

JAMES Q. WILSON

From *Бюрократия*

It's been twenty years since the "new" ice skating rink was built in New York's Central Park. Many skaters have enjoyed it since 1986. In that time, New York City has experienced much change. New mayors have come and gone. September 11, 2001, happened: The city mourned and then slowly recovered. But some things in New York City have remained the same, even if not exactly. Donald Trump still knows how to get things done. Back in the mid-1980s, before "The Apprentice," Real estate developer Trump showed that the efficiency of the private sector could accomplish what no public bureaucracy seemed to be able to do: refurbish the Central Park skating rink, quickly and inexpensively. Today we'd say that the city freed itself and "privatized" the project by hiring Trump. Renowned political scientist James Q. Wilson looks at Trump's success with the skating rink project, but also explains why he had that success. The public sector has many limitations on its actions that the private sector does not have to consider. As privatization becomes increasingly popular on the state and local and even national level of government, it's important to remember Wilson's caveat: efficiency is not the only worthy goal and not all publicly run projects are inefficient.

ON THE MORNING OF MAY 22, 1986, Donald Trump, the New York real estate developer, called one of his executives, Anthony Gliedman, into his office. They discussed the inability of the City of New York, despite six years of effort and the expenditure of nearly \$13 million, to rebuild the ice-skating rink in Central Park. On May 28 Trump offered to take over the rink reconstruction, promising to do the job in less than six months. A week later Mayor Edward Koch accepted the offer and shortly thereafter the city appropriated \$3 million on the understanding that Trump would have to pay for any cost overruns out of his own pocket. On October 28, the renovation was complete, over a month ahead of schedule and about \$750,000 under budget. Two weeks later, skaters were using it.

For many readers it is obvious that private enterprise is more efficient than are public bureaucracies, and so they would file this story away as simply another illustration of what everyone already knows. But for other

readers it is not so obvious what this story means: to them, business is greedy and unless watched like a hawk will fob off shoddy or overpriced goods on the American public, as when it sells the government \$435 hammers and \$3,000 coffee-pots. Trump may have done a good job in this instance, but perhaps there is something about skating rinks or New York City government that gave him a comparative advantage; in any event, no larger lessons should be drawn from it.

Some lessons can be drawn, however, if one looks closely at the incentives and constraints facing Trump and the Department of Parks and Recreation. It becomes apparent that there is not one "bureaucracy problem" but several, and the solution to each in some degree is incompatible with the solution to every other. First there is the problem of accountability—getting agencies to serve agreed-upon goals. Second there is the problem of equity—treating all citizens fairly, which usually means treating them alike on the basis of clear rules known in advance. Third there is the problem of responsiveness—reacting reasonably to the special needs and circumstances of particular people. Fourth there is the problem of efficiency—obtaining the greatest output for a given level of resources. Finally there is the problem of fiscal integrity—assuring that public funds are spent prudently for public purposes. Donald Trump and Mayor Koch were situated differently with respect to most of these matters.

Accountability

The Mayor wanted the old skating rink refurbished, but he also wanted to minimize the cost of the fuel needed to operate the rink (the first effort to rebuild it occurred right after the Arab oil embargo and the attendant increase in energy prices). Trying to achieve both goals led city hall to select a new refrigeration system that as it turned out would not work properly. Trump came on the scene when only one goal dominated: get the rink rebuilt. He felt free to select the most reliable refrigeration system without worrying too much about energy costs.

Equity

The Parks and Recreation Department was required by law to give every contractor an equal chance to do the job. This meant it had to put every part of the job out to bid and to accept the lowest without much regard to the reputation or prior performance of the lowest bidder. Moreover, state law forbade city agencies from hiring a general contractor and letting him select the subcontractors; in fact, the law forbade the city

from even discussing the project in advance with a general contractor who might later bid on it—that would have been collusion. Trump, by contrast, was free to locate the rink builder with the best reputation and give him the job.

Fiscal Integrity

To reduce the chance of corruption or sweetheart deals the law required Parks and Recreation to furnish complete, detailed plans to every contractor bidding on the job; any changes after that would require renegotiating the contract. No such law constrained Trump; he was free to give incomplete plans to his chosen contractor, hold him accountable for building a satisfactory rink, but allow him to work out the details as he went along.

