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Ruling Passions: Political Economy in Nineteenth-Century America

In recent years, the *Journal of Policy History* has emerged as a major venue for scholarship on American policy history in the period after 1900. Indeed, it is for this reason that it is often praised as the leading outlet for scholarship on American political history in the world. Only occasionally, however, has it featured essays on the early republic, the Civil War, or the post-Civil War era. And when it has, the essays have often focused on partisan electioneering rather than on governmental institutions.¹ The rationale for this special issue of the *Journal of Policy History* is to expand the intellectual agenda of policy history backward in time so as to embrace more fully the history of governmental institutions in the period before 1900. The six essays that follow contain much that will be new even for specialists in nineteenth-century American policy history, yet they are written in a style that is intended to be accessible to college undergraduates and historians unfamiliar with the period.

The paucity of scholarship on nineteenth-century policy history can be explained in part by the relative novelty of the field. The first meeting of a group of historians to talk self-consciously about policy history did not take place until 1978, when political historians Thomas K. McCraw and Morton Keller convened a conference on this topic at Harvard University.²

A further impediment to the study of nineteenth-century policy history has been the implicit presumption of many twentieth-century policy historians that nineteenth-century policy history is an oxymoron, a contradiction in terms. In the nineteenth century, or so it is often assumed, party leaders driven by a “partisan imperative” dominated the policy process.³ The conflation of nineteenth-century public policy with

partisan electioneering would have puzzled nineteenth-century lawmakers—since they devoted enormous energies to the drafting of legislation, the structuring of institutions, and the regulation of markets. Yet it follows plausibly from a central tenet of the present-day historiography of the United States: namely, the assumption that governmental institutions are ultimately the product of antecedent social circumstances. Each essay in this special issue challenges this assumption. Although none treat governmental institutions as altogether independent of the wider society, they share the premise that, to a significant degree, governmental institutions were autonomous—and, thus, potential agents of change.

A major theme of this special issue is the extent to which public policy in the pre-1900 period was not only a *prelude* to what came later, or a *promise* that has been lost, but a *project* with a more-or-less coherent design that grew out of the institutional arrangements established by the founders of the republic. No one would have envisioned how the project would play out. Yet this was not the point. The key was the presumption that governmental institutions could shape the future of American society. Indeed, perhaps the most basic claim that these essays advance is the idea that there did in fact exist in the nineteenth-century United States a regulatory regime, as opposed to a constellation of discrete and often unrelated public policies. The federal Constitution—and, more broadly, the European Enlightenment out of which the Constitution emerged—cast a long shadow in the subsequent history of public policy in the United States.⁴ The project was a ruling passion in a dual sense. Nineteenth-century lawmakers were passionate believers in the centrality of political economy to moral philosophy: the idea that political economy and morality might somehow be divorced would have struck them as bizarre.⁵ In addition, lawmakers were preoccupied with the constructive channeling of the passions of self-interested individuals—such as greed, envy, complacency, and laziness. Toward this end, they designed various regulatory mechanisms to discipline the market and unleash human creativity. These mechanisms were so pervasive that the political economy of nineteenth-century America is best characterized not as a market economy but as a regulatory regime.⁶ In this dual sense, then, “ruling passions” is an appropriate title for a collection of essays that explores the history of political economy in the nineteenth-century United States.

In no sense do we intend this special issue to be comprehensive. Rather, we seek to reorient our understanding of nineteenth-century public policy by highlighting its distinctiveness and, more broadly, its embeddedness in institutional arrangements that antedated the emergence of

the mass political parties in the 1830s. Among the most important of these institutional arrangements were federalism—that is, the principles governing the relationship between the federal government and the states—law, and public administration.⁷ In keeping with what we understand to be the central concerns of nineteenth-century lawmakers, these essays focus on a single policy realm—the relationship of the state and the market—or what nineteenth-century contemporaries would have called “political economy.” We look forward to other special issues that might focus on such related, yet distinct, public policy realms as the relationship of the state and the citizenry, the relationship of the state and the international arena, and the relationship of the state and the public sphere.

It might seem obvious to contend that the founding of the United States shaped the subsequent history of public policy in the United States. Yet, oddly enough, policy historians have been reluctant to link the founding era with the nineteenth century.⁸ To explain why, it is useful to discuss two of the foundational works for historians of nineteenth-century public policy: Richard L. McCormick’s *Party Period and Public Policy: American Politics from the Age of Jackson to the Progressive Era* (1986) and Stephen Skowronek’s *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920* (1982).

From its publication in 1986 to the present, McCormick’s *Party Period and Public Policy* has set the agenda for a generation of historians of nineteenth-century public policy. Few generalizations about nineteenth-century public life have been more compelling for policy historians than the assumption that it was a “party period” dominated by party leaders. The “idea” of a nineteenth-century “party period,” for example—one of McCormick’s major interpretative contributions—has recently been termed the “most noteworthy achievement of modern research into nineteenth-century political history” and the field’s “most powerful concept.”⁹ Although McCormick included the phrase “public policy” in his title, his characterization of its scope was quite limited. In the nineteenth century, McCormick famously posited, “‘policy’ was little more than the accumulation of isolated, individual choices, usually of a distributive nature.”¹⁰ To reach this conclusion, McCormick excluded from public policy many issues of interest to policy historians today. These included slavery, foreign relations, communications, military procurement, intellectual property rights, and the many kinds of economic regulation that fell outside the immediate purview of legislators. His primary focus, instead, was on certain policy issues that provoked legislative debate—for example, the sale of government-owned land and the enactment of favorable tariff rates. Such policies were “highly divisible” in the sense

that they could be repeated again and again.¹¹ “Forever giving things away,” McCormick lamented, “governments were laggard in regulating the economic activities they subsidized.”¹² In making this claim, he conveniently overlooked those other policy arenas in which compromise was more difficult to sustain.

