

BUREAUCRACY AND THE CIVIL SERVICE IN THE UNITED STATES

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One of the most important sociological laws is the “Iron Law of Oligarchy”: every field of human endeavor, every kind of organization, will always be led by a relatively small elite. This condition will hold sway everywhere, whether it be a business firm, a trade union, a government, a charitable organization, or a chess club. In every area, the persons most interested and able, those most adaptable to or suited for the activity, will constitute the leading elite. Time and again, utopian attempts to form institutions or societies exempt from the Iron Law have fallen prey to that law: whether it be utopian communities, the *kibbutz* in Israel, “participatory democracy” during the New Left era of the late 1960s, or the vast “laboratory experiment” (as it used to be called) that constituted the Soviet Union. What we should try to achieve is not the absurd and anti-natural goal of eradicating such elites, but, in Pareto’s term, for the elites to “circulate.” Do these elites circulate or do they become entrenched?

I. The Market vs. Government

The free market economy provides an unparalleled example of a continuing healthy circulation of elites. In this dynamic economy, failure to keep up with competitors, failure to satisfy the demands of consumers in the best possible way, will topple elites quickly and establish new ones who do the job better. Ludwig von Mises wrote frequently of the inappropriateness of leftists referring to so-and-so as the “Steel King” or the “Automobile King”; for consumers frequently uncrown these alleged monarchs. Dethroning of financial monarchs on Wall Street is a frequent phenomenon. There are innumerable striking examples of big businesses failing to grasp the importance of a new product or new development, and of losing out to newer upstarts. I will refer to only two glaring cases experienced in my lifetime: the cry of leftists to “break up A&P” in the 1930s because of its alleged “monopoly” of the retail grocery business; and the failure of the old-time photography “monopolist” Eastman-Kodak to grasp the enormous significance, after World War II, of either instant photography or xerography, thereby leaving the field to newer, and more alert competitors.

By its nature, government is not subject to the profit-and-loss test, to the domination by the consumers, of the free market. Even voluntary non-profit organizations, while not seeking maximum profit, at least have to be efficient enough to avoid severe losses or bankruptcy. Furthermore, such voluntary organizations at least must satisfy the values and demands of their donors, if not the users of the good or service as in the profit-making market. But government is unique among organizations in attaining its revenue via the coercion of taxpayers. Hence, government suffers no worries about losses or bankruptcy; it need serve no one except itself. The only limit on government is the enormously wide one of people rising up to refuse to obey its orders (including taxes); short of such revolution, however, there is little to limit government or to check the entrenchment or burgeoning of its elite.¹

Government, in short, is particularly subject to the well-known evils of an arrogant, hidebound, inefficient, red-tape-ridden ever-expanding “bureaucracy.” Socialists, even during the seeming heyday of the Soviet Union, were often worried about the problem of bureaucracy, and have tried vainly to detach government from its bureaucratic aspect. But Mises trenchantly pointed out in his classic *Bureaucracy* that all such hopes are in vain. Bureaucracy, with all its evident evils, goes hand-in-hand with government. A profit-making firm saves and invests its money, attempting to make profits and avoid losses; its use of funds is flexible, dependent on its profit-seeking decisions. But bureaucratic agencies have their allocated funds from the government budget. And strict, precise, quibbling, rule-keeping is vital so that each bureaucrat and sub-bureaucrat can demonstrate that he has used the funds in the manner designated by the legislature or Chief Executive, and has not put them into his own pocket or spent them in some other, non-authorized way.²

Mises points out a crucial difference between bureaucratic and profit management. Business expenditures and products are gauged by the valuations of consumers, whose judgments “are congealed into an impersonal phenomenon, the market price.” Moreover, consumer judgments are levied on the goods and services, not on the producers themselves. “The seller-buyer nexus as well as the employer-employee relation in profit-seeking business,” Mises

¹ The remarkable August Days in Moscow and elsewhere in the Soviet Union in 1991 was a glorious example of just such a limit to tyranny being reached.

² Ludwig von Mises, *Bureaucracy* (New Haven: Yale University Press, 1944).

declares, “is a deal from which both parties derive an advantage.” But in government, in bureaucratic organization, on the other hand, what the nation “gets for the expenditure, the service rendered, cannot be appraised in terms of money, however important and valuable this ‘output’ may be.” Instead, Mises points out, “its appraisal depends on the discretion of the government” — that is, on arbitrary, personal decisions. Mises adds that “the nexus between superior and subordinate is personal. The subordinate depends on the superior’s judgment of his personality, not of his work.” In short, in government bureaucracy, there is no reality check.³

As Mises analyzes the difference for a branch agency: In a government bureau,

It is not because of punctiliousness that the administrative regulations fix how much can be spent by each local office for cleaning the premises, for furniture repairs, and for lighting and heating. Within a business concern such things can be left without hesitation to the discretion of the responsible local manager. He will not spend more than is necessary because it is, as it were, his money; if he wastes the concern’s money, he jeopardizes the branch’s profit and thereby indirectly hurts his own interests. But it is another matter with the local chief of a government agency. In spending more money he can, very often at least, improve the result of his conduct of affairs. Thrift must be imposed on him by regimentation.⁴

In a business firm on the market, the desires and goals of the managers are yoked to the profit-making goals of the owners. As Mises says, the manager of a branch must make sure that his branch contributes to the profit of the firm. But, shorn of the regiment of profit-and-loss, the desires and goals of the managers, limited only by the prescriptions and budget of the central legislature or planning board, necessarily take control. And that goal, guided only by the

³ *Ibid.*, p. 53.

⁴ *Ibid.*, p. 46. To the extent that business has been subject to increasing taxes and controls in the twentieth century, of course, its management has become more bureaucratic. As Mises puts it, “no profit-seeking enterprise, no matter how large, is liable to become bureaucratic provided the hands of its management are not tied by government interference. The trend toward bureaucratic rigidity is not inherent in the evolution of business. It is an outcome of government meddling with business.” *Ibid.*, p. 12.

vague rubric of the “public interest”, amounts to increasing the income and prestige of the manager. In a rule-bound bureaucracy, that income and status inevitably depend on how many sub-bureaucrats report to that manager. Hence, each agency and department of government engage in fierce turf wars, each attempting to add to its functions and the number of its employees, and to grab functions from other agencies. So that while the natural tendency of firms or institutions on the free market is to be as efficient as possible in serving the demands of consumers, the natural tendency of government bureaucracy is to grow, and grow, and grow, at the expense of the fleeced and benighted tax-payers.

If the watchword of the market economy is profit, the watchword of bureaucracy is growth. How are these respective objectives to be achieved? The way to attain profit in a market economy is to beat the competitors in the dynamic, ever-changing process of satisfying consumer demands in the best possible way: to create a self-service supermarket instead of the older grocery store (even a chain store), or to create a Polaroid or a Xerox process. In other words, to produce concrete goods or services that consumers will be willing to pay for. But to attain growth, the bureaucratic manager must convince the legislature or planning board that his service will, in some vague way, aid the “public interest” or the “general welfare.” Since the taxpayer is forced to pay, there is not only no incentive or reason for the bureaucrat to be efficient; there is no way that a bureaucrat, even with the most eager will in the world, can *find out* what the consumers want and how to meet their demands. Users pay little or nothing for the service, and even if they do, investors are not allowed to experience profit or loss from investing in producing that service. Therefore, the consumers will simply have to allow the bureaucrats to bestow their services upon them, whether the consumers like it or not. In building and operating a dam, for example, the government is bound to be inefficient, to subsidize some citizens at the expense of others, to misallocate resources, and generally to be at sea without a rudder in supplying the service. Moreover, for some citizens, the dam may not be a service at all; in the jargon of economists, for some people, the dam may be a “bad” not a “good”. Thus, for environmentalists who are philosophically opposed to dams, or to farmers and homeowners whose property may be confiscated and flooded by the Dam Authority, this “service” is clearly a negative one. What is to happen to *their* rights and properties? Thus, government action is not only bound to be

inefficient, and coercive against taxpayers; it is also bound to be redistributive for some groups at the expense of others.

The major group the bureaucrats benefit is, of course, themselves. Their entire income is extracted at the expense of taxpayers. As John C. Calhoun pointed out in his brilliant *Disquisition on Government*, bureaucrats pay no taxes; their alleged tax payments are a mere accounting fiction. The existence of government bureaucracy, Calhoun pointed out, creates two great conflicting classes in society: the net taxpayers, and the net tax-consumers. The greater the scope of taxes and of government, then, the greater the inevitable class conflict created in society. For, as Calhoun states:

The necessary result, then, of the unequal fiscal action of the government is to divide the community into two great classes: one consisting of those who, in reality, pay the taxes and, of course, bear exclusively the burden of supporting the government; and the other, of those who are the recipients of their proceeds through disbursements, and who are, in fact, supported by the government; or, in fewer words, to divide it into taxpayers and tax-consumers.

But the effect of this is to place them in antagonistic relations in reference to the fiscal action of the government and the entire course of policy therewith connected. For the greater the taxes and disbursements, the greater the gain of the one and the loss of the other, and vice versa; and consequently, the more the policy of the government is calculated to increase taxes and disbursements, the more it will be favored by the one and opposed by the other.

The effect, then, of every increase is to enrich and strengthen the one [the net tax-consumers], and to impoverish and weaken the other [the net tax-payers].⁵

How, then can the bureaucrats achieve their overriding goal of adding to the number of their employees and therefore of their income? Only by persuading the legislature or the planning board, or the mass of public opinion as a whole, that their particular government agency is worthy of an increase in its budget. But how

⁵ John C. Calhoun, *A Disquisition on Government* (New York: The Liberal Arts Press, 1953), pp. 17-18. Also see Murray N. Rothbard, "The Myth of Neutral Taxation", *Cato Journal*, I (Fall 1981), pp. 555-58.

can it do that, since it cannot sell services on the market, and since, moreover, its activities are necessarily redistributive and injure instead of benefit many of the consumers? What it must do is to “engineer consent”, that is, it must falsely persuade the public or the legislature that its activities are a shining benefit instead of a bane to the consumers and the taxpayers. To engineer consent, it must use or employ intellectuals, the opinion-molding class in society, to persuade the public or the legislature of its function as a source of universal blessing. And when those intellectuals, or propagandists, are employed by the agency itself, this adds insult to the injury inflicted upon the taxpayers: for the taxpayers are forced to pay for their own deliberate miseducation.

It is intriguing that left-liberals invariably castigate advertising on the market for being shrill, for being misleading, and for artificially “creating” consumer demand. And yet, advertising is the indispensable method by which vital information is conveyed to the consumer — about the nature and quality of the product, and about its price and where it is offered. Oddly enough, liberals never level their critiques on the one area where they do strongly apply: the propaganda, the public relations, the hokum, put out by government. The difference is that all market advertising is soon put to a direct test: does this radio or TV work? But with government, there is no such direct consumer test: there is no way in which the citizen or voter can figure out rapidly how a specific policy worked. Furthermore, in elections, the voter is not presented with a specific program to consider: he must choose between a package deal of a legislator or chief executive for X number of years, and he is stuck for that period of time. And since there is no direct policy test, we arrive at the commonly deplored failure of the modern democratic process to discuss issues or policy, but instead to concentrate on television demagoguery.⁶

II. The Structure and Goals of Bureaucracy

Bureaucracy is necessarily hierarchical, first because of the Iron Law of Oligarchy, and secondly because bureaucracy grows by adding more subordinate layers. Since, lacking a market, there is no

⁶ See Murray N. Rothbard, *Man, Economy and State: A Treatise on Economic Principles* (Auburn, AL: Ludwig von Mises Institute, 1993), II, 774-76, 843-47.

genuine test of “merit” in government’s service to consumers, in a rule-bound bureaucracy seniority is often blithely adopted as a proxy for merit. Increasing seniority, then, leads to promotion to higher ranks, while expanding budgets take the form of multiplying the levels of ranks under you, and expanding your income and power. Bureaucratic growth occurs, then, by multiplying levels of bureaucracy.

The *theory* of hierarchical government bureaucracy is that information is collected in the lowest ranks of the organization, and that at each successive higher rank, the manager culls the most important information from his subordinates, separates the wheat from the chaff, and passes the culled information higher up, so that, in the end, the President, for example, dealing with intelligence operations, receives a two-page memo distilling the most important information gathered and culled from hundreds of thousands of intelligence agents. The President, then, knows more than anyone else, say, about foreign affairs. One problem with this rosy model, as Professor Gordon Tullock points out in his illuminating book, *The Politics of Bureaucracy*,⁷ is that the model doesn’t ask whether or not each bureaucrat has the *incentive* to pass the best distillate of truth on to his superiors. The problem is that bureaucratic favor, especially at the higher levels, depends on pleasing one’s superiors, and pleasing them largely rests on telling the President and the higher bureaucrats *what they want to hear*. One of the great truths of human history is that one tends to shoot, or at least react badly, to the bearer of bad news. “Sire, your policy is working badly in Croatia,” is not the sort of message that the President, say, wants to hear from his envoy, and, while the outcome in Croatia remains in doubt, the President and his aides want to continue to believe that their policy is doing well. Hence, the dissident is set down as a trouble-maker if not a subversive, and his career in the hierarchy is side-tracked, often permanently. In the meanwhile, the envoys or foreign service people who assure the President “things are going very well in Croatia,” are hailed as perceptive fellows and their careers are advanced. And then, if years later, the dissident is proved correct, and the Croatian policy lies in shambles, is the president or any other ruler likely to turn in warm gratitude to the former dissident? Not hardly. Instead, he will *still* remember the

⁷ Gordon Tullock, *The Politics of Bureaucracy* (Washington, D.C.: Public Affairs Press, 1965), passim.

dissident as a troublemaker, and he will not blame his aides, who, along with himself, have been proved wrong. For after all, didn't the great mainstream of experts make the same error? How common is sincere soul-searching and repentance for past errors among Presidents or other rulers?

Those bureaucrats who are shrewd analysts of human nature, then, and who understand the way rulers operate, will, if they see that the cherished policy of their President is in grave error, tend to keep their mouths shut, and let some other sucker be the messenger of bad news and get shot down.

Every human activity and institution will tend to reward those who are most able to adapt to the best route to success in that activity. Successful market entrepreneurs will be those who can best anticipate, and satisfy, consumer demands. Success in the bureaucracy on the contrary, will go to those who are most apt at (a) employing propaganda to persuade their superiors, the legislators, or the public about their great merits; and therefore (b) at understanding that the way to rise is to tell the President and the top bureaucrats what they want to hear. Hence, the higher the ranks of the bureaucracy, the more yes-men and time-servers there will tend to be. The President will often know less about what is going on than those in the lower ranks.

Hence, for example, the phenomenon of President Nixon, thinking he knew more than anyone else about the Vietnam War and yet actually knowing *less* than the astute reader of the *New York Times*. For the CIA and other intelligence warnings of what was going on, developed by many of the lower officers, were screened out by the higher-ups, for being contrary to the President's preferred line, i.e., that all was going well.⁸

The standard explanation of why government grows is that, as time goes on, there is more work for government to do, and that therefore the public's "demand for government" rises. Far more accurate is the view that there is a case of an inverted Say's Law, where supply — or rather the suppliers of government "services", the bureaucracy — themselves constitute the "demand" for their own services, and that they engineer the consent of their superiors, or of the legislature, to provide the wherewithal in the form of increased

⁸ This insight into the best success route in government underlies the celebrated Chapter 10, "Why the Worst Get on Top," in F. A. Hayek's *The Road to Serfdom* (Chicago: University of Chicago Press, 1944).

taxation. Contrast the hilariously satirical, but all too perceptive account of “Parkinson’s Law” of bureaucracy. Thus, Professor Parkinson asserted that, in a government bureaucracy, “there need be little or no relationship between the work to be done and the size of the staff to which it may be assigned.”⁹ The continuing rise in the total of government employees “would be much the same whether the volume of the work were to increase, diminish, or even disappear.”¹⁰ Parkinson identifies two “axiomatic” underlying forces responsible for this growth: (1) “An official wants to multiply subordinates, not rivals”; and (2) “Officials make work for each other.”

Parkinson begins his “model” with an official who feels himself overworked. The official could resign, but that is unthinkable; besides, he would lose his pension rights. To ask to divide his work in half with a new colleague on his own level is equally unthinkable; for his status would be cut, and he would bring in a dangerous rival for the job of his own boss when the latter retires. He could ask for one assistant under him; but that would be dangerous, because the new man might achieve something like equal status with himself. No, his preferred route is to ask for *two* assistants, who could then compete with each other for his favor; pretty soon, each of these new assistants will complain of overwork, and each one of these will get two assistants. The original bureaucrat now has the satisfaction of having six men under him, and he is now ready for a promotion and a substantial raise in pay.

But how about the work to be done? Won’t the original quantity of work be divided into seven parts, and won’t each man now be absurdly and manifestly idle and under worked? No — and here is one of Parkinson’s scintillating insights into the theory of bureaucracy — for one aspect of Parkinson’s Law is that “work expands so as to fill the time available for its completion.” Or, as Parkinson also puts it: “The thing to be done swells in importance and complexity in direct ratio with the time to be spent.”¹¹ Here

⁹ C. Northcote Parkinson, *Parkinson’s Law* (Cambridge, MA: Houghton Mifflin, 1957), p. 2.

¹⁰ *Ibid.*, p. 4.

