LIMITS OF REFORM

The Tillman Act of 1907 and the Conservative Origins of American Campaign Finance Law

by

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TABLE OF CONTENTS

Introduction

Money and Politics: The First Attempt at Systemic Reform

"There are two things that are important in politics," Mark Hanna once declared. "The first is money, and I can't remember what the second one is."[1] While exaggerated, the notorious statement of the Gilded Age senator and Republican Party insider may have been surprisingly faithful to reality at the turn of the 20th century. Hanna knew firsthand the importance of money to political candidates eager to project a coherent message through advertising, acquire a campaign organization, and develop a grassroots presence. Hanna also understood the value of money to political parties seeking to assist various candidates, promote a platform of policy initiatives, and affect close races throughout the country. Finally, Hanna—perhaps better than most—discerned the power of money to well-heeled donors attempting to support politicians of their choice, cultivate spheres of influence, and shape government policy. In Hanna's mind, all movements in the political world revolved around one critical resource: money. The stakes were nothing less than the effective functioning of United States government and democracy.

Candidates and political parties before, during, and after the time of Hanna have understood the need to raise and spend money to finance their campaigns and further

[1] Ted Nace, *Gangs of America: The Rise of Corporate Power and the Disabling of Democracy* (San Francisco: Berrett-Koehler, 2003), 147. Hanna's statement dates to 1895.

their objectives.[2] In 1864, Republicans spent more than $125,000 to secure the reelection of Abraham Lincoln. Twelve years later, the Democratic and Republican Party each devoted roughly $900,000 to influence a closely contested presidential race.[3] Hoping to give his candidate whatever edge possible in the election of 1892, Grover Cleveland's chief fundraiser brought in over $2 million in contributions, an unprecedented sum that helped the Democrat win a second term in the White House. In the following presidential election, both William McKinley and William Jennings Bryan relied extensively upon contributors to finance their expensive campaigns.[4] Today, the importance of money in political campaigns has only become greater. A 2010 Supreme Court decision significantly loosened corporate purse strings by establishing the right of corporations and unions to make unlimited independent expenditures supporting or opposing candidates. The ensuing presidential election, which featured an invisible battle for funds within the larger campaign, witnessed a whopping $6.3 billion spent on presidential and congressional races alone.[5] Thus, for much of the nation's history—and especially in modern times—money and politics have been inexorably linked. As Mark Twain

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[2] There exists a wide range of literature exploring why political candidates have sought and benefited from money. In modern times, the quest for funds has dictated candidate movements and fueled both inter- and intra-party wars for money. See, for instance, David C. W. Parker, *The Power of Money in Congressional Campaigns, 1880-2006* (Norman: University of Oklahoma Press, 2008); Lawrence Lessig, *Republic, Lost: How Money Corrupts Congress—and a Plan to Stop It* (New York: Twelve, 2011); Ben White and Marc Caputo, "Inside Jeb's 'Shock and Awe' Launch," *Politico*, February 18, 2015.

[3] Melvin I. Urofsky, *Money and Free Speech: Campaign Finance Reform and the Courts* (Lawrence: University Press of Kansas, 2005), 6-8.

[4] Robert. E. Mutch, *Buying the Vote: A History of Campaign Finance Reform* (New York: Oxford University Press, 2014), 17-18; George Thayer, *Who Shakes the Money Tree? American Campaign Financing Practices from 1789 to the Present* (New York: Simon and Schuster, 1973), 50-51.

[5] *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010); Russ Choma, "The 2012 Election: Our Price Tag (Finally) for the Whole Ball of Wax," *Center for Responsive Politics*, March 13, 2013. The figure provided accounts for campaign and party money, as well as expenditures from political action committees and outside groups. The sum has consistently increased in recent election cycles.

facetiously remarked in 1899, "I think I can say, and say with pride, that we have some legislatures that bring higher prices than any in the world."[6]

Such ties have inevitably also wrought powerful critics who at different moments in American history have sought to rein in the amount of money spent on elections.[7] Many of these campaign finance reform efforts have revolved around the broader desire to ensure a government responsive to the individual citizen, rather than to the wealthy donor. Attempts at achieving this ideal, however, have repeatedly encountered the stubborn reality that the entity primarily responsible for enacting and implementing reform measures was itself entangled in these webs of financial influence. That is, the United States Congress has found itself increasingly beholden to the very fundraising practices that have at times represented the objects of fervent popular criticism. This thesis explores the significance of these networks of financial dependence by examining the earliest systemic challenge to the nation's campaign finance system and the legislation that resulted: the Tillman Act.[8]

Passed by Congress on January 26, 1907, the Tillman Act was designed to address the growing participation of corporations in political fundraising. The legislation made it illegal for corporations to submit a monetary contribution in connection with campaigns for the presidency or Congress. In addition, the Tillman Act singled out national banks and federally chartered corporations, barring them from donating to

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[6] Mark Twain, "Address on the 4th of July," *American Rhetoric*, July 4, 1899. Some also credit Twain with another pithy saying: "We have the finest Congress money can buy."

[7] Raymond J. La Raja provides an excellent overview of various pieces of 20th century campaign finance legislation. See Raymond J. La Raja, *Small Change: Money, Political Parties, and Campaign Finance Reform* (Ann Arbor: University of Michigan Press, 2008).

[8] It should be noted that the Tillman Act was not the first federal campaign finance law. In 1867, Congress passed the relatively narrow Naval Appropriations Bill, which prohibited federal officers from seeking monetary contributions from Naval Yard workers. Adam Winkler, "The Corporation in Election Law," *Loyola of Los Angeles Law Review* 32 (1999), 1243.

candidates or party funds even in elections at the state and local levels. Reformers intended the prohibition of corporate political contributions to be a bold, sweeping move. The nation's largest corporations and financial institutions had been pouring money into the political system for years, both to the campaign funds of candidates and the coffers of political parties. Making the matter even more urgent, corporate political contributions had only increased in the years prior to 1907. When President Theodore Roosevelt signed the Tillman Act into law, a fundraising and political practice that had outraged individuals across the social and economic spectrum became largely illegal.

The results of the reform, however, were fundamentally divorced from the supposedly stringent letter of the law. An investigation of the Tillman Act's motivations and the political process that produced—and ultimately weakened—the legislation offers insights into an early, pivotal attempt at United States campaign finance reform. It also provides a glimpse at the complex mechanisms by which federal regulation operated during the Progressive Era. Perhaps most broadly, this thesis yields larger perspectives regarding the nature—and limits—of American democracy, particularly the distinct lack of autonomy that reformers could experience when combating established forces of wealth and power in the political system.

While money has been in high demand in the American political system for well over a century, the nation's early years presented a strikingly different reality. The founding fathers never foresaw that fundraising would become a commonplace feature of campaigns. As late as the 1824 election of John Quincy Adams, many people believed it improper to actively seek the presidency and objected to the use of money to secure it. In fitting with custom, and considering the outsized role elites played in electing candidates, many would-be officeholders self-financed minimal campaigns that involved little formal structure.[9] The beginnings of change occurred with the 1828 election of Andrew Jackson, whom some historians have dubbed the first modern campaigner. But while Jackson may have opened campaign offices and oversaw the production of advertisements supporting his candidacy, he still did not actively attempt to raise money.[10] In the ensuing decades, however, candidates increasingly sought to buttress their campaign operations through monetary contributions from supporters. A political patronage system soon emerged, where candidates often rewarded large contributors with various positions in government. By 1896 and the battle for the presidency between William McKinley and William Jennings Bryan, the nation had grown accustomed to candidates and their affiliates seeking funds to support their campaigns.[11]

Significantly, the election of 1896 witnessed a newfound and notable pervasiveness of corporate contributions to political campaigns.[12] Although extant in earlier years, the practice of corporations writing large checks to candidates and parties reached unprecedented heights in the final election of the 19th century. Mark Hanna, chairman of the Republican National Committee and manager of McKinley's campaign, developed new methods of raising money from businesses, including "billing" corporations according to their "stake in the general prosperity."[13] Quickly, and

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9 Thayer, *Who Shakes the Money Tree?*, 26-27.

10 Urofsky, *Money and Free Speech*, 6.

11 For a concise overview of money in politics from the nation's founding through 1928, see Thayer, *Who Shakes the Money Tree?*, 24-65.

12 See Paul W. Glad, *McKinley, Bryan, and the People* (Philadelphia: J.B. Lippincott, 1964) for an account of the pivotal election of 1896 and its innovative campaign strategies.

13 Herbert David Croly, *Marcus Alonzo Hanna: His Life and Work* (New York: Macmillan, 1912), 324-26; Urofsky, *Money and Free Speech*, 49-50. Hanna attempted to standardize this

especially on the Republican side, monetary contributions from corporations came to constitute the vast majority of campaign and party funds.

Although party financiers typically went out of their way to emphasize that there would be no *quid pro quo* for monetary contributions, there nevertheless existed a host of incentives for both politicians and businesses to participate in the practice.[14] By accepting corporate political contributions, candidates gained money to fund the vital functions of their campaigns and thus increased their chances of attaining or retaining positions of political power. In addition, the pursuit of large checks from corporations constituted a more efficient fundraising strategy than the targeting of individual citizens for much smaller sums.[15] On the business side of the bargain, corporate officials had ample reason to believe that their contributions would secure for them, on occasion, favorable policy or special influence. The reality, as described in Chapter Two, was considerably more complex. Indeed, there existed many reasons why businesses did *not* find the system of corporate political contributions, taken as a whole, to be favorable to their interests. In 1896 and the two presidential elections immediately thereafter, however, both politicians and corporations were partners in a practice that had grown to unparalleled proportions.

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necessarily subjective assessment. For instance, he requested from banks one quarter of one percent of their capital, and the largest insurance companies often contributed slightly under $250,000.

[14] Hanna at one point returned $10,000 to a group of bankers, explaining that he believed the contribution implied a *quid pro quo*. While Theodore Roosevelt declined to promise favors in return for corporate contributions, his associates were often less discreet. According to one Roosevelt biographer, the treasurer of the Republican National Convention occasionally engaged in vague understandings with corporate donors that could involve a wink and a nod. Thayer, *Who Shakes the Money Tree?*, 50; Michael Wolraich, *Unreasonable Men: Theodore Roosevelt and the Republican Rebels Who Created Progressive Politics* (New York: Palgrave Macmillan, 2014), 25-26; Edmund Morris, *Theodore Rex* (New York: Modern Library, 2001), 355.

[15] During the 1904 campaign, 73 percent of Roosevelt's campaign funds came from corporate donations. Kathleen Dalton, *Theodore Roosevelt: A Strenuous Life* (New York: Vintage Books, 2002), 265.

It was in this atmosphere of rampant corporate contributions to campaign funds that reformers advocating for legislative intervention commenced a process that ultimately produced the Tillman Act. Beginning in 1905, the issue of corporate political contributions rose to the height of public consciousness, largely as a result of riveting hearings in New York that exposed a series of abuses by life insurance companies. Middle class reformers, fueled by longstanding suspicions of business-government corruption and sparked by a campaign finance scandal involving life insurers, ardently advocated the banning of corporate political contributions. Many of the nation's businesses, mindful of their profit lines and sustainability, also voiced their support for remedial legislation and joined reformers in seeking such a prohibition. In early 1906, Senator Ben Tillman of South Carolina formally introduced his eponymous bill, and Congress passed the legislation a year later. Popular support was such that one member of Congress remarked, "Every honest man in this country is for it, and I doubt very much whether any Republican or Democrat can safely afford to face his constituency in opposition to it."[16]

Yet the passage of the Tillman Act presented something of a paradox. Despite being signed into law with the stated intent of ending corporate political contributions in connection with political elections, in reality, the legislation did not fulfill its purported mandate. In ensuing election cycles, monetary contributions from corporations continued to reach campaign funds, but often in subtler fashions. While the influence of corporations in politics—deplored and detested by wide swaths of society—had been reduced, it had by no means been eradicated.

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[16] U.S. Congress, *Congressional Record*, 59th Cong., January 21, 1907, 1453.

This thesis argues that a resurgent middle class and large segments of the nation's business community—for their own very distinct reasons—persistently and enthusiastically advocated for the prohibition of corporate political contributions. The combination of these bottom-up and top-down forces, which intensified beginning in late 1905, created a sweeping imperative for reform on the issue of corporate money in politics. A decisive Republican majority in Congress, however, revealed itself determined to preserve elements of a corporate contribution system that operated decidedly in its favor. By subtly yet significantly scaling back the strength and effectiveness of the Tillman Act, political elites imposed distinct limits on what began as a promising movement for substantial reform, thus ensuring that the Progressive Era legislation failed to accomplish the ambitious ends for which it was ostensibly enacted.

Scholars of both campaign finance reform and the Progressive Era have yet to fully engage the Tillman Act. Some accounts simply decline to explore the legislation in the depth that it deserves.[17] Others commit the more fundamental sin of failing to account for the complex forces that shaped the law, understating certain motivations for the legislation or ignoring critical developments that altered its final form. Too often, scholars have portrayed the Tillman Act as a natural result of a reform surge generated by muckrakers and other advocates for a corporate contribution ban. These perspectives, of course, are important, and I consider them in depth. But reliance on this simple causal

[17] Most discussions of the Tillman Act, with a few exceptions, only span several paragraphs. As La Raja describes, most scholars begin their overview of campaign finance legislation with 1970s legislation and "merely salute" the Tillman Act of 1907. La Raja, *Small Change*, 44. David Parker and Jeffrey Birnbaum, two campaign finance scholars who exemplify this tendency, each mention the Tillman Act only twice in cursory fashion. Parker, *The Power of Money in Congressional Campaigns*, 68, 103; Jeffrey H. Birnbaum, *The Money Men: The Real Story of Fund-raising's Influence on Political Power in America* (New York: Crown, 2000), 30, 265.

mechanism obscures the more fundamental conundrum behind the Tillman Act's passage—namely, that at a high point of popular disgust with corporations and their newly revealed campaign contributions, the remedial legislation that reformers so ardently advocated fell well short of their goals. Scholars have not yet sufficiently confronted this reality. Revisiting the Tillman Act provides an opportunity to fill a glaring void in secondary literature, as well as to explore the more general obstacles to fundamental and far-reaching American campaign finance reform.

By far the most comprehensive and sophisticated discussion of the Tillman Act to date comes by way of historian Robert Mutch. In *Buying the Vote*, Mutch attempts to encapsulate the arc of campaign finance reform in the 20th century.[18] Mutch argues that a "scandal-reform" cycle drove the passage of the Tillman Act, with destabilizing revelations of previously shrouded corporate political contributions shocking Americans into action.[19] To be sure, Mutch offers an important and valuable reading of the genesis of the Tillman Act. Yet his account ignores the significant role that businesses played in advocating a corporate contribution ban, and it simultaneously fails to adequately describe how and why Congress substantially blunted the law's effect prior to its passage. By emphasizing a popular urge for reform at such great lengths as opposed to dwelling upon other critical factors, Mutch simplifies the complex forces that drove the origins and subsequent weakening of the Tillman Act.

In similar fashion, other scholars also misrepresent the journey to the Tillman Act's passage through accounts describing the legislation as purely a product of popular pressure. For instance, George Thayer contends that revelations uncovered in 1905 by the

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[18] See Mutch, *Buying the Vote*, 27-57 for a discussion of events and forces that Mutch argues motivated the Tillman Act's passage.
[19] Mutch returns to this point several times. See Mutch, *Buying the Vote*, 33, 43-44, 57.

Armstrong Committee, an investigative body tasked with exposing malpractice in the life insurance industry, combined with general antibusiness sentiment to produce the Tillman Act.[20] Adam Winkler sounds this familiar theme in his all-too-brief foray, attributing the Tillman Act's passage to the desire of reformers to reduce the corrupting influence of corporations in politics and preserve American democracy from the threat of oligarchy.[21] No doubt, these forces were critical; I cover them in depth in Chapter One. Yet such narratives—by far the most common among scholars—dramatically simplify the varied motivations undergirding the Tillman Act.[22] The interpretive framework of longstanding resentment combining with sudden outrage to produce reform is as facile as it is incomplete.

