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Introduction

The British novelist H. G. Wells visited Washington, "full of expectations and curiosities," in 1906, during the course of the lengthy Senate deliberations on the Hepburn rate bill. What appeared to confront him as he sat attentively in the visitors' gallery was a scene of unmitigated confusion. While one member spoke, his colleagues wrote letters, noisily rustled newspapers, stood around in "audibly conversational groups," walked carelessly between the speaker and the Chair, and occasionally summoned pages by loudly clapping their hands. The galleries were filled with "hundreds of intermittently talkative spectators." "The countless spectators, the boy messengers, the comings and goings kept up a perpetual confusing bafflement. . . . I have never seen a more distracted legislature." The disorderly scene that he witnessed in the Senate chamber seemed to reflect more fundamental defects in the American constitutional framework and in the organization of Congress itself: "The plain fact of the matter is that Congress, as it is constituted at present, is the feeblest, least accessible, and most inefficient central government of any civilized nation in the world west of Russia. Congress is entirely inadequate to the tasks of the present time."[1]

Wells's negative assessment was shared by other European commentators. Writing a few years earlier, the Russian political scientist Moisei Ostrogorski commented that Congress "does not initiate great measures, it does not solve the problems, the solution of which is demanded by the life of the nation." Likewise, James Bryce, in the 1910 edition of *The American Commonwealth*, noted that Congress made little effort to guide and illuminate its constituents. "It is amorphous, and has little initiative."[2] Frustration with the national legislature was expressed by many Americans, not least those that were

[1] H. G. Wells, *The Future in America* (new edn., London: Granville, 1987), 177 and 181–3.
[2] Moisei Ostrogorski, *Democracy and the Organization of Political Parties* (2 vols., London: Macmillan, 1902), 2:542–6; James Bryce, *The American Commonwealth* (2 vols., London: Macmillan, 1910), 1:304.

professionally obliged to deal with it, like Theodore Roosevelt, who at a White House dinner late in his presidency expressed a desire to turn sixteen lions loose on its members.[3]

Such dismissive comments came easily enough both to executive officers and scholarly observers. Yet they ignore a great deal of constructive legislation produced during this period. Roosevelt himself, a few years earlier, had gladly commended Congress for "the literarily phenomenal amount of good work" that it had performed.[4] The seemingly chaotic process which Wells witnessed in the Senate chamber eventuated in the passage of the Hepburn Act, which did more than almost any other statute to shape the pattern of federal supervision of the railroads and, indeed, the structure of the modern American regulatory state, as well as pure food and meat inspection legislation of comparable significance. That the resulting legislation, like the regulatory framework that it engendered, was seriously flawed can only partially be attributed to the institutional inadequacies of Congress itself; the outcome had a great deal to do with the difficulty of reconciling contesting interests and ideologies and the dynamics of party competition. Nonetheless, we cannot hope to understand the nature of the new American state that emerged from the Progressive Era without appreciating the role of Congress in creating it.

Progressivism and the New American State

As social scientists like Stephen Skowronek and Theda Skocpol have shown, the Progressive Era, which saw both government intervention on a mounting scale and a fundamental recasting of governing arrangements, was a critical moment in the development of a modern American state. The early years of the century saw a considerable enlargement of the regulatory powers of the federal government. Although the states retained jurisdiction over most aspects of governance, it came to be widely accepted that supervising the operations of an increasingly national economy was the responsibility of the national government. It came to be widely accepted also that the task could be most efficiently performed by bureaucratic agencies capable of performing the complex adjustments required in the management of a modern industrial society. Hence the United States began to acquire some of the administrative capacity required by a modern state.

This study contributes to the ongoing attempt to trace the lineages of the modern American state. Why precisely did it appear when it did? What social and political forces drove the process of state formation? How do we

[3] Lawrence F. Abbott, ed., *The Letters of Archie Butt* (Garden City, N.Y.: Page, 1924), 104.

