory why such an organization could not deliver the mails efficiently and honestly: The task is routine, its performance is measurable, and its value is monitored by millions of customers. Yet the Post Office, from the earliest years of the 19th century, was an organization marred by inefficiency and corruption. The reason is often thought to be found in the making of political appointments to the Post Office. "Political hacks," so the theory goes, would inevitably combine dishonesty and incompetence to the disservice of the nation; thus, by cleansing the department of such persons these difficulties could be avoided. Indeed, some have argued that it was the advent of the "spoils system" under Jackson that contributed to the later inefficiencies of the public bureaucracy.

The opposite is more nearly the case. The Jacksonians did not seek to make the administrative apparatus a mere tool of the Democratic party advantage, but to purify that apparatus not only of what they took to be Federalist subversion but also of personal decadence. The government was becoming not just large, but lax. Integrity and diligence were absent, not merely from government, but from social institutions generally. The Jacksonians were in many cases concerned about the decline in what the Founders had called "republican virtue," but what their successors were more likely to call simplicity and decency. As Matthew Crenson has recently observed in his book *The Federal Machine*, Jacksonian administrators wanted to "guarantee the good behavior of civil servants" as well as to cope with bigness, and to do this they sought both to place their own followers in office and—what is more important—to create a system of depersonalized, specialized

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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incentive to find the most efficient means to manage its services; being a government monopoly, it was not free to adopt such means even when found—communities, Congressmen, and special-interest groups saw to that.

THE MILITARY ESTABLISHMENT

Not all large bureaucracies grow in response to demands for service. The Department of Defense, since 1941 the largest employer of federal civilian officials, has become, as the governmental keystone of the "military-industrial complex," the very archetype of an administrative entity that is thought to be so vast and so well-entrenched that it can virtually ignore the political branches of government, growing and even acting on the basis of its own inner imperatives. In fact, until recently the military services were a major economic and political force only during wartime. In the late 18th and early 19th centuries, America was a neutral nation with only a tiny standing army. During the Civil War, over two million men served on the Union side alone and the War Department expanded enormously, but demobilization after the war was virtually complete, except for a small Indian-fighting force. Its peacetime authorized strength was only 25,000 enlisted men and 2,161 officers, and its actual strength for the rest of the century was often less. Congress authorized the purchase and installation of over 2,000 coastal defense guns, but barely 6 percent of these were put in place.

When war with Spain broke out, the army was almost totally unprepared. Over 300,000 men eventually served in that brief conflict, and though almost all were again demobilized, the War Department under Elihu Root was reorganized and put on a more professional basis with a greater capacity for unified central control. Since the United States had become an imperial power with important possessions in the Caribbean and the Far East, the need for a larger military establishment was clear; even so, the average size of the army until World War I was only about 250,000.

The First World War again witnessed a vast mobilization—nearly five million men in all—and again an almost complete demobilization after the war. The Second World War involved over 16 million military personnel. The demobilization that followed was less complete than after previous engagements owing to the development of the Cold War, but it was substantial nonetheless—the Army fell in size from over eight million men to only half a million. Military spending declined from \$91 billion in the first quarter of 1945 to only slightly more than \$10 billion in the second quarter of 1947. For the next three years it remained relatively flat. It began to rise rapidly in 1950, partly to finance our involvement in the Korean conflict and partly to begin the construction of a military force that could counterbalance the Soviet Union, especially in Europe.

In sum, from the Revolutionary War to 1950, a period of over 170 years, the size and deployment of the military establishment in this country was governed entirely by decisions made by political leaders on political grounds. The military did not expand autonomously, a large standing army did not find wars to fight, and its officers did not play a significant role except in wartime and occasionally as

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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The principal source of growth in the military budget in recent years has arisen from Congressionally determined pay provisions. The legislature has voted for more or less automatic pay increases for military personnel with the result that the military budget has gone up even when the number of personnel in the military establishment has gone down.

