

The Liberal Attack on Government

The left criticized administrative power, and then lost control of both the government and the narrative that surrounded it.

By Paul Sabin



Illustration of a torn "For a New Deal" sticker. Getty; The Atlantic

SEPTEMBER 19, 2021

About the author: Paul Sabin is a professor of history and American studies at Yale University. He is the author of *Public Citizens: The Attack on Big Government and the Remaking of American Liberalism*.

“Let the public service be a proud and lively career,” President John F. Kennedy proclaimed in his January 1961 message to Congress. “Let every man and woman who works in any area of our national government,” he continued, “say with pride and with honor in future years: ‘I served the United States government in that hour of our nation’s need.’”

Kennedy’s message succeeded: Young Democrats, heeding his call, filled the offices of the nation’s executive agencies. And yet just 20 years later, Ronald Reagan, another newly elected president, stood in front of the U.S. Capitol and declared a kind of war on the values Kennedy vaunted. “Government is not the solution to our problem; government is the problem,” Reagan said, a statement that marked a definitive break with the big-government liberalism of the postwar period.

How did government go from being the solution to society’s ills to being the cause of its problems? The answer, paradoxically, lies with the political left as well as the right. In the ’60s and ’70s, as the federal government expanded its reach, and as a growing conservative movement fulminated against it, many liberals also grew disillusioned with the government’s unchecked bureaucratic power. The postwar liberal faith in government crashed against the realities of how that government was working, its

excessively close ties with industry, and what it was doing to the American people and to the land itself. Citizen advocates turned to new nonprofit organizations to protect a “public interest” that the government, they argued, did not reliably serve.

Under pressure from both the left and the right, the traditional liberal establishment fell into disarray. Given the Biden administration’s efforts to pass trillion-dollar infrastructure and social-welfare legislation, harkening back to the New Deal, it’s worth revisiting this earlier time, when liberals themselves helped break apart the postwar liberal coalition which had supported a strong and active federal government, and helped make it harder for the government to do big things. Have liberals learned to embrace big government again? And should they? The answer hinges, in part, on whether they can reconcile themselves to government’s imperfections—or make big government better than it was in the past.

The New Deal and Second World War created a kind of managed capitalism in the United States that generated rising wages and strong economic growth. In his influential 1952 book, *American Capitalism*, the economist John Kenneth Galbraith articulated a liberal conception of “countervailing powers” held in balance by the regulatory state. Large businesses would check one another’s excesses through competition, and powerful unions would represent the interests of workers. Government would play a crucial role, ensuring that the system did not tilt too far in one direction or the other. Galbraith called this balancing role “perhaps the major peacetime function of the federal government.”

In this economic system of the ’50s, the federal government actively partnered with industries and frequently initiated transformative infrastructure projects. Major hydroelectric-dam construction accelerated in the ’40s and ’50s, spurred on by agencies such as the Bureau of Reclamation and the Tennessee Valley Authority and following the triumphant completion of Hoover Dam and Grand Coulee Dam. Kaiser, Bechtel, and other leading engineering and construction companies used government dam contracts to expand domestically and overseas. Writing in 1950, the historian and prominent liberal Henry Steele Commager celebrated the Tennessee Valley Authority as “the greatest peacetime achievement of twentieth-century America.” TVA, Commager said, “triumphantly allied science and politics” and showed that “public intelligence can operate most effectively through government and that government can be more efficient than business.”

The federal highway program further accelerated a postwar construction boom, as it established toll-free highways linking major cities. President Dwight Eisenhower declared that highways were “an obligation of Government at every level. The highway system is a public enterprise.” Labor, capital, and government worked in tandem to fuel the postwar economic boom, remaking the American landscape to manage water, energy, transportation, and housing.

It was against this conjunction of administrative power—the postwar alliance of big government, big business, and big labor—that best-selling writers such as Rachel

Carson and Ralph Nader rose up in full-throated opposition in the early '60s. Excessively close ties between government and industry, Carson argued in her 1962 best seller, *Silent Spring*, exacerbated a misguided vision of a simplified, pest-free environment. Government campaigns against the gypsy moth and fire ant, Carson wrote, were "ill-conceived, badly executed, and thoroughly detrimental." Carson's critique of the quest for biological control attacked the concentrated power of government institutions that too often represented industry's perspective. "The fundamental wrong," Carson explained in a 1963 speech, "is the authoritarian control that has been vested in the agricultural agencies."

Carson's skepticism about the government adequately representing the public interest echoed through the growing environmental movement over the next decade. "People are beginning to ask questions instead of meekly acquiescing," Carson wrote of mounting citizen opposition to pesticide-spray programs. Americans had to wake up to their civic responsibilities and stop trusting the government to act responsibly, she argued. "Until very recently," Carson said, "the average citizen assumed that 'someone' was looking after these matters and that some little understood but confidently relied upon safeguards stood like shields between his person and any harm. Now he has experienced, from several different directions, a rather rude shattering of these beliefs."