Efficiency

When the Parks and Recreation Department spent over six years and \$13 million and still could not reopen the rink, there was public criticism but no city official lost money. When Trump accepted a contract to do it, any cost overruns or delays would have come out of his pocket and any savings could have gone into his pocket (in this case, Trump agreed not to take a profit on the job).

Gliedman summarized the differences neatly: “The problem with government is that government can’t say, ‘yes’ . . . there is nobody in government that can do that. There are fifteen or twenty people who have to agree. Government has to be slower. It has to safeguard the process. . . .”

The government can’t say “yes.” In other words, the government is constrained. Where do the constraints come from? From us.

Herbert Kaufman has explained red tape as being of our own making: “Every restraint and requirement originates in somebody’s demand for it.” Applied to the Central Park skating rink Kaufman’s insight reminds us that civil-service reformers demanded that no city official benefit personally from building a project; that contractors demanded that all be given an equal chance to bid on every job; and that fiscal watchdogs demanded that all contract specifications be as detailed as possible. For each demand a procedure was established; viewed from the outside, those procedures are called red tape. To enforce each procedure a manager was appointed; those managers are called bureaucrats. No organized group demanded that all skating rinks be rebuilt as quickly as possible, no proce-

dures existed to enforce that demand, and no manager was appointed to enforce it. The political process can more easily enforce compliance with constraints than the attainment of goals.

When we denounce bureaucracy for being inefficient we are saying something that is half true. Efficiency is a ratio of valued resources used to valued outputs produced. The smaller that ratio the more efficient the production. If the valued output is a rebuilt skating rink, then whatever process uses the fewest dollars or the least time to produce a satisfactory rink is the most efficient process. By this test Trump was more efficient than the Parks and Recreation Department.

But that is too narrow a view of the matter. The economic definition of efficiency (efficiency in the small, so to speak) assumes that there is only one valued output, the new rink. But government has many valued outputs, including a reputation for integrity, the confidence of the people, and the support of important interest groups. When we complain about skating rinks not being built on time we speak as if all we cared about were skating rinks. But when we complain that contracts were awarded without competitive bidding or in a way that allowed bureaucrats to line their pockets we acknowledge that we care about many things besides skating rinks; we care about the contextual goals—the constraints—that we want government to observe. A government that is slow to build rinks but is honest and accountable in its actions and properly responsive to worthy constituencies may be a very efficient government, if we measure efficiency in the large by taking into account *all* of the valued outputs.

Calling a government agency efficient when it is slow, cumbersome, and costly may seem perverse. But that is only because we lack any objective way for deciding how much money or time should be devoted to maintaining honest behavior, producing a fair allocation of benefits, and generating popular support as well as to achieving the main goal of the project. If we could measure these things, and if we agreed as to their value, then we would be in a position to judge the true efficiency of a government agency and decide when it is taking too much time or spending too much money achieving all that we expect of it. But we cannot measure these things nor do we agree about their relative importance, and so government always will appear to be inefficient compared to organizations that have fewer goals.

Put simply, the only way to decide whether an agency is truly inefficient is to decide which of the constraints affecting its action ought to be ignored or discounted. In fact that is what most debates about agency behavior are all about. In fighting crime are the police handcuffed? In educating children are teachers tied down by rules? In launching a space

shuttle are we too concerned with safety? In building a dam do we worry excessively about endangered species? In running the Postal Service is it important to have many post offices close to where people live? In the case of the skating rink, was the requirement of competitive bidding for each contract on the basis of detailed specifications a reasonable one? Probably not. But if it were abandoned, the gain (the swifter completion of the rink) would have to be balanced against the costs (complaints from contractors who might lose business and the chance of collusion and corruption in some future projects).

Even allowing for all of these constraints, government agencies may still be inefficient. Indeed, given the fact that bureaucrats cannot (for the most part) benefit monetarily from their agencies' achievements, it would be surprising if they were not inefficient. Efficiency, in the large or the small, doesn't pay. . . .

Inefficiency is not the only bureaucratic problem nor is it even the most important. A perfectly efficient agency could be a monstrous one, swiftly denying us our liberties, economically inflicting injustices, and competently expropriating our wealth. People complain about bureaucracy as often because it is unfair or unreasonable as because it is slow or cumbersome.

