

**Figuring the New Deal: Politics and Ideology in Treasury Section
Painting and Sculpture in Washington, D.C., 1934-1943**

Warren Carter
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University College London



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Declaration

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Abstract

This thesis uses neo-Marxist theories of the state and their application to New Deal historiography as the framework within which to analyse the artworks produced under the auspices of the Treasury Section of Painting and Sculpture from 1934 to 1943 in Washington, D.C. Taking as its focus the murals and sculptures produced for the Justice Department, the Interior Department, and the Social Security Administration buildings it seeks to demonstrate how Section art reflected the twists and turns of the Roosevelt administration as it moved through the First New Deal, the Second New Deal, and the constitutional crisis in the lead up to war in Europe. Whilst these artworks are often read as propaganda pure and simple the thesis will explore the extent to which the art produced under federal patronage had a far more nuanced and complex relationship to New Deal social policy. It will demonstrate that this was particularly the case with those murals and sculptures produced by radical artists, politicised by the Depression and organised via the various cultural fronts of the Communist Party of the United States, who attempted to use their commissions to encode a politics and ideology to the left of a New Deal reform agenda, particularly as this was becoming increasingly stymied in the led up to war.

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Introduction

The Treasury Section of Painting and Sculpture was one of the four main art projects that operated under the New Deal, the other three being: the Public Works of Art Project (PWAP); The Treasury Relief Art Project (TRAP); and the Works Progress Administration Federal Art Project (WPA/FAP).¹ What made the Section different from these other programmes was the fact that it was not a relief project and therefore dependent upon congressional appropriation for its running costs. The PWAP was a federally administered programme set up in December 1933 under funds provided by the Civil Works Administration (CWA), a work relief programme run by Harry Hopkins from November 1933 with an initial grant of \$400 million. The CWA was terminated at the end of March the following year and the PWAP closed with it.² During the course of its short lifetime this first federal experiment in art patronage spent \$1,312,117 and employed 3,749 artists who produced 706 murals; 3,821 oils; 2,938 water-colours; 1,518 prints, and 647 sculptures.³ The PWAP was run by Edward Bruce who then pushed for the establishment of a permanent Division of Fine Arts within the Treasury.⁴ In this he was successful and with the backing of the Secretary of the Treasury Henry Morgenthau and his wife, the Section of Painting and Sculpture was set up in the Procurement Division in September 1934. Section decorations were funded by up to one percent of the construction costs of new federal buildings. It was terminated in 1943 after having commissioned 1,116 murals and 301 sculptures for 1,118 buildings in 1,083 cities.⁵ In contrast the WPA/FAP was dependent upon annual congressional appropriations.

¹ For a history of these projects see William F. McDonald, *Federal Relief Administration and the Arts* (Ohio: Ohio State University Press, 1969), Richard D. McKinzie, *The New Deal for Artists* (New Jersey: Princeton University Press, 1973), Marlene Park and Gerald Markowitz, *New Deal for Art. Government Art Projects of the 1930s with Examples from New York City and State* (New York: Gallery Association of New York State, 1977), Belisario R. Contreras, *Tradition and Innovation in New Deal Art* (London: Associated University Presses, 1983); Marlene Park and Gerald Markowitz, *Democratic Vistas: Post Offices and Public Art in the New Deal* (Philadelphia: Temple University Press, 1984).

² A grant from the Federal Emergency Relief Administration allowed it to wind up those commissions not yet completed when the CWA finished, so it in fact lasted slightly longer.

³ Andrew Hemingway, *Artists on the Left: American Artists and the Communist Movement, 1926-56* (London: Yale University Press, 2002), p. 78.

⁴ On Bruce see *ibid*, pp. 80-81.

⁵ *Ibid*, p. 78.

Set up in May 1935 under the directorship of Holger Cahill this project accounted for most of the money spent during the New Deal on federally-funded art and by the time it closed in 1943 it had sponsored 2,500 murals, 108,000 paintings, 18,000 sculptures, and 200,000 prints from 11,000 designs.⁶ Lastly, Bruce applied for WPA funds to decorate existing federal buildings without artwork and he was granted money in July 1935 with which to set up the TRAP. This was run by the Section administrator Olin Dows until it closed in 1938 after it had commissioned 89 mural and sculpture projects with over 10,000 easel paintings and prints.⁷

It was the operation of the TRAP that really crystallised the differences between Bruce and Cahill's respective approaches to federal art, and their relationship with unemployed and radical artists groups. Due to the fact that the Section decoration was funded through the construction costs of new federal buildings it was relatively free from the controversies that surrounded the provision of congressional appropriations for the arts. Without the relief requirements of the PWAP or the WPA/FAP its personnel could, and did, prioritise quality over the more urgent needs of destitute artists. Its democratic credentials were predicated upon the fact that most of the commissions it granted were given on the basis of anonymous competitions that anyone could enter. Despite giving lip service to the economic plight of the unemployed artist the overriding purpose of the Section, as defined by Bruce, was 'To secure suitable art of the best quality available for the embellishment of public buildings'.⁸ The Section chief even expressed doubts about the ultimate benefits of the WPA/FAP in producing inferior art without such standards.⁹ It was this emphasis upon quality over and above relief, and the tight administrative control over commissions, that ensured that the Artists' Union – set up to defend wages and conditions on the federal art projects – were far more critical

⁶ *Ibid*, p. 79. The WPA/FAP was far broader in its reach than the other federal art programmes and included four individual projects under 'Federal One': art; music; theatre; and writing (with the Historical and Records Survey Project added later).

⁷ *Ibid*, p. 78.

⁸ Treasury Section of Painting and Sculpture, *Bulletin*, no. 1 (Mar. 1935), p. 3.

⁹ In a letter to Leon Kroll, Bruce wrote of the WPA/FAP that 'unless some quality basis is worked out I am inclined to think that in the long run any art program would do more harm than good'. Quoted in Park and Markowitz, *op. cit.*, 1977, p. 12.

of the Section than they were of the much larger and less bureaucratic WPA/FAP.¹⁰ Bruce and Dows tried to run the TRAP in the same manner as the Section, despite the fact that it was first and foremost a relief project dependent upon WPA money. As such they hired only what they considered to be competent artists on a highly selective basis in numbers that fell well short of their quota and they were attacked accordingly in the pages of Artists' Union paper *Art Front*.¹¹

These criticisms of Bruce and Dows' running of the TRAP in the pages of *Art Front* were extended to the Section itself. Elizabeth McCausland (writing under the pseudonym of Elizabeth Noble) published her critique of the Section under the title of 'Official Art'.¹² Emphasising aesthetic quality over bureaucratic control, she asserted that 'the murals of the Federal Art Project ... are vastly superior to the wooden and stereotyped creations of the Treasury Department Art Projects'.¹³ As for content, the Section is charged with providing little more than 'safe and harmless clichés', such as allegorical justices triumphing over fictitious evils.¹⁴ She singled out the Section commissions in federal buildings in Washington, D.C. for special consideration, as 'these buildings, located in the national capital and representative of the highest official architectural excellence, indicate what the Treasury wants in the way of art'.¹⁵ In another piece entitled 'Big Words by Bigwigs', Peter Vane launched a scathing personal attack upon Bruce and his assistants, Forbes Watson, Edward Rowan, and Dows.¹⁶ Dismissing any claims they may have made about wishing to democratise the production and consumption of art, he is quite clear that 'the "catholic taste" of the officials of the Section itself is ultimately the factor which determines what subjects shall be treated and how'.¹⁷ Despite the open competition system, the existence of regional committees, and the consultation process with local

¹⁰ On the Artists' Union see Gerald Monroe, 'Artists as Militant Trade Union Workers During the Great Depression', *Archives of American Art Journal*, vol. 17, no. 1 (1974), pp. 7-10 and ~~Gerald~~ ~~Monroe~~, 'Artists on the Barricades: The Militant Artists' Union Treats with the New Deal', *Archives of American Art Journal*, vol. 18, no. 3 (1978), pp. 20-23.

¹¹ See *Art Front*, vol. 2, no. 7 (July-Aug. 1936), p. 4 for an example of such criticisms.

¹² Elizabeth Noble, 'Official Art', *Art Front*, vol. 2, no. 10 (Nov. 1936), pp. 8-10.

¹³ *Ibid*, p. 8.

¹⁴ *Ibid*, p. 9.

¹⁵ *Ibid*, p. 9.

¹⁶ Peter Vane, 'Big Words by Bigwigs', *Art Front*, vol. 3, no. 3/4 (Apr.-May 1937), pp. 5-7 and 26-31.

¹⁷ *Ibid*, p. 7.

communities, the Section officials in Washington could, and at various times did, overturn any jury decision that they disagreed with. In contrast, the very fact that the WPA/FAP operated on funds granted directly by Congress, its members being 'the direct political representatives of the people of the United States', ensured that it 'must go to the people for support on the basis of performance', and as such, it was 'in much more fundamental contact with the whole of the nation'.¹⁸

Whilst Bruce's seeming lack of concern for the economic plight of unemployed artists clearly motivated these critiques of Section policy they clearly exaggerate the differences between the two main federal art projects. As Hemingway asserts, 'Bruce and the Section of Fine Arts were just as representative of New Deal cultural idealism as Cahill and the WPA Federal Art Project'.¹⁹ For him the differences between the two programmes were not just the mere manifestation of differing ideological viewpoints of their respective directors, but more the product of the different constraints under which they operated: 'the Treasury and the fiscally conservative secretary Morgenthau in the case of the Section, and the WPA headed by the liberal Hopkins in that of the FAP'.²⁰ Yet the standard accounts of federal art published since the New Deal tend to reproduce this opposition between the Section and the WPA, reading them through the personalities of Bruce and Cahill respectively.²¹ What these secondary accounts lack, as Hemingway clarifies, is 'any articulate theory of the New Deal state'.²² With this in mind I will therefore finish this introduction with a brief overview of neo-Marxist theories of the capitalist state, their application to New Deal historiography, and their relation to the existing literature on the federal art projects, before turning to Section artwork in the capital to suggest ways in which these arguments could be used to offer a more nuanced interpretation of Section art. The buildings that I will look at are the Justice Department, the Interior Department, and the Social Security Administration. Not only are these three of the most important projects in Washington, D.C., but,

¹⁸ *Ibid.*, p. 27.

¹⁹ Hemingway, *op. cit.*, 2002, p. 81.

²⁰ *Ibid.* 79.

²¹ This reaches its most extreme form with Contreras' *Tradition and Innovation in New Deal Art* in which the two terms in the title refer to the Section and the WPA/FAP respectively, reading each project almost solely through the personalities of Bruce and Cahill.

²² Hemingway, *op. cit.*, 2002, p. 79

between them, they also cover the duration of the Section from start to finish thereby enabling me to analyse its activities in the capital within the broader development of the New Deal as a whole.

Marxist theories of the state

Most commentators agree that Marx never codified his views on the nature of the capitalist state into any kind of systematic political theory, leaving only what Bob Jessop describes as ‘a fragmented and unsystematic series of philosophical reflections, contemporary history, journalism and incidental remarks’.²³ Despite the diversity of interpretations that can be extracted from these scattered references, Marx and Engels’ description of the capitalist state in the *Communist Manifesto* as ‘but a committee for managing the common affairs of the whole bourgeoisie’ has proven to be the most popular, if also the most misinterpreted, starting point.²⁴ Under the theory of ‘state monopoly capitalism’ (stamocap), a Marxist-Leninist orthodoxy, the capitalist state was thereby reduced to representing little more than the naked instrument of class rule, acting not only on behalf, but also at the behest of the ruling class.²⁵ This is a wilful misreading of Marx, for, as Ralph Miliband has pointed out, ‘the notion of common affairs assumes the existence of particular ones; and the notion of the whole bourgeoisie implies the existence of separate elements which make up that whole’.²⁶ The subordination of theory to politics nevertheless ensured that this instrumental reading of the state became the dominant Marxist one, and it was not until Marxist theory regained its autonomy from the institutional

²³ Bob Jessop, ‘Recent Theories of the Capitalist State’, *Cambridge Journal of Economics*, vol. 1, no. 4 (Dec. 1977), p. 354.

²⁴ Karl Marx and Friedrich Engels, *The Communist Manifesto* (London: Verso, 1998 (1848)), p. 37. Jessop divides Marx and Engels’ references to the capitalist state into six distinct theoretical categories: the state as a *parasitic* institution; the state and state power as *epiphenomena*; the state as the *factor of cohesion*; the state as an *instrument of class rule*; the state as a *set of institutions*; and finally, the state as a *system of political domination*. Jessop, *op. cit.*, 1977, pp. 354-357.

²⁵ For an overview of stamocap theory see Bob Jessop, *The Capitalist State: Marxist Theories and Methods* (Oxford: Robertson, 1982), pp. 32-77.

²⁶ Ralph Miliband, ‘Poulantzas and the Capitalist State’, *New Left Review*, 82 (Nov.-Dec. 1973), fn. 4, p. 85.

pressures of Communism that a more complex and systematic neo-Marxist theory of the state could begin to develop.

This process began in the late 1960s with the publication of Nicos Poulantzas' *Political Power and Social Classes*.²⁷ Here, Poulantzas attempted to move beyond the crude conflation of state and capital that characterised stamocap theory to produce a more sophisticated model of the capitalist state. One that could grant the state a 'relative autonomy' from direct capitalist control, yet still account for fact that it operated in capitalist interests. Following Marx he began with the contradiction between the forces and the relations of production under capitalism. This contradiction threatened the capitalist system in two direct and complementary ways. The socialisation of the productive forces fostered working-class solidarity and the formation of independent working-class organisations, such as trade unions. Whilst often reformist and limited in their political goals, such institutions nevertheless organised working-class opposition against the inequities of the capitalist system. Furthermore, capitalist relations of production, the private ownership of the productive forces, served to accentuate the competitive relations between individual capitalists, making it more difficult for them to achieve the class unity necessary to stave off such organised threats to their power. The function of the capitalist state was therefore to mediate this contradiction, organising capitalist interests and disorganising those of the working-class. For Poulantzas, the state is therefore the 'factor of cohesion' in capitalist society, representing the interests of the capitalist class as a whole against those of the working-class and individual capitalists, and as such it has to have a 'relative autonomy' from direct capitalist control.²⁸

Whilst the book was published in France in 1968, it was not translated until 1973, so that Poulantzas' ideas on the nature of the capitalist state first emerged in English through his polemic with Miliband in *New Left Review*.²⁹ Poulantzas

²⁷ Nicos Poulantzas, *Political Power and Social Classes* (London: New Left Books, 1973).

²⁸ For a sympathetic, yet critical, reading of *Political Power and Social Classes* see Bob Jessop, *Nicos Poulantzas: Marxist Theory and Political Strategy* (London: Macmillan, 1985), pp. 53-83.

²⁹ See Nicos Poulantzas, 'The Problem of the Capitalist State', *New Left Review*, 58 (Nov.-Dec. 1969), pp. 67-78 and Ralph Miliband, 'The Capitalist State: Reply to Nicos Poulantzas', *New Left Review*, 59 (Jan.-Feb. 1970), pp. 53-60.

initiated this celebrated exchange in late 1969 with a review of Miliband's *The State in Capitalist Society*.³⁰ Unlike *Political Power and Social Classes*, which had been written to counter the instrumental orthodoxies of stamocap, Miliband's book was instead directed against liberal pluralist accounts of the capitalist state that were dominant in bourgeois sociology throughout the 1950s and '60s.³¹ Miliband argued that such analyses were ideological in their emphasis upon the neutrality of the state vis-à-vis competing social groups, especially capital and labour. He then went on to attack the liberal pluralists on their own methodological terrain by empirically demonstrating how capitalists, particularly those who control major economic organisations, enjoy decisive and stable political advantages because of their privileged positions both 'inside' and 'outside' the state. To exemplify their greater power 'inside' the state he focused upon the specific social situation of state personnel arguing that as members of the bourgeoisie by social origin or recruitment they would be favourably predisposed towards both capitalist interests and capitalist enterprise, ideological differences being confined within a specific and fairly narrow conservative spectrum. Capitalist influence from 'outside' the state was a product of their accumulated economic power, their strength and influence as a pressure group, in a broad meaning of the term, at both national and international levels.

The main thrust of Poulantzas' critique of Miliband's book was epistemological and centred upon the question of method. Poulantzas' work was quite clearly located within the theoretical orbit of Althusserianism in its rejection of humanism and the causal influence of human agency.³² Accordingly, he attacked Miliband for reducing the state and social classes to the 'inter-personal relations' of their constituents, so that 'the agents of a social formation, "men", are not considered as the 'bearers' of objective instances (as they are for Marx) but as the genetic principle of the levels of the social whole'.³³ After rejecting the empirical plane of Miliband's analysis, for him a clear capitulation to bourgeois ideology,

³⁰ Ralph Miliband, *The State in Capitalist Society* (London: Weidenfeld and Nicholson, 1969).

³¹ The most articulate exponent of liberal pluralism in this period, and one of Miliband's principal targets, was Robert Dahl.

³² For an incisive, if uncompromising, critique of the Althusserian project see Simon Clarke, 'Althusserian Marxism', Simon Clarke et al., *One-Dimensional Marxism: Althusser and the Politics of Culture* (London: Allison and Busby Ltd., 1980), pp. 7-102.

³³ Poulantzas, *op. cit.*, 1969, p. 70.

Poulantzas asserted that 'the relation between the bourgeois class and the state is an objective relation', and as a consequence, 'the direct participation of members of the ruling class in the state apparatus is not the cause but the effect'.³⁴ Whilst Miliband later accepted some of these criticisms, he rightly pointed to the faults of, what he termed, 'hyperstructuralism': that 'which deprives "agents" of any freedom of choice and manoeuvre and turns them into "bearers" of objective forces which they are unable to affect'.³⁵ Whilst the debate was highly polemical, and their differences overstated, Miliband was henceforth labelled an 'instrumentalist' by virtue of his emphasis upon how the bourgeoisie 'almost physically "corners" the state', and Poulantzas, a 'structuralist', whose 'relative autonomy' thesis had a tendency to reduce those who run it to 'the merest functionaries and executants of policies imposed upon them by "the system"'.³⁶

Jessop asserts that this opposition between instrumentalism and structuralism was 'fundamentally misleading about the theoretical issues and political implications at stake', yet the exchange at least demonstrated that both positions were ultimately inadequate in their attempts at conceptualising the precise nature of the capitalist state.³⁷ Whilst instrumentalist approaches may have generated a research agenda that produced an important sociology of the capitalist class, as David Gold, Clarence Lo, and Erik Olin Wright made clear at the time, the 'emphasis upon social and political groupings, as with pluralist theories of the state, tends to obscure the proper Marxist focus upon classes and their relationship to the means of production'.³⁸ And by reproducing this liberal pluralist tendency to separate politics from its complex articulation with economic forces instrumentalism cannot convincingly account for Social-Democratic or Socialist forms of government. Their personnel often have little to do with the capitalist class in terms of lifestyle or socialisation yet they consistently pursue policies that ultimately serve the long-term goals of capital

³⁴ *Ibid.*, p. 73.

³⁵ Ralph Miliband, *Marxism and Politics* (Oxford: Oxford University Press, 1977), p. 73. In the earlier articles Miliband used the terms 'structural super-determinism' or 'structural abstractionism' to characterise the work of Poulantzas.

³⁶ Poulantzas, *op. cit.*, 1969, p. 74 and Miliband, *op. cit.*, 1970, p. 57.

³⁷ Bob Jessop, *op. cit.*, 1985, p. xiv.

³⁸ David Gold, Clarence Lo, and Erik Olin Wright, 'Recent Developments in Marxist Theories of the Capitalist State', *Monthly Review*, vol. 27, no. 5 (Oct. 1975), p. 35.

accumulation.³⁹ As Ernesto Laclau stated in his critique of the Poulantzas-Miliband debate, the links between members of the state apparatus and members of the ruling class are an *indication* of class domination and not its cause', and anomalies, such as the above, underline the importance of analysing the structural factors that operate at a different level from the exercise of personal influence.⁴⁰

Whilst Poulantzas' 'relative autonomy' formulation is therefore a move in the right direction, it is far from satisfactory. As Gold, Lo, and Wright make clear, 'Although there is a fairly rich discussion of how the relative autonomy of the state protects the class interests of the dominant class, and of the functional necessity for such a state structure, there is no explanation of the social mechanisms which guarantee that the state will in fact function in this way'.⁴¹ This emphasis upon the structural dimension of the state, determined by the nature and requirements of the mode of production, displaces the proper Marxist focus upon class struggle, implicitly submitting the contingency of these forces to the more general structural necessities of capital accumulation. So, as Simon Clarke asserts, 'The struggle of the working-class against those relations of production is devalued, its achievements becoming simply bonds which tie the working-class ever more tightly into the system, its substantive defeats having a retrospective inevitability'.⁴² If Miliband's Marxism is in some ways compromised by his decision to occupy the 'epistemological terrain' of his liberal pluralist opponents, Poulantzas' early work is similarly infused with a structural functionalist theory of society derived from bourgeois sociology, more Talcott Parsons than Marx. And whilst Poulantzas later attempted to incorporate class struggle more centrally into his work, he never really overcame this structuralist tendency to see the state as the focal point for such battles.⁴³

³⁹ See Fred Block 'State Theory in Context', *Revising State Theory: Essays in Politics and Postindustrialism* (Philadelphia: Temple University Press, 1987), pp. 8-9.

⁴⁰ Ernesto Laclau, 'The Specificity of the Political', *Economy and Society*, vol. 4, no. 1 (Feb. 1975), p. 96.

⁴¹ Gold, Lo, and Wright, *op. cit.*, p. 38.

⁴² Simon Clarke, 'Marxism, Sociology, and Poulantzas' Theory of the State', *Capital and Class* 2 (Summer 1977), p. 20.

⁴³ See Nicos Poulantzas, *Fascism and Dictatorship* (London: New Left Books, 1974) for an attempt at providing a more concrete analysis of the contemporary forms and crises of the capitalist state.

Despite the weaknesses of both instrumentalist and structuralist accounts of the capitalist state, the work of Miliband and Poulantzas ensured that the state would henceforth become a central concern of Marxist theoretical enquiry. As one commentator noted, after their debate ‘the battle was on, raging over Europe and north America, as Left intellectuals lined up with the “instrumentalists” or the “structuralists”’.⁴⁴ Their work therefore laid the foundation for the development of subsequent neo-Marxist theories of the state, and it is only by working through the contradictions of both positions that more recent state theorists, such as Fred Block, have been able to produce a more satisfactory model that can properly account for the specificity of the political.⁴⁵ Block immediately opposes instrumentalism by accepting ‘a division of labour between those who accumulate capital and those who manage the state apparatus’,⁴⁶ and designates the structuralist theory of this division as ultimately little more than ‘a cosmetic modification’ of the ‘tendency to reduce state power to class power’.⁴⁷ He then extends Poulantzas’ ‘relative autonomy’ formulation via ‘an alternative framework that goes further in recognising the specificity of the state, while still acknowledging the “determinant role of the relations of production”’.⁴⁸ Block thereby avoids the pitfalls of structural-functionalism by bringing class struggle back to the centre of analysis.

Whilst Block begins with the assertion that ‘state power is sui generis, not reducible to class power’, the exercise of the former occurs only within the context of the latter, as the relations of production, the determinants of actual class power, ‘shape and limit’ the exercise of state power.⁴⁹ This formulation rests upon the assumption that state managers, ‘those at the peak of executive and legislative branches of the state apparatus’, including ‘the highest ranking civil servants, as well as appointed and elected politicians’,⁵⁰ are ‘self-interested maximisers, interested in

⁴⁴ Frances Fox Piven, ‘Reflections on Ralph Miliband’, *New Left Review*, 206 (July-Aug. 1994), pp. 24-25.

⁴⁵ See Fred Block, ‘The Ruling Class Does Not Rule: Notes on the Marxist Theory of the State’, *Socialist Revolution*, 33 (May-June, 1977), pp. 6-29 and Fred Block ‘Beyond Relative Autonomy: State Managers as Historical Subjects’, *Socialist Register* (1980), pp. 227-242.

⁴⁶ Block, *op. cit.*, 1977, p. 10.

⁴⁷ Block, *op. cit.*, 1980, p. 229.

⁴⁸ *Ibid*, p. 228.

⁴⁹ *Ibid*, p. 229.

⁵⁰ Block, *op. cit.*, 1977, fn. 5, p. 9.

maximising their power, prestige, and wealth' within these contingent parameters.⁵¹ This division between members of the capitalist class and state managers marks a fundamental break with the typically Marxist tendency to explain capitalist rationality as the reform initiative of a particular sector of the ruling class, explicit in instrumentalist accounts of the state, and implicit in structural-functionalist ones. For Block there is no such thing as a conscious, politically directive ruling class, as 'Those who accumulate capital are conscious of their interests as capitalists, but, in general, they are not conscious of what is necessary to reproduce the social order in changing circumstances'.⁵² The capacity of capitalism to rationalise itself is instead the outcome of a conflict among three sets of agents – the capitalist class, state managers, and the working-class, and this process occurs 'behind the backs' of each set of actors so that 'rationality cannot be seen as the function of the consciousness of one particular group'.⁵³

The problem remains of how to account for the fact that the state generally functions in the interests of the capitalist class, and the reasons why, in certain circumstances, state managers use their power, despite capitalist opposition, to reform capitalism. To explain these structural outcomes Block first situates the state within the wider international context of the competitive capitalist world market. By causally relating the political strength of state managers, and their respective ability to pursue their own self-interests, to the relative standing of their nation, both militarily and economically, within this competitive world system, Block can then account for the bias of state managers towards the needs of capital. For the reality of capitalist control over the investment process ensures that state managers are structurally predisposed towards their interests, maintaining the necessary level of business confidence to provide the high levels of investment that ensure them effective economic resources, via taxation, to successfully finance the state budget and thwart or 'buy off potential challenges for state power'.⁵⁴ Such factors ensure

⁵¹ Block, *op. cit.*, 1980, p. 229.

⁵² Block, *op. cit.*, 1977, p. 11.

⁵³ *Ibid.*, p. 10.

⁵⁴ Block, *op. cit.*, 1980, p. 230. The level of business confidence is based upon such concrete variables as 'the price of labour and the size of the market for a specific product', as well as less tangible ones to do with 'the capitalist's evaluation of the general political/economic climate. Is the

that state managers are usually reluctant to pursue domestic policies that might hurt business confidence, so that social reform measures and interventions of the state into the vagaries of the market are almost always sacrificed for the continued support of the capitalist accumulation process.⁵⁵

It is, however, due to the very vagaries of the capitalist mode of production that the state at certain historical moments has been forced to intervene, to grant concessions to subordinate social groups.⁵⁶ The periodic economic crises generated by the interrelated contradictions of the market 'threaten social dislocation and social rebellion, so that state managers are impelled to act to regulate the market both to protect society and to protect their own rule'.⁵⁷ Block's theory of the state is thereby firmly predicated upon the dynamics of class struggle, as the relations of production assume centrality in a 'modal process of social reform' through which structurally biased, yet relatively autonomous state managers, introduce reform programs to conciliate potentially rebellious social groups and thereby preserve the long-term goals of capital accumulation.⁵⁸ Working-class pressure forces the state to increase its regulatory powers in opposition to a self-interested and short-sighted capitalist class unable to regulate itself during periods of economic crises, when social stability is seriously endangered. Whilst the short-term interests of state managers are then often opposed to those of business, it is apparent that the two groups are interdependent, and as Block makes clear, state interventions, whether by the increased taxation or regulation of capital, are as a result usually consigned to 'the margins of the system', thereby saving capitalism by 'reforming and modifying the system in ways that tend to increase its viability'.⁵⁹

society stable; is the working class under control; are taxes likely to rise; do government agencies interfere with business freedom; will the economy grow?', Block, *op. cit.*, 1977, p. 16.

⁵⁵ For a detailed discussion of the extent of capitalist control over the investment process and the potential consequences of state interventionism, with particular reference to Chile, see *Ibid.*, pp. 17-19.

⁵⁶ On the inherent irrationality and destructiveness of the free market and the short-term pursuit of profit Block cites Karl Polanyi, *The Great Transformation: The Political and Economic Origins of Our Time* (Massachusetts: Beacon Press, 1957 (1944)).

⁵⁷ Block, *op. cit.*, 1980, p. 231.

⁵⁸ *Ibid.*, p. 232.

⁵⁹ *Ibid.*, p. 231.

Whilst state managers may be 'capable of intervening in the economy on the basis of a more general rationality',⁶⁰ they 'are able to act only in the terrain that is marked out by the intersection of two factors – the intensity of class struggle and the level of economic activity'.⁶¹ Nevertheless, Block does point to certain historically specific 'exceptional periods' in the twentieth century when these relations of power have temporarily shifted, 'allowing state managers more freedom of action in relation to capitalists'.⁶² Depression, reconstruction, and war are for him the moments when 'State managers take advantage of the changes in the structural context to expand their own power and to pursue the policies they perceive as necessary to strengthen the nation's position in the world system and to preserve internal order'.⁶³ These transformations in state power are facilitated by the fact that during depression investment threats are pre-empted by an already stagnant economy, during reconstruction by the incentives of reviving economic demand, and during war by the ideological imperatives of patriotism. After weakening the links between the national economy and the world market, thereby impeding the immanent flight of foreign capital, state managers can use such periods to pursue interventionist economic policies that greatly expand the role of the state. However, these exceptional periods of greater state autonomy are often short in duration and circumscribed by the external types of capitalist pressure described by Miliband.

Whilst maintaining the paradigmatic Marxist emphasis upon class conflict, Block's division between those who rule and those who accumulate opens up neo-Marxist theorising of the state to allow a far greater emphasis upon the relatively autonomous initiatives of politicians and their subsequent effects upon group formation and inter-group conflict. As such, his theory of the capitalist state surpasses both instrumentalist and structural-functionalist readings in its ability to account for the particular effects of the political. Block developed his theory with reference to twentieth-century American capitalism and the New Deal, an area of increasing interest amongst American social scientists, sociologists, and historians

⁶⁰ Block, *op. cit.*, 1977, p. 10

⁶¹ *Ibid.*

⁶² Block, *op. cit.*, 1980, p. 232.

⁶³ *Ibid.*, p. 233.

alike. Indeed, since the 1960s there has been a proliferation of theoretical work on the Great Depression and the New Deal. Block's work is an invaluable addition to these debates, yet it has not gone uncontested. His emphasis upon class struggle as the motor of historical development has been challenged by social scientists working with different agendas. It is by turning to these debates in New Deal historiography that we can assess the validity of Block's claims, and their usefulness for assessing the balance of political forces at this crucial moment in twentieth-century American history.

Interpretations of the New Deal

Liberal histories of the New Deal, published in the early 1950s by those who witnessed the period firsthand, tend to celebrate the progressive nature of the political reforms initiated by the Democrats under the presidency of Franklin Delano Roosevelt.⁶⁴ Next to contemporary totalitarian leaders such as Adolf Hitler, Benito Mussolini, and Josef Stalin, he is presented as the beleaguered hero of the American working class, the man who 'fashioned a government which sought to make the industrial system more humane'.⁶⁵ According to the labour historian Melvyn Dubofsky, liberals such as Arthur Schlesinger Jr. interpret his presidency as the culminating moment in 'more than a century of American reform, which swept from the Jeffersonians through the Jacksonians, Populists, and Progressives, and in which the people triumphed over the interests, the commonweal over business cupidity'.⁶⁶ Such a reading fitted liberal pluralist interpretations of the American political process that were dominant in mainstream bourgeois sociology throughout this period. Liberal pluralists explain governmental decisions in terms of the conflicting play of organised group interests in society and, as such, they tend to separate

⁶⁴ See Arthur Schlesinger, Jr., *The Age of Roosevelt*, three vols. (Boston: Houghton Mifflin, 1957-60), Eric Goldman, *Rendezvous with Destiny: A History of Modern American Reform* (New York: Knopf, 1952), and James MacGregor Burns, *Roosevelt: The Lion and the Fox* (New York: Secker and Warburg, 1956).

⁶⁵ William Leuchtenburg, *Franklin D. Roosevelt and the New Deal, 1932-1940* (New York: Harper and Row, 1963), p. 345.

⁶⁶ Melvyn Dubofsky (ed.), *The New Deal: Conflicting Interpretations and Shifting Perspectives* (New York: Garland Publishing, Inc., 1992), p. viii.

politics from economics.⁶⁷ Instead of looking at how the structural contradictions at the heart of the capitalist mode of production shape and influence the governmental process, they adhere to an evolutionist schema that posits institutional change in politics as the inevitable progression towards an ever-increasing and perfected American democracy.

Miliband's instrumentalist critique of liberal pluralism coincided with a similar attack upon American liberal historiography from a younger group of revisionist historians radicalised by the antiwar movement. Their theory of 'corporate liberalism' held that the history of twentieth-century American political reform was merely a facade covering the self-interest of corporate capitalists at both a national and international level.⁶⁸ In line with Miliband they argued that corporate officials exercise disproportionate influence over state policies through the staffing of key government positions, through lobbying and campaign contributions, and through direct personal contact with policymakers in private clubs and policymaking institutions. They rejected the liberal orthodoxies of New Deal scholarship to argue instead that Roosevelt's reform agenda represented little more than a holding operation for American capital during the turbulent years of the Great Depression.⁶⁹ Nevertheless, splits within the Democratic Party around the Vietnam War problematised the simplicity of such empirical analysis, as the proponents of corporate liberalism, like Miliband, could not convincingly account for significant ideological differences within the ruling class. What the liberal pluralists and the corporate liberals had in common was that both their positions rested upon certain theoretical presuppositions that remained largely unstated. Liberal histories

⁶⁷ The most articulate exponent of liberal pluralism in this period was Dahl, see his *A Preface to Democratic Theory* (Chicago: University of Chicago Press, 1956).

⁶⁸ The leading exponent of corporate liberalism was Gabriel Kolko, see his *Main Currents in Modern American History* (New York: Harper and Row, 1976).

⁶⁹ See Barton J. Bernstein, 'The New Deal: The Conservative Achievements of Liberal Reform', Bernstein (ed.), *Towards a New Past: Dissenting Essays in American History* (New York: Pantheon Books, 1968), pp. 263-288 and Ronald Radosh, 'The Myth of the New Deal', Radosh and Murray Rothbard (eds.), *A New History of Leviathan: Essays on the Rise of the Corporate State* (New York: E. P. Dutton, 1972), pp. 146-186, for the most celebrated examples of this revisionist position. For an excellent critique of corporate liberalism as the means by which the New Left, in the absence of any viable American Marxist tradition, could make the break with Democratic liberalism that had escalated the war in Vietnam, see Fred Block, 'Beyond Corporate Liberalism', *Social Problems*, vol. 24, no. 3 (Feb. 1977), pp. 352-360.

implicitly suggest a pluralist analysis of society in which the New Deal state is seen as the neutral arbitrator between different and competing interest groups, with little reference to the impact of economic processes or political structures that circumscribe these relationships. Corporate liberal interpretations of the New Deal similarly depend upon an instrumentalist methodology that views state actions as the direct result of capitalist control of the policymaking process. In both cases the relationship between the state and the economy becomes one of technical manipulation.

More recently there has developed a whole range of studies that move beyond the simple opposition of 1950s interpretations versus those of the 1960s to instead offer more sophisticated readings that focus upon economic elites, policymaking networks, and political ideologies and programmes that shaped the distribution of power. Block's class struggle approach to the capitalist state, formulated with the New Deal in mind, is pitched at quite an abstract level. Subsequent scholars have developed this framework in relation to specific examples of New Deal legislation. Rhonda Levine has analysed how the National Industrial Recovery Act (NIRA) was shaped by the dynamic of the class struggle in the early New Deal period.⁷⁰ Michael Goldfield has focused upon the centrality of worker insurgency and radical organisation to the passage of the National Labour Relations Act (NLRA or Wagner Act as it is commonly known) in 1935.⁷¹ Jill Quadagno has emphasised the political pressure exerted by third party threats that mobilised this generally perceived insurgency as the basis for the passage of the Social Security Act that same year.⁷² What these authors share is a commitment to a class-struggle analysis of New Deal reform and a general scepticism toward the state-centred approach developed by Theda Skocpol and her associates.⁷³ Skocpol has argued that

⁷⁰ Rhonda Levine, *Class Struggle and the New Deal: Industrial Labour, Industrial Capital, and the State* (Kansas: University of Kansas Press, 1988).

⁷¹ Michael Goldfield, 'Worker Insurgency, Radical Organisation, and New Deal Labour Legislation', *American Political Science Review*, vol. 83, no. 4 (Dec. 1989), pp. 1257-1282.

⁷² Jill Quadagno, 'Welfare Capitalism and the Social Security Act of 1935', *American Sociological Review*, vol. 49, no. 5 (Oct. 1984), pp. 632-647.

⁷³ In relation to the New Deal this critique first took form in Theda Skocpol, 'Political Response to Capitalist Crisis: Neo-Marxist Theories of the State and the Case of the New Deal', *Politics and Society*, vol. 10, no. 2 (1980), pp. 155-201. These arguments were then updated and codified in Theda Skocpol and Kenneth Finegold, *State and Party in America's New Deal* (Wisconsin: The University

the problem with both the liberal and Marxist approaches to the state is that they are society-centred, defining the role of the state in response to social events, rather than looking at the extent to which state action shapes and structures social struggles. Whilst such an emphasis is an important corrective to vulgar Marxist analyses that see the state as 'but a committee for managing the common affairs of the whole bourgeoisie', it lumps together the rich tradition of neo-Marxist theories of the state and rejects them in favour of a neo-Weberian emphasis upon the overriding importance of state policies in historical outcomes, diminishing the role of other factors in the actual shaping of events. As such Paul Cammack has correctly characterised this approach as little more than 'the latest attempt by representatives of United States social science to exorcise the threat posed by Marxist and neo-Marxist perspectives', stripping them of their critical potential and assimilating their insights so as to neutralise them.⁷⁴

Interpretations of the New Deal federal art projects

Developed with reference to the history of twentieth-century American capitalism these class-centred analyses offer nuanced and sophisticated interpretations of key aspects of New Deal legislation. They also provide a more satisfactory framework within which to interpret the state funded art of the period. Before attempting to demonstrate this, I will first take a look at the model of the state that underpins the existing scholarship on New Deal mural painting. Most of this can be broadly situated within the liberal pluralist or Marxist frameworks just described. The standard accounts by Richard McKinzie and Belisario Contreras

of Wisconsin Press, 1995). For perhaps the most important summation of the 'state-centred' approach in relation to historical sociology in general see Theda Skocpol, 'Bringing the State Back In: Strategies of Analysis in Current Research', Peter B. Evans, Dietrich Rueschemeyer, and Theda Skocpol (eds.), *Bringing the State Back In* (Cambridge: Cambridge University Press, 1985), pp. 3-37. For a withering critique of this approach see Paul Cammack, 'Bringing the State Back In?', *British Journal of Political Science*, vol. 19, no. 2 (Apr. 1989), pp. 261-290 and Rhonda Levine, 'Bringing Classes Back In: State Theory and Theories of the State', Rhonda Levine and Jerry Lembcke, *Recapturing Marxism: An Appraisal of Recent Trends in Sociological Theory* (New York: Praeger, 1987), pp. 96-116. For useful overview of these competing approaches to understanding New Deal social policy see Jeff Manza, 'Political Sociological Models of the U.S. New Deal', *Annual Review of Sociology*, vol. 26 (2000), pp. 297-322.

⁷⁴ Cammack, *op. cit.*, pp. 261.

provide a necessary narrative of all four of the federal art projects, from the beginning of the PWAP, in the winter of 1933, through to the demise of the Treasury Section of Painting and Sculpture, in the summer of 1943.⁷⁵ Yet, despite the attention they give to ‘exceptional’ moments of friction between the administration and leftist artists, their interpretive frameworks remain methodologically aligned with liberal pluralism. Lauding a New Deal government sufficiently enlightened to incorporate the arts within its strategies for public welfare, the federal art projects are presented as a further move towards an increasingly inclusive democracy. The interpretation of Section art proffered by Marlene Park and Gerald Markowitz is not dissimilar, although they at least attempt to make some sense of its ideological rationale of the programme’s administrators.⁷⁶

Meyer Schapiro’s critique, published in 1936 in *Art Front*, the paper of the radically militant Artists’ Union, is quite clearly predicated upon an instrumentalist model of the state in its dismissal of New Deal murals as little more than government propaganda.⁷⁷ ‘In their seemingly neutral glorification of work, progress and national history, these public murals are instruments of a class’, and to accentuate this point he argued that a Republican administration would have solicited essentially the same kind of art, if only by different artists.⁷⁸ Whilst Schapiro acknowledged that state funding of the arts was a move in the right direction, he urged the project artist to eschew the type of government sponsored mural painting that was ‘rooted in sentimental ideas of social reality’, to instead, ‘develop in the course of his work the means of creating a real public art, through his solidarity with the workers and his active support of their real interests’.⁷⁹ Such an indictment of the federal art projects, and by extension the New Deal government that sponsored them, is clearly indicative of the political distance then separating the radical art historian from his fellow Artists’ Union members who were only too

⁷⁵ McKinzie, *op. cit.* and Contreras, *op. cit.*

⁷⁶ Park and Markowitz, *op. cit.*, 1984, pp. 10-28.

⁷⁷ Meyer Schapiro, ‘The Public Use of Art’, *Art Front*, vol. 2, no. 10 (Nov. 1936), pp. 4-6, reprinted in Meyer Schapiro, *World View in Painting – Art and Society: Selected Papers* (New York: Braziller, 1999), pp. 173-179.

⁷⁸ Schapiro, *op. cit.*, p. 6.

⁷⁹ *Ibid.*

eager to secure government patronage.⁸⁰ Writing over fifty years later, Jonathan Harris pulls upon the theoretical armoury of Althusser, Poulantzas, and Foucault to reach very similar conclusions.⁸¹ If Schapiro's model of the state is essentially an instrumentalist one, then Harris is clearly more indebted to a structuralist framework, although he makes reference to corporate liberal interpretations of the New Deal to support the view that 'interventions of the federal state preserved and consolidated the dominance of monopoly capitalism during the 1930s'.⁸² These differences apart, both nevertheless assimilate all government funded art to the propagandistic exigencies of the state, thereby skirting the important issue of human agency vis-à-vis politicians, administrators, artists, and the public.

Barbara Melosh may avoid the pitfalls of such an overtly theoretical functionalism through her emphasis upon the multi-accentuality of New Deal imagery, yet the public she invokes is largely undifferentiated in terms of class, and class allegiances, if not in terms of gender and race.⁸³ Her claim that spectators could interpret Section murals depicting labour 'as encomiums to rugged individualism, as endorsements of the New Deal, as paeans to the labour movement, or as testimonies to working-class solidarity and harbingers of class struggle', is ultimately undercut by her conclusion that images of the 'manly worker ... reaffirmed an enduring mythology of classlessness that limited and contained its critique of American society'.⁸⁴ Anthony Lee's analysis of the Coit Tower mural project, completed under the auspices of the PWAP in 1934, remains the most suggestive reading of the state-funded art of the period.⁸⁵ Taking as his focus the close relationship between mural painting and radical politics in San Francisco during the longshoremen's strike, he

⁸⁰ See Andrew Hemingway, 'Meyer Schapiro and Marxism in the 1930s', *Oxford Art Journal*, vol. 7, no. 1 (1994), pp. 13-27 for a detailed discussion of Schapiro's relationship with the anti-Stalinist left and Helen Harrison, 'John Reed Club Artists and the New Deal: Radical Responses to Roosevelt's Peaceful Revolution', *Prospects*, 5 (1980), pp.241-268 for a critical examination of the ways in which leftist artists eager to receive federal patronage precipitated the CPUSA's embrace of the New Deal.

⁸¹ Jonathan Harris, 'State Power and Cultural Discourse: Federal Art Project Murals in New Deal USA', *Block*, 13 (1987), pp. 28-42 and Jonathan Harris, *Federal Art and National Culture: The Politics of Identity in New Deal America* (Cambridge: Cambridge University Press, 1995).

⁸² *Ibid*, p. 23.

⁸³ Barbara Melosh, *Engendering Culture: Manhood and Womanhood in New Deal Public Art and Theatre* (Washington, D.C.: Smithsonian Institution Press, 1991).

⁸⁴ *Ibid*, p. 86 and p. 97.

⁸⁵ Anthony Lee, *Painting on the Left: Diego Rivera, Radical Politics, and San Francisco's Public Murals* (California: University of California Press, 1999).

vividly demonstrates how different fractions of San Francisco's patron class and radical Californian artists fought over the perceived uses and abuses of publicly funded art. Yet, whilst Lee fulfils his declared intention of demonstrating 'the inaccuracy of our received notion of "1930s public art" as issuing suddenly from an agency of the federal government and the efforts of reformist Democrats',⁸⁶ he treats the Coit Tower murals as an isolated example. For him, the subsequent adoption of the Popular Front in the summer of 1935, and the corresponding shift of many activists from the Communist Party of the United States (CPUSA) into support for the liberal wing of the Democratic Party effectively stifled any further attempts at using state sponsored murals to propagandise to the left of the New Deal.⁸⁷

If liberal interpretations of the federal art projects tend to exaggerate the creative freedom enjoyed by the artists who worked on them, then the more critical readings, predicated upon instrumentalist or structuralist models of the state, instead overestimate the restrictive power of administrative control. Artistic agency is effaced and the murals become government propaganda pure and simple. By breaking the Marxist tendency to collapse state and capital to allow for the relatively autonomous initiatives of politicians, and their subsequent effects on group formation, and inter-group conflict, Block's alternative framework lends itself to a more subtle analysis of state funded art of the period. For just as the more militant labour organisers interpreted Section 7a of the National Industrial Recovery Act (NIRA) of 1934, and the Wagner Act of the following year, as the green light to form independent trade unions, radical artists embraced the federal art projects as the means with which to reach and intelligently communicate with a wider working-class audience. And just as the more radical cadres of the newly formed Congress of Industrial Organisations (CIO) saw their struggle as an important step towards the final goal of workers' control of industry, left-aligned artists defended state sponsorship of the arts as a crucial move towards the socialisation of cultural

⁸⁶ *Ibid*, p. 128.

⁸⁷ See Warren Carter, 'The Public (Mis)use of Art: Radical Artists, Reformist States, and the Politics of Mural Painting in 1930s and 1940s America and Mexico', *Oxford Art Journal*, vol. 23, no. 2 (2000), pp. 165-171 for a more detailed discussion of Lee's argument.

production. It is with this in mind that I will now turn to the first major Section project in the capital, the decoration of the Justice Department building.

Justice for Artists: The constitutional revolution of 1937 and its representation in Section murals in the Justice Department, 1934-41

‘Because the Section, like the New Deal in general, sought to emphasise what people had in common, distinctions based upon race, sex, or class are played down and conflict between groups (except between whites and Indians) is almost entirely absent...The only murals that suggest the complexity of the issues of social conflict or social justice are in Washington, D.C., particularly the ones in the Department of Justice. There the theme seems to be that justice, especially as envisaged and reformed by the New Deal, will prevail’.⁸⁸

The constitutional crisis

The election results of 1932 were a resounding success for the Democrats giving Roosevelt a command of almost 3-1 majorities in the House, and 2-1 in the Senate, and represented a firm repudiation of the *laissez-faire* economic policies pursued by the Republicans under Hoover.⁸⁹ Yet whilst such a landslide suggested that when Roosevelt took office on 4 March 1933 the path was now clear for fundamental and comprehensive political and economic reform, Roosevelt’s enemies still had a firm ally, and bulwark, in the judiciary. As Peter H. Irons argues, ‘The real confrontation between New Dealers and their foes took place [] in federal courtrooms dominated by Republican judges wedded to the state-rights and *laissez-faire* ideologies repudiated overwhelmingly by the voters in three successive elections between 1932 and 1936’.⁹⁰ Unlike the House and the Senate, the judiciary were not part of the broader democratic process and so, ‘Armed with the judge-made weapons of judicial review and shielded from the arrows of change by the doctrine of *stare decisis*, life-tenured judges at all three levels of the federal judiciary wielded

⁸⁸ Park and Markowitz, *op. cit.*, 1984, p. 32 and p. 34.

⁸⁹ This view of Hoover is qualified succinctly by Hemingway: ‘Hoover may not have been quite the callous exponent of *laissez-faire* individualism of later myth, but his reluctance to increase public spending to reduce unemployment, his meagre advances of federal money for relief of the destitute and his unwillingness to use the resources of the state to regulate further the economy made him look simply the tool of reactionary financial and corporate interests’ – an image compounded by the armed assault upon the Bonus Army in Washington in July 1932. Andrew Hemingway, *op. cit.*, 2002, p. 75.

⁹⁰ Peter H. Irons, *The New Deal Lawyers* (New Jersey: Princeton University Press, 1982), p. 3.

a potent veto over New Deal programs in the name of constitutional fundamentalism'.⁹¹ Between them Roosevelt's three Republican predecessors appointed 140 judges, constituting three-fourths of the district court bench and two-thirds of the appellate bench, and 'It was this group, partisan in background and conservative in judicial philosophy, that constituted the most formidable barrier to the New Deal'.⁹² And when these local and appellate judges rejected New Deal legislation and effectively passed it on up to the Supreme Court for deliberation, then, once again, the Democrats had the odds stacked against them.

Whilst the Supreme Court of the 1920s 'had a decidedly conservative tilt' under Chief Justice Howard Taft, Edward T. Sanford, and especially 'the Four Horsemen' – Pierce Butler, James McReynolds, George Sutherland, and Willis Van Devanter', as William Leuchtenburg makes clear, it was 'hearing dissenting views from an emerging liberal trio': Oliver Wendell Holmes, Louis D. Brandeis, and Harlan Fiske Stone – all three of whom turn up in the mural scheme in the Justice building in some form or other.⁹³ By the time the Justice competition was announced Charles Evans Hughes had replaced Taft as Chief Justice, and Sanford and Holmes had been replaced by Owen Roberts and Benjamin Cardozo respectively.⁹⁴ This altered the balance of the Supreme Court as in two 1934 cases dealing with state laws – *Home Building and Loan Association v. Blaisdell*, through which they validated a mortgage moratorium statute, and *Nebbia v. New York*, by which they upheld price controls on milk – 'the Supreme Court appeared willing to give wide latitude to legislatures'.⁹⁵ Both of these cases were won 5-4 with the Four Horsemen in dissent and the rest forming a slender and precarious majority. Whilst the government were given a jolt in January 1935 when the 'hot oil' regulations of the NIRA were ruled unconstitutional by an 8-1 margin in *Panama Refining Co. v. Ryan*, the *Nebbia* coalition came together again the following month to uphold the government's gold policy – again pictured in Henry Varnum Poor's mural scheme

⁹¹ *Ibid.*

⁹² *Ibid.*

⁹³ William Leuchtenburg, *The Supreme Court Reborn: The Constitutional Revolution in the Age of Roosevelt* (Oxford: Oxford University Press, 1995), p. 3.

⁹⁴ Hughes became Chief Justice in 1930; Roberts joined the Court in 1931 after Hoover's first choice to replace Sanford, John J. Parker, was rejected by the Senate; and Cardozo replaced Holmes in 1932.

⁹⁵ Leuchtenburg, *op. cit.*, 1995, p. 26.

with the Attorney General Homer Cummings arguing in front of the Supreme Court in the 'gold clause cases'.⁹⁶ This fragile majority was an obvious source of anxiety for the New Dealers for if just one Justice moved to the right then the domestic reform agenda would effectively be stymied.

Whilst Cardozo could be relied upon to vote as his predecessor, Holmes, had done, alongside Brandeis, Stone, and increasingly Hughes, Roberts was seen as the weakest link.⁹⁷ These fears were realised in the spring of 1935 when Roberts switched sides and realigned himself with the conservative bloc in *Railroad Retirement Board v. Alton Railroad Co.* to invalidate the Railroad Retirement Act of 1934.⁹⁸ Whilst this contributory pension bill had been drafted by the railway 'brotherhoods' in March 1932, i.e. in the period immediately preceding the New Deal, as Leuchtenburg points out, it nevertheless remained up until this point the 'Administration's only tangible accomplishment to date in the matter of economic-security legislation'.⁹⁹ Furthermore, with the Social Security Act making its way through Congress at this very moment the decision assumed a significance that went beyond the importance of the actual piece of legislation itself. And finally, this ruling signalled the fact that the *Nebbia* coalition – one that seemed to suggest that there had been a loosening upon the ideological hold of *laissez-faire* on behalf of the Court and an acceptance that the depth of the economic crisis allowed for a temporary expansion of federal power – was perhaps little more than a momentary pause in an ongoing battle between the government and the judiciary. Roberts delivered the Court's decision himself with the argument that such economic

⁹⁶ Under the NIRA the president was authorised to prohibit the interstate shipment of oil produced in violation of state quotas and the Court rejected these 'hot oil' provisions on the basis that they granted too much power to the executive. The Gold Reserve Act fixed the rate of an ounce of gold at \$35 on 31 January 1934. If challenged it would have denied Congress the right to regulate the currency at a time of national economic chaos and would have increased the country's debt by nearly \$70 billion.

⁹⁷ Leuchtenburg, *op. cit.*, 1995, p. 26.

⁹⁸ The very fact that the legislation was put forward at all was a direct result of the power of the railway 'brotherhoods': the 'Big Four' being the brotherhoods of Locomotive Engineers, Fireman and Enginemen, Trainmen, and the Order of Railway Conductors. Whilst they only represented a quarter of the actual union membership within the industry, their prestige was such that they were generally taken to represent the sector as a whole. And whilst the railway operators were up in arms at having to make federally enforced pension contributions for their employees and resisted the legislation at all costs, it was the political clout wielded by the brotherhoods in Congress that ensured that the bill passed.

⁹⁹ Leuchtenburg, *op. cit.*, 1995, p. 34.

relationships were out of congressional jurisdiction, an understanding that clearly challenged the very basis of the New Deal domestic reform agenda. The effects of this defeat were far reaching, for as Leuchtenburg states: 'Though there had been some muttering about the need to curb the powers of the Supreme Court before, the rail pension case galvanised organised labour, liberal congressmen, and the Roosevelt administration to take the first serious efforts in that direction'.¹⁰⁰

Three weeks later on 27 May – or 'Black Monday' as it became known – the Court handed down three more adverse decisions in one day, all of them unanimous. In *Humphrey's Executor v. U.S.* the Court challenged Roosevelt's decision to remove the arch-conservative Republican and outspoken friend of big business William E. Humphrey from the Federal Trade Commission (FTC). The FTC had been set up in 1914 to forestall unfair competition and President Coolidge chose Humphrey for the job so that those who opposed effective corporate regulation would have a permanent 3-2 majority on the body, thereby making it to all extents and purposes totally ineffectual. Whilst Humphrey died in February 1934 the executor of his estate pursued the case to win back-pay. The Court then overturned the Frazier-Lemke Act on mortgage moratoria in *Louisville Bank v. Radford*, thereby invalidating a federal measure to provide relief for insolvent farmers on the basis that it constituted an uncompensated taking of property from creditors. And they finally killed the NIRA in *Schechter Poultry Corporation v. U.S.* on the grounds that it granted too much legislative power to the executive, and that its hours and wages regulations had only an indirect relationship to interstate commerce. It was the latter case that brought the key issue into sharp relief i.e. the definition of interstate commerce, and where to draw the line, and this was encapsulated by Hughes in his summing up: If Congress could regulate everything affecting commerce, 'there would be virtually no limit to the federal power and for all practical purposes we should have a completely centralised government'.¹⁰¹ That Roosevelt realised the

¹⁰⁰ *Ibid*, p. 49.

¹⁰¹ Quoted in David P. Currie, 'The Constitution in the Supreme Court: The New Deal, 1931-1940', *The University of Chicago Law Review*, vol. 54, no. 2 (Spring 1987), p. 524. Whilst it is often assumed that decentralised government is more democratic than centralised government, in the United States the opposite tended to be true as by the 1930s most state-level political structures were dominated by sectional interests that consistently fought against the implementation of progressive

implications of this decision is borne out by his criticisms of the Court and his comparison between the *Schechter* decision and the infamous *Dred Scott* case, and his declaration that the nation had been 'relegated to the horse-and-buggy definition of interstate commerce'.¹⁰²

Whilst the president felt let down by Hughes, Brandeis, Stone, and Cardozo, their temporary alignment with the conservative block can be put down to shoddy draughtsmanship on behalf of those responsible for drafting the legislation, and a poorly organised defence by Justice Department lawyers.¹⁰³ The more worrying aspect of Black Monday was whether it signalled a continuing shift in Roberts' allegiance to the Four Horseman, thereby effectively giving Roosevelt's enemies a 5-4 veto over any New Deal reform that attempted to grant the government more control over economic matters.¹⁰⁴ These fears were confirmed at the beginning of the following year when the Court struck down the Agricultural Adjustment Act (AAA) in *U.S. v. Butler* on the grounds that its taxing provisions sought to regulate a

social legislation. By resisting federal challenges to state-level autonomy the Supreme Court essentially upheld the dominant *laissez-faire* economic system, with all its attendant inequalities, through to the 1960s at which point various federal reforms and court decisions at a national level reigned in the more reactionary state governments. This pattern is clearly related to the theoretical discussion of the nation state, and its role within an international system of rival nation states, discussed in chapter one. For individual American states must compete with each other to establish a favourable 'business-climate' to attract capital into their territory, and they therefore tend to do their utmost to reduce social welfare benefits and any other expenditure that would necessitate them taxing businesses at a higher level. The federal government, by contrast, does not have to be as concerned with the outward flow of capital and has greater taxing powers than the states so it can therefore afford to be more liberal in its redistributive policies. See Paul E. Peterson, 'Who Should Do What? Divided Responsibility in the Federal System', *Brookings Review* (Spring 1995), pp. 6-11 and James T. Patterson, *The New Deal and the States* (New Jersey: Princeton University Press, 1969).

¹⁰² Quoted in Leuchtenburg, *op. cit.*, 1995, p. 90. In the *Dred Scott* case of 1857 the Supreme Court had blocked congressional efforts at restricting slavery in the territories and barred African-Americans from citizenship.

¹⁰³ This is a reading emphasised by Irons who argues that under pressure from Roosevelt and Congress 'the NIRA drafters gave little thought to the constitutional questions raised by their far-reaching proposal; the urgency of the situation did not encourage speculation about the reaction of the courts to the corporatist recovery plan'. Irons, *op. cit.*, p. 23. This interpretation is given some credence by Hughes' remark to Senator Burton K. Wheeler during the Court-packing controversy: 'The laws have been poorly drafted, the briefs have been badly drawn and the arguments have been poorly presented. We've had to be not only the Court but we've had to do the work that should have been done by the Attorney General'. Quoted in William F. Swindler, *Court and Constitution in the Twentieth Century: The New Legality, 1932-1968* (New York: Bobbs-Merrill, 1970), p. 72.

¹⁰⁴ According to Leuchtenburg it was speculated that whilst Roberts begun his career on the Supreme Court sympathetic with Stone he gradually fell under the sway of Butler due to pressure from his wife who was anti-New Deal. It has also been suggested that he harboured desires to capture the Republican nomination for the presidential election in 1936. Leuchtenburg, *op. cit.*, 1995, p. 34.

matter – agricultural production – which was essentially outside the scope of federal authority. And whilst on 17 February the Court surprisingly voted 8-1 in *Ashwander v. TVA* to validate the right of the Tennessee Valley Authority to dispose of the power generated at the Wilson Dam granted under the TVA Act of 1933, hostilities resumed just six weeks later when the Court rebuked federal policing of Wall Street in *Jones v. Securities and Exchange Commission*. In *Carter v. Carter Coal Company*, a month later, the Court struck down the Bituminous Coal Conservation Act of 1935 – ‘the little NRA for the coal industry’ – 5-4 in an opinion that seemed to threaten the NLRA and any congressional attempts at controlling wages and hours on the basis that they had only an ‘indirect’ effect upon interstate commerce. In keeping with such a decision the Court then invalidated a New York minimum-wage law for women and children in *Morehead v. New York ex rel. Tipaldo*, again 5-4, on the basis that such regulation would infringe freedom of contract. The latter decision created what Roosevelt described as ‘a no-man’s-land’ in which, to quote Leuchtenburg, ‘neither the federal government nor any state government could act to protect the worker’.¹⁰⁵

It was this latter ruling that provoked a national outcry; consolidated liberal attitudes against the Court; and set Roosevelt and Cummings on a direct course of confrontation. It was also the decision that impelled Roosevelt to speak out in public on the Court once again, although, at this stage, he refused to say what should be done about them. In fact Court reform was conspicuously absent from the 1936 Democratic platform as, although Roosevelt would go on to capture the votes in all but two of the forty-eight states, none of the polls predicted such a landslide and the raising of the issue beforehand seemed to be little more than a potential liability. Yet with such a popular mandate Roosevelt felt that he could at last make a move against the Court, especially with it being due to reconvene in two months time to adjudicate on the validity of the Social Security Act, the NLRA, the Railway Labour Act, the Commodity Exchange Act, and state minimum-wage and unemployment compensation laws. The idea of Court reform was not a new one. As Leuchtenburg points out, when Roosevelt began his political career ‘his distant cousin Theodore

¹⁰⁵ *Ibid*, p. 33.

was assaulting the sanctity of the courts and the air was loud with cries for the recall of judges and judicial decisions'.¹⁰⁶ Such sentiments resurfaced once again in the 1920s when mounting progressive contempt for the Taft Court produced the Robert M. La Follette platform of 1924 which sought to grant Congress a veto over Court verdicts. And under Hoover progressives had done their utmost to revoke the confirmations of Court nominees John J. Parker and Hughes.¹⁰⁷ That Roosevelt was sympathetic to such sentiments was revealed as early as 5 October 1932 when he said in a campaign speech in Baltimore: 'After March 4 1929 the Republican party was in complete control of all branches of the government – the Legislature, with the Senate and Congress; and the executive departments; and may I add for full measure, to make it complete, the United States Supreme Court as well'.¹⁰⁸

Due to this impasse the administration delayed testing the constitutionality of the legislation that came out of the First Hundred Days for as long as possible so that the Court did not have the opportunity to rule on any New Deal statute until 1935. Yet, according to Leuchtenburg, after the first attack upon the NIRA with the 'hot oil' cases, Cummings was already poised to move against them to protect the government's gold policy and he was adamant that if the Court ruled against the administration once again then it should immediately be increased to give a

¹⁰⁶ *Ibid*, p. 83.

¹⁰⁷ Hughes had been a successful corporate lawyer after serving for the Department of State and therefore progressives were wary of him being appointed to the Supreme Court. Yet, according to Michael E. Parrish, Hughes had proven his liberal-progressive credentials as an associate justice from 1910 to 1916 when he demonstrated a willingness to see private contracts as part and parcel of broader social and economic relationships, a reading which he then brought with him in his capacity as Chief Justice. As such he was prepared to grant Congress wide latitude in relation to the commerce clause and accordingly supported many government attempts at regulating wages, hours, and prices. See Michael E. Parrish, *The Hughes Court: Justices, Rulings, and Legacy* (California: ABC-CLIO, Inc.), pp. 91-101.

¹⁰⁸ Quoted in Leuchtenburg, *op. cit.*, 1995, p. 83. This analysis was supported by a memorandum from Cummings in the autumn of 1933 informing Roosevelt that of all the 266 judges in federal courts only 28 percent were Democrats. *Ibid*, p. 84. These anti-Court sentiments were quite widely felt at the time and the role of the judiciary in defending wealthy and powerful vested interests had been the subject of critical attention. Perhaps the most trenchant contemporary critique of the 'aristocracy of the robe' was provided by Louis Boudin in his, *Government by Judiciary*, of 1932, in which he explained the conservative views of the Supreme Court Justices on the basis of their social origins i.e. 'the general character of our government is determined by the class or type of men who administer it under the Judicial Power'. Louis Boudin, *Government by Judiciary* (New York: Russell and Russell, 1968 (1932)), vol. 2, p. 545. Boudin had been the leading theoretician of the left wing of the American Socialist Party before the 1919 Communist split, although by the time this was published he had abandoned radical politics in support of social democracy.

favourable majority.¹⁰⁹ Whilst Cummings won that particular round these anti-Court sentiments were further fuelled by their invalidation of the Railroad Retirement Act; the three unanimous decisions against the government on Black Monday, including the dismantling of the NIRA; the striking down of the AAA; and the decisions in the *Jones, Carter*, and *Tipaldo* cases that relied upon a particularly restrictive reading of due process and an extremely contentious definition of where the effects of interstate commerce began and ended.¹¹⁰ It was at this point, realising that Roberts' continued allegiance to the Four Horseman guaranteed the Court a 5-4 veto over every single piece of progressive legislation that came before them that Roosevelt and Cummings turned to the Justice Department and charged them with the task of discovering the best way to reform the Court.¹¹¹ I will return to the outcome of this battle later, but for now it is important to point out that in the period in which the iconographic scheme for the Justice building was being conceived, finalised, and executed, key figures within the department, including the Attorney General, were involved in a covert and protracted war of attrition with the judiciary, one that would have important ramifications for the future viability of the New Deal domestic reform agenda.

A decorative programme

Returning to the mural scheme within the building the question that then begs to be answered is whether this conflict between liberal elements within the

¹⁰⁹ Leuchtenburg, *op. cit.*, 1995, p. 86.

¹¹⁰ Due process effectively upheld freedom of contract on constitutional grounds and was thereby used by the conservative bloc on the Supreme Court to consistently rule against government attempts at controlling wages and conditions within industry. The commerce clause was similarly used by the Four Horseman to justify a distinction between the 'direct' and 'indirect' effects of a business upon interstate commerce as a means to challenge broader federal efforts at regulating corporate power.

¹¹¹ Whilst Irons study focuses upon the NRA, the NLRB, and the AAA, some of the ninety-five lawyers who feature in his study worked directly in the Justice Department and as a group they shared certain characteristics: well over half of them were born in the decade 1900-1910 and went to law school between 1925-1935; they were disproportionately urban in upbringing; they were Jewish and Catholic in heritage; and they were liberal in outlook – characteristics which separated them from the bar as a whole and the judges before whom they would argue. Furthermore, 60 percent attended law school at either Harvard, Columbia, or Yale, where 'a loosely connected segment of the law school professoriate revolted during the 1920s and 1930s against the sterile formalism and conceptualism of nineteenth century jurisprudence and the case-study straightjacket imposed on legal education in the 1970s by Harvard's dean, Christopher Columbus Langdell'. Irons, *op. cit.*, p. 6.

New Deal coalition seeking to reform the more pernicious effects of corporate power and an entrenched and conservative judiciary committed to a nineteenth century form of *laissez-faire* capitalism actually made it on to the walls. To an important degree it did, but before looking at the murals that were completed, and the extent to which they reflect this broader struggle being played out within federal courtrooms, it is useful to turn to an important document produced by George Biddle right at the beginning of the process of decorating the building. In his 'Proposed Themes for Eight Mural Units in the New Department of Justice Building' Biddle outlined what were for him, at least, the key incidents and figures that should be included in 'the History of Justice, with special emphasis on its development in the United States' – the overall theme of the decorative scheme.¹¹² In his autobiography published a few years later in 1939 Biddle described this task of preparing 'thematic mural subject matter for the Justice Building' as 'a most congenial study, for it gave me the occasion to express the social message of those democratic liberals, artists, forward-moving beings, whose credo I felt could be stated in clear patterns on a wall'.¹¹³ Despite his evident enthusiasm for the task he also made it clear that it was one which was fraught with potential pitfalls: 'Always I must keep an eye to the size of the grain which could be sifted through the sieve of censorship. But as Justice Stone put it, "One can express a deep and moving theme without entering the realm of the controversial"'.¹¹⁴

Whilst Biddle was quite clearly a member of the *haut bourgeoisie* and had been a classmate of Roosevelt at Groton, having studied law at Harvard he rejected the career followed by his brother Francis to pursue his interest in painting. After a stint in Paris he returned to America in 1926 and left two years later to travel with Rivera through Mexico. This experience clearly affected him and, as Andrew Hemingway makes clear, 'Despite his patrician connections, Biddle responded

¹¹² George Biddle, 'Proposed Themes for Eight Mural Units in the New Department of Justice Building', 1934, no pagination, NARA, 121/133.

¹¹³ George Biddle, *An American Artist's Story* (Boston: Little, Brown, and Co., 1939), p. 280.

¹¹⁴ *Ibid*, p. 280. The Section included Justice Stone in the consultation process from an early stage and he not only gave advice on possible themes to be illustrated in the proposed mural scheme but also wrote to many of his friends in the legal profession to solicit their advice as well. Bruce had studied law at Columbia under Stone and Maurice Sterne was a friend of the Justice who had bought a piece of marble sculpture from the artist in 1933.

positively to the intense politicisation of the 1930s art world, participating in the new collective art organisations and approving the growth of political awareness among artists'.¹¹⁵ Yet Hemingway is also adamant that Biddle was no Communist, but instead 'an ardent New Deal liberal' whose acceptance by the John Reed Club as a left-leaning intellectual was matched by his own desire to produce a socially relevant art such as practised south of the border.¹¹⁶ This 'commitment to a species of progressivism' was, as Hemingway argues, 'entirely consonant with a deeply felt loathing of social injustice and poverty' and it ensured that his initial thematic program for the decoration of the Justice Department building would push at the very limits of New Deal liberalism.¹¹⁷ And, if it had been adopted in its entirety, the first of the major Section mural schemes in the capital would have been just as controversial as that produced for the Coit Tower in San Francisco the year before under the auspices of the PWAP.¹¹⁸ This is not to give undue emphasis to Biddle as the sole progenitor of federal sponsorship for art, as do most of the standard accounts, merely to call attention to the fact that in his 'Proposed Themes ...' Biddle provided perhaps one of the most ideologically coherent and unified approaches to the subject of contemporary justice in the United States.¹¹⁹

In his 'Proposed Themes ...' Biddle gave an initial outline of the subjects he considered as central to the New Deal legislative agenda. He was well placed to conceive of such an iconographic programme as, through his brother Francis, he had contact with many leading and influential liberal legal figures of the day.¹²⁰ It is

¹¹⁵ Hemingway, *op. cit.*, 2002, p. 60.