In his 1965 book, *Unsafe at Any Speed*, Nader, like Carson, blamed the government as well as industry for the problems he identified. The traffic-safety establishment, Nader wrote, was a "great power with no challengers." Nader called on active citizens—including independent, civically active lawyers, engineers, and scientists—to force the government to protect American consumers from dangerous cars and badly designed roads. He urged a "bodily rights revolution" that would protect American citizens against manifold external threats from industry and government. Automobile accidents were one of the most serious "manmade assaults on the human body." Nader's safety campaign later extended to his advocacy for clean air, clean water, and safer workplaces, and to his fervent opposition to toxic chemicals and nuclear power.

During the spring and summer of 1966, Nader emerged as a spokesperson and key broker on important new highway-safety legislation. In the closing moments of legislative drafting, Nader sat in one Senate anteroom while Lloyd Cutler, a Democratic lobbyist representing the auto industry, stayed in another. A Senate aide went back and forth between Nader and Cutler as they hammered out the bill's final details. The old Democratic Party establishment, with its governmental and business ties, was being forced to negotiate with one of its new liberal critics.

Nader and other citizen activists searched for ways to build something larger than individual crusades. They aimed to enlist energetic young researchers and professionals to press government agencies to fulfill their public missions and regulatory roles. The media, the courts, and administrative and legislative processes would be their field of operation. Civil-rights and anti-war movements fueled their belief that the government could not be trusted and needed to be watched over and held accountable. Notable liberal foundations, including Ford and Carnegie, played

important roles launching this new public-interest law movement. Ford's generous grants, totaling more than \$2 million from 1967 to 1972, helped establish the Natural Resources Defense Council, the Environmental Defense Fund, the Sierra Club Legal Defense Fund, and other new law groups with significant environmental portfolios. The new legal defense organizations, as their names suggest, were directly inspired by the NAACP Legal Defense and Educational Fund's landmark civil-rights litigation against government institutions.

Gordon Harrison, the Ford program officer who oversaw the foundation's environmental-law grants, viewed government agencies as the primary target. The law firms, Harrison explained, needed "to bring suits against government agencies, to oversee the performance of government agencies and take other legal actions to provide the agencies with a broader view of social interests than they normally get." Government, Harrison argued, "should not be all-powerful." Society needed a "counterforce" to government that was "not beholden to the government in any way." Ford's public-interest grants aimed to create an "antagonist of government" that would stay clearly within the bounds of the American legal system—in fact becoming an integral part of that system.

These activists outlined a new understanding of political economy that saw *both* business and government as flawed institutions that needed to be counterbalanced by a "third sector" consisting of nonprofit and public-interest organizations. Liberals had long emphasized that market failures and inefficiencies justified the government's regulatory role. The new environmental regulations of the early '70s appropriately aimed to remedy classic examples of market failure, such as air and water pollution. But public-interest advocates aimed at a different problem: what some observers called "*government* market failure." As a seminal 1978 study of public-interest law sponsored by the Ford Foundation explained, the public-interest movement assumed "both types of failures—the market and the government." The movement's adherents believed that "political and economic pressures on the decision-making process" caused failures that could be solved only by "*extra-governmental* efforts."

The public-interest movement reconceptualized the policy process. James Moorman, an early innovator in environmental law, described the new situation as a "triangular 'public interest model' of government"—one that he considered "far better" than the earlier "regulated vs. regulator model." The triangular model pitted public-interest groups against corporations and others in a contest to direct government policy. "In the 1950s," Moorman said, "it was assumed that government lawyers were public interest lawyers." But that assumption no longer held, Moorman explained. The public interest existed separately from the government. Citizens who wanted clean air and water, for example, needed lawyers of their own to represent them before the government. During the '70s, policy advocacy and litigation by public-interest groups proliferated across a range of issues, including women's rights, civil rights, mental health, poverty, and criminal justice.

The field of public-interest environmental law that appeared at the close of Lyndon

Johnson's presidency thus constituted an attack on federal agencies from within the liberal establishment itself. Environmental lawyers created new independent law firms to hold government true to a public purpose that was going unfulfilled, either because private interests dominated and "captured" the agencies or because the agencies themselves were isolated and misguided bureaucratic fortresses.

David Sive, a pioneering environmental lawyer active in the Sierra Club who was an early NRDC trustee, described the problem of pervasive bias toward industry on the part of regulatory agencies: "The Federal Power Commission is power-oriented, the Atomic Energy Commission is atom-oriented, the Interstate Commerce Commission is railroad-oriented." By embracing the private objectives of the companies that they were meant to regulate, Sive and others argued, federal agencies themselves had become an environmental threat. Citizen groups had to "fight not only the developer, which may be a private company, but the very governmental agency which is supposed to regulate that company."