¹¹ Parkinson’s Law applies in daily life as well as to government bureaucracy. “Thus, an elderly lady of leisure can spend the entire day in writing and dispatching a postcard to her niece . . . An hour will be spent in finding the post, another in hunting for spectacles, half an hour in a search for the address,

enters the second aspect of Parkinson's Law of Growth: that "officials make work for each other." For, says Parkinson, "these seven make so much work for each other that all are fully occupied", and the original man "is actually working harder than ever." Documents have to be sent to each man in turn, each has to comment on the document and send the comments to everyone else, they all have to confer on the document and the various amendments proposed, and the original man is now also wrapped up in problems of inter-personal relations between himself and his staff, and of each of his staff amongst the others. Finally, after a lengthy process of interaction, writes Parkinson, the original official produces the same reply to the document that he would have written if all his subordinates "had never been born." "Far more people," Parkinson concludes, "have taken far longer to produce the same result. No one has been idle. All have done their best."¹²

Parkinson then illustrates his law with delightful examples from the British Royal Navy. From 1914 to 1928, the number of ships in the Navy fell by 68 percent; the number of officers and men fell by 32 percent. And yet, during the same period, the number of dockyard officials and clerks in the Navy increased by 40 percent, while, even more outrageously, the number of Admiralty officials increased by over 78 percent. The annual rate of increase in the number of Admiralty officials, with little variation, was 5.6 percent. Parkinson takes another example from the British Colonial Office, from 1935 to 1954. In that period, the area and population of colonial territories remained about the same from 1935 to 1939, fell during the war until 1943, rose again until 1947, and then steadily decreased as Britain shed its Empire. And yet, in each of these two decades, the Colonial Office bureaucracy rose steadily in number by about 5.9 percent per year, regardless of what was happening in the scope of the alleged work to be done. Considering then the rate of increase each year in the Admiralty, and averaging the rates of increase of Admiralty and colonial officials, which is not, after all, more outlandish than many other statistical procedures, Parkinson triumphantly concludes that the number of officials will increase by

an hour and a quarter in composition, and twenty minutes in deciding whether or not to take an umbrella when going to the mailbox in the next street. The total effort that would occupy a busy man for three minutes all told may in this fashion leave another person prostrate after a day of doubt, anxiety, and toil."

Ibid., p. 2.

¹² *Ibid.*, p. 6.

an average of 5.75 percent per year, “irrespective of any variation in the amount of work (if any) to be done.”¹³

A similar analysis was set forth earlier, in 1950, in a grievously neglected book by Connecticut attorney and farmer Thomas H. Barber, based on years of inquiry into government and on his observations of Washington bureaucracy during World War II. Barber writes that “there are two requisites for a bureaucrat’s promotion, the first, the ability to get and hold votes, the second, the number of subordinates he is able to keep busy.” Barber goes on:

. . . in the Federal Government the pay of a bureaucrat executive is proportioned by Civil Service law to the number of his subordinates. This leads to the rivalry in Washington as each bureaucratic chief tries to increase his “empire.” Generally, in order to keep his subordinates busy the boss assumes an air of great importance and affects to be very hurried and under great pressure. He is very punctual at the office and insists that everyone else be. He then deliberately begins to multiply paperwork, calling for reports on any subject connected with his job. He issues enormously complicated orders and memoranda for the organization of his office, requiring that all papers be so routed round that almost every scrap has to be read by everyone in the office and discussed by a number of interlocking committees before it is acted upon. He requires that no paper be thrown away, but all shall be cross-indexed and filed. He has anybody who can be tagged, interviewed, a stenographic report made of the interview and typed (often he has them mimeographed), and circulated to be read and initialed. By these methods it is quite easy to take an amount of work that could be done easily and efficiently by three men and two stenographers, and blow it up so that it can keep from fifty to two hundred people extremely busy, and yet fall far behind in its execution. Thus the uncompleted work gives him an apparently sound excuse for more clerks, who increase his prestige and his pay.¹⁴

¹³ *Ibid.*, p. 12.

¹⁴ Thomas H. Barber, *Where We Are At* (New York: Charles Scribner’s Sons, 1950), p. 103.

Barber then goes on to relate a delightful example of bureaucracy in action that he had observed during World War II. He notes that there existed a department whose work, “supposing it was worth doing, which is doubtful” could have been done competently by about twenty people. It was run, as he puts it, “by a man with a bureaucratic soul.” This man asked for written opinions from everyone on all sorts of subjects and had every one read and initial them:

He was always intensely busy himself, even at night; and he kept constantly increasing his department till he got it up to two hundred men and women. This made him very important. All the two hundred were so busy carrying out his regulations that they were in a constant sweat and confusion, had no time to think, and the essential work in support of the war effort — supposing it was essential — suffered dreadfully. He was rewarded and translated to a more important job.

His successor, Barber related, was a different kind of person; an old gentleman with little ambition and little regard for the taxpayer, but whose objective was to do the essential work, and keep himself and everyone else at the workplace contented. In contrast to the twelve hours a day spent in the office by his predecessor, this man spent only one-half an hour at work each morning. The rest of the day, he walked around the office, talking and joking with the employees, and played golf in the late afternoon. At the end of the first week, says Barber, “he fired about fifty of the two hundred people, apparently at random.” As a result, “the work lessened considerably for the remaining ones.” There was naturally a lot of discussion of this action, and “it was generally decided that he had fired the fifty he was sure he did not like.” “Not a very scientific way of eliminating surplus help,” adds Barber, “but it did lighten the work.”

The following week, the new boss fired fifty more people, this time apparently dismissing those “he *thought* he did not like.” In consequence, “the work for the remainder lightened enormously, though some of the essential work of those dismissed was apportioned around silently by those that remained.” A few days later, another fifty people were dismissed, these being the people “he was not sure he did like.” Barber notes: “With three-quarters of the force eliminated there was practically nothing left but the ‘essential work’, such as it was, to do.” This work was done

effectively in about half of each day by the fifty people remaining, “far more efficiently than it had been done by the original two hundred. The fifty did their stuff and devoted the time remaining — about half of it — to their own concerns.”

Barber concludes that “the old gentleman, being now surrounded only by those he knew he liked, felt he had done enough.” He was in the office about an hour a day, and then he evaporated. “The ‘work’ was far better done than it had been, people had time to think and were not in each other’s way.” Barber adds that the work probably could have been done by half again of those remaining, but that then the half would “have had to work about as hard as the original two hundred had worked and there would have been no benefit to anyone but the taxpayers.”¹⁵

In addition to this keen treatment of bureaucracy, Thomas Barber was perhaps the first person to arrive at the essence of what is now called “public choice” analysis in the economics profession. Barber notes the “constant tendency for all governments to grow both in size and in authority.” Why? Barber answers:

because the advantage of a big, powerful government, from the point of view of the bureaucrats, is personal, clear and ever-present to their eyes; and because the cost of it, not only in money but in freedom, which is lost by giving authority to officials, is vague and nebulous in the minds of the citizens whose attention is not focused on the government at all Therefore, since the bureaucrats know exactly what they want and are working for their own immediate interest, and since the other citizens do not realize what they are giving up, and, in fact, have not their attention on the matter at all, it is obvious which group will prevail.¹⁶

What public choicer has put it better?

III. Limiting Terms of Office in the Original American States

The great Italian sociologist Vilfredo Pareto stressed the importance for society of the “circulation of elites”, that elites not

¹⁵ *Ibid.*, pp. 103-04.

¹⁶ *Ibid.*, p. 100.

become entrenched and solidified.¹⁷ In the market, elites circulate rapidly and smoothly, in accordance with the most efficient service to meet the desires of consumers. But what of government? In the sphere of government, there is no built-in process for the circulation of elites, and so the natural tendency for the burgeoning, entrenching and rigidifying of bureaucracy tends to prevail.

The Founding Fathers of the American republics — and it is important to stress that thirteen republican polities were founded in the several states years before the possibly misguided leap into the American Constitution — were very much alive to the problem of bureaucracy and of government power. Guided by a blend of libertarian and classical republican thought, they attempted, for the first time in human history, to construct deliberately a new political order in which government power would be decentralized, and be strictly confined to the task of keeping the peace, of insuring domestic tranquillity. The program of at least the dominant libertarian-republican wing of the Founding Fathers consisted of ultra-minimal government: guarding the rights of private property, free markets and free trade, freedom of speech, press and religion, separation of government from money, banking and the economy, allowing neither public debt nor public works, having no standing army but rather relying on popular militia in case of foreign invasion, keeping government revenue and expenditures so low as to be nearly invisible, and generally binding down governmental Power with chains of iron, and watching government like a hawk and with vigilance and deep suspicion, lest it resume its natural tendencies and extend Power beyond its strictest bounds. Nowhere was this more clearly put than in Trenchard & Gordon's *Cato's Letters*, English newspaper articles of the 1720s which were reprinted, bound, and proved highly influential in America

¹⁷ Contrary to accepted myth, Pareto was neither a “fascist” nor any other sort of statist. Pareto was an ardent and brilliantly perceptive laissez-faire libertarian and even anarcho-capitalist who understandably became deeply pessimistic about the future of liberty at the turn of the twentieth century. After that, he retreated to his ivory tower, from which he wrote bitter and cynical works about the irrationality of human motivations. See in particular, Piero Bucolo, ed., *The Other Pareto* (London: Scholar Press, 1980); S. E. Finer, “Pareto and Pluto-Democracy: the Retreat to Galapagos,” *American Political Science Review* 62 (1968), pp. 440-50; and Finer, “Introduction” in Vilfredo Pareto, *Sociological Writings* (ed., by S. Finer, London: Pall Mall Press, 1966).

throughout the eighteenth century. *Cato's Letters*, which were powerful expressions of libertarian thought, put it this way:

Only the checks put upon magistrates [government officials] make nations free; and only the want of such checks make them slaves. They are free, where their magistrates are confined within certain bounds set them by the people . . . And they are slaves, where the magistrates choose their own rules . . . and therefore most nations in the world are undone, and those nations only who bridle their governors do not wear chains.¹⁸

How did the libertarian republicans propose to accomplish this program and bind down government? There were two parts to this program. The first was to confine government, for the first time in history, by explicit written constitutions, consisting of severely limited grants of power to the government by the sovereign people, these grants to be strictly, narrowly, and harshly interpreted. Also within those constitutions were explicit bills of rights, warning that government may not transgress against the rights of person and property.

The second and equally essential part of the libertarian-republican program of confining government was to make sure that entrenched oligarchies and bureaucracies would not develop. First, the various powers of government would be separated, and each branch would act as a check upon the others. But more important was a second device which has fallen even more grievously into neglect than the idea of strict construction, bills of rights of person and property, and division of powers. That device was compulsory rotation in office — the idea that in order to keep a bureaucracy and a power elite from becoming entrenched, the terms of office be strictly and severely limited.

Essentially, the founding fathers saw that government lacks the swift and smooth circulation of elites provided by the free market.

¹⁸ David L. Jacobson, ed., *The English Libertarian Heritage* (Indianapolis, IN: Bobbs-Merrill, 1965), p. 256. In the controversial “Pocock Thesis”, J. Pocock sets up an artificial and overblown clash between libertarian and “classical republican” thought, and uses *Cato's Letters* as his definitive reason why the Founding Fathers were influenced by classical republican rather than libertarian ideas. For the definitive demonstration that *Cato's Letters* were decidedly libertarian rather than Pocockian, see Ronald Hamowy, “*Cato's Letters*, John Locke and the Republican Paradigm,” *History of Political Thought*, 11 (1990), pp. 273-94.

They saw that the rough analog within government, was giving the public the maximum opportunity to vote out the incumbents, and, in the grand phrase of nineteenth century politics, to “throw the rascals out!” Therefore, the program of what might be called the “classical liberals” of the late eighteenth century, in England as well as in the new American republics, was frequent (usually annual) elections, and strict limitations upon the terms of office.

It is noteworthy that the current, very popular term-limitation movement for legislators has been denounced for placing fetters on the scope of democratic choice. But that of course was precisely the idea of these libertarian republicans, who were just as aware of the tyranny of majorities as they were of the tyranny of elites, as noted in the case of bills of rights and other constitutional limitations imposed upon government.¹⁹

Take, for example, the first Pennsylvania constitution, the short-lived radical Constitution of 1776, reviled far and wide as subjecting the state of Pennsylvania to the despotism of its democratically-elected legislature. It is true that in contrast to many other states, Pennsylvania established a unicameral legislature of an elected assembly. The executive was a plural council instead of a single governor, elected in rotation by the assembly, and those positions were revocable at will by the assembly. The executive council had no veto power over the laws of the assembly. Furthermore, the president of this council, elected by joint vote of the council and the assembly, was only the presiding officer of the council with no executive power. Judicial despotism was prevented by the judges not having life terms as in many other states, but by being elected by the council for seven-year terms. Even in Pennsylvania, however, and in contrast both to England and to the colonial American governments, the judiciary was at least partially independent of the executive or the legislature.

Despite the unicameral legislature, the subordination of the executive, and the partial subordination of the judges, however, the Pennsylvania Constitution was scarcely a program for democratic

¹⁹ “It is a mistaken notion in government, that the interest of the majority is only to be consulted, since . . . the greater number may sell the less, and divide their estates amongst themselves; and so, instead of a society, where all peaceable men are protected, become a conspiracy of the many against a minority. With as much equity may one man wantonly dispose of all, and violence may be sanctified by mere Power.” *English Libertarian Heritage*, pp. 128-29.

despotism. In the first place, all local officials were to be elected by their communities, and not appointed by the state. Secondly, a comprehensive bill of rights was established in the state constitution to limit the government's power over the people. Third, in a fascinating provision unique to Pennsylvania, a council of censors was supposed to meet every seven years to review the actions of the state government in the preceding years and to see whether and where it had exceeded its constitutional powers, from which a new constitutional convention to correct these excesses might be chosen. And fourth, and enforcing severe term limitation, the assemblymen, elected annually, could not serve more than four out of any seven years.²⁰

It is both curious and unfortunate that the term-limitation movement has so far been exclusively confined to state and federal legislatures, and has not moved on to include the executive and judicial branches of government. Before the Revolution, the judiciary had never been in the least independent in America. The colonial assemblies themselves exercised judicial functions, and in the seventeenth century the assemblies in Maryland, Virginia, and New England functioned as the supreme judicial arm in their respective colonies. By the eighteenth century, judges were appointed by the Crown and the royal governors, and therefore became an instrument of the British executive power. As part of their struggle for autonomy, the colonial assemblies began to advance the idea of life, or "on good behavior," terms for the higher provincial judiciary, as a means of obtaining some degree of independence for the judiciary from British executive control. The temptation, then, was simply to continue this practice after independence from Britain, even though there was now no British executive to struggle against. Even though the U.S. Constitution established life, or good behavior, terms for the federal judiciary, state judges have generally been popularly elected to a multi-year term.

It is high-time, however, for those interested in checking the growth of centralized national power in Washington, to re-examine the idea of fixed terms for the federal judiciary. A fixed term for Supreme Court justices would reduce the despotic power rapidly accumulating into the hands of the nine absolute and unchecked oligarchs who constitute the Supreme Court of the United States.

²⁰ On the Pennsylvania Constitution, see John P. Selsam, *The Pennsylvania Constitution of 1776* (1936).

Not only would such term limits for judges subject the higher federal courts to some sort of check by the public. But, clearly, the hysteria and conflict now surrounding every Supreme Court nomination would be greatly reduced by the knowledge that the public would no longer be stuck with said oligarch for four decades; a fixed term, say of six or eight years, would mitigate the problem and greatly lower the stakes in each appointment.

IV. The Civil Service vs. Rotation in Office

But the sphere of government that is by far the most entrenched, by far the most insulated, and by far the most expansive, is the one we largely examine in this paper: the bureaucracy of the executive branch. If anger at the legislature has translated into the term-limitation movement, there has been no such channeling of anger into a movement to re-establish the equivalent of term-limitation for the executive branch: rotation-in-office. Such rotation in the executive branch of government is insured by carrying out as fully as possible the idea of “throwing the rascals out” at each change of elected administration. The system of radical change throughout an administration upon its defeat in an election was reversed and increasingly narrowed and marginalized after the adoption of civil service “reform” in the late nineteenth century, a “reform” which has been intensifying and expanding ever since. No system has been more savagely derided by right-thinkers and Establishment dogooders than the system of rotation in office, pejoratively labeled “the spoils system.” Opposition to civil service reform has almost invariably been denounced as merely the voice of corruption and of wicked political “machines.” And yet, and despite the fact that the laissez-faire good-government men of the late nineteenth century were fanatically devoted to it, no measure of government has been more destructive of liberty and minimal government than civil service reform. For no measure has entrenched bureaucracy more deeply.

There are two intertwined aspects to this entrenchment, and to the expansion of government as a result of the civil service system. In the first place, the civil servant cannot be removed and replaced by someone else. He enjoys, short of drastic budget cuts and job abolition, lifetime tenure. That entrenches the bureaucracy, and blazes the path for the sort of dysfunctional system outlined by Parkinson, Tullock, and Barber. But there is another, neglected

reason why civil service, and its continuing expansion, leads inexorably to the growth as well as the entrenchment of the bureaucracy. Let us say that, in a certain year, incoming Republicans (or Democrats) appoint 10,000 people to political jobs. (They can either attain these posts by kicking out Democrats or by adding new jobs.) Before civil service reform, the Democrats, after being elected in their turn, could happily kick out the 10,000 Republican rascals and replace them by deserving Democrats.

But suppose, during this putative Republic term, the Republicans, succumbing to a fit of public-spiritedness and devotion to civil service reform, now expand civil service protection to those 10,000 jobs. Hence, the happy result, which perhaps was not overlooked by the Republicans in their reforming zeal: 10,000 Republicans have now been locked into their jobs permanently, courtesy of civil service “reform.” Four years later, when the Democrats return to office, they find that they cannot simply resume their good old ways, eject the rascally 10,000 and replace them by 10,000 good Democrats. To find jobs for these 10,000, they have to *expand* the bureaucracy by 10,000. Later, of course, seized in their turn by a fit of reforming zeal, they expand the civil service reform to these new jobs, thereby freezing 10,000 good Democrats into lifetime appointments. And so, in the sweet-sounding name of removing the bureaucracy from the sordid process of politics, both parties in effect collaborate into fastening both sets of rascals onto the taxpayers permanently. The process, of course, only works by expanding the total number of government jobs.

