# PRESIDENTS, PARTIES, AND THE STATE

A Party System Perspective on Democratic Regulatory Choice, 1884–1936

> SCOTT C. JAMES University of California, Los Angeles



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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.

V. O. Key1

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.<sup>2</sup> 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.<sup>3</sup>

- 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.<sup>5</sup> 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

<sup>4.</sup> 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.

<sup>5.</sup> 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. 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?" Or, is it better understood as a victory

<sup>6.</sup> Downs, An Economic Theory of Democracy.

<sup>7.</sup> 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?<sup>8</sup> 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?<sup>9</sup> Or, is a more important lesson learned by situating its development within a broader social dynamic of increasing centralization and bureaucratized forms of control?<sup>10</sup> 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. 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.<sup>13</sup>

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,

<sup>14.</sup> 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*.

<sup>15.</sup> 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," <sup>16</sup> 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.<sup>17</sup> 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,

<sup>16.</sup> Skocpol, Protecting Soldiers and Mothers, 50. The same point is made in Skocpol, "Bringing the State Back In," 25.

<sup>17.</sup> 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 statebuilding 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.<sup>18</sup>

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." 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 statelevel 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.

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].<sup>20</sup>

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.

<sup>20.</sup> 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.<sup>21</sup> 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

tion for the presidency was the impetus behind the emergence of the American two-party system and it remains its principal glue to this day. In the words of historian Richard P. McCormick, himself a student of presidential party politics,

The Constitutional requirement that the victor must secure an absolute majority of the electoral vote, or risk a contingent election by the House, operate[s] powerfully to restrict the contest to two major candidates, each of whom must seek to create a coalition of supporters that ha[s] the potential of producing the requisite majority. The logic of this basic rule of the game . . . fostered the creation of a two party system. <sup>22</sup>

As in any environment in which actors compete for control of scarce resources, competition in presidential elections operates like a natural-selection mechanism between parties: Any party will survive in office only as long as it is able to out-mobilize its rivals in the struggle for an electoral college majority. In the language of rational choice, such parties are constrained to behave as if they were "single-minded seekers of reelection," to preoccupy themselves on an ongoing basis with putting together and retaining a coalition of groups capable of winning plurality victories in a combination of states equal to an electoral college majority.<sup>23</sup>

This systemic constraint on the policy choices of parties in power is the essence of the Downsian dilemma, and it provides the central departure for the analysis in this book. In the period between the Gilded Age and the New Deal many of the key institutions of the modern American regulatory state were constructed. These state-building initiatives also coincided with the coming to power of the Democratic party. Between the years of the Civil War and the Great Depression, the Republican party was the majority party in American politics. The Democratic party was consigned to the status of out-party, the minority party in presidential politics. The Democratic administrations of Grover Cleveland, Woodrow Wilson, and Franklin Roosevelt came to power through the operation of political or economic factors largely outside their control. Respectively, these were: the defection of New York Mugwumps

to coalition-building and electoral victory, not because they valued office per se, but because the seizure of government power was the precondition to securing working-class gains. On the deleterious consequences for socialism of the parliamentary path to power, see Przeworski and Sprague, *Paper Stones*.

- 22. McCormick, The Party Game, 11.
- 23. The proposition that rational, maximizing behavior is the product of severe environmental constraints is the subject of Satz and Ferejohn, "Rational Choice and Social Theory." The assumption that legislators are single-minded seekers of reelection is central to Mayhew's seminal Congress: The Electoral Connection.

from the Republican party over the issue of civil service reform in 1884, the collapse of the Republican party organization with the formation of the Progressive party in 1912, and the depression era repudiation of the Republican party in 1932. Such circumstances cast considerable doubt on the ability of the Democrats to retain national power in the next round of elections. Of necessity, stabilizing their hold on national political power was a primary objective of Democratic leaders.

