

Stephen J. Rockwell

Indian Affairs
and the Administrative State
in the Nineteenth Century



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The framers of the Constitution and the generations that followed built a powerful and intrusive national administrative state in the late eighteenth and nineteenth centuries. The romantic myth of an individualized, pioneering expansion across an open West obscures nationally coordinated administrative and regulatory activity in Indian affairs, land policy, trade policy, infrastructure development, and a host of other issue areas related to expansion.

Stephen J. Rockwell offers a careful look at the administration of Indian affairs and its relation to other national policies managing and shaping national expansion westward. Throughout the nineteenth century, Indian affairs were at the center of concerns about national politics, the national economy, and national social issues. Rockwell describes how a vibrant and complicated national administrative state operated from the earliest days of the republic, long before the Progressive era and the New Deal.

Stephen J. Rockwell is an Associate Professor of Political Science at St. Joseph's College in Patchogue, New York. He taught in the Political Science and Public Administration programs at the University of Michigan–Flint and worked as a Senior Research Analyst at the Brookings Institution in Washington, DC. He is the coauthor (with Peter Woll) of *American Government: Competition and Compromise* (2001) and coeditor (with Peter Woll) of an anthology entitled *American Political Ideals and Realities* (2000).

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STEPHEN J. ROCKWELL

St. Joseph's College, New York



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To Mom and Dad

It does not seem a great task to attend to the business of directing the management of about three hundred thousand Indians; but when it is considered that those Indians are scattered over a continent, and divided into more than two hundred tribes, in [the] charge of fourteen superintendents and some seventy agents, whose frequent reports and quarterly accounts are to be examined and adjusted; that no general rules can be adopted for the guidance of those officers, for the reason that the people under their charges are so different in habits, customs, manners, and organization, varying from the civilized and educated Cherokee and Choctaw to the miserable lizard-eaters of Arizona; and that this office is called upon to protect the Indians, whether under treaty stipulations or roaming at will over his wild hunting-grounds, from abuse by unscrupulous whites, while at the same time it must concede every reasonable privilege to the spirit of enterprise and adventure which is pouring its hardy population into the western country; when these things are considered, the task assigned to this bureau will not seem so light as it is sometimes thought.

– Dennis Cooley, Commissioner of Indian Affairs, 1866,
quoted in Gary L. Roberts, “Dennis Nelson Cooley,” in
Robert M. Kvasnicka and Herman J. Viola, eds.,
The Commissioners of Indian Affairs, 1824–1977
(Lincoln: University of Nebraska Press, 1979), 105

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Introduction

Big government won the West.

In the early republic, policymakers and administrators at the national level utilized the treaty system to order and control relations with Indian nations, and they used a string of government trading houses known as the factory system to pacify affairs on the U.S. frontiers. Together with trade regulation and licensing systems, government policy and public officials drove the lucrative fur trade into the control of large and accountable major firms, while limiting the potential for costly conflicts that would threaten the new nation's survival. In the 1830s, the federal government oversaw the forced removal of a hundred thousand Indians from their homes in the Southeast, relocating them on administratively manageable reservations west of the Mississippi River. Other removals in other parts of the continent fill the nineteenth century. Throughout the heart of the nineteenth century, political leaders and public administrators isolated and contained Indians on reservations and in areas in the recently acquired West, extending federal jurisdiction and administrative structures into new areas and finally across the continent. Throughout these years, policymakers and administrators designed and effected a massive land transfer program that allotted millions of acres of tribal lands to individual Indian and non-Indian landowners, an effort which reached its peak after passage of the General Allotment Act, or Dawes Act, in 1887.

These efforts were difficult and complicated, yet the Indian Office in the nineteenth century effectively administered national policy related to westward expansion and achieved its primary mission in each major era of Indian policy. Indian Office personnel administered national policies in volatile, diverse, and rapidly shifting administrative environments, and remained responsive to powerful and shifting interests both inside and outside of government. Acquisition of territories in the Great Plains, Texas, Arizona, New Mexico, California, Washington, Oregon, and eventually Alaska and Hawaii brought novel challenges. As the nation moved west,

the interests involved in frontier affairs evolved and developed: fur traders and land companies gave way to railroad and mining companies, settlement interests, farmers, and developers. To the government's interactions with the tribes of the East were added interactions with the tribes of the Southwest, the Northwest, California, and the Great Plains. To missionary societies and religious groups advocating the interests of Indians as individuals were added philanthropic humanitarians and nonsectarian Friends of the Indian. And to the main goals – pacification, removal, and containment – were added an unending and always evolving series of subordinate aims: administrators designed and implemented national social policies and programs extended goods and services to Indian populations, opened and administered reservation and off-reservation schools, initiated training and vocational programs, and undertook programs in health care, forestry, irrigation, and the development of infrastructure and natural resources.

These were not minor or tangential affairs, somehow to the side of or beneath the “important” aspects of U.S. history and development. They are not outliers. Significantly, in each major era of Indian policy, and in each region into which the United States moved, “the Indian question” existed near the center of concerns about the nation's future. Indian affairs were absolutely critical to virtually all calculations of interest, of politics, of economy, of social situation, and of national survival and future development. The founding generation, the Jacksonians, and later Americans created effective administrative procedures and structures, and accepted discretionary authority exercised by creative field agents, commensurate with the need and course of U.S. interests. In the nineteenth century, those interests centered around expansion. Our romantic false memory of an individualized, pioneering expansion across a remote and unpeopled West obscures recognition of federally led and nationally coordinated administrative and regulatory activity in the late eighteenth and nineteenth centuries.

A major argument of this book is that we need to reassess the nineteenth-century administrative state. James Q. Wilson writes, for example, in a passage typical of many scholars' approach to nineteenth-century administration,

During the first half of the nineteenth 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.¹

¹ James Q. Wilson, “The Rise of the Bureaucratic State,” reprinted in *Current Issues in Public Administration*, 6th ed., ed. Frederick S. Lane (Boston: Bedford/St. Martin's, 1999), 41.

Elsewhere in the same article, Wilson – again, like many public administration scholars – identifies the Interstate Commerce Commission as the first significant federal effort to regulate the economy, suggests that the tasks of the nineteenth-century military and its officers were minor and easily controlled by political leaders, and writes that “before the second decade of this [twentieth] century, there was no federal bureaucracy wielding substantial discretionary powers.”² Many other scholars have stated similar conclusions, and these conclusions dominate the literature. Daniel Carpenter, for example, in his influential book, *The Forging of Bureaucratic Autonomy*, writes,

Through most of the 1800s, administrative capacity in the United States – the collective talent of bureaucracies to perform with competence and without corruption or malfeasance – was the minimally sufficient ability to distribute federal largesse to electorally favored constituencies. The possibility of employing bureaucracies to address national problems, the possibility of bureaucratic planning, was almost entirely removed from the American political imagination.³

A careful look at expansion and Indian affairs, however, reveals a vibrant, complicated federal bureaucracy, planning and performing complex and difficult tasks in politically charged environments, full of debate over means and ends and carried out with vast grants of discretionary authority to federal field agents deployed across the continent, and doing so long before the Civil War and the New Deal. At the same time, civil administrators in a host of venues were given primary responsibility for organizing, controlling, and directing settlement and expansion. From surveyors, treaty commissioners, and explorers to trading house factors, local agents, boards of inquiry, and scientific and engineering outfits within the military, nineteenth-century civil administration is the focal point of federal activity. The regular military was never far behind, as enforcer and deterrent, but it rarely operated as

² Wilson, “Rise of the Bureaucratic State,” 57.