¹¹⁶ *Ibid.*

¹¹⁷ As well as being more involved within the organisations of the artistic left Hemingway makes the point that Biddle could afford to take a more radical stance than any of the Section staff due to the fact that he had no formal attachment to the administration. *Ibid.*, p. 83.

¹¹⁸ On the controversy surrounding the decoration of the Coit Tower, and the relationship between the iconographic program within the building and the 'Big Strike' of the longshoremen on the waterfront below, see Lee, *op. cit.*, 1999, pp. 115-159.

¹¹⁹ As Hemingway makes explicit: 'Much is made of Biddle's letter to his old school friend Roosevelt urging the government to sponsor younger artists to represent the "social revolution" in the United States, and whilst his influence is supported by his claims in his autobiography that he enjoyed socialising with the New Deal elite during the painting of his Justice Department mural in Washington, the idea of state support for destitute artists was quite widely mooted at the time'. Hemingway, *op. cit.*, 2002, p. 80.

¹²⁰ Biddle worked out his themes with the assistance of Henry T. Hunt, Jerome Frank, and other young lawyers in the Department of Justice. He also took suggestions from the Assistant Attorney

worth paying close attention to this original scheme as, not only does it reflect the power struggle being played out between liberal New Dealers and a conservative judiciary, but much of what it contained would end up on the walls. And, furthermore, those details omitted from the final decorative programme point to a range of concerns that occupied key figures within the Justice Department during these crucial opening years of the New Deal, even if they remained unpainted. In his proposal Biddle declared that ‘The central theme of the library will be social legislation, illustrated by such famous legal cases in American history as can be appropriately illustrated’.¹²¹ The list included examples ‘where the Supreme Court restrained the Government in social legislation’; federal control over interstate commerce; trust-busting; federal regulation of oil prices; government support for the right to collective bargaining; federal regulation of milk prices; and minimum wage legislation.¹²² Emphasising ‘concrete visualisation’ over and above ‘legal technicality’ the point was to ‘bring out not the letter but the spirit of social legislation’.¹²³ And quite clearly the examples of ‘social legislation’ chosen by Biddle represented exactly those issues that were to be contested by the Supreme Court – that is New Deal legislative attempts to protect the American worker and consumer by reigning in corporate power and curbing the worst excesses of the free market.

Whilst these subjects touch upon the wider battle about to take place between liberal elements within the New Deal bureaucracy and a conservative dominated Supreme Court, others suggested by Biddle point to an agenda to the left of this liberal New Deal position. In the library Biddle also proposed the ‘airing of grievances in Union Square’; ‘the Scottsboro trial’; and a ‘lynching scene’.¹²⁴ If Biddle’s patrician connections ensured that he had access to key New Deal figures which allowed him to mould an iconographic programme that incorporated the most progressive aspects of the New Deal legislative agenda, then it was his experiences

General, Harold M. Stephens – a possibility enabled by the fact that his brother was a former secretary to Justice Holmes. Biddle – Bruce, 30 April 1934, NARA, 121/1.

¹²¹ Biddle, *op. cit.*, 1934, no pagination.

¹²² *Ibid.*

¹²³ *Ibid.*

¹²⁴ *Ibid.*



with the artistic left that accounted for his inclusion of these more radical elements within his proposed iconographic program. Images of Union Square were a popular subject amongst radical artists in this period as it was a site that was irrevocably associated with public dissent and leftist oratory. Edward Laning's *Unlawful Assembly, Union Square* (fig. 1) of 1931, Ben Shahn's *Demonstration* (fig. 2) of 1933, from *The Mooney Case* series, and Nicolai Cikovsky's *Union Square - During the Period of Depression* (fig. 3) of the following year, are a few examples that focus upon the radical connotations of the area.¹²⁵ According to *The WPA Guide to New York City*, written under the auspices of the Federal Writers' Project and published in 1939, Union Square 'derives its peculiar identity from its international reputation as the centre of America's radical movement'.¹²⁶ This was reinforced by the fact that the CPUSA and the Socialist Party had their headquarters there and it was also the location of the New Workers' School and various trade unions. As Deborah Martin Kao makes clear, these radical associations were exacerbated even further during the Depression as 'tens of thousands rallied in the square to protest worker exploitation, government indifference, police brutality, social injustice, and the spread of war and fascism at home and abroad'.¹²⁷

The 'Scottsboro Boys' trial became an international *cause célèbre* and a rallying point for the left in the early 1930s. They were nine African-American youths arrested in 1931 on the fabricated charge of raping two white women whilst they were riding a freight train from Chattanooga, Tennessee, to Paint Rock, Alabama.¹²⁸ Through its legal wing, the International Labour Defence, the CPUSA represented them in an attempt to win over a base of support within the

¹²⁵ It should also be noted that during the Depression artists such as Raphael Soyer, Reginald Marsh, Isabel Bishop, and Eugene C. Fitch also produced images of Union Square that focussed upon the area as a site where the unemployed would congregate not to agitate but simply to pass away the time. For a discussion of both types of imagery see the exhibition catalogue: Sordoni Art Gallery, *Between Heaven and Hell: Union Square in the 1930s* (Pennsylvania: Wilkes University Press, 1996).

¹²⁶ Federal Writers' Project, *The WPA Guide to New York City* (New York: Pantheon Books, 1939), pp. 198-199.

¹²⁷ Deborah Martin Kao, 'Ben Shahn and the Public Use of Art', Deborah Martin Kao, Laura Katzman, and Jenna Webster, *Ben Shahn's New York: The Photography of Modern Times* (London: Yale University Press, 2000), p. 41.

¹²⁸ See Haywood Patterson and Earl Conrad, *Scottsboro Boy* (London: Victor Gollancz, 1950) for an excellent first-hand account of the trial, and the events leading up to it.

black southern agricultural sector; discredit what they saw as the reformist leadership of the National Association for the Advancement of Coloured People (NAACP); as well as more generally expose the barbaric nature of race relations in the South. They were successful in publicising the case, even if they failed to prevent a guilty verdict being passed on eight of the defendants.¹²⁹ It was the Scottsboro case that became the impetus for two antilynching exhibitions organised in New York in early 1935, one by the NAACP and the other by the John Reed Club.¹³⁰ Lynching scenes were a recurring subject for radical artists in the 1930s attempting to highlight the persistence of racial inequality in general, and the brutality of southern race relations in particular. Whilst both shows condemned the practise and sought to publicise the case for legislative action to prohibit it once and for all, they disagreed on the means of achieving this.¹³¹ The NAACP threw their weight behind the Costigan-Wagner Anti-Lynching Bill, whereas the John Reed Club supported the more radical CPUSA sponsored Bill for Negro Rights and the Suppression of Lynching. The differences between the two shows are demonstrated by the fact that the catalogue to the NAACP one was introduced by Sherwood Anderson and Erskine Caldwell, two white writers renowned for their interest in southern themes, whereas the John Reed Club one began with a polemic by Angelo

¹²⁹ Whilst guilty verdicts were passed on eight of the Scottsboro Boys, and seven of them were given the death sentence, they were all eventually paroled, freed, or pardoned, except for Patterson who, having been tried and convicted of rape, fled to Detroit, Michigan, where the FBI eventually caught up with him in the 1950s.

¹³⁰ The NAACP sponsored exhibition, 'An Art Commentary on Lynching', was held at the Arthur U. Newton Galleries at 11 East 57th Street from 15 February though to 2 March, and the rival John Reed Club one, 'Struggle for Negro Rights', opened on 3 March at the American Contemporary Art (ACA) Gallery on 52 West 8th Street, and ran for two weeks. Biddle contributed the rather ambiguous work, *Alabama Code: Our Girls Don't Sleep With Niggers*, of 1933, to the NAACP show. For an analysis of the two exhibitions see Marlene Park, 'Lynching and Antilynching: Art and Politics in the 1930s', *Prospects*, 18 (1993), pp. 311-365 and Helen Langa, 'Two Antilynching Exhibitions: Politicised Viewpoints, Radical Perspectives, Gendered Constraints', *American Art*, 13 (Spring 1999), pp. 10-39.

¹³¹ It is estimated that between 1882, when the Tuskegee Institute in Alabama began keeping records, and 1979 4,742 people were victims of lynching, of which 3,445 were black, and 1,297 were white. Most commentators agree, however, that this is a conservative estimate and it does not include 'legal lynchings' in which the accused was given an unfair trial before being summarily sentenced to death. See Robert L. Zangrando, *The NAACP Crusade Against Lynching, 1909-1950* (Philadelphia: Temple University Press, 1980), pp. 4-6.

Herndon, a black CPUSA activist who had been sentenced to twenty years on a Georgia chain gain for his attempts at organising the unemployed in Atlanta.¹³²

The Commission of Fine Arts

The fact that these more radical themes failed to make it on to the walls as part of the final decorative scheme owed as much to the Commission of Fine Arts as it did to any conservative tendency on behalf of the Section administration.¹³³ Whilst Bruce may have been wary of Roosevelt's exhortation that 'I can't have a lot of young enthusiasts painting Lenin's head on the Justice Building', and was no doubt determined to avoid any controversy on the scale of the Coit Tower incident in which Clifford Wight's depiction of a hammer and sickle had to be whitewashed, the main source of pressure upon the Section in the first phase of its operation came from this rather august body charged with preserving the Beaux-Arts architectural style of the Triangle, originally conceived by Pierre L'Enfant.¹³⁴ The legal basis for the Commission's interference into the Section's activities in the capital was the Executive Order issued by President Wilson on 28 November 1913:

It is hereby ordered that whenever new structures are to be erected in the District of Columbia under the direction of the Federal Government which affect in any important way the appearance of the city, or whenever questions involving matters of art and with which the Federal Government is concerned

¹³² These differences are dramatised by Stephen Alexander in *New Masses*. The works in the NAACP exhibition 'are so permeated by religious spirit as to be little more than prayers in graphic and plastic form', whereas those in the other show were 'fighting pictures'. Despite these criticisms Biddle is one of five artists that contributed to the NAACP exhibition that Alexander singles out as a notable exception to this general rule. Stephen Alexander, 'Art', *New Masses*, 14 (19 March 1935), p. 29.

¹³³ Rowan wrote of Justice Stone's comments on the more radical aspects of Biddle's designs: 'He agrees with me that certain murals such as the one of lynching and other antithetical cases might stir up a hornets' nest of protest and that in the final analysis architecture should not be used as a medium of controversy. I am sure that we will be able to get some stunning results without any undue emphasis upon sweetness and light'. Rowan – Biddle, 4 January 1935, NARA, 121/1.

¹³⁴ The Roosevelt quote comes from Biddle, *op. cit.*, 1939, p. 273, and is a reference to the Rockefeller Centre controversy where Diego Rivera's mural was destroyed due to the fact that he refused to remove the image of Lenin which was not included in the preparatory sketches. On the Clifford Wight controversy see Lee, *op. cit.*, 1999, pp. 147-149 and Hemingway, *op. cit.*, 2002, pp. 95-97. The significance of this act of censorship is explained by Hemingway: 'It served as a warning that Communist artists would not work with complete freedom as federal employees. Overt Communist symbols were out, and thereafter they would need to adopt more discreet strategies to disseminate their political beliefs'. *Ibid*, pp. 96-97.

are to be determined, final action shall not be taken until such plans and questions have been submitted to the Commission of Fine Arts, designated under the act of Congress of May 17, 1910, for comment and advice.¹³⁵

As soon as the Commission heard about Biddle's plans for the Justice building, via Roosevelt, they quite rightly saw it as a challenge to their authority and reacted accordingly, appealing directly to the president with a letter that challenged Biddle's potential encroachment upon their prerogatives. As the major source of bureaucratic friction with the Section in its earlier years, painter-member Eugene Savage's words, endorsed by Charles Moore, the chairman of the Commission, deserve to be quoted in full:

If I understand the matter correctly, this group asks that mural spaces in Government buildings be turned over to them, for the founding of a painting tradition to complete freedom from interference, for which they are to be guaranteed a mechanic's wage without the usual incidental financial obligations. I am not competent to pass upon the question as to whether the Government might want to found an art school or directly sponsor a movement, but I shall mention several assumptions and conclusions in the statement that would probably prove fatal to the project, however worthy its general intention. The men named in the group are painters of easel pictures of an incidental nature, one of them having taken up mural painting to some extent. It is their intention to execute their designs al fresco – a medium both noble in itself and economic, but highly questionable in a climate where artificial heating is required throughout the year, the bond being only that of crystallised lime, which cannot stand repeated cleansing. The request and intention ignores the architect, who as master builder has conceived the building as a complete, harmonious unit, and is entitled to intimate collaboration to achieve it. The efforts as mural painting by some of the group and others of their persuasion, though not without real merit in many respects, has been attended by much controversy and embarrassment to those authorising the work, condemned by the profession for chaotic composition, inharmonious in style and scale with the building and in subject matter, professing a social faith which the general public does not share. I think the Government would be glad to avoid such experiences. The group also ignores other branches of the mural painting profession, the National Society of Mural Painters, and also an already established tradition built up by its pioneers and fostered by the American Academy at Rome, which was chartered by Congress for that purpose, and which has brought forward a younger more liberally minded and murally trained modern talent. The generally recognised beauty of Washington has in no sense been the result of experimentation in

¹³⁵ Quoted in Moore – Rowan, 29 January 1935, NARA, 121/133.

its planning and building; on the contrary, the men selected – architects, sculptors, painters, and landscape architects – who have brought it about were chosen for being of tried and proven dependability, socially minded enough in their work to submit themselves to the larger plan and achieve real collaboration in the various associated arts. I would favour the retention of the open door.¹³⁶

The main thrust of his criticisms, then, consisted in an attack upon the mural skills of those artists who had been approached by Biddle, including their knowledge of the technical problems associated with the medium; the displacement of the architect as the individual charged with sole responsibility for determining the decorative ensemble within the building; the politically loaded and controversial nature of the work of those artists selected; and the sidelining of a more academic group of artists committed to working within a Beaux-Arts style prevalent in the Triangle up until this point in time.

The artists who had shown an interest in Biddle's plans at this early juncture were Thomas Hart Benton, Edward Laning, Reginald Marsh, Boardman Robinson, Maurice Sterne, and Poor, and they were all chosen by Biddle because of their experience at mural painting in some form or other. The latter three actually went on to produce murals for the Justice building once the process had been taken over by Bruce and the bureaucratic working methods of the Section had been firmly established. Yet at this point, influenced by his experiences in Mexico, Biddle only envisaged a small group of muralists with a common aesthetic and a broad sympathy for the New Deal coming together for the purposes of decorating one government building.¹³⁷ Roosevelt passed on the Commission's response to Biddle who then attempted to refute their criticisms by providing testimonials of the selected artists' work. Such efforts at appeasing the Commission were ultimately futile for, as McKinzie makes clear, 'The men who guarded Pierre L'Enfant's plan for the capital

¹³⁶ Moore – Roosevelt, 28 July 1933, NARA, 121/133.

¹³⁷ To garner support for his project Biddle approached not only the Assistant Secretary of the Treasury Lawrence W. Robert, on the advice of Roosevelt, but also the president's wife Eleanor Roosevelt, Secretary of Labour Frances Perkins, Secretary of the Interior Harold Ickes, and Assistant Secretary of Agriculture Rexford G. Tugwell. To each he emphasised the eagerness of young liberal artists to celebrate 'the ideas for which the present administration is fighting'. Biddle, *op. cit.*, 1939, p. 271.

opposed all that smacked of the twentieth century and a good part which belonged to the nineteenth', and the artists who had shown an interest in Biddle's plans were far too modern to ever win their support.¹³⁸ That this was a battle between those charged with defending the 'aristocratic and urbane tendencies of government architecture which favoured turn-of-the-century Beaux-Arts aesthetics', which had prevailed within the capital for more than fifty years, and the more contemporary Section, with its emphasis upon comprehensible subject matter with populist historical and realist tendencies, is borne out by Biddle's response.¹³⁹ He scathingly characterised the Commission's chosen aesthetic as:

a weak thin-blooded, sugar-coated imitation of the French Beaux Arts-Prix de Rome, which in itself is the vulgar, middle-class death agony of the pseudo-classicism of David, which even in 1800 was a dry, papier-mâché, schoolboy conglomeration of bad Poussin and seventeenth-century Italian decadence; of helmets and urns and fasces and whit triumphal bulls and chariot wheels and little cuty girls with budding breasts and French empire dresses. That was the dried-up tit that we painters were given to suck on'.¹⁴⁰

Yet, as Savage intimated in his letter to Roosevelt on behalf of the Commission, there was more at stake than just academic versus modern. For as well as condemning the mural work of Biddle's group for its 'chaotic composition', and the fact that they were 'inharmonious in style and scale with the building', he goes on to criticise the artists for 'professing a social faith which the general public does not share'. Bearing in mind that Biddle's select band of muralists were supposedly united by their commitment to 'the ideas for which the present administration is fighting', such a statement by Savage could be read as indicating a lack of sympathy for the New Deal, and perhaps even an allegiance to the Republican regime that preceded it.¹⁴¹ This reading is borne out by many of the press responses to the Section at the time of the Justice competition which quite explicitly projected a

¹³⁸ McKinzie, *op. cit.*, p. 6. These artists were 'modern' in terms of the fact that they practised a figurative art that eschewed the academic.

¹³⁹ Lois Craig et al., *The Federal Presence: Architecture, Politics, and Symbols in United States Government Building* (Massachusetts: The MIT Press, 1977), p. 124.

¹⁴⁰ Biddle, *op. cit.*, 1939, p. 290.

¹⁴¹ *Ibid*, p. 271.

whole range of political tropes upon the new art going up in the recently completed federal building. In a review of Biddle and Poor's murals in the Justice Department for *The New York Times* of 30 August 1936, Edward Alden Jewell pitted the 'social consciousness' of these works against another mural painted by Gilbert White in the Agriculture Department building just four years earlier which he described as 'a sort of forerunner': 'and certainly the thematic contrast between this and the new mural work [] must be indicative of the radical change in thought, purpose and direction that has developed in the last few years'.¹⁴² The antique lyricism of White's mural, approved by Andrew W. Mellon, Secretary of the Treasury, and Arthur M. Hyde, Secretary of Agriculture, under the Hoover administration, 'is the nature of historical prelude to the diametrically opposed "social consciousness" program operative today'.¹⁴³ The aesthetic categories of academic versus modern, or Beaux-Arts versus Section, are clearly read as Hoover versus Roosevelt, Republican versus Democratic, interventionist state versus *laissez-faire* etc.

Jewell's piece marks him out as someone who was sympathetic to the new developments in state-funded mural painting, yet these oppositions become even more pronounced, and certainly more vociferous, in the pages of the conservative press. In an article in *The Buffalo Evening News* of 8 June 1936, entitled after the inscription above the main entrance to the Justice Department building: 'The Place of Justice Is a Hallowed Place', the author deplores the contradiction between this motto, and the Biddle and Poor murals recently completed within. Whilst the building 'successfully combines Greek and Roman art with modernistic architecture', Biddle and Poor's murals 'depict not the beauties of even-handed justice with gently-balanced scales held in the hands of a blind-folded goddess, but some of the most sordid, depressing experiences of human existence'.¹⁴⁴ The Beaux-

¹⁴² Edward Allen Jewell, *The New York Times*, 30 August 1936, page unknown. Bruce had actually attempted to stop White's mural being installed and had proposed instead to have one done by a group of artists under Grant Wood put into the new Department of Agriculture building instead. Whilst the issue was resolved by Henry Wallace, who liked the academic mural and therefore insisted that it was hung, as Contreras makes clear, Bruce's intervention 'marked the initial direction of the New Deal to change from classicism to realism in the subsequent decoration of federal buildings'. Belisario Contreras, *op. cit.*, p. 51.

¹⁴³ Jewell, *op. cit.*, 1936, page unknown.

¹⁴⁴ Anonymous, 'The Place of Justice Is a Hallowed Place', *The Buffalo Evening News*, 8 June 1936, page unknown, NARA, 121/125.

Arts architectural details of the building, such as the ‘marvellous corridor with a vaulted ceiling of silver leaf’ above Biddle’s panels, are scathingly contrasted with ‘splashes of gaudy colours, depicting woebegone men and women ... There is a clash instead of a blend’.¹⁴⁵ Other headlines such as ‘New Deal Murals Shelve Hoover Art’; ‘New Deal Ousts Art Ordered by Republicans’; and ‘Murals of Hoover Era Replaced By Art of the New Deal School’ specifically refer to the fact that certain C. P. Jennewein reliefs executed in silver leaf, described as ‘especially striking’, and commissioned for the building just before the Section took control of the decorative process, were moved to make room for Poor’s more contemporary murals dealing with various Justice Department responsibilities.¹⁴⁶ Such commentaries clearly seek to politicise the Section’s activities, and the murals that it sponsored, reading them as the cultural analogue to the New Deal and pitting them quite squarely against the art commissioned by the former Republican government.

The Commission, then, can be understood as defending the ‘last gasp ... of an entire ecology of artistic knowledge and practise that had prevailed in the United States for the previous fifty years’.¹⁴⁷ And, as becomes clear from reading the press response to the Section’s early activities in the capital, the differences between the two aesthetic positions were politicised as critics were keen to read the newly sponsored murals in terms that reflected the ideological imperatives of the New Deal administration. Yet the Commission was not the only problem confronting Bruce as he attempted to establish the Section upon a firm administrative footing and legitimise its operating procedures. Whilst it would remain one of Bruce’s most

¹⁴⁵ *Ibid.*

¹⁴⁶ Unattributed press clippings, NARA, 121/125. Jennewein’s *Investigation of Truth* was removed from above the door to the office of Attorney General Cummings and replaced with Poor’s *Symbols of Justice; Mastery of Crime*, with its ball-and-chained Greek figures, was removed from near the office of the Solicitor General Stanley Reed and replaced with Poor’s panel on prison rehabilitation; and the symbolic frieze *Defending the Public Interest* was removed to make room for another of Poor’s frescos, *Customs Inspection*. The Section’s views on the Jennewein reliefs are encapsulated in a letter to Biddle by Rowan: ‘The most important decision which we reached [Rowan and Stone] I believe was that the bad sculpture in the room at the top of the stairs from which one enters the Library and the hall-ways leading to the Attorney General’s and the Assistant Attorney General’s office be removed and these spaces reserved for mural decoration. The present sculpture there in small panels on either side of this room are unbelievably bad.’ Rowan – Biddle, 17 December 1934, NARA, 121/1.

¹⁴⁷ Michele Bogart, ‘Sculpture and the Federal Triangle’, *Archives of American Art Journal*, vol. 25, no. 4 (1985), p. 22.

intractable opponents in these early stages, Watson was clear that for him, at least, Biddle represented another potential difficulty.¹⁴⁸ For the Section to consolidate its status the process of commissioning works for federal buildings had to be regular and uniform – not the personal plaything of one individual as Biddle sometimes liked to make out. Indeed the fact that the Section granted most of the murals in the Justice Department building as direct commissions, rather than through open competition, can be seen as a last concession to Biddle before he was shunted into the background.¹⁴⁹ The architects of the building, Charles L. Borie and Clarence Zantzinger, were also opposed to the competition system proposed by the Section officials.¹⁵⁰ The latter expressed his preference for ‘the group of fresco painters that has been formed at the American School conducted by the French Government at the Palace of Fontainebleau for many years past, under the direction of M. LaMontagne St. Hubert’.¹⁵¹ The Section staff therefore had to defend their newly founded project from the threat of incursion from a number of different sources: the Commission of Fine Arts; Biddle; and Zantzinger and Borie, all of whom felt that they could appeal to Roosevelt for assistance in achieving their aims.

Getting started

With the experience of the PWAP behind him, Bruce gave a measured, yet firm, response to Zantzinger, and an outline of the Section’s general objectives:

1. To secure suitable art of the best quality available for the embellishment of public buildings.
2. To carry out this work in such a way as will assist in stimulating, as far as practicable, development of art in this country and reward what is regarded as the outstanding talent which develops.

¹⁴⁸ Watson – Bruce, 15 March 1934. NARA, 121/133. Watson was also opposed to the inclusion of Benton and Marsh.

¹⁴⁹ Ironically, and infuriatingly for the Section staff, Biddle, in his role as President of the Society of Mural Painters, was later critical of the Section’s policy of appointing artists to do murals. This policy of using an advisory committee also ensured that for the first major Section commission in the capital artists of a certain calibre and reputation would be chosen for the work in an attempt to forestall conservative criticism.

¹⁵⁰ Borie – Bruce, 12 November 1934. Borie was in fact a neighbour and family friend of the Biddles and, despite this particular difference, was extremely supportive of Biddle and the Section in general.

¹⁵¹ Zantzinger – Dows, 29 October 1934, NARA, 121/133.

3. So far as consistent with a high standard of art, to employ local talent.
4. To endeavour to secure the cooperation of people throughout the country interested in the arts and whose judgement in connection with art has the respect of the Section, in selecting artists for the work to be done and criticism and advice as to their production.
5. In carrying out this work, to make every effort to afford an opportunity to all artists on the sole test of their qualifications as artists; and, accordingly, to encourage competitions wherever practicable – recognizing the fact, however, that certain artists in the country, because of their recognised talent, are entitled to receive work without competition.¹⁵²

The Section decided to treat both the Justice and Post Office Department buildings as one project and assembled an advisory committee of twenty-two individuals – the architects of the respective buildings, Borie and William Adams Delano, Cummings, Stone, Moore, as well as a host of artists and museum directors – to draw up a list of twenty-two painters and ten sculptors who would then be commissioned to decorate the two new federal buildings. After that, Bruce was quite clear that it would be the Section, in conjunction with the Supervising Architect's office, and the architects, that would take control of the process of overseeing the execution of the actual works.¹⁵³ In a press release dated 24 March 1935, the Section announced the eleven artists and two sculptors that, 'As a result of the balloting [] stood out, receiving at least two more votes than any of the other painters and sculptors mentioned'.¹⁵⁴ They were the painters Benton, Biddle, John Steuart Curry, Rockwell Kent, Leon Kroll, Marsh, Poor, Robinson, Savage, Sterne, and Grant Wood, and the sculptors Paul Manship and William Zorach.¹⁵⁵ It was decided that the remaining eleven painting and eight sculptural commissions would then be decided by a competition open to those artists who received one or more votes from the advisory committee, plus a group of painters and sculptors who, 'in the opinion

¹⁵² Bruce – Zantzing, 14 November 1934, NARA, 121/133.

¹⁵³ Bruce's exact words were that 'we should not at this time commit ourselves to calling in the Advisory Committee on the actual execution of the work although as the work develops it may from time to time be advisable to request the assistance and advice of various members of the committee.' Bruce – Christian J. Peoples (Director of Procurement), 21 January 1936, NARA, 121/133.

¹⁵⁴ Treasury Section of Painting and Sculpture, Press Release, 24 March 1935, NARA, 121/133.

¹⁵⁵ Benton pulled out declaring that he could not work under such tight administrative restrictions and Wood declined to do a mural because he was too busy, although Rowan thought that the \$2,000 commission he would have received was insufficient for him to take any interest. McKinzie, *op. cit.*, p. 60.

of the Section, are entitled to this privilege'.¹⁵⁶ The advisory jury was to consist of Ernest Peixotto, Jonas Lie, Bancel La Farge, Eugene Speicher, and Henry Schnakenberg for painting; and Anna Huntington, Manship, Sterne, and Zorach for sculpture.

As with later Section competitions, those for the Justice and Post Office buildings were publicised in the first edition of the *Bulletin* in March 1935, the mimeograph sent out to artists wishing to compete for Section commissions. Bearing in mind that the brief given for the subject matter for the murals and sculpture in the Post Office building was the 'History of the Post', it would seem fair to dismiss these decorations as somewhat tangential to the wider political and ideological objectives of the New Deal administration. As for the Justice building, those interested were informed that: 'Broadly speaking, the subject matter of the decorations will be the law, and in determining what phases of the development of the law, of Justice, and of legal procedure shall be interpreted, the Section will benefit by the invaluable advice of Attorney General Cummings and Mr Justice Stone'.¹⁵⁷ In the next issue, published the following month, the Section further informed artists that the Justice Department murals 'will probably be based on less realistic data than is offered by the History of the Post. Justice, the Law, development of our legal procedure – although many of the implications are deeply and emotionally realistic – suggest a broader interpretive treatment.'¹⁵⁸ This advice was then followed by a list of 'tentative' themes largely pulled from Biddle's iconographic scheme for the building: 'The Great Codifiers of the Law'; 'Emancipation Through Justice (Freedom of Labour – Man; Emancipation of Woman; Protection of the Child)'; 'Society Controlled by Justice'; 'Uncontrolled Society'; 'Opening up of the West'; 'Freeing the Slaves'; 'The Melting Pot'; 'Social Legislation'; 'Great Trials'; 'The Story of a Statute'; and 'Maladministration of Justice'.¹⁵⁹

¹⁵⁶ Treasury Section of Painting and Sculpture, Press Release, 24 March 1935, NARA, 121/133.

¹⁵⁷ Treasury Section of Painting and Sculpture, *Bulletin*, no. 1 (Mar. 1935), p. 8. In the next issue it was announced that Cummings had in fact delegated this responsibility to the Assistant to the Attorney General, William Stanley. *Bulletin*, no. 2 (Apr. 1935), p. 6.

¹⁵⁸ *Ibid.*, p. 8.

¹⁵⁹ *Ibid.*, pp. 8-10.

This advice for those entering designs for the Justice building competition was clearly insufficient, at least in comparison to the more comprehensive guidelines that were given out for those competing for the mural and sculptural commissions in the Post Office building. Due to the ‘unsuitability’ of the entries for the Justice competition – ‘offerings which emphasised chain gangs, evictions, third degrees, electrocutions, battling juvenile delinquents, and gangsters’ – Rowan sent a letter on the 27 September to those artists who had accepted the invitation but had not yet submitted, extending the competition deadline to the 15 October.¹⁶⁰ This last minute extension made little difference and in a press release sent out on the 27 October the Section announced that the jury that had selected the Post Office Building competition winners had also ‘rejected all of the designs offered in the competition for the three murals for the Justice Department building and recommended that a limited invited competition be initiated to which nine painters will be invited to submit designs’.¹⁶¹ For Watson this failure ‘seemed to indicate that the more difficult and abstract subject of Justice was not interpreted, or visualised, with as clear a grasp as the simpler subject matter suggested by the history of the Post’, although he was pleased that despite this confusion, ‘There were none of the old hack machines which the conventional and academic bow-wows were wont to manufacture’.¹⁶² For William Palmer of the Mural Painters Society, however, the fault lay not with the artists solicited to enter the Justice competition, as could be inferred from press reports, but instead ‘a large part of the blame rests on the inadequacy of the program as given out’.¹⁶³ For whilst ‘Complete subject matter was given out for the Post Office competition [] this was but hazily suggested in a single line in the program for the Justice Building’.¹⁶⁴

¹⁶⁰ McKinzie, *op. cit.*, p. 60.

¹⁶¹ Treasury Section of Painting and Sculpture, Press Release, 27 October 1935, NARA, 121/133.

¹⁶² Watson – Carlyle Burrows (art critic for the *New York Tribune*), 22 October 1935, NARA, 121/125.

¹⁶³ William Palmer, quoted in Treasury Section of Painting and Sculpture, *Bulletin*, no. 7 (Dec. 1935), p. 4.

¹⁶⁴ Palmer, quoted in *ibid*, p. 5. In a statement printed immediately below Palmer’s criticism Dows typically responded by projecting the blame back upon the artists: ‘The Section does not wish to sidestep any criticism of inadequacy in preparing competition programs – it will in fact welcome detailed and specific suggestions from the Mural Painters Society in preparing it’s next years programs. The Section believes, however, that the failure of those artists who did fail, was due, not to

Such divergent assessments of the relative merits of the work commissioned for the two buildings was also a theme that characterised the response to the Corcoran exhibition that ran from 27 October through to 21 November, staged to showcase the completed sketches of those artists directly commissioned to produce art designated for the two new federal buildings.¹⁶⁵ After visiting the exhibition with Cummings, his assistant, Salvatore Andretta, wrote to Rowan that as far as the Attorney General was concerned ‘the panels submitted by Mr. Poor [specifically those dealing with the subject of the Bureau of Prisons], although powerfully moving, were not suitable for any place in this building, and he reiterated that they are definitely out as far as their being acceptable for the Department of Justice’.¹⁶⁶ Furthermore, in relation to the Biddle mural, ‘It was the consensus of all present that a great deal more gayety and happiness could be portrayed in the three centre panels’.¹⁶⁷ This sensitivity to the perceived sense of pessimism and negativity that characterised the Justice designs culminated in Andretta’s complaint: ‘While we are on the subject, why is it all these artists must portray any topic in relation to justice in a sordid and unhappy manner, and why must their one idea of justice be the ultimate of prisons and executions when that is not really part of the functions of the Department of Justice’.¹⁶⁸ And whilst this was not exactly true since the Department of Justice did in fact have responsibility for the running of federal prisons, Andretta finished his tirade with the point that: ‘The Attorney General commented on some of the fine things submitted for the Post Office Building, and could not understand why we could not have the same calibre of work submitted for the Department of Justice’.¹⁶⁹

So as to avoid any further controversy around the three murals for the stairway lobbies in the Justice building the new revised competition was a little more focussed. Reiterating the fact that ‘The subject-matter of these murals should deal

the presentation, but to the individual conceptions. It was true that the subject matter given out for the Justice competition was vague as compared to that for the Post Office. It was the considered intention to leave the interpretation of this up to each artist. I believe that similar subject matter has stimulated Daumier, Delacroix and Forain to find conceptions to fill, morally or otherwise, a certain space’.

¹⁶⁵ Unfortunately I have not been able to track down any photographic record of the sketches shown at this exhibition.

¹⁶⁶ Andretta – Rowan, 14 November 1935, NARA, 121/133.

¹⁶⁷ *Ibid.*

¹⁶⁸ *Ibid.*

¹⁶⁹ *Ibid.*

with some phase of the administration of Justice in relation to contemporary American life', in the issue of the *Bulletin* that came out in February 1936, the Section gave the 'tentative suggestion' for the competition subject matter as:

- 1) Man - A. Justice toward labour.
- 2) Woman - A. Emancipation of woman through suffrage.
- 3) Child - A. Protection of the child by child labour laws.
B. Old vs. contemporary juvenile courts.¹⁷⁰

I will return to these three competition murals later, but first I want to look at those murals that resulted from direct commissions to those artists selected via their nominations by the advisory committee. Due to the central role that Biddle had played in securing the Justice building for mural decoration; the effort he had gone to in drawing up a coherent thematic program for the art that would be produced within it; his relationship with both the artistic left and the liberal policymaking elite in Washington; the fact that he was one of the first artists to start painting, and then finish his mural; and that his work would become perhaps the most contentious in terms of the developing conflict between the Section and the Commission of Fine Arts; it seems appropriate to deal with his mural sequence first.

Society Freed Through Justice

The general theme of Biddle's five panel fresco series, for which he received \$10,000, is inscribed at the bottom of the central panel: *The Tenement and Sweatshop of Yesterday Can Be the Life Planned with Justice of Tomorrow* (fig. 4, 5, 6, 7, and 8) and it covers the south, west, and north walls of the stairwell lobby on the fifth floor. The finished mural scheme is in fact extremely close to Biddle's original conception as elaborated in his 'Proposed Themes ...' for the building in which he designated that this space:

¹⁷⁰ Treasury Section of Painting and Sculpture, *Bulletin*, no. 8 (Feb. 1935), p. 5.

will treat of humanity in a society controlled by Justice and in a society uncontrolled by Justice. The three narrow central panels, seven by thirteen feet, will represent the family, as the unit of society, in a subsistence homestead. The family in the home is the central panel. To the right members of the family at work (labour); to the left members of the family at play (leisure). The subsistence homestead is not conceived primarily as an agricultural or economic experiment, but rather as a symbol of the happy man in a society planned with Justice. The side panels at either end will show men, women and children in an uncontrolled society, in sweat shop factories, slums etc.¹⁷¹

The only difference between the finished work and Biddle's initial proposal is found in the panel to the immediate left of centre in which the artist depicted family members engaged in animal husbandry rather than at play. So, although divided into five panels over three walls, Biddle's mural sequence represents a unified attempt to contrast the lives of workers under an unjust economic system with the lives of workers in a more equitable society. To this end he juxtaposed the sweatshops, tenements, and tired worn figures of the two outside panels, with the prosperity, harmony, and happiness of the figures in the central three panels. And to exemplify this interpretation Biddle placed the Holmes' quote: 'The Life of the Law has not been logic it has been experience' at the foot of the sweatshop panel, and the Brandeis' one: 'If we could guide by the light of freedom we must let our minds be bold' at the base of the tenement one.¹⁷² As Rowan commented in a letter to Andretta, in which he provided an overview of the proposed decorative scheme for the building, Biddle's mural cycle is 'one case where a broad interpretation of the administration of Justice is to be used', and the background to the three central panels, with its factories set in a rather idyllic pastoral landscape, is based upon the Ohio river near Wheeling, West Virginia, rather than the site of any actual federally funded homesteads such as those built under the direction of the Resettlement Administration (RA).¹⁷³

¹⁷¹ Biddle, *op. cit.*, 1934, no pagination.

¹⁷² Cummings was unhappy with the use of quotations from living or recent authors, although he finally acceded to Biddle's use of Holmes' and Brandeis' words as long as they were uniformly capitalised and were without attribution at the suggestion of Borie. Rowan – Biddle, 26 December 1935, NARA, 121/133, and Rowan – Biddle, 8 July 1937, NARA, 121/1.

¹⁷³ Rowan – Andretta, 30 October 1935, NARA, 121/133.

That the internal dynamic of the mural dramatises social justice versus social injustice, and their corresponding relationship to New Deal state planning and the anarchy of the free market respectively, is reinforced by the fact that Biddle modelled many of the figures in his painting upon prominent New Deal liberals, as well as Section staff, friends, and family.¹⁷⁴ At the top of the far left panel depicting sweat shop labour he painted Secretary of Labour Frances Perkins as a garment worker in a black dress, with himself seated behind another sewing machine to her right looking out of the canvas. Behind them Biddle painted Stuart Chase, economist, author, and the artist's classmate at Harvard, with his wife alongside him.¹⁷⁵ The table in the central panel is presided over by Biddle's brother Francis who was chairman of the National Labour Relations Board – set up under the Wagner Act to enforce collective bargaining upon recalcitrant employers – and would go on to become Roosevelt's Attorney General in 1941. The other male figure at the table is Malcolm Ross, press agent of the NLRB. The man hanging his coat in the top right of this panel is Rowan, and Biddle's wife, Helene, holds their young son Michael in the bottom right. Stirring the pot in the next panel to the right Biddle painted Camille Miller of the National Youth Administration, established to provide training for unemployed youth, and Helen Hunt, wife of Henry Hunt, the General Counsel of the Federal Emergency Relief Administration, is shown assisting Dows in planting shrubs. The young man with the shovel to their right is David Elwyn, son of Professor Herman Elwyn of Columbia University, and neighbours of the Biddles at Croton-on-Hudson. Poor is shown sawing wood at the bottom right of the fifth and final panel. That the New Deal figures depicted in the mural were sympathetic

¹⁷⁴ The importance of 'planning' in the mural sequence is also underscored by an anecdote from Biddle's autobiography in which he claimed: 'I chose as my theme the belief that "the sweatshop and tenement of yesterday can be the life planned with justice of tomorrow". Stanley Reid, the Solicitor General, asked if I might substitute "ordered" for "planned". Such is the evocation of terror sounded by this frugal word. I was all too happy to accept his emendation'. Biddle, *op. cit.*, 1939, pp. 280-281.

¹⁷⁵ Chase was a regular contributor to the liberal *New Republic* and author of *A New Deal*, published in 1932, which advocated the achievement of democratic socialism through a somewhat elitist and technocratic form of centralised planning as opposed to class struggle. Importantly for Biddle, no doubt, Chase was also the author of *Mexico, A Study of Two Americas*, based largely upon articles published in the *New Republic* in 1931, which idealistically counterpoised the organic nature of Mexican communities to their alienated and fragmented counterparts north of the border. See Richard Pells, *Radical Visions and American Dreams: Culture and Social Thought in the Depression Years* (New York: Harper and Row, 1973), pp. 71-75 and 101-102.

to the plight of labour was made explicit in an article in *The New York Times* entitled 'F. J. Biddle is Put in Worker Mural', which stated that 'Artist Biddle considered that no face would be more fitting in such an idealised scene than that of his brother, a champion of the rights of labour'.¹⁷⁶

It is perhaps due to the inclusion of so many 'friends of labour', and the fact that the mural sequence dramatises 'a broad interpretation of the administration of justice' rather than actual day-to-day departmental activities, that in his initial response to Biddle's design, Moore, on behalf the Commission of Fine Arts, suggested that 'it would seem to belong to the Department of Labour rather than the Department of Justice'.¹⁷⁷ To which Biddle later wrote: 'That's where I belonged – Bolshevik!'¹⁷⁸ Again, emphasising the fact that the Justice building, in common with the other buildings in the Triangle, 'is a modernization of American architecture based on classical precedents', Moore criticised the sketches for being 'disturbingly busy in both pattern and scale', 'too big for the allotted spaces', and 'out of drawing and crude and harsh in colour, and even grotesque', and therefore ill-suited to their proposed architectural environment.¹⁷⁹ Yet perhaps the most incisive criticism, at least in terms of highlighting the perceived political nature of the work, was the charge that Biddle's sketches were 'un-American':

The artist has chosen a style somewhat French and very Mexican – a style popular today because of its novelty, but intrinsically un-American and ill-adapted to express American ideas and ideals. The Mexican work at its best and in its own place is based on sound and enduring traditions of mural painting, adapted to the present day national conditions in that country. The sketches under consideration are derivatives from the Mexican, copies of a style, rather than a fresh and frank dealing with a subject in such manner as to carry conviction to the American observer.¹⁸⁰

Whilst for Biddle 'The pent-up disapprobation about "a style somewhat French and very Mexican" was a trifle incoherent', it is clear that for the Commission the first

¹⁷⁶ Anonymous, 'F. J. Biddle is Put in Worker Mural', *Special to the New York Times*, 21 February 1936, page unknown.

¹⁷⁷ Moore – Rowan, 18 September 1935, NARA, 121/1.

¹⁷⁸ Biddle, *op. cit.*, 1939, p. 288.

¹⁷⁹ Moore – Rowan, 18 September 1935, NARA, 121/1.

¹⁸⁰ *Ibid.*

meant modernist and the second meant political.¹⁸¹ As mentioned earlier, Biddle's experience of travelling around Mexico with Rivera inspired him to produce an American variant of a socially conscious wall-painting, and this is something that the press picked up upon also.¹⁸² Returning to the above-quoted article from *The Buffalo Evening News*, the author somewhat disparagingly charged that Biddle, 'Graduated from Groton and Harvard, and having studied at Julien's in Paris [] has become social conscious ... He is painting on wet cement his colour work which is similar to that of Diego Rivera, who created a storm of controversy when he put the face of Russia's Lenin in a panel at the Rockefeller Centre in New York' – a clear indication that the label 'Mexican' was used by both left and right as an indicator of political partisanship in debates on mural painting in this period.¹⁸³

It becomes quite apparent from the correspondence between the Section and the Commission at this early stage that Moore was prepared to do his utmost to wreck Bruce's new program, using the Commission's congressionally granted power over all artistic matters in the capital to sabotage, or at the very least hinder, the Section's attempts at decorating the two new federal buildings in the Triangle. And Biddle, the self-professed champion of federally funded art and protégé of Rivera, with all the radical connotations that such an association evoked, was bound to get caught up in the crossfire.¹⁸⁴ The problem for Bruce in this opening skirmish was

¹⁸¹ Biddle, *op. cit.*, 1939, p. 288.

¹⁸² As a champion for a state-sponsored public art in America Biddle's enthusiasm for the Mexican muralists is hardly surprising and he published frequently on the Mexican example as an important precursor for artists north of the border. See Biddle, 'Mural Painting in America', *Magazine of Art*, vol. 27, no. 7 (July 1934), pp. 366-368 and Biddle, *op. cit.*, 1939, pp. 263-267.

¹⁸³ Anonymous, 'The Place of Justice Is a Hallowed Place', *The Buffalo Evening News*, 8 June 1936, page unknown. For the reaction of leftist critics and artists to the example of the Mexican muralists see Andrew Hemingway, 'American Communists View Mexican Muralism: Critical and Artistic Responses', Leticia López Orozco (ed.), *Boletín Informativo Crónicas: El muralismo, producto de la revolución mexicana, en América* (Mexico City: National Autonomous University of Mexico, 2002), pp. 13-43.

¹⁸⁴ Biddle's opinion of the Commission, which makes a wry reference to the political composition of the Supreme Court, is captured in his autobiography when he refers to them as '... the Nine Old Men without their Three Dissenting Liberals'. Biddle, *op. cit.*, 1939, p. 287. His views on Moore were made clear in a letter to Bruce: 'I trust you can mellow the old bitch Moore before he passes on my communistic propaganda as I am one jump ahead of the sheriff.' Biddle – Bruce, 23 May 1935, AAA, D82. Whilst Bruce would have had little sympathy with Biddle's characterisation of his work as 'communistic propaganda', ironic or not, his own views on Moore were not dissimilar and were concisely expressed in a letter that he sent back to Biddle just under six months later: 'It certainly is damn annoying to have a little squirt like that not realise the significance of a movement like we have

that the Section generally concurred with the Commission's criticisms of Biddle's mural, even if they would never admit to this in public. Biddle's work quite obviously referenced Rivera's aesthetic in its use of colour and the corporeality of the figures, and this was obviously a source of consternation for the Section.¹⁸⁵ Hence Bruce's request that Biddle send him 'a brief memorandum as to your artistic training, background, etc., designed to show how much you have been influenced by Mexican art ... I would be happy if you would let me have anything along the lines of showing how completely free from Mexican influence your work is'.¹⁸⁶ And whilst they refuted the charges that his panels were 'somewhat French' and 'very Mexican', to argue instead that they 'look very much like the real American thing to us', and defended their relevance in that 'the relationship to justice is subtle but that there should certainly be some murals of this kind in the Department of Justice Building because there will be enough of the legal aspects in the others', they could not avoid the fact that Biddle failed to successfully dramatise the two contrasting aspects of his mural scheme.¹⁸⁷ The lack of 'gayety and happiness' in the three central panels, which Andretta had remarked upon after visiting the Corcoran show, had already been picked up by the Section beforehand. As Rowan had complained:

I feel that the expressions on the faces of these people living in an ideal society are not pleasant enough in contrast to those individuals living in a society without justice. Without knowing your theme, I would have been unable to identify the people around the table as a group living in an ideal society.¹⁸⁸

And this would become the sticking point with the Commission as they continually refused to pass Biddle's designs for completion. After seeing the cartoons in place on 25 November they again disapproved with the comments that

started, but there is no use trying to make a silk purse out of a sow's ear. Although when you come to think of it, that is our real problem.' Bruce – Biddle, 19 November 1935, AAA, D82.

¹⁸⁵ It should also be noted here that the bright colours employed by Biddle in his frescoes could also be attributed to the fact that there was no natural lighting around the stairwell.

¹⁸⁶ Bruce – Biddle, 3 December 1935, AAA, D82.

¹⁸⁷ Rowan – Bruce, 7 October 1935, AAA, D88.

¹⁸⁸ Rowan – Biddle, 8 July 1935, NARA, 121/1. As such Biddle failed to live up to his own dictum that 'the thematic interpretation will be clearer and more moving, if as far as possible, each subdivision represents the desirable and undesirable in antithetical balance'. Biddle, *op. cit.*, 1934, no pagination.

'none of the points raised in its first review of the panels of Mr Biddle have received attention. The outline cartoons in place show those criticisms to be warranted', and furthermore, 'The atmosphere of the central panel, contrary to the intention of the subject, is depressing'.¹⁸⁹ The Section staff would raise this point again and again with Biddle, and despite their continual processing of his payments, without the official sanction of the Commission, he refused to change the expressions of the figures in the three central panels.¹⁹⁰ What made the Commission's response even more inflammatory, however, was the fact that they reviewed a total of forty-eight mural sketches, including Biddle's, in just twenty-five minutes, disapproved or demanded changes in the work of six other artists, and Commission member Egerton Swartout declared that the Section jury would have done a better job under the influence of alcohol and that Biddle was unfit to work in fresco.¹⁹¹ Before this incident Bruce was cautious about confronting the Commission. In a letter to Rowan sent just over a week before the Commission had acted so provocatively Bruce wrote: 'The only probable danger with the situation [] would be that the Fine Arts Commission is functioning under an act of Congress. I am afraid that if we really take it up that Moore [] could stir up somebody in Congress that would raise a stink on the theory that we were ignoring the dignity of Congress'.¹⁹² Yet after the Commission's cavalier behaviour in reviewing the Section designs he wrote: 'We have got to accept definitely the way that the Fine Arts Commission has thrown the gauntlet down and that the fight is on [] they are showing us that they are going to make some scrap of it so let's show them that we can too'.¹⁹³

On the 4 January 1936, the day after Bruce had declared his intention to go on the offensive against the Commission, the Director of Procurement, Christian J. Peoples, sent a letter to Moore that had been based upon an outline worked up by Watson and Rowan. In it he expressed his 'appreciation for the suggestions which

¹⁸⁹ Moore – Rowan, 26 November 1935, NARA, 121/122

¹⁹⁰ See Christian J. Peoples (Director of Procurement) – Biddle, 9 December 1935, NARA, 121/1, Watson – Rowan, 14 March 1936, NARA, 121/125, Rowan – Biddle, 1 August 1936, NARA, 121/1, and Dows – Rowan, 6 August 1936, NARA, 121/1, for a few examples of the Section's attempts to get Biddle to alter the mood of the three central panels.

¹⁹¹ See also McKinzie, *op. cit.*, p. 60 and Contreras, *op. cit.*, p. 54 for accounts of this incident.

¹⁹² Bruce – Rowan, 17 November 1935, AAA, D88.

¹⁹³ Bruce – Rowan, 3 December 1935, AAA, D88.

have been made, for he values highly the advice of the Commission in all matters pertaining to architecture, painting, and sculpture’, before calling attention to the fact that ‘Biddle was selected solely on the recommendations of an advisory committee of nineteen nationally known authorities on art, including that of the Chairman of the Commission of Fine Arts’, and reminding him that ‘Mr Biddle’s appointment had the endorsement of a convincing number of votes of the committee which selected him’, as well as ‘the unqualified endorsement of Messrs Zantzinger and Borie, architects of the Department of Justice Building, as well as that of the Attorney General, and of Justice Harlan F. Stone’.¹⁹⁴ In view of all this, and ‘the urgent recommendations that he has fulfilled in producing, under the terms of his contract, his best work’, the Director of Procurement ‘believes that he should be authorised to proceed, and intends to take action accordingly, but with all due deference to, and the respect for, the opinion of the Commission’.¹⁹⁵ That Bruce had reservations about such a course of action was demonstrated in a letter sent to Rowan that same day in which he wrote: ‘...we have got to realise that the Fine Arts Commission hold a vested position and that our position is not a vested one’.¹⁹⁶ With a change in the administration Bruce realised that ‘the whole movement could easily be dropped’.¹⁹⁷ With this in mind he wrote that ‘the wisest thing for us to do before actually throwing down the gauntlet to the Commission would be to try to arrive at a modus operandi which would enable us to work fairly well with them’.¹⁹⁸ Ultimately Bruce justified this conciliatory stance on the basis that:

The weakness of our situation is that I don’t believe that any of us can take the position that in connection with the Biddle design, we have a really outstanding piece of art which will be hailed in

¹⁹⁴ Peoples – Moore, 4 December 1935, AAA, D88.

¹⁹⁵ *Ibid.* Despite this decision to go over the heads of the Commission and authorise Biddle to proceed with his mural, Peoples was quite clear that the artist had not only to heighten the mood of the central panels in accordance with Section criticisms, but also ‘wherever feasible with your creative conviction incorporate the suggestions of the Commission in your work.’ Peoples – Biddle, 9 December 1935, NARA, 121/1.

¹⁹⁶ Bruce – Rowan, 4 December 1935, AAA, D88.

¹⁹⁷ *Ibid.*

¹⁹⁸ *Ibid.*

this country as a definite advance in this art movement...I do wish that in making this first issue of our whole question we had a more outstanding piece of work.¹⁹⁹

Despite the Section's lack of enthusiasm for Biddle's finished mural sequence Bruce recommended its acceptance to the Director of Procurement in August and Biddle received his final \$4,500 payment the following month.²⁰⁰ Although the fact that the Section was less than happy with the final design was clearly indicated in a letter to the artist by Rowan, in which he finished: 'It is felt, however, that as an artist interested in the strongest possible expression of your theme you should wish to repaint the interior of the central panel, which is a matter left entirely to your own discretion'.²⁰¹ Whilst Bruce seemingly won this round in his battle with the Commission, due to the perceived precariousness of the Section's status, he never lauded it over Moore, but continued to pay attention to the Commission's comments and criticisms, and took them on board whenever and wherever possible. In many ways the struggle over Biddle's mural helped establish the 'modus operandi' with the Commission that Bruce so desired. In a letter to Bruce shortly after the exchange, Watson made this clear: '... the attitude of the Fine Arts Commission seems to be very much more friendly and it looks as if the fine decision which the Director arrived at in the Biddle matter has established a precedent which will prevent any Commission interference with the progress of our work.'²⁰² Moore would never sympathise with Bruce's desire to embellish federal buildings with contemporary art, and responded to this defeat with a letter to the Director of Procurement. In it he acknowledged the powers of 'the executive officers charged with the construction of these buildings' to ignore his advice and install the art they so desired; defended the Commission's role over the past twenty-five years; restated its congressional

¹⁹⁹ *Ibid.*

²⁰⁰ After Biddle had finished painting Dows sent Rowan a scathing critique of the work in which he was not only critical of the lack of differentiation between the inner and outer panels, but also Biddle's draughtsmanship skills, perhaps best summed up in his assertion that: 'My feeling about the mural, which I studied at some length this morning, was that the faults of it are intrinsic and are really not a question of small details. Dows – Rowan, 6 August 1936. It was only the intervention of Bruce that brought the issue to a close. Bruce – Louis Simon (Supervising Architect), 21 August 1936, NARA, 121/1.

²⁰¹ Rowan – Biddle, 18 August 1936, NARA, 121/1.

²⁰² Watson – Bruce, 25 February 1936, NARA, 121/125.

authority; and pitted the universality and beauty of the classical against ‘the promotion of current social theories by means of Government art’.²⁰³

Activities of the Department of Justice

Biddle was not the only artist working in the Justice building who had fallen under the sway of Mexican muralism, as Poor’s aesthetic, in its restrained palette and vigorous use of brushstroke, demonstrated a clear affinity to the work of Orozco.²⁰⁴ Poor was a friend of Biddle and had been part of the original band of artists he selected to decorate the Justice building. Biddle acknowledged their camaraderie by painting a portrait of him chopping wood in the bottom right corner of the last panel in his mural scheme. They started painting in the building at the same time, finished more at less simultaneously, and both worked in fresco. Yet in terms of subject matter their work was very different. Whereas Biddle chose to paint a mural sequence that depicted a broad interpretation of justice in alleviating the ills of society, and thereby celebrated the more liberal aspects of New Deal social legislation, in the niches on the fifth floor corridor that housed the offices of the Attorney General and the Solicitor General, Poor instead focused more explicitly upon the actual everyday functions of the various bureaus, divisions, and sections within the Department of Justice. Specifically the Bureau of Prisons with the panels *Imprisonment, Rehabilitation, and Release from Prison* (fig. 9); and opposite the Customs Section and the Division of Land and Natural Resources with the panels *Unloading Goods, Customs Inspection, and Surveying New Lands* (fig. 10) around the doors leading into rooms 5137 and 5138. Further along the corridor, outside rooms 5111 and 5114, he depicted the functions of the newly created Antitrust Division and the Federal Bureau of Investigation (FBI) with the panels *Antitrust, Kidnapping, and the Federal Bureau of Investigation* (fig. 11); and opposite he acknowledged the role of the Land and Natural Resources Division once again with the panel *Tennessee Valley Authority*, and that of the Attorney General in defending

²⁰³ Moore – Peoples, 3 January 1936, NARA, 121/125.

²⁰⁴ For Contreras Poor’s aesthetic in his Justice murals was reminiscent of Orozco due to his use of ‘strong drawing, sombre colouring, and harsh figurative composition’. Contreras, *op. cit.*, p. 115.

federal legislation before the Supreme Court in *The Gold Case*. Above the door, in between these two panels, he painted the rather nondescript *Symbols of Justice* (fig. 12).²⁰⁵

The painting of ‘the organisation and certain functions of the Department of Justice’ was always part of Biddle’s original decorative plan, although in his ‘Proposed Themes ...’ this subject matter had been designated for room 5403.²⁰⁶ The Antitrust Division, the Tax Division, the Criminal Division, the Division of Investigation, the Bureau of Prisons, and the Office of the Pardon Attorney, were the particular components of the Justice Department selected by Biddle for inclusion.²⁰⁷ In this plan Biddle had proposed that the spaces along the fifth corridor outside rooms 5111 and 5114 were, somewhat unsurprisingly, to be decorated with ‘the chief functions of the Attorney General’, which he listed as ‘1) To prosecute for the Government, 2) To defend the Government in litigation, 3) To give the President legal advice’.²⁰⁸ It was suggested to him that ‘these functions can best be illustrated by the broad and abstract treatment of concrete themes’, with ‘On either side a court room scene in which 1) a criminal is being sentenced and sent to jail; 2) the attorney general is arguing in defence of the government; 3) the President is being given legal advice (or being restrained through legal advice)’.²⁰⁹ Once the niches in the pauses outside rooms 5137 and 5138 had also been secured for decoration then Poor was able to produce a synthesis of the two different decorative schemes in the same corridor.

The Customs Section of the Department of Justice represented the federal government in all cases in the United States Customs Court to do with the assessment of the tax levied on imported goods.²¹⁰ Businesses and individuals had their imports assessed at airports and seaports by customs collectors whose appraisals were then often contested in court. *Unloading Goods and Customs*

²⁰⁵ Poor received \$6,000 for the lot.

²⁰⁶ Biddle, *op. cit.*, 1934, no pagination.

²⁰⁷ *Ibid.*

²⁰⁸ *Ibid.*

²⁰⁹ *Ibid.*

²¹⁰ All the information pertaining to the actual workings of the Justice Department and the description of its various bureaus, divisions, and sections is taken from the rather dry, yet informative, Luther A. Huston, *The Department of Justice* (New York: Frederick A. Praeger, 1967).

Inspection both deal with these aspects of Justice Department activity in a rather documentary, uncontroversial, and largely uninspiring way, and the panels are irrelevant to the arguments being pursued here. The same goes for the panel *Surveying New Lands* which refers to the activities of the Division of Lands and Natural Resources. Although the administration of public lands was the responsibility of the Interior Department it was the job of this division within the Justice Department to represent the federal government in court in litigation concerning these matters. And whilst the panel *Tennessee Valley Authority*, in which ‘we see the effect of such a great undertaking as the Norris Dam bringing light to the young worker’s cottage’ also falls within the remit of the same division, the subject of hydroelectric power will be dealt with in the next chapter in relation to William Gropper’s *Dam Construction* in the Interior Department building.²¹¹ The panel *Symbols of Justice* is only interesting in the fact that the eagle is facing right, the opposite direction to which it usually faces in imagery symbolising the United States.²¹²

Of the remaining panels the most controversial ones were those dealing with the subject of prisons around the entrance to room 5137. Initially Poor had followed Biddle’s advice and designed the two side panels *Imprisonment* and *Release from Prison*, thereby dramatising the activities of the Bureau of Prisons and the Board of Parole. In a letter to Poor dated 30 October 1935 Rowan wrote that despite the approval of the Section ‘the Department of Justice are so opposed to this particular subject matter in a hallway reserved for the office of the Solicitor General that it is unlikely that we can ever secure the consent of the Department of Justice to place the work in those particular spaces’.²¹³

²¹¹ Treasury Section of Painting and Sculpture, *A Guide to the Painting and Sculpture in the Justice Department Building* (Washington, D.C.: Art in Federal Buildings, Inc., 1938), p. 21.

²¹² Antonio Vasaio, *The Fiftieth Anniversary of the U.S. Department of Justice Building* (Washington, D.C.: United States Government Printing Office, 1980), p. 97.

²¹³ Rowan – Poor, 30 October 1935, NARA, 121/133. Rowan was being completely sincere about his approval of Poor’s sketches as demonstrated by his earlier comments to Bruce: ‘I think it is no exaggeration to say that all of us are enthusiastic over this work to the “n’t degree”. In my estimation these designs come nearest to being the type of work which I want the Section to stand for than anything that has been presented to date. Forbes has made a similar statement, namely, that these are the best works we have received.’ Rowan – Bruce, 10 October 1935, AAA, D88.

After visiting the Corcoran exhibition and seeing Poor's two prison sketches for a second time Cummings' hostility was only reinforced and Andretta wrote directly to the artist explaining that the designs were unacceptable 'Because of their remoteness to justice (popularly known as such) and the fact that they represent the most disagreeable result of the administration of justice'.²¹⁴ Poor was nevertheless informed that his sketches for the pause opposite, the Lands and Customs panels, might be acceptable 'as they do not portray such a sordid and depressing topic'.²¹⁵ Instead Poor was advised to take as his subject 'some history making decisions in the development of the law of the country', involving the Attorney General or the Solicitor General, which 'deal with the cases in the Supreme Court for the most part' – a suggestion he followed when given the job of decorating the pause outside room 5111.²¹⁶ As a way of breaking this deadlock Rowan suggested to Poor a few weeks later that he should paint 'the reclamation of the man; his being taught a trade or profession preparing him for a more useful life in society following his pardon' in the panel above the door, which 'would make prison less a punitive experience and more a social readjustment'.²¹⁷

With the addition of the *Rehabilitation* panel between them, the meaning of the side panels *Imprisonment* and *Release from Prison* was transformed and became, what Jewell described in *The New York Times* as, a visual celebration of 'the new constructive policy that marks the administration of American prisons'.²¹⁸ And whilst this reform impulse in the running of American prisons dates back to the turn of the century, by suggesting that Poor include this panel above the door to room 5137, Rowan not only appeased Cummings and thereby got a mural sequence that he was enthusiastic about to 'the n'th degree', but he also played a pivotal role in the

²¹⁴ Andretta – Poor, 11 November 1935, NARA, 121/133. Here, as before, Andretta seemed desperate to distance the Attorney General from the running of federal prisons arguing that the Bureau of Prisons was just a subdivision under the Assistant to the Attorney General, and the Board of Parole just a subdivision under the Bureau of Prisons. This was true until 1930 when the Bureau of Prisons was created as part of an efficiency drive, yet even then it still ran under the broad supervision of the Attorney General. As such, federal prisons were no less related to the work of the Attorney General than many of the other themes depicted by Poor along the fifth floor corridor.

²¹⁵ *Ibid.*

²¹⁶ *Ibid.*

²¹⁷ Rowan – Poor, 5 December 1935, NARA, 121/133.

²¹⁸ Jewell, *op. cit.*, 1936, page unknown.

creation of a piece of visual propaganda that seemed to suggest that the recent liberalisation of the American penal system was a product of New Deal reform.²¹⁹ Whilst it was Cummings who resisted the inclusion of this mural sequence until Poor added the middle panel, it is unlikely that the Attorney General would have had any such reservations about the mural to the right of the door to room 5114 – the one depicting him arguing in front of the Supreme Court in the ‘gold clause cases’.²²⁰ Cummings was a last minute choice for the post of Attorney General and, according to Irons, he had little time for litigation and was more interested in the expansion of his bureaucratic power.²²¹ His staffing of Justice with ‘deserving Democrats’ led Brandeis and Stone to question his, and his department’s, competence shortly after he assumed office.²²² As such, his success before the Supreme Court in these cases, which represented a momentary victory in the ongoing battle between the government and the judiciary, was a notable achievement, and one that he would have been only too pleased to see adorning the wall outside his office. Poor’s choice

²¹⁹ Rowan – Bruce, 10 October 1935. On early twentieth century American prison reform and the extent to which it was built upon in the New Deal period, see Blake McKelvey, *American Prisons: A History of Good Intentions* (New Jersey: Patterson Smith, 1977), pp. 234-321. Ironically, the prison industries that supposedly facilitated the learning of a new craft and consequent rehabilitation of the prisoner, as depicted in Poor’s panel of the same name, were increasingly attacked by private business and the trade union movement in the period after the Depression. The former cried that they were confronted with unfair competition from convict-made goods; the latter that felons had jobs while decent men begged. As a result a series of federal and state laws were passed which forced prison-made goods off the open market by 1940. John Bartlow Martin, *Down the Walls: American Prisons, Present, Past, and Future* (New York: Ballantine Books, 1954), pp. 119-120.

²²⁰ In a letter to Bruce concerning the problems with Poor’s designs depicting the functions of the Bureau of Prisons Rowan wrote that in a conference with Reed the Solicitor General ‘explained that the real objection had not come from his office, and that since we had a committee including Mrs Morgenthau and Justice Stone he saw no reason why we should permit a group of lawyers who know nothing about art to dictate our policy’. He made it clear that the only real challenge to them came from the Attorney General, as Andretta is ‘ready to cooperate with us.’ Bruce – Rowan, 19 November 1935, AAA, D88.

²²¹ He was only chosen after Roosevelt’s designate Montana Senator Thomas Walsh died just two days before inauguration. On the subject of Cummings’ expansionist desires Irons writes: ‘The relentless bureaucratic imperialism of the Justice Department created [] conflict. Every federal agency and cabinet department shares litigation responsibility with the Justice Department, if not in the lower courts, then at the levels of appellate and Supreme Court litigation subject to supervision of the Solicitor General. Early in the New Deal, through an Executive Order issued in June 1933, the Department wrested litigation control from all existing agencies subsequently created by Congress such as the NRA, AAA, and NLRB. Newly created agencies and the Department generally negotiated complex and delicate agreements ratifying their division of labour ... But during the New Deal, the Department fought to impose control over the agencies as if they were subjugated colonies’. Irons, *op. cit.*, p. 11.

²²² *Ibid.*

of Brandeis, Hughes, and Reynolds as the three representatives of the Supreme Court in the mural panel, situated to the left, centre, and right respectively, gives a good indication of the composition of the Court with their political positions clearly signalled by their place on the bench.²²³

This leaves the murals in the pause to room 5114 which depict *Antitrust* on the left and activities related to the FBI above and to the right. The former was a controversial subject when it was conceived by Biddle and there was little consensus on this issue amongst New Dealers or those on the Supreme Court. In the background of this panel Poor depicted characteristically top-hatted capitalists i.e. those who directly benefit from anti-competitive corporate practices, in front of which stands a typically working-class mother with a young child looking somewhat uncomfortable as she is forced to pay over the odds for her provisions. The Antitrust Division was established in 1933 to deal with the ever greater complexity of business practices defended by a legion of skilled corporate lawyers. In its attack upon the monopolistic practices of big business the idealistic young lawyers within this division made recourse to the Sherman Act of 1890 and the Clayton Act of 1914. The former was a criminal statute under which conspiracies to restrain or monopolise trade, and predatory practises such as boycotts, may be prosecuted; the latter was designed to stop concentrations of economic power that reduce competition, particularly with reference to mergers.²²⁴ They were also assisted in their work by the already-mentioned FTC, also created in 1914, as an auxiliary of antitrust enforcement that largely dealt with unfair methods of competition. The industrial elite were unpleasantly surprised by the antitrust policies pursued by the Department of Justice under Hoover and swapped allegiance to the Democrats in the hope of some form of relief. They found sympathetic voices in the form of Raymond Moley, of the Brains Trust, and the businessman Bernard Baruch, who was a key

²²³ For this identification of the three Supreme Court judges see Marvin Wall, 'Real Life Figures Painted Into Murals', *Justice News*, 1 (Aug. 1978), p. 2.

