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Government by Improvisation? Towards a New History of the Nineteenth-Century American State

Abstract: Over the last thirty years, historians and historically minded political scientists have effectively overturned the long-held perception of the nineteenth-century United States as a polity defined by its lack of an effective state. By highlighting the myriad interventions of its energetic and enterprising federal government and by incorporating subnational governments and private actors and organizations as evidence of its impressive "infrastructural" power, a generation of scholars have, collectively, described a nineteenth-century state that was both more assertive and more robust than was previously thought. Yet other scholars have begun to ask whether this interpretation has concocted a state stronger and more coherent in prospect than it was in practice. By highlighting the piecemeal and often partial nature of the nation's institutional development and the contradictions and incoherence that accompanied its infrastructural power, these scholars have laid the foundations for a new "improvisational synthesis" that stresses the equivocal nature of American state-building and considers its enduring vulnerabilities.

Keywords: Nineteenth-century U.S. state building, U.S. federalism, Civil War and state development, "improvisational synthesis" in American state-building

For a long time, historians of the American state looked to the nineteenth century as a prelude, if at all. Prior to the administrative innovations of the New Deal, it was held, the United States had possessed little that resembled the bureaucratic and centralized states of its European contemporaries; it was, according to conventional wisdom, a polity characterized by a rudimentary government with limited responsibilities, constitutional checks and balances,

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and an adherence to the principles of laissez-faire. The idea had a historic lineage—indeed, the United States was not yet a century old when Alexis de Tocqueville described a nation defined by "the absence of what we call government or administration"—but it became almost an article of faith among a generation of mid-twentieth-century scholars who perceived in the nation's political culture an innate liberal consensus which distinguished the United States from the totalitarian regimes with which it was at war.[1] While some of them had earlier highlighted the considerable activity of state governments in the decades before the Civil War, they contrasted these state-level regulatory and promotional innovations with an "absence of activity" at the national level.[2] They suggested that the federal government was characterized during the nineteenth century by its relative somnolence: in his Bancroft Prize–winning account of the nation's capital during the early years of the nineteenth century, James Sterling Young described a government that was "small almost beyond modern imagination," the size of which was an indication of its "slightness of function." The federal government, as another scholar more memorably quipped, seemed to be a "midget institution in a giant land."[3]

So influential was this interpretation that it was echoed even in the work of scholars who contested the fundamental assertion of national statelessness during the nineteenth century. In his path-breaking account of the rise of the administrative state, Stephen Skowronek proceeded from the assertion that, for much of the century, most Americans had indeed lacked a "sense of the state." According to Skowronek, however, this feature of the nation's political culture reflected not the absence of a governing apparatus but simply its unconventionality. Prior to the emergence of the more familiar administrative state during the final decades of the century, he argued, the United States had been defined by a different kind of state—an unusual but quietly effective "state of courts and parties" through which it had "maintained an integrated legal order on a continental scale … fought wars, expropriated Indians, secured new territories, carried on relations with other states, and aided economic development."[4] The mass political parties that emerged during the second quarter of the century played an especially significant role within this distinctive governing apparatus, at least according to some historians: indeed, their influence in filling the offices of government and their control of particularistic distributive policies prompted scholars such as Richard McCormick and Joel Silbey to redefine the century as the "party period" in American history.[5] Though elusive to the eyes of contemporary European observers, this governing regime both predated and survived the Civil War, its core

characteristics altered little, on a fundamental level, by the internecine conflict. The party system continued to flourish, and the expansion of federal government was kept in check by the forces of localism, racism, and an enduring hostility to centralized administration. Not until the turn of the century, Skowronek argued, when the nation's governing apparatus was strained by the challenges of industrialization, did a new kind of administrative state emerge.[6]

Classic accounts of the Civil War, too, attested to the enduring association of the nineteenth century, or at least a considerable portion of it, with the anonymity of the American state. As the moment when an expansive conception of federal authority triumphed over the doctrines of states' rights, the internecine conflict has long loomed large before scholars in search of a substantial nineteenth-century state. The Civil War and its aftermath, reads one standard account of the period, heralded nothing less than "the birth of the modern American state."[7] Innovations impelled by the exigencies of war—massive military mobilization, increased expenditure, the creation of national systems of banking and internal taxation, and the expansion of the federal bureaucracy—portended the emergence of a "statist sensibility" that, Richard Bensel argued, undergirded the two "truly stupendous achievements" of the nineteenth-century state: the suppression of Southern separatism and, in subsequent decades, the creation of the national market. Not only did wartime legislation provide a new framework for the exercise of federal powers, but according to Drew Gilpin Faust, the social and demographic consequences of the conflict prompted a thoroughgoing "reconceptualization of the government's role" in the lives of American citizens, as the federal government assumed the responsibility for locating, counting, and burying the Union dead and caring for its survivors.[8] This redoubtable record of achievement, however, caused scholars to reinforce, if inadvertently, the impression of an antebellum administrative ambivalence. By portraying the internecine conflict as a pivot in the history of the federal government—by comparing, as has Bensel, the "Yankee Leviathan" that emerged from the internecine conflict with the supposedly "self-effacing" government that preceded it—historians of the Civil War state have sometimes described an almost entirely different prewar polity, one in which the state seems conspicuous by its absence.[9]

Over the last thirty years, however, an almost entirely different conception of the nineteenth-century state has taken hold of the scholarly imagination. Working in the wake of social scientists' call to "bring the state back in," a growing number of historians and historically-minded political scientists have undertaken a probing investigation of the nineteenth-century

state and provided clear evidence that, contrary to the assertions of past historians and modern conservatives, a strong governing presence at the national level was not a creation of the mid-twentieth century, nor was it an aberration of the nation's founding principles. Rather, they have shown that the nineteenth-century state was much richer and more consequential during its first century and a half than was previously recognized. They have extended their investigations to previously overlooked sights of administrative, institutional, and legal action and shown that, from its earliest decades, the state played an essential, if often elusive, role in the development of the nineteenth-century United States, whether through the energy and enterprise of the federal government or, through its federal structure and its willingness to partner with private groups, its ability to penetrate an expansive (and expanding) society.[10] This "strong state synthesis" has ultimately dispelled what William Novak, in his paradigmatic essay, described as the "myth" of the weak state, revealing instead a state that "is and always has been more powerful, capacious, tenacious, interventionist, and redistributive than was recognized in earlier accounts." The result of this empirically rich and analytically sophisticated scholarship is nothing less than an entirely new starting point for all future historians of the American state.[11]

Yet amid the roiling political crisis of the past three decades, some scholars have begun to wonder whether this emergent consensus might not have concocted a nineteenth-century state that is more coherent and more effective in prospect than it was in practice. While they, too, have underlined the considerable activity of the nineteenth-century state, they have described a governing apparatus that was often characterized by its incoherence and instability. Digging deep into its foundations they have discovered an array of impediments that frustrated would-be state-builders, and have found that the arrangements in which inhered its impressive infrastructural reach came at a cost to its coherence. As Gary Gerstle has argued in his sweeping synthesis, the reliance upon improvisation as an engine of state development, the coexistence of multiple and often cross-cutting layers of government, and the considerable influence wielded by private interests produced a governing apparatus that was beset by "contestation and contradiction, paradox and unintended consequences." In contrast to the incipient hegemon described by the "strong state synthesis," he and other historians have identified the roots of what might be termed an "improvisational state," one that was both more piecemeal in its development and more jerry-rigged in its form than seems consistent with a popular narrative of progressively unfolding political power.[12]

I

No longer can the nineteenth-century state be said to have been narrow in its ambitions or limited in its achievements. During the past thirty years, scholars working in a range of subfields have all but dismissed the idea that the federal government was insignificant prior to the Civil War. By illuminating the myriad interventions of the federal government during the republic's formative years, historians including Brian Balogh, Max Edling, and Richard John have effectively established that it was both more robust and more assertive than previous scholarship suggested. It was equipped with the same essential tax-gathering and military-raising attributes of its fiscal-military contemporaries, Edling has shown, and effectively managed the relationship between the young republic and its international competitors.[13] Moreover, as Richard John has established, its institutions were able to act as "agents of change" in the nation's social and economic development. Most impressive among these was the United States Post Office. By 1831, almost nine thousand postmasters, working within an expansive and innovative administrative apparatus, were delivering mail across the length and breadth of the United States. As John has shown, the postal service played an important role in the emergence of the nation's political culture, encouraging the development of businesses and political parties, the expansion of the press, and the creation of a shared sense of nationhood.[14] Nor was this the only way in which the federal government was able to significantly impact the new nation's political economy. It provided support for internal improvements—including turnpikes, canals, and waterways—and encouraged technological innovation.[15] With the help of an underappreciated administrative apparatus, moreover, it surveyed and distributed land and provided relief to the victims of natural disasters and domestic conflicts.[16]