[4] Theodore Roosevelt to James E. Watson, 18 August 1906, in Elting E. Morison et al., eds., *The Letters of Theodore Roosevelt* (8 vols., Cambridge, Mass.: Harvard University Press, 1951–4), 5:372–8.

account for its peculiar characteristics – its distinctive mixture of strength and weakness, purpose and incoherence? This study starts from the premise that it is impossible accurately to comprehend either the origins or the composition of the new American state without considering the time and place of its birth. This requires a close examination of the role of Congress. Capitol Hill, after all, was where the new regulatory agencies came into the world and where their form and functions were largely determined. Because of obvious continuities in its constitutional role and its identification with older patterns of governance, it is easy to forget how critical a role Congress played in the reconstitution of American governance.

A clear understanding of the dynamics of state building also requires some attention to the progressive reform movements that influenced American politics during the early twentieth century. The history of the American state in the last century was closely connected with the fate of liberalism.[5] In order properly to understand its constitution it is important to appreciate that it was a liberal state designed for liberal purposes; more specifically, in the early twentieth century it was a progressive state designed for progressive purposes (leaving aside for the moment precisely what the terms "liberal" and "progressive" signify). We need to identify precisely who were its architects, what were their intentions, and under what circumstances those intentions could be at least partially realized. As Eldon Eisenach suggests, we would be incapable of reaching a full understanding of twentieth-century American political institutions and practices without employing the discourse and doctrines that brought them into being.[6] Hence we need to locate the state-building process in the historical context framed by the Progressive Era.

As Sidney Milkis notes, "interest in the meaning of progressivism has intensified as we have approached a new century." Contemporary Americans regard the Progressive Era as "a historical period that can teach us something important about ourselves and the possibilities of our own political time."[7] Yet, in large measure, progressivism eludes our understanding. It has been many years since historians have felt able to write with confidence about the character and composition of the "progressive movement." Their collective endeavors to define progressivism have produced so confused and contradictory a picture that any attempt to categorize it as a coherent social movement has been more or less abandoned. In the historical imagination, progressivism has shattered into a kaleidoscopic pattern of unconnected fragments,

[5] See Robert Harrison, *State and Society in Twentieth-Century America* (Harlow, Essex: Longman, 1997).

[6] Eldon J. Eisenach, *The Lost Promise of Progressivism* (Lawrence: University Press of Kansas, 1994), 18–19.

[7] Sidney M. Milkis, "Introduction: Progressivism, Then and Now," in Sidney M. Milkis and Jerome M. Mileur, eds., *Progressivism and the New Democracy* (Amherst: University of Massachusetts Press, 1999), 1, 11.

continually changing with the angle of vision.[8] Since historians lost confidence in the concept of a unitary and cohesive "progressive movement" they have found it difficult to relate the various reform impulses to one another. One way of bringing some measure of cohesion to what has become a highly disjointed subject is to examine their treatment at the hands of the national legislature. The proliferation of studies of local progressive movements and campaigns for particular progressive reforms tends inevitably to point up their heterogeneous nature, while playing down what they had in common. A national study makes it easier to plot the linkages and shared resonances. It makes it easier to determine which pieces of the puzzle fit together and which do not, to distinguish those issues that were related and those individuals and groups whose ideas and interests were broadly the same. Then, perhaps, we shall be in a better position to make sense of the complex political world of the "Age of Reform" and to appreciate the context in which the twentieth-century American state came into being.

A "New Political Order"

The Progressive Era saw a major transformation in the style and practice of governance. Both the scale of government intervention and the manner in which policy was formulated and executed changed beyond recognition. Nineteenth-century American politics was infused with the spirit of "localism." The general mode of government intervention was essentially "distributive," involving the allocation of resources and privileges, such as tariff protection, subsidies, land grants and corporate franchises, to private individuals and groups. The chief institutional forum for this kind of "pork barrel politics" was the legislature. The main coordinating agencies, in what Richard L. McCormick calls the "party period" of American politics, were the political parties, which carried out essentially constituent and integrative, rather than policy-making, functions.[9] The development of a complex and integrated national economy around the turn of the century gave rise to various conflicts of interest that were difficult to resolve within the framework of the nineteenth-century polity: between, for instance, railroads and shippers,

[8] Peter Filene, "An Obituary for the 'Progressive Movement'," *American Quarterly* 22 (1970): 20–34; John D. Buenker, "Essay," in John D. Bunker, John C. Burnham, and Robert M. Crunden, *Progressivism* (Cambridge, Mass.: Schenkman, 1977), 31–69. For a review of the literature, see Richard L. McCormick, "Progressivism: A Contemporary Reassessment," in McCormick, *The Party Period and Public Policy: American Politics from the Age of Jackson to the Progressive Era* (New York: Oxford University Press, 1986), 263–88; Daniel T. Rodgers, "In Search of Progressivism," *Reviews in American History* 10 (1982): 113–32.

