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Chester Arthur's Ghost: A Cautionary Tale of Campaign Finance Reform

by Anthony J. Gaughan*

I. INTRODUCTION

Chester Arthur may not be the first name that comes to mind when one thinks of major figures in the rise of campaign finance law. But despite his obscurity, he deserves to be ranked among the leading reformers in American history. As President, he signed into law a reform that cleared the way for the modern system of campaign finance to take root.

This Article puts the current debate over money in politics in historical context by examining the first major campaign finance reform in American history. The 1883 Pendleton Act¹ is remembered today for establishing a professional, nonpartisan civil service. But equally important, it banned the use of political assessments (that is, mandatory dues imposed on federal and state officeholders by the political parties) to fund federal election campaigns.²

President Arthur played an important role in the Pendleton Act's success. After signing the bill into law, he supported efforts to enforce the new rules and reform the major parties' campaign finance practices. In the long run, Arthur and the reformers achieved their goal of ending the parties' use of political assessments to fund campaigns. At the same time, however, the Pendleton Act shifted election financing from the

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1. Pendleton Act of 1883, 22 Stat. 403 (1883).
2. The material in this paragraph is discussed in detail in Part II below.

political parties to incorporate America and wealthy donors. Thus, instead of reducing the influence of money in politics, the Pendleton Act ushered in a new and even more controversial era in campaign finance law, one that continues to haunt our politics today.³

The story of the Pendleton Act is thus of much more than just historical interest. It demonstrates how deeply rooted the problem of money in politics is in American history. Long before the Supreme Court of the United States heard cases like *Buckley v. Valeo*⁴ and *Citizens United v. Federal Election Commission*,⁵ money played a highly controversial role in American elections. As the story of the Pendleton Act demonstrates, campaign finance reforms have had unintended—and sometimes quite unwelcome—consequences from the very beginning.

II. THE AGE OF POLITICAL ASSESSMENTS

In the first decades of the American republic, presidents usually left in place a large number of their predecessors' subcabinet appointments, regardless of the employee's political affiliation.⁶ For example, even after the acrimonious 1800 election, Thomas Jefferson kept nearly half the executive branch officials appointed by his bitter rival and predecessor, John Adams.⁷ But a far more partisan approach to government staffing would take hold as the size of the federal bureaucracy grew.⁸ By the 1820s, the federal government's major departments—particularly the United States Post Office, the Treasury Department, and the War Department—employed thousands, which

3. The material in this paragraph is discussed in detail in Part III and Part IV below.

4. 424 U.S. 1 (1976).

5. 558 U.S. 310 (2010).

6. LEONARD D. WHITE, *THE JACKSONIANS: A STUDY IN ADMINISTRATIVE HISTORY, 1829–1861*, 300 (1954).

7. MARTIN SHEFTER, *POLITICAL PARTIES AND THE STATE: THE AMERICAN HISTORICAL EXPERIENCE* 65 (1994) (“During his first two years in office, Jefferson replaced somewhat over half the officials appointed by his predecessors—186 of 316 presidential appointees—and then he stopped.”).

8. DANIEL P. CARPENTER, *THE FORGING OF BUREAUCRATIC AUTONOMY: REPUTATIONS, NETWORKS, AND POLICY INNOVATION IN EXECUTIVE AGENCIES, 1862–1928*, 41 (2001) (“[T]he signal institutional development in the Jeffersonian period of American history (1801–29) was the explosion of a structurally static executive bureaucracy”); SHEFTER, *supra* note 7, at 66–67.

created an opportunity for the major parties to turn government payrolls into a source of campaign funds.⁹

The new approach to government employees began with the presidency of Andrew Jackson, a fiercely partisan Democrat.¹⁰ When Jackson took office in 1829, he used the growing federal bureaucracy to advance his party's hold on the government.¹¹ President Jackson and his fellow Democrats built highly professional political machines in states across the country (the direct antecedents of modern campaign organizations) that were specifically designed to establish a national political party and raise money from a large number of politically interested donors.¹² In the process, the Jacksonian Democrats brought thousands of people from working class and middle-class backgrounds into government positions previously monopolized by upper-class elites.¹³

Under Jackson's "patronage" system (also known as the "rotation" or "spoils" system), the Democratic Party fired nearly all preexisting government employees—low and high ranking alike—and replaced them with loyal Democrats.¹⁴ Although Jackson and the Democrats initiated the system in 1829, the Whig Party followed suit when it won

9. CARPENTER, *supra* note 8, at 41; WHITE, THE JACKSONIANS, *supra* note 6, at 308 (noting that the federal government employed 10,093 officeholders in 1830).

10. See ROBERT V. REMINI, ANDREW JACKSON 108–111, 124–26 (1999).

11. CARPENTER, *supra* note 8, at 41; THEDA SKOCPOL, PROTECTING SOLDIERS AND MOTHERS: THE POLITICAL ORIGINS OF SOCIAL POLICY IN THE UNITED STATES 83 (1992).

12. CARPENTER, *supra* note 8, at 41 (Jackson's patronage system was "designed to distribute the offices of state to party loyalists and to extract from those loyalists the votes and funds necessary to compete for electoral supremacy").

13. SKOCPOL, *supra* note 11, at 96 ("Patronage democracy in nineteenth-century America did indeed sponsor a sort of distributive, discretionary welfare regime The urban machines were the parts of the party system most directly in touch with the new industrial working class."), 98 ("Jobs . . . were the most important kind of aid that machine politicians provided members of the urban working class"); SHEFTER, *supra* note 7, at 68 ("By removing the bureaucrats appointed by their predecessors, the Jacksonians sought to sever the ties between the bureaucracy and these traditional social structures"), 71 ("In sum, the electoral and administrative reforms of the Jacksonians emerged out of the efforts of a middle-class leadership group to overturn a previously dominant class of notables by pursuing a strategy of mass mobilization.").

14. CARPENTER, *supra* note 8, at 41 (describing the patronage, or spoils, system whereby "[a]t every change in presidential administration, much of the federal bureaucracy would flush itself out through the rotation of party members in and out of executive departments."); SKOCPOL, *supra* note 11, at 83 ("the Jacksonians consolidated and celebrated partisan party control over the 'spoils of office,' which meant in effect that the party organizations colonized nineteenth-century U.S. public administration.").

the White House in 1840.¹⁵ Presidents soon understood that their own political fortunes depended on their commitment to the patronage system. In 1847, President James Polk wrote in his diary that “[t]he office seekers have become so numerous that they hold the balance of power between the two great parties of the country.”¹⁶ By the time James Buchanan took office in 1857, the spoils system was an entrenched feature of American government.¹⁷ As the political scientist Daniel Carpenter has observed, the patronage system defined nineteenth century “party politics more than any other development, save perhaps the Civil War.”¹⁸

The parties’ interest in building highly cohesive organizations stemmed from the inescapable reality that the nation’s growth gave rise to steadily increasing campaign costs. In 1860, for example, the United States had a population of 30 million, and the Republican National Committee (RNC) spent \$100,000 to secure Abraham Lincoln’s election to the presidency.¹⁹ By 1884, the nation’s population exceeded 50 million, and the RNC spent more than \$400,000 (the equivalent of \$10 million in today’s dollars) in the presidential campaign that year.²⁰

The patronage system played a crucial role in financing the increasingly costly federal and state election campaigns.²¹ In the 1830s, the parties began to require government employees to contribute a percentage of their salaries to the party in power for use in its reelection campaign.²² Government employees who refused risked losing their jobs.²³ These mandatory dues became known as political or

15. WHITE, *supra* note 6, at 313 (“Both Whig and Democratic administrations followed the practice of Jackson”).

16. *Id.* at 305.

17. CARPENTER, *supra* note 8, at 41; WHITE, *supra* note 6, at 313 (“The full application of the theory of rotation came with Buchanan”).

18. CARPENTER, *supra* note 8, at 41.

19. LOUISE OVERACKER, MONEY IN ELECTIONS 71 (1932).

20. MARK WAHLGREN SUMMERS, RUM, ROMANISM, & REBELLION: THE MAKING OF A PRESIDENT 1884, 168 (2000). *See also* OVERACKER, *supra* note 19, at 71.

21. CARPENTER, *supra* note 8, at 41.

22. MARK WAHLGREN SUMMERS, PARTY GAMES: GETTING, KEEPING, AND USING POWER IN GILDED AGE POLITICS 149 (2004) (“In return for being rewarded an office, the loyal partisan was expected to pay some of his or her salary to campaign funds”); CARPENTER, *supra* note 8, at 41 (“Officeholders were required by the major parties to contribute a substantial percentage of their annual salaries—usually several hundred dollars or more per person at a time when most federal employees made less than \$1,000 annually—to the party coffers.”); DOROTHY GANFIELD FOWLER, THE CABINET POLITICIAN: THE POSTMASTERS GENERAL 1829–1909, 34 (1967) (“The rate varied from 1 to 6 percent.”).

23. CARPENTER, *supra* note 8, at 41; SUMMERS, PARTY GAMES, *supra* note 22, at 149 (“On the whole, those who refused one assessment were well advised to submit to others,

party “assessments,” and the parties imposed them on every federal, state, county, and municipal employee.²⁴ The system reached full maturity under President Martin Van Buren, the Democrat who succeeded Jackson in the White House in 1837.²⁵ One newspaper of the era reported that, under Van Buren, “every officeholder . . . was subject to a tax for election purposes.”²⁶

The career prospects of individual party officials depended on their success in raising money for the party.²⁷ Senior government officials understood that their professional future depended on generous contributions to their party. For example, New York City Postmaster Isaac Fowler gave \$1,000—a huge sum at the time—to James Buchanan’s presidential campaign in 1856.²⁸ The parties also demanded that candidates themselves make and solicit large campaign contributions.²⁹ By the 1880s, for example, the parties expected each New York City mayoral candidate to come up with \$25,000 for campaign expenses.³⁰ Political assessments thus served as a crucial source of campaign funds.³¹ As the historian Mark Wahlgren Summers has observed, “[t]he assessment process, both on candidates and on officeholders, was in effect an informal tax system to sustain the parties.”³²

From the beginning, critics warned that the patronage system resulted in government officeholders motivated by personal profit

and those who had given in the past were best protected for exercising their discretion thereafter.”); FOWLER, *supra* note 22, at 34 (“when an employee protested, he was usually asked if his fifteen hundred dollar job was not worth fifteen dollars.”), 99 (“It was tacitly understood, however, that if a clerk refused to pay the percentage set, he might lose his job”).