McCormick’s characterization of nineteenth-century public policy proved influential not only because of his masterful engagement with the existing historical literature but also because of his willingness to challenge the many historians who continued to regard elections, rather than government, as the “mainsprings” of American politics.¹³ In McCormick’s view, government—understood to embrace “popular expectations” for governmental action, as well as the rules and opportunities for “getting the using the power of the State”—was at the core of political history: “In every era, the kind of party politics that people practiced depended primarily upon the rules for obtaining office, the accepted functions of government, and the actual State structures. When governance changed, the parties changed, although the reverse was not always the case.”¹⁴ The study of “governmental policy,” McCormick declared—in a critique of historical scholarship on electoral politics—should thus become as “systematic” as the study of elections: “There is an urgent need for a satisfactory typology of governmental policies, for new methods of describing and categorizing those policies, and for new ways of identifying the significant governmental transformations in American history.”¹⁵ At the time he was writing—during the heyday of the “new” social history, with its insistent focus on rewriting history “from the bottom up”—this insight was relatively novel.¹⁶

Having conceded a good deal to governmental institutions at a time when many political historians remained preoccupied with the analysis of electoral outcomes, McCormick seemed to many to have staked out a sensible middle ground. In his view, “distributive policies”—that is, the distribution by legislators to particular claimants of discrete and often highly particularistic economic favors (such as a land sale or a favorable tariff)—had “enormous potential” for stimulating and sustaining party conflict, since they could be contested both ideologically by champions and critics of economic development and practically by rival entrepreneurs. The resulting party-led competitive free-for-all so dominated American politics in the decades between the 1830s and the 1890s—or so McCormick contended—that this era was best characterized as the “party period” in American public life. The party leaders who distributed these favors led the mass political parties that emerged in the 1830s and retained “governmental hegemony” until after 1900, when social and

economic changes led to a new pattern of American politics.¹⁷ Only after 1900, in McCormick's view, would regulation and administration come to supplement distribution as a defining feature of public policy. Only after 1900 would the "party period" come to an end.¹⁸

Each of the contributors to this special issue echoes McCormick's contention that economic policymaking was the "most characteristic" activity of American government at the state, federal, and local levels.¹⁹ Yet none adopt the "party period" paradigm as an interpretative frame for understanding the political economy of the United States in the period between the 1830s and the 1890s, or characterize the trajectory of economic policymaking in this period as a shift from distribution to regulation.²⁰ Distributive benefits, such as the granting of a corporate charter, did shape several of the industries that the essayists consider, including banking and coal. Yet they were no means the only, or even the most characteristic, kind of government economic policy. For each, the nineteenth-century political economy was, from the beginning, a regulatory regime. And for each, policymaking was by no means the exclusive prerogative of the partisan officeholders who McCormick assumes to have dominated the policy process.

The contributors to this collection found no more helpful the widely accepted characterization of the nineteenth-century American state as a state of "courts and parties." This characterization was launched by political scientist Stephen Skowronek in his influential *Building a New American State*, and has become adopted in the past decade or so by many historians—including policy historians—eager to find some pithy way to characterize the nineteenth-century American state.²¹ Since Skowronek's book was published before McCormick's, it might make sense to consider it first. Yet *New American State* was embraced more slowly than *Party Period*, at least among historians. For example, though McCormick praised *New American State* in his notes, he did not explicitly embrace the "courts-and-parties" construct in his text, at least in part because he had originally published most of the essays on which his book had been based prior to 1982, when *New American State* appeared.²²

The "courts-and-parties" construct expanded on the party period paradigm by emphasizing the instrumental role not only of party leaders but also of jurists. For Skowronek, the nineteenth-century American state had two main dimensions: a court system that fostered economic development and a party system that embodied the ideal of popular sovereignty. Courts were the "chief source" of "economic surveillance," pushing the government into a predictable but flexible pattern of

support for capital accumulation; parties, in contrast, “organized governmental institutions internally” through the disbursement of political patronage, or what contemporaries called “spoils.”²³ Courts and parties were, in this way, stand-ins for capitalism and democracy—the protean social forces lurking in the wings of so much historical writing on nineteenth-century America. Missing from Skowronek’s analysis was an autonomous administrative apparatus—or “bureaucracy”—a circumstance, he speculated, that helped to explain the “sense of statelessness” of nineteenth-century politics.²⁴

While McCormick was plainly troubled by the limitations of the party period, Skowronek found in the state of courts and parties much to admire. Indeed, in his conclusion, he opined that an attack on the present-day administrative state (the “bureaucracy”) might lead to a revitalization of the courts as articulators of “coherent standards of state action” as well as to a “revival” of “party organization”—a “happy if long-delayed redress” of the over-elaboration of the administrative state that had begun in the early twentieth century.²⁵ For McCormick, the party period was a prelude to the rise in the early twentieth-century “progressive” era of the regulatory and administrative state, an innovation of which he basically approved. For Skowronek, in contrast, the state of courts and parties was a valuable counterweight to the “all-consuming bureaucracies” of the twentieth-century—making it less of a prelude to a better future than a promise that might one day be restored.²⁶

The relative slowness with which historians embraced the courts-and-parties construct—in comparison, at least, with the “party period” paradigm—owed something to the implicit presumption of champions of the courts-and-parties construct that the United States in the nineteenth century had in fact *had* a state that was in some way comparable to the nation-states of Europe. Even a state of courts and parties, after all, was a state. Since many if not most post-World War II historians have regarded U.S. political history as “exceptional” in the sense of being radically different from the political history of the nation-states of Europe, this presumption was only haltingly embraced.²⁷ For historians as well as political scientists, the statelessness of the nineteenth-century United States—not only in perception but also in fact—had by the 1980s become a rigid orthodoxy that senior scholars fiercely defended, largely for ideological reasons stemming from their opposition to fascism and Stalism and their hostility toward the Cold War Soviet Union.²⁸

The eventual embrace by historians of the courts-and-parties construct was symptomatic of a larger sea-change in historical sensibility. Around 1980 it became once again acceptable—as it had been before

World War II, but had only rarely been since 1945—for U.S.-based scholars to conceive of the United States as a state from the moment of its founding. Now that historical sociologists such as Theda Skocpol were “bringing the state back in”—as she did, in an influential essay published in 1985—it seemed high time that historians fall in line. This embrace was in one sense curious, since Skowronek based his characterization neither on existing historical scholarship nor on a detailed engagement with the primary sources. Rather, he derived it largely from classic texts in political theory, supplemented by the nineteenth-century social theorists Alexis de Tocqueville, Karl Marx, and Georg Friedrich Hegel—only one of whom had ever set foot in the United States.