The newfound liberal faith in courts reversed '30s New Deal thinking, when liberals touted independent executive agencies as the solution to major social problems. "We must use the courts because administrative agencies are not working properly," Moorman said. When public-interest lawyers boasted of their eagerness to "sue the bastards," they referred to lawsuits against government officials and agencies. In one typical early report, 90 percent of the accomplishments cited by the Sierra Club Legal Defense Fund sought to block government actions, intervene in public proceedings, or influence government regulatory and permitting practices. The government projects under attack included new highways, bridges, airports, and dams; the dredging of harbors; pest-control efforts, such as DDT-spray campaigns; and water-management plans.

The very success of public-interest law led its elite founders away from a movement-centered approach to social change, which was more time-consuming, harder to control, and unfamiliar. The Environmental Defense Fund argued in an early fundraising pitch that the group's litigation produced results "faster than by lobby, ballot box, or protest." Public-interest groups embraced professional expertise and inside-the-Beltway strategies rather than mass protests and political action. Lawyers often could halt proposed development projects, at least temporarily, by intervening in administrative processes—for example, by demanding and then contesting the environmental-impact statements required by the National Environmental Policy Act of 1969.

In one early demonstration of these legal superpowers, the Center for Law and Social Policy, a tiny law firm then just a few months old, won a court order in March 1970 that halted construction of the Trans-Alaska Pipeline. "At that moment I was so overcome that all the voices and the scene just faded into the distance," Moorman, the lead lawyer on the suit, later recalled of this seductive moment when David defeated Goliath. "I've never had an experience quite like it. Never have I accomplished anything in the practice of law which has had such an emotional impact on me as that injunction did."

From a dingy office of only a handful of lawyers in Washington's Dupont Circle, Moorman had helped stop—albeit temporarily—one of the most costly and ambitious engineering projects in U.S history.

Running for office in the aftermath of the deceptions of Watergate and the Vietnam War, Jimmy Carter promised to “take a new broom to Washington and ... sweep the house of Government clean.” As president, Carter sought to incorporate the 1970s' public-interest critique of government into a positive vision for government action *and* reform. Carter placed dozens of public-interest lawyers in important government positions where they could shape the agencies that they had been suing and pressuring. He took to heart the idea that the government might be responsible for wasteful and environmentally destructive projects, and he was willing to spend valuable political capital clashing with powerful congressional Democrats over the construction of big dams. He also shared the view that federal regulation had resulted in cartel-like control of major industries, including the airline sector, telecommunications, and trucking, and he supported the breakup of those arrangements. “Many regulatory agencies,” Carter said bluntly in 1980, “protect monopolies.” Carter also sought to introduce more flexible regulatory strategies that could achieve environmental and health-protection goals at lesser economic cost.

Yet Carter ultimately failed to create a new liberalism that could champion federal action while also recognizing government's flaws and limitations. Although public-interest advocates outside the administration sometimes supported aspects of the president's reform efforts, they more often harshly criticized his administration for its compromises and inadequacies. Attacking the government was what they knew how to do, the role that they had defined for themselves. As Carter's term in office proceeded, the public-interest movement's support for the Democratic president diminished. In 1979, for instance, Carter reluctantly signed a bill authorizing a controversial dam project despite environmental litigation under the Endangered Species Act. Marion Edey, the director of the League of Conservation Voters, announced that Carter could not “feel assured of active support.” Edey, a former ally whom Carter had tried unsuccessfully to appoint to the Council on Environmental Quality, now declared, “I cannot say we will or will not support the president for re-election.” Nader similarly wondered aloud that same year, “What more could Ronald Reagan do?”

Disappointed liberals flirted first with Ted Kennedy's unsuccessful challenge to Carter in the Democratic primary. Kennedy's robust effort to push the sitting Democratic president off the ticket, recalled one Carter appointee who had come out of the Nader network, helped strip away “the traditional support that the left had, and it left the reelection campaign somewhat without a theme. The public really didn't have anything to hang on to as sort of their reason in wanting to reelect this President.” In a rousing speech at the Democratic Convention in Madison Square Garden in August 1980, Kennedy suggested that Carter, the Democratic nominee, was no standard-bearer for liberal values. “For all those whose cares have been our concern, the work goes on,”

Kennedy proclaimed to great applause. “The cause endures. The hope still lives. And the dream shall never die.” In a symbolic rejection of the Democratic president, Kennedy took the stage with Carter but refused to join hands in a show of party unity.