²²⁴ On the relative ineffectiveness of these two pieces of legislation see Gabriel Kolko, *The Triumph of Conservatism: A Reinterpretation of American History* (New York: The Free Press, 1963), pp. 133-138 and pp. 261-268.

figure in the drafting of the NIRA.²²⁵ Rallied against them were the disciples of Brandeis and Felix Frankfurter who 'were clustered in key positions in New Deal agencies and in the Justice Department'.²²⁶

When Biddle included 'trust-busting' in his 'Proposed Themes ...' the corporatists were in the ascendancy and American industry was given a free reign to police itself under the NIRA with federal protection from antitrust legislation.²²⁷ Yet by the time that Poor began his mural on the subject the Supreme Court had dismantled the NIRA, corporate led recovery seemed a chimera, and Brandeis and the trustbusters once again had the president's ear. Irons makes it clear that throughout the period of the NIRA lawyers in the Antitrust Division of the Justice Department were profoundly antagonistic to their counterparts on the NRA, 'Both from ideological conviction and from resentment that suspension of the antitrust laws had dried up their case load'.²²⁸ Harold M. Stephens, Assistant Attorney General in the Antitrust Division, had solicited comments from his team of lawyers after the passage of the NIRA and most had reservations about its constitutionality 'because the NIRA stretched the reach of the commerce clause far beyond the limits set by the Supreme Court'.²²⁹ Due to the expansionist policies of Cummings it was nevertheless these lawyers who were assigned to defend the NIRA against the Supreme Court, and the defeat of the government in the 'hot oil' cases, and then with the *Schechter* decision, was seen by the lawyers of the NRA as 'bungling at best and sabotage at worst'.²³⁰ As for the Supreme Court, their unanimous decision in overturning the NIRA on 'Black Monday' might seem to suggest that all nine of them, including 'the dissenting liberals' were anti-corporatist and pleased to see the back of the NIRA. Yet this decision masked a spectrum of differences on the Court

²²⁵ Baruch had run the War Industries Board (WIB) during World War I, the blueprint for the NIRA, and he was a major influence on Donald Richberg who had been the army representative on the WIB and was the person in charge of the NRA.

²²⁶ Irons, *op. cit.*, p. 20.

²²⁷ In his 'Proposed Themes ...' Biddle demonstrated his sympathy for the NIRA by pitting the NRA code agreements on minimum-wages against the Supreme Court's decision in *Adkins v. Children's Hospital*, in 1923, when the majority struck down this minimum-wage legislation on the basis that it violated freedom of contract. Biddle, *op. cit.*, 1934, no pagination.

²²⁸ Irons, *op. cit.*, 1982, p. 41.

²²⁹ *Ibid.*

²³⁰ *Ibid.*

and the Justices were temporarily aligned simply due to the fact that the legislation was poorly conceived and the defence mismanaged.

Lastly, to the left of the *Antitrust* panel Poor painted *Kidnapping* and the *Federal Bureau of Investigation*. The former, above the door, is self-explanatory and little more than a dramatisation of a kidnapping and is included because of certain high profile cases at the time and because it was designated as one of the kinds of crime that the FBI was specifically charged with combating.²³¹ When Roosevelt became president the FBI was a small and largely unknown division within the Justice Department run by J. Edgar Hoover, who it was thought would be fired, but with the appointment of Cummings, a renowned partisan of Hoover, he kept his job.²³² According to Kenneth O'Reilly, the president and Cummings exploited the highly sensationalised crimes of the post-Prohibition era to advance specific legislative objectives, and such moves perfectly suited Hoover who was keen to use the increased resources to put federal crime control on a more scientific basis.²³³ He was a pioneer in this sphere and the Identification Division was formed in 1924 from a nucleus of some 800,000 fingerprint cards maintained by twenty-five staff at Leavenworth prison. He finally got a laboratory in 1932 with one scientist and a motley assortment of instruments.²³⁴ This is the aspect of FBI work that Poor chose to depict in his mural and accordingly he painted Edwin R. Donaldson, the first FBI chemist, on the right; Charles A. Appel, who headed the first FBI laboratory, at the

²³¹ The most high profile case of kidnapping at this time was that of Charles Lindbergh's infant son and the aeroplane in the background could be read as a reference to this incident.

²³² The FBI was originally called the Bureau of Investigation in the Justice Department and was created by an executive order on the 16 March 1909, twelve days after the inauguration of President Taft. With the reorganisation of 1933 Cummings renamed it the Division of Investigation and it finally became the FBI in 1935. It was Stone who chose Hoover from the staff to become its director in 1924.

²³³ The early 1930s threw up an abundance of opportunities with the emergence of notorious criminals such as George 'Machine Gun' Kelly, Bonny Parker and Clyde Barrow, Charles 'Pretty Boy' Floyd, Alvin 'Old Creepy' Karpis, and Kate 'Ma' Barker and her son Fred. Yet, perhaps the most notorious was John Dillinger who robbed ten banks between May and October 1933 and the bureau was brought in after he escaped from Crown Point County jail in Indiana and fled by stolen car to Chicago. Roosevelt responded by highlighting crime control in his annual address to Congress on 3 January 1934 arguing that such activities 'call on the strong arm of Government for their immediate suppression' – thereby allowing the greater federalisation of police powers to pass through Congress. Kenneth O'Reilly, 'A New Deal for the FBI: The Roosevelt Administration, Crime Control, and National Security', *The Journal of American History* (Dec. 1982), p. 642.

²³⁴ Huston, *op. cit.*, p. 227.

top; and Donald J. Parson, who was Assistant Director of the laboratory as well as Assistant to Hoover, all busily engaged in the new scientific methods of crime detection.²³⁵

However, just as Poor was putting the finishing touches to his mural scheme in August 1936 the FBI was stepping up its covert war against the left in America, a category which, under the watchful eye of Hoover would even include some of the more liberal figures within the New Deal coalition. The Roosevelt administration had been requesting information from the bureau since at least August 1933 when its agents had been asked to investigate a milk strike in New York City, and these domestic intelligence operations were legitimised in May 1934 when Roosevelt gave the order to investigate the Nazi movement at home. By 1935 the White House had begun to use the FBI to provide information on the president's critics and the net was expanded further in August 1936 to include the subversive activities of Communists.²³⁶ Hoover took Roosevelt's requests as a green light to amass as much information as possible so that in a memorandum dated 5 September 1936 he ordered all field officers 'to obtain from all possible sources information concerning subversive activities on the part of any organisation or individual, regardless of the source from which this information is received'.²³⁷ Two weeks after this directive Hoover was instructed to investigate the political strategy of Earl Browder, head of the CPUSA, and in 1937 and 1938 Roosevelt was provided with reports on the political activities of American Youth Congress activists and WPA employees, as well as a Workers' Alliance campaign to organise national demonstrations over unemployment.²³⁸ As O'Reilly makes clear, whilst the FBI's public relations machinery had been created to make the New Deal crime-control program more attractive, 'little else about the Roosevelt administration pleased the conservative FBI director', and in the postwar period 'FBI officials defined "Communism" or

²³⁵ Marvin Wall, 'Former FBI Chemist, Lab Chief on the Wall', *Justice News*, 1 (Aug. 1978), p. 2.

²³⁶ O'Reilly, *op. cit.*, p. 646.

²³⁷ *Ibid.*, p. 647.

²³⁸ *Ibid.* The American Youth Congress and the Workers' Alliance were CPUSA fronts. See Harvey Klehr, *The Heyday of American Communism* (New York: Basic Books, 1984), pp. 294-303.

“subversion” broadly enough to encompass even the New Deal’s modest demands for social and economic reform’.²³⁹

Poor therefore painted the ideological veneer behind which Hoover was conducting his campaign against ‘subversives’ who supposedly threatened the internal security of the country, although it must be added that there was no way that the artist could have known about these activities.²⁴⁰ As with the other panels in his fresco series on the fifth floor Poor, in extremely difficult, condensed, and concave spaces, fulfilled his brief – dramatising certain activities of the Justice Department. Indeed, in *The New York Times* Jewell complemented the artist on the fact that in these murals he demonstrated ‘that an area of but a few square feet may be packed with significance’.²⁴¹ Despite the predictable response from the conservative press which condemned their modernity and Poor’s refusal to employ the usual allegorical symbols to depict justice, the murals were largely uncontroversial.²⁴² After the fracas with Biddle even the Commission of Fine Arts had little to say on the subject.²⁴³ Whilst these frescos certainly promote the idea that ‘justice, especially as envisaged and reformed by the New Deal, will prevail’, there is little in them to suggest a political reading to the left of this liberal New Deal position.²⁴⁴ This comes as no great surprise as Poor was adamant in his belief that art and politics were separate spheres and, unlike Biddle, he was not involved in the various organisations of the

²³⁹ This list would include Frankfurter, Eleanor Roosevelt, and even Senator Claude Pepper who sought to legislate the federal art projects into a permanent bureaucracy. *Ibid*, pp. 657-658.

²⁴⁰ O’Reilly is also keen to distance the New Dealers from Hoover’s reactionary activities and argues that the bureaucratic changes that served to enhance the FBI’s independent role ‘can be more precisely traced to the Roosevelt administration’s inability to control resourceful and highly motivated FBI officials who sought far different and more conservative political objectives’. *Ibid*, p. 639.

²⁴¹ Jewell, *op. cit.*, 1936, page unknown.

²⁴² The already-quoted report in *The Buffalo Evening News* berated the fact that rather than depicting ‘the beauties of even-handed justice with gently-balanced scales held in the hands of a blind-folded goddess’, in his *Release from Prison* panel Poor instead painted a ‘thug in an amorous embrace with a gun moll’, an opposition which succinctly captures academic and conservative anxieties around the depiction of contemporary women in public art. Anonymous, ‘The Place of Justice is a Hallowed Place’, *The Buffalo Evening News*, 8 June 1936, page unknown.

²⁴³ The Commission’s only criticisms concerned the relationship between the colour in the sketches and that of the architectural environment, and certain ‘infelicities in line and detail’, which ‘would be most unfortunate at full size’. They therefore insisted that ‘Further studies of these compositions should be made’. Moore – Rowan, 26 November 1935, NARA, 121/1.

²⁴⁴ Park and Markowitz, *op. cit.*, 1984, p. 34.

artistic left.²⁴⁵ Richard Porter said of him: ‘As an individual, he was deeply moved and disturbed by war, poverty, and social injustice, and these he fought against as a private citizen’ yet ‘for him such issues were not proper subjects for the artist, whose function was to seek out and recreate the beauty of nature which endures in spite of man’s folly’.²⁴⁶ He worked in many media and was a renowned ceramicist, and for this reason it is fair to speculate that when Robinson, another close friend, published a letter in the *Liberator*, in 1922, it was in fact Poor that he was counterpoising himself to:

I should like to see human life in more appropriate relation to its surroundings, so richly furnished by nature. Consequently, I make cartoons ridiculing the famous twins, Folly and Oppression. However, it’s quite possible for an artist to devote his life to painting landscapes and still-life, or decorating china, and yet entertain a violent dislike for our political and social system.²⁴⁷

Great Codifiers of the Law

Robinson’s mural scheme, the *Great Codifiers of the Law*, painted with tempera on canvas for the four walls of the entrance lobby staircase leading to the Great Hall, was one of the most prestigious of the mural schemes in the Justice building, both in terms of location; size; and the consequent financial reward – the artist received \$20,000 for his panels which cover 1,025 square feet. It is best understood as an attempt at presenting United States constitutional law as the synthesis of both ancient and Anglo-Saxon models which, as Biddle stated in his ‘Proposed Themes ...’, were the ‘two main arteries from which our conception of

²⁴⁵ Indeed Poor’s opinions on the relationship between art, politics, and propaganda were extremely close to those of Bruce, a fact demonstrated by the latter’s decision to publish Poor’s letter on art and ideology in the *Bulletin* as part of the brief for the Social Security competition, which is discussed in greater detail in chapter four. Henry Varnum Poor, ‘A Letter to Edward Bruce from Henry Varnum Poor’, Treasury Section of Painting and Sculpture, *Bulletin*, no. 21 (Mar. 1940), p. 4.

²⁴⁶ Richard Porter, ‘Oil Paintings’, Harold E. Dickson and Richard Porter (eds.), *Henry Varnum Poor, 1887-1970* (Pennsylvania: Pennsylvania State University Museum of Art, 1983), p. 16.

²⁴⁷ Boardman Robinson, ‘A Letter from Boardman Robinson’, *The Liberator*, vol. 5, no. 7 (July 1922), p. 29. Poor’s designs for the Justice building were originally meant to be executed in ceramic, and he only changed his mind at the last minute, much to the annoyance of Bruce and Rowan. Bruce – Rowan, 15 November 1935. AAA, D88.

law has grown'.²⁴⁸ Once this was agreed it just became a matter of hammering out which figures and scenes would make the final eighteen, and which ones would be dropped, to best construct a developmental history of justice that culminated in America. The series begins with three theocratic law givers, *Menes, Moses, and Hammurabi* (fig. 13). These form a triptych at one end of the lobby opposite a Greco-Roman group representing *Papinian, Solon, and Justinian* (fig. 14) at the other. Around these, on each side, are grouped *Sir Edward Coke* (fig. 15), the signing of the *Constitution* (fig. 16), the signing of the *Magna Charta* (fig. 17), *Blackstone* (fig. 18), *John Marshall* (fig. 19), and *Chancellor Kent* (fig. 20). The panels opposite depict *Thomas Aquinas* (fig. 21), *Justice Holmes* (fig. 22), *Grotius* (fig. 23), and *Vitoria* (fig. 24). Finally the two small rotundas adjoining the staircase contain smaller panels depicting *Socrates* (fig. 25) in one and *Jesus* (fig. 26) in the other. In making this selection Robinson was assisted by Stone and Roscoe Pound, professor of law at Harvard.

Robinson was a renowned radical who had consolidated his reputation working as a cartoonist and artist editor for *The Masses, The Liberator, and New Masses*. Before that he had been a field worker with the Association for the Improvement of the Condition of the Poor, an experience which he acknowledged 'made a socialist of me, as it did all of those in our group who had a grain of sense', and had travelled around Eastern Europe with John Reed during 1916, and illustrated Reed's subsequent book *The War in Eastern Europe*.²⁴⁹ Yet despite this radicalism Robinson remained a committed Christian and many of his cartoons for *The Masses* used a religious iconography, in particular the peace-preaching figure of Christ, to expose the bankruptcy of the competing European nationalisms that each sought to claim religion for their own belligerent ends e.g. *The Deserter* (fig. 27) of July 1916 which shows him up against a firing squad for his pacifist beliefs.²⁵⁰

²⁴⁸ Biddle, *op. cit.*, 1934, no pagination.

²⁴⁹ The best published source on Robinson, which contains a comprehensive chronology of his life, is Albert Christ-Janer, *Boardman Robinson* (Chicago: University of Chicago Press, 1946).

²⁵⁰ Robinson was by far from unique here as many contemporary radicals emphasised a reading of Christ as a pacifist or carpenter i.e. workman, to create an intellectual distinction between Christianity as a religion, with which they were broadly sympathetic, and the church as its earthly embodiment, which they wholeheartedly rejected. See Leslie Fishbein, *Rebels in Bohemia: The Radicals of The Masses, 1911-1917* (North Carolina: University of North Carolina Press, 1982), pp. 113-126.

According to Albert Christ-Janer, Robinson only escaped indictment during the infamous *The Masses* trial due to the religiosity of such images, and he was to continue in a similar vein in the work he produced for *The Liberator*, making drawings of biblical stories in an attempt to invest them with a contemporary significance.²⁵¹ So whilst the subject matter, *The Great Codifiers of the Law*, seemed to provide little scope for a radical iconographic approach, the inclusion of Jesus Christ, with all the connotations that this subject had assumed in Robinson's cartoon work, represented perhaps the most politicised, and certainly personal, note introduced by the artist into his mural cycle.²⁵² That such a reading was ambivalent, or at the very least muted, was demonstrated by the fact that the Commission had little problem with the mural scheme, and the Section were only too happy to publicise Robinson's radical commitments in the press release celebrating its completion in November 1937.²⁵³

The Victory and the Defeat of Justice

If Robinson included Holmes in his mural sequence, thereby paying homage to one the more liberal members of the Supreme Court, then Kroll made a similar gesture with his depiction of Stone in one of the two panels he was commissioned to produce for the Attorney General's antechamber.²⁵⁴ In his 'Proposed Themes ...'

²⁵¹ *Ibid*, p. 30.

²⁵² Although it should also be noted that the bearded farmer in the lower right of the panel depicting the *Magna Charta* is a self-portrait.

²⁵³ The Commission, described by Robinson as 'a bunch of old nannies', merely insisted that 'the artist try a somewhat smaller scale in place as the architectural detail is rather fine and slender and the details in the figure painting must not be too crude', although 'With the exception of this question raised, sketches approved'. Robinson – Rowan, 14 December 1935, NARA, 121/133, and Moore – Rowan, 26 November 1935, NARA, 121/133. The Section disagreed and, after the dispute over the Biddle commission, had the confidence to give the artist the go-ahead to proceed with the designs in the scale in which they were originally conceived. Rowan – Bruce, 29 December 1935, AAA, D88. In the press release the Section publicised the fact that after returning to New York from Europe Robinson worked for the Association for the Improvement of the Poor, during which time 'he drew constantly collecting an immense amount of first-hand data of social conditions', an experience which determined his 'social point of view' and set him in good stead when he joined the 'staff of *The Masses* and of *The Liberator*'. Treasury Section of Painting and Sculpture, Press Release, 18 November 1937.

²⁵⁴ Biddle had also included Holmes in his original choice of 'outstanding American figures in the growth of our law' for the staircase leading from the entrance lobby. Biddle, *op. cit.*, 1934, no pagination.

Biddle had suggested that the two lunettes facing opposite each other at either end of this room be 'devoted antithetically to Justice and the administration of Justice'. He proposed that 'The panel symbolising Justice might be devoted to the life of a statute: An economic condition, lobbying, a scene in the House of Representatives or the Senate, the signing of the statute by the President, the upholding of the statute in court'; and that 'symbolising the maladministration of Justice could represent such extra legal activities as the Vigilantes and the Ku Klux Klan; or could contain symbolic figures of a suppliant, crushed under legal tomes and documents, or wrapped about and upset by the technical intricacy of the law'.²⁵⁵ Yet instead of depicting actual scenes from American legal practise Kroll instead chose to treat these themes allegorically, painting the two panels, both oil on canvas, entitled *The Victory of Justice* (fig. 28), and its antithesis, *The Defeat of Justice* (fig.29), for which he received \$6,000.²⁵⁶ However, his designs were not a return to the Beaux-Arts style defended so resolutely by the Commission of Fine Arts but rather, as Kroll described them, they were: '... two sketches, which while modern in appearance, have an allegorical idea in them'.²⁵⁷

In the *Victory* panel Kroll mixed the contemporary with the allegorical to create an Arcadian idyll that fused both town and countryside. On the left he painted a furrowed field being worked by two horses and two agricultural labourers, the one in the foreground naked to the waist and scattering seed; to the right an allegorical figure of Justice dressed in a classical costume next to Justice Stone in his robes giving a helping hand to a worker, behind which stand a mother and child, and an African-American also waiting for assistance; to the right of the agricultural landscape there is a factory scene, signalled by an abundance of smokestacks; in the far-right foreground there are two youths, dressed in contemporary clothes, discussing a text. Another youth, to their left, watches Stone give a lift to the underprivileged; behind which we see a rather classical looking building under

²⁵⁵ *Ibid.*

²⁵⁶ Kroll changed the titles he was given – 'The Victory of the Law' and 'The Defeat of the Law' – due to the fact that: 'Laws, perfectly legal ones as in Germany now, can be perfectly lousy too. We may if we try even find some here which are not too hot'. Kroll – Bruce, 12 May 1935, NARA, 121/122.

²⁵⁷ Kroll – Rowan, 29 October 1935, NARA, 121/133.

construction with two workers looking at drawings that refer both to New Deal planning and federal construction. This figurative arrangement finds its antithesis in the opposite panel, the *Defeat*, in which the figure of Justice is attacked by two uniformed and fascistic looking henchmen, one of which seems to be destroying a document of some sort – perhaps the plans to a more equitable society in which justice will prevail; in her place stands an allegorical black robed male holding a mask of civility to hide the more sinister face underneath; behind, and to his right, a muscular man with a naked torso has his back to us whilst he cracks a whip to turn back the underprivileged figures who, with Stone’s assistance, were ascending into the foreground; the youths are scattered in disarray; and the ordered and efficient agricultural and industrial landscape is replaced with a barren and scared one marked only with tree stumps and a burnt-out building.

That the contrasting panels served an ideological purpose was made explicit by Kroll when he wrote of them that: ‘The idea is justice through law, leading the people to a more abundant life’, which was for him, ‘in a way, a graphic statement of the philosophy of the present administration’.²⁵⁸ As such, Kroll’s murals were similar to Biddle’s on the fifth floor stairwell, although by counterpoising ‘brute force and fear as the dominant motif’ in the *Defeat* panel, to the ‘peaceful and constructive activities’ of the *Victory* one, the artist dramatised the differences far more successfully than Biddle managed to do in his own mural sequence.²⁵⁹ For Kroll ‘the import and the feeling’ he hoped to convey in the second panel ‘is that *The Defeat of Justice* is an event which must never come about. Any attorney general who sees this mural will immediately be spurred on to lift up this particularly lovely symbol which I used for the “defeat”. She is a magnificent gal for whom it would be a pleasure to fight’.²⁶⁰ The painting of the allegorical figure of Justice as a ‘gal’, with all the contemporary connotations that such an image evoked, was clearly problematic for Moore who insisted that ‘the central figure of Justice should be given emphasis as a symbol’, more in line with her depiction in the

²⁵⁸ *Ibid.*

²⁵⁹ *Ibid.*

²⁶⁰ Kroll – Rowan, 21 February 1936, NARA, 121/133.

Victory panel.²⁶¹ Despite these arguments over the relative uses and abuses of the allegorical, Kroll's murals foregrounded the role of the Supreme Court in achieving domestic reform more effectively than any other mural sequence in the building. He chose Stone for the role of the liberal and benevolent Justice 'giving a helping hand to the worker' because, according to Kroll, he had 'a very solid, strong and intelligent face without its being too picturesque as in Brandeis, Holmes or Hughes', and besides which, he was the only Justice that he had met.²⁶² Stone modelled for Kroll; the Justice approved of the results; and the press picked up on the likeness with headlines such as 'Justice Stone is Seen Helping Needy in Mural'.²⁶³

Kroll was a renowned academic painter who had won every prize available at the National Academy of Design in New York and had been President of the American Society of Painters, Sculptors, and Gravers from 1931-35.²⁶⁴ Yet the type of contemporary classicism employed by the artist in these two lunettes was firmly endorsed by the Section, and the relevant figures within the Justice Department, whilst it was roundly condemned by the Commission.²⁶⁵ Clearly Kroll had employed these means to communicate 'a social faith' perhaps not shared by the members of the Commission and, as such, these disagreements were as much political as they were aesthetic. Apart from a few black schoolchildren in Shimin's competition mural, which I will look at later, the only other image of an African-American in the Justice building is provided by Kroll, which is quite strange considering the thematic

²⁶¹ Moore – Rowan, 4 June 1936, NARA, 121/133.

²⁶² Kroll – Rowan, 9 January 1936, NARA, 121/133.

²⁶³ Anonymous, 'Justice Stone is Seen Helping Needy in Mural', *The New York Times*, 25 February 1936, page unknown. For evidence of Stone's enthusiasm see Stone – Bruce, 30 January 1936, AAA, D89. Stone's approval of the mural may also have been influenced by the fact that Kroll made the Justice look younger so that 'he should look strong enough to give the worker who is a husky, a bit of a pull with the hand he is clasping'. Kroll – Rowan, 4 December 1936, NARA, 121/133.

²⁶⁴ Treasury Section of Painting and Sculpture, *op. cit.*, 1938, p. 23.

²⁶⁵ Rowan wrote to the artist informing him that his Justice panels were 'in our estimation the most monumental work which you have yet achieved in your career and it has the approval of every member of the Section as well as that of the Attorney General'. Rowan – Kroll, 1 June 1936, NARA, 121/133. The only criticism that Cummings had with the work was Kroll's proposed inclusion of doves in the *Victory* panel – 'extraneous subject matter which can well be omitted' – and they subsequently were. Rowan – Simon, 21 February 1936, NARA, 121/133. As for the Commission, as well as Moore being anxious about the depiction of a contemporary woman as the justice figure in the second panel, Savage thought it 'unpleasant and disturbing', and that 'those qualities arise from weakness due to spotty and scattered interest and lack of unity'. Moore – Rowan, 4 June 1936, NARA, 121/133.

scope of the decorative scheme – ‘the History of Justice, with special emphasis on its development in the United States’. As mentioned earlier, Biddle had suggested the inclusion of ‘the Scottsboro trial’ and a ‘lynching scene’ within his ‘Proposed Themes ...’, although in highlighting the continued persistence of racial inequality such topics were quite clearly too controversial to actually make it on to the walls of the Justice Department. Yet, as part of his original outline Biddle had also included ‘the freeing of the slaves’, on the basis that ‘The civil war and consequent constitutional amendments abolishing slavery and giving the negro civic and political rights constitute a major epoch in American history’.²⁶⁶ Firmly established in the past, as an historical event, such a proposal was nowhere near as controversial as Biddle’s other themes concerning the issue of race in contemporary America. This subject, as well as *Westward Movement: Justice of the Plains*, were designated for either end of the fifth floor south central elevator lobby and were assigned to Curry.²⁶⁷

Westward Movement and Law Versus Mob Rule

Curry had established his anti-racist credentials by contributing three works to the 1935 NAACP antilynching show discussed above, one of which, the lithograph entitled *The Fugitive* (fig. 30), which depicted a black man hiding from a lynch mob, was used to illustrate the cover of the exhibition catalogue.²⁶⁸ Yet despite his obvious sympathy for the plight of black Americans, his interpretation of the *Freeing of the Slaves* (fig. 31) was deemed far too controversial by the Section administrators, the Commission of Fine Arts, and staff in the Justice Department. This was because Curry drew upon the religiosity of his earlier images such as the lithograph *Mississippi Noah* (fig. 32) of 1932 to produce a somewhat mawkish and

²⁶⁶ Biddle, *op. cit.*, 1934, no pagination.

²⁶⁷ Curry’s subject matter was originally given as: ‘first the Flight Across the Continent, representing the movement of the population from the Atlantic to the Pacific Coast, bringing law and order in their wake, and, second, the Freedom of the Slaves during the Civil War, and the welcoming of the hordes of people from across the Atlantic, thereby producing the Melting-Pot, and its effect on law and order’. Rowan – Andretta, 30 October 1935, NARA, 121/133.

²⁶⁸ The other works exhibited by him in *An Art Commentary on Lynching* were *Manhunt*, of 1931, and *The Fugitive*, of 1935, the oil painting on which the lithograph was based.

highly sentimental image of what his critics described as a ‘hallelujah’ pose for the central character.²⁶⁹ The problem, as Moore put it, was that ‘The Emancipation sketches seem questionable as being violent expressions of emotions now undergoing the scrutiny of historical students’ – meaning that such stereotypical images of black spirituality had been challenged by a younger generation of black critics.²⁷⁰ As such, Moore suggested: ‘May we not leave the treatment of this subject where Lincoln left it in his Second Inaugural inscribed on the walls of the Lincoln Memorial’, and if the subject had to be dealt with in the Justice building then ‘a less vociferous expression of the event, and a study of its resulting benefits would seem to offer the artist a larger field and a greater scope for his abilities’.²⁷¹ Andretta thought that the ‘Halleluiah’ interpretation had much less to do with Justice than say an interpretation of the *Dred Scott* decision, and this was a view shared by the Director of Procurement.²⁷² With critics arranged on all sides Curry decided to give up on the idea altogether and the subject of black emancipation never made it on to the walls of the Justice building and the thorny issue of southern race relations was completely elided.²⁷³

Hence Shimin’s schoolchildren and Kroll’s black worker were the only depictions of African-Americans in the Justice Department and the subject of slavery remained conspicuous by its absence. Yet by replacing the *Freeing of the Slaves* with the subject of *Law Versus Mob Rule* (fig. 33) the subject of lynching, part of Biddle’s original proposal, was finally painted, even if this was in rather muted fashion. I say muted because the half-naked figure bent over and appealing to the judge and his armed guard for protection from the baying mob ready to string

²⁶⁹ Even the figure in *The Fugitive* is imbued with a religious symbolism in that the outstretched arms and body of the figure pressed against the tree invoke the Crucifixion. See Matthew Baigell, ‘The Relevancy of Curry’s Paintings of Black Freedom’, *Kansas Quarterly*, vol. 2, no. 4 (Fall 1970), p. 21 and Robert L. Gambone, ‘The Use of Religious Motifs in Curry’s Art’, Patricia Junker (ed.), *John Stewart Curry: Inventing the Middle West* (New York: Hudson Hills Press, 1998), pp. 139-140. Although it must be added that Curry also used similar poses of supplication for white figures in his paintings as well e.g. *Gospel Train* of 1929.

²⁷⁰ Moore – Rowan, 30 March 1936, NARA, 121/133. These issues are contextualised further in M. Sue Kendall, ‘An Artist on the Border’, Junker (ed.), *op. cit.*, pp. 173-178.

²⁷¹ Moore – Rowan, 30 March 1936, NARA, 121/133.

²⁷² Hopper – Watson, 3 February 1936, NARA, 121/133, and Peoples – Curry, 9 April 1936, NARA, 121/133.

²⁷³ Curry’s efforts on these designs were not wasted, however, as he was later commissioned to paint the mural in Law School Library at the University of Wisconsin in Madison in 1942.

him up is white. By linking lynching to the Scottsboro Boys a part of the decorative scheme for the library in his 'Proposed Themes ...' Biddle clearly read this subject in racial terms and whilst whites were sometimes the subject of mob justice the statistics clearly indicate that lynching was used disproportionately against African-Americans and other ethnic immigrants as a brutal form of social control.²⁷⁴ Any critical edge to the image was further compromised by Curry's inclusion of the symbolic 'death's head' on the figure wielding the rope. The Section were dissatisfied with 'the arbitrary introduction of the symbolic in an otherwise realistic theme', and Rowan diplomatically appealed to Curry to alter this detail by quoting the similar views of Thomas Craven, the public champion of Curry and the other Regionalists.²⁷⁵ This strategy was obviously successful as Curry later obscured the contentious 'death's head' by placing a red bandana over it, leaving just the eyes visible, when he was back in the capital to oversee the installation of his murals in the Interior Department building in 1938.²⁷⁶

If his designs for the *Freeing of the Slaves* had to be abandoned due to the level of criticism that they received from those asked to pass judgement on them, then Curry had a similarly bumpy ride with *Westward Movement* (fig. 34), although he finally saw this mural through to completion. As the title suggests Curry's second panel depicted the "'Westward" Migration which has its foundation in the historic expansion of the nation from the eastern seaboard across an entire continent'.²⁷⁷ Yet after reviewing the preparatory sketches the Section administrators were critical of what they perceived as the banality of the work which was well below the standard that they expected of him.²⁷⁸ His studies for this lunette were further criticised for

²⁷⁴ For a statistical breakdown see fn. 39.

²⁷⁵ Rowan – Curry, 12 May 1937, NARA, 121/133, and Rowan – Curry, 4 April 1937, AAA, D82. Rowan prefaced his criticisms of this detail with the comment that Craven 'was very much impressed with your work and regarded: "The Trek" as one of the best things that have been done under our supervision'. It was Craven who had helped launch the Regionalists into public prominence with his *Time* magazine cover story published in December 1934.

²⁷⁶ Curry also placed a baton in the left hand of the figure that is fourth from the back of the trailing mob so as to avoid any misconception that it was a raised fist symbolising Communist solidarity. Laurence E. Schmeckebier, *John Steuart Curry's Pageant of America* (New York: American Artists Group, 1943), p. 289.

²⁷⁷ *Ibid*, p. 284.

²⁷⁸ Rowan – Curry, 22 August 1935, NARA, 121/133, and Rowan – Curry, 14 October 1935, NARA, 121/133.

their perceived irrelevance to their architectural setting, in that ‘these designs in no way reflect any phase of Justice’, and ‘the Department of Justice people feel that murals in their building should definitely deal with some phase of the administration of Justice’.²⁷⁹ Seemingly unbothered by such criticisms Curry used his first major Section commission in the capital to paint a foundational pioneer myth that, as Laurence E. Schmeckebier noted, had been ‘a source of artistic inspiration since Colonial times’, and it was left to Andretta to somehow anchor the narrative of the mural within the historical scope of the Department of Justice.²⁸⁰ In a letter to Watson, the Section administrator Inslee Hopper quoted Andretta’s interpretation of Curry’s subject matter: ‘For the movement of the people westward and the justice of the plains he said that his interpretation was the Pioneer’s movement westward to escape law, finding the need for it when the renegades became active, establishment of courts in the country stores presided over by the self appointed justices of the peace’.²⁸¹ By suggesting that ‘after these courts were no longer adequate, the vigilantes sprang up and established the law of the hangman’s tree, and out of the inadequacies the people felt the need for the modern law courts’, he also provided Curry with the material for his other panel once the artist had decided to abandon the subject of the *Freeing of the Slaves*.

As ‘an old fashioned, Lincoln-inspired Republican’ Curry held little sympathy for the New Deal, even if he publicly celebrated the federal art projects as a move in the right direction.²⁸² As such, he was better suited to the task of celebrating pivotal moments from American history rather than the achievements of the current administration, as many of his contemporaries chose to do in their Justice commissions. Yet, as Karal Ann Marling has pointed out, *Westward Movement* had a contemporary resonance in terms of the dustbowl; the collapse of commodity

²⁷⁹ *Ibid* and Rowan – Curry, 28 October 1935, NARA, 121/133.

²⁸⁰ Curry even introduced a personal note, and signalled his sympathy with the pioneers, by including a self-portrait in the far right of the panel in the character with a corn cob pipe.

²⁸¹ Hopper – Watson, 3 February 1936, NARA, 121/133.

²⁸² Thomas Hart Benton, ‘John Curry’, Patricia Junker (ed.), *op. cit.*, p. 74. The essay originally appeared in *University of Kansas City Review*, vol. 13, no. 2 (Winter 1946), pp. 18-21. His Republicanism; his sympathy for the plight of African-Americans; and their supposed spirituality all coalesce in his later painting of 1940, *Hoover and the Flood*. For an example of Curry’s praise for the New Deal art projects see his address to the Madison Art Association of 19 January 1937, printed in Schmeckebier, *op. cit.*, pp. 290-299.

prices in agricultural sector; and the subsequent migration of farm labour in the pursuit of work.²⁸³ Whilst Andretta had successfully given the two panels a thematic unity that clearly rooted them in the past, even *Law Versus Mob Rule* had a muted contemporary significance in that lynching had not gone away and it was still used in the South to bolster the semi-feudal agricultural economy enjoyed by the planter aristocracy. Despite their initial reservations about the preparatory sketches, and the inclusion of the death's head in *Law Versus Mob Rule*, the Section were more than happy with the finished panels which were completed by April 1937, at which point Curry received the last instalment of the \$5,000 he was awarded for the commission. Sterne was not so fortunate and had to wait two years for the final payment of the \$20,000 that he was due for the twenty panels he finished in 1939 to decorate the library. Despite the fact that he was a close friend, and artistic mentor, of Bruce, and one of the most successful artists of his generation, the panel he painted entitled *Cruelty: Trial by Ordeal* was to bring Sterne, and the Section, into a conflict with the Catholic Church that would not be finally resolved until January 1941 when the panels, all oil on board, were finally passed for installation.²⁸⁴

The Search for Truth

That Sterne was sympathetic to the left was demonstrated by the fact that he had contributed two designs – *Salome* and *Female Figures* (fig. 35) – to *The Masses* in April 1917, although it should be added that both were simple decorative outline drawings on a plain background and completely devoid of any political content. Yet whilst Sterne's original theme may have been 'social legislation, illustrated by famous legal cases in American history', including examples such as 'where the Supreme Court restrained the Government' in such matters, as well as the more radical themes of Union Square, the Scottsboro trial, and a lynching scene, he

²⁸³ Karal Ann Marling, *Wall-to-Wall America: A Cultural History of Post Office Murals in the Great Depression* (Minnesota: University of Minnesota Press, 1982), pp. 133-136.

²⁸⁴ His reputation was such that 'Even during a depression year he earned \$60,000', and he was the first American to be given a one-man show at MOMA in 1933. Charlotte Leon Mayerson (ed.), *Shadow and Light: The Life, Friends, and Opinions of Maurice Sterne* (New York: Harcourt, Brace, and World, Inc., 1965), p. xxviii and p. xxix.

rejected such potentially controversial subject matter for his own – ‘The Search for Truth’.²⁸⁵ As a result, the politically incisive themes suggested by Biddle were jettisoned for a more symbolic approach that in its deployment of the nude – there is at least one in practically every panel – had a greater affinity to the Jennewein sculptures that preceded Section involvement in the building, than they did any iconographic scheme rooted in the actual struggles involving the Justice Department and the judiciary, or the subjects that preoccupied artists on the left at this time. Sterne was adamant that his ‘subject will be treated symbolically not allegorically or realistically. I dislike the cheese-cloth variety of the one and grim sordidness of the other’.²⁸⁶ And whilst Rowan claimed that ‘In view of the importance of this commission and the distinguished position which the artist holds among contemporary painters, it has been thought advisable to allow the artist a goodly amount of freedom in solving his problems’, there is every reason to believe that in this case a symbolic approach was perhaps more palatable to the Section staff who consistently shied away from potential controversy.²⁸⁷ Kroll had demonstrated that such an approach could be successfully employed in the production of New Deal propaganda with his studies for the two lunettes in the offices of the Attorney General.²⁸⁸

Yet, whilst the Section staff may have been wary about the more contentious aspects of Biddle’s ‘Proposed Themes ...’ they were not too keen on Sterne’s alternative scheme. Rowan wrote to Bruce of his meeting with Cummings who ‘stressed that we should emphasise less morbid material, feeling that Justice should be represented in a more likely vein, stressing its humanitarian and social approach’, although ‘he was especially amused at Sterne’s letter, the outline of subject matter of which makes me a little sick’.²⁸⁹ The irony was that Sterne’s mural scheme, or at

²⁸⁵ Biddle, *op. cit.*, 1934, no pagination.

²⁸⁶ Sterne – Rowan, 11 November 1935, AAA, D88.

²⁸⁷ Rowan – Andretta, 30 October 1935, NARA, 121/133.

²⁸⁸ Whilst the Section’s emphasis upon an American Scene aesthetic as the preferred mode of painting under its patronage seemed to pit a contemporary realist practise against an outmoded Beaux-Arts style that freely employed the allegorical, according to Park and Markowitz, this ‘balance between the old and the new was particularly appealing when commissioning murals in the national capital’. Park and Markowitz, *op. cit.*, 1984, p. 142.

²⁸⁹ Rowan – Bruce, 22 December 1935, AAA, D88.

least one panel of it, did cause a scandal, although it was due to its supposed attack upon Catholicism, rather than any political radicalism to be found within it, or the mural cycle as a whole. The details of this dispute around the *Cruelty* panel are well-known as it served as a potential flashpoint that Bruce thought could bring the whole Section down with it.²⁹⁰ The panel, originally entitled *Cruelty: Trial by Ordeal*, depicts a collapsed figure carrying a red-hot iron in a trial by ordeal with Pope Innocent III, surrounded by monks, blessing the figure and banning the barbaric practise. Whilst the inscription beneath the panel explained that the fourth Lateran council had prohibited trial by ordeal in 1215, Michael J. Ready, spokesman for the National Catholic Welfare Conference in Washington, argued that in Sterne's panel it instead looked as if the clerics were countenancing the punishment. After hearing of this objection the Attorney General's office suggested that the panel might be changed so as to remove any ambiguity.²⁹¹ Sterne demurred, Bruce panicked, and the walls of the library remained bare.²⁹² It was not until February 1941, after an informal committee comprising Solicitor General Francis Biddle, Justice Stone, Justice Frankfurter, and Attorney General Robert H. Jackson, had got together to resolve the matter that the panels were finally installed.²⁹³ In light of the arguments

²⁹⁰ See McKinzie, *op. cit.*, pp. 61-63 and Contreras, *op. cit.*, pp. 55-56.

²⁹¹ Edward G. Kemp (Assistant to the Attorney General) – W. E. Reynolds (Commissioner of Public Buildings of the Federal Works Agency), 29 February 1940.

²⁹² This was a problem for Sterne as he could not claim the last third of his payment until the murals were installed and he was flat broke. He refused to change the offending panel due to the fact that: 'It is not just a question of changing one panel out of twenty. I spent five years on this work and the series of twenty panels are really one organic frieze. I cannot touch a single figure without the danger of having to repaint *all* the panels'. However, he did agree to change the title of the panel from *Cruelty* to *Ordeal*, and slightly alter the legend to remove any ambiguity. Bruce's rather alarmist reaction is encapsulated in his comment that 'the political power of the church is so enormous in Washington that it would simply be impossible to put the murals up against its wishes as it could stop our program over night'. Bruce was therefore typically cautious and reluctant to publicise the installation of the mural cycle and wrote to the artist pleading that: 'If we can get the murals up. I am perfectly certain that in due course the recognition of your work will grow and you will come into your own as a result of it, but for the time being we must put them up without any fanfare and I am going to rely on you to play ball with me'. As a consequence of Bruce's position the critical reaction, including Ready's response, to the mural sequence was generated by their exhibition in New York rather than on the occasion of their actual installation in February 1941. They were shown at the Fine Arts Building on 52nd Street from 28 December 1939 through to 15 January 1940 with an admission charge of 25 cents that went to the New School for Social Research. See Mayerson (ed.), *op. cit.*, pp. 223-228.

²⁹³ Frankfurter was appointed to the Supreme Court in 1939. Jackson succeeded Frank Murphy as Attorney General in January 1940 and held the position until July 1941 after which time Biddle took

being pursued here the incident is important because it demonstrated an affinity between the Section and the more liberal elements within the justice system that were prepared to intercede on Sterne's behalf.

Sterne's stated aim was to 'find pictorial patterns of patterns of life, of human impulses and tendencies, of characteristics which to my mind are apt to interfere with an ideal function of Justice'.²⁹⁴ The mural scheme begins with the panel at the south end of the west wall and finishes all the way round with the west end of the south wall at the entrance.²⁹⁵ In this order the descriptive titles of the panels are: *Brute Force* (fig. 36) – the primitive way of settling disputes in which strength replaced justice, its animal nature symbolised by the tiger guarding its newly quarried prey; *Greed* (fig. 37) – a group throwing dice for Christ's clothes at the foot of the cross; *Ordeal* (fig. 38) – as discussed above; *Justice Tempered by Mercy* (fig. 39) – a depiction of Christ's admonition: 'he who is without sin should cast the first stone', with the action reflected in a mirror thereby implicating all of us; *Intolerance* (fig. 40) – a Roman scene in which Sibylline literature is being burned to the left of a foreground figure being covered in tar, behind which there is a dictator surrounded by Roman soldiers; *Tradition* (fig. 41) – a woman holds two babies inside a skeleton of the past, flanked with Hammurabi, Moses, and Justinian on the left, and Roman, medieval, and modern soldiers to the right, thereby depicting both constructive and destructive aspects of tradition; *Superstition* (fig. 42) – the Delphic Sibyl, who foresaw the crucifixion, is surrounded by her attendants as a human sacrifice is carried out in the background; then on the north wall, facing the entrance, an allegorical triptych with *Continuity of the Law* (fig.43) in the centre, *The Past* (fig. 44) to its left, and *The Future* (fig. 45) to its right; then on the east wall *Belief in Magic* (fig. 46) – a magician pulls a rabbit out of a hat and swings a ticker tape in the figure of a Pied Piper which entices people to follow him and give over their savings, whilst a figure draws a stock-market index on the blackboard to the left and two businessmen sit at a table in the foreground, gambling over a card

over. For the latter's account of the Sterne affair, and his own role in resolving it, see Francis Biddle, *In Brief Authority* (New York: Doubleday and Co, Inc., 1962), pp. 137-139.

²⁹⁴ Sterne – Rowan, 11 November 1935, AAA, D88.

²⁹⁵ This description of the mural scheme is drawn from Maurice Sterne, 'Department of Justice, Library Murals: "Man's Struggle for Justice"', *Justice Library Review*, no. 2 (Mar. 1941), pp. 23-25.

game; *Competition and Monopoly* (fig. 47) – a tug-of-war with two steers locking horns behind, and a figure stifling his competitors in the foreground; *False Witness* (fig. 48) – a symbolic Truth collapses before the figure giving false testimony, who is clearly being bribed by someone behind who is hiding his face whilst offering rolled up bank notes; *Justice and Science* (fig. 49) – the central figure holds a lens to illuminate fingerprints with a kidnapping on the right and a criminal in a barber shop being groomed on the left; *Environment* (fig. 50) – children witness a hold-up whilst a woman hands flowers to a criminal with a newspaper boy with the ‘Daily Yellow Gazette’ in his hands and a radio broadcast; *Ambition* (fig. 51) – Jacob wrestles with the angel while people climbing up rocks at either side represent earthly ambition; *Red Tape* (fig. 52) – a huge spider web and a skull with a clock, suggesting the passage of time, has entrapped a group of figures who are about to be released by a Don Quixote-like Justice Holmes riding in on a horse from the right; and finally on the south wall, above the entrance, another allegorical triptych with *Scale of Justice* (fig. 53) in the middle, flanked with *Intuition* (fig. 54) on the left, and *Reason* (fig. 55) to the right.

It is a shame that the more interesting themes proposed by Biddle for this space were replaced by Sterne’s somewhat dry and largely uninspiring sequence of panels, painted in a somewhat turgid Gauguinesque idiom without the colour, although some of these subjects turn up in other places in some form or other and so were not lost altogether. Yet if Sterne’s mural cycle is largely symbolic, using the well-worn figure of the nude to depict struggles ‘for truth’ that go back to primitive times, there are, nevertheless, a few contemporary details that seek to address concerns more directly related to the workings of the Justice Department in the 1930s. In the *Belief in Magic* panel the dominant theme is corporate crime as the ticker tape is given deceptively alluring qualities by the magician (ones seemingly contradicted by the levelling of the stock-market index on the blackboard to the left) to relieve the honest American workingmen on the right of their pay-packets. The fact that the two businessmen are shown gambling in the foreground, with one clearly reaping the benefits, underscores the fact that whilst many small businesses suffered during the Depression, the monopoly sector often profited via unscrupulous,

and sometimes illegal, anti-competitive strategies – ones that the Antitrust Division had recently been charged with policing. In the *Justice and Science* panel Sterne deals with a similar subject matter to Poor in relation to the FBI, and likewise, he cannot be blamed for being oblivious to the more reactionary aspects of the bureau's activities pursued by Hoover from the mid-1930s onwards. The next panel *Environment* continues the FBI theme with reference to the type of journalism that made heroes of America's most notorious criminals that the bureau was specifically charged with countering in a concerted propaganda campaign.²⁹⁶ Lastly in the panel entitled *Red Tape* the artist follows Biddle, Poor, Robinson, and Kroll in making pictorial reference to one of the dissenters on the Supreme Court. Here, specifically Holmes, who rides in like Don Quixote to sweep away the suffering resulting from judicial incompetence.²⁹⁷

Competition murals

This brings us to the \$2,000 competition murals which were awarded to John Ballator, Emil Bisttram, and Simeon Shimin. Ballator won the commission to paint the mural for the stairway lobby on the second floor entitled *Contemporary Justice and Man* (fig. 56). His composition ascends from those in need of decent social housing at the bottom – men, women, children, and the elderly – through the central motif of a plan for a new community surrounded by architects and engineers, flanked by industrial and urban scenes on the right and labouring workers beginning construction on the left, through to the top of the mural where the motif of the map is echoed in the cubic architectural structure surrounded by architects and engineers once again, with a dam and newly irrigated agricultural land to the left and a model community on the outskirts of a great metropolis to the right. In short, Ballator presents the social benefits associated with federal planning in both urban and rural contexts, with the specific references to Boulder Dam, Colorado, and the model

²⁹⁶ On this public relations aspect to the FBI's remit see O'Reilly, *op. cit.*, pp. 643-646.

²⁹⁷ The metaphor of the spider web that Sterne used here quite possibly referred to the aforementioned Supreme Court decision *Humphries Executor v. U.S.* as after Hughes' summing up Holmes expressed his disapproval of the 'spiders' webs' the Chief Justice had woven. Leuchtenburg, *op. cit.*, 1995, p. 66.

community of Greenbelt, Maryland, giving the mural a strong contemporary resonance. As already mentioned I will deal with the controversial subject of federally funded hydroelectric power in the next chapter in relation to Gropper's monumental depiction of dam construction in the Interior Department building, yet the creation of model communities under the auspices of the RA was every bit as contentious, and importantly, it was this latter detail that was directly suggested to the artist by Rowan. To counter the 'slum dwellers' in the lower left of Ballator's design, Rowan advised the artist that for the right side of the composition he 'consider some of the fine housing projects done under various programs in the government in which efforts are made to furnish living quarters to the people which will enable them to enjoy a fuller life', and accordingly he gave him the contact address for Adrian Dornbush, Director of Special Skills, to procure photographs of such developments.²⁹⁸

Whilst in Biddle's fresco sequence the subsistence homestead is 'not conceived primarily as an agricultural or economic experiment, but rather as a symbol of the happy man in a society planned with Justice', in Ballator's mural the focus upon Greenbelt as an actual example of a federally funded new town points more explicitly to the activities of the RA, perhaps the most controversial agency created under the New Deal, and certainly the one that demonstrated most forcefully the social benefits of a strong federal state and the importance of national planning.²⁹⁹ Whilst the creation of such communities may have been influenced by 'a reactionary, quasi-Jeffersonian agrarianism', as Paul Conkin makes clear, 'their development reflected one of the most open breaks with the individualistic tradition in American history'.³⁰⁰ Created on 30 April 1935 by an executive order and under the very broad authority granted in the Emergency Relief Act of 1935, this new

²⁹⁸ Rowan – Ballator, 31 March 1937, NARA, 121/133.

²⁹⁹ Biddle, *op. cit.*, 1934, no pagination.

³⁰⁰ Paul Conkin, *Tomorrow a New Deal: The New Deal Community Program* (New York: Cornell University Press, 1959), p. 6. Although only three of approximately 100 New Deal communities, the greenbelt towns – Greenbelt; Greenhills, a site five miles north of Cincinnati; and Greendale, a valley three miles southwest of Milwaukee – absorbed over one third of the total cost and nearly one fourth of the total settlers of the whole community program, and represent the culmination of the garden city movement in America, combining Ebenezer Howard's ideas with automobile-inspired planning techniques.

agency was charged with the ‘resettlement of destitute or low-income families from rural and urban areas, including the establishment, maintenance, and operation, in such connection, of communities in rural and suburban areas’.³⁰¹ Built on the outskirts of cities to ensure cheap land costs, and therefore cheaper rents, they were also conceived as a way of helping blighted farm communities by bringing in markets and relieving the problems of social and cultural isolation. As such they provided affordable accommodation for poor families in healthy surroundings.³⁰² Not only did they grant immediate work relief for the unemployed in the cities near which they were located, but they also stimulated employment throughout the country due to the huge demand in building materials that such large-scale projects engendered. Rexford G. Tugwell, the Undersecretary for Agriculture who Roosevelt put in charge of the RA, moved quickly and work began on Greenbelt in October. Construction proceeded rapidly and the first units were occupied less than two years later in September 1937. By the time it was finished Greenbelt contained 885 housing units: 5 detached; 574 terraced; and 306 in apartment buildings.

The fact that Rexford Tugwell headed the program ensured that the creation of these communities would act as a lightning rod for all those critical of the New Deal, and in particular what was conceived to be its incursion into the sphere of private business.³⁰³ As Conkin makes clear, ‘To the landowner, large or small, Tugwell must have seemed the antithesis of the agrarian tradition of individualism; his collectivism was alien, radical, and dangerous’, and as early as March 1936 the Republican National Committee had condemned his model communities as ‘communist farms’, and they accordingly became a focal point of attack in the

³⁰¹ Quoted in *ibid.*, p. 143.

³⁰² These developments were celebrated in a 1939 film directed by Willard Van Dyke entitled *The City*. Commissioned by the American Institute of Planners for the 1939/40 New York World’s Fair, with a script partly developed by Pare Lorentz, the film critiques the development of cities as part and parcel of American industrialisation to instead champion the importance of rural small town life, the return to which was promoted through the development of model communities such as Greenbelt.

³⁰³ Tugwell’s neo-Jeffersonian position is elucidated in his *Battle for Democracy* (New York: Columbia University Press, 1935), and for an incisive discussion of his relationship to the New Deal, as well as the limits of his radicalism, see Andrew Hemingway, ‘Cultural Democracy by Default: The Communist Contribution to the New Deal Art Programmes’, unpublished, no pagination.

election that year.³⁰⁴ Whilst these new towns highlighted the tangible achievements of large-scale federal spending and were therefore in keeping with Biddle's original iconographic scheme that set out to celebrate 'the social message of those democratic liberals, artists, [and] forward-moving beings', the Section was nevertheless anxious about the relevancy of the mural to its architectural setting and criticised Ballator's draughtsmanship from the outset. In one particularly harsh letter Rowan wrote: 'Whilst the upper two thirds of your design is realistically treated the lower third has all the quality of a pageant', and furthermore, 'We feel that a mural which is not legible to the public for which it has been designed and which is not related in theme to the building in which it is placed in such a way that it can be understood by the spectator, does not meet the requirements of a decoration for a Federal Building'.³⁰⁵ These charges of poor draughtsmanship were also echoed by the Commission of Fine Arts in their review of Ballator's sketches for the mural.³⁰⁶ Nevertheless, after patient reworking of his designs, the artist eventually produced a mural that, according to the Section, successfully communicated 'the beginnings of what such a great project can do in building up a country as yet undeveloped', and which for Somerset Maugham was the best artwork in the building.³⁰⁷

Emil Bisttram won the competition for the mural at the first floor stairway lobby entitled *Contemporary Justice and Woman* (fig. 57).³⁰⁸ Whilst he was a renowned Regionalist painter who had set up the Taos School of Art in New Mexico in 1932, of which he was the director, the year prior to that he had won a Guggenheim Fellowship for study abroad and for part of this time he went to study with Rivera in Mexico. He was also a member of the American Artists' Congress

³⁰⁴ Conkin, *op. cit.*, 1959, p. 160 and p. 180. As an example of the hostility these model communities engendered Conkin quotes the New York *American* of 29 October 1936, which described Greendale as 'the first Communist Town in America', p. 319.

³⁰⁵ Rowan – Ballator, 9 June 1937, NARA, 121/133.

³⁰⁶ Moore – Rowan, 28 October 1936, NARA, 121/133.

³⁰⁷ Treasury Section of Painting and Sculpture, *op. cit.*, 1938, p. 11 and Antonio Vasaio, *op. cit.*, p. 97.

³⁰⁸ Whilst Melosh quite rightfully argues that in Section art 'representations of wage labour consistently excluded and hence made invisible women's productive work, privileging the male domains of craft and heavy industry', which, moreover, 'carried the complementary image of female dependence', she barely discusses Bisttram's mural and mentions it only to make the point that it 'stands as the only reference to woman's suffrage and self-organisation in Section-sponsored public art'. Melosh, *op. cit.*, p. 83 and p. 215.

and, as such, he complicates the standard categorisation of Regionalist painters as the conservative element within the field of American Scene painting in the 1930s, the Social Realists being their more radical counterparts.³⁰⁹ Whilst the artist Hildreth Meiere suggested that Bisttram should use the space to depict actual historical personages that ‘graphically symbolise the fruit of the victory for which women struggled for so long’, he instead chose a more allegorical approach to the subject.³¹⁰ This is exemplified in the central panel of the mural in which he depicted ‘the entire story of Justice liberating woman’, with a hooded harpy clutching the yoke and chains ‘recently severed by the sword of Justice under the guidance of the Law’.³¹¹ It is their combined action which allows the fourth figure, an emancipated woman, to step up into the ‘Light of Freedom’ – ‘her new existence’.³¹² This modern day independence is contrasted with ‘the occupations of the woman of the old world’, depicted in the bottom panel.³¹³ As the Section staff made clear: ‘Here she is the work-burdened slave of man, who like a club-wielding cave dweller scowls upon her while she performs her heavy tasks’.³¹⁴ And finally, in the eight side panels, ‘woman is shown in her various modern activities since her emancipation’.³¹⁵ For Bisttram the choice of occupations from top to bottom, left to right – visual artist, student, scholar, executive (and clerical worker), performing artist, sportswoman, voter, and scientist – ‘are those most common in the United States and represent a fair cross-section of numbers occupied’.³¹⁶

Bisttram is clearly only interested in the kinds of female employment that had professional status and therefore passes over low paid labour such as unskilled

³⁰⁹ Another example of an artist that defies such easy categorisation is Joe Jones and for a discussion of these issues in relation to his work see Hemingway, *op. cit.*, 2002, pp. 34-39.

³¹⁰ Her list comprised Abigail Adams, Susan B. Anthony, Lucretia Mott, Elizabeth Candy Stanton, Jane Adams, Frances Perkins, Ruth Bryant Owen, and Judge Florence Allen. Hildreth Meiere, ‘Theme: The Emancipation of Women’, undated.

³¹¹ Bisttram – Rowan, undated.

³¹² *Ibid.*

³¹³ *Ibid.* Ironically, during the Depression ‘many families maintained their former standards of living despite decreased incomes only because women substituted their own labour for goods and services previously purchased’, and they thereby had to perform many of the menial domestic chores that the artist shows as part of the prehistory of female emancipation. Susan Ware, *Holding Their Own: American Women in the 1930s* (Massachusetts: G.K. Hal and Co., 1982), p. 6.

³¹⁴ Treasury Section of Painting and Sculpture, *op. cit.*, 1938, p. 3.

³¹⁵ Bisttram – Rowan, undated, NARA, 121/133.

³¹⁶ *Ibid.*

manufacturing and domestic service which were largely the preserve of working-class women.³¹⁷ Both of these sectors were hit particularly hard by the Depression so that by January 1931 the unemployment figures for these industries were 30.3 and 24.2 percent respectively.³¹⁸ Yet if unskilled working-class women bore the brunt of the economic collapse then their professional counterparts – those depicted by Bisttram in the mural – fared only slightly better. Women had made little headway as professionals in the 1920s and their chances were limited even further by the effects of the Depression. The percentage of women employed as professionals during the 1930s declined from 14 percent at the beginning to 12.3 percent by the end, and those who kept their jobs experienced intermittent unemployment and a quarter of them suffered wage cuts.³¹⁹ For both groups of women earning a supplementary income to support either a wage cut or unemployment for the male breadwinner in the family was a deeply contradictory process. Whilst by 1930 women constituted 24.3 percent of the workforce and 25 percent of women over sixteen worked – 28 percent of which were married – there was a keenly felt popular resentment against their perceived usurpation of men’s inherent entitlement to paid labour.³²⁰ Female teachers – the biggest sector of professional women workers – were the hardest hit by this backlash. A survey conducted in of 1930-31 revealed that of the 1,500 educational establishments contacted, 77 percent would not hire married women, and 63 percent dismissed women teachers if they were married.³²¹ Such policies were reinforced at a national level by section 213 of the 1932 Economy Act which required that female civil servants with husbands also in

³¹⁷ The only non-professional employment illustrated by the artist is clerical work and, even then, this is used as little more than a prop to his depiction of the female executive. Yet white-collar work was a sphere of employment which women increasingly occupied throughout this period – 28.2 percent in 1910 to 45 percent in 1940. Susan Ware, *op. cit.*, 1982, p. 24.

³¹⁸ In manufacturing women were always the first to be laid off and when the economic crisis kicked in many domestic servants were deemed surplus to requirements. Anthony Badger, *The New Deal: The Depression Years, 1933-1940* (New York: Hill and Wang, 1989), p. 24.

³¹⁹ *Ibid.*

³²⁰ *Ibid.*, p. 23. A 1936 Gallup poll asked whether wives should work if their husbands had jobs and 82 percent of those asked said no. The main reasons given for this response were that they took men’s jobs and that their rightful place was in the home. Ware, *op. cit.*, 1982, p. 27.

³²¹ The survey was conducted by the National Education Association, and the findings were echoed in a 1939 survey by the National Industrial Conference Board which showed that 84 percent of insurance companies, 65 percent of banks, and 63 percent of public utility companies had restrictions on married women working. *Ibid.*, p. 28.

government employment should be the first to be dismissed when there were jobs cuts – it affected 1,500 women in the first year alone and was not repealed until five years later.³²²

Whilst the Roosevelt administration may have done little to counter public anxieties about the widely perceived gendered competition for jobs it nevertheless promoted a raft of women into public prominence like no administration before or since. Many women achieved positions of power during the New Deal, not least Eleanor Roosevelt who used her influence the president's wife to organise a White House Conference on the Emergency Needs of Women which then put pressure upon the various relief agencies to put women back to work as teachers, nurses, and clerical workers, or in the production and distribution of food and clothing.³²³ The most prominent female New Dealer, and the first woman to hold cabinet office, was Secretary of Labour Frances Perkins, and like Mrs Roosevelt, and many other women aligned through institutions such as the League of Women Voters, the National Consumers League, and the Women's Trade Union League, she built upon her college education and experiences as a social worker to become a leading spokesperson for liberal reform.³²⁴ These women used their newly-won public prominence and bureaucratic powers to ensure that New Deal legislation benefited other women to some degree or other. The introduction of large-scale federal relief; the minimum wage codes introduced under the NRA; state-sanctioned support for trade union formation under the NLRA; and the establishment of social security were all moves in this direction. Yet there were significant limitations – domestic service, clerical work, and agricultural labour fell largely outside of the NRA code provisions and many other women were reclassified into exempted occupations thereby denying them any wage protection. And even when women were covered

³²² As Ware makes clear, these policies were largely counterproductive as the job market was highly segmented along gender lines so that men were highly reluctant to apply for any kind of employment which was deemed to be 'women's work'. *Ibid.*, p. 35.

³²³ Badger, *op. cit.*, p. 205.

³²⁴ For a list of these women and the institutional roles they played in various New Deal agencies or Democratic Party structures see Susan Ware, *Beyond Suffrage: Women in the New Deal* (Massachusetts: Harvard University Press, 1981), pp. 8-10.

their wage-scales were often lower than their male counterparts due to the official explanation of 'long established customs'.³²⁵

It was as a result of these omissions that the more liberal state legislatures sought to intervene and protect low paid women workers, and this brings us back to the Bisttram mural.³²⁶ For whilst an allegorical judge presides over women's emergence into daylight in the central panel, when the artist received the commission to paint the mural in July 1936 the Supreme Court had just narrowly ruled against a minimum wage for women in New York in the *Tipaldo* case on the basis that it would infringe freedom of contract. They thereby upheld the right of employers to discriminate economically on the basis of gender.³²⁷ As such, whilst Bisttram's mural registers the fact that during the 1930s women's participation in the workforce increased in line with previous decades in the twentieth-century, and by focusing upon women's professional work obliquely refers to the emergence of a layer of women within the public sphere, it is largely ideological in that it elided the actual nature of the type of work that the majority of women still performed, and served to cover over the Supreme Court's intransigence on the question of women's economic emancipation.³²⁸ Gender is also a central concern of the last of the competition murals, although in Shimin's *Contemporary Justice and the Child* (fig. 58) on the third floor stairway it is women's role as mother that is foregrounded, the

³²⁵ Ware, *op cit.*, 1982, p. 39.

³²⁶ I say 'more liberal state legislatures' for, as Suzanne Mettler makes clear, 'The individual states served traditionally as the political institutions wherein non-liberal rule could most easily flourish, and has tended to do so most readily'. Suzanne Mettler, *Dividing Citizens: Gender and Federalism in New Deal Public Policy* (London: Cornell University Press, 1998), pp. 6-7. See also fn. 14. These issues are explored in more detail in chapter four.

³²⁷ Social Security Administration figures show that in 1937 women's average annual pay was \$525, compared to almost double that for men, and many women could not meet their basic living costs on the basis of a full-time wage. Susan Ware, *op. cit.*, 1982, p. 27.

³²⁸ *Tipaldo* was an extremely contentious case that split the Court 5-4 with Roberts voting with the Four Horseman. In a strongly worded dissent Chief Justice Hughes upbraided the majority for failing to allow the state 'the power to protect women from being exploited by over-reaching employees', and Stone, on behalf of himself, Brandeis, and Cardozo, attacked the majority for indulging in its 'own personal economic predilections'. Quoted in Leuchtenburg, *op. cit.*, 1995, p. 167. This was the context for Roberts' reversal in the *Parrish* decision less than a year later, so that by the time that Bisttram had finished his mural a state-level minimum-wage law for women in Washington had been upheld and the constitutional revolution was complete. I will return to the *Parrish* ruling towards the end of the chapter when discussing Roosevelt's Court-packing plan. For a statistical breakdown of women's involvement in the labour force across the decades from 1890-1970 see Lois W. Banner, *Women in Modern America: A Brief History* (New York: Harcourt Brace Jovanovich, 1974), p. 256

private realm as compared to the public one of work depicted in Bistram's mural. Whilst the mural is essentially concerned with picturing the 'just and unjust treatment of the child', the fact that the child is emerging from the protective embrace of the mother alone, with no father figure anywhere to be seen, undercuts the standard emphasis upon the nuclear family unit that was so pervasive in Section art to instead project a different model of parenthood – that being the single-parent family, specifically here in its most common form, a single-mother and child.³²⁹ And this points us to New Deal efforts at supporting children in need, more often than not those in one-parent households, with the introduction of Aid to Dependent Children (ADC) as a component part of the Social Security Act.³³⁰

The bisected composition of Shimin's mural depicts the lives of children in both a just and unjust society. On the left, children with tired, emaciated, and prematurely aged faces, occupy the grey world of factory labour, whilst on the right their more healthy looking counterparts are engaged in education and sport.³³¹ As mentioned earlier, Shimin included a handful of black students in both these pedagogic and athletic scenes, thereby obliquely registering his solidarity with the struggle of African-Americans.³³² The two sides are unified by the central image of a mother releasing a child from the bond of her maternal protection into the world, below which we see an enlarged image of a triangle, compass, and blueprint – symbols of planning and construction that will help build a more equitable society in which children would be adequately protected. Shimin described the two halves of his mural scheme as depicting 'the Constructive versus Destructive elements in the life of a child', and the direction in which the triangle points gives 'no mistaking in which direction the child should be sent'.³³³ ADC was a means towards this end, a federally conceived measure designed to help alleviate the suffering of those

³²⁹ Treasury Section of Painting and Sculpture, *op. cit.*, 1938, p.13.

³³⁰ ADC was the precursor to Aid to Families with Dependent Children (AFDC).

³³¹ It is worth noting here that as recently as 1918, in *Hammer v. Dagenhart*, the Supreme Court had declared Congress' two-year old prohibition on child labour to be an unconstitutional invasion of the affairs of the individual states.

³³² That Shimin's politics were to the left is suggested by the fact he was a student with the 'Ashcan' painter George Luks and that he sent Rowan a letter of introduction to his friend Orozco when the Section administrator was on his way to Mexico.

³³³ Shimin – Rowan, 3 June 1936, NARA, 121/133.

children in single-parent families without a breadwinner. I will look in closer detail at the specifics of the Social Security Act in the last chapter when dealing with the murals commissioned for the headquarters of the new bureaucracy charged with the complex task of establishing America's welfare state, but for now it is important to note that ADC was perhaps the least controversial aspect of this legislative attempt at providing some form of economic security for Americans still reeling from the effects of the Depression.³³⁴ This was because it was deemed to be a continuation of the popular mothers' pensions, a state-level initiative implemented during the Progressive Era that recognised the public good that women performed in the raising of children – the next generation of citizens.³³⁵

Despite the popularity of mothers' pensions – by 1920 thirty-nine states had enacted laws setting them up – financial assistance to single-mothers without a breadwinner was sporadic and uneven as due to the pressures of interstate economic competition and the corresponding limits upon individual states to raise revenue through taxation the funds available for needy mothers were extremely limited. This shortfall reached acute levels during the Depression so that an estimated 358,000 single-parent families relied on emergency relief instead.³³⁶ Whilst ADC was a federally conceived attempt at combating this problem, the fact that it was left to the states to administer ensured that the programme would suffer the same problems as its predecessor. Not only did the amounts given fluctuate from one state to another – in December 1937 single-mothers in Arkansas received ADC monthly payments of \$10.40, compared to \$61.16 for their counterparts living in Massachusetts – but the award of the benefit was also contingent upon the recipient fulfilling, what Suzanne Mettler characterises as, 'invasive rules and procedures through which officials monitored and regulated women's moral character'.³³⁷ Most states scrutinised the claimant's child rearing and domestic skills, as well as the school and church attendance of their children, and certain states and localities introduced 'man-in-the-

³³⁴ Indeed for the architects of the Social Security Act ADC was seen as the title that would help carry through the more controversial aspects of the legislation.

³³⁵ On mothers' pensions see Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Cambridge: Harvard University Press, 1992), pp. 424-479.

³³⁶ See Mettler, *op. cit.*, p. 39.