Morton Keller set the tone in a thoughtful review of *New American State* in *Reviews in American History*, which appeared in June 1983. Skowronek’s state of courts and parties, Keller noted approvingly, was a “decentralized, bourgeois, liberal system of government in which political parties were the carriers of popular democracy and courts served the needs of private enterprise.”²⁹ Although Keller contested Skowronek’s claim that an altogether “new” American state had emerged in the early twentieth century, he found little to fault in Skowronek’s characterization of the nineteenth-century state it supplanted.³⁰ That Keller endorsed the courts-and-parties construct was in one sense unsurprising: in certain respects, it echoed Keller’s own characterization of the nineteenth-century “polity” (Keller mostly avoided the term “state”) that he himself had set forth in his recently published *Affairs of State* (1977), a richly detailed history of late nineteenth-century public life. To be sure, Keller characterized this state as more of a “pattern” than a “patchwork,” the term Skowronek preferred. Yet he shared Skowronek’s admiration for the compromises of nineteenth-century jurists and party leaders as well as his conviction that courts and parties were the “dominant” public institutions of the day.³¹

New American State is justly regarded as a landmark in the emergence of policy history as a distinctive field of inquiry for historians, political scientists, and historical sociologists.³² Following its publication, a generation of scholars turned their attention to the role of governmental institutions in the making of the modern United States. Much of this scholarship, like *New American State*, is concerned primarily with developments that culminated in the period after 1900.³³ Only rarely have policy historians used the courts-and-parties construct to explore in detail policy issues that were more or less confined to the nineteenth century, such as slavery or abolition. None of the contributors to this special issue find the courts-and-parties construct particularly useful, a telling sign of its limitations. After all, the construct had been originally designed to

explain developments not in the nineteenth century, but in the twentieth. *New American State* explored the rise in the early twentieth century of administrative agencies that, in Skowronek's view, had supplanted older—and in certain respects more praiseworthy—governmental institutions that he associated with the nineteenth century. Although hardly nostalgic, it betrayed—especially in its conclusion—a certain yearning for a world we had lost. In this way, its characterization of the early American state was more of an expression of a late twentieth-century political impulse than an empirical investigation of the political project on which nineteenth-century Americans had embarked.

The authors of the essays that follow differ in matters of emphasis, but they share the conviction that the “party period” paradigm and the “courts-and-parties” construct are inadequate interpretative frames through which to view the nineteenth-century political economy. Their dissatisfaction stems in large part from the conviction that these frames are unduly restrictive.³⁴ Although they illuminate certain facets of the American political economy, they obscure more. In particular, they exaggerate the influence on policymaking of party leaders, underestimate the integrity of the judiciary, and neglect the often-vital role in the policy process of administrators, lobbyists, and property owners (including slaveholders). Several of the contributors touch on electoral politics, but none make it a central theme or treat it as the benchmark against which present-day public life ought to be judged. No “partisan imperative,” in short, defined the “political nation”—to borrow two phrases from political historian Joel H. Silbey. None proclaim, following Silbey, that the “partisan institutional framework” of nineteenth-century politics was then—and remains now, over a century later—“critically and absolutely necessary for the effective operation and health of the American political world.”³⁵ On the contrary, the contributors emphasize the importance for policy outcomes of structural factors that were only tangentially related to electoral politics—including federalism, law, and public administration. All highlight the preoccupation of lawmakers with restraining the disruptive passions of certain groups, whether southern yeoman, military contractors, corporate promoters, independent inventors, savings bank trustees, or investors. None find it adequate to characterize the resulting policy outcomes as merely distributive, in the sense that every claimant could get a piece of the pie. Some policy outcomes were more or less predictable; others were not. Yet they fell into certain patterns. All challenge the now thoroughly discredited notion that the nineteenth-century was a world of “laissez-faire” in which market forces

reigned unchecked; several draw attention to certain features of the nineteenth-century regulatory regime that were decidedly antidemocratic and even antiliberal.

Among the distinctive features of these essays is their sensitivity to the language lawmakers deployed to justify their conduct. None regard self-interest in a narrow sense as an adequate characterization for the behavior even of party leaders, while several explicate the often-overlooked cultural and institutional context that shaped the policy pronouncement of public figures such as Alexander Hamilton and Roscoe Conkling.³⁶ And, finally, none try to establish a “usable past” for present-day party leaders by purporting to delineate a political tradition that links, say, Andrew Jackson with Al Gore, or Abraham Lincoln with George W. Bush.³⁷

The “party period” paradigm treated as a single unit an epoch in American history—the 1830s to the 1890s—that was marked by extraordinary change. The most fundamental change was the Civil War and the abolition of slavery—events central to essays by Robin L. Einhorn and Mark R. Wilson. The “tax systems” of the early republic, Einhorn demonstrates, were decisively shaped by the political economy of the individual states and, above all, by slavery. In those states in which slavery remained economically vital, tax codes proscribed elected officials from valuing personal property; in those states in which slavery had been abolished, the local assessment of personal property was common. The contrast, Einhorn contends, can be explained by the refusal of slaveholders to subject themselves to the democratic politics of tax collection. A far different situation prevailed in the North, where fiscal conservatives like Alexander Hamilton had good reason to fear the power of democratic politics: “If northern elites complained more vociferously about democracy than southern elites did in the early republic, it was because the political arrangements of the North included more democratic arrangements to complain about.” The refusal of slaveholders to permit a “politics” of taxation went far to resolve the so-called “American paradox” that historian Edmund S. Morgan associated with colonial Virginia: that is, the complementarity of black slavery and white freedom. “There was no ‘American paradox’ locking democracy and slavery in a fatal embrace in American history,” Einhorn concludes: “On the contrary, there was more democracy where there was more liberty: in the places where most people were free.”

The persuasiveness of Einhorn’s conclusions rests in large measure on her resolute institutionalism. Unimpressed by the supposedly momentous significance of even “revolutionary” electoral victories (such as Thomas Jefferson’s triumph in the election of 1800) and committed

to recovering the social context out of which the public pronouncements of often-disparaged statesmen emerged (such as Alexander Hamilton's strictures on democracy), she grounds her analysis in the "institutional reality" codified in state-level statutory law. The result is a stunning reinterpretation of American tax policy that underscores the uncompromising refusal of slaveholders and eventually, following the abolition of slavery, corporate managers to permit their assets to be subjected to the give-and-take of democratic politics.

The limitations of the "party period" paradigm are further elaborated on in Wilson's revisionist analysis of the origins of bureaucratic autonomy in modern America. Civil War military procurement, Wilson demonstrates, was not only one of the largest single economic projects undertaken in the nineteenth-century United States, but it was also a case-study in the bureaucratic autonomy of the nineteenth-century military. The project was coordinated *not* by Republican party leaders—as champions of the party period paradigm had assumed—but instead by high-ranking, careerist military procurement officers. The origins of these officers' bureaucratic autonomy, Wilson posits, antedated the war and dated back to reforms in the War Department instituted by secretary of war John C. Calhoun immediately following the War of 1812. In the United States—no less than in Great Britain, France, or Prussia—big government preceded big business, with the military leading the way. The autonomy of procurement officers owed less to their cultivation of a favorable public reputation, as political scientist Daniel P. Carpenter might contend, than to their formal authority.³⁸ "In the very heyday of what is often called the 'party period,'" Wilson concludes, "there existed in the Quartermasters' Department a resilient, and potentially powerful, reservoir of bureaucratic autonomy that was distinct from, though never entirely unrelated to, the partisan imperative long assumed to have been the dominant political force of the age." The formal authority of Civil War era procurement officers, in turn, furnished a template for the creation in the post-Civil War period of the giant, bureaucratic organizations that would by the mid-twentieth century become a defining feature of American business, government, and the professions.³⁹