³ Daniel P. Carpenter, *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1862–1928* (Princeton: Princeton University Press, 2001), 47. The implications of this view have been outlined by many authors, including perhaps most prominently Theodore Lowi, who in *The End of Liberalism* takes to task the extensions of delegated power and administrative responsibility he identifies with modern liberal government. Lowi writes, for example, “The first century was one of government dominated by Congress and virtually self-executing laws. . . . It was due to this quite special and restricted use of government that Congress could both pass laws and see to their execution.” Theodore J. Lowi, *The End of Liberalism: Ideology, Policy, and the Crisis of Public Authority* (New York: Norton, 1969), 128. This vastly oversimplifies the nation’s first century of public administration and overestimates Congress’s ability – and its desire – to direct and control that administration. Lowi’s assertions about the nation’s first century are made in service of a normative argument about the legitimacy of the administrative state. That argument is not supported by the historical record.

the first line of expansion. Civil administration inside and outside the military – the Indian Office as well as the General Land Office and bodies like the Post Office, the Customs Service, and the U.S. Corps of Topographical Engineers – represented the core of national administrative efforts in the nineteenth century. Public administration, not military force and not simple, unsupervised demographics, conquered the North American continent in the years from the early republic to the New Deal.

In fact, what we find in the late eighteenth century and throughout the nineteenth century is the administrative state. John Rohr's definition, from his classic book, *To Run a Constitution: The Legitimacy of the Administrative State*, is helpful:

When I speak of the "administrative state," I mean the political order that came into its own during the New Deal and still dominates our politics. It is the form of government that Dwight Waldo described so eloquently four decades ago in his political science classic *The Administrative State*. Its hallmark is the expert agency tasked with important governing functions through loosely drawn statutes that empower unelected officials to undertake such important matters as preventing "unfair competition," granting licenses as "the public interest, convenience or necessity" will indicate, maintaining a "fair and orderly market," and so forth.

The administrative state is not confined to regulating industry. Its writ runs to defense contracting and procurement, military and diplomatic policy, and the institutions of mass justice that manage problems in public assistance, public housing, public education, public health, disability benefits, food stamps, and so forth.⁴

Rohr's description of the administrative state applies almost precisely to government activity promoting and managing expansion and Indian affairs. The only difference is in the timing: the administrative state defined by Rohr and Waldo existed in concrete and influential form throughout the nineteenth century.

Recognizing the contribution of the Indian Office and other administrative efforts managing national expansion reorients our understanding of the constitutional legitimacy of the federal administrative bureaucracy. Their rhetoric of limited government notwithstanding, the founding generation and subsequent generations built complicated and influential administrative structures to direct and oversee national expansion. Indian policy was a common denominator of the national government's creative activities in the eighteenth and nineteenth centuries. It stood at the center of regulatory activity, at the intersection of church and state, at the core of policy development, the focus of debates on federalism and government involvement in the economy, the creative force behind developments in public administration, and the lynchpin of national survival and expansion. Expansion and Indian affairs are what the federal government was doing *before* – before

⁴ John A. Rohr, *To Run a Constitution: The Legitimacy of the Administrative State* (Lawrence: University Press of Kansas, 1986), xi (internal reference omitted).

the New Deal, before the Progressives, before the Civil War, and before the Jacksonians.

Introduction to Chapters

National administration in expansion policy and Indian affairs is the main subject of this book. Chapter 1 reviews our national myth of North America as largely uninhabited wilderness, and the assumption that expansion was an inevitable result of demographic factors and an open West. Persistent stereotypes and assumptions have encouraged scholars to overlook expansion as the first national policy supported by a variety of government institutions and numerous individual functionaries. Alexis de Tocqueville, for example, usually implied or simply stated that North America was either uninhabited or inhabited only by a few doomed native peoples. This attitude blinded him to the many situations in which Indians outnumbered white settlers, and he failed to recognize the demands citizens were making on the American government for services, regulation, and protection, and he failed to understand the interplay between Western policy and the established communities in the East. Tocqueville overlooked Indian agents, land agents, and other personnel when he wrote of American administrative functions being split among local and town officials, and when he wrote that “the [national] state has no administrative functionaries of its own, stationed on different points of its territory.”⁵ More recently, scholars such as Stephen Skowronek, Theda Skocpol, Daniel Carpenter, Richard Bensel, and others have overlooked or minimized the administrative necessities of subduing a continent and its inhabitants, and the requirements of organizing, planning, and controlling the expansion of a new nation’s people and industry. Scholars who have glimpsed the more vibrant state active in these years have tended to downplay that state’s scope and significance, often surrendering the clear import of their own evidence and reverting to ingrained understandings of the early state as “prebureaucratic,” more potential than real. Very few of these scholars have included careful examination of Indian affairs, expansion, or the bureaucracy before the Jacksonian era. Chapter 1 offers an assessment of the literature on state development and the development of public administration, introduces a working definition of big government, and summarizes the contours of big government in the eighteenth- and nineteenth-century United States.

The main sections that follow examine expansion, Indian affairs, and the administrative state in the era of the factory system, the era of Indian removal, and the era of the reservations. Within these sections, chapters focus on three main themes: (1) national authority over a coordinated set of policies to manage expansion and Indian affairs; (2) the broad discretion

⁵ Alexis de Tocqueville, *Democracy in America* (New York: Vintage, 1945), vol. 1, 92–3.

given to the executive branch and, in particular, to its field agents, as the preferred means of accomplishing clear but general objectives in a variety of unique and rapidly changing circumstances; and (3) the persistent and sometimes consciously crafted illusion of failure that surrounded, and continues to surround, the administrative activity of the Indian Office in the nineteenth century.

In the first major era of federal Indian policy, national policy and administrative efforts pacified the early frontier through diplomacy and regulations governing land and trade policy. The treaty system organized relations with Indian nations, and helped institutionalize federal government control over land, trade, and diplomacy in service of a coordinated, national effort. The national trading houses, together with a series of licensing and bonding measures, aimed to supervise trade with the Indians and oversee (in some cases eliminate) private traders, thereby limiting opportunities for unscrupulous traders or unauthorized intruders to set off a general conflict. The factory system also aimed to provide Indians with goods at a substantial discount from what the free market might provide, allowing them to trade skins for blankets and other goods – which would not only promote good relations but would help the Indians deal with the diminishment of land and game.

In the second major era of federal Indian policy, the federal government removed more than one hundred thousand Indians from southern states and relocated them on reservations west of the Mississippi River. Removal's roots were planted earlier, at least as far back as the founding era; the heyday in the Jacksonian period saw pressured removals gradually replaced by the use of direct force. And while removals from the Southeast are the most well known, removals took place across the continent and continued throughout the nineteenth and twentieth centuries. Removals were extraordinary administrative undertakings, as we will see, necessitating planning and discretionary decision making by field officers from both the civilian and military wings of the War Department.