Or put it another way: regardless of how principled and ideological a political party may be, an essential point of party politics is to find jobs for the faithful of the winning party. If jobs cannot be found, the party system withers and dies, leaving only a self-perpetuating bureaucratic oligarchy behind. A system of minimal government can provide jobs for the winning party by throwing out the jobholders of the losing faction. But if civil service law freezes jobholders in place, the function of providing jobs for the winners can *only* occur by expanding the number of jobs: that is, at the expense of the taxpayers and of the productive, private sector. The “spoils system” allows all the costs to be imposed upon the losing party, and not at all on the body of the taxpayers. Surely a just and admirable system: who better to bear the costs of political defeat than the losing party?

I have only seen this analysis of the propulsive effect of civil service upon the growth of government in the charming little book noted above by Thomas H. Barber. Thus, Barber writes:

In former days all appointments to the bureaucracy were made by the political party in power. When that party was defeated, all the bureaucrats in office were immediately thrown out and their places were filled by faithful heelers of the victorious party. It was not a very noble system. It was not conducive to efficient governmental administration It did have certain virtues, however. It prevented anyone from becoming a bureaucrat for life and so losing completely the point of view of the man on the street. It also permitted the elected officials to reward their political workers by *changing*, instead of *increasing*, the bureaucracy.

After the advent of Civil Service reform, on the other hand, “once installed in the bureaucracy ... the incumbent was there for life, or during good behavior.” These laws meant that for the elected officials “to reward their political workers, they now had to devise new jobs for them instead of merely turning out the incumbents of the opposing party and filling their jobs. The result, of course, has been a great increase in the number of jobs, and thus in taxes . . .”²¹

Barber adds another highly important point: with the advent of Civil Service reform, the once temporary set of bureaucrats are now converted into a permanent and self-conscious class or caste, set aside from, and in fundamental opposition to, the mass of the citizenry. Until the coming of the Civil Service laws, Barber notes, the bureaucrats had “held their positions temporarily, until a change of party at election threw them back to earn what living they could . . . as ordinary citizens.” Before reform, in short, the job holders “had not been a class — merely a group of people temporarily doing the same kind of work.” But the Civil Service law “gave them a life tenure of their jobs — welded them into a class.” When the class of bureaucrats began to get unpopular with the public, adds Barber, they “very quietly began organizing ‘publicity bureaus’, that is, propaganda bureaus, to ‘educate the public’ into believing in the divine wisdom and beneficence of the government (as represented by themselves) in managing everything and everybody.” In other

²¹ Barber, *Where We Are At*, pp. 109-10.

words, “the bureaucrats are given a strong incentive to organize and form a powerful bureaucratic lobby.”²²

V. The United States Civil Service: The Federalist Beginnings

Elections can only serve as a method of enforced circulation of bureaucratic elites if there exists more than one organized political party. Yet, so demoralized were the Anti-Federalists upon the adoption of the Constitution, and after their decision to accept a Bill of Rights in return for not insisting on a second constitutional convention, that the Federalists were allowed to assume power as a virtually unchallenged party. The Federalists therefore were allowed the scope to staff the nascent bureaucracy with their own conception of the Best and the Brightest — i.e., men of their own party, in contrast to the despised Anti-Federalists or the later Republicans.

Starry-eyed historians have contended that George Washington staffed the administrative bureaucracy with a genuinely non-political and non-partisan array of the Best and the Brightest. Carl Prince has shown, however, that, guided by his distinguished theoretician and organizer Alexander Hamilton, Washington deliberately developed a highly partisan, Federalist party-oriented federal civil service. In the first place, all Anti-Federalists were from the beginning deliberately excluded from office. Secondly, Prince concludes that “the civil service . . . formed a haven for [Federalist] party cadre (party managers at state and local levels), thus virtually professionalizing secondary leadership by individually linking status and pecuniary rewards to the success of the national party.” The over two thousand federal office holders named by Washington and Adams in the 1790s constituted the activist middle-class base for the elite leadership of the Federalist party; “partly because of its connection with the first federal service, the new party in most states matured rapidly into a highly professional, tightly knit cluster at the

²² *Ibid.*, pp. 110-11.

state and local levels, closely aligned with and led by the national leadership at Philadelphia.”²³

Alexander Hamilton was perfectly suited to the role of building up an effective political machine in the civil service. His Treasury department contained three-quarters of the federal employees; and he was able to use that large base to penetrate other departments and to command the loyalty of the U.S. attorneys and judges then employed in Jefferson’s State Department.²⁴ Even before the end of the Revolutionary War, Hamilton was thinking along similar lines. In arguing for the new idea of having the central government appoint the customs and revenue collectors within each state, instead of allowing the respective states to continue exercising such functions, Hamilton wrote that the reason for such a change would be “to create in the interior of each State, a mass of influence in favor of the Federal Government.” In that way, a number of people in each state would be created who would be loyal supporters of the federal government and its increased power. As Hamilton assumed his powerful post at the start of the new Constitutional government, he received congenial advice from prominent Massachusetts merchant Stephen Higginson, one of the leaders of the ultra-High Federalist Essex Junto. Federal officeholders, warned Higginson, must be limited to dedicated Federalists. Toleration of non-Federalists in appointments would “increase the Evil” of opposition to Federalist views: such softness “encourages others to act the same part”, and the “number of opposers is by this means generally increased.”²⁵

The partisan appointment policy under President John Adams was much the same, but much more blatant, and devoid of the insincere protestations of non-partisanship by the first president. As the premier historian of federal administration put it, under Adams “direct reference to party attitude . . . became more common and less concealed.”²⁶ Adams was far more concerned than Washington to direct personally the appointing process throughout his administration. During the second Washington administration, Washington and Hamilton had made sure to exclude members of the

²³ Carl E. Prince, *The Federalists and the Origins of the U.S. Civil Service* (New York: New York University Press, 1977), pp. x-xi, 2.

²⁴ *Ibid.*, pp. 6-10.

²⁵ *Ibid.*, pp. 7-8.

²⁶ Leonard D. White, *The Federalists: A Study in Administrative History, 1789-1801* (New York: Macmillan, 1948), p. 273.

new Republican Party from office; and Adams not only continued this policy, but stepped up attempts to root out and summarily remove any Republicans from office. Thus, Adams, in justifying his removal of several Portsmouth, New Hampshire customs collectors from office, wrote the Customs Collector at Boston that the “daily language” of these federal officers was “so evincive of aversion, if not hostility, to the national Constitution and government, that I could not avoid making some changes.” Adams concluded that “if the officers of government will not support it, who will?”²⁷ On another occasion, bitter at criticisms by William Duane’s radical Jeffersonian Philadelphia *Aurora*, Adams had his Secretary of State pass the word of his displeasure to the U.S. Attorney for Pennsylvania William Rawle, for not cracking down on the *Aurora* for seditious libel. “If Mr. Rawle does not think this paper libelous,” thundered the President, “he is not fit for his office; and if he does not prosecute it, he will not do his duty.”²⁸

The federal civil service during the Federalist administrations consisted of four parts: two, the customs and internal revenue service, were in the Treasury Department, and constituted three-fourths of the total bureaucracy; the post office, inherited from the Confederation days, came under a postmaster-general, who reported directly to the President; and legal and judicial officers, including the Supreme Court, district judges, district attorney, marshals, and court clerks, came under the nominal jurisdiction of the State Department. Apart from the legal and judicial officers, which remained level in number at about 63, all the other wings of the bureaucracy grew rapidly during the Federalist era. Customs officials doubled from 478 in 1792 to 944 at the end of the Federalist period; internal revenue officials, called into existence by the new federal excise tax of 1791, expanded two-and-a-half fold from 219 in 1795 to 533; and the Post Office, which doubled its number of postmasters from 100 at the end of the Confederation period to 200 in 1791, more than quadrupled again to 824 in 1801. The entire bureaucracy increased two-and-a-half fold from the middle of the two Washington Administrations until the end of the Federalist reign.

John Adams as President not only maintained or accelerated the rate of growth of the bureaucracy, and politicized it even more

²⁷ Prince, *The Federalists*, pp. 11, 45-56.

²⁸ *Ibid.*, p. 11.

blatantly; he also found ways to expand the politicized civil service into new areas. Thus, in the provisional army that Adams raised at the height of the undeclared war with France in 1798, Adams politicized the leadership by banning the appointment of Republicans from the upper ranks of the army. Also, Congress's enactment of a direct property tax in 1798, allowed Adams to appoint many good Federalists to the new openings at the lower reaches of the tax service. The Republicans charged that the Adams men had concluded that a direct tax "will make Roome for more officers; by this time all the yelpers was Nearly put into office with good Salaries."²⁹

The federal judiciary, unfortunately, enjoyed from the beginning the life tenure warned against by Thomas Barber, courtesy of the U.S. Constitution. The Federalists had made sure, in Article III, Sect. 1, of the Constitution, that all the federal judges shall hold life tenure on good behavior. The federal judiciary, which then consisted of six Supreme Court justices and twenty-eight district court judges, was thoroughly politicized during the 1790's, the district courts even more than the Supreme Court.³⁰ Of the twenty-eight, fully three-quarters were partisans of ratification of the Constitution, and even the three doubters eventually supported ratification. Moreover, the bulk of the district judges were fierce Federalist partisans, campaigning for Federalist candidates, denouncing Republicans, and often going so far as making sure of partisan Federalist juries in important cases, such as trials of Republican editors for violation of the Alien and Sedition law. Thus, in one sedition case, Federalist District Court Judge John Lowell of Massachusetts took elaborate steps to make sure of obtaining "one panel of full blooded filtrated federalists, and from them the political verdict."³¹ Pennsylvania District Judge Richard Peters took upon himself a personal crusade, during the period of the Alien and Sedition laws from 1798-1800, to root out "Seditious scoundrels." There are "some Rascals," Peters wrote ultra-Federalist Secretary of State Timothy Pickering, "whom he wanted to handle if he could do it legally." One critic noted that it has

²⁹*Ibid.*, p. 12. Also see Manning Dauer, *The Adams Federalists* (Baltimore: Johns Hopkins University Press, 1953), pp. 215-19.

³⁰ There were no separate appeals judges then, the circuit courts consisting of a blend of district judges and Supreme Court justices.

³¹ Prince, *The Federalists*, p. 251.

“become a regular practice of the federal judges to make political discourses to the grand jurors throughout the United States.”³² Overall, Professor Prince justly concludes that “both the first United States district and circuit courts were among the most thoroughly politicized federal judicial institutions in American history George Washington’s ‘independence’ and ‘integrity’ and the obvious threat to constitutional liberties inherent in the situation notwithstanding.”³³

VI. The Failed Jeffersonian Revolution

The Republicans replaced the Federalists in what has justly been called “The Revolution of 1800.” Unfortunately, Thomas Jefferson was not really the best man to lead that Revolution. A brilliant libertarian-Republican theoretician before achieving power and after leaving it, Jefferson is a classic case of corruption of principle from being in power. The first Jefferson Administration, however, was certainly one of the finest libertarian moments in the history of the United States. Expenses were lowered, the army and navy were sharply reduced, the bureaucracy was cut, the public debt retired, and the federal excise tax, and the Alien and Sedition Acts, were repealed. In the second term, however, the course was reversed, as Jefferson began expanding government, and gearing up for economic war and eventually military conflict with England.

But even in his libertarian-oriented first term, the militant Republicans — the Jeffersonians — were bitterly disappointed. Jefferson was faced with a critical problem: what to do with the bureaucracy, with the politicized civil service that the Federalists had built up. If Jefferson had followed circulation-of-elites, rotation in office principles, he would have booted out the Federalists and installed good Republicans. But as early as his First Inaugural, Jefferson began to temporize, began to yearn for unity, the healing of wounds, and the rest of the homilies that politicians prattle when they get ready to scuttle the principles which had brought them to their current status. In his First Inaugural, Jefferson assured his listeners that “We are all Republicans; we are all Federalists.” Jefferson decided on a middle-of-the road course: to wait until vacancies occur, through death or retirement, and to fill them only

³²*Ibid.*, pp. 242, 250.

³³*Ibid.*, pp. 252, 267.

with Republicans until they constitute about half of the civil service; and only to remove egregiously anti-Republican officials. Jefferson was particularly angered at the “midnight appointments,” that Adams had made at the very last minute before Jefferson took office. During his first two years in office, Jefferson removed the forty major midnight appointments, along with seventy other anti-Republicans in the presidential class of officials, amounting to about one-fourth of the major federal officeholders. But that was it: Jefferson removed virtually no one after 1803, and his successors removed very few bureaucrats as well. Madison dismissed only twenty-seven major officials in his eight years in the White House; and Monroe only twenty-seven in his two terms. And even though John Quincy Adams was strongly critical of President Monroe as being “universally indulgent, and scrupulously regardful of individual feelings,” and therefore firing virtually no one, Adams himself removed the fewest of all: only twelve in his four years in office.

It’s not that the Presidents lacked the legal power to remove office-holders. Indeed, they had the power to remove anyone at will. This power was established, albeit by narrow vote, in the first Congress, the fundamental administrative “Decision of 1789.” The most extreme position in opposition was taken by Rep. William L. Smith of South Carolina (who would later change his mind.) Smith, absurdly, but foreshadowing modern labor union and civil service arguments, maintained that the office was “the property” of each bureaucrat, who could therefore only be removed by impeachment and trial for malpractice and improper behavior.³⁴

And so, from Jefferson through Adams, the civil service, while theoretically removable at will, by custom and the desire of the successive presidents, had become entrenched and rigidified bureaucracy. Characteristically, it took John Quincy Adams, still a federalist at heart though technically a Republican, to put this custom into stringent ideological terms. Any removal from office except “for cause”, i.e. for malfeasance in office, might be politically expedient but it violated Adams’s conception of the “public good.” Even though it was not ensconced in the law, lifetime tenure on

³⁴ David H. Rosenbloom, *Federal Service and the Constitution: The Development of the Public Employment Relationship* (Ithaca: Cornell University Press, 1971), pp. 26-33; White, *The Federalists*, pp. 20-25.

good behavior for the federal bureaucracy had become enshrined in custom for forty years, from 1789 to 1829.³⁵

The most important defection of President Jefferson from militant Republican principle was his failure to challenge the entrenched Federalist judiciary. Not only did the judiciary enjoy life tenure under the Constitution; but, at the last minute, and shortly before they were forced to leave office, the lame duck Federalist Congress passed the Judiciary Act of 1801, which created six new circuit courts with sixteen quickly appointed Federalist judges; and expanded the jurisdiction of the circuit courts. Moreover, in one of his midnight appointments, President Adams appointed John Marshall of Virginia as Chief Justice of the Supreme Court, a Federalist Chief Justice who would plague libertarian Republicans with his decisions for over three decades.

The radical libertarian, or Old Republican, position was led by Virginians such as John Taylor of Caroline and John Randolph of Roanoke, by Benjamin Austin, leader of Boston's artisans, and by William Duane, editor of the Philadelphia *Aurora*. Many of the Virginia Old Republicans were friends and kinsmen of Jefferson, but they soon realized that their leader was really not one of them, really not prepared to carry forth the "Jeffersonian" Revolution. Steeped in Anti-Federalist hostility to strong central government and self-perpetuating bureaucracy, the Old Republican sought fundamental revolution. Virginia Old Republican William Branch Giles put their judicial program to President Jefferson with clarity and force:

What concerns us most is the situation of the Judiciary as now organized. . . the Revolution is incomplete, as long as that strong fortress is in possession of the enemy; and it is surely a most singular circumstance that the public sentiment should have forced itself into the Legislative and Executive Department, and that the Judiciary should not only not acknowledge its influence, but should pride itself in resisting its will, under the misapplied idea of "independence" No remedy is competent to redress the evil system, but an absolute repeal of the whole Judiciary and terminating the present offices and creating a new system, defining the common law doctrine and

³⁵ Leonard D. White, *The Jeffersonians: A Study in Administrative History, 1801-1829* (New York: Macmillan, 1951), pp. 1-15, 347-55, 369-71, and especially pp. 379-81; Rosenbloom, *Federal Service*, pp. 38-44.

restraining to the proper Constitutional extent the jurisdiction of the Courts.³⁶

In the fall of 1801, the veteran Old Republican, Edmund Pendleton, in his tract, *The Danger Not Over*, proposed constitutional amendments that were soon endorsed by the Virginia legislature. The anti-oligarchic and pro-rotation of office nature of these proposed amendments should be clear: the President was to be ineligible for more than one term; the term of Senators was to be reduced; and severe limits were placed on the public debt. As for the federal judiciary, appointments to the courts were to be made by the Congress with no role for the President, and the judges were to be removed at will by a joint vote of House and Senate.

The centrist Republicans, however, men like James Madison, Virginia's Wilson Cary Nicholas, Samuel H. Smith of Maryland, Robert R. Livingston of New York, and Alexander J. Dallas and Albert Gallatin of Pennsylvania, took a very different tack. All of them except Gallatin had favored the adoption of the Constitution, and all of them favored strong central government shorn of Federalist excesses; in short, they were content with the existing system provided that one of their own such as Jefferson was installed in Power. Since they believed that with Jefferson in office, the Revolution was now over, and there was no need for further radical or constitutional change, they favored the Jeffersonian policy of conciliating the Federalist party. At least when he was in power, Jefferson took his stand with the centrists of his party. Hence, his failure to bring about fundamental structural or administrative reform.