The activities of this assertive federal government were most apparent at the nation's peripheries. The territorialization of the North American continent during the nineteenth century represented perhaps its most significant accomplishment, and the inhabitants of the American West bore witness to the full range of its powers.[17] In the three decades since Richard White described the West as the "kindergarten of the American state," historians have amassed even more evidence of the federal government's involvement in the region, whether it was in the direction of white migration, the dispossession of native peoples, the distribution of land, the extraction of resources, or the promotion and implementation of its domestic policies.[18] A number of historians, meanwhile, have responded to Ira Katznelson's call to address the

vital significance of the army in the state-building process, and have shown that, though small in size, the United States military was an integral participant: it surveyed newly acquired land, constructed infrastructure, and promoted technological innovations; it opened up new land for exploitation; it superintended a nationwide system of depots and managed economic mobilization; and it policed and enforced the expanding nation's borders.[19] Most fundamentally, however, the army made manifest the federal government's coercive potential. To the land's original inhabitants, the federal government appeared as an agent of violent dispossession; as Jeff Pasley has put it, Native Americans were forced to "confront the U.S. government's full "stateness" long before many other Americans did."[20] It also provided substantial support for the preservation of slavery. Indeed, according to David Ericson, the development of the federal government's military and law-enforcement mechanisms were the direct result of attempts to enforce the nation's fugitive slave laws and to quash suspected slave revolts.[21] If the territorialization of the North American continent represented the "most spectacular success story of the modern era," then it was one that was underpinned, as Max Edling has identified, by the federal government's "liberal use of state-sanctioned and state-directed violence."[22]

The achievements of this administratively ambitious and territorially acquisitive national state were rooted in the nation's institutional framework. Though the Constitution signed in 1787 has conventionally been associated with governmental constraint, with its numerous checks upon the emergence of an overweening central government, scholars have increasingly come to suggest that it actually provided the blueprint for a state that could promote the welfare of its citizens through the creation of a dynamic and consumer-driven economy. According to some historians, the nation's institutional framework provided a "durable guarantee of robust fiscal military powers as well as administrative and regulatory authority."[23] In the decades after independence, Brian Balogh has argued, the leaders of the young republic embraced a "developmental vision" of the American state, drawing upon the "legal architecture" enshrined in the Constitution in order to affirm the authority of the federal government authority to promote and coordinate commerce, direct territorial expansion, aid internal improvements, and, ultimately, support the creation of one of the world's largest common markets. Perhaps the "most striking contribution" of the Constitution, as another group of historians puts it, was its "creation of a successful, stable, republican government capable of adapting to the wide variety of changes future generations would face," without which "the United States is unlikely to have

achieved its long-term history of sustained economic growth." The federal government, it would seem, was less a "Yankee Leviathan" birthed in internecine conflict than, in Edling's terms, a "Hercules" in the post-Revolutionary cradle.[24]

While scholars have effectively established the numerous activities in which the federal government engaged from its earliest decades, their most important insights have come as they have stretched their conception of the nineteenth-century state.[25] Features traditionally heralded as factors that delimited the growth of an assertive national state—most notably the federal structure of the American polity and its noted civil society—are now just as likely to be seen as constituent components of a dense web of public authority, elements of an "infrastructural power" in which inhered the distinctive strength of the nineteenth-century state.[26] Scholars such as Brian Balogh and William Novak have described an American state encompassing subnational governments and private organizations, a comprehensive and variegated governing regime that was able to penetrate society through a "rich mixture of federal, state, voluntary, and private initiatives." Put another way, the nineteenth-century American state—or apparent lack thereof—might have appeared noteworthy to foreign observers, but it was, according to William Novak, "no less essentially governmental" than were the European states with which they were better acquainted.[27]

Historians' growing appreciation for the infrastructural power of the nineteenth-century state might be seen, first, in their reinterpretation of federalism. Conventionally understood as a constraint upon the emergence of an effective national state, the federal structure of the American polity has increasingly been considered as essential to its development. Scholars have long been aware of the promotional and regulatory economic activities of state governments in the decades prior to the Civil War—not least their support for internal improvements projects—but their interventions have conventionally been considered apart from, rather than a part of, a broader, national pattern of state-building.[28] Yet historians have increasingly incorporated state and local governments into a broader pattern of federated state-building. More than simply serving to safeguard the liberties of individuals from the incursions of a distant and potentially overweening central government, Peter Onuf has suggested, the decentralization of the nation's political arrangements helped to "promote and harmonize disparate and far-flung interests in a dynamic, expansive, interdependent system."[29] Scholars have come to appreciate, for example, the ways in which the federal system enhanced the construction of the nation's political economy: as John Joseph Wallis has

shown, the development of the nation's transportation infrastructure during the decades prior to the Civil War was due in large part to the $450 million spent by state and local governments, in contrast to the $60 million spent by the federal government. Moreover, Richard Sylla has argued, competition between the states "created an environment of experimentation that provided good examples for others to adopt as well as bad examples to be avoided." Among other things, it drove the growth of a national network of railroads, increasing land values, enhancing agricultural opportunities, and improving the nation's defensive capabilities. It was, Sylla argues, the "strength and flexibility" of the federal system which undergirded the nation's impressive economic growth.[30]

The creation of multiple layers of government also enabled the dispersion of public power through a disparate and widely dispersed society. It was the nation's state legislatures, William Novak and Steven Pincus have argued, that were the most visible sites of a "strong revolutionary American state tradition," one that was characterized by "the positive use of state power, interventionist socioeconomic policy making, public rights, and social welfare."[31] During a century in which Congress made just four amendments to the Constitution, state legislatures exhibited a veritable mania for constitution-writing: in addition to the thirty constitutions written by states upon their entrance into the Union, states revised their constitutions sixty-four times and amended them countless times more.[32] It was, moreover, subnational governments that played the most active role in the lives of American citizens, as William Novak has shown in his impressive account of the state statutes and municipal ordinances that proliferated during the antebellum period. Through their exercise of their "police powers," the states created their own robust regulatory regimes in which private rights were routinely made subordinate to the public good. Using the "people's welfare" as their guiding principle, local officials protected public health and safety by removing hazards, quarantining and removing noxious trades; they intervened in the local economy through the regulation of public marketplaces; they shaped public space by creating parks and adjudicating upon the use of land; and they governed the morality of their residents by regulating their consumption of liquor.[33] They created a nationwide, if not yet knitted together, system of public authority, which, Novak argues, became "the central component in an insistently expanding American sovereignty": as the common-law legal tradition that underpinned this regulatory regime was undermined during the decades after the Civil War, it provided a preexisting and capacious conception of public power that could be consolidated in the

hands of an increasingly "rationalized, centralized, and bureaucratized" national state.[34]

Historians of the nineteenth-century state have also identified its impressive infrastructural power in its noted civil society. The vigorous civic tradition of the nineteenth-century United States has often been held up as a hindrance to the emergence of an assertive state or as compensation for an underdeveloped governing apparatus: the belief of nineteenth-century Americans in freedom from governmental restraint, Arthur Schlesinger once argued, "created the necessity for self-constituted associations to do things beyond the capacity of a single person, and by reverse effect the success of such endeavors proved a continuing argument against the growth of stronger government."[35] As they have pursued the activities of the American state beyond the formal administrative, legal, and military institutions of government, however, scholars have begun to uncover its mutually constitutive relationship with the nation's emergent civil society. For one thing, they have come to appreciate that the creation of its associational culture was a distinctly political project. The federal government's delivery of the mail and internal improvement projects supported the emergence of a strong civic culture, while the polity's federal structure provided an imitable structure for effective associationalism across an expansive territory.[36] More directly, state governments were essential to the establishment of the nation's most emblematic civic organizations. Corporations and voluntary associations, William Novak has demonstrated, were "legal and political constructions rather than spontaneous private collaborations," and provided a way of harnessing capital and expertise in the cause of an array of publicly useful projects.[37] During the first half of the century, corporations generally came into being through the grant of a special charter from the state legislature, a process that, Novak has identified, "signified the corporation's status as a creature of governance," but even as states began to adopt general laws of incorporation during the middle decades of the century, they continued to hedge corporations about with a litany of rules and responsibilities as a means of monitoring civic organization.[38] The state also played a key role in supporting the country's emergent associational culture: during the first third of the century, Kevin Butterfield has shown, local courts were frequently called upon to adjudicate disputes over the rights of associations' members.[39] The rich tapestry of Tocquevillian associationalism was, it seems, a fabric woven, at least in part, by the hand of government.

This vigorous civil society, moreover, comprised a rich repository of quasi-public power. "Borrowing" capacity from a host of ostensibly private actors and organizations, historians now recognize, represented a powerful

means for the mobilization of resources beyond the formal boundaries of government: when they reinvested the public power involved in their creation, Novak has argued, associations and corporations revealed the American state's considerable "infrastructural capacity to summon social power … for projection beyond the confines of its societal origins."[40] During the nation's earliest decades, historians like John Brooke and Albrecht Koschnik have shown, voluntary associations, fraternal organizations, and militia companies played a key role in the creation of its political culture, and they could also be key partners in the extension of governing authority: they encouraged political mobilization; provided education, both religious and scientific; assisted in the provision of welfare; and mobilized to tackle urban hazards.[41] The creation of corporations, meanwhile, proved a popular means of mobilizing capital and expertise in the cause of an array of "publicly useful projects," including the building of roads, the construction of canals, the building of railroads, the provision of public utilities, the exploration of new land, and the issuing of currency.[42] Rather than representing an alternative to state action, civic organization comprised a key component of the nineteenth-century American state; indeed, the rise of the "associational state" during the first quarter of the twentieth century built upon a long-standing tradition of public-private partnership in response to perceived social needs.[43]

The revisions of the past thirty years, therefore, have all but overturned prior notions of nineteenth-century statelessness. No longer does the nineteenth-century seem a mere prelude to a later era of big government; rather, it provided a proving ground for an emergent theory of American statecraft, one in which a potentially energetic, if sometimes elusive, federal government was complemented in its activities by subnational governments and private organizations. By documenting the "conscious and continuous construction of new forms of state power" throughout the nineteenth century, in fact, historians have detailed the formative stages of what William Novak has described as the "steadily aggrandizing authority of one of the most powerful nation-states in world history."[44] They have recovered a "formidable, pre-existing regulatory, legal, and technological infrastructure," one that laid the groundwork for "an American power that could defeat three empires, subdue a continent, overcome the cataclysm of civil war, unleash the Gilded Age, build an overseas empire, fight a global war (twice), propose a structure for world governance, and broadcast market society after 1945."[45] In their attempt to reconcile the disjuncture between the supposedly weak state of the nineteenth century and the geopolitical hegemon of the late twentieth and early

twenty-first centuries, they have discovered an American state that was, it seems, always in the process of becoming.