Other scholars have adopted different approaches, choosing to emphasize the political process leading to the Tillman Act's passage. In his own brief discussion, Melvin Urofsky rightly notes that the final legislation was far weaker than the original hopes of reformers, yet he does not grapple with how or why this scaling back actually occurred.[23] Raymond La Raja expands on Urofsky's account by emphasizing some of the partisan motives that drove the Tillman Act's passage. Like his predecessor, however, La

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[20] Thayer, *Who Shakes the Money Tree?*, 53-54.
[21] Winkler, "The Corporation in Election Law," 1246-47.
[22] A number of scholars credit scandal-driven reformers for bringing about the Tillman Act's passage. For instance, Paula Baker emphasizes the role of scandal above all else. Merlo Pusey similarly implies that the Tillman Act overwhelmingly stemmed from aroused public opinion as a result of provocative revelations made public through legislative investigations. Paula Baker, *Curbing Campaign Cash: Henry Ford, Truman Newberry, and the Politics of Progressive Reform* (Lawrence: University Press of Kansas, 2012), 58-59; Merlo J. Pusey, *Charles Evans Hughes* (New York: MacMillan, 1951), 166-67. See also Gary Gerstle, *Liberty and Coercion: The Paradox of American Government from the Founding to the Present* (Princeton: Princeton University Press, 2015), 176-77; Richard L. McCormick, *From Realignment to Reform: Political Change in New York State, 1893-1910* (Ithaca: Cornell University Press, 1981), 213-18; James K. Pollock, *Party Campaign Funds* (New York: Alfred A. Knopf, 1926), 12; Bradley A. Smith, *Unfree Speech: The Folly of Campaign Finance Reform* (Princeton: Princeton University Press, 2001), 23-24.
[23] Urofsky, *Money and Free Speech*, 13-15.

Raja omits much in his discussion of the legislation's political journey, especially the processes by which congressional Republicans weakened the bill.[24] I strive for a more nuanced interpretation of Congress's transformation of the Tillman Act in Chapter Three. On the subject of politics, some scholarly accounts have leapt to credit President Theodore Roosevelt's public support for ensuring the passage of the corporate contribution ban.[25] Others have dialed back such praise, arguing convincingly that, upon closer inspection, the President in fact played a relatively minor role in the affair.[26] Finally, throughout my research, I found no scholar addressing in any depth the standpoint of the business community concerning the prohibition of corporate political contributions.[27] I have devoted Chapter Two to the subject of business *support* for the legislation in order to capture this neglected, important perspective.

Academic literature on the Progressive Era only rarely mentions the Tillman Act. When the law does appear, scholars briefly cite its passage as an example of popular reform aimed at rolling back corruption between business and government. For example, Richard McCormick succinctly attributes the corporate contribution ban to concerted

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[24] La Raja, *Small Change*, 45-51. Kurt Hohenstein's brief discussion of the Tillman Act reveals the same flaws as Urofsky and La Raja's. Kurt Hohenstein, *Coining Corruption: The Making of the American Campaign Finance System* (DeKalb, Northern Illinois University Press, 2007), 69-72.

[25] See Zephyr Teachout, whose reference to the Tillman Act in her history of corruption in American government attributes the bill's passage primarily to Roosevelt's support. Zephyr Teachout, *Corruption in America: From Benjamin Franklin's Snuff Box to Citizens United* (Cambridge: Harvard University Press, 2014), 188-89. See also Rodney A. Smith, *Money, Power, and Elections: How Campaign Finance Reform Subverts American Democracy* (Baton Rouge: Louisiana State University Press, 2006), 85-87; Earl Ray Sikes, *State and Federal Corrupt-Practices Legislation* (Durham: Duke University Press, 1928), 190-91; Birnbaum, *The Money Men*, 30.

[26] Mutch especially has minimized Roosevelt's conviction on the subject, arguing that the President by no means deserved the crown of "reform hero" that some accounts have eagerly supplied him. Mutch, *Buying the Vote*, 54-57.

[27] Even in Mutch's account of the Tillman Act, discussion of the widespread corporate endorsement of the legislation is missing.

popular pressure stemming from revelations of campaign finance abuses.[28] More often, however, Progressive Era scholarship ignores the Tillman Act.[29] This thesis seeks to demonstrate that such omissions are unfortunate, as the legislation reveals much about processes of political change at the turn of the 20th century. In particular, close analysis of the Tillman Act speaks to the work of several 1960s historians who advance compelling revisionary interpretations of the Progressive Era as a period of conservative, reactionary change that by no means unleashed a surge of democratic potential. Perhaps the foremost of these scholars was Gabriel Kolko, whose *The Triumph of Conservatism* contends that "progressive" reform actually ended up serving the interests of business forces that exercised ultimate control over politics.[30] Yet the full story of the Tillman Act

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[28] McCormick, *From Realignment to Reform*, 215-16.

[29] Examples of notable books on the Progressive Era that neglect to discuss the Tillman Act or corporate political contributions include: Richard Hofstadter, *The Age of Reform: From Bryan to F.D.R.* (New York: Vintage Books, 1955); Samuel P. Hays, *The Response to Industrialism, 1885-1914* (Chicago: University of Chicago Press, 1957); Christopher Lasch, *The True and Only Heaven: Progress and Its Critics* (New York: W. W. Norton, 1991); Michael McGerr, *A Fierce Discontent: The Rise and Fall of the Progressive Movement in America, 1870-1920* (New York: Free Press, 2003). In some works, this absence is more glaring. Lewis Gould provides an extended analysis of corporate regulation under Roosevelt and the challenges of combating business-politics corruption, but he does not even allude to corporate political contributions. Similarly, Maureen Flanagan never broaches the matter of corporate money in politics, even when exploring other political reforms. Lewis L. Gould, *Reform and Regulation: American Politics from Roosevelt to Wilson* (New York: Knopf, 1986); Maureen Flanagan, *America Reformed: Progressives and Progressivisms, 1890s-1920s* (New York: Oxford University Press, 2007).

[30] Gabriel Kolko, *The Triumph of Conservatism: A Reinterpretation of American History, 1900-1916* (New York: Free Press of Glencoe, 1963). Robert Wiebe similarly portrayed factions of businessmen as critical in spearheading legislation and determining its limits throughout the Progressive Era, the result being a conservative blunting of movements for more radical change. James Weinstein likewise argued, through his theory of corporate liberalism, that corporate and financial elites diverted reform pressures from lower classes to suit their own interests. Two decades later, Martin Sklar provided a lengthy examination of how business leaders ensured the survival of the distinctive features of capitalism while tolerating limited federal administration of markets. Robert H. Wiebe, *Businessmen and Reform: A Study of the Progressive Movement* (Cambridge: Harvard University Press, 1962); James Weinstein, *The Corporate Ideal in the Liberal State, 1900-1918* (Westport: Greenwood Press, 1968); Martin J. Sklar, *The Corporate Reconstruction of American Capitalism, 1890-1916* (New York: Cambridge University Press, 1988).

complicates even the interpretations of Kolko and his contemporaries. While many of the nation's businesses supported the reform effort behind the bill, the final version of the law reflected the desires of politicians looking to serve their own fundraising interests—not the interests of the public or of corporate executives. Businesses ultimately found ways to thrive after the law's passage, but they by no means controlled the political processes that produced the Tillman Act.

This study draws upon a wider range of sources and perspectives to present a more robust analysis of the complex forces that shaped the Tillman Act. The resulting interpretation revises and complicates some of the previous simplistic understandings of the law, which fail to grapple with how the ambitions of reformers encountered deeply rooted obstacles preventing their realization. Just as histories of United States campaign finance reform will benefit from a rigorous examination of the road to the Tillman Act's passage, moreover, so too will scholars of the Progressive Era benefit from consideration of the legislation within the broader politics and perspectives of the period.

In the first of this study's three parts, I seek to explain the nature of the powerful surge of public pressure in favor of a prohibition of corporate monetary contributions to political campaigns. I begin at a popular starting point: the Armstrong Committee hearings of 1905, which revealed an elaborate web of sizable political contributions from some of the nation's largest life insurance companies. The committee findings so greatly incensed middle class reformers that they ardently and persistently invoked the revelations in pursuit of legislation that eventually became the Tillman Act. Grounded heavily in a diverse array of newspaper articles, my analysis proceeds through an exploration of three interrelated themes: the resonance of unchecked business-government corruption; the direct linkage between campaign contributions and the abuse of policyholder interests; and the exposure of rampant and reckless corporate mismanagement. I argue that the Armstrong Committee hearings unleashed a powerful explosion of public sentiment, one in which a prohibition of corporate political contributions became a means of addressing popular concerns about the rightful place of big business in society and its relationship with government.

My second chapter complicates this interpretation and shifts the focus to a different segment of the population: the business community. Even as corporate officials defended their motives for making past monetary contributions, businesses in the life insurance industry and beyond simultaneously and enthusiastically advocated that the practice come to an end through a formal legislative prohibition. Unlike inflamed reformers seeking to eradicate an undesirable feature of politics, however, I argue that businesses supported the prohibition because doing so fundamentally aligned with their economic interests. Regardless of their desire to maintain favorable public standing in the fallout from the campaign finance revelations, companies embraced federal regulation in order to escape from a burdensome, financially draining practice. In addition, businesses saw in the Tillman Act the opportunity to fend off competition and consolidate the corporate power structure, along with the chance to standardize a clutter of conflicting, disruptive state legislation. I contribute this previously unexplored perspective to literature on the Tillman Act through analysis of industry trade journals and the personal papers of George W. Perkins, an insurance executive at the center of the corporate contribution scandal. The influence and support of business forces ensured that the corporate contribution prohibition—the initiative that gained the unbridled backing of middle class reformers—operated in favor of the very faction the reform effort was supposedly designed to target.

The final chapter of this study explains why, given the enthusiastic, widespread support for a prohibition of corporate political contributions among both public reformers and businesses, the reform effort purportedly embodied by the Tillman Act failed to meet the expectations of either coalition. In particular, it explores how the legislation became considerably weaker as it moved through Congress. I begin with discussions of the contrasting motives of New Hampshire Republican William E. Chandler and South Carolina Democrat Ben Tillman, two senators critical to the bill's passage. I then investigate a Republican congressional majority decidedly unenthusiastic about the reform effort hurtling towards it. Loath to willfully eliminate a reliable source of campaign funds, political elites undertook a deliberate effort to scale back the Tillman Act and preserve elements of a corporate-centric campaign finance system that operated in their favor. Congress quietly but substantially weakened the bill by reducing the legislation's coverage; declining to establish an enforcement mechanism; and leaving pathways open for corporate money to discreetly enter the political system. As a result of these changes and the legislation's limited effect, the Tillman Act morphed into a piece of minimal, modest "reform." By reshaping the legislation in accordance with their own conservative interests and blunting a fervent surge of popular sentiment, political elites in Congress ensured only the partial fulfillment of the ambitious, sweeping demands and initial high hopes of reformers.

In 2010, Supreme Court Justice Clarence Thomas made a rare popular reference to the Tillman Act. "Go back and read why Tillman introduced that legislation," Thomas said in a speaking engagement. "Tillman was from South Carolina, and as I hear the story he was concerned that the corporations, Republican corporations, were favorable toward blacks and he felt that there was a need to regulate them."[31] In fact, Thomas must have heard an exceedingly simplistic and misleading story. This thesis attempts to revise and complicate not only Thomas's perspective, but also existing accounts of a law too often neglected in both campaign finance histories and discussions of the Progressive Era. The analysis that follows speaks to the enduring challenges that plagued advocates of campaign finance legislation in overcoming entrenched economic and political power, along with the distinct constraints the American political system could impose upon even the most impassioned reform efforts.

[31] Adam Liptak, "Justice Defends Ruling on Finance," *New York Times*, February 3, 2010.

Chapter I

"Startling Revelations": The Armstrong Committee Hearings and Public Pressure

On September 15, 1905, Vice President George W. Perkins of New York Life Insurance Company took the witness stand inside a packed Albany, New York courtroom. The counsel for New York State, Charles Evans Hughes, prepared to commence his questioning. Journalists, businessmen, and ordinary citizens in attendance craned their necks for a glimpse of the proceedings. When the gavel rang out shortly after 10 o'clock, the eighth day of the Armstrong Committee hearings was underway.

After a preliminary round of questioning, Hughes arrived at the matter on everyone's minds—a recently discovered check of $48,702.50 from New York Life to an undisclosed source. With the company treasurer unable to explain the check, the Armstrong Committee summoned Perkins in part to discover its origins. When pressed, Perkins finally admitted the truth: "That money was paid to [RNC Treasurer] Mr. Cornelius N. Bliss on account of the Republican National Committee Campaign account of last year."[1]

A palpable buzz overtook the courtroom. Attendees stirred and reporters bolted for the telephones. A few hours later, the first of many newspaper headlines on the subject of the revelations began to appear. "Perkins Creates a Sensation by Admitting

[1] *Testimony Taken Before the Joint Committee of the Senate and Assembly of the State of New York to Investigate and Examine into the Business and Affairs of Life Insurance Companies Doing Business in the State of New York* (Albany: Brandow, 1905), 751-52.

New York Life Contributions," ran the main story for one Cincinnati newspaper.[2] The *New York World* devoted a bold-faced, sprawling headline on its front page to the political donation story.[3] On the West Coast, the *San Francisco Chronicle* described the tumult caused by Perkins' admission: "This bomb caused a murmur of conversation about the room, which had become packed with spectators. Standing room was at a premium."[4]

Headlines and commentaries like these persisted throughout the ensuing days, weeks, and months, as it became evident that New York Life was not alone. Indeed, a number of other top life insurance officials took the stand and admitted to similar actions—sending monetary contributions to political campaigns from the general treasuries of their companies. Beginning in September 1905, the revelations inside this Albany courtroom captured the attention of much of the nation. In particular, the issue of corporate monetary contributions to political campaigns received an overwhelming amount of coverage, arousing longstanding popular suspicions of government beholden to corporate executives, not individual citizens. As it became clear that a host of the nation's biggest life insurance companies regularly submitted these previously unconfirmed payments, the public reacted intensely and castigated the intentions and practices of the insurance industry.

The fevered outrage that swept across the nation, however, struck at much deeper roots than the mere outward phenomenon of corporate contributions to political candidates. As revelations of corporate abuse mounted in the Armstrong Committee

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[2] "Perkins Creates a Sensation by Admitting New York Life Contributions," *Cincinnati Enquirer*, September 16, 1905.
[3] "Bliss Got $48,000 from N.Y. Life," *New York World*, September 15, 1905.
[4] "New York Life Paid Big Campaign Contribution," *San Francisco Chronicle*, September 16, 1905.

testimony, many middle class citizens saw in the problem of political contributions larger evils. These ills included unchecked corruption between businesses and politicians, a disregard among life insurance companies for the welfare and interests of their policyholders, and rampant corporate mismanagement resulting in reckless business practices. The revelations of the Armstrong Committee thus served as a window through which the public could address fundamental and provocative issues that threatened the social fabric of democracy. Ultimately, the roots of the Tillman Act of 1907 lay in the powerful, sweeping, and sustained reaction to the Armstrong Committee findings that congealed a host of popular concerns about the place of big business within early 20th century politics and society.

In July 1905, New York State opened a formal legislative investigation into the life insurance industry that became known as the Armstrong Committee. The launching of the inquiry was no isolated development, but one that occurred within a larger, spirited push for general reform throughout the nation. According to Richard McCormick, while elements of political corruption were evident as early as the Jacksonian age, the majority of the public did not perceive a credible or impending threat. Yet at the turn of the 20th century, discoveries of abusive business practices and government corruption catalyzed an intense political transformation. For McCormick, the very origins of what would later be termed "Progressivism" could be located in scandal-driven inquiries into the workings and abuses of government authority.[5] Dewey Grantham similarly emphasizes the importance of the years surrounding 1905 for anticorruption movements in states across

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[5] Richard L. McCormick, "The Discovery that Business Corrupts Politics: A Reappraisal of the Origins of Progressivism," in *Who Were the Progressives?*, ed. Glenda Elizabeth Gilmore (Boston: Bedford, 2002), 107-13.

the country, from the passage of strict New Jersey corporate regulations to efforts at combating railroad trusts in California.[6] Other historians, citing a shared language of reform underlying such early Progressive activities, suggest that a societal consciousness coalesced around fervent opposition to monopolistic forces.[7] Newspapers often played a critical role in shaping and perpetuating this common framework of reform, as article after article advocated for the interests of an agitated middle class citizenry.[8] For instance, a 1904 *San Francisco Chronicle* editorial supporting tax reform claimed "the public must be convinced that some change is necessary and be ready to make it."[9] One *Washington Post* editorial, titled "Is Graft-hunting a Craze?" sought to propel forward quests for exposure, hoping that "the now popular sport of exposing corruption will prove to be more than a summer diversion."[10]

Reform fervor thus swept the nation at the turn of the century, and the state of New York was no exception. Indeed, New York in some ways became the crucible for early Progressive activity and anti-monopolist sentiment. Just a few months before the establishment of the Armstrong Committee, New York State conducted a productive

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[6] Dewey W. Grantham, "The Progressive Era and the Reform Tradition," *Mid-America* 46 (1964), 233-34. See also Robert F. Wesser, *Charles Evans Hughes: Politics and Reform in New York, 1905-1910* (Ithaca: Cornell University Press, 1967), 20-21.

[7] For one example of this school of thought, see Daniel T. Rodgers, "In Search of Progressivism," *Reviews in American History* 10 (1982), 123-25.