It was in this highly unstable electoral context that the Democratic party confronted the governing dilemmas posed by industrial concentration and corporate power. Historically the party of limited government and states rights, Democrats in power presided over major extensions in the reach of the American state. Perhaps most paradoxically, Democrats in the Progressive era were principally an agrarian party with marked animus toward economic concentration and corporate industrial power. Yet these commitments notwithstanding, the Democratic party in power would be intimately involved in laying the legal groundwork for the consolidation of corporate capitalism.

The claim I am making is that one can understand these dramatic reversals of party policy and doctrine as the product of dilemmas involved in the process of building national party coalitions. Democratic victory in presidential elections required an absolute majority in the electoral college, while party competition and the imperatives of majority coalition building gave added weight to interests whose allegiance was tenuous and whose votes were necessary to presidential victory. As I hope to document, such interests held disproportionate influence over the direction of Democratic regulatory policy – even though their preferences clashed with those of traditional party supporters – because of their pivotal position in the building and maintenance of the governing party's majority coalition. On issues ranging from railroad rate-making practices, to business-trading practices, to the economic utility of public utility holding companies, the Democratic party had long been associated with specific regulatory policy prescriptions. Democrats in the Gilded Age and the Progressive Era articulated an antimonopoly producers' vision of the American political economy, stressing the values of competition and decentralized production by small economic units. By contrast, Democrats in the era of the New Deal articulated a more moderate regulatory stance toward public utility holding companies. What these cases have in common is that in each instance, broadly supported regulatory stances would be shunted aside by party leaders to accommodate the demands of groups considered pivotal to the building and maintenance of a new majority party. In the first two cases, party system constraints would push Democratic party leaders to steer clear of the

demands of antimonopoly radicals. In the third case the reverse was true, with administration officials singling out the preferences of agrarian antimonopolists for satisfaction in their bid to consolidate a new majority party. In this way, coalition building imperatives and the competition for pivotal voting blocs shaped the structure of interest representation within the governing Democratic party.<sup>24</sup>

### The Electoral College and American Political Development

Perhaps above all else, this book seeks to carve out a theoretical place for the institution of the electoral college in the study of American political development. The electoral college is a highly structured environment, with precise rules, procedures, and norms of strategic behavior adhered to by contestants for the presidential office. The constitutional stipulations are well known. Candidates and their party organizations compete for electoral votes allocated by state in numbers equivalent to the sum of its House and Senate representation. The winning candidate must accumulate an absolute majority of the total electoral votes to avoid throwing the contest into the House of Representatives.

Of course, party candidates do not compete for electoral votes with equal intensity in every state. In practice, the electoral college injects a set of biases into presidential elections that work to advantage some states and certain groups over others in the competition for candidate attention. Much has been written about the distorting effects of the electoral college: for example, its contribution to minority vote dilution, its bias against third parties (or even one of the major parties), and its potential to provoke unpopular choices and constitutional crisis.<sup>25</sup> In addition,

- 24. The logic of this claim has much in common with arguments developed elsewhere by Adam Przeworski and John Sprague to explain the programmatic and electoral failure of European socialist parties. Their analysis pivots on the existence of a simple electoral dilemma. Historically, the European working class never constituted a majority of the electorate. Consequently, to win elections, parties of the left were forced to dilute their programmatic agenda and mute the ideological salience of class in order to secure cross-class electoral support. The result was to weaken the appeal of leftist parties to workers, which in turn encouraged abstention from the electoral process and defection to more traditional parties. This, in turn, accelerated the electoral decline of socialist parties and, more broadly, of the socialist project itself. See Przeworski and Sprague, *Paper Stones*.
- 25. Hoffman, "The Illegitimate President"; Berthoud, "The Electoral Lock Thesis"; Berns, "Third Party Candidates Face a High Hurdle in the Electoral College"; McGaughey, "Democracy at Risk"; Amar, "A Constitutional Accident Waiting to Happen"; Ball and Leuthold, "Estimating the Likelihood of an Unpopular Verdict in the Electoral College."