II

This emerging consensus, however, also contains the seeds of a quite different story. Working within the increasingly sophisticated analytic parameters established for understanding the American state, a number of scholars have suggested that this "strong state synthesis" may describe a governing apparatus far more coherent and effective in prospect than it was in practice.[46] Less preoccupied with excavating the hitherto unappreciated depths of nineteenth-century public power than with exploring the complexities and contradictions that attended its development, a number of scholars, including Elisabeth Clemens, Gary Gerstle, Kimberley Johnson, and Richard White, have identified the elements of an "improvisational state" that characterized not by its insistent expansion but by its constantly contested reconstruction. Though the federal government contained pockets of considerable power, they have suggested, there nevertheless remained considerable constraints that impinged upon its development. These scholars have documented the pragmatic and partial processes through which would-be state-builders were impelled to grapple with their inherited institutional infrastructure—attempts that were always contested and frequently controvertible. The arrangements in which inhered the impressive infrastructural power of the nineteenth-century state, moreover, were also the cause of contradiction and confusion, and contributed to its overall incoherence.

The improvisational nature of nineteenth-century state-building was reflected in the federal government. While historians of the nineteenth-century state have increasingly concentrated on the state "in action," contributors to the "improvisational synthesis" have kept a close eye on the constraints contained within the nation's institutional framework and have considered the way in which they impelled an often-oblique pattern of state-building at the national level.[47] For one thing, the liberal theory that framed the federal government, Gary Gerstle has argued, meant that "the ability to improvise became as important to central state-building efforts as the ability to find and implement the right master plan." In attempting to meet new demands placed upon the federal government throughout the nineteenth century, he argues, would-be central state-builders developed a repertoire of techniques with which they worked around institutional constraints: they argued that some activities, such as the administration of territories and

control over immigration, were exempted from constitutional restraint; they repurposed explicitly granted powers in order to move into prohibited legislative terrain, as they did when they used the postal service to police obscenity; and they delegated—or, as was often the case, ceded—substantial authority to private actors and organizations.[48] Statutory silences presented their own inducements to improvise—and often carried unanticipated consequences. It was the lack of constitutional guidance on the subjects of election procedure and political financing, Gerstle has shown, that spurred the growth of the mass political parties during the second quarter of the century and that ultimately led them to beckon private finance into the nation's democratic processes.[49] Basic administrative decisions, too, were often made in response to issues for which there were no specific guidelines; whether they were considering the adjudication of land disputes, the administration of military pensions, or the regulation of steamships, Jerry Mashaw has shown, government workers responded with a series of "experimental and pragmatic designs," which gave rise to an extensive but unwritten "administrative constitution."[50] Throughout the nineteenth century, in short, would-be central state-builders improvised their responses to the new demands placed upon the federal government, playing it by ear rather than planning its development.

In addition to the impediments contained within the nation's institutional framework, the federal government also faced resistance on the ground, even after its authority had seemingly been affirmed in the crucible of war. While the exigencies of wartime and its aftermath had demonstrated the considerable possibilities of concentrated political authority, the Civil War era represented, in Noam Maggor's words, a "fleeting moment of federal hegemony," one that was followed by the rapid demobilization of the Union army, the dismantling of wartime institutions, and the speedy reassertion of the states' police powers.[51] Attempts to consolidate or expand the federal government were frequently frustrated by those who opposed the establishment of the strong central state, not simply in Congress but also in the nation at large. In areas in which the federal government maintained a considerable theoretical presence, as it did in the South and West, it was often ineffective. Sometimes, Gregory Downs and Kate Masur have argued, it took the form of an attenuated "stockade state" that was powerful within its immediate environs but ineffectual in the hinterlands beyond; as the experience of Reconstruction had revealed, Downs has argued, "the national government could intervene in efficacious but highly geographically constrained ways."[52] Indeed, throughout the nineteenth century, federal officials were frustrated by challenges to their ability to govern. White Southerners resisted Reconstruction,

the U.S. Army failed to consolidate its victories over native peoples, and federal officials across the country struggled to collect taxes, enforce laws, restrain encroachment on native lands, or prevent outbursts of violence. The Civil War era gave some indication of the potential of an expanded federal government, Downs and Masur have argued, but in its aftermath many in the nation's capital must have felt that the United States was "distinctly ungoverned, perhaps ungovernable."[53]

While changes to the federal government attested to the significance of state-building currents in the nation's capital, moreover, they were often marked by organizational befuddlement. For one thing, the piecemeal and often partial manner by which the remit of the federal government was expanded was reflective of the pragmatic and politically expedient maneuvers of its aspiring architects: whether they were considering the establishment of the nation's land-grant colleges or the supervision of a national system of schooling, Williamjames Hull Hoffer has shown, debates in Congress were characterized less by "abstract philosophizing" than by "the pressing and partisan contemplation of particular necessities."[54] For another, although the Civil War era and the decades thereafter witnessed a number of significant additions to the nation's administrative machinery—the Departments of Agriculture (1862) and Justice (1870), the Bureaus of Education (1866) and Labor (1884), and the nation's first independent regulatory commissions—and a fivefold expansion of the federal bureaucracy, the success of departments both new and old was contingent upon variations in their leadership, funding, and bureaucratic reputations. While some departments, such as the impressive Department of Agriculture, were able to achieve a kind of autonomy due to their reputation and their relationships with nonstate groups, others—not least the Department of the Interior, which had the not-insignificant responsibility of overseeing the Bureau of Indian Affairs and the United States Pension Bureau—remained beholden to the partisan imperatives of the spoils system.[55] Yet despite the considerable capacity of the Department of Agriculture, which has led some scholars to see it as "an island of state strength in an ocean of weakness," it too provided ample evidence of the inefficiencies and internal conflicts that pervaded the federal government. Adam Sheingate has shown that the nation's agricultural bureaucracy "grew in a fractured manner." Its elevation to the cabinet created conflict with the Department of the Interior in a number of areas. Its bureaus crowded into preexisting policy spaces: irrigation projects, for example, simultaneously occupied officials in bureaus across the Departments of Agriculture and the Interior, and also required the attention of the U.S. Army Corps of Engineers. Even *within*

the Department of Agriculture, moreover, bureaus might be marked by overlapping interests and incoordination, as they were when they simultaneously conducted research into pesticides or inspected live animals and foodstuffs.[56] In short, the federal government developed in piecemeal and patchwork fashion, being characterized, as Gerstle has put it, by "strange beehives of activity in some places and equally strange absences of activity in others."[57]

Contributors to the "improvisational" nineteenth-century state, moreover, have highlighted the contradictory and often confusing underside of its infrastructural power. In two main ways, they have suggested that the features in which inhered the impressive infrastructural reach of the American state—its multiple layers of government and its partnership with private actors and organizations—also contributed to its overall incoherence. First, a number of scholars have shown that federalism clouded the coherence of the American state and suffused it with contradiction. The powers entrusted to federal and state governments, Gerstle has shown, were framed by fundamentally contradictory theories of governance. The Tenth Amendment freed state governments from the liberal principles that hedged about the federal government and thus allowed them to act in accordance with alternative, majoritarian principles. While their "police powers" could certainly be put to progressive uses in the public interest as William Novak has shown, they also contained considerable coercive potential.[58] The powers reposing with state and local governments, for example, enabled them to police the population in profound ways: long before the federal government assumed responsibility for controlling immigration in 1882, subnational governments had exercised their powers to limit the liberties of certain groups—including people of color, the poor, the sick, and convicts—from entering into their territories and living in their midst.[59] Not only was the slave system upheld through appeals to state law, but the "people's welfare" could be invoked to sustain white supremacy in other ways, too. Free black Americans were frequently deprived of their individual rights in this way, Kate Masur has reminded us, as communities across the country "regulated their entry, circumscribed their ability to remain, insisted that they carry passes or post bonds—all without much concern that they were violating free blacks' liberty or right to mobility."[60]

Contrary to conventional wisdom, moreover, these contradictions were not resolved with the Civil War. While some scholars have argued that the Civil War played "midwife to the American liberal state," and delivered "new definitions of individual freedom, state power, nationalism, and constitutionalism," the actualization of these definitions could be achieved only in piecemeal fashion, and often against considerable opposition.[61] Long

after the ascendancy of federal authority had seemingly been affirmed on the internecine battlefield, states continued to make use of their police powers in order to curb the individual freedom of their citizens. Many states placed restrictions on the consumption of alcohol, gambling, and interracial marriage, for example, thus demonstrating their power to intervene in even the most intimate aspects of individuals' lives. It was to their police powers that many states turned in order to roll back the supposedly transformative effects of the Civil War era, and by the end of the century many state legislatures had employed their police powers in order to reconstruct far-reaching systems of segregation and white supremacy.[62] The creation of these distinctly illiberal subnational polities revealed the considerable coercive capacity built into the American state, but also its "paradoxical duality": the coexistence of liberal promises and illiberal practices.[63] Indeed, with the help of the Supreme Court and the region's representatives in Congress, the federal system provided an entirely constitutional mechanism for establishing the South as, in Gerstle and Desmond King's terms, a "state of exception"—a region in which the rights assured to individuals under the national Constitution were not assured.[64]