In the third major era of Indian affairs, the national government isolated and contained Indian populations on administratively manageable reservations, shrinking reservation lands as Indian defenses weakened. Reservations were intimately tied to the removal policy, and after the height of removal reservations became the centerpiece of U.S. policy toward Native Americans. The point of reservations was to isolate Indian populations in places that were administratively controllable and where administration could be used to further U.S. expansion and development goals. Reservations were important parts of U.S. nation-building, both in areas settled by whites and in U.S. attempts to restructure and reorient native governing and community systems. Beginning in the reservation era and gaining full force in the 1870s, the United States allotted two-thirds of remaining tribal lands to individuals, in an effort to destroy tribal entities as political and social

communities. Allotment, too, is an essentially administrative undertaking, involving surveying, recordkeeping, adjudication of disputes, enforcement of decisions, and so on.

United States expansion to the West never relied solely or even primarily on the military as the foundation of state power and authority. The military played an important role, one often underestimated, but its responsibilities were almost always subordinate to the effort to manage the U.S. expansion through civilian administrative mechanisms. The treaty system, national trade and intercourse laws, and gradual extension of national jurisdiction over frontier areas speak to this effort, borne of the early republic's military weakness and economic instability relative to Indian and European powers and out of a fear that unnecessary conflicts with Indians would jeopardize money, lives, and national security. Moving west by exterminating Indians was at first impractical and always costly, as well as a violation of American founding ideals. From its earliest days, the United States set out to negotiate and sign treaties – however flawed that process was – and to civilize Indians for eventual assimilation – however misguided *that* objective was. Conquest was to be had in battle only if necessary; otherwise, the path of conquest would be laid by federally controlled administrative mechanisms. States delegated policymaking and administrative primacy regarding expansion to the national government. Congress delegated power and discretionary authority to the president and to the executive branch's administrative offices, such as the War Department and, later, the Department of Interior. Agents of these departments designed and implemented Indian policies and administered Indian affairs across the continent with substantial effectiveness in the century and a half before the New Deal.

The wisdom and justice of United States policies toward American Indians are questionable, at best, and in many cases the policies were abominable and their effects tragic. Removals and reservations would today be called ethnic cleansing, and a century of initiatives designed to pacify, remove, and then isolate and contain native populations is a deplorable legacy. It is no less deplorable, and may even be more so, because proponents used the rhetoric of legalism, restraint, and high ideals to justify it. It is an error to see this history as a mistake, though, a failure of a weak state to control its agents and its citizens. Choosing to view the history of Indian policy as inept or tragically corrupt absolves public officials from responsibility for the course of national expansion. To dismiss the Indian Office itself as corrupt or poorly managed is to contribute to the expansion myth and shift responsibility for the horrors of the United States' Indian relations to the vagaries of fortune, luck, and evil men. That myth absolves the representatives and citizens of the United States of blame and responsibility, and overlooks the extensive scope of administrative mechanisms and activity designed and implemented by national officials and federal agents, often working in conjunction with state

and local individuals. Expansion and Indian affairs arose from the careful, planned, and effective actions of reasonable and often well-meaning people. The rapidity and thoroughness with which the federal government pacified, removed, contained, and dispossessed American Indians and tribes across North America is an awesome display of coordinated public administration at the national level.

The Myth of Open Wilderness and the Outlines of Big Government

The romantic myth of Western settlement omits the federal government's critical role in promoting and managing expansion and development. The image of an open wilderness, slowly peopled by rugged pioneers who built towns and communities and small businesses independent of the national government, is false. The understanding of "government" and public administration as late entries upon the stage, come to constrain and oppress the individualism and free spirit of the American pioneer, is similarly false. Nevertheless, understanding of the West remains obscure to almost all but historians of the West itself. As a result, the development of government administrative structures to plan and manage westward expansion remains largely hidden.

The North American continent was not open wilderness. The land supported and sustained hundreds of sovereign political communities with millions of people – farmers, traders, and hunters, husbands, wives, and children, living in houses, tepees, and pueblos, and living everywhere from New England to Florida, from the old states of the Southeast to the Ohio Valley, from the Mississippi Valley to Arizona, the Pacific Northwest, California, and along the Great Plains from the Dakotas to Texas. The fact of these communities, and the fact that they were, in many cases, politically and militarily sophisticated enough to threaten the very existence of the United States, is a truer starting point for understanding the development of the national government and its administrative structures.

An open wilderness is easy to conquer – individual pioneers can do it. The myth never requires, and therefore never sees, the extensive activities of the national government. A peopled continent – and a dangerous continent, and a complicated continent – immediately reveals the need for, and presence of, indispensable coordinating activity and administrative structures. Moreover, the constantly changing nature of U.S. relations with diverse American Indian nations – from those nations east of the Mississippi in the years of the early republic, to the Southeastern nations and nations west of

the Mississippi through the early part of the nineteenth century, to completely different cultures, structures, and environments as the United States moved west through Mexico and the Southwest, and then back again to the Dakotas at the close of the nineteenth century – suggests the variety and rapidly shifting nature of political and administrative contexts confronting federal administrators.

Millions of People with Diverse Communities and Interests

The Hollywood version of our history – or the dime novel version, or the James Fenimore Cooper version, for that matter – simplifies Indians and Indian affairs, leaving no need for government, management, and administration. Simple and rare Indians create no great obstacles to U.S. expansion. Thus the mythic view hides the actions of government officials. The reality of the situation in North America quickly suggests that expansion couldn't have been as easy as it looks in the theater.

Persistent stereotypes have hobbled understanding of Indian affairs since the days of Columbus. These stereotypes obscure the size and significance of American Indian populations, the diverse and complicated political interests involved in white-Indian relations, and the humanity of Indian leaders and communities. They also obscure the reasons why government involvement was so essential to the orderly and effective continental expansion of the United States. The stereotypes must be rejected in order to clear a path for understanding the complexity of Indian affairs, and thus the complexity of politics and public administration related to U.S. expansion.¹

Between 75 million and 112 million people lived in the Americas in 1492; some estimates range as high as 145 million people. Between 12.5 million

¹ See, e.g., Robert F. Berkhofer Jr., *The White Man's Indian: Images of the American Indian from Columbus to the Present* (New York: Vintage, 1978); Richard Slotkin, *Regeneration Through Violence: The Mythology of the American Frontier, 1600–1860* (New York: HarperPerennial, 1996 [1973]). For illustration of the staying power of these stereotypes in American culture, see the essays in Peter C. Rollins and John E. O'Connor, eds., *Hollywood's Indian: The Portrayal of the Native American in Film* (Lexington: The University Press of Kentucky, 1998); Carter Jones Meyer and Diana Royer, eds., *Selling the Indian: Commercializing & Appropriating American Indian Cultures* (Tucson: University of Arizona Press, 2001); Ward Churchill, *Fantasies of the Master Race: Literature, Cinema and the Colonization of American Indians* (Monroe, ME: Common Courage Press, 1992). Recent scholarship in Indian affairs law demonstrates how thoroughly (and dangerously) these stereotypes continue to permeate U.S. legal and political decisions. See, e.g., N. Bruce Duthu, *American Indians and the Law* (New York: Viking, 2008); David E. Wilkins and K. Tsianina Lomawaima, *Uneven Ground: American Indian Sovereignty and Federal Law* (Norman: University of Oklahoma Press, 2001); Kevin Bruyneel, *The Third Space of Sovereignty: The Postcolonial Politics of U.S.-Indigenous Relations* (Minneapolis: University of Minnesota Press, 2007); Robert A. Williams Jr., *Like a Loaded Weapon: The Rehnquist Court, Indian Rights, and the Legal History of Racism in America* (Minneapolis: University of Minnesota Press, 2005).

