

Patronage, the Pendleton Act, and the Power of the People

Sean M. Theriault
The University of Texas at Austin

The conventional wisdom and congressional scholarship find that members of Congress use their public authority to facilitate their reelections (Aldrich 1995; Moe 1990; Parker 1992; Weingast and Marshall 1988). The adoption of the Pendleton Act of 1883 has been cited as another in a long line of examples in which members have “stacked the deck” in their own self-interests (Johnson and Libecap 1994a). I challenge these pervasive views by presenting evidence that public pressure was an important and frequently overlooked factor in explaining the adoption of civil service reform in the late nineteenth century. More generally, I argue that members of Congress will enact reforms that diminish their power or restrict their authority only when the public is attentive and united; otherwise, they will establish governing structures and rules that facilitate their own reelections. This insight sheds light, more broadly, on the relationship between the represented and their representatives.

We are not legislating on this subject in response to our own judgment of what is proper to be done, but in response to some sort of judgment which has been expressed outside. . . . I think popular opinion, so far as it has been given expression to at the late election or at any other election or has been voiced in the public press, has been directed to the condemnation of two particular things, the assessment of officeholders, and the solicitation, and appointments consequent upon the solicitation, of members of Congress.

Senator Preston B. Plumb
December 23, 1882¹

Members of Congress, according to David Mayhew (1974) and an entire canon of congressional research, are concerned first and foremost with getting

The author thanks Mo Fiorina, John Hibbing, Simon Jackman, Jen Lawless, David Lewis, David Mayhew, Terry Moe, Roger Noll, Dave Rohde, Eric Schickler, Ric Uslander, and Barry Weingast for their helpful comments and suggestions. Active audiences at the APSA annual meeting, the Midwest PSA annual meeting, Princeton, Rochester, Chicago, Minnesota, Ohio State, Texas, Tennessee, Dartmouth, and Stanford helped this paper immeasurably. Finally, the anonymous reviewers and editors, specifically William Jacoby, provided valuable comments and feedback.

¹ *Congressional Globe*, 47th Congress, 2nd Session, 594.

reelected. As a consequence, members have used their public authority to implement institutions and rules that facilitate their reelection. The development of the committee system (Weingast and Marshall 1988), the changing roles of political parties (Aldrich 1995), the implementation of information structures (Gilligan and Krehbiel 1989, 1990; Krehbiel 1991), and the growth of congressional perquisites (Fiorina 1989; Parker 1992) are examples of how members have used the rules and structures to pad their incumbency advantage.

The adoption of these institutions and rules can serve two purposes. First, it helps members be more responsive to their constituents back home. Specialized committees and more staff, for example, can provide constituents with better information and more services. Second, it can help insulate the members from electoral competition. When incumbency replaced party as the dominant cue that voters use in congressional elections, incumbents, as a whole, benefited. The satisfaction of either purpose will help members in their next elections.

An alternative—though not necessarily mutually exclusive—path to reelection is for members to act in accord with their constituents' preferences. Even when their constituents are neither attentive nor well informed, members are concerned with how their actions today will be used by their challengers in electoral contests tomorrow. V. O. Key (1961) introduced this notion, calling it "latent opinion." Today Arnold (1990, 10) and Jacobson (1987) are its most forceful advocates. Arnold describes "potential preferences" as "those preferences which legislators believe might easily be created either by interested parties dissatisfied with legislators' decisions or by future challengers searching for good campaign issues." When they contemplate structural or rule change, members navigate a minefield where any given mine can blow up during the next election.

These two paths—structural deck stacking and adequately representing constituents—need not contradict one another. But on occasion, members must make a difficult, forced choice. They can either stack the electoral deck in their favor or vote in accord with their constituents' wishes. The decisions they make are critical for evaluating the health and vitality of American democracy. When forced to choose, despots act in their own self-interest without regard for their subjects' preferences or welfare; representatives, however, "act for" their constituents (Pitkin 1967).

When members are confronted with this forced choice, they evaluate several considerations. Does the public have an opinion on the issue? Might it have a potential opinion? Is public opinion on the issue united or divided? How much is the change likely to help or hurt their reelection probability? How much will their constituents punish them if they vote against their wishes?

Social scientists have recently probed the annals of congressional history to understand members' motivations throughout that history. The literature suggests that members frequently opt for insulating themselves from challengers rather than doing what their constituents want. The adoption of the Australian ballot (Katz and Sala 1996), reforms in the appropriations process (Stewart 1989), and the implementation of civil service reform (Kernell and McDonald 1999) are all

nineteenth-century examples of members changing the rules to facilitate their reelections. Johnson and Libecap (1994a) have singled out the passage of the Pendleton Act of 1883 as another of these examples.

The passage of the Pendleton Act had two important consequences for the strong political parties of the nineteenth century. First, it prohibited mandatory campaign contributions. These contributions, known as political assessments, accounted for up to 75% of all campaign contributions in the post-Reconstruction era (Overacker 1932). Second, it implemented entrance exams for would-be bureaucrats. These exams replaced loyalty with merit as the medium of exchange in securing political appointments. Up until the exams were in place, in a complicit agreement with the president and in conjunction with the local party elites, members could appoint whomever they wanted. These two mandates were among the early steps that politicians took away from the strong political parties that dominated the nineteenth century Congress.

Skowronek (1982, 67) argues that the adoption of the Pendleton Act “amounted to nothing less than [a] recasting of the foundations of national institutional power.” If Skowronek is correct—and all indications suggest he is—how did the Pendleton Act ever pass? Historians have woven together a complex series of threads in completing their narrative (see, for example, Hoogenboom 1959, 1961, 1968; Josephson 1938; Van Riper 1958). These threads include the Grant administration scandals (e.g., *Crédit Mobilier*, *Whiskey Ring*, and the *Belknap Affair*), the efforts of civil service reformers, Garfield’s assassination by a disappointed office-seeker, and the huge Republican losses in the 1882 elections.