The federal system also presented a challenge to the development of a uniform economy. Noam Maggor has seen the attempt to create a national market in the decades after the Civil War as a story of piecemeal and only partial success. "The American state," he has argued, "seemed ill suited to provide a stable and coherent institutional framework that could support the integration of the national market."[65] In addition to the "incredible fragmentation of existing infrastructure," the nation's "regionally unbalanced financial system," and the persistence of "capacious government power on the state and local levels," the attempt to integrate new western states into the national economy, Maggor argues, "energized a proliferation of subnational political units, each of them in charge of large swaths of policy that the federal government had limited capacity to attend to."[66] In defiance of both the federal government and the interests of eastern capital, western settlers endeavored to frame their own constitutions in ways that reflected their own conceptions of access to resources, patterns of local governance, and spatial politics. They won meaningful concessions, resulting in the survival of "lasting pockets of local power and state-level autonomy within the federal structure of American politics … structural wrinkles in what once appeared to be the unchallenged blanket authority of the federal government."[67] The institutional environment of American federalism, in short, posed "enormous entrepreneurial, political, and ideological challenges" to the consolidation of a

national market, challenges that were "overcome strenuously and always incompletely."[68]

Even apparently successful attempts to work in concert across multiple layers of government revealed the complexity of the federal system. Historians have long been aware that cooperation between state and national governments, in the form of state subsidies and matching grants, had been a boon to would-be state-builders even before the intergovernmental innovations of the New Deal.[69] In their response to issues of national import during the late nineteenth and early twentieth centuries, including the regulation of food and drugs, the improvement of the nation's highways, and the provision of welfare to women and children, the nation's lawmakers adopted what Kimberley Johnson has termed "intergovernmental policy instruments" that involved the states in the implementation of centrally-conceived policies. This "first new federalism," she has argued, facilitated a number of legislative achievements and resulted in a "far stronger and [more] centralized state than the institutional, judicial, and ideological limits of the day would otherwise have allowed."[70] Yet as both Johnson and Elisabeth Clemens have shown, the decision to borrow, rather than build, state capacity was not without its problems. Operative control was frequently placed in the hands of state and local actors, and thus the expansion of federal state capacity and oversight was often counterposed by the confirmation of social and economic inequalities in the states, as local majorities used their power to reinforce prevailing social arrangements. Elisabeth Clemens, too, has underscored the complexities of federal-state matching grants, which, while encouraging state governments to expand their provision of public services under some form of federal supervision, contributed to the "kaleidoscopic opacity" of the American state.[71] The result of these intergovernmental arrangements, Johnson surmises, was a pattern of development that was "characterized by administrative and political coherence within narrow policy areas, but policy incoherence and fragmentation across the American state."[72] In short, the institutionalized tension between the forces of fragmentation and consolidation contained within the federal system meant that federalism was as frequently a burden to the development of the American state as it was a boon to its development.

The second reconsideration of infrastructural power lies in its fundamentally reciprocal nature, a feature that has been made most apparent in the partnership of public and private organizations. The incorporation of private actors and organizations into the purview of public policy certainly enhanced the reach of the state, contributors to the improvisational synthesis agree, but

also rendered it vulnerable to private interests; as Elisabeth Clemens has argued in her history of voluntarism, public-private partnerships could be a source of "dynamism and flexibility," but they also introduced a "durable zone of tension and instability" into the nation's public life.[73] Historians have, in different ways, highlighted the iniquities that resulted from this strategy and suggested that the persistent "porosity" of the nation's public life was in large part because of the folding together of public and private interests.[74] In the patchwork system of bounties, subsidies, and special concessions that often accompanied the execution of government business, Nicholas Parrillo and Richard White have identified a distinct form of "fee-based governance" that brought the profit motive into the business of government. "What might superficially look like a bureaucracy in the General Land Office, the Office of Indian Affairs, or the Treasury Department," White has argued, "really amounted to a collection of agents who lived on the fees they collected and the economic opportunities their jobs presented." In such a system, private actors were presented with plenty of opportunities to profit from the public purse: whether they were responsible for apprehending criminals, collecting taxes, or performing basic administrative functions, many government officials had a personal interest in the execution—or neglect—of their responsibilities. It was, White has summarized, "an unwieldy and inefficient system that required few taxes but was ubiquitous and often intrusive," one that not only hobbled the efficiency of government but also raised fundamental questions regarding the accountability, indeed, the legitimacy, of the nation's political institutions.[75]

The braiding together of public and private interests also enabled the socially and financially powerful to remake the political arena after their own fashion. Elisabeth Clemens, Gary Gerstle, and Richard White have all, each in their own way, highlighted the extent to which privatization provided private groups with a purchase on the state, enabling them to determine, redirect, or withdraw from its projects and rendering it chronically susceptible to their influence. For one thing, the incorporation of private actors and organizations into the domain of government, Clemens argues, "reinforced the salience of private inequalities and exclusions in the public domain." Whether in the cause of prohibition on the consumption of alcohol, the "civilization" of native Americans, the regulation of obscenity, the provision of welfare, or the proscription of Mormon polygamy, the ambitious reformers who supplemented or appropriated the powers vested in public institutions worked according to their own, often coercive, conceptions of social and political order; in a number of instances, Richard White has argued, the government placed considerable authority in the hands of "petty tyrants."[76] For another thing,

those who had gained a purchase upon the mechanisms of the state were rarely quick to disengage, especially when they had their own economic interests in the arrangement.[77] This was perhaps most notable in the case of the transcontinental railroads. The relationship of between railroad corporations and the American state, Richard White has shown, rendered them as "coproductions" of one another.[78] An organized form of political "friendship"—or, in Steve Fraser's formulation, "crony capitalism"—enabled those charged with the construction of the nation's transcontinental railroads to reshape the political arena as a "realm of private competition," even as they continued to benefit from the willingness of would-be state-builders to provide lavish subsidies and underwrite expensive failures. This willingness left a lasting, and unforeseen, legacy: the special privileges granted railroad promoters and the bailouts of failing corporations established a precedent which reinforced the relationship between government and big business and brought the legitimacy of the state into question.[79] In sum, the comingling of public and private interest led the course of state development down unforeseen tracks, producing a polity that, Richard White has argued, "combined great legal authority, limited administrative control, and wondrous corruption," one that "depended on bounties, fees, and licensed coercion" and that ultimately "contributed to the declining legitimacy of institutions." The folding together of public service and private interests, Clemens agrees, produced "an architecture of governance" that was "less than fully visible and structurally porous, open to the influence of not only voluntary associations but also of private wealth and business concerns"—a governing tradition that was characterized less by a thousand points of light than by innumerable areas of shade.[80]

III

The empirical rigor and analytic sophistication of this nineteenth-century-oriented revisionism represents a rich and somewhat compensatory scholarly counterpoint to the confusion and contradiction that currently characterizes government in the United States. The exertions of the American state, both domestically and abroad, during the late twentieth and early twentieth centuries has inspired a generation of historians to reconsider our most fundamental assumptions regarding its historic insignificance; looking to the nineteenth century, they have discovered a state that was, and always has been, according to William Novak, "stronger, larger, more durable, more interventionist and more redistributive" than was previously recognized.[81] Yet

during this same time period, the nation's governing system has become ever more volatile and dysfunctional, and increasingly opaque to its citizens. Failed responses to natural and public health disasters have highlighted its limitations, and attempts to respond to pressing problems have been mired in almost permanent partisan gridlock. The influence of private interests over an often subterranean process of policy-making and the failure of governmental attempts to tackle historic economic and racial inequalities, meanwhile, have continued to confound the nation's supposedly democratic organizing principles.[82]

The emergent "improvisational synthesis" has begun to sketch out the contours of an appropriately ambiguous nineteenth-century state. Its contributors have built upon the recognition of its various strengths by previous historians, but they have also thought critically about the cumulative, path-dependent effects of the country's particular pattern of state-building, historicizing the "perplexing mix of power and impotence" identified by some scholars in the present.[83] During the nineteenth century, contributors to this nascent synthesis have suggested, the federal government was able to act with considerable power, but the constraints of the nation's institutional framework impelled an improvised and often oblique approach to its augmentation. They have considered the costs of an infrastructural power in which inhered numerous inducements to inefficiency, incoherence, and instability and have pointed out the fundamentally time-bound nature of state-building, describing a process that can be characterized neither by, discrete episodes of crisis and transformation nor by a narrative of almost inexorable development. The nineteenth-century state, they show, was significantly shaped—or weighed down—by the institutional residue of the past, whether because of its ingrained structural features or as the result of prior adaptations.[84] What Gary Gerstle has termed the "Tocquevillian Law of Revolution" ensured that the process of state-building could never be seamless but was instead a piecemeal and partial process that set in motion its own unintended and often unanticipated feedback processes.[85] Indeed, in the form of the present-day "policy state," Karen Orren and Stephen Skowronek have argued, this impulse toward improvisation is still with us, and its ambiguous consequences are plain to see: while the rise of policy to preeminence as an instrument of government during the nineteenth century has often made manifest the ability of government to reshape the polity, it has also rendered "achievements provisional, protections unreliable, and commitments dependent upon who is next in charge."[86] In short, the development of the American state was, in