and 18 million people lived in North America, with roughly 1.2 million people in the Pacific coastal region, 3.8 million around the Great Lakes, and 2.7 million in California, the Great Basin, and the Plains. Henry Dobyns estimated that about 1.1 million people lived from the Gulf of Mexico across east Texas, close to 700,000 in Florida, and about 2.2 million from Florida up the East Coast to Massachusetts. He estimates about 5.25 million in the Mississippi River valley, including the Missouri, Ohio, Kentucky, and Tennessee areas – for a total of between 16 and 18 million people in what is now the continental United States.²

These were not scattered, roaming populations. They were often agricultural communities, settled in cities as large as Cahokia, near present-day St. Louis, with an estimated 40,000 inhabitants. Numerous cities of over 10,000 people dotted the landscape; Florida in 1500, for example, contained roughly 150 communities of 2,000 or more inhabitants.³ Native cities lie under many major U.S. cities, and these communities were connected: native trade routes are the geographic basis for the U.S. interstate highway system,⁴ and native trading networks extended for thousands of miles. This networked complexity belies the image of isolated Indian communities in idyllic settings, unfamiliar with trade or with strangers. This was not a sleepy, frozen frontier waiting for the arrival of John Wayne or Kevin Costner to start the action; it was an energetic, constantly evolving kaleidoscope of diversity, uncertainty, trade, and politics.

Even as Indian populations declined because of European exploration, colonists and then the United States continued to confront region after region in which Indians were substantial parts of the population, often outnumbering whites. Russell Thornton estimates that by 1800, about six hundred thousand Indians remained in what is now the lower forty-eight states.⁵

² David E. Stannard, *American Holocaust: The Conquest of the New World* (New York: Oxford University Press, 1992), 11, 266–8, and Appendix 1. Stannard's appendix offers an excellent short summary of population studies and how estimates have changed over time. See also the works of Henry Dobyns, especially his seminal study, "Estimating Aboriginal American Population: An Appraisal of Techniques with a New Hemispheric Estimate," *Current Anthropology* 7 (1966); and *Their Number Become Thinned: Native American Population Dynamics in Eastern North America* (Knoxville: University of Tennessee Press, 1983); Russell Thornton, *American Indian Holocaust and Survival: A Population History Since 1492* (Norman: University of Oklahoma Press, 1990); Lenore A. Stiffarm with Phil Lane Jr., "The Demography of Native North America: A Question of American Indian Survival," in *The State of Native America: Genocide, Colonization, and Resistance*, ed. M. Annette Jaimes (Boston: South End Press, 1992), 26–7. For a helpful chart comparing scholars' estimates of native populations at contact, see Paul Stuart, *Nations Within a Nation: Historical Statistics of American Indians* (New York: Greenwood Press, 1987), 51.

³ Dobyns, cited in Stiffarm and Lane, "Demography," 29.

⁴ Jack Weatherford, *Indian Givers: How the Indians of the Americas Transformed the World* (New York: Fawcett Columbine, 1988), ch. 13.

⁵ Thornton, *Holocaust*, 90.

Other estimates place this number closer to 1.5 million or 1.8 million,⁶ at a time when the entire U.S. population stood at roughly 5 million.⁷ Through the expansion era, the United States would deal with millions of American Indians living in settled, stable communities, or seasonally migrating across established and familiar regions. And although these numbers do not approach the several hundred millions of North American inhabitants with which we are familiar today, the numbers are substantial and – perhaps even more important – native populations inhabited the same areas that whites would come to desire most energetically. Henry Brackenridge, an investor in Ohio lands with links to George Washington, Thomas Jefferson, and Albert Gallatin, wrote of Indian mounds along the Ohio and Scioto Rivers that “all of these vestiges invariably occupy the most eligible situations for towns or settlements.”⁸ The best lands, the most fertile valleys, the easiest places to cross rivers and canyons and ranges and deserts, places near water, places protected from weather, places on ancient roads and waterways suitable for residence, agriculture, trade – whites confronted Native Americans at the crucial and valuable places where whites wanted to settle, build farms and cities and ports, and run railroads.

The image of hundreds of North American communities supporting millions of American Indians clashes with the vast open spaces and small populations characteristic of films and novels about the West. But the numbers and the nature of native communities are not the only popular culture stereotypes that obscure the realities of the West and American Indians. Common stereotypes present Indians as a single, monolithic group, usually one amalgamating the Plains cultures of the mid- to late nineteenth century. Yet Indian nations are diverse. Farming nations in the Southeast, fishing tribes on the Great Lakes or in the Pacific Northwest, hunting tribes of the Great Plains, Comanche traders on the lower Plains, Pueblos of the Southwest – all possess unique cultures, histories, backgrounds, and religions. The stereotype hides the diversity of the tribes and bands with which the United States dealt in the eighteenth, nineteenth, and twentieth centuries. The stereotype of a monolithic group also obscures the fact that Indian nations’ interests shift, just like those of all other nations. The Seminole had different interests in 1825 than they had in 1925, and different than they have in 2010. The Nez Perce Indians of the Northwest had interests and goals in 1840 that differed from their interests and goals in the 1870s, and their interests and goals

⁶ Stiffarm and Lane, “Demography,” 37.

⁷ Richard B. Morris, ed., *Encyclopedia of American History*, 6th ed. (New York: Harper & Row, 1982), 649.

⁸ Quoted in Judith Nies, *Native American History: A Chronology of a Culture’s Vast Achievements and their Links to World Events* (New York: Ballantine, 1996), 196.

would shift subtly every year as circumstances on the ground changed: personalities change, relationships with the United States, England, and other tribes evolve.

Given this diversity, it is easy to understand why tribes do not always, or even often, share the same interests or behave as a cohesive group. The Lakota and the Crow, the Navajo and the Hopi, the Cherokee and the Seminole – and bands and groups within any of those tribes – have independent interests in policy issues depending on matters of leadership, era, politics, and so on. Tribes in close proximity often competed with each other, giving them different goals and interests. Distant tribes, with vastly different societies, pursued completely different goals and reaped different benefits or costs from national policies.

The misperception of Indians as a monolithic group with shared interests often seems to suggest that managing or representing those interests at the level of the national government is relatively simple. (Leave aside for the moment that the Bureau of Indian Affairs only became an ally and advocate of Indians during the New Deal, if even then.) Administrators at the War Department and the Indian Office did not and could not approach Indian affairs as a homogeneous set of interests when negotiating treaties, controlling land exchanges, or implementing trade and social policies. In dealing with multiple cultures in a broad variety of changing and evolving policy and administrative circumstances, the Indian Department has far more in common with the State Department than it does with a typical “client” agency.

Beyond the tribes, individual Indians are far more diverse in interests and individual character than the stereotypes ever suggest. The images of the “good Indian” and the “bad Indian” coexist, and both serve to hide what should be an obvious fact: Indians are people. Attitudes differ, change, and evolve; personal motives enter into political issues; and not all Indians agree. Asking “What is the Indian position” on an issue, whether the topic is twenty-first-century gaming or nineteenth-century demands for removal, yields more questions than answers. Which Indian? Which tribe? When? Who’s asking? As a parallel, consider asking, What do Africans think about global warming? The question itself seems absurd. The diversity and complexity of Indians in reality far outstrip the stereotypes. When John Ross wrestled with the question of Cherokee alliance with North or South in the early days of the Civil War, he did not approach the issue as a noble savage or as a bloodthirsty warrior; he approached it as a skilled, veteran international diplomat concerned with both success, victory, and the well-being of an often fractured and contentious constituency.⁹ The same is true of

⁹ Ari Kelman, “Deadly Currents: John Ross’s Decision of 1861,” in *Major Problems in American Indian History*, 2nd ed., ed. Albert L. Hurtado and Peter Iverson (Boston: Houghton

Osceola, Crazy Horse, Geronimo, Looking Glass, and Chief Joseph, and of ordinary Indian men, women, and children throughout years of constant upheaval and critical decision making.