The bureaucratic problems associated with the military establishment arise mostly from its internal management and are functions of its complexity, the uncertainty surrounding its future deployment, conflicts among its constituent services over mission and role, and the need to purchase expensive equipment without the benefit of a market economy that can control costs. Complexity, uncertainty, rivalry, and monopsony are inherent (and frustrating) aspects of the military as a bureaucracy, but they are very different problems from those typically associated with the phrase "the military-industrial complex." The size and budget of the military are matters wholly within the power of civilian authorities to decide—indeed, the military budget contains the largest discretionary items in the entire federal budget.

If the Founding Fathers were to return to review their handiwork, they would no doubt be staggered by the size of both the Post Office and the Defense Department, and in the case of the latter, be worried about the implications of our commitments to various foreign powers. They surely would be amazed at the technological accomplishments but depressed by the cost and inefficiency of both departments; but they would not, I suspect, think that our Constitutional arrangements for managing these enterprises have proved defective or that there had occurred, as a result of the creation of these vast bureaus, an important shift in the locus of political authority.

They would observe that there have continued to operate strong localistic pressures in both systems—offices are operated, often uneconomically, in some small communities because small communities have influential Congressmen; military bases are maintained in many states because states have powerful Senators. But a national government with localistic biases is precisely the system they believed they had designed in 1787; and though they surely could not have then imagined the costs of it, they just as surely would have said (Hamilton possibly excepted) that these costs were the defects of the system's virtues.

BUREAUCRACY AND CLIENTELISM

After 1861, the growth in the federal administrative system could no longer be explained primarily by an expansion of the postal service and other traditional bureaus. Though these continued to expand, new departments were added that reflected a new (or at least greater) emphasis on the enlargement of the scope of government. Between 1861 and 1901, over 200,000 civilian employees were added to the federal service, only 52 percent of whom were postal workers. Some of these, of course, staffed a larger military and naval establishment stimulated by the Civil War and the Spanish-American War. By 1901 there were over 44,000 civilian defense employees, mostly workers in government-owned arsenals and shipyards.

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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on a fee basis. In 1900 alone, the Office had to process 477,000 cases. Fraud was rampant as thousands of persons brought false or exaggerated claims; as Leonard D. White was later to write, "pensioners and their attorneys seemed to have been engaged in a gigantic conspiracy to defraud their own government." Though the Office struggled to be honest, Congress was indifferent—or more accurately, complaisant: The GAR was a powerful electoral force and it was ably and lucratively assisted by thousands of private pension attorneys. The pattern of bureaucratic clientelism was set in a way later to become a familiar feature of the governmental landscape—a subsidy was initially provided, because it was either popular or unnoticed, to a group that was powerfully benefited and had few or disorganized opponents; the beneficiaries were organized to supervise the administration and ensure the funding of the program; the law authorizing the program, first passed because it seemed the right thing to do, was left intact or even expanded because politically it became the only thing to do. A benefit once bestowed cannot easily be withdrawn.

PUBLIC POWER AND PRIVATE INTERESTS

It was at the state level, however, that client-oriented bureaucracies proliferated in the 19th century. Chief among these were the occupational licensing agencies. At the time of Independence, professions and occupations either could be freely entered (in which case the consumer had to judge the quality of service for himself) or entry was informally controlled by the existing members of the profession or occupation by personal tutelage and the management of reputations. The later part of the 19th century, however, witnessed the increased use of law and bureaucracy to control entry into a line of work. The state court generally allowed this on the grounds that it was a proper exercise of the "police power" of the state, but as Morton Keller has observed, "when state courts approved the licensing of barbers and blacksmiths, but not of horseshoers, it was evident that the principles governing certification were—to put it charitably—elusive ones." By 1952, there were more than 75 different occupations in the United States for which one needed a license to practice, and the awarding of these licenses was typically in the hands of persons already in the occupation, who could act under color of law. These licensing boards—for plumbers, dry cleaners, beauticians, attorneys, undertakers, and the like—frequently have been criticized as particularly flagrant examples of the excesses of a bureaucratic state. But the problems they create—of restricted entry, higher prices, and lengthy and complex initiation procedures—are not primarily the result of some bureaucratic pathology but of the possession of public power by persons who use it for private purposes. Or more accurately, they are the result of using public power in ways that benefited those in the profession in the sincere but unsubstantiated conviction that doing so would benefit the public generally.