Indeed, with victory secured, the centrists now believed that their Old Republican colleagues, not the Federalists, were the main danger. To James Sullivan, Republican Governor of Massachusetts, the Old Republicans were "in opposition to all regular well established governments." They are possessed of a confidence stemming from "a frenzy", and "Having no idea of a solid rational government, they cannot be trusted with power . . ." Virginia Senator Wilson Cary Nicholas also denounced these Old Republicans whose libertarian "bias . . . is strongly against those

³⁶ Giles to Jefferson, June 1, 1801. Richard E. Ellis, *The Jeffersonian Crisis: Courts and Politics in the Young Republic* (New York: Oxford University Press, 1971), pp. 20-21.

who rule.”³⁷ To Sullivan, the solution to this problem was “to destroy the lines of party distinctions” — a result that the centrists were finally to achieve in the one-party system during the Monroe and Adams administrations. But the lines of this conflict were blurred by the fact, as Professor Ellis points out, that Jefferson himself, even though a moderate in policy, was generally radically libertarian and Old Republican in rhetoric. Furthermore, unlike the centrists, he wanted to reconcile the Old Republicans rather than purge them from the party.³⁸

On the judiciary, Jefferson, early in his administration, removed the aggressively Federalist prosecuting attorneys and the marshals who selected the juries and executed the courts’ sentences. On the judges themselves, while Jefferson did not try to touch their life tenure, he did manage to repeal the Judiciary Act of 1801 the following year, and thereby to roll back the last minute tide of expansion of Federalist judges.

Jefferson’s defection from the principles of rotation in office was the most important event in the entrenching of the combined old Federalist and new Republican bureaucracy. From Jefferson on, the Republican party remained in power, and from Monroe through Adams the United States lived under a one-party state, the Federalists having withered away. With no party competition, there was virtually no pressure for throwing the rascals out.

But in 1820 came what Professor Leonard White, a typical academic enthusiast for a life tenure civil service, called “the cloud on the horizon”, the harbinger of the dread “spoils system” wrought by the Jacksonian movement. Secretary of Treasury in the Monroe Administration, William H. Crawford of Georgia, pushed through Congress the Tenure of Office Act, which Monroe came to regret signing, and which was bitterly denounced by all the champions of the entrenched bureaucracy, including Thomas Jefferson. Madison and following him Monroe actually denounced the law as “unconstitutional.”

The Tenure of Office Act of May 1820 decreed that all presidential class officials, connected with the collection or disbursement of money, would henceforth serve, not indefinitely, but for fixed terms of four years, after which they would have to be reapproved by the U.S. Senate after being renominated by the

³⁷ *Ibid.*, pp. 23-24.

³⁸ *Ibid.*, pp. 29-30.

President. The covered officials included district attorneys, customs collectors, public land officials and registers, army and navy agents and paymasters. Not affected were postmasters, or any of the accounting and clerical employees. The Tenure of Office Act meant (a) that at least higher bureaucrats would be confronted with fixed terms, and (b) that the power to remove them would no longer be exclusively in the hands of the President, but that the U.S. Senate could share in the removal process.

The Act came as a shock to the previously contented oligarchy. Jefferson wrote to Madison in horror, charging that the law “saps the constitutional and salutary functions of the President, and introduces a principle of intrigue and corruption . . . This places, every four years, all appointments under their [the Senate’s] power . . . It will keep in constant excitement all the hungry cormorants for office, render them, as well as those in place, sycophants to their Senators, engage these in eternal intrigue to turn out one and put in another . . .” There is, of course, another way to look at this law than this frenetic diatribe: that such a system would introduce a bracing wind of competition and of public accountability into the stolid and complacent ranks of the ruling bureaucracy.³⁹

It may not be an accident that Secretary Crawford was the author of this bill. A Georgian who was close to the Old Republicans, Crawford, in 1824, was the Presidential candidate of that group as well as of Martin Van Buren, the brilliant political tactician who had been inspired by a weekend with Jefferson at Monticello in May 1824 to spend his life forming a new political party — later to be the Democratic Party — dedicated to taking back America for the old cause, for the libertarian Old Republican ideals of 1776 and 1798.⁴⁰ By the election of 1824, Crawford had fallen ill and had little chance for the presidency, but the Old Republican ideals, including that of bringing accountability and rotation of office to the bureaucracy, would go on to be championed by the Jacksonian movement and the

³⁹ White, *The Jeffersonians*, p. 388.

⁴⁰ On the importance of Van Buren’s conversion experience at Monticello, see Robert V. Remini, *Martin Van Buren and the Making of the Democratic Party* (New York: Columbia University Press, 1959), pp. 59-63. On a similar conversion of Thomas Hart Benton of Missouri upon a visit to Monticello on Christmas Eve of the same year, see William N. Chambers, *Old Bullion Benton: Senator from the New West: Thomas Hart Benton, 1782-1858* (Boston: Little, Brown, 1956).

Democratic Party forged by Van Buren and others devoted to the Old Republican ideal.

Under President John Quincy Adams, however, the Tenure of Office Act became a dead letter. Adams detested the law: “A more pernicious expedient could scarcely have been devised,” and on principle renominated everyone upon his accession to office, and during his term. The Senate was persuaded to go along. So insistent was Adams on life tenure that, when his losing campaign for re-reelection was underway in 1828, he actually renominated James R. Pringle for collector of customs at Charleston, even though Pringle was frankly “devoted to the opposition.” In his diary, Adams writes that “My system has been, and continues to be, to nominate for reappointment all officers for a term of years whose commissions expire, unless official or moral misconduct is charged and substantiated against them. This does not suit the Falstaff friends who ‘follow for the reward’”⁴¹

VII. Andrew Jackson and the “Spoils System”

The “spoils system”, a derogatory term for rotation in administrative office,⁴² was brought to the United States by President Andrew Jackson. Jackson, an ardent Jeffersonian and Old Republican, was, like other Jacksonian leaders, dedicated to a new Democratic Party that would restore original Jeffersonian Republican principles of laissez-faire and ultra-minimal government. Jackson followed Jefferson in managing, for the second and presumably the last time in American history, to repay the national debt; and he and his dedicated successors, Van Buren and Polk, roughly succeeded in establishing hard money and separating the federal government from the banking system, as well as eliminating the protective tariff. Jackson, a wealthy cotton planter and merchant in Nashville, had been energized by corruption in the Monroe administration and by the bank credit collapse in the Panic of

⁴¹ *Ibid.*, p. 390.

⁴² This famous phrase was included in a speech on the floor of the U.S. Senate in January 1832 by New York Jacksonian Democrat William Learned Marcy: “to the victors belong the spoils of the enemy”.

1819.⁴³ He had served in the House of Representatives and twice in the U.S. Senate.

One of the aspects of government that desperately needed reform, according to Jackson, was the life-tenured bureaucracy. The spoils system had been operating in New York and in Pennsylvania for a number of years, and had been formally incorporated into the Tenure of Office Act. But now Jackson, head of a new incoming party hungry for office, became the first president to sound the trumpet call, and provide an ideological justification for rotation in office. He wanted to change the civil service, as well as to shrink it. In his First Annual Message, Jackson denounced the entrenched bureaucracy:

There are, perhaps, few men who can for any great length of time enjoy office and power without being more or less under the influence of feelings unfavorable to the faithful discharge of their public duties . . . [T]hey are apt to acquire a habit of looking with indifference upon the public interests and of tolerating conduct from which an unpracticed man would revolt. Office is considered a species of property, and government rather as a means of promoting individual interests than as an instrument created solely for the service of the people.

As a result, Jackson went on, government is diverted from “its legitimate end” and made into “an engine for the support of the few at the expense of the many.” Jackson then proceeded to attack the idea of special privileged offices to the few, and endorsed an adherence to an extension of the Tenure of Office Act.⁴⁴

In a country where offices are created solely for the benefit of the people no one man has any more intrinsic right to official station than another. Offices were not

⁴³ On the crucial influence of the Panic of 1819 in converting Andrew Jackson, and future Jacksonian leaders such as President James K. Polk and Thomas Hart (“Old Bullion”) Benton, to a hard money, anti-inflationary-bank-credit position, see Murray N. Rothbard, *The Panic of 1819: Reactions and Policies* (New York: Columbia University Press, 1962), pp. 187-89. On the neglected pervasiveness of corruption in the Monroe Administration, and Jackson’s response to it, see Robert V. Remini, *Andrew Jackson and the Course of American Freedom, 1822-1832* (New York: Harper & Row, 1981), pp. 12-38.

⁴⁴ In 1836, such an extension was applied to the postmasters, who then received a four-year term.

established to give support to particular men at the public expense.

Jackson went on to hone in on the absurd and despotic theory that government officials acquire a property right in the office:

No individual wrong is, therefore, done by removal [from office], since neither appointment to nor continuance in office is a matter of right ... The proposed limitation [four years] would destroy the idea of property now so generally connected with official station, and although individual distress may be sometimes produced, it would, by promoting that rotation which constitutes a leading principle in the republican creed, give healthful action to the system.⁴⁵

The Whig opposition, as the old, oligarchic, neo-Federalist as well as centrist Republicans now called themselves, lost no time in trying to block Jackson's reform, which threatened the longevity of their own people in office. Daniel Webster, a Federalist turned Whig, thundered that the government agencies, such as the armed forces, the Post Office, the Land Office, or the Customs-house, are "institutions of the country, established for the good of the people," and that therefore it threatened free institutions for these offices to be spoken of as but "the spoils of victory." Stronger in the courts and in the Senate than in the presidency, the Whigs continued to raise constitutional objections to the President's power of removal. But fortunately, the Supreme Court, in *Ex parte Hennen* (1839), its first case on the subject, ruled unequivocally that no government official, even in the federal judiciary below the Supreme Court, had a property right in his office, and that the President or any other statutory authority had the right to dismiss him at will.⁴⁶

⁴⁵ James D. Richardson, ed., *A Compilation of the Messages and Papers of the Presidents of the United States, 1789-1897* (Washington: Government Printing Office, 1896), II, 438-39; Ari Hoogenboom, ed., *Spoilsmen and Reformers* (New York: Rand, McNally, 1964), pp. 2-3; Paul P. Van Riper, *History of the United States Civil Service* (Evanston, IL: Row, Peterson, 1958), pp. 30-37; Leonard D. White, *The Jacksonians: A Study in Administrative History* (New York: Macmillan, 1954), pp. 317-21; Rosenbloom, *Federal Service*, pp. 47-50.

⁴⁶ *Hennen* was later reinforced on the state level by *Butler v. Pennsylvania* (1850), which held that public employment was not a "contract" within the meaning of Article I, Sect. 10 of the Constitution, which prohibited any state

Faced with fierce resistance in the Senate, Jackson had to move cautiously, but he succeeded in the heaviest removal rate until that date: during his administration, he removed 252 out of 610 presidential class employees, or over forty-one percent. Including all the lesser federal employees, however, the removal rate was less than twenty percent.⁴⁷ Van Buren, his successor and an ardent Jacksonian, had little reason to remove Jacksonian officials. In his last two years in office, he removed 364 postmasters, amounting to about three percent of 12,000, to tighten the officialdom a bit for the coming election campaign.

The true test of whether the spoils system would stay was what the Whigs would do when they ousted the Democrats from the Presidency in 1840. Would they stand by their allegedly fiercely-held principles against rotation in office? Or would they succumb to the lure of kicking out the Democrats and replacing them by good Whigs? Fortunately, they abandoned their principles and succumbed to temptation, the Harrison and Tyler Administrations ousting fully fifty percent of the presidential class officials. When James K. Polk returned for the Democrats in 1844, he ousted thirty-seven percent of the presidential class employees, and also managed to appoint, during his four years, 13,500 out of the existing 16,000 postmasters, even though only 1,600 were removed from office while 10,000 filled vacancies caused by resignations. When Zachary Taylor came in for the second Whig administration, he settled the principle of rotation in office, ousting fifty-eight percent of the presidential class officeholders. Indeed, Taylor told his Secretary of the Treasury that “rotation in office, provided good men are appointed, is sound republican doctrine.”⁴⁸

In the nineteenth century, especially after the emergence of the Democratic Party, the political parties in the United States were indispensable carriers of furiously clashing ideologies. Every American child or immigrant was socialized into a political party and its ideology, and as a result each American was fiercely loyal to his own party. In most states, elections were very close, and if one’s party candidate dared to waffle in his ideological commitment, the party faithful punished him by staying away from the polls. In

from passing a law “impairing the obligation of contracts.” Rosenbloom, *Federal Service*, pp. 52-53.

⁴⁷ White, *The Jacksonians*, p. 308. On resistance in the Senate, see Van Riper, *History*, pp. 37-41.

⁴⁸ White, *The Jacksonians*, pp. 309-13.

contrast to the current political scene, where parties have no particular ideology and command no particular loyalty, there were very few floating, independent voters.

By being carriers and instruments of a party ideology, the political parties in nineteenth century America were the vitally important means by which ideology could dominate the narrow clash of special interest groups and seekers after government subsidies and privilege. The disappearance of ideological parties, starting in 1896, brought about the weak and fuzzy party politics we are familiar with today.

It is clear that clashing ideological parties would be more willing to throw the rascals out, since they really believed that their opponents were rascals. The spoils system added the healthy incentive of occupying the offices for one's own party, so that party self-interest could be wedded to the pursuit of ideology. Both common party ideologies and the spoils system kept the political party system healthy and flourishing. What everyone now laments as the anemia and near-death of party organization and party loyalty was brought about by the twin blows of the demise of the spoils system and the disappearance of a fervently held party ideology.

Writing later, in the 1920s, historian Charles R. Lingley well expressed the importance of the spoils system and its linkage with ideology:

In the field of actual politics, parties are a necessity and organization is essential. It is the duty of the citizen, therefore, to support the party that stands for right policies and to adhere closely to its official organization. Loyalty should be rewarded by positions within the gift of the party; and disloyalty should be looked upon as politician treason.

Lingley adds that anyone who votes for other than party organization candidates and who "feels himself superior to the party" is "faithless to the great ideal." And he

is only a little less despicable than he who, having been elected to an office through the energy and devotion of the party workers, is then so ungrateful as to refuse to appoint the workers to positions within his gift. Positions constitute the cohesive force that holds the organization intact.⁴⁹

⁴⁹ Charles R. Lingley, *Since the Civil War* (New York: The Century Co., 1924), p. 118; quoted in Van Riper, *History*, p. 61.

In a thoughtful essay lamenting the demise of the spoils system as an important democratic check upon the growth and arrogance of bureaucracy, Professor Fred W. Riggs, an expert in Comparative Public Administration, first points to the untrammelled bureaucracy of Oriental Despotism, and of other examples where bureaucracy sped forward beyond any checks of competing political parties. He then goes on to point out that the much heralded “merit system” of promotion within a life-tenured bureaucracy, “cuts at the root of one of the strongest props of a nascent political party system, namely spoils.” In the United States, “the spoils system played an important part in galvanizing the parties into action.” While often seemingly more efficient in their tasks, Riggs points out, “the career bureaucracy can project greater political power on its own, resist more successfully the politician’s attempts to assert effective control. What is lost in administrative efficiency through spoils may be gained in political development, especially if party patronage can also be used as a lever to gain control over administration.” And even the edge in efficiency, notes Riggs, is often illusory:

Without firm political guidance, bureaucrats have weak incentives to provide good service, whatever their formal, pre-entry training and professional qualifications. They tend to use their effective control to safeguard their expedient bureaucratic interests — tenure, seniority rights, fringe benefits, toleration of poor performance, the right to violate official norms — rather than to advance the achievement of program goals.⁵⁰

VIII. The Johnson Administration and the Advent of “Reform”

When the Democrats returned to power in 1853, the Pierce Administration summarily removed approximately 89 percent of the Whig presidential class appointees. But the most massive employment of the spoils system came with the Lincoln Administration, when the Republican Party came to power for the first time. Of the 1,520 presidential class appointees existing in

⁵⁰ Fred W. Riggs, “Bureaucrats and Political Development: A Paradoxical View,” in Joseph LaPalombara, ed., *Bureaucracy and Political Development* (Princeton: Princeton University Press, 1963), pp. 128-29.

1859, Lincoln removed no less than 1,457, or 96 percent. Employees who were in subordinate categories, who usually fared better during removals, this time suffered to the same degree. Even military appointments were now made on a largely partisan basis.⁵¹

Professor Van Riper, generally an admirer of Abraham Lincoln, concedes:

From 1861 to 1865 the policy of [George] Washington, selection according to relative capacity and fitness [*sic*], was almost entirely forgotten . . . Lincoln left the bulk of the nominations for presidential as well as for subordinate offices to his political friends and advisors. The military forces as well as the civilian establishment were exploited freely, and political generals were

⁵¹ Perhaps the most egregious of Lincoln's military appointments was that of General Grenville M. Dodge. Dodge, an Iowa political leader and railroad entrepreneur, came to the Republican convention in 1860 to help swing the wavering Iowa delegation to Lincoln. Dodge came at the behest of Lincoln's campaign manager Norman Judd, state chairman of the Illinois party and fellow railroad entrepreneur. In 1862, the Union Pacific Railroad received the first federal transcontinental railroad charter from the federal government, including massive land grant and monetary subsidies. One of the founders of the Union Pacific was Grenville Dodge, who was promptly made a general so that he could take parts of the Union Army and clear out Indians from the prospective path of the Union Pacific.

General Dodge performed this feat under the direction of Acting Secretary and then Secretary of the Interior John Palmer Usher. An Indiana railroad attorney, Usher had been an entrepreneur, just before the Civil War, of the Leavenworth, Pawnee and Western Railroad in the Kansas Territory, and that railroad lobbied heavily and successfully to put Usher into a high post in the Interior Department. The Leavenworth Railroad soon became the Eastern Division of the Union Pacific Railroad. Philip H. Burch, Jr., *Elites in American History, Vol. II: The Civil War to the New Deal* (New York: Holmes & Meier, 1981), pp. 16, 23-24, 48, 54.

Many of the directors of the new Union Pacific had been officers or directors of the connecting Chicago & Rock Island Railroad, of which Norman Judd had been general counsel.