Individuals within tribes had diverse opinions on the issues of the day, just as Indians today, in different parts of the country and within a particular tribe, do not hold a single, monolithic view on issues like gaming. And, as anywhere else, even where there is agreement on a basic policy (like gaming), there is disagreement on the details (location, management companies, business plans, contractors). At contact, Indians disagreed over the proper course to follow in dealing with the newcomers. Later, some Indians in the 1820s and 1830s favored removal, for a variety of different reasons, even as many others opposed the idea with force. Individuals in the reservation era split over questions of whether to continue armed resistance against U.S. encroachment or accept terms of peace; whether or not children should be given over to government boarding schools, and why; whether or not contracts with mining or railroad companies or with cattlemen were in the community's best interest. One of the most effective U.S. tactics in battling and influencing Indian nations has always been to take advantage of the diversity of opinion in native communities, to divide and conquer – to encourage factional infighting and make incremental headway toward U.S. goals. If some Indians want to remove in 1830, for example, let them argue it out with their opponents, weakening a nation's cohesion. Then move those who will go, and deal with the others – numerically and politically weakened – later.

Two other stereotypes persist in white relations with American Indians. The stereotype of the deficient Indian centers on the image of Indians in terms of what they lack, at least from the observer's point of view. In various cases, Indians are seen as lacking Christianity, manufactured goods, civilization, morals, intelligence, potential, and so on. This stereotype drives many aspects of U.S. Indian policy. Damaging, too, is the "vanishing Indian" stereotype that assumes the inevitable defeat – through extinction or assimilation – of American Indians.¹⁰

These facts may seem simple and obvious, but they are too easily – and too often – overlooked. Stereotypes of Indians – as small in number, as a homogeneous group, as divided into caricatures of good and bad Indians – are part of the reason why expansion as a public policy issue, and the difficulty of managing expansion, are absent from so many works on American political and bureaucratic development. Considering Indians as few in number, as

Mifflin, 2001); Joseph T. Glatthaar and James Kirby Martin, *Forgotten Allies: The Oneida Indians and the American Revolution* (New York: Hill and Wang, 1996); Laurence M. Hauptman, *Between Two Fires: American Indians in the Civil War* (New York: Free Press Paperbacks, 1996).

¹⁰ See Berkhofer, *White Man's Indian*.

easy to deal with, and as inevitable losers facing the unstoppable advance of the United States dictates a particular historical tale. If Indians and Indian affairs were as the stereotypes suggest, there might *not* have been much need for government, policy, and administration. But: if Indians are diverse culturally, tribally, and individually; if they are complicated politically; if they disagree with each other, from tribe to tribe and individual to individual; and if there are hundreds of tribes and millions of people – then the task of managing U.S. expansion looks much, much more difficult. It becomes like many other areas of public policy – a charged political arena peopled by astute, savvy, and changing individuals, interests, and tribal groups, building alliances and coalitions, seeking advantages, testing strengths and weaknesses, vying for public opinion, and playing the institutions of various governments against each other.

Myth and Assumptions in the Literature

Scholarship on American state and administrative development tends to ignore or marginalize expansion and Indian affairs, and to replace study, analysis, and evidence regarding early administrative eras with presumptions about simple issues and meager, uncoordinated responses. This has had devastating effects on our understanding of the scope and complexity of the federal government's operations in the late eighteenth and nineteenth centuries.

Indians are simply invisible in many works. Some authors choose to dismiss Indian affairs as unique or unusual. Daniel Carpenter, for example, explicitly excludes Indian affairs from his analysis of the Interior Department. Carpenter's study of bureaucratic autonomy offers no analysis of the Indian Office or the Bureau of Indian Affairs during a century of policy encompassing the factory system, the end of the factory system, Indian removal, reservations, allotment, and leasing.¹¹ William Novak, in his thorough study of state-level regulation in the nineteenth century, largely avoids the topic of federal-level regulation and explicitly opts out of addressing Indian affairs, acknowledging the topic as a major piece of the puzzle in understanding the nineteenth century but one beyond the scope of his research.¹² Indians, Cherokees, and Thomas McKenney do not appear in the index for Matthew Crenson's book on Jackson-era bureaucracy, despite the significance of Indian removal in the Jackson years. For a book on

¹¹ Daniel P. Carpenter, *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1862–1928* (Princeton: Princeton University Press, 2001), 12, 37ff.

¹² William J. Novak acknowledges that Indian affairs, public lands, public defense, public finance, public works, natural resources, slavery, and a host of other areas fall outside his scope. William J. Novak, *The People's Welfare: Law & Regulation in Nineteenth-Century America* (Chapel Hill: The University of North Carolina Press, 1996), e.g., 16, 53.

Jacksonian bureaucracy to overlook McKenney – the chief administrator for Indian affairs for Jackson, and for the country generally since 1816 – is remarkable.¹³ McKenney gets one passing reference in Daniel Feller's book on Jacksonian land policy, along with a few scattered references to Indian removal.¹⁴

Some scholars have included but oversimplified Indian affairs. Leonard White, in *The Jeffersonians*, states that he will not address the process of dispossessing Indians of their lands because he considers that to have been a political, rather than an administrative, problem.¹⁵ This is far from the truth, as we will see, but it speaks to the deep denial of academic analysts about the planning and effort it takes to conquer a continent using primarily administrative, rather than military, means. Even Laura Jensen, who does an admirable job of returning consistently to the Indian context in her study of early social provision, has a relatively oversimplified understanding of Indian affairs dynamics. Whereas some authors tend to overlook the complexity and moral disaster associated with U.S. Indian policy, Jensen's statements about U.S. policy as one close to a policy of extermination are well-meaning, but oversimplified and misleading, as we will see.¹⁶

Failing to examine the relationship of Indian affairs to other issues causes confusion in some works. Carpenter, for example, follows White and characterizes the Interior Department as "a kit bag of programs and bureaus that bore no relation to one another – land management, patent administration, pension distribution, Indian affairs."¹⁷ Yet, as Jensen shows, Indian affairs, land management, and pension distribution had been intricately connected since the Revolution, something that Washington and others acknowledged for decades as the national government crafted coordinated responses to the needs of veterans, Indians, speculators, white settlers, and numerous other interests.¹⁸ Peter Onuf's study of early land policy largely ignores the foundation of the nation's land policies in Indian affairs and the efforts made by the national government to secure peace and title to lands, a prerequisite for the ordered expansion and settlement that he so thoroughly documents.

¹³ Matthew A. Crenson, *The Federal Machine: Beginnings of Bureaucracy in Jacksonian America* (Baltimore: The Johns Hopkins University Press, 1975).

¹⁴ Daniel Feller, *The Public Lands in Jacksonian Politics* (Madison: University of Wisconsin Press, 1984), 128 and 14, 94, 111, 197–8.