[9] Richard L. McCormick, "The Party Period and Public Policy: An Exploratory Hypothesis," *Journal of American History* 66 (1979): 279–98; James Willard Hurst, *Law and the Condition of Freedom in the Nineteenth-Century United States* (Madison: University of Wisconsin Press, 1956), 3–70.

labor unions and employers' associations, dairymen and oleomargarine manufacturers, petroleum producers and refiners. Many of these groups turned to government to redress their grievances, forcing it, in McCormick's words, "to take explicit account of clashing interests and to assume the responsibility for adjusting them through regulation, administration and planning."[10]

The shift to regulatory policies required, says Stephen Skowronek, a fundamental recasting of the institutions of government; "it entailed building a qualitatively different kind of state."[11] Its main features were the appearance of administrative agencies entrusted with wide discretionary power and a consequent diminution of the role of both legislatures and courts in the conduct of economic policy. The "bureaucratic remedy" recommended itself as a means of resolving conflicts in society by referring them to panels of specialists who would decide on the basis of an impartial investigation of the facts, thereby, it was hoped, "transforming ideological conflicts into matters of expertise and efficiency." The complex problems presenting themselves to modern government called upon various kinds of technical expertise for their solution. Perhaps the best illustration is Samuel P. Hays's study of the conservation movement, in which professional and scientific elites, imbued with the spirit of rational planning, worked to promote a system of decision making more conducive to the rational management of resources than was possible in the haphazard arena of legislative politics. More generally, says Skowronek, members of "an emergent intelligentsia rooted in a revitalized professional sector and a burgeoning university sector" worked to replace the traditional modes of governance with "the discipline of cosmopolitan bureaucratic routines," in order to expand the administrative capacity of the federal government and to institutionalize the influence of the new professionals in the affairs of state.[12]

Many progressive reformers developed a preference for bureaucratic procedures over the vagaries of legislative "log-rolling," which was all too susceptible to constituency and partisan pressures. They regarded the traditional practices of party politics as antipathetic to rational decision making. Reform would therefore take key decisions "out of politics." The growing

[10] Richard L. McCormick, *From Realignment to Reform: Political Change in New York State, 1890–1910* (Ithaca, N.Y.: Cornell University Press, 1981), 255; Samuel P. Hays, *American Political History as Social Analysis* (Knoxville: University of Tennessee Press, 1980), 250–5, 308–24.

[11] Stephen Skowronek, *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920* (Cambridge, 1982), 4, 163–284. See also Arthur S. Link and Richard L. McCormick, *Progressivism* (Arlington Heights, Ill.: Harlan Davidson, 1983), 58–66; McCormick, *Realignment and Reform*.

[12] Robert H. Wiebe, *The Search for Order, 1877–1920* (New York: Hill and Wang, 1967), 159–63, 185; Skowronek, *Building a New American State*, 42–5, 165–6; Samuel P. Hays, *Conservation and the Gospel of Efficiency: The Progressive Conservation Movement, 1890–1920* (paperback edition, New York: Atheneum, 1969).

importance of regulatory issues created in time "a new political order" in which the force of localism and the influence of political parties were substantially diminished.[13]

Thus the political history of progressivism has been substantially redefined. It has been rewritten as a story of the formation of a new set of governing arrangements, of a new American state. The plot includes an enlargement of the scope of government regulation; an accentuation of national, as against local, authority; a preference for bureaucratic over judicial modes of decision making; the development of a new "administrative class"; and the displacement of political parties from their central role in the process of government. However, the new narrative is complicated by discordant themes. In Skowronek's judgment, "modern American state building . . . yielded a hapless confusion of institutional purposes, authoritative controls, and governmental boundaries."[14] The administrative capacity of the United States government was extended in an uneven, piecemeal fashion. Its components were constituted in different ways and given different, sometimes inconsistent, tasks to perform. At the same time, the courts, the principal forums for resolving differences and formulating rules of conduct in nineteenth-century America, gave up little of their aggregate power, losing some of their functions to newly established executive agencies but tightening their hold on others. Although there is no doubt that parties were losing some of their grip on the levers of action, party still framed the context in which most political decisions were made.[15] The force of localism, the authority of the courts and the influence of political parties were not displaced by the new governing arrangements but maintained a more than residual presence within the structures of the new American state.