Arbitrary rule refers to officials acting without legal authority, or with that authority in a way that offends our sense of justice. Justice means, first, that we require the government to treat people equally on the basis of clear rules known in advance: If Becky and Bob both are driving sixty miles per hour in a thirty-mile-per-hour zone and the police give a ticket to Bob, we believe they also should give a ticket to Becky. Second, we believe that justice obliges the government to take into account the special needs and circumstances of individuals: If Becky is speeding because she is on her way to the hospital to give birth to a child and Bob is speeding for the fun of it, we may feel that the police should ticket Bob but not Becky. Justice in the first sense means fairness, in the second it means responsiveness. Obviously, fairness and responsiveness often are in conflict.

The checks and balances of the American constitutional system reflect our desire to reduce the arbitrariness of official rule. That desire is based squarely on the premise that inefficiency is a small price to pay for freedom and responsiveness. Congressional oversight, judicial review, interest-group participation, media investigations, and formalized procedures all are intended to check administrative discretion. It is not hyperbole to say that the constitutional order is animated by the desire to make the government "inefficient."

This creates two great tradeoffs. First, adding constraints reduces the

efficiency with which the main goal of an agency can be attained but increases the chances that the agency will act in a nonarbitrary manner. Efficient police departments would seek out criminals without reading them their rights, allowing them to call their attorneys, or releasing them in response to a writ of habeas corpus. An efficient building department would issue construction permits on demand without insisting that the applicant first show that the proposed building meets fire, safety, sanitation, geological, and earthquake standards.

The second great tradeoff is between nonarbitrary governance defined as treating people equally and such governance defined as treating each case on its merits. We want the government to be both fair and responsive, but the more rules we impose to insure fairness (that is, to treat all people alike) the harder we make it for the government to be responsive (that is, to take into account the special needs and circumstances of a particular case).

The way our government manages these tradeoffs reflects both our political culture as well as the rivalries of our governing institutions. Both tend toward the same end: We define claims as rights, impose general rules to insure equal treatment, lament (but do nothing about) the resulting inefficiencies, and respond to revelations about unresponsiveness by adopting new rules intended to guarantee that special circumstances will be handled with special care (rarely bothering to reconcile the rules that require responsiveness with those that require equality). And we do all this out of the best of motives: a desire to be both just and benevolent. Justice inclines us to treat people equally, benevolence to treat them differently; both inclinations are expressed in rules, though in fact only justice can be. It is this futile desire to have a rule for every circumstance that led Herbert Kaufman to explain "how compassion spawns red tape." . . .

In the meantime we live in a country that despite its baffling array of rules and regulations and the insatiable desire of some people to use government to rationalize society still makes it possible to get drinkable water instantly, put through a telephone call in seconds, deliver a letter in a day, and obtain a passport in a week. Our Social Security checks arrive on time. Some state prisons, and most of the federal ones, are reasonably decent and humane institutions. The great majority of Americans, cursing all the while, pay their taxes. One can stand on the deck of an aircraft carrier during night flight operations and watch two thousand nineteen-year-old boys faultlessly operate one of the most complex organizational systems ever created. There are not many places where all this happens. It is astonishing it can be made to happen at all.

have suggested, a conspiracy by government officials to increase their power. The following selection traces the rise of the administrative state and particularly notes how political pluralism has affected the character of the bureaucracy by dividing it into clientele sectors.

57

The Rise of the Bureaucratic State



James Q. Wilson

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

The Founding Fathers had little to say about the nature or function of the executive branch of the new government. The Constitution is virtually silent on the subject and the debates in the Constitutional Convention are almost devoid of reference to an administrative apparatus. This reflected no lack of concern about the matter, however. Indeed, it was in part because of the Founders' depressing experience with chaotic and inefficient management under the Continental Congress and the Articles of Confederation that they had assembled in Philadelphia. Management by committees composed of part-time amateurs had cost the colonies dearly in the War of Independence and few, if any, of the Founders wished to return to that system. The argument was only over how the heads of the necessary departments of government were to be selected, and whether these heads should be wholly subordinate to the President or whether instead they should form some sort

of council that would advise the President and perhaps share in his authority. In the end, the Founders left it up to Congress to decide the matter.

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

The "Bureaucracy Problem"

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

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

The government can spend vast sums of money—wisely or unwisely—without creating that set of conditions we ordinarily associate with the bureaucratic state. For example, there could be massive transfer payments made under government auspices from person to person or from state to state, all managed by a comparatively small staff of officials and a few large computers. In 1971, the federal government paid out \$54 billion under various social insurance programs, yet the Social Security Administration employs only 73,000 persons, many of whom perform purely routine jobs.