Disappointment with the Carter administration also fed a broad critique of both parties and the political establishment. Rather than boost Carter’s efforts to stay in power, Nader declared in mid-1979 that the two-party system was “crumbling and bankrupt,” and that the differences between the two major parties were like those between “Tweedledum and Tweedledee.” A new political party was needed, Nader said. “It’s time to replace the two-party system with new parties, new spirit, new programs, new constituencies, new optimism.” Some liberal critics of Carter embraced the independent candidacy of John Anderson, a Republican who had opposed the Vietnam War and embraced the Equal Rights Amendment, gay rights, and environmental causes. The ecologist Barry Commoner also plunged into a third-party presidential campaign on the new Citizens Party ticket. The third-party campaigns illustrated a disunity on the left that weakened Carter’s reelection campaign, and they foreshadowed Nader’s 2000 run undercutting Al Gore 20 years later.

Liberal disarray was hardly the only reason that Carter lost to Reagan in 1980 and that the Republican Party took control of the U.S. Senate for the first time since 1955. High inflation and unemployment and the Iran hostage crisis created stiff headwinds for Carter’s reelection and for the Democratic Party. The Republican Party’s continuing “southern strategy” on civil rights remade both parties’ coalitions and further contributed to Carter’s defeat. But Kennedy’s primary challenge and Anderson’s third-party candidacy took their toll. The public-interest critique of government held up those in power against a model of what they might be, rather than what the push and pull of political compromise and struggle allowed. Could liberals and the left build political power and govern? Carter’s failure to hold together the Democratic coalition and to win reelection suggested that the answer might be no.

Liberals attacked and criticized, and then lost control of both the government and the narrative that surrounded it. Nonprofit, issue-based advocacy had become a potent and permanent force in U.S. politics, but now an emboldened and ever more conservative Republican Party threatened the public-interest movement’s fight to protect health, safety, and the environment. Reagan also attacked government agencies, but his policy solutions differed radically from the ones touted by liberals and the left. Reagan and other market-oriented conservatives sought to liberate the private sector from regulation. Reagan acted to undermine, rather than invigorate, federal oversight. Instead of seeing a role for citizen activists who were pressing the government to do more and do better, Reagan embraced a simple duality of state versus market. He sided with regulated industries against government regulators, and also against labor unions.

Reagan’s election thus definitively marked the end of the era of New Deal liberalism, during which Americans had optimistically looked to the federal government for solutions. Focusing solely on Reagan’s flaying of big government and the growing

strength of the conservative movement, however, overlooks exactly how the post–World War II administrative state lost its footing. Liberal advocates had spent the '60s and '70s amply and harshly documenting the government's problems. Now many public-interest advocates found themselves making a kind of about-face. Their efforts to safeguard the government's regulatory role after Reagan's election pushed them to defend the administrative state they'd so recently treated as the problem. In the stark right-left stalemate that ensued, liberals could easily lose sight of their '70s dilemma: How could liberals make a strong case for the government as an essential solution to societal problems while continuing to expose all the ways that government agencies could wield destructive power against citizens, communities, and the environment?

Public-interest advocates showed how *both* markets and government are inherently limited and flawed. Yet so, too, was the public-interest advocacy that Nader and others helped pioneer. The movement's emphasis on purity and its frequent disdain for traditional institutions, including political parties and unions, turned a generation of liberals away from local and state politics, and from the pursuit of the institutional power necessary to make political change. Policy gains reliant on professional expertise and administrative maneuvering failed to inspire a broad and powerful movement that could bridge gaps across class and race. The movement's litigation strategies, strikingly successful for the left in the '70s, also were soon adopted by conservative antagonists and stifled by a conservative judiciary. Additionally, citizen-based strategies used to prevent overdevelopment and protect the environment, including such legislative crown jewels as NEPA, have made it difficult to respond to major societal problems by building housing, transportation, and energy infrastructure, such as the electrical grid or offshore wind power. Empowering citizen activism and amplifying citizen voices, seen from another vantage point, also could shift power from broadly representative government bodies to narrow, self-organized groups that protect a particular interest, such as the value of private property.

By primarily playing the role of uncompromising outside critic, the public-interest movement neglected to build support for government in a way that could facilitate policy making in a politically divided nation or that could support internal reforms that might improve government operations. Americans continue to struggle to formulate an approach to governance that acknowledges, and strives to balance, the inherent limitations of government, markets, and citizen action. A half century later, the regulatory accomplishments of the early '70s have provided a legal framework that somewhat constrains U.S. capitalism. The nation's air and water are cleaner, and its workplaces are safer. At the same time, government itself is unpopular and often incapable of action that addresses new threats, especially climate change. We need to reinvigorate the government and also continue fighting to improve it and hold it accountable. The struggle to remake liberalism for a new age endures.

Paul Sabin is a professor of history and American studies at Yale University. He is the author of *Public Citizens: The Attack on Big Government and the Remaking of American Liberalism*.