¹⁵ Leonard D. White, *The Jeffersonians: A Study in Administrative History, 1801–1829* (New York: Free Press, 1951), 498 n4.

¹⁶ Laura Jensen, *Patriots, Settlers, and the Origins of American Social Policy* (Cambridge: Cambridge University Press, 2003), e.g., at 12, 135.

¹⁷ Carpenter, *Forging*, 51.

¹⁸ See Jensen, *Patriots*; Peter S. Onuf, *The Origins of the Federal Republic: Jurisdictional Controversies in the United States, 1775–1787* (Philadelphia: University of Pennsylvania Press, 1983); Reginald Horsman, *The Frontier in the Formative Years, 1783–1815* (Albuquerque: University of New Mexico Press, 1975).

Onuf overlooks the careful creation of circumstances involving Indian affairs that allowed for economic development. Phrases like “Congress’s overriding concern with revenue”¹⁹ dot the discussion, overlooking Congress’s equal (at least) concern for national security in potentially hostile territories. Onuf seems to begin with the myth of open wilderness, as if the land were already in the safe and secure hands of the new Union.²⁰

Several recent works carefully delineate the scope of early national government activity, yet even these fail to examine expansion and Indian affairs fully and carefully. Jerry Mashaw, for example, provides a thorough explanation of administrative law in the early republic from 1787 to 1801. Yet Mashaw, like other writers, trivializes Indian affairs generally and war with Indians in particular. Mashaw discusses the factory system only briefly, in a footnote, and he also relegates to a footnote the vast authority delegated to the president throughout the 1790s to enable responses to threats from abroad.²¹ Also footnoted are delegations of authority to the president in 1799 to furnish tribes with animals and farming implements, regulate trade, and to preserve peace on the frontiers.²² Why these are addressed in footnotes rather than in the main text is not explained, but the choice suggests that the author does not consider the topics significant enough to crack the main line of analysis. Several references to the Indian trade, licensing systems, and legislation are not examined further. Mashaw also excludes expansion, Indian affairs, land policy, international relations, and trade regulation from his list of “the big operations” of the government.²³ Max Edling, who examines the role of the military in the West to good effect, repeats the tendency to underestimate the difficulty and significance of expansion, Indian affairs, and administration.²⁴ Richard John’s excellent study of the Post Office and its relationship to national expansion makes only brief reference to Indian affairs, even though treaties were frequent prerequisites to the construction of post roads and Indians were constant participants in controversies regarding the mails.²⁵

¹⁹ Peter S. Onuf, *Statehood and Union: A History of the Northwest Ordinance* (Bloomington: Indiana University Press, 1987), 30.

²⁰ Onuf, *Statehood and Union*, 15. Carol Sheriff similarly overlooks Indian affairs and the land acquisition process in her study of the Erie Canal: Carol Sheriff, *The Artificial River: The Erie Canal and the Paradox of Progress, 1817–1862* (New York: Hill and Wang, 1996).

²¹ Jerry L. Mashaw, “Recovering American Administrative Law: Federalist Foundations, 1787–1801,” *The Yale Law Journal* 115 (April 2006), 1300, notes 134 and 135.

²² Mashaw, “Recovering,” 1301 n136. With other similar issues, Mashaw hedges on an explanation for such broad delegations of power, calling the reasons “not always obvious.”

²³ Mashaw, “Recovering,” 1338.

²⁴ Max M. Edling, *A Revolution in Favor of Government: Origins of the U.S. Constitution and the Making of the American State* (Oxford: Oxford University Press, 2003), e.g., 139, 146.

²⁵ Richard R. John, *Spreading the News: The American Postal System from Franklin to Morse* (Cambridge, MA: Harvard University Press, 1995), 97, 134.

Without a full and nuanced approach to Indians and expansion, scholarship has tended to marginalize or trivialize state activity and bureaucratic development. Without Indians and expansion, such development can look meager and haphazard, and conclusions rest on our collective myths and presumptions about the early republic and the nineteenth century.

To begin, it is important to note that studies of American political development and the development of public administration at the national level usually overlook or quickly dismiss the years before the Civil War, particularly the years before the Jackson administration. Notable exceptions by a few authors like Laura Jensen and Matthew Crenson offer different models for approaching those years, but if one looks to leading authors like Stephen Skowronek, Theda Skocpol, Richard Bense, Daniel Carpenter, and others, one finds brief references and broad assumptions about those early years. Despite what look like thorough efforts in the past twenty years or so, then, careful study of public administration and the administrative state in the nineteenth century is still a largely untapped area of inquiry.

In his landmark *Building a New American State*, for example, Stephen Skowronek looks at almost nothing before the Jacksonians, save for a brief glance at the period immediately following the War of 1812.²⁶ Richard Bense, in his well-received *Yankee Leviathan*, brushes quickly past the early era and exemplifies the predominance of Skowronek's assertions about the absence of a sense of the state in early America. Bense writes, in a footnote, "The interpretation put forward here *assumes* little preexisting state-centered orientation on the part of the participants in Union or Confederate public life."²⁷ He views state-building as haphazard, with little recognition by the participants of a statist perspective.

Terminology and language trivialize and marginalize the early state, with little or no supporting evidence or clear definition of terms. In his perfunctory discussion of the "early" state, Skowronek refers to the state as "meager,"

²⁶ Stephen Skowronek, *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920* (Cambridge: Cambridge University Press, 1982).

²⁷ Richard Franklin Bense, *Yankee Leviathan: The Origins of Central State Authority in America, 1859–1877* (Cambridge: Cambridge University Press, 1990), 98 n6 (emphasis added). Bennett and Bennett, in their study, *Living with Leviathan: Americans Coming to Terms with Big Government*, skip directly to the Jackson era, and then they skip forward from the 1830s to the 1860s with no analysis of the years in between. Their entire discussion of the United States before the Civil War runs to roughly four and a half pages. Linda L. M. Bennett and Stephen Earl Bennett, *Living With Leviathan: Americans Coming to Terms with Big Government* (Lawrence: University Press of Kansas, 1990). Even Desmond King and Rogers Smith, in their study of racial institutional orders, fail to discuss explicitly the period before the Civil War in their section on bureaucracy and in their discussion of Carpenter's omission of race. This is a remarkable oversight given the authors' main contention that race needs to be a larger part of political development research. See Desmond S. King and Rogers M. Smith, "Racial Orders in American Political Development," *American Political Science Review* 99 (February 2005), 85–6.

and he refers to its “tiny” army.²⁸ Daniel Carpenter writes of “feeble” public authority at the national level, quoting Tocqueville, and he writes that executive departments were “only quiet and quiescent spectators” in national debates over policy and legislation.²⁹ No evidence is offered. Bensel, in *Yankee Leviathan*, repeatedly marginalizes the pre-Civil War state, even as he obliquely refers to the demanding responsibilities faced by that state. The discussion is marked by assertion and presumption, not by evidence: “Up to the point of capture [of the state by northern Republicans], the American state had been *little more than* an arena in which contending forces and coalitions in the national political economy competed over decisions related to continental settlement and foreign policy.”³⁰ Carpenter similarly mentions conquest and “managing of lands” almost in passing,³¹ and Bensel writes that “The [Republican] platform did not reveal any inclination to regulate investment or direct economic activity beyond the *mild manipulations* of land distribution, development of rivers and harbors, and a tariff on imports.”³²

The trivializing phrases judge and dismiss issue areas that would seem to be fairly important, like continental conquest, settlement, and foreign policy. Why assume that activity regulating investment and directing economic activity in *land*, a centerpiece of the new nation’s security, economy, and future, is “mild”? Similarly, again from Bensel: “Restricted to a *very few functions* such as the collection of customs duties and delivery of the mail, the federal government contained no statist-bureaucratic element that could prepare for the secession crisis.”³³ What are the other functions? And why presume that they are so simple? Finally, harkening back to terms like “meager” and “feeble,” Bensel adds: “Because northern nationalists and southern separatists so completely divided the terrain of the antebellum political system, no purely statist program could develop the *anemic apparatus* of the federal government.”³⁴ Such an assertion is in dire need of deeper definition and analysis.