Theories of the State

It is fairly evident that the processes of state formation and political change were connected with the fundamental transformation of American society that occurred around the turn of the century: the climactic stages of industrialization, the rise of the big business corporation and other forms of

[13] McCormick, *From Realignment to Reform*, 251–72; Link and McCormick, *Progressivism*, 43–58; Martin Shefter, *Political Parties and the State: The American Historical Experience* (Princeton: Princeton University Press, 1994), 72–81; Sidney M. Milkis, *Political Parties and Constitutional Government: Remaking American Democracy* (Baltimore: Johns Hopkins University Press, 1999), 42–71; Hays, *American Political History*, 293–8, 318–24.

[14] Skowronek, *Building a New American State*, 287. See also Ellis W. Hawley, "Social Policy and the Liberal State in the Twentieth Century," in Donald T. Critchlow and Ellis W. Hawley, eds., *Federal Social Policy: The Historical Dimension* (University Park: Pennsylvania State University Press, 1988), 125–9.

[15] See, for example, Thomas J. Pegram, *Partisans and Progressives: Private Interests and Public Policy in Illinois, 1870–1922* (Urbana: University of Illinois Press, 1992).

specialized, hierarchically structured organization, and the intensification of conflicts between interest groups. It is less clear precisely how.

The oldest explanation, and that accepted by many progressives themselves, attributed the reforms that resulted in the growth of the new American state to the impact of a wide-ranging popular movement, supported by millions of ordinary Americans, to place restraints on the economic and political power of big business. To Benjamin P. De Witt, writing in 1915 what was probably the first comprehensive study of the phenomenon, progressivism "began as a well-designed and well-intentioned attempt to prevent special interests from continuing to use the national government for their own selfish purposes." Such a movement attracted support from all sections of the community, except those who were associated with the malign influences that supposedly perverted government power to their ends. As Arthur Mann explains, De Witt, like most progressives, envisaged "an undifferentiated majority oppressed by a minority of corrupt politicians and monopolists."[16] Such an interpretation did not stand up to the evidence that later historians have produced of the complex array of interest groups that supported regulatory legislation. That "undifferentiated majority" disintegrated on closer examination into a kaleidoscope of warring fragments. Nevertheless, it would be a serious error to decline on those grounds to listen to the language of moral outrage in terms of which contemporaries themselves sought to make sense of their situation and which informed the political choices that they made. Nor would it be wise to ignore the background of popular agitation against which the process of state building was carried on.

To proponents of the "organizational synthesis," like Robert H. Wiebe and Louis Galambos, the growth of the state was a necessary part of a broader organizing impulse in American society at that time. However, the "technological determinism" at the heart of the "organizational synthesis" has proved ultimately unconvincing as a source of genuinely historical explanations, while what Daniel T. Rodgers has called the "peculiar bloodlessness" of some of its products does not encourage emulation.[17] There is little reason, on historical grounds, to question that the social and economic forces that have shaped the modern world do, among other things, create conditions which require government intervention on a growing scale. However, the "organizational synthesis" does not say much about the historical

[16] Benjamin P. De Witt, *The Progressive Movement* (Arthur Mann, ed., Seattle: University of Washington Press, 1968), xix, 4–5, 26.