More recently, social scientists have tested various other explanations for the passage of the Pendleton Act. First, Johnson and Libecap (1994a) offer a more cynical explanation for why members willingly reformed the spoils system. They argue that members of Congress passed the Pendleton Act in an attempt to more efficiently secure their reelections. Following the Civil War, the patronage system grew dramatically. From 1861 to 1881, the number of political appointees increased 173%. When the time and effort required to dole out federal appointments began to exceed the benefits that members derived from the *quid pro quo* arrangements, so their argument goes, members implemented a system that could more efficiently serve their reelection desires. Johnson and Libecap turn the traditionally understood deck-stacking argument on its head. Most scholars suggest that the change from spoils to merit actually impeded members’ reelection efforts because they had to search for new sources of campaign contributions and volunteers. Johnson and Libecap, on the other hand, suggest that with skilled positions safely in the civil service, members could get more out of their appointees who remained in the spoils system.

A second explanation places emphasis upon the political parties. Skowronek (1982, 68), the primary advocate of the party explanation, argues that “the merit system was born a bastard in the party state.” Democrats initially backed reform as a way to unlock the Republicans’ domination in Congress and the White

House. After the Democrats successfully used the issue of the spoils system against the Republicans in the 1882 elections, the Democrats' desire for reform waned as their hands got closer to operating the federal patronage. Republicans, according to Skowronek, saw that their days in power were numbered and attempted to depoliticize the federal workers' role before the Democrats could use the spoils to fortify their majority.

The problem with these arguments is that the people play only a passive role in prompting reform.² In this article, I reintroduce the vital role played by the public in congressional decision making. The politics of public pressure argument maintains that when public activity—either organized or not—is united and pervasive across congressional districts, it constrains the representatives' behavior. Certainly members still have discretion in designing governmental organizations and legislative rules, but particular actions may invoke public disapproval and reprimand. Specific to civil service reform, members of Congress gave up patronage and political assessments, not only because they were perhaps inefficient avenues to reelection, but because the public demanded reform and the members wanted to be reelected.

The other explanations downplay the particular historical context of the post-Reconstruction period that historians so thoroughly describe. Civil service proponents used President Garfield's assassination in 1882 to mobilize public opinion. When the Republicans in Congress, even after his death, continued to oppose reform, they were overwhelmingly defeated in the 1882 midterm elections. Within the first month of the lame duck session, which was typical of the time period, the Pendleton Act passed.

I test the politics of public pressure argument as well as the other explanations. None of these explanations are mutually exclusive of either each other or the historians' accounts. In fact, evidence exists to varying degrees for each explanation. The marginal contribution of this study is to include systematically the vital role played by public pressure in securing civil service reform. The statistical analysis complements the historical record. Members reformed the spoils system only after the results of the 1882 election made the public's preferences explicitly known.

This article proceeds as follows. In the first section I briefly describe the early attempts at civil service reform. Additionally, I describe why reform was ultimately achieved in the passage of the Pendleton Act in 1883. Then I describe and test the various explanations for the Pendleton Act's passage. I conclude the article by emphasizing the importance and vitality of the public's role in the American constitutional system.

² A third explanation is that the Republican lame ducks passed the reform to lock in their political appointees. No one yet has offered a comprehensive defense of this explanation. Johnson and Libecap (1994a) show quite convincingly that the data do not support this argument. In the multivariate tests, I include an indicator for lame ducks. My results replicate Johnson and Libecap's.

The Congressional History of Civil Service Reform

As the U.S. Civil War raged in the country, Senator Charles Sumner joked on the floor of the Senate: “The world seems almost divided into two classes: those going to [Sutter’s Mill in] California in search of gold, and those going to Washington in quest for office.”³ Notwithstanding his attempt to make light of the situation, Sumner highlighted a very real predicament for the spoils system, a predicament that would only grow as the war expanded the federal government’s duties and obligations. Almost a year before the war ended, he sought to rectify this situation by introducing a bill “to provide for the greater efficiency of the civil service of the United States.”⁴ The Senate sitting in 1865 was ill-equipped to engage Sumner’s proposal. In fact, it laid the bill upon the table because “no committee of the body [could] properly take the subject of the bill into consideration.”⁵ Although we may judge his proposal modest by today’s standards and by what eventually passed in 1883, his solution—competitive exams—struck at the very core of the spoils system.

The spoils system was popularized by President Andrew Jackson but utilized by all the presidents since Washington. A victorious president, in conjuncture with his party’s political elites, would appoint political supporters to positions ranging from cabinet secretaries to mail carriers. Members of Congress, complicit in the system, would recommend their political allies for local appointments in exchange for supporting the president’s programs. Senators, governors, or state party power brokers controlled those positions in districts represented by members not from the president’s party.

Politically appointed friends benefited by securing government jobs. In turn, they perpetuated the success of the spoils system. First, they acted both as conduits on local political opinions and messengers of members’ Washington activities. Second, they provided cheap campaign assistance. Third, and perhaps most important, political appointees served as important sources of campaign contributions to the political parties. The party elite assessed all appointees a percentage of their salaries to fund the party’s campaigns.

A political system featuring such explicit quid pro quos may have helped solidify the dominance of the Democratic party during Jacksonian times and the Republican party immediately following the Civil War. The spoils system perpetuated the majority party’s electoral dominance. By controlling the preponderance of federal jobs, the majority party necessarily had more campaign workers on the federal dole, which gave the party access to a richer pot that office-seekers could assess to fund their campaigns. During the height of spoils system politics, patronage often eclipsed issues in elections. According to historian Carl Russell Fish (1905, 158), “The presidential election became a quadrennial ‘event,’ with [patronage] as the prize.”