The New Deal was perhaps the high water mark of at least the theory of bureaucratic clientelism. Not only did various sectors of society, notably agri-

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. Théodore 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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any substantial amount directly to local governments and though many additional programs of this kind were later added, as late as 1970 less than 12 percent of all federal aid went directly to cities and towns. The second general observation is that the 1960s mark a major watershed in the way in which the purposes of federal aid are determined. Before that time, most grants were for purposes initially defined by states—to build highways and airports, to fund unemployment insurance programs, and the like. Beginning in the 1960s, the federal government, at the initiative of the President and his advisors, increasingly came to define the purposes of these grants—not necessarily over the objection of the states, but often without any initiative from them. Federal money was to be spent on poverty, ecology, planning, and other “national” goals for which, until the laws were passed, there were few, if any, well-organized and influential constituencies. Whereas federal money was once spent in response to the claims of distinct and organized clients, public or private, in the contemporary period federal money has increasingly been spent in ways that have created such clients.

And once rewarded or created, they are rarely penalized or abolished. What David Stockman has called the “social pork barrel” grows more or less steadily. Between 1950 and 1970, the number of farms declined from about 5.6 million to fewer than three million, but government payments to farmers rose about \$283 million to \$3.2 billion. In the public sector, even controversial programs have grown. Urban renewal programs have been sharply criticized, but federal support for the program rose from \$281 million in 1965 to about \$1 billion in 1972. Public housing has been enmeshed in controversy, but federal support for it rose from \$206 million in 1965 to \$845 million in 1972. Federal financial support for local poverty programs under the Office of Economic Opportunity has actually declined in recent years, but this cut is almost unique and it required the steadfast and deliberate attention of a determined President who was bitterly assailed both in the Congress and in the courts.

SELF-PERPETUATING AGENCIES

If the Founding Fathers were to return to examine bureaucratic clientelism, they would, I suspect, be deeply discouraged. James Madison clearly foresaw that American society would be “broken into many parts, interests and classes of citizens” and that this “multiplicity of interests” would help ensure against “the tyranny of the majority,” especially in a federal regime with separate branches of government. Positive action would require a “coalition of a majority”; in the process of forming this coalition, the rights of all would be protected, not merely by self-interested bargains, but because in a free society such a coalition “could seldom take place on any other principles than those of justice and the general good.” To those who wrongly believed that Madison thought of men as acting only out of base motives, the phrase is instructive: Persuading men who disagree to compromise their differences can rarely be achieved solely by the parceling out of relative advantage; the belief is also required that what is being agreed to is right, proper, and defensible before public opinion.

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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to protect themselves from competition. The argument has been given its best-known formulation by Gabriel Kolko. Long-haul railroads, facing ruinous price wars and powerless to resist the demands of big shippers for rebates, tried to create voluntary cartels or "pools" that would keep rates high. These pools always collapsed, however, when one railroad or another would cut rates in order to get more business. To prevent this, the railroads turned to the federal government seeking a law to compel what persuasion could not induce. But the genesis of the act was in fact more complex: Shippers wanted protection from high prices charged by railroads that operated monopolistic services in certain communities; many other shippers served by competing lines wanted no legal barriers to prevent competition from driving prices down as far as possible; some railroads wanted regulation to ease competition, while others feared regulation. And the law as finally passed in fact made "pooling" (or cartels to keep prices up) illegal.

The true significance of the Commerce Act is not that it allowed public power to be used to make secure private wealth but that it created a federal commission with broadly delegated powers that would have to reconcile conflicting goals (the desire for higher or lower prices) in a political environment characterized by a struggle among organized interests and rapidly changing technology. In short, the Commerce Act brought forth a new dimension to the problem of bureaucracy: not those problems, as with the Post Office, that resulted from size and political constraints, but those that were caused by the need to make binding choices without any clear standards for choice.