Before his election as President, furthermore, Abraham Lincoln had been a long-time attorney and lobbyist for the powerful Illinois Central Railroad, the leading U.S. railroad before the transcontinental. It is intriguing that his first appointed commander of the Union Army, George B. McClellan, before the Civil War had been chief engineer and vice-president of the Illinois Central, while McClellan's successor, the hapless General Ambrose Burnside, had been treasurer of the Illinois Central just before the war. *Ibid.*, p. 55.

notoriously numerous. With more offices at his disposal than any president up to that time, . . . Lincoln appears to have used — or permitted the use of — the appointing power at his command as deliberately as they could have been used for practical, and usually partisan, political purposes.⁵²

Yet, curiously enough, the insufferable self-righteous group of civil service Reformers, many of whom would concentrate the rest of their lives on attacking spoils and calling for life tenure and open examinations on “merit” for the civil service, and who began their agitation at the end of the Lincoln reign, made no complaint whatever at President Lincoln’s maximal use of the spoils system. Perhaps the reason was that the reformers, almost all Republicans themselves, benefited hugely from Mr. Lincoln’s patronage.

Indeed, the men who would soon become leading reformers reveled in plush positions in the foreign service during the Lincoln Administration. Leading Boston Brahmin patrician, Charles Francis Adams, son of John Quincy, gained the devoted appointment of Minister to the Court of St. James in Great Britain.⁵³ Boston Brahmin historian, John Lothrop Motely, was selected as minister to Austria. Novelist William Dean Howells became minister to Italy, a payoff for writing a puff campaign biography for Abraham Lincoln. New York’s John Bigelow was Consul-General to France, while the man who was to become the leading spokesman for civil service reform, Boston-reared George William Curtis, editor of the influential *Harper’s Weekly*, was offered but refused appointment as minister to Egypt. German immigrant Carl Schurz, a leading Republican in the German-American community in Missouri and throughout the Midwest, who helped win the election for Lincoln, was rewarded with the post of Minister to Spain. Restless at being far from the action, Schurz came back to the United States, where he became one of the many lackluster Union generals.⁵⁴

⁵² Van Riper, *History*, p. 43. Also see Rosenbloom, *Federal Service*, p. 65.

⁵³ Unlike his father and grandfather, Adams was wealthy as well as being a leader of the Brahmin elite. For Adams married the daughter of one of Boston’s wealthiest merchants, Peter Chardon Brooks. One son of Adams, John Quincy Adams II, married into the wealthy Crowninshield family, while another, Charles Francis Adams, Jr., was soon to become president of the Union Pacific Railroad. *Ibid.*, p. 24.

⁵⁴ Ari Hoogenboom, *Outlawing the Spoils: A History of the Civil Service Reform Movement, 1865-1883* (Urbana, IL: University of Illinois Press, 1968),

The civil service Reformers were a remarkably homogeneous group. Concentrated almost exclusively in the urban Northeast, including New York City and especially Boston, the Reformers virtually constituted an older, highly educated and articulate elite. From families of old patrician wealth, mercantile and financial rather than coming from new industries, these men despised what they saw as the crass materialism of the *nouveau riche*, as well as their lack of good breeding or education at Harvard or Yale. Not only were the Reformers merchants, attorneys, and educators, but they virtually constituted the most influential “media elite” of the day: editors, writers, and scholars. Even though many of them favored laissez-faire in trade and in monetary affairs, they were shaped by the cultural and religious values of their neo-Puritan Yankee culture. In religion, the Reformers were either mainstream post-millennial pietist Protestants, attempting to bring about the Kingdom of God on Earth, or, especially in Boston, Unitarians who secularized in moral terms the quest for the millennial Kingdom. During the 1850s, their moral and religious urge to get rid of slavery, either as frank abolitionists or merely by blocking slavery in the new western states and territories, led all of them into the Radical wing of the Republic Party. Underlying their religious thrust was a coercive Yankee temperament and moral doctrine that had brought the first public schools to the United States long before the rest of the country, in order to inculcate the region’s children with the value of obedience to the State as well as in the Protestant religion. In keeping with their religious and moral concerns, their emphasis in civil service reform, from the beginning, was more on morality than efficiency.

For them, such structural changes as life-tenure and competitive open examinations were mere means to an end, their overall goal being to put “good men” into office. And, all too often, those “good men” were simply themselves and their kind.

The civil service reform movement began when Senator Charles Sumner (R., Mass), a Boston Brahmin and a leader of the Radical Republicans, introduced a bill for tenure and open examinations, to be administered by a federal civil service commission. Sumner’s bill was introduced in April, 1864, as an expression of some of the Radicals’ opposition to the renomination of Abraham Lincoln,

pp. 21 and passim. Hoogenboom’s is the outstanding revisionist history of the civil service reform movement, culminating in the decisive Pendleton Act of 1883.

whom they considered far too soft on slavery and on the South.⁵⁵ The bill was a warning shot across Lincoln's bow, but it got little public support, and Sumner himself did not strongly back the bill, and asked that it be tabled. Sumner had long fulminated against the spoils system, and repeated these charges when he introduced the bill, but, as chairman of the Senate Foreign Relations Committee, he did not hesitate to use his influence to win offices for his friends. Neither did George William Curtis, soon to become the leading champion of reform, scruple to urge his own friends upon Sumner.⁵⁶ Still, Sumner was surprised to find his "little bill on the civil service" draw more support than he had expected. Several of the leading newspapers of Washington and New York; several leading academics; Lincoln's Minister to Denmark, Bradford R. Wood, of Albany; William E. Dodge, Jr. of the important metal importers, Phelps, Dodge & Co., who obtained the backing of the Union League Club of New York; and E. B. Ward, Detroit businessman and secretary of the National Manufacturers Association.⁵⁷

Notwithstanding Sumner's abortive effort, the Radicals were basically happy with Lincoln's policies as well as his patronage, and so reform did not really take wing until after the assassination of Lincoln in April, 1865. Vice-President Andrew Johnson was a Union Democrat rather than a Republican, and his moderate policies on Reconstruction deeply angered the Radicals. In December,

⁵⁵ During and after the Civil War, there were two clashing wings of the Radical faction of the Republican Party. One, headed by Sumner and dominant in New England, favored such laissez-faire economic policies as free trade and hard money. The other, headed by Pennsylvania ironmaster and Representative Thaddeus Stevens, Pennsylvania economist and ironmaster Henry C. Carey, and the Iron and Steel Institute, favored protective tariffs and inflationary greenbacks, to help steel exports and hinder imports, as well as to aid the heavily indebted large railroads. The Stevens wing was soon to become dominant in the Radicals and among the Republicans generally. The Sumner forces were later to become Liberal Republicans and to lose interest in Reconstruction. See Robert P. Sharkey, *Money, Class and Party: An Economic Study of Civil War and Reconstruction* (Baltimore: Johns Hopkins University Press, 1959).

⁵⁶ Hoogenboom, *Outlawing the Spoils*, pp. 10-12.

⁵⁷ One of the academic backers of the Sumner bill was the distinguished political theorist Francis Lieber, of Columbia College, who at the same time put in his bid to become one of the federal civil service commissioners. Hoogenboom, *Outlawing the Spoils*, p. 11.

1865, Representative Thomas Allen Jenckes (R., RI.), one of the leaders of the Rhode Island bar, made himself the leader of Congressional Reform by introducing a civil service reform bill. Jenckes, a wealthy patent attorney, was in correspondence with British civil service reformers, and he patterned his bill after their program: life tenure on good behavior, open competitive examinations, and a three-man civil service commission to administer the program.

Thomas Jenckes professed to have been converted to reform by his own experience during his Civil War public service, and by study of the English system. And yet, his alleged opposition to spoils did not prevent him from wielding a great deal of patronage while in Congress. It seems more likely that his newfound zeal for reform came from the advent of the hated Johnson Administration. Jenckes had been a zealous Radical, but a pro-Lincoln loyalist, and he was now trying to block Johnson from using his own patronage powers to oust the Lincoln Radicals. Indeed, Jenckes was to write one of the articles of President Johnson's impeachment, and narrowly missed being elected by the anti-Johnson Radicals as House manager of the impeachment trial.⁵⁸

During 1866, however, Jenckes's bill only picked up the support of the new and increasingly influential weekly, *The Nation*, a New York periodical founded by young British journalist Edwin Lawrence Godkin, who had emigrated to the U.S. in 1856 and launched *The Nation* in 1865. Inspired by the British model, Godkin devoted the rest of his life to free trade, hard money, and civil service Reform. But most of the soon-to-be reformers had little interest in reform at this point, joining the other Radicals in trying to wrest the patronage power away from the President and into the hands of the Radical-dominated Senate. Johnson attempted to remove the Radicals from executive office, dismissing over one-third of the presidential appointees, over the fierce resistance of the Senate. Finally, in March 1867, Congress passed the Tenure of Office Act over Johnson's veto, providing in unprecedented fashion that the President could not remove any officer — including Cabinet members — without Senate approval. Indeed, it was Johnson's

⁵⁸ Hoogenboom, *Outlawing the Spoils*, p. 15. Jenckes was a wealthy patent attorney and manufacturer, whose Rubber Sole Shoe Company was based on his being a patent attorney for Goodyear Rubber, while his American Wood Paper Company used patents to monopolize the production of paper from wood pulp. *Ibid.*, p. 14.

insistence on firing the Radical Edwin M. Stanton as Secretary of War that brought the House to impeach Johnson, and for the Senate to acquit him in his impeachment trial by one vote in May, 1868.

Representative Jenckes resubmitted a reform bill in December 1866, but while it picked up the support of the *New York Times*, Republican, including future reformer, efforts became concentrated on the Senate battle over patronage with the President. On the floor of Congress, Jenckes denounced the spoils system, and held up the example of Prussian bureaucratic efficiency as recently displayed in the Austro-Prussian War. Opposition to reform was led by Vermont Republican Frederick E. Woodbridge, attorney and railroad builder, who declared that periodic changes of civil service officers are wholesome and democratic, and attacked the Jenckes bill as “anti-democratic.” Political changes, Woodbridge declared, “are the great safety-value of the republican form of government ... The health of the nation requires that the stable shall be occasionally cleared out.”⁵⁹ The proposed Civil Service Commission, Woodbridge charged, would be “this great traveling menagerie, this inquisitorial court.” In the vote in the House in early 1861, Radical leader Thaddeus Stevens successfully moved to table the Jenckes bill. The bill lost by a vote of 71 to 67; the Republicans voted 56 to 49 in favor of Reform whereas the Democrats voted 22 to 11 against. The urban East was far more favorable to the Jenckes bill than the rural West, while within New England, the most urbanized states of Massachusetts, Connecticut, Rhode Island, and New Hampshire voted unanimously in favor, while the more rural Maine and Vermont voted totally against.⁶⁰

During 1867, however, increasing reformer disillusion with Johnson, coupled with the passage of the Tenure of Office Act, spurred greater interest in civil service reform. During the fall of 1866, Boston Brahmin Charles Eliot Norton launched a campaign to make his dear friend George W. Curtis, U.S. Senator from New York. When Roscoe Conkling was selected instead, it took the disappointed office-seeker only three weeks to take the plunge and come out for civil service reform — a cause that would occupy him the rest of his life. Reformers were particularly disgusted at President Johnson’s having the effrontery to fire one of their own — John Lothrop Motley — as minister to Austria, for being hostile

⁵⁹ Hoogenboom, *Spoilsmen and Reformers*, p. 21.

⁶⁰ Hoogenboom, *Outlawing the Spoils*, p. 31.

to the Johnson Administration. Charles Sumner, a close friend of Motley's, and Godkin of *The Nation*, were particularly disturbed that Motley would be replaced by Edgar Cowan of Pennsylvania, a man who was not only in favor of Johnson's policies, but who dared to defend the virtues of rotation in office. Taking the typical high moral stance of the civil service reformers, *The Nation* threw down the moral gauntlet to the Johnson Administration:

Mr. Lincoln . . . put into office the best set of foreign ministers we have had in many a day, and all our representatives at first-class courts for the last six years have been men who were in every sense of the word an honor to the country. . .

But, alas, continued *The Nation*, "they are now being removed one by one to make room for the broken-down adherents of 'the [Johnson] policy,' and if anything can be done to stop the process, stopped it should be."⁶¹

Reform agitation centered in the Joint Select Committee on Retrenchment in the House, created in July 1866 to curtail government spending. The old Jenckes bill of 1866-67 had been reported out of the Joint Select Committee. In the spring of 1867, the mysterious Julius Bing, an impoverished immigrant who was acquainted with Senator Sumner, received an appointment as clerk of the Joint Select Committee. During 1867-68, Bing worked tirelessly and on all cylinders to promote the cause of civil service reform. Bing wrote no less than twenty articles for the New York weekly *Round Table* from the fall of 1867 to the following spring boosting reform, as well as articles in the *Chicago Tribune*, *Putnam's Magazine*, and a prominent article in the nation's most influential monthly, the *North American Review*, in 1867. In addition, Bing distributed pamphlets to congressmen and editors, lobbied members of Congress, and was Representative Jenckes's right arm in advancing the cause.

In May 1868, Julius Bing prepared and wrote the Jenckes report of the Joint Select Committee on Retrenchment, a massive and comprehensive report which was for many years to serve as the Bible of civil service reform. In addition to including reports on the Chinese, European and English civil service, the report contained replies of several hundred supervisory U.S. officers to the

⁶¹*The Nation*, IV, No. 82 (Jan. 24, 1867), pp. 61-62. Hoogenboom, *Outlawing the Spoils*, p. 37.

Committee's thirty-seven-point questionnaire. Unsurprisingly, ninety-seven percent of the replies favored reform, i.e. being frozen into life tenure.

Julius Bing's outlook was candidly expressed in his *North American Review* article for October, 1867. "In the early days of the Republic," Bing recalled wistfully, civil service officers as well as the Presidents and the Cabinet, were "generally selected from well-known families." With the advent of the spoils system, however, this aristocratic principle had fallen into disuse, but now, with the Jenckes bill, things would be very different. Andrew Johnson, Bing snarled, would not have passed a test by a civil service commission:

it would not have required a profound psychological knowledge to arrive at the conclusion, that a man may rise from the tailor shop to . . . the gubernatorial chair, and yet be morally and intellectually incapable of presiding . . . over the destinies of a great nation.

Bing's only objection to the Jenckes bill was that it did not go far enough, that it did not apply to the foreign service from top to bottom.⁶²

Finally, after a year of frenzied activity, Bing left the center of the reform movement to become Crete's diplomatic agent in the United States.⁶³

IX. The Flirtation with Grant

The reformers looked forward with great expectations to the coming Presidency of General U.S. Grant in early 1869. An indisputable Radical, General Grant was a military man, previously uncontaminated by politics, and not beholden to political machines. Surely Grant, who was reputed to favor the Jenckes bill, would see the wisdom of appointing the Best and the Brightest to office? Charles Eliot Norton trumpeted that "'Honesty & Grant,' 'Good Faith & Grant,' must succeed," and Julius Bing wrote to Rep.

⁶² *Ibid.*, p. 41, and pp. 42-46. Also see Bing's frenetic attack on the "total depravity" and "total stupidity" of the existing spoils system, in an article in *Putnam's Magazine*, August 1868. Hoogenboom, *Spoilsmen and Reformers*, pp. 12-16.

⁶³ Hoogenboom, *Outlawing the Spoils*, p. 40n.

Jenckes that Grant's imminent election makes "the prospects of our success . . . brighter now than . . . at any previous time."

Grant's installation did not dim the reformers' enthusiasm. Norton burred that "Grant grows daily in my respect and confidence," and he worshipfully described Grant, as "so simple, so sensible, so strong and so magnanimous." *The Nation* exulted that "we have in Grant a man who will break up the present system."⁶⁴

A crucial aspect of the reformer enthusiasm for Grant was a conviction that they themselves, as clearly the best and brightest, would share in the boodle of the first Republican administration since Lincoln. Particularly active in scrambling for the spoils was none other than the leaders of the reformers, George William Curtis. Asked by his friend Norton to recommend him to Holland or Belgium, Curtis lobbied the new Secretary of State, Hamilton Fish, on Norton's behalf. Curtis also asked Senator Sumner to obtain the nomination of two friends as consuls in France, and he recommended to the patronage post of surveyor for the Albany Customhouse a friend, the poet Alfred Billings Street. In defense of Street, Curtis avowed that the man was not a drunkard, as alleged, but rather was a man "enlivened" by alcohol.

In the meanwhile, the reformers, even *The Nation*, made it clear that competitive examinations were not really an end in themselves, but a means toward the true goal: of filling government posts with the most qualified people. And they were sure who those particularly qualified might be: men very much like themselves.

The Grant Cabinet soon disillusioned the Reformers, however, though not enough to precipitate a break. It turned out that Grant's loose ties with political machines was a mixed blessing, for Grant insisted on selecting wealthy non-party types who had donated ("subscribed") money to his campaign. The reformers began to complain that the President was *too* independent of party, i.e. of themselves. The only satisfying Cabinet appointments by Grant were young ex-Governor Jacob D. Cox of Ohio as Secretary of Interior, and particularly the quintessential Boston Brahmin, Ebenezer Rockwood Hoar, as Attorney General.⁶⁵

⁶⁴ Hoogenboom, *Outlawing the Spoils*, pp. 48-49, 51.

⁶⁵ Hoar was Supreme Court Justice of Massachusetts, and a member of the Board of Overseers of Harvard College. Burch, *Elites*, pp. 35, 346. Also see Hoogenboom, *Outlawing the Spoils*, pp. 51-54.

