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Introduction: Parties, Presidential Elections, and Regulatory Choice – A Party System Perspective

> [American political history affords] striking illustration[s] of the strategic position that may be won by minor parties and of their potential influence on the programs of the major parties. . . . Not every minor party can club a major party into acceptance of its policies. To do so the third-party must have its strength concentrated in close states, and the nation-wide contest as a whole must be regarded by party leaders as close. Otherwise, the splinter group carries no threat to the fortunes of either major candidate.
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> V. O. Key[1]

For many Americans of the late nineteenth century and early twentieth century, social anxiety and economic vulnerability were the most tangible fruits of industrial-capitalist modernization. "We are unsettled to the very roots of our being," wrote Walter Lippman in 1914, crystallizing this turmoil and so much more.[2] Several transformations seemed to be taking place at once. The penetration of competitive markets into once remote "island communities" strained social bonds and overturned established ways of life; while laissez-faire, with its cycles of boom and bust, aggravated economic uncertainty and militated against efforts at rational planning. As well, the passage of American capitalism from "proprietary-competitive" to "corporate-administered" stages brought forth indictments against the monopolistic practices of economic Goliaths; while, on a different foot, new forms of social organization and the spread of science and technology reordered basic human relationships.[3]

1. Key, *Politics, Parties and Pressure Groups*, 294–5.
2. Lippman, *Drift and Mastery*. Quoted in Kloppenberg, *Uncertain Victory*, 298.
3. Hays, *The Response to Industrialism*; Wiebe, *The Search for Order; 1877–1920*; Archon, *The Invisible Hand of Planning*; Sklar, *Corporate Reconstruction*.

Such crises occasioned searching critiques of the American political economy. Alternative visions of America's programmatic future, rooted in differences of interest and ideology, were devised and fiercely contested. Populism, progressivism, and socialism challenged the hegemony of nineteenth-century liberalism. In the process, they raised fundamental questions about the legitimacy of the corporation, the rights of labor, and the place of the small producer in the American economic order.[4] In similar fashion, states' rights advocates, defenders of patronage democracy, and champions of bureaucratic expertise squared off over the degree and the character of popular oversight to attend the reorganized political economy: that is, whether collective ends would best be secured by reliance on local units of authority, the perfection of national party government, or the delegation of complex policy decisions to administrative experts.[5] Translated into concrete policy proposals and platform planks, these alternative visions were carried into the stream of national politics, where government leaders, balancing group demands against their own political needs, chose from among the leading contenders. These developmental choices were of profound moment for participants, and they carried with them lasting implications for the future conduct of American economic, social, and political life.

This book examines three episodes in the development of the American regulatory state between the years 1884 and 1936, initiatives undertaken during the Democratic administrations of Grover Cleveland, Woodrow Wilson, and Franklin Roosevelt. The cases examined are the Interstate Commerce Act of 1887, the Federal Trade Commission Act of 1914, and the Public Utility Holding Company Act of 1935. Each has been hailed as a signal achievement in the battle for national business controls that punctuated American politics from the Gilded Age to the New Deal. As well, in each instance the desire of Democratic party leaders to retain control of the presidency was the principal motivation behind the particular regulatory choices made.

In the chapters that follow, I will elaborate a party system perspective on the development of American regulatory institutions, one in which the imperatives of national party competition for the presidency are at the center of regulatory choice. The Democratic party in power confronted a severe policy quandary, one which I have termed the "Downsian

4. Goodwyn, *The Populist Moment*; Ritter, *Goldbugs and Greenbacks*; Mowry, *The Era of Theodore Roosevelt*; Link, *Woodrow Wilson and the Progressive Era, 1912–1917*; Weinstein, *The Decline of Socialism in America, 1912–1925*; Salvatore, *Eugene V. Debs*.
5. Skowronek, *Building a New American State*.

dilemma" – a reference to Anthony Downs's seminal work on two-party competition and the pivotal role of the median voter.[6] In essence, the Democrats faced a difficult choice between their long-term ideological commitments and short-term electoral opportunities, between legislating the deeply held regulatory aspirations of their agrarian party base, or abandoning those goals for the policy preferences of pivotal voting blocs whose support was deemed crucial to the consolidation of party power.