³³⁷ *Ibid.*, p. 160 and p. 24.

house' rules to withdraw aid from those women suspected of having 'male callers', the proof of which was often established by midnight raids.³³⁸ These 'semifeudal' conditions dashed the maternalist reformers' hopes for a program that would approximate more fully the goal of mothers' pensions – to allow children to stay home with their mothers and to be shielded from the indignities of general relief.³³⁹ As such 'the creation of ADC had nothing to do with individual rights but was grounded instead in ascriptive notions about the appropriate roles of mothers in raising children to be good citizens'.³⁴⁰

The two women reformers responsible for drafting the legislation for ADC were Catherine Lenroot and Grace Abbott, both of whom had been active with the Children's Bureau, which had been set up in 1912. The bureau, charged with the responsibility to investigate and report on matters relating to child welfare, had been responsible for administering the Sheppard-Towner Maternity and Infancy Protection Act – the first American social program in which federal funds were provided to the states on a matching basis. For Lenroot and Abbott this grant-in-aid model had demonstrated not only that national funding could raise benefit levels, but also that such a two-tier system could pressure state governments into improving their standards through the development of professionalized administrative practises. Following on from this model Lenroot put forward two proposals for the provision of ADC: 1) federal grants to states to expand and consolidate mothers' pensions, and; 2) an educational component to promote the health of mothers and their children. Believing that local officials would be better placed to assess individual needs at a grassroots level Lenroot proposed such a strategy on the basis that it would induce greater state participation and therefore a widening of coverage. This would be achieved with a professionalisation of standards and a liberalisation of policy at a state level. As such their model of ADC was perhaps the least controversial aspect to the legislative package of the Social Security Act although it fell well short of what other public officials and social workers desired. However, this belief in the value of federalism was ultimately naive as conservatives in

³³⁸ *Ibid*, p. 25.

³³⁹ *Ibid*.

³⁴⁰ *Ibid*, p. 142.

Congress abused the open-endedness of these proposals to add more state-level autonomy to ADC. As Mettler puts it, their proposals were ‘weakened by congressional committees that undermined the force of program standards as a means of curtailing the reach of national government into the affairs of state and local governments’.³⁴¹

If in content Shimin’s mural is like many of the others in Justice in that it celebrates New Deal planning and the greater moves towards social justice – real or exaggerated – in terms of technique it is quite distinct. Whilst it is clear that the Section staff, through their close monitoring of all stages of the commissioning process, promoted a particularly narrow aesthetic that largely sidelined the types of formal experimentation or innovation associated with modernist practices, Shimin’s work can be read as an exception to this general tendency. Although he drew upon the Renaissance iconography of the Madonna and Child, the central positioning of the mother and son linking it to the triptych form often employed in such imagery, Shimin invested this with a range of modernist devices. First there is the obvious issue of scale and the different registers used in depicting the central group of the mother and child; the children depicted in the side scenes; and the hands with the triangle and compass in the bottom-centre. It would seem that the artist was applying the technical complexities of photomontage to oil painting and certain members of the jury for the competition murals found this aspect difficult.³⁴² More subtly Shimin broke up the detailed massing of the side passages into distinctly compressed compartments that seem to sit at oblique angles to each other. This could be a reference to the more theoretical concerns of Cubism with its emphasis upon the depiction of objects through time from a variety of perspectives. Lastly, in his initial designs for the mural he wrapped the mother figure in a dark black outline that, again, certain jury members found objectionable (fig. 59).³⁴³ This not only

³⁴¹ *Ibid*, p. 133. The other state-level titles to the Social Security Act suffered the same fate at the hands of conservatives in Congress. See chapter four.

³⁴² In the letter that Rowan sent to Shimin informing him that he had won the competition he included certain reservations voiced by the jury, one of which was that: ‘The triangle to one Juror seemed just right, but there was some question as to the scale of the hands’. Rowan – Shimin, 24 June 1936, NARA, 121/133.

³⁴³ Another point that Rowan made in the letter confirming the competition award was that ‘The black around the woman need not be emphasized so much’. *Ibid*.

contributed to the general sense of the flattening of the picture plane but could be seen as referencing the formal strategies used by Manet in works such as *Olympia* (fig. 60). This particular technique carried certain political connotations for just as *Olympia*'s outline contributed to the critical reading of her as a specifically classed individual, a prostitute serving the lower end of the social scale, so the surly and awkward image of the mother that Shimin painted in his preparatory work was seemingly of a working-class background.³⁴⁴ Nevertheless, in the completed mural, due to Section intervention, these connotations were effaced and the figure of the mother became effectively declassed.

Taken together these subtle references to modernist strategies ensure that Shimin's *Contemporary Justice and the Child* mural is like no other produced in the Justice building or, for that matter, any other in the capital. As such Shimin's piece is one of the most compelling images to have been produced under Section patronage. I say subtle, however, because these formal strategies were not extreme enough to alienate official responses to the mural. Whilst certain jury members demurred both Bruce and Roosevelt praised the mural as an example of what a federally-funded public art should look like.³⁴⁵ Whilst the Commission of Fine Arts thought that 'the figures in the lower left hand part of the picture put too much accent upon what unfortunate conditions of children in America might be found', they still acknowledged 'the ability of the artist in the interesting composition and disposition of its parts'.³⁴⁶ It was a visually complex piece of propaganda for New Deal policies towards children in need couched in a manner that seemed to transcend the particular moment and present a compelling case for treating children with

³⁴⁴ For a discussion of *Olympia* in these terms see T. J. Clark, 'Preliminaries to a Possible Treatment of "Olympia" in 1865', *Screen*, vol. 21, no. 1 (Spring 1980), pp. 18-41.

³⁴⁵ In a letter in which Bruce asked Roosevelt to attend a luncheon in his honour on the 12 November 1940 at the Arts Gallery of the Section to mark the opening of the watercolour exhibition for the Carville Hospital competition he also requested that the president stop at the Justice building to dedicate the Shimin mural which he described as 'perhaps the most successful single mural which our program has produced'. He went on to describe it as a 'perfectly superb design' which was, moreover, 'regarded by all critics as a truly great work of art and is entitled to a place in the sun in any company'. Bruce – Roosevelt, 9 November 1940, AAA, D90. That fact that Roosevelt concurred with Bruce was confirmed less than a week later in a newspaper item entitled 'Roosevelt Says Art Shows U.S. Is Refreshingly Clean', in which the president was reported as being 'impressed' by Shimin's design. Unattributed press clipping, 15 November 1939, AAA, D85.

³⁴⁶ Moore – Rowan, 19 December 1936, NARA, 121/133.

compassion and fairness. Indeed, Shimin was a good choice of artist to paint such a mural as he had worked for the National Child Labour Committee, so it was for him, as he said himself, ‘a very serious and important commission and a subject very near to my sympathies and understanding’.³⁴⁷ And whilst it could be argued, with reference to how the provision of ADC developed, that once again this mural was largely ideological in the claims it makes for New Deal policies towards the child, the compromised nature of this benefit largely directed towards single-mothers was in no way a certain outcome when it was implemented, but, as has been argued above, more a product of later political wrangling and the limits of federalism in relation to the development of social policy. And despite these inadequacies the direct and imploring stare of the youth looking out towards the spectator from the centre of Shimin’s mural remains a powerful reminder of what could, and should, be done to protect the welfare of American children from the economic vicissitudes of American capitalism.

‘Three dissenting liberals’

Before returning to the Court-packing plan and the wider struggle being conducted between liberal New Dealers and their conservative opponents within the judiciary it is worth mentioning the murals done in the building by Louis Bouché entitled *Activities of the Department of Justice*. Whilst these were in fact funded under the TRAP – the relief project also run by the Section administration from 1935 through to 1938 – the details were worked out with Andretta; the contract was drawn up as early as May 1935; and like most of the other mural commissions in the building they were completed by the end of 1937, so they should be seen as part and parcel of the Section decorative scheme for the building. The main difference being that rather than receiving a flat commission for the work the artist, and his assistant Charles Bateman, received a weekly wage until the work was finished. Located on the fifth floor outside the Attorney General’s office Bouché’s designs resemble ‘old-fashioned wallpaper’ in their use of vignettes which depict activities of the Justice

³⁴⁷ Shimin – Rowan, 6 February 1938, NARA, 121/133.

Department divided between those pertaining to its police functions, and those that are part of its more peaceful remit: from ‘Crimes on the High Seas’ through to ‘Espionage’ on the one hand; and from ‘Interstate Commerce’ through to ‘Labour Matters’ on the other.³⁴⁸ On the convex wall either side of the door that led to Cummings’ offices Bouché painted a man being arrested by two police officers (fig. 61) next to the vignettes depicting the department’s activities relating to law enforcement (fig. 62); and a family of recently docked immigrants on the other (fig. 63) alongside the more peaceable aspects of the department’s business (fig. 64). What makes Bouché’s decorative scheme interesting in terms of the ongoing battle between the Roosevelt and the Supreme Court is not just the details that highlight the contentious issues of ‘Labour Matters’ and ‘Interstate Commerce’, but also the fact that the artist also included two life-size portraits of Francis Biddle (fig. 65) and Justice Brandeis (fig. 66) – two of the more liberal figures in the New Deal policymaking elite and on the Supreme Court bench respectively.

For as well as highlighting the more interventionist aspects of New Deal policy, including the creation of the NLRB; the activities of the RA; the TVA; antitrust enforcement; penal reform; the promotion of women into greater public prominence; and the funnelling of money to children in need via ADC – and the centrality of federal planning in all of these spheres – what gives the murals in the Justice Department their rather loose thematic coherency is the emphasis upon the ‘emerging liberal trio’ of Supreme Court Justices who challenged the conservative hegemony of the Taft Court. As such there is nothing in the decorative scheme of the Justice building that is to the left of a liberal New Deal agenda. Taken together the murals were a pervasive celebration of the most progressive aspects of Democratic reform, the more radical details suggested by Biddle at the beginning being largely whittled away by the time the paintings were complete. Having largely dispensed with allegorical figures of justice, the artists working in the Justice building, as Park and Markowitz observe, instead ‘tried to portray the complexity of social justice’, and more often than not ‘associated the effort to achieve it with the New Deal’.³⁴⁹

³⁴⁸ Treasury Section of Painting and Sculpture, *op. cit.*, 1938, p. 25.

³⁴⁹ Park and Markowitz, *op. cit.*, 1984, p. 59.

With this in mind the journalistic response – whether it was liberal and largely sympathetic, as in the case of Jewell at the *New York Times*, or conservative and more openly hostile, as with *The Buffalo Evening News* – seems completely apposite as the murals in the Justice Department building not only celebrate the more interventionist aspects of New Deal reform but also the role of the dissenting Justices on the Supreme Court bench in their attempts at upholding the constitutionality of this progressive legislation.

Brandeis is pictured in some form or other by Poor and Bouché, and quoted by Biddle; Holmes turns up in the mural schemes of Robinson and Sterne, and is also quoted by Biddle; and Stone is given centre stage in one of Kroll's panels in the offices of the Attorney General. Yet whilst they are often grouped together as oppositional voices on an otherwise conservative Supreme Court they had distinct ideological differences. Holmes, by far the oldest of the three, had fought in the Civil War, and his liberalism was more a product of 'judicial restraint' than any commitment to social progressivism as such. This was a product of his unswerving commitment to social Darwinism and a corresponding belief in 'dominant opinion' as a guide to legislative procedure, and it was this that ensured his support for some of the more progressive aspects of New Deal legislation.³⁵⁰ Brandeis, by contrast, had a deep seated suspicion of concentrations of power, whether they were economic, judicial, or political, and a long standing commitment to defending the interests of the common man. This produced ambivalence towards the New Deal as he supported government attempts at wealth redistribution at the same time that he distrusted Roosevelt's greater assumption of executive control.³⁵¹ Ironically, Chief Justice Taft endorsed Stone's nomination to the Court in 1925 due to his belief that,

³⁵⁰ For a critique of Holmes' supposed liberalism see Irving Bernstein, 'The Conservative Mr. Justice Holmes' *The New England Quarterly*, vol. 23, no. 4 (Dec. 1950), pp. 435-452 and Yosel Rogat, 'Mr Justice Holmes: A Dissenting Opinion', *Stanford Law Review*, vol. 15, no. 1 (Dec. 1962), pp. 3-44. For a discussion of the reactionary implications of his social Darwinism see Leuchtenburg, *op. cit.*, 1995, pp. 3-25.

³⁵¹ This is well characterised by Otis L. Graham, Jr. who wrote of him: 'The radicalism of Brandeis had always been at bottom the fierce localism of Jefferson, humanised by deep sympathies with the unfortunate'. Otis L. Graham, Jr., *An Encore for Reform: The Old Progressives and the New Deal* (New York: Oxford University Press, 1967), p. 124. See also Philippa Strum, *Louis D. Brandeis: Justice for the People* (Massachusetts: Harvard University Press, 1984) and Edward A. Purcell, Jr., *Brandeis and the Progressive Constitution* (London: Yale University Press, 2000).

unlike the other candidate Cardozo, he would be a conservative ally. Yet Stone's suspicion of the rather abstract distinction between 'direct' and 'indirect' effects in relation to the commerce clause pushed him towards the dissenters and he accordingly voted in support of key New Deal measures.³⁵²

The Court-packing plan

The importance of these three Justices for the artists who painted them on the walls of the Justice Department lay in their general opposition to the *laissez-faire* constitutionalism of their colleagues on the Supreme Court, in particular the Four Horseman, and this liberal stance was obviously a source of inspiration during the legislative impasse of the early New Deal years when the Court was consistently blocking Roosevelt's legislative efforts at dealing with the economic crisis. And this brings us back to Court-packing plan, Roosevelt and Cumming's attempt at resolving this impending constitutional crisis. As mentioned earlier, by the time this controversial plan had been made public Hughes was Chief Justice and Holmes and Sanford had been replaced by Cardozo and Roberts respectively, the former fulfilling Taft's predictions that he would side with the dissenting Justices, whilst the latter, despite the earlier promise of the *Nebbia* coalition, was by the spring of 1935 consistently voting with the Four Horseman against government legislation. Hence the 5-4 impasse that effectively threatened to obstruct New Deal reform. With the Social Security Act and the NLRA making their way towards the Supreme Court for adjudication Roosevelt had to act fast and his response came, without warning, on 5 February 1937. Cummings and his select team at the Justice Department had secretly come up with several plans to alter the balance of the Supreme Court. Having rejected the path of constitutional amendment as too complicated and time consuming, and that of statutory change due to the fact that it would still face judicial interpretation, Roosevelt plumped for Court enlargement as the least controversial strategy to achieve his aims. Hence the Judicial Procedures Reform Act which, alongside a range of measures that affected lower federal courts,

³⁵² See Alpheus T. Mason, *Harlan Fiske Stone: Pillar of the Law* (New York: Viking, 1956).

proposed that the for every Supreme Court judge over the age of seventy who had served for at least ten years and who did not resign within six months of his seventieth birthday, the president could nominate an additional judge to serve alongside them.³⁵³

Due to the fact that six members of the Supreme Court were over seventy this bill was clearly seen for what it was: an explicit attempt at Court-packing. All of Roosevelt's stated reasons for introducing the legislation – such as the advanced age of the Justices being a handicap to their efficiency and the need to speed up the processes of judicial review – only made matters worse as it inflamed even the president's supporters on the Court, especially Brandeis who was eighty-one. Responding two weeks later on behalf of himself, Brandeis, and Van Devanter, Hughes asserted that the Court was abreast of its workload and that the appointment of more judges would actually slow them down.³⁵⁴ Whilst the Court-packing plan was unpopular from the outset amongst both politicians and the public, Hughes' rebuttal on behalf of the Court severely damaged the chances that Roosevelt's bill had of making it through Congress intact as it forced the president to change tack and openly admit the real reasons why he wanted to reform the Court i.e. its seeming intransigence in the face of New Deal reform – a move that further discredited him in the eyes of the public and gave his political enemies more ammunition with which to fight the plan.³⁵⁵ Then on 29 March, in a 5-4 majority that included Roberts once again, the Court upheld a minimum-wage statute from Washington in *West Coast Hotel v. Parrish* that seemingly represented a complete about turn on the *Tipaldo* decision – a similar minimum-wage statute for women in New York – less than a

³⁵³ For a discussion of the formulation of the Court-packing plan and the people involved see Leuchtenburg, *op. cit.*, 1995, pp. 82-131.

³⁵⁴ As he said of the plan, rather than speed up the Court it would in fact slow it down, as 'There would be more judges to hear, more judges to confer, more judges to discuss, more judges to be convinced and to decide'. Quoted in Barry Cushman, 'Rethinking the New Deal Court', *Virginia Law Review*, vol. 80, no. 1 (Feb. 1994), p. 219.

³⁵⁵ Whilst the 1936 election landslide had given Roosevelt a the near 4-1 Democratic advantage in the House, and the overwhelming majority in the Senate, even some of the president's own party found his Court-packing plan unpalatable and could not be guaranteed to vote for it. On the opposition to Roosevelt's proposal see Cushman, *op. cit.*, 1994, pp. 210-228.

year earlier.³⁵⁶ Two weeks later Roberts maintained the *Nebbia* coalition in a series of cases concerning the constitutionality of the NLRA, and on 24 May the Court validated the Social Security Act. These shifts further undermined Roosevelt's Court-packing plan by making it now seem superfluous and this was compounded by the resignation of Van Devanter on 18 May as with the appointment of his first Justice the president would then have a potential 6-3 majority on the Supreme Court bench.

Whilst Barry Cushman has sought to emphasise continuities in the Justices' decisions, and has argued quite persuasively that many of their reservations about early New Deal legislation can be understood as a reaction to the incompetent way in which much of it was drafted and then advocated, as Leuchtenburg asserts, in comparing their opinions on the two different state-level minimum-wage laws, as well as the Social Security Act and the Wagner Act with their earlier positions on pensions for railway workers and regulation of the coal industry – *Railroad Retirement Board v. Alton Railroad Co.* and *Carter v. Carter Coal Company* respectively – it is clear that 'the Court, and specifically Mr. Roberts, had shifted ground'.³⁵⁷ Yet this shift was not a response to the Court-packing plan as has been commonly misconstrued, and summed up in the well-worn phrase: 'A switch in time that saved nine', as the *Parrish* ruling, despite being made public at the end of March, was actually decided six weeks before Roosevelt and Cummings had even announced their intentions for the Supreme Court.³⁵⁸ Furthermore, as Cushman makes clear, the NLRA decisions were reached six weeks after it had become

³⁵⁶ On the *Tipaldo* and *Parrish* decisions, and their relationship to the earlier *Adkins* case, see Leuchtenburg, *op. cit.*, 1995, pp. 163-179.

³⁵⁷ Cushman, *op. cit.*, 1994, pp. 249-255 and Leuchtenburg, *op. cit.*, 1995, p. 142. In making a distinction between the First and Second New Deals in terms of the attention given to drafting, and then defending, government legislation, Cushman is here pulling upon the work done by Irons. He then builds upon this position to challenge conventional accounts of the Constitutional Revolution of 1937. See also Barry Cushman, *Rethinking the New Deal Court: The Structure of a Constitutional Revolution* (New York: Oxford University Press, 1998).

³⁵⁸ The *Parrish* decision was actually reached on 19 December 1936 – 4-4 – with Stone absent through illness. All of the Justices knew that Stone would vote with the rest of the *Nebbia* coalition and Hughes therefore agreed to wait until his return to confirm the decision. When he came back and cast his decision in February the following year Hughes decided to postpone the announcement of the result on the basis that he did not want to give the false impression that the Court had been intimidated by the recently announced Court-packing plan. He therefore delivered the verdict on 29 March. Cushman, *op. cit.*, 1994, p. 227.

apparent that the opposition to the Court-packing plan had enough support to organise a successful filibuster against the bill, and the Social Security cases were decided over three weeks after it was known that it would more than likely be beaten in the Senate.³⁵⁹

It is difficult to determine whether Roberts shifted as a result of pressure from Hughes; under the weight of the 1936 electoral returns; due to the industrial militancy that had manifested itself in the wave of sit-down strikes involving nearly half a million workers in the period preceding the NLRB rulings; as a consequence of the greater attention paid to legal detail by the lawyers responsible for drafting, and then defending, the legislation of the Second New Deal; or, as Cushman asserts, due to the fact that a 'structurally interdependent system of thought gradually unravelled over the first forty years of the twentieth century' as the social transformations concomitant with industrialisation proceeded to undermine many of the factual premises of traditional jurisprudence.³⁶⁰ No doubt all these factors played some part in his decision to join the *Nebbia* coalition once again. But what is quite clear is that, as Irons asserts, with *Parrish* 'the Supreme Court contracted the reach of the due process clause in economic cases', and with the NLRB decisions 'it expanded the scope of the commerce clause'.³⁶¹ As such the twin pillars upon which the Supreme Court had upheld the doctrine of *laissez-faire* economics had fallen and

³⁵⁹ *Ibid*, p. 228.

³⁶⁰ Cushman, *op. cit.*, 1998, p. 43. Despite Cushman's claims to the contrary, Roberts' own account of his switch between *Tipaldo* and *Parrish* is largely unconvincing, and in light of the controversy it generated, rather self-serving. For a discussion of this see *ibid*, pp. 91-104. Whilst this 'internalist' thesis can be a useful corrective to 'externalist' ones, such as Leuchtenburg's, the overemphasis upon the internal dynamics of legal doctrine ultimately underestimates the degree to which the Justices were influenced by broader political developments which would have impacted upon the processes of judicial review. For an analysis of the two competing positions see Laura Kalman, 'Law, Politics, and the New Deal(s)', *The Yale Law Journal*, vol. 108, no. 8 (June 1999), pp. 2168-2178 and for an interpretation of Cushman's work which stresses its 'externalist' aspects see Mark Tushnet, 'The New Deal Constitutional Revolution: Law, Politics, or What?', *The University of Chicago Law Review*, vol. 66, no. 3 (Summer 1999), pp. 1061-1080. Irons suggests that the sit-down strikes would have had some kind of impact in terms of the NLRB rulings, and although Cushman seeks to refute their importance, if we follow Goldfield's argument that worker insurgency was a significant factor in the formation and passage of the NLRA, then surely the wave of industrial militancy that preceded the Supreme Court's verdict upon the act's constitutionality could also be seen as playing its part. See Irons, *op. cit.*, p. 272, Cushman, *op. cit.*, 1994, pp. 237-238, and Goldfield, *op. cit.*

³⁶¹ Irons, *op. cit.*, pp. 276-277.

the constitutional revolution of 1937 was complete.³⁶² This transformation had far reaching consequences as Leuchtenburg makes clear: 'Whereas the beneficiaries of the Court before 1937 had been businessmen and other propertied interests, after 1937 they became the less advantaged groups in America'.³⁶³ That this was immediately apparent to the conservative block is demonstrated by Justice Reynolds' comment the autumn that year: 'There is not much to be expected of [the Court] by sensible people of the former order'.³⁶⁴

Whilst it no longer seemed necessary that Roosevelt and Cummings should pursue their controversial Court-packing plan – after all the constitutional revolution had seemingly achieved their intended purpose and made the Judicial Procedures Reform Bill to all extents and purposes redundant – the president reasoned that if Roberts had switched before, what would prevent him changing his mind again and rejoining the conservative bloc? Yet Hughes' response to the bill on behalf of the Court, Van Devanter's resignation, and Roberts' realignment with the liberals served to undermine the bill to such an extent that even the most loyal of Roosevelt's supporters lost interest. So in a last ditch attempt to get it through Congress Roosevelt revised his Court reform bill so that he would only be allowed to appoint one new Justice per year for any existing one that exceeded the age of seventy-five, raised from the initially proposed age of seventy. And whilst this watering down of the legislation got the president the votes that he needed the Majority Leader, Joe Robinson, who had done so much to marshal the Democratic congressmen and then present the case for the bill on the floor, died during the process, effectively killing the bill with him. It was returned to committee on 22 July and it never came back. Yet, despite his failure to reform the Court within two and a half years Roosevelt had appointed five of the nine Justices, including his Solicitor General, Reed, and his advisor, Frankfurter. And by the time he died he had selected another three and elevated Stone to the position of Chief Justice, a fact that ensured that after 1937 the

³⁶² Cushman takes a somewhat different view and argues that these decisions, rather than marking a constitutional revolution, were rather 'the final phase of a long and unevenly staged judicial withdrawal' that began with *Nebbia* and was only really completed in 1942 with *Wickard v. Filburn*, when the Court essentially abandoned the traditional constitutional limits placed upon Congress' power to regulate interstate commerce. Cushman, *op. cit.*, 1998, p. 105.

³⁶³ Leuchtenburg, *op. cit.*, 1995, p. 290.

³⁶⁴ Quoted in *ibid.*

Court did not strike down any other piece of congressional legislation in the sphere of economic regulation. These shifts were acknowledged by the conservative staff at *Business Week* who bemoaned: 'The cold fact is that, for all practical purposes, the reorganisation of the Court, sought by legislative process, has been accomplished by the ordinary process of court decision'.³⁶⁵

Whilst Roosevelt later said that he had lost the battle but won the war, this victory came with a price. The Court-packing plan had alienated much of his support in Congress so that whilst he now had a compliant Supreme Court which would pass every piece of progressive legislation that went before it – in the ten terms from 1937 through 1946 the Court reversed thirty-two of its earlier decisions – the chances of getting New Deal domestic reforms through Congress became increasingly difficult. For the Court-packing plan had successfully united Republicans and lost Roosevelt many southern and moderate Democrats and generally allowed for these oppositional forces to coalesce and challenge his authority after the recession of 1937-38. Hence the overwhelming support that the Roosevelt had secured in the 1936 elections was squandered, and as Leuchtenburg asserts, the hugely controversial Court-packing plan 'helped blunt the most important drive for social reform in American history'.³⁶⁶ Not only did the plan divide the Democratic Party, and break Republican progressives away from the New Deal coalition, it also lost Roosevelt the middle-class support that had been a major contribution to this electoral success in 1936. What united these disparate groups was revulsion to what they saw as the naked opportunism of the Court-packing plan and an attempt by Roosevelt to bolster his executive power beyond constitutional limits. As Michael E. Parrish explains, 'A lack of candour by the president, the patent deviousness of his plan, and its naked political thrust, proved fatal'.³⁶⁷ The serious implications of the resulting political realignments were captured years later by Henry Wallace when he wrote that 'The whole New Deal really went up in smoke as a result of the Supreme Court fight'.³⁶⁸

³⁶⁵ Quoted in *ibid*, pp. 144-145.

³⁶⁶ *Ibid*, p. 157.

³⁶⁷ Parrish, *op. cit.*, p. 234.

³⁶⁸ Leuchtenburg, *op. cit.*, 1995, p. 158.

Interior Decoration: Harold Ickes, the Second New Deal, and Section art in the Department of the Interior building, 1937-42

Ickes and the Department of the Interior under the New Deal

In the preceding chapter I approached the Justice Department murals through the lens of the constitutional crisis of the early New Deal. Whilst Cummings was a key architect of the controversial Court-packing plan, after baulking at the depiction of prisons on the walls of Justice, the Attorney General played next to no part in deciding the decorative scheme within the building. Indeed, in this first major Section project in the capital the main source of friction was the Commission of Fine Arts. With Interior the situation was different. If the 'modus operandi' that Bruce had established with Moore and his colleagues had diffused the potential for an ongoing battle with the Commission, then it was the Secretary of the Interior himself, the irascible 'old curmudgeon' Harold Ickes, who would drive the Section to near distraction in their next project in the capital.³⁶⁹ Despite describing himself as 'a man who doesn't know anything about paintings other than he likes what he likes', he attempted to impose his opinions from start to finish in the process of commissioning, and then executing, the art designated for his new building.³⁷⁰ In this he was largely successful and he left an indelible imprint upon its murals and sculptures, much to the frustration of Bruce and Rowan. According to David W. Look and Carole L. Perrault, Ickes 'saw each work of art as a medium to expound upon the administration's philosophy of conservation or to portray one of the programs of the Interior Department'.³⁷¹ So much so, that some accounts of the art in the building attribute it to the Secretary himself, as if he had personally been

³⁶⁹ That Ickes was aware of his cantankerous reputation is indicated by the title that he used for the publication of his diary. See Harold L. Ickes, *Diary of a Curmudgeon* (New York: Reynal and Hitchcock, 1943).

³⁷⁰ Bruce – Rowan, 12 June 1938, NARA, 121/133.

³⁷¹ David W. Look and Carole L. Perrault, *The Interior Building: Its Architecture and Its Art* (Washington, D.C.: U.S. Government Printing Office, 1986), p. 17.

Senate.³⁷³ Taking office on 4 March 1933 Ickes was already fifty-nine and followed a long, and largely undistinguished, career in reform politics in Chicago, most notable for his struggle with the city's private power utilities.³⁷⁴ By the time of his appointment to the Interior, Roosevelt revived Ickes' political career and thrust him into public prominence in the capital, and he remained the president with unswerving loyalty and support throughout his twelve years in the Interior. Ickes was one of the most liberal of Roosevelt's cabinet, outspoken in his attacks upon the Republicans, big business, and the conservative anti-New Deal press, and he consistently applied pressure upon the president to respond directly to the needs of his lower-income voters. He also championed the rights of Native Americans and African-Americans. His reputation for hard work and moral integrity – nicknamed 'honest Harold' – ensured that he was just the person to take over the running of the Interior, a department renowned for corruption in the wake of the Teapot Dome scandal.³⁷⁵ These qualities also moved Roosevelt to grant him control of the newly created Public Works Administration (PWA) and the Civilian Conservation Administration under the NRA – effectively landing him with three full-time

³⁷² As well as Look and Perrault, Jeanne Nienaber Clarke offers a similar reading in this respect. Clarke, *Roosevelt's Warrior: Harold L. Ickes and the New Deal* (London: Johns Hopkins Press, 1996), p. 162.

³⁷³ Richard Lowitt, *The New Deal and the West* (Indiana: Indiana University Press, 1984), p. 1. Ickes had been a progressive in the Theodore Roosevelt tradition since the turn of the century and had broken with the Republicans in 1920 to vote for the Democratic candidate in presidential elections from that moment onwards. What brought him to Roosevelt's attention was the fact that he had been First Vice President For Roosevelt Before Chicago – and the head of the 'Western Independent Republicans for Roosevelt' after Roosevelt had won the difficult battle for the Democratic Party's nomination at the Chicago convention. Clarke, *op. cit.*, 1996, p. 25.

³⁷⁴ On Ickes political career prior to his appointment as Interior Secretary in 1933 see Linda J. Newson, *Harold L. Ickes: The Aggressive Progressive, 1874-1933* (New York: Garland Publishing, 1998), p. 1.

³⁷⁵ Whilst the label of 'honest Harold' may befit Ickes' conduct in the public sphere his private life was not so clean-cut and his penchant for extra-marital affairs remained a potential source of scandal throughout his early years in government. Clarke, *op. cit.*, 1996, pp. 90-92. The Teapot Dome scandal resulted from the actions of President Harding's Interior Secretary Albert B. Fall who was jailed for leasing the Teapot Dome Reserve in Wyoming to oilmen in return for a kickback.

However, Ickes' loyalty towards Roosevelt was never matched in his relationships with his colleagues in the cabinet and his reputation for irascibility was in large part a product of his battles with Harry Hopkins, head of the WPA, over public works appropriations, and with Cummings over control of the litigation surrounding New Deal petroleum policy. His commitment to the cause of conservation also brought him into bitter conflict with Henry Wallace at the Department of Agriculture over the running of the Forestry Service, an agency formerly under Interior that Ickes was desperate to recapture and add to his existing portfolio of the nation's natural resources.

One of the first things that Ickes did on assuming his new position was set about procuring a new building for his staff who were scattered about the capital in a whole range of temporary rented accommodation. He took an interest in the minutiae of every detail of the building, intervening whenever, and wherever, he saw fit. Circumventing the traditional channels of federal construction Ickes bypassed the Public Buildings Branch of the Treasury Department and approached the architect Woody Wood himself, thereby ensuring his imprint upon the design process from the outset. Whilst the Secretary of the Treasury Henry Morgenthau balked at approving the construction of the new building due to this unorthodox approach, the \$12,740,000 necessary for its construction was approved by the end of 1934. Work began in April 1935 and it was completed by December the following year with a total of \$110,000 set aside for the provision of mural painting and sculpture.³⁷⁶ As such, it was the first building in Washington, D.C. authorised, designed, and built by the Roosevelt administration, and as Jeanne Nienaber Clarke points out, 'It was hardly a coincidence that one of the first federal projects approved under the PWA program was a spacious, air-conditioned, five-winged, six-floored, state-of-the-art building to house Ickes' expanding department'.³⁷⁷ That Ickes' involvement in the project went beyond the typical client/architect relationship was reflected in a quote from the *Washington Daily News*, 9 January 1937: 'Secretary Ickes has a paternal concern for the new Interior Building. He designed most of it himself, and financed

³⁷⁶ The original amount agreed for Section decoration of the building was \$125,000, then cut back to \$100,000, before finally being raised to \$110,000. Bruce - Peoples, 20 May 1935.

³⁷⁷ Clarke, *op. cit.*, 1996, p. 120.

it through PWA'.³⁷⁸ Whilst this may be an exaggeration, as Look and Perrault argue, 'the innovative characteristics and special features were largely a product of his input in the planning, design, and construction stages of the new building'.³⁷⁹

To get around the unconventional contract drawn up between Ickes and Woods and free up the money necessary for construction Morgenthau placed Wood under contract as a 'consulting architect' subject to the supervision of the Procurement Division.³⁸⁰ Wood was unhappy with this situation as it downplayed his importance and allowed Ickes and the bureaucrats in the Public Buildings Branch greater input into the design process. Despite this apparent compromise the building that emerged as a product of these combined efforts was 'one of the most functional and innovative government office structures in Washington, D.C., during the 1930s'.³⁸¹ To allow most of the department's employees to be housed under one roof it was constructed over a double-block between 18th and 19th Streets and C and E Streets, NW. The size of the site allowed for spacious central corridors and open courtyards which ensured greater light and better circulation of air. The wide corridors permitted the 4,000 staff in the department easier movement around the building and this was further facilitated by the use of twenty-two elevators and, for the first time in a federal building, four escalators that ran from the basement through to the second floor.³⁸² Another innovative detail was the use of movable steel partitions within the building to allow office spaces to be altered according to need.³⁸³ Whilst this emphasis upon functionalism gave the building a simplicity that set it apart from the overtly classicised architecture that dominated the Federal Triangle, the designers showed an attention to detail with the fixtures and fittings. This was evident in the lighting and the plaster mouldings, and particularly in the buffalo motif incorporated into door handles and tiled floor. Ickes also insisted that his new building incorporated recreational spaces for his staff to relax and socialise

³⁷⁸ Quoted in Look and Perrault, *op. cit.*, p. 13.

³⁷⁹ *Ibid.*

³⁸⁰ *Ibid.*

³⁸¹ *Ibid.*, p. 14.

³⁸² *Ibid.*, p. 15.

³⁸³ *Ibid.*

including an auditorium, a cafeteria with courtyard, and an employee's lounge with a soda fountain, all of which were decorated with Section art.

Securing a new headquarters was just one of Ickes' initial tasks and the fact that Interior was known as 'the department of things in general' or 'the department of everything else' is indicative of the fact that his new job covered a wide remit.³⁸⁴ The full extent of his duties were laid out over ten pages in the issue of the *Bulletin* that publicised the competition for the auditorium mural in the Interior building in February 1937, just weeks after it had been completed. The Section, hoping to avoid the debacle of the Justice competition, published a detailed description of Ickes' specific functions prefaced with a brief synopsis. Charged with the responsibility 'for advancing the domestic interests of the people of the United States', the jurisdiction of the Interior Secretary 'extends from the promotion of educational facilities and the maintenance of a hospital for the mentally defective, to the supervision of mining operations and the management of the Alaska railroad. He is administrator for both the petroleum industry and the PWA. He administers the National Park Service, Geological Survey, the Indian Service, and various land services'.³⁸⁵ Whilst the potential subject matter for the competition mural remained wide in scope the major themes to be commissioned for decorating the rest of the Interior building had been decided earlier by a group comprising the Section staff and the Department of the Interior Arts and Decoration Committee, appointed by Ickes:

The general scheme of mural decoration will deal with the activities of the Interior Department, with special emphasis on the major theme, "The Conservation of Natural Resources", as exemplified by the National Park Service; the various Bureaus and Divisions of the Department of the Interior to be represented as incidentals to the general theme. A supplementary theme to be treated in certain panels will be "The Settlement and Development of the West" with the work of some American Indian painters represented as part of the decoration.³⁸⁶

³⁸⁴ Clarke, *op. cit.*, 1996, p. 44. The second nickname was popularised in a book by two of the department's employees. See Robert M. Utley and Barry Mackintosh, *The Department of Everything Else: Highlights of Interior History* (Washington, D.C.: Department of the Interior, 1988).

³⁸⁵ Treasury Section of Painting and Sculpture, *Bulletin*, no. 12 (Feb. 1937), p. 6.

³⁸⁶ Treasury Section of Painting and Sculpture, Memorandum – Peoples, 25 June 1936.

With this in mind I will look at the murals and sculptures within the Interior Department in relation to four principle aspects of New Deal policy: 1) conservation – the most traditional remit of the department before the 1930s and one in which Ickes consolidated his reputation as a strong and imposing Secretary of the Interior; 2) attempts at large-scale federal intervention into the free market in terms of the department’s development of hydroelectric power which challenged the privatised power utilities, and the oil industry with Ickes’ control of the Petroleum Division of the Bureau of Mines; 3) ‘The Settlement and Development of the West’ as befitting Interior’s historical association with this particular area of the United States; 4) and lastly through the New Deal’s relationship to race, with both Native and African-Americans, as Ickes initiated a transformation in the way that the federal government dealt with Native Americans through his control of the Bureau of Indian Affairs, and he was a committed member of the NAACP and the first to integrate a government department in capital.

Conservation

Conservation was a subject dear to Ickes’ heart and one that was tackled by many of the artists commissioned to produce works for the Interior building. Poor, Bouché, David McCosh, and Ernest Fiene produced murals, and Boris Gilbertson sculptural reliefs, that directly dealt with this theme in some form or other. According to Ricky L. Hendricks the conservation movement in America began with the perceived ending of the frontier which provoked state level attempts to protect what remained of the country’s natural heritage in the early 1870s.³⁸⁷ These local initiatives then coalesced into a national programme with the establishment of

³⁸⁷ Ricky L. Hendricks, ‘The Conservation Movement: A Critique of Historical Sources’, *The History Teacher*, vol. 16, no. 1 (Nov. 1982), p. 77. He says ‘perceived’ because it was not actually until 1890 that the Census Bureau officially announced that continuous open lands in the West no longer existed. See also Lee Clark Mitchell, *Witness to a Vanishing America: The Nineteenth Century Response* (New Jersey: Princeton University Press, 1981). For a discussion of the important role that the frontier played within American pioneer mythology see Frederick Jackson Turner, *The Frontier in American History* (New York: Holt, Rinehart, and Winston, 1969 (1920)). Turner inaugurated the Frontier School of American historiography which, propagated by his students at the University of Wisconsin and Harvard, was hugely influential throughout the 1930s.

the Forest Reserve System in 1891. Yet only in the Progressive Era did ‘Theodore Roosevelt and his administrators fully articulate and attempt to direct a national movement for resource management’.³⁸⁸ During this period National Forest Reserves in the West were increased from 46 to 150 million acres under the auspices of Gifford Pinchot and the Division of Forestry, which was transferred to the Department of Agriculture in 1905. The Newlands Reclamation Act of 1902 provided for the construction of irrigation works and reservoirs in the arid states of the West, twenty-four of which were begun by 1910. And the Reclamation Service was given independent status under the Interior Secretary in 1907. Finally Theodore Roosevelt created fifty-one wildlife reserves, five new National Parks, and thirteen National Monuments, and prosecuted hundreds of violators of public land laws.³⁸⁹ These efforts culminated in the creation of the National Park Service in 1916. The main proponent of this scheme, John Muir, ‘extolled the intrinsic values and aesthetic appeal of underdeveloped places and resources’ in contrast to the more utilitarian Pinchot at Forestry.³⁹⁰ Yet despite all of this, Joseph M. Petulla argues that Theodore Roosevelt’s most significant contribution was that ‘by his forceful personality and aggressive actions, he took conservation questions to the public forum and garnered wide public opinion to aid the cause of conservation in the generation following his retirement from office’.³⁹¹

Whilst Donald Swain has convincingly argued that many of these initiatives were carried on effectively during the subsequent couple of decades, the second wave in American conservation was ushered in with the New Deal and the attempts of Franklin D. Roosevelt – Theodore’s cousin – at dealing with the economic and

³⁸⁸ Hendricks, *op. cit.*, p. 77.

³⁸⁹ *Ibid*, fn. 3, pp. 94-95. On this first wave of American conservation see Samuel P. Hays, *Conservation and the Gospel of Efficiency: The Progressive Conservation Movement, 1890-1920* (Massachusetts: Harvard University Press, 1959).

³⁹⁰ Uteley and Macintosh, *op. cit.*, p. 22. On Muir and his contribution to conservation see Stephen Fox, *John Muir and His Legacy: The American Conservation Movement* (Boston: Little, Brown, and Company, 1981). For a discussion of the national park system, and its symbolic importance in the post-frontier period, see Alfred Runte, *Parks: The American Experience* (London: University of Nebraska Press, 1979) and Roderick Nash, ‘The American Invention of National Parks’, *American Quarterly*, vol. 22, no. 3 (Autumn 1970), pp. 726-735. On Pinchot see Martin L. Fausold, *Gifford Pinchot. Bull Moose Progressive* (New York: Syracuse University Press, 1961).

³⁹¹ Joseph M. Petulla, *American Environmental History: The Exploitation and Conservation of Natural Resources* (California: Boyd and Fraser, 1977), p. 278.

environmental devastation of the 1930s.³⁹² The drought of 1933 had brought the dustbowl to Texas, Oklahoma, Colorado, Nebraska, and Wyoming, and it was estimated around this time that over 500 thousand acres were lost annually to soil erosion in the United States, with nine million acres of farmland already destroyed and a further eighty million acres damaged.³⁹³ Under the New Deal conservation was understood as being consonant with both economic growth and environmental protection. That is, a broad social program of planning and scientific management of natural resources was needed to replace the chaotic market forces associated with unregulated private property rights, since discredited by the economic collapse of 1929. To this end, the new Democratic administration set up the Civilian Conservation Corps (CCC) in 1933, which employed over two and a half million predominately young workers for the purposes of reforestation and soil conservation work; created the soil erosion unit within Interior under the direction of Hugh Bennett; exchanged twenty-five million acres of submarginal land for irrigable land under the RA; and withdrew over 300 million acres of public lands from entry with grazing districts established in 142 million of them under the Taylor Grazing Act of 1934.³⁹⁴ Furthermore, with the Wildlife Reforestation Act of 1937 millions of acres of tax delinquent lands were brought under public control and the national park network was extended to include the Olympic Rain Forest in Washington, Kings Canyon in California, the Everglades in Florida, and the Shenandoah in Virginia.³⁹⁵

Roosevelt had signalled that he would be sympathetic to the cause of conservation from the outset. Before being elected to the New York Senate in 1910 he had practised reforestation at Hyde Park and had listed his occupation as 'tree-grower' in *Who's Who in America*.³⁹⁶ On entering the legislature he was given the job of Chairman of the Forest, Fish, and Game Committee by Lieutenant Governor

³⁹² For Swain, Hoover was a committed conservationist whose firm belief in resource management was unfortunately compromised by his individualist philosophy, hence he chose a voluntarist approach which proved largely unsuccessful. See Donald Swain, *Federal Conservation Policy, 1921-1933* (California: University of California Press, 1963), pp. 160-161.

³⁹³ Hendricks, *op. cit.*, fn. 4, p. 95.

³⁹⁴ In a reorganisation of 1935 Bennett's work in the soil erosion service was transferred to the Department of Agriculture, much to Ickes' annoyance. Clarke, *op. cit.*, 1996, pp. 121-123.

³⁹⁵ Petulla, *op. cit.*, pp. 312-328.

³⁹⁶ Lowitt, *op. cit.*, p. 78.

Conway and immediately set about campaigning for the preservation of forests, the prevention of fires, and the conservation of birds. As early as 1912 Roosevelt was defending the rights of communities over those of the individual, a policy that he determined was absolutely necessary in relation to the nation's natural resources. These commitments were interrupted during his spell as Assistant Secretary of the Navy during the Wilson administration, yet when he returned to Hyde Park he began to advocate the creation of a system of national forests along European lines. As Governor of New York from 1928-32 he put many of his ideas into practise ensuring that the state had the most expansive and modern conservation programme within America. It therefore came as no surprise that during his acceptance speech for Democratic nomination Roosevelt declared his desire to promote the cause of conservation. On assuming the presidency he was true to his word as these ideals permeated to state level throughout the country.³⁹⁷ The CCC was the president's personal initiative and one of the first conservation measures pushed through by his administration during the First Hundred Days, putting unemployed urban youth to work in rural camps on a range of projects jointly supervised by the Departments of Interior and Agriculture.³⁹⁸ Ickes chose Horace A. Albright, the Director of the National Park Service, as his representative on the CCC council and he did his best to ensure that the parks benefited from this newly created source of labour.³⁹⁹

The National Park Service fared well in the New Deal years. Achieving bureaucratic maturity under the directorship of Steve Mather during the 1920s, the service expanded rapidly with a sympathetic Ickes at Interior. Mather retired due to ill health in 1929 and Albright, his chief assistant of fifteen years, took over an 'expansive, confident, vigorous, and effective' service.⁴⁰⁰ He immediately strengthened the National Park Service by bringing Civil War battlefields, parks and buildings in the capital, and national monuments under its jurisdiction during the First Hundred Days. He then resigned, rather unexpectedly in August 1933 to

³⁹⁷ For Roosevelt's commitment to the cause of conservation see Edgar B. Nixon (ed.), *Franklin D. Roosevelt and Conservation, 1911-1945*, two volumes (New York: Roosevelt Library, 1957).

³⁹⁸ On the CCC see John A. Salmond, *The Civilian Conservation Corps, 1933-1942* (North Carolina: Duke University Press, 1967).

³⁹⁹ Donald Swain, 'The National Park Service and the New Deal, 1933-1940', *The Pacific Historical Review*, vol. 41, no. 3 (Aug. 1972), p. 325.

⁴⁰⁰ *Ibid*, p. 314.

become manager of the United States Potash Company, but continued to act as an unofficial advisor to Ickes throughout the 1930s.⁴⁰¹ Ickes never really got on with Albright's successor, Arno B. Cammerer, and despite the fact that he was adept at winning congressional support for the park service he was a relatively weak director.⁴⁰² The Interior Secretary maintained cordial relationships with the service's two assistant directors, Arthur E. Demaray and Conrad L. Wirth, however, and so the smooth functioning of the park service continued during this period of rapid expansion.⁴⁰³ At the beginning of the New Deal the national park service administered sixty-three individual park units, including twenty-two national parks, one national historic park, and forty national monuments. By July 1940 it had responsibility for twenty-six national parks, eighty-two national monuments, four national historical parks, eleven national military parks, seven national battlefield areas, five national historic sites, one national recreational area, nine national memorials, twelve national cemeteries, three national parkways, and the national parks in Washington, D.C.⁴⁰⁴ In terms of personnel the service expanded from 2,027 permanent staff in March 1933 to 13,900 by 1937, at the peak of emergency conservation when funds were funnelled to it via the CCC, the PWA, and the WPA.⁴⁰⁵ And by July 1940, having disposed of its responsibility for public buildings to focus upon the national park network, the service still employed 7,341 staff.⁴⁰⁶

Poor's fresco, as the title suggests, deals with the *Conservation of American Wildlife* (fig. 67) and therefore gives visual realisation to the concrete measures undertaken during the New Deal to protect the rich diversity of American animal, fish, and bird species within the national park system. As with the murals he executed in Justice, that at Interior, for which he received \$7,200, was painted in fresco and it was completed at the north end of the main corridor on the third floor in 1939. Thomas R. Dunlap has argued that the Wild Life Division of the National Park Service, established right at the beginning of Ickes' tenure in Interior, attracted a

⁴⁰¹ Donald Swain, 'Harold Ickes, Horace Albright, and the Hundred Days: A Study in Conservation Administration' *The Pacific Historical Review*, vol. 34, no. 4 (Nov. 1965), p. 461

⁴⁰² Swain, *op. cit.*, 1972, p. 316.

⁴⁰³ *Ibid.*

⁴⁰⁴ *Ibid.*, p. 323.

⁴⁰⁵ *Ibid.*

⁴⁰⁶ *Ibid.*

committed group of animal ecologists who 'gave a different meaning to the idea of an authentic, primitive natural landscape'.⁴⁰⁷ Under their influence legislative attempts to protect certain species within the parks that were attractive to tourists were extended to cover the whole range of wildlife under their control. Rather than appealing purely on an aesthetic level for this new policy the staff in the division 'grounded their appeals on scientific studies, justifying their love of wild animals with ecological theory and field research that saw each species as part of a system'.⁴⁰⁸ Much to the dissatisfaction of ranchers and hunters this new enlightened policy even included predators such as coyotes and wolves, the latter having been practically hunted to extinction in the West by the mid-1920s.⁴⁰⁹ In this way the parks became an important sanctuary for forms of wildlife that were suffering the potential threat of extinction. Correspondingly the Park Service was instructed to eliminate introduced species that were not part of the original ecosystem and which could upset this fragile native interdependency. The scientists wanted a particular kind of natural landscape, that which existed before European colonisation, and as Dunlap argues, this coincided with a 'romanticism and nationalism that sought to preserve the pioneer experience'.⁴¹⁰

Despite the fact that Poor prided himself on the verisimilitude of his depiction of both the historical figures and wildlife within his mural scheme, his stated primary aim was 'to deal in a poetic or rather symbolic way with the whole friendly relationship between men, wild birds and animals and nature, and do honour to Audubon and Thoreau whose work makes them in a sense the fathers of Conservation'.⁴¹¹ The artist began on the left with a recumbent Henri David Thoreau reading in a landscape that is 'leafy and Eastern in character', surrounded by all manner of wild animals including brown bears and red foxes.⁴¹² As we move to the right Poor depicted 'a view along the western coast, with men releasing banded salmon trout into a mountain stream', with sheep, elk, and coyotes in the

⁴⁰⁷ Thomas R. Dunlap, 'Wildlife, Science, and the National Parks, 1920-1940', *The Pacific Historical Review*, vol. 59, no. 2 (May 1990), p. 188.

⁴⁰⁸ *Ibid*, p. 195.

⁴⁰⁹ *Ibid*, p. 190.

⁴¹⁰ *Ibid*, p. 199.

⁴¹¹ Poor – Rowan, undated, NARA, 121/133.

⁴¹² *Ibid*.

background.⁴¹³ In the centre Poor painted ‘a group of men in punts working in a duck preserve marsh – releasing banded birds and scattering corn’, with ‘a pair of whistling swans’ nesting in the ‘tulle grass’ in the foreground and the sky full of ducks, geese, and ‘a combat between a bald and golden eagle’ thrown in for dramatic effect.⁴¹⁴ At the front of the mural to the right of this Poor pictured ‘Flamingos and a great variety of waders as well as alligators, turtles, muskrats and various swamp inhabitants’, above which pelicans roost, play, and dive.⁴¹⁵ And lastly, to the far right, Poor painted a rifle-wielding Daniel Boone ‘in shadow looking at a group of deer, startled by the flight of a large crane’, and John James Audubon ‘studying and drawing in the southern swamps’.⁴¹⁶ The artist made it clear that the juxtaposition of these historical figures and wildlife in the variety of landscapes that he chose demanded ‘a formal unreality or symbolism which is of primary importance in mural decoration’, although he assured Rowan that ‘the actual characters of both men and animals and birds I have very fully documented and plan to carry out very exactly’.⁴¹⁷

Poor’s inclusion of Audubon (1785-1851) in his mural was a nod in the direction of the artist himself as Audubon was, amongst other things, a celebrated painter of American wildlife who made his reputation with his *Birds of America*, a collection of 435 life-size prints.⁴¹⁸ His name has since become synonymous with conservation, particularly in relation to birds and their habitats. In depicting a philosophically pensive Thoreau and an armed Boone within his mural Poor makes reference to both sides of the conservation movement. As already mentioned, the approach taken under the New Deal was largely utilitarian in that it was about the efficient use of natural resources. Thoreau (1817-1862), however, advocated the concept of preservation which has an aesthetic and an ecological component and is related to the nineteenth-century idea of transcendentalism associated with Ralph

⁴¹³ *Ibid.*

⁴¹⁴ *Ibid.*

⁴¹⁵ *Ibid.*

⁴¹⁶ *Ibid.*

⁴¹⁷ *Ibid.*

⁴¹⁸ On Audubon see Shirley Streshinsky, *Audubon: Life and Art in the American Wilderness* (London: University of Georgia Press, 1998).

Waldo Emerson.⁴¹⁹ Hendricks argues that this position, championed by Muir during the Progressive Era, ‘stresses the spiritual and intellectual value of communion with nature, wilderness preservation, and a holistic ecological awareness’.⁴²⁰ These themes were quite clearly enunciated in Thoreau’s most celebrated philosophical work, *Walden*, which emphasised the value inherent in a simple life in natural surroundings.⁴²¹ Boone (1784-1820), by contrast, was a celebrated frontiersman whose name is synonymous with the ideology of rugged individualism and westward expansion.⁴²² For Hendricks, this position ‘reflects the scientific, economic, and practical orientation of Progressive administrators such as Pinchot, institutions such as the Yale School of Forestry, and the ideology of the pioneer capitalist tradition’.⁴²³ Hence the utilitarian Theodore Roosevelt set up the conservationist ‘Boone and Crockett Club’ in 1887.⁴²⁴ By the time of the New Deal these two competing approaches – the preservationist and the utilitarian – had become firmly entrenched within the National Park Service and the Forestry Service respectively, and these differences go some way to account for the persistent rivalry and hostility between these two bureaucracies.

These interagency battles between the National Park Service and the Forestry Service had been a feature of the 1920s and they resurfaced with a vengeance during Ickes’ time at Interior. Hendricks argues that the new Interior Secretary ‘had an extremely clear image of himself as overseer of the natural resources of the nation, and as guardian of the public domain’.⁴²⁵ Before leaving the park service Albright successfully converted Ickes to the idea of transforming the Interior Department into

⁴¹⁹ On Thoreau see Lawrence Bull, *The Environmental Imagination: Thoreau, Nature Writing, and the Formation of American Culture* (London: Harvard University Press, 1995).

⁴²⁰ Hendricks, *op. cit.*, p. 79. For a sympathetic introduction to the preservationist position see Roderick Nash, *Wilderness and the American Mind* (London: Yale University Press, 1967).

⁴²¹ Henry David Thoreau, *Walden* (London: Yale University Press, 2006(1854)). It should also be noted that Thoreau was a committed abolitionist and his presence in Poor’s mural also ties it to another theme of the artwork in the Interior building i.e. the plight of African-Americans.

⁴²² On Boone see Lyman Copeland Draper, *The Life of Daniel Boone* (Pennsylvania: Stackpole Books, 1998).

⁴²³ Hendricks, *op. cit.*, p. 79.

⁴²⁴ It is worth noting here that both Boone and Crockett supported the extermination of the indigenous population and their inclusion within Poor’s mural therefore sits rather awkwardly with the themes expressed in the murals executed by Native Americans. See Alexander Saxton, *The Rise and Fall of the White Republic: Class, Politics, and Mass Culture in Nineteenth Century America* (London: Verso, 1990).

⁴²⁵ Hendricks, *op. cit.*, p. 90.

a proper Department of Conservation.⁴²⁶ This increasingly became a priority for Ickes and as early as 1935 he got his Interior staff to draft a 'Conservation Department Bill'. For this reorganisation to be truly effective Ickes realised that he needed to absorb the Forestry Service, that bastion of utilitarian progressive values shaped by Pinchot and relocated to the Department of Agriculture in 1905. The bureaucrats at Forestry, however, were deeply suspicious of Ickes' expansionist desires and Wallace fought to keep them under his control, with vocal support from Pinchot and the powerful forestry lobby.⁴²⁷ For Pinchot the Forestry Service was about tree farming, not preservation, as Ickes increasingly believed, and as a crop it naturally belonged within Agriculture.⁴²⁸ In response the Forestry administrators proposed that the National Park Service be transferred to Agriculture, a move that would have left Ickes' plans in tatters. To his great annoyance Roosevelt prevaricated and the two agencies remained independent and under different departments, each defending their own model of conservation.⁴²⁹ This produced particularly heated exchanges during 1938 and 1939 over Ickes' development of the national parks. Forestry contested the proposed enlargement of Grand Teton Park, in Wyoming, to include the Jackson Hole region; the proposed extension of Sequoia Park, California, to include Kings Canyon; and the establishment of Olympic Park, Washington, all because in each case the proposed lands to be absorbed included large swathes of territory under its control.⁴³⁰

Poor's attempt at signifying some sense of the complexity of these competing approaches to conservation within his mural was obviously lost on Ickes. On reviewing Poor's initial designs for the mural space Rowan reported that Ickes' response was, 'while Audubon may have known Daniel Boone ... he questioned whether Boone ever visited the Everglades and, therefore, questions the two of them

⁴²⁶ Swain, *op. cit.*, 1965, p. 461.

⁴²⁷ According to Clarke, Pinchot 'was not only a principal force behind the creation of the Forest Service in 1905, but he also helped organise during the Roosevelt, Taft, and Wilson years the private network of interest groups that have insulated and protected the agency from that day to the present'. which was, moreover, 'one of the strongest lobbies Washington has ever seen'. Clarke, *op. cit.*, 1996, p. 125.

⁴²⁸ *Ibid*, p. 126.

⁴²⁹ See *ibid*, pp. 120-128 for a more detailed account of this conflict.

⁴³⁰ Swain, *op. cit.*, 1972, p. 319.

being together in such a scene'.⁴³¹ Ickes' inability to appreciate anything beyond the most heightened form of naturalism in painting was mirrored in the reaction of a certain Francis H. Allen, a committed ornithologist and member of the Massachusetts Audubon Society. After seeing reproductions of the nearly completed mural in the rotogravure section of the *New York Times* he wrote to Ickes to 'register an emphatic protest' against the 'modernistic representation of our wild birds and mammals and of our great naturalists' in a building 'devoted to a practical and scientific handling of our natural resources'.⁴³² He found the figures equally displeasing with the 'coarse face and lackadaisical attitude' of Thoreau being 'a fit companion for the namby-pamby Audubon', and finished with an offer to 'gladly subscribe my share of the expense of a good coat of whitewash'.⁴³³ The case was then taken up by John H. Baker, Executive Director of The National Association of Audubon Societies, who wrote to Ickes that there is 'much inaccuracy in shape, posture, colour and indicated action as regards the birds and other animals portrayed in this mural'.⁴³⁴ That the Section found these attacks disquieting, especially when sent directly to Ickes who clearly put great store in naturalistic rendering, is indicated by Rowan's response. He sent a letter to Ickes informing him that Poor did not approach his mural 'from the standpoint of a scientific drawing' but instead 'from the standpoint of achieving a decorative solution to a difficult wall problem'.⁴³⁵ Unfortunately for the Section such subtleties seemed completely lost on the Interior Secretary whose dismissal of anything other than the most absolute verisimilitude made their own commitment to a contemporary domesticated form of realism in painting seem positively radical.

Throughout the 1930s Ickes was moving increasingly towards a preservationist perspective and in establishing the Everglades in Florida as a new national park he had pledged that it should remain a wilderness area.⁴³⁶ This emphasis upon the national parks as an aesthetic realm to be protected from human

⁴³¹ Rowan - Poor, 2: July 1937, NARA, 121/1.

⁴³² Allen - Ickes, 10 March 1939, 121/133.

⁴³³ *Ibid.*

⁴³⁴ Baker - Ickes, 12 May 1939, NARA, 121/133.

⁴³⁵ Rowan - Ickes, 17 June 1939, NARA, 121/133.

⁴³⁶ Swain, *op. cit.*, 1972, p. 330.

exploitation also comes through in the two murals executed by McCosh depicting the *Themes of the National Parks* (figs. 68 and 69). McCosh was a renowned landscape painter who had been a member of Grant Wood's Stone City art colony in Iowa and was therefore associated with the Regionalist movement. Rowan, who had also been a member of the colony, wrote sympathetically about McCosh in the *Magazine of Art*.⁴³⁷ Yet rather than producing fecund landscapes in the manner of Wood, or invoking a mythical pioneer past as did Curry in his Interior murals, McCosh's initial designs focused upon the parks as a worked landscape (figs. 70 and 71). He thereby underlined the labour provided by the National Park Service, supervised under the direction of the Interior Department, in preserving the natural beauty of these areas. He was well equipped to do this as, whilst teaching at the University of Oregon, he had been employed under the PWAP to document the activities of the local CCC camp.⁴³⁸ According to Rowan these preliminary studies for Interior were 'distinguished in composition, drawing, colour and implication', and, as such 'reflect the able power of a mature artist'.⁴³⁹ Whatever their merits, however, McCosh's designs were rejected by Ickes as he wanted 'not so much a reflection of the actual work done by the Park Service as an indication of the surpassing landscape of some of the national parks'.⁴⁴⁰ After Rowan had informed Ickes that McCosh was in fact 'a capable landscape artist' the Interior Secretary furnished a list of national park sites that the artist should incorporate into his designs.⁴⁴¹ The Section and McCosh obliged, and Ickes got the murals he wanted which emphasised his department's commitment to protecting the country's natural resources.

These two panels painted with oil on canvas, for which the artists received \$4,400, were installed on the east and west walls of the south lobby on the third floor in 1940, and both consisted of a large central scene, flanked by two side panels, with three predella scenes underneath. In the panel on the east wall the central image is of

⁴³⁷ See Edward Rowan, 'I've Had a Tooth Ache', *Magazine of Art*, vol. 30, no. 7, (Sep. 1937) pp. 538-542.

⁴³⁸ *Ibid*, p. 540.

⁴³⁹ *Ibid*, p. 542.

⁴⁴⁰ Rowan – McCosh, 21 June 1937, NARA, 121/133.

⁴⁴¹ Rowan – McCosh, 21 July 1937, NARA, 121/1.

Bryce Canyon National Park, Utah, a steep canyon with unique eroded limestone formations; on the left is a scene from a pine forest in Olympic National Park; and on the right he painted huge trees from Sequoia National Park. The predella scenes depict, from left to right: pueblos in Mesa Verde National Park, Colorado; a desert scene in Death Valley National Park, Nevada; and Rainbow Bridge, Utah, designated a National Monument in 1910. In the opposite panel, on the west wall, McCosh painted a view of the Half Dome in Yosemite National Park, California; and on the left and right interior and exterior views of the Carlsbad Caverns in the National Park of the same name, New Mexico. In the predella scenes, again from left to right, McCosh depicted Devil's Tower, Wyoming, designated as the first National Monument in 1906; a view of the lake in Crater Lake National Park, Oregon; and finally Old Faithful in Yellowstone National Park, across Wyoming, Montana, and Idaho, and due to Muir's efforts the first area given national park status in 1872. Ickes had successfully combated efforts on behalf of the Reclamation Bureau to exploit the natural resources in Yellowstone Park for the purposes of irrigation and had lobbied hard to bring the wilderness areas of Olympic Park under federal control, so by choosing scenes from these areas he clearly directed attention to his achievements in protecting and enlarging the national park system.⁴⁴² By selecting celebrated landmarks from the western parks he also underlined his contribution to this particular area of the United States, as befitted the traditional role of the Interior Secretary.

Nevertheless, the focus upon selected aspects of the national parks also pointed to a central contradiction at the heart of the service's conservation policy. The sites chosen by Ickes for depiction in McCosh's two murals were clearly some of the most sublime and iconic features of the American natural landscape and for these reasons they were the most heavily promoted by the Interior Department's 'Tourist Bureau'. Set up in New York City in 1937 through emergency funding, the bureau set about publicising the national parks as a pump-priming device to stimulate the depressed local economies near which they were situated.⁴⁴³ Roosevelt

⁴⁴² Swain, *op. cit.*, 1972, p. 321.

⁴⁴³ *Ibid*, p. 317.

himself became one of the chief publicists of the parks in the 1930s, attracting headlines with visits in 1934, 1937, and 1938.⁴⁴⁴ This policy of bringing in tourists to the parks had been a part of the service since its inception in 1916. According to Swain, its first director, Mather, 'was a master salesman, and he set out to sell the national parks to the public'.⁴⁴⁵ These promotional campaigns not only brought in thousands of visitors, but consolidated the reputation of the service and garnered important congressional support for its activities.⁴⁴⁶ This political support ensured the necessary appropriations for the service which steadily increased from \$10,820,620 in 1933 to \$13,557,815 by 1940, as well as an extra \$218 million in emergency funding.⁴⁴⁷ Despite the successes in bureaucratic expansion and financial consolidation made under Cammerer, in his capacity as unofficial advisor to Ickes, Albright gently pushed the Interior Secretary away from this utilitarian approach to resource management towards a more preservationist position.⁴⁴⁸ So near the end of the decade, whilst under attack from a range of 'purists' including the National Audubon Society, the Sierra Club, and the newly created Wilderness Society, Ickes spoke out against the development of 'Coney Islands' in the parks to argue instead that they were 'for those who will appreciate them and not merely for the hordes of tourists who dashed through them at break neck speed'.⁴⁴⁹

In this respect Ickes was unique, for, as Clarke makes clear, 'he was the first Interior Secretary since the department was created in 1849 to speak out and act on

⁴⁴⁴ *Ibid*, pp. 317-318.

⁴⁴⁵ *Ibid*, p. 313.

⁴⁴⁶ That these techniques were largely successful is indicated by the fact that tourist numbers to the parks and national monuments rose from 3,481,590 in 1933 to 16,741,855 by 1940 – a massive increase even taking the expansion of the service's portfolio after the reorganisation of 1933 into consideration. *Ibid*, p. 318.

⁴⁴⁷ *Ibid*, p. 324.

⁴⁴⁸ *Ibid*, p. 314. Whilst at the beginning of his tenure as Interior Secretary Ickes had written admiringly to Pinchot that 'I learned the principles of conservation at your feet' his growing sympathy for the preservationists would increasingly set him apart from the progressive tradition towards conservation. Their relationship was further soured by Pinchot's part in defeating Ickes' plans to annexe Forestry for the proposed Department of Conservation in 1935. Swain, *op. cit.*, 1965, p. 457.

⁴⁴⁹ Quoted in Swain, *op. cit.*, 1972, p. 330. Ickes made a further concession to the preservationists by appointing Newton B. Drury of the Save-the-Redwoods League to succeed Cammerer in July 1940. He was a renowned 'purist' who had been critical of the expansionist policies of the park service under Cammerer arguing that this had happened at the expense of its commitment to wilderness preservation. *Ibid*, p. 331.

behalf of wilderness'.⁴⁵⁰ In this he had the support of Roosevelt and John D. Rockefeller, Jr. who, in a bid to consolidate his own reputation as a conservationist, had given an estimated \$15 million to the park service in 1935 alone.⁴⁵¹ The oil magnate also saved a spectacular grove of sugar pines from being felled and then gave the land to the federal government as an addition to Yosemite National Park; funded the restoration of Williamsburg, Virginia, to its former colonial splendour; and under the auspices of his Snake River Land Company bought Jackson Hole in order to expand Teton National Park.⁴⁵² Yet not all corporate interests were so well disposed towards the cause of conservation and the expansion of the national park network as the controversy around Jackson Hole made clear. Rockefeller's proposed donation of these 33,000 acres of land to the government to expand Teton was bitterly contested by Wyoming's Senator Robert Carey who accused the park service of deception and collusion with Rockefeller to 'lock up' valuable forest and range land by granting it national park status.⁴⁵³ Ickes proceeded anyway, although the battle over the creation of an expanded Teton National Park was not fully resolved until 1950 when President Truman signed a compromise law that granted the land park status but with continued provision for hunting and tax compensation.⁴⁵⁴ Whilst this battle was particularly protracted and became a *cause célèbre* in the 1930s it is, nevertheless, typical of how the lumber industry, through the forestry lobby and their allies in Congress, bitterly resisted federal encroachment upon their interests. In this sense the 'purists' were in the unique and enviable position of having an Interior Secretary that could be trusted to regularly fight their corner against those who sought to exploit natural resources for their private gain.

The contradiction between the twin objectives of preservation and pump-priming surface more explicitly in the \$5,500 competition mural produced by Bouché for the stage of the auditorium, installed in 1938 (fig. 72). Whilst 'The wealth of pictorial material in the National Parks is suggested as a source of inspiration for the designs', the brief also proposed that a 'composite of the wide-

⁴⁵⁰ Clarke, *op. cit.*, 1996, p. 109.

⁴⁵¹ *Ibid.*

⁴⁵² *Ibid.*

⁴⁵³ *Ibid.*, p. 110.

⁴⁵⁴ *Ibid.*

spread contemporary activities of the Department of the Interior using as a central theme the conservation of natural resources' was 'an appropriate treatment' for the space.⁴⁵⁵ Hence the ten page description of Ickes' responsibilities that followed the competition announcement in the *Bulletin*, as mentioned earlier. These two strands, the particular and the general, were skilfully brought together in Bouché's mural entitled *Western Lands* thereby fulfilling the Section's requirement that the winner 'originate a design which will not be narrow or partial in emphases'.⁴⁵⁶ Hence he painted at the bottom of the centre panel eight vignettes symbolising the various activities of the Department of the Interior in grisaille, separated in the middle with another depicting a buffalo silhouetted against mountains and a distant setting sun, thereby repeating the design motif used as a decorative feature throughout the building. Above, and to the left and right of these vignettes, Bouché painted a 'typical' western landscape over three panels. On the left he included a Cheyenne Indian and a prospector; to the right cowboys on horseback rounding up a herd of cattle; and in the central panel a 'romantic stretch of country which interprets what might be seen in one of the great western national parks', with organ cacti, a century plant, several deer, and a wolf.⁴⁵⁷ Running across the background he placed a road with a couple of cars upon it, indicating the fact that this natural setting was open to tourists. And this despite the fact that, as early as 1933, Ickes had declared that 'If I had my way with national parks I would create one without a road in it. I would have it impenetrable forever to automobiles, a place where man would not try to improve upon God'.⁴⁵⁸

Yet Bouché's mural successfully papers over these contradictions to present an image of the white man and Native American living in harmony with each other and nature with both the modern and traditional, signified by the motor vehicles and cattle herding respectively, peacefully coexisting under the auspices of the

⁴⁵⁵ Treasury Section of Painting and Sculpture, *Bulletin*, no. 12 (Feb. 1937), p. 4.