Kimberley Johnson's terms, "a process of trial and"—significantly for those who inherited these improvisations—"error."[87]

The ambiguous legacy of nineteenth-century state-building is apparent in one of the age's most comprehensive and consequential social policies, and the subject of my own research: the Civil War pension system. It is unsurprising that scholars have identified in the program of benefits created for the survivors of the Civil War the hallmarks of an incipient American welfare state.[88] By the final decade of the nineteenth century, more than 40 percent of the nation's budget was being distributed annually to almost one million beneficiaries across the country, and the administrative arrangements required to make this system work seemed no less impressive: in addition to the thousands of clerks who labored in the United States Pension Office, thousands of physicians across the country participated in the examination of prospective pensioners. Yet while this considerable program placed the United States among the vanguard of modern welfare states, the manifold complexities of the American polity bore down heavily upon its administration and threw the conflicts and contingencies inherent in state-building into sharp relief. Attempts to centralize and professionalize its administration were fiercely contested, and recurrent investigations into pension fraud revealed that there existed little appetite for large-scale reform. The incorporation of private citizens within the ambit of public policy, moreover, resulted in an infrastructurally impressive but loosely woven governmental fabric: as the Pension Bureau invested private physicians with key responsibilities in the administration of pension policy and ceded considerable public power to private pension claim agents, it presented abundant opportunities to take advantage of an expanded federal largesse.[89] Despite its considerable cost and extensive reach, the pension system constituted not an incipient welfare state but an ad hoc and jerry-rigged system that, due to its association with widespread fraud, hobbled subsequent attempts to establish a more robust welfare regime.[90]

This and other policies of the nineteenth-century state have determined the type of state that the United States has since become. As historians have overturned the myth of statelessness over the past thirty years, they have sketched the contours of a political order possessed of both power and promise, but also one that, as contributors to the nascent "improvisational synthesis" have shown, was prone to dysfunction and constrained by enduring structural challenges. Not only did its improvised strength belie its entrenched weaknesses, but the impulse to improvise and its infrastructural power became the sources of what some scholars now see as its "deeply embedded

administrative pathologies."[91] By highlighting the cumulative and often costly legacies of nineteenth-century state-building, in short, contributors to the "improvisational synthesis" have described a potentially powerful state that was built upon unsteady foundations and provided a historical perspective upon its contemporary crisis of legitimacy.

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NOTES

1. The author would like to thank Gary Gerstle, Naomi Lamoreaux, Matt Lavallee, and Emma Teitelman, as well as Donald Critchlow and the anonymous reviewers, for their thoughts on earlier drafts of this article. Alexis de Tocqueville (trans. Gerald Bevan), *Democracy in America and Two Essays on America* (London, 2003), 84. Key examples of this liberal interpretation include Louis Hartz, *The Liberal Tradition in America: An Interpretation of American Political Though Since the Revolution* (New York, 1955); Richard Hofstadter, *The American Political Tradition and the Men Who Made It* (London, 1963); Daniel J. Boorstin, *The Genius of American Politics* (Chicago, 1953); Oscar and Mary Handlin, *The Dimensions of Liberty* (Cambridge, MA, 1961). A number of scholars have pointed to the influence of World War II and the Cold War on this scholarship. See David Ciepley, *Liberalism in the Shadow of Totalitarianism* (Cambridge, MA, 2006), 29; Ira Katznelson, *Desolation and Enlightenment: Political Knowledge After Total War, Totalitarianism, and the Holocaust* (New York, 2003), 110–11; Desmond King and Marc Stears, "The Missing State in Postwar American Political Thought," in Jacobs and King, *The Unsustainable American State* (Oxford, 2009),116–31.

2. Quoted is Oscar and Mary Flug Handlin, *Commonwealth: A Study of the Role of Government in the American Economy, Massachusetts, 1774–1861* (New York, 1947), xii–xiii. Likewise, Louis Hartz attributed the "distorted interpretations of politico-economic thought prior to the Civil War" to scholars' concentration on "the national problems of the period," and suggested that the regulatory stance of state governments could be contrasted with the lesser role of the federal government. Louis Hartz, *Economic Policy and Democratic Thought: Pennsylvania, 1776–1860* (Cambridge, MA, 1948), 3. For more on place of the federal government in the works of these and other historians, see Robert A. Lively, "The American System: A Review Article," *Business History Review* 29 (March 1955): 93.

3. William Sterling Young, *The Washington Community, 1800–1828* (New York, 1966), 28–32; John M. Murrin, "The Great Inversion, or Court Versus Country: A Comparison of the Revolution Settlements in England (1688–1721) and America (1776–1816)," in J. G. A. Pocock, ed., *Three British Revolutions: 1641, 1688, 1776* (Princeton, 1980), 425. See also Samuel Huntington's description of the United States as a "tudor polity." Samuel P. Huntington, "Political Modernization: America vs. Europe," *World Politics* 18 (April 1966): 382. In his criticism of the "Presidential synthesis," Thomas C. Cochran argued that "the primary role of the central government in our historical development" had been "one of the major misconceptions in American synthesis." Thomas C. Cochran, "The 'Presidential Synthesis' in American History," *American Historical Review* 53 (July 1948): 751. This

interpretation was indicative of a broader attitude toward the study of the state, an attitude that J. P. Nettl attributed to "the relative statelessness of the United States. J. P. Nettl, "The State as a Conceptual Variable," *World Politics* 20 (July 1968): 561.

4. Stephen Skowronek, *Building a New American State: The Expansion of Administrative State, 1877–1920* (Cambridge, 1982), 19.

5. The most concise summary is Richard L. McCormick, "The Party Period and Public Policy: An Exploratory Hypothesis," *Journal of American History* 66 (September 1979): 279–98. See also Joel H. Silbey, *The American Political Nation, 1838–1893* (Stanford, 1991), and Richard L. McCormick, *The Party Period and Public Policy: American Politics from the Age of Jackson to the Progressive Era* (Oxford, 1986). Theodore Lowi, too, argued that distributive policies were "almost the exclusive type of national domestic policy from 1789 until virtually 1890." Theodore J. Lowi, "American Business, Public Policy, Case-Studies, and Political Theory," *World Politics* 16 (July 1964): 689. For a critique of this scholarship, see Richard R. John, "Farewell to the 'Party Period': Political Economy in Nineteenth-Century America," *Journal of Policy History* 16 (April 2004): 117–25.

6. Skowronek, *Building a New American State,* 19. See also Morton Keller, *Affairs of State: Public Life in Nineteenth-Century America* (Cambridge, MA, 1977), 35; Keller, *Regulating a New Economy: Public Policy and Economic Change in America, 1900–1933* (Cambridge, MA, 1990), 3; Keller, *America's Three Regimes: A New Political History* (Oxford, 2007), 133–34. In the final volume of his classic quartet of administrative histories, Leonard D. White also questioned the impact of the Civil War upon patterns of American governance. After the Civil War, he argued that "the return to normalcy was rapid and substantially complete." White, *The Republican Era, 1869–1901: A Study in Administrative History* (New York, 1958), vii–viii.

7. Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863–1877* (New York, 1988), 23. In his own standard account of the Civil War, James McPherson has argued that the conflict helped to "fashion a future different enough from the past to merit the label of revolution." McPherson, *Battle Cry of Freedom: The Civil War Era* (Oxford, 1988), 452.

8. Richard Franklin Bensel, *The Political Economy of American Industrialization, 1877–1900* (Cambridge, 2000), 526; Drew Gilpin Faust, *This Republic of Suffering: Death and the American Civil War* (New York, 2008), 268; Leonard P. Curry, *Blueprint for Modern America: Nonmilitary Legislation of the First Civil War Congress* (Nashville, 1968), 9; Heather Cox Richardson, *The Greatest Nation of the Earth: Republican Economic Policies During the Civil War* (Cambridge, MA, 1997).

9. "The modern state's inheritance from the antebellum period," Bensel argues, "was nil." Bensel, *Yankee Leviathan: The Origins of Central State Authority in America, 1859–1877* (Cambridge, 1990), ix. Key examples include Walter Dean Burnham's assertion that "the chief distinguishing characteristic of the American political system before 1861 is that there was no state," and William Nelson's assertion that there existed "no significant bureaucracy" prior to the Civil War. See also Daniel Carpenter's description of the prewar federal government as "predominantly a clerical outfit." Burnham quoted in Morton Keller, "Social Policy in Nineteenth-Century America," in Donald T. Critchlow and Ellis W. Hawley, eds., *Federal Social Policy: The Historical Dimension* (University Park, PA, 1988), 103; William Nelson, *The Roots of American Bureaucracy, 1830–1900* (Cambridge, MA, 1982), 5; Daniel P. Carpenter, *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1862–1928* (Princeton, 2001), 64.