I will argue that coalition-building strategies to amass an electoral college majority imposed strict limits on the range of regulatory alternatives politically acceptable to Democratic party leaders. Such limits, I intend to show, prompted party intervention in the legislative process to secure regulatory outcomes consistent with these coalition-building needs. To be sure, interest-group pressures and the demands of congressional constituencies set parameters on party influence in the policy process. Nonetheless, I conclude that party intervention was largely successful. And while successful intervention did not always result in the perpetuation of Democratic governing power, the national electoral logic that drove policy choice did prove consequential for the trajectory of American regulatory state development. For under the pressures of building a new majority party, an agrarian party with longstanding antistatist and antimonopoly commitments would turn its governing power to the buildup of national administrative power and the consolidation of corporate capitalism.

Studying American Regulatory State Development

The subject of regulation is highly charged. Substantively, regulation redistributes both rights and income between different economic actors: between elements within the business community, between business and labor, and between business and consumers. Symbolically, it is often held to represent the subordination of unbridled capitalism to a democratically defined public good. Because it is laden with such significance, students of American political development have repeatedly sought to map the dynamics of American regulatory state development. Indeed, the intensity of the battle for interpretive supremacy itself suggests that something more is at stake than a simple desire to "get the story right." Should we understand the development of national business controls in the United States as signifying the triumph of "the people" over "the interests?"[7] Or, is it better understood as a victory

6. Downs, *An Economic Theory of Democracy*.
7. E.g., Beard, *The Economic Basis of Politics and Related Writings*, chs. 10–21; Schlesinger, *The Age of Roosevelt*, 3 vols.

for corporate elites in rationalizing market competition?[8] Is the lesson of American regulatory state development that a pluralist democracy "open to all contending interests" is a hopelessly irrational mechanism of regulatory choice?[9] Or, is a more important lesson learned by situating its development within a broader social dynamic of increasing centralization and bureaucratized forms of control?[10] My purpose here is not to array the full range of interpretative schemes that have been brought to bear on this question. Nor do I mean to imply that such schemes by their nature are mutually exclusive. What I want to suggest is that what is at stake in these different historical readings is our understanding of the nature of political influence in the United States, an understanding with implications for the normative significance of American political development.

Analytic Issues: Social Groups, the New Institutionalism, and Party System Variables

For generations, scholars debating these issues sought their answer through the study of relative group power. Of course, analytic frameworks have shifted with time and predilection. In the process, different historical actors have earned analytic pride of place in the unfolding developmental narrative: small producers and large producers, capital and labor, localists and cosmopolitans, industrial core and agrarian periphery, to name just a few.[11] However, whether the focus has been on interest groups proper, broad social classes, or cross-class, multiinterest social movements, the assumption common to each of these frameworks has remained relatively constant: relative group power is a function of the *resource endowments* of the groups involved – fungible wealth, group size, control over information and expertise, social status and elite

8. Kolko, *The Triumph of Conservatism*; Weinstein, *The Corporate Ideal in the Liberal State, 1900–1916*; Radosh, "The Myth of the New Deal"; Sklar, *Corporate Reconstruction*.
9. Skowronek, *Building a New American State*, ch. 5.
10. Berkhoff, "The Organizational Interpretation of American History: A New Synthesis"; Galambos, "The Emerging Organizational Synthesis in Modern American History"; Galambos, "Technology, Political Economy, and Professionalism: Central Themes of the Organizational Synthesis"; Israel, ed. *Building the Organizational Society*; Archon, *The Invisible Hand of Planning*; Chandler, Jr. "The Large Industrial Corporation and the Making of the Modern American Economy."
11. Wiebe, *Businessmen and Reform*; Hays, "Political Parties and the Community-Society Continuum"; Sanders, "Industrial Concentration, Sectional Competition, and Antitrust Politics in America, 1880–1980."

connections, or, more subtly, authority over the private investment function.[12]

More recently, scholars have investigated the effect of political structure on the character of American regulatory state development. Many of these studies emphasize the effect on policy choice of the fragmented structure of the U.S. state, with its multiple points of access and its decentralized, patronage-oriented political parties. Many more have privileged the role of Congress and its particular institutional arrangements (for example, the committee system; the seniority system) in conjunction with the presence of weak congressional parties. Additionally, the bulk of these studies pivot on the centrality to regulatory choice of Congress's geographical basis of representation, a decentralized incentive system in which the policy choices of reelection-minded legislators are tied to the imperatives of local elections.[13]