All of this leads to a particular set of assumptions about policy and public administration at the national level. Federal activity is presumed to have been as simplistic, disorganized, and marginal as the issues themselves. Skowronek writes, “The path that had been traveled in the development of early American government did not anticipate the need for a strong national administrative arm.”³⁵ He adds, “There were no foreign enemies posing

²⁸ Skowronek, *Building*, 8.

²⁹ Carpenter, *Forging*, 38.

³⁰ Bensel, *Yankee Leviathan*, 2 (emphasis added).

³¹ Carpenter, *Forging*, 37.

³² Bensel, *Yankee Leviathan*, 67 (emphasis added).

³³ *Ibid.*, 85 (emphasis added).

³⁴ *Ibid.*, 91 (emphasis added).

³⁵ Skowronek, *Building*, 4.

a threat to security, and internal social conflict could be diffused through movement to the frontier.”³⁶ The first part of this is inaccurate; the second is much more difficult than the passage suggests. Relying on Bensel and one other source, Skocpol writes, “Only during the Civil War did a Republican-run crusade to save a northern-dominated nation temporarily transfer the locus of sovereignty to an activist federal government.”³⁷ We will see that this is also exaggerated, as the federal government had been “activist” and at the center of sovereignty from the earliest days of expansion policy. Bensel writes, in his opening paragraph, “Other than these pleas to a return to ‘the Constitution as it was,’ the modern state’s inheritance from the antebellum period was nil. In that sense, then, an account of American state formation can begin with the Civil War with little lost in historical continuity or theoretical generality.”³⁸ This is wildly overstated.

Trivializing the scope and role of the early American state plays havoc with our understanding of national administrative capacity and bureaucratic development. Asserting the general absence of important or complicated federal duties, and presuming a small, anemic governing structure, scholars pass quickly beyond any deeper inquiry into the scope and nature of early bureaucracy. The subtitle of Matthew Crenson’s *Building the Invisible Orphanage* is “A Prehistory of the American Welfare System”; his book on Jacksonian land policy is subtitled, “*Beginnings of Bureaucracy in Jacksonian America*.” Without further explanation, he passingly refers to the “nonbureaucratic forms of government administration” before the Jacksonians which would have to be “abandon[ed]” as bureaucratic forms were “superimposed upon the business of the national government.”³⁹ Carpenter writes that “Americans regarded [early] bureaucracies as brute administrative units, not planning or policymaking organizations,”⁴⁰ and he writes, “The possibility of employing bureaucracies to address national problems, the possibility of bureaucratic planning, was almost entirely removed from the American political imagination.”⁴¹ Public administration scholar David Rosenbloom regularly refers to these years as “prebureaucratic,” and speaks of later eras having to “retrofit” the administrative state.⁴² Michael Nelson

³⁶ Ibid., 7.

³⁷ Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Cambridge, MA: Harvard University Press, 1995), 68.

³⁸ Bensel, *Yankee Leviathan*, ix.

³⁹ Crenson, *Federal Machine*, ix; emphasis in original.

⁴⁰ Carpenter, *Forging*, 40.

⁴¹ Ibid., 47.

⁴² David H. Rosenbloom, “Retrofitting the Administrative State to the Constitution: Congress and the Judiciary’s Twentieth-Century Progress,” *Public Administration Review* 60 (January/February 2000); see also Laurence E. Lynn Jr., “The Myth of the Bureaucratic Paradigm: What Traditional Public Administration Really Stood For,” *Public Administration Review* 61 (March/April 2001), 147.

calls the “status of administration” “still nascent in the early nineteenth century,” and refers to “the limited demands” placed on that government. Nelson follows Crenson in arguing that “administrative agencies at this time were not organized bureaucratically,” and that bosses were able to order and oversee underlings effectively.⁴³ Ira Katznelson, even as he offers a sophisticated look at the military before the Civil War, offers a similar review of the significant activities of the early state and then retreats to characterizing the United States central bureaucracy as “small and limited,” at least in comparative perspective.⁴⁴ All of this assumes a certain past, one resting on assumption and assertion rather than on evidence and analysis.⁴⁵

Similar presumptions infuse presentations of the public administrators working for the federal government. Martin Shefter refers to federal employees as “gentlemen dilettantes.”⁴⁶ Matthew Crenson rests on the old saw about the Washington administration’s reliance upon “fitness of character,” rather than formal rules and regulations, to organize administration.⁴⁷ Carpenter offers the idea of a “clerical” state, inhabited by administrators who were little more than clerks following orders without contributing anything notable in the way of innovation or creativity. Notably, Carpenter’s analysis of “the clerical state” prior to the Jacksonians runs just slightly more than one paragraph.⁴⁸ Yet it is hard to categorize Benjamin Hawkins, longtime federal agent to Indians in the South, or Henry Schoolcraft, writer and longtime northern agent, as “clerks.” It is hard to imagine Andrew Jackson, military leader and treaty commissioner, as a clerk. It is hard to categorize Secretary of War Henry Knox or longtime Indian Office head Thomas McKenney as gentlemen dilettantes. Such presentations reinforce a lasting impression of simplicity, smallness, and extremely limited scope – an impression that is supported more by our collective presumptions and prejudices than it is by analysis, research, and evidence.

The effect of so many terms like “prebureaucratic,” “meager,” and “feeble” so often and so easily passed off as analysis is significant, discouraging further inquiry and reinforcing presuppositions about the early American

⁴³ Michael Nelson, “A Short, Ironic History of American National Bureaucracy,” *The Journal of Politics* 44 (August 1982), 755–6. See also 768, arguing that federal functions did not change through the early and middle nineteenth century. Nelson relies on the same narrow group of authors, including Skowronek, White, and Crenson.

⁴⁴ Ira Katznelson, “Flexible Capacity: The Military and Early American Statebuilding,” in *Shaped by War and Trade: International Influences on American Political Development*, ed. Ira Katznelson and Martin Shefter (Princeton: Princeton University Press, 2002), 89.

⁴⁵ For a review of traditional thinking and approaches to the development of public administration in the United States, with a call for a more historically careful approach, see Lynn, “Myth”; David H. Rosenbloom, “History Lessons for Reinventors,” *Public Administration Review* 61 (March/April 2001).

⁴⁶ Quoted in Skocpol, *Protecting*, 74.

⁴⁷ Crenson, *Federal Machine*, x.

⁴⁸ Carpenter, *Forging*, 40–1.

state without offering much evidence to justify the conclusions. It is hard to know what to make of a “tiny” army that can remove one hundred thousand Indians a thousand miles to the west, against their will; it is hard to know what to make of a meager government that can dispossess millions of American Indians and contain them on administratively manageable reservations, all the while organizing land transfers and channeling expansion of a nation across a continent.