³ Quoted in Ingraham (1995, 21).

⁴ *Congressional Globe*, 38th Congress, 1st Session, 1885.

⁵ *Congressional Globe*, 38th Congress, 1st Session, 1885.

Although such a system was stacked against them, out parties had incentives to buy into this system. They benefited in three distinct ways from the spoils system. First, the promise of government jobs attracted campaign workers not only to the party in power, but also to the out party. If office-seekers were not successful in obtaining an appointment from the in party, they could campaign for the out party and obtain a promised job if the latter defeated the former. Second, the mere probability of some day exercising the government largesse quelled power-hungry minority parties from advocating comprehensive reform. Third, the spoils system not only operated at the federal level, but also at the state and local levels. A party that was the minority at the federal level was likely to benefit from spoils by controlling patronage in states and localities.

Sumner's proposal was the first of 64 civil service reform bills to fail (Table 1 summarizes the civil service reform legislation). His bill and each of the civil service reform bills introduced in the succeeding nine congresses failed. In fact, no bill prior to Pendleton's bill in 1882 ever made it successfully through either chamber. The conditions for reform did not change much through Garfield's election in 1880.

Even though both parties' 1880 platforms pledged support for civil service reform, the victorious Republicans' zest to exploit the spoils of office dominated their fledgling commitment to reform. President Garfield, only tepidly interested in reform, utilized patronage. In fact, Garfield biographer Allan Peskin (1978, 551) claimed, "The civil service list read like the 42nd Regiment's muster roll or a Hiram class reunion." The Republican majorities in Congress followed his lead. The spoils system early in the 47th Congress was as entrenched as it had ever been.

Beginning in 1880, a series of conditions and events paved the way for the adoption of reform in 1883. The first condition that helped bring about reform was the birth and growth of organizations dedicated to ending the spoils system. Beginning with the New York Civil Service Reform League in the fall of 1880,

TABLE 1

Civil Service Reform Bills Introduced in Congress, 1861–1882

| | Years | Introduced Reform Bills | | | Rep't. from Committee | Passed |
|-----------------|---------|-------------------------|----------|----------------|--------------------------|--------|
| | | By Dems. | By Reps. | Total | | |
| Lincoln | 1861–64 | 0 | 1 | 1 | 0 | 0 |
| Lincoln/Johnson | 1865–68 | 0 | 5 | 5 | 3 | 0 |
| Grant I | 1869–72 | 0 | 12 | 12 | 5 | 0 |
| Grant II | 1873–76 | 2 | 6 | 9 ^a | 1 | 0 |
| Hayes | 1877–80 | 9 | 0 | 9 | 1 | 0 |
| Garfield/Arthur | 1881–82 | 16 | 13 | 29 | 4 | 1 |

^a The sponsor of H.R. 2881 is unknown.

local chapters began popping up throughout the country.⁶ By the spring of the following year, the Boston and Cambridge chapters began publishing the *Civil Service Record*. Although “the public conscience seemed dulled to the enormous abuses of patronage” (Stewart 1929, 7), the reform leagues marched forward with the firm goal of establishing a merit-based civil service.

A national tragedy in the summer of 1881 ignited public cries for reform. On July 2, 1881, Charles Guiteau, “a disappointed office-seeker,” shot President Garfield. Few question Guiteau’s insanity, but reformers were successful in linking his violent act to the corrupt spoils system. As the president’s health weakened, reformers held a national conference in August 1881. They made two key decisions. First, they established the National Civil Service Reform League to act as an umbrella organization coordinating all of the local affiliates’ reform activities. Second, they made a conscious decision to engage in a massive public education campaign to arouse public awareness and sentiments against patronage. In fact, the New York chapter alone distributed over one-half million pamphlets in support of a merit system (Van Riper 1958, 78). On September 19, 1881, the nation mourned when President Garfield died.

Civil service reform leagues intensified their efforts in organizing, meeting, and developing strategies to pass reform. As Hoogenboom (1968, 215) argues, “Garfield’s assassination gave reformers a simple, emotion-packed illustration that the previously uninterested masses could easily understand. The spoils system equaled murder. But politicians obtusely and obstinately refused to alter their behavior during most of 1881 and 1882.” The new president, Chester A. Arthur, who rose to national prominence through the corrupt New York Customhouse, offered only languid support for reform in his first address to Congress.

Although reform became more popular on the streets, the walls of Congress, especially the House, were impervious to its call. The Republican majority refused to accede to the public’s demand for reform. Arthur asked Congress for an appropriation of \$25,000 to reactivate the Civil Service Commission, charging it with recommending to him a comprehensive reform proposal. Ultimately, Congress members agreed to appropriate \$15,000—only 60% of Arthur’s initial request. In the 12 months following Garfield’s assassination, these amendments to the Sundry Appropriations Bill were the only efforts at civil service reform made by either chamber.

Although the Republican Congress as a whole resisted reform, selected Democratic members and Mugwumps were actively pursuing it. Perhaps feeding off these members’ frenzy, the public’s desire for comprehensive reform grew. The midterm congressional elections in 1882 proved to be a watershed for the civil service reform movement. The Democrats, who ten years earlier had been the major opponents of reform, now carried—almost single-handedly—the mantle of reform. Their cause and strategy were validated as Republicans against reform

⁶See Stewart (1929) for a thorough description of the League’s history.

were overwhelmingly defeated throughout the Northeast and Midwest. According to Hoogenboom (1968, 234), “Reformers blamed the broad Democratic victory on the failure of the Republicans to take reform seriously. Indeed, many of the local issues were over spoils practices.” Democratic reformers won the important New York, Pennsylvania, and Ohio gubernatorial races. Additionally, the Democrats in the House gained seventy seats. This gain was the second largest by any party up to that point in American history.