My party system account of American regulatory state development takes issue with both group and conventional "new institutionalist" accounts. It is at odds with the former over its reliance on relative group endowments as the principal determinant of policy influence. Against this stance, the party system explanation posits that policy influence derives from the *structure of the political environment in which group action is embedded*, a position that at least so far is consistent with "new institutionalist" accounts of regulatory choice. In each of the three cases we will consider, a group's strategic importance to the building or maintenance of a political party's national coalition was a principal determinant of its policy influence. In turn, it was the institutional and structural features of the party system that enabled these "selected" interests to occupy a pivotal position in the coalition-building process: for example, the competitive balance of national party competition and group

12. Kolko, *The Triumph of Conservatism*; Weinstein, *The Corporate Ideal in the Liberal State, 1900–1916*; Radosh, "The Myth of the New Deal"; Sklar, *Corporate Reconstruction;* Sanders, "Industrial Concentration, Sectional Competition, and Antitrust Politics in America, 1880–1980"; Thompson, *The "Spider Web"*; Miliband, *The State in Capitalist Society*; Domhoff, "How the Power Elite Shapes Social Legislation"; Orren, *Corporate Power and Social Change*; Lindblom, *Politics and Markets*.
13. Lowi, "Party, Policy, and Constitution in America"; Skocpol, "Bringing the State Back In"; Skocpol, "Political Responses to Capitalist Crisis"; Skocpol and Finegold, "Explaining New Deal Labor Policy"; Finegold and Skocpol, "State, Party and Industry"; McDonagh, "Representative Democracy and State Building in the Progressive Era"; Fiorina, "Legislative Choice of Regulatory Forms." Fiorina, "Group Concentration and the Delegation of Legislative Authority"; Fiorina, "Legislator Uncertainty, Legislative Control, and the Delegation of Legislative Power"; Gilligan, Marshall, and Weingast, "Regulation and the Theory of Legislative Choice."

location in states privileged by the operation of the electoral college. Put differently, in all three instances, party-system variables were constitutive elements of relative group influence in the politics of regulatory choice, factors wholly separate from the consideration of relative group resource endowments.

Consider briefly an example drawn from outside the time frame of this book: Harry Truman's decision to desegregate the armed forces by executive order in 1948. Needless to say, the issue here was the deregulation of military race relations and not the regulation of interstate economic activity. Neither did it involve party intervention in the legislative process like the cases that comprise this study. Nevertheless, the basic political forces at work were the same, and the case helps to illustrate more concretely the constitutive nature of party-system factors to the determination of relative group influence.[14] In this instance, strategists for President Truman's 1948 reelection effort were concerned that a third party bid by progressive Democrat Henry A. Wallace might attract a sufficient number of liberal Democratic votes to throw the election to Republican Thomas E. Dewey. The Truman team was confident of holding the 216 electoral votes in the southern and western states carried by Franklin Roosevelt in 1944. This left them in need of 50 electoral votes in the doubtful states of the industrial East and Midwest, where it was estimated that Wallace might attract as much as 5 to 10 percent of the Democratic vote. Campaign strategists like Clark Clifford considered the African-American vote to be crucial to winning these states, and they expected the Wallace forces to enter into a bidding war for these votes. The key to holding the African-American vote, they judged, was for Truman to put forth a vigorous program of civil rights. As one student of the Truman presidency put it, "The Truman strategy board feared Wallace's inroads in the big-city precincts, where the Negro vote is decisive, far more than they feared defections in the South. Regardless of the provocations, they reasoned, the South would retain its historic Democratic solidarity."[15] That Truman's campaign strategists were wrong about the southern response is beside the point. From our perspective, what is significant is that Truman chose to disregard the preferences of a large and powerful party constituency (southern whites) in favor of a group clearly less powerful in terms of its relative resource endowments,

14. Of course, the following discussion is meant to be suggestive rather than conclusive. The sources on which this paragraph relies are: Phillips, *The Truman Presidency*; Bernstein, "The Ambiguous Legacy: The Truman Administration and Civil Rights"; Berman, "Civil Rights and Civil Liberties"; Yarnell, *Democrats and Progressives*, ch. 5; Clifford, *Counsel to the President*.
15. Phillips, *The Truman Presidency*, 206.

but, nonetheless, one that had been deemed electorally pivotal (African-Americans). In February 1948, Truman sent a sweeping civil rights message to Congress; and in late July, with the national Democratic convention safely behind him, he issued executive order 9981 deregulating relations between the races in the American armed forces.