[8] Richard L. McCormick, *From Realignment to Reform: Political Change in New York State, 1893-1910* (Ithaca: Cornell University Press, 1981), 213-14. There exists no shortage of literature concerning the role of the press in the Progressive Era. Rather than merely reflecting public discourse, newspapers and other media outlets informed and drove perspectives when it came to various reforms. One *Washington Post* editorial spoke to the power the era's newspapers wielded: "[Journalists] can create a public sentiment of condemnation so definite and so widespread that it will be exceedingly difficult for any 'business man' or for any politician to be corrupt and at the same time respectable." "Business in Politics," *Washington Post*, October 8, 1905. See also Louis Filler, *Muckraking and Progressivism in the American Tradition* (New Brunswick: Transaction Publishers, 1996); Leonard Ray Teel, *The Public Press, 1900-1945: The History of American Journalism* (Westport: Praeger, 2006).

[9] "The Reform of Taxation," *San Francisco Chronicle*, July 11, 1904.

[10] "Is Graft-hunting a Craze?" *Washington Post*, July 21, 1905.

investigation into the management of gas and electric companies. In addition to raising critical questions about the role and potential abuse of private corporations in public matters, the investigation led to legislative and administrative solutions at the state level.[11] Revelations of these and other corporate practices in New York influenced Progressive activities throughout the nation; in Massachusetts, they galvanized public sentiment and provided a model for similar remedial steps.[12] State government action also catalyzed legislation at the national level, as evidenced by a February 1906 *Los Angeles Times* article on the much-anticipated Armstrong Committee report: "That needed legislation will be enacted not only by New York and other States, but by Congress, also, there can be little doubt."[13] As New York contained scores of banks and large corporations, the state presented an ideal setting for anticorruption and antimonopoly campaigns that provided ample material for an active press corps.

When rumblings of questionable life insurance dealings surfaced in New York in this atmosphere of active reform, it was natural that considerable popular pressure emerged in favor of an investigation into the details of their business affairs. In the early months of 1905, rumors of insurance insider trading, personal loans to financiers, and questionable investments spilled into the press.[14] Citing these allegations, the *New York Tribune* published over 100 editorials urging stricter regulations for the life insurance industry. One such editorial claimed to speak on behalf of the general public: "The people want the whole [life insurance] business turned inside out and the ramifications of

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[11] Wesser, *Charles Evans Hughes*, 33. For additional discussion of reform movements at the level of state government, see Robert H. Wiebe, *The Search for Order, 1877-1920* (New York: Hill and Wang, 1968), 165-70.
[12] Richard M. Abrams, *Conservatism in a Progressive Era: Massachusetts Politics, 1900-1912* (Cambridge: Harvard University Press, 1964), 130-31, 141.
[13] "Life Insurance Reform," *Los Angeles Times*, February 23, 1906.
[14] W. A. Swanberg, *Pulitzer* (New York: Scribner's Sons, 1967), 315-18.

all these private deals in the disposition of trust funds to be exhibited."[15] Overwhelmingly concentrated in New York, life insurance companies had acquired an increasing stake in the nation's wealth over the latter decades of the 19th century and represented an ideal public target.[16] Additionally, as New Yorkers were just weeks removed from the fruitful investigation of gas and electric companies, general popular ire and angst for reform coalesced around a desire to expose life insurance practices through similar means. In late July, New York Republican Governor Frank W. Higgins finally yielded to popular pressure and urged the legislature to convene an investigative commission. According to Higgins, it was necessary to fully investigate industry practices in order to develop potential "legislation as may be adequate and proper to restore public confidence" in life insurance companies.[17] Newspapers that had previously pushed for an investigation wholeheartedly embraced Higgins' bold recommendation. One Connecticut paper argued that Higgins acted "in response to a loud and persistent demand," and the *New York Tribune* commended Higgins for satisfying a "very strong and prevalent desire for a thoroughgoing scrutiny."[18]

In addition to occurring at a surge in the anticorruption movement, the Armstrong Committee seemed poised to have an especially dramatic effect on public opinion due to

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[15] "The Insurance Inquiry," *New York Tribune*, July 25 1905.

[16] See Chapter Two for a discussion of the nature of the life insurance industry and its evolution over these decades. Life insurance companies were entrusted with fulfilling an important public responsibility of guarding the money of their policyholders. When the Armstrong Committee revelations shattered these idyllic perceptions, the public accordingly experienced a distinct and painful breach of trust. According to the *Washington Post*, the hearings "shocked the public conscience as nothing else has since the Credit Mobilier scandals of a third of a century ago." "Campaign Funds and Publicity," *Washington Post*, February 24, 1906.

[17] Frank W. Higgins, "Special Message to the Legislature," in *Messages from the Governors* (New York: J. B. Lyon, 1909), 824-25.

[18] "Bring Life Insurance Back to the Old Safe Moorings," *Hartford Courant*, July 26, 1905; "A Legislative Investigation," *New York Tribune*, July 21, 1905. In a multi-page spread, the *New York Times* quoted Higgins's contention that there existed "almost universal demand" for the investigation. "Insurance Inquiry by the Legislature," *New York Times*, July 21, 1905.

its open setting. All testimony before the committee—which convened on September 6, 1905, lasted over two months, and was composed of state legislators such as its chairman, William Armstrong—was open to the public with ample space for journalists. These reporters churned out hundreds of articles and editorials over the latter months of 1905 in publications across the country. The spectacle was even observed abroad; one London-based magazine noted that some revelations, "if substantiated…must seriously shake the confidence of the public in American insurance."[19] An early biographer of Charles Evans Hughes, the state's legal counsel who handled the key duty of witness interrogation, described the press presence on some days "as if the proceeding had been a notorious murder trial."[20] With the ability to call anyone testify—from top life insurance executives to United States Senators—Hughes ensured that the public learned of ill practices from those at the very top. The open and transparent forum of the Armstrong Committee ensured that the entire life insurance industry and its previously secret practices stood trial before the demanding court of public opinion.

With the necessary components in place for sustained, powerful, and widespread popular outrage, it was only a matter of time before public opinion erupted. Two weeks into the hearings, Hughes provided the critical spark by exposing perhaps the perfect issue around which the public could mobilize: the practice of corporate monetary contributions to political campaigns. Prior to September 15, 1905 and the testimony of New York Life's George W. Perkins, corporate political contributions had been largely off the Armstrong Committee's radar. But all that changed when Hughes pressed Perkins for information regarding an unmarked check of $48,702.50 from 1904. After attempting

[19] "The Inquiry Which is Proceeding in the United States," *Spectator* 94 (September 30, 1905), 2.
[20] Merlo J. Pusey, *Charles Evans Hughes* (New York: MacMillan, 1951), 144.

to evade the counsel's questions, the insurance executive produced his frank admission that the funds went directly to the coffers of the Republican National Committee. In ensuing testimony, Perkins revealed that New York Life paid similar sums in both the 1896 and 1900 campaigns.[21] The company's divulgences continued several days later when John A. McCall, President of New York Life, took the stand and admitted his complicity in disguising a $25,000 political contribution as a legal expense.[22] Within a week, then, both McCall and Perkins had admitted to transferring and investing policyholder money from a corporate trust fund through officially unauthorized practices, essentially off the books. While previously hidden, the large contributions were now available for all to observe. With the press already fixated on the hearings and a reform-hungry citizenry actively observing their development, all the elements were in place for a full-fledged scandal.[23]

While the media had reported on the insurance hearings from their inception, the volume and intensity of coverage skyrocketed in the days following the New York Life revelations. Overwhelmingly and almost exclusively, reporters focused on the issue of corporate money in politics. The *New York World* quickly mobilized to feature the revelations in its September 15 evening edition with a sprawling, bold-faced headline reading, "Bliss Got $48,000 from N.Y. Life."[24] Occupying over half of its front page the following morning, the *New York Times* published a lengthy transcript of the Hughes-Perkins exchange and declared that the emergence of the check "has turned the

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[21] *Testimony Taken Before the Joint Committee*, 751-52.
[22] *Testimony Taken Before the Joint Committee*, 825-26, 832-37.
[23] Melvin Urofsky highlights the importance of these initial revelations of corporate monetary contributions in fueling a scandal that swept across the country. Melvin I. Urofsky, *Money and Free Speech: Campaign Finance Reform and the Courts* (Lawrence: University Press of Kansas, 2005), 12-13.
[24] "Bliss Got $48,000 From N.Y. Life," *New York World*, September 15, 1905.

Armstrong Committee's investigation of life insurance into new lines."[25] The flurry of articles was not limited to newspapers in the Northeast, however, as the *Atlanta Constitution*, *Chicago Daily Tribune*, and *Cincinnati Enquirer* published their own front-page news stories about the contributions.[26] The public had finally received what it sought in originally establishing the Armstrong Committee—explicit accounts of the abuse of policyholder money by top business executives. According to the popular magazine the *Nation*, "Mr. Perkins has lighted a fire of which the blaze is seen all over the country."[27]

For many, the issue of corporate campaign contributions became especially provocative due to its indication of corruption at the highest levels of business and politics. Newspapers led the way through an outpouring of negative commentary in pointed opinion pieces. The morning after Perkins admitted to previously undisclosed political contributions, the *New York Times* denounced the actions of New York Life and portrayed the check as a blatant abuse of policyholder deposits: "The contribution was altogether partisan, and in no respect made as a measure of prudence and safety."[28] The *Atlanta Constitution* sounded a similar theme, alleging that corporate donations resulted in "corruption which disgraced the politics of this nation in the last three presidential contests."[29] The *Los Angeles Times* condemned the extensive financial ties between politicians and businessmen: "When money is used to corrupt voters, to purchase votes,

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[25] "Life Insurance Campaign Gifts," *New York Times*, September 16, 1905.
[26] "New York Life Gave Up $48,000 to Republican Campaign Fund, Declares First Vice President" *Atlanta Constitution*, September 16, 1905; "Republican Lift by New York Life," *Chicago Daily Tribune*, September 16, 1905; "Perkins Creates a Sensation by Admitting New York Life Contributions," *Cincinnati Enquirer*, September 16, 1905.
[27] "Corporate Absolutism," *Nation* 81 (September 28, 1905), 252.
[28] "To C. N. Bliss—$48,702.50," *New York Times*, September 16, 1905.
[29] "Those Insurance Scandals," *Atlanta Constitution*, September 22, 1905.

and to thwart the will of the people, it is wrongly used."[30] *Life Magazine* filled its November cover with a rowboat containing two elephants: one large, representing the Republican Party, and the other small, modeled after a life insurance company. Titled "The Helping Hand," the cartoon reinforced the concept of a covert alliance between the industry and Republicans and reflected the hearing testimony's infiltration into daily American discourse.[31] The existence of a general similarity in opinion and tone across different publications reflected a widespread, national public outrage toward the Armstrong Committee's findings of business-politics monetary ties.[32]

In the ensuing months, public attention and critical media coverage persisted as a network of life insurance corruption became gradually exposed. The Armstrong Committee testimony made clear that corporate political contributions were a disturbingly common practice extending well beyond New York Life. On October 10, 1905, Mutual Life Insurance Company Vice-President Walter Gillette admitted to cutting regular $40,000 checks to the Republican National Committee. Gillette justified Mutual's political contributions with the business imperative to defeat the "Free Silver" platform of William Jennings Bryan in 1896: "We thought it our duty to scotch it. That was the reason; the same reason that appealed to all business men, that that heresy should be killed."[33] A number of newspapers throughout the country published front-page stories

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[30] "Money in Campaigns," *Los Angeles Times*, September 23, 1905.
[31] "The Helping Hand," *Life* 46 (November 23, 1905).
[32] Pusey, *Charles Evans Hughes*, 164-65; Robert. E. Mutch, *Buying the Vote: A History of Campaign Finance Reform* (New York: Oxford University Press, 2014), 40-43. According to Pusey, "[t]he press carried the story to every town and city."
[33] *Testimony Taken Before the Joint Committee*, 1760.

the very next day containing an account of Gillette's testimony. It quickly became evident that corporate contributions were not a localized problem.[34]

The inquiry of the Armstrong Committee, however, was just getting started. In future testimony, founder of Prudential Insurance Company and U.S. Senator John F. Dryden (R-NJ) revealed his longstanding acceptance of corporate contributions in various elections and custom of disguising the funds as "legal expenses."[35] Senator Chauncey Depew (R-NY) related that he took $20,000 annually from Equitable Life Insurance Society.[36] Former Equitable President James Hazen Hyde also admitted to approving a host of political contributions beginning in 1900.[37] In this atmosphere of continual revelations, the press maintained persistent coverage and often sensationalized committee findings.[38] Periodical publications chimed in, including the *Nation* magazine, which repeatedly expressed disgust with the "unholy alliance" between life insurance companies and politicians.[39] Another magazine boldly asserted that corporate contributions had influenced the results of national elections: "It is gradually leaking out from authoritative sources that Mr. Bryan was cheated out of the presidency."[40] As the scope of the scandal expanded, so too did critical press coverage that helped generate the feeling that an extensive network of corruption existed between some of the nation's biggest businesses and political elites.

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[34] Such newspapers included the *Atlanta Constitution*, *New York Times*, *Hartford Courant*, *Washington Post*, *New York Tribune*, and *Los Angeles Times*.
[35] Mutch, *Buying the Vote*, 39.
[36] Pusey, *Charles Evans Hughes*, 163.
[37] *Testimony Taken Before the Joint Committee*, 2915-18.
[38] Wesser, *Charles Evans Hughes*, 42-43.
[39] "The New York Life on the Stand," *Nation* 81 (October 12, 1905), 294; "The Unholy Alliance," *Nation* 81 (November 23, 1905), 414-15.
[40] "Perkins's Amazing Insurance Story," *Medical World* 23 (October 1905), 430.

As such revelations continued to unfold, the Armstrong Committee hearings provided one final exchange that seemingly confirmed the corrupt ties between business and politics. On November 21, 1905, Senator Thomas Platt (R-NY) took the stand to submit to questioning from Hughes. The established Republican politician acknowledged receiving a number of contributions over a series of years from several different life insurance companies.[41] But Platt's testimony was significant not because of such admissions, but rather due to his description of exactly how money resulted in a relationship of corruption between the politicians and businesses involved. Despite Platt's guarded responses, he eventually affirmed Hughes' suggestion that corporate contributions influenced a politician "to see that the legislature, for example, did not enact legislation which they thought hostile to their policyholders." In Platt's experience, monetary contributions created an informal arrangement in which politicians were expected to "look out" for their funders; as Hughes put it, candidates had "a moral obligation not to attack the interests supporting."[42] For the first time, the realities of the corporate contribution system were laid bare. While there existed no explicit *quid pro quo*, life insurance companies donated because they could count on politicians to shape relevant policies in a desirable fashion. Platt's testimony represented a critical moment in the hearings because it provided an inside look at the precise influence of corporate money in the political system. Instead of involving outward bribes, the reality was a much more subtle form of corruption that left little trace yet could be equally effective.

[41] Hughes made a point of emphasizing the regularity with which these contributions occurred: "When you say every year, you mean literally every calendar year in connection with the State election?" Platt replied in the affirmative. *Testimony Taken Before the Joint Committee*, 3387.
[42] *Testimony Taken Before the Joint Committee*, 3396-97.

The testimony of Platt, widely publicized throughout the nation, represented a critical turning point in the response to the Armstrong Committee hearings. As the public finally had concrete evidence of the favoritism that political contributions bought insurance companies, attention now began to shift to potential remedies for the diseased situation.[43] The morning after Platt took the stand, the *New York Times* wrote that "the public discussion…is likely to prepare the way for action in this State at the approaching session of the Legislature and possibly for action in the approaching session of Congress."[44] A day later, the *Nation* called upon President Theodore Roosevelt to recommend the passage of campaign finance legislation "for which the times are crying out."[45] Indeed, the response to Platt's testimony conveyed a sense of finality. There was no longer any point of questioning the extent or effects of corporate money in politics, as "what [Platt] said brings clearly into view the nature of political contributions by corporations."[46] As the *Nation* vividly editorialized, Hughes and Platt "took off the manhole cover" and revealed a "party sitting in the sewage."[47] With the ill effects of a corrupt business-politics alliance out in the open, public attention became increasingly occupied with the necessary steps to transform the dismal state of affairs for the better. One of the products of this discussion was the Tillman Act.