The public, the Democratic party, and, most important, the Republicans in Congress read these results as a mandate for civil service reform. Doenecke (1981, 100) argues, “It was the election of 1882, more than any other event, that prompted Congress to consider the Pendleton bill.” As was typical in the nineteenth century, the second session of the 47th Congress commenced after the congressional elections. On the fifth day of the lame duck session, Pendleton’s bill was reported from committee. After two weeks of intense debate, the Senate passed it, 39 to 5.⁷ The House followed suit a week later when it passed Pendleton’s bill 155 to 46.⁸ On January 16, 1883, Arthur completed the first significant step of reforming the civil service by signing the Pendleton Act of 1883 into law.

Explanations for the Enactment of Civil Service Reform

In 1864, Congress could not even act upon Sumner’s civil service reform bill. Nineteen years later, Congress passed the most sweeping civil service reform legislation in American history. What changed between 1864 and 1883 that caused the adoption of the Pendleton Act? The historical studies typically do not attempt to understand the member’s microlevel motivations for passing the act. Instead, these studies explain how, rather than why, it passed. The two explanations mentioned earlier are outlined before a third argument reasserting the power of the public pressuring members of Congress for institutional change. This last argument is the most compatible with the historians’ accounts.

The Inefficiency Explanation

Various scholars have analyzed the connection between the reelection motivation and governmental structure (Aldrich 1995; Mayhew 1974; Parker 1992; Weingast and Marshall 1988). These scholars find that reelection-seeking politicians can and will alter structure to serve their needs. Although these assessments describe the contemporary Congress, Johnson and Libecap (1994a, 25) claim reelection desires caused institutional innovation much earlier: “Although reelection is considered a standard motive for twentieth-century politicians, it appears to have been on the minds of most federal politicians in the late nineteenth century

⁷ Additionally, 14 members were paired (*Congressional Record*, 47th Congress, 2nd Session, 66).

⁸ *Congressional Record*, 47th Congress, 2nd Session, 666–7.

as well." They argue that the Pendleton Act was a "conscious decision by successive politicians" that gradually transformed patronage into a permanent bureaucracy (3). Although the spoils system served the antebellum legislators well, Johnson and Libecap maintain that the growth of the federal government following the Civil War increased the members' costs of maintaining the spoils system because the monitoring and controlling of political appointees became significantly less efficient. Politicians expended too much time and effort in selecting the proper appointments and then ensuring their loyalty. By reforming this system, members hoped that they could devote less time and derive greater electoral benefits. This explanation counters the historians' picture of altruistic politicians willingly enacting reform for the good of the country. The larger motivation, according to Johnson and Libecap, was the members' own self-interest in getting reelected.

Johnson and Libecap (1994a, 38) do not ignore the importance of the historical situation in the late 1800s; however, they believe that the historians' interpretation "focuses too much on external factors and neglects the incentives that vote-maximizing politicians had to replace a system of employment that we argue was increasingly costly." They test the inefficiency explanation by analyzing the final passage votes for the Pendleton Act of 1883. By controlling for party, legislative experience, and election outcome, they test their theory by including an indicator variable if "a large post office or customhouse [was] in the legislator's district or immediate vicinity" (35). They claim that these representatives would be the most likely to favor reform because their proximity to the inefficiencies of patronage would exacerbate the demands and shortfalls of the spoils system.

Their results are compelling. The customhouse indicator is statistically significant in multivariate analysis even though they maintain it is confounded by the party variables. They conclude, "The difficulties of administering a large patronage labor force were the major factors in the adoption of the merit reform by the federal government" (37).

Thirty-four of the 35 House members representing districts with or near major post offices and customhouses voted in favor of the Pendleton bill's final passage. If we consider those representatives who had a major post office or customhouse in their state, 85.9% (122 out of 142) supported civil service reform. The data for the Senate are not as impressive. Of the senators who experienced the most inefficiency, according to Johnson and Libecap, 82.8% (24 out of 29) voted for reform; 75.9% (22 out of 29) of the remaining senators, however, voted for it as well. The differences for the House are statistically significant ($p = .000$), whereas the senate data are insignificant ($p = .284$).

Although these percentages for the inefficiency explanation are impressive, inefficiency alone cannot explain the passage of civil service reform. For 19 years, it could not even pass one chamber. In fact, it was frequently defeated even before it reached the floor. Then, almost at once, members supported reform in 1883. The inefficiency explanation does not indicate what changed between the first session when reform was all but ignored and the lame duck session of the 47th Congress when the Pendleton Bill passed.

Party Explanation

The second explanation for civil service reform in 1883 highlights the role of the post-Reconstruction political parties. Although no existing study has analyzed the roles of the parties as systematically as Johnson and Libecap have analyzed the inefficiency explanation, several scholars have relied upon a party explanation for the passage of the Pendleton Act of 1883 (see, primarily, Skowronek 1982). As the data in Table 1 reveal, prior to 1883, the party politics surrounding reform went through three periods.

1. From the Civil War until 1876, primarily the Mugwumps (nominally in the Republican party) pursued reform. Unfortunately for them, they were not pivotal to the Republican party's majority in Congress. Even if they defected to the Democratic party, the Republicans still had a sufficient majority to enact their will.
2. From 1877 until 1881, the Democrats almost exclusively sought reform. The Democrats' critics suggested that their efforts to pass reform had more to do with frustrating the Republican presidents than with any real commitment to reform civil service.
3. Beginning in the summer of 1882, both parties at least nominally supported reform. Using Garfield's legacy as a rallying cry, members from both parties introduced a variety of reform measures. Neither party, however, seemed interested in actually enacting reform.