24. CARPENTER, *supra* note 8, at 41; WHITE, *supra* note 6, at 332; SUMMERS, PARTY GAMES, *supra* note 22, at 149 (“National, state, county, ward, and district organizations sent out requests [for assessments] . . . No salary was too modest to be overlooked, from municipal scrubwomen to disabled inmates of soldiers’ homes and jailhouse wardens.”).

25. FOWLER, *supra* note 22, at 34.

26. *Id.*

27. CARPENTER, *supra* note 8, at 41.

28. FOWLER, *supra* note 22, at 99.

29. SUMMERS, PARTY GAMES, *supra* note 22, at 150 (Campaign donations “were expected, even demanded, of any nominee.”).

30. *Id.*

31. STEPHEN SKOWRONEK, BUILDING A NEW AMERICAN STATE: THE EXPANSION OF NATIONAL ADMINISTRATIVE CAPACITIES, 1877–1920, 53 (1982); CARPENTER, *supra* note 8, at 41 (“Party assessments were the institutional glue that bound party to state in the nineteenth century”); SUMMERS, PARTY GAMES, *supra* note 22, at 149 (“At the heart of party finance was the principle of assessment on officeholders in particular and partisans in general.”).

32. SUMMERS, PARTY GAMES, *supra* note 22, at 154.

rather than political principles. Former President John Quincy Adams, for example, described the new political class as “wolves of the antechamber, prowling for offices.”³³ But Jacksonian democracy had some redeeming qualities as well. By creating modern political parties and tying their electoral success to job security for government employees, the spoils system encouraged mass participation in democratic elections.³⁴ The patronage system took root at a time when states across the country adopted universal white male suffrage, a development that dramatically increased the size of the electorate.³⁵ With the parties mobilizing voters on a massive scale, turnout among eligible voters stood at 75% from the 1840s until 1900, the highest turnout level in American history.³⁶ Thus, under the spoils system, the United States became the “world’s first large-scale popular democracy.”³⁷ As one observer remarked in the 1840s, the country “heaved and tossed in wild commotion at every presidential election as a result of the hope of office.”³⁸

Not coincidentally, the surge in turnout levels saw money flow into campaigns like never before. As election costs soared, the assessment system gave the parties a ready source of campaign funds, which not all politicians viewed as a good thing. In 1834, Senator Daniel Webster condemned political assessments as “abuse of official station” and “misuse of the money paid for public services.”³⁹ But the lucrative assessment system proved irresistible to the parties. With each passing decade, the parties became ever more proficient at wringing funds out of government employees. In 1853, for example, political assessments on the 557 employees of the Port of New York generated \$6,817.50 per month for the Democratic Party.⁴⁰ The growing number of local, state, and federal government employees generated a steady flow of campaign

33. WHITE, *supra* note 6, at 303.

34. CARPENTER, *supra* note 8, at 42 (“[T]he spoils system invigorated American democracy by creating the world’s first nationwide mass parties.”).

35. SKOCPOL, *supra* note 11, at 72 (1992) (“The franchise was extended to virtually all adult white males” by the 1840s.); WHITE, *supra* note 6, at 333 (“Large masses of new voters were enrolled as old suffrage limitations were abandoned.”).

36. SKOCPOL, *supra* note 11, at 76 (“It was also the most democratically mobilized in American history, since turnout rates in U.S. national elections from the 1840s to the turn of the century consistently remained much higher than either previously or afterward.”); RICHARD L. MCCORMICK, *THE PARTY PERIOD AND PUBLIC POLICY: AMERICAN POLITICS FROM THE AGE OF JACKSON TO THE PROGRESSIVE ERA 200–201* (1986).

37. SKOCPOL, *supra* note 11, at 72.

38. WHITE, *supra* note 6, at 325.

39. *Id.* at 334.

40. *Id.* at 335.

cash for the parties. By 1881, for example, the Postal Service alone employed 55,000 people, which made it a major source of funds for the incumbent Republican Party.⁴¹

President Lincoln was one of the most aggressive and successful practitioners of the dark arts of patronage and fundraising.⁴² Upon taking office he removed 1,457 of 1,639 officials.⁴³ During the Civil War, the Lincoln Administration imposed steep political assessments on Republican officeholders, usually five percent of their salaries but in some case up to ten percent.⁴⁴ Lincoln required campaign contributions from Republican-appointed customs officers, federal workers, war contractors, and even Cabinet officials.⁴⁵ Three of Lincoln's cabinet members—William Seward, John Palmer Usher, and Montgomery Blair—contributed \$500 each to the reelection campaign, and the campaign assessed \$250 campaign dues on the rest of the Cabinet members.⁴⁶ Meanwhile, Henry Raymond, Lincoln's campaign manager, collected assessment dues even from low-ranking employees engaged in menial tasks.⁴⁷ Those who refused to pay were removed from office.⁴⁸

Not everyone was happy to pay.⁴⁹ Gideon Welles, Lincoln's Secretary of the Navy, privately complained that the political assessments were "not in all respects right or proper."⁵⁰ In his diary, Welles bitterly criticized Lincoln's campaign manager, who Welles believed lacked "honesty" and "principle" and employed instead "[m]oney" and the promise of government offices to win elections.⁵¹ But Lincoln himself was unapologetic and sternly summoned Secretary Welles to the White House for a meeting with Raymond.⁵² As the historian David Herbert

41. ZACHARY KARABELL, *CHESTER ALAN ARTHUR* 96 (2004).

42. DAVID HERBERT DONALD, *LINCOLN RECONSIDERED: ESSAYS ON THE CIVIL WAR ERA 173-79* (3d ed. 2001); CARL RUSSELL FISH, *THE CIVIL SERVICE AND THE PATRONAGE 169-72* (1905); JOHN G. SPROAT, "THE BEST MEN": LIBERAL REFORMERS IN THE GILDED AGE 258 (1968) ("Lincoln, of course, had made brilliant use of the patronage in the campaign and election of 1864.").

43. FISH, *supra* note 42, at 170.

44. JOHN C. WAUGH, *REELECTING LINCOLN: THE BATTLE FOR THE 1864 PRESIDENCY* 314, 329-30 (1997); DONALD, *supra* note 42, at 178-79; FRANCIS BROWN, *RAYMOND OF THE TIMES* 262-64 (1951).

45. WAUGH, *supra* note 44, at 329-31; DONALD, *supra* note 42, at 178-79; BROWN, *supra* note 44, at 262-64.

46. CHARLES BRACELEN FLOOD, *1864: LINCOLN AT THE GATES OF HISTORY* 314 (2009).

47. *Id.* at 314, 316.

48. MALCOLM MOOS, *THE REPUBLICANS: A HISTORY OF THEIR PARTY* 115 (1956).

49. BROWN, *supra* note 44, at 262-63.

50. WAUGH, *supra* note 44, at 330.

51. *Id.* at 330-31.

52. DONALD, *supra* note 42, at 179.

Donald has explained, the president's campaign manager "gave the Secretary a little lecture on the political facts of life, with Lincoln silently approving each word."⁵³

Lincoln acknowledged that he engaged in patronage tactics as aggressively "as any administration ever did."⁵⁴ Political realities demanded nothing less in the president's view. The funds the administration raised from government employees enabled Lincoln to distribute seven million campaign pamphlets, a vast circulation that far surpassed the efforts of his Democratic opponent, George McClellan.⁵⁵ In addition, Raymond sent thousands of dollars to Republican organizations in key states, such as Pennsylvania and Indiana, and he funded campaign speakers in cities and towns across the North.⁵⁶

Lincoln's successful 1864 reelection campaign also broke new fundraising ground. Not content to rely on officeholder assessments, the Lincoln campaign received large contributions from business and industry.⁵⁷ For example, the head of the Phelps, Dodge & Co. mining and metal manufacturing company in New York contributed \$3,000 to the Republican election campaign.⁵⁸ To be sure, political assessments remained the backbone of Lincoln's 1864 reelection strategy, but the incipient ties between business interests and the Lincoln campaign anticipated subsequent campaign finance developments. The Pendleton Act in the 1880s would accelerate the marriage of business and politics and set the stage for the modern era of campaign finance law.

III. THE PENDLETON ACT

In the years after the Civil War, the assessment system came under increasing public criticism.⁵⁹ Newspapers and magazines like the *Nation* played a key role in bringing attention to the influence of money in politics, describing it as a source of corruption and a threat to good government.⁶⁰ Although the funding practices of the 1870s and early

53. *Id.*

54. *Id.* at 177.

55. MOOS, *supra* note 48, at 115.

56. BROWN, *supra* note 44, at 264.

57. FLOOD, *supra* note 46, at 318.

58. BROWN, *supra* note 44, at 263; FLOOD, *supra* note 46, at 318.

59. ARI HOOGENBOOM, *OUTLAWING THE SPOILS: A HISTORY OF THE CIVIL SERVICE REFORM MOVEMENT, 1865-1883*, 13, 14-15 (1968)(describing the civil service reform bill authored by Rep. Thomas Jenckes of Rhode Island and put before the House of Representatives in December 1865).