a substantial body of literature has debated the effects of the electoral college on the relative influence of large states and small states in national elections.<sup>26</sup> A sustained treatment of this subject is Brams (1978), who has argued that under specified conditions, states with large, winner-takes-all blocs of electoral votes will attract substantially greater party attention than those with smaller allocations – "even out of proportion to their size."<sup>27</sup>

Like this previous work, this book is also concerned with the mechanisms by which the electoral college injects biases into national politics. In particular, it is interested in the advantages and disadvantages that accrue to certain groups because of their geographic location in the competition for state electoral votes. Specifically, my analysis privileges the practice by which presidential campaign strategists carve up the electoral college map into "sure states" and "doubtful states." Sure states are those in which the election day outcome is known in advance, whether it be "sure for" or "sure against" the party in question. With the outcome conceded up front, party organizations have less incentive to invest scarce resources in sure states. The reason is simple: because the application of additional resources is not expected to alter the electoral outcome, such resources are more profitably allocated to states where a marginal increase may mean the difference between defeat and victory. By similar logic, there is less incentive to fashion major campaign themes and programmatic promises to voters housed in sure states, at least not when such appeals conflict with the preferences of voting blocs located in electorally doubtful states.

Doubtful states, as the name implies, are those in which parties are competitive and the outcome of their individual presidential contests is

- 26. Uslander, "Pivotal States in the Electoral College"; Uslander, "Spatial Models of the Electoral College"; Hinich and Ordeshook, "The Electoral College"; Longley and Dana, "The Biases of the Electoral College in the 1990s."
- 27. Brams, *The Presidential Election Game*, 84. Brams is able to isolate the effect of state size on resource allocation by utilizing the following simplifying assumptions: 1) parties possess equal resources, 2) parties "match each other's resource expenditures in each state," and 3) the number of uncommitted voters, as a percentage of all voters, is constant across states.
- 28. Brams's electoral college model does not distinguish between sure and doubtful states. In the first instance, it does not systematically consider the competitiveness of state presidential elections as a variable affecting the strategic allocation of electoral resources by partisan organizations. In addition, the model assumes that the percentage size of the uncommitted bloc of voters is constant across all states (Brams, *The Presidential Election Game*, 106). These two variables competitive balance and swing group size are at the heart of our distinction between sure and doubtful states. Their absence allows Brams to concentrate on his more immediate concern, which is the effect of state size on resource allocation in electoral college competition.

uncertain. Among doubtful states is a subset of particular interest, the so-called "swing states." In addition to competitiveness, swing states have the characteristic of being states on which the outcome of the national presidential contest is expected to turn. In a party system where the distribution of electoral votes between the two major parties is relatively close, the actual number of swing states may be several, very few, or theoretically just one. On the other hand, if one party holds a lopsided advantage in the electoral college – such as the Republican party during the stable phases of the so-called System of 1896 (1896–1908, 1920–8) – then the existence of a group of doubtful states may not yield an identifiable set of swing states, a condition that underscores the contingent character of electoral college effects on American politics.<sup>29</sup>

The central hypothesis of this book states that political competition for the presidency induces political parties to give disproportionate political attention to those states that hold the balance of power in the electoral college. Typically, this means making substantive appeals to disaffected groups either within one's own party, the major-party opposition, or attached to third-party organizations. But historically it has also been a stimulus to the enfranchisement of groups previously excluded from electoral participation or the mobilization of inactive voters into the electoral process. Conversely, parties in power have also sought to alter the competitive balance by demobilizing centers of opposition electoral strength in competitive states through the reform of electoral institutions and/or the regulation of voting practices.<sup>30</sup>