The Armstrong Committee hearings produced a sweeping, explosive, and sustained popular outcry—an outcry that ultimately helped generate the nation's first

[43] Both Mutch and McCormick highlight Platt's testimony as a marked departure from the previous, more circumstantial committee findings hinting at corruption. Mutch, *Buying the Vote*, 39-40; McCormick, *From Realignment to Reform*, 203.
[44] "Campaign Publicity, *New York Times*, November 22, 1905.
[45] "The Unholy Alliance," *Nation* 81 (November 23, 1905), 414-15.
[46] "The Quid Pro Quo," *Wall Street Journal*, November 23, 1905.
[47] "Solicitous About New York," *Nation* 81 (November 30, 1905), 436.

substantial attempt to regulate corporate money in politics—for three distinct reasons. In the first place, the life insurance revelations resonated so dramatically with the public because they served to underscore already-pervasive concerns about widespread political corruption. The lurid testimony from both insurance executives and politicians raised fundamental questions about the unseemly relationship between business and government. Although Senator Platt had acknowledged no explicit *quid pro quo*, the *New York Times* nevertheless maintained that the relationship between money and legislative actions had become "direct and unmistakable."[48] The Armstrong Committee revelations were so galvanizing for this very reason—corporate contributions represented an example of a dangerous, unhealthy connection between business and politics. A *Baltimore Sun* editorial put its finger on this feeling early in the hearings: "The use intended to be made of this money is to debauch voters and to obtain a hold on Legislatures or Congress."[49] Disclosures of corporate contributions spoke directly to fears of privileged business activities corrupting government that already pervaded cities and colored public consciousness at the turn of the century.[50] The firsthand, widely publicized revelations uncovered by the Armstrong Committee reflected—and amplified—this more fundamental, urgent issue of political-business corruption.

Thus, concerns of corruption and pro-business forces within the political system caused the Armstrong Committee testimony to resonate so powerfully throughout the public beginning in the fall of 1905. According to McCormick, the critical force pushing members of the middle class to Progressive reform was the awakening to corruption that

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[48] "Campaign Funds and Moral Obligations," *New York Times*, November 23, 1905.
[49] "Political Debauchery by the Great Trusts," *Baltimore Sun*, September 19, 1905.
[50] McCormick, "The Discovery that Business Corrupts Politics," 116-20.

so often resulted from muckraking journalism.[51] The Armstrong Committee hearings served to fulfill this very function by highlighting a specific practice that led to a more general corruption with the potential to distort democracy. For the *Washington Post*, corporate contributions themselves served as one example of how "the art of grafting has reached its perfection in State legislatures."[52] Donations from life insurance executives, then, represented a lens through which to view a larger problem; discussions of the issue often justified proposed remedial action with the desire to eliminate corrupt ties between politics and business. For instance, on December 5, 1905, President Roosevelt in his annual message to Congress called for a ban on corporate monetary contributions to any political committee or candidate.[53] Notably, Roosevelt portrayed his proposal as "an effective method of stopping the evils aimed at in corrupt practices acts."[54] Such language emphasized the reality that, for many, ending corporate contributions was a means of combating corruption in government and its danger to democratic society.

As the focus turned to potential remedies, calls for a legislative response were inseparable from desires to contain manifestations of business-government corruption. Former New Hampshire Senator William E. Chandler, who later played an important role in shepherding the Tillman Act through Congress, articulated the threat he believed corporate political contributions posed to democracy in December 1905. According to Chandler, "both immaculate saints and repentant sinners ought cordially to co-operate in

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[51] McCormick, "The Discovery that Business Corrupts Politics," 129.
[52] "Insurance and Political Graft," *Washington Post*, September 19, 1905.
[53] This was a popular opinion at the time. As Mutch emphasizes, Roosevelt was by no means a pioneer of calls to ban corporate contributions, but in large part acted in response to overwhelming popular demand, despite his personal lack of enthusiasm. Mutch, *Buying the Vote*, 54-57. See Chapter Three for additional discussion of Roosevelt.
[54] Theodore Roosevelt, "Fifth Annual Message," December 5, 1905, *The American Presidency Project*.

remedying the existing evils of excessive and corrupting campaign contributions which tend to degrade and may lead to the destruction of republican government."[55] Such corruption-fueled concerns continued to percolate in the ensuing months. On February 22, 1906, the Armstrong Committee released a lengthy report authored by Hughes that contained a number of reform proposals for the life insurance industry, including a recommendation for the prohibition of insurance company contributions for political purposes. In the report, Hughes emphasized this remedy's potential for combating corruption, since "[n]othing disclosed by the investigation deserves more serious attention than the systemic efforts of large life insurance companies to control a large part of the legislation of the State."[56] The ensuing days witnessed the *San Francisco Chronicle*, *New York Times*, and *New York Tribune* all highlight the need to reduce undue corporate influence in politics as described in the insurance report.[57] Several months later, the *Baltimore Sun* contended that a prohibition would "purify politics and cut off the source from which the stream of political corruption flows."[58] Public concerns for corruption even characterized congressional discourse on the subject of corporate political contributions. When the House of Representatives debated the Tillman Act in January 1907, one Democratic congressman accused corporations of paying large sums "in order to corrupt the electorates of this Republic."[59] Indeed, ever since the initial discoveries in September 1905, many who sought to eliminate corporate campaign

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[55] Chandler to Perry Belmont, December 4, 1905, William E. Chandler Papers, Library of Congress.
[56] *Report of the Joint Committee of the Senate and Assembly of the State of New York Appointed to Investigate the Affairs of Life Insurance Companies* (Albany: Brandow, 1906), 393-94.
[57] "The Insurance Report," *San Francisco Chronicle*, February 24, 1906; "The Insurance Report," *New York Times*, February 23, 1906; "Throw Out the Lobby: Plea to Legislature," *New York Tribune*, February 23, 1906.
[58] "Campaign Contributions," *Baltimore Sun*, May 23, 1906.
[59] U.S. Congress, *Congressional Record*, 59th Cong., January 21, 1907, 1452.

contributions cited the larger potential for the practice to spawn relationships of corruption between businessmen and politicians. The revelations of the Armstrong Committee resonated so forcefully throughout society because they unearthed a troubling reality that threatened to jeopardize democratic processes. For many reformers, a corporate contribution prohibition represented one way of contributing to the fight against this fundamental problem of corruption.

A second explanation for the sustained public outcry surrounding the Armstrong Committee was the perceived disregard among life insurance companies for the interests of the individual policyholder. New York State originally established the Armstrong Committee largely in response to a pervasive popular feeling that life insurance companies were no longer accountable to the individuals whom they served. As Governor Higgins explained, the state held a fundamental duty to its citizens to "compel life insurance companies to conduct a safe, honest and open business for the benefit of their policyholders."[60] For Higgins, the investigation was designed to protect the public from abuse at the hands of business executives. Newspapers clearly shared this sentiment; one editorial claimed that "there is no doubt in any quarter that the Insurance law needs to be amended in the interest of policyholders and the general public."[61] A few days later, the *Hartford Courant* echoed this call for a realignment of life insurance policy with their customers' interests: "If the Equitable exposure and the legislative investigation bring about a general realization of the true inwardness and purposes of life

[60] Higgins, "Special Message to the Legislature," 825.
[61] "A Legislative Investigation," *New York Tribune*, July 21, 1905. The *Boston Daily Globe* also reprinted Higgins' message in full on its front page. "Investigation By Legislature," *Boston Daily Globe*, July 21, 1905.

insurance, that will be a distinct gain."[62] Throughout the hearings, life insurance executives sought to portray their actions in accordance with the public interest. For instance, after admitting New York Life's contributions to political funds, McCall was quick to emphasize that he acted "in behalf of our policyholders."[63] The theme of policyholder welfare thus became fixed in the minds of participants and observers as the Armstrong Committee hearings unfolded over the ensuing months.

Accordingly, an essential reason the public found the Armstrong Committee's corporate contribution disclosures to be so provocative was their direct association with the abuse of policyholder interest. From the initial admissions of Perkins, editorials decried the ill consequences of such activities for policyholders. The *Tribune*, for instance, argued that companies violated the "basic principle of democracy" and betrayed policyholders by channeling public money to support corporate-friendly policies: "When the administrator of their trust funds gave money to help defeat their chosen policy he virtually took their votes from their hands."[64] The *Atlanta Constitution* endorsed a similar protection of policyholder interests, explaining that the "crime [of insurance officials] is greater since they use the money of others placed in their keeping as a sacred trust."[65] Another newspaper went even further, likening the bypassing of the individual policyholder to a bank clerk spending the bank's money on objects personally desirable.[66] In this way, those observing the Armstrong Committee directly connected corporate political contributions with the marginalization of the interests of a vulnerable middle

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[62] "Bring Life Insurance Back to the Old Safe Moorings," *Hartford Courant*, July 26, 1905.
[63] *Testimony Taken Before the Joint Committee*, 839. See Chapter Two for further discussion of the attempts of businessmen to justify their political contributions.
[64] "Campaign and Insurance Funds," *New York Tribune*, September 18, 1905.
[65] "Those Insurance Scandals," *Atlanta Constitution*, September 22, 1905.
[66] "The Real Vice of It," *Hartford Courant*, September 19, 1905.

class cohort. After the publication of the Armstrong Committee's final report, the *San Francisco Chronicle* applauded recommendations that would give policyholders "reasonable assurance that their property will be properly managed hereafter."[67] The *Washington Post* also called for the adoption of new legislation so that "in the future the interests of policy holders will receive a great deal more consideration than they ever have in the past."[68] Clearly, the intense and sweeping character of the public outcry over the admissions of insurance executives stemmed in large part from the linkage of political contributions with the concern for policyholder welfare that lay at the heart of the Armstrong Committee's mission.

The widespread popular indignation regarding this broader disregard for the interests of the individual citizen continued to drive later efforts at a legislative remedy regarding corporate campaign contributions. In early 1906, concerns for these very interests appeared to reach Senator Ben Tillman, who was in the process of gathering information for a potential Senate investigation of corporate money in politics.[69] Tillman took the time to cut and save a newspaper article reprinting an open letter to the President of New York Life that expressed the discontent of policyholders with the company's efforts to defeat pending bills in Albany: "These documents are coming to us in great numbers from infuriated policy-holders with the request that our committee take some action to prevent your thus wasting the money of the policy-holders in the attempt to

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[67] "The Insurance Report," *San Francisco Chronicle*, February 24, 1906.
[68] "Strikes Out Graft: Armstrong Committee Would Revolutionize Insurance," *Washington Post*, February 23, 1906.
[69] An examination of Tillman's correspondence reveals several instances in which he sent out requests for information on the Armstrong Committee and a subsequent national bank investigation. For instance, see Elliott Pendleton to Tillman, April 21, 1906, Benjamin R. Tillman Papers, Clemson University. Chapter Three presents a more rigorous analysis of Tillman's actions.

return yourselves to office."[70] Evidently, the sense of the policyholder as victim had reached the man who would later become the 1907 bill's primary sponsor. In this regard, Tillman was not alone in Congress. Rep. Joseph Robinson (D-AR) channeled popular sentiment by mounting an emotional appeal during the House floor debate over the Tillman Act, describing how by way of political contributions Republicans "took several hundred thousand dollars from the widows and orphans of this country." Upon his calls for the restitution of the funds to their rightful owners, the House chamber repeatedly burst into applause.[71] Political grandstanding aside, such comments reflected the pervasiveness of a feeling that the selfish actions of life insurance executives harmed helpless citizens. Robinson had tapped into a longstanding, very real sense of anger toward businesses perceived as neglectful of the public interest. For many, the interests of everyday, middle class policyholders lay at the heart of all potential remedies regarding corporate political contributions.[72] As was the case with the prior theme of corruption among businesses and politicians, the Armstrong Committee revelations were so powerful because they highlighted a greater problem—the feeling that the voices and interests of ordinary Americans were inaudible over the dominance of moneyed powers.

Finally, the Armstrong Committee hearings struck such a powerful, sustained chord because the testimony exposed rampant, frequent, and provocative instances of poor corporate management. Once again, revelations of corporate contributions to

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[70] While the source of Tillman's newspaper clipping is unclear, an article reprinting the same letter can be found in the *New York Times*. "Warns New York Life Not to Seek Proxies," *New York Times*, March 19, 1906.
[71] U.S. Congress, *Congressional Record*, 59th Cong., January 21, 1907, 1452-53.
[72] According to Edwin M. Epstein, one of the motivations of the Tillman Act was the desire to protect shareholders from this very concern—the corporate usage of their money for political purposes to which they had not assented. Edwin M. Epstein, *Corporations, Contributions, and Political Campaigns: Federal Regulation in Perspective* (Berkeley: University of California, 1968), 12. See also Pusey, *Charles Evans Hughes*, 147.

campaigns served as a window into a larger issue that resonated more broadly throughout society. Over the course of the hearing process, often in embarrassing fashion, life insurance executives revealed themselves to be less than competent in handling company affairs. In a widely publicized exchange, McCall revealed that only one other New York Life executive had any information on the company's political donations; the payments were even hidden from the treasurer. McCall testified that he "didn't care" what policyholders thought of his position on the matter because there existed a need for widespread "latitude of authority and power in the executive."[73] Other life insurance officials demonstrated that they were surprisingly unaware of some of their company's most important activities. When it became clear that political expenditures were made without the knowledge of Mutual Vice-President Walter Gillette, a shocked Hughes commented, "How was it possible that moneys of your company could be used for that purpose without being brought to your attention?"[74] Shortly thereafter, Hughes expressed similar surprise with Mutual President Richard McCurdy's apparent lack of knowledge as to his company's exposed political contributions, even as late as 1904.[75] Thus, after revealing that political contributions had occurred, Hughes moved on to highlighting the poor management conditions—especially the dangers of secrecy at upper company levels—that made such abuses possible. This interrogation strategy resulted in Hughes becoming, for many, the personification of an outraged nation.[76]

Commentaries concerning these instances of apparent corporate incompetence immediately infused public discourse. Indeed, critiques focusing on reckless executive

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[73] *Testimony Taken Before the Joint Committee*, 839-40.
[74] *Testimony Taken Before the Joint Committee*, 1761.
[75] *Testimony Taken Before the Joint Committee*, 1853-55.
[76] Pusey, *Charles Evans Hughes*, 148. The *New York World*'s code name for Hughes was "Rake." Swanberg, *Pulitzer*, 319.

mismanagement often seemed as impassioned as those discussing the actual contributions. Following McCall's testimony, the *Nation* excoriated New York Life's loose bookkeeping practices that potentially opened the door for embezzlement: "It is almost more amazing than the gifts to politicians themselves, shocking and illegal as these were." The editorial, which reflected astonishment with the alleged incompetent and secretive leadership of life insurance companies, went on to assert that "we cannot abide management of great fiduciary institutions which is revolting to every honest instinct."[77] Such shock and outrage characterized other sources as well. A *Detroit Free Press* editorial entitled "McCurdy's Hypocrisy" attacked and sarcastically discussed the Mutual leader's "absolutely novel" conception of the function of life insurance.[78] The *Washington Post* made McCurdy look ignorant and uninformed regarding basic business practices, repeating the phrase "he did not know."[79] Shareholders of Equitable in Massachusetts became aroused when they learned of the "shenanigans" of its directors through the committee testimony.[80] Finally, demonstrating the pervasiveness of such sentiments, a British magazine in September 1905 discussed the "very remarkable methods of doing business" among American insurance companies.[81] All of these accounts regarding corporate contributions reflected a more general concern for restraints on businesses and their unhealthy practices. The loose corporate management strategies and disorderly chain of command allowing such hidden contributions to occur in the first place added to the resonance of the Armstrong Committee disclosures.

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[77] "The New York Life on the Stand," *Nation* 81 (October 12, 1905), 294.
[78] "McCurdy's Hypocrisy," *Detroit Free Press*, October 12, 1905.
[79] "McCurdy On Stand: President of Mutual Life Defends Its Methods," *Washington Post*, October 11, 1905.
[80] Abrams, *Conservatism in a Progressive Era*, 141.
[81] "The Inquiry Which is Proceeding in the United States," *Spectator* 94 (September 30, 1905), 2.

The existence of this general concern over corporate mismanagement certainly provoked a powerful reaction, one that manifested itself in the broad policy recommendations put forth to protect the interests of the general public. True, as one newspaper revealed, great men of insurance found themselves the objects of public scorn: "[The Armstrong Committee] drove to the wall men in high places, and broke great reputations as though they were glass bottles."[82] But it quickly became evident that many proposed solutions—such as the ban on corporate political contributions—were intended to address problems that ran much deeper than the ill conduct of leading executives. Two independent journals suggested increased government regulation of the life insurance industry; one argued that once stricter constraints were placed upon corporate management, "the funds of a life-insurance company will never be regarded as a means whereby one group of financiers may profit at the cost of another group."[83] Such a turn to administrative and legislative solutions to address such issues, of course, embodied a key tenet of the Progressive impulse.[84] Upon the release of Hughes' committee report in February 1906, several newspapers highlighted corporate malpractice when explaining the need for comprehensive remedial action; the *Los Angeles Times* cited the newly discovered "network of intricate and shocking crookedness that had been practiced by the management of life insurance companies for years past."[85] These critiques received

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[82] "Life Insurance Reform," *Los Angeles Times*, February 23, 1906.
[83] S. Herbert Wolfe, "Present Supervision of Life-Insurance Companies, Its Merits and Defects," *North American Review* 181 (July 1905), 19; Ernest Howard, "The Next Step in Life Insurance," *International Quarterly* 12 (October 1905), 155-56.
[84] Grantham, "The Progressive Era and the Reform Tradition," 229; McCormick, "The Discovery that Business Corrupts Politics," 124. See also the chapter entitled "Leadership in Regulation: The Federal Trade Commission" (62-91) in James Weinstein, *The Corporate Ideal in the Liberal State: 1900-1918* (Westport: Greenwood Press, 1968).
[85] "Life Insurance Reform," *Los Angeles Times*, February 23, 1906. See also a *Washington Post* editorial on the Armstrong report: "Every crooked practice and every evasion of the law disclosed

further resonance because they closely mirrored additional protests of corporate mismanagement and corruption that characterized the Progressive Era.[86] Viewed from this perspective, a ban on corporate contributions represented one part of a broader effort to address deeply rooted ills within the nation's corporations.