60. SUMMERS, *PARTY GAMES*, *supra* note 22, at 155 ("[N]ewspapers readily ascribed corruption to any convention where a rich man was involved."); HOOGENBOOM, *supra* note 59, at 18-19.

1880s had not fundamentally changed since the 1850s, the rise of ambitious national magazines and big city newspapers with large readerships put a new spotlight on the parties' campaign finance practices.⁶¹ For example, the journalist E.L. Godkin described the spoils system as "[t]he seat of all the fraud and corruption" that plagued the government.⁶² In the 1870s, reformers opposed to political assessments began to win public opinion to their side.⁶³ Even President Ulysses Grant—a practitioner of patronage politics himself—conceded that the spoils system "does not secure the best men, and often not even fit men, for public place."⁶⁴

Inspired by civil service reforms in Britain, American reformers sought to establish a professional civil service, one that would be selected on the basis of merit rather than partisan affiliation.⁶⁵ Reformers hoped that a nonpartisan civil service would reinvigorate American government, making it more efficient and competent.⁶⁶ Although state and local organizations spearheaded the civil service campaign in the 1870s, the various reform groups coalesced in 1881 into the National Civil Service Reform League (NCSRL), which became a potent lobbying group.⁶⁷

A deep distrust of the parties shaped the reformers' worldview. According to advocates of civil service reform, the Republican and Democratic parties served as the principal sources of government corruption and incompetence.⁶⁸ Reformers complained that "[p]arty

61. SUMMERS, PARTY GAMES, *supra* note 22, at 231 ("Politics may have been no more putrid than in the 1850s, but the metropolitan press had greater resources for nosing out scandals and broadcasting them to a wider audience.")

62. THOMAS C. REEVES, GENTLEMAN BOSS: THE LIFE OF CHESTER ALAN ARTHUR 63 (1975).

63. SUMMERS, PARTY GAMES, *supra* note 22, at 155; REEVES, *supra* note 62, at 55–56.

64. REEVES, *supra* note 62, at 56.

65. SKOWRONEK, *supra* note 31, at 55; HOOGENBOOM, *supra* note 59, at 16 ("The bill Jenckes introduced was patterned on British precedent.")

66. SPROAT, *supra* note 42, at 257 ("Increasingly in the postwar period, liberal reformers turned to civil service reform as a panacea for all the ills of the nation—economic, social, moral, as well as political."); SUMMERS, PARTY GAMES, *supra* note 22, at 235 (reformers hoped that civil service reform would make "the government machinery run smoothly and cheaply" and nonpartisan public policy experts would "master the intricacies of their field in ways that no party-packed body could.")

67. SPROAT, *supra* note 42, at 262–63.

68. MCCORMICK, *supra* note 36, at 22 ("Party government, they believed, was conducted by ignorant, untrained men; it was haphazard and irresponsible; and, perhaps above all, it made unwise policies."); SPROAT, *supra* note 42, at 257 ("Liberals saw political patronage as the root and source of bribery and corruption, a symbol of national shame and demoralization."), 270 (noting that the reformers were "[d]istrustful of democracy" and "resented bitterly the power and authority that 'lesser men' than they exercised.")

managers passed over educated, qualified candidates and distributed offices to 'hacks' and ward-heelers who had done their bidding during campaigns and would continue to serve them in government."⁶⁹

But class resentments played a role in the reformers' thinking as well. The push for civil service reform originated among patrician elites and the rising professional classes who sought to fill the ranks of public offices with the "best men," by which they meant college-educated men from privileged and wealthy backgrounds.⁷⁰ Upper-class claimed that the spoils system put in positions of authority irresponsible officials empowered by ignorant masses of lower class voters.⁷¹ Many supporters of civil service reform viewed ordinary voters with suspicion and hoped the "responsible body of men in society" would "be in a position to counter the rising influence of ignorance and sheer numbers" in American politics.⁷² As the historian John Sproat has explained, many civil service reformers viewed ordinary voters with disdain and believed that "the American people as a whole were unworthy of self-government."⁷³ Accordingly, as Theda Skocpol has argued, the civil service reformers "hoped to take government out of the hands of party politicians and give it instead to socially respectable, educated people—like themselves."⁷⁴ In the reformers' view, therefore, "good government" meant having federal offices occupied by the educated upper classes and not by the "masses."⁷⁵

To restore "good government" and reduce the influence of the major political parties, civil service reformers proposed outlawing political

69. SPROAT, *supra* note 42, at 269.

70. SKOWRONEK, *supra* note 31, at 53; MORTON KELLER, *AFFAIRS OF STATE: PUBLIC LIFE IN LATE NINETEENTH CENTURY AMERICA* 272 (1977); SPROAT, *supra* note 42, at 269, 277 (describing the reformers' preference for officeholders "whose breeding, education and 'natural proclivities' set them far above the masses and endowed them with the wisdom and restraint essential to the proper functioning of government."); MCCORMICK, *supra* note 36, at 234.

71. SPROAT, *supra* note 42, at 257 ("In the hands of irresponsible party leaders the spoils system became a dangerous weapon, for it enabled the politicians to regiment great masses of voters and to create, in effect, an army of mercenaries always ready at a command to overpower decent citizens."); SKOWRONEK, *supra* note 31, at 53–54; REEVES, *supra* note 62, at 64 ("reformers . . . believed that the spoils system was not only squandering taxpayers' money but—even more important—was also debasing and crippling democratic government.").

72. SPROAT, *supra* note 42, at 250, 259–60.

73. *Id.* at 271.

74. SKOCPOL, *supra* note 11, at 262–63.

75. SPROAT, *supra* note 42, at 271.

assessments.⁷⁶ A first step toward that epochal campaign finance reform came in the 1870s when Congress prohibited federal officials and employees from soliciting campaign contributions from other federal officials and employees.⁷⁷ The Supreme Court upheld the law against a constitutional challenge in an 1882 case, observing that:

[i]f contributions from those in public employment may be solicited by others in official authority, it is easy to see that what begins as a request may end as a demand, and that a failure to meet the demand may be treated by those having the power of removal as a breach of some supposed duty, growing out of the political relations of the parties. Contributions secured under such circumstances will quite as likely be made to avoid the consequences of the personal displeasure of a superior, as to promote the political views of the contributor,—to avoid a discharge from service, not to exercise a political privilege.⁷⁸

In 1876, New York Governor Samuel Tilden, the Democratic presidential nominee, campaigned against the patronage system, a sign that civil service reform had arrived as a national political issue.⁷⁹ In 1880, the Republican presidential nominee, James Garfield, conceded to political reality by endorsing—albeit in vague and evasive terms—a modest form of civil service reform.⁸⁰

The turning point came in 1881 when Senator George Pendleton of Ohio authored a bill to establish a nonpartisan civil service and eliminate political assessments.⁸¹ Pendleton was an unlikely promoter of civil service reform.⁸² He had deep ties to the railroad industry and was a partisan Democrat who had defended slavery during the Civil War.⁸³ But he eventually came around to the cause of civil service

76. SUMMERS, PARTY GAMES, *supra* note 22, at 235 (“A merit system and an end to assessments . . . would be the first essential steps before government could be entrusted with new responsibilities.”).

77. LEONARD D. WHITE, THE REPUBLICAN ERA: A STUDY IN ADMINISTRATIVE HISTORY, 1869–1901, 333–34 (1958); FOWLER, *supra* note 22, at 150 (“In 1870, a law had been passed forbidding the solicitation by or giving of contributions or gifts to superior officers.”).

78. *Ex parte Curtis*, 106 U.S. 371, 374 (1882).

79. KARABELL, *supra* note 41, at 98.

80. JUSTUS DOENECKE, THE PRESIDENCIES OF JAMES A. GARFIELD AND CHESTER A. ARTHUR 40 (1981) (noting that Garfield “vaguely endorsed tenure for civil servants while specifically promising to consult party leaders on major appointments.”).

81. KARABELL, *supra* note 41, at 107; WHITE, THE REPUBLICAN ERA, *supra* note 77, at 335.

82. KARABELL, *supra* note 41, at 95.

83. *Id.*

reform and pursued it doggedly.⁸⁴ Pendleton's bill proposed the establishment of a professional, merit-based civil service system whereby federal employees would be selected on the basis of competitive examinations and political assessments would be rendered a thing of the past.⁸⁵

Despite Pendleton's efforts, his civil service bill would likely have died in committee if not for a national tragedy later that year. In the summer of 1881, a deranged office-seeker assassinated President James Garfield.⁸⁶ Although Garfield never seriously challenged the patronage system during his brief time in office, his assassination galvanized the nation in favor of civil service reform.⁸⁷ As the historian John Sproat observed, "[t]he single rash act of a disgruntled petty spoilsman did as much for the cause of political reform as all the speech-making and writing of the liberal reformers."⁸⁸ After the president's death, the NCSRL printed posters of Garfield emblazoned with his pro-reform statements.⁸⁹ In the words of the historian Ari Hoogenboom, "Garfield dead proved more valuable to reformers than Garfield alive."⁹⁰ During the 1882 midterm elections, the NCSRL publicized the names of members of Congress who opposed civil service reform and backed candidates who supported Pendleton's bill.⁹¹

During the 1882 campaign, civil service reform became an issue that sharply divided candidates along partisan lines.⁹² Democrats embraced the ban on political assessments because Republicans—the incumbent party in the White House since 1869—benefited disproportionately from

84. *Id.*

85. REEVES, *supra* note 62, at 323; KARABELL, *supra* note 41, at 95.

86. SKOWRONEK, *supra* note 31, at 65; SPROAT, *supra* note 42, at 264 ("it was the assassination of Garfield that opened the way for passage of the Pendleton bill"); KARABELL, *supra* note 41, at 105 ("It took the assassination of a president to jump-start the process.").