The ICC was not, of course, the first federal agency with substantial discretionary powers over important matters. The Office of Indian Affairs, for a while in the War Department but after 1849 in the Interior Department, coped for the better part of a century with the Indian problem equipped with no clear policy, beset on all sides by passionate and opposing arguments, and infected with a level of fraud and corruption that seemed impossible to eliminate. There were many causes of the problem, but at root was the fact that the government was determined to control the Indians but could not decide toward what end that control should be exercised (extermination, relocation, and assimilation all had their advocates) and, to the extent the goal was assimilation, could find no method by which to achieve it. By the end of the century, a policy of relocation had been adopted *de facto* and the worse abuses of the Indian service had been eliminated—if not by administrative skill, then by the exhaustion of things in Indian possession worth stealing. By the turn of the century, the management of the Indian question had become more or less routine administration of Indian schools and the allocation of reservation land among Indian claimants.

REGULATION VERSUS PROMOTION

It was the ICC and agencies and commissions for which it was the precedent that became the principal example of federal discretionary authority. It is important, however, to be clear about just what this precedent was. Not everything we now call a regulatory agency was in fact intended to be one. The ICC, the Antitrust

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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members of which may not expect to be substantially or directly benefited by the law. Without special political circumstances—a crisis, a scandal, extraordinary majorities, an especially vigorous President, the support of media—the normal barriers to legislative innovation (i.e., to the formation of a “coalition of the majority”) may prove insuperable.

Stated another way, the initiation of regulatory programs tends to take the form of majoritarian rather than coalition politics. The Madisonian system is placed in temporary suspense: Exceptional majorities propelled by a public mood and led by a skillful policy entrepreneur take action that might not be possible under ordinary circumstances (closely divided parties, legislative-executive checks and balances, popular indifference). The consequence of majoritarian politics for the administration of regulatory bureaucracies is great. To initiate and sustain the necessary legislative mood, strong, moralistic, and sometimes ideological appeals are necessary—leading, in turn, to the granting of broad mandates of power to the new agency (a modest delegation of authority would obviously be inadequate if the problem to be resolved is of crisis proportions) or to the specifying of exacting standards to be enforced (e.g., no carcinogenic products may be sold; 95 percent of the pollutants must be eliminated), or to both.

Either in applying a vague but broad rule (“the public interest, convenience, and necessity”) or in enforcing a clear and strict standard, the regulatory agency will tend to broaden the range and domain of its authority, to lag behind technological and economic change, to resist deregulation, to stimulate corruption, and to contribute to the bureaucratization of private institutions.

It will broaden its regulatory reach out of a variety of motives: to satisfy the demand of the regulated enterprise that it be protected from competition, to make effective the initial regulatory action by attending to the unanticipated side effects of that action, to discover or stretch the meaning of vague statutory language, or to respond to new constituencies induced by the existence of the agency to convert what were once private demands into public pressures. For example, the Civil Aeronautics Board, out of a desire both to promote aviation and to protect the regulated price structure of the industry, will resist the entry into the industry of new carriers. If a Public Utilities Commission sets rates too low for a certain class of customers, the utility will allow service to those customers to decline in quality, leading in turn to a demand that the Commission also regulate the quality of service. If the Federal Communications Commission cannot decide who should receive a broadcast license by applying the “public interest” standard, it will be powerfully tempted to invest that phrase with whatever preferences the majority of the Commission then entertains, leading in turn to the exercise of control over many more aspects of broadcasting than merely signal interference—all in the name of deciding what the standard of entry shall be. If the Antitrust Division can prosecute conspiracies in restraint of trade, it will attract to itself the complaints of various firms about business practices that are neither conspiratorial nor restraining but merely competitive, and a “vigorous” antitrust lawyer may conclude that these practices warrant prosecution.

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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THE ERA OF CONTRACT

It is far from clear what the Founding Fathers would have thought of all this. They were not doctrinaire exponents of *laissez-faire*, nor were 18th-century governments timid about asserting their powers over the economy. Every imaginable device of fiscal policy was employed by the states after the Revolutionary War. Mother England had, during the mercantilist era, fixed prices and wages, licensed merchants, and granted monopolies and subsidies. (What were the royal grants of American land to immigrant settlers but the greatest of subsidies, sometimes—as in Pennsylvania—almost monopolistically given?) European nations regularly operated state enterprises, controlled trade, and protected industry. But as William D. Grampp has noted, at the Constitutional Convention the Founders considered authorizing only four kinds of economic controls, and they rejected two of them. They agreed to allow the Congress to regulate international and interstate commerce and to give monopoly protection in the form of copyrights and patents. Even Madison's proposal to allow the federal government to charter corporations was rejected. Not one of the 85 *Federalist* papers dealt with economic regulation, indeed, the only reference to commerce was the value to it of a unified nation and a strong navy.