⁴⁵⁶ *Ibid.* Bouché's composition also successfully fulfilled the competition brief in that the two side panels were judged to be 'self-contained compositions' that stood alone when the central section of the mural was moved to incorporate a cinema. *Ibid.* The competition closed on 30 April 1937, and Bouché's design was chosen over 300 other entries. Treasury Section of Painting and Sculpture, *Bulletin*, no. 13, (Mar. – June, 1937), p. 12.

⁴⁵⁷ Treasury Section of Painting and Sculpture, Press Release, 9 June 1937, NARA, 121/122.

⁴⁵⁸ Quoted in Swain, *op. cit.*, 1972, p. 330.

Department of the Interior, its duties and responsibilities emphasised within the eight vignettes which depict, from left to right, the General Land Office; the Bureau of Reclamation; the Geological Survey; the Division of Territories and Island Possessions; the Bureau of Indian Affairs; the Office of Education; the National Park Service; and the Bureau of Mines. Here nature is something that is managed and controlled, a metaphor for the landscape artist himself. Just as controversial as the pump-priming efforts of the park service in the New Deal period was the subject of cattle grazing, depicted in the right-hand side panel of Bouché's mural. This was given greater prominence in one of the four panels completed by Fiene for the north end of the Grand Stairs on the second floor of the Interior building, for which he received \$4,400 in total. In his panel *Winter Roundup* (fig. 73), also installed in 1938, the artist depicted 'a roundup of cattle in the western grazing country', in particular the 'White-faced Herefords', which he described as 'one of the popular breeds of beef cattle'.⁴⁵⁹ If Ickes invoked the wrath of the lumber industry by 'locking up the national parks', the grazing reforms that he implemented in the early New Deal period also set him at loggerheads with the big cattle ranchers. In the 1930s 975 million acres of land in the western two-fifths of the country were used as grazing land, just over a third of which were federally owned.⁴⁶⁰ These lands, located largely in the western part of the range region, fell under the dominion of the Interior Department and they had deteriorated markedly during the 1910s and 1920s due to overgrazing.⁴⁶¹ Whilst Theodore Roosevelt had attempted to pass legislation that would have implemented a leasing arrangement, this was defeated by western congressmen seeking to protect their livestock industries.

Knowing that Franklin D. Roosevelt was sympathetic to conservation issues, Albright thought that it was worth having another go and so, just before he retired as director of the National Park Service, he suggested to Ickes that the time was ripe for 'reform on the range'.⁴⁶² With Roosevelt's support Ickes instructed his staff to draft legislation to this effect and although the resultant bill was not passed during the

⁴⁵⁹ Quoted in Look and Perrault, *op. cit.*, p. 133.

⁴⁶⁰ Lowitt, *op. cit.*, p. 65.

⁴⁶¹ Clarke, *op. cit.*, 1996, p. 47.

⁴⁶² *Ibid.*

First Hundred Days, when there were more pressing concerns to contend with, it was enacted in June the following year. Named after Edward Taylor of Colorado, who had championed such reforms for many years, the Taylor Grazing Act was one of the earliest New Deal conservation measures and it brought to a close the era of the federal government's free land disposal policy.⁴⁶³ Ickes was now authorised to create grazing districts on eighty million acres of the least damaged areas of the public domain in cooperation with grazing associations of stockmen who bought permits under which they were charged with maintaining the good condition of the areas under their control. To cope with the overwhelming demand for permits the acreage provided for the scheme was increased to 142 million with an amendment in June 1936. Whilst the powerful cattlemen's association, their financial backers, and their congressional allies were initially opposed to paying for the privilege of grazing their livestock, they soon realised that the new permit system brought certain advantages in that the carrying capacity of the range was reduced thereby preventing overcrowding. In an attempt at conciliating opposition and bringing home-rule on the range the Grazing Service, the new agency set up to administer this scheme, set up local advisory boards that decentralised the implementation of these reforms and gave local interests some input into the decision making process. Whilst the big ranchers attempted to dominate these boards, as Richard Lowitt explains, Ickes 'maintained a vigilant concern for the conservation of natural resources and an open hostility to monopolistic control over them, favouring instead wise use by small developers and homesteaders'.⁴⁶⁴

That Ickes was proud of these federal attempts to rein in those private interests that exploited natural resources within the public domain is demonstrated by the fact that it was the Interior Secretary himself who gave this subject to Fiene to paint. Fiene was a well-known leftist who had been a member of the John Reed Club and one of the signatories of the 1936 call for an American Artists' Congress and his

⁴⁶³ On this see Joe A. Stout, 'Cattlemen, Conservationists, and the Taylor Grazing Act', *New Mexico Historical Review*, vol. 45, no. 4 (1970), pp. 311-332 and Lowitt, *op. cit.*, pp. 65-72.

⁴⁶⁴ *Ibid*, p. 69.

initial choice of subject matter registered these commitments.⁴⁶⁵ The subject of mining, possibly chosen by the artist for its vanguard position within the working-class movement, was rejected because it ‘dealt with Eastern Mines, a type which is not typical of those coming under the province of the Department of the Interior’.⁴⁶⁶ His design dealing with dam construction (fig. 74), which like Gropper’s foregrounded the subject of physical labour, was rejected because by this stage the latter’s had already been ‘accepted in principle’.⁴⁶⁷ And lastly, the ‘sketches dealing with the land and its cultivation (fig. 75) were regarded as more typical of the activities in the Department of Agriculture than Interior’.⁴⁶⁸ Here Fiene counterposed a traditional horse and plough tilling virgin land in the West on the right with more modern machine methods being employed in a furrowed field ripe with produce on the left. Instead Ickes suggested that Fiene paint panels dedicated to: 1) ‘Western Mountains with placer mine and stream mine; 2) Grazing; 3) Desolation of Forest due to Carelessness, and lastly; 4) A scene depicting “The Regrowth of the Forest”’.⁴⁶⁹ As with McCosh beforehand, Rowan dutifully passed on the recommendations to the artist and Fiene painted what he was told. Yet again Ickes got the subject-matter that he so desired even if the last two panels would prove controversial in terms of the perceived masculinity or nationality of some of the figures depicted.

There was little controversy with the panel finally entitled *Placer Mining* (fig. 76) that was installed opposite *Winter Roundup*. Within this mural Fiene dealt with some of those activities that fell under the remit of the Geological Survey, attempting to include as many examples of placer mining as possible. He began in the foreground with a figure panning for gold behind whom are others using more modern and sophisticated methods. The figure on the right is using hydraulics and

⁴⁶⁵ Fiene’s leftist politics are also indicated by the fact that he produced murals for the Central Needle Trades High School of New York and the International Ladies’ Garment Workers Union of New York. At the time that he received the Interior commission he was described in the *Magazine of Art* as being ‘as socially conscious as any painter of the so-called American Scene’. Donald J. Bear, ‘Ernest Fiene’s Paintings of New York’, *Magazine of Art*, vol. 30, no. 2 (Feb. 1937), p. 98.

⁴⁶⁶ Rowan – Fiene, 21 July 1937, NARA, 121/133.

⁴⁶⁷ *Ibid.*

⁴⁶⁸ *Ibid.*

⁴⁶⁹ Rowan – Bruce, 14 July 1937, NARA, 121/1.

those behind are ‘digging the gold dirt which is shovelled into a long through thru which the water of the high waterfall at the right is directed’.⁴⁷⁰ The remaining figure on the left is stirring the water and soil to isolate the ore. Finally, in the background Fiene painted a large dredger in the process of separating the ore from the rock and soil. As the artist made clear ‘This is a composite mural – all these varied operations would not occur in one place’.⁴⁷¹ The uniform dress of the figures clearly marks them out as government employees so that even the one panning for gold in the foreground is subsumed within a collective effort that cuts against the iconic position that such a practise occupies within a West Coast pioneer mythology of rugged individualism – the mural was originally entitled *Place Mining, California*. It was in the next two mural panels that Fiene would once again return to the subject of conservation with the seemingly innocuous subjects of *Fighting Forest Fire* (fig. 77) and *Replanting Wasteland* (fig. 78). Taken together the two offer a broad narrative cycle of human intervention into the natural landscape in which the destruction resulting from a wildfire is first controlled through isolation, and then redressed with reforestation by groups of young men ‘on public projects’.⁴⁷² The damage resulting from human error – the subject initially given by Ickes’ was ‘Desolation of Forest due to Carelessness’ – is ultimately contained and then reversed through federal intervention.

What was ambiguous in these two panels is the exact relationship that these young men have to the ‘public projects’ referenced by Fiene. In his preparatory work for *Fighting Forest Fire* (fig. 76) the central figure felling a tree to build a breach at the front of the composition has the uniform, age, and build of a young member of a CCC camp. Whereas in the completed panel this figure, now moved to the right, could be a regular employee of the park service. As already mentioned above the agency benefited greatly from CCC quotas during the Depression, allowing it to undertake conservation projects beyond the scope of its regular labour force and Ickes was unsure whether the young workers depicted in Fiene’s murals were either temporary or permanent employees of the park service. To pacify Ickes, Fiene

⁴⁷⁰ Quoted in Look and Perrault, *op. cit.*, p. 133.

⁴⁷¹ *Ibid*, p. 134.

⁴⁷² Fiene – Rowan, 26 October 1938, NARA, 121/133.

insisted that they were in fact National Park Service staff and not members of the CCC.⁴⁷³ A more pressing ambiguity for the Interior staff concerned the masculinity of this figure felling a tree. First administrative assistant Ebert K. Burlew wrote to Rowan telling him that this foreground figure ‘seems to us to lack character. It looks like somebody’s ideal of a “pretty boy” who has good strong muscles’.⁴⁷⁴ Having been informed of this criticism the artist responded with the defence: ‘If labourers are occasionally handsome men, or even mothers’ darlings, it is something we have no right to take from them. Especially is this true in a democracy, where men of humble position often rise to important positions and sometimes without changing their physiognomy to any extent’.⁴⁷⁵ This rather bizarre interchange between Burlew and Fiene, via Rowan, is perhaps the only example within Section correspondence in which the perceived masculinity, and by extension sexuality, of a male figure within a mural came into question. It is perhaps not surprising that this occurred during the painting of a typically western subject matter with all the attendant expectations around machismo and manliness traditionally associated with the frontier spirit.

Ickes then took the criticism further and shifted it onto the terrain of ethnicity. After seeing the murals installed in October 1938 the Interior Secretary said to Rowan that ‘There was not an American type in the whole series’.⁴⁷⁶ At this point Fiene’s patience finally snapped and he responded:

‘To begin with this is a trivial criticism. I might ask what national type are those men and what about the cows? To the best of my knowledge, the men in the mural represent a variety of American types. Even westerners are descendants of many races or nationalities. The only one that remains true to his source, is the man holding the flag, in the Reforestation panel. He is of Mexican origin – I have seen many of his type in the west and I have no doubt that some of those are engaged in public projects’.⁴⁷⁷

⁴⁷³ Fiene – Rowan, 18 May 1938, NARA, 121/133. It is worth noting here that before the shift to the Popular Front the CPUSA regarded the CCC as fascist.

⁴⁷⁴ Burlew – Rowan, 2 May 1938, NARA, 121/133.

⁴⁷⁵ Fiene – Rowan, 18 May 1938, NARA, 121/133.

⁴⁷⁶ Rowan – Fiene, 24 October 1938, NARA, 121/133.

⁴⁷⁷ Fiene – Rowan, 26 October 1938, NARA, 121/133. Fiene’s impassioned response could be in part a product of the fact that he was German born.

Ironically, it is quite clear from looking at the preparatory design for this mural (fig. 80) that the Mexican physiognomy of this figure was an afterthought and was not part of the original design. Bearing in mind that the subject matter of the four panels was dictated to Fiene quite specifically by Ickes then the mixing of various racial types was one of the few ways the artist had left to him to communicate his radical politics. What was possibly more controversial than the inclusion of a variety of racial types within his final mural was the fact that the Mexican was in fact the foreman and therefore in a position of power over the white and other ethnic figures within the mural.⁴⁷⁸ For Melosh, Fiene's defensive response nevertheless reveals the power of Ickes' criticisms and the artist is forced to defend his Americanism by occupying the Interior Secretary's ground: 'Without wishing to project my virtues too much, I may say that my mural *Paul Revere as an Industrialist* for the Canton, Massachusetts, post office is perhaps one of the most typically American murals produced under the sponsorship of your Department'.⁴⁷⁹

I will return to these debates around what constituted 'typically American' in a moment when looking at those murals dealing with the Bureau of Reclamation that also depict a multi-racial workforce, and elicited a similar response from Ickes. For now I want to emphasise the fact that, as part of his defence against the Interior Secretary's insistence on verisimilitude, Fiene echoed Poor. He argued: 'I believe altogether the realistic elements are overstressed. The story can be told better through the imagination of the artist. By taking a small fragment of a situation and symbolizing this into a dramatic event, with the use of proper spacing and colour accent, the story is told more directly to the onlooker'.⁴⁸⁰ And it was not just the muralists that confronted the problem of a stubborn Ickes whose insistence on a heightened form of naturalism made the Section seem aesthetically pluralistic. Gilbertson's two sculptural reliefs carved in Missouri marble using an air hammer, for which he was paid \$6,000, also pushed against the limits of Ickes' aesthetic tolerance. In these two works dealing with the conservation of wildlife, entitled

⁴⁷⁸ This is made clear by Fiene when he wrote that: 'The figures are shown advancing towards a slope in the process of replanting a burned off forest. A foreman holding a flag directs this and also marks the location for the group'. Quoted in Look and Perrault, *op. cit.*, p. 134.

⁴⁷⁹ Quoted in Melosh, *op. cit.*, p. 89.

⁴⁸⁰ Fiene – Rowan, 18 May 1938, NARA, 121/133.

American Moose (fig. 81) and *American Bison* (fig. 82) – both popular with park tourists – the sculptor wished ‘to combine an accurate representation of the subject with a decorative accent consistent with the architecture of the building’.⁴⁸¹ Whilst this would largely be limited to ‘the stylised approach to the background elements of sky and grass’, and in ‘the fur of the animals’, Ickes expressed concern.⁴⁸² Rowan wrote to Gilbertson explaining that ‘The Secretary of the Interior, while he liked your treatment of the animals, felt that the decorative quality should not be carried any further than indicated in these drawings and that the work, in his opinion, would be more interesting if realism were stressed in the animals’.⁴⁸³ Yet again Ickes contained any moves towards formal experimentation on the part of the artists chosen to decorate his building, seemingly reinforcing the Section’s own cautious approach to modernism.⁴⁸⁴

That there was a distance separating the aesthetic philosophy of the Section administrators from Ickes’ narrow empiricist vision on matters concerning art became apparent in Bruce’s response to the Interior Secretary’s continued attempts at controlling the decorative programme for his new headquarters. Since 1931 Bruce had held that ‘modern art is foreign to our real tastes’ and on his return to the United States he had accordingly embraced American Scene painting with his urban and industrial landscapes that were exhibited at the Milch Galleries.⁴⁸⁵ So for him ‘suitable art of the best quality ... for the embellishment of public buildings’ meant a contemporary form of realism that was rooted in an everyday American experience.⁴⁸⁶ Despite his reservations about the influence of either French or Mexican painting upon those artists working under Section patronage there was, however, a certain leeway for artistic license and innovation within the fairly narrow and prescriptive parameters that constituted American Scene painting. Whilst Ickes may have shared Bruce’s hostility towards modernism, for the Interior Secretary quality meant little more than a heightened form of naturalism with next to no room

⁴⁸¹ Quoted in Look and Perrault, *op. cit.*, p. 125.

⁴⁸² *Ibid.*

⁴⁸³ Rowan – Gilbertson, 20 July 1937, 121/133.

⁴⁸⁴ They were installed opposite each other in the first floor main corridor in 1940.

⁴⁸⁵ Quoted in Hemingway, *op. cit.*, 2002, p. 81.

⁴⁸⁶ Bruce – Zantinger, 14 November 1934, NARA, 121/133.

for artistic individualism. This is why Bruce considered the Interior Secretary to be 'a complete vulgarian'.⁴⁸⁷ Nevertheless, the Section chief resigned himself to having to take 'on the chin the ridiculous comments on his ideas of art', warning Rowan that if they took a more confrontational approach the Interior Secretary 'is bound to lick us, having the upper hand'.⁴⁸⁸ And this is what really annoyed the Section staff for just as the decoration of the Justice Department building involved slugging it out with the hopelessly outmoded Commission of Fine Arts over what constituted a viable model for a contemporary public art so, with Interior, the Section had to battle with Ickes' stubborn opinions in determining what made it onto the walls and into the courtyards of his new building.

That this was about autocratic control over the decorative process was indicated by Rowan's comment to Ickes that it was difficult 'to please everyone and at the same time get the best possible art available and still use "New Deal Methods"'.⁴⁸⁹ As early as May, 1935, the Director of Procurement had written to Ickes to elaborate upon the Section's working methods in an attempt to forestall bureaucratic interference on the part of the Interior Department.⁴⁹⁰ In response Ickes expressed satisfaction with these procedures and delegated responsibility to his appointed Interior Arts and Decoration Committee to reach a consensus on 'the selection of arts and subject matter for the decorative panels and paintings of the new building'.⁴⁹¹ Yet even at this early stage he insisted that the artist Henry Salem Hubbell, who he had previously commissioned to paint a portrait of him for \$1,000, be paid a further \$10,000 of the Section's funds to produce portraits of the fourteen former Secretaries of the Interior.⁴⁹² Despite the Section's reservations the Commission approved these portraits in October 1936 and the artist was paid the following month. Having got what he wanted Ickes then suggested that the money allotted for decoration of the Interior be more than halved from \$110,000 to \$49,000,

⁴⁸⁷ Bruce – Rowan, 9 July 1937, AAA, D88.

⁴⁸⁸ *Ibid.*

⁴⁸⁹ Rowan – Bruce, 14 July 1937, NARA, 121/1.

⁴⁹⁰ Peoples – Ickes, 29 May 1935, NARA, 121/1.

⁴⁹¹ Ickes – Peoples, 20 June 1935, NARA, 121/1.

⁴⁹² Treasury Section of Painting and Sculpture, Memorandum – Peoples, 25 June 1936, NARA, 121/122.

minus the \$11,000 already spent.⁴⁹³ Bruce was apoplectic and appealed to the Commissioner of Public Buildings W.E. Reynolds to intercede on the Section's behalf and refuse these savage cuts.⁴⁹⁴ Whilst Ickes backed down and allowed the project to go ahead as originally envisioned his decision to call in Rowan to 'review the sketches for the Interior Building' was the final straw.⁴⁹⁵ In his blithe dismissal of certain works that did not appeal to him Ickes overrode both his designated committee and the Section to assume the role of self-appointed art patron. This was acknowledged by Bruce when he wrote: 'The Secretary of the Interior is a complete Tsar in the situation. He has as much power over the situation as if he were spending his own money'.⁴⁹⁶

Despite his obvious limitations in matters concerning art there is no denying the fact that Ickes proved himself to be a committed supporter of conservation. Seeking to remove the stain of corruption that had largely characterised his department since the Teapot Dome scandal he took on the vested interests of the lumber industry and the big ranchers in his drive to expand the national park system and revitalise the ravaged public lands to the west of the 99th meridian. In his willingness to tackle 'the interests', as he referred to the corporate sector, and specifically those elements in opposition to a liberal reform agenda, he clearly epitomised the more interventionist elements within the New Deal coalition. This emphasis upon a strong federal state willing to tackle big business reached its height during the 'Second New Deal' as Roosevelt, disillusioned with the failure of the NIRA and corporate efforts at dealing with the economic crisis, took a leftward turn.⁴⁹⁷ Federal support for organised labour with the Wagner Act constituted an attempt at using the industrial trade union movement as a bulwark against these intransigent and entrenched business interests. Ickes was sympathetic to this shift as it offered a chance to push through the social reforms that he saw as necessary to redistribute wealth. More than any other cabinet member he had consistently urged

⁴⁹³ Bruce – Reynolds, 22 December 1936, NARA, 121/1.

⁴⁹⁴ *Ibid.*

⁴⁹⁵ Rowan – Bruce, 14 July 1937, NARA, 121/1.

⁴⁹⁶ Quoted in Contreras, *op. cit.*, p. 117.

⁴⁹⁷ For a discussion of the relationship between the First and Second New Deals see Badger, *op. cit.*, pp. 94-108.

the president to move against 'the interests' that were opposed to such policies. Having already proven his progressive credentials by confronting private utilities at a state level in Chicago, Ickes was now perfectly placed to transpose these efforts onto a federal level. For as head of Interior he had control of the Bureau of Reclamation and after being converted to the benefits of a multipurpose approach to dam construction which could generate hydroelectric power he directly took on the commercial power companies.

Federal regulation of the economy

The first generation of conservationists during the Progressive Era coined the term 'conservation' to denote reclamation and the conservation of water resources, although the term quickly expanded to encompass other natural resources.⁴⁹⁸ Lawrence B. Lee locates this reform impetus in relation to irrigation in John Wesley Powell's 'Report on the Lands of the Arid Region of the United States' of 1878, which for him was 'the first blueprint for the reform of the public land system based upon the pervasive factor of aridity in the West'.⁴⁹⁹ The West had played a prominent role in getting Roosevelt the Democrat nomination in early 1932 and he repaid this debt by touring the area extensively in his subsequent presidential campaign.⁵⁰⁰ It was in Portland, Oregon, on 21 September when he first gave an indication of what the New Deal could offer westerners in terms of hydroelectric power. On the subject of public utilities Roosevelt called for 'a national yardstick to prevent extortion against the public and to encourage the wider use of that servant of

⁴⁹⁸ As Lawrence B. Lee makes clear: 'the terms irrigation and reclamation are used interchangeably in the literature relating to arid-land agriculture, though the word irrigation has often been employed to describe state and local projects while the word reclamation is usually attached to federal projects'. Lawrence B. Lee, *Reclaiming the American West: Historiography and Guide* (Oxford: Clio Press, Ltd., 1980), fn. 8, p. 2. The Interior Department had been originally charged with irrigation of the Western states under the aforementioned Newlands Act of 1902, although at this time the Reclamation Service was a part of the Interior's U.S. Geological Survey under Frederick Haynes Newell, Powell's senior assistant in the irrigation survey after 1888. It was given independent status within Interior in 1907. *Ibid*, fn. 31, p. 13.

⁴⁹⁹ *Ibid*, p. 9. For a sympathetic portrayal of Powell see William Culp Darrah, *Powell of the Colorado* (New Jersey: Princeton University Press, 1951).

⁵⁰⁰ That this campaign was successful is evidenced by the fact that in the presidential election he carried every Western state.

the people – electric power’.⁵⁰¹ While he fell short of explicitly calling for public power, as Lowitt makes clear, ‘he strongly endorsed rigorous regulation and said that communities, if not satisfied with private services or rates, should have the right to construct and operate their own power plants’.⁵⁰² This thinly veiled support for the generation of public power was reinforced by his pledge that ‘the national hydroelectric power resources belonging to the people of the United States, or the several states, shall remain forever in their possession’.⁵⁰³ Whilst opponents of the New Deal feared that once in power Roosevelt would endorse a position of total public power provision, Whitney Cross considers that as state governor of New York he had promoted it merely as a means of reigning in the monopolistic and exploitative practices of the private sector.⁵⁰⁴ As such, he supported dam building in the West at a federal level for the same purpose – not as an ever expanding encroachment into the free market, but more as a means to make the power utilities more competitive and ultimately sustainable.

There were also internal forces within the Bureau of Reclamation itself that would push it towards combining its conservationist activities with the production of hydroelectric power. Ever since the Newlands Reclamation Act of 1902 the Reclamation Service, as the bureau was initially named, had been charged with using the income from the sale of western public lands to dam major streams and divert their waters for irrigation.⁵⁰⁵ This legislation was largely the work of Representative Francis Newlands who was a proponent of the homestead idyll; hence the inclusion of the controversial Section 5, which stated that: ‘No right to the use of water for land in private ownership shall be sold for a tract exceeding one hundred and sixty acres to any one landowner.’⁵⁰⁶ As Lee makes clear this

⁵⁰¹ Quoted in Lowitt, *op. cit.*, p. 5.

⁵⁰² *Ibid.*

⁵⁰³ *Ibid.*

⁵⁰⁴ Whitney R. Cross, ‘Ideas in Politics: The Conservation Policies of the Two Roosevelts’, *Journal of the History of Ideas*, vol. 4, no. 3 (June 1953), p. 429.

⁵⁰⁵ This was to be a self-financing through a revolving Reclamation Fund whereby water users would repay their contribution to these costs within ten years to pay for new irrigation projects. Donald Swain, ‘The Bureau of Reclamation and the New Deal’, *Pacific Northwest Quarterly*, vol. 6, no. 3 (1970), p. 137.

⁵⁰⁶ Quoted in Paul W. Gates, ‘Introduction’, Lee, *op. cit.*, 1980, p. xiv. On Newlands, who was part of Theodore Roosevelt’s inner circle of conservation architects, see Mary Ellen Glass, ‘The Newlands

legislation was therefore an extension of the 'agrarian dream of a nation of free-holders' that was implicit in the Homestead Act, of 1862, and the Desert Land Act, of 1877.⁵⁰⁷ Under Hoover, Congress voted hundreds of millions of extra dollars to supplement the money from these land sales and thereby bolster the irrigation programs in the West. Yet there were problems as the service was too often pressured by private property interests to adopt projects in each state without due consideration of careful surveys of probable costs, drainage problems, feasibility of the land for farming, or the effect of increased production of certain crops on prices.⁵⁰⁸ This produced financial difficulties as many of those interests that directly benefited from these irrigation projects could not, or would not, pay their contribution to the construction costs.⁵⁰⁹ They argued that it was unfair to make struggling homesteaders within project areas pay for reclamation costs that then benefited adjoining communities and the West in general. The resultant settler unrest, project debt, and low occupancy rates ensured that by the early 1920s the Reclamation Service was heavily in debt. Whilst the federal government bailed it out by retrospectively reallocating much of this debt to flood control, Lee argues that it was this crisis that 'induced the adoption of the new multipurpose strategy followed by an organisational change emphasising regional devolution of authority'.⁵¹⁰

After a Fact Finders' Committee in 1924 the efficiency-orientated Republican government replaced Arthur Powell Davis with Elwood Mead as Commissioner of the renamed Bureau of Reclamation and he embraced the

Reclamation Project: Years of Innocence, 1903-1907', *Journal of the West*, VII (1968), pp. 55-63.
The 160 acre limit was doubled for a married couple.

⁵⁰⁷ Lee, *op. cit.*, 1980, p. 33. On the Homestead Act see Lawrence B. Lee, 'The Homestead Act: Vision and Reality', *Utah Historical Quarterly*, 30 (Summer 1962), pp. 215-234. On the Desert Land Act see Paul W. Gates, *History of the Public Land Law Development* (Washington, D.C.: Zenger Publishing Co., 1968), pp. 638-643.

⁵⁰⁸ Gates in Lee, *op. cit.*, 1980, p. xiv.

⁵⁰⁹ Debts to the federal government were always the first to be defaulted during periods of financial crisis and the government was forced to introduce moratoria in the years 1921-24, 1931, and 1933-1936. The PWA and the WPA kept the bureau solvent during the early years of the New Deal, granting it \$96 and \$62 million respectively by 1937. Swain, *op. cit.*, 1970, p. 141. According to Lee these developments fit a general pattern whereby the West benefits from 'a special relationship with Congress and the federal bureaucracy, while proclaiming everlasting fealty to the gospel of "states rights"'. Lee, *op. cit.*, 1980, p. 43.

⁵¹⁰ Lee, *op. cit.*, 1980, fn. 75, p. 30.

multipurpose approach to irrigation in an attempt at restoring financial solvency.⁵¹¹ Multipurpose projects took into account the use and control of water in all its possible aspects, including irrigation, flood control, the provision of domestic and industrial water supplies, pollution control, navigation, as well as the protection of fish and wildlife. But in terms of offsetting the huge construction costs engendered by the ensuing period of high dam building it was their production of hydroelectric power that would increasingly concern the bureau in the 1930s.⁵¹² Up until Ickes' appointment the bureau was just one of several agencies charged with irrigation and on the Columbia River Basin Project it faced stiff competition from the Corps of Engineers.⁵¹³ Yet, according to Lee, 'The implications of public power for the possible economic development of the West, for enhancing the political base of the bureau, and for the conservation activities of the Department of Interior were soon grasped by Secretary Harold Ickes', so that the bureau's power and prestige expanded rapidly during the New Deal period.⁵¹⁴ Whereas the Corps of Engineers were concerned primarily with navigation, and flood control as a minor secondary consideration, the multipurpose approach favoured by Mead and supported by Ickes ensured that during this 'economic phase' the bureau 'was transformed by its achievements into a national water resource agency'.⁵¹⁵ For Ickes dam building offered a chance to not only take on the private power utilities by generating cheaper electricity, but also to consolidate his status in the West as the dominant government official in the Inland Empire, and even encroach upon the Department of Agriculture's hegemony over the Great Plains. Moreover, as head of the PWA, Ickes

⁵¹¹ *Ibid*, p. 30. Ironically it was Davis who pioneered the multipurpose strategy in the Boulder Canyon Project. See Norris Hundley, Jr., *Water and the West: The Colorado River Compact and the Politics of Water in the American West* (London: University of California Press, 1975). What distinguished Mead from his predecessor was his realisation that if the bureau was to weather these hard times then it had to mount an intense 'education' campaign to publicise the potential benefits of multipurpose reclamation projects and win over critics. Swain, *op. cit.*, 1970, p. 140. On Mead see Paul Conkin, 'The Vision of Elwood Mead', *Agricultural History*, 34 (1960), pp. 88-97.

⁵¹² Lee, *op. cit.*, 1980, pp. 41-42.

⁵¹³ Lowitt, *op. cit.*, p. 87.

⁵¹⁴ Lee, *op. cit.*, 1980, p. 39. Ickes had to be brought round by Mead as the Interior Secretary had originally thought that the Bureau was expendable and was prepared to trade it with Wallace as part of a package that would land him the coveted Forestry Service. This was never likely to happen as Wallace at the Department of Agriculture had been mounting a protectionist-orientated anti-reclamation campaign. Swain, *op. cit.*, 1970, p. 138.

⁵¹⁵ Lee, *op. cit.*, 1980, p. 32.

had the financial clout with which to fund these monumental civil engineering projects and leave an indelible mark from the Rockies to the Sierras, and even up to the Pacific Coast.⁵¹⁶

After meeting with Ickes to review William Gropper's sketches for his *Construction of a Dam* (fig. 83) mural, that was to celebrate these massive federal reclamation projects, Rowan wrote to the artist that the Interior Secretary had approved his designs in principle, but that he should 'particularise the building activities', that is 'make it either the building of the Boulder Dam or Grand Coulee, or any of the other large activities under the Department of the Interior'.⁵¹⁷ With this in mind Rowan advised Gropper to visit the Grand Coulee where the artist made numerous sketches for his \$5,300 mural commission.⁵¹⁸ Built on the Columbia River in tandem with the smaller Bonneville Dam, these two projects were designed together to provide 'an ideal demonstration of the feasibility of flood prevention, water storage and irrigation, the collateral development of hydroelectric power, the curbing of soil erosion, and the economic desirability of land use, all coupled with planning for community growth, extended transportation, and market development'.⁵¹⁹ In short, as Lowitt makes clear, they 'allowed planners in the Northwest to envision the region's future as a promised land'.⁵²⁰ The earlier dam, begun in September 1933 and designated PWA Federal Project No. 28, primarily affected Oregon. Its principal purpose was hydroelectric power production, although the planners incorporated an extremely elaborate system of traps, locks, elevators, canals, and ladders to shepherd the river's adult salmon population upstream so that the dam was multipurpose in this sense, and consolidated Ickes' reputation as a preservationist.⁵²¹ The main purpose of the Grand Coulee, begun later in 1933, was to irrigate over a million acres of land in Washington for resettlement and to provide

⁵¹⁶ Lowitt, *op cit.*, pp. 80-81.

⁵¹⁷ Rowan – Gropper, 20 July 1937, NARA, 121/1.

⁵¹⁸ Rowan – Gropper, 12 June 1937, NARA, 121/133.

⁵¹⁹ Lowitt, *op. cit.*, p. 157.

⁵²⁰ *Ibid.*

⁵²¹ *Ibid.*, p. 159. Whilst this expensive design concession – it cost an estimated \$3 million – was made to protect the salmon industry rather than the salmon per se, it nevertheless came under severe criticism in Congress by those forces keen to halt the expansion of the Bureau of Reclamation. Swain, *op. cit.*, 1970, p. 139.

as much cheap electricity as possible to encourage the development of what was formerly mainly desert land. It consisted of a dam which was 4,300 feet long at the top and 450 deep which was capable of raising the river 355 feet above its low water level to create a 150 mile long lake. When it was finally completed in March 1941 over ten million cubic yards of concrete had been poured to make it the biggest human-made structure in the world.⁵²²

The dams on the Columbia River, as with the other major irrigation projects built during the New Deal period, were only made possible through emergency funding, particularly that dolled out by Ickes as head of the PWA. Roosevelt agreed with his Interior Secretary that the development of the West was dependent upon irrigation and cheap public power so he encouraged Ickes to grant PWA funds generously. Prior to 1933 the average annual expenditure of the Reclamation Bureau was \$8.9 million whereas in the New Deal years it stood at \$52 million.⁵²³ By 1940 \$69 million of PWA money alone had been channelled into the construction of the Grand Coulee.⁵²⁴ Bearing in mind that 6,000 men worked day and night building the dam the labour costs alone were huge.⁵²⁵ By the time it was completed during the war years the Grand Coulee had the capacity to produce more hydroelectric power than even the TVA, so that alongside the latter, Lowitt considers that it 'became a symbol of the New Deal's commitment to a planned promised land'.⁵²⁶ And this is the exactly the angle that Gropper chose to celebrate in the three panels that he painted with oil on canvas to depict the activities of the Bureau of Reclamation. By focussing upon the workers energetically toiling in his mural, Gropper, as with Fiene in his sketches for the same subject, used the theme of dam construction first and foremost to monumentalise and glorify human labour. The low viewpoint and the compressed massing of the labourers into the right foreground of the centre panel work to pull the spectator into the picture plane and thereby reinforce a sense of identification with the workers. Whilst the dam itself is relegated to the background, the immense scale of the project is emphasised by the small figure aloft the huge

⁵²² *Ibid*, p. 144.

⁵²³ *Ibid*, p. 142.

⁵²⁴ Lowitt, *op. cit.*, p. 164.

⁵²⁵ *Ibid*.

⁵²⁶ *Ibid*.

component that is being swung into position by a crane in the top left of the centre panel. As Hemingway asserts, ‘Gropper’s heroic design, however inadequate to the task, was both a tribute to the sheer gigantism of the project and to the way in which government enterprise provided employment, mobilised collective endeavour and worked in the public interest’.⁵²⁷

As such, Gropper’s mural clearly encodes liberal Democratic ideology in its celebration of an interventionist New Deal state. The private power utilities were a popular target for trustbusters as by 1929 a mere sixteen companies controlled 92 percent of private electricity output.⁵²⁸ This monopoly was disguised by the fact that a company such as Associated Gas and Electric owned 264 smaller power producers through a complex array of holding companies.⁵²⁹ This intricate web of ownership effectively allowed them to sidestep state and federal regulation so that they were free to award lucrative management fees and dividends which were then simply passed on to the general consumer in relatively exorbitant utility bills.⁵³⁰ The attack upon these huge conglomerations took two main forms. Under the Public Utility Holding Company Act, a bill drafted by Tom Corcoran and Ben Cohen, and introduced as the Wheeler-Rayburn bill in 1935, the Securities and Exchange Commission was granted the authority to dismantle these private power monopolies unless they formed a ‘geographically or economically integrated system in two or more contiguous states’.⁵³¹ This was a slow process and one that was bitterly resisted by the utility magnates in court so that by 1946 the thirteen largest companies had only reduced their corporate entities from 670 to 446.⁵³² Federal provision of public power was the other approach to tackling the problem and in many ways it was more successful. As Swain makes clear, when Mead convinced Ickes of the value of multipurpose dam construction with the Hoover Dam in 1935, ‘it was water for power rather than water for irrigation that had attracted him’ so that by World War

⁵²⁷ Hemingway, *op. cit.*, 2002, p. 157.

⁵²⁸ Badger, *op. cit.*, p. 101.

⁵²⁹ *Ibid.*

⁵³⁰ For more specific details on the numerous ways by which the private power utilities boosted their profits see Ellis W. Hawley, *The New Deal and the Problem of Monopoly: A Study In Economic Ambivalence* (New Jersey: Princeton University Press, 1966), p. 330.

⁵³¹ Quoted in Badger, *op. cit.*, p. 101. On the Wheeler-Rayburn bill see Hawley, *op. cit.*, pp. 329-337.

⁵³² Badger, *op. cit.*, p. 102.

II, 'river basin planning and hydroelectric power were his paramount interests, and he viewed himself as the main competitor of the TVA and David Lilienthal'.⁵³³ The private power companies were well aware of the threat that this multipurpose strategy represented to their profits and reacted accordingly, lobbying aggressively in Washington and attacking the bureau's plans in court in an attempt at warding off these federal incursions into the power industry.

That these monumental New Deal civil engineering projects were emblematic of a strong federal state is suggested by a *New York Times Magazine* article on the Bonneville dam in 1937: 'Wild and defiant, the [Columbia] river tumbles virtually unharnessed to the Pacific', that is until 1933, when 'the citizens of Bonneville have watched this tangible and thrilling grapple between their government and the forces of nature'.⁵³⁴ The controlling of nature becomes a metaphor for the controlling of the free market, and thereby a powerful ideological weapon with which to defend the interventionist economic strategies pursued by the New Dealers in their attempts to curb the corporate excesses of the private utilities. Such a reading is emphasised in the narratives of the federal theatre productions that also take hydroelectric dam building as their subject matter. In the 'Living Newspaper' play *Power*, Arthur Arent interwove newspaper stories, speeches in Congress, sociological studies, and court records, into his dramatisation of the spread of electricity to the masses.⁵³⁵ Running in New York for five months in 1937, the play begins with a blackout in a major city. As the play progresses the central character, Angus K. Buttonkooper, learns about the impact of monopolies in the power industry, the explanation for both the power failure and his expensive electricity bills. In one of the climactic scenes lawyers argue before the Supreme Court about the constitutionality of government-provided electric power. As such

⁵³³ Swain, *op. cit.*, 1970, p. 138. Ickes chaired, and Mead and Lilienthal were members of, the National Power Policy Committee set up in June 1934 to consider legislation to regulate the electricity industry. Hawley, *op. cit.*, fn. 6, p. 331.

⁵³⁴ Richard Neuberger, 'Power Giant of the Far West: The First Unit of a Federal Power System on the Columbia River is Nearing Completion', *New York Times Magazine*, 16 May 1937, p. 8.

⁵³⁵ See Bruce Bustard, *A New Deal for the Arts* (London: The University of Washington Press, 1997), pp. 79-81 and Melosh, *op. cit.*, p. 126 for details on the play *Power*, and Jane De Hart Mathews, *The Federal Theatre, 1935-1939: Plays, Relief, and Politics* (New Jersey: Princeton University Press, 1967) for a history of the Federal Theatre Project.

the play dramatises this conflict between the federal state and narrow, selfish corporate interests. In another scene, as photographs of hydroelectric dams flash dramatically in the background, a group of farmers and workers march on stage and sing ‘The TVA Song’, praising government ownership of electric power and by extension state economic planning:

All up and down the valley
They heard the great alarm;
The government means business
It’ working like a charm
Oh, see them boys a-comin’
Their government they trust,
Just hear their hammers ringing’
They’ll build that dam or bust.⁵³⁶

As such, Gropper’s celebration of dam building, installed across the south end of the main corridor on the second floor, was an eminently suitable subject for a radical artist wishing to celebrate Roosevelt’s leftward shift under the Second New Deal and the consequent attack upon the entrenched power of big business. According to Hemingway, Gropper ‘was one of the Communist movement’s most popular celebrities’.⁵³⁷ Not only was he a well-known book illustrator and cartoonist, whose work had appeared in mainstream magazines and newspapers, but he ‘was an open Communist whose commitment to the Party’s political positions was unequivocal, and much of his work for the movement was done gratis’.⁵³⁸ By bringing together Communists and liberals into a united bloc against the forces of reaction the Democratic Front opened up a discursive space for propagandistic imagery such as *Construction of a Dam* that could appeal to both audiences. As Hemingway asserts, Ickes’ ‘commitment to public power overlapped with the Communists’ vision of the socialisation of production – for them it was a way

⁵³⁶ Quoted in Bustard, *op. cit.*, p. 80.

⁵³⁷ Hemingway, *op. cit.*, 2002, p. 138.

⁵³⁸ *Ibid*, p. 139.

station en route to that goal'.⁵³⁹ What differentiates Gropper's mural from others that celebrate dam construction in this period is his focus upon the labour that built it. The brawny multiracial workforce to the right of the centre panel clearly indicated Gropper's leftist politics and the red scarves around the necks of the workers in the left panel hanging onto ropes and using air drills on the side of the canyon almost got the mural destroyed during the McCarthy period as they were read as a reference to the Communist Youth Movement. Yet in the late 1930s this subject was perfectly acceptable and the Section celebrated the fact that 'in essence' the artist 'sought to portray the drama of labor, the dignity of labor, and the strength of labor'.⁵⁴⁰ Ickes was pleased with the design which clearly projected his commitment to strong federal government and the fact the full-size sketch for the mural was exhibited at the ACA Gallery, and earlier preliminary ones in the *Magazine of Art* in 1937, 'alongside a range of his more critically charged works', suggests, as Hemingway makes clear, that 'while the most celebrated Communist artist had contributed to a manifestation of federal authority, federal authority had also conferred status on his work'.⁵⁴¹

Unfortunately the multiracial workforce depicted in Gropper's mural was largely illusory as even though Ickes introduced government quotas on PWA projects to tackle pervasive discrimination, state level bureaucracies frequently ignored them.⁵⁴² And whilst the Section and Interior bureaucrats may have liked Gropper's design, the artist, like Fiene beforehand, was urged to ensure that his figures were in fact 'pretty typical American workmen'.⁵⁴³ The same was demanded of the Cikovsky, another Communist artist and member of the John Reed Club, who also produced a series of panels in the Interior building on the subject of reclamation.⁵⁴⁴ The narrative sequence inscribed within these four panels, all oil on canvas for which he received \$4,400, begins with *Desert* (fig. 84) in which the artist depicted windswept sand dunes in the kind of landscape brought to life through the

⁵³⁹ *Ibid*, p. 157. Hemingway goes as far to suggest that 'for Communists, Gropper's generic dam may well have stood as something like an American Dnieperstroï'. *Ibid*.

⁵⁴⁰ Quoted in Look and Perrault, *op. cit.*, p. 130.

⁵⁴¹ Hemingway, *op. cit.*, 2002, p. 157.

⁵⁴² Badger, *op. cit.*, pp. 253-254.

⁵⁴³ Rowan – Gropper, 23 November 1938, NARA, 121/133.

⁵⁴⁴ Rowan – Cikovsky, 20 June 1937, NARA 121/133.

activities of the Bureau of Reclamation, with a yucca and cacti in the foreground. This is emphasised in the second panel entitled *Irrigation* (fig. 85) in which he painted farmers attending to the irrigation canals that brought water to ‘the field of grain and orchards’.⁵⁴⁵ In the last two panels, entitled *Gathering Dates* (fig. 86) and *Apples* (fig. 87), the benefits of reclamation are demonstrated through the resulting abundance of produce which is depicted in the process of being harvested. The kind of intensive agriculture depicted in Cikovsky’s panels was pioneered, and most widely used, in the factory farms of California where the agricultural labourers that harvested the crops were mainly migratory, frequently Mexican, and more often than not illegal immigrants. Whilst they were given low wages and the most rudimentary of accommodation in purpose built labour camps the ever-present threat of deportation kept them in line. With this in mind Ickes desire to see a ‘typically American’ workforce seems overtly ideological, an attempt to elide the fact that the intensive farming techniques introduced by modern agribusiness depended on a largely foreign itinerant workforce whose vulnerability made them eminently exploitable.⁵⁴⁶

Yet Rowan suggested to Cikovsky that in the last panel he paint the type of orchard found in Yakima in Washington, in which the trees were ‘in definite rows as this is one of the outstanding characteristics of such orchards’.⁵⁴⁷ In the late 1930s Washington produced about one-third of the nation’s apple crop and 75 percent of this was produced around the junctions of the Wenatchee and Yakima Rivers with the Columbia.⁵⁴⁸ The *Federal Guide* for Washington makes it clear that these crops were ‘contingent upon irrigation’, and Rowan accordingly asked the artist to picture this in his panel, which he did by including irrigation channels running off into the distance.⁵⁴⁹ Bearing in mind that this region was in the process of being revitalised

⁵⁴⁵ Look and Perrault, *op. cit.*, p. 132.

⁵⁴⁶ For a history of the struggle of Californian farm workers during the New Deal period see Carey McWilliams, *Factories in the Fields: The Story of Migratory Farm Labour in California* (Massachusetts: Little, Brown, and Company, 1939), pp. 200-325 and Cletus E. Daniel, *Bitter Harvest: A History of California Farmworkers, 1870-1941* (London: Cornell University Press, 1981), pp. 105-285.

⁵⁴⁷ Rowan – Cikovsky, 25 October 1937, NARA, 121/133.

⁵⁴⁸ Federal Writer’s Project, *Washington: A Guide to the Evergreen State* (Oregon: Metropolitan Press, 1941), p. 65.

⁵⁴⁹ *Ibid*, p. 64 and Rowan – Cikovsky, 20 July 1937, NARA, 121/1.

and brought into greater productive use under the operation of the Grand Coulee dam these panels are quite clearly related to Gropper's triptych. According to the *Guide*, like the agricultural workers in California, the 'Workingmen of Washington have been mainly migrants, labouring in gangs in the woods, mines, and fields ... often living in camps and bunkhouses that any day might be knocked down and transported elsewhere'.⁵⁵⁰ This was true 'in the early days of building the Territory, and now that cities have arisen, it is still true'.⁵⁵¹ As in California the 'Workers in hopfields and orchards of the Yakima Valley struck in 1933 and were attacked by vigilantes and police'.⁵⁵² Yakima's intransigent employers, just like their counterparts in California, then banded together as 'Later organisational attempts amongst harvest hands in the area were resisted by the Associated Farmers'.⁵⁵³ Yet despite the similarities between the farming sectors in the two states, as Lowitt makes clear, 'the plight of migrants in the Northwest was in no way as severe or as publicised as those in California, nor were there racial or ethnic dimensions to their plight'.⁵⁵⁴ Most of the migrant labour in the Northwest was lured by the powerful symbols of Bonneville and Grand Coulee from the northern tier of states from the Mississippi River westwards.⁵⁵⁵ Plagued by drought, dustbowl, soil erosion, and unemployment, a lot of these migrants loaded all their possessions into the family car or truck and set off to start a new life. Sadly, many of them got there only to swell the ranks of the army of 80,000 transient crop pickers in the Willamette, Yakima, and Snake River valleys during the four month harvesting period.⁵⁵⁶

This is the only way to make sense of Ickes' repeated insistence that the figures depicted within the murals in his new building look 'typically American'. Melosh quite rightly points to the fact that 'integration remained a code for radical politics' – hence Cikovsky, just like Fiene and Gropper, his comrades in the American Artists' Congress, included multiracial workforces within their mural

⁵⁵⁰ Writers' Program of the Work Projects Administration, *op. cit.*, 1941, p. 86.

⁵⁵¹ *Ibid.*

⁵⁵² *Ibid.*, p. 92.

⁵⁵³ *Ibid.*

⁵⁵⁴ Lowitt, *op. cit.*, p. 143.

⁵⁵⁵ *Ibid.*, pp. 141-142.

⁵⁵⁶ *Ibid.*, p. 142.

schemes.⁵⁵⁷ Yet she is mistaken in claiming that ‘it is difficult to explain the intensity of [Ickes] responses about race except in the context of the New Deal’s adversarial relationship to the left’.⁵⁵⁸ It is true that the New Deal was deeply compromised in terms of the politics of race by the structural relationship between the southern agricultural and northern manufacturing sectors within the Democratic Party that formed its congressional voting bloc, an issue that I will explore in more detail in relation to the murals and sculpture that specifically deal with the African-Americans. As such Melosh is right in claiming that ‘With few exceptions, white liberals did little to challenge segregation’.⁵⁵⁹ Yet Ickes was quite clearly one such exception as he consistently defended the interests of Native and African-Americans and, as already mentioned, was the first to integrate a government department. He was also the most outspoken anti-fascist within the administration, and it was for these reasons that, as Hemingway suggests, ‘after the president himself’ he ‘was probably the Party’s favourite New Dealer’.⁵⁶⁰ The fact was that the desire by these radical artists to communicate their political convictions via the racial composition of the figures within their murals contradicted empirical reality. Construction crews on the big dam projects did not have the racial composition that Gropper projected, despite Ickes’ best efforts to introduce a quota system. And the migrant agricultural labour that harvested the apple crop in Yakima was poor white, not Mexican, as in California. Ickes welcomed the depiction of different racial types within the art in the Interior building – this is clearly borne out by the fact that there are so many examples – but being the absolute pedant that he was their inclusion had to be based on the realities.⁵⁶¹

⁵⁵⁷ Melosh, *op. cit.*, p. 91.

⁵⁵⁸ *Ibid.*

⁵⁵⁹ *Ibid.*

⁵⁶⁰ Hemingway, *op. cit.*, 2002, p. 157.

⁵⁶¹ Ickes’ pedantic insistence on the utmost verisimilitude manifested itself in a whole range of ways in criticisms of Cikovsky’s designs. In the sketch for the *Desert* panel the artist was told by Rowan that ‘further study be given to the sky in an attempt to make it more typically western’ and that the flowering yucca was ‘taller and more stark’ than any that the Interior staff had seen. He questioned the accuracy of the figure drawing in the design for *Irrigation*, and that for *Apples* was faulted due to the specifics of the type of equipment used. Finally the sketch for *Gathering Dates* was criticised for its overall lack of detail. Rowan – Cikovsky, 25 October 1937, NARA, 121/133.

Another factor that distinguished Washington from California in terms of agriculture and reclamation was the fact the Grand Coulee transformed public lands into settlement areas for farmers who wanted to make a new start whereas the lands to be irrigated in California under the Bureau of Reclamation's Central Valley Project were already in private hands. After Mead died in 1936 he was succeeded by his protégé John C. Page, who advised Ickes that the 160 acre limit should be abandoned in California with this project, begun in 1937.⁵⁶² Two years prior to this Congress had already exempted the Colorado Big-Thompson Project from this limit.⁵⁶³ This shift quite clearly affected the Jeffersonian ideals of the bureau, originally inscribed with the 160 acre limit, and given credence by Roosevelt's public pronouncements on resettlement and his statements to the effect that newly irrigated lands were to be used by those uprooted from the Great Plains during the dust bowl.⁵⁶⁴ This was largely rhetorical, however, as the bureau's requirement that new settlers have at least \$2,000 in cash and previous experience of irrigation farming precluded the vast majority of them from even applying. These newly irrigated lands were usually taken up by local families wishing to extend their land holdings.⁵⁶⁵ For Swain, this attempted shift was pure 'bureaucratic opportunism' in that in its adoption of hydroelectric power provision the bureau 'had expanded its program and found the key to future growth'.⁵⁶⁶ This provoked factional infighting as certain bureaucrats in Reclamation were loath to downgrade the original impetus to the bureau's activities towards irrigation, and the Central Valley Project's mooted exemption from the 160 acre rule was never granted. Ickes helped defeat this challenge to the Jeffersonian ideals of the bureau as he wanted the benefits of the Central Valley Project to be distributed as widely as possible and not just favour the centres of agri-business that dominated large swathes of the valley.⁵⁶⁷ This was but a temporary victory for the conservationists as Page increasingly looked to militaristic metaphors to justify the bureau's potential contribution to the war effort in the late

⁵⁶² Swain, *op. cit.*, 1970, p. 145.

⁵⁶³ *Ibid.*

⁵⁶⁴ *Ibid.*

⁵⁶⁵ *Ibid.*

⁵⁶⁶ *Ibid.*

⁵⁶⁷ Lowitt, *op. cit.*, p. 196.

1930s in the form of hydroelectric production. At that point the huge amounts of electricity generated at Grand Coulee would be used to power the burgeoning defence industries in the Northwest, which provides the context in which to understand Ickes' description of the bureau in 1938 as 'a veritable Aladdin's Lamp'.⁵⁶⁸

It was this shift from conservation to power production that invoked the wrath of the private utilities who charged that the bureau was now just a 'power agency' in unfair competition with them.⁵⁶⁹ It was this shift that would also ensure that in the postwar period the bureau would come under attack from a new third generation of radical conservationists. They scored their first victory in the early 1950s when an alliance of preservationist groups, drawing upon the tradition of Emerson, Thoreau, and Muir, saved the Dinosaur National Monument on the border of Colorado and Utah by defeating the bureau's plans to build Echo Park dam as part of the Colorado River Basin Bill of 1956.⁵⁷⁰ The period of 'high dam' building was finally brought to a close during the Vietnam era as the Wilderness Society defeated other massive civil engineering projects such as Bridge Canyon and Marble Canyon dams, formerly seen as vital components to the Central Arizona Project. Attacking the bureau for its deleterious impact upon the environment the preservationist movement successfully campaigned for the passage of the Wilderness Act in 1964 and the Wild and Scenic Rivers Act in 1968.⁵⁷¹ If the Bureau of Reclamation had began its bureaucratic life as an agency committed to a conservationist ideology, as elaborated by Powell with his survey of the western lands, then the civil rights, antiwar, and consumer's movements gave credence to the anti-corporate stance of the dissidents' challenge that it had since become just another faceless government agency with ties to big business.⁵⁷² In fairness, as Hendricks makes clear, whilst the

⁵⁶⁸ Quoted in Swain, *op. cit.*, 1970, p. 146.

⁵⁶⁹ *Ibid.*, p. 144.

⁵⁷⁰ Lawrence B. Lee, 'Water Resource History: A New Field of Historiography?', *The Pacific Historical Review*, vol. 57, no. 4 (Nov. 1988), pp. 459-460. On the battle to save Dinosaur National Monument see Nash, *op. cit.*, 1967, pp. 209-211.

⁵⁷¹ Lee, *op. cit.*, 1980, p. 52. For a sustained critique of the bureau's dam building era see Richard Berkman, *Damming the West* (New York: Grossman Publishers, 1973).

⁵⁷² By this time high dam building had become so discredited that of all the arid states only California continued with massive multipurpose dam construction in the 1960s. These criticisms of the bureau's 'economic phase' received official recognition in the report of the National Water Commission in

conservationist agenda of the New Deal period was 'usually economic rather than ecological in scope ... there was also a firmly-based preservationist component which would periodically merge with an increase in scientific knowledge and public concern'.⁵⁷³ Although from the vantage point of the 1960s the conservationist ideals of the 1930s pursued by Ickes during his tenure as Interior Secretary, in which reclamation was seen as an integral component part of a broader federal intervention into the environment for the benefit of the American people, now seemed hopelessly naive and outmoded.

Nevertheless, during the New Deal period Ickes' support for the bureau's development of hydroelectric power was correctly understood as an attack upon the monopolistic practises of the private utilities. Dam building stood as a powerful symbol of state planning and strong federal intervention to curb the vagaries of the free market. In this way Ickes enhanced his reputation as an 'old curmudgeon' who relished fighting 'the interests' in defence of the common man. Unfortunately, his attempts at regulating the petroleum industry were nowhere near as effective, and despite his best efforts the oil barons resisted his moves to bring the industry under greater federal control. Whilst the whole industrial sector was in a state of paralysis when Ickes took office in March 1933 the oil industry had been hit the hardest and, as Linda J. Lear argues, it 'hovered on the brink of collapse'.⁵⁷⁴ This was due to overproduction which dated back to the late 1920s when the market was glutted by

1968 after which the design and construction of multipurpose development projects was removed from its remit and its future role was confined largely to water management in the West. The final nail in the bureau's coffin came with the National Environmental Policy Act of 1970 under which law suits and environmental impact reports were added to the traditional benefit-cost analysis requirements as safeguards for the environment. Lee, *op. cit.*, 1980, p. 52. In this way the figure of Powell was displaced by that of his contemporary George Perkins Marsh. Marsh, the American minister in Italy and author of the ground-breaking *Man and Nature*, had been commissioned by the federal government in 1874 to provide a detailed description of irrigation practises in Europe. His critical report recognised the benefits of irrigation but registered the environmental abuses that have been associated with reclamation. As such, Marsh displaced Emerson, Thoreau, and Muir, 'as the progenitor of the concept of ecology, which now transfigured the third or new conservation movement of the 1960s', especially in relation to the critique of dam building. Lee, *op. cit.*, 1980, p. 53. The recovery of Marsh began with the publication of Lewis Mumford, *The Brown Decades: A Study of the Arts in America* (New York: Dover Publications, 1931), and for an influential biography of him see David Lowenthal, *George Perkins Marsh: Versatile Vermonter* (New York: Columbia University Press, 1958).

⁵⁷³ Hendricks, *op. cit.*, p. 94.

⁵⁷⁴ Linda J. Lear, 'Harold L. Ickes and the Oil Crisis of the First Hundred Days', *Mid-America*, 63 (Jan. 1981), p. 4.

the production from the big oil fields in Texas, Oklahoma, and California, a situation further exacerbated by the discovery of the East Texas oil field in October 1930, the biggest within the continental United States.⁵⁷⁵ This led to a ‘drilling orgy’ with 350,000 barrels being produced a day in this new field alone.⁵⁷⁶ As Ellis W. Hawley explains, ‘since demand was relatively stable, the number of producers relatively large, and the urgency to produce, because of capital investments, royalty arrangements, and the law of capture, relatively great, the result was low prices that did not begin to cover the costs of production’.⁵⁷⁷ ‘Hot oil’ production, that is production in violation of state regulatory limits, was estimated at 25,000 barrels a day as both large and small producers scrambled to capture their share of the flush oil.⁵⁷⁸ Due to these violations the price of a barrel of 36 degree gravity crude in Oklahoma dropped from a high of \$.2.29 in 1926 to 10 cents in 1933.⁵⁷⁹ Unlike the manufacturing sector which could compensate for excess supply by restricting production, as Donald R. Brand makes clear, ‘the oil industry was incapable of turning off the spigot’.⁵⁸⁰ Hence when Ickes took responsibility for the Petroleum Division of the Bureau of Mines, as he himself recollected, the oil barons ‘flocked to Washington to beg the administration to do something, anything, to save the industry from chaos and possible collapse’.⁵⁸¹

On assuming his new post the Interior Secretary knew little about the oil business so he had to learn quickly. According to Norman E. Nordhauser, ‘Ickes mildly distrusted oil executives and feared that their crude ways might discredit his

⁵⁷⁵ *Ibid.*

⁵⁷⁶ *Ibid.*

⁵⁷⁷ Hawley, *op. cit.*, pp. 212-213. The inherent problems of ‘the law of capture’ are succinctly summarised by Donald R. Brand: ‘Consistent with the Lockean notion of property, ownership of petroleum was conveyed under the law of capture by mixing one’s labour with the natural resource in lifting it to the surface. The migratory character of underground oil, however, compelled each joint owner of a pool to maximise individual production to prevent rival owners from capturing potential production’. Donald R. Brand, ‘Corporatism, the NRA, and the Oil Industry’, *Political Science Quarterly*, vol. 98, no. 1 (Spring 1983), p. 106.

⁵⁷⁸ Lear, *op. cit.*, 1981, p. 4.

⁵⁷⁹ Gary D. Libecap, ‘The Political Economy of Crude Oil Cartelisation in the United States, 1933-1972’, *The Journal of Economic History*, vol. 49, no. 4 (Dec. 1989), p. 835.

⁵⁸⁰ Brand, *op. cit.*, p. 106.

⁵⁸¹ Quoted in Lowitt, *op. cit.*, p. 101.

department as had happened with Teapot Dome'.⁵⁸² Given his commitment to the cause of conservation it was hardly surprising that Ickes abhorred the waste of natural resources that was prevalent within the oil industry. After the opening of the East Texas oil field daily crude output averaged two and a half million barrels compared to a market demand for only two million.⁵⁸³ He therefore began his tenure as Interior Secretary seeking to impose strong federal planning to stave off the perceived possibility of future scarcity, arguing that 'unless the oil industry can regulate itself – at least to the point of preventing such waste as had gone on in the past – the government will be justified in taking whatever steps may be necessary to regulate and preserve for use this essential resource'.⁵⁸⁴ Such stringent centralised enforcement, he hoped, would bring production in line with consumption and thereby stabilise prices. He just had to convince the president and the oil producers that this was in their best interests. Yet, unfortunately for him, the petroleum industry was divided on what should be done. The twenty or more major integrated companies who controlled two-thirds of oil production in the United States were organised through the Associated Petroleum Institute (API), and whilst they demanded federal intervention at the beginning of the New Deal, this very quickly constituted little more than a desire for the government to police the interstate shipment of 'hot oil' by supporting state level proration agreements that had largely broken down in the early 1930s.⁵⁸⁵ The smaller producers were split between the Independent Petroleum Association (IPA), initially sympathetic to the API's call for federal intervention, and the Independent Producers Association Opposed to Monopoly (IPAOM) from California and Texas who saw monopolisation as the principal problem and therefore demanded antitrust enforcement and the divestment of pipelines from the integrated major companies.⁵⁸⁶ Largely dependent upon quick

⁵⁸² Norman E. Nordhauser, *The Quest For Stability: Domestic Oil Regulation, 1917-1935* (New York: Garland Publishing, Inc., 1979), p. 98.

⁵⁸³ Lear, *op. cit.*, 1981, p. 3.

⁵⁸⁴ Quoted in *ibid.*, p. 5.

⁵⁸⁵ *Ibid.*, p. 4.

⁵⁸⁶ *Ibid.*

profits from flush oil this sector refused to acknowledge that the problem lay with overproduction and accused the IPA of “collusion” with the majors.⁵⁸⁷

The situation was further complicated by the fact that the oil producing states appealed to the federal government for assistance in restoring their regulatory authority, yet were at the same time wary that their state rights, or state level revenues, should suffer at all.⁵⁸⁸ With no agreement within the industry, Interior Department lawyers followed Ickes’ instructions and drafted the Marland-Capper bill in March 1933 which prohibited the interstate shipment of ‘hot oil’; provided for strong control over imports and over the national allocation of production; and called for an administrator with power to intervene to enforce production quotas within states, to impose sanctions on violators, and to fix prices of petroleum and its products to prevent unfair competition.⁵⁸⁹ The fact that Oklahoma Congressman Ernest W. Marland was director of the API, and Kansas Senator Arthur Capper was a firm advocate of his state’s well owners, indicated that the majors, at this point, were desperate enough to support relatively strong federal controls. Their support also confirmed the inability of the railroads under the 1920 Transportation Act to control the flow of illegal oil. During the hearings the East Texas oil field opened again after a state-imposed moratorium and the Texas Railroad Commission announced the allowable figure of 800,000 barrels per month, double the limit prior to the closing of the field.⁵⁹⁰ The Texas Company, one of the largest buyers in the field, reacted by cutting its posted price from 50 cents a barrel to 10 cents, and Humble, Stanoline, Shell, Sun Oil, and Tidewater followed suit. Independents could not compete and threatened to shut down their wells. With the reopening of this oil field the total national daily output in the first week of May increased by over 500,000 barrels, inducing more cuts and an absolute breakdown in the market. ‘Hot oil’ was everywhere and on 4 May the price of oil in Texas hit a low of 4 cents a barrel and Governors Alf Landon and William Murray, of Kansas and Oklahoma

⁵⁸⁷ *Ibid*, p. 6.

⁵⁸⁸ *Ibid*, pp. 4-5.

⁵⁸⁹ *Ibid*, p. 8.

⁵⁹⁰ *Ibid*, p. 9.

respectively, urged the president to support the Marland-Capper bill.⁵⁹¹ Despite the depth of the crisis, and much to Ickes' annoyance, Roosevelt refused to give his backing and suggested instead that the legislation for the oil industry be considered alongside the general industries bill.⁵⁹² As Lear makes absolutely clear, by doing this he signalled his support for only the most general controls and the bill got nowhere.⁵⁹³

According to Nordhauser, by the end of May 1933 most of the majors agreed with the president that the NIRA was preferable to special legislation for their industry alone.⁵⁹⁴ Under Senator Robert Wagner's general industrial recovery bill the oil industry would avoid the appointment of an 'oil czar' in the form of Ickes and would be allowed industrial self-regulation, under federal aegis, with exemption from antitrust laws.⁵⁹⁵ As such the majors could remain intact, fix prices, and delegate the responsibilities to Ickes that they saw fit.⁵⁹⁶ The Interior Department then drafted a ten-line amendment to the recovery bill which would have granted Roosevelt the power to ban 'hot oil' from interstate commerce and to enforce production quotas and other stabilisation regulations. Firmly opposed to any federal intervention the IPOAM used their political allies in Congress – Senators William McAdoo and Tom Connolly, of California and Texas respectively – to block these amendments in the Senate Finance Committee.⁵⁹⁷ According to Lear the momentum had gone out of the campaign for tough federal controls; the industry was too divided; and Ickes lacked a forceful constituency outside his own department.⁵⁹⁸ Instead Congress adopted for Title I, Section 9, of the NIRA two provisions – 9(a) and 9(b) – recommended by McAdoo which authorised pipeline regulation and

⁵⁹¹ *Ibid.*

⁵⁹² According to Nordhauser, Roosevelt anticipated congressional opposition to the Marland-Capper bill and was worried that this would in turn delay the passage of the NIRA. Nordhauser, *op. cit.*, pp. 108-109.

⁵⁹³ Lear, *op. cit.*, 1981, p. 11.

⁵⁹⁴ Nordhauser, *op. cit.*, p. 109.

⁵⁹⁵ Ickes advocated federal planning for the oil industry but he wanted this to dovetail with the existing structure of corporate concentration. This would bring him into conflict with Justice later in 1938 when the committed anti-monopolist Thurman Arnold took control of the Department's Antitrust Division. Arnold took a different view and wanted to prosecute the larger players like Standard Oil for their anti-competitive strategies. Badger, *op. cit.*, p. 105.

⁵⁹⁶ *Ibid.*

⁵⁹⁷ *Ibid.*, p. 111.

⁵⁹⁸ Lear, *op. cit.*, 1981, p. 12.

divestment and Connolly's watered down version of Ickes' amendment as 9(c) which authorised the president to prohibit interstate shipment of 'hot oil'. It was signed into law on 16 June 1933. Whilst the majors were wary of 9(a) and 9(b), they were never implemented, and they succeeded in obtaining a federal ban on the interstate commerce of illegal oil and avoided a federal imposition of production restrictions.⁵⁹⁹ Ickes was deeply suspicious of the IPOAM due to their dependence upon flush wells, which were the most wasteful method of extracting oil, yet their spokesman, John B. Elliot, was a powerful figure within the Democratic Party, and McAdoo and Connolly were close to the president.⁶⁰⁰ In such circumstances Ickes believed that he had achieved the best that he could and that stability within the oil sector would pave the way for more scientific management of oil resources.⁶⁰¹

Roosevelt appointed Ickes head of the newly created Petroleum Division in late August 1933 and he then proceeded to set voluntary quotas for each of the oil producing states, which were then in turn allocated, by either state agencies or industry groups, to individual fields and wells.⁶⁰² Despite lacking the wide-ranging powers that he had attempted to legislate for himself, Ickes was largely successful in stabilising the market so that by October the flow of 'hot oil' had 'dwindled to a trickle' and the price of crude oil had risen to a dollar a barrel.⁶⁰³ Due to state level judicial challenges to the 'hot oil' provisions of the NIRA, Ickes attempted to push through the Thomas-Disney bill in the spring of the following year which would have granted him the power to prescribe mandatory production quotas to individual pools, fields, and wells himself, without depending upon intermediaries within the

⁵⁹⁹ Under pressure from the majors the antitrust provisions were excised from the NIRA code of fair practice for the oil industry signed by Roosevelt on 19 August 1933. Nordhauser, *op. cit.*, p. 128.

⁶⁰⁰ *Ibid.*, p. 113, Lear, *op. cit.*, 1981, p. 12, and Clarke, *op. cit.*, 1996, p. 78.

⁶⁰¹ Lear, *op. cit.*, 1981, pp. 12-13.