Following the midterm elections, the Republicans became intent upon passing reform in the lame duck session prior to the seating of the new Congress. Three motivations may have been driving their new-found desire for enacting reform. First, if reform passed during the lame duck session while the Republicans still maintained a majority, they would get credit from the public for enacting the public's will. The second motivation propelling Republicans to pass reform stemmed from the fact that they were soon to be a legislative minority. If they passed reform prior to the Democrats taking over, they could lock in their congressional appointees, protecting them from being fired by the Democrats. Last, if Republicans enacted reform while they still had a majority, they could control the legislative details. This explanation has not received any attention from the extant literature on the Pendleton Act; however, it has been instrumental in passing other major pieces of legislation (McCubbins, Noll, and Weingast 1989; Moe 1989; Theriault and Weingast 2002). In fact, of the 21 roll-call votes on amendments to the Pendleton bill in the Senate, 20 had a majority of Democrats opposing a majority of Republicans (incidentally, the majority of Republicans won on 15 of these votes). Clearly, the parties were bickering about the details of the bill prior to a bipartisan final passage vote.

Although majorities in both parties voted in favor of final passage, the Democratic party was more divided. Fourteen of 26 Senate Democrats and 50 of

89 House Democrats supported reform. None of the 32 Senate Republicans and only 8 (of 118) House Republicans voted against the Pendleton bill. The disparity between the voting behavior of Democrats and Republicans lends some credibility to the party explanation.

The party explanation, however, is incomplete for three reasons. If party dominated the civil service reform debate, why did the Republicans agree to take up the bill written and advocated by a Democrat instead of using one of their own as the legislative vehicle to enact reform? It seems reasonable that if this were a partisan bill, the Republicans would be reluctant to have the bill named for a Democrat.

Second, in 1875, the Republicans lost control of both chambers of Congress. It was only through some questionable politics that they kept a Democrat from the White House a year later. If Republicans truly feared for their appointees' survival in a Democrats' government, why did they not enact reform in the mid-1870s, the first time that their control of the federal government was seriously threatened? The partisan dynamics cannot explain why civil service reform would not have been passed just prior to the first time the Democrats took over after the Civil War.

The third factor complicating the party explanation is the high percentage of Democratic votes for reform. If Democrats were going to lose as much as party proponents speculate, why would any Democrat have voted for it? These factors do not suggest that the party explanation is not valid, just that it alone is insufficient to explain the passage of reform in 1883.

The Politics of Public Pressure

The politics of public pressure argument also begins with the microlevel behavior of members of Congress. Like the inefficiency explanation, the argument assumes that members of Congress are single-minded seekers of reelection. The reelection incentive in this argument, however, has the members directly representing their constituents' preferences. Rather than changing structure to more efficiently deliver votes as Johnson and Libecap (1994a, 1994b) presuppose, members voted for the Pendleton Act because they feared the voters' wrath if they did not.

The public became aware of the inefficient system of government deliveries through a series of scandals beginning in the Grant administration. The press riled the public by reporting on rampant dismissals of appointees for refusing to "voluntarily" contribute to the party's coffers.⁹ The groundswell of support for reform, however, did not come until after Garfield's assassination. Members scoffed at the public uprising generated by Guiteau's vicious act. It was not until 39 members lost their seats in the 1882 midterm election that they recognized the intensity of the public's disdain for the spoils system. Many of the losers were criticized for blocking reform. Fearing further public backlash, members aban-

⁹ See, for example, the *New York Times*, December 28, 1882, p. 1.

done their previous opposition to reform and overwhelmingly passed the Pendleton bill.

The politics of public pressure argument does not deny that members of Congress have discretion in how they design their institutions. Indeed, Congress may very well be designed to facilitate reelection. Ultimately, however, members of Congress are accountable to those who elect them. When the public is attentive and united, it can exert significant influence on how members of Congress institutionally innovate. Admittedly, this condition is difficult to meet, but when it is met, its force overwhelms members' personal desires. If the members do not bend to the united and attentive public's will, they face electoral retribution.

By placing public pressure at the core of the Pendleton Act's passage, the politics of public pressure is different from the explanations above in one key way: members of Congress are constrained in designing and changing congressional institutions. They can create structures and rules only within the bounds permitted by their constituents. This explanation restores balance to a system that is frequently described as "broken." By reasserting the dominance of the voters over their representatives, American democracy at the congressional level thrives insofar as we can generalize from the enactment of the Pendleton Act in 1883.

I employ two different operationalizations of the public pressure argument. Both, to varying degrees, measure the activity of the members' constituents. First, I analyze an indicator variable for the existence of an affiliate of the Civil Service Reform League in or near the representative's district. By May 5, 1881, some 13 affiliates in 10 states had been established (Hoogenboom 1968, 189). From Boston to St. Louis, reform leagues were being modeled after the popular New York flagship.¹⁰ The data in Table 2 show that representatives and senators with reform leagues nearby are overwhelmingly more supportive than those members who do not have activated constituents. All 20 representatives with local affiliates in their district voted for the Pendleton bill. Seventy-nine of the 83 representatives with affiliates in their states also supported reform. The percentage in the Senate is only slightly lower, where 17 of 18 senators with local affiliates in their states voted in favor of final passage. Each of these percentages is statistically significantly different from the members without affiliates.¹¹

¹⁰In an article published prior to their book, Johnson and Libecap (1994b, 106) ascertain public support for reform by including an indicator variable that takes the value of one when the member represents one of the fifty largest cities in the U.S. according to the 1880 census. They explain, "This variable is to capture the impact of urbanization on the propensity to vote in favor of the Pendleton Act. Reform groups are more active in urban areas than in rural." Their variable is statistically significant in their results (see their Table 1); however, when this urban variable is included with the reform league and petitions variable, its effect evaporates. The results from this logistic regression are not reported here because they basically mirror the results in my Table 4 with the addition of a statistically insignificant urban variable.