[17] Rodgers, "In Search of Progressivism," 119; Gerald Berk, *Alternative Tracks: The Construction of American Industrial Order, 1865–1917* (Baltimore: Johns Hopkins University Press, 1994), 6–8. For characteristic expositions, see Robert H. Wiebe, "The Progressive Years, 1900–1917," in William H. Cartwright and Richard L. Watson, eds., *The Reinterpretation of American History and Culture* (Washington, D.C.: National Council for the Social Studies, 1973); Louis Galambos, "The Emerging Organizational Synthesis in Modern American History," *Business History Review* 44 (1970): 279–90; Hays, *American Political History*.

processes by which such intervention occurs. Nor does it specify the human agents of change, an essential component of any satisfying historical explanation.

The so-called "corporate liberal" interpretation, on the other hand, sees progressive reform as driven, in the last analysis, by the efforts of corporate leaders and their political and intellectual spokesmen to assimilate governing arrangements and political culture to the requirements of a newly established corporate capitalism. The Progressive Era, it is argued, was the period in which Americans learned to live with the business corporation. While the work of scholars like James Weinstein, Martin J. Sklar and James Livingston has greatly enlarged our understanding of the ideologies and interests that underlay the movements for business regulation and banking reform, "corporate liberal" perspectives do not provide a sufficient explanation for progressive state building as a whole. Although the outcome of regulation in some cases may have served the interests of corporate capitalism, the evidence for corporate influence on decision making, particularly on congressional deliberations, is, to say the least, ambiguous, and, where located, that influence is often found to be arrayed against, rather than in support of, the enlargement of federal regulatory power. Then, as since, the majority of American corporate executives displayed a profound mistrust of the state.[18]

Scholars have more often been impressed with the diversity of interest groups seeking to apply pressure on government. A bewildering variety of trade associations, professional bodies, labor federations, farmers' organizations, and "public interest" lobbies competed with one another for leverage in the political marketplace. Groups of what might be called "ordinary people," like farmers, workers and women, through organizing, developed increased capacity to influence government.[19] Elizabeth Sanders attributes key regulatory legislation in the late nineteenth and early twentieth centuries to the demands of social movements and "'producer' coalitions" located in the economic "periphery" of the South and West. It is her contention "that agrarian movements constituted the most important political force driving

[18] See, for example, James Weinstein, *The Corporate Ideal of the Liberal State, 1900–1918* (Boston: Beacon, 1968); James Livingston, *Origins of the Federal Reserve System: Money, Class and Corporate Capitalism, 1890–1913* (Ithaca, N.Y.: Cornell University Press, 1986); Martin J. Sklar, *The Corporate Reconstruction of American Capitalism, 1890–1916: The Market, the Law and Politics* (Cambridge: Cambridge University Press, 1988). For a critique, see Ellis W. Hawley, "The Discovery and Study of a 'Corporate Liberalism,'" *Business History Review* 52 (1978): 309–20; Gerald Berk, "Corporate Liberalism Reconsidered: A Review Essay," *Journal of Policy History* 3 (1991): 70–84.

[19] Elisabeth S. Clemens, *The People's Lobby: Organizational Innovation and the Rise of Interest-Group Politics in the United States, 1890–1925* (Chicago: Chicago University Press, 1998); Julie Greene, *Pure and Simple Politics: The American Federation of Labor and Political Activism, 1881–1917* (Cambridge: Cambridge University Press, 1998); Skocpol, *Protecting Soldiers and Mothers*.

the development of the American national state in the half century before World War I."[20] The growth of the state is therefore attributed to the demands of social groups which were too numerous or too well organized for government officials to ignore.

The development of the American state was not determined by technological change or organizational process, by the hegemony of the corporation, by social pressures, or by the dynamics of class struggle; it was, to some extent at least, autonomous. It was shaped by the actions of key administrators and political entrepreneurs who exploited the space created by interest-group conflict and the balance of economic forces. It was, at the same time, constrained by the character of existing institutions, such as political parties, the judiciary, and the civil service, the distribution of constitutional authority, and the legacy of past policies. It emerged, in other words, from a distinctive historical process. A number of contemporary political scientists and historical sociologists have therefore turned from the analysis of extended longitudinal time series and the construction of elaborate causal models to an effort to trace in detail the precise linkages between economic and social change and the building of political institutions. The outcome of their conversion to a "state-centered" approach has been a renewed interest in political history.[21] It is in the same spirit that this study sets out to trace the lineages of the modern American state through a detailed examination of key episodes in American political development during the early twentieth century.