As the Truman example indicates, my party system perspective shares basic affinities with the "new institutionalism" in that both approaches insist that political institutions are constitutive elements of group influence. Where my approach parts company is over the "new institutionalism's" typical focus on the policy effects of fragmented institutions and decentralized patronage parties, as well as the causal priority it accords to Congress and its system of elections. Such features, we have learned, create an environment of "competing, narrowly specialized, and weakly disciplined interests,"[16] a setting in which party organizations and party interests hold little sway in the policy-making process. By contrast, the party system perspective spotlights what tentatively might be called the "centripetal" or nationalizing properties of American politics: again, its system of presidential elections and the operation of its national party processes. It also gives causal weight to the strategies and resources of national party leaders to overcome the problems of dispersed political authority afflicting legislative policy deliberations. My conclusions suggest the inadequacy of an image of "party-in-government" in which party leaders are little more than a league of local politicians engaged in the division of patronage, pork, and privilege. As a supplement to this image, I would posit the presence of a party policy logic. Such a logic is not necessarily inconsistent with the patronage orientation of American parties. It merely implies that policy choices sometimes have electoral implications (and, by extension, implications for party control of spoils). Where they did, party leaders had strong political incentives to take sides on policy matters and intervene in the legislative process to secure policy outcomes consistent with national electoral goals.

Two "new institutionalist" accounts of American state development in which political parties and party system dynamics are central are Stephen Skowronek's *Building a New American State* and Theda Skocpol and Kenneth Finegold's work on the origins of the National Labor Relations Act.[17] As well, both studies treat state-building episodes that fall within the period parameters of this book and each shares important commonalities with the party system perspective offered here. Indeed,

16. Skocpol, *Protecting Soldiers and Mothers*, 50. The same point is made in Skocpol, "Bringing the State Back In," 25.
17. Skowronek, *Building a New American State*; Finegold and Skocpol, "State, Party and Industry"; Skocpol and Finegold, "Explaining New Deal Labor Policy."

their broadest theoretical formulations appear to preempt the call made here for a separate party system vantage point on American regulatory state development. For this reason we will consider briefly each of these works for the purpose of differentiating their interpretations of regulatory choice from the one proposed here.

Stephen Skowronek's book is in large part a study of party hegemony over the operations of the nineteenth-century American state and its consequences for the development of modern administrative capacities. As his analysis shows, the building of a new American state posed a direct challenge to the well-being of party organizations dependent on the spoils of office for continued electoral good fortune. Every new island of bureaucratic expertise in the American state came at the expense of party control over valuable resources. Skowronek demonstrates that party system dynamics effectively structured governing party responses to the state-building imperatives of the Gilded Age and the Progressive Era. In the former period, tight party competition constrained parties in power to resist significant departures from existing governmental modes of operation. As a result, institutional solutions were largely "patchwork" affairs. Only after the constraints of national party competition loosened in 1896 were American state-builders able to drive a wedge in party government and effectively reconstitute the governing capacities of the U.S. state.[18]

The Interstate Commerce Act (ICA) will receive detailed consideration in Chapter 2. For now, the point to stress is that Skowronek's study of the legislative origins of the ICA – his only analysis of *regulatory* state development – is significant not for its focus on national party structures, but for its similarity to conventional "new institutionalist" accounts of the policy-making process. Skowronek concentrates on the structure of congressional elections and the character of local party politics, presenting a picture of the legislative process driven by the pressures and uncertainties of a highly competitive and highly provincial district politics. To Skowronek, the ICA is a paradigmatic example of the subversion of public policy by pluralist pressures: A coherent and authoritative governmental response to the demand for national railroad regulation was precluded by the existence of a well-organized and fully mobilized democratic system, a system "open to all contending factions."[19] Thus, in this account, bound to district preferences by the threat of electoral defeat and goaded into action by the Supreme Court's gutting of state-level regulation of interstate commerce, Congress responded to the regulatory demands of diverse geographical constituencies with a discretionary commission and a tangle of vague statutory provisions, often working at cross-purposes, to serve as the commission's guide.