87. DOENECKE, *supra* note 80, at 40–41, 44–45 (Garfield "was not above making promises of patronage and influence."), 95 ("To many, the spoils system itself was responsible for Guiteau's act."); HOOGENBOOM, *supra* note 59, at 209 ("Guiteau's bullet advanced the civil service reform movement.").

88. SPROAT, *supra* note 42, at 264.

89. SKOWRONEK, *supra* note 31, at 66; HOOGENBOOM, *supra* note 59, at 212.

90. HOOGENBOOM, *supra* note 59, at 212.

91. SKOWRONEK, *supra* note 31, at 66; SPROAT, *supra* note 42, at 264; HOOGENBOOM, *supra* note 59, at 233.

92. For an analysis of the partisan divide over the Pendleton bill, see HOOGENBOOM, *supra* note 59, at 231–34.

the patronage system.⁹³ Shut out of power at the federal level for more than a decade, Democrats saw nothing to lose—as well as a significant public relations advantage to gain—by supporting an end to assessments.⁹⁴ Republicans, in contrast, had no incentive to embrace reform of a system they had thrived under for years.

The stunningly one-sided outcome of the 1882 elections broke the deadlock. Democrats won by landslide margins in the congressional elections, bringing an end to the Republican House majority and completely changing the political calculus.⁹⁵ The public mood was unmistakable. Many incumbent Republicans who opposed reform lost their seats, and many Democrats who supported reform won.⁹⁶ Republicans suffered such severe losses in the 1882 elections that the lame-duck Republican Congress feared the pro-reform tide might sweep the Republicans out of the White House as well in 1884.⁹⁷ Above all, the 1882 election results made clear that Democrats would hold a huge majority in the House of Representatives in 1883, which meant Republicans needed to act quickly before the new Congress was seated.⁹⁸

Ironically, the 1882 election results also gave the Republicans an opportunity. The lame-duck Republican majority realized that, by belatedly embracing civil service reform in the closing days of their

93. SKOWRONEK, *supra* note 31, at 65; SUMMERS, PARTY GAMES, *supra* note 22, at 235 (“Democrats saw the bill as a chance to deprive Republicans of their campaign funds, by shutting off the flow of assessments.”).

94. SUMMERS, PARTY GAMES, *supra* note 22, at 235 (explaining that Democrats saw benefits “of donning the garments of reform to improve their political image”).

95. KARABELL, *supra* note 41, at 100–01 (“In the House of Representatives, nearly forty incumbents were defeated, almost all of them Republicans. That was almost unprecedented.”); SUMMERS, PARTY GAMES, *supra* note 22, at 235 (explaining that “Republicans lost the House in 1882 by thumping majorities”); HOOGENBOOM, *supra* note 59, at 234.

96. SKOWRONEK, *supra* note 31, at 66 (“Although it is difficult to discern the actual effect of this campaign, the November election routed Republicans in those states where reform organizations were strongest.”); SPROAT, *supra* note 42, at 264 (“In 1882 [the NCSRL] claimed credit, probably deserved, for the election of a sizable contingent of new congressmen pledged to vote for the Pendleton bill.”); HOOGENBOOM, *supra* note 59, at 236 (“Political assessments had proved a liability”).

97. REEVES, *supra* note 62, at 322 (“GOP Congressmen sought to protect the jobs of current officeholders in the all-too-likely event of defeat in 1884.”); HOOGENBOOM, *supra* note 59, at 236 (“The outlook for the Republican party in 1884 was not promising.”).

98. KARABELL, *supra* note 41, at 101 (“The balance shifted decisively in favor of the Democrats, who in the Forty-eighth Congress would enjoy a majority of nearly two to one in the House.”); HOOGENBOOM, *supra* note 59, at 237.

legislative session, they could turn the tables on the Democrats.⁹⁹ Having already filled the federal bureaucracy with members of their own party, Republicans would now be in a position to invoke the Pendleton Act as a shield to prevent a future Democratic president from replacing them.¹⁰⁰ In short, Republicans could have their cake and eat it too.¹⁰¹ Not surprisingly, therefore, civil service reform suddenly gained broad support among congressional Republicans in the weeks after the 1882 elections.¹⁰² If reform had to happen, the Republicans reasoned, it was better to do it on their terms when their appointees held office.¹⁰³

Conversely, many of the Democrats who opposed assessments also had a change of heart, realizing that it would be better for their partisan interests to delay reform until a Democratic president occupied the White House.¹⁰⁴ Consequently, congressional Democrats pressured Pendleton to delay his bill until after the 1884 elections, but he refused and the Senate took up the bill in December 1882.¹⁰⁵ Democrats were outraged. When the congressional debate on the Pendleton bill began, Henry Adams observed that the somber mood in Congress was that of a “pack of whipped boys.”¹⁰⁶ Democrats never forgave Pendleton for betraying the party and treated him like a pariah for the rest of his political career.¹⁰⁷

Although momentum in Congress had moved sharply in favor of Pendleton’s reform bill, the legislation still needed the support of the

99. SKOWRONEK, *supra* note 31, at 66 (“passage of a bill while Arthur was in office would mean that Republican appointees could be frozen in place if the Democrats actually came to power”); HOOGENBOOM, *supra* note 59, at 237.

100. KARABELL, *supra* note 41, at 106 (“[T]he outgoing Republicans could cram the bureaucracy with loyalists . . . [T]he Pendleton Act would prevent Democrats from removing the grandfathered Republican appointees.”); HOOGENBOOM, *supra* note 59, at 237.

101. HOOGENBOOM, *supra* note 59, at 237 (“Republicans supported the [Pendleton] bill for two reasons: they could pose as reformers in 1884 and win back lost support, and they could ‘freeze’ Republicans in office behind civil service rules if the Democrats would win the election” in 1884).

102. KARABELL, *supra* note 41, at 103 (“Within weeks of the defeat, they became zealous converts to the cause of civil service reform.”).

103. SUMMERS, PARTY GAMES, *supra* note 22, at 235 (“Suddenly, Republicans saw the need for civil service reform, and immediately.”).

104. SKOWRONEK, *supra* note 31, at 66; KARABELL, *supra* note 41, at 105 (“It soon became clear that the two parties had traded places. A number of prominent southern Democrats lined up against the bill, and the Republicans tripped over themselves to support it.”).

105. SKOWRONEK, *supra* note 31, at 66.

106. KARABELL, *supra* note 41, at 105.

107. SKOWRONEK, *supra* note 31, at 66; HOOGENBOOM, *supra* note 59, at 238 (“Pendleton’s strong stand for reform . . . ultimately cost him his senatorial career.”).

new president, Chester Arthur. In light of his political background as a machine politician, many reformers feared that Arthur would veto the bill or otherwise obstruct it.¹⁰⁸ By freeing officeholders “of the obligation to contribute time or money to political campaigns,” the Pendleton bill represented a direct attack on the campaign finance system that Arthur had promoted and defended for decades.¹⁰⁹ It not only banned political assessments but also included provisions to bar Members of Congress from fundraising in federal buildings and to outlaw the practice of removing federal employees who refused to make political contributions.¹¹⁰ None of those provisions seemed likely to win Arthur’s approval. As the historian Zachary Karabell has noted, Arthur “was, after all, the spoilsman who became president, and no one expected him to be an advocate for civil service reform.”¹¹¹

Indeed, Arthur had spent his entire political career deeply enmeshed in the old campaign finance system. No one knew the old ways better than he did. His involvement in the assessment system began twenty years before in 1862, when Arthur paid his first political assessment—\$250—while serving on the staff of New York Governor Edwin Morgan.¹¹² Two years later, during the 1864 election, Arthur made a name for himself by skillfully wringing out large amounts of assessments from postmasters in order to help finance President Lincoln’s reelection campaign.¹¹³ His success caught the White House’s attention. After Lincoln’s victory, Arthur received an invitation to the presidential inauguration ceremony, a tacit recognition of his fundraising talents.¹¹⁴ Four years later, during the 1868 election, Arthur once again proved a highly effective fundraiser for the Republican Party.¹¹⁵

By the 1870s, Arthur had built such a strong national reputation as a Republican fundraiser that he was rewarded with appointment as Collector of the Port of New York, the single most lucrative patronage position in the country.¹¹⁶ Half of all federal revenues came from

108. KARABELL, *supra* note 41, at 110.

109. REEVES, *supra* note 62, at 323; SPROAT, *supra* note 42, at 265 (The Pendleton Act “removed classified employees from the direct control of party bosses by prohibiting campaign assessments and indiscriminate removals from office for political reasons.”).

110. WHITE, THE REPUBLICAN ERA, *supra* note 77, at 335.

111. KARABELL, *supra* note 41, at 110.

112. REEVES, *supra* note 62, at 37.

113. *Id.* at 38.

114. *Id.*

115. *Id.* at 76–77.

116. SCOTT S. GREENBERGER, THE UNEXPECTED PRESIDENT: THE LIFE AND TIMES OF CHESTER A. ARTHUR 79 (2017); REEVES, *supra* note 62, at 60, 62; RON CHERNOW, GRANT

customs duties collected at the port of New York.¹¹⁷ As head of the New York Custom House, the Port Collector generated \$36,000 annually in political assessments from customhouse employees.¹¹⁸ Arthur proved highly skilled at managing the Custom House's assessment system.¹¹⁹ One of Arthur's subordinates at the Custom House called him "probably the ablest politician that has ever filled the collector's chair."¹²⁰ He also enjoyed himself. Personable and outgoing, Arthur stayed up late drinking, eating, and smoking with his political allies and then usually arrived at work at the Custom House at 1 p.m.¹²¹

He did not keep normal hours because he did not have a normal government job. As holder of the most important patronage appointment in the country, he used his position to raise funds for the Republican Party and to secure favors for Republican leaders.¹²² In one case, for example, he personally ensured that 205 cases of champagne passed through customs and made their way to President Grant in the White House.¹²³ Even Democrats liked him. He cut mutually beneficial deals with Tammany Hall, the Democratic Party's political machine in New York, while simultaneously building up the Republican organization in the state.¹²⁴ As his biographer Thomas Reeves explained, Arthur was "a professional spoilsman, an administrator of patronage, an architect of party victory."¹²⁵ He was, in short, the consummate political operator.¹²⁶

But as a result, Arthur did not have clean hands when it came to campaign finance practices. Worse yet, he was not above lying about his role in the assessment system. For example, when growing public outrage at political assessments forced the Grant Administration to launch an investigation, Arthur insisted that he had no personal

736 (2017) ("Seated on his new patronage throne, Arthur would make \$50,000 a year, a salary equal to the President's.").