¹¹It is unclear which of the two House operationalizations is more appropriate. While affiliates were established in particular cities, they frequently attempted to service the entire state. Consider the affiliate established in San Francisco in 1881. It opted to call itself the "California Civil Service Reform League." Consistent with its name, officers were selected from throughout California.

TABLE 2
 The Effect of Civil Service Reform Leagues
 upon the Pendleton Act Vote

| | Supported Reform | Opposed Reform |
|---------------------------------------|------------------|----------------|
| The House of Representatives | | |
| Affiliates in the member's district | 20 (10.0%) | 0 (.0%) |
| No affiliate in the member's district | 140 (74.9) | 47 (25.1) |
| Percent difference in support | 25.1 | |
| <i>p</i> -value | .000 | |
| N | 207 | |
| Affiliates in the member's state | 79 (95.2) | 4 (4.8) |
| No affiliate in the member's state | 81 (65.3) | 43 (34.7) |
| Percent difference in support | 29.9 | |
| <i>p</i> -value | .000 | |
| N | 207 | |
| The Senate | | |
| Affiliates in the senator's state | 17 (94.4) | 1 (5.6) |
| No affiliate in the senator's state | 29 (72.5) | 11 (27.5) |
| Percent difference in support | 21.9 | |
| <i>p</i> -value | .007 | |
| N | 58 | |

The second operationalization for the activity of the members' constituents is a trichotomization of the number of petitions that the member received from his constituents encouraging him to support civil service reform.¹² The mean number of petitions received was slightly over 2 in the House and 1.77 in the Senate. Roughly a third (35%) received no petitions, and an additional third received only one (33%). The New York senators received the most (15). The raw data for the petitions are as impressive as the affiliates' data. Table 3 shows that with each increment in the petitions variable, the members become more supportive of reform. Those members who received two or more petitions almost unanimously voted to pass the Pendleton bill (67 of 70 representatives and all 17 senators).

It should be noted that while these operationalizations of public pressure emphasize the role of organized groups and efforts, it is the people that truly controlled the process. While these groups had organized and even sent in petitions encouraging their members to adopt civil service reform, their pleas were ignored up through the 1882 elections. It is only when the people exercised their power

¹²See *Index to the Congressional Record*, 47th Congress, 1st Session, 79 and *Index to the Congressional Record*, 47th Congress, 2nd Session, 36 for a list of pages in the *Record* that contain petition statements from the members. If a petition was received from a specific jurisdiction within a state, only the representative(s) of that jurisdiction is counted as receiving a petition. If, however, the petition was received from nothing more specific than citizens of a state, every representative within that state is counted as having received that petition.

TABLE 3

The Effect of Petitions upon the Pendleton Act Vote in the House

| | Supported Reform | Opposed Reform |
|-------------------------------------|------------------|----------------|
| The House of Representatives | | |
| Received no petitions | 30 (49.2%) | 31 (5.8%) |
| Received one petition | 63 (82.9) | 13 (17.1) |
| Received two or more petitions | 67 (95.7) | 3 (4.3) |
| The Senate | | |
| Received no petitions | 15 (65.2%) | 8 (34.8%) |
| Received one petition | 14 (77.8) | 4 (22.2) |
| Received two or more petitions | 17 (10.0) | 0 (.0) |

to defeat incumbents at the ballot box that members began to sing a different tune. Only after members watched 39 of their colleagues lose in the fall elections did civil service reform pass in Congress.

Simultaneously Testing All of the Explanations

The evidence presented thus far tested only one explanation at a time. Multivariate analysis permits simultaneously testing all of the explanations. Unfortunately, the pattern of the data and the small number of observations preclude a comprehensive test in the Senate. The dependent variable is the *member's vote* on final passage of the Pendleton bill in the House—coded “1” for a yes vote and “0” for a no vote.¹³ Table 4 reports the results of the multivariate logistic regression for the House when all of the explanation-specific variables are included in one model. The overall fit of the model is impressive (psuedo- r^2 of .362).

The evidence presented in Tables 2 and 3 is substantiated in Table 4. Members who received *petitions* from their constituents and who had *local affiliates* in their states were more likely than their counterparts to support Pendleton's bill. Evidence exists for the inefficiency and party explanations as well. Members who represented districts with *major post offices and customhouses* and *Republicans* were more likely to support civil service reform than their counterparts. The Table 4 analysis confirms the Johnson and Libecap results for the lame duck explanation. *Lame ducks* were actually less likely to support reform than those members who continued their service in the following Congress.

Because the coefficients in Table 4 are from a logistic regression, their substantive significance cannot be easily interpreted. As such, Figure 1 depicts the relative impact of each of the substantive independent variables. When all of the independent variables are held at their means, the average predicted probability

¹³ Nonvoting members were deleted from the analysis.

TABLE 4

Testing the Hypotheses on the Pendleton Act Vote in the House

| | |
|-----------------------------|-----------|
| Years in Chamber | .089* |
| | (.07) |
| Democrat | -2.448*** |
| | (.52) |
| Customhouse | 1.672* |
| | (1.09) |
| Lame Duck | -.589* |
| | (.46) |
| Reform League | 1.686*** |
| | (.66) |
| Petitions | .667** |
| | (.34) |
| Constant | 1.526 |
| | (.54) |
| Log Likelihood | -70.61 |
| Percent Correctly Predicted | 86.89 |
| Pseudo-r ² | .362 |

N = 207. * Significant at .10; ** Significant at .05; *** Significant at .01.

Dependent Variable coded "1" for a vote in favor of civil service reform (73.5%); otherwise "0."