10. Theda Skocpol, "Bringing the State Back In: Strategies of Analysis in Current Research," in Peter B. Evans, Dietrich Rueschemeyer, and Theda Skocpol, eds., *Bringing the State Back In* (Cambridge, 1985), 3–43. See also the exhortations of two historians: William E. Leuchtenberg, "The Pertinence of Political History: Reflections on the Significance of the State in America," *Journal of American History* 73 (1986): 585–600; and Brian Balogh, "The State of the State among Historians," *Social Science History* 27 (2003): 455–63.

11. "The weight in the historiography," according to one recent summary, "is now in favor of the many case studies demonstrating American governments' consistent exercise of regulatory powers in a variety of dominions." Dael A. Norwood, "What Counts? Political Economy, or Ways to Make Early America Add Up," *Journal of the Early Republic* 36 (Winter 2016): 768. Quoted is the paradigmatic articulation of this view: William J. Novak, "The Myth of the 'Weak' American State," *American Historical Review* 113 (June 2008): 758. See also William J. Novak, "The Not-So-Strange Birth of the Modern American State: A Comment on James A. Henretta's 'Charles Evans Hughes and the Strange Death of Liberal America,'" *Law and History Review* (Spring 2006): 197; James Sparrow, William Novak, and Stephen Sawyer, eds., *Boundaries of the State in U.S. History* (Chicago, 2015), 116.

12. Gary Gerstle, *Liberty and Coercion: The Paradox of American Government from the Founding to the Present* (Princeton, 2015), 1.

13. The federal government, Max Edling, possessed the "full powers of the 'fiscal-military state' in reserve." Max M. Edling, *A Revolution in Favor of Government: Origins of the U.S. Constitution and the Making of the American State* (Oxford, 2003), 227; Edling, *A Hercules in the Cradle: War, Money, and the American State, 1783–1867* (Chicago, 2014), 222–23; Edling, "'A Mongrel Kind of Government': The U.S. Constitution, the Federal Union, and the Origins of the American State," in Peter Thompson and Peter S. Onuf, eds., *State and Citizen: British America and the Early United States* (Charlottesville, 2013), 150–77; Brian Balogh, *A Government Out of Sight,* 79.

14. Richard R. John, "Governmental Institutions as Agents of Change: Rethinking American Political Development in the Early Republic," *Studies in American Political Development* 11 (Fall 1997); Richard R. John, *Spreading the News: The American Postal System from Franklin to Morse* (Cambridge, MA, 1995), ix, 3.

15. Laurence J. Malone, *Opening the West: Federal Improvements Before 1860* (London, 1998), 119–20; John Lauritz Larson, *Internal Improvement: National Public Works and the Promise of Popular Government in the Early United States* (Chapel Hill, 2001); Paul F. Paskoff, *Troubled Waters: Steamboat Disasters, River Improvements, and American Public Policy* (Baton Rouge, 2007); Stephen Minicucci, "Internal Improvements and the Union, 1790–1860," *Studies in American Political Development* 18 (Fall 2004): 160–85; Colleen A. Dunlavy, *Politics and Industrialization: Early Railroads in the United States and Prussia* (Princeton, 1994); Steven W. Usselman, *Regulating Railroad Innovation: Business, Technology, and Politics in America, 1840–1920* (Cambridge, 2002); Robert G. Angevine, *The Railroad and the State: War, Politics, and Technology in Nineteenth-Century America* (Palo Alto, 2004); Richard R. John, *Network Nation: Inventing American Telecommunications* (Cambridge, MA, 2015), 19–21. Many of these accounts are synthesised in Daniel Walker Howe's contribution to the Oxford History of the United States, *What Hath God Wrought: The Transformation of America, 1815–1848* (Oxford, 2008).

16. The classic account of the public lands in the early nineteenth century is Malcolm J. Rohrbough, *The Land Office Business: The Settlement and Administration of American*

Public Lands, 1789–1837 (Oxford, 1968); but see also Jerry Mashaw, *Creating the Administrative Constitution: The Lost One Hundred Years of American Administrative Law* (New Haven, 2012). For welfare provision, see Michele Landis Dauber, *The Sympathetic State: Disaster Relief and the Origins of the American Welfare State* (Chicago, 2013), 5; Laura Jensen, *Patriots, Settlers, and the Origins of American Social Policy* (Cambridge, 2003); Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Cambridge, MA, 1992).

17. See, in particular, Sven Beckert, "American Danger: United States Empire, Eurafrica, and the Territorialization of Industrial Capitalism, 1870–1950," *American Historical Review* 122 (October 2017): 1147. The role of the state in the territorialization of the United States is also at the center of accounts by Steven Hahn and Charles Maier. Steve Hahn, *A Nation Without Borders: The United States and Its World in an Age of Civil Wars, 1830–1910* (New York, 2017); Charles Maier, *Leviathan 2.0: Inventing Modern Statehood* (Cambridge, MA, 2014). This scholarship and its implications for an interpretation of the nineteenth-century state is highlighted in Noam Maggor and Stefan Link, "The United States as a Developing Nation: Revisiting the Peculiarities of American History," *Past and Present* 246 (February 2020): 291–92.

18. Richard White, "*It's Your Misfortune and None of My Own": A New History of the American West* (Norman, OK, 1991), 58. According to William Bergmann, the settlement of the Old Northwest was achieved with the help of a federal bureaucracy that was "concentrated, penetrative, centralized, and specialized." Bergmann, *The American National State and the Early West* (Cambridge, 2014), 7. See also Balogh, *Government Out of Sight,* chap. 5; Mashaw, *Creating the Administrative Constitution,* chap. 7; Malone, *Opening the West,* 3–4; Paul Frymer, "'A Rush and a Push and the Land is Ours': Territorial Expansion, Land Policy, and U.S. State Formation," *Perspectives on Politics* 12 (March 2014): 120; Megan Black, *The Global Interior: Mineral Frontiers and American Power* (Cambridge, MA, 2018), chap. 1; Bethel Saler, *The Settler's Empire: Colonialism and State Formation in America's Old Northwest* (Philadelphia, 2019).

19. Ira Katznelson, "Flexible Capacity: The Military and Early American Statebuilding," in Ira Katznelson and Martin Shefter, eds., *Shaped by War and Trade: International Influences on American Political Development* (Princeton, 2002), 97–101; William D. Adler, "State Capacity and Bureaucratic Autonomy in the Early United States: The Case of the Army Corps of Topographical Engineers," *Studies in American Political Development* (October 2012): 107–24; William D. Adler and Andrew J. Polsky, "Building the New American Nation: Economic Development, Public Goods, and the Early U.S. Army," *Political Science Quarterly* 125 (Spring 2010): 87–110; Mark R. Wilson, *The Business of Civil War: Military Mobilization, 1861–1865* (Baltimore, 2006), 2; Samuel J. Watson, *Jackson's Sword: The Army Officer Corps on the American Frontier, 1810–1821* (Lawrence, KS, 2012); and Watson, *Peacekeepers and Conquerors: The Army Officer Corps on the American Frontier, 1821–1846* (Lawrence, KS, 2013); Angevine, *The Railroad and the State.*

20. Jeff Pasley, "Midget on Horseback: American Indians and the History of the American State," *Common-Place* 9 (October 2008), www.common-place-archives.org/vol-09/no-01/pasley; Patrick Griffin, *American Leviathan: Empire, Nation, and Revolutionary Frontier* (New York, 2007); Ned Blackhawk, *Violence Over The Land: Indians and Empires in the Early American West* (Cambridge, MA, 2006); Paul Frymer, *Building an*

American Empire: The Era of Territorial and Political Expansion (Princeton, 2019); Andrew J. Polsky and William D. Adler, "The State in a Blue Uniform," *Polity* 40 (July 2008): 348–54.

21. David F. Ericson, *Slavery in the American Republic: Developing the Federal Government, 1791–1861* (Lawrence, KS, 2011). See also Don E. Fehrenbacher, *The Slaveholding Republic: An Account of the United States Government's Relations to Slavery* (Oxford, 2002).

22. Edling, *A Hercules in the Cradle,* 3–4.

23. Sparrow, Novak, and Sawyer, *Boundaries of the State in US History*, 2. In the Declaration of Independence, William Novak and Steven Pincus have seen "not so much an attack on a government grown too big, but a call for a 'new Government' and a system of rule that involved a strong polity—a polity that would support the manufacturing sector, and promote egalitarian economic development and trade." William J. Novak and Steven Pincus, "Revolutionary State Formation," in John L. Brooke, Julia C. Strauss, and Greg Anderson, eds, *State Formations: Global Histories and Cultures of Statehood* (Cambridge, 2018), 142, 147; Steven Pincus, *The Heart of the Declaration: The Founders' Case for an Activist Government* (New Haven, 2016), 20–23. Indeed, according to Richard John, the nation's political economy was "a project with a more-or-less coherent design that grew out of the institutional arrangements established by the founders of the republic." See Richard R. John, "Ruling Passions: Political Economy in Nineteenth-Century America," in John, ed., *Ruling Passions,* 2. Nevertheless, as Max Edling has acknowledged, the full emergence of a North American fiscal-military state represented a "potentiality rather than a reality" prior to the Civil War. Edling, *A Revolution in Favor of Government,* 22.

