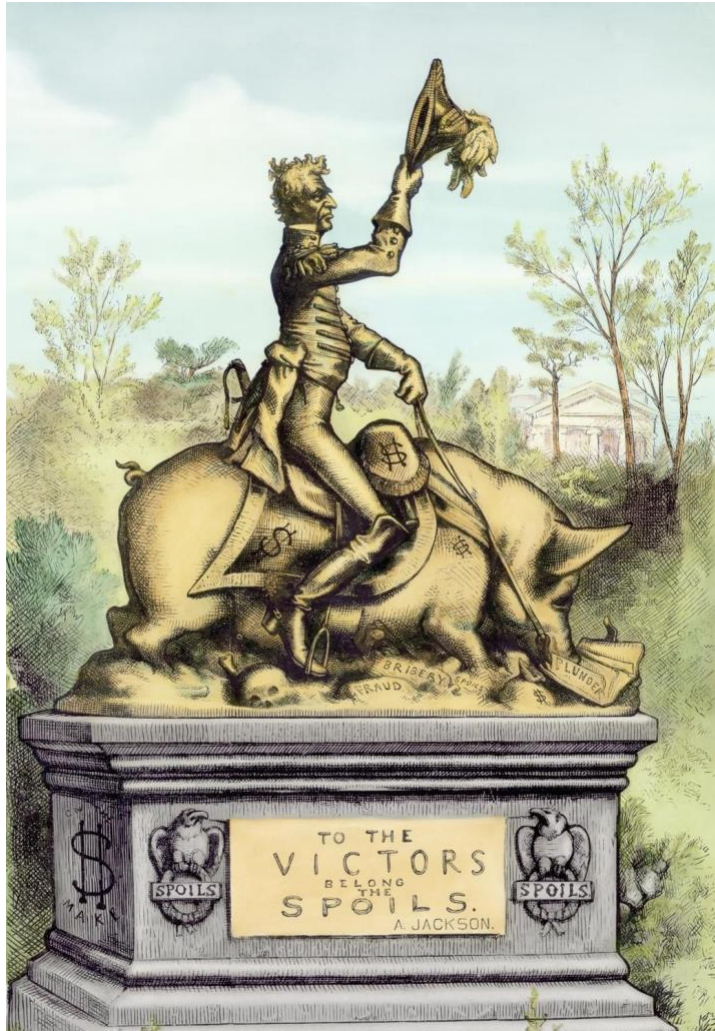


# American Democracy Depends on the ‘Deep State’



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Dec. 20, 2019

*Wall Street Journal*

For years, conservatives have been railing against the growth of the “administrative state,” a mass of faceless and unaccountable bureaucrats allegedly holding tyrannical power over ordinary citizens. Since the election of [Donald Trump](#) in 2016 and the launch of several investigations of his administration, this complaint has morphed into even sharper attacks on America’s so-called “deep state”: unelected officials who are supposedly partisan Democrats ready to do anything to undermine the Trump presidency. Such charges were hurled against the civil servants called to testify in the House’s impeachment hearings, including top career diplomats such as Marie Yovanovitch and Bill Taylor and National Security Council experts such as Fiona Hill and Lt. Col. Alexander Vindman.

But American constitutional government depends on the existence of a professional, expert, nonpartisan civil service. Hard as it is to imagine in this moment of extreme partisan polarization, government cannot function without public servants whose primary loyalty is not to the political boss who appointed them but to the Constitution and to a higher sense of the public interest. Like all modern democracies, the U.S. needs a deep state, because it is crucial to fighting corruption and upholding the rule of law.

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Unlike almost every other modern liberal democracy, the U.S. has historically had trouble coming to terms with the need for a modern state. Among the Founding Fathers, it was chiefly Alexander Hamilton who argued vigorously for an energetic executive branch with background and expertise in government's different functions. He was opposed by Thomas Jefferson, who argued that ordinary Americans should be able to govern themselves through their elected representatives.