117. SKOWRONEK, *supra* note 31, at 61 ("The Port of New York was the lifeline of American government, accounting for well over 50 percent of all federal revenues.").

118. REEVES, *supra* note 62, at 63.

119. *Id.* at 70–71.

120. *Id.* at 71.

121. REEVES, *supra* note 62, at 72; GREENBERGER, *supra* note 116, at 81.

122. REEVES, *supra* note 62, at 72–73.

123. *Id.*

124. *Id.* at 74.

125. *Id.* at 70.

126. *Id.* at 73 ("professional politicians in both parties recognized him as one of Conkling's most effective lieutenants: a schemer with influence in the party's highest circles, and a spoilsman whose concern for power interested him in the smallest public job.").

involvement in any wrongdoing.¹²⁷ He claimed that his subordinates, acting “wholly without my knowledge,” had “voluntarily raised a sum of money to be devoted towards paying the legitimate expense of the Republican Campaign Com[mittee].”¹²⁸ The truth was Arthur was personally and deeply involved in collecting involuntary assessments, otherwise he would never have received the port collector position in the first place. But nothing came of the investigation, and Arthur remained in his post.

The experience of being investigated did not dim Arthur’s ardor for collecting campaign cash. In 1876, he played a prominent role in raising campaign funds for the Republican presidential ticket.¹²⁹ During the campaign, the Custom House informed all of its employees to report to Colonel Joseph Pinckney, Arthur’s close friend and fellow Republican, and pay four percent of their annual salary to him as a “voluntary” contribution to the Republican Party.¹³⁰ To collect the assessments from Arthur’s employees quickly and efficiently, Pinckney set up shop in an office across the street from the Custom House.¹³¹ Arthur’s friend, Silas Burt, observed that Pinckney’s conspicuous presence outside the Custom House, combined with his aggressive solicitation of “donations” from Custom House employees, represented the use of “intimidation to crush out any spark of revolt” that reluctant employees might have harbored.¹³²

The exact amount of assessments raised by Arthur and Pinckney during the 1876 campaign is unknown, but the extraordinary amount of Arthur’s contributions to Republican candidates that year gives a hint at the scale of the Custom House assessments.¹³³ Over the course of the 1876 election, Arthur wrote checks amounting to over \$72,000 to Republican state and national party leaders.¹³⁴ By way of contrast, Abraham Lincoln’s entire presidential campaign cost \$100,000 in 1860. But Arthur was far from alone in raising campaign money. Many other Republican-controlled federal agencies and departments levied

127. *Id.* at 78 (“Until after the receipt of your letter none of these facts were known to me.”).

128. *Id.*

129. *Id.* at 102 (“Campaign funds were badly needed by Republicans in 1876, and predictably they turned to the New York Customhouse, where Collector Arthur was firmly determined to see that each party appointee paid every penny of his assigned ‘donation.’”).

130. *Id.*

131. *Id.*

132. *Id.*

133. *Id.* at 102–03.

134. *Id.* at 102.

assessments as well.¹³⁵ In an October 1876 letter, the Republican-appointed postmaster in Milwaukee privately acknowledged that “[f]ederal officials have been bled until I am ashamed to ask for more.”¹³⁶

The Republican nominee in 1876, Rutherford B. Hayes, benefited from the assessment system during his successful presidential campaign.¹³⁷ But he privately condemned assessments and told the reformer Carl Schurz that, once in office, “this whole assessment business will go up, ‘hook, line and sinker.’”¹³⁸ Hayes tried to make good on his promise.¹³⁹ After his victory in the 1876 election, he attempted to ban political assessments and establish a nonpartisan civil service.¹⁴⁰ But first, he needed to prove how corrupt the old system was. In April 1877, one month after his inauguration as president, Hayes ordered a federal investigation into alleged cases of corruption at customhouses along the Atlantic seaboard from Boston in the northeast to New Orleans in the Deep South.¹⁴¹

Arthur found himself at the center of the investigation when federal authorities took a particular interest in the “conduct of business at the New-York Customhouse.”¹⁴² President Hayes appointed John Jay—grandson of the first chief justice—to lead the investigative commission.¹⁴³ The *New York Times* praised the investigation, declaring that New York’s “Custom-house is, in fact, the most complete and offensive example of the need of that reform in the civil service which President Hayes had promised that could be found in the country.”¹⁴⁴ Nearly ninety witnesses testified, including Arthur himself, and the commission amassed detailed records of Custom House practices.¹⁴⁵ In a public investigation, the Jay Commission revealed pervasive waste, inefficiency, and corruption at the New York Custom House, including

135. *Id.* at 103 (“Outside New York the exaction of funds from government workers was also carried out vigorously.”).

136. *Id.*

137. *Id.* at 104.

138. *Id.*

139. For an analysis of the Hayes Administration’s maladroitness efforts at civil service reform, see HOOGENBOOM, *supra* note 59, at 135–78.

140. REEVES, *supra* note 62, at 113, 121, 134; FOWLER, *supra* note 22, at 169 (“President Hayes and Postmaster General Key also tried to divorce the postal service from party management and to abolish political assessments.”).

141. REEVES, *supra* note 62, at 110, 112, 114.

142. *Id.* at 114.

143. *Id.* at 113; HOOGENBOOM, *supra* note 59, at 151.

144. REEVES, *supra* note 62, at 113.

145. *Id.* at 114–15.

rampant cases of smuggling, bribes, and outrageous accounting errors.¹⁴⁶

Despite the overwhelming evidence of widespread corruption at the New York Custom House, Arthur took a combative and defensive approach to the Jay Commission. In his testimony, he claimed that only qualified applicants received government jobs under his watch.¹⁴⁷ Although he conceded that instances of corruption had occurred at the Custom House, he insisted that “nearly all” episodes predated his tenure as port collector.¹⁴⁸ He also claimed that there was little hard evidence of a pervasive problem of corruption at the Custom House.¹⁴⁹ Arthur’s absurd defenses fooled no one. The Jay Commission ultimately produced a scathing report that singled out for censure the New York Custom House’s chronic “mismanagement and corruption.”¹⁵⁰ As if that were not embarrassing enough for Arthur, the Commission issued a follow-up report in which it expressly criticized the Custom House leadership and concluded that the “evidence show[ed] a degree and extent of carelessness which we think should not be permitted to continue.”¹⁵¹ White House advisers urged the President to remove Arthur immediately, describing the port collector as “among the chief corrupters of our political life.”¹⁵² Convinced by the vast body of evidence against the port collector, Hayes ultimately demanded Arthur’s resignation.¹⁵³

Arthur, however, would not back down. He refused to resign and charged the Jay Commission with conducting an inadequate investigation that failed “to seek for evidence on both sides.”¹⁵⁴ In a shameless display, Arthur had the nerve to present himself as one of the great government reformers in history. In a published letter, he declared that “civil service reform has been more faithfully observed, and more thoroughly carried out in the New York Custom House, than in any other branch or Department of the Government, either under the present or any past national administration.”¹⁵⁵ Arthur’s long service to the patronage system was not forgotten by his allies in the Senate. New

146. *Id.* at 115–16.

147. *Id.* at 117.

148. *Id.* at 118, 120.

149. *Id.* at 118.

150. *Id.* at 119.

151. *Id.* at 121.

152. *Id.*

153. *Id.* at 123.

154. *Id.* at 128.

155. *Id.* at 129.

York Senator Roscoe Conkling and other key Republican defenders of the patronage system blocked Hayes's efforts to fire Arthur.¹⁵⁶ Congressional Republicans accused Hayes of unilaterally disarming the Republican Party's fundraising capabilities by banning political assessments and urged him to rescind the executive order.¹⁵⁷ Under intense pressure from his party, Hayes announced that federal employees and officeholders going forward could make "voluntary" political contributions.¹⁵⁸ In a sign of just how ineffective Hayes's reform efforts had been, the Republican Party raised \$93,000 in campaign contributions from federal officeholders during the 1878 congressional elections.¹⁵⁹

But the tide was turning against Arthur. In the summer of 1878, yet more evidence of corruption at the New York Custom House came to light.¹⁶⁰ A Treasury Department investigation revealed that Arthur had ignored \$42,000 in fraud perpetrated by Custom House clerks and had not only retained all of the clerks involved in the crime, but had subsequently promoted at least one of them.¹⁶¹ Congress also learned that New York merchants frequently complained about Arthur's habit of showing up many hours late to work.¹⁶² With the evidence of Arthur's mismanagement reaching monumental proportions, Hayes suspended him during a congressional recess and later removed him permanently from the post of port collector.¹⁶³

Despite his public disgrace, Arthur remained unrepentant. He claimed that his suspension as port collector "was a violation of every principle of justice."¹⁶⁴ In any case, he landed on his feet. The Republican Party knew they had no better fundraiser than Chester Arthur, and in February 1879 he took over as head of the Republican Party's central committee in New York, where he was responsible for managing the party's statewide campaigns.¹⁶⁵ Ironically, as the top Republican operative in New York, Arthur solicited "voluntary contributions" from all state and federal officeholders, including from

156. *Id.* at 130–31; HOOGENBOOM, *supra* note 59, at 162–63.