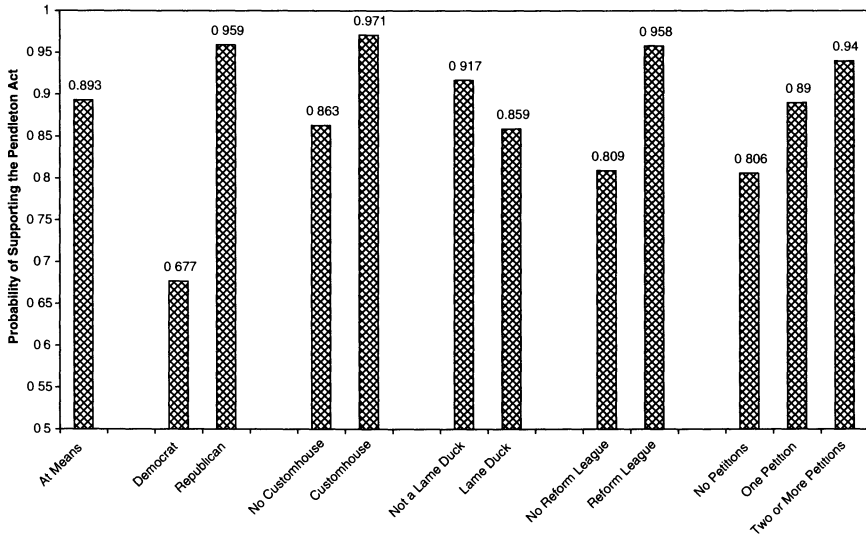
that a member would vote for the Pendleton bill is .893. The series of bars that follow this first bar vary each of the variables one at a time. For example, if the typical member were changed from a Democrat to a Republican, his predicted probability of voting in favor of reform increases from .677 to .959. The total impact of both public pressure variables is greater than the total impact for the inefficiency variable; however, all produce substantively large changes. Members who received petitions or who had local affiliates nearby almost certainly supported civil service reform even while controlling for other factors.

The evidence from Table 4 and Figure 1 confirms the inefficiency and party explanations for the passage of the Pendleton Act. The results also suggest that the people played an important role in propelling members to adopt Pendleton's bill.¹⁴ A comprehensive analysis of civil service reform should include elements of all three.

¹⁴To be sure, the customhouse and reform league variables are highly correlated (.288, $|p| < .00$). Reform leagues, in addition to being correlated with customhouses, are likely to be established because of their close proximity to the customhouses. Nearly every state district with a customhouse had a reform league. Of the 58 members who had local affiliates in their states, however, 55 of them supported the Pendleton Act. As such, the customhouse variable is a very high standard for predicting who votes in favor of reform, but it misses scores of other likely supporters. Thus, it alone is an insufficient explanation.

FIGURE 1

The Impact of Various Characteristics on Members' Support for the Pendleton Act



Conclusion

The public played a crucial role in securing passage of the Pendleton Act of 1883. Without the overwhelming defeat of spoils politicians in the 1882 congressional elections, Pendleton's bill would have failed just as its 64 predecessors did. Stewart (1929, 34) concludes in his study of this act, "The passage of the civil service reform law is an excellent example of a reform forced on politicians against their will by the pressure of public opinion aroused by a few earnest advocates."¹⁵ Although these data are historical, the lessons they teach are also relevant for a contemporary understanding of Congress.

The first lesson is a historical correction. Why did civil service reform pass in 1883 after it had failed for nearly 20 years? Historical accounts have woven together different conditions and events to explain civil service reform in the post-Reconstruction period. These situations include a growing bureaucracy to service the needs of veterans, political scandals, President Garfield's assassination, and the 1882 midterm congressional elections. Recently, this approach has come under attack for being too naive.

I explore three explanations in this article. Sufficient evidence substantiates the existing explanations. Inefficiencies in the spoils system and party politics clearly

¹⁵ Stewart (1929) is quoting "one student of this period." This student is left unnamed.

played a role in the passage of the Pendleton Act. But these previous studies have discounted the role of public pressure. The results from both the bivariate and the multivariate analyses suggest that public pressure is at least as important in the establishment of the merit system as spoils system inefficiencies and party politics. The public, through both petitions and reform leagues, convinced members to support civil service reform.

The second lesson speaks more generally to the myth of elected officials' dominance over the people (Moe 1990). Politicians have been characterized as self-interested exploiters voraciously seeking reelection. In a system that provides members with discretion in designing, adapting, and altering institutional structures and rules, members have been able to stack the deck so much in their favor that the sanctity of free and fair congressional elections has been called into question. Mayhew (1974), Weingast and Marshall (1988), Parker (1992), and Aldrich (1995) have all found that the institutions and rules are structured to facilitate members' reelections.

Although the voters are frequently passive and inattentive, when they become attentive and united they wield considerable power. In fact, Mayhew (1974, 134–5, 177, and 179) admits as much when he examines issues like regulatory reform, auto safety in the 1960s, and campaign finance reform following Watergate. This study would add the Pendleton Act to Mayhew's list of acts in which constituents constrained their elected officials.

The civil service reform example may not be an aberration. The Pendleton Act belongs to a class of issues potentially dividing the public's preferences from the politicians' interests. Further analysis may show the importance of public pressure on issues such as campaign finance reform, term limits, and congressional pay raises. I do not mean to argue that by being dynamic and attentive people always restrict their representatives' actions; rather, only that when they become so, they can.

The framers of the Constitution protected the people from selfish politicians by forcing them to go back to their districts every two years and compete for the right to continue their service in Congress. As Madison argues, “[The representatives] will be compelled to anticipate the moment when their power is to cease, when their exercise of it is to be reviewed, and when they must descend to the level from which they were raised—there forever to remain unless a faithful discharge of their trust shall have established their title to a renewal of it.” Additionally, Madison asserts that the key to American democracy is the people: “The vigilant and manly spirit which actuates the people of America—a spirit which nourishes freedom, and in return is nourished by it.”¹⁶

To be sure, it took several egregious political scandals and the assassination of the president to arouse the public. These are not the everyday events of political

¹⁶Wills, ed., 353.

discourse. But when the conditions were satisfied, the people spoke, the politicians listened, and policy changed.