Such problems are exacerbated by use of a narrow and self-reinforcing set of sources. The work with the most impact on the topic has clearly been Skowronek’s *Building a New American State*, but it is important to remember that Skowronek’s conclusions about early America’s sense of statelessness rest on the works of three scholars who did not live in the United States: Hegel, Marx, and Tocqueville. These are curious choices, even given Tocqueville’s uncanny ability to get many things right about Americans. But Tocqueville is notoriously weak on expansion and Indian affairs, and it is an odd choice to rely on these three writers for such important conclusions about such an amorphous, intangible concept as a sense of a state. The impact is significant: in the relatively limited literature on state development, especially for years prior to the Civil War, Skowronek is the foundation source for many other works. Carpenter and Bense, for example, rely heavily on Skowronek. Skocpol relies heavily on Skowronek and Bense. Michael Nelson quotes Skowronek on the duties of the early government but retreats, with Skowronek, to a conclusion that its tasks (maintaining a continental legal order, fighting wars, expropriating Indians, securing new territories, maintaining international diplomacy, and fostering economic development) created only a small bureaucracy with modest functions, a “tiny” army, and an engineers corps with “a few frontier patrols.”⁴⁹ The sources tend to wrap into each other, simultaneously reinforcing each other and dampening further inquiry. The marginalizing and self-referencing approaches taken by various authors are significant because they discourage further analysis into state issues and the responses that tended to enhance centralization and extend state power.

Authors occasionally hint at the presence of something not fully uncovered or examined, only to back away from deeper investigation and return to their primary subjects. Crenson notes that “There may have been some respects, of course, in which the national government was always bureaucratic.” He looks to the rule of law here, but asserts that “the formal rules and regulations – of a bureaucratic order,” or the idea of “organizational impersonality,” “were not realized in the conduct of everyday government business for more than a generation.”⁵⁰ Crenson’s presentation is similar

⁴⁹ Nelson, “Short, Ironic History,” 755–6.

⁵⁰ Crenson, *Federal Machine*, x.

to those by Skowronek and Skocpol, both of whom acknowledge the presence of state structures even in the early republic but who both quickly dismiss them as relatively unimportant, especially – as Skowronek classically asserted – because they created no sense of the state. Mashaw, too, flinches at the implication of an administrative state in the eighteenth century. After his impressive list of national actions in the republic's opening decades, Mashaw drifts back to calling the government's efforts "relatively feeble"; only "around the edges of these dominant themes of development and defense, familiar modern concerns and administrative techniques began to emerge."⁵¹ After favorably mentioning administrative developments and alluding to the Federalists' "strenuous efforts" and innovations, Mashaw reverts to evaluating "the power of the government to command both allegiance and obedience" as "suspect to say the least."⁵² He concurs with Shefter's assessment that the state had both "weak parties and a weak bureaucracy," and "glimpse[s]" only the "beginnings" of the idea of a hierarchically organized civil service.⁵³ He writes that "The idea of agencies as expert administrators – indeed the very idea of public administration – lay far in the future."⁵⁴

Part of the confusion stems from the role played by the military in American state development. War, crisis, and military development are classic engines of state development and centralization. Failing to look carefully at expansion and Indian affairs, scholars have simultaneously understated the military's development and overemphasized its significance.

The U.S. military is generally presumed to have been small and largely unnecessary, especially before the Civil War, and it is simultaneously presumed to have been dominant. Max Edling, for example, summarizes the early republic, writing that "The Federalist peace establishment came to exist of a small regular army, which served as a border constabulary securing western expansion by overcoming the Indian tribes that stood in the republic's way."⁵⁵ Theda Skocpol writes that after a "loosely coordinated" revolution against the British the United States "found itself facing westward toward a huge continent available for conquest from always worrisome yet militarily unequal opponents."⁵⁶

Skocpol rests her assertion on just a few sources, including Bensel, Morton Keller, Samuel Huntington, Seymour Martin Lipset, and Skowronek – none of whom look carefully at conflict and war before the Civil War. Given the

⁵¹ Both quotations are in Mashaw, "Recovering," 1277.

⁵² Mashaw, "Recovering," 1318.

⁵³ *Ibid.*, 1318–19.

⁵⁴ *Ibid.*, 1342.

⁵⁵ Edling, *Revolution*, 225; see also 140, 141.

⁵⁶ Skocpol, *Protecting*, 44.

voluminous studies of Indian policy and expansion-related conflicts written by historians looking specifically at these issues, the choice of sources is curious, misleading, and instructive. Indian nations at the end of the Revolution were more than matches for a weakened and tired United States, a fact known to George Washington, Henry Knox, and many others, as well as one common to literature on Indian affairs and expansion. Arthur St. Clair, whose defeat at the hands of a pan-Indian confederacy in 1791 included the loss of a huge part of the U.S. army, would be surprised to hear his adversaries described as “worrisome yet militarily unequal.”⁵⁷ The same can be said of William Henry Harrison, who had his hands full in the Old Northwest, the series of American commanders who failed to drive the Seminoles out of Florida, and the military leaders who lost battle after battle to American Indian opponents on the Plains and in the West.

Scholars have tended to make two mistakes when it comes to understanding the military and state-building in the United States. First, in assuming a relatively open West – worrisome opponents but not significant ones – scholars have failed to look carefully at development in the military. The military’s roles and its development, however, are far more extensive than scholars usually assume. Author Terry L. Anderson counts as many as 1,800 battles between Indians and whites in the period from 1790 to 1897; the vast majority of these took place between 1830 and 1880.⁵⁸ Before the Civil War, expenditures on the military “dwarfed all other outlays,” in Ira Katznelson’s words, running at least 72 percent of total expenditures and up to 94 percent of total expenditures each year but one between 1808 and 1848, and running to about half of federal outlays from 1848 to 1861.⁵⁹ Numerous studies demonstrate extensive activity and bureaucratization in military organization.⁶⁰ Dismissing the U.S. wars as minor policing actions discourages study and inevitably overlooks the statist dimensions of more than a century of warfare with militarily challenging opponents, whether the opponents were the Iroquois Confederacy or Tecumseh’s confederacy in the early republic, the Cherokee, Seminole, and Osage during removal,

⁵⁷ Cf. Stephen Aron, “Lessons in Conquest: Towards a Greater Western History,” *The Pacific Historical Review* 63 (May 1994), 137; Leroy V. Eid, “American Indian Military Leadership: St. Clair’s 1791 Defeat,” *The Journal of Military History* 57 (January 1993), and see n4.

⁵⁸ Terry L. Anderson, *Sovereign Nations or Reservations? An Economic History of American Indians* (San Francisco: Pacific Research Institute for Public Policy, 1995), 70.

⁵⁹ Katznelson, “Flexible Capacity,” 91–3. Katznelson acknowledges the key role played in these years by expansion, Indian removal, and Indian-related warfare. See 98–9.

⁶⁰ Harry M. Ward, *The Department of War, 1781–1795* (Pittsburgh: University of Pittsburgh Press, 1962); Francis Paul Prucha, *The Sword of the Republic: The United States Army on the Frontier, 1783–1846* (Bloomington: University of Indiana Press, 1977); Mark R. Wilson, *The Business of Civil War: Military Mobilization and the State, 1861–1865* (Baltimore: The Johns Hopkins University Press, 2006).