The post-Armstrong Committee discourse aligned closely with these arguments, which continued to surface as Congress hurtled toward consideration of the Tillman Act. In particular, widespread conviction as to the systemic nature of problems afflicting life insurance companies served to bolster calls for remedies, including a prohibition of corporate political contributions. One publication sought to reduce the blame for business abuses from executives themselves, arguing that "the fault lies rather with the competitive conditions under which they have been compelled to work."[87] A few months later, the *Nation* cited the life insurance scandal as evidence for ubiquitous business misconduct and corruption: "If the evil is shown to be more general than any of us thought, the remedy must be equally general."[88] In the end, the political contributions exposed in the Armstrong Committee hearings, along with the subsequent public reaction, demonstrated the existence of fundamental corporate evils afflicting society. From this perspective, corporate monetary contributions reflected a more general vice that a blanket legislative prohibition could assist in remedying.

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by the investigators is set forth fearlessly." "Strikes Out Graft: Armstrong Committee Would Revolutionize Insurance," *Washington Post*, February 23, 1906.

[86] For one of many perspectives on this subject, see McCormick, "The Discovery that Business Corrupts Politics." In addition, see Michael McGerr's discussion of Progressivism as a "moral project" that set out reshape big business and to fundamentally "remake" corporate men in line with a middle class image. Michael McGerr, *A Fierce Discontent: The Rise and Fall of the Progressive Movement in America, 1870-1920* (New York: Simon & Schuster, 2003).

[87] Howard, "The Next Step in Life Insurance," 147.

[88] "Graft in Business," *Nation* 82 (May 31, 1906), 440.

The Armstrong Committee hearings thus served as the critical spark that unleashed a powerful explosion of public sentiment, the embers of which had been smoldering and accumulating in intensity in the years leading up to 1905. At their core, the hearings and successive report were aimed at exposing certain ill practices of the life insurance industry. The suggested remedies sought to protect policyholders through measures such as overall caps on new business, as well as to lessen corruptive tendencies and reckless management through increased publicity and state supervision.[89] Ultimately, however, the proposed solutions—including the recommendation to ban corporate contributions to political campaigns—tapped into larger issues that aroused the public to a degree that made the remedies attainable. The shocking revelations uncovered during the hearings unleashed a fiery public reaction that unified existing antagonisms toward businessmen and generated momentum toward desired reforms.[90] When reflecting on the Armstrong Committee report, the *Atlantic Monthly* emphasized the importance of such a fervent popular atmosphere: "Only when startling revelations had raised popular indignation to a pitch that made further trifling dangerous, did the offenders begin to see the error of their ways."[91] This momentum spread from New York throughout the rest of the country, reflecting a common frame through which middle class citizens viewed the issues at hand.[92] At their core, the findings of the Armstrong Committee produced a resilient movement of inflamed citizens that rode an ever-accumulating wave of popular pressure to demand reform.

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[89] *Report of the Joint Committee*, 388-93, 437-40.
[90] McCormick, *From Realignment to Reform*, 216-17.
[91] Charles J. Bullock, "Life Insurance and Speculation," *Atlantic Monthly* 97 (May 1906), 640.
[92] One congressman from Tennessee claimed that the Tillman Act had the potential to "remedy an evil which has been very much complained of in the country." U.S. Congress, *Congressional Record*, 59th Cong., January 21, 1907, 1452.

One critical characteristic of this popular surge was its degree of intensity and persistence. A palpable sense of scandal remained long after the final gavel rang out at the Armstrong Committee hearings, leaving large segments of the public outraged and motivated.[93] Events leading to the Tillman Act's passage occurred not because of bland, passionless conversations among social elites, but rather in a charged atmosphere of public scandal and popular arousal.[94] Upon the release of the Armstrong Committee report, the *New York Times* ran an editorial concluding that "there are no great wrongs that public opinion cannot right."[95] On the same day, the *Los Angeles Times* described how "[p]ublic indignation has been aroused to a pitch seldom witnessed in history" and warned that "notice has been served on faithless servants…that the people will hold them to a strict account of their stewardships."[96] Both papers sounded similar themes of the triumph of tireless public pressure and its ability to spark tangible change in industry practices. These bottom-up pressures were clearly palpable for one Democratic congressman, who did not even see the need to defend the Tillman Act one year later: "Every honest man in this country is for it, and I doubt very much whether any Republican or Democrat can safely afford to face his constituency in opposition to it."[97] This sentiment, which had its roots in the fervent public response to the Armstrong Committee hearings, portrayed the Tillman Act as a primary product of the scandal sparked by the late 1905 revelations. But it also reflected the power and endurance of a

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[93] Mutch describes the Armstrong Committee hearings as triggering the first "scandal-reform cycle" that gave reformers the chance to realize their ambitions. Mutch, *Buying the Vote*, 33, 57.
[94] Richard McCormick, *The Party Period and Public Policy* (New York: Oxford University Press, 1986), 267. For McCormick, these charged and passionate confrontations represented a central feature of Progressivism.
[95] "The Insurance Report," *New York Times*, February 23, 1906.
[96] "Life Insurance Reform," *Los Angeles Times*, February 23, 1906.
[97] U.S. Congress, *Congressional Record*, 59th Cong., January 21, 1907, 1453.

surge of public sentiment that had proved unwilling to dissipate. In the face of ardent and widespread popular demands, elected officials had little choice but to act.

After Hughes extracted confessions from George Perkins in September 1905 regarding New York Life's political activities, the counsel noted that he was surprised by the extent of the public awakening that occurred in the ensuing weeks.[98] Perhaps if the corporate contributions were viewed in isolation, then such a dramatic surge in public consciousness, newspaper editorials, and magazine articles would have been unexpected. But as life insurance executives repeatedly admitted to dishonest and rash activities, the testimony tapped into a larger vein of relevant controversial issues regarding big business—most notably, fears of corruption between business leaders and political officials, a perceived disregard among large companies for the interests of their constituents, and seemingly reckless management practices in pursuit of profit and corporate self-protection.

By exposing the shocking practices of life insurance companies through the mechanism of a legislative investigation, reform-minded citizens addressed weightier issues concerning the nature of the relationship between business and society at the turn of the century. Such issues continued to infuse public discourse through and beyond the passage of the Tillman Act in January 1907.[99] Significantly, these calls came from the ground up. An immense popular reaction, sparked by events beginning in September 1905, served as a fundamental driving force that soon raised the issue of corporate

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[98] Pusey, *Charles Evans Hughes*, 165. Specifically, Hughes referred to the awakening as a "vindication of the sound moral sense of the American people."

[99] Indeed, the passage of the Tillman Act by no means quenched the public thirst for reform on the issue of corporate involvement in politics. On January 23, 1907, the *New York Tribune* predicted that "[t]here will soon be a popular sentiment strong enough to compel the adoption of a thoroughgoing system of open bookkeeping in both state and federal elections." "Corporations in Politics," *New York Tribune*, January 23, 1907.

monetary contributions to political campaigns to the awareness of the United States Congress. The response to the Armstrong Committee revelations, then, provided an example of the power of popular discourse—namely, its potential to rein in big business and align it with a more general public interest.

Chapter II

Reform from Above: Corporate Support for a Contribution Ban

The Tillman Act took effect upon President Theodore Roosevelt's signature on January 26, 1907. Reformers throughout the country celebrated the law's passage, considering it to be a victory of the public over high-moneyed interests. Popular sentiment, they believed, had prevailed. The result was a much-needed piece of remedial legislation designed to curb the evil practice of political contributions by some of the nation's largest corporations. The *Wall Street Journal* was one of many publications to join in this chorus of optimism: "Step by step public thought is giving expression in the forms of law to its ideas on the responsibility of corporate officials. This is one of the encouraging signs of the times."[1]

Such declarations were indeed widespread. But there existed an alternative perspective, a perspective that manifested itself in much more subtle fashion. While an enthusiastic cohort of reformers pressured politicians to endorse a corporate contribution ban, many corporations also declared their support for legislation that would ultimately take the form of the Tillman Act. In other words, the very entities that the public so vehemently attacked—corporate America—appeared to support the same ends as reformers.

[1] "Another Burden to be Lifted," *Wall Street Journal*, January 24, 1907.

Corporate endorsement of a political contribution prohibition began as soon as the practice was exposed in the Armstrong Committee hearings. On the witness stand and in other forums, life insurance executives underestimated the extent of the popular outrage their actions had provoked, attempting to portray their motives as in line with policyholder interests. Yet at the same time, officials across the insurance industry publicly and repeatedly expressed their profuse desire that the practice officially come to an end. This refrain widened in the ensuing months and throughout 1906, as many of the nation's leading businesses in a host of industries joined popular calls demanding a ban on corporate political contributions.

Business executives, however, possessed very different motivations for seeking legislation on the subject than did reform-minded members of the public. Corporate leaders did not merely support the Tillman Act to mollify or appease hostile public sentiment. Rather, businesses embraced the prohibition because it fundamentally aligned with their economic interests and provided an opportunity to fulfill several important objectives. For these companies, a contribution ban promised to do away with a financially draining practice that occasionally seemed a burdensome obligation. The regulation also offered a means for the nation's largest companies to eliminate one avenue of potential competition within their industries, thereby helping maintain and consolidate the present power structure therein. Finally, by establishing a single federal standard with regard to campaign contributions, the Tillman Act benefited multi-state corporations by bringing order to a clutter of conflicting, potentially destabilizing state regulations. Thus, intense and prolonged pressure from the public by no means functioned alone in generating remedial legislation; corporations also represented a critical source of support for the law. By operating in favor of the businesses it was intended to regulate, a prohibition of corporate political contributions no longer seemed designed to serve only the ambitious hopes of a reform-minded public.

By late 1905, when New York's life insurance companies found themselves embroiled in a seemingly bottomless scandal, the life insurance industry had established itself as a central feature of the American business landscape. The decades following the Civil War witnessed an enormous growth in the industry. As urbanization transformed traditional society and business development spawned a more complex economic system, many Americans became increasingly comfortable with the idea of taking on economic risk.[2] In turn, life insurance companies presented themselves as a source of stability for individual citizens in what could seem a tumultuous economy.[3] The industry soon experienced a surge of growth difficult to overstate. According to one estimate, in the 40 years leading to 1905, the total annual income of all reporting companies increased from $25 million to $642 million.[4]

Such rapid growth, however, gave rise to a host of questionable business practices that began to cast doubt upon a reputation of benevolence that the life insurance industry carefully cultivated. Due to their performance of an inherently public function, insurance companies often claimed that they exemplified the characteristics of an honest industry,

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[2] Sven Beckert, *The Monied Metropolis: New York City and the Consolidation of the American Bourgeoisie, 1850-1896* (Cambridge: Cambridge University Press, 2001), 27-28. Beckert also describes how New York merchants were eager to invest in insurance in order to diversify their portfolios.
[3] Viviana A. Rotman Zelizer, *Morals and Markets: The Development of Life Insurance in the United States* (New York: Columbia University Press, 1979), 67-68, 88-89.
[4] H. Roger Grant, *Insurance Reform: Consumer Action in the Progressive Era* (Ames: Iowa State University Press, 1979), 5.

distinct from rogue profit-seeking entities such as railroads.[5] One firm articulated such an image in its 1903 annual report: "That beneficent function of the Mutual Life Insurance, in that view of its intrinsic morality, the Connecticut Mutual has fulfilled with an unequaled success for 58 years."[6] But the reality was that the industry's explosive growth in the decades leading up to the turn of the century had resulted in conditions of cutthroat competition. As new life insurance companies organized throughout the nation, executives sought to gain the upper hand by whatever means necessary. Some of their practices proved to be particularly abusive. For instance, companies occasionally engaged in "twisting," in which agents attempted to trick ignorant policyholders into believing they had obtained their coverage at the wrong price from the wrong firm.[7] Many insurance men also established relationships with lucrative Wall Street financial firms, and insurance companies became increasingly tangled up in mazes of speculation.[8] George Perkins was one of these individuals, joining J.P. Morgan as a partner in 1901 while retaining his position of Vice President at New York Life.[9]

This atmosphere of reckless competition, relentless profit-seeking, and questionable methods increasingly gave rise to calls for the regulation of the life

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[5] For two perspectives on the perceived "benevolence" of the insurance industry, see John F. Dryden, *Addresses and Papers on Life Insurance and Other Subjects* (Newark: Prudential, 1909), 121-28, 162; Richard L. McCormick, *From Realignment to Reform: Political Change in New York State, 1893-1910* (Ithaca: Cornell University Press, 1981), 202-203. *McClure's Magazine* contended that life insurance had been "one of the noblest institutions of modern civilization" until dishonest executives deformed it in the years leading to 1905. "Editorial Announcements: The Story of Life Insurance," *McClure's Magazine* 26 (April 1906), 675.

[6] "Fifty-Eighth Annual Report of the Connecticut Mutual Life Insurance Company," *Baltimore Sun*, February 6, 1904.

[7] Grant, *Insurance Reform*, 9-10.

[8] Charles J. Bullock, "Life Insurance and Speculation," *Atlantic Monthly* 97 (May 1906), 630-39. One reporter described how, among the largest life insurance companies, "[t]he overshadowing evil has been the craze for size…. They have aimed at quantity, not quality." Burton J. Hendrick, "The Race for Bigness," *McClure's Magazine* 28 (November 1906), 62.

[9] John A. Garraty, *Right-Hand Man: The Life of George W. Perkins* (New York: Harper & Brothers, 1957), 86-87.

insurance industry. With aggressive sales practices angering many consumers, some reformers gradually came to associate the insurance industry with the interests of elite financial capital. Accordingly, the 1890s witnessed a number of states pass stringent taxation measures on insurance companies.[10] Aware of a budding public discontent regarding some of the industry's practices, New York's "big three"—Equitable, New York Life, and Mutual—established a coordinated lobbying program that tracked all relevant legislation in different parts of the country.[11] On the eve of the Armstrong Committee hearings, therefore, there existed a gradual trend toward regulation of life insurance companies, along with an ever widening gap between the benevolent image the industry projected and the everyday reality that policyholders experienced. The startling revelations of corporate political contributions threatened to widen this gap even further.

When public hostility rose to new heights during the Armstrong Committee investigation, life insurance officials attempted to defend their motives for making political contributions without endorsing the act itself. This was a difficult line to walk, and insurance executives strove to do so by emphasizing the interests of their policyholders. Moments after admitting his company's check to the Republican National Committee, George Perkins of New York Life pioneered this defensive strategy by arguing that his actions were intended to "protect the securities of these hundreds and thousands of people everywhere."[12] John McCall expanded on this theme of policyholder

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[10] The mid-1890s also witnessed the first rumblings of publicly sponsored life insurance. Grant, *Insurance Reform*, 14-15, 26, 155-56.
[11] McCormick, *From Realignment to Reform*, 199, 213.
[12] *Testimony Taken Before the Joint Committee of the Senate and Assembly of the State of New York to Investigate and Examine into the Business and Affairs of Life Insurance Companies Doing Business in the State of New York* (Albany: Brandow, 1905), 583.

interest, emphasizing on multiple occasions the distinction between personal politics and business interests. In response to one pointed question, the New York Life President said, "I don't justify the use of money for campaign purposes. I justify the use of these funds for the protection of the policyholders' interests."[13] McCall claimed that he even renounced his own politics in making such contributions; despite his status as a Democrat, McCall ensured that his company contributed to the Republican William McKinley in 1896. According to McCall, if William Jennings Bryan's free silver policies had triumphed, "we almost might put up our shutters on the New York Life doors."[14] Clearly, New York Life officials believed a winning strategy in the court of public opinion involved painting their actions in accordance with policyholder interests. In a letter to top executives several days before Perkins took the witness stand, the company's General Solicitor argued that New York Life should "welcome" the Armstrong investigation for the opportunity to show that officials had conducted transactions "with perfect fidelity to its policy-holders."[15]

Taking their cues from New York Life, executives from other top insurance companies also attempted to portray their own political contributions as a means of providing security and stability for their customers. The vice president of Mutual Life Insurance testified that "we thought it was our business in behalf of our interests, in the interests of our policyholders, to protect them" by giving money to the Republican fund.[16] Several hours later, Mutual President Richard McCurdy echoed this very point,

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[13] *Testimony Taken Before the Joint Committee*, 840.
[14] McCall also stated that free silver posed a "grave peril" to the insurance industry. *Testimony Taken Before the Joint Committee*, 762, 825-26.
[15] James H. McIntosh to Perkins, September 14, 1905, George W. Perkins Papers, Columbia University.
[16] *Testimony Taken Before the Joint Committee*, 1760.

arguing that the company's trustees and executives "felt that they were menaced and would be injured by the triumph of the free silver doctrine."[17] Even in April 1906, Equitable Life Assurance President Paul Morton continued to perpetuate this concept of the policyholder-centric company, arguing in an opinion piece that remedial legislation must, above all, protect those policyholders. Embracing a ship metaphor, Morton contended that "the safety of the passengers must not be threatened by well-meaning but injudicious legislation…. The policy-holders constitute the company."[18] Rather than endorsing political contributions themselves, insurance officials claimed their actions stemmed from a commitment to protect the policies of their customers and the interests of the company more broadly. In this view, corporate campaign contributions represented a business necessity rather than a political choice. Several days after Perkins took the stand, New York Life's Inspector of Agencies submitted talking points to assist company agents in selling policies to a newly hostile public. With regard to campaign fund donations, the executive recommended that agents reassure prospective policyholders by saying, "Would you consider letting your family go unprotected if you knew 5 cents of your money would be donated in that direction every four years?"[19] Time and again, insurance officials returned to this central defense of policyholder interests in order to justify their motives for making corporate campaign contributions, while the whole time avoiding endorsement of the practice itself.