And though it may be harder to believe, the government could in principle employ an army of civilian personnel without giving rise to those organizational patterns that we call bureaucratic. Suppose, for instance, that we as a nation should decide to have in the public schools at least one teacher for every two students. This would require a vast increase in the number of teachers and schoolrooms, but almost all of the persons added would be performing more or less identical tasks, and they could be organized into very small units (e.g., neighborhood schools).

Though there would be significant overhead costs, most citizens would not be aware of any increase in the "bureaucratic" aspects of education—indeed, owing to the much greater time each teacher would have to devote to each pupil and his or her parents, the citizenry might well conclude that there actually had been a substantial reduction in the amount of "bureaucracy."

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

Political Authority

There are at least three ways in which political power may be gathered undesirably into bureaucratic hands: by the growth of an administrative apparatus so large as to be immune from popular control, by placing power over a governmental bureaucracy of any size in private rather than public hands, or by vesting discretionary authority in the hands of a public agency so that the exercise of that power is not responsive to the public good. These are not the only problems that arise because of bureaucratic organization. From the point of view of their members, bureaucracies are sometimes uncaring, ponderous, or unfair; from the point of view of their political superiors, they are sometimes unimaginative or inefficient; from the point of view of their clients, they are sometimes slow or unjust. No single account can possibly treat of all that is problematic in bureaucracy; even the part I discuss here—the extent to which political authority has been transferred undesirably to an unaccountable administrative realm—is itself too large for a single essay. But it is, if not the most important problem, then surely the one that would most have troubled our Revolutionary leaders, especially those that went on to produce the Constitution. It was, after all, the question of power that chiefly concerned them, both in redefining our relationship with England and in finding a new basis for political authority in the Colonies.

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

private organizations—political parties, trade unions, voluntary associations—will have an additional reason to become bureaucratic as well.

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

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

Bureaucracy and Size

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

The increase in the size of the executive branch of the federal government at this time was almost entirely the result of the increase in the size of the Post Office. From 1816 to 1861, federal civilian employment in the executive branch increased

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

The Military Establishment

Not all large bureaucracies grow in response to demands for service. The Department of Defense, since 1941 the largest employer of federal civilian officials, has become, as the governmental keystone of the "military-industrial complex," the very archetype of an administrative entity that is thought to be so vast and so well-entrenched that it can virtually ignore the political branches of government, growing and even acting on the basis of its own inner imperatives. . . .

A "Military-Industrial Complex"?

The argument for the existence of an autonomous, bureaucratized led military-industrial complex is supported primarily by events since 1950. Not only has the United States assumed during this period worldwide commitments that necessitate a larger military establishment, but the advent of new, high-technology weapons has created a vast industrial machine with an interest in sustaining a high level of military expenditures, especially on weapons research, development, and acquisition. This machine, so the argument goes, is allied with the Pentagon in ways that dominate the political officials nominally in charge of the armed forces. There is some truth in all this. We have become a world military force, though that decision was made by elected officials in 1949-1950 and not dictated by a (then non-existent) military-industrial complex. High-cost, high-technology weapons have become important and a number of industrial concerns will prosper or perish depending on how contracts for those weapons are let. The development and purchase of weapons is sometimes made in a wasteful, even irrational, manner. And the allocation of funds among the several armed services is often dictated as much by inter-service rivalry as by strategic or political decisions. . . .

Bureaucracy and Clientelism

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

War and the Spanish-American War. By 1901 there were over 44,000 civilian defense employees, mostly workers in government-owned arsenals and shipyards. But even those could account for less than one fourth of the increase in employment during the preceding 40 years.

What was striking about the period after 1861 was that the government began to give formal, bureaucratic recognition to the emergence of distinctive interest in a diversifying economy. As Richard L. Schott has written, "whereas earlier federal departments had been formed around specialized governmental functions (foreign affairs, war, finance, and the like), the new departments of this period—Agriculture, Labor, and Commerce—were devoted to the interests and aspirations of particular economic groups."

The original purpose behind these clientele-oriented departments was neither to subsidize nor to regulate, but to promote, chiefly by gathering and publishing statistics and (especially in the case of agriculture) by research. . . .