18. Skowronek, *Building a New American State*, ch. 5. 19. Ibid., 131.

When we turn to Theda Skocpol and Kenneth Finegold's work on the Wagner Act, we appear to find an even closer approximation to the party-system logic advanced here. In their analysis, party members pursue policy as well as patronage, and party competition and party alignments are central to the process of policy selection. Indeed, the authors effectively steer a parallel course to the approach offered here when they advance the proposition that relative group influence is shaped by the operation of electoral and party processes.

> In liberal democracies with elements of "polyarchy" – rule by many – social groups will receive varying amounts and kinds of attention from elected politicians, depending not so much on their sheer weight in the voting process *as upon their strategic location (or lack of it) in the electoral process*. Different forms of party organization, different party systems, and different historical conjunctures of intraparty influence, for governmental office, and for influence within government, will all affect which groups are attended to or ignored as politicians compete among themselves for authority [emphasis added].[20]

Like Skowronek's account of the ICA, however, the study of the Wagner Act offered by Skocpol and Finegold retains close affinities with dominant "new institutionalist" accounts of regulatory choice. Most notable is their tendency to view party coalitions and party alignments through the lens of Congress and congressional elections. In their analysis, it was the limited planning capacity of the American state that ultimately doomed the National Industrial Recovery Act (NIRA) as an effective strategy for national economic recovery. As a consequence, even before the Supreme Court's *Schechter* decision in May 1935 – in which the NIRA was held to be an unconstitutional delegation of legislative power – the United States was without an effective plan for ending the depression. But of course the structure of the American state cannot in itself explain the decision to supercede the NIRA with the Wagner Act, and Skocpol and Finegold turn to the operation of district-level political factors to supply the logic behind the policy change. Specifically, they look to the congressional redistricting of 1930 and the results of the 1934 midterm elections. The consequence of these district-level events, they argue, was to transform the intraparty balance of power within the congressional Democratic party, to swell the representation of northern urban liberals at the expense of conservative southerners and push congressional policy making far to the left of a politically cautious Executive Branch. The result: an intraparty realignment within the congressional Democratic party, one conducive to the passage of liberal labor legislation like the Wagner Act.

20. Finegold and Skocpol, "State, Party and Industry," 164–5.

The Party System Perspective: A Theoretical Introduction

The preceding discussion of social-group and "new institutionalist" frameworks should not be taken to assert the unimportance of group power, institutional fragmentation, and local electoral dynamics broadly speaking. To the contrary, in many circumstances these pressures can impose the most immediate constraints on national political action. The prevalence of group and district explanations in most accounts of regulatory choice is itself an indication of their importance as explanatory factors. This said, the danger to our understanding of American regulatory state development lies in treating a frequent empirical occurrence as an empirical constant, and thus as an a priori assumption of causality. Such tendencies are pronounced in the social sciences, in disciplines like political science that prize empirical regularities, parsimony, and generalization.

To be sure, such disciplinary values have their advantages. In league with dominant paradigms, they impart order to an otherwise complex political universe and make more tractable the enterprise of scholarly research. On the down side, however, such simplifying schemes necessarily privilege some sets of institutions, processes, actors, and behaviors at the expense of others. The potentially deleterious consequences are of two types. On the one hand, important information can be filtered out of our analytic field of vision. On the other hand, the impulse to universalize key aspects of the historical record is heightened, imparting a mistaken character of sameness to past and present. These discipline-induced side effects subvert the very possibility of development; a consequence of particular concern when empirical "outliers" – properly recognized as such – have the potential to clarify relationships of interest to students of politics: those, for example, involving structure and agency, constraint and opportunity, equilibrium and change.

How then should we understand the relationship between district, group, and party system constraints on the politics of regulatory choice? My research suggests that party system constraints are most likely to impinge on national policy choice where such decisions have immediate and consequential implications for a party's hold on the presidency. Parties expend considerable resources to win and retain the presidency because of its tangible contribution to party power.[21] Indeed, competi-

21. The claim that American parties are primarily concerned with winning and retaining power is compatible with different explanations of why parties seek power. It is not necessary to assume that American parties are solely concerned with patronage and the other perks of office. In choosing the parliamentary road to socialism, European socialist and labor parties pragmatically opted to subordinate programmatic purity