G. Warren Nutter has speculated as to why our Founders were so restrained in equipping the new government with explicit regulatory powers. One reason may have been the impact of Adam Smith's *Wealth of Nations*, published the same year as the Declaration of Independence, and certainly soon familiar to many rebel leaders, notably Hamilton. Smith himself sought to explain the American prosperity before the Revolution by the fact that Britain, through "salutary neglect," had not imposed mercantilist rules on the colonial economy. "Plenty of good land, and liberty to manage their own affairs in their own way" were the "two great causes" of colonial prosperity. As Nutter observes, there was a spirit of individualistic venture among the colonies that found economic expression in the belief that voluntary contracts were the proper organization principle of enterprise.

One consequence of this view was that the courts in many states were heavily burdened with cases testing the provisions of contracts and settling debts under them. In one rural county in Massachusetts the judges heard over 800 civil cases during 1785. As James Willard Hurst has written, the years before 1875 were "above all else, the years of contract in our law."

The era of contract came to an end with the rise of economic organization so large or with consequences so great that contracts were no longer adequate, in the public's view, to adjust corporate behavior to the legitimate expectations of other parties. The courts were slower to accede to this change than were many legislatures, but in time they acceded completely, and the era of administrative regulation was upon us. The Founders, were they to return, would understand the change in the scale and social significance of enterprise, would approve of many of the purposes of regulation, perhaps would approve of the behavior of some of the regulatory bureaus seeking to realize those purposes, but surely would be dismayed at the political cost resulting from having vested vast discretionary

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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independent of both the executive and legislative branches—or in the case of the latter, dependent upon certain committees and independent of others and of the views of the Congress as a whole. A regulatory agency (that is to say, a truly regulatory one and not a clientelist or promotional agency hiding behind a regulatory fig leaf) was, in the typical case, placed formally outside the existing branches of government. Indeed, they were called “independent” or “quasi-judicial” agencies (they might as well have been called “quasi-executive” or “quasi-legislative”) and thus the special status that clientelist bureaus achieved *de facto*, the regulatory ones achieved *de jure*.

It is, of course, inadequate and misleading to criticize these agencies, as has often been done, merely because they raise questions about the problem of sovereignty. The crucial test of their value is their behavior, and that can be judged only by applying economic and welfare criteria to the policies they produce. But if such judgments should prove damning, as increasingly has been the case, then the problem of finding the authority with which to alter or abolish such organizations becomes acute. In this regard the theory of the separation of powers has proved unhelpful.

The separation of powers makes difficult, in ordinary times, the extension of public power over private conduct—as a nation, we came more slowly to the welfare state than almost any European nation, and we still engage in less central planning and operate fewer nationalized industries than other democratic regimes. But we have extended the regulatory sway of our national government as far as or farther than that of most other liberal regimes (our environmental and safety codes are now models for much of Europe), and the bureaus wielding these discretionary powers are, once created, harder to change or redirect than would be the case if authority were more centralized.

The shift of power toward the bureaucracy was not inevitable. It did not result simply from increased specialization, the growth of industry, or the imperialistic designs of the bureaus themselves. Before the second decade of this century, there was no federal bureaucracy wielding substantial discretionary powers. That we have one now is the result of political decisions made by elected representatives. Fifty years ago, the people often wanted more of government than it was willing to provide—it was, in that sense, a republican government in which representatives moderated popular demands. Today, not only does political action follow quickly upon the stimulus of public interest, but government itself creates that stimulus and sometimes acts in advance of it.

All democratic regimes tend to shift resources from the private to the public sector and to enlarge the size of the administrative component of government. The particularistic and localistic nature of American democracy has created a particularistic and client-serving administration. If our bureaucracy often serves special interests and is subject to no central direction, it is because our legislature often serves special interests and is subject to no central leadership. For Congress to complain of what it has created and it maintains is, to be charitable, misleading. Congress could change what it has devised, but there is little reason to suppose it will.

AP GOVT.

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?

"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?