At least outwardly, members of the insurance community projected confidence that these justifications would have the effect of diffusing hostile public sentiment. In the

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[17] *Testimony Taken Before the Joint Committee*, 1852.

[18] Paul Morton, "Life-Insurance Legislation: Protect the Policy-holders," *North American Review* 182 (April 1906), 492.

[19] New York Life Inspector of Agencies to Perkins, September 18, 1905, George W. Perkins Papers.

days following his Armstrong Committee testimony, Perkins received a flood of supporting and encouraging letters, a number of which predicted his testimony's effectiveness in this regard. One confident New York Life agent declared that "the public will forgive [any mistakes] when it is shown that no personal benefit has accrued to the officers and trustees of the company."[20] In a similar vein, a fellow corporate executive told Perkins that "nothing could have had a better effect on the public than…the eager, frank way in which you testified."[21] Perspectives such as these reflected a decidedly optimistic approach to the hearings; by publicizing New York Life's side of the story, they argued, public hostility would abate. When newspapers across the country produced a seemingly unending flood of criticism aimed at the life insurance industry, some insurance officials reacted with considerable frustration.[22] But even then pockets of optimism persisted. On October 4, 1905, the director of New York Life's Lexington, Kentucky agency informed Perkins that despite the negative coverage in newspapers, "the Southern people are not fools" and "they are already beginning to realize that the newspapers are not doing the 'fair thing' by the New York Life."[23]

This bubble of confidence stretched beyond a single company; attempts to belittle the significance of the hearings were present in considerably wider business circles. For instance, one trade magazine for trust companies brushed aside the public outcry by contending that "there was no tangible evidence to show that either the policy-holders of the life insurance companies or [t]he depositors of the trust companies were in the least

[20] Harold Piece to Perkins, September 16, 1905, George W. Perkins Papers.
[21] Unidentified to Perkins, September 20, 1905, George W. Perkins Papers.
[22] As one New York Life executive wrote regarding newspaper coverage, "It is a burning shame that they don't appreciate the duty of a life insurance company is to protect widows and orphans and the old and infirm." Inspector of Agencies to Perkins, September 22, 1905, George W. Perkins Papers.
[23] Angus Allmond to Perkins, October 4, 1905, George W. Perkins Papers.

menaced."[24] One Republican senator privately assured Perkins that "you will come out of this many times stronger than you went in," thus mistakenly assuming that the business community still had the power to shape public opinion.[25] Similarly, a magazine for general insurance interests called for the removal of the "excited feeling in the public mind" since executives only considered "business interests" when making political contributions.[26] Insurance officials from a host of companies offered no apologies for making corporate contributions to political campaigns, instead electing to tout purported motives of defending policyholder interests. At least on the surface, those affiliated with the insurance industry expressed their confidence that the New York companies might emerge from the scandal vindicated and relatively unharmed.

In reality, however, these perspectives could not have been more misguided, as the attempts of insurance companies to justify their political contributions backfired dramatically. A seemingly unrelenting line of newspaper editorials attacked corporate arguments concerning policyholders, emphasizing negative consequences surrounding the use of public funds to support a particular political position.[27] Others noted how policyholder money occasionally bankrolled corporate lobbying on legislation that actually diminished the ability of those very policyholders to sue insurance companies,

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[24] "The Life Insurance Investigation," *Trust Companies* 2 (November 1905), 876.
[25] Albert J. Beveridge to Perkins, September 19, 1905, George W. Perkins Papers. A New York Life agent offered similar confidence, telling Perkins that "I went home and for the first night since the investigation began had a good night's sleep." Sam L. Joseph to Perkins, September 16, 1905, George W. Perkins Papers.
[26] "Those Campaign Contributions," *The Insurance Monitor* 54 (April 1906), 149.
[27] See Chapter One for analysis of such articles. For instance, recall one editorial defending the unconsulted political opinions of policyholders: "When the administrator of their trust funds gave money to help defeat their chosen policy he virtually took their votes from their hands." Campaign and Insurance Funds," *New York Tribune*, September 18, 1905.

thereby directly harming the interests of those supplying the money.[28] The adverse popular reaction was intense and pervasive; policyholders and newspapers routinely called for the removal of officials responsible for such practices. One of these executives who continually experienced public censure was McCall. Yet the New York Life President continued to stand by his talking points, even at the height of the popular opposition surge. In an October 1905 leaked memo to company agents reprinted in *Bankers' Magazine*, McCall sounded a familiar refrain: "The contributions made in the years in question had no reference whatever to politics. They were made through a political party solely because it was not possible otherwise to reach the danger that menaced our assets."[29] The repetition of such arguments failed to quell the outpouring of public dissent regarding the practice of corporate political contributions. One *Los Angeles Times* editorial went so far as to call top life insurance officials "thieves" who "are now miserable objects, at whom is pointed the finger of scorn."[30]

Insurance companies were undoubtedly aware of the fiery popular opposition that awaited them, making their inept response to the scandal even more damning. Despite the attempts of corporate officials to defend their actions beginning in the fall of 1905, the reality was that they had deliberately concealed their political donations for a decade, often by classifying them as legal expenses or burying them in checkbooks.[31] Existing middle class antagonism toward large corporations was no secret to businessmen, and the insurance investigation represented an ideal opportunity for feelings of dissent to congeal

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[28] Richard Briffault, "The Uncertain Future of the Corporate Contribution Ban," *Valparaiso University Law Review* 49 (2015), 406.
[29] "Political and Other Contributions by Life Insurance Companies," *Bankers' Magazine* 71 (Oct 1905), 566.
[30] "The Worship of Success," *Los Angeles Times*, February 26, 1906.
[31] Garraty, *Right-Hand Man*, 183.

and rise to the top of public discourse.[32] Insurance officials also understood that some of the nation's most widely circulated newspapers harbored an anti-corporate slant in their editorial pages, which of course had a field day with coverage of the Armstrong Committee testimony.[33] Even as they reiterated their arguments about policyholder interests and insurance principles, company officials were clearly sensitive to the harsh tone of national discourse. In early December, the Inspector of Agencies for New York Life circulated a memo to his colleagues regarding hostile popular sentiment: "Don't you make the mistake of following the lead of the newspapers…. Don't you believe the stuff you read about Mr. Perkins."[34] For his own part, Perkins maintained a detailed scrapbook full of this critical coverage, including headlines such as "Perkins Grilled by Hughes, Tries to Dodge Probe" and "Why McCall Must Go."[35] Even as criticism rained down from all sides, corporate executives repeatedly and vainly assured themselves that popular opinion would eventually turn in their favor—despite all evidence to the contrary.

While the life insurance industry was particularly well suited to attract the popular outrage sparked by the Armstrong Committee hearings, the scope of public inquiry concerning corporate campaign contributions soon widened to encompass other industries, as well. In February 1906, a fellow member of Congress alerted Senator Ben Tillman to rumors that "the National Banks of Chicago are in the habit of contributing to

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[32] McCormick, *From Realignment to Reform*, 217.
[33] Indeed, media outlets were responsible for uncovering and sparking some the era's greatest scandals. For a laundry list of examples, see Richard L. McCormick, "The Discovery that Business Corrupts Politics: A Reappraisal of the Origins of Progressivism," in *Who Were the Progressives?*, ed. Glenda Elizabeth Gilmore (Boston: Bedford, 2002), 116-20.
[34] Inspector of Agencies to Members of Central Department, December 4, 1905, George W. Perkins Papers.
[35] This scrapbook is preserved within the George W. Perkins Papers at Columbia University.

the national campaign fund of the Republican Party."[36] Written just two days before the release of the Armstrong Committee report, the letter confirmed Tillman's suspicions that the corporate evils were broad in scope. Less than three months earlier, Tillman had speculated on the Senate floor that "national banks are not innocent" when it comes to using general funds for political purposes.[37] With Tillman's hunch now independently verified, the senator's proposed remedy could take on a broader form. One magazine geared toward investors channeled this sentiment, arguing that corporate political contributions "should be repressed in the case of banks quite as much as in that of insurance companies."[38] Members of Congress also learned that railroad and oil companies had made sizable political contributions of their own in past elections.[39] Partially as a result of these disclosures, the legislation that Tillman later proposed addressed corporations in general, instead of restricting itself to life insurance companies. The corporate contribution scandal may have had relatively narrow origins, but businessmen in a host of industries now faced the prospect of remedial legislation.

Even as life insurance executives defended their motives for making corporate contributions to political campaigns, however, they simultaneously contended that such monetary contributions should not be permitted. Officials first took this stance in front of

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[36] According to the Democratic representative, the best response to "very serious and dangerous" monetary contributions would be to make the practice a felony. Dorsey M. Shackleford to Tillman, February 20, 1906, Benjamin R. Tillman Papers, Clemson University.
[37] U.S. Congress, *Congressional Record*, 59th Cong., December 7, 1905, 224.
[38] "Political Contributions," *United States Investor* 17 (April 21, 1906), 602.
[39] Chandler to William H. Moody, September 23, 1905, William E. Chandler Papers, Library of Congress; John Thomas Noonan, *Bribes* (Berkeley: University of California Press, 1987), 625. For an excellent discussion of the corrupt relationships between railroad companies and legislatures that existed during the Gilded Age, see Richard White, *Railroaded: The Transcontinentals and the Making of Modern America* (New York: Norton, 2011), 93-133.

the Armstrong Committee after their company's actions were publicly exposed. McCall from New York Life made his thoughts abundantly clear on the matter: "If you ask me whether I think it is right to take insurance moneys and devote them to political campaigns—no; a thousand times no."[40] McCall's vice president echoed such sentiments. When asked if he believed political campaign contributions by insurance companies should be prohibited, Perkins answered in the affirmative: "I most certainly do. I think it is a very, very bad practice."[41] The corporate consensus regarding a ban continued to solidify in the months following the hearings. Commenting on the subject in April 1906, Paul Morton of Equitable expressed his unwavering support for regulation: "It goes without saying that no life-insurance company should be permitted to…place the money of its policy-holders in anything but gilt-edged securities."[42] Three months later, Mutual's new president recommended at a state inquiry that political contributions by any corporation be made a criminal offense.[43] There existed no ambivalence in such statements; they represented resolved, firm views in favor of a prohibition of corporate political contributions. With the biggest life insurance companies clearly on board, support for the measure in other industries no longer seemed in doubt. According to the *Wall Street Journal*, "[t]he great financial powers in control of the big banks and corporations of the country are evidently determined to…stop contributions to political committees."[44]

Why did these corporations, some of the largest in the nation, make such strong pronouncements of support for a corporate contribution ban that the Tillman Act came to

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[40] *Testimony Taken Before the Joint Committee*, 841.
[41] *Testimony Taken Before the Joint Committee*, 761.
[42] Morton, "Life-Insurance Legislation: Protect the Policy-Holders," 493.
[43] "Against Insurance Money for Politics," *Wall Street Journal*, July 21, 1906.
[44] "Protecting a Position," *Wall Street Journal*, December 15, 1905.

represent? Fundamentally, businesses encouraged federal regulation on the issue of corporate political contributions because such regulation furthered their own interests and increased their own economic clout. As Gabriel Kolko argues, "Progressivism" primarily entailed big business achieving a rationalization of the economy through the means of federal legislation. Viewed through Kolko's lens, government regulation served, rather than detracted from, corporate interests.[45] So it was with the Tillman Act. Life insurance companies combined with corporations from other industries to push for congressional legislation that was by no means hostile to their businesses—indeed, precisely the opposite.

The immediate, pressing challenge of maintaining credibility and standing in the aftermath of the Armstrong Committee hearings created powerful incentives for the life insurance industry to support a ban on corporate political contributions. Confronted with the threat of losing business due to the scandal and fearing a diminished ability to attract customers, top insurance companies undoubtedly felt a great deal of pressure. In an atmosphere of hostile popular rhetoric, various state officials took formal action to curb the influence of life insurance companies. One example occurred on October 7, 1905, when Missouri's insurance superintendent demanded that New York Life replenish its general treasury with money spent on campaign contributions, or else face immediate revocation of its business license in the state.[46] This strong call for reparations—echoed in other states—posed a direct threat to the business of life insurance and the profitability

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[45] Gabriel Kolko, *The Triumph of Conservatism: A Reinterpretation of American History, 1900-1916* (New York: Free Press of Glencoe, 1963), 284-85.
[46] "Must Return Funds or Leave Missouri," *Atlanta Constitution*, October 8, 1905. Missouri also joined Nevada and Colorado in barring New York Life from doing business in their states as long as McCall and Perkins held office. "Must Get Out," *Detroit Free Press*, October 4, 1905; "Colorado May Act," *New York Times*, October 4, 1905.

of individual companies. Some observers called for even stronger moves against life insurance companies, as exemplified by one popular magazine editor's belief in the need for a radical governmental intervention in the industry: "[T]he only way to get rid of the bosses for good and all is to establish the public ownership of public utilities."[47]

The life insurance industry thus faced not only the prospect of losing revenue, but also encountered questions regarding its fundamental existence as a private entity. Matters were not helped when a particularly embarrassing scandal came to light involving Mutual, which Hughes discovered had previously maintained a lavishly furnished "house of mirth" for the purpose of influencing lawmakers on legislation. Two New York legislators even treated the building, funding for which Mutual deceitfully charged to "legal expenses," as their residence for several weeks.[48] All the while, insurance companies found it increasingly challenging to attract new customers and retain current policyholders in the aftermath of the Armstrong Committee hearings.[49] By virtue of their unfavorable position in public discourse and the growing threats to business, insurance companies simply did not have the political capital to oppose certain popular demands. Especially on the explosive, symbolic issue of corporate political contributions—the banning of which by no means represented an existential threat to the insurance industry—it made little sense for companies to resist the nearly universal calls for a prohibition.

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[47] "The Times and the Manners," *The International Quarterly* 12 (January 1906), 361. Another article went so far as to consider the possibility of states taking over the life insurance business themselves. Ernest Howard, "The Next Step in Life Insurance," *The International Quarterly* 12 (October 1905), 150.

[48] Gustavus Myers, *The History of Tammany Hall* (New York: Boni & Liveright, 1917), 307-308; "Legislative Loot," *Spectator: An American Review of Insurance* 76 (March 8, 1906), 130. The "house of mirth" represented one means by which Mutual "systematically attempted to control legislation," according to the Armstrong Committee report.

[49] Grant, *Insurance Reform*, 44.