- 29. The logic of swing-state competition is applicable across a range of electoral contexts. In his recent biography of Abraham Lincoln, the historian David Herbert Donald writes of the calculus by which Lincoln, an Illinois Republican party leader, allocated his appearances in 1858 on behalf of party candidates for the statehouse: "[Lincoln] drew up a careful, detailed list of how the representative and senatorial districts had voted in the previous election and . . . tried to predict how each district would go in 1858. Some, mostly in Southern Illinois, he wrote off as 'desperate' [sic], meaning that there was no use wasting Republican resources there; others, chiefly in the North, he marked as 'we take to ourselves, without question,' so that no campaigning in these counties was needed. He allocated his public appearances accordingly, making only four speeches in the North and only four in the South. The rest of his time he devoted to districts 'we must struggle for,' mainly in the central part of the state, where the Whig (and more recently the Know Nothing) party had been strongest." (Donald, 1995: 212).
- 30. Shefter, "Party, Bureaucracy, and Political Change in the United States"; Burnham, Critical Elections and the Mainsprings of American Politics; Sundquist, The Dynamics of the Party System; Kousser, The Shaping of Southern Politics; Argersinger, Structure, Process, and Party; James and Lawson, "The Political Economy of Voting Rights in America's Gilded Age: Electoral College Competition and the Federal Election Law."

Broadly speaking, we will encounter two forms of "pivotal politics" in this book – that is, two patterns of partisan competition for pivotal groups in the electoral college. The first accords most closely with the description just laid out. Here, "pivotal politics" is associated with presidential contests that are closely contested and in which party competition centers on a small handful of states seen to hold the balance of power in the electoral college. The focus here is on a median bloc of competitive states, and party leaders face the challenge of determining which of those groups located in these states can be appealed to in sufficient numbers to swing the national election to their side. As we will see in our examination of the Interstate Commerce Act (Chapter 2), Gilded Age presidential elections were contested almost exactly along these lines, with national outcomes turning on the relative ability of Republicans and Democrats to eke out electoral victories in such states as New York, New Jersey, Indiana, and Connecticut. Mugwumps, prohibitionists, and organized labor were among the groups located in these states that understood the structural bias of the Gilded Age party system and hoped to work it to their advantage.<sup>31</sup> As suggested in my brief discussion of Harry Truman's decision to desegregate the armed forces, the presidential election of 1948 also falls under this first classification.

The second pattern of presidential politics we will observe in this book differs from the first in that national outcomes do not come down to a mad scramble for a handful of competitive states. Indeed, the pattern of partisan contestation characteristic of the System of 1896 (1896–1928) was generally quite uncompetitive, with Republicans regularly trouncing Democrats in national elections.<sup>32</sup> In this regard, the pivotal politics of this era became a structural possibility only when a group of disaffected voters emerged from within the dominant Republican coalition large in size and dispersed across a sufficient number of states to conceivably throw the election to the Democratic party. In such elections, we do not expect to see party strategists explicitly preoccupied with concerns about swing states. Rather, presidential elections assume a more classically Downsian character – as though parties were competing for the national median voter in the popular vote count rather than the median state in the electoral vote count – but only because a successful appeal to such a group promises to "swing" the outcome in so many state contests simultaneously.

<sup>31.</sup> See, for example, the *Irish World and Industrial Liberator*, July 26, 1884, 4; Schlesinger, ed. *History of U.S. Political Parties* Vol. 2, 1574.

<sup>32.</sup> The term "System of 1896" belongs to Walter Dean Burnham. See his "The System of 1896: An Analysis."

This second pattern of pivotal politics provides the backdrop for my case studies of the Federal Trade Commission Act and the Public Utility Holding Company Act. The specific electoral characteristics of these cases will be detailed in Chapters 3 and 4. For now, it suffices to say that in the period between 1900 and 1928, the structure of partisan allegiance produced some of the more consistently lopsided presidential elections in the nation's history. Republican ascendence in presidential politics was disrupted only twice - in 1912 and 1916 - owing largely to the disaffection of midwestern and western Republicans who left their party in droves to support progressive presidential candidates. Democrats in power responded to this structural opportunity in typically Downsian fashion, embracing many of the policy preferences of this national median voting bloc. Similarly, in the presidential election of 1932, Democratic strategists placed enormous emphasis on cultivating what they called "progressivism with a capital R," this in the hope of reconstructing Woodrow Wilson's South and West reelection coalition of 1916. Franklin Roosevelt also saw the holding of these progressive Republicans in the Democratic column as vital to his reelection in 1936.