Congress and Progressive Reform

Most studies of state making have bypassed Congress. Their protagonists are enterprising and innovative administrators, not legislators, who are seen to represent the older politics of "courts and parties." Because of its identification with older patterns of governance and because of the evident continuity of its role within the constitutional framework, Congress has been treated as a constant, as a neutral marketplace in which contending parties negotiated

[20] Elizabeth Sanders, *Roots of Reform: Farmers, Workers, and the American State, 1877–1917* (Chicago: Chicago University Press, 1999), 1.

[21] Examples are Skowronek, *Building a New American State*; Theda Skocpol, *Social Policy in the United States* (Princeton: Princeton University Press, 1995); Barry D. Karl, *The Uneasy State: The United States from 1915 to 1945* (Chicago: Chicago University Press, 1983). See also David Brian Robertson, "The Return to History and the New Institutionalism in American Political Science," *Social Science History* 17 (Spring 1993): 1–36; David B. Robertson and Dennis R. Judd, *The Development of Public Policy: The Structure of Policy Restraint* (Glenview, Ill.: Scott, Foresman, 1989); Karen Orren and Stephen Skowronek, "Editors' Preface," *Studies in American Political Development* 1 (1986): 1–2; Peter B. Evans *et al.*, eds., *Bringing the State Back In* (Cambridge: Cambridge University Press, 1985); Ira Katznelson, "The State to the Rescue? Political Science and History Reconnect," *Social Research* 59 (1992): 719–37.

the terms upon which the institutions of the new American state were to be constructed. Its role is seen as reactive, residual, maybe even epiphenomenal. Yet Congress was ultimately responsible for passing the laws which gave these institutions their being. In an important sense the new American state was a congressional creation.

Congress is an arena in which we can evaluate the forces that drove the process of state making. What outside pressures were brought to bear on Congress, and to which was it most responsive? We shall attempt, as far as is possible from the available evidence, to evaluate the influence of public opinion, reform lobbies and economic pressure groups, and to determine how far Congress was responsive to policy suggestions emanating from inside the federal government itself, and particularly from the presidency. What role did political parties play in the process of progressive state building? Was it in any real sense a partisan creation reflecting the programmatic purposes of political organizations, or did it constitute a negation of the spirit of party, a displacement of the nineteenth-century "state of courts and parties" by a nonpartisan administrative state? A final object of this study is to investigate how Congress as an institution adjusted to the demands placed upon it, the extent to which habits and procedures formed in the nineteenth century were adapted to meet the more complex demands of governance in the twentieth century.

There have been few systematic studies of progressive reform in Congress. But, if political historians in recent years have neglected the study of Congress, political scientists have not. Since Nelson Polsby's pioneering study of "The Institutionalization of the U.S. House of Representatives," they have set out to investigate historical trends in recruitment, rates of turnover, voting patterns, seniority norms, and leadership. Others, like David W. Brady, have sought to examine the influence of electoral realignment on congressional behavior.[22] It is notable how many of these studies point out the pivotal significance of the Progressive Era, yet they do so with little appreciation of its special character. With their interest in establishing long-term trends or in drawing broad contrasts between the world of contemporary politics and that of the nineteenth century, such studies are sometimes marred by an insensitivity to historical context. Their conclusions, as E. P. Thompson

[22] See, for example, Nelson Polsby, "The Institutionalization of the U.S. House of Representatives," *American Political Science Review* 62 (1968): 144–68; Ronald M. Peters, Jr., *The American Speakership: The Office in Historical Perspective* (Baltimore: Johns Hopkins University Press, 1990); H. Douglas Price, "Careers and Committees in the American Congress: The Problem of Structural Change," in William O. Aydelotte, ed., *The History of Parliamentary Behavior* (Princeton: Princeton University Press, 1977), 28–62; Norman Ornstein, ed., *Congress in Change* (New York, 1975); David W. Brady, *Critical Elections and Congressional Policy Making* (Stanford, Cal.: Stanford University Press, 1988); Joseph Cooper and David W. Brady, "Toward a Diachronic Analysis of Congress," *American Political Science Review* 75 (1981): 988–1006.