157. REEVES, *supra* note 62, at 134.

158. *Id.*

159. FOWLER, *supra* note 22, at 171.

160. REEVES, *supra* note 62, at 135–36.

161. *Id.* at 135.

162. *Id.* at 136.

163. *Id.* at 136, 147; HOOGENBOOM, *supra* note 59, at 167.

164. REEVES, *supra* note 62, at 142.

165. *Id.* at 150, 155 ("Chester Arthur was in charge of the entire Republican campaign.").

his former employees at the New York Custom House.¹⁶⁶ Just as before, any employee who refused to pay the campaign “donation” faced the very real threat of dismissal.¹⁶⁷

Incredibly, Arthur soon found himself as the Republican nominee for vice president. In 1880, Ohio Congressman James Garfield—the Republican presidential nominee—chose Arthur as his running mate, a selection designed to appease the patronage-dependent Stalwart faction of the Republican Party.¹⁶⁸ With good reason, Arthur’s nomination appalled reformers. Senator Sherman of Ohio complained that Arthur “never held an office except the one he was removed from,” and he warned that Arthur’s “nomination attaches to the ticket all the odium of machine politics.”¹⁶⁹ Likewise, the writer and social activist Charles Eliot Norton described Arthur’s nomination for vice president as a “miserable farce.”¹⁷⁰

In light of Arthur’s unsavory political track record, reformers understandably feared the worst when he suddenly became president. The writer Henry Adams warned that Arthur’s “administration . . . will be the centre for every element of corruption, south and north. The outlook is very discouraging.”¹⁷¹ Such fears seemed well-founded when the new President expressed reservations about the Pendleton bill in his first message to Congress in December 1881.¹⁷² Asserting that “opinion has been widely divided upon the wisdom and practicability” of the civil service reform proposals, Arthur warned that any changes to the system must be “gradual” in nature.¹⁷³

But Arthur was first and foremost a politician, and political realities forced his hand.¹⁷⁴ The 1882 election “converted” Arthur to the cause of

166. *Id.* at 157.

167. *Id.*

168. HOOGENBOOM, *supra* note 59, at 183.

169. GREENBERGER, *supra* note 116, at 125.

170. HOOGENBOOM, *supra* note 59, at 183.

171. *Id.* at 214.

172. REEVES, *supra* note 62, at 322–23; SKOWRONEK, *supra* note 31, at 65; KARABELL, *supra* note 41, at 95; HOOGENBOOM, *supra* note 59, at 215–16.

173. See Message of the President of the United States (Dec. 5, 1881), OFFICE OF THE HISTORIAN OF THE DEPARTMENT OF STATE, <https://history.state.gov/historicaldocuments/frus1881/message-of-the-president> (“[O]pinion has been widely divided upon the wisdom and practicability of the various reformatory schemes which have been suggested and of certain proposed regulations governing appointments to public office The subject under discussion is one of grave importance. The evils which are complained of cannot be eradicated at once; the work must be gradual.”).

174. REEVES, *supra* note 62, at 322; KARABELL, *supra* note 41, at 110 (“Once again, however, Arthur had an astute sense of public mood.”).

civil service reform by demonstrating to him that the political winds had changed once and for all.¹⁷⁵ The election results made clear that the Republican Party would continue to suffer electoral losses if it did not respond to the new public mood in favor of reform.¹⁷⁶ Therefore, in one of the most remarkable surprises of nineteenth-century political history, Arthur abandoned his previous reservations and enthusiastically embraced the Pendleton bill.¹⁷⁷ As he explained in a December 1882 message to Congress, “the people of the country, apparently without distinction of party, have in various ways and upon frequent occasions given expression to their earnest wish for prompt and definite action.”¹⁷⁸ Of political assessments, he frankly admitted that it went “without saying that such contributions are not voluntary.”¹⁷⁹ He thus implicitly acknowledged that his previous statements about the “voluntary” nature of political assessments were untrue.¹⁸⁰

With President Arthur’s firm support, the lame-duck Republican Congress approved the Pendleton civil service bill by large margins: 38–5 in the Senate (with 33 abstentions) and 155–47 in the House (with 87

175. HOOGENBOOM, *supra* note 59, at 237 (“President Arthur, too, had been ‘converted’ by the election of 1882.”).

176. REEVES, *supra* note 62, at 322 (“The election results in November, especially from New York, appeared to confirm conclusively the view that public opinion had soured on the spoils system.”); KARABELL, *supra* note 41, at 110 (“Once again, however, Arthur had an astute sense of public mood.”).

177. REEVES, *supra* note 62, at 322 (“The President captured the mood of the day in his message to Congress.”), 323 (“He also extended his support for the Pendleton bill, awaiting consideration by the Senate, which meant that he had abandoned his opposition to competitive examinations.”); HERBERT J. CLANCY, S.J., *THE PRESIDENTIAL ELECTION OF 1880*, 264–65 (1958).

178. REEVES, *supra* note 62, at 323. *See also* Message of the President of the United States (Dec. 4, 1882), OFFICE OF THE HISTORIAN OF THE DEPARTMENT OF STATE, <https://history.state.gov/historicaldocuments/frus1882/message>.

I felt bound to intimate my doubts whether they, or any of them, would afford adequate remedy for the evils which they aimed to correct. I declared, nevertheless, that if the proposed measures should prove acceptable to Congress, they would receive the unhesitating support of the Executive. Since these suggestions were submitted for your consideration there has been no legislation upon the subject to which they relate, but there has meanwhile been an increase in the public interest in that subject, and the people of the country, apparently without distinction of party, have in various ways, and upon frequent occasions, given expression to their earnest wish for prompt and definite action. In my judgment, such action should no longer be postponed. *Id.*

179. KARABELL, *supra* note 41, at 105; HOOGENBOOM, *supra* note 59, at 237.

180. HOOGENBOOM, *supra* note 59, at 237.

abstentions)—and Arthur signed the bill into law in January 1883.¹⁸¹ As Arthur's biographer Thomas Reeves pointed out, "[t]he irony of ex-Collector Arthur, the 'Gentleman Boss,' affixing his signature to the nation's first civil service reform legislation was not entirely overlooked."¹⁸²

To be sure, before approving the bill, Republicans weakened the Pendleton Act's anti-assessment provisions. The law, as enacted, only banned coerced contributions.¹⁸³ Federal employees could still make voluntary contributions to their party.¹⁸⁴ Moreover, the amended law did not outlaw assessments for state and local elections, and it only gradually phased in the merit system.¹⁸⁵ When enacted in 1883, the Pendleton Act only moved about 11% of the 131,208 federal civil service positions into the merit system.¹⁸⁶ By 1900, that figure had risen to 46% of 208,000 positions in the executive civil service.¹⁸⁷ But in the meantime, the growth in the number of non-classified (that is, non-merit based) positions still gave politicians many opportunities to reward their friends and allies.¹⁸⁸

Accordingly, the scale of the "rotation in office" system remained enormous for decades to come.¹⁸⁹ For example, when the Democratic president Grover Cleveland took office in 1885, his administration purged 40,000 Republican postmasters from the Post Office Department.¹⁹⁰ Cleveland claimed that he was merely removing

181. REEVES, *supra* note 62, at 324; KARABELL, *supra* note 41, at 105–06; HOOGENBOOM, *supra* note 59, at 246, 248–49, 253.

182. REEVES, *supra* note 62, at 324.

183. SKOWRONEK, *supra* note 31, at 66.

184. *Id.*

185. WHITE, THE REPUBLICAN ERA, *supra* note 77, at 336, 340, 335 (noting the law's "loopholes."); CARPENTER, *supra* note 8, at 46 ("the effect of merit reform was limited and slow in coming"); SKOWRONEK, *supra* note 31, at 69; SHEFTER, *supra* note 7, at 74 ("civil service reform did not alter the structure of party politics in the United States in the direction the reformers desired, at least not during the nineteenth century."); SPROAT, *supra* note 42, at 265 ("Only about fourteen thousand government workers came under the classification provision of the [Pendleton] Act.").

186. SKOWRONEK, *supra* note 31, at 69.

187. *Id.* at 69.

188. SHEFTER, *supra* note 7, at 74 ("During the twenty years following the passage of the Pendleton Act, the federal bureaucracy grew more rapidly than did the number of positions in the classified civil service."); SPROAT, *supra* note 42, at 265 ("Cleveland all but ignored the spirit of the merit system and awarded jobs almost solely on the basis of service to the Democratic party.").

189. FOWLER, *supra* note 22, at 182 ("The Act hardly affected the great patronage of the Post Office Department at first, as the 47,000 postmasters were not included").

190. CARPENTER, *supra* note 8, at 41; SUMMERS, PARTY GAMES, *supra* note 22, at 236.

“incompetents” from federal service, but partisan considerations drove his decision-making.¹⁹¹ Privately, he complained of the reformers’ “supercilious self-righteousness.”¹⁹² But the effort to undermine civil service reform was not limited to Democrats. When the Republican president Benjamin Harrison took office in 1889, his administration drove out over 50,000 Democratic postmasters.¹⁹³ A truly nonpartisan, independent civil service would not become a reality until the Hatch Act of 1939.¹⁹⁴

The Pendleton Act’s most immediate impact came in the area of campaign finance law. Although the effort to establish a civil service based on merit only made slow progress, the anti-assessment provisions proved quite successful. One of the reasons why was the remarkable fact that President Arthur faithfully implemented the Pendleton Act reforms.¹⁹⁵ Thanks in no small part to Arthur’s efforts, political assessments gradually disappeared from the political landscape.¹⁹⁶ Although the Pendleton Act left open the possibility of “voluntary” campaign contributions by officeholders, both parties complied with the law to a surprising degree.¹⁹⁷

Arthur’s greatest contribution to the Act’s success came through his support for the Civil Service Commission, the ranks of which he filled with committed reformers.¹⁹⁸ It was a crucial step. Early on, pro-reform Senator Henry Dawes had warned that the success of the Pendleton Act depended on good faith enforcement by a “friendly president.”¹⁹⁹ A

191. SPROAT, *supra* note 42, at 265.

192. *Id.* at 267.