⁶⁰² Hawley, *op. cit.*, p. 214. By designating Ickes administrator for the oil codes of the NIRA Roosevelt, as Irons makes clear, created the conditions for the conflict between the Interior and Justice, which was charged with the overall responsibility for defending the NIRA codes in court. See Irons, *op. cit.*, pp. 58-74.

⁶⁰³ Hawley, *op. cit.*, p. 214. Although it should be added that in terms of non-compliance with the NIRA codes enforced by the Petroleum Division the worst offenders were, unsurprisingly, California and Texas. Clarke, *op. cit.*, 1996, p. 102. It was Ickes' militant attempts at enforcing quotas in these regions by sending in federal investigators to examine records, test oil gages, inspect tanks, and even dig up pipelines that alienated oil leaders and provoked the legal battles that would challenge the NIRA in the courts. Nordhauser, *op. cit.*, p. 114.

industry itself to decide whether, and just how, they were administered.⁶⁰⁴ Whilst this initially had the support of the majors, by autumn when the crisis had passed, most of them had pulled their backing. According to Hawley they were wary of too much government interference: the Petroleum Administration Board was becoming too dictatorial; the decisions made by the industry's planning and coordination committee were being overruled; and 'Secretary Ickes was alarming everyone with his talk of turning the oil industry into a public utility'.⁶⁰⁵ Without their support the bill failed. Turning their back upon the idea of increased federal intervention industry leaders instead revived the interstate compact. On Marland's suggestion representatives from Oklahoma, Texas, California, and New Mexico met in early 1935 and reached a common agreement to pass conservation and proration laws; ban any oil produced in violation of them; and each appoint a representative to a supervisory interstate Oil Compact Commission. This state-level arrangement was challenged by the Supreme Court's rejection of the 'hot oil' provisions in January 1935 and the wholesale overturning of the NIRA just four months later. The Connolly Act plugged the gap left in January by ratifying the interstate compact, limiting imports, and making the ban on 'hot oil' permanent. After the May ruling Ickes again backed the Thomas-Disney bill in an attempt to wrest some control over the sector yet, left to its own devices, Congress merely affirmed the existing legislation.⁶⁰⁶

Despite all his efforts Ickes failed at every juncture to impose greater federal control over the oil industry. The majors had advertised a rather spurious commitment to conservation to force through their agenda of outlawing 'hot oil' and their powerful lobby to 'secure a program of public-sponsored cartelisation'.⁶⁰⁷ Brand makes clear that those moments when they supported greater federal intervention were just 'a compromise to avoid more radical measures which threatened even greater controls over the industry'.⁶⁰⁸ And this system of using

⁶⁰⁴ Elmer Thomas was the Senator, and Wesley Disney the Congressman, for Oklahoma.

⁶⁰⁵ Hawley, *op. cit.*, p. 214.

⁶⁰⁶ Yet again Roosevelt was reluctant to move against the interests of the oil producing states for fear of alienating congressional support. *Ibid.*

⁶⁰⁷ *Ibid.*, p. 219.

⁶⁰⁸ Brand, *op. cit.*, p. 111.

federally enforced proration of crude oil production amongst the states to fix prices remained largely intact through to the 1970s.⁶⁰⁹ This is the context in which to understand Ickes' suggestions for Edgar Brittan's two frescos that were commissioned for the east and west walls of the fourth floor main corridor in the Interior Department building. The artist was given the subject of depicting activities pertaining to the Interior Department's Petroleum Division of the Bureau of Mines and he initially worked out two designs that dealt with the subject of mining. Brittan was a member of the Chicago Artists' Union and his radical allegiances were demonstrated through his choice of an aesthetic that directly referenced the Mexican muralist Orozco.⁶¹⁰ In the first design (fig. 88) this is seen in the group of miners' wives and children anxiously waiting outside a damaged mineshaft for the emergence of their husbands and fathers. Brittan made it clear to Rowan that 'The dress of the women and the type of mine construction place it well before the inception of the Bureau', with the disaster being 'the result of carelessness and lack of scientific knowledge'.⁶¹¹ This was counterposed to another design (fig. 89) which depicted a more modern mineshaft 'which is being operated to the best advantage of all'.⁶¹² Whilst an injured miner is being attended to at the entrance of the mineshaft a bureau employee in the foreground is demonstrating to a group of miners how to use the latest technology in breathing apparatus. This emphasis upon science and safety is reinforced by the activities by the two chemists to their left in a bureau experimental station.⁶¹³ Here typically Social Realist themes of working-class heroism, depicted via an injured miner and the comradely solidarity of his colleagues, are combined with an aesthetic that directly recalls Mexican muralism, all within an iconographic scheme that celebrates the beneficence of the Bureau of Mines and New Deal interventions into private industry.

Never one to pull any punches Ickes rejected these designs submitted in early 1937 on the basis that he felt that 'not enough time or thought had gone into

⁶⁰⁹ Libecap, *op. cit.*, p. 834.

⁶¹⁰ A lithograph by him on a Spanish Republican theme was also illustrated in the *New Masses* in 1938. Hemingway, *op. cit.*, 2002, p. 159.

⁶¹¹ Brittan – Rowan, 23 May 1937, NARA, 121/133.

⁶¹² *Ibid.*

⁶¹³ On the advice of Rowan the artist visited the Bureau of Mines Experimental Station at Bartlesville, Oklahoma.

them'.⁶¹⁴ Furthermore, in terms of their verisimilitude the Interior Secretary thought that the 'panel dealing with the tragedy of the mine was felt to be too empty and not an authentic reflection of the type of mines with which the Department of the Interior is mostly concerned'.⁶¹⁵ As for the other design, he felt that too much explanation would have to be provided for the viewer to make sense of it.⁶¹⁶ It was at this point that Ickes, still at this stage smarting from his defeat by the oligarchs within the oil industry, suggested that Brittan instead focus upon the subject of petroleum, with one design showing 'a ruthless individualist sacrificing the people to his greed', in contrast to a second panel which might 'depict the Government helping or protecting these people and their rights'.⁶¹⁷ Brittan proved himself more than adequate to the task and produced two striking designs that directly projected Ickes' views of the oil industry. In the first (fig. 90) he depicted the rise of monopolies in the petroleum industry in the post Civil War era. Damaged and weary Confederate soldiers emerge from the wreckage of battle on the left. In the middle two figures engage in hand-to-hand combat over a broken pipeline to suggest the 'unequal competitive methods used to obtain such control – accompanied by waste', as the oil barons, or 'gorillas in suits' as Ickes once dubbed them, look on somewhat dispassionately.⁶¹⁸ Behind them to their left are oil refineries and derricks receding into the distance and to their right a church which denotes the ideological importance of institutional religion in affirming bourgeois individualism and private ownership. In front of them are the all important pipelines that gave them their monopoly and remained a contentious issue within the industry in the 1930s. The second design (fig. 91) shows how international conflict over oil could lead to war with a group of typically bald-headed oil barons in the top left hand corner arguing amongst themselves in front of derricks with canons to their left. The resultant imperialist war has led directly to the injury of the two soldiers suffering in the left foreground below them. The rest of the panel to the right depicts working-class figures being shepherded away from the battle-scarred landscape by a benevolent

⁶¹⁴ Rowan – Brittan, 2 July 1937, NARA, 121/1.

⁶¹⁵ *Ibid.*

⁶¹⁶ *Ibid.*

⁶¹⁷ *Ibid.*

⁶¹⁸ Brittan – Rowan, 29 March 1938, NARA, 121/133.

looking figure that is perhaps a personification of the government ‘helping or protecting these people and their rights’.

The relative weakness and ambiguity of the right side of this second panel in comparison to the first could be understood in relation to the failure of the government to stand up to the oil magnates, its inability by 1935 to protect the American consumer by bringing the sector under stronger federal regulation. Whatever the merits of this passage, it is quite clear that in the panels as a whole the artist has invoked an Orozcoesque aesthetic that serves to further politicise an already radical iconography. This is perhaps most manifest in the first design with the mass of metallic oil piping that in its seeming randomness echoes Orozco’s bleak and dystopian depiction of machinery in the north wall of his murals in the Baker Library, Dartmouth College, in Hanover, New Hampshire (fig. 92), completed in 1932-34.⁶¹⁹ In the second panel the fallen soldiers on the left directly reference the Mexican’s image of *The Trench* (fig. 93) in the frescos he executed at the National Preparatory School in Mexico City in 1926. Yet this radicalism never exceeded the parameters of American liberal democratic politics as the artist deferred to a beneficent state for legislative protection:

The conclusion in this panel deals with the problem of suggesting to the people of the United States that their social duty is to project their efforts and democratic ideology toward the protection of their interests in relation to the natural resources of their country, that is both to maintain reasonable production and conservation of all natural resources with federal legislature as their representative.⁶²⁰

Whether it was due to this radically democratic content, or their clear aesthetic debt to Orozco, or perhaps a combination of both, these designs were obviously deemed to be far too contentious for the Section administrators, even if they adequately fulfilled the brief proposed by Ickes. Instead the artist ended up painting two frescos

⁶¹⁹ For a reading of Orozco’s panel that emphasises its critical interpretation of the machine’s contribution to human civilisation see Jacquelynn Baas, ‘*The Epic of American Civilisation: The Mural at Dartmouth College (1932-34)*’, Renato González Mello and Diane Miliotes (eds.), *José Clemente Orozco in the United States, 1927-1934* (New York: W. W. Norton and Co., 2002), pp. 172-175. Brittan had already paid homage to Orozco’s mural cycle in his earlier WPA/FAP frescos of 1936 entitled *Epochs in the History of Man* in the dining hall at the Lane Technical High School in Chicago, Illinois. See Hemingway, *op. cit.*, 2002, p. 171.

⁶²⁰ Britton – Rowan, 29 March 1938, NARA, 121/133.

with the joint title *Work of the Petroleum Division of the Bureau of Mines* for which he was paid \$5,400. If his earlier designs were ‘social in nature’, and not ‘primarily concerned with the mechanical processes involved’, then the finished murals clearly paid closer attention to the technical specificities of the actual extraction process and the uses to which petroleum was put.⁶²¹

Completed in 1939 the first fresco on the east wall of the main corridor, north of elevator lobby one, depicts the ‘story of petroleum production’ (fig. 94).⁶²² The background landscape of hills is dotted irregularly with derricks recalling the oil fields at Okmulgee, Oklahoma, which Britton had visited on Rowan’s advice. The drilling operation, ‘perhaps the most dramatic and best characteristic of the industry’, occupies the middle distance to the right of the picture.⁶²³ The foreground is dominated two groups of workers. Those in the middle are sinking and welding a pipe line for the transportation of crude oil. Those on the left are engaged in surveying, two of them studying a contour map which they have spread over a stump. That these murals depict the functions of the Petroleum Division of the Bureau of Mines is made explicit in a document that they have seemingly dropped to the floor that reads: ‘United States Department of Interior, Bureau of Mines, Petroleum Division. Organised in 1914, to make technical, scientific, and economic studies of conservation, efficiency, and safety in the production, transportation and refining of petroleum and natural gas’. On the opposite wall Britton illustrates ‘the various uses of oil and gasoline’ (fig. 95).⁶²⁴ On the left the propellers of a mail plane are being lubricated as a postman carries off two sacks of letters that have been unloaded. To the right a mechanical plough and a tractor are also being oiled to ensure their efficient functioning. In the middle distance a car is being refuelled at a petrol pump, and, to symbolise the steps that are necessary in making petroleum ready for the consumer, Brittan depicted a refinery nestled amongst the background hills of the landscape. In content the completed murals have been divested of any reference to the political economy of the oil industry. Ickes’ original suggestion,

⁶²¹ *Ibid.*

⁶²² Section of Painting and Sculpture, Press Release, 30 August 1939, NARA, 121/133.

⁶²³ *Ibid.*

⁶²⁴ *Ibid.*

successfully carried out by the artist in his earlier designs, was, as Hemingway asserts, 'rejected in favour of a blander imagery of productive labour', with the ochre colours and the corporeality of the figures suggestive of a diluted version of Rivera's style than of the more expressionist devices of Orozco.⁶²⁵

'The Settlement and Development of the West'

As Social Realist painters Gropper and Brittan were well suited to commissions that dealt with the subject of New Deal attempts at regulating the electricity and oil industries. Likewise, in terms of the subject of 'The Settlement and Development of the West' Curry, a prominent exponent of the Regionalist aesthetic, was an ideal candidate. As with the panels that he had completed earlier in the Justice Department building, the artist looked backwards in his two Interior murals, both oil on canvas, for which he was paid \$5,400. In *Rush for the Oklahoma Land – 1949* (fig. 96) Curry depicted the opening up of new western lands and the headlong race to occupy them. The dramatic force of the panel is heightened by the clock in the bottom left that has just turned twelve to indicate that the race has just started and the fact that Curry kept the action below the horizon line. In his preparatory work produced in 1937 Curry had included a train on the left hand-side to show that these lands had already been opened up with the development of the railways (fig. 97), although the accuracy of this was questioned by the Section and Ickes.⁶²⁶ Although Curry defended his conception with a wealth of historical sources, Rowan suggested that he remove the train and move the whole composition to the left thereby providing 'the opportunity of opening the design on the right and giving some indication of the vast flatness of the territory which should certainly add to the monumentality of your theme'.⁶²⁷ In his second panel entitled *The Homesteading and the Building of Barbed Wire Fences* (fig. 98) the artist painted an example of the ensuing settlement with a mother and daughter preparing food for the evening meal outside the doorway of a sod hut, whilst a muscular father lays the

⁶²⁵ Hemingway, *op. cit.*, 2002, p. 157.

⁶²⁶ Rowan – Curry, 18 March 1938, NARA, 121/133.

⁶²⁷ *Ibid.*

barbed wire fencing that signified the bounded ownership of their new homestead. The corner of a ploughed plot, a little kitchen garden, and a few chickens indicated 'the peace and plenty of the land after the thrilling rush to claim it'.⁶²⁸

Ickes' response to the original designs was typically pedantic, criticising Curry's depiction of the sky, the barren prairie, and some of the figure drawing in the *Homesteading* panel, and suggesting that 'the middle section of the mural could reflect the houses of other settlers that had been quickly erected', a detail that Curry then incorporated.⁶²⁹ The artist was also told to remove 'Hal Ickes' from the side of the covered wagon to the left of the *Land Rush* panel, although he left his own name and address on the side of the wagon in the right foreground.⁶³⁰ Otherwise Ickes seemed happy, and his first assistant Burlew commented after the murals were installed in late 1939 in the main corridor on the fifth floor that 'I think he has produced two outstanding pictures of the Early West. His figures are truly American and not oriental'.⁶³¹ Such a reading gives credence to the idea that the racial types depicted by Fiene, Gropper, and Cikovsky, all of whom were criticised by Ickes, communicated their radical commitments in one of the few ways that they had left to them in such a prescriptive context. Yet despite the seeming critical success of Curry's murals they nevertheless sat rather awkwardly in relation to the actual concerns of the Interior Department in the mid-1930s. Whilst they were evidently historical they had an obvious contemporary relevance in that a few years before Curry depicted the *Land Rush* and the movement westwards the crisis within the agricultural sector had induced a similar phenomenon, that is refugee farm families fleeing the dustbowl on the Great Plains and seeking 'their future along Route 66 leading to the Golden State of California' – a journey poignantly evoked in John Steinbeck's *Grapes of Wrath*.⁶³² Still others set off for the newly irrigated Northwest as their golden land of opportunity, with the construction of the Bonneville and Grand Coulee dams offering potent symbols of state-sponsored reclamation and regeneration.

⁶²⁸ Quoted in Look and Perrault, *op. cit.*, p. 151.

⁶²⁹ Rowan – Curry, 20 June 1937, NARA, 121/1.

⁶³⁰ Rowan – Curry, 9 August 1939, NARA, 121/133.

⁶³¹ Burlew – Rowan, 9 December 1939, NARA, 121/133.

⁶³² Lowitt, *op. cit.*, p. 35.

Similarly, just a few years before Curry designed *The Homesteading and the Building of Barbed Wire Fences* the Great Plains Drought Area Committee, an emergency body headed by Morris L. Cooke and charged with looking at ways of alleviating the suffering in the West, concluded that: 'The basic cause of the present Great Plains situation is our attempt to impose upon the region a system of agriculture to which the Plains are not adapted or to bring into a semi-arid region methods which are suitable, on the whole, only for a humid region'.⁶³³ It was speculated that 80 percent of the soil of the Great Plains was already seriously eroded and this damage was 'caused by a mistaken homesteading policy' for which the federal government was in part responsible.⁶³⁴ As Lowitt explains, 'owing to depression and drought on the Great Plains, a social order as well as America's earlier agrarian ideal of a self-sustained yeoman farmer was in the process of disintegration'.⁶³⁵ The building of barbed wire fences was also a contentious subject in that, by this point, Ickes had already begun his 'frontal assault on that powerful symbol of the West'.⁶³⁶ Whilst putting up fencing on federal lands was technically illegal the big ranchers had been doing it for years and the practise often produced bloodshed when competing cattlemen fought over territorial control of various parts of the western range, with homesteaders sometimes getting caught up in the crossfire. As part of his drive to bring the ravaged sectors of these lands back into productive use Ickes used an executive order in 1934 to instruct the General Land Office within Interior to start tearing up barbed wire fencing illegally erected on public lands in Arizona and New Mexico by the big ranchers.⁶³⁷ Whilst this policy was difficult to police due to the size of the area involved the Interior Secretary demonstrated his commitment to the cause by asking his colleagues at the Justice Department to prosecute non-compliance.⁶³⁸ In this respect the themes of westward migration, homesteading on the Great Plains, and the laying of barbed wire fences

⁶³³ *Ibid.*, p. 42. On the general crisis in the West and the recommendations made by the Great Plains Area Drought Committee see pp. 33-46.

⁶³⁴ *Ibid.*, p. 42.

⁶³⁵ *Ibid.*

⁶³⁶ Clarke, *op. cit.*, 1996, p. 49.

⁶³⁷ *Ibid.*

⁶³⁸ *Ibid.*

were rather controversial subjects to celebrate in light of the crisis that had recently engulfed the western domain and federal policies to tackle it.

There was another aspect of Curry's two panels that sat rather awkwardly with some of the other murals in Interior and this was the fact that both the *Land Rush* and the *Homesteading* celebrate that moment when lands formerly the preserve of Native Americans were opened up and colonised by the white man. As such they seemingly contradicted the racial inclusivity expressed by the Native American decorations in the cafeteria and recreation room as well as the other murals that dealt sympathetically with this subject. Indeed the dramatic light on the fields in the background as the sunshine comes through the clouds in the *Homesteading* panel, a typical component of Curry's canvases, does much to naturalise this scene in which white settlers have colonized former Native American lands. The only other decoration dealing solely with a pioneer theme in the Interior building, Warneke's *Lewis and Clark* (fig. 99) cast stone bas-relief sculpture to the left of the stage in the first floor auditorium, celebrates cooperation between the expedition forces sent out by President Jefferson in May 1804 and the Native Americans they met on their journey up the Missouri. This is done through the figure of Sacagawea on horseback with her young infant in a papoose, depicted in the top left of the relief panel as the group pass through the Rockies. In their celebrated crossing of the Northwest from St. Louis to the Pacific coast Meriwether Lewis and William Clark employed this young Native American woman, the wife of a fur trader they met en route, to act as a translator. In this they were largely successful as most of their contact with Native Americans was peaceable and they returned to St. Louis as heroes in September 1806 with the group of over forty 'Corps of Discovery' largely intact, having made maps, scientific investigations, and collected numerous animal and plant specimens. This scientific element to their expedition is emphasised by Warneke as he showed Lewis and Clark in the foreground making detailed investigations into the local geological conditions that they found in the Rockies.⁶³⁹

⁶³⁹ See Look and Perrault, *op. cit.*, p. 122 and David Holloway, *Lewis and Clark and the Crossing North America* (London: Weidenfeld and Nicolson, 1974).

Ralph Stackpole's companion piece to the right of the auditorium stage is also clearly related to a pioneer theme. His bas-relief sculpture, carved in Indiana limestone, depicts *Powell Exploring the Grand Canyon* (fig. 100), or specifically that moment when his team dramatically descended the Colorado River in a pair of boats. The scene is taken from Powell's journal and he is clearly marked out with his big beard and the central placing of his head within the relief. Yet considering Powell's commitment to irrigation and the fact that the Reclamation Service had adopted him as their spiritual founder, it is obvious that the relief has a further resonance within the Interior Department, signifying both the opening up of the West in terms of exploration and discovery as well as subsequent efforts to make these new lands habitable through the large-scale irrigation projects that became Interior's responsibility after the passage of the Newlands Reclamation Act in 1902. Yet Stackpole's relief very nearly did not make it into the building as, like the two panels produced by Gilbertson, Ickes was anxious about the formal experimentation within the study.⁶⁴⁰ Here the artist employed a Cubist-influenced form that emphasised the rhythmical and decorative aspects of the design, with the figures left deliberately angular and relatively unfinished in appearance, especially in comparison to the Warneke piece. Unsurprisingly Ickes preferred 'the rounded quality' and 'the depth of relief' in the latter sculpture and was 'insistent that this quality be evident in both works', otherwise Warneke would be given the other \$8,000 commission as well.⁶⁴¹ Whilst Stackpole duly obliged, the force of his original conception is still evident in his final panel which was finally installed a year after Warneke's piece in 1940.⁶⁴²

The politics of race

It was under the theme of 'The Settlement and Development of the West' that the Section staff and the Department of the Interior Arts and Decoration

⁶⁴⁰ Rowan – Stackpole, 3 July 1937.

⁶⁴¹ *Ibid.*

⁶⁴² According to Rowan one of Ickes' assistants also 'questioned the authenticity of Powell manning a boat himself' so the artist also had to change his designs and include two more figures alongside him. *Ibid.*

Committee had agreed, on Ickes' insistence, to include the work of Native American artists, and this brings us to the last major issue raised by the decorative scheme within Interior, namely the New Deal and the politics of race. As mentioned earlier, Ickes initiated a transformation in the way that the federal government dealt with Native Americans through his control of the Bureau of Indian Affairs. Wishing to wipe out the stain left by the Teapot Dome scandal his commitment was signalled at the outset in his choice of personnel to help him run his staff of 2,500 bureaucrats. For the top legal post of departmental solicitor Ickes sought the advice of Frankfurter and Brandeis, who both recommended Nathan M. Margold, a thirty-three-year-old graduate of Harvard Law School. Margold had an impeccable civil rights record: he was active in the NAACP and had done *pro bono* work for the Pueblo Indians in their struggle over land ownership.⁶⁴³ To assist Margold, Ickes also appointed the two liberal young attorneys Charles Fahy and Felix Cohen, who had a comparable commitment to Native American rights. So when Ickes finally got his friend John Collier the post of commissioner of the Bureau of Indian Affairs then, as Clarke makes clear, 'the personnel were in place to launch the "Indian New Deal"'.⁶⁴⁴ Collier had been a consistent critic of federal policy towards Native Americans throughout the 1920s as executive secretary of the American Indian Defence Association and was an obvious candidate for the job.⁶⁴⁵ Deeply affected by his experiences among the Pueblos of New Mexico he opposed the policy of assimilation to instead champion the preservation of traditional Native American culture. This new turn was indicated at a conclave in the Black Hills, South Dakota, when he said that 'the President, Secretary Ickes and the Indian Bureau have

⁶⁴³ Clarke, *op. cit.*, 1996, p. 40.

⁶⁴⁴ Ickes had to struggle to get Collier appointed because the majority leader of the Senate, Joseph T. Robinson of Arkansas, was lobbying in favour of his brother-in-law and former assistant commissioner of Indian affairs from 1913-1929 to get the job. *Ibid*, p. 41. On Collier see Kenneth R. Philp, *John Collier's Crusade for Indian Reform* (Arizona: University of Arizona Press, 1977).

⁶⁴⁵ Ickes' wife Anna was also a member of the American Indian Defence Association. After 1915 the Ickes family regularly spent their summers in northern New Mexico to escape the humidity of Chicago and to help alleviate Anna's asthma. They built a simple adobe home near Gallup on the borders of the Navajo reservation and as result of these experiences she learned to speak the language; wrote a book published in 1933 entitled *Mesa Land* that detailed the area's indigenous culture; and became a passionate spokesman for Native American rights in Chicago and Washington, D.C. It was largely through the circle of friends that his wife met in various organisations committed to this cause that her husband developed his own interests in the civil liberties of Native Americans. Clarke, *op. cit.*, 1996, p. 21.

determined that the time has come to stop wronging the Indians and to rewrite the cruel and stupid laws that rob them and crush their family lives' – a message that he consistently repeated to other Native American tribes throughout his first year in office.⁶⁴⁶

That something had to be done to alleviate the plight of Native Americans was clear, as their standard of living had declined precipitously in the period prior to 1929 and this downward spiral was only exacerbated by the Depression. Under the Dawes Act of 1887 a policy of assimilation gave federal legitimacy to attempts by Christian missionaries to destroy their traditional communities and customs. In this they were aided and abetted by a corrupt Bureau of Indian Affairs through its land policy and the use of boarding schools which helped break the organic relationship between the youth and their elders and thereby suppressed the expression of indigenous tribal cultures. Many Native Americans had little agricultural experience and the individual parcels of land that they were granted were too small to make them self-sufficient. As their debts mounted many were compelled to sell their land outside of their communities so that their aggregate holdings dropped from 139 million acres in 1887 to 48 million acres in 1932.⁶⁴⁷ Tribal funds correspondingly plummeted from \$500 million to \$12 million in the same period.⁶⁴⁸ By the start of the New Deal half of the 320,454 Native Americans on reservations were landless and over-grazing was destroying what land that they had left.⁶⁴⁹ Symptomatic of this dire situation was the fact that the infant mortality rate in their communities was three times what it was in the population as a whole.⁶⁵⁰ Given these conditions, it is hardly surprising that, according to estimates, almost a third of Native Americans on reservations had been reduced to begging, and crime and alcoholism were rife.⁶⁵¹

To stem this crisis Collier championed the Johnson-O'Malley Act of 1934 which called for cooperation between the federal government and the states in providing health, agriculture, relief, and welfare services to Native Americans. He

⁶⁴⁶ Quoted in Lowitt, *op. cit.*, p. 123.

⁶⁴⁷ Badger, *op. cit.*, p. 28.

⁶⁴⁸ Lowitt, *op. cit.*, 1984, p. 123.

⁶⁴⁹ *Ibid.*, p. 122.

⁶⁵⁰ Badger, *op. cit.*, p. 29.

⁶⁵¹ Lowitt, *op. cit.*, p. 123.

helped draft the important Indian Reorganisation Act of the same year which brought to a halt the allotment and ruination of their lands; increased their territorial possessions by just under seven and a half million acres; brought those areas yet to be distributed under tribal control; and encouraged self-government and cooperative economic activity. He secured \$3.6 million of Ickes' PWA funds to replace the boarding schools with day schools that were staffed by teachers who encouraged their pupils to take pride in the culture and customs of their forebears. As part of this reinvigoration of Native American culture their time-honoured dances, formerly labelled as heathen, were revived, and the production of their traditional arts and crafts was encouraged once again. To facilitate this Collier got rid of incompetent and corrupt employees and insisted that all agency officials respected tribal customs. With the introduction of improved medical services in the reservations, again funded by the PWA, trachoma was largely eradicated and great inroads were made against the spread of tuberculosis. Collier used the CCC, the CWA, and the WPA to provide jobs for Native Americans, and many of those who were dispossessed were resettled via the Subsistence Homesteads Division with additional lands granted to them under the RA. In an attempt to better conserve those lands already under Native American control Collier arranged for the Soil Erosion Service to demonstrate the latest scientific techniques. For those Native Americans whose lands had been liquidated by allotment, such as the 100,000 or so who lived in Oklahoma, and who therefore had little to gain from reforms aimed specifically at tribal communities on reservations, Collier supported the Thomas-Rogers Indian Welfare Bill. Passed in 1936 this legislation was aimed at assimilated Native Americans who felt the effects of Depression most acutely and it allowed them to form corporations and borrow from a revolving \$2 million loan fund for projects to assist their self-development.⁶⁵²

According to Lowitt, Collier was particularly pleased with his establishment of the Indian Arts and Crafts Board in 1935, which was granted wide responsibilities to research and promote Native American cultural production as both a means to reinvigorate indigenous practices that had fallen into decline during the period of assimilation and as a way of fostering the economic and social welfare of tribal

⁶⁵² *Ibid*, pp. 123-127.

communities.⁶⁵³ By giving wall space to Native American painters in Interior these reforms were given concrete expression in an important federal building. The areas given over to indigenous artists were in the basement cafeteria; the Native American Arts and Craft Shop on the first floor; and the employee's lounge on the eighth floor. The artists selected were James Auchiah and Stephen Mopope, both from the Kiowa tribe; the Apache Allan Houser; the Navajo Gerald Lloyd Nailor; Woodrow Wilson Crumbo of the Creek Potawatomie tribe; and Velino Shije Herrera, a member of the Zia Pueblo tribe.⁶⁵⁴ These artists used their commissions to depict a wealth of tribal customs and practices that now seemingly had the official backing of the federal government. On the west wall lunette of the cafeteria Auchiah painted *Harvest Dance* (fig. 101), a frieze-like design painted with oil on coarse plaster. Completed in May 1939 it is divided into three distinct units by two trees, with musicians and dancing on the left; the preparation of the harvest food on the right; with the food being served to the sitting characters ready to eat in the centre. In the corresponding space on the east wall opposite Mopope, Auchiah's fellow tribesman and one of the original members of the 'Five Kiowa Artists' group, painted *Ceremonial Dance* (fig. 102). Again painted with oil directly onto the plaster in a frieze-like fashion Mopope's design, also finished in May 1939, depicts a ceremonial dance after a buffalo hunt, with the central figure decorated with a buffalo head on his back, and those flanking him on each side depicted in various complementary dance positions. The theme of the hunt is continued below the mural with a buffalo head in the centre, referencing the wider decorative motif used throughout the building, with spears and shields to each side.

The Native American Arts and Crafts shop was set up on Ickes' insistence to sell various indigenous artefacts as part of Collier's broader promotion of Native American culture. Painted with oil on canvas and installed on the north wall above the counter in 1938, Houser's mural depicts a *Buffalo Hunt* and *Breaking Camp at*

⁶⁵³ *Ibid*, p. 131.

⁶⁵⁴ Look and Perrault, *op. cit.*, pp. 114, 116, 155, 158, 162, and 165. The advisors for the choice of Native American artists were: Alexander G. Hutton, Superintendent of the Hopi Agency; Walter B. McCown, Superintendent of the Kiwi Agency; Dr. Sophie D. Aberle, Superintendent of the United Pueblos Agency; E. Reeseman Fryer, Superintendent of the Navajo Agency; Professor Oscar Jacobsen, University of Oklahoma; and Charles Collier of the WPA in Washington, D.C.

Wartime (fig. 103). The dynamic action of the first scene in which two mounted braves close in on their quarry armed with bows and arrows contrasts with the more relaxed tempo of second image in which two more Apaches on horseback leave camp somewhat languidly. In Nailor's oil on canvas panel installed on the opposite wall at the same time the frenetic activity of the buffalo hunt is counterposed to the more subtle approach to *Deer Stalking* (fig. 104). Two Navajos hide quietly behind bushes with bows and arrows waiting for the right moment to pounce, whilst a third tends to their horses in the background. Finally, in the employee's lounge Crumbo painted another *Buffalo Hunt* (fig. 105); a *Deer* (fig. 106); a *Courting* ritual (fig. 107); a *Flute Player* (fig. 108); a *Peyote Bird* (fig. 109); and *Wild Horses* (fig. 110) being pursued by a young brave, all of which emphasised elements central to the culture of the Creek Potawatomie tribe in a highly stylised manner. Nailor depicted *The Hunting Ground* (fig. 111) with buffalos, deer, antelopes and squirrels, with sun and cloud symbols taken from Navajo sand painting; *Preparing Yarn for Weaving* (fig. 112) which shows Navajo women engaged in traditional methods of carding, spinning and winding wool with a nearly finished blanket on a loom; and *Initiation Ceremony* (fig. 113) with two highly decorated dancers in the process of initiating two frightened looking children into Navajo rituals. Houser painted Apache courting rituals in *Singing Love Songs* (fig. 114), and tribal rituals in *Apache Round Dance* (fig. 115) and a *Sacred Fire Dance* (fig. 116). And finally Herrera painted another dramatic *Buffalo Chase* (fig. 117); a traditional *Buffalo Dance* (fig. 118); a *Pueblo Corn Dance* (fig. 119); and the female dominated panels showing *Pueblo Woman and Child* (fig. 120); *Women Making Pottery* (fig. 121); and *Pueblo Girls Carrying Water* (fig. 122). All the painting in the employee's lounge was done with oil directly on plaster and was completed in 1940. And like the designs executed by Native American artists in the other rooms in the building they focus upon specific rituals and customs thereby acknowledging the concerted attempts made by Ickes and Collier to revitalise the various tribal self-identities under the Indian New Deal, with the inclusion of children within these works clearly celebrating the renewal of intergenerational relationships enabled by the federally enforced break up of the boarding schools.

Whilst the shop may have been an obvious space to decorate with Native American art the fact that the rest of their murals were designated for areas designed for eating and relaxation indicates that these murals were not as highly esteemed as those of their white peers, or that their flattened, stylised, and decorative aspects were seen as somehow setting them apart from the more serious themes projected in the other murals in the Interior building. It should also be noted that there was an element of humour within the Native American's murals absent within those executed by their white counterparts, an example being the mounts in the right side of Hauser's *Singing Love Songs* mural which look rather longingly at the water fountain below them to their left. Similarly a rejected study for Nailor's *Preparing Yarn for Weaving* (fig. 123) humorously mocks a wealthy white couple in the process of bartering for a Navajo rug, a valued commodity within wider American society. This hierarchical approach to the murals produced by white and indigenous artists becomes especially apparent in terms of the payment each group received for their labour. Whereas the standard pay rate for Section artists was costed at approximately \$20 per square yard, the Native American artists commissioned to paint murals in Interior were given a flat rate of \$2,000 which represented approximately half of the going rate for white artists.⁶⁵⁵ This decision was made by the Section administrators who 'explained to the members of the Interior Department that the painting required of the Indian artists was different in nature from that required of the American painters, and that a different wage rate should prevail'.⁶⁵⁶ And this was despite the fact that most of the Native American artists selected were experienced muralists or teachers.⁶⁵⁷ Whilst all of the members of the Department Committee agreed to this rather spurious justification, Ickes, much to his credit, fought this incipient racism on behalf of the Section staff to argue that the

⁶⁵⁵ Treasury Section of Painting and Sculpture, Memorandum – Peoples, 25 June 1936, NARA, 121/122.

⁶⁵⁶ Treasury Section of Painting and Sculpture, Memorandum – Peoples, 3 September 1936, NARA, 121/1.

⁶⁵⁷ Auchiah had already executed mural commissions at St. Patrick's Mission School, Anadarko, Oklahoma, and at the Oklahoma Historical Society, Oklahoma City; Mopope at St. Patrick's Mission School and the U.S. Post Office in Anadarko; Crumbo at Oklahoma University in Norman; and Herrera was an instructor of painting at the Albuquerque Indian School, New Mexico, and had exhibited at the Exposition of Indian Tribal Art in New York City in 1931. Look and Perrault, *op. cit.*, pp. 114, 116, 155, and 166.

pay rate should remain the same regardless of race or ethnicity. That the Interior Secretary was ahead of his time in terms of his commitment to the civil liberties of Native Americans is made apparent by the protest of the assistant commissioner in the bureau, the otherwise liberal businessman William Zimmerman, Jr., to the Director of Procurement: 'As early as possible I wish to submit to Secretary Ickes the question whether or not the payment of a sum as large as \$2000 will give these artists a false idea of the value of their work'.⁶⁵⁸

These contradictions are brought into stark relief when considering the two murals, both oil on canvas, produced by the western artist Maynard Dixon for the south lobby on the fourth floor. Entitled *Indian and Soldier* (fig. 124) and *Indian and Teacher* (fig. 125) these panels quite clearly represent the activities of the department's Bureau of Indian Affairs. The first design, installed on the west wall in 1939, suggests conflict between Native Americans and white settlers as a 'half-breed' scout carrying a Sharp's rifle, 'the "buffalo gun" of the period', and a soldier leaning on his sword confront two Native Americans.⁶⁵⁹ According to Dixon 'the chief's gesture says: "This is our land. You shall drive no further"'.⁶⁶⁰ That this confrontation is ambivalent is a result of the fact that the chief holds a peace pipe whilst his companion to his left brandishes a war club. Silhouetted against a neutral background of yellow prairie sky the only other details introduced into this design are a wigwam to the left of the central group of figures behind which, towards the bottom of the mural, runs a decorative strip of running buffalo. The conflict between Native Americans and white settlers intimated in this first panel is displaced in the one opposite by a 'Government teacher discussing soils and crops with the Indians', a detail included by the artist on the insistence of Ickes.⁶⁶¹ According to the artist, the teacher 'takes a lump of soil from the furrow and tells the Indian boy – the new generation – how to make it produce', whilst his mother and father 'somewhat doubtful of new ideas, with some reverence for the old' look on somewhat

⁶⁵⁸ William Zimmerman, Jr. – Peoples, 12 August 1938, NARA, 121/1.

⁶⁵⁹ Look and Perrault, *op. cit.*, p. 145.

⁶⁶⁰ *Ibid.*

⁶⁶¹ Rowan – Ickes, 2 December 1938, NARA, 121/133, and Ickes – Rowan, 6 December 1938, NARA, 121/133.

incredulously.⁶⁶² The background to this more peaceful exchange is similarly sparse as the wigwam in the first panel is replaced by a barn with a decorative strip of young corn on the right and a single stalk of corn towering above the figures on the left to signify the success of federally-funded agricultural programs on the reservations. Lastly, in the bottom left the strip of young corn is replaced with a fence representing ‘divided lands and the end of freedom’.⁶⁶³

Taken together these two murals quite clearly counterpose the former policy of conflict and appropriation of Native American lands with a New Deal approach that emphasised federal assistance and the recognition of Native American civil rights. Dixon was a self-taught artist born and raised in California who had become famous for illustrating western stories in New York, although he abandoned his stereotypical depiction of Native American-settler conflict in 1912 after he wrote that ‘I am being paid to lie about the West, the country I know and care about. I’m going back home where I can do honest work’.⁶⁶⁴ This new-found sensitivity to the condition of Native Americans is clearly indicated in the pathos that Dixon introduced into his panels. As he said himself of his second mural: ‘I had always felt something far more tragic in all this, but perhaps now there is also something of hope’.⁶⁶⁵ This melancholic air is clearly communicated in one of Dixon’s preliminary studies (fig. 126) in which a single Native American labourer dressed in overalls – settler clothing – is uncomfortably hunched over a single small corn plant tilling the soil whilst a steam train, representing modernity and the hegemony of the white man, goes by on the horizon. His empathy towards Native Americans was also suggested in the simple and abstracted frieze-like nature of the murals. The artist accounted for their form by arguing that the ‘present tendency in mural painting is to “fill the space” – often ending in complexity and confusion – which does not apply here’.⁶⁶⁶ Similarly, the graphic use of outline, for him, ‘accentuates the design’.⁶⁶⁷ Yet both of these effects quite clearly reference the aesthetic techniques employed in

⁶⁶² Quoted in Look and Perrault, *op. cit.*, p. 146.

⁶⁶³ *Ibid.*

⁶⁶⁴ *Ibid.* p. 144.

⁶⁶⁵ *Ibid.* p. 146.

⁶⁶⁶ *Ibid.* p. 145.

⁶⁶⁷ *Ibid.*

Native American art, as demonstrated by those artists chosen to work within the Interior building. As such Dixon has appropriated Native American methods to depict a Native American subject matter. Yet despite the overlaps and similarities in the formal qualities of these two sets of murals, Dixon was paid \$4,400 for his labour, whereas his indigenous counterparts received a mere \$2,000 each for their contributions.

Unfortunately this inability to see Native Americans as true equals was all too common in the 1930s and Collier's Indian New Deal faced increasing political hostility which eventually starved it of funds. In 1937 several bills were introduced to abolish the Indian Reorganisation Act in certain states, along with another introduced by the liberal Montana Senator Burton K. Wheeler that proposed to do away with it completely.⁶⁶⁸ Whilst he had been a sponsor of the original bill Wheeler had changed his mind and like many other western congressmen once again favoured the former policy of assimilation, using the Indian Affairs Committee in Congress as a vehicle with which to attack Collier's efforts at revitalising Native American culture. The Indian New Deal was also interrupted by the war as 50 percent of the population on reservations left to take up jobs in either the defence industries or the armed services. The bureau lost personnel to the war effort, including Collier who was shifted to the War Relocation Authority, which organised the internment camps for Japanese-Americans after 1942. Federal financial assistance to Native Americans also suffered in direct competition with funding for the war so that by 1945 congressional appropriations for the Indian Bureau were \$3.6 million less than they were in 1932.⁶⁶⁹ Collier's enlightened policies may have halted the precipitous decline in the quality of life experienced on the reservations prior to the New Deal but Native American communities remained poor. So much so that after the war when they were offered a one-off payment in exchange for continued federal protection twelve of those tribes which Collier had nurtured through to self-government voted to accept termination.⁶⁷⁰ As such Dixon's second panel gives a more truthful visual realisation of the plight of the indigenous

⁶⁶⁸ Lowitt, *op. cit.*, p. 136.

⁶⁶⁹ Badger, *op. cit.*, pp. 179-180.

⁶⁷⁰ *Ibid.*

community, with the artwork executed by the Native Americans in the building celebrating an organic relationship with nature sadly now long since gone. This ties in with the theme of conservation within the building as the Native American was often held up as the proper trustee of the American wilderness and its ecological balance, one since destroyed by white settlers and their over-exploitation of natural resources.

Whilst the Native American community were hit the hard by the Depression the black community fared only marginally better. During World War I African-Americans had begun to migrate from the farms to the cities in larger numbers, a process that continued throughout the 1920s. Yet at the onset of the Depression 80 percent of them were still tenant farmers or sharecroppers in the South. Whilst this pattern of migration seemingly offered the chance to escape the often brutal, and always impoverished, conditions in the southern agricultural sector, the black urban experience was not necessarily that much better. As Badger explains, African-Americans were 'Restricted to domestic service and unskilled and casual jobs, crowded into ghetto slums' and 'most eked out a bare subsistence living'.⁶⁷¹ The Depression exacerbated the precarious economic plight of African-Americans across the board. In southern cities whites took many of the menial jobs that had previously been the preserve of black workers so that by 1932 half of African-Americans in southern cities were unemployed.⁶⁷² Their counterparts in the North fared little better. Based in industries that were acutely affected by the Depression, such as soft-coal and construction, Badger states that they were usually 'the last to be hired and the first to get fired'.⁶⁷³ The situation was so bad that an Urban League survey estimated that that black unemployment was somewhere between 30 and 60 percent greater than it was for whites and, as such, blacks were disproportionately dependent upon relief.⁶⁷⁴ The plight of black businessmen also deteriorated and an emerging African-American middle-class based in the ghettos was hit hard. This was demonstrated most clearly in Harlem as the percentage of property owned or

⁶⁷¹ *Ibid*, p. 25.

⁶⁷² *Ibid*.

⁶⁷³ *Ibid*.

⁶⁷⁴ *Ibid*.

managed by blacks dropped from 35 percent in 1929 to 5 percent by 1935 and skilled black workers suffered a 50 percent pay cut in the period between 1929 and the time that the Democrats took power.⁶⁷⁵

Prior to the New Deal the black population in northern cities had traditionally voted for the party of Lincoln, rather than the Democrats, the party of the South and white supremacy. When most other lower-income urban voters shifted their political allegiances to the Democrats in the 1920s the black vote remained firm with an estimated two-thirds voting for Hoover in 1932.⁶⁷⁶ This began to change in the 1934 mid-term elections when Democratic bosses in cities such as Chicago and St. Louis deliberately courted the black electorate. By 1936, with federal funds finally making their way to the black community in some form or other, the transformation was complete and an estimated 76 percent of black voters backed Roosevelt for another presidential term. Given the newly found importance of the black vote for the electoral success of the New Deal it seemed only natural that subjects relating to African-Americans should be inscribed somewhere within the Section's plans for decorating federal buildings in the capital. As I have argued earlier they were conspicuous by their virtual absence in Justice. The Interior Department had responsibility for the few programs and institutions that had been created in the pre-New Deal period to benefit the black population including a role in running Freedmen's Hospital and Howard University in Washington, D.C.⁶⁷⁷ So when the New York based philanthropy the Julius Rosenwald Fund offered to pay for a couple of executive positions to monitor the status of the black community in relation to the national recovery program Ickes offered Interior as a base of operations. He appointed the liberal white southerner Clark Foreman and the young black Harvard economics graduate Robert Weaver, both of whom were committed to the cause of African-American civil liberties, and shortly afterwards the Interior Department was desegregated.⁶⁷⁸ For these reasons, and bearing in mind that Ickes had been an outspoken champion of black civil liberties and a long-standing supporter of the

⁶⁷⁵ *Ibid.*

⁶⁷⁶ *Ibid.*, p. 251.

⁶⁷⁷ Clarke, *op. cit.*, 1996, p. 44.

⁶⁷⁸ *Ibid.*

NAACP, the Interior Department seemed the ideal place in which to include artworks on the theme of the black contribution towards the social and cultural development of America.

As with the Native American themes, it was the Interior Secretary himself who insisted on including the subject of African-Americans within the decorative scheme for his new building. Millard Sheets, who had originally been given the subject of conservation for the four murals on the corners of the Grand Stairs on the first floor, had produced designs dealing with the four elements: air, fire, land, and water. Whilst Bruce felt that these were 'about the most distinguished imaginative and creative work which has yet been contributed to the Section', Ickes rejected them.⁶⁷⁹ He also thought that the designs were 'very ably done' and 'interesting as easel painting', yet ultimately unrelated to activities of the Interior Department.⁶⁸⁰ Instead he suggested that the artist be given the subject of 'human conservation', specifically in relation to the 'Negro' and the 'American Indian', with the two panels dealing with the former showing 'the neglect of the Negro and a contrasting panel his advance'.⁶⁸¹ As the wallspace given to Native American themes in the building expanded so Ickes eventually restricted Sheets' remit to the subject of African-Americans alone, the theme being *The Negro's Contribution in the Social and Cultural Development of America*.⁶⁸² For subject matter Rowan suggested a study of Freedman's Hospital and Howard University, due to their relationship to Interior; a panel on education and the black community in general; as well as another 'dealing with life in one of the new model housing projects ... such as that in Montgomery, Alabama or in Jacksonville, Florida'.⁶⁸³ After reviewing the materials sent to him on the subject of these themes Sheets responded with a refusal 'to paint what I consider to be cheap propaganda as long as I am still able to exist in some other fashion'.⁶⁸⁴ Whilst acknowledging that 'some progress has been made in the clearing of slums' he argued that 'having travelled across some fifteen hundred miles of what is the

⁶⁷⁹ Bruce – Rowan, 9 July 1937, AAA, D88.

⁶⁸⁰ Rowan – Bruce, 19 July 1937, NARA, 121/1.

⁶⁸¹ *Ibid.*

⁶⁸² Burlew – Rowan, 25 April 1938, NARA, 121/1.

⁶⁸³ Rowan – Sheets, 7 December 1937, NARA, 121/1.

⁶⁸⁴ Sheets – Rowan, 30 March 1938, NARA, 121/1.

present living conditions of the American Negro on my way to Washington last spring, I cannot feel that because a few slums in Atlanta and Washington, D.C. have been cleared that it makes a subject for murals of permanent character in a public building'.⁶⁸⁵ Unless he was allowed 'to shift to some other subject or to take the broader aspect of the Negro in America' he asked to be quietly let go.⁶⁸⁶

Not only was Sheet's stand highly principled, he was quite correct in suggesting that the New Deal had brought little benefit to the Democrats' newly aligned black electoral constituency. Steve Valocchi tempers liberal celebrations of the New Deal, as well as the claims made by class or state-centred analyses of it, by arguing that 'the creation of the New Deal state was a racially based affair' that largely excluded the civil rights of the black population.⁶⁸⁷ Analysing the major long-term policy initiatives of the First and Second New Deals to assess their impact upon African-Americans he argues that: the AAA was 'the chief source of downward mobility for blacks in the South', with the provision to reimburse cotton producers to take their land out of production driving many black tenant farmers off the land; the NIRA established geographical and occupational classifications 'which permitted lower wages in the South and in occupations in which blacks were concentrated', and in those sectors in which a blanket wage code of compliance was enforced 'employers routinely fired blacks rather than pay them the NRA-prescribed minimum wages'; the WPA 'allowed wages to correspond to the wage scale and practises of local labour markets and this change encouraged discrimination against blacks in both the South and the North', and the fact that the WPA quotas introduced to counter this discrimination were left to local administrators to enforce ensured that in many areas blacks were excluded from skilled work and supervisory positions; the National Housing Act which established the Home Owners Loan Corporation to expand mortgage loan guarantees for working and middle class families 'did so in a way that fostered segregation and excluded blacks from equal access to the federally insured mortgage market' thereby contributing to the

⁶⁸⁵ *Ibid.*

⁶⁸⁶ *Ibid.*

⁶⁸⁷ Steve Valocchi, 'The Racial Basis of Capitalism and the State, and the Impact of the New Deal on African-Americans', *Social Problems*, vol. 41, no. 3 (Aug. 1994), p. 347.

increasing ghettoisation of the black community; the Social Security Act excluded domestic labour and agricultural work from its pension system, thereby excluding two-thirds of black employment, a situation that I will investigate in more detail in the next chapter; and lastly the NLRA made no attempt to outlaw racial discrimination within the AFL, despite pressure by the NAACP to do so. And whilst the more militant CIO did encourage black recruitment this was not a New Deal policy but one that can be attributed to the union's own more radical cadre.⁶⁸⁸

For Valocchi legislation that targeted racial discrimination in particular during the New Deal was limited to attempts at making lynching a federal offence, eliminating the poll tax in southern states; and outlawing segregation in the armed forces.⁶⁸⁹ Each of these moves was defeated in Congress with filibusters by southern Democrats with Roosevelt pointedly refusing to urge party unity and the administration remaining largely silent. The conventional explanation for this poor record on black civil rights during the New Deal is the entrenched power of the southern wing of the Democratic Party. As Valocchi argues they 'dominated the committee system of Congress, held all white primaries, dominated the nominating process at national conventions, and were instrumental in the systematic disenfranchisement of the black population in the South after Reconstruction'.⁶⁹⁰ Such a reading gives credence to the idea that Roosevelt and northern Democrats would have done much more for blacks if they had not been politically dependent upon this southern support, that is, 'as having to sacrifice black interests for working class interests'.⁶⁹¹ Yet Valocchi challenges this reading to instead argue that the different economic interests of the North and the South were brought together in the policymaking process of the New Deal 'as both northern and southern Democrats voted together to secure public works projects, urban construction, and agricultural subsidies to planters in the South and ranchers in the South and West'.⁶⁹² And whilst blacks exercised varying amounts of power in certain northern cities this never translated into any national influence 'due to the racial biases built into the urban

⁶⁸⁸ *Ibid*, pp. 353-355.

⁶⁸⁹ *Ibid*, p. 355.

⁶⁹⁰ *Ibid*.

⁶⁹¹ *Ibid*.

⁶⁹² *Ibid*, p. 358.

political machines'.⁶⁹³ White party bosses distributed the patronage selectively to 'safe' undemocratically elected black leaders who would then garner their African-American vote for them, thereby neutralising black electoral power. As such, disagreements over civil rights legislation were clearly of secondary importance to the common agenda forged between the two wings of the party and northern Democrats could support liberal welfare measures or civil rights issues safe in the knowledge that they 'had no chance of passage'.⁶⁹⁴

The New Deal record may have been poor in relation to the needs of African-Americans but, as I have already argued, Ickes was an outspoken anti-racist and clearly ahead of the rest of the cabinet in his support of black civil liberties. As head of the PWA he had personally insisted on parity of pay and imposed minimum quotas for blacks on projects under his jurisdiction. As such, Ickes' desire to see positive images of African-Americans on the walls of the Interior building was more than just 'plain bunko-propaganda'.⁶⁹⁵ Burlew wrote to Rowan that 'The Secretary has no objection to showing the Negroes in their lowly condition, but he would also like to show their emergence'.⁶⁹⁶ And the pair of them were critical of Sheets' initial designs due to the fact that they lacked 'to a remarkable degree any inspiration for the Negro race'.⁶⁹⁷ For Ickes 'the series should serve as a source of encouragement and hope to all members of the coloured race who have an opportunity to see the work'.⁶⁹⁸ The problems involved in commissioning these four panels were compounded by the fact that during the course of their design they were not only judged by Ickes, Burlew, and the Section staff, but the Commission of Fine Arts weighed in on the debate along with a specially selected committee of 'distinguished coloured citizens' chosen by the Interior Secretary himself for this very purpose.⁶⁹⁹ As a result of this bureaucratic interference from so many different quarters the artist

⁶⁹³ *Ibid*, p. 356.

⁶⁹⁴ *Ibid*, p. 358.

⁶⁹⁵ Sheets – Rowan, 28 June 1940, NARA, 121/1.

⁶⁹⁶ Burlew – Rowan, 14 May 1938, NARA, 121/1.

⁶⁹⁷ Burlew – Rowan, 10 June 1940, NARA, 121/1.

⁶⁹⁸ Rowan – Sheets, 21 June 1939, NARA, 121/1.

⁶⁹⁹ This committee included Mordecai W. Johnson, President of Howard University, D.C.; Dr Dorothy Ferebee of the Boule Alpha Kappa Alpha Sorority; and the Reverend Robert Brooks. Rowan – Ickes, 29 January 1941, NARA, 121/1.

received completely contradictory advice at different points in the design process and the finished panels, all oil on canvas, were not actually installed until late in 1948 after Sheets had spent three years in the armed services. The end result was, somewhat unsurprisingly, four rather anodyne panels celebrating generic African-American advances in the fields of *Education* (fig. 127), *The Arts* (fig. 128), *Religion* (fig. 129), and *Science* (fig. 130), the earlier advice that he should focus upon particular individuals within each area being overturned at a later stage.⁷⁰⁰ In this sense Sheet's panels, for which he received \$4,400, were a compromise by which no-one was offended and no-one got what they really wanted. Not that this mattered as by the time that they were finally installed Ickes had resigned and the Section had long been terminated, with Bruce and Rowan already dead.

A far more powerful comment upon the plight of African-Americans was provided by the sculptor Maurice Glickman in his sculpture *Negro Mother and Child* (fig. 131), installed at the east end of the cafeteria courtyard in 1940. Glickman was active in the Artists' Union and the American Artists' Congress and three of his sculptures had been illustrated in *New Masses* in 1937-38.⁷⁰¹ These political affiliations were registered in the look of strength and resilience that Glickman gave to the figures, their defiant pose combined with their simple clothes and lack of shoes successfully connoting what Hemingway has described as 'dignity within poverty'.⁷⁰² The piece was originally produced under the PWAP and was generally considered one of the most interesting of the eleven sculptural pieces shown at the National Exhibition of PWAP art held at the Corcoran April-May 1934.⁷⁰³ Exhibited in plaster cast someone allegedly overheard the president commenting that 'it ought to be cast in bronze', although after the finished piece was then delivered to the White House Roosevelt declined the offer and sent it on to the National Museum of

⁷⁰⁰ Rowan had suggested a whole range of prominent black figures to be depicted as the central character in each of Sheets' four panels but Ferebee suggested that 'the foreground figure in each sketch be made more completely anonymous to represent a composite individual as the epitome of achievement in the special fields mentioned'. Ferebee – Rowan, 17 February 1941, NARA, 121/1. And whilst the Section liked the arbitrary enlargement of the central figure in each of the artist's designs, it was the Commission that challenged this decision. Savage – Rowan, 1 April 1941, NARA, 121/1.

⁷⁰¹ Hemingway, *op. cit.*, 2002, p. 99.

⁷⁰² *Ibid.*

⁷⁰³ Look and Perrault, *op. cit.*, 1986, p. 117.

Art.⁷⁰⁴ They also refused the piece so it eventually ended up in the Interior Department cafeteria courtyard mounted on a black serpentine marble base as a counterpoint to Louis Slobodkin's sculpted figure of *Abe Lincoln* at the opposite end, with the original plaster cast going on display in the Howard University Library. For Hemingway the 'modernised classicism' of Glickman's art successfully invoked 'a common humanity' which when applied to an African-American subject matter enabled it to 'speak powerfully against the injustice of a situation in which some went without shoes because of colour and class'.⁷⁰⁵ And furthermore the success of Glickman's *Negro Mother and Child* in terms of its popularity with the administration should be seen 'as prophetic of that area of overlap on issues of democracy and race within which Communists and more radical New Dealers were increasingly able to make common cause as the decade progressed'.⁷⁰⁶ With this in mind the fact that Glickman's *Negro Mother and Child* ended up in Ickes' Interior Department building in 1940 seems particularly apposite.

Its companion piece in the cafeteria courtyard, Slobodkin's sculpture of *Abe Lincoln* (fig. 132) as a young farmer holding crossed rails, took an equally circuitous route to the Interior building. It had beaten over 430 other models submitted in the contest for the sculptural work on the United States Building at the New York World's Fair of 1939/40 at Flushing Meadows. Judged to be the most 'unique symbol of American unity' the statue was erected in a pool of water with flowing fountains in the grounds of the Federal Building.⁷⁰⁷ Yet when the artist went to see his sculpture on the opening day of fair it was no longer there, with it later coming to light that it had been removed on the orders of the event's executive commissioner, Theodore T. Hayes, supposedly on the basis that it 'was too big, far too high and hid all the lighting'.⁷⁰⁸ Slobodkin's sculpture, for which he received \$1,600, was unusual in that it depicted a highly effeminate Lincoln, which set it apart from the dominant conventions that emphasised, what Melosh describes as, 'the heavily lined and

⁷⁰⁴ *Ibid.*, pp. 117-118.

⁷⁰⁵ Hemingway, *op. cit.*, 2002, p. 99.

⁷⁰⁶ *Ibid.*, p. 100.

⁷⁰⁷ Quoted in Look and Perrault, *op. cit.*, p. 119.

⁷⁰⁸ *Ibid.*

craggy visage of the Civil War president'.⁷⁰⁹ That this was the real motivation behind Hayes' decision to remove, and then destroy the work, is suggested by his comment: 'Why, visitors on a preview of the building all scoffed at it. We couldn't take that sort of criticism from people representing John Q. Public'.⁷¹⁰ Whatever the reasons for its destruction the '*l' affaire Slobodkin*' was rightly interpreted for what it was, namely a cynical attack upon artistic freedom, and the liberal press were quick to link it to the destruction of Rivera's mural in the Rockefeller Centre a few years earlier.⁷¹¹ By recommissioning a bronze model from an original plaster cast in 1939 for Interior both Bruce and Ickes successfully presented themselves as liberal champions of artistic expression, somewhat ironic bearing in mind the level of bureaucratic interference they demonstrated at each stage of the commissioning process for the other artworks in the building.⁷¹² Yet when the two pieces were installed at opposite ends of the courtyard in 1940 they formed a powerful ensemble that clearly encoded a liberal New Deal politics on race: Lincoln the Great Emancipator opposite a strong and defiant looking Negro mother and child, their relative poverty still yet to be tackled.⁷¹³ Taken together these two works thereby register the realignment in the black vote – the Democratic Party inheriting the Republican Party's historical association with the pursuit of black civil liberties, no matter how hopelessly compromised this proved to be.

Ickes' commitment to the civil rights of African-Americans was most powerfully expressed in the competition for the Marian Anderson mural in 1940. She was a celebrated black contralto singer who was famously denied the use of Constitution Hall by its owners the Daughters of the American Revolution due to the

⁷⁰⁹ Melosh, *op. cit.*, p. 38.

⁷¹⁰ Anonymous, 'Cromwellian Encore', *The Art Digest*, 15 May 1939, p. 7.

⁷¹¹ *Ibid.*

⁷¹² Bruce told the Herald Tribune. 'Mr Flynn [U.S. Commissioner and Hayes' superior] called me on the phone and told me if I opened my damned mouth he'd bust me wide open. And he told me he had enough on me to do it. Now, Mr Flynn is a powerful politician and I'm a nobody, and I don't know just what I can do about it, but the artists have treated me wonderfully well and I feel that I'd be a yellow dog if I didn't open my mouth and protest this thing'. Quoted in *ibid.*

⁷¹³ Interestingly Slobodkin wished to substitute the serpentine base for black marble due to the fact that it weathered better and: 'This stone, as you know, is quarried in Virginia. I like the idea of a bronze cast in the North, enhanced by a fine block of stone, quarried in the South, joined to create a statue of Abe Lincoln, symbol of unity'. Slobodkin – Hopper, 14 November 1939, NARA, 121/133.

segregationist policy they operated within the venue.⁷¹⁴ In response Eleanor Roosevelt resigned from the institution and publicly rebuked them for their actions. Ickes then stepped into the fray and demonstrated his anti-racist credentials by granting the singer permission to use the steps of the Lincoln Memorial for a free outdoor concert that took place on Easter Sunday, 9 April 1939. Ickes himself, the former Republican progressive, introduced Anderson to the assembled crowd of 75,000 and he used the occasion to celebrate racial inclusivity:

Genius, like justice, is blind. For genius has touched with the tip of her wing this woman, who, if it had not been for the great mind of Jefferson, if it had not been for the great heart of Lincoln, would not be able to stand among us today a free individual in a free land. Genius draws no colour line. She has endowed Marian Anderson with such a voice as lifts any individual above his fellows, as is a matter of exultant pride to any race. And so it is fitting that Marian Anderson should raise her voice in tribute to the noble Lincoln, whom mankind will ever honour.⁷¹⁵

In deciding to launch a competition for a mural to go into Interior to celebrate this landmark occasion in the black civil rights struggle, funded by donations to a special committee especially set up for this purpose, Bruce similarly made clear his support for the cause. The \$1,700 competition was won by the young artist Mitchell Jamieson who produced a mural entitled *An Incident in Contemporary American Life* (fig. 133), installed in 1942 in the basement near to the cafeteria entrance.⁷¹⁶ Jamieson had just spent three months in Mexico City studying print-making and lithography and, as Look and Perrault argue, ‘the scale and massing of the composition suggest a strong influence by the heroic school of Mexican painting’.⁷¹⁷ In arranging his design he also took a cue from the north wall of Rivera’s *Detroit Industry* in which the only image of a completed car – the ostensible subject of the mural cycle – is a minute detail in the centre background.

⁷¹⁴ The Daughters of the American Revolution are a lineage based organisation dating back to the late nineteenth-century dedicated, amongst other things, to the promotion of patriotism within their communities.

⁷¹⁵ Quoted in Section of Painting and Sculpture, *Bulletin*, no. 22 (Sep. 1940), p. 2, the edition that announced the Marian Anderson mural competition.

⁷¹⁶ Jamieson’s design to commemorate the event was chosen over 171 others in April 1941. Look and Perrault, *op. cit.*, p. 113.

⁷¹⁷ *Ibid.*, p. 114.

Likewise, rather than focus upon the figure of Anderson singing, Jamieson placed her in the far distance, a mere speck on the steps of the Lincoln Memorial. Instead he took as his focus the 75,000 strong audience of black and white Americans who had gone along to witness her performance, thereby demonstrating their solidarity with the cause. The seated woman holding a baby in the bottom right of the panel is Mary McLeod Bethune, a prominent D.C. civil rights leader in charge of the National Youth Administration. As such the mural makes it clear that the emergence of talents such as Anderson within the black community was predicated upon a broader mass movement committed to challenging racism whenever, and wherever, it reared its ugly head. It thereby captured the dynamic of black emancipation far more successfully than Sheets' more compromised panels, finally hung six years later. And, as the last mural installed during Ickes' tenure at Interior, Jamieson's panel was therefore a fitting finale to the Section's decorative scheme within the building, clearly encoding the 'old curmudgeon's' outspoken commitment to the civil rights of African-Americans that set him apart in terms of the administration's otherwise general passivity on the issue.

Lastly, in terms of the New Deal and the politics of race, it is important to mention the remaining four panels in the building that deal with insular possessions that were handled by the Interior Department under the auspices of the Division of Territories and Island Possessions. James Michael Newell was originally given the theme of education but as Ickes felt that the Division of Education might soon be made into a department in its own right the artist was instead given the alternative subject of 'the territories' including 'the Virgin Islands, Hawaii, Puerto Rico, Alaska etc'.⁷¹⁸ Newell opted for the Virgin Islands and *Alaska* (fig. 134), 'the opening and settlement' of which was depicted 'as the combined work of the Eskimo, Indian, and White Man'.⁷¹⁹ This emphasis upon inter-racial cooperation is conjoined with a conservationist theme on the right of the panel in which government agents restock a river to preserve the vital fishing industry. Behind them and to their left another government agent is lecturing a group of Native Americans about conservation

⁷¹⁸ Rowan – Newell, 21 July 1937, NARA, 121/133.

⁷¹⁹ Look and Perrault, *op. cit.*, p. 153.

issues, how to populate certain lands and develop them agriculturally. In the centre a family is being welcomed to the territory thereby referencing the pioneer theme within the building's decorative scheme. Finally, on the far left the area's mining industry is symbolised by the well-worn figure of the prospector panning for gold, behind which local knowledge is emphasised in the Eskimo figure pointing out hunting and fishing grounds to another white settler. These activities are framed within a mountainous landscape emphasising the region's natural beauty. In his panel devoted to the Virgin Islands, entitled *Insular Possessions* (fig. 135), Newell similarly depicts the territory's principal economic activity, namely the planting and harvesting of the sugar cane crop. The benefits of American control of the islands are emphasised with a child being inoculated on the far left and a teacher instructing a group of young children in the centre. Both panels were completed in fresco in 1939 after which the artist received the final instalment of the \$5,400 that the commission carried.

Again combining the subject of conservation with the territories the artist Gifford Beal was given the subject of the national parks in Alaska and Hawaii. In the first panel, entitled *North Country* (fig. 136), he depicted two dog trains passing on a snow covered slope, the one in the foreground moving from left to right, the other in the distance on the right venturing in the other direction. In the other panel, entitled *Tropical Country* (fig. 137) he followed Newell, on Ickes' insistence, and painted the planting of the principal economic exports of the island, cane and pineapples, in a lush tropical landscape.⁷²⁰ Unlike Newell's panels these were executed in oil on canvas and installed in 1941 when the artist was given the final portion of the \$4,400 awarded for his work. As with many of the other artists commissioned to decorate the Interior building Newell and Beal suffered the usual interference from the Interior Secretary and his assistant Burlew. The 'features of the Negroes' in Newell's cartoon for the Virgin Islands fresco were deemed to be 'too coarse'.⁷²¹ And the artist's referencing of Mexican muralism in his other panel was clearly picked up by Ickes who charged that 'all the figures in the Alaska panel were over-

⁷²⁰ Rowan – Beal, 17 May 1940, NARA, 121/1.

⁷²¹ Burlew – Rowan, 25 March 1939, NARA, 121/133.

monumental in size'.⁷²² He disliked the mural so much that he threatened to plaster over it, much to the disgust of Bruce and Rowan.⁷²³ Rather ironically, considering the rather standoffish relationship between the Section and radical artists, in order to protect the work Dows suggested that they 'inform some of the organised artists groups and see what kind of rumpus we can start'.⁷²⁴ Similarly Beal was urged by Rowan, on Ickes insistence, 'to remove any quality which could be interpreted as Mexican'.⁷²⁵ As with other murals in the building the Interior Secretary insisted that 'the figures represent types which occur in Hawaii with a heavy emphasis upon the oriental figures' and due to the inclusion of a figure on a horse resembling a Mexican in an earlier design he threatened to throw 'the whole thing out'.⁷²⁶ Here, as with the other panels in the building, Ickes welcomed racial inclusivity as long as the depiction of different ethnicities were incorporated within realistic and appropriate settings.

In this Ickes was right, for the sugar industry on Hawaii had depended upon an influx of foreign labour from the outset and had imported contracted labourers mainly from the Orient, including Chinese, Japanese, Korean, and Filipinos.⁷²⁷ Once there they were poorly housed, badly paid, and treated like second-class citizens. The resulting spasmodic strikes were ruthlessly suppressed by American governors who ruled through a white territorial legislature at the beck and call of the planters' association. Conditions improved in the 1930s due to the intervention of the NLRB and the Labour Department, as well as the organising drives of the International Longshoremen's and Warehousemen's Union that would produce successful strikes in the postwar period.⁷²⁸ The only intimation of these oppressive labour conditions appeared in an earlier design in which an overseer was pictured on horseback, although this was later removed on Ickes' insistence.⁷²⁹ Whilst Beal's Alaskan panel

⁷²² Section of Painting and Sculpture, Memorandum, 13 August 1941, NARA, 121/133.

⁷²³ Bruce – Watson, 11 August 1941, NARA, 121/122.

⁷²⁴ Dows – Bruce, 6 June 1941, AAA, D86.

⁷²⁵ Rowan – Beal, 14 June 1940, NARA, 121/1.

⁷²⁶ Rowan – Beal, 17 May 1940, NARA, 121/1.

⁷²⁷ William C. Smith, 'Minority Groups in Hawaii', *Annals of the American Academy of Political and Social Science*, vol. 223 (Sep. 1942), pp. 37-39.