Such factors convey the impression that life insurance companies latched onto the reform contained in the Tillman Act out of necessity rather than choice. But while businesses undoubtedly experienced pressure to cater to public opinion in the hostile atmosphere of late 1905, doing so also benefited them considerably in fashions unrelated to any public relations campaign. In particular, some of the nation's biggest businesses embraced the ban on corporate political contributions because it provided an escape from an expensive, burdensome practice. Even for the "big three," the sums paid for campaign purposes constituted no small expense. For instance, New York Life contributed a total of $148,702—a substantial figure, by early 20th century standards—to the Republican National Committee in the 1896, 1900, and 1904 campaigns. Equitable and Mutual put forth similar sums.[50] These payments represented a significant financial drain on the general treasuries of insurance companies, which in this regard enjoyed extensive company. An investment journal revealed that companies in a variety of industries found themselves stretched by the financial demands of corporate political contributions: "Few people, probably, realize how extensive has been the process of bleeding to which corporations, banks and insurance companies have been subjected…. [T]hey have not been the more willing in private to part with their wealth to politicians on both sides of the political game."[51] Companies that already experienced challenges maintaining their profit lines in a period of cutthroat competition were understandably eager to rid themselves of a costly and disliked business practice. One trust company's treasurer, for example, spoke highly of a potential prohibition of corporate political contributions

[50] "Advises Suits Against M'Call," *Chicago Daily Tribune*, February 15, 1906; Megan Wolff, "The Money Value of Risk: Life Insurance and the Transformation of American Public Health, 1896-1930" (PhD diss., Columbia University, 2011), 207-208.
[51] "Campaign Contributions," *United States Investor* 17 (June 16, 1906), 910.

because of its “promise to put an end to this extravagance and to prevent further waste of the resources of the companies.”[52]

Moreover, business executives leapt at the opportunity to escape a system in which they were more or less expected—in some cases, required—to contribute to campaign funds. In 1896, Mark Hanna spearheaded the Republican Party’s fundraising efforts and established new expectations for the nation’s biggest corporations. Hanna effectively forced Standard Oil to contribute $250,000 to the Republican campaign, lest the party neglect the company’s interests.[53] A similar understanding existed in ensuing election cycles, which saw fundraising directors actively seek out corporate contributions. McCall at times complained of the constant demands of party members for contributions, saying, “If you knew what I had to do you would be sorry for me.”[54] The editorial pages of a magazine devoted to insurance interests shared this frustration on behalf of executives and embraced the opportunity to eliminate campaign contributions: “No corporation will or can object to being relieved from such an obligation. No one will deny that these hold-ups should be stopped for all time to come.”[55] The Tillman Act promised to do away with financially taxing campaign contributions, a recurring obligation which companies previously had little choice but to fulfill. For many executives, the prospect of

[52] Charles A. Conant, “Bed-Rock in Insurance Finance,” *Trust Companies* 2 (December 1905), 913.

[53] According to his biographer, Hanna demanded contributions from businesses at an amount proportional to their total capital and their more subjective “stake” in the country’s prosperity. At its worst, the system was one of “blackmail and bribery.” Herbert David Croly, *Marcus Alonzo Hanna: His Life and Work* (New York: Macmillan, 1912), 324-26.

[54] Perry Belmont, *An American Democrat: The Recollections of Perry Belmont* (New York: Columbia University Press, 1941), 481. Democrats, too, sought donations from McCall. With regard to the 1904 election, McCall said, “My life was made weary by the Democratic candidates chasing me for money in that campaign.” “President McCall Declares Parker is Not Above Suspicion,” *Wenatchee Daily World*, September 22, 1905.

[55] “Those Campaign Contributions,” *The Insurance Monitor* 54 (April 1906), 149.

legislation ending a practice that at times resembled extortion was hailed with enthusiasm and relief. Upon the initial introduction of the Tillman Act, a "great financial authority" described how "all the financial men with whom I have talked have welcomed this legislation with very much the same emotions with which a serf would hail his liberation from a tyrannous autocrat."[56]

Perhaps even more critically, however, many of the nation's largest companies supported regulatory legislation regarding corporate political contributions in order to fend off competition to their established interests. Throughout the Progressive Era, congressional regulation at times had the effect of consolidating the relative power structure within industries as less established companies were denied the opportunity to make inroads.[57] Such was the case with the Tillman Act, which promised to standardize the corporate world by restricting groups from gaining an undue political advantage through campaign contributions.[58] This reality was troubling to some of the nation's smaller insurance companies. Morgan Bulkeley, President of Aetna Life Insurance and Republican Senator from Connecticut, often clashed with the biggest insurance companies on a range of regulatory matters. The subject of corporate political contributions was no different, as Bulkeley voluntarily admitted making them and came

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[56] "Happy Corporations," *New York Times*, June 17, 1906. Regarding fundraising entreaties, another newspaper noted that the nation's corporations "will be immune from such solicitations in the future if this bill passes." "Money For Politics Causing Trouble," *The Austin Statesman*, June 17, 1906.
[57] For two overviews of this important pattern, see Kolko, *The Triumph of Conservatism*, 3-5; James Weinstein, *The Corporate Ideal in the Liberal State, 1900-1918* (Westport: Greenwood Press, 1968), xiii-xv.
[58] According to Mansel Blackford, Progressive Era businessmen often encouraged regulation with the intent of curtailing what they considered to be "unfair competition" within their ranks. As Richard White describes, this competition increasingly took place in the arenas of government and politics. Mansel Griffiths Blackford, "Businessmen and the Regulation of Railroads and Public Utilities in California During the Progressive Era," *The Business History Review* 44 (1970), 319; White, *Railroaded*, 511-12.

to the defense of the practice.[59] Additionally, in October 1905, a number of small insurance companies met in Chicago to oppose federal regulation they believed was designed to "crush the life out of the Western companies."[60] These stances were not easy to adopt publicly, given the overwhelming popular support for a prohibition of corporate political contributions. The fact that smaller, regional companies made these declarations reflected their concerns that national regulation would only lead to entrenched, politically powerful Eastern firms benefiting at the expense of others.[61]

In turn, representatives from larger, more established corporations supported regulation because a political contribution ban meant they no longer had to guard against smaller entities cutting into their market share by way of campaign cash. As discussions of remedial campaign finance legislation intensified during and after the Armstrong Committee hearings, many of the nation's leading businessmen came together to support regulation on the subject.[62] In November 1905, for instance, representatives from a number of Philadelphia's leading banks and trust companies voluntarily formed an association designed to discourage the practice of corporate campaign contributions.[63] The National Civic Federation was another organization that embodied this trend. Founded in 1900 and controlled from the beginning by big businessmen, the NCF quickly became the nation's leading business organization, influencing national regulation efforts

[59] "Senator Bulkeley on Contributions," *Insurance Monitor* 54 (May 1906), 184.
[60] Kolko, *The Triumph of Conservatism*, 96.
[61] Grant, *Insurance Reform*, 160-61.
[62] Beckert describes how processes of class cohesion occurring in the latter decades of the 19th century made such unity possible. The result was a "shared class culture" among the New York economic elite. Beckert, *The Monied Metropolis*, 237-72, 298-301.
[63] "Philadelphia: Special Correspondence," *Trusts and Estates* 2 (November 1905), 883.

on a host of issues.[64] Spurred by its business leaders, the NCF in March 1906 officially recommended the prohibition of political contributions by corporations.[65] Businesses thus experienced incentives to support a contribution ban wholly separate from public pressure. In order to manage chaotic and cutthroat business conditions in the early 20th century, large corporations encouraged legislative measures that would aid the establishment of a more orderly, rational business enterprise conducive to long-term profits.[66] Individuals throughout the nation were wont to speak of corporations as if they were all the same type with the same interests and objectives. But the reality was that a prohibition of political contributions affected different corporations in different ways. Through this regulation of one potential avenue of competition, companies at the top of the food chain—continually voicing their approval for the contribution ban—developed an increased likelihood of remaining there.

Moving beyond the subject of competition, many businesses preferred a single federal standard regarding corporate political contributions to the inconsistent state laws in place prior to the passage of the Tillman Act. Shortly after the release of the Armstrong Committee report on February 22, 1906, the New York State legislature enacted the committee's recommendations, including a ban on corporate contributions.[67] Pennsylvania soon followed New York's example.[68] These legislatures were by no means the first to outlaw corporate contributions at the state level; Nebraska, Tennessee,

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[64] Weinstein, *The Corporate Ideal in the Liberal State, 1900-1918*, 7-8, 92. For background on the NCF, see Weinstein's broader discussion pp. 3-39. See also Mark S. Mizruchi, *The Fracturing of the American Corporate Elite* (Cambridge: Harvard University Press, 2013), 27-30.
[65] "Laws Urged to Purify Ballot," *San Francisco Chronicle*, March 8, 1906.
[66] Grant, *Insurance Reform*, 14.
[67] Milton Klein, *The Empire State: A History of New York* (Ithaca: Cornell University Press, 2005), 495.
[68] Robert E. Mutch, *Buying the Vote: A History of Campaign Finance Reform* (New York: Oxford University Press, 2014), 47.

Missouri, and Florida all did so in the late 1890s, and Wisconsin joined in June 1905.[69] In legislative sessions occurring in the shadow of the Armstrong Committee, three more state governors recommended similar contribution bans.[70] The natural consequence of this inconsistent state of affairs was often confusion. While some states had banned corporate political contributions, the status of debate was unclear in several states, and others were inactive for the time being. All the while, corporate contributions were still permitted at the federal level. One life insurance official raised the concern that "the proposed laws presented by the Armstrong Committee shall have the effect of so restricting the business of New York companies that they cannot compete with companies of other states which do not impose such restrictions."[71] The absence of federal legislation, industry men believed, meant inconsistent and potentially destabilizing conditions with regard to corporate political contributions and other issues.

Indeed, when it came to regulation of their activities, large companies often earnestly sought uniform federal legislation as opposed to different state requirements.[72] This pattern held true for the Tillman Act. The inconsistent and fluid status quo regarding campaign contributions posed challenges for the efforts of companies that operated in multiple states to standardize their business practices. Naturally, these companies were typically the largest, wealthiest, and most influential. A former assistant United States

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[69] Anthony Corrado et al., *The New Campaign Finance Sourcebook* (Washington, D.C.: Brookings Institution Press, 2005), 10; Mutch, *Buying the Vote*, 46.
[70] These governors were from Maryland, New Jersey, and Ohio. Robert H. Whitten, "Notes on Current Legislation," *American Political Science Review* 1 (November 1906), 83.
[71] General Manager of the Ohio Life Policy-Holders Association to Perkins, March 31, 1906, George W. Perkins Papers.
[72] Michael McGerr, *A Fierce Discontent: The Rise and Fall of the Progressive Movement in America, 1870-1920* (New York: Simon & Schuster, 2003), 173. Kolko also discusses how, in general, businesses desired consistent federal regulation as opposed to contrasting state laws that could sometimes be so different as to result in practical difficulties. Kolko, *The Triumph of Conservatism*, 5-6, 89.

attorney general explained the difficulties this state-by-state framework created for life insurance companies: "The evil of conflicting commercial regulations…still exists in the matter of insurance, for individual States have vied with each other in passing restrictive, discriminative and retaliatory legislation against the insurance corporations of other States."[73] By opting for standardization in the form of a single federal campaign finance statute, companies in a host of industries no longer had to tailor their business practices to contrasting regulations throughout the country, or cater to the whims of officials in various states. This urge for federal legislation was not a new development; the movement to resolve inconsistent state regulations gained steam in the latter decades of the 19th century and even motivated one veteran journalist to launch a trade journal devoted to the subject of federal restraints.[74] As a single national standard ultimately aided the biggest companies, the banning of corporate political contributions in federal elections represented a welcome step toward standardization for businesses that were increasingly operating at a national scale.

Clearly, the business world had much to gain from the Tillman Act, and its lack of opposition to the statute viewed in context only reinforces this conclusion. Corporate executives were not friendly to all forms of regulation. Even after the Armstrong Committee hearings, at the height of anti-corporate sentiment, businessmen did not hesitate to voice their opposition to recommended measures that they considered especially hostile to their industries. The president of Equitable, for example, warned the New York legislature that "if the life insurance companies are injured, even

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[73] James M. Beck, "The Federal Regulation of Life-Insurance," *North American Review* 182 (August 1905), 197.
[74] Grant, *Insurance Reform*, 157-59.

inadvertently, the policy-holders are the ones who will be damaged thereby."[75] D. P. Kingsley, successor to Perkins at New York Life, took his discourse a step further. According to Kingsley, the Armstrong Committee was "unable to get and keep a broad grasp on what life-insurance really is and what it really needs." Several of its proposals, Kingsley believed, were "revolutionary" and should be "radically modified."[76] The editorial staff of one life insurance magazine also did not mince words regarding a New Jersey law that capped life insurance assets, calling the measure "unwise and illogical" and "foolish."[77] These instances reflected insurance men resolved to oppose measures they considered particularly radical and unfriendly.[78] Tellingly, however, leaders of large corporations did not speak out against one recommendation of the committee—that of a prohibition of corporate political contributions. Even as he criticized certain proposals, Kingsley made sure to note that "the prohibition of political contributions" had received "the cordial support of all life-insurance men."[79] Significant business opposition to a host of proposed legislation in these months indicates that, had companies found the contribution ban objectionable, they likely would have made their thoughts known. That they refrained from voicing such protests—executives in fact did precisely the opposite by endorsing the measure—reinforces the notion that businesses considered the formal end to corporate campaign contributions both acceptable, reasonable, and favorable.

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[75] Morton, "Life-Insurance Legislation: Protect the Policy-holders," 497.
[76] D. P. Kingsley, "Safeguard the Companies," *North American Review* 182 (April 1906), 499-500. Perkins, too, believed that several of the Armstrong Committee's recommendations could destabilize the entire insurance business. Garraty, *Right-Hand Man*, 186.
[77] "Foolish New Jersey Legislation," *Life Insurance Independent* 19 (April 1907), 65.
[78] In addition to proposed caps on assets, businesses objected to state laws that limited the powers of company officers. The *Chicago Daily Tribune* predicted corporate resistance to these and other measures: "That the companies will oppose some of the recommendations is certain." "Report Excites Insurance Men," *Chicago Daily Tribune*, February 24, 1906.
[79] Kingsley, "Safeguard the Companies," 498.

Fundamentally, the road to the Tillman Act's passage represented an instance in which some of the nation's largest corporate entities attempted to use federal regulation to further their own economic interests. The Armstrong Committee hearings generated a heap of evidence reinforcing the popular conception of a corrupt business-politician relationship, and the Tillman Act outwardly served as an effort to scale back these ills. But the extensive business support that accompanied it suggested a competing motive for the legislation. By the turn of the century, there existed a long tradition of corporations increasing their economic power by exercising political influence. At the state and federal level, competition between railroad companies shifted from the tracks to the legislatures; in the municipal realm, businesses realized that lobbying for reform helped them increase their political power.[80] Corporate endorsement of the Tillman Act—along with consideration of the ways in which businesses benefited from the law—means the legislation must be considered within this tradition. By establishing conditions favorable for the financial well being and preservation of large companies—such as curbing an expensive, effectively mandatory contribution custom and adopting a single, consistent federal standard—the Tillman Act operated in the favor of corporate interests. The 1907 legislation by no means constituted an end to the dance of corporations influencing politics.[81] But the reform it embodied—an end to the overt and financially draining practice of corporate political contributions—represented a decisively positive development for many of the nation's businesses, as their support for the measure

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[80] White, *Railroaded*, 512; Samuel P. Hays, "The Politics of Reform in Municipal Government in the Progressive Era," *Pacific Northwest Quarterly* 55 (1964), 167; Kolko, *The Triumph of Conservatism*, 89.
[81] See Chapter Three for analysis of the ways in which the Tillman Act failed to fulfill the reform it purported to embody.

indicated. Viewed from this perspective, by solving internal economic problems for businesses, the corporate contribution prohibition ultimately served the interests of the faction that the reform was designed to target.

For corporate leaders, the Tillman Act represented an opportunity to rationalize their business practices, thus advancing toward a more efficient state of affairs. At its core, the prohibition of corporate political contributions arose from an ideology of stability and efficiency; government intervention was intended to bring order to a profligate, popularly undesirable practice. Early 20th century businesses faced a climate of increased competition and diluted economic power. In order to maintain long-term profits in such an environment, corporations sought both to make their own operations more efficient and to rely on the federal government to rationalize the economy in their favor.[82] The Tillman Act represented one way of fulfilling this objective. Prior to the enactment of the legislation, many companies had little choice but to contribute to political funds. After January 26, 1907, corporations were no longer legally permitted to make political contributions—yet there remained influence to be had. By eliminating a costly practice that previously functioned as an obligatory investment for political influence, the regulation contained in the Tillman Act enhanced financial efficiency for the companies it affected. Business executives, affiliated organizations, and trade publications undoubtedly recognized this benefit early on, explaining their largely unwavering support for the measure. The banning of political contributions facilitated the pursuit of order and efficiency in the corporate economy, thus helping to alleviate some of the chaos of corporate competition.

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[82] Martin J. Sklar, *The Corporate Reconstruction of American Capitalism, 1890-1916* (New York: Cambridge University Press, 1988), 33-40; Kolko, *The Triumph of Conservatism*, 4-5.