24. Balogh, *A Government Out of Sight,* 65; Sonia Mittal, Jack N. Rakove, and Barry R. Weingast, "The Constitutional Choices of 1787 and Their Consequences," in Douglas A. Irwin and Richard Sylla, *Founding Choices: American Economic Policy in the 1790s* (Chicago, 2011), 53; Edling, *A Hercules in the Cradle.*

25. See especially William Novak, "Beyond Max Weber: The Need for a Democratic (not aristocratic) Theory of the Modern State," *Tocqueville Review* 36 (2015): 43–91; William Novak, "The Concept of the State in American History," in Sparrow, et al., *Boundaries of the State in US History,* 325–49; Max M. Edling, "The Strange Hybrid of the Early American State," in Hans Joas and Barbro Klein, eds., *The Benefit of Broad Horizons: Intellectual and Institutional Preconditions for a Global Social Science* (Leiden, 2010), 15–32; Kimberly J. Morgan and Ann Shola Orloff, "The Many Hands of the State," in Kimberly J. Morgan and Ann Shola Orloff, eds., *The Many Hands of the State: Theorizing Political Authority and Social Control* (Cambridge, 2017), 3–4; Peter Baldwin, "Beyond Weak and Strong: Rethinking the State in Comparative Policy History," *Journal of Policy History* 17 (2005): 12–33.

26. Historians have adapted the notion of infrastructural power from Michael Mann, *The Sources of Social Power, Volume 2: The Rise of Classes and Nation-States, 1760–1914* (Cambridge, 1993), 58–59. See, for example, Novak, "The Myth of the 'Weak' American State," 763.

27. Balogh, *Government Out of Sight,* 15; William J. Novak, "The American Law of Association: The Legal-Political Construction of Civil Society," *Studies in American Political Development* 15 (Fall 2001): 172. See also Adam Sheingate, "Why Can't Americans See the State?" *The Forum* 7 (2009), 1–14.

28. See note 2, above. Beyond the works of the Commonwealth historians, other scholars also placed state government in contrast to the federal government. In his Presidential Address before the Organization of American Historians in 1986, William Leuchtenberg noted that "through much of our history, state and local governments had a larger impact on matters such as economic policy than did the federal government." Leuchtenberg, "The Pertinence of Political History," 589n20. Morton Keller likewise argued that "social policy was implemented primarily on the state and local level." Keller, "Social Policy in Nineteenth-Century America," 104.

29. Quoted is Peter S. Onuf, "State and Citizen in British American and the Early United States," 13–14. See also Onuf, *Jefferson's Empire: The Language of American Nationhood* (Charlottesville, 2000), 85.

30. John Joseph Wallis, "The Other Foundings: Federalism and the Constitutional Structure of American Government," in Douglas A. Irwin and Richard A. Sylla, eds., *Founding Choices: American Economic Policy in the 1790s* (Chicago, 2011), 183; Richard Sylla, "Experimental Federalism: The Economics of American Government, 1789–191," in Stanley L. Engerman and Robert E. Gallman, eds., *The Cambridge Economic History of the United States: Volume 2: The Long Nineteenth Century* (Cambridge, 2000), 491–92. On the growth of railroads, see Zachary Callen, "Local Rail Innovations: Antebellum States and Policy Diffusion," *Studies in American Political Development* 25 (October 2011): 117–18.

31. Novak and Pincus, "Revolutionary State Formation," 149, 154. See also William Novak, "A State of Legislatures," *Polity* 40 (July 2008): 340–47.

32. Wallis, "The Other Foundings," 179–80.

33. William J. Novak, *The People's Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill, 1996), 2. On the states' police powers, see also Christopher Tomlins, "Necessities of State: Police, Sovereignty, and the Constitution," *Journal of Policy History* 20 (2008): 48; Christopher L. Tomlins, "Law, Police, and the Pursuit of Happiness in the New American Republic," *Studies in American Political Development* 4 (Spring 1990): 3–34.

34. Quoted are William Novak, "Police Power and the Hidden Transformation of the American State," in Markus D. Dubber and Mariana Valverde, eds., *Police Power and the Liberal State* (Stanford, 2008), 55, and Novak, *The People's Welfare,* 247.

35. Arthur M. Schlesinger, "Biography of a Nation of Joiners," *American Historical Review* 50 (October 1944): 1. See also Handlin and Handlin, *The Dimensions of Liberty*, 5.

36. An excellent summary of this scholarship is Brian Balogh, *The Associational State: American Governance in the Twentieth Century* (Philadelphia, 2015), 23–40. See also Elisabeth S. Clemens and Doug Guthrie, "Politics and Partnerships," in Clemens and Guthrie, eds., *Politics and Partnerships: The Role of Voluntary Associations in America's Political Past and Present* (Chicago, 2010), 1–28. Outstanding contributions to this literature include Johann N. Neem, *Creating a Nation of Joiners: Democracy and Civil Society in Early National Massachusetts* (Cambridge, MA, 2008); Kevin Butterfield, *The Making of Tocqueville's America: Law and Association in the Early United States* (Chicago, 2015); Theda Skocpol, *Diminished Democracy: From Membership to Management in American Civic Life* (Norman, OK, 2003), esp. 36–40.

37. Quoted in Novak, "The American Law of Association," 163.

38. Novak, *The People's Welfare,* 105–9; Naomi R. Lamoreaux and William J. Novak, "Corporations and American Democracy: An Introduction," in Naomi R. Lamoreaux and

William J. Novak, eds., *Corporations and American Democracy* (Cambridge, MA, 2017), 32; Clemens and Guthrie, "Politics and Partnerships," 3–4.

39. Butterfield, *The Making of Tocqueville's America,* 4.

40. Sparrow et al., *Boundaries of the State,* 6.

41. Clemens and Guthrie, "Politics and Partnerships," 4–5; Albrecht Koschnik, *"Let a Common Interest Bond Us Together": Associations, Partisanship, and Culture in Philadelphia, 1775–1840* (Charlottesville, 2007), 2–5; Johann Neem, "Civil Society and American Nationalism, 1776–1865," in Elisabeth S. Clemens and Doug Guthrie, eds., *Politics and Partnerships: The Role of Voluntary Associations in America's Political Past and Present* (Chicago, 2010), 30; John L. Brooke, "Ancient Lodges and Self-Created Societies: Voluntary Association and the Public Sphere in the Early Republic," in Ronald Hoffman and Peter J. Albert, eds., *Launching the "Extended Republic": The Federalist Era* (Charlottesville, 1996), 273–377.

42. Quoted in William G. Roy, *Socializing Capital: The Rise of the Large Industrial Corporation in America* (Princeton, 1997), 3; Lamoreaux and Novak, "Corporations and American Democracy," 7–8; Ronald E. Seavoy, *The Origins of the American Business Corporation, 1784–1855: Broadening the Concept of Public Service During Industrialization* (Westport, CT, 1982), 255.

43. Novak, "The American Law of Association," 172. For the key account on the "associative state," see Ellis Hawley, "Herbert Hoover, the Commerce Secretariat, and the Vision of an 'Associative State,' 1921–1928," *Journal of American History* 61 (June 1974): 116–40.

44. Novak, "The Myth of the 'Weak' American State," 758.

45. Sparrow et al., *Boundaries of the State,* 2, 6.

46. This point is made in Ariel Ron and Gautham Rao, "Taking Stock of the State in Nineteenth-Century America," *Journal of the Early Republic* 38 (Spring 2018): 62; and Stephen Skowronek, "Present at the Creation: The State in Early American Political History," *Journal of the Early Republic* 38 (Spring 2018): 96.

47. Karen Orren and Stephen Skowronek, *The Policy State: An American Predicament* (Cambridge, MA, 2017), 15.

48. Gerstle, *Liberty and Coercion,* see esp. 89–124. Richard Hamm has also argued that "reformers faced a polity with rules that often proscribed their actions but that had enough flexibility to allow them to achieve their ends." Hamm, *Shaping the Eighteenth Amendment: Temperance Reform, Legal Culture, and the Polity, 1880–1920* (Chapel Hill, 1995), 8.

49. Gerstle, *Liberty and Coercion,* 164.

50. Mashaw, *Creating the Administrative Constitution,* ix, 6.

51. Noam Maggor, *Brahmin Capital: Frontiers of Wealth and Populism in America's First Gilded Age* (Cambridge, MA, 2017), 215n13. See also Gary Gerstle, "The Civil War and Statebuilding: A Reconsideration," *Journal of the Civil War Era* (March 2017); Gerstle, "The Resilient Power of the States Across the Long Nineteenth Century," in Desmond King and Lawrence Jacobs, eds., *The Unsustainable American State* (Oxford, 2009), 61–87; Gregory Downs, *After Appomattox: Military Occupation and the Ends of War* (Cambridge, MA, 2015), esp. 239–44; Gregory P. Downs and Kate Masur, "Echoes of War: Rethinking Post–Civil War Governance and Politics," in Downs and Masur, eds., *The World the Civil War Made* (Chapel Hill, 2015), 1–21.

52. Quoted in Downs and Masur, "Echoes of War," 3, and Gregory P. Downs, "Three Faces of Sovereignty: Governing Confederate, Mexican, and Indian Texas in the Civil War Era," in Adam Arenson and Andrew R. Graybill, eds., *Civil War Wests: Testing the Limits of the United States* (Oakland, CA, 2015), 134.

53. Downs and Masur, "Echoes of War," 10. See also Rachel St. John, "State Power in the West in the Early American Republic," *Journal of the Early Republic* 38 (Spring 2018): 88; Romain D. Huret, *American Tax Resisters* (Cambridge, MA, 2014), 50–52; Wilbur R. Miller, *Revenuers and Moonshiners: Enforcing Federal Liquor Law in the Mountain South, 1865–1900* (Chapel Hill, 1991), 61.