⁷²⁸ On the island's labour history and New Deal interventions see Edward O. Beechert, *Working in Hawaii: A Labour History* (Hawaii: University of Hawaii Press, 1985).

⁷²⁹ Rowan – Beal, 17 May 1940, NARA, 121/1.

was visually effective, it was devoid of any political content. Newell's fresco on the same theme, however, projected an idyllic image of the territory in which different ethnic groups worked together under the benevolent hand of the New Deal government. To Ickes' credit he did his best to extend the Indian New Deal to Alaska to protect the Eskimos, Aleuts, and ethnic other communities that resided there, and they were included under the Indian Reorganisation Act of 1934. This was followed by the Alaska Reorganisation Act of 1936 which allowed the indigenous population to set up reservations, establish self-government, and borrow money from a federal credit fund to alleviate the effects of the Depression, although it was poorly administered and inadequately funded by Congress.⁷³⁰ Newell's panel dealing with the Virgin Islands made similar claims, highlighting the health and educational benefits of American control. Bought in 1917 for their strategic military importance the islands were run by the United States Navy who, as Newell indicated in his fresco, trained nurses to vaccinate the entire population against smallpox and increased the education budget from \$20 million in 1917 to over \$100 million by 1932.⁷³¹ The cane harvest depicted in Sheets' mural could no longer sustain the local economy as international markets were increasingly turning to beet sugar. As a result, Ickes granted \$1,000,000 from the PWA to set up the Virgin Islands Company, a partnership program designed to rehabilitate the economy.⁷³² Yet, the greatest New Deal contribution to the Virgin Islands was the introduction of

⁷³⁰ Kenneth R. Philp, 'The New Deal and Alaskan Natives', *The Pacific Historical Review*, vol. 50, no. 3 (Aug. 1981), p. 310. According to Philp, Ickes had other incentives in setting up reservations in Alaska as it allowed him to gain a greater leverage over the powerful Salmon industry and to protect the Tongass National Forest from the lumber industry. *Ibid*, p. 317.

⁷³¹ William W. Boyer, *America's Virgin Islands: A History of Human Rights and Wrongs* (North Carolina: Carolina Academic Press, 1983), pp. 118 and 123. Unfortunately they also imported their racist ideology into a society that hitherto had had no official recognition of racial differentiation. See Norwell Harrigan and Pearl I. Varlack, 'The U.S. Virgin Islands and the Black Experience', *Journal of Black Studies*, vol. 7, no. 4 (June 1977), pp. 393-401.

⁷³² Whilst the Virgin Islands Company was never financially successful enough to supplant the need for continued federal appropriations for the islands during the New Deal period, and received another \$2,500,000 of PWA money during Ickes' tenure ship alone, as a development program encroaching upon several local industries it was for Roosevelt's critics the closest he came to the collectivist state. Bowyer, *op. cit.*, pp. 172-177.

universal suffrage in 1936 which finally broke the entrenched political power of the planters and merchants.⁷³³

As with most of the artwork in Interior, Newell's frescos project a kindly and benevolent New Deal state committed to conserving the environment and protecting its citizens, whatever their ethnicity. If the general poor quality and the ideological confusion typical of the murals in the Justice Department building in some way reflect the rather contradictory policies that came out of the First New Deal, then the artwork that went up in Interior can be understood as representing the leftward turn associated with the Second New Deal. Ickes may have been a pedant in his insistence on verisimilitude yet, as Hemingway rightly asserts, he 'was concerned to develop an iconographic program throughout his new building that projected his interventionist view of the federal state'.⁷³⁴ Whether this be in the field of conservation with the protection and regeneration of western range lands or the consolidation and enlargement of the national park network; federal regulation of the free market – relatively successful in terms of the private utilities and the development of government sponsored hydroelectric power, much less so in relation to Ickes' efforts at reigning in the oil barons; or federal attempts at alleviating the economic conditions of racial minorities and supporting their civil liberties – committed, although ultimately unsuccessful, with the Native American community, if hopelessly compromised in relation to the New Deal's newly won black constituency. Indeed Ickes' interventionist stance was manifested significantly in his attempts at wresting control over the decorative scheme within his building from the Section administrators, much to the chagrin of Bruce and Watson. Yet it was his relative success in this matter that gives the artwork in Interior an aesthetic and ideological coherency that it so clearly lacked in Justice.

⁷³³ This was granted through the passage of the Organic Act of the Virgin Islands of the United States. *Ibid*, pp. 181-183.

⁷³⁴ Hemingway, *op. cit.*, 2002, p. 157.

Visualising the Welfare State: Section art in the Social Security Administration building, 1939-43

Arthur Altmeyer and the competition brief

The crucial administrative leader throughout the formative years of social security was Arthur J. Altmeyer, who served as one of the three Social Security Board members from 1935 to 1937, then as chief administrator from 1939 to 1946, and finally as Commissioner of Social Security until 1954. He was educated at the University of Wisconsin, where he worked as John R. Commons' research assistant, before graduating to become the Chief Statistician, and then Secretary, of the Wisconsin Industrial Commission.⁷³⁵ He was then summoned to Washington in 1934 by Perkins to become her Assistant Secretary of Labour.⁷³⁶ Together they selected Wisconsin's Edwin E. Witte as the Committee on Economic Security's (CES) Executive Director charged with steering the Social Security Act from formulation through to enactment, during which time Altmeyer also headed the Technical Board under the CES.⁷³⁷ Once Congress had passed the act and set up the

⁷³⁵ Through teaching economics at the University of Wisconsin and influencing several generations of students and colleagues Commons played a pivotal role in the development of social welfare policies in both that state and at a national level. See Robert C. Nesbitt, *Wisconsin: A History* (Wisconsin: University of Wisconsin Press, 1973), pp. 399-476 and George William Domhoff, *The Power Elite and the State: How Policy is Made in America* (New York: Aldine de Gruyter, 1990), pp. 49-51. Before the passing of the Social Security Act Wisconsin was the only state that had passed any legislation providing unemployment compensation. Devised by Commons, with the help of businessmen Henry Dennison and Edward Filene, the Wisconsin approach aimed to minimise unemployment through the stabilisation of industry. Benefits were financed by employer taxes collected by the state in individual employer accounts. The Ohio approach, championed by I. M. Rubinow and Abraham Epstein, took its name from a 1932 report to the Ohio commission on unemployment, and instead advocated pooled employer reserves that spread the costs of unemployment benefits across industries instead of passing them onto consumers; higher benefit levels; and the financing of these benefits out of general revenues. The Wisconsin group benefited from their access to Perkins who knew them from her days as an administrator of the New York workers' compensation law, although Rubinow remained a constant critic of the Wisconsin approach due to its adherence to the private insurance model of unemployment compensation. See Edward Berkowitz and Kim McQuaid, *Creating the Welfare State: The Political Economy of Twentieth-Century Reform* (Kansas: University of Kansas Press, 1992), pp. 110-113.

⁷³⁶ For the details of Altmeyer's career before he was drafted to Washington see Arthur Altmeyer, *The Formative Years of Social Security* (Wisconsin: University of Wisconsin Press, 1966), pp. vii-ix.

⁷³⁷ For biographical information on Witte see Theron Schlabach, *Edwin E. Witte: Cautious Reformer* (Wisconsin: State Historical Society, 1969) and for his first-hand account of the passing of the Social

Social Security Board to administer old-age insurance (OAI), old-age assistance (OAA), and unemployment insurance alike, Altmeyer then moved into what became, according to Theda Skocpol and John Ikenberry, 'the strategic control centre for the newly emerging American welfare state'.⁷³⁸ According to them he favoured the only purely federal aspect, the OAI title, with its individualistic ideology based upon the idea of personal savings.⁷³⁹ As former Director of the Labour Compliance Division of the National Industrial Recovery Administration he had also worked closely with businessmen who therefore approved of his selection.⁷⁴⁰

Due to the pivotal role that Altmeyer had played in the development of America's welfare state it seemed only natural that the Section would turn to him for a statement outlining what social security actually meant for publication in the *Bulletin* as part of the competition brief for the decoration of the Social Security Administration building in March 1940. But before discussing Altmeyer's 'The Meaning of Social Security' it is important to note that this statement was immediately preceded by 'A Letter to Edward Bruce from Henry Varnum Poor'.⁷⁴¹ Whilst Poor had already executed two Section murals in Washington, in the Justice and Interior Department buildings, by the time the social security competition was announced he was a member of the Commission of Fine Arts. Nevertheless, Poor's invitation to serve on a committee 'to discuss the ideology for the Social Security Building', and the overall cordial tone of the letter, are indicative of the fact that Poor remained on close personal terms with the Section chief despite his new bureaucratic appointment.⁷⁴² Mentioning his 'puzzling over the business of

Security Act, based upon diaries that he kept at the time see Edwin E. Witte, *The Development of the Social Security Act* (Wisconsin: University of Wisconsin Press, 1962), pp. 3-108. The CES was also staffed by Perkins, who was chairman, Hopkins, Cummings, Morgenthau, and Wallace, who was added by Roosevelt at the last minute to replace the proposed Secretary of Commerce. Altmeyer, *op. cit.*, 1966, p. 7.

⁷³⁸ Theda Skocpol and John Ikenberry, 'The Political Formation of the American Welfare State in Historical and Comparative Perspective', *Comparative Social Research*, vol. 6 (1983), p. 134.

⁷³⁹ This is also the central argument in Jerry Cates, *Insuring Inequality: Administrative Leadership in Social Security, 1935-54* (Michigan: University of Michigan Press, 1983).

⁷⁴⁰ Quadagno, *op. cit.*, 1984, p. 640.

⁷⁴¹ Henry Varnum Poor, 'A Letter to Edward Bruce from Henry Varnum Poor', Section of Painting and Sculpture, *Bulletin*, no. 21 (Mar. 1940), p. 4.

⁷⁴² *Ibid.*

ideology' in the mural for Pennsylvania State College that he was working on, and referring to Massaccio's *The Tribute* and Da Vinci's *Last Supper*, he was keen to privilege 'pictorial necessity' over 'intellectual content'.⁷⁴³ Whilst Michelangelo may 'have given concrete form to involved or abstract concepts', such a tradition 'has given us a long series of the world's worst murals'.⁷⁴⁴ Instead Poor suggested that 'the wisest thing to do is to find, if possible, a connected or related series of simple incidents, or places, or people, or conditions of living which, in themselves, may not express the whole idea of social security, but might do so through the humanity and insight with which the artist shows them'.⁷⁴⁵

I will discuss the relative merits of such a position when looking at the artwork commissioned for the building, but first it is necessary to return to Altmeyer's essay, 'The Meaning of Social Security', printed in the same issue of the *Bulletin*.⁷⁴⁶ As both a statement from the key administrative architect of the Social Security Act, and as a text which would shape the thematic and iconographic content of the murals and sculpture produced to celebrate it, this statement deserves to be quoted at length. Altmeyer began by naturalising social security as part of the American national tradition with its distinctly individualistic caste in that 'however times may change, one purpose is constant – the American people are always striving for the kind of life that will assure to themselves and to their families and to their neighbours, a chance to make their own way in the world'.⁷⁴⁷ To emphasise this point he quoted Roosevelt's special message to Congress of the 8 June 1934, the message that signalled that social security was to become an administrative priority:

Our task of reconstruction does not require the creation of new and strange values. It is rather the finding of the way once more to known, but to some degree forgotten, ideals and values. If the means and details are in some instances new, the objectives are as permanent as human nature. Among our objectives I place the security of the men, women, and children of the Nation first. This security for the individual and for the family concerns itself primarily with three factors. People want decent

⁷⁴³ *Ibid.*

⁷⁴⁴ *Ibid.*

⁷⁴⁵ *Ibid.*

⁷⁴⁶ Arthur Altmeyer, 'The Meaning of Social Security', Section of Painting and Sculpture, *Bulletin*, no. 21 (Mar. 1940), pp. 5-7.

⁷⁴⁷ *Ibid.*, p. 5.

homes to live in; they want to locate them where they can engage in productive work; and they want some sort of safeguard against misfortunes which cannot be wholly eliminated in this man-made world of ours.⁷⁴⁸

He then traced this need for common security back to the frontier; the development of local governments; the formation of Colonial Commonwealths; through to the union of States which ‘set forth in its constitution the common purposes of the new nation – and among them were “to establish justice, to insure domestic tranquillity, and to promote the general welfare”’.⁷⁴⁹ Until finally, ‘in the 1930s we have called upon our Federal Government as a nationwide partnership of all its people to extend our common defences against insecurity’, thereby placing the centralised statism of Roosevelt within a historical lineage and legitimising the development of modern welfarism under the auspices of the New Deal.⁷⁵⁰

Altmeyer then moved on to define the particular problems that social security was designed to tackle, the ‘specific hazards, mainly economic, to which large numbers of individuals and families stand exposed’.⁷⁵¹ These were ‘want and despair when job and wages stop, dependence in old age’, and ‘hardship for children left without a breadwinner’.⁷⁵² Whilst these may have been the perennial problems of old, ‘just as real as the dangers that beset the pioneer’, in the 1930s the solutions were far more complex and necessarily involved the federal government.⁷⁵³ For Altmeyer this complexity was a direct result of the processes of modernisation, and specifically the shift from an agrarian society to ‘a single industrial community’, and the consequent commodification of labour, in that ‘The majority of our people no longer *make* a living; instead they buy it with money’.⁷⁵⁴ Whilst this may be progress it has a ‘seamy side’ as ‘In this new world of machine and motor, of mass business and high-speed industry, of buying and selling at the price of gaining a

⁷⁴⁸ United States Congress, *Congressional Record*, vol. 78, 73rd Congress, 2nd Session (Washington, D.C.: United States Government Printing Office, 1934), p. 10770, quoted in Altmeyer, *op. cit.*, 1940, p. 5.

⁷⁴⁹ *Ibid.*

⁷⁵⁰ *Ibid.*

⁷⁵¹ *Ibid.*, pp. 5-6.

⁷⁵² *Ibid.*, p. 5.

⁷⁵³ *Ibid.*, p. 6.

⁷⁵⁴ *Ibid.*

livelihood, assuring family security was a new problem'.⁷⁵⁵ To meet this challenge Altmeyer looked, once again, to the past: 'The earliest town meetings made provision for schools, for health, and for the care of those of their number who "were in low and pore condishon" ... Forty years and more ago, the local communities looked to the States; and the States began to share in government provisions for security', up until the present in which 'the States, their local communities and their citizens unable to meet these needs [] have looked to the Federal government'.⁷⁵⁶

It therefore becomes clear that, according to Altmeyer, the Social Security Act represented nothing other than a continuation of the earliest attempts at dealing with insecurity, its federal nature merely the necessary corollary to the development of modernity and its attendant problems. Yet there were clear limits, both to the legislation as it existed, and to the more general role of federal intervention. Firstly, for Altmeyer 'Social security will always be a goal rather than a final achievement. And we shall always be moving toward it along many lines of approach'.⁷⁵⁷ Through the Social Security Act and other federal incursions into the housing market; farm security; public-works; wages and hours legislation; and training and opportunities for youth, 'the part that government is equipped to play in promoting security has thus been much extended in recent years', yet 'we can be very sure that increasing experience will discover still other paths of progress'.⁷⁵⁸ Despite these assurances that the national government would be 'fully utilised "to insure domestic tranquillity and to promote the general welfare"', Altmeyer was, however, adamant that 'Government can and should offer only *basic* protection', and 'Beyond that, youth, maturity, and old age must still face there own problems; families must still make their own way and preserve their own values'.⁷⁵⁹ Here the idea of social security came up against that pervasive American ideology of rugged individualism – it should provide a safety net, but never a substitute for individual self-

⁷⁵⁵ *Ibid.*

⁷⁵⁶ *Ibid.*, p. 7.

⁷⁵⁷ *Ibid.*

⁷⁵⁸ *Ibid.*

⁷⁵⁹ *Ibid.*

determination.⁷⁶⁰ To marry the two, Altmeyer returned to the familiar motif of the pioneer: ‘no one man alone could have explored the frontier; but many men, working together [] opened up a continent’.⁷⁶¹

Finally, with reference to the iconographic content of the mural and sculptural schemes commissioned for the Social Security Administration building, it should be noted that Altmeyer finished his statement by invoking the benevolent paternalism of the New Deal with his claim that ‘here in the United States, conserving the individual and, even more, the *family*, has now become an active concern of the greater family we call the nation’.⁷⁶² Yet before I go on to look at the art produced in response to Altmeyer’s definition of social security in the United States, and to a lesser extent Poor’s ideas on the relationship between ideology and mural painting, it is necessary to weigh up Altmeyer’s claims for social security against the legislation actually passed, and this involves a detailed investigation of the Social Security Act of 1935. This brings us back to the theoretical debates sketched out in the introduction as the most interesting sociological work done on this legislation situates itself quite self-consciously in relation to specific arguments concerning the role of the state in mediating class conflict and preserving the long-term goals of capital accumulation. Similarly, in attempting to make sense of the political implications of the act, it is neo-Marxist accounts, as opposed to corporate liberal or state-centred ones, that offer the most lucid and nuanced interpretations. Particularly the work of Jill Quadagno who uses the legislation ‘as a case study to adjudicate between several competing theories of the state’, principally those of Poulantzas and Block, to argue that ‘the state functions as a mediating body, weighing the priorities of various interest groups with unequal access to power, negotiating compromises between class fractions, and incorporating working-class demands into legislation on capitalist terms’.⁷⁶³

⁷⁶⁰ As Frances Fox Piven and Richard Cloward made clear: ‘the doctrine of self-help through work which distinguished nineteenth century capitalism flourished in its purest and fiercest form in the United States’. Frances Fox Piven and Richard Cloward, *Regulating the Poor: The Functions of Public Welfare* (London: Tavistock Publications, 1971), p. 46.

⁷⁶¹ Altmeyer, *op. cit.*, 1940, p. 7.

⁷⁶² *Ibid.*

⁷⁶³ Quadagno, *op. cit.*, 1984, p. 632.

The Social Security Act

Compared to many of the European bourgeois democracies the United States was relatively late in formulating any extensive national program of social security.⁷⁶⁴ Whilst the Civil War pensions system had expanded to include over a million elderly Americans – about half of all elderly native-born men in the north around the turn of the century – this system was allowed to pass with the death of the last generation of Civil War veterans.⁷⁶⁵ During the Progressive Era the gap was filled by ‘welfare capitalism’ – individual employer programs offering limited unemployment and old-age pension schemes in certain industries, supplemented by minimal forms of local assistance at the state level.⁷⁶⁶ As such, the Social Security Act, passed on 14 August 1935, represented the first ‘big bang’ of national social policy legislation in America.⁷⁶⁷ Yet in comparison to European precedents it was an extremely complex piece of legislation that included three central titles, each operating under a different set of principles. The least complicated aspect to the legislation was the OAI title as it was the only element that relied on federal provision alone. In contrast, the OAA title, which involved channelling federal funds to needy persons over sixty-five, and unemployment insurance, were decentralised, giving power to the states to determine both eligibility and pay scales. The federal government was to provide the money for the elderly on a fifty-fifty matching basis, and for the unemployed in the form a tax-offset plan financed by a federal payroll tax. Finally, the bill also offered federal aid to the states if they chose to provide

⁷⁶⁴ By comparison Germany introduced a contributory national pension in 1889; Britain passed a universal Old Age Pensions Act in 1908; and Sweden adopted a universal *folkpension* in 1913, see Jill Quadagno, *The Transformation of Old Age Security: Class and Politics in the American Welfare State* (Illinois: University of Chicago Press, 1988), p. 1.

⁷⁶⁵ On the Civil War pensions system see Ann Shola Orloff, ‘The Political Origins of America’s Belated Welfare State’, Margaret Weir, Anne Shola Orloff, and Theda Skocpol (eds.), *The Politics of Social Policy in the United States* (New Jersey: Princeton University Press, 1988), pp. 37-80.

⁷⁶⁶ On ‘welfare capitalism’ see Berkowitz and McQuaid, *op. cit.*, pp. 54-68, David Brody, *Workers in Industrial America: Essays on the Twentieth Century Struggle* (Oxford: Oxford University Press, 1980), pp. 48-81, and Quadagno, *op. cit.*, 1988, pp. 77-96.

⁷⁶⁷ The term ‘first “big bang”’ to describe the Social Security Act was popularised in Weir, Orloff, and Skocpol, ‘Understanding American Social Politics’, Weir, Orloff, and Skocpol (eds.), *op. cit.*, 1988, p. 6. The Great Society of the 1960s produced the ‘second “big bang”’ of welfare state reform, beginning with Lyndon Johnson’s ‘War on Poverty’ which created new programs for community action, job training, and urban renewal.

direct relief to various other categories of unemployables such as the blind and the orphaned; for single-parents through ADC, as discussed in chapter one; as well as funds for such activities as vocational rehabilitation and public health programs.⁷⁶⁸

Passed during the flurry of liberal legislative activity retrospectively known as the Second New Deal, including the implementation of emergency work-relief, progressive taxation, trust-busting, unionisation, and wages and hours regulation, Roosevelt referred to the Social Security Act as ‘the cornerstone of his Administration and the most enduring measure of the New Deal’.⁷⁶⁹ Yet, despite the radical rhetoric of cradle to grave protection, and the fact that the act was attacked by the right as a violation of traditional concepts of self-determination and therefore a threat to individual liberty and the American way of life, the Social Security Act was a deeply compromised piece of legislation that fell far short of other social-democratic models.⁷⁷⁰ Due to the fact that OAI was financed through joint contributions from employers and employees alike, it not only tied benefits to stable long-term participation in the workforce, but also siphoned off billions of dollars in taxes from those it was meant to protect. These deflationary and regressive aspects were reinforced by the fact that those costs incurred by employers were then passed on to the consumer in the form of higher commodity prices. Furthermore, it was limited to ‘regular workers’ and therefore excluded agricultural workers, domestic servants, and casual labourers – in total 60 percent of the entire black workforce.⁷⁷¹ This omission was compounded by the fact that in southern states OAA was dispensed along racially stratified lines to control the black agricultural workforce so that during periods of intense labour – such as harvest time – payments were often

⁷⁶⁸ The welfare state in America has remained largely unchanged ever since with subsequent legislation merely tinkering with this basic framework. Added to OAI after 1935 was survivors’ and dependents’ benefits in 1939 (OASI); disability benefits in 1956 (OASDI); health insurance for the elderly i.e. Medicare, in 1965 (OASDHI), the sum total of which is generally referred to as Social Security.

⁷⁶⁹ Altmeyer, *op. cit.*, 1966, p. 12.

⁷⁷⁰ Whilst the term ‘cradle to grave’ security is usually attributed to William Beveridge, Roosevelt always claimed that it was his phraseology, even if the American social security system fell far short of its postwar counterpart in the United Kingdom. See Frances Perkins, *The Roosevelt I Knew* (London: Hammond, Hammond, and Co., Ltd., 1947), pp. 229-230.

⁷⁷¹ Quadagno, *op. cit.*, 1984, p. 643.

suspended.⁷⁷² Finally, unemployment compensation lasted for a limited time only thereby completely neglecting the problems of long-term or permanent disability.⁷⁷³

That something had to be done to alleviate the suffering of millions of Americans during the mid-1930s was clear, yet perhaps a more pressing concern for the Democratic leadership was the rise of Communist-led unemployment protests and labour militancy in the industrial sector.⁷⁷⁴ When Roosevelt delivered his special message to Congress on 8 June 1934 promising to deal with the problem of economic security, over twenty million were unemployed and industrial relations had erupted into open class conflict. Due to employer offensives against collective bargaining, seemingly sanctioned under Section 7a of the NIRA, strike activity had risen dramatically from late 1933 onwards. Mass strikes of 10,000 or more rose from a single event in 1930 to seventeen and eighteen in 1933-34 while the number of strikers rose from 183,000 in 1930 to 1,147,000 in 1934.⁷⁷⁵ That this upsurge in strike activity was a product of the struggle over trade union recognition is reinforced by the fact that four of the most important, and violent, strikes of 1934: the one at the Electric Auto-Lite Company in Toledo, Ohio; the longshoreman's strike along the West Coast; the truckers' strike in St. Paul, Minneapolis; and the strike of textile workers along the East Coast, all involved unorganised workers who were waged against powerful antiunion employers.⁷⁷⁶ Indeed, it was very intensity of this struggle over collective bargaining that ensured that the CIO had little time to engage in the debates around social security, whilst the AFL leadership initially

⁷⁷² *Ibid.*

⁷⁷³ For a frank acknowledgement of the limits of the unemployment insurance provisions see Perkins, *op. cit.*, pp. 230-231 and for a more sustained critique of the limits of the Social Security Act as a whole see Walter I. Trattner, *From Poor Law to Welfare State: A History of Social Welfare in America* (New York: Macmillan Publishing Co., Inc., 1974), pp. 240-241.

⁷⁷⁴ This is certainly the kind of argument that Goldfield makes in relation to the passing of the NLRA. See Goldfield, *op. cit.*

⁷⁷⁵ United States Bureau of Labour Statistics, *Analysis of Work Stoppages* (Washington DC: United States Government Printing Office, 1955), p. 572, cited in Craig Jenkins and Barbara G. Brents, 'Social Protest, Hegemonic Competition, and Social Reform: A Political Struggle Interpretation of the Origins of the American Welfare State', *American Sociological Review*, vol. 54, no. 6 (Dec. 1989), p. 896.

⁷⁷⁶ See Levine, *op. cit.*, 1988, pp. 117-131.

viewed government welfare programs as a disincentive to union formation.⁷⁷⁷ Consequently, as Quadagno asserts, 'the foundation of the welfare state was constructed with minimal input from organised labour'.⁷⁷⁸

If the working-class contribution to the passing of the Social Security Act resided largely in the increasing sense of political crisis engendered by the upsurge in social protest and labour militancy, then it became all the more threatening due to the emergence of third party threats from the likes of Senator Huey Long and his 'share the wealth campaign'.⁷⁷⁹ In the spring of 1935 the Democratic National Committee commissioned a secret poll to assess the extent of this electoral threat and they concluded that the Louisiana Senator 'might have the balance of power in the 1936 election'.⁷⁸⁰ An even greater pressure on the Democratic leadership to pass some form of social welfare legislation, old-age insurance in particular, came from Dr Francis Townsend and his 'Old Age Revolving Pension Plan'.⁷⁸¹ The retired Californian physician proposed the proto-Keynesian idea that anyone over the age of sixty should receive a flat pension of \$200 per month on the condition that they spent it before the end of each month, with the funds for the plan generated by a two percent tax on the gross dollar value of each business, commercial, or financial transaction. In early 1934 the Townsend movement launched an intense letter-

⁷⁷⁷ According to Perkins the AFL's initial resistance to the idea of social security legislation arose out of their commitment to 'the old Gompers position that every gain made by working people should be won in collective bargaining'. Perkins, *op. cit.*, p. 233.

⁷⁷⁸ Quadagno, *op. cit.*, 1984, p. 639. Whilst such a reading is supported by Altmeyer, *op. cit.*, 1966, p. 32, Berkowitz and McQuaid, *op. cit.*, p. 116, and Domhoff, *op. cit.*, 1990, p. 61, it is criticised in Theda Skocpol and Edwin Amenta, 'Did Capitalists Shape Social Security', *American Sociological Review*, vol. 50, no. 4 (Aug. 1985), pp. 572-575 and Jenkins and Brents, *op. cit.*, pp. 891 and 907. Whilst the former critique represents little more than their usual call for a greater emphasis upon 'state structures', the latter is very much influenced by the mass turmoil thesis (or what they describe a 'social protest theory') first advanced in relation to welfare reform by Piven and Cloward, *op. cit.* Yet, ultimately neither argument demonstrates how labour directly influenced the drafting of the Social Security Act other than contributing to a general sense of political crisis through civil unrest and increased strike activity.

⁷⁷⁹ On Long see Alan Brinkley, *Voices of Protest* (New York: Vintage, 1982) and for an acknowledgement of the pressure put on Roosevelt by his campaign see Altmeyer, *op. cit.*, 1966, p. 10.

⁷⁸⁰ Harold L. Ickes, *The Secret Diary of Harold Ickes: The First Thousand Days, 1933-1936* (New York: Simon and Schuster, 1953), p. 462, cited in Brinkley, *op. cit.*, p. 208.

⁷⁸¹ On Townsend see David Bennett, *Demagogues in the Depression: American Radicals and the Union Party, 1932-1936* (New Jersey: Rutgers University Press, 1969), pp. 149-180. For an acknowledgement of the pressure put on Roosevelt by the Townsend campaign to introduce some sort of old-age insurance system see Perkins, *op. cit.*, p. 225 and Perkins' forward to Witte, *op. cit.*, p. vi.

writing campaign, establishing Townsend Clubs in most congressional districts, and gathering over two and a half million signatures for the Townsend Plan. That there was a sense of crisis felt by political elites was demonstrated by the fact that when Robert Doughton, the Democratic Representative for North Carolina and co-sponsor of the Social Security Bill, introduced it into the House of Representatives, he did so with the warning that:

The existence of such a large relief problem, the presence of insecurity on such a vast scale is a serious threat to our economic order ... The fact that several of these (alternative) proposals have attracted a wide-spread following implies a threat to our existing institutions which should not be regarded lightly.⁷⁸²

If we take into consideration Block's contention that 'capitalist rationality emerges out of the three-sided relationship among capitalists, workers, and state managers', then it would seem that the only remaining question concerns the role of business leaders in the formulation and passing of the Social Security Act.⁷⁸³ Yet it is here that Quadagno's analysis goes beyond that of Block. While she argues that his 'distinction between corporate leaders and state managers is relevant', in relation to the Social Security Act the Democratic Party leadership was responding not just to 'a unified set of concerns centring solely around business confidence', but rather 'the interests of competing factions unequally represented within the state'.⁷⁸⁴ In short, she argues that state managers are arranged in a hierarchy with those in the national executive branch especially sensitive to the demands of 'monopoly capitalists', large employers operating in national markets, and those in Congress more responsive to the specific needs of 'nonmonopoly capitalists', those operating more competitively and labour-intensively in subnational markets. According to

⁷⁸² United States Congress, *Congressional Record*, vol. 79, 74th Congress, 1st Session, (Washington, D.C.: United States Government Printing Office, 1935), p. 5486, quoted in Jenkins and Brents, *op. cit.*, p. 897. Whilst Doughton may have couched his introduction of the Social Security Bill into the House in such an alarmist way because he wished to facilitate its passage through to enactment, as Goldfield says about the introduction of the Wagner Act just a few months earlier: '... the fear of even greater labour struggles are echoed by virtually every other commentator during the spring of 1935. No opponent in the hearings or on the floor of Congress ever rises to suggest the opposite or even that the descriptions are overdone'. Goldfield, *op. cit.*, p. 1273.

⁷⁸³ Block, *op. cit.*, 1977, p. 27.

⁷⁸⁴ Quadagno, *op. cit.*, 1984, p. 646.

Quadagno, a group of 'welfare capitalists' from the monopoly sector played a pivotal role in shaping social security legislation in close collaboration with the Democratic leadership. It was not that large corporations came to dominate government, and here she resists the simplicities of the corporate liberal argument, 'but rather that state representatives were sensitive to the business agenda', that set predominantly by the monopoly sector.⁷⁸⁵ And if the welfare capitalists did not get everything they wanted it was because, ultimately, they had to compromise in Congress with the interests of smaller businessmen and southern planters.

That monopoly and nonmonopoly capitalists approached the subject of welfare provision differently is borne out statistically. A 1929 study by the Industrial Relations Council found that 329 corporate welfare programs existed with 80 percent of covered employees working in railroads, public utilities, metal trades, oil, banking and insurance, electrical apparatus and supply industries. This compares to only 12.5 percent of workers being potentially covered by a pension plan in the highly competitive and largely unregulated manufacturing sector.⁷⁸⁶ Quadagno, nevertheless, makes it quite clear that these schemes were far from purely benevolent as they often had length-of-service requirements; lower wage scales; restrictions on strike action; and even clauses that reserved the right to call upon the retirees as strike-breakers.⁷⁸⁷ Furthermore they were discretionary and could be cancelled at any time, as many of them were in the wake of the stock-market crash later that same year.⁷⁸⁸ Indeed it was the Depression that revealed the limits of corporate welfare schemes as 'welfare capitalists now clearly understood that their company programs required substantial federal underpinning to be effective'.⁷⁸⁹ One of the most committed welfare capitalists, Gerald Swope, President of General

⁷⁸⁵ Quadagno, *op. cit.*, 1988, p. 112.

⁷⁸⁶ Quadagno, *op. cit.*, 1984, p. 637.

⁷⁸⁷ *Ibid.*

⁷⁸⁸ Lizabeth Cohen makes the point that whilst welfare capitalist schemes may have been designed to promote an individualistic loyalty towards the company over and above any class-based solidarity, as well as averting the need for social legislation by the state, they nevertheless provided the model of a 'moral capitalism' that would shape the political character of the trade union movement in the 1930s. As such, their effects continued to be felt even after they folded. See Lizabeth Cohen, *Making a New Deal: Industrial Workers in Chicago, 1919-1939* (New York: Cambridge University Press, 1990), pp. 159-211.

⁷⁸⁹ Quadagno, *op. cit.*, 1984, p. 638.

Electric (GE) and a prominent member of the United States Chamber of Commerce, realised this pressing need for federal intervention by 1931 when, due to the depletion of company reserves, GE's unemployment assistance consisted of little more than the sending of free baskets of groceries to the homes of thousands of its laid-off employees. He was well aware that such a limited reaction would only serve to further undermine the deteriorating reputation of business leaders during this critical period.⁷⁹⁰

In response he launched the 'Swope Plan' in September that year which included welfare provision under a broader program for corporate-led economic recovery. Basing his model on Wilson's War Industries Board, Swope proposed that the industrial economy should be cartelised into trade associations under the auspices of the federal government with a joint-employer-employee contributory pension and unemployment insurance program to be adopted by all members. For Berkowitz and McQuaid, the Swope Plan 'marked the culmination of welfare capitalist trends operating since the Progressive Era'.⁷⁹¹ These efforts had gained momentum in 1925 when the National Industrial Conference Board (NICB) began to discuss several aspects of corporate labour policy including the pooling of their pension plans under federal regulation. The NICB was founded in 1916 by the National Association of Manufacturers (NAM) to promote the open-shop movement and it was funded by large corporate donations, the greatest coming from GE, General Motors, Firestone, and Westinghouse – all employers of large numbers of mass production workers. These moves coincided with similar efforts by the National Civic Federation (NCF), an organisation composed of business magnates, conservative labour unionists, and civic leaders, who had supported contributory pensions in private industry as far back as 1916. After discussing the question of old age pensions in 1927 they came out in favour of a federal level pension that could fully encompass a more mobile American workforce.⁷⁹² As Quadagno argues, long before federal pensions were seriously considered by politicians, 'an association

⁷⁹⁰ Berkowitz and McQuaid, *op. cit.*, p. 93.

⁷⁹¹ *Ibid.*

⁷⁹² On the NICB and the NCF see Quadagno, *op. cit.*, 1988, pp. 101-102.

with members from big business advocated an agenda that was to become the core program of the Social Security Act'.⁷⁹³

Yet smaller manufacturers in the nonmonopoly sector remained bitterly opposed to any federal welfare legislation. There were obvious economic reasons for their hostility: they relied on less working capital beyond payrolls and they often functioned seasonally with a high degree of labour turnover. With Hoover in power they had little to worry about as the 'Swope Plan' was dismissed as an attempt at price fixing, but Roosevelt was far more sympathetic to industrial regulation. The institutional bridge between the newly elected president and the welfare capitalists was the Business Advisory Council (BAC) of the Chamber of Commerce. Here Swope was joined by Henry Harriman of the New England Power Company and Walter Teagle of Standard Oil, the 'honour guard of welfare capitalist leadership', as well as the chairmen of DuPont, General Motors, and the Chase Manhattan Bank, amongst others.⁷⁹⁴ Swope, Harriman, and Teagle realised that if business had to pay for pensions then the costs had to be uniform, placing the same social burden on companies across the board. Hence the NIRA and the turn towards trade associations under government regulation to enforce compliance, despite opposition from the nonmonopoly sector voiced through the NAM.⁷⁹⁵ Yet no industry-wide pensions were implemented and due to the dominance of the BAC in drafting codes the legislation was attacked as unfair and eventually declared unconstitutional by the Supreme Court in 1935.⁷⁹⁶ Relations between the BAC and the federal government deteriorated due to the inclusion of Section 7a and in August 1934 Pierre S. DuPont and Alfred Sloan of General Motors broke to form the American Liberty League, 'devoted to defeating Roosevelt, trade unions, liberal Democrats in Congress, "communism", and assorted welfare causes'.⁷⁹⁷

⁷⁹³ *Ibid*, p. 102.

⁷⁹⁴ Berkowitz and McQuaid, *op. cit.*, p. 95.

⁷⁹⁵ Whilst the NAM was originally formed by big business, and had spawned the NICB, it was almost bankrupt by 1932 and survived by reinventing itself as the organ of nonmonopoly manufacturers, middling-sized steel interests, with General Motors and DuPont still on board. See Badger, *op. cit.*, p. 90.

⁷⁹⁶ For an account of these struggles over the particular form of the NIRA see Bernard Bellush, *The Failure of the NRA* (New York: Norton, 1975), pp. 1-29.

⁷⁹⁷ Berkowitz and McQuaid, *op. cit.*, p. 100.

As Quadagno makes clear the failure of the NIRA ‘further undermined any belief that voluntary business organisation could solve the economic problem’ thereby increasing the pressure for federal intervention.⁷⁹⁸ Yet, this process had already begun on the 8 March 1934 when Roosevelt invited Swope, author of the ‘Plan’, to lunch with the intention of sounding him out on his ideas on unemployment insurance and old-age pensions. As Governor of New York Roosevelt had already sponsored a contributory pension bill which, although defeated, nevertheless demonstrated the president’s thinking on the subject. After describing the joint contributory pension plan developed at GE Swope was asked to provide a report summarising his ideas. Two weeks later Swope delivered a detailed statistical plan that outlined his thinking on disability, as well as unemployment insurance and old age pensions. Unsurprisingly, and in line with other monopoly interests organised through the NICB and NCF, Swope argued that if there was to be any kind of federal legislation then it should be based on the contributory model adopted by the welfare capitalists. As with the NIRA, the stabilisation of the economy remained the priority for the monopoly sector and the Democratic leadership, and to achieve this both groups believed that pension costs had to be levelled out through taxation. But what kind of taxation? When Roosevelt gave his special message to Congress on the 8 June 1934 he made his position abundantly clear: ‘I believe that funds necessary to provide this insurance should be raised by contribution rather than by increase in general taxation’.⁷⁹⁹ Already by this point the opportunity for some form of major income redistribution seemed well and truly lost as the federal government followed the lead set by the welfare capitalists.⁸⁰⁰

Whilst smaller manufacturers vehemently resisted the imposition of a federally instituted pension program, via the NAM and other organisations at the state level, their outright intransigence counted against them. The monopoly sector had a far more practical approach, as demonstrated by Witte’s recollection of Harriman, whose ‘general attitude was that some legislation on social security was inevitable and that business should not put itself in the position of attempting to

⁷⁹⁸ Quadagno, *op. cit.*, 1988, p. 107.

⁷⁹⁹ United States Congress, *op. cit.*, 1935, p. 10771, cited in Quadagno, *op. cit.*, 1984, p. 639.

⁸⁰⁰ This point is reinforced by Altmeyer, *op. cit.*, 1966, p. 11 and Witte, *op. cit.*, p. 18.

block this legislation, but should concentrate its efforts upon getting it into an acceptable form'.⁸⁰¹ Furthermore, Witte, the Executive Director of the CES, had been instructed by Roosevelt personally to consult with Swope, Teagle, and John Raskob of General Motors, all members of the BAC, before drawing up any recommendations for a program of legislation.⁸⁰² The Advisory Council on Economic Security, which was also set up alongside the Technical Board as part of the CES under Executive Order No. 6757, had twenty-three members representing labour, business, and others interested in welfare issues. Whilst labour and business had five members each, the business contingent – consisting of Swope, Teagle, Marion Folsom of Kodak, Morris Leeds of Leeds and Northrup, and Sam Lewison of the Miami Copper Company – were all 'moderate welfare capitalists' who attended as many meetings as possible 'to obtain as much federal control over the legislation as possible to regulate competition from companies who might otherwise find ways to circumvent the proposed taxes'.⁸⁰³ This is not a corporate liberal reading, rather as Berkowitz and McQuaid succinctly put it: 'Throughout this process of institutional adaptation and innovation, businessmen influenced United States social policy, and bureaucrats conditioned business behaviour'.⁸⁰⁴

Whilst the welfare capitalists were successful in ensuring that the OAI provisions mirrored their own attempts at implementing private pension schemes, and were fully federal in nature, they nevertheless failed in their attempts at shaping unemployment insurance in the same way. The Technical Board presented the CES with three possible ways of dealing with the issue of unemployment: a federal system in which the federal government would collect payroll taxes and provide uniform compensation to all workers; a federal subsidy plan the same as the above, except that the federal government would only distribute the payroll taxes to those

⁸⁰¹ Witte, *op. cit.*, p. 89, fn. 52.

⁸⁰² *Ibid.*, p. 16. Furthermore, whilst Witte initially thought that Roosevelt had only consulted with Perkins and his assistant Raymond Moley prior to the creation of the CES, after visiting these industrialists it became clear to him that he was to 'get from them their ideas on what ought to be done, which they had previously presented to the President'. *Ibid.*, p. 19.

⁸⁰³ Quadagno, *op. cit.*, 1984, p. 641. All the employer members were selected because their respective companies had experimented with voluntary unemployment schemes, except for Teagle who was chairman of the Unemployment Insurance Committee of the Business and Advisory Planning Committee of the Department of Commerce. Witte, *op. cit.*, p. 50.

⁸⁰⁴ Berkowitz and McQuaid, *op. cit.*, pp. ix-x.

states operating unemployment compensation systems according to acceptable national standards; and lastly, a federal tax-offset plan, similar to the Wagner-Lewis bill, in which the federal government would assess payroll taxes but forgo 90 percent of them if employers paid required contributions to insurance systems set up according to state-level standards.⁸⁰⁵ Roosevelt was clearly opposed to the first option so the choice became one between the subsidy plan and the tax-offset one, the former giving more federal control over state level unemployment insurance provision, the latter granting the states greater autonomy. Whilst the Advisory Council was divided the employer faction was in favour of the subsidy plan because it permitted a joint contributory format and imposed uniformity on the states.⁸⁰⁶ Under pressure from Roosevelt and Witte the CES was more sympathetic to the offset plan so that, despite their best efforts, Swope and his allies lost out.⁸⁰⁷ They also pushed for the inclusion of a merit rating to tackle any unfair competition that would result from the offset plan thereby preventing stabilised companies with low unemployment rates being forced to subsidise their competitors.⁸⁰⁸

For Quadagno, the compromise represented by the adoption of the tax-offset plan occurred due to the fact that business operates at different levels of the state infrastructure. As with the OAI portion of the Social Security Act, nonmonopoly companies preferred no legislation at all, yet if legislation was inevitable then they argued for as much state control as possible. As such the legislation that was eventually passed 'reflected the sensitivity of congressmen to the local business community, whose support was more critical for their continued political survival

⁸⁰⁵ See Altmeyer, *op. cit.*, 1966, pp. 17-18 and Quadagno, *op. cit.*, 1984, p. 641. The Wagner-Lewis bill, named after Senator Wagner and Representative David Lewis who introduced it in February 1934, was drafted by Paul Rauschenbush, a former assistant professor of economics at Madison and a consultant to the Wisconsin Industrial Commission. It proposed that the federal government should legislate a tax on all employers, 90 percent of which could be offset if they paid into a state unemployment fund. See Berkowitz and McQuaid, *op. cit.*, pp. 113-114.

⁸⁰⁶ Witte, *op. cit.*, p. 58.

⁸⁰⁷ Perkins, Altmeyer, and Witte, 'coming from backgrounds in state-level social reform during the Progressive Era, were believers in the notion that states should serve as laboratories for experimenting with social and labour legislation'. Mettler, *op. cit.*, p. 60. Whilst Roosevelt preferred the tax-offset approach he also believed that it would have the best chance to get through Congress and the Supreme Court. Witte was then charged with generating consensus in the CES and its various sub-committees for this policy recommendation. Skocpol and Ikenberry, *op. cit.*, p. 128.

⁸⁰⁸ Quadagno, *op. cit.*, 1984, p. 641.

than that of monopoly capitalists operating on the national political scene'.⁸⁰⁹ If monopoly capitalists such as Swope could use their direct access to leading Democratic politicians, including Roosevelt himself, to shape federal welfare programs in the mould of those developed in the private sector, then the companies in the more competitive, nonmonopoly, sector of the economy asserted their agenda through the political pressure they were able to apply to their congressional representatives at a more local level. It is here that Quadagno's argument around the specific form of the Social Security Act offers a more sophisticated account of the relationship between state, capital, and labour than Block's more generalised model. Refining his argument, she argues that the concerns of state managers 'are not just reflected in their sensitivity to the determinants of investment decisions; rather they are directly expressed in political decisions resulting from direct pressures from factions that organise'.⁸¹⁰ And it is this ability to account for the fact that monopoly capitalists sometimes fail in achieving their ends that Quadagno's analysis surpasses corporate liberal interpretations of the Social Security Act.⁸¹¹

Any hopes of making the OAA portion of the act federal in nature were also thwarted by congressional opposition, yet here the opposition came specifically from the South rather than the more geographically dispersed nonmonopoly sector of small manufacturing interests.⁸¹² The southern planter aristocracy had already benefited from the Secretary of the Treasury Morgenthau's recommendation that agricultural workers, domestic servants, and casual labourers should be excluded from OAI – supposedly because the task of collecting their contributions was

⁸⁰⁹ *Ibid*, p. 643.

⁸¹⁰ *Ibid*, p. 645.

⁸¹¹ The best examples of a corporate liberal interpretation of the Social Security Act are George William Domhoff, *The Higher Circles: The Governing Class in America* (New York: Random House, 1970), pp. 207-218 and George William Domhoff, 'Corporate Liberal Theory and the Social Security Act: A Chapter in the Sociology of Knowledge', *Politics and Society*, no. 15 (1986/87), pp. 297-330. For Domhoff's response to Quadagno's interpretation of the Social Security Act see George William Domhoff, 'On "Welfare Capitalism and the Social Security Act of 1935"', *American Sociological Review*, vol. 51, no. 3 (June 1986), pp. 445-446, and for her response to that see Jill Quadagno, 'Reply to Domhoff', *American Sociological Review*, vol. 51, no. 3 (June 1986), p. 446. For a restatement of his argument via the work of Block, Quadagno, and Skocpol see Domhoff, *op. cit.*, 1990, pp. 29-64.

⁸¹² Most of the information presented here on the struggles over the OAA title of the Social Security Act, and their effect on the southern black population, comes from the excellent analysis of these issues in Quadagno, *op. cit.*, 1988, pp. 125-151.

beyond the practical scope of the Treasury's resources.⁸¹³ This decision, which ensured that 60 percent of the black workforce (predominantly based in the South) was left out of the OAI system, obviously put greater pressure upon OAA to make up the shortfall. Yet the southerners who dominated the powerful House Ways and Means Committee, and who had enthusiastically backed Morgenthau's position on OAI, were quite clear that they would vehemently oppose any federal intervention into the racially stratified agricultural economy of the South.⁸¹⁴ Due to the planters' quasi-feudal control over their predominantly black workforce southern wage scales were disproportionately lower than anywhere else in the United States. Up until 1935 no southern state had yet passed any pension legislation so the aged black workforce had only the poor law to fall back on with its demeaning means tests, invasive familial responsibility clauses, and paternalistic residency requirements. Members of the southern packed House Ways and Means Committee were deeply concerned that high rates for OAA grants would subsidise the children of older blacks who would then be more independent and less willing to perform agricultural labour for lower wages.⁸¹⁵

Due to the fact that Roosevelt needed southern support to get the Social Security Bill through Congress political expediency prevailed and the CES decided that rather than insisting that OAA retained its purely federal aspect it would in fact be left under local control. As Quadagno makes clear, at this point 'blacks had no power', and at least there was still the clause in the bill that specified that states had to furnish assistance sufficient to provide 'a reasonable subsistence compatible with

⁸¹³ Perkins, *op. cit.* pp. 240-241, Badger, *op. cit.*, p. 231, and Kenneth Finegold, 'Agriculture and the Politics of U.S. Social Provision: Social Insurance and Food Stamps', Weir, Orloff, and Skocpol (eds.), *op. cit.*, p. 211.

⁸¹⁴ To give a sense of the power wielded by the House Ways and Means Committee and the Senate Finance Committee, and their ability to block any liberal or progressive legislation put to Congress, it is useful to quote Quadagno: 'Until Roosevelt was elected president, southerners had dominated the Democratic party, maintaining a controlling influence on national legislation in spite of their minority position through the organisational and procedural structure of Congress. At the core of southern congressional power was a committee system through which legislation had to pass. Since a bill could not be brought to the floor of the full House without favourable committee action, committees had enormous powers to obstruct legislation. Coupled with the committee system was a procedure, established in the middle of the nineteenth century, that used seniority as the criterion for selecting committee chairman. Democratic congressmen, who often ran for office unopposed, gained seniority and thus control of key congressional committees throughout most of the period from the end of Reconstruction in 1877 until 1963'. Quadagno, *op. cit.*, 1988, p. 126.

⁸¹⁵ See Mettler, *op. cit.*, pp. 74-77.

decency and health'.⁸¹⁶ Yet sadly, as Witte recalls, even this modest defence of the economic position of an aged black southern workforce was whittled away in front of the Senate and House committees:

Title I of the act was very bitterly attacked by Senator Byrd, on the score that it vested in a federal department the power to dictate to the states to whom pensions should be paid and how much. In this position, Senator Byrd was supported by nearly all of the southern members of both [Senate and House] committees, it being very evident that at least some southern senators feared that this measure might serve as the entering wedge for federal interference with the handling of the Negro question in the South. The southern members did not want to give authority to anyone in Washington to dent aid to any state because it discriminated against Negroes in the administration of old age assistance.⁸¹⁷

By the time that the Social Security Act made it through the committee stages of the Senate and the House the states were free to pay pensions of any amount and still reclaim 50 percent of the costs from the federal government. They were also given free reign to impose additional provisions that made the eligibility criteria more stringent and, unlike OAI, the recipients of OAA could remain in the workforce as long as their wages were low enough to allow them to qualify for assistance under locally established criteria. Hence, as Quadagno makes clear, 'OAA could be used as a supplement to earnings and continue to function as a traditional form of labour control'.⁸¹⁸ The combined effect of the revisions to the OAI and OAA titles of the Social Security Act was to leave the matter of old-age security for southern blacks in the hands of racist local authorities. Whilst a few black leaders argued for greater federal control of standards their objections were met with silence. Thus, as

⁸¹⁶ Quoted in Quadagno, *op. cit.*, 1984, p. 643.

⁸¹⁷ Witte, *op. cit.*, pp. 143-144. See also Altmeyer, *op. cit.*, 1966, p. 35 for a similar account of southern reactions to the 'decency and health' provisions contained in the original bill. These were replaced, on Byrd's insistence, with the far more ambiguous statement that it was the purpose of federal aid 'to enable each State to furnish financial assistance as far as practicable under the conditions in such State'. Quoted in *ibid.*, p. 60. The same process happened in the debates over ADC so that the clause that would have mandated that states provide for assistance 'at least great enough to provide ... a reasonable sustenance compatible with decency and health' was omitted thereby allowing southern states to duck the imposition of northern standards upon southern states thereby including Negro and white tenant families – changes that undermined the whole idea of elevating standards to a nationally agreed level thereby permitting state level variations. Mettler, *op. cit.*, p. 137.

⁸¹⁸ Quadagno, *op. cit.*, 1984, p. 643.

Quadagno argues, from the outset, 'a two-tier benefit structure was inserted into the welfare state, which reinforced the racial divide in American society'.⁸¹⁹

Such an analysis certainly supports Quadagno's assertion that, rather than being the cradle to grave protection promised by Roosevelt, the Social Security Act was in fact 'a conservative measure that tied social insurance benefits to labour force participation and left administration of its public assistance programs to the states'.⁸²⁰ These criticisms echo those made by the CPUSA whilst the bill was being debated in Congress. They attacked the fact that unemployment insurance was to be left at the discretion of the states; that it was to be financed by a payroll tax; that it did not cover those already out of work; that payments lasted only a few months; and that they were too low.⁸²¹ They instead pledged their support for the Lundeen Bill.⁸²² Far more radical in its unemployment provisions than the Social Security Bill, the Lundeen Bill proposed paying all workers for the full period of their unemployment with an average local wage of no less than \$10, and a further \$3 for each dependent; paying supplementary benefits to all part-time workers unable to work full-time; and paying all workers who could not work due to either sickness or old-age. It was to be funded by the general treasury with additional funds coming from taxes levied on inheritance and incomes over \$5,000, and it had support from many trade unions and unemployment councils, as well as the CPUSA. According to Witte the supporters of the Lundeen Bill, which included over forty-two avowed Communists or representatives of Party auxiliaries, 'made a most unfavourable impression'.⁸²³ Using their testimony in front of various congressional committees

⁸¹⁹ Jill Quadagno, 'Creating a Capital Investment Welfare State: The New American Exceptionalism: 1988 Presidential Address', *American Sociological Review*, vol. 64, no. 1 (Feb. 1999), p. 3. It is also worth noting that '60 percent of the excluded workers were female – in a labour force where less than 30 percent of women were employed'. Alice Kessler-Harris, 'Designing Women and Old Fools: The Construction of the Social Security Amendments of 1939', Linda K. Kerber, Alice Kessler-Harris, and Kathryn Kish Slar (eds.), *United States History as Women's History: New Feminist Essays* (North Carolina: University of North Carolina Press, 1995), p. 92. For a critical interpretation of the Social Security Act in terms of this gender bias see also Mettler, *op. cit.*, pp. 53-175.

⁸²⁰ Quadagno, *op. cit.*, 1984, p. 632.

⁸²¹ Klehr, *op. cit.*, p. 287.

⁸²² Initially named the Workers' Unemployment Insurance Bill, it became the Lundeen Bill after Representative Ernest Lundeen of Minnesota introduced it into Congress in early 1934. For details on the Lundeen Bill see *Ibid.* pp. 283-290 and Earl Browder, *Communism in the United States* (London: Martin Lawrence, Ltd., 1935), pp. 222-236.

⁸²³ Witte, *op. cit.*, p. 86.

‘as the principle method of propaganda ... to gain the support of the working people of the country’ they ‘violently attacked the economic security bill’, only to lose by 52 votes to 204.⁸²⁴

The Townsendites fared little better. Roosevelt launched an investigation into the viability of the Townsend Plan through the Committee on Old-Age Security whereby it was dismissed as unworkable and financially unsound. As Alan Brinkley explains, ‘even the most progressive legislators considered the plan an impossibly expensive and unworkable delusion’.⁸²⁵ Nevertheless, the conservative California Representative John S. McGroarty, who owed his election in 1934 to the support of local Townsend Clubs, was persuaded to introduce a doomed pension bill modelled on the ‘Plan’ into the House in early 1935. Such was the pressure exerted upon congressmen by their local Townsendites that nearly 200 Representatives, worried that their opposition would have direct political repercussions, missed the vote.⁸²⁶ Quadagno argues that it was by linking the Lundeen Bill to the Townsend Plan that ‘critics were able to represent both as fantastic and unworkable schemes’.⁸²⁷ Yet by mobilising such a large constituency in support of their plan it was the Townsend movement that became the catalyst for federal legislation in social security provision, and it was their emphasis upon age rather than class that focused the debate around pensions for the elderly rather than adequate protection for workers. And, as Quadagno makes clear: ‘An age-based rather than a class-based movement in effect gave state managers the freedom to shape welfare programs in a way that was functionally compatible with the existing economic structure’.⁸²⁸ As such ‘state managers remained free to lay the groundwork for a social-welfare program that could sustain and enhance the conditions for capitalist economic activity’, mediating

⁸²⁴ *Ibid.* Witte here refers to the ‘economic security bill’ and this was in fact the name of the bill from the moment it entered Congress up until its debate in front of the House Ways and Means Committee, after which it became known as the Social Security Bill. I have used the latter name throughout to avoid confusion. The vote on the Lundeen Bill suggests that it was more popular than it actually was as most of those who voted for it were in fact conservatives who hoped to make the Social Security Bill unpalatable enough to force its defeat. See Klehr, *op. cit.*, p. 289.

⁸²⁵ Brinkley, *op. cit.*, p. 224.

⁸²⁶ *Ibid.*

⁸²⁷ Quadagno, *op. cit.*, 1984, p. 639.

⁸²⁸ *Ibid.*, p. 640.

'not between workers and capitalists but between divergent groups within the capitalist class'.⁸²⁹

Despite the blatant inadequacies of the Social Security Bill it finally became law on 14 August 1935 after it was passed in Congress by a vote of 371 to 33 in the House, and 77 to 6 in the Senate.⁸³⁰ Whilst Altmeyer and the CES had envisioned that the natural home for those appointed to administer the new legislation would be in the Department of Labour it only passed in the limited form in which it did on the condition that the Social Security Administration became an independent government department. According to Perkins, conservatives in Congress objected to the new bureaucracy being housed in the Department of Labour on the basis that it would then be 'soft on workers' and 'too much influenced by working people and their point of view'.⁸³¹ The creation of approximately twenty-six million accounts before 1 January 1937 with fewer than 500 staff presented a formidable task. It was estimated that 202 regional offices would need to be created to do it.⁸³² The Social Security Administration also needed a new headquarters in the capitol. At the end of 1936, when the centralised staff numbered 2,307, most of them were still housed in an old warehouse on the waterfront in Baltimore, where, according to Altmeyer, 'Employees were obliged to work at unfinished wooden tables whose rough lumber made splinters run into hands and arms'.⁸³³ The Social Security Board finally got their new headquarters in 1939 when the new Egyptian 'influenced' building was completed on the corner of Independence Avenue and G Street. Never one to miss an opportunity, especially in the lead up to war when Bruce knew that the whole idea of federally funded art was in the balance, he worked quickly to secure the necessary funds to decorate the new building.

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The decorative process

⁸²⁹ *Ibid*, p. 645.

⁸³⁰ Those who voted against consisted of 'a handful of ardent supporters of the Townsend plan or the Lundeen plan, plus a somewhat larger number of conservatives who were opposed to all social security legislation'. Witte, *op. cit.*, p. 99.

⁸³¹ Perkins, *op. cit.*, p. 243.

⁸³² Berkowitz and McQuaid, *op. cit.*, p. 128.

⁸³³ Altmeyer, *op. cit.*, 1966, p. 71.

From the outset it was proposed that the spaces and subject matter of the decorations should be decided by a joint committee of the Social Security Administration, appointed by Altmeyer, and the Section, with three from each. Whilst such an arrangement may have sent alarm bells ringing after the stresses and strains of having to work with Ickes on the last major Section project in the capitol, fortunately for Bruce, Altmeyer proved to be far more cooperative and altogether less interfering. By the end of August 1939 this 'Design Committee' had agreed upon a list of sculptors who would be invited to submit designs for the exterior decoration, the only stipulation being 'the necessity of the decorations (two eagles and six panels) harmonizing with the Egyptian character of the building'.⁸³⁴ Emma Lou Davis, Robert Kittredge, and Henry Kreiss were given \$2,800 to carve two relief panels each, and Heinz Warneke was awarded \$3,500 to produce the two granite eagles that were to sit aloft the building. In terms of the interior decoration it was agreed in a meeting on 22 January the following year that an authorised reservation of \$49,480 would be used to commission two murals opposite the entrance doors in the Independence Avenue lobby for \$5,280; four murals in the north/south corridor at the entrance to the auditorium for \$19,980; three panels in the auditorium on sliding screens upon the stage for \$3,520; a mural in the boardroom for \$2,700; the decoration of the four walls above the wainscot in the recreation room for \$5,000; and panels for all four walls in the cafeteria for \$8,000. A further \$16,000 was earmarked for two freestanding sculptures that were to be situated at the back of the auditorium.⁸³⁵

For the process of commissioning these works the Design Committee decided that competitions would be held for 'the mural in the auditorium and the murals at the entrance to the auditorium and appointments to execute the other murals in the building will be made from the competition'.⁸³⁶ A further competition

⁸³⁴ Rowan – Hopper, 14 August 1939, NARA, 121/133.

⁸³⁵ Memorandum – Reynolds, 22 January 1940, NARA, 121/133. This actually represented a slightly paired down decorative scheme as an earlier draft also included decorations for two more panels in the G Street lobby; all four walls in the boardroom; and the four walls in the private dining room, all at an extra cost of \$5,260. Memorandum – Reynolds, 11 October 1939.

⁸³⁶ Memorandum – Reynolds, 22 January 1940, NARA, 121/133. They decided to offer two mural competitions due to the 'difference in scope of the problems of each competition' i.e. the varying number and size of the spaces for each competition ensured that it would be extremely difficult to

would also be held to secure the commission for the sculptures designated for the back of the auditorium. In another meeting held a few days later the committee agreed that ‘the program would be introduced by the Henry Varnum Poor letter and by a five hundred word statement written by Mr Altmeyer outlining the objectives of Social Security’, as discussed above, and that ‘subject matter should not be dictated in the program’.⁸³⁷ They also decided on the composition of the two juries to assess the competitions: Marguerite Zorach, Edward Biberman, and Franklin Watkins for painting; and William McVey, Chaim Gross, and Stackpole for sculpture.⁸³⁸ It is worth pointing out here that Zorach, Biberman, and Gross all signed the call for the American Artists’ Congress and were therefore more predisposed to select competition entries that had a left-leaning iconographical content, and that Zorach, Gross, and Stackpole were more sympathetic to formal experimentation than the Section staff, or the usual juries that they tended to select. Once the details had been agreed and finalised the competitions were ready to be announced and, just like those for the Justice and Interior Department buildings beforehand, the social security competitions were announced in the first available *Bulletin*, that being number 21, sent out in March 1940. As well as publicising the competitions the Section also stipulated that the four corridor panels outside the auditorium entrance ‘must be executed in true fresco or fresco secco’, thereby limiting the amount of potential applicants to those able to work in such a medium.⁸³⁹ And those entering the sculpture competition were informed that ‘the subject of the sculpture should be related to or embody the ideals or story of Social Security. It should not represent a portrait of any specific person’.⁸⁴⁰

The closing date for the sculpture competition was 3 September. Gross, McVey, and Stackpole assembled in the Section headquarters eight days later to select the best amongst the 589 models submitted by 289 artists. After two days sorting through the designs they chose those sent in by Robert Cronbach as the

transpose a design for one of them into the space designated for the other. Section of Painting and Sculpture, *Bulletin*, no. 21 (Mar. 1940), p. 9.

⁸³⁷ Hopper – Bruce, 25 January 1940, NARA, 121/133.

⁸³⁸ *Ibid.*

⁸³⁹ Section of Painting and Sculpture, *Bulletin*, no. 21 (Mar. 1940), p. 11.

⁸⁴⁰ *Ibid.*, p. 13.

winners, commending him for ‘the suitability and originality of the conception and the presentation of the models’.⁸⁴¹ The closing date for the mural competition was the following month, on 15 October. Biberman, Watkins, Zorach, and McLeary met eight days later to make their choice.⁸⁴² After three days deliberating amongst the 375 entries they chose Shahn’s designs as those best suited for the corridor space. Whilst they felt that none of the designs submitted for the auditorium mural merited an award, they recommended that this commission be given to Philip Guston on the basis of his competition sketches for the corridor panels.⁸⁴³ Likewise, they recommended that the designs submitted by Seymour Fogel for the corridor space be revised for the two panels at the Independence Avenue lobby. As for the three remaining mural commissions, the Section decided that a new competition would be held in the near future to decide who should secure them. In relation to Shahn’s competition sketches the jury made the following points: ‘The elements that finally weighed in favour of the winning designs were as follows: Indications that the artist drew from life, not relying entirely on his or her supreme knowledge of design. There is a variety in the tempo and texture. The pattern advances and recedes, changing its beat, the crowded parts always finding relief’.⁸⁴⁴

The results of the subsequent competition for the cafeteria were finally announced in September the following year after the judges Rainey Bennett, Carlos Lopez, William Palmer, and Bouché had made their selection. The \$8,000 commission went to the married couple Gertrude Goodrich and Jerome Snyder, with the recreation room and boardroom murals awarded to the runners-up Dorothy and Fred Farr, and Ethel and Jenne Magafan respectively. What makes these awards interesting in terms of the Social Security Act is the fact that they were given to couples, married in the case of Goodrich and Snyder, and the Farris, and sisters in the case of the Magafans. This certainly adds another layer of meaning, albeit unintended, to Altmeyer’s last sentence in the original competition brief: ‘here in the United States, conserving the individual and, even more, the *family*, has now become

⁸⁴¹ Hopper – competitors in sculpture competition, 20 September 1940, NARA, 121/133.

⁸⁴² By the time the competition was announced McLeary had also been added to the jury to advise on the mural competition. Section of Painting and Sculpture, *Bulletin*, no. 21 (Mar. 1940), p. 10.

⁸⁴³ Bruce – competitors in mural competition, undated, NARA, 121/133.

⁸⁴⁴ *Ibid.*

an active concern of the greater family we call the nation'.⁸⁴⁵ Yet, other than this the murals that were a product of the second social security competition hold little interest or relevance to the arguments being pursued here. The locations of these three decorative schemes – cafeteria, recreation room, and boardroom – allowed for a different set of criteria to be brought into play, as they had in the Interior building with the decorations executed by Native American artists. Ellen S. Woodward said of the cafeteria designs on behalf of the Social Security Board, they 'will add a gay note for those who frequent the cafeteria'.⁸⁴⁶ Similarly, as painter-member of the Commission, Poor asked that in the recreation room the Farris 'try also to keep humour without the need of somewhat meaningless caricature'.⁸⁴⁷ And finally the Magafans were told by Rowan that their design, 'Although it is not humorous, it is entertaining in a pictorial manner'.⁸⁴⁸

By contrast the four commissions that came out of the first competition had more prominence and visibility within the Social Security building, especially in terms of the access allowed to visitors and the general public. The artists who secured them were, therefore, under far greater pressure to engage with the political and economic implications of the Social Security Act, as well as the ideological position enunciated by Altmeyer in the competition brief. Furthermore, the four artists who secured work under the first competition had a varied, yet significant relationship with the left, whether this be in terms of their organisational affiliations and sympathies, or the deployment of a distinctly leftwing iconography. In the rest of this chapter I will, therefore, investigate the ways in which the mural and sculpture decorations designed by Shahn, Fogel, Guston, and Cronbach tackle the complicated issue of the Social Security Act, and weigh up these efforts in relation to their leftwing beliefs and commitments. I will then return to the exterior sculptural reliefs executed by Davis, Kittredge, and Kreiss to examine how they relate to the narrative set up by the interior decoration, before looking at the ways in which they project an image of social security to the general public outside. I will then finish by

⁸⁴⁵ Altmeyer, *op. cit.*, 1940, p. 7.

⁸⁴⁶ Woodward – Rowan, 9 October 1941, NARA, 121/1.

⁸⁴⁷ Poor – Rowan, 2 February 1942, NARA, 121/133.

⁸⁴⁸ Rowan – Ethel and Jenne Magafan, 12 September 1941, NARA, 121/1.

looking at how the march towards war affected the legitimacy of the Section, and how Bruce and his colleagues attempted to re-orientate their project in the face of an ever increasing hostility in Congress after Pearl Harbour.

The Meaning of Social Security

Due to its location, its size, the prescribed medium, and not least the amount of money the commission carried, the most prestigious of these four competition awards was clearly that given for the north/south corridor.⁸⁴⁹ For this reason I begin with Shahn's four part mural scheme *The Meaning of Social Security* which covers both east and west walls of this corridor that accesses the auditorium. The longest panel in the sequence is the west wall which measures approximately 9x63 feet, punctured only by three doorways that are evenly distributed along the corridor and split the area into four seemingly discreet areas, with just the plaster above the door mantles linking them together. Entitled *The Accomplishments of Social Security*, Shahn followed Rowan's advice and structured the narrative of this panel around the above-mentioned quote from Roosevelt's special message to Congress on the 8 June 1934. To reiterate:

Among our objectives I place the security of the men, women, and children of the Nation first. This security for the individual and for the family concerns itself primarily with three factors. People want decent homes to live in; they want to locate them where they can engage in productive work; and they want some sort of safeguard against misfortunes which cannot be wholly eliminated in this man-made world of ours.⁸⁵⁰

For Shahn the central motifs in this message were 'work', 'the family', and 'social security', and as 'a plastic means of emphasising these themes', he placed a depiction of each over the three door mantles from left to right (figs. 138-140), with

⁸⁴⁹ Whilst most Section murals were done on canvas and then pinned to the wall I think it is fair to say that the medium of fresco painting had a relatively privileged position within Section art, if only because few American artists had the necessary experience and skill to practise it, and Bruce regularly invoked the Italian Renaissance as an historical reference point to validate the idea of federally funded art in the United States.