Manuscript submitted 30 March 2001

Final manuscript received 12 October 2001

References

- Aldrich, John H. 1995. *Why Parties? The Origins and Transformation of Political Parties in America*. Chicago: University of Chicago Press.
- Arnold, Douglas R. 1990. *The Logic of Congressional Action*. New Haven, CT: Yale University Press.
- Doenecke, Justus D. 1981. *The Presidencies of James A. Garfield and Chester A. Arthur*. Lawrence: The Regents Press of Kansas.
- Fiorina, Morris P. 1989. *Congress: The Keystone of the Washington Establishment*. New Haven, CT: Yale University Press.
- Fish, Carl Russell. 1905. *The Civil Service and the Patronage*. Cambridge: Harvard University Press.
- Gilligan, Thomas W., and Keith Krehbiel. 1989. "Asymmetric Information and Legislative Rules with Heterogeneous Committee." *American Journal of Political Science* 33(2): 459–90.
- Gilligan, Thomas W., and Keith Krehbiel. 1990. "Organization of Informative Committees by a Rational Legislature." *American Journal of Political Science* 34(2): 531–64.
- Hoogenboom, Ari. 1959. "The Pendleton Act and the Civil Service Reform." *American Historical Review* 64: 301–18.
- Hoogenboom, Ari. 1961. "Thomas A. Jenckes and Civil Service Reform." *Mississippi Valley Historical Review* 47: 636–58.
- Hoogenboom, Ari. 1968. *Outlawing the Spoils: A History of the Civil Service Reform Movement, 1865–1883*. Urbana: University of Illinois Press.
- Ingraham, Patricia Wallace. 1995. *The Foundation of Merit: Public Service in American Democracy*. Baltimore, MD: Johns Hopkins University Press.
- Jacobson, Gary C. 1987. "Running Scared: Elections and Congressional Politics in the 1980s." In *Congress: Structure and Policy*, eds. Mathew D. McCubbins and Terry Sullivan. New York: Cambridge University Press.
- Johnson, Ronald N., and Gary D. Libecap. 1994a. *The Federal Civil Service System and the Problem of Bureaucracy: The Economics and Politics of Institutional Change*. Chicago: University of Chicago Press.
- Johnson, Ronald N., and Gary D. Libecap. 1994b. "Patronage to Merit and Control of the Federal Government Labor Force." *Explorations in Economic History* 31: 91–119.
- Josephson, Matthew. 1938. *The Politicos 1865–1896*. New York: Harcourt, Brace & World.
- Katz, Jonathan N., and Brian R. Sala. 1996. "Careerism, Committee Assignments, and the Electoral Connection." *American Political Science Review* 90(1): 21–33.
- Kernell, Samuel, and Michael P. McDonald. 1999. "Congress and America's Political Development: The Transformation of the Post Office from Patronage to Service." *American Journal of Political Science* 43(3): 792–811.
- Key, V. O., Jr. 1961. *Public Opinion and American Democracy*. New York: Knopf.
- Krehbiel, Keith. 1991. *Information and Legislative Organization*. Ann Arbor: University of Michigan Press.
- Mayhew, David R. 1974. *Congress: The Electoral Connection*. New Haven, CT: Yale University Press.

- McCubbins, Matthew D., Roger G. Noll, and Barry R. Weingast. 1989. "Structure and Process, Politics and Policy: Administrative Arrangements and the Political Control of Agencies." *Virginia Law Review* 75: 431–82.
- Moe, Terry M. 1989. "The Politics of Bureaucratic Structure." In *Can the Government Govern?* eds. John E. Chubb and Paul E. Peterson. Washington, DC: Brookings Institution.
- Moe, Terry M. 1990. "Political Institutions: The Neglected Side of the Story." *Journal of Law, Economics, and Organization* 6: 213–66.
- Overacker, Louise. 1932. *Money in Elections*. New York: Macmillan.
- Parker, Glenn R. 1992. *Institutional Change, Discretion, and the Making of the Modern Congress: An Economic Interpretation*. Ann Arbor: University of Michigan Press.
- Peskin, Allan. 1978. *Garfield: A Biography*. Kent, OH: Kent State University Press.
- Pitkin, Hanna Fenichel. 1967. *The Concept of Representation*. Berkeley: University of California Press.
- Skowronek, Stephen. 1982. *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920*. New York: Cambridge University Press.
- Stewart, Charles H. III. 1989. *Budget Reform Politics: The Design of the Appropriations Process in the House of Representatives, 1865–1921*. New York: Cambridge University Press.
- Stewart, Frank Mann. 1929. *The National Civil Service Reform League: History, Activities, and Problems*. Austin: University of Texas Press.
- Theriault, Sean M., and Barry R. Weingast. 2002. "Agenda Manipulation, Strategic Voting, and Legislative Details in the Compromise of 1850." In *Theoretical Explorations of the History of Congress*, eds. Mathew McCubbins and David Brady. Palo Alto, CA: Stanford University Press.
- Van Riper, Paul P. 1958. *History of the United States Civil Service*. Evanston, IL: Row, Peterson.
- Weingast, Barry R., and William Marshall. 1988. "The Industrial Organization of Congress." *Journal of Political Economy* 96: 123–63.
- Wills, Garry, ed. 1982. *The Federalist Papers* by Alexander Hamilton, James Madison and John Jay. New York: Bantam Books.

Sean M. Theriault is assistant professor of government, University of Texas at Austin, Austin, TX 78712.