The lesser appointments of the President soon confirmed the reformers' disenchantment. Apart from giving the coveted Minister of England post to the Boston Brahmin historian John Lothrop Motley, who had helped write Grant's campaign biography, Grant failed to acknowledge the Best and Brightest status for the reformers. The new Senator from Missouri, Carl Schurz, found to his consternation that the President had selected the postmaster for St. Louis without consulting him, capped by his telling Schurz that "I know Missouri a great deal better than you do." Charles Eliot Norton, finding himself out in the cold on a ministerial appointment, was no longer enchanted with President Grant by July of the president's inaugural year. By then, the reformers were no longer complaining that Grant was insufficiently political; quite the contrary. Norton wrote his friend, Curtis, of "Grant's surrender . . . to the politicians," who are about to "ruin the country." John Hay, a Boston Brahmin in the career foreign service, wrote angrily about "the herd of swine" whom Secretary of State Hamilton Fish "has commissioned." By late April, the gloomy reformer Henry Adams had washed his hands of the Grant administration:

My hopes of the new Administration have all been disappointed; it is far inferior to the last. My friends have almost all lost ground instead of gaining it as I hoped. My family is buried politically beyond recovery for years. I am becoming more and more isolated as far as allies go.

Adams wrote to his brother, Charles Francis Adams, Jr., lamenting their common political fate:

I can't get you an office. The only members of this Government that I have met are mere acquaintances, not friends, and I fancy no request of mine would be likely to call out a gush of sympathy.⁶⁶

Not only were the Adamses, Curtis, Schurz and other reformers disgruntled by Grant's patronage policy, but so too were the media elite: the nation's editors who were peeved at not receiving lucrative appointments. No important editor or publisher was offered a post; and, by mid-April, only Charles A. Dana, editor of the *New York Sun*, was offered the picayune spot of appraiser for New York. All in all, it was easy for the reformers to see, with Julius Bing by mid-

⁶⁶ Hoogenboom, *Outlawing the Spoils*, pp. 62-63.

April, that Grant had acted “in apparent disregard of the principle of intrinsic fitness and qualification . . .”

If Grant was not to be relied upon, then the reformers must redouble their agitation for a professional civil service with life tenure. Henry Adams, who had not been particularly interested in reform before his disappointment, now plunged into the effort. By February, 1869, Adams had concluded that reform was fundamental, and by June he was writing what he described as a pro-civil service reform article “very bitter and abusive of the Administration.” He expected that the article would get him in “hot water,” but he felt that he had “nothing to lose.” Disappointed in seeking office, the nation’s editors stepped up their reform efforts. As Hoogenboom puts it, “Editors, always a vital part of the civil service reform movement, provided the driving force that eventually secured substantial legislation.” But these were only the “respectable” editors: *The Nation* bitterly made it clear that the non-respectable press were not interested in reform since they were enough inside politics to get “their own hands and those of their friends into the public treasury.”⁶⁷

Stung by their own disappointment, the reformers were incensed when President Grant removed previous officeholders wholesale, and when he made room in the bureaucracy for all the Republican Congressmen defeated in the November elections of 1868. By June, *The Nation* complained that “few people — few of his supporters certainly — were prepared for the ‘clean sweep’ which he made.” The scandals, charged *The Nation*, “have been enormous, and have been deeply felt by the whole community.”⁶⁸

In the meanwhile, agitation for the Jenckes Bill, which had escalated after Grant’s election in the expectation that the new President would back reform, intensified further now that Grant had let the reformers down. Outgoing Secretary of the Treasury Hugh McCulloch called for the Jenckes bill, and the powerful Union League Club of New York unanimously called for reform. Moreover, in December 1868, the American Social Science Association, founded in Boston a few years earlier to oppose slavery, now added civil service reform to its agenda. German immigrant Henry H. Villard, secretary of the ASSA, and soon to be

⁶⁷ *The Nation*, #200 (April 29, 1869). Hoogenboom, *Outlawing the Spoils*, pp. 63-64.

⁶⁸ *Ibid.*, p. 62.

head of the Northern Pacific Railroad, brought Representative Jenckes in early January to Boston to meet with the society and its influential business and professional supporters. A large audience, including the Board of Trade, and several former mayors of Boston, unanimously signed a petition urging the Jenckes bill. The following week Villard held another meeting for Jenckes in New York, attended by 1,200 enthusiastic businessmen. From that base, Villard spread ASSA organizing for civil service reform to Washington and throughout the country. In June, Villard was able to establish a branch of the ASSA in Philadelphia, centering around the prominent anti-Catholic historian Henry Charles Lea, and fifty of the “best citizens of that city.”⁶⁹

In October 1869, George William Curtis took the lead of the reformers in addressing the annual meeting of the ASSA in New York, attacking the existing system and calling for the Jenckes bill. *The Nation* hailed the speech and claimed that the public owed a great debt to the ASSA for featuring the talk; it was also impressed by the fact that Curtis, one of the nation’s most popular speakers on the lecture circuit, would stump the country for reform.

During the same month, Henry Adams published his “very bitter” article on “Civil Service Reform” in the *North American Review*. Taking the gloves off on Grant, he accused the president of carrying the spoils system to a new extreme. In particular, he pinpointed the politically powerful Civil War (North) veterans group, the Grand Army of the Republic, as aiding Grant in organizing a purge of administrative departments. Adams, however, was a fan neither of competitive examinations nor of the Jenckes bill; he wanted the President to impose civil service reform by executive fiat, and he wanted not so much competitive exams but *permanence* of the administrative oligarchy. Adams betrayed the reformers’ overriding motives when he contrasted the alleged magnificence of Attorney-General Ebenezer Hoar with his fellow-Bostonian and Republican, the Radical Secretary of Treasury George S. Boutwell. Whereas Boutwell was a self-made man who rose to prominence, and “was the product of caucuses and party promotion” [Adams’ sneer was almost visible], Hoar, coming from one of the top Brahmin families

⁶⁹ Villard was the son-in-law of the fiery abolitionist leader, William Lloyd Garrison. One of the people whom Villard tapped to head up the Philadelphia branch of the ASSA was the veteran abolitionist James Miller McKim, a founder of *The Nation*, and the father-in-law of Villard’s brother-in-law, Wendell Phillips Garrison.

of Boston, was “by birth and by training a representative of the best New England school, indifferent to opposition whether in or out of his party.” Adams added that

Judge Hoar belonged in fact to a class of men who had been gradually driven from politics, but whom it is the hope of reformers to restore. Mr. Boutwell [on the other hand] belonged to the class which has excluded its rival, but which has failed to fill with equal dignity the place it has usurped.⁷⁰

This was a contrast that *The Nation* immediately applauded.

In the meanwhile, the Radical Republicans, coming into power with the Grant Administration, were not about to have their priorities upset. In the first place, with their man in the White House, they rapidly repealed (or amended out of existence) the Tenure of Office Act, which they had passed two years later so that the Radical Senate could take power from Andrew Johnson. With one of their own as president, they rushed to restore the sole presidential power to remove federal appointees from office.

Similarly, with their man in power, the Radicals had now lost their previous enthusiasm for civil service reform. What was the point, now that General Grant, and not an enemy like Johnson, was president? Taking the lead against the Jenckes bill immediately after the 1868 election, for example, was leader Radical Senator John A. (“Black Jack”) Logan of Illinois. When the hated Andrew Johnson was in power, Logan, in December 1867, had introduced a civil service reform bill. Now that Grant was president, however, it was a very different story. Logan now denounced reform as unconstitutional, aristocratic, monarchical, anti-republican, and undemocratic. On the contrary, he who does not support an administration should not work in it. As Logan put it, “he who does not unite in its view is not to be intrusted with its employment.”

Logan pointed out the importance of rotation in office: “It is by having their agents constantly before them that their acts may be denounced or confirmed that the people maintain their supremacy and enforce their will. This, sir, is the theory and practice of our

⁷⁰ Henry Brooks Adams, “Civil Service Reform,” *North America Review*, CIX (October 1869), pp. 456-57. Excerpted in Hoogenboom, *Spoilsmen and Reformers*, pp. 25-26. Also see Hoogenboom, *Outlawing the Spoils*, p. 67. It was no wonder that Representative Jacob Benton of New Hampshire denounced the Jenckes bill as a “cunningly devised” scheme to oust the Administration’s friends from office “unless they belong to the particular, select favorite class.”

Government. Immediate responsibility we all incur, and speedy settlements we all must render.” Logan concluded that “the right to become for a time a portion of the administrative force of the government is one of the recognized rights of the people of which it is proposed by this bill, utterly and forever, to deprive them.”⁷¹

The Jenckes bill was also effectively attacked by Pennsylvania Democratic Representative George W. Woodward. Harking back to Jacksonian Democracy, Woodward instead called for the Jacksonian virtues of rotation in office, hard money, no excise taxes on industry, free trade, cutting the budget, and repaying the public debt. Rotation in office, Woodward assured, would far more readily assure morality in office than would civil service reform.⁷²

The opposition of Logan and other Radicals doomed the Jenckes bill for the duration of the lame-duck 70th Congress; the reformers would try again in the 71st Congress, coming in with the new Grant administration in the spring of 1869. Prospects were dimmed, however, by the fact that the Democrats, doomed to extreme minority status during the Civil War, had made considerable gains in the congressional elections of 1868.

President Grant’s first annual message to Congress in December 1869 disappointed the reformers still further, by omitting any call for civil service reform; *The Nation* extravagantly called this omission the “great scandal of General Grant’s administration.” The reformers were further embittered when their admired Judge Hoar, appointed by President Grant to the Supreme Court, was rejected by the Radical-dominated Senate, angry at Hoar’s refusal to tolerate political appointees in the Justice Department.

Jenckes reintroduced his bill in the next Congress, in May 1870. This time, Jenckes threw a sop to the principle of rotation in office, but not to political rotation, by providing that his proposed Civil Service Commission could make civil servants subject to re-examination every four years. Most of the popular support was still confined to the northeast.

While the Jenckes bill languished in Congress, the year 1870 saw a number of body blows administered to the reformers by Grant Administration. Their two beloved leaders in the administration were both summarily fired; Ebenezer Hoar as Attorney General and

⁷¹ In Leonard D. White, *The Republican Era: 1869-1901: A Study in Administrative History* (New York: Macmillan, 1958), p. 292.

⁷² Hoogenboom, *Outlawing the Spoils*, pp. 57-58.

John Lothrop Motley as minister to England. Both men joined Senator Charles Sumner in opposing President Grant's scheme for the U.S. to annex Santo Domingo, and Hoar in particular was detested by Massachusetts Radical Representative Ben Butler, a champion of the "spoils system" and enemy of reform. Furthermore, the other reformer in the Cabinet, Secretary of Interior Jacob Dolson Cox, was fired by the president, largely for imposing civil service tests and refusing to make political appointments in the Interior Department. Cox, too, ran afoul of the powerful Butler, as well as tangling with Radical Michigan Senator and wealthy Detroit merchant, Zachariah Chandler.⁷³

After his dismissal in October, Cox was urged to go public with the reasons by fellow Ohio reformer, Representative James A. Garfield, and the disclosure had the effect of demonstrating increasing disarray in Republican ranks. The ensuing elections of 1870 saw a Democratic gain of thirty seats in the House, as well as the carrying of critical states New York and Indiana. After the election, reform agitation continued, with Yale professors generating a New Haven meeting's "warm letter of sympathy" to Cox, denouncing the existing state of the civil service as "the root of much of our political corruption." Harvard quickly chimed in, a Republican "caucus" in Cambridge unanimously passing a pro-Cox resolution, and a group of young Harvard alumni talked of forming a civil service reform club.

During the election, however, reform lost its stoutest Congressional champion. Thomas A. Jenckes was defeated for reelection by an opponent backed by the powerful Republican Senator William Sprague, a wealthy textile manufacturer, railroad man, and real estate speculator. Having accused Sprague of all manner of corruption and then having lost the election, Jenckes went down howling fraud to the last, charging Sprague with having purchased the winning votes.

The 1870 election, indeed, saw the rise of a new faction within the national party, the Liberal Republicans, calling for free trade but devoted in particular to civil service reform. Carl Schurz bolted the Missouri Republican party, and managed to elect a Liberal

⁷³ In another blow to the reformers, one of their leaders, David Ames Wells, from a Massachusetts manufacturing family, was removed from his important post as Commissioner of Revenue by the simple device of allowing his position to lapse. Joseph Dorfman, *The Economic Mind in American Civilization, Vol. III, 1865-1918* (New York: Viking, 1949), p. 11.

Republican as governor. *The Nation* went to the length of calling for a new party devoted to civil service reform, lower tariffs, and, in particular, more representation in government of the “thoughtful, conscientious and intelligent” part of the population, “now excluded from all direct share in the government.”

More prophetic was the call of the Bostonian American Free Trade League for an alliance of liberal or reform Republicans and Democrats, an idea seconded in the pro-reformer *Chicago Tribune*. Promptly after the election, the Free Trade League called a conference for a new alliance in New York. While Schurz, Cox and other Republican leaders refused to commit at this point on breaking with Grant, many leading pro-reform editors were in attendance, including Henry Adams of the *North American Review*, Horace White of the *Chicago Tribune*, and E. L. Godkin of *The Nation*. The conference endorsed both civil service reform and free trade, although Speaker of the House James G. Blaine was able to keep the reformers from calling for a new party by promising to make one of their own, James A. Garfield, chairman of the powerful House Ways and Means Committee. George Curtis also rejected the idea of a new party as insuring the victory of the hated Democrats.

The severe election losses, as well as increasing disaffection from the party by the reformers, caused a shift on the part of the Grant Administration. President Grant, in his annual December, 1870 message to Congress, actually called for civil service reform; the existing patronage system, he said, “does not secure the best men, and often not even fit men, for public place.”

During the lame duck session of the 41st Congress, various reform bills, even though approved by President Grant, failed to pass, until congressional reform leaders put through a joint resolution, authorizing the President to appoint a civil service commission to prescribe rules for examining applications. And despite the fact that this resolution was trickily driven through both houses of Congress at the last minute in March as a rider to an appropriation bill, the reformers hailed its passage without commenting on the hasty and devious way that the process was handled.

The Grant Administration’s tactic managed to split the reformers. Most reformers, indeed, followed Carl Schurz, Jacob Cox, and E. L. Godkin in forming a powerful Liberal Republican faction dedicated to taking over the Republic Party and denying Grant renomination in 1872. The Liberals challenged the dominant

Radicals on every level. Whereas the Radicals were devoted to continuing the Reconstruction of the South, high protective tariffs, continuing greenback inflation, and preserving the spoils system, the Liberals favored conciliating the South and ending Reconstruction now that slavery had been abolished, free trade, and resumption of the gold standard — in short, the platform of the minority Sumner wing of the old Radical faction. But their greatest zeal was not so much for the old laissez-faire creed of the Jacksonian Democracy, but for the doctrine especially detested by that fading group: civil service reform. When Jacob Cox formed his Central Republican Association in Cleveland in early 1871, standing on the above program, Carl Schurz cheered him on, stating that this was the creed of his Missouri Liberal Republicans, and calling for similar organizations across the country.

Out of step with most of his colleagues, George W. Curtis was so delighted with the Grant call for reform and with the ensuing Congressional rider, that he hailed Grant and backed his renomination, a conversion toward Grant possibly influenced by Curtis's belief that the President planned to make him Minister to England. Instead, Curtis got another call from the President; responding to the Congressional rider and to charges of corruption in the New York Customhouse, President Grant surprised and delighted reformers in June by appointing a seven-man Civil Service Commission (CSC), with none other than Curtis as its chairman. The *New York Times*, now a solid Administration organ since Horace Greeley's rival *New York Tribune* was becoming increasingly Liberal, heralded the appointment of the Curtis CSC as offering "practical proof that the President is actively enlisted for reform, and that he has the sense and courage to call to his aid men who are in earnest beyond suspicion."⁷⁴

Curtis succeeded, over the objections of many members of the Commission and over the reluctance of the President, in getting the CSC to promulgate, in mid-December, sweeping rules for all but a small handful of the top officials of the federal administration. He also got President Grant to promulgate the rules on January 1, 1872, to take effect in a mere two weeks. These draconian rules made the CSC the dictator of virtually the entire executive branch, with new entrants into each department coming in almost exclusively at the bottom, with jobholders to be selected by competitive open

⁷⁴ Hoogenboom, *Outlawing the Spoils*, p. 91.

examination, and promotions from the ranks to be selected in the same way.

The CSC was supposed, however, to divide the civil service into grades, and clearly it was absurd to believe that it could accomplish this task in two weeks. On January 10, therefore, Grant suspended the new rules to give the CSC time to come up with a detailed classification into grades. It did so on March 12, 1872, dividing the entire administration into four classes, with all but the small fourth, or highest, class subject to the rules of examination, and their salaries determined by class. Grant quickly bowed to CSC wishes and promulgated the reform rules.

In a letter to the most reform-minded member of the CSC after Curtis, *Chicago Tribune* publisher Joseph Medill, President Grant came down squarely on the side of reform: “The great defect in the past custom is that executive patronage has come to be regarded as the property of the party in power.”⁷⁵

The reformers, however, scarcely paused to celebrate their triumph. They had to battle against a hostile Congress, especially the Grantian Radicals for appropriations and to try to make the Grant rules permanent by statute; and they also arrogantly continued to press the president to extend the rules into the top category, even into those positions that had to be confirmed by the Senate.