The limitations of the courts-and-parties construct are very much in evidence in essays by Sean Patrick Adams and Steven W. Usselman and Richard R. John. The coal industry in nineteenth-century America, Adams demonstrates, was shaped by a constellation of public policies at the state and federal level that culminated in a single, highly significant outcome: an abundance of cheap coal. At all levels of government, the maximization of output was the paramount goal. "Nature made coal

abundant,” Adams observes, while “public policy made it cheap.” In this policy mix, state governments were often rivals, while administrative bodies at both the state and the federal level sponsored geological surveys to encourage the rapid extraction of mineral wealth. The resulting competitive free-for-all was less the product of happenstance than of deliberate design: a design rooted ultimately in the planned decentralization that was—and is—a hallmark of federalism. Coal policy might seem to be merely distributive, yet even here there were winners and losers, and not even Franklin Gowen, as the owner of a large railroad and coal mine empire in Pennsylvania, could circumvent the logic of federalism and corner the market for coal.

Few conclusions have been repeated more often by historians of nineteenth-century economic policy than the irrelevance of the federal government to the regulatory process in the period before the enactment of the Interstate Commerce Act in 1887 and the Sherman Antitrust Act in 1890.⁴⁰ Yet this characterization of the nineteenth-century political economy is vulnerable on several counts. It ignores, for example, the history of finance, the military, communications, and slavery—realms in which distributive politics rarely, if ever, prevailed.⁴¹ In addition, it overlooks the history of patents and copyright—or what we would today call intellectual property. Here was another realm in which, as Usselman and John show, the bureaucratic autonomy of a federal administrative agency—the federal patent office—had far-reaching consequences for the political economy. The patent office, they conclude, was a “bastion of administrative autonomy deep within the federal bureaucracy that exerted a subtle yet pervasive influence on public policy,” and that “anchored the ever-broadening community of experts, including influential figures in Congress and the courts who interacted with it as lawmakers and litigants.”

Perhaps the most startling finding of this essay is the rehabilitation of New York Republican party leader Roscoe Conkling. Although Conkling is often characterized as the most rapacious of political spoilsmen, he emerges here as the conscientious champion of an economic order—proprietary capitalism—that was gradually being thrust aside with the emergence of giant corporations. The granting and regulation of patents, they demonstrate, had an intellectual integrity that the courts-and-party construct obscured. To presuppose, for example, that the courts unambiguously sustained economic development is to overlook the extent to which competing economic groups (such as railroad managers and independent inventors) jostled for advantage—as well as the highly credible threat that unfavorable legal action posed for the railroad, one of the largest and most powerful economic institutions of the day.⁴²

The complex role of the courts in economic regulation is the theme of the final two essays, by R. Daniel Wadhvani and Naomi R. Lamoreaux, on the regulation of savings banks and the property rights of investors. Both demonstrate that the nineteenth-century judiciary was less the supine tool of commercial groups than the courts-and-parties construct would imply. In the case of savings banks, the courts elaborated on charter restrictions mandated by state legislatures to protect small savers against the potentially risky decisions of bank trustees. “This innovation,” Wadhvani concludes, “was in itself highly significant, and in no sense merely a prelude to the kinds of protection that depositors would come to be afforded in the twentieth century by the administrative state. Long before the Great Depression, lawmakers had recognized the need to protect small savers from the vagaries of the market.” Here was one realm in which the courts protected not ventures but vested rights.⁴³

The legacy of nineteenth-century public policy is also a theme for Lamoreaux. In a series of leading court decisions concerning minority shareholders, Lamoreaux demonstrates, lawmakers systematically discriminated in favor of managers and against investors. This finding, Lamoreaux elaborates, is relevant to twenty-first-century policymakers intent on spurring economic development, since it demonstrates that—contrary to the common view among present-day development experts in the United States—economic development can proceed rapidly even if property rights are *not* secure. Even more important in spurring development, Lamoreaux concludes, were the protections government has traditionally afforded inventors through the patent system, as well as government-sponsored promotional ventures in transportation, land allocation, the surveying of mineral resources, and education. “Policymakers interested in economic development today,” she contends, in summarizing her argument, “might well conclude from the preceding discussion that they have devoted too much attention in recent years to the issue of property rights and too little to strategies for fostering profitable projects.”

Taken together, the essays in this special issue point toward a new way of thinking about the nineteenth-century political economy. They characterize it neither, like Skowronek’s *New American State*, as a promise that might one day be recovered, nor, like McCormick’s *Party Period*, as the prelude to things to come. Rather, the nineteenth-century political economy emerges as a distinctive project that is best understood as a legacy of the founding of the United States.

The title of this volume, “Ruling Passions,” highlights two eighteenth-century legacies that shaped the nineteenth-century American

political economy. The first of these legacies was the often-passionate preoccupation of lawmakers with the art of statecraft.⁴⁴ To a degree that is often overlooked today, nineteenth-century lawmakers took it for granted that governmental institutions were a major—and often the major—catalyst for innovation. The second was what one might call the “moral imperative” of lawmakers to redirect socially destructive passions into constructive channels.

Each essay in this special issue highlights themes that may well be unfamiliar even to specialists in the period, and that have yet to be embraced by policy historians who specialize in the more recent past. At least in part, this is because policy historians influenced by McCormick and Skowronek often generalize about the nineteenth-century policy economy without displaying more than a passing familiarity with either the historical scholarship or the primary sources on which such generalizations must ultimately be based. All too often, scholarship is based on findings that are in some instances fifty years old. Few policy historians compare nineteenth-century governmental institutions to their eighteenth-century colonial counterparts—or even, for that matter, with their nineteenth-century counterparts in Great Britain, France, Canada, or Prussia.⁴⁵ It is high time, we believe, for historians who specialize in the nineteenth century to enter into a dialogue with political scientists and historical sociologists that will highlight some of the ways in which historical inquiry can contribute to the study of governmental institutions.⁴⁶

That policy historians have devoted so little attention to the nineteenth century is in one sense understandable. There is, after all, good reason to study the more recent past. The day-to-day lives of millions of Americans are shaped by the health-care legislation Congress enacts, while the future of the planet may well depend on the military doctrine the executive follows. Public policy matters: it is, thus, easy to understand why so much attention has been focused on issues that are of present-day concern.