54. Williamjames Hull Hoffer, *To Enlarge the Machinery of Government: Congressional Debates and the Growth of the American Government, 1858–1891* (Baltimore, 2007), x–xii, 197. See also Robert Harrison, Congress, *Progressive Reform, and the New American State* (Cambridge, 2004), 6.

55. Carpenter, *The Forging of Bureaucratic Autonomy,* 353. See also Mashaw, *Creating the Administrative Constitution,* 241.

56. Quoted is Theda Skocpol and Kenneth Finegold, "State Capacity and Economic Intervention in the Early New Deal," *Political Science Quarterly* 97 (1982): 271. Adam D. Sheingate, *The Rise of the Agricultural Welfare State: Institutions and Interest Group Power in the United States, France, and Japan* (Princeton, 2001), 51–54. An exemplary account of the USDA's Bureau of Animal Industry as an unheralded pocket of late nineteenth-century state capacity is Alan L. Olmstead and Paul W. Rhode, *Arresting Contagion: Science, Policy, and Conflicts over Animal Disease Control* (Cambridge, MA, 2015).

57. Gerstle, *Liberty and Coercion,* 104.

58. Gerstle, *Liberty and Coercion,* 55–86; Gerstle, "The Resilient Power of the States," 61–87. For progressive uses of state-level power in the postwar period, see William R. Brock, *Investigation and Responsibility: Public Responsibility in the United States, 1865–1900* (Cambridge, 1984).

59. Aristide R. Zolberg, *A Nation by Design: Immigration Policy in the Fashioning of America* (Cambridge, MA, 2006), 143–45; Kunal M. Parker, *Making Foreigners: Immigration and Citizenship Law in America, 1600–2000* (Cambridge, 2015), 83–84; Hidetaka Hirota, *Expelling the Poor: Atlantic Seaboard States and the Nineteenth-Century Origins of American Immigration Policy* (Oxford, 2017); Anna O. Law, "Lunatics, Idiots, Paupers, and Negro Seamen: Immigration Federalism and the Early American State," *Studies in American Political Development* 28 (October 2014): 108.

60. Kate Masur, "*The People's* Welfare, Police Powers, and the Rights of Free People of African Descent," *American Journal of Legal History* 57 (2017): 239–40. See also Law, "Lunatics, Idiots, Paupers, and Negro Seamen," 122; Kathleen Sullivan, "Charleston, The Vesey Conspiracy, and the Development of the Police Power," in Joseph Lowndes, Julie Novkov, and Dorian T. Warren, eds., *Race and American Political Development* (New York, 2008), 76. William Novak, too, has conceded the "distinct normative limitations of … the well-regulated society in some of the more nefarious policing polices of the time." William J. Novak, "*The People's Welfare* Redux," *American Journal of Legal History* 57 (2017): 255.

61. Novak, *The People's Welfare,* 241.

62. Gerstle, "The Resilient Power of the States," 70–71.

63. Lowndes et al., "Race and American Political Development," 35.

64. Gary Gerstle and Desmond King, "Spaces of Exception in American History" (manuscript in the author's possession), 20–22. See also Desmond King, *Separate and Unequal: Black Americans and the US Federal Government* (New York, 1995), 6; Kimberley Johnson, *Reforming Jim Crow: Southern Politics and State in the Age Before Brown* (Oxford, 2010), 5–6; David A. Bateman, Ira Katznelson, and John S. Lapinski, *Southern Nation: Congress and White Supremacy after Reconstruction* (Princeton, 2018), 16.

65. Maggor, *Brahmin Capitalism,* 4–5.

66. Maggor, *Brahmin Capitalism,* 158–59.

67. Noam Maggor, "To Coddle and Caress These Great Capitalists: Eastern Money, Frontier Populism, and the Politics of Market-Making in the American West," *American Historical Review* 122 (February 2017): 83. See also Amy Bridges, "Managing the Periphery in the Gilded Age: Writing Constitutions for the Western States," *Studies in American Political Development* 22 (Spring 2008): 32–58.

68. Maggor, *Brahmin Capitalism,* 158–59.

69. See, for example, Daniel J. Elazar, *The American Partnership: Intergovernmental Co-Operation in the Nineteenth-Century United States* (Chicago, 1962); Morton Grodzins, *The American System: A New View of Government in the United States* (Chicago, 1962); Loren P. Beth, *The Development of the American Constitution, 1877–1917* (New York, 1971), chap. 2.

70. Kimberley Johnson, *Governing the American State: Congress and the New Federalism* (Princeton, 2007), 162.

71. Elisabeth Clemens, "Lineages of the Rube Goldberg State: Building and Blurring Public Programs, 1900–1940," in Ian Shapiro, Stephen Skowronek, and Daniel Galvin, eds., *Rethinking Political Institutions: The Art of the State* (New York, 2006), 201–7.

72. Kimberley Johnson, "The First New Federalism and the Development of the Modern American State," in Lawrence Jacobs and Desmond King, eds., *The Unsustainable American State* (Oxford, 2009), 89.

73. Elisabeth Clemens, *Civic Gifts: Voluntarism and the Making of the American Nation-State* (Chicago, 2020), 5–7; Gerstle, *Liberty and Coercion,* 347–48. On the reciprocal nature of infrastructural power, see Sidney Tarrow, "Mann, War, and Cyberspace: Dualities of Infrastructural Power in America," *Theory and Society* 47 (2018): 61–85.

74. On the "porosity" of American government, seeGary Gerstle, "A State Both Strong and Weak," *American Historical Review* 115 (June 2010): 784; and Daniel T. Rodgers, *Atlantic Crossings: Social Politics in a Progressive Age* (Cambridge, MA, 1998), 152–59.

75. Richard White, *The Republic for Which It Stands: The United States During Reconstruction and the Gilded Age, 1865–1896* (Oxford), 357–60; Nicholas Parrillo, *Against the Profit Motive: The Salary Revolution in American Government, 1780–1940* (New Haven, 2013).

76. White, *The Republic for Which It Stands,* 388–95; Gerstle, *Liberty and Coercion,* 118–21; Clemens, *Civic Gifts*, 6; Elisabeth Clemens, "Reconciling Equal Treatment with Respect for Individuality: Association in the Symbiotic State," in Morgan and Orloff, *The Many Hands of the State*, 44; Lisa McGirr, *The War on Alcohol: Prohibition and the Rise of the American State* (New York, 2016), 132–42.

77. Hannah Farber, "State-Building After War's End: A Government Financier Adjusts His Portfolio for Peace," *Journal of the Early Republic* 38 (Spring 2018): 67–68.

78. Richard White, *Railroaded: The Transcontinentals and the Making of Modern America* (New York, 2011), 511.

79. On "friendship," see White, *Railroaded,* 93–102, xxix; Richard White, "Information, Markets, and Corruption: Transcontinental Railroads in the Gilded Age," *Journal of American History* 90 (June 2003): 43; Steve Fraser, *Every Man a Speculator: A History of Wall Street in American Life* (New York, 2005), 113–18.

80. White, *The Republic for Which It Stands,* 360; Clemens, *Civic Gifts*, 6.

81. Novak, "The Not-So-Strange Birth of the Modern American State," 197. According to James Sparrow, William Novak, and Stephen Sawyer, writing in 2015, "current events—from a boundless war on terror to a stunningly generous, if blinkered, governmental response to the recent financial crisis—have only conspired to underscore this lesson." Sparrow et al., *Boundaries of the State in U.S. History,* 1.

82. See Suzanne Mettler, *The Submerged State: How Invisible Government Policies Undermine American Democracy* (Chicago, 2011), 7; Frances E. Lee and Nolan McCarty, "The Anxieties of American Democracy," in Frances E. Lee and Nolan McCarty, eds., *Can America Govern Itself?* (Cambridge, 2019), 1–10; Lawrence R. Jacobs and Desmond King, "The Political Crisis of the American State: The Unsustainable State in a Time of Unraveling," in Jacobs and King, *The Unsustainable American State,* 3–33.

83. Morgan and Orloff, "The Many Hands of the State," 1.

84. Johnson, *Governing the American* State, 3; Karen Orren and Stephen Skowronek, "The Adaptability Paradox: Constitutional Resilience and the Principles of Good Government in Twenty-First-Century America," *Perspectives on Politics* 18 (June 2020): 12; Orren and Skowronek, *The Search for Political Development,* 199.

85. Gerstle, *Liberty and Coercion,* 59–61.

86. Orren and Skowronek, *The Policy State,* 6.

87. Johnson, *Governing the American State,* 8.

88. Skocpol, *Protecting Soldiers and Mothers,* 1.

89. On the range of actors involved in the pension system, see Skocpol, *Protecting Soldiers and Mothers,* 118–19.

90. In contrast to Richard Bensel's incorporation of the pension system as a component part of the late nineteenth-century Republican Party's "great policy systems," Paul Moreno has argued, correctly in my view, that "rather than being a well-crafted cog in an elaborate and effective political machine, the pension system … seems more accidental and ad hoc." Bensel, *The Political Economy of Industrialization,* 232; Paul D. Moreno, *The American State from the Civil War to the New Deal: The Twilight of Constitutionalism and the Triumph of Progressivism* (Cambridge, 2013), 15.

91. Jacobs and King, "The Political Crisis of the American State," 5–6.