In Congress, the Grantian Radicals struck hard. Senator Matthew Carpenter of Wisconsin denounced reform as unconstitutional, transferring the patronage from elected officials to a “board of schoolmasters.” Carpenter also perceptively pointed out that not only were the new rules anti-republican, but that they favored the sons of the rich, who could afford a college education, and therefore do better at abstract written examinations than the practical fellow. Carpenter shrewdly identified the underlying class struggle involved in the agitation for and against reform:

So, sir, it comes to this at last, that . . . the dunce who had been crammed up to a diploma at Yale, and comes fresh from his cramming, will be preferred in all civil service appointments to the ablest, most successful, and most upright business man of the country, who either did not enjoy the benefit of early education, or from whose mind, long engrossed in practical pursuits, the details and niceties of academic knowledge have faded

⁷⁵ Hoogenboom, *Outlawing the Spoils*, p. 106.

away as the headlands disappear when the mariner bids
his native land good night.⁷⁶

A battle ensued in Congress over appropriations for the CSC, which did not feel it could follow its true inclinations in an election year, and it grudgingly voted \$25,000 in early May, a severe whittling down from the original proposal of \$100,000, or even from the Senate's passage of \$50,000. Again, biggest support for the bill was in the northeast, although this time the Grantian Radicals were even more opposed to the CSC than were the Democrats. Leading the anti-reform forces in the House, once again, was Massachusetts Representative Ben Butler, while James A. Garfield led the ranks of the reformers.⁷⁷

It was characteristic of the reformers that they repaid President Grant's conversion to their cause by giving him nothing but grief. The bulk of the reformers, determined to destroy the prospects of a second term for Grant, formed a new party, the Liberal Republicans. Meeting under the aegis of Senator Carl Schurz in Missouri in January, 1872, they called for a national convention to meet in Cincinnati on May 1. The idea was to pick a candidate whom the Democrats could also support, and thereby sweep a Democratic-Liberal Republican president into power. Particularly prominent in the new party were the nation's leading media intellectuals — the editors of the most important newspapers. These included Horace Greeley and publisher Whitelaw Reid of the *New York Tribune*, *The Nation*, the *New York Evening Post*, Horace White of the *Chicago Tribune*, Samuel Bowles of the *Springfield Republican*, Mural Halstead of the *Cincinnati Commercial*, and Henry Watterson of the *Louisville Courier-Journal*.

The reformers were anxious to nominate for president one of their very own, Charles Francis Adams, but in order to broaden their base, they were forced to accept delegates not really devoted to reform, who were often simply spoilsmen disgruntled that they had lost out in the battle for President Grant's favor. Such a man was Horace Greeley, who was nominated over Adams and others on the sixth ballot. Greeley's nomination left Schurz, the party's founder, and other reformers embittered. For the elderly Greeley was the

⁷⁶ White, *The Republican Era*, pp. 293-94.

⁷⁷ For excerpts from a witty speech by Butler attacking reform, and the rider put through at the last minute by Senator Lyman Trumbull, a Liberal Republican from Illinois, see Hoogenboom, *Spoilsmen and Reformers*, pp. 26-28.

opposite of the *beau ideal* of a civil service reformer: a Fourierite socialist and long-time protectionist, Greeley believed that the protective tariff, in contrast to “selfish” laissez-faire individualism, embodied the Christian principle of “universal love.” Not only that: but Greeley was really a spoilsman who joined the Liberals because he had backed the wrong Republican faction in New York, from the point of view of the Grant Administration. Carl Schurz was dismayed, writing Greeley frankly that “the first fruit of the great reform, so hopefully begun, was a successful piece of political huckstering and that the whole movement had been captured by politicians of the old stamp.” E. L. Godkin was even more upset, writing furiously to Schurz that Greeley was a “conceited, ignorant, half-cracked, obstinate old creature,” and charged that Greeley’s “election . . . would be a national calamity of the first magnitude . . . the triumph of quackery, charlatanry and recklessness.”⁷⁸

The civil service reformers were now split into four mutually quarreling factions. The main camp, headed by Schurz and Horace White, after gaining a commitment by Horace Greeley to civil service reform, swallowed their pride by the end of June and supported Greeley. The second, embittered faction, headed by Godkin and Charles Eliot Norton, went back to support President Grant as the lesser of the two evils. A small group of reformers in late June, detesting both Grant and Greeley, nominated W. S. Groesbeck of Ohio for President, but was not heard from again. And finally, the fourth faction, headed by Curtis, was with Grant from the beginning, remained with Grant, and denounced Greeley with relish. Interestingly, Curtis’s letters reveal that his support of Grant was not so much on the civil service question as on his Radical view of reconstruction. Curtis denounced Greeley as too soft on the South, accusing Greeley of being a veritable Copperhead. In the meanwhile, the embattled Democrats, anxious for allies, made the great mistake of nominating Greeley themselves, thereby abandoning all their old principles of Jacksonian Democracy. New York Irish Catholic lawyer Charles O’Conner, a devoted libertarian and Jacksonian Democrat, ran for president on a third, Straight Democratic Party ticket in behalf of the Democracy.

In the 1872 election, Horace Greeley was trounced, losing every state, and he died shortly thereafter. The reformers continued to be

⁷⁸ Hoogenboom, *Outlawing the Spoils*, p. 114. On Greeley’s views, see Joseph Dorfman, *The Economic Mind in American Civilization, 1606-1865, Vol. II* (New York: Viking Press, 1946), pp. 669-71.

split, with the Godkin-Norton faction particularly bitter at those who stuck with Greeley, accusing the latter of selfish and sordid political motives for backing Greeley. After the election, the Schurz-White forces, as true pragmatists, tried to reconcile the factions, but Godkin would have none of it, declaring that “there is at present a slight odor of ridicule hanging around everybody who had anything to do” with the Cincinnati convention. Ideas for a Civil Service Reform League or a daily newspaper in New York devoted to reform faded away.

Despite the disarray of the reformers, President Grant continued to be committed to reform, but he reaped only aggravation from George Curtis. In August 1873, Grant agreed to promulgate CSC rules tightening the old regulations, actually making all personal solicitation of appointments by congressmen and others illegal. But Grant wanted some flexibility in the rules for high positions in the administration. After much backing and filling, Grant insisted on naming his own person for the post of surveyor of the customs in New York, technically within the civil service rules but actually always a leading political position confirmable by the Senate. Curtis stubbornly resisted, however, and when illness prevented him from holding a hearing or examination to find someone to fill the post, the president went ahead in mid-March and appointed the prominent politician George H. Sharpe to the post, without notifying Curtis. In a pique Curtis promptly resigned as chairman of the CSC.

Curtis’s successor as head of the CSC had impeccable reform credentials. Dorman B. Eaton was a reform intellectual and erudite attorney, born and raised in New England and resident in New York. In 1870, Eaton gave up his flourishing law practice, and spent the rest of his life fighting for municipal and civil service reform, publishing a scholarly history, *Civil Service in Great Britain*, in 1880. It is characteristic of Curtis that he was bitter about Eaton betraying the cause, whereas Eaton felt that Curtis was endangering the reform movement by his precipitous action. In any case, it was Eaton who presided over the tighter rules put forth in August.

But Curtis was not to be appeased; after six months of rest, he was back in the fall of 1873, on the attack in his *Harper’s Weekly*, denouncing Grant as not sticking to the “spirit of the rules” by not extending them upward to the important posts of post-masters and collectors of revenue. There is evidence that some of Curtis’s bitterness was caused by the thwarting of his ambition for rising in

the Grant administration — perhaps his failure to be made Minister to England. For his part, Eaton was willing to conciliate Grant and give up reform rules for collectors and surveyors of ports. Although eventually the reformers would be forced to retreat to this more sensible stance, Godkin's *Nation* attacked Eaton's concession, in the process revealing the true ambitions of reform. It is easy for the President and department heads, the *Nation* wrote, to favor reform, "because it takes disagreeable work off their hands, while as to the more important offices, they are almost openly hostile to the spirit of the innovation, because it takes power away from them." It was the top positions that the reformers were mainly interested in conquering and securing, not the jobs of the lowly clerks.⁷⁹

The Radical Republican ranks in Congress were strengthened by the 1872 election, however, and they were ready for the reformers' blood. In addition, the reformers were increasingly distracted by the Panic of 1873, and by the Radicals' demand for monetary inflation to combat a panic that had been brought on by the Civil War and by post-Civil War inflationary expansion of bank credit. Since the reformers were generally hard-money opponents of inflation, the enmity of the Radicals was further redoubled. When President Grant, in his annual message of December 1873, suggested that Congress form a special committee to help the CSC devise enforceable rules, the House responded by naming a committee that featured the inflationist and spoils system champion Ben Butler and that failed to include reform leader James A. Garfield. After a fierce struggle over the existence of the CSC and over its funding, with Ben Butler leading the fight against both, Congress ended by leaving the CSC standing but depriving it of any appropriations.

In the Congressional elections of November 1874, the Democrats, spurred on by the damaging Panic of 1873, won a landslide majority of seventy votes in the House, capturing that body for the first time since the Civil War. The Republican majority in the Senate was reduced to a narrow one. Discouraged by the Democratic victories and by reformer complaints, President Grant finally threw in the towel. In his annual message of December 1874, he continued to endorse civil service reform, but stressed the absurdity of continuing the CSC and the regulations without Congressional funding or support. Grant threatened to abolish the

⁷⁹ *The Nation*, Vol. XVIII (April 23, 1874), p. 260; cited in Hoogenboom, *Outlawing the Spoils*, p. 129.

competitive examination system if Congress failed to fund the CSC. Happy to kill the CSC through inaction, the lame duck 43rd Congress failed to appropriate funds, and Grant discontinued the competitive examinations in March 1875. The Civil Service Commission, and the first era of reform rules, 1871-1875, was ended. The reformer flirtation with Grant was over.

X. The Climax of Reform: The Pendleton Act

The abandonment by President Grant served to mobilize and unify the reformers. In February, 1875, Henry Adams called for a “consultation” of reformers, which was held in the form of a dinner honoring Schurz on his retirement from the Senate. The reformers resolved to unite and avoid the disastrous splits of '72, and they held a general meeting in New York in late April. The reformers concentrated their political fire that year in Ohio, where pro-reformer and hard-money advocate Rutherford B. Hayes managed to topple incumbent inflationist Democratic Governor William Allen. The campaigning for Hayes by Carl Schurz might have made a difference in the close race.

The reformers were also cheered when George W. Curtis was chosen chairman of the New York State Republican convention that year, and when the convention adopted a resolution against a third-term for Grant. And in the Democratic party in New York, pro-reform Samuel Tilden was nominated — and later elected — for governor over Tammany opposition.

The reformers’ political attention was now concentrated on the 1876 race. The reformers, now known as Independent Republicans, secretly cherished the pipe-dream of Charles Francis Adams, Sr. being nominated on *both* party tickets — which would have been the climax of their quiet belief in “democracy” guided by themselves. More realistically, they favored the popular Kentuckian Secretary of the Treasury Benjamin H. Bristow; at one point, Henry Adams contemplated buying the New York *Evening Post* as a Bristow organ with Schurz installed as editor. In April, the reformers held a large-scale New York conference at the Fifth Avenue Hotel, in which they made clear that they would avoid the separate party route of 1872, and maintain an Independent stance,

waiting to see how the presidential nomination came out. The platform adopted by the conference was written by Schurz, stressing the twin issues of civil service reform and sound currency, meaning a return to the gold standard. The *Nation* exulted that the attendees at the conference were largely the “‘moral element’ . . . ministers, professors, and respectable persons who do not believe politics should be pursued as a trade.”⁸⁰

Bristow failed to obtain the nomination at the June convention at Cincinnati, but the reformers were happy with the dark-horse choice, Governor Rutherford B. Hayes, who was committed to reform, to return to gold and to conciliating the South.⁸¹ Hayes had been corresponding with the reformers since February, and after his nomination he wrote happily in his diary: “The best people, many of them heretofore dissatisfied with the Republican party, are especially hearty in my support. I must make it my constant effort to deserve this confidence.”⁸² And while the reformers were happy to back Hayes, they were also pleased when the Democrats nominated their most ardent reformer, New York’s Governor Tilden. Either way, the reformers couldn’t lose. In his official letter of acceptance of the nomination in July, Hayes, after consulting with Curtis and Schurz, called strongly for abolition of the spoils system and for a “thorough, radical and complete” reform of the civil service.

As President, Hayes, as we might expect, met with little but complaining from the reformers. During the campaign, the reformers grumbled that Hayes was “waving the bloody shirt” against the “rebels” in his campaign, that he was whipping up anti-Catholic sentiment, and that he was giving campaign posts to opponents of reform. The reformers then complained about Hayes’s gaining the presidency from Tilden by evident fraud, and then rewarding the fraudulent election returns-counters from the South with patronage positions. And even though the reformers

⁸⁰ Hoogenboom, *Outlawing the Spoils*, p. 139.

⁸¹ A major reason for Bristow’s being deprived of the nomination was the treachery of his campaign manager, Kentucky attorney John Marshall Harlan. At the crucial last minute, Harlan went over to the Hayes camp. Hayes rewarded Harlan by making him his first Supreme Court appointee, Harlan going on to become the first darling of left-liberals on the Supreme Court. Philip H. Burch, Jr., *Elites in American History: The Civil War to the New Deal* (New York: Holmes & Meier, 1981), p. 105.

⁸² Hoogenboom, *Outlawing the Spoils*, pp. 140-41.

were delighted that Schurz was named Secretary of the Interior, that he imposed the examination system in his department, and that other reform work was done in the New York Customhouse, nothing, as usual, was enough to satisfy them. Why weren't all the other departments in the hands of the reformers? Also, they found that Hayes was taking the reformers' goal of life tenured appointments *too seriously*; what he was *supposed* to do was to kick out all the evil Grant people, replace them with good reformers, and *then* freeze the reformers into civil service by reform.

Thus, in June 1877, Horace White wrote in exasperation to Schurz:

At the beginning, there should have been some heavy & decisive blows at the old system — for instance, the removal of the Collectors at Boston, NY. & Phila. followed by appointments of friends of reform. Known to the country as such, & fostered by unequivocal instructions for all officers & their subordinates.⁸³

Poor President Hayes! He just never really got it, although he should have gladdened their hearts by pulling federal troops out of the South and by returning to the gold standard in 1879.

Hayes tried to make up to the reformers by putting the major emphasis on a call for civil service reform in his annual message of late 1879; furthermore, he requested Dorman Eaton, who was still nominally head of the CSC though without office space or funds, to report on the British civil service system, and Eaton was happy to comply, with his paean to the recently-imposed merit and life tenure system in England, *Civil Service in Great Britain* (1880).

The reformers were puzzled about their stance in the 1880 election. When he was nominated, Hayes, in a burst of what the reformers felt was misguided reforming zeal, pledged to be only a one-term candidate. So Hayes, their favorite, took himself out of the race for 1880. The major Republican candidates in 1880 were General Grant, for a third-term, and House Speaker James G. Blaine of Maine. The reformers detested Grant and were unhappy with Blaine, and so they felt it a divine "deliverance" when the June Republican convention at Chicago, after deadlocking between the

⁸³ Hoogenboom, *Outlawing the Spoils*, p. 153. As Professor Hoogenboom puts it, "A stable tenure of office was a means not an end in itself, and reformers never meant to apply it to undesirable civil servants as Hayes was doing." *Ibid.*, p. 149.

two leaders, picked pro-reform James A. Garfield as the compromise, anti-Grant candidate. And even though the reformers preferred Garfield to the Democrat choice, General Winfield S. Hancock, they continually complained that Garfield was a waffler, that he now refused to commit to reform, and that he was too close to James Blaine. The reformers grumbled particularly when Garfield chose as Vice-President Chester A. Arthur of the hated New York machine of spoilsman Senator Roscoe Conkling.

The decisive step taken by the reformers during the 1880 campaign was not the election of Garfield, but the establishment of a permanent, single-issue civil service reform organization to agitate for reform. It began in the form of a suggestion in August by the *Nation*, and in a response by Frederick William Holls of New York calling for Independent Republicans to organize a society stressing “education and enlightenment . . . accomplished by agitation, political, social and even religious.” Holls suggested that the new society employ the methods which they and their forerunners had used in the struggle for the abolition of slavery: in particular, to seize and stress the high ground of morality and moral principle. Holls urged that the new society put the argument especially on the basis of “abstract moral *right*”. Favorable response in letters to the *Nation* inspired the reformers to organize such a society.

In particular, Dorman Eaton had set up a New York Civil Service Reform Association in May, 1877, but the lack of interest had caused the association to remain dormant after 1878. Now, Curtis revived the association, which reorganized in September and October, and named Curtis as its president, a post which he was to continue to hold until his death twelve years later. The association was to be single-issue and non-partisan. It was to specialize in lobbying, in a committee headed by Eaton, and in publishing and distributing publications, in an effort headed by Godkin. The New York association formed the model and the nucleus of other local associations, which sprang up like wildfire: by May 1881, affiliated associations had been established in Brooklyn, Boston, Cambridge, West Newton, Massachusetts, and in Cincinnati, Milwaukee, Philadelphia, Providence and San Francisco, and in the process of formation in Buffalo, New Orleans, Pittsfield and Worcester, Mass. Pamphlets were widely distributed, and in May, a monthly periodical, *The Civil Service Record*, started being published by the Boston and Cambridge associations.

Professor Hoogenboom's study of the forty-five active members of the New York Association's executive committee, from its inception in 1877 until 1883, reveals the following: most members were born within ten years of 1832, making them in their upper forties and lower fifties in 1880; half were attorneys, nine were editors, three professors and five clergymen contributed to the group's high moral tone, and the one-third businessmen were not industrialists but rather upper-middle rank merchants and bankers. Almost all were Protestant; over half were born in New England and the rest in New York. All were Anglophiles. Almost all were highly educated, many gaining advanced degrees. Nine attended Harvard College and seven Harvard Law School. The typical New York reform leader was entrenched in blue-blood society, and was a clubman — especially the Union League, Century, University, and Harvard clubs. Patterns were similar in the Brooklyn, Boston and San Francisco Associations.⁸⁴

Finally, on August 11, 1881, the New York Association called a general conference of local associations at Newport, to coordinate agitation and action for reform. Out of this conference came the umbrella national organization, the National Civil Service Reform League, with the executive committee of the New York group functioning as its provisional central committee.⁸⁵

In the lame duck Congress after Garfield's victory, the Democrats began to get increasingly interested in reform. Not only was the idea of reform being spread in the best circles, and becoming more influential among the media and in the electorate, but Democratic losses in the election of 1880 made many of them more enthusiastic about a non-partisan administration. In particular, Senator George Pendleton of Ohio, a recent convert, introduced a civil service reform bill in December. Fortunately for the reformers, the New York Civil Service Reform Association was in place, and when it squawked about technical errors, Pendleton was happy to substitute the bill written by the end of December by the legislative committee of the New York association, i.e. largely by Dorman Eaton.