193. CARPENTER, *supra* note 8, at 41; SUMMERS, PARTY GAMES, *supra* note 22, at 236–37.

194. SUMMERS, PARTY GAMES, *supra* note 22, at 237 (“Not until the Progressive Era would civil service reform take deep and meaningful form in the federal government. Even then, the use of government patronage to serve partisan purposes continued, often in pretty flagrant form, up to the passage of the Hatch Act of 1939.”). Hatch Act, 53 Stat. 1147 (1939) (current version at 5 U.S.C. §§ 1501–1503 (2019)).

195. REEVES, *supra* note 62, at 327.

196. SKOWRONEK, *supra* note 31, at 74 (“[I]n successive annual reports, the Civil Service Commission declared that political assessments on officeholders had virtually disappeared from the federal service.”).

197. *Id.* (“Despite a weak antiassessment clause in the Pendleton Act, compliance rather than evasion was becoming the norm.”). Violations of the ban on political assessments occurred with diminishing frequency until by 1909 they had “practically ceased.” See FOWLER, *supra* note 22, at 300 (“Compulsory assessments by Government officials or in Government buildings had by 1909 practically ceased.”).

198. REEVES, *supra* note 62, at 324 (“Arthur’s selections for the commission were unanimously approved by reformers.”); HOOGENBOOM, *supra* note 59, at 254.

199. REEVES, *supra* note 62, at 324.

hostile president, in contrast, could refuse to appoint commissioners or decline to adopt rules to enforce the Pendleton Act.²⁰⁰ But Arthur honored the reformers' intentions by honestly implementing the law.²⁰¹ He accepted almost all of the commissioners' proposed new civil service rules and remained steadfastly supportive of reform principles until his presidential term ended in March 1885.²⁰² Arthur's support invigorated the Civil Service Commission and ensured that it got off to a strong start.²⁰³ In the closing days of his presidency, the commissioners publicly thanked Arthur for his vital backing of their efforts.²⁰⁴ In an official report, the commissioners explained that their enforcement "functions cannot be successfully discharged without the constant, firm, and friendly support of the President. That support has never failed. The Commission has never asked advice or an exercise of authority on the part of the President which has been refused."²⁰⁵

Arthur left office in 1885 as one of the most surprising reform presidents in history.²⁰⁶ But the success of the Pendleton Act's campaign finance reforms did not end the role of money in politics. The truth was the parties had found a new and even more effective way of raising large amounts of money. Accordingly, as the political scientist Stephen Skowronek observed, "compliance with the antiassessment clause became more convenient as parties developed alternative means for financing national campaigns."²⁰⁷ Corporations and the wealthy would become the new sources of campaign funds for the parties to tap.

IV. THE UNINTENDED CONSEQUENCES OF CIVIL SERVICE REFORM

The accelerating ties between business and politicians became apparent in the first election after the Pendleton Act's enactment. The 1884 presidential election marked a momentous turning point in the

200. HOOGENBOOM, *supra* note 59, at 255; REEVES, *supra* note 62, at 324.

201. HOOGENBOOM, *supra* note 59, at 255; REEVES, *supra* note 62, at 327 ("Arthur surprised many reformers by administering the Pendleton Act efficiently and effectively.").

202. HOOGENBOOM, *supra* note 59, at 255; REEVES, *supra* note 62, at 327 ("For the remainder of its tenure, the administration, at all levels, evidenced a willingness to abide by the principles of reform.").

203. SKOWRONEK, *supra* note 31, at 74.

204. REEVES, *supra* note 62, at 327.

205. *Id.*

206. KENNETH D. ACKERMAN, DARK HORSE: THE SURPRISE ELECTION AND POLITICAL MURDER OF PRESIDENT JAMES A. GARFIELD 437 (2003) ("Reformers applauded Arthur when he signed the landmark Pendleton Civil Service Act in 1883 and . . . recognized his term as being among the most scandal-free in recent memory.").

207. SKOWRONEK, *supra* note 31, at 74.

history of campaign finance law. The ban on political assessments severely restricted the incumbent Republican Party's ability to raise funds.²⁰⁸ Republican National Committee (RNC) operative James Clarkson warned the railroad tycoon Jay Gould—a major donor to the Republican Party—that campaign “[m]oney is coming in very slowly.”²⁰⁹ Clarkson complained that “[t]here is actually no money to appropriate, or even to pay bills with.”²¹⁰ During the 1884 campaign, President Arthur (who had declined to run for reelection) refused to allow his administration to shake down federal officeholders for political contributions, which meant that the RNC found itself deeply in debt and hovering on the “edge of bankruptcy.”²¹¹

In contrast, the Democrats responded to the changing campaign finance world more quickly and more effectively than the Republicans. Democratic National Committee (DNC) Chair William Barnum had deep ties to the iron and railroad industries, and he was exceptionally talented at raising campaign funds.²¹² As one Wisconsin political operative observed, Barnum was “simply without a rival” in fundraising.²¹³ “He knows not only how to disburse money, but knows how to raise it,” the operative explained.²¹⁴ “In the closing hours of the battle, when it is desirable to use ‘party ammunition at short range,’ Barnum stands without a peer.”²¹⁵ At Barnum’s request, businessmen made huge donations to the Democratic Party in 1884, including \$16,000 from the banker Roswell Flower and \$10,000 from the railroad executive James J. Hill, huge sums for the 1880s.²¹⁶ Barnum himself contributed \$27,500.²¹⁷ In the meantime, the Republicans’ money shortfalls were so severe that the Republican nominee, Senator James G. Blaine of Maine, found himself forced to spend \$65,000 of his own money on the campaign trail.²¹⁸

208. SUMMERS, RUM, ROMANISM, & REBELLION, *supra* note 20, at 164–65; REEVES, *supra* note 62, at 387.

209. REEVES, *supra* note 62, at 387 (emphasis omitted); SUMMERS, RUM, ROMANISM, & REBELLION, *supra* note 20, at 167.

210. SUMMERS, RUM, ROMANISM, & REBELLION, *supra* note 20, at 167.

211. REEVES, *supra* note 62, at 387; SUMMERS, RUM, ROMANISM, & REBELLION, *supra* note 20, at 167, 294 (“Undoubtedly a more generous administration would have raised more funds, and more funds might have saved New York.”).

212. SUMMERS, RUM, ROMANISM, & REBELLION, *supra* note 20, at 165.

213. *Id.*

214. *Id.* (emphasis omitted).

215. *Id.* (emphasis omitted).

216. SUMMERS, PARTY GAMES, *supra* note 22, at 148.

217. *Id.*

218. SUMMERS, RUM, ROMANISM, & REBELLION, *supra* note 20, at 167.

By the end of the 1884 election, the DNC had raised about \$460,000 and Republicans about \$431,000.²¹⁹ The relatively small fundraising difference between the parties represented a huge victory for the Democrats.²²⁰ The Democrats raised four times as much money in 1884 as they had in 1880.²²¹ Republicans, who had held the White House for twenty out of twenty-four years between 1860 and 1884, had used assessments on federal officeholders to gain a decisive financial advantage over the Democrats. Adoption of the Pendleton Act thus meant that in 1884 the Democrats enjoyed a level playing field for the first time in decades. Perhaps not coincidentally, Governor Grover Cleveland of New York, the Democratic presidential nominee, narrowly defeated Blaine in the 1884 election.²²²

But an even more important political development could be seen in the fundraising tactics of the 1884 campaign. Individuals skilled at raising money from private sources had become indispensable to the parties. In 1884, for example, the Iowa Republican operative James Clarkson raised \$25,000 from Republican donors in just one small city—Des Moines, Iowa—whereas ineffective fundraising tactics generated only \$5,000 in private contributions in the entire state of Pennsylvania.²²³ After their defeat in 1884, Republicans realized they needed more fundraisers like Clarkson in their ranks. To that end, during the 1888 presidential campaign, the Republican National Committee established businessmen's "advisory committees" to raise funds on behalf of the party and its candidates.²²⁴ For example, Philadelphia merchant and department store pioneer John Wanamaker raised about \$400,000 from manufacturers and other business interests to support the Republican campaign.²²⁵

With so much money pouring in from businesses and wealthy individuals, and with public attention riveted by the Civil Service Commission's investigation of illegal patronage practices, the parties no longer saw assessments on federal employees as a valuable source of campaign funds.²²⁶ The simple fact was the effort to find loopholes in

219. *Id.* at 168.

220. *Id.* at 298 ("We can find plenty of reasons for Republicans losing in 1884. But the lack of money made difficulties impossibilities and added to the risks.")

221. *Id.* at 167.

222. *Id.* at 289.

223. SUMMERS, RUM, ROMANISM, & REBELLION, *supra* note 20, at 167.

224. SKOWRONEK, *supra* note 31, at 74.

225. *Id.* at 74–75; ROBERT E. MUTCH, BUYING THE VOTE: A HISTORY OF CAMPAIGN FINANCE REFORM 15–16 (2014).

226. SKOWRONEK, *supra* note 31, at 75 ("As these resources were developed, the importance of assessments on federal employees declined markedly.")

the anti-assessment clauses of the Pendleton Act “became more trouble than it was worth.”²²⁷ Consequently, James Clarkson declared that he would rather “try to raise \$10,000 from . . . businessmen than \$1,000 among office-holders.”²²⁸

In short, the political parties realized they could do an end run around the reformers by getting contributions directly from wealthy industrialists and financiers.²²⁹ Private campaign contributors gained new influence and access as a result. For example, in gratitude to John Wanamaker’s party fundraising efforts, President Benjamin Harrison appointed Wanamaker to the post of Postmaster General, one of the most important positions in the federal government in the nineteenth century.²³⁰ Reformers viewed Harrison’s appointment of Wanamaker and other business leaders “with horror” because they recognized that it “brought the new alliance of spoilsmen and businessmen directly into government.”²³¹ But it was too late to turn back. A new campaign finance system had taken root.