Yet this present-mindedness is not without its subtle perils. Policy history is predicated on the assumption that institutions beget institutions. It should, thus, be instructive to have a better understanding of the nineteenth-century governmental institutions that laid the foundations for the political economy of the present. In addition, in an age in which the position of the United States in the international political economy is once again becoming—as it was in the nineteenth century—a matter of intense concern, it is worth recalling the extent to which the emergence of the United States as one of the world’s leading economic powers was a product not merely, or even primarily, of impersonal market forces, but

also of deliberate design. Finally, in a post-9/11 world—a world in which the threat of global terrorism has underscored the interrelationship of governmental institutions, political liberty, and economic development—it may well be time to acknowledge the achievements, as well as the limitations, of the lawmakers who have devised the governmental institutions upon which the political economy of the present-day United States has come to rest.

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Notes

1. Mark Walgren Summers, “To Make the Wheels Revolve We Must Have Grease: Barrel Politics in the Gilded Age,” *Journal of Policy History* 14, no. 1 (2002): 49–69; Joel H. Silbey, “The State and Practice of American Political History at the Millennium: The Nineteenth Century as Test Case,” *Journal of Policy History* 11, no. 1 (1999): 1–30; William E. Gienapp, “The Myth of Class in Jacksonian America,” *Journal of Policy History* 6, no. 2 (1994): 232–59. For a notable exception, see Charles W. Calhoun, “Political Economy in the Gilded Age: The Republican Party’s Industrial Policy,” *Journal of Policy History* 8, no. 3 (1996): 291–309.

2. Robert Kelley, “The History of Public Policy: Does It Have a Distinctive Character and Method?” in *Federal Social Policy: The Historical Dimension*, ed. Donald T. Critchlow and Ellis W. Hawley (University Park, Pa., 1988), 1. Kelley for some reason dated the conference to 1979. For a more detailed history of the emergence of policy history as a distinctive field of inquiry, based in part on the personal papers of one of the participants (Ellis Hawley), as well as the correct date of the first meeting (November 1978), see Julian E. Zelizer, “Clio’s Lost Tribe: Public Policy History Since 1978,” *Journal of Policy History* 12, no. 3 (2000): 369–94, esp. 373.

3. Although this assumption is shared by many political historians, it has been developed in the greatest detail by Joel H. Silbey. See, for example, Silbey’s *Partisan Imperative: The Dynamics of American Politics Before the Civil War* (New York, 1985). For the fullest elaboration of Silbey’s position, see *Silbey’s American Political Nation, 1838–1893* (Palo Alto, 1991). For a brief synopsis, see Silbey, “Foundation Stones of Present Discontents: The American Political Nation, 1776–1945,” in *Present Discontents: American Politics in the Very Late Twentieth Century*, ed. Byron E. Shafer (Chatham, N.J., 1997), 1–29.

4. On the political psychology of the founders, as well as the influence of the Enlightenment on the framing of the Constitution, see Daniel Walker Howe, *Making the American Self: Jonathan Edwards to Abraham Lincoln* (1997), chaps. 2 and 3.

5. Lance Banning, “Political Economy and the Creation of the Federal Republic,” in *Devising Liberty: Preserving and Creating Freedom in the New American Republic*, ed. David Thomas Konig (Stanford, 1995), 11–49; John R. Nelson Jr., *Liberty and Property: Political Economy and Policymaking in the New Nation, 1789–1812* (Baltimore, 1987); Drew R. McCoy, *The Elusive Republic: Political Economy in Jeffersonian America* (Chapel Hill, 1980).

6. William J. Novak, *The People's Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill, 1996); Peter Karsten, *Head Versus Heart: Judge-Made Law in Nineteenth-Century America* (Chapel Hill, 1997).

7. Richard R. John, "Governmental Institutions as Agents of Change: Rethinking American Political Development in the Early Republic, 1787-1835," *Studies in American Political Development* 11 (Fall 1997): 347-80; Ronald P. Formisano, "State Development in the Early Republic: Substance and Structure, 1780-1840," in *Contesting Democracy: Substance and Structure in American Political History, 1775-2000*, ed. Byron E. Shafer and Anthony J. Badger (Lawrence, Kan., 2001), 7-35.

8. Among the notable exceptions is John Lauritz Larson's *Internal Improvement: National Public Works and the Promise of Popular Government in the Early United States* (Chapel Hill, 2001). In a dust-jacket blurb, the distinguished political historian Peter S. Onuf termed Larson's book the "single most important contribution to our understanding of the antebellum American political economy in the last generation."

9. Mark Voss-Hubbard, "The 'Third Party Tradition' Reconsidered: Third Parties and American Public Life, 1830-1900," *Journal of American History* 86 (June 1999): 122. No enthusiast himself for the party period paradigm, Voss-Hubbard praised, as counterweight, an alternative "nonpartisan framework" that would reorganize nineteenth-century political history around "movements of reform and policy innovation" (141, 149). For a book-length elaboration of this theme, see Voss-Hubbard, *Beyond Party: Cultures of Antipartisanship in Northern Politics Before the Civil War* (Baltimore, 2002).

10. Richard L. McCormick, *The Party Period and Public Policy: American Politics from the Age of Jackson to the Progressive Era* (New York, 1986), 206. McCormick's characterization of nineteenth-century policymaking as distributive was indebted, as his footnotes make plain, to the scholarship of James Willard Hurst, the celebrated legal historian who faulted late nineteenth-century policymaking for "drift and default."

Interestingly, both McCormick and Hurst viewed the nineteenth-century political economy through the lens of the early twentieth-century Progressive Era—rather than, say, from the standpoint of the founders of the republic. For a cogent critique of Hurst's preoccupation with "drift and default," see Harry N. Scheiber, "At the Borderland of Law and Economic History: The Contributions of Willard Hurst," *American Historical Review* 75 (February 1970): 753-55. Drift and default, Scheiber observed, might well characterize resource allocation (Hurst's specialty), yet did not characterize other policy arenas such as transportation or economic regulation. An analogous critique could be made of McCormick.

Hurst's characterization of the nineteenth-century political economy owed a good deal (as is well known) to his detailed investigation of the Wisconsin lumber industry. One wonders how his characterization of nineteenth-century law might have differed had he studied policy arenas in which economic regulation was more deliberate, elaborate, and sustained—such as communications, banking, or intellectual-property rights.

11. McCormick, *Party Period*, 208. "Unlike regulatory questions, sectional issues, or cultural matters," McCormick hypothesized, "distributive decisions seldom threatened consensus or risked unmanageable divisions in the party coalitions" (212). For a case-study that applied McCormick's idea to the pivotal state of New York, see L. Ray Gunn, *The Decline of Authority: Public Economic Policy and Political Development in New York, 1800-1860* (Ithaca, 1988), esp. chap 4 ("The Political Economy of Distribution").