President Garfield's few months in office proved a grave disappointment to the reformers. He appointed as his Secretary of State the reformers' enemy James G. Blaine, and the new Secretary of the Interior Samuel J. Kirkwood of Iowa promptly dismantled all

⁸⁴ Hoogenboom, *Outlawing the Spoils*, p. 190-97.

⁸⁵ Hoogenboom, *Outlawing the Spoils*, p. 211.

of Carl Schurz's civil service reforms in that department. Not only that: Garfield's inaugural address, instead of backing the Pendleton bill, cleverly shifted gears by calling for the reform of limiting all officials to a fixed term of years. While to the superficial observer, this proposal seemed similar to the schemes of the reformers, it was precisely the opposite: compelling rotation in office across the board instead of establishing life tenure for high grades in examinations. In private correspondence, George Curtis saw the plan: Garfield, he pointed out, "*knows better* and therefore I can only interpret his heretical position to fix on terms of office by law, as an adroit measure to defeat the whole scheme without openly opposing it."⁸⁶

When Garfield was shot on July 2 by the crazed Charles J. Guiteau, James A. Garfield wounded and then dead proved far more of an asset to the reformers than Garfield alive. Guiteau talked himself into believing that he was responsible for Garfield's election, and demanded high office, either Minister to Austria or Consul to Paris. Guiteau has been depicted then and since as a "disappointed office-seeker," and the reformers redoubled their agitation, cynically and demagogically trying to exploit the tragedy — and heedless that the Pendleton Act would not have covered such a position in any case. The idea that murder by an office-seeker can only be combated by abolishing offices to be sought, is even sillier than the comparable argument that the way to eliminate assault or murder is to outlaw guns. From pulpit to press, the reformers pounded away on the spoils system as responsible for the shooting of Garfield, and it was in the wake of that shooting that the New York Civil Service Reform Association decided to go national. In September, the New York association nationally distributed a letter, drawn up by Curtis and signed by many eminent men, from industrialist Peter Cooper to ex-President Hayes, linking the "recent murderous attack" on Garfield with the alleged need for civil service reform.

When Garfield died of his wounds on September 19, the reformers stepped up their propaganda.⁸⁷ Forgotten was President Garfield as a weak tool of James Blaine; he was now transformed into a fearless crusader for reform. Typical of Garfield-memorial publications was a poster that the New York association exhibited in every post office in the country. The poster pictured a monument to

⁸⁶ Hoogenboom, *Outlawing the Spoils*, p. 203-04. Italics are Curtis's.

⁸⁷ Van Riper, *History*, pp. 88-91.

the murdered Garfield, surrounded by pro-reform quotations from Garfield from his days in Congress, while on the monument was an epitaph proclaiming Garfield “a martyr to the fierceness of factional politics and the victim of that accursed greed for spoils of office which was the bane of his brief conscious existence as President, and is the gravest peril that threatens the future of his country.”

Henry Adams, to his credit, was disgusted, writing to Godkin that:

The cynical impudence with which the reformers have tried to manufacture an ideal statesman out of the late shady politician beats anything in novel-writing. They are making popular capital. They lie and manoeuvre just like candidates for office. The independents and reformers are as bad as the late lamented, and for the same reason. It pays.⁸⁸

Contrary to the impression given by historians, Congress did not pass the Pendleton Act in direct response to the propaganda centered around the assassination. It is true that media agitation and the civil service associations had their effect, and the Independent bloc was beginning to have a formidable influence on both parties. More and more politicians paid lip-service to reform, and even its great opponent Ben Butler professed to be converted to the cause. But President Arthur, while waffling on the topic, happily proceeded to remove Garfield appointees, and while he (unsuccessfully) asked Congress to restore a \$25,000 appropriation to the defunct Civil Service Commission, he also cleverly came out for a four-year limit on all tenure for the bureaucracy — the reverse of the reformers’ demands.

The key to the ultimate reformer success and the passage of the Pendleton Act was the course of the 1882 elections. In August 1882, the National Civil Service Reform League held its second annual meeting at Newport. George Curtis vigorously denounced President Arthur for his appointments, and angered by Congress’s derisive attitude toward reform, the League decided to become active in the congressional elections, questioning all candidates on specific civil service measures and then publishing their replies. Most state party conventions, as a result, put a pro-reform plank in their platforms, especially in the North and East. When the Maine Republican convention came out against reform, Independent Republicans organized an insurgent ticket demanding reform; as a

⁸⁸ Adams to Godkin, September 26, 1881. In Hoogenboom, *Outlawing the Spoils*, p. 212.

result, Blaine felt forced to favor reform, at least to the extent of favoring the Arthur four-year plan.

When the New York State Republican convention nominated Secretary of the Treasury Charles J. Folger, a long-time member of the Arthur-Conkling “Stalwart” faction, for governor, the Democrats countered by nominating their leading reformer Grover Cleveland, and the Independent Republicans, headed by Curtis and the Rev. Henry Ward Beecher, advocated bolting the party to vote for Cleveland.

The 1882 elections were a terrible blow to the regular Republican forces. Grover Cleveland crushed the Republicans in New York by what was then the largest majority in New York history. The Democrats ousted the Republicans in Ohio, probably because the Republicans insisted on prohibiting liquor and thereby alienating the German Lutherans, who were not about to be deprived of their Sunday beer. But at least an ancillary cause was Arthur’s appointment of Stalwart enemies of Garfield in the assassinated President’s home state. Regular Republicans also lost by huge majorities in Pennsylvania, Indiana, Connecticut, and New Jersey, and even lost Massachusetts.

After the November elections, then, the heavily-Republican lame duck Congress, having been elected in 1880, faced the future knowing (a) that the successor, 1882 Congress, would be much more Democratic; and (b) that the prospect loomed for a Democratic President in 1884. The regular Republicans, at that point, suddenly heard the call of civil service reform. First, by converting to reform they might keep the Independent votes which they now saw as powerful and even decisive for 1884; and, second, by passing the Pendleton Act they could freeze existing Republicans into life tenure before they would be ousted by an incoming Democratic Administration. On the other hand, the Democrats dared not risk losing the Independent vote by voting against reform, even though it would mean that 10,000 federal office jobs would be locked away from deserving Democrats. The result: both parties made their calculations, and both shifted *en masse* to reform.

President Arthur made the same calculations. In his message in December, he called for prompt passage of the Pendleton bill. Virtually all Congressmen saw the light, and attempts to derail the measure with fixed-tenure in office bills got nowhere. Even Black Jack Logan claimed to have always been a staunch champion of reform. The only rock-ribbed opponent of reform remaining was

the veteran Democratic Senator Joseph E. Brown of Georgia. Brown ridiculed the Democrats supporting a bill that would deprive them of the office they would receive in only two years' time. Brown insisted that parties fight for offices as well as principle. The only concession that Brown and the Democrats received was to allow entry into office at all grades of civil service, and not just at the lowest grade, as the Pendleton bill and the reformers had always wanted. The original bill would have meant that promotions could only take place from within the ranks of the bureaucracy, and that there could never be infusions from the outside directly into higher ranks. The bureaucracy would then have been far more of a hermetically sealed unit, a rigid, non-circulating, and hierarchical elite. Finally, the Senate voted, or declared, for the amended Pendleton bill by 45 to 12, Republican senators unanimously favoring the bill by 30 to 0, while the Democrats narrowly favored it by 15 to 12.⁸⁹ The House followed swiftly. The voters and declarers supported the Pendleton bill by 162 to 48. All but a few Republicans voted in favor, while the Democrat opposition was centered in the South, the Old Northwest, and such states lacking reform associations as New Jersey. In the South, where the reform movement was nonexistent, only 14 Congressmen voted for the measures, 22 opposed, and 26 were absent. Generally, urban areas, where reform movements were strong, supported the bill far more than rural representatives.

Most congressmen, even those voting for the Pendleton bill, detested it. Senator Preston Plumb, Republican from Kansas, who ended up voting for the measure, protested that "we are not legislating on this subject in response to our own judgment . . . but in response to some sort of judgment which has been expressed outside." Indeed, every member of Congress received a letter from the National Civil Service Reform League urging passage of the Pendleton bill, and local associations intensively lobbied their representatives.

President Arthur signed the Pendleton Act of January 16, 1883, and appointed the last CSC chairman, Dorman Eaton, to be the head of the new three-man Civil Service Commission. Civil-service reform was now part of the statutes of the United States. The reformer triumph was not complete, however. The federal government bureaucracy amounted to an average of 140,000 in the

⁸⁹ Southern Democrats voted for the bill by 14 to 12, with Pendleton the only non-southern Democrat to vote in favor. Four Far Western Democrats abstained.

1880s; the Pendleton Act applied its system of examinations, grades and security of tenure to the “classified civil service”, which then constituted about 10 percent of the total bureaucracy — largely clerks in Washington, D.C. and in large-city post offices and customhouses employing fifty or more persons. All the rest of the bureaucracy was left an “unclassified service” as before, and subject to patronage and removal. This remaining unclassified service could be brought under the Pendleton regulations if, when, and to the extent that the President saw fit. The only jobs exempt from this presidential authority under the statute were laborers, and those whose positions were so high as to be subject to confirmation on the advice and consent of the Senate.⁹⁰

XI. After the Pendleton Act

President Arthur surprised and pleased the reformers by applying Pendleton rules strictly; but he disappointed them by not appointing leading reformers to the unclassified positions. In the election of 1884, most of the Independent Republicans deserted the hated Blaine to vote for the Democrat Grover Cleveland for president, earning the label “Mugwumps” from their reform colleague who stuck to the Republicans, young Theodore Roosevelt of New York. Since Cleveland carried New York State, a stronghold of the reformers, by a narrow margin, and this victory was decisive for his election, it is probable that Mugwump support was a key to his triumph.⁹¹ In his annual message to Congress in the December after his election, President Cleveland pledged not only to execute the Pendleton Act faithfully, but also to apply its principles across the entire civil service. The reformers had seemingly reached Nirvana.

But the reform triumph did not turn out as expected. While Cleveland faithfully executed the Pendleton Act to the classified

⁹⁰ The reformers were not ready at that point for the reform rules to be applied to every post in the bureaucracy. Dorman Eaton himself, testifying before the Senate on the Pendleton bill in January 1881, declared that all-at-once application would “be too large altogether . . . We have got to create the machinery . . . you would be utterly overslaughed and broken down if you were to be required to carry it all at once.” Van Riper, *History*, p. 105n.

⁹¹ Another well-known critical factor in the New York vote was the denunciation by a leading Protestant minister, the Rev. Samuel Burchard, of the Democratic party as the party of “rum, Romanism, and rebellion” — the reference to rum alienating the German Lutheran swing voters.

service, he purged all Republicans from the far larger unclassified service. Reformers were bitter, claiming that Cleveland had violated his pledge, and was not carrying out the spirit of reform. Curtis lamented that

Cleveland's course has left all of us Mugwumps in an apparently disagreeable position It has certainly discredited civil service reform and chilled those who were his most earnest supporters in 1884.⁹²

In 1888, reformers were again split; some supported Cleveland grudgingly because of his low-tariff views; but others, including Henry C. Lea of Philadelphia, opposed Cleveland for "betraying the cause [civil service reform] on which he was elected." Cleveland was embittered by this opposition, denouncing Lea as a "base Calumniator" who "ought to be horsewhipped, with the rest of the dirty mendacious gang." Condemning the reformers after losing the election, Cleveland wrote to one of them:

the treatment I have received from the advocates of Civil Service Reform makes my blood boil I know what I have done and what I have suffered in this cause and with that I am satisfied as I retire from the struggle. I hope the next man will be better trusted by those who assume to be apostles of the Reform. The cause is worth much — very much; but the people who stand ready to attribute every mistake in the selection of officers to wanton violation of principle and assume to know more of the conditions, motives and intents than those charged with responsibility, are worth nothing.⁹³

President Harrison, in turn, gave the reformers short shrift. Harrison made a clean sweep of Democrats in the unclassified service, and failed to reappoint leading reformers in high government positions. Harrison even went further than Cleveland in removing many officials before their fixed four-year terms were up. The reformers complained, by the end of 1890, that in two years of office, Harrison had violated his pledge by not extending the classified service by a single man. When Cleveland returned in 1892, a similar process occurred; Republicans were booted out of unclassified positions. Even one of their very own, Boston Brahmin

⁹² Hoogenboom, *Outlawing the Spoils*, p. 261.

⁹³ Cleveland to Silas W. Burt, December 6, 1888. Hoogenboom, *Outlawing the Spoils*, p. 262.

Josiah Quincy, a founder of the National Civil Service Reform League, was appointed as Assistant Secretary of State; he then promptly fired within a few months one-third of the Republican consular officials and replaced them with Democrats.

Ironically, most of these presidents increased the classified service rapidly. But the reformers were not really delighted at this victory, since what each administration did was to toss out opponents, appoint good party people to unclassified posts, and *then* bring them to the classified service, thereby freezing them into tenure for life. With each alternating shift of party, the merit system was thereby extended, ratcheting the number of government officials upward, in order to find room for deserving party workers. As Professor Hoogenboom sums it up:

the federal classified service increased rapidly. The merit system advanced not because of further action by Congress, but because of executive action. Ironically, executive action stemmed more from a desire to place fellow party members permanently in the civil service than from a wish to reform. The process involved replacing all political enemies with political friends in a branch of the unclassified, or unreformed, service and then extending the rules to cover it. This process was hastened by the alternation of party control in the 1880s and 1890s, which led Presidents every four years to make additions to the classified list. The irony was compounded. The advance of the merit system stimulated rapacious spoils methods in the unclassified service, and the civil service reform movement itself languished.⁹⁴

The reform movement was indeed languishing. Partly this decline was the result of the Pendleton Act victory; but partly, too, because the reformers were getting increasingly obsolete and losing political influence. Membership in the associations declined; the Brooklyn association, for example, lost over half of its members from 1882 to 1890, with the biggest fall off among the former heart of the association: the professionals — the lawyers, clergymen, and journalists. The number of associations also declined. In December, 1883, immediately after the Pendleton victory, there were 59 reform associations in existence; by 1892 however the

⁹⁴ Hoogenboom, *Outlawing the Spoils*, pp. 260-61.

number had sunk to 35. The San Francisco and New Orleans outposts disappeared, as did those in Louisville and Norfolk. By 1892, the shrinking reform movement was confined to its old Northeastern heartland.

In the 1896 election, William Jennings Bryan was openly anti-reform, and President McKinley, in May 1899, actually withdrew several thousand offices from the Pendleton rules, thereby bringing about “the first backward step in the history of the competitive merit system,” and rolling back Cleveland’s additions to the classified service. Indeed, the rules might have shrunk further, were it not for another presidential assassination, which catapulted the dedicated reformer Theodore Roosevelt into the presidency. When Roosevelt came into office, 46 percent of the federal bureaucracy was classified; when he left eight years later, he had frozen in Republicans by bringing 66 percent under the rules. The ratchet effect was alive and well, and was continued by successive presidents.

The aging reformers, dwindling in ranks and influence, turned on each other. As early as the first Cleveland Administration, Curtis, Silas Burt and Godkin conspired successfully to persuade Cleveland to oust Dorman Eaton as CSC chairman. They disliked Eaton for his gradualism, but they urged Cleveland to oust Eaton as “impractical, indiscreet, and . . . dangerous.”⁹⁵

The disheartened reformers, indeed, looked at the fruits of their victory and found it only ashes. These had been genteel Brahmins and educated elites, convinced of the inherent right of their sort to rule, and embittered at the rise to power of the uneducated, the non-elite, the brash, self-made, *nouveau riche* industrialist. They were also devoted to the ideals of free trade, hard money, laissez-faire, and retrenchment of government, but their chief focus had been a permanent rule by themselves and their cohort. But they lived to see the triumph of their “merit system” result not in the retrenchment of government, but in its acceleration, and not in the triumph of themselves, but of the brash politicians and corruptionists they despised. And in the Progressive era ushered in by Theodore Roosevelt, they were to find the ideals of “merit” and a technocratic elite employed in the service of every principle they detested: big government, protectionism, inflationary bank credit, and imperialism and foreign war.

⁹⁵ Hoogenboom, *Outlawing the Spoils*, p. 264.

And so the aging reformers looked on their world and back on their handiwork and found them futile and repellent. A few months before he died in 1892, George W. Curtis expressed his “scorn of the spurious Democracy which is always found in all American parties.” Six years later, E. L. Godkin wrote to his old friend Charles Eliot Norton condemning “democracy”: “I have pretty much given it up as a contribution to the world’s moral progress . . . I too tremble at the thought of having a large navy and the war-making power, lodged in the hands of such puerile and thoughtless people — 100,000,000 strong. It is an awful prospect for the world, and I am glad to be so near the end of my career.” The following year, Godkin wrote in the *Nation* seeing the fundamental problem as big centralized government:

The great obstacle in the way of reform is neither American nor English, it is simply human. All that we know, by past experience, of the attempts of man to provide himself with a government, makes it most unlikely that an effort, repeated every four years, on the part of one hundred millions of people, to elect a single officer as the chief of state, should succeed. It seemed reasonable enough when the Constitution was framed for 3,000,000 people, leading a simple agricultural life. All democracies of which the world has had any experience, have been small . . . Our desire to create a “world Power” out of the Federal machine is a fiasco, full of shame and disappointment.⁹⁶

⁹⁶ Edwin Lawrence Godkin, “Civil-Service Reform,” *The Nation*, LXXI (September 27, 1900), pp. 256-57. Excerpted in Hoogenboom, *Spoilsmen and Reformers*, pp. 49-50.