As suggested earlier, the capacity of the electoral college to effect political change is perhaps more contingent than many of the institutional features of American politics. Yet I believe that few of our national institutions have proved more dramatic in their impact. In this book I intend to show that electoral college constraints and national party competition were proximate causes behind a dramatic shift in Democratic commitments of interest and ideology. In particular, they help to explain the transformation of the Democratic party from an organization committed to limited government and states' rights, to one pledged to central state authority and activism. In addition, electoral college incentives help to explain why a largely agrarian and antimonopolistic Democratic party nevertheless presided over the "corporate reconstruction of American capitalism" with the passage of the Federal Trade Commission Act of 1914.

# Party Leaders and the State-building Process

In addition to its electoral college focus, an integral aspect of my party system framework is an effort to theorize more adequately the role of party processes in American state development. In particular, my analysis gives pride of place to the semiautonomous activities of party leaders. Over the course of the next three chapters, I will examine the legislative intervention of party leaders to deflect longstanding commitments of interest and ideology in favor of regulatory policies consistent with

national party objectives. I hope that this extended consideration of party involvement in the politics of regulatory choice will help to fill several gaps in existing literature. First, at a descriptive level, this book provides a series of analytically focused narratives of the political processes by which these landmark policies were determined. More theoretically, I hope to rethink the role that political parties have played in shaping the content of American regulatory principles and the character of its regulatory institutions. Political parties were not simply the organizational backdrop against which a new American state had to be extorted. Rather, they were the principal medium through which substantive and institutional choices about the American political economy were ultimately made. Finally, I believe that the empirical study of political party processes will shed needed light on the neglected role of party leaders, their distinctive role in the structuring of political choice, and therefore their unique contribution to the historical trajectory of American regulatory state development.

# Conceptualizing Significant Party Behavior

In a provocative 1993 article, political scientist Keith Krehbiel has thrown down the gauntlet to scholars insisting on the explanatory importance of American political parties to legislative choice.<sup>33</sup> Krehbiel issues a series of challenges to proponents of party. The most important of these concerns is conceptual. Krehbiel asks, what constitutes significant party behavior? His response (a correct one), is that if our interest is in policy-relevant legislative actions, then party behavior is significant when it has an effect on legislative outcomes independent of individual legislator preferences. To have theoretical significance, that is, party processes should yield policy-related outputs we would not expect in their absence. Simply to demonstrate that Republicans and Democrats line up on opposite sides on a series of roll-call votes is an insufficient demonstration of party's causal importance. Statistical models of legislative behavior may yield large and significant party coefficients, but the exact meaning of that party behavior remains unresolved. The central question lingers: What motivates a legislator's policy choice? As Krehbiel puts it,

In casting apparently partisan votes, do individual legislators vote with fellow party members *in spite of their disagreement* about the policy in question, or do they vote with fellow party members *because of their agreement* about the policy in question? In the former case, parties are significant in

<sup>33.</sup> Krehbiel, "Where's the Party?"

a potentially policy-relevant way. That is, their partisan behavior may well result in a collective choice that differs from that which would occur in the absence of partisan behavior. In the latter case, however, parties as groups are surely less policy-relevant in terms of the difference they make relative to a non-party baseline.<sup>34</sup>