Campaign expenditures soared in the years following the Pendleton Act. Whereas the Republicans spent slightly over \$430,000 in the 1884 presidential campaign, the RNC spent \$1.7 million in the 1892 presidential campaign.²³² To raise such vast sums, the parties became ever more dependent on corporations and the wealthy. In 1896, for instance, the Republican presidential campaign of William McKinley raised over \$3 million, primarily from businesses, insurance companies, factory owners, and financiers.²³³

Railroad corporations, in particular, emerged as prominent financiers of both Democratic and Republican candidates.²³⁴ For example, the Minnesota railroad baron James J. Hill poured money into state and

227. *Id.*

228. SUMMERS, PARTY GAMES, *supra* note 22 at 150.

229. SKOWRONEK, *supra* note 31, at 75 (“The Wanamaker committee reveals a modernizing party adapting to new conditions, adopting its own innovative techniques, and defying the designs of the civil service reformers.”).

230. *Id.* at 75 (noting that the appointment of Wanamaker and other contributors represented, among other things, “repayment of . . . campaign debts”).

231. *Id.*

232. OVERACKER, *supra* note 19, at 71; SUMMERS, RUM, ROMANISM, & REBELLION, at 168.

233. MUTCH, BUYING THE VOTE, *supra* note 225, at 22–23. Some estimates put the amount as high as \$4 million. See LEWIS L. GOULD, GRAND OLD PARTY: A HISTORY OF THE REPUBLICANS 125 (2003) (“the GOP raised impressive amounts of money, probably between \$3.5 and \$4 million from eastern Republicans and corporate leaders fearful of a Bryan victory.”)

234. SUMMERS, PARTY GAMES, *supra* note 22, at 161 (“If money dominated politics in the Gilded Age, as critics claimed, the worst offender seemed to be railroad money.”).

national Democratic campaigns.²³⁵ In return, the Democratic Party gave him extraordinary access to government officials—including dinner with President Grover Cleveland—a degree of influence that helped Hill block legislation hostile to his business interests.²³⁶ Railroad executives exercised power in states across the country, not just Minnesota.²³⁷ In California, for example, railroad interests played such a powerful role in the state's politics that one observer quipped that the Central Pacific Railroad put a collar on every state senator "so that if he is lost or strays he may be recaptured and returned to his lawful owners."²³⁸

The Pendleton Act's campaign finance reforms thus gave rise to deeply ironic consequences. As Stephen Skowronek has noted:

With the decline of federal assessments, the reformers achieved one of their strategic goals. But success came with the realization of one of their most basic fears. This separation of politics and administration did not provide a bulwark against the "money power" in government; rather, it followed the fusion of party and big business in American politics.²³⁹

Similarly, the historian Robert Mutch has explained that whereas "business money originated inside the political system and was controlled by politicians" before the Pendleton Act, "[t]he political elite lost that control when they had to raise money outside the political system by going hat in hand to the new corporate elite."²⁴⁰

Money's influence on elections would only grow stronger in the twentieth century, despite the enactment of even more sweeping campaign finance regulations than the Pendleton Act. For example, the public revelation that corporations and insurance companies contributed over \$1,000,000 to Theodore Roosevelt's 1904 reelection campaign created a national uproar, leading to a series of new federal campaign finance laws, including a federal ban on corporate

235. *Id.* at 164.

236. *Id.* ("The purpose of company money was not so much to catch politicians' ears as to shut their ears to arguments from the other side"), 168 (campaign contributions "helped him block measures more readily than it helped him pass them.").

237. SUMMERS, PARTY GAMES, *supra* note 22, at 161–63 (discussing the influence of railroads in states as geographically diverse as Vermont, New Jersey, Mississippi, Kansas, Nebraska, and West Virginia).

238. SUMMERS, PARTY GAMES, *supra* note 22, at 170–71.

239. SKOWRONEK, *supra* note 31, at 75.

240. MUTCH, BUYING THE VOTE, *supra* note 225, at 25.

contributions to candidates.²⁴¹ But the underlying dynamics of money in politics hardly changed at all. In 1912, the Democratic nominee, Woodrow Wilson, self-righteously condemned the political influence of corporations and the rich on the campaign trail, but he secretly received huge influxes of cash from wealthy donors with strong ties to corporate America.²⁴² A Chicago plumbing tycoon, for example, gave the Wilson campaign \$40,000.²⁴³ As the historian John Milton Cooper, Jr. noted in his biography of the twenty-eighth president, “this champion of progressivism took money from the kind of people he was denouncing on the hustings.”²⁴⁴

The reason was simple: campaigns are inherently expensive propositions.²⁴⁵ Even in the 1880s, when the Pendleton Act was adopted, campaign costs soared as the population of the United States grew by millions with each passing decade.²⁴⁶ Minor parties simply could not compete with the massive expenditures of the two major parties, the Democrats and Republicans.²⁴⁷ Thus, the end of assessments did not end the influence of money in politics, it simply redirected the source and the flow of the money.²⁴⁸ Worse yet, reformers expected that eliminating assessments would make campaigns less expensive, and therefore make smaller parties and underfunded candidates more competitive.²⁴⁹ But instead it ushered in an era of even more expensive campaigns and entrenched the Republican and Democratic parties in power more deeply than ever before. In the process, it made the parties’ deeply dependent on wealthy donors.

241. RAYMOND J. LA RAJA, *SMALL CHANGE: MONEY, POLITICAL PARTIES, AND CAMPAIGN FINANCE REFORM* 50–51 (2008); MUTCH, *BUYING THE VOTE*, *supra* note 225, at 29, 48–51; ROBERT E. MUTCH, *CAMPAIGNS, CONGRESS, AND COURTS: THE MAKING OF FEDERAL CAMPAIGN FINANCE LAW* 6–8 (1988).

242. JOHN MILTON COOPER, JR., *WOODROW WILSON: A BIOGRAPHY* 154, 172 (2009).

243. *Id.*

244. *Id.*

245. SUMMERS, *PARTY GAMES*, *supra* note 22, at 144 (“[T]he plain fact was that party machinery could not get along without cash in hand. Pageantry carried a big pricetag.”).

246. *Id.* at 160 (“[W]ith the mass production of campaign materials, the 1880s saw politics’ own industrial revolution . . . [T]he day of shoestring campaigns was passing.”).

247. *Id.* at 158 (“If filling their financial needs was a distraction to the mainstream parties, it was death to the minor ones.”).

248. *Id.* at 159 (“the very existence of a Labor Party made a powerful incentive for corporations to open their purses to whatever alternative was available.”).

249. *Id.* (noting that reformers believed that “[a]bove all, cheaper campaigns would open the way to candidates of more modest means”).

V. CONCLUSION

In recent years, it has become fashionable to blame the problem of money in politics on the Supreme Court's 2010 decision in *Citizens United v. Federal Election Commission*.²⁵⁰ But history tells a different story. The challenge of regulating campaign finance practices has bedeviled democratic governments for over 100 years and will likely continue to do so for decades to come. As Pamela Karlan and Samuel Issaacharoff observed in a classic law review article two decades ago, "money that reform squeezes out of the formal campaign process must go somewhere."²⁵¹ Writing in the late 1990s, Karlan and Issaacharoff warned that campaign finance reforms threatened to:

exacerbate the already disturbing trend toward politics being divorced from the mediating influence of candidates and political parties Without mediating institutional buffers, money becomes the exclusive coin of the realm as politics pushes toward issue advocacy by groups not engaged in the give and take of party and coalitional politics.²⁵²

In their article, Karlan and Issaacharoff described campaign finance developments in the late 1990s, but their analysis is equally applicable to the campaign finance reforms of the 1880s. Instead of reducing the influence of money in politics, the Pendleton Act simply reshaped the landscape of campaign finance. Corporations and millionaires supplanted the political parties as the driving force in campaign fundraising, a development few would welcome, then or now.

Humility is thus in order. As the 2020 election approaches, promises of "overturning *Citizens United*" have become commonplace on the campaign trail.²⁵³ But reformers would be wise to learn from history's

250. See, e.g., Alexander Burns, *Seven 2020 Democrats Pledge to Focus First Bill on Fighting Corruption*, N.Y. TIMES (July 29, 2019), <https://www.nytimes.com/2019/07/29/us/politics/end-citizens-united-pledge.html>.

251. Samuel Issaacharoff and Pamela S. Karlan, *The Hydraulics of Campaign Finance Reform*, 77 TEX. L. REV. 1705, 1713 (1999).

252. *Id.* at 1714.

253. Eric Bradner, *Bernie Sanders' Supreme Court Litmus Test: Overturn Citizens United*, CNN (Sep. 29, 2015), <https://www.cnn.com/2015/09/28/politics/bernie-sanders-chicago-koch-brothers-sctus/index.html>; Andrew Prokop, *President Obama: I'd Love a Constitutional Amendment to Reverse Citizens United*, VOX (Feb. 9, 2015), <https://www.vox.com/2015/2/9/7992489/obama-citizens-united-constitutional-amendment>; Bridget Bowman, *Amy Klobuchar Launches 2020 Presidential Campaign*, THE HILL (Feb. 10, 2019), <https://www.rollcall.com/news/congress/amy-klobuchar-launches-2020-presidential-campaign> ("Klobuchar called for passing a constitutional amendment to overturn the Supreme Court's Citizens United campaign finance decision.").

lessons before embarking on yet another set of campaign finance regulations. If reform advocates fail to learn from their past mistakes, Chester Arthur's ghost will continue to haunt the cause of campaign finance reform for years to come.