⁸⁵⁰ Quoted in Shahn – Rowan, 7 November 1940, NARA, 121/133.

a scale and projection that underlines their significance for interpreting the mural sequence.⁸⁵¹ Reading the four main areas of this panel in a similar fashion, from left to right, Shahn painted ‘youths of a slum area engaged in healthy sport in handball courts’ (fig. 141); industrial looking workers and steel girders in, what he described as, ‘a suggestion of tremendous public works’ (fig. 142); ‘the building of homes’ made of wood and the laying of concrete foundations (fig. 143); and finally on the far right, foundation laying again in the foreground with ‘the Harvest – threshing and fruit-gathering, obvious symbols of security’, behind (fig. 144).⁸⁵²

Whilst slightly longer in length than the west wall, the east one is broken from top to bottom by two relatively shallow protruding walls, splitting the area into three distinct panels. The central one is the longest, measuring approximately 9x24 feet, whilst the two that flank it measure approximately 9x15 feet. ‘Since the panels of the east wall are recessed, and because the evils of insecurity are being ameliorated’, Shahn used it ‘to portray the insecurity of men, women, and children’.⁸⁵³ Again, from left to right, the first panel is entitled *Child Labour* (fig. 145) and depicts ‘the insecurities of childhood’.⁸⁵⁴ Opening two doors, the barefooted ‘girl of the mills’ reveals to the viewer a scene of ‘breaker boys working in a mine’.⁸⁵⁵ In the middle we see a crippled boy with crutches injured by such work.⁸⁵⁶ And to the right Shahn painted a young girl peering ‘from a tenement window’, above a homeless boy, sleeping rough in the street.⁸⁵⁷ Shahn used the larger middle panel to depict *Unemployment* (fig. 146) as it was ‘the greatest cause of insecurity’.⁸⁵⁸ To help ‘give the feeling of endless waiting’, Shahn painted men standing in an unemployment line in the top left, and others sitting idle on a low wall

⁸⁵¹ *Ibid.*

⁸⁵² *Ibid.*

⁸⁵³ *Ibid.*

⁸⁵⁴ *Ibid.*

⁸⁵⁵ *Ibid.*

⁸⁵⁶ In her attempt to interpret Shahn’s mural sequence as being essentially concerned with the redemptive qualities of ‘manly labour’ Melosh completely misreads this panel. Seemingly oblivious to the title she argues that the foreground character on crutches, as well as those behind, are adults instead of children, and describes the decrepit interlacing wooden structure on which the background figures sit as ‘the skeleton of an abandoned construction project’, rather than the top of a mine shaft. See Melosh, *op. cit.*, p. 88.

⁸⁵⁷ *Ibid.*

⁸⁵⁸ *Ibid.*

in front of a company house and discarded machines on the right.⁸⁵⁹ In the bottom left Shahn depicted two destitute men living rough, and in the centre a man and a boy ‘going wearily into the long empty perspective of a railroad track’, towards a factory in the background.⁸⁶⁰ Finally, in the last panel entitled *Old Age* (fig. 147) the artist depicted ‘the insecurity of dependents’ – ‘the aged and infirm woman’ and ‘the helpless mother with her child’, barefooted and directly invoking the religious iconography of the Madonna and Child.⁸⁶¹ As in *Child Labour*, a small boy in the background bats a ball against a wall.

Before assessing the extent to which Shahn’s mural sequence fulfilled the competition brief as framed by Altmeyer’s statement and Poor’s letter to Bruce, it is useful to see what reaction they themselves had to *The Meaning of Social Security*. The first response from the Commission came from the painter-member Savage after he reviewed the initial sketches in late 1940. Unsurprisingly it was critical: ‘The scale of the larger figures is too big. As they are, they will dwarf the interior and unscale the walls. My feeling as to this has been confirmed after an inspection of the location for these paintings; in fact, the largest figure should be under life size’.⁸⁶² It was, nevertheless, Poor who was asked to respond to the revised designs on behalf of the Commission later the following year, and he was altogether far more constructive. Beginning with his declared intent ‘just to give my opinion starting fresh’, he described them as ‘very powerful, very poignant, and in their idiom, both as regards subject matter and artistic method, extremely present day and of the moment. I think it is rare and lucky that things so essentially present day should go into a building devoted to something so essentially of today as Social Security’.⁸⁶³ Despite these enthusiastic and complementary remarks Poor, nevertheless, had some reservations: ‘I would not be expressing myself honestly if I did not at the same time confess that they are also in many ways distressingly drab and built up of strangely fotografic and pieced-together details not always organically related’, although he

⁸⁵⁹ *Ibid.*

⁸⁶⁰ *Ibid.*

⁸⁶¹ *Ibid.*

⁸⁶² Quoted in Gilmore D. Clarke – Bruce, 14 November 1940, NARA, 121/133.

⁸⁶³ Quoted in Clarke – Bruce, 1 July 1941, NARA, 121/133.

then went on to argue that this quality ‘does undoubtedly contribute in large part to their force and their poignancy’.⁸⁶⁴

Whilst Poor’s response to the revised sketches submitted by Shahn is in many ways contradictory he nevertheless hits on something central to the artist’s working methods that went largely unnoticed at the time. Whereas the jury that awarded Shahn the commission praised his competition sketches on the ‘the indications that the artist drew from life, not relying entirely on his supreme knowledge of design’, Poor picked up on his use ‘of strangely fotografic and pieced-together details not always organically related’.⁸⁶⁵ And, indeed, in terms of Shahn’s mural work his ‘drawing from life’ was frequently mediated via photography, and often easel painting after that. This becomes quite evident when we follow the development of just a couple of details from the mural sequence, although the examples are numerous. The handball players in the background of the far left section of the west wall are quite clearly lifted from his 1939 painting *Handball* (fig. 148), which in turn closely follows the architectural and physical shapes that he captured on his second-hand Model A Leica in New York in the early to mid-1930s (fig. 149). Similarly, the old woman with crutches seated in the *Old Age* panel on the east wall is quite obviously a composite of the two women in the 1940 painting *Willis Avenue Bridge* (fig. 150), which in turn is closely based one of the photographs he took in 1934-35 at Welfare Hospital on Welfare Island, New York (fig. 151). Such a close relationship between photography and painting would not have been so readily apparent at the time as both Shahn and his dealer, Edith Halpert, were reluctant to show both mediums together through fear of compromising the market value of the latter.⁸⁶⁶

⁸⁶⁴ *Ibid.* Incidentally, Bruce agreed with Poor’s description of the Shahn murals as ‘distressingly drab’, as in a letter to Morgenthau he remarked that ‘The report on Shahn’s murals was I think absolutely sound. His work is unquestionably powerful but my God how gloomy the wailing wall impersonated’. Bruce – Morgenthau, 4 June 1941, AAA, D84.

⁸⁶⁵ Bruce – competitors in mural competition, undated, NARA, 121/133 and Clarke – Bruce, 1 July 1941, NARA, 121/133.

⁸⁶⁶ Halpert also represented Charles Sheeler and she pursued a similarly cautious approach in exhibiting his work. For an examination of this close relationship between photography and painting in the work of Shahn see Laura Katzman, ‘The Politics of Media: Painting and Photography in the Art of Ben Shahn’, Deborah Martin Kao, Laura Katzman, and Jenna Webster (eds.), *Ben Shahn’s*

Whilst Poor had to respond to Shahn's designs in his official capacity a painter-member for the Commission, Altmeyer was under no such pressure. The only record of the Social Security Board reacting to Shahn's mural sequence is in a letter to the artist from Rowan, where the Section administrator informs him that Altmeyer and his colleagues did not appreciate the inclusion of a man with an eye-patch in the wall devoted to *The Accomplishments of Social Security*. Their feeling was that 'every section of this long panel should be treated in a positive way'.⁸⁶⁷ This is hardly a surprising response on behalf of the Social Security Board whose members were still in the position of defending their recently created bureaucracy from their critics in Congress and their enemies within the business community. And whilst this may have been a limited response, little more needed to be said, as after this minor revision had been made it is perfectly conceivable that Altmeyer and his colleagues would have been more than happy with Shahn's interpretation of *The Accomplishments of Social Security*. Indeed, the fact that there was no further written correspondence recording their views would certainly suggest that this was in fact the case. Whilst the panels devoted to *Child Labour*, *Unemployment*, and *Old Age* may have been 'distressingly drab', as Shahn himself made quite explicit, within the overall mural scheme, in which 'the evils of insecurity are being ameliorated', they merely serve to represent the prehistory of the Social Security Act, thereby underlining the progressive nature of New Deal reform.

In fact it could be argued that Shahn's mural sequence is in fact an extremely close reading of the competition brief as defined by Altmeyer in his 'The Meaning of Social Security' essay. Not only did he take the title of the text as the overall title of his mural scheme but he started with the Roosevelt quote central to Altmeyer's essay and then structured the narrative of his mural sequence around the three factors it foregrounded – 'people want decent homes to live in'; located 'where they can engage in productive work'; with 'some safeguard against misfortunes which cannot be wholly eliminated'.⁸⁶⁸ If in the west wall Shahn dealt with the building of

New York: The Photography of Modern Times (New Haven: Yale University Press, 2000), pp. 97-117.

⁸⁶⁷ Rowan – Shahn, 18 June 1941, NARA, 121/133.

⁸⁶⁸ Quoted in Shahn – Rowan, 7 November 1940, NARA, 121/133.

decent homes and the provision of productive work, both in construction and agriculture, then on the opposite wall he dealt with the specific types of misfortune covered by the Social Security Act, and highlighted by Altmeyer in his essay: 'want and despair when job and wages stop, dependence in old age', and 'hardship for children left without a breadwinner'. Furthermore, in line with Altmeyer's essay, Shahn prioritised the family as the basic unit of solidarity and the basis for an extended, almost utopian, community over the central door mantle; with the two bricklayers he emphasised the inherent value of labour and collective cooperation above the door to the left; and with the man signing the necessary paperwork in front of two social security bureaucrats he celebrated the importance of federal intervention and economic assistance when necessary over the door on the right.

With reference to Poor's letter to Bruce, it could again be argued that Shahn fulfilled the brief. Whilst the juxtaposition of the two walls together clearly acted as propaganda for the Social Security Act in particular, and a liberal New Deal reform agenda in general, Shahn avoided a literal depiction of the legislation to instead express the idea through 'a connected or related series of simple incidents, or places, or people, or conditions of living'.⁸⁶⁹ Poor also emphasised the importance of 'pictorial necessity, a visual freshness and reality', and the need for a 'visual sensibility'.⁸⁷⁰ According to Bernarda Bryson Shahn, when working on his social security murals, her husband employed the mathematical principles of dynamic symmetry that he learnt whilst apprenticed to Rivera on the ill-fated Rockefeller Centre mural.⁸⁷¹ After beginning with a grand pattern, 'diagonals are drawn and resulting spaces subdivided into successively smaller areas, as needed or as wanted, so that even the very smallest detailed part of the mural will bear an organic relation to the whole'.⁸⁷² The validity of this recollection of her husband's working practise is borne out by comments that Shahn made in an interview in 1944 on the subject of this mural scheme: '...back and forth. Between the big and the little, the light and

⁸⁶⁹ Poor, *op cit.*, 1940, p. 4.

⁸⁷⁰ *Ibid.*

⁸⁷¹ Bernarda Bryson Shahn, *Ben Shahn* (New York: Harry N. Abrams, Inc., 1972), pp. 287-288. The concept of 'Dynamic Symmetry' was originally developed by Jay Hambidge on the basis of his analysis of classical Greek art and architecture.

⁸⁷² *Ibid.*, p. 288.

the dark, the smiling and the sad, the serious and the comic. I like to have three vanishing points in one plane'.⁸⁷³ This technique of breaking down such a vast space allowed Shahn to incorporate some of the visual qualities demanded by Poor, and they were quite clearly picked up on by the jury who awarded Shahn the commission, who remarked that 'There is a variety in the tempo and texture. The pattern advances and recedes, changing its beat, the crowded parts always finding relief'.⁸⁷⁴

Such a positive visual interpretation of the Social Security Act hardly seems a surprise considering Shahn's initial response. After receiving the social security commission he wrote an enthusiastic letter to Bruce in which he explained that 'To me, it is the most important job that I could want. The building itself is a symbol of perhaps the most advanced piece of legislation enacted by the New Deal, and I am proud to be given the job of interpreting it, or putting a face on it, or whatever you want to call it'.⁸⁷⁵ After expressing his gratitude he wrote that 'It seems to me that in all my work for the past ten years I have been probing into the material which is the background and substance of Social Security', and that this mural commission 'calls forth research – if you can call it that – which I have been doing consciously and unconsciously throughout my life, all of it having to do with the problem of human insecurity'.⁸⁷⁶ Nowhere does Shahn mention the limitations of the actual legislation as it was passed, and nowhere do they figure in his completed mural scheme. Shahn was a well-known radical who used to have links with the CPUSA. He came to prominence with his series of paintings on the theme of Sacco and Vanzetti exhibited at the Downtown Gallery in 1932. It was this show that brought him to the attention of Rivera who then taught him the art of fresco painting whilst he assisted the Mexican at the Rockefeller Centre. He was a member of the Artists' Union, an editor of *Art Front*, a teacher at the John Reed Club, and a signatory for the American Artists' Congress.⁸⁷⁷ As such, Shahn would probably have been aware of

⁸⁷³ John D. Morse, 'Ben Shahn: An Interview', *Magazine of Art*, vol. 37, no. 4 (Apr. 1944), p. 138.

⁸⁷⁴ Bruce – competitors in mural competition, undated, NARA, 121/133.

⁸⁷⁵ Shahn – Bruce, 6 November 1940, NARA, 121/133.

⁸⁷⁶ *Ibid.*

⁸⁷⁷ Deborah Martin Kao, 'Ben Shahn and the Public Use of Art', Kao, Katzman, and Webster (eds.), *op. cit.*, p. 39.

the CPUSA critique of the Social Security Bill and their support of the rival Lundeen Bill. So how did he end up celebrating such a compromised piece of legislation?

One reason was clearly financial. By early 1940 the money that Shahn and his wife had earned for the *Resources of America* murals in the Bronx Central Post Office had gone, and the couple were once again heavily in debt.⁸⁷⁸ Therefore, the announcement of a \$19,980 commission for the social security competition in March was a chance that simply could not be passed over. Perhaps another reason could be found in the amendments made to the Social Security Act in 1939. These changes were a product of the anxieties caused by the deflationary impact of what government officials termed the 'reserve account'. Whilst the first payroll taxes were taken out of covered employees' paycheques from 1937 onwards, benefits under the OAI programme were not scheduled to begin until 1942. Bearing in mind that \$511 million went into the reserve account in 1937 alone, of which only \$5 million was needed to cover administration costs, business leaders believed that the continuation of the reserve system would have a deeply regressive impact upon consumer purchasing power.⁸⁷⁹ Due to such pressures a committee was set up to look into these problems in 1937 and in 1939 their recommendations were enacted. These consisted of a shift from full reserves to a modified pay-as-you-go system; the payment of benefits earlier – in 1940 as opposed to 1942; the delay of the projected increase in payroll tax; and the addition of benefits for wage-earners' dependents and survivors.⁸⁸⁰ These amendments not only solved the problem caused by the reserve, but also seemingly liberalised the social security system in the period just preceding the announcement of the Section competition.⁸⁸¹

And indeed, it is the broader issue of timing that is the key to understanding just how Shahn, a radical artist in the mid-1930s, came to celebrate the Social

⁸⁷⁸ Howard Greenfield, *Ben Shahn: An Artist's Life* (New York: Random House, 1998), p. 173.

⁸⁷⁹ Berkowitz and McQuaid, *op. cit.*, p. 131.

⁸⁸⁰ On these changes see Altmeyer, *op. cit.*, 1966, pp. 99-116 and Quadagno, *op. cit.*, 1988, pp. 119-121.

⁸⁸¹ I say seemingly, for as Quadagno writes of these amendments: 'only the business community got what it wanted – the abandonment of the full reserve. This could be accomplished most readily by expanding coverage and paying out benefits immediately. Labour and social insurance advocates did win extended coverage for dependents and more generous benefits – both goals that were compatible with the business agenda – but they won no improvements in OAA, and the basic structure of OAI remained unchanged'. *Ibid*, p. 121.

Security Act. The act was passed in 1935; the Washington headquarters of the bureaucracy charged with administering it was only completed in 1939; the first Section competitions to decorate this new building were announced, and the awards given, in 1940; and Shahn only began the mural in 1941, to finally complete it the following year.⁸⁸² A lot happened in this seven year period in terms of the development of the New Deal, and the strategy, tactics, and fortunes of the CPUSA, as already discussed in the first chapter. A lot also happened to those artists once associated with the Party. Fed up with the factional infighting between Stalinists and Trotskyists Shahn broke with *Art Front* in late 1935 after the paper published an article attacking Rivera.⁸⁸³ With his links to the CPUSA now sundered he moved away from any organisational leftwing politics and, as Laura Katzman makes clear, ‘evolved into a moderate liberal and an ardent New Dealer’.⁸⁸⁴ As such, he concentrated his efforts on producing propaganda for the trade union movement and the liberal wing of the Democrat Party.⁸⁸⁵ Shahn himself dated his turn away from radical politics to the late 1930s when he worked as a photographer for the Resettlement Administration (RA). Travelling around the country documenting the abject poverty he saw with his camera, Shahn realised that ‘everything I had gotten about the condition of miners or cotton pickers I’d gotten on Fourteenth Street. I found realities there that I had no idea about’.⁸⁸⁶ ‘Theories had melted before such experience. My own painting then had turned from what is called “social realism” into a sort of personal realism’.⁸⁸⁷

Yet, as with the CPUSA after the adoption of the Popular Front, Shahn’s support for the New Deal coincides with that moment when its liberal phase was

⁸⁸² Shahn did not begin work on the murals until December 1941 due to the fact that he changed medium for ‘fresco buono’ to ‘fresco secco’ i.e. egg tempera on dry walls, which required the walls to be replastered and then allowed to dry for several months. Frances Pohl, *Ben Shahn: New Deal Artist in a Cold War Climate* (Texas: University of Texas Press, 1989), p. 39.

⁸⁸³ Deborah Martin Kao, ‘Ben Shahn and the Public Use of Art’, in Kao, Katzman, and Webster (eds.), *op. cit.*, p. 49 and Pohl, *op. cit.*, p. 56. The article in question was a critique of Rivera’s relationship with the Diaz regime written by Mary Randolph and published in two parts in the November and December issues.

⁸⁸⁴ Laura Katzman, ‘New York: Scenes from the Living Theatre’, *ibid.*, p. 20.

⁸⁸⁵ See Pohl, *op. cit.*, pp. 9-25 for the details of his political poster work for the CIO Political Action Committee and pp. 61-66 for those on his work for the Wallace candidacy.

⁸⁸⁶ Harlan Phillips, ‘Interview with Ben Shahn’, 1965, no pagination, reprinted in Kao, Katzman, and Webster (eds.), *op. cit.*, p. 263.

⁸⁸⁷ Ben Shahn, *Shape and Content* (Massachusetts: Harvard University Press, 1957), p. 40.

already in decline. The ill-fated Court-packing plan and recession of 1937 gave the conservative alliance in Congress the time to regroup and pushed Roosevelt further away from the type of 'social Keynesianism' associated with the New Deal's more interventionist and regulatory phase towards the kind of conservative 'fiscal Keynesianism' that would reign supreme in the postwar period.⁸⁸⁸ These developments were compounded in the lead up to war when the congressional support that the president needed to secure the necessary appropriations for the war effort in Europe effectively closed down the last vestiges of liberal domestic reform. As such there is a sad irony in the fact that the day that Shahn and his family set out for DC to begin painting his social security murals, the 8 December 1941, was the day after Pearl Harbour, and the Social Security building was quickly converted into the War Production Board Building.⁸⁸⁹ Shahn's painting of the Social Security Act, a key legislative plank in the Second New Deal, therefore had an almost nostalgic feel to it. A celebration of that moment when due to the regulatory powers being harnessed by the federal government so much more seemed possible, at least within the clearly circumscribed parameters of a democratic reform agenda. This despite the fact that even the most liberal legislation passed was significantly shaped by key figures within the monopoly sector to coincide with the long-term interests of capital accumulation, as demonstrated by a close analysis of the drafting of the Social Security Act.

It is, nevertheless, important to remember that the bill that eventually passed through Congress was different in many ways to the proposals initially presented by the CES in January 1935. Their report was quite clear about the fact that the Social Security Act was just the opening moment in the creation of a coordinated public approach to America's welfare needs: 'A piecemeal approach is dictated by practical considerations but the broad objectives should not be forgotten. Whatever measures are deemed immediately expedient should be so designed that they can be embodied

⁸⁸⁸ For this useful periodisation see Steve Fraser and Gary Gerstle (eds.), 'Introduction', *The Rise and Fall of the New Deal Order, 1930-1980* (New Jersey: Princeton University Press, 1989), p. xiv.

⁸⁸⁹ Greenfield, *op. cit.*, pp. 181-182.

in the complete program which we must have ere long'.⁸⁹⁰ Despite the fragmentary nature of the various aspects to the legislation, and the division between federal and state responsibilities, the report contained various measures to ensure uniform administrative practises and minimum standards in state-run programs. Unemployment compensation was to be distributed through federally supervised employment offices; there were strict guidelines ensuring that states could not grant companies the right to opt out of pooled insurance funds; and federal subsidies to the states for old-age pensions were to be granted only on the condition that they adopted strict criteria that ensured the fair distribution of such funds.⁸⁹¹ It planned for the future coordination of all the federal government's welfare activities and advocated research that would lead to the addition of new welfare provisions such as healthcare, which was omitted in the initial report due to the expected hostility from the medical and insurance industries, which it was thought would kill the whole bill.⁸⁹²

As Skocpol and Ikenberry make clear, 'Those with their eyes most firmly on the practicalities of getting the legislation through Congress and approved by the Supreme Court parried powerful pressures toward national standardisation and administrative controls in the initially-proposed Social Security legislation'.⁸⁹³ This cautious and pragmatic approach to the problem is captured well by Altmeyer:

'It is difficult to appreciate, after the passage of over a quarter of a century, the uncertainties and difficulties confronting the committee in their resolution of these policy questions. If the committee had had the advantage of the experience acquired during this quarter of a century and had been able to pierce the veil of the future to ascertain the attitude of the United States Supreme Court, it undoubtedly would have made radically different recommendations in a number of respects. But in 1934 the previous decisions of the US Supreme Court had created considerable doubt as to how far the Constitution of the US permitted the federal government to go in enacting social legislation. The Supreme Court had held two federal child labour laws unconstitutional. One of these laws had been

⁸⁹⁰ CES, *Report to the President of the Committee on Economic Security* (Washington, D.C.: United States Government Printing Office, 1935), p. 3, quoted in Skocpol and Ikenberry, *op. cit.*, p. 130.

⁸⁹¹ *Ibid.*

⁸⁹² *Ibid.*

⁸⁹³ *Ibid.*, p. 126.

based on the right of the federal government to regulate interstate commerce, and the other had been based on the taxing power of the federal government'.⁸⁹⁴

Such apprehension was shared by other key figures, including Roosevelt and Witte, and it was due largely to the latter's cautious approach to the matter, on behalf of the president, that the concept of planning, central to the original report drafted by the CES, also fell by the wayside once the bill entered Congress.⁸⁹⁵ For in the original document the CES had called for 'the establishment of a permanent national planning board', as whilst 'public-work programs are most necessary in periods of severe depression ... they may be needed in normal times, as well, to help meet the problems of stranded communities and overmanned or declining industries'.⁸⁹⁶ Work-relief was seen as one way of dealing with the limited effectiveness of the unemployment insurance provisions. But more than that, for the members of the CES, any coherent policy of social welfare provision had to be accompanied by complementary strategies of federally directed economic stimulation and public-works to be truly effective.⁸⁹⁷ However, public-works smacked of WPA, which was always an unpopular federal initiative within the business community and in Congress, and such commitments were duly sacrificed.⁸⁹⁸

This brings us back to the Shahn murals, and in particular the west wall, dealing with *The Accomplishments of Social Security*. Shahn was clear that the section to the left of the central door, with its energetic workers toiling amongst steel

⁸⁹⁴ Altmeyer, *op. cit.*, 1966, pp 14-15. Despite these anxieties on the part of Altmeyer, the Supreme Court upheld the constitutionality of the Social Security Act in May 1937, as covered in chapter one.

⁸⁹⁵ It was Witte who was largely responsible for testifying in front of the various committees in Congress on behalf of the Social Security Bill, and he made it clear that to get it through it was necessary 'to tone down all the clauses relating to supervisory control by the federal government'. Witte, *op. cit.*, p. 144.

⁸⁹⁶ CES, *op. cit.*, p. 3, cited in Skocpol and Ikenberry, *op. cit.*, p. 131.

⁸⁹⁷ *Ibid.* It is worth recalling that in his competition brief Altmeyer also made the point that federally funded public-works were an equally important component to the broader process of social welfare provision. Altmeyer, *op. cit.*, 1940, p. 7. Furthermore, on the same day that Roosevelt created the CES he also created the National Resources Board charged with 'the development of the natural resources of the country to provide maximum, continued opportunities for employment'. Witte, *op. cit.*, pp. 10-11.

⁸⁹⁸ According to a poll taken by *Fortune* magazine in 1939 only 17.3 percent of businessmen felt the Social Security Act should be repealed, 24.3 percent were happy with it, and 57.9 percent wished for some modifications. This compares to 44.4 percent who wished to see the WPA abolished. Quadagno, *op. cit.*, 1984, p. 644.

girders, was 'a suggestion of tremendous public works'. However, it is also certain that the section to the right of the door, with the building of wooden homes and the laying of concrete foundations, is also a depiction of public-works, and in particular, the building of suburban resettlement communities under the auspices of the RA. Whilst working as photographers for the RA, Shahn and Walker Evans had been involved in a project to make a film, *We Are the People*, about the newly created suburb of Greenbelt, discussed in chapter one.⁸⁹⁹ Commissioned by the RA's director, Tugwell, the film was to follow the example set by the Documentary Film Unit that had already produced the two public information films, *The Plow That Broke the Plains*, released in May 1936, and *The River*, of 1937. Whilst Shahn took hundreds of photographs of the building of Greenbelt in preparation the film was cancelled in early December 1936 following Tugwell's resignation. Nevertheless, according to Jenna Webster, Shahn used his photographs of the carpenters at Greenbelt as the source material for the figures in the west panel of his social security murals.⁹⁰⁰ As such, with the exception of the detail to the far left, the whole panel is given over to massive public-works programs, and this is the key to any critical reading of the mural.⁹⁰¹ For under the guise of celebrating the Social Security Act, Shahn also pays homage to those vast projects that represent the New Deal state at its most interventionist, and therefore, its most progressive.

The Wealth of the Nation and the Security of the Family

As already mentioned it was originally envisioned that the appointment to execute the two murals in the Independence Avenue Lobby was to be made on the

⁸⁹⁹ Jenna Webster, 'Ben Shahn and the Master Medium', in Kao, Katzman, and Webster (eds.), *op. cit.*, pp. 88-89.

⁹⁰⁰ *Ibid*, p. 89.

⁹⁰¹ According to Shahn's wife the wall being built in the foreground of the harvest scene on the far right of this panel was in fact 'the long side-wall of a factory – actually the factory built by Resettlement for the village of Jersey Homesteads' (renamed Roosevelt in 1945 to commemorate the death of Roosevelt that same year), where Shahn and his family moved to in 1939. Greenfield, *op. cit.*, p. 186. It was built as a subsistence homesteading community to house Jewish garment workers relocated from the slum tenements of nearby New York City, and Shahn had come to know it whilst painting his fresco panel in the community centre in 1936-38 which celebrated their immigration, their labour, and their subsequent unionisation in the CIO.

basis of entries to the competitions for the auditorium and the corridor space outside it. Whilst Fogel's designs had lost out to Shahn's the jury considered them the next best entry and good enough to warrant giving him this other commission if he resubmitted new sketches on the subjects of *The Wealth of the Nation* and *The Security of the People*.⁹⁰² Fogel had not been a signatory for the American Artists' Congress but his radicalism was evidenced from the fact that soon after he graduated from the National Academy of Design in New York in 1932 he became an assistant for Rivera on his ill-fated mural at the Rockefeller Centre.⁹⁰³ Once the Mexican had been paid in full for services rendered and removed from the building in May 1933 Fogel then followed Rivera to the New Workers School and assisted him in painting the twenty-one moveable panels on the theme of *Portrait of America*, a narrative which culminated in proletarian victory and world communism.⁹⁰⁴ Shortly after finishing these panels Rivera returned back to Mexico and Fogel headed south, riding freight trains to visit the coal mines of West Virginia and Kentucky, the tenant farms of Mississippi and Alabama, and the river port of New Orleans, amongst other places.⁹⁰⁵ His leftist sympathies were quite clearly communicated in the paintings that he produced during this period travelling on the subjects of miners, sharecroppers, and bread lines, all of which were typical Social Realist themes. That he was sympathetic to the plight of the African-Americans that he saw on his travels down South was indicated by the fact that he produced a whole range of sketches that documented their poverty as well as a set of lynching scenes for the PWAP.⁹⁰⁶ One of these sketches, an ink drawing entitled *Negro Section, Washington, D.C.*, juxtaposed a dilapidated tenement building full of idle African-Americans without work, behind which the capitol dome rises in the background. As Fogel said of this first visit to the capital, on his way down South, 'dirt, squalor, sexual depravity, poverty, gilded by the tinsel of diplomatic and state pomp'.⁹⁰⁷ His journey through

⁹⁰² Rowan – Fogel, 31 October 1940, NARA, 121/133.

⁹⁰³ Robert L. Stevens and Jared A. Fogel, 'The Depression in the South: Seymour Fogel's Images of African-Americans', *Social Education*, vol. 62, no. 2, 1998, p. 80.

⁹⁰⁴ For more details on this mural cycle see Cynthia Newman Helms (ed.), *Diego Rivera: A Retrospective* (New York: W.W. Norton and Co, Inc., 1986), pp. 299-301.

⁹⁰⁵ Stevens and Fogel, *op. cit.*, p. 80.

⁹⁰⁶ *Ibid.*

⁹⁰⁷ Quoted in *ibid.*

the Depression South ended in 1935 with the beginning of the WPA/FAP when he went back to New York to take advantage of this opportunity to use federal patronage to support himself as an artist. Due to this new commission he returned to the capital eight years after his first visit ‘to gild’ the Social Security building.

One of his most prestigious and high profile public art commissions before his social security panels had been a mural entitled *Rehabilitation of the People* (fig. 152) for the WPA Building at the New York World’s Fair in 1939/40. Working alongside fellow radical painters such as Guston, who would work with him again in Social Security, and the communist diehard Anton Refregier, their commitment to celebrating federally funded art was made explicit by the latter when he wrote in his diary:

The work is going full swing. The workshop is the closest thing to the Renaissance of anything, I am sure, that has ever happened before in the United States. My assistants and I have the central part of the studio. On the left, Philip Guston is working on the full-size drawings for the mural he is going to do for the outdoor wall of the building. In front of us, Sy Vogel [sic] working on a large canvas ... Every person here is dedicated to the project. Everyone feels and knows that we must do our utmost. We know that there are a bunch of commercial mural painters preparing murals for different buildings of the Fair – Hildreth Miére and others. They are making at least ten times more money than we are. But they can have it. Theirs will be the usual commercial crap. They are not as moved as we are by our content – by our search for creative and contemporary design – by our concern for people. We are the mural painters. We hope we are catching up with our great fellow artists of Mexico. We will show what mural painting will be!⁹⁰⁸

I have quoted this extract at length because it quite clearly gives a sense of the collective enthusiasm shared by Refregier and his associates working on this commission showcasing WPA/FAP art which thereby celebrated an activist federal state that was prepared to spend millions putting people back to work on public-orientated projects. Like Shahn, they regarded this as a high point of liberal reform during the 1930s. And whilst there were important differences between the two main federal art projects, as discussed in the introduction, all three of these artists would

⁹⁰⁸ Quoted in Francis V. O’Conner, ‘The Usable Future: The Role of Fantasy in the Promotion of a Consumer Society for Art’, Helen A. Harrison (ed.), *Dawn of a New Day: The New York World’s Fair, 1939/40* (New York: New York University Press, 1980), p. 65.

quickly move on to important and prestigious Section commissions – Fogel and Guston in Social Security, and Refregier at the Rincon Annex Post Office in San Francisco in 1946-48, its initial painting interrupted by the war.⁹⁰⁹ Furthermore they all used a relatively similar aesthetic to the one that they deployed at the World's Fair, what Hemingway has described as 'a lukewarm decorative modernism' with an iconographic content that recalled some of the more radical themes of 1930s Social Realist painting.⁹¹⁰

Like Shahn, Fogel also chose to celebrate planned productive labour albeit with 'the use of symbolic figures and objects', 'to compliment [] Shahn's more factual type of mural' rather than replicate it in any way.⁹¹¹ After much criticism from the Commission of Fine Arts, the Social Security Board, and the Section, resulting in numerous changes to his designs, the fresco secco murals were completed in September 1942 after which Fogel received the last instalment of the \$5,280 that he was awarded for the contract.⁹¹² In the first panel (fig. 153) Fogel depicted a typically white-coated scientist looking through a microscope surrounded by the usual paraphernalia of test tubes etc. Behind him he painted a power generator linked by pipes to two giant cogs in the centre background with a muscular worker with a naked torso gripping the lever to 'symbolise tremendous industrial power'.⁹¹³ To the right he included two more labourers with lunchboxes and tools striding purposefully towards the centre. In an earlier design (fig. 154) one of these wears blue overalls whilst the other is bare-chested, their hammer and pickaxe accentuating their clothing to indicate that they represented the industrial and agricultural sectors respectively. Behind them and to the right he depicted a factory with smokestacks. Finally, in the centre foreground he brings the whole composition together with a figure holding a blueprint and compass, with draughtsman tools to his left, which for Fogel was 'symbolic of planning and co-ordination between these

⁹⁰⁹ On this commission see Lee, *op. cit.*, 1999, pp. 216-223 and Hemingway, *op. cit.*, 2002, pp. 201-204.

⁹¹⁰ Andrew Hemingway, 'Philip Guston c. 1930-50: From Revolutionary Art to Mood Painting', unpublished lecture given at the Royal Academy, London, 13 February 2004, p. 7.

⁹¹¹ Fogel – Rowan, 27 December 1940, NARA, 121/133.

⁹¹² Rowan – Fogel, 18 June 1941, NARA, 121/133.

⁹¹³ Fogel – Rowan, 27 December 1940, NARA, 121/133.

[] phases of our national wealth'.⁹¹⁴ It is the second panel with the slightly revised title of *Security of the Family* (fig. 155) that finishes the narrative sequence and locates the two murals more securely within the remit of social security provision. Here Fogel depicted a typical nuclear family safely ensconced in a garden with an 'arbour of interlaced trees which gives the impression of protection and security'.⁹¹⁵ The father figure to the left is sitting comfortably reading a newspaper; to his right his wife stands upright holding a naked infant; and to their right a teenage boy is playing with a tennis racket; whilst his sister is drawing at a blackboard. Their security is indicated by the detail of the table in the centre-left foreground bountifully furnished with a jug and fresh fruit, and the future security of all is emphasised in the new framework of steel girders being erected in the right background beyond the private space of the garden, possibly signifying the new modern social housing being erected under the auspices of the ~~Resettlement~~ **Administration**.

The symbolic nature of the sequence so desired by Fogel is emphasised by the Cubist-influenced combination of rigid perspective and the flattening-out of certain details, and the fact that the various figures within two images seem strangely distinct and do not seem to acknowledge each other in any way. If the second panel pays homage to the newly created welfare state, the comfort and security of family life indicated by the produce on the table in the foreground, then it is the first that can be seen to encode a more radical political position. The background figure of the burly bare-chested worker recalls not only a traditional leftist iconography in the United States such as Lewis Hine's *Powerhouse Mechanic* (fig. 156), but also a visual rhetoric of the proletariat that had become internationally commonplace. This is reinforced by the industrial and agricultural workers on the right, the two spheres of production central to the health of a nation, as well as its revolutionary transformation. And whilst the blueprint in the middle could be read as a reference to the beneficence of New Deal planning, which of course it was to some degree, in his earlier design he had overlapped the workers' hammer and the pickaxe to suggest

⁹¹⁴ Fogel – Rowan, undated, NAEA, 121/133.

⁹¹⁵ Fogel – Rowan, 27 December 1940, NARA, 121/133.

the beginnings of a hammer and sickle, thereby encoding a politics to the left of this. Planning had become a metaphor for the socialisation of the production process with allusions to the Soviet economic model for both liberal proponents of New Deal interventionism as well as its conservative opponents who saw the administration's increasing incursions into the free market as a direct attack upon the principle of *laissez-faire*.⁹¹⁶ The irony of this is that when the frescos were finally completed in September 1942 the New Deal domestic reform agenda had been firmly eclipsed in the build up to war and the only planning that was being done at this point was towards a militarised economy in what was now the War Production Board building. Hence when the murals received mention in *The Magazine of Art* shortly after installation they were described as illustrating 'the aims and objectives of Social Security and point up what the country is fighting for and with'.⁹¹⁷

Reconstruction and Well-Being of the Family

Certain motifs in Fogel's two panels recur in those executed by Guston for the three panel screen on the stage of the auditorium. As already mentioned he was the second runner-up in the competition won by Shahn and due to the fact that the the entries to the one for the auditorium were deemed unsatisfactory, he was awarded this \$3,520 commission instead. Like Fogel, Guston had been heavily influenced by the Mexican muralists, but more by Siqueiros than Rivera, who had washed up in Los Angeles in 1932 as a political refugee. He began teaching at the Chouinard Art School where he quickly formed a 'Bloc of Mural Painters' who then assisted him in painting the first of the three murals that Siqueiros would produce during this stay on the West Coast. Whilst Guston was not a student at Chouinard, or a member of Siqueiros' Bloc, he used to watch the Mexican painting this mural entitled *Street Meeting* at night having finished his work as a truck driver for the

⁹¹⁶ For a discussion of the significance of planning during the New Deal see Otis L. Graham, Jr., *Toward a Planned Society: From Roosevelt to Nixon* (Oxford: Oxford University Press, 1976), pp. 2-68.

⁹¹⁷ Florence S. Berryman, 'News and Comment', *Magazine of Art*, vol. 35, no. 6 (Oct. 1942), p. 224.

day.⁹¹⁸ It was about this time that he got involved with the Hollywood John Reed Club and he contributed a portable mural on the Scottsboro case to a group show in February 1933 on the subject of 'The American Negro'. This show was broken up by the notorious 'Red Squad' within the city police who had links to the KKK, as was Guston's first exhibition at the Stanley Rose bookstore and gallery where he exhibited works with a KKK theme.⁹¹⁹ In 1934, after his first experience of federal patronage on the PWAP ended in a quarrel he headed down to Mexico City with his friend Reuben Kadash to paint a mural for the University of Michoacan, in the state capital of Morelia. This had been arranged by Rivera and Siqueiros and after seeing their finished work, *The Struggle Against Terror*, the latter praised the two of them as 'the most promising young painters in either the U.S. or Mexico'.⁹²⁰ Back in the United States Guston survived on the federal art projects. His work for the WPA/FAP culminated in his *Maintaining America's Skills* (fig. 157) which won first prize as the best outdoor mural at the World's Fair, and for the Section with the three panels he was commissioned to produce for the auditorium of the Social Security building entitled *Reconstruction and Well-Being of the Family* (fig. 158).

Guston's shift from John Reed Club artist at the beginning of the decade to nationally prominent muralist by the close is characterised by Hemingway as being one from 'Revolutionary Art to New Deal Americanism' which, moreover 'had the *de facto* support of the Communist Party'.⁹²¹ With the fracturing of the left and the closure of the projects Guston, like many other former Social Realist painters in this period, moved towards what Hemingway describes as 'a more ambiguous symbolic subject matter, that suggested a kind of generalised unease with the state of mankind, rather than any specific political direction'.⁹²² In this he followed a similar pattern to Shahn, although Guston was, apart from Jackson Pollock, the only radical artist of the 1930s to reinvent himself as a successful abstract expressionist in the subsequent decade. Yet in the side panels to his Social Security mural there was still a passing reference to his more *engagé* art of the early 1930s. The central panel of

⁹¹⁸ Hemingway, *op. cit.*, unpublished, p. 4.

⁹¹⁹ *Ibid*, p. 2.

⁹²⁰ *Ibid*, p. 5.

⁹²¹ *Ibid*, p. 7.

⁹²² *Ibid*, p. 8.

his mural sequence was an idealised family picnic scene which formed part of his original competition design. This was kept on Rowan's insistence due to the fact that the Section staff and the jury thought that it was 'so beautifully conceived'.⁹²³ The family – father, mother, and four children – sit around, or in front of, a table, upon which there a jug and a plate of fresh fruit, a detail that, as in Fogel's panel, symbolises prosperity and security. Rowan then suggested to the artist that 'the side panels, which must be so designed that they can stand alone when the centre is used for the stereopticon, consist possibly of a scene of rural workers in the background and of the factories indicating city workers in the background'. Guston obliged and on the left he painted two rural workers demonstrating two different methods of building check dams through gully erosion, signifying rural labour; and on the right he complemented this with two workers digging and drilling the footings for a new steel framed construction, its urban setting made explicit with smoke stacks and a dilapidated building.

In this way Guston repeats the overall theme within Fogel's two panels, in that the security of the family is dependant upon the combined resources of agricultural and industrial labour. The inclusion of a black worker holding a shovel in the panel on the right, as in those murals done by leftists in *Interior*, was a way for the artist to project his radical commitments – or at least former ones as by the time the screen was complete in April 1943 Guston had withdrawn from art world politics; was teaching at the State University of Iowa, in Iowa City; and was producing easel painting once again. Just a month before the mural was complete he was quoted in *Art News* as saying: 'I would rather be a poet than a pamphleteer'.⁹²⁴ Yet, with the exception of this detail of the black labourer the fact that Rowan had proposed this iconographic program himself clearly demonstrates that there was a strong overlap, if not conflation, between liberal and radical ideas about what constituted an acceptable, and even desirable, iconographic programme for state-sponsored murals in this period. The three panels are related not only in their subject matter, reconstruction, but also by a series of horizontals and verticals, and by a

⁹²³ Rowan – Guston, 31 October 1940, NARA, 121/133.

⁹²⁴ *Art News* (1-14 March, 1943), p. 24, quoted in Hemingway, *op. cit.*, unpublished, p. 8.

pattern of colours that draw the three screens together. He relied upon simplified, sculptural forms, to increase their effectiveness from a distance as necessitated by their location in the auditorium. The expressive brightly coloured autumnal background and the intimation of Picasso in the faces – and especially the eyes – of the family members give a clear indication of Guston’s modernist sympathies, even if such moves were ultimately contained within a Section commission that emphasised the American Scene. As Guston himself said he was striving for ‘The delicate balance between a strong realism and an all-over decorative pattern’.⁹²⁵ And, as with Shahn and Fogel’s mural schemes, the fact that there was seemingly a loosening up of the Section’s usual hostility towards any formal experimentation within the art that it commissioned can be attributed to the fact that the jury chosen to select the works for Social Security were more accepting of modernist formal techniques.

Sculpture

Guston’s murals at the front of the auditorium were to be complemented by the two freestanding sculptures that were to be installed at the back and, as already mentioned the competition for these was won by Cronbach. He had worked as assistant to Manship in Paris in 1930 and in New York 1930-31, as well as on the WPA after 1935. His radical credentials were indicated by the fact that he had exhibited with the John Reed Club and at the *Waterfront Art Show* put on by An American Group, Inc., in support of the International Longshoremen’s Association in 1937.⁹²⁶ He had been one of the signatories for the American Artists’ Congress and was chairman of the Subway Art Committee of the Public Use of Arts Committee which sponsored the ‘Art for the Subways’ exhibition at the Museum of Modern Art in 1938.⁹²⁷ He had also collaborated with Refregier in making two bronze plaques which the Broadcasting Companies of America gave to the New York and San

⁹²⁵ Guston – Rowan, 2 June 1942, NARA, 121/133.

⁹²⁶ On the An American Group, Inc. and the *Waterfront Art Show*, see Hemingway, *op. cit.*, 2002, pp. 133-136.

⁹²⁷ On the Public Use of Arts Committee see Helen Harrison, ‘Subway Art and the Public Use of Art Committee’, *Archives of American Art Journal*, vol. 21, no. 2 (1981), pp. 2-21.

Francisco's World's Fairs to celebrate 'free speech'. Despite this impeccable record within leftist organisations in the 1930s the designs he entered for the social security competition were more radical for their formal experimentation than for their content. The first was of a male figure (fig. 159) standing frontally out towards the viewer, shirt open and bare-chested, whilst ascending a staircase suggested by two steps and a curving rail which his right hand is clasping. His other hand holds a book symbolising the value of education. The other sculpture depicted a mother figure next to a crib with a baby, both of whom are sheltered by an awning that overhangs them. Taken together they replicate the familial theme foregrounded in the murals with the male figure's ascent and the upward sweep of the banister connoting the progression to a better and more secure world with the provision of social security. The fact that the design of the banister again recalls a sickle could perhaps also be read as a possible allusion to a more radical content. These designs were highly stylised with little attempt made at finishing them with the usual attention to detail made in more traditional sculptural work for federal buildings. That they won the competition was no doubt a product of the fact that both Stackpole and Gross on the jury were again sympathetic to such formal experimentation as demonstrated by Stackpole's sculptural relief in Interior, and Gross' reliefs for the Federal Trade Commission.

Yet, unsurprisingly, their enthusiasm for Cronbach's modernistic and pared-down sculptures set them at odds with the Commission of Fine Arts and the press. Gilmore Clarke, who had succeeded Moore as chairman of the Commission, was immediately put out by the fact that the Section had announced the winning designs before the Commission had even had a chance to see them.⁹²⁸ Manship, the sculpture member of the Commission, and Cronbach's former tutor, then went on the attack writing in his report to Clarke that the male figure 'is grotesque in its proportion, and, unless changed completely, could only seem ridiculous to any beholder to whom conformity to natural proportions seems important', and as such he could not 'approve perpetuation in bronze of psychopathic experiments which may be appropriate to the laboratory or studio, and the element of caricature which may be

⁹²⁸ Clarke – Bruce, 31 October 1940, NARA, 121/133.

amusing at statuette size is not necessarily appropriate or welcome at heroic size'.⁹²⁹ Manship then questioned the selection procedure, arguing rather acutely that 'if you get a jury that believes only in abstractions, it is going to pick out something which is foreign to the taste of the average person'.⁹³⁰ These criticisms were reinforced in the press and given an added political inflection. According to a report in *The Evening Star*, published just after the results of the competition were announced, the figures were 'utterly puerile and forlorn' and 'grotesque in the extreme'.⁹³¹ Echoing Manship's criticisms the paper asked: 'who would understand the symbolism without explanatory labelling'.⁹³² And like Manship the report questioned the impartiality of the jury with the claim that 'Gross, one of the judges, was described as 'what may be termed "left wing", leaning strongly toward the new school of expression'.⁹³³ Whilst the Commission eventually relented and gave up the battle, the two sculptures were never cast full-size and therefore never made it into the auditorium. The Section's seemingly increasing aesthetic liberalism was tempered by other forces.⁹³⁴

In the absence of Cronbach's two figures the only sculptural contribution to the decorative scheme of the Social Security building appeared on the exterior with the six reliefs above the entrances to the building, carved two apiece by Kittredge, Davis, and Kreiss. The two eagles commissioned to sit aloft the building, designed by Warneke, suffered a similar fate to Cronbach's two sculptures. He received this \$3,500 commission in October 1939 to produce a plaster model for two American eagles for the east and west ends of the Independence Avenue façade on the basis of his contributions to the competition for the Federal Trade building.⁹³⁵ This model was then to be used as the basis for others to carve the sculptures in granite under Warneke's supervision. Whilst his plaster designs were approved by the

⁹²⁹ Manship – Clarke, 16 October 1940, NARA, 121/133.

⁹³⁰ Minutes of the Commission of Fine Arts, undated, NARA, 121/122.

⁹³¹ Leila Mechlin, 'Prize-Winning Sculpture Called "Dreary, Uninspired": Statues for New Social Security Building' *The Evening Star*, 25 September 1940, p. 7.

⁹³² *Ibid.*

⁹³³ *Ibid.*

⁹³⁴ As yet I have found nothing within the Section correspondence that gives a clear indication why these works were never realised, so I can only assume that this was a product of the general derision that met Cronbach's award, and the fact that public art was increasingly under threat at this moment.

⁹³⁵ Rowan – Warneke, 4 October 1939, NARA, 121/133.

Commission and the Social Security Board the Supervising Architect, Louis Simon, after seeing the first eagle in position in October 1940 (fig. 160) demanded that it be pulled down due to 'a problem of relative scale to absolute scale'.⁹³⁶ A report on the incident in the *Times Herald* a few days later quoted one of the engineers responsible for positioning, and then removing the sculpture, in response to the question: "What's going up in their place". "There's talk about putting up two donkeys", he said, "because the New Deal looks like it's in the saddle for a long, long time".⁹³⁷ This is only of interest in that it exemplifies how attacks upon New Deal sponsored art were often generalised to become attacks upon the New Deal itself. Warneke was informed by Hopper in March 1942 that the commission had been suspended and he was asked to store the model until resumption of the project, which he duly did, in a shed, and was then paid in full minus the last \$500 which he would receive after supervising the carving.⁹³⁸ Although he never got this money as the commission was never resumed and the two thirty-one ton eagles were eventually sold for \$25 to L. J. Hook, an automobile salesman from Alexandria, Virginia.⁹³⁹

This just leaves the sculptural reliefs above the doors on the outside of the building, and bearing in mind that Rowan asked the three sculptors 'to inform each other during the progress of the work in order to harmonise the panels' they have a uniformity of appearance which allows them to be considered as an ensemble.⁹⁴⁰ All three artists received their commissions in October 1939 and completed their work in May 1941, for which they were paid \$2,800. All six works were done in situ in incised relief in granite with the rough finish of the carving contrasting with the highly polished surface of the slab. Davis's are perhaps the most interesting in terms of the fact that she made an effort to invoke some abstract sense of the state, the provider of social security. Above the entrance on 4th Street she carved *Unemployment Compensation* (fig. 161) in which two male figures, one standing

⁹³⁶ Hopper – Bruce, 11 October 1940, NARA, 121/133.

⁹³⁷ Anonymous, '31-Ton Bird Runs Afoul Architect: "Hawk" Is Removed From Atop Building', *Times Herald*, 15 October 1940, p. 23.

⁹³⁸ Hopper – Warneke, 20 March 1942, NARA, 121/122.

⁹³⁹ McKinzie, *op. cit.*, 1975, p. 67.

⁹⁴⁰ Hopper – Kittredge, 29 January 1940, NARA, 121/133.

with a lunchbox thereby signifying gainful employment; the other seated hunched up, without a shirt or shoes, and looking rather forlorn, to represent the suffering of unemployment. What links the two of them, apart from the standing figure's hand upon the other's shoulder to suggest sympathy, is an outline of a third figure with their right arm around the unemployed one thereby symbolising the benevolent and caring support of the state. Similarly, in her other relief entitled *Family Group* (fig. 162), above the C Street entrance, she depicted another male breadwinner with lunchbox saying goodbye to his wife whilst a small infant tugs at her dress, unifying them with another outline of a head and shoulders to personify the state. That this was a rather novel approach to figuring social security was indicated in the response of the Commission which considered the studies to be 'so dependent upon the effect of painting that it is difficult to understand their sculptural qualities'.⁹⁴¹ The somewhat abstract personification of the state was furthermore considered as 'a kind of emotionalism suggestive of sur-realism'.⁹⁴² Despite these criticisms she was given the go ahead and the finished reliefs successfully dramatise the role of the New Deal state in providing for the long-term security of American citizens.

Kittredge's two panels call attention to the fact that the building was originally named the Social Security and Railroad Retirement Building, as they deal specifically with the retirement of those workers formerly employed in this sector. The first panel entitled *Railroad Employment* (fig. 163), above the C Street entrance, shows the busy activity within a train cab as one figure has a hand firmly on the throttle whilst the other stokes the engine. The naked torso of the second figure holding a shovel piled with coal not only denotes the sweaty back-breaking labour involved in such work, but also recalls conventional images of labour on the left. Both of their expressions, in their intense concentration, clearly communicate their necessary focus upon the job. The second relief above the 3rd Street entrance, entitled *Railroad Retirement* (fig. 164), depicts a retired railway worker with his wife in their garden, both turned away in three-quarter view with the male figure waving towards a train hurtling past in the background with smoke billowing from

⁹⁴¹ Clarke – Bruce, 31 January 1940, NARA, 121/133.

⁹⁴² *Ibid.*

its funnel. A pair of sunflowers to the right of the female figure symbolise the fruits of a well-earned retirement. Whilst this is a highly effective depiction of the benefits of old age insurance, paired down for maximum effect, the Commission again missed the point. They criticised the first panel for its lack of detail and the fact that it entered 'into the realm of illustration' with the treatment being 'not sufficiently sculptural'.⁹⁴³ And they criticised the second one due to three-quarter rear view of the figures' faces for not being 'an effective way of conveying the idea of railroad retirement'.⁹⁴⁴ As Hopper pointed out, any other view of the figures would have destroyed the whole meaning of the piece, and as the Social Security Board thought this one the best of all six submissions, the artist was again given the go ahead over and above the Commission's heads.⁹⁴⁵

Finally, Kreiss produced two panels with the more generic titles of *The Growth of Social Security* (fig. 165) and *The Benefits of Social Security* (fig. 166). In the first one over the door on 3rd Street he depicted two young men congratulating themselves on planting a new fruit tree, tied to a stake to give it greater support and security. In the second one, above the entrance on Independence Avenue, he carved one of the men picking the ripened produce from the grown tree and passing it his seated wife with a plate. Again both were simple incised reliefs which employed the metaphor of planting and harvesting to communicate the long-term benefits of the new welfare state. Whilst the artist departed from these original designs after being given the commission, due to what he perceived to be their sentimentality, Rowan urged him to stick with them as 'They were a very neat simple symbolism and too good to give up'.⁹⁴⁶ This could equally be applied to the other panels on the exterior in which the artists deployed a paired-down aesthetic that simply and effectively projected the advantages of social security in terms of old-age and unemployment insurance to the American public outside the building. As such they are devoid of any critical component and are purely celebratory. As well as the unified depth of relief and the rough-hewn finish to the incised areas, the panels also shared a

⁹⁴³ Clarke – Bruce, 29 January 1940, NARA, 121/133.

⁹⁴⁴ *Ibid.*

⁹⁴⁵ Hopper – Kittredge, 29 January 1940, NARA, 121/133.

⁹⁴⁶ Kreiss – Rowan, 28 November 1939, NARA, 121/133, and Rowan – Kreiss, 1 December 1939, NARA, 121/133.

deliberate rejection of detail and a rather abstract invocation of the state. In many ways they are the sculptural equivalent to the type of decorative modernism employed within the building in the murals of Fogel and Guston. And just as the Commission could not tolerate the sculptures of Cronbach, they struggled with this simplified aesthetic which rejected the highly complex and detailed mannerisms traditionally associated with sculptural reliefs that adorned federal buildings. As such the Commission was as out of touch at this point as it had been mid-decade when the Section first began its efforts at embellishing federal buildings in the capital.⁹⁴⁷

What gave these murals and sculpture their thematic coherency was the focus upon the family as the basic unit through which the federal state could, and should, support individuals during moments of need. In this way they pay close attention to Altmeyer's claim in the competition brief that 'here in the United States, conserving the individual and, even more, the *family*, has now become an active concern of the greater family we call the nation'. The use of this motif also enabled them to fulfil Poor's advice that they choose a 'series of simple incidents, or places, or people, or conditions of living which, in themselves, may not express the whole idea of social security, but might do so through the humanity and insight with which the artist shows them'. As such these artworks clearly celebrate the New Deal's inauguration of an American welfare state, despite its deficiencies in relation to European precedents. This is hardly surprising as by the time that the competition was announced in early 1940 the period of the Second New Deal, during which time the Social Security Act was drafted, seemed irrevocably in the past. If Roosevelt's attempts at Court-packing in early 1937 had done much to destroy the political gains of the 1936 elections, then the recession later in the year eroded his position even further. Hence the artists selected to decorate this new building used the subject of social security to look backwards and celebrate not only this particular piece of legislation itself, but also that moment when the New Deal was at its most progressive, strengthened by the electoral successes of 1936 to move against big

⁹⁴⁷ And this despite the fact that Roosevelt had appointed Bruce to the Commission as a replacement for Moore who retired from his position in late 1939.

business with a range of interventionist measure that were designed to redistribute wealth to its poorer constituents. What makes the artworks interesting in this sense was the fact that this looking backwards to more liberal times was combined with an opening up of a more pluralistic aesthetic. Without a figure such as Ickes at Interior, the juries selected for both the painting and sculpture competitions were able to grant the commissions to artists that were clearly moving beyond the relatively prescriptive boundaries of typical Section art to incorporate certain modernist tendencies that had hitherto been deemed taboo. In this sense it would have been interesting to see how these developments might have played themselves out in the postwar period. But this was not to be, as in the build up to war even greater pressure was put upon the Democrats to close down the domestic reform agenda and divert all energies towards the militarization of the economy. I will finish by briefly looking at the Section's attempts at situating itself within this shifting political landscape to prolong its now increasingly insecure existence.

Eclipse

Bruce believed that he had finally won the long-term security for his art programme on 14 October 1938 when it was renamed the Section of Painting and Sculpture and made a permanent feature of the Procurement Division of the Treasury Department. Unfortunately this status proved to be short-lived as with the reorganisation of the executive branch in the spring of 1939 it was shifted to the Federal Works Agency with the Public Buildings Administration to which it was attached, along with the WPA and its Federal Art Project. Not only did the survival of two art programmes within the same agency seem highly unlikely but the move deprived Bruce of the protection of Morgenthau and his wife who had consistently been two of the Section's most vocal champions.⁹⁴⁸ Whilst the Secretary for the Treasury had praised the work of the Section to John M. Carmody, the Federal Works administrator, Bruce's new boss began by declining to guarantee that one percent of each federal building's construction costs would be put aside for the

⁹⁴⁸ McKinzie, *op. cit.*, p. 45.

purposes of embellishment. The continued existence of the Section was dealt another blow in late 1939 when hostilities broke out in Europe as this was quickly followed in Congress by increasing calls to divert government money from building programmes to military ones. Not only was the Section denied its demand for one percent, but now there was every chance that the federal building programme, to which the Section owed its very existence, would dry up, thereby starving the project of both its funding and its very *raison d'être*. These pressures were made explicit in early 1941 when John N. Edy, executive assistant and budget officer, and E. R. Witman, fiscal manager of the Public Buildings Administration, made their appropriation requests to Congress. Senator Kenneth McKellar responded with: 'Let me ask you a question there, if I may. Are we taxing the people all this money to be expended on fine arts in such buildings? Suppose the Germans or Japs come over here and bomb us, the fine arts would be a waste of money. Don't you suppose we could postpone the fine arts during the war?' Witman came back with a defence of the morale-boosting qualities of culture during such hard times but McKellar trumped him with his reply: 'I am thinking that one battleship will increase the morale more than all the arts in America'.⁹⁴⁹ The committee rejected their requests and after the bombing of Pearl Harbour later the following year it became nigh on impossible to get congressional approval for the embellishment of federal buildings.

Whilst the continued decoration of the Social Security building was relatively safe, as it had already been approved as part of the original construction costs, the fact that the Cronbach and Warneke sculptures were abandoned indicates the mounting pressure upon Section activities. By this stage even local Section activities were coming under increased attack. The Yakima Post Office sculpture commission awarded to Robert Penn was abandoned due to letters of protest from various organisations including the Chamber of Commerce who declared it to be a 'non-essential' activity during wartime.⁹⁵⁰ Clearly sensing that the Section's days were numbered Bruce made several last ditch efforts at trying to integrate his programme with the war effort in a desperate attempt to legitimate its continued

⁹⁴⁹ Quoted in *ibid*, p. 48.

⁹⁵⁰ Hopper – George C. Baer (Yakima Chamber of Commerce), 19 January 1942, NARA, 121/122.

functioning. Since 1937 he had been pushing for plans to develop a Smithsonian Gallery of Art committed to promoting contemporary art as a basis for consolidating the Section's activities and giving it a permanent home.⁹⁵¹ Despite securing a lot on the Mall he found it difficult to raise the necessary funds and the war finally killed off such plans. He attempted to secure a contract for the Section which would enable it to decorate ships constructed under the supervision of the Maritime Commission, and although Roosevelt gave his support, the Commission did everything to obstruct the process, and the plan collapsed.⁹⁵² After Pearl Harbour Bruce tried to establish an artist's corps under Section supervision to both document the war effort and assist in camouflage. The army also proved to be a reluctant partner and Roosevelt quickly vetoed the idea.⁹⁵³ Bruce then turned his efforts to securing poster work for Section artists during the war on the subject of 'My country, the hope of the world'. Unfortunately for him those he tried to convince of the project remained unconvinced, mainly due to the slow nature of Section competitions in delivering the final product.⁹⁵⁴ In early 1942 Bruce then appealed to the newly created Office of Facts and Figures, an agency charged with producing war propaganda, although they rejected his advances on the basis that such tasks were better suited to commercial, rather than fine artists.⁹⁵⁵ These desperate attempts to re-orientate the Section's activities took their toll on Bruce and he had a heart attack a few months later. Whilst it did not kill him outright he passed away the following year, and without a proper remit anymore, the Section died with him.

⁹⁵¹ On these efforts see McKinzie, *op. cit.*, pp. 43-47.

⁹⁵² *Ibid*, p. 47.

⁹⁵³ *Ibid*, p. 48.

⁹⁵⁴ *Ibid*, pp. 48-49.

⁹⁵⁵ *Ibid*, pp. 49-50.

Conclusion

This close reading of Section decoration in the Justice, Interior, and Social Security buildings demonstrates that the art produced under its auspices was a more variegated and complex phenomenon than both contemporary critiques and secondary accounts allow for. The most sophisticated general histories of the Section to date, those provided by Park and Markowitz, and Melosh, view the art that it sponsored on a national level including that installed in post offices up and down the country. As such, the analyses that they provide of the art that embellished federal buildings in the capital is just part and parcel of this general schema. Whilst the breadth of these studies is, in this sense, admirable it produces a misreading of the murals and sculpture that were placed in major federal buildings in Washington, D.C. Whilst both post office art and that designed for the capital share a generally narrow aesthetic range, ideologically they are distinct. At best radical artists could use local post office commissions to comment upon ‘the history and industries of the place’, a relatively limited scope that certain artists used to good effect.⁹⁵⁶ Whereas in federal buildings in Washington, D.C., these artists had the opportunity to produce works that commented intelligently and critically upon the major policy initiatives of the New Deal. And whilst the incredibly prescriptive working conditions that characterised Section commissions, especially in relation to the WPA/FAP, might have deterred radical artists from seeking its patronage, this was not in fact the case, as the prestige, the money, and the opportunity to produce important artwork in major federal buildings in the capital ensured that they regularly competed in these high profile competitions.

The murals in Justice are largely aligned to the progressive domestic reform agenda initiated by the Roosevelt administration and this was clearly a product of the stand-off between the federal government and an entrenched judiciary committed to a form of *laissez-faire* constitutionalism. Biddle, who played a significant part in lobbying

⁹⁵⁶ Hemingway demonstrates this fact persuasively in relation to the murals produced in the post offices in Decatur, Illinois, by Britton, Mitchell Siporin, and Edward Millman, and in Saint Louis, Missouri, by the latter two. Hemingway, *op. cit.*, 2002, pp. 159-169.

for the decoration of Justice, was clear from the outset that the select band of artists chosen to decorate this building would celebrate Democratic reform, just as the Mexicans had demonstrated their commitment to the revolution south of the border, even if its more radical aspects were largely rhetorical. And for a moment it looked as if the iconographic programme for Justice, as conceived by Biddle, would have projected a more left-leaning interpretation of justice in the United States, as befitting its author's involvement within the radical organisations of the artistic left in the early 1930s. As it was, this more coherent programme was whittled down and the more radical details largely omitted. The finished decorative ensemble was more a product of the contradictory policy outcomes of the New Deal government muddling its way through the crisis it inherited when it came to power in 1933. Much of the art that went up in the building was pretty terrible and this was a result of the Section's rather limited conception of what constituted American Scene painting – what was deemed to be democratic in its appeal to a broad consensus of the population unversed in modernist formal experimentation. Another reason for this was the Section's general wariness of anything that smacked of Mexican revolutionary art. Mexican muralism was the pre-eminent example of a revolutionary aesthetic pitched towards the masses to effect political, social, and economic change (whatever misconceptions this may have involved on the part of American observers) and it became the paradigm for a socially conscious wall-painting north of the border. Yet the political and aesthetic conservatism of the Commission of Fine Arts pushed against the pragmatic and cautious approach of the Section to curtail Mexican muralism as a viable model for Section artists. These forces combined to ensure that the art within Justice was contradictory, rejecting the Beaux-Arts approach defended desperately by the Commission, yet allowing a bastard mixture of contemporary realism and allegory in works by Sterne and Kroll.

In Interior the politically progressive, yet aesthetically conservative, Ickes imposed his will over the Section to ensure that the works that went in to decorate his new building had a far greater ideological and aesthetic coherence. His commitment to the utmost verisimilitude and his desire to see the art in his building project an

interventionist model of the federal state, associated with the Second New Deal, meant that the murals and sculptures in Interior reflected his strong and forceful presence in Roosevelt's cabinet. The fact that a significant group of leftists were awarded these commissions also ensured that the ideological projection achieved by these works had a more radical caste than those in Interior. This overlap between Ickes' agenda and that of artist such as Gropper, Cikovsky, and Fiene was facilitated by the evolution of the CPUSA's Popular Front strategy from 1935 onwards. Following the Nazi seizure of power in Germany in 1933 and the subsequent liquidation of the most powerful working-class movement in Western Europe, the Communist International (Comintern) leadership in Moscow advised its affiliate parties to approach their Social Democratic rivals with proposals for joint action against fascism, a move ratified by the seventh, and last, Comintern Congress in July 1935. In America this tactical turn coincided with the CPUSA's greatest period of influence as the popular front strategy brought together Communists, independent socialists, industrial unionists, and liberal Democrats in the defence of democracy against fascism abroad and reactionary forces at home. Communism was repackaged as twentieth-century Americanism, and the revolutionary principles usually associated with the tradition of Marxist-Leninism were largely subsumed under New Deal reformism. The rapprochement between the liberal Democratic reform and the more radical CPUSA was most clearly demonstrated in Interior with those murals that celebrated federal incursions into the free market and the defence of the civil rights of African-Americans. Here, the more radical artworks by left-leaning artists not only propagandise liberal New Deal policies, but also subtly push against them, encoding a politics to the left of the New Deal reform, even at its most extreme as encapsulated by figures such as Ickes.

With Social Security the tide had changed. Due to the debacle of the Court-packing plan and the recession of 1937-38 the New Deal coalition in Congress had shifted to the right and the domestic reform agenda was effectively stymied. As such the Social Security Act, a key legislative raft of the Second New Deal, seemed retrospectively radical, despite its obvious limitations. It became representative of a

liberal New Deal commitment to planning. Whilst these domestic commitments had been superseded in the build up to America's involvement in World War II, the artists who were commissioned looked backwards to the more progressive moment of New Deal reform, buoyed by the left-leaning coalition of trade unionists and second-generation immigrants that largely constituted its voting bloc. The fact that the radical political component of the decoration in Social Security was combined with a more pluralistic aesthetic was a product of the appointment of more aesthetically liberal juries and the decline of the left, and its corresponding cultural fronts, that endorsed a more prescriptive aesthetic method. The Section had largely won its battles with the Commission and, as Altmeyer and his associates were nowhere near as intrusive as Ickes had been at Interior, the artists chosen to decorate this building combined a diluted radicalism of the mid-1930s with a commitment to a more pluralistic aesthetic that surpassed any other Section art in the capital in terms of its formal innovation. These developments were nevertheless curtailed by the war as federally funded art became increasingly under threat from conservatives in Congress who used the war to attack what they saw as the more fiscally irresponsible elements of New Deal expenditure.

Neo-marxist theories of the state, such as that provided by Block, allow for a far more nuanced reading of Section art in Washington, D.C. By making a distinction between the those who rule and those who accumulate they allow for an analysis of the New Deal which properly understands its policy decisions as emanating from state managers who, whilst clearly circumscribed by the balance of class forces within the United States during the Depression, could make policy choices that had little support from within the ruling class, even if they were then generally administered to benefit the long-term goals of capital accumulation. This opens up a space in which to properly situate the federal art projects of the 1930s to show how the relatively autonomous initiatives of politicians affect group formation and inter-group conflict. And whilst the tight administrative prescriptions that characterised the production of Section art would have been a constant source of frustration for leftist artists, seemingly prohibiting any form of radical propaganda or emphasis

upon social conflict, closer iconographic analysis of key works certainly indicates a tension between state-sanctioned propaganda and an art that commented critically upon broader political developments in the New Deal era. By rejecting the complacency of totalising interpretations that designate state-funded art as necessarily propagandistic and reincorporating the concept of artistic agency the federal art projects properly become a contested site of struggle as radical artists sought to challenge or subvert the restrictive administrative boundaries set for public art.

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