Krehbiel's principal foil is the "conditional party government" (CPG) model of congressional party organization.<sup>35</sup> In the CPG model, strong legislative party organizations emerge when the policy preferences of party members are homogeneous. The more uniform a caucus membership's preferences become, the more willing they will be to delegate significant power to party leaders to secure shared goals. Of course one might reasonably wonder, why does a party with a unified set of preferences need a strong party organization at all? Like minds and large numbers would seem to be a sufficient prescription for legislative success. But one of the core insights of contemporary analytic social science is that shared preferences do not translate unproblematically into preferred collective outcomes. In the language of rational choice, collective action and social choice problems may interdict the attainment of common goals. The function of party leaders, in this regard, is to resolve these collective dilemmas and facilitate the translation of shared preferences into preferred outcomes. This is a critical point. In the CPG model, party leaders help members to realize their shared preferences; they do not use their discretionary power to alter, challenge, or in any other way impede the satisfaction of those wants. But, as Krehbiel suggests, the CPG conception of parties simply provides a more sophisticated description of the process by which majority party members are finally able to cast votes consistent with their individual preferences. In the end, it remains legislators' policy-relevant preferences that explain legislative choice – not the independent effect of party upon those preferences.

Krehbiel has framed the conceptual debate exactly right. If parties matter in a policy-relevant way, it should be because they generate legislative outcomes different from those that arise in their absence. In an effort to sort through this issue, one prominent body of research has variously sought to ascertain whether legislative choices conform more closely to the preference of the median member of jurisdictionally rele-

<sup>34.</sup> Ibid., 238.

<sup>35.</sup> See Rohde, Parties and Leaders in the Postreform House; Aldrich, Why Parties?; Sinclair, Legislators, Leaders, and Lawmaking; Aldrich and Rohde, "The Transition to Republican Rule in the House: Implications for Theories of Congressional Politics." A variant on the conditional party government thesis is the party cartel model elaborated in Cox and McCubbins, Legislative Leviathan.

vant committees, the median chamber legislator, or the majority party's caucus median – with evidence of the latter indicating the presence of a substantial party effect.<sup>36</sup> While this line of analysis has produced a lively debate among scholars, it has yet to yield a common consensus on any particular conclusions. Moreover, even assuming the uncovering of a significant party effect, there are reasons to remain unsatisfied with this particular approach to the study of party. For, in the end, it is an approach that continues to conceptualize organized party behavior as the coordinated action of a like-minded party caucus.

This book lays an empirical basis for a more stringent conception of party organization. In the case chapters that follow, the party behavior we will observe can be regarded as significant not simply because it generates outcomes that diverge from the preferences of committee and chamber medians. More dramatically, party behavior is significant because it yields collective party choices that also diverge from the median preference of the majority party and toward those of party leaders. In the end, it is because chamber parties act both cohesively and contrary to the preferences of a majority of its rank and file, but consistent with known leadership preferences, that I conclude that party organization has mattered substantively to the politics of regulatory choice and the trajectory of American political development.

Both conceptually and empirically, then, the claim that party leaders may redirect the legislative process away from preferred choices of a party majority directs us toward the complex, creative, and discretionary world of these institutional and organizational elites. Several questions immediately arise: From where do leadership policy preferences derive? Under what conditions will party leaders advance policy goals that run orthogonal to those of a caucus majority? By what methods do party leaders attempt to impose their choices on their rank and file? What are the conditions and limits of their success? Existing theories leave us poorly positioned to answer such questions. Indeed, in most rational choice models of legislative parties, the objection is immediately raised: Why would party leaders *ever* pursue legislative outcomes at odds with the preferences of the median caucus member? Party leaders are, after all, selected by their rank and file and periodically stand for reselection by their party caucus to retain leadership positions. This electoral connection in theory should bind leaders closely to the party median and induce them to act as faithful agents of the party caucus.

<sup>36.</sup> An excellent overview of this debate can be found in Shepsle and Weingast, eds. Positive Theories of Congressional Institutions. Also see Schickler, "Institutional Change in the House of Representatives, 1867–1986."