12. McCormick, *Party Period*, 205. McCormick credited the insight that distributive policies were "pervasive" to political scientist Theodore J. Lowi, who set forth a "seminal" typology of policy outputs in an essay that he published in 1964 (204). The essay was "American Business, Public Policy, Case-Studies, and Political Theory," *World Politics* 16 (July 1964): 677-715. Lowi's typology distinguished between policy outputs that were distributive, regulatory, and redistributive. "Distribution," Lowi famously declared, was "almost the exclusive type of national domestic policy from 1789 until virtually 1890" (689). Given the enormous influence of Lowi's characterization, it is worthwhile to inquire

on what empirical evidence it was based. This is by no means easy to determine, since, in an essay that included thirty-two footnotes, Lowi did not cite a single work of historical scholarship on the nineteenth-century United States. It is, thus, perhaps, a bit surprising that a historian as judicious as McCormick would rely on Lowi's characterization as a master-key to nineteenth-century public policy.

Among the historians to express misgivings about the relevance of Lowi's typology to the nineteenth-century United States were Morton Keller, whose *Affairs of State: Public Life in Late Nineteenth-Century America* (1977) remains a landmark in the field. "American law and public policy"—Keller wrote in 1979, in an explicit critique of Lowi's typology—"always have been committed to the dual (and often contradictory) goals of economic growth and social order. . . . What is needed is an overview—a style of scholarship—that accepts this inherent ambiguity of social ends and proceeds to explore its manifestation in law and public policy." Morton Keller, "Business History and Legal History," *Business History Review* 53 (Autumn 1979): 298. Yet even Keller regarded Lowi's notion of "distributive" policy as of enduring value. Keller, "Social Policy in Nineteenth-Century America," in Critchlow and Hawley, *Federal Social Policy*, 104. For a similarly mixed assessment of the utility of Lowi's typology as a characterization of nineteenth-century public policy, see Scheiber, "Borderland," 753.

13. McCormick, *Party Period*, 18. By politics, McCormick meant primarily the history of political party competition. "Collectively," McCormick wrote, at another point, "these governmental matters—beliefs, policies, and rules—have been the mainsprings of American party history" (144).

14. *Ibid.*

15. *Ibid.*, 87.

16. "Fundamentally," McCormick added, both politics and policymaking derived "not from one another" but instead from "social conditions and economic opportunities" that were part of the "larger environment"—and, thus, largely independent of and unrelated to governmental institutions. *Ibid.*, 18–19, 16. Political scientists interested in American political development might find McCormick's claim surprising, since they have long regarded the state as a potentially autonomous agent of change; yet it was entirely in keeping with the society-centered worldview in which most historical inquiry in the 1980s was framed.

Nowhere was the society-centered functionalism of McCormick's analysis more manifest than in his treatment of the Progressive Era. In this age, McCormick wrote, changes in politics and government were "products" of those "all-powerful, ubiquitous forces in modern American history: industrialization, urbanization, and immigration" (275). The limitations of such a society-centered analytical framework—which reified "social change" as a kind of unmoved first mover—have been detailed by historically oriented social scientists. For an influential critique, see Theda Skocpol, "Bringing the State Back In: Strategies of Analysis in Current Research," in *Bringing the State Back In*, ed. Peter Evans, Dietrich Rueschemeyer, and Theda Skocpol (Cambridge, 1985), 3–37, and Charles Tilly, *Big Structures, Large Processes, Huge Comparisons* (New York, 1985).

17. McCormick, *Party Period*, 19.

18. *Ibid.* "The decades from the 1830s to the early 1900s," McCormick wrote, "form a distinctive era in American political history, with patterns of party politics, electoral behavior, and economic policy that set it apart from the eras that came before and after. . . . [T]his was the period when parties dominated political participation and channeled the flow of government policies. Even as the nation grew in size and numbers, fought the Civil War, and industrialized, parties continued to perform these functions and retained their dominance" (200–201).

19. *Ibid.*, vii.

20. For a similar caveat, see Donald J. Pisani, "Promotion and Regulation: Constitutionalism and the American Economy," *Journal of American History* 74 (December 1987): 768. In this essay, Pisani surveyed the secondary literature on economic policymak-

ing and observed—correctly—that many historians associated distribution (or promotion) with the nineteenth century and regulation with the twentieth. “The paramount question raised here,” Pisani observed in his conclusion, is “whether such sweeping categories as promotion and regulation—as well as the identification of one as an essentially nineteenth-century phenomenon and the other as a creature more of this century—do not obscure more than they illuminate.” Pisani’s misgivings find many echoes in the essays that follow.

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

22. McCormick cited Skowronek’s book, along with William E. Nelson’s *Roots of American Bureaucracy* (1982), as one of the most interesting recent works on nineteenth-century American governance. McCormick, *Party Period*, 13.

23. Skowronek, *Building a New American State*, 27, 25.

24. *Ibid.*, 5. The “exceptional character” of the early American state, Skowronek declared, is “neatly summarized in the paradox that it failed to evoke any sense of a state.” For a critique of this characterization of nineteenth-century public life, see John, “Governmental Institutions,” 347–80. See also John, “Affairs of Office: The Executive Departments, the Election of 1828, and the Making of the Democratic Party,” in *The Democratic Experiment: New Directions in American Political History*, ed. Meg Jacobs, William J. Novak, and Julian E. Zelizer (Princeton, 2003), 50–84.

25. Skowronek, *Building a New American State*, 292. “This new cycle of reconstruction politics,” Skowronek speculated, “might end with reenergized parties, a vigilant judiciary, and disciplined bureaucracies all working in harmony under the Constitution.”