Public Power and Private Interests

. . . The New Deal was perhaps the high water mark of at least the theory of bureaucratic clientelism. Not only did various sectors of society, notably agriculture, begin receiving massive subsidies, but the government proposed, through the National Industry Recovery Act (NIRA), to cloak with public power a vast number of industrial groupings and trade associations so that they might control production and prices in ways that would end the depression. The NRA's Blue Eagle fell before the Supreme Court—the wholesale delegation of public power to private interests was declared unconstitutional. But the piecemeal delegation was not, as the continued growth of specialized promotional agencies attests. The Civil Aeronautics Board, for example, erroneously thought to be exclusively a regulatory agency, was formed in 1938 "to promote" as well as regulate civil aviation and it has done so by restricting entry and maintaining above-market rate fares.

Agriculture, of course, provides the leading case of clientelism. Theodore J. Lowi finds "at least 10 separate, autonomous, local self-governing systems" located in or closely associated with the Department of Agriculture that control to some significant degree the flow of billions of dollars in expenditures and loans. Local committees of farmers, private farm organizations, agency heads, and committee chairmen in Congress dominate policymaking in this area—not, perhaps, to the exclusion of the concerns of other publics, but certainly in ways not powerfully constrained by them.

"Cooperative Federalism"

The growing edge of client-oriented bureaucracy can be found, however, not in government relations with private groups, but in the relations among governmental units. In dollar volume, the chief clients of federal domestic expenditures are state and local government agencies. . . .

The degree to which such grants, and the federal agencies that administer them, constrain or even direct state and local bureaucracies is a matter of dispute. No general answer can be given—federal support of welfare programs has left considerable discretion in the hands of the states over the size of benefits and some discretion over eligibility rules, whereas federal support of highway construction carries with it specific requirements as to design, safety, and (since 1968) environmental and social impact.

A few generalizations are possible, however. The first is that the states and not the cities have been from the first, and remain today, the principal client group for grants-in-aid. It was not until the Housing Act of 1937 that money was given in any substantial amount directly to local governments and though many additional programs of this kind were later added, as late as 1970 less than 12 percent of all federal aid went directly to cities and towns. The second general observation is that the 1960s mark a major watershed in the way in which the purposes of federal aid are determined. Before that time, most grants were for purposes initially defined by states—to build highways and airports, to fund unemployment insurance programs, and the like. Beginning in the 1960s, the federal government at the initiative of the President and his advisors, increasingly came to define the purposes of these grants—not necessarily over the objection of the states, but often without any initiative from them. Federal money was to be spent on poverty, ecology, planning, and other “national” goals for which, until the laws were passed, there were few, if any, well-organized and influential constituencies. Whereas federal money was once spent in response to the claims of distinct and organized clients, public or private, in the contemporary period federal money has increasingly been spent in ways that have created such clients.

And once rewarded or created, they are rarely penalized or abolished. . . .

Self-Perpetuating Agencies

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

Most of the major new social programs of the United States, whether for the good of the few or the many, were initially adopted by broad coalitions appealing to

general standards of justice or to conceptions of the public weal. This is certainly the case with most of the New Deal legislation—notably such programs as Social Security—and with most Great Society legislation—notably Medicare and aid to education; it was also conspicuously the case with respect to post—Great Society legislation pertaining to consumer and environmental concerns. State occupational licensing laws were supported by majorities instead in, among other things, the contribution of these statutes to public safety and health.

But when a program supplies particular benefits to an existing or newly created interest, public or private, it creates a set of political relationships that make exceptionally difficult further alteration of that program by coalitions of the majority. What was created in the name of the common good is sustained in the name of the particular interest. Bureaucratic clientelism becomes self-perpetuating, in the absence of some crisis or scandal, because a single interest group to which the program matters greatly is highly motivated and well-situated to ward off the criticisms of other groups that have a broad but weak interest in the policy.

In short, a regime of separated powers makes it difficult to overcome objections and contrary interests sufficiently to permit the enactment of a new program or the creation of a new agency. Unless the legislation can be made to pass either with little notice or at a time of crisis or extraordinary majorities—and sometimes even then—the initiation of new programs requires public interest arguments. But the same regime works to protect agencies, once created, from unwelcome change because a major change is, in effect, new legislation that must overcome the same hurdles as the original law, but this time with one of the hurdles—the wishes of the agency and its client—raised much higher. As a result, the Madisonian system makes it relatively easy for the delegation of public power to private groups to go unchallenged and, therefore, for factional interests that have acquired a supportive public bureaucracy to rule without submitting their interests to the effective scrutiny and modification of other interests. . . .