The greatest tribune of the Jeffersonian tradition was our first populist president, Andrew Jackson, the poorly educated frontiersman and hero of the War of 1812 who defeated the Harvard-educated John Quincy Adams in the 1828 election. During the 1820s, the franchise was broadened from white males with property to all white males, bringing millions of new voters into the political system. But how to mobilize these masses? Jackson pulled it off by bribing them with bottles of bourbon, Christmas turkeys and (most important) government jobs—a technique now emulated, with local variations, in dozens of other young democracies, from Brazil to India. President Jackson declared that he got to decide who served in the bureaucracy and that government work was something that any ordinary American could do.

Thus was inaugurated a 100-year period known as the spoils system, in which virtually every U.S. official from cabinet ministers to lowly postmasters got their job due to political patronage. Though the Jeffersonian ideal of ordinary citizens governing themselves sounds great in principle, the reality of American government in the 19th century was massive corruption and incompetence, with major cities being run by political patronage machines like Tammany Hall in New York.

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By contrast, Britain, France, Germany and several other European countries reformed their governments by creating permanent, professional bureaucracies in the first half of the 19th century. The U.S. was late in making this shift—largely due to a political culture that is intensely suspicious of government itself. The modern American state was initiated only with the passage of [the Pendleton Act](#) in 1883, which established a Civil Service Commission that would hire workers on the basis of merit rather than political connections. The Pendleton Act could be passed only as a result of the 1881 assassination of the newly elected President James Garfield, who was shot by a disappointed office-seeker.

Even so, it wasn't until World War I that a majority of federal workers were appointed under the merit-based system. Creation of a modern state was the rallying cry of the great figures of the Progressive Era, such as Theodore Roosevelt and Woodrow Wilson, who understood—like Hamilton—that modern government was highly complex and required officials with education, expertise and a dedication to public service.

There is no clearer illustration of American exceptionalism than the country's continuing discomfort with its own bureaucracy. Wealthy democracies in Europe and Asia take it for granted that an impersonal state is needed to protect citizens from threats and eschew corruption. In the U.S., by contrast, patronage remains rampant. When a typical European parliamentary government changes hands from one party to another, the ministers and a handful of staffers turn over. In the U.S., a change of administration (even within the same party) opens up some 5,000 "Schedule C" job positions to political appointees.

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No American politician wants to be seen as promoting the interests of bureaucrats. Though U.S. civil servants aren't particularly well-paid compared with their counterparts in the private sector or other democracies, many presidents (including the current one) have come into office capping federal pay raises and declaring hiring freezes. The latter is unnecessary since Congress, more than a half-century ago, passed a law limiting the number of government bureaucrats. Today, there are fewer full-time federal officials than in the 1960s, even though the U.S. government now spends more than five times what it did back then. The only way the federal government can continue to function is by outsourcing jobs to layers of outside contractors and subcontractors, which allows politicians to pretend that they are holding the line on bureaucracy.

One of the worst consequences of today's bitter political divide is the further politicization of the federal bureaucracy. The U.S. government continues to maintain nonpartisan centers of excellence: Think of NASA, the National Oceanic and Atmospheric Administration, the Centers for Disease Control and Prevention, the uniformed military and the Federal Reserve. All are staffed by nonpartisan professionals chosen for their training and expertise. This administration has denigrated the career professionals working at the State Department, the Fed and even NOAA, whose hurricane predictions didn't seem to satisfy the president. What professional will want to work for the government in the future under such conditions?

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Those attacking the "deep state" are really attacking the rule of law. Public officials in the executive branch are obligated to implement the policies of their political bosses, even if they disagree with them. But they have a higher obligation to uphold the Constitution, and they must exercise their own judgment if they see a policy that violates it.

Suppose that a future president were to lose an election but refuse to leave office, claiming to be the victim of massive voter fraud. If such a president were to order the military to protect him or her (as has happened in countless developing countries), individual officers would have to decide where their loyalties lay. The rule of law, Americans should remember during such a crisis, is not a physical barrier but a set of normative beliefs in the minds of those who exercise power. Under such circumstances, only a deep state would preserve the possibility of continued constitutional government in the United States.