26. *Ibid.*, 291. The erroneous characterization of the United States in the period before 1880 as pre-bureaucratic has long been a favorite conceit of institutional historians such as Louis Galambos who specialize in the post-1880 period. Although the origins of this conceit are complex, it owed something to the distinction that social historian Samuel P. Hays drew between bureaucracies and “technical systems.” The “technical system of the modern world,” Hays declared, was “vastly different from the bureaucracies and organizations of earlier times.” Significantly, Hays did *not* contend that the United States lacked bureaucracies in the pre-1880 period; indeed, he more or less took their existence for granted. Samuel P. Hays, “The New Organizational Society,” in *Building the Organizational Society: Essays on Associational Activities in Modern America*, ed. Jerry Israel (New York, 1972), 3. For Galambos’s characterization of the pre-1880 period as “non-bureaucratic,” see Galambos, “The Emerging Organizational Synthesis in American History,” *Business History Review* 44 (Autumn 1970): 288. Before 1880, Galambos observed, there was “virtually” no bureaucracy for government officials to direct, making the nineteenth-century state—just as Skowronek has contended—“essentially a government of courts and parties.” Galambos, “By Way of Introduction,” in *The New American State: Bureaucracies and Policies since World War II*, ed. Galambos (Baltimore, 1987), 7. For a book-length critique of the idea that bureaucratic institutions did not exist in the nineteenth-century United States, see Richard R. John, *Spreading the News: The American Postal System from Franklin to Morse* (Cambridge, 1995). See also John, “Leonard D. White and the Invention of American Administrative History,” *Reviews in American History* 24 (June 1996): 344–60.

27. “Of all the aspects of American history,” wrote Daniel T. Rodgers in a perceptive review essay, “political history clings most strongly to the old exceptionalist story line.” Daniel T. Rodgers, “Exceptionalism,” in *Imagined Histories: American Historians Interpret Their Past*, ed. Anthony Molho and Gordon S. Wood (Princeton, 1998), 34.

28. For a cogent analysis of the rejection of the state as an interpretative frame in the post-World War II period by American scholars, led by political scientists, see David Ciepley, “Why the State Was Dropped in the First Place: A Prequel to Skocpol’s ‘Bringing the State Back In,’” *Critical Review* 14, nos. 2–3 (2000): 157–213.

29. Keller, “New American State,” 248.

30. Morton Keller, “(Jerry-) Building a New American State,” *Reviews in American History* 11 (June 1983): 248. Keller faulted Skowronek for neglecting the “really important

business of government” in the late nineteenth century—which he took to be opening the western lands, tariff and currency policy, and social policymaking on the state and local level (249). In addition, he questioned the magnitude of the transformation that Skowronek described. In Keller’s reading, the “springs” of government were hardly less “weak” in 1920 than they had been in 1877 (252).

31. Keller, “New American State,” 250, 249. Interestingly, Keller remained reluctant to characterize as a “state” a structure of politics and government that was “so varied, decentralized, and responsive,” as opposed to being “initiatory.” Keller, “Social Policy in Nineteenth-Century America,” 109.

32. The importance of the book for policy history, as well as for the related field of American political development, was recently highlighted by a special issue of *Social Science History*. See, in particular, Julian E. Zelizer, “Stephen Skowronek’s *Building a New American State* and the Origins of American Political Development,” *Social Science History* 27 (Fall 2003): 425–41.

33. This is particularly true of historically oriented social scientists—for example, Gerald Berk, *Alternative Tracks: The Constitution of American Industrial Order, 1865–1917* (Baltimore, 1994), and Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Cambridge, Mass., 1992).

34. For a related discussion that focused on state and local government, see Terrence J. McDonald, “The Burdens of Urban History: The Theory of the State in Recent American Social History,” *Studies in American Political Development* 3 (1989): 29. “When one considers,” McDonald wrote, the “various ways that the subnational state helped to constitute society by acting or refusing to act, the various issues around which political mobilization occurred or failed to occur, and the various ideologies that these actions generated, the most damning thing that can be said about viewing politics from the perspective of ethnicity, patronage, and machines is simply that it is an extraordinarily narrow way of viewing the relationship between state and society in America” (29).

35. Silbey, “Foundation Stones of Present Discontents,” 8. Only in the twentieth century, Silbey observed, did policymaking shift from “smoke-filled rooms and the hustings” to boardrooms, administrative agencies staffed by civil servants, and the courts (21). The essays in this special issue call into question Silbey’s characterization of nineteenth-century policymaking. None, for example, devotes much attention to backstage political maneuvering or partisan electioneering. For a more general critique of the idealization of nineteenth-century popular politics that Silbeyque political historians have done so much to foster, see Richard Franklin Bensel, *The American Ballot Box in the Mid-Nineteenth Century* (Cambridge, 2004); Glenn C. Altschuler and Stuart M. Blumin, *Rude Republic: Americans and Their Politics in the Nineteenth Century* (Princeton, 2000); and Michael Schudson, *The Good Citizen: A History of American Civic Life* (Cambridge, Mass., 1998).

36. The propensity of historians to disparage as narrowly self-serving the pronouncements of nineteenth-century legislators, administrators, and jurists helps explain why so many dimensions of nineteenth-century policy history remain obscure. Relatively few historians today are conversant with the details of nineteenth-century policy debates, much less the specific cultural and institutional context out of which they emerged. It is thus easy to misinterpret the import of a particular sentence or phrase. Compounding the problem has been the often-uncritical adoption by historians of the interpretative conventions of certain contemporaries—such as, for example, labor leaders. It is “absolutely wrong-headed” and an “act of intellectual bad faith”—as the urban historian Philip J. Ethington has astutely observed, in a critique of labor historian Sean Wilentz—to “consider genuine only the words of labor leaders, while writing off as disingenuous those of the mainstream party leaders. It is also poor critical theory.” H-SHGAP electronic list, posted 28 November 1995.

Among the interpretative conventions that historians would do well to reconsider is the characterization of the post-Civil War decades as a “Gilded Age.” Although the phrase was coined in 1873 by Mark Twain and Charles Dudley Warner, it was never

embraced by contemporaries, and it has recently been challenged by political historians Rebecca Edwards and Alan Lessoff. On this point, I have found useful Lessoff's "Van Wyck Brooks, Lewis Mumford, and the Gilded Age: Provenance of a Usable Past," unpublished essay in the author's possession, and Rebecca Edwards's *New Spirits: Americans in the Gilded Age, 1865–1905* (Oxford, forthcoming). Lessoff's essay demonstrated that late-nineteenth-century social commentators almost never used the phrase "Gilded Age" to describe the period in which they were living—unlike, for example, the "Progressive Era," which *was* embraced by contemporaries. As it happens, the phrase "Gilded Age" would not be popularized until the 1920s, when social critics Van Wyck Brooks and Lewis Mumford adopted it as part of a broader critique of American industrialism. Edwards rejects the "Gilded Age"/"Progressive Era" duality—she contends, on the contrary, that a great deal of continuity marked the period between 1865 and 1905—yet she found it impossible to avoid the phrase "Gilded Age" in her title, in large part because her editors presumed that this was how the period is commonly identified by the general readers for whom her book is intended. Rebecca Edwards to Richard R. John, email communication, 18 May 2005.

37. The propensity of political historians to connect-the-dots between nineteenth-century party leaders and their twentieth—and now, twentieth-first—century successors is one of the oldest genres of American political writing. Although hard to justify intellectually, such an exercise has a peculiar fascination for political historians, most of whom incline toward the Democratic side of the political spectrum—and, thus, find it congenial to link nineteenth-century Democrats with policy positions of which they approve. For a recent example, see Peter B. Kovler, ed., *Democrats and the American Idea: A Bicentennial Appraisal* (Washington, D.C., 1992).

38. Daniel P. Carpenter, *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1862–1928* (Princeton, 2001).

39. The centrality of the military to the making of the United States is a much-neglected topic. For some suggestive leads, see Charles Royster, *A Revolutionary People at War: The Continental Army and American Character* (Chapel Hill, 1979), 38, 147, 319–20, 360, and Joseph J. Ellis, *Founding Brothers: The Revolutionary Generation* (New York, 2001), 154–55.

40. "Significant government intervention" in regulatory policy, "especially at the federal level," declared the respected economic historians Claudia Goldin and Gary D. Libecap in 1994, in summarizing what has long been a scholarly consensus among economic historians, "took place only after 1880." Claudia Goldin and Gary D. Libecap, "Introduction," to *The Regulated Economy: A Historical Approach to Political Economy*, ed. Goldin and Libecap (Chicago, 1994), 10. The persistence of such a claim in the face of the large body of evidence to the contrary raises the suspicion that the denigration of the role of the federal government in nineteenth-century economic development is, at its core, less of an empirical observation than an ideological *cri de coeur*. That this claim is, for example, often voiced by economists who are professionally predisposed to favor market incentives over regulatory mechanisms may not be altogether coincidental. To be sure, not all economic historians share this consensus. For one dissent, see Richard Sylla, "Experimental Federalism: The Economics of American Government, 1789–1914," in *The Cambridge Economic History of the United States*, vol. 2, *The Long Nineteenth Century*, ed. Stanley L. Engerman and Robert E. Gallman (Cambridge, 2000), 483–541. For another, see Richard R. John, "Private Enterprise, Public Good? Communications Deregulation as a National Political Issue, 1839–1851," in *Beyond the Founders: New Approaches to the Political History of the Early American Republic*, ed. Jeffrey L. Pasley, Andrew W. Robertson, and David Waldstreicher (Chapel Hill, 2004), 328–54.

41. For a sampling of historical scholarship on these topics, see Max M. Edling, *A Revolution in Favor of Government: Origins of the U.S. Constitution and the Making of the American State* (New York, 2003); Richard Frankin Bense, *The Political Economy of American Industrialization, 1877–1900* (Cambridge, 2000); Sylla, "Experimental Federalism"; Bense,

Yankee Leviathan: The Origins of Central State Authority in America, 1859–1877 (Cambridge, 1990); Fred Anderson and Andrew Cayton, *Dominion of War: Empire and Liberty in North America, 1500–2000* (New York, 2005); Ira Katznelson, “Flexible Capacity: The Military and Early American Statebuilding,” in *Shaped by War and Trade: International Influences on American Political Development*, ed. Katznelson and Martin Shefter (Princeton, 2002), 82–110; Merritt Roe Smith, ed., *Military Enterprise and Technological Change: Perspectives on the American Experience* (Cambridge, Mass., 1985); Paul Starr, *The Creation of the Media: Political Origins of American Communications* (New York, 2004); Richard R. John, “Recasting the Information Infrastructure for the Industrial Age,” in *A Nation Transformed by Information: How Information Has Shaped the United States from Colonial Times to the Present*, ed. Alfred D. Chandler Jr. and James W. Cortada (New York, 2000), 55–105; Robin L. Einhorn, *American Taxation, American Slavery* (Chicago, forthcoming, 2006); Don E. Fehrenbacher, edited and completed by Ward M. McAfee, *The Slaveholding Republic: An Account of the United States Government’s Relations to Slavery* (New York, 2001); Leonard L. Richards, *The Slave Power: The Free North and Southern Domination, 1780–1860* (Baton Rouge, 2000); William W. Freehling, *The Reintegration of American History: Slavery and the Civil War* (New York, 1994). For additional citations, see Richard R. John, “Farewell to the ‘Party Period’: Political Economy in Nineteenth-Century America,” *Journal of Policy History* 16, no. 2 (2004): 117–25; John, “Governmental Institutions,” 347–80; and Michael J. Lacey, “Federalism and National Planning: The Nineteenth-Century Legacy,” in *The American Planning Tradition: Culture and Policy*, ed. Robert Fishman (Washington, D.C., 2000), 89–145.

42. This characterization of Conkling provides a fresh perspective on his notorious contention as a litigant in the Supreme Court case of *San Mateo County v. Southern Pacific* (1882) that Congress intended the Fourteenth Amendment to protect the rights not only of ex-slaves but also of corporations. In articulating what was regarded at the time as a quite-novel view, Conkling may well have been intended less to invest corporations with a new kind of right than to extend to them a right long associated with proprietary firms. For a related discussion, see Naomi R. Lamoreaux, “Partnerships, Corporations, and the Limits on Contractual Freedom in U.S. History: An Essay in Economics, Law, and Culture,” in *Constructing Corporate America: History, Politics, Culture*, ed. Kenneth Lipartito and David B. Sicilia (New York, 2004), 29–65.

43. For a classic statement of the preference of nineteenth-century courts for ventures and their relative neglect of vested rights, see James Willard Hurst’s *Law and the Conditions of Freedom in Nineteenth-Century America* (Evanston, Ill., 1956).

44. The notion that mid-nineteenth-century Americans had a political conception of society is a major theme of Philip J. Ethington’s *The Public City: The Political Construction of Urban Life in San Francisco, 1850–1900* (Cambridge, 1994). The emphatically political cast of nineteenth-century social thought about wealth distribution—a topic often studied today as a purely economic phenomenon—is explored with discernment in James L. Huston, *Securing the Fruits of Labor: The American Concept of Wealth Distribution, 1765–1900* (Baton Rouge, 1998).

45. Notable exceptions include Colleen A. Dunlavy, *Politics and Industrialization: Early Railroads in the United States and Prussia* (Princeton, 1994), and Hendrik Hartog, *Public Property and Private Power: The Corporation of the City of New York in American Law, 1730–1870* (Ithaca, 1983).

46. Among the leading scholars to foster just such a dialogue have been political historian Julian E. Zelizer and political scientist Ira Katznelson. See, for example, Zelizer, “History and Political Science: Together Again?” *Journal of Policy History* 16, no. 2 (2004): 126–36; and Katznelson, “Rewriting the Epic of America,” in Katznelson and Shefter, *Shaped by War and Trade*, 3–23.