To a large extent, then, the sweeping, anti-corporate public pressure that helped create the momentum for the Tillman Act actually ended up serving the interests of some of the nation's largest businesses. Such a phenomenon was inherently paradoxical. Popular discourse, especially as reflected in newspaper editorials, seemed to revolve around an urge to rein in big business and align it with a more general public interest. The Tillman Act reflected this attempt to protect policyholders, as well as to lessen corruptive tendencies and reckless management in American corporations. But in another sense, the public surge for remedial legislation played into the hands of the nation's biggest businesses.[83] From ending a financially draining spending practice, to fending off unwelcome economic competition, to resolving a collection of conflicting state legislation, a prohibition of corporate political contributions tangibly benefited these companies. Indeed, many businesses did not merely accept the affirmative public verdict on the matter—they heartily endorsed the ban from the moment the issue entered public consciousness in the fall of 1905. Viewed from this perspective, businesses rode a wave of public pressure to ultimately increase their own economic clout. If the origins of the Tillman Act lay in a mass of citizens determined to curb the corruption of high-moneyed powers, its conclusion was a piece of legislation very much agreeable to the interests supposedly on the receiving end of a public crackdown.

When the *Wall Street Journal* opined on the eve of the Tillman Act's passage that "[s]tep by step public thought is giving expression in the forms of law to its ideas on the

[83] A number of Progressive Era historians have described in other contexts how businesses redirected public pressure to aid their own interests. Businessmen in a host of industries learned they could often take advantage of popular hostility to win favorable governmental regulation. For example, see Robert H. Wiebe, *Businessmen and Reform: A Study of the Progressive Movement* (Cambridge: Harvard University Press, 1962), 215; McCormick, *From Realignment to Reform*, 217-18.

responsibility of corporate officials," it did so with honest intentions.[84] Reformers truly believed they had secured a victory against perceived relationships of corruption between politicians and leading businessmen. But when the Tillman Act became law, corporations could claim victory, too. The regulation very much served their interests, in both the political and economic realms. Corporate support for the Tillman Act, along with the benefits businesses reaped from its passage, called into question the narrative of bottom-up public pressure that newspapers such as the *Wall Street Journal* touted. No doubt, the surge of public outrage driving elected officials to pass reforms existed, but it seemed less fundamental after consideration of business actions beginning in late 1905. The nation's most powerful corporations applied their own pressure in a top-down fashion to support the Tillman Act, urging the adoption of governmental regulation to suit their own purposes.

[84] "Another Burden to be Lifted."

Chapter III

Scaling Back the Tillman Act: The Congressional Undoing of a Reform Effort

"*If the law is what is to be inferred from that summary, it has been passed in order that it might not be obeyed.*"
—San Francisco Chronicle, January 23, 1907[1]

Prospects for a prohibition of corporate contributions to political campaigns were dramatically different at the end of 1905 than at the year's beginning. As late as August, the subject was buried at the bottom of a long list of worthy reform initiatives. Over the next several months, however, calls for a ban rose to the forefront of public consciousness. Popular pressure, expressed most vividly by members of the middle class and on the editorial pages of the nation's newspapers, generated a persistent clamor for a prohibition. Business leaders, mindful of their profit margins, similarly hoped for an end to the incendiary practice. Such fervent calls from different segments of society combined to produce a popular mandate for remedial legislation regarding corporate political contributions. The ideal moment for meaningful and lasting reform had seemingly arrived.

Yet when the product of this public urge—the Tillman Act—finally passed Congress, many of the ambitions of reformers went unfulfilled. While it ostensibly banned corporate political contributions, the legislation was significantly weaker than expected. Passed on January 26, 1907, the final version of the Tillman Act in fact

[1] "Political Contributions," *San Francisco Chronicle*, January 23, 1907.

preserved subtle channels for corporate money to influence politics and left a host of corporations and elections outside its coverage. The sweeping sentiment for reform, intense and driven in theory, had failed to produce a law that would have as substantial an effect on the campaign finance system in practice. Just days before its passage, one congressman predicted that the legislation "will be a total and significant failure."[2]

This outcome was far from unintended. To the contrary, the final version of the Tillman Act—and the failure of the reform mandate—reflected a deliberate effort by congressional factions to preserve elements of a campaign finance system that operated in their favor. To be sure, support existed in Congress for significant legislative intervention, from reform-minded individuals seeking a reduction in business-government corruption to Democrats hoping to attain a partisan advantage. But the reality was that the Republican Party, which held a decisive majority in Congress, benefited overwhelmingly from corporate political contributions. Loath to willfully eradicate a reliable source of campaign funding, these Republicans undertook a quiet yet thorough effort to scale back the Tillman Act. This process involved steps intentionally designed to weaken the bill, including a reduction of the legislation's scope of coverage, failure to provide a legitimate enforcement mechanism, and a neglect to close discreet pathways for the continued influx of corporate money to campaign and party funds. By shaping the Tillman Act in accordance with their own interests and incentives, political elites placed unambiguous limits on the demands of reformers and ensured only their partial fulfillment. The political process that resulted in the Tillman Act thus featured a conservative distortion of ambitious popular sentiment, reflecting a distinct lack of

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[2] U.S. Congress, *Congressional Record*, 59th Cong., January 21, 1907, 1455.

reformer autonomy in the political system. The result was a law that preserved the status quo more than upended it.

The bill may have been called the Tillman Act, but the ideas of William E. Chandler made up its very core. A Republican from New Hampshire, Chandler was first elected to the Senate in 1887 and served for over a decade. Though a party manager in his early years, Chandler eventually became uncomfortable with what he perceived as his party's status of "agent of the propertied classes."[3] Some, but not all, of Chandler's discontent stemmed from a clash with the railroad industry, which helped bring about the senator's defeat in a 1901 reelection bid after Chandler opposed a railroad merger within the state.[4] In the years leading up to the turn of the century, Chandler increasingly objected to the practice of corporate political contributions. Ever since the expensive election of 1896, Chandler related, he believed that inflated campaign funds and pervasive corporate contributions represented a "crying evil."[5]

In Congress, Chandler quickly established himself as the body's most committed advocate for reform he believed the nation's campaign finance system desperately needed. As early as 1896, when the issue had not yet acquired heightened importance in popular discourse, Chandler drew up a resolution calling for an official investigation into the sources of campaign contributions to both parties. Due to insufficient support,

[3] Leon Burr Richardson, *William E. Chandler, Republican* (New York: Dodd, Mead, 1940), vii, 184-86.
[4] Francis Butler Simkins, *Pitchfork Ben Tillman, South Carolinian* (Gloucester: P. Smith, 1964), 425. For an account of Chandler's run-in with the railroads, in particular the Boston and Maine Company, see Richardson, *William E. Chandler*, 619-25.
[5] Richardson, *William E. Chandler*, 701.

however, the resolution quietly died at the end of the term.[6] As his time in Congress began to wind down, Chandler in 1901 went a step further by introducing a bill banning corporate monetary contributions in federal elections.[7] But again, Republican leaders took no action and the new bill suffered the same fate as Chandler's first.[8] Its expiration also marked the conclusion of Chandler's time in Congress, and with it his opportunity to formally spearhead legislative initiatives.

Nevertheless, Chandler remained an active force outside the Senate on the issue. His persistent encouragement of Wisconsin Governor Robert La Follette to pass a law banning corporate money in state elections served as one example of his activism. At one point in 1904, Chandler authored an impassioned letter to La Follette in which he argued that "the prohibition of corporation ownership of political parties, is vital, and so important that I think you should make yourself the advocate of it."[9] Chandler's behind-the-scenes operating continued when he became one of the chief proponents of legislation that would eventually become the Tillman Act. The former senator corresponded regularly with political leaders at the federal and state level—including but not limited to Tillman—regarding the movements of the proposed prohibition of corporate political contributions.[10] The events of late 1905, Chandler felt, might finally provide the necessary boost to achieve his longtime goal of federal reform. In the midst of the

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[6] William E. Chandler, "Campaign and Insurance Funds," *New York Tribune*, September 22, 1905.
[7] Chandler to Perry Belmont, April 12, 1907, William E. Chandler Papers, Library of Congress. This bill featured much of the same language that eventually made up the Tillman Act.
[8] Robert E. Mutch, *Campaigns, Congress, and Courts: The Making of Federal Campaign Finance Law* (New York: Praeger, 1988), 5.
[9] Chandler to Robert La Follette, December 5, 1904, William E. Chandler Papers.
[10] The William E. Chandler papers at the Library of Congress reveal that Chandler tirelessly leveraged his influence and persuasive skills to bring about reform on the issue of corporate money in politics. While correspondence intensified beginning in September 1905, his letters demonstrate a commitment to a corporate contribution ban spanning several years previously.

Armstrong Committee disclosures, Chandler expressed optimism regarding his initiative and approvingly noted that "Satan's kingdom is tumbling down. That is to say, the plutocratic kingdom."[11]

Chandler's support for a prohibition of corporate political contributions stemmed from his fundamental desire to return government to the people. His own congressional experience had convinced him that large corporate donations to campaign funds served to corrupt politicians in favor of business interests. By ending a practice that offended the nation's democratic origins, Chandler believed, Congress could move closer toward truly representing the people, as opposed to wealthy corporations. Chandler relentlessly advocated these principles even before the insurance scandal broke. In 1904, Chandler told La Follette why he considered the issue so essential: "A republic is supposed to be individual government…. But when corporations can furnish money to carry elections from corporation treasuries, individualism in government is gone—individual free will and individual responsibility."[12] Indeed, for Chandler, the logical extension was a society in which only the voices of corporations mattered, rather than those of the people. The former senator stood by these principles once the issue of corporate contributions rose to the forefront of public discourse. Just one week after George Perkins took the witness stand in Albany, Chandler urged the U.S. Attorney General to take action on the subject of corporate contributions to campaign funds: "It seems to me to be the plain duty of every officer of the government to do his utmost to punish and put an end to practices destructive of government by the people."[13] Chandler's consistent, principled stance over the course of his quest for a corporate contribution ban cast the former senator as a good

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[11] Chandler to Tillman, October 5, 1905, William E. Chandler Papers.
[12] Chandler to Robert La Follette, December 24, 1904, William E. Chandler Papers.
[13] Chandler to William H. Moody, September 23, 1905, William E. Chandler Papers.

government reformer, striving to help return the nation's political institutions to the hands of the people.

Through his sustained advocacy, then, Chandler played a critical role in supporting the legislation that would become the Tillman Act. Even before sweeping segments of the public demanded remedial legislation, Chandler demonstrated his commitment to grappling with larger problems surrounding the relationship between corporate wealth and government. He firmly believed that Republicans had the duty to "redeem the party from the control of the huge money power."[14] As Chandler repeatedly emphasized in his correspondence on the issue, "[t]he carrying on of government is the work of individuals, not the work of corporations."[15] A ban on corporate political contributions represented a tangible means of moving toward this ideal. Chandler thus embodied a sense of optimism concerning the power of federal regulation to mitigate societal ills, an impulse that many scholars have located in Progressive reformers.[16] From this perspective, government intervention had the power to rein in undesirable consequences of a capitalist economy, such as the manifest evil of corporate political contributions. Once the Tillman Act had been achieved, a fellow reformer asked Chandler to pen a history of the long movement.[17] He had been there from the beginning.

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[14] Chandler to Henry Myrick, November 25, 1904, William E. Chandler Papers.
[15] Chandler to Robert La Follette, December 5, 1904, William E. Chandler Papers.
[16] For instance, see Richard L. McCormick, "The Discovery that Business Corrupts Politics: A Reappraisal of the Origins of Progressivism," in *Who Were the Progressives?*, ed. Glenda Elizabeth Gilmore (Boston: Bedford, 2002), 124; Michael McGerr, *A Fierce Discontent: The Rise and Fall of the Progressive Movement in America, 1870-1920* (New York: Free Press, 2003), 160; Maureen Flanagan, *America Reformed: Progressives and Progressivisms, 1890s-1920s* (New York: Oxford University Press, 2007), 10, 112.
[17] Chandler to Perry Belmont, April 12, 1907, William E. Chandler Papers.

In addition to advancing the bill through Congress, Chandler's influence also helped attract the legislation's primary sponsor. Senator Ben Tillman, a Democrat from South Carolina, bore little likeness to the Republican Chandler on a host of political and social issues. Perhaps their most glaring difference was on the subject of race. A brazen racist, Tillman proclaimed in countless speeches how white South Carolinians would maintain their supremacy by whatever methods necessary, including intimidation and violence.[18] By contrast, the National Colored Personal Liberty League recognized Chandler in October 1907 as "one of the best friends that the colored race has in the United States."[19] Beyond the issue of race and their different party membership, Tillman and Chandler tended to operate in dramatically dissimilar manners. While Tillman earned the nickname "Pitchfork Ben" due to his crusading, confrontational style, Chandler often preferred to quietly manipulate events in subtler fashion.[20]

Yet despite these differences, Tillman and Chandler considered each other good friends and productive colleagues. The duo corresponded frequently in writing as early as 1897, inquiring about each other's health and families.[21] Their friendship was such that even Theodore Roosevelt, whom Tillman publicly hated and considered his political enemy, relied upon it. When Congress in 1906 considered railroad rate regulation in what became the Hepburn Act, Roosevelt entrusted Chandler to serve as an intermediary

[18] Simkins, *Pitchfork Ben Tillman*, 393-96. In mid-1906, one Indiana man sought Tillman's aid in approaching the "negro problem" and the "disgraceful contamination of white blood." J. A. Houser to Tillman, April 6, 1906, Benjamin R. Tillman Papers, Clemson University.
[19] National Colored Personal Liberty League to Chandler, October 1, 1907, William E. Chandler Papers.
[20] According to Richardson, "Chandler fought with a rapier and Tillman with a bludgeon." Richardson, *William E. Chandler*, 540.
[21] On various occasions, Tillman and Chandler visited each other's residences in South Carolina and New Hampshire. Tillman to Chandler, October 19, 1905, William E. Chandler Papers; Richardson, *William E. Chandler*, 540-41.

between the President and the South Carolina Senator as the legislation advanced through the political process.[22] After the bill's passage, Tillman told Chandler "[w]herever I go in South Carolina I find your praises sung as 'Your old friend Chandler stood by you and behaved nobly.'"[23] The trusting nature of the relationship partially explained why Chandler, unable to find a Republican congressman willing to sponsor a bill prohibiting corporate political contributions in the wake of the Armstrong Committee revelations, turned to Tillman to do so.[24] The South Carolina Democrat eagerly accepted—but for his own reasons.

Tillman, along with a host of other Southern Democrats, considered big business and organized Northern wealth to be a threat to traditional Southern values. Tillman's political ascent unfolded during an era in which the region underwent rapid change. Industrialization and urbanization that intensified in the latter decades of the 20th century—extensively in the North, and to a lesser degree in the South—caused many Southerners such as Tillman to yearn for a sense of order and cohesion in their communities, traditional qualities they considered increasingly at risk.[25] The most conspicuous addition to the social landscape was big business. Dewey Grantham describes how individuals like Tillman associated Northern corporations with powerful outside forces that jeopardized agrarian interests, along with their control over society.

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[22] John Morton Blum, *The Republican Roosevelt* (Cambridge: Harvard University Press, 1954), 95-99.
[23] Tillman to Chandler, July 23, 1906, William E. Chandler Papers.
[24] Robert E. Mutch, *Buying the Vote: A History of Campaign Finance Reform* (New York: Oxford University Press, 2014), 58.
[25] Dewey W. Grantham, *Southern Progressivism: The Reconciliation of Progress and Tradition* (Knoxville: University of Tennessee Press, 1983), xvi-xviii. Samuel Hays emphasizes how Southern agrarians were often resentful of growing cities and expanding industry that crept in on the region following Reconstruction. Samuel P. Hays, *The Response to Industrialism, 1885-1914* (Chicago: University of Chicago Press, 1957), 155-60.

For Southern politicians, the solution was to regulate these businesses—often quite strictly. In 1907, the year of the Tillman Act, business regulatory movements were widespread in the South; Democrats in almost every Southern state advocated antimonopoly political positions.[26]

Such regulatory impulses when it came to corporations, at least for Tillman, contained a racial and class-based component. Many of the nation's businesses—especially those based in the North—opposed racial segregation, often for financial reasons. For instance, in addition to taking advantage of cheaper African American labor, manufacturers did not want to pay for two sets of products for people of different races.[27] Fundamentally, by checking the influence of Northern corporations in the South, Tillman hoped to consolidate white middle class control of the region. A sense of white supremacy, coupled with a desire to impede efforts at racial integration, infused his push for regulation and reform.[28] The South Carolina senator did not attempt to conceal these sentiments. In one Senate floor speech, Tillman proclaimed his desire to "keep [Southern] legislatures from being influenced by northern millionaires who have gone down there and built mills and made industrial slaves out of white children instead of the chattel black slaves of the old days."[29] He received frequent mail from individuals praising his sustained hostility toward corporate interests; one correspondent applauded Tillman for

[26] Grantham, *Southern Progressivism*, 111, 142-59. For an overview of Southern politics at this time—from Populism in the 1890s to the ensuing consolidation of the Democratic Party—see "Populism and Progressivism, 1890-1920," in Kenneth Coleman, ed., *The History of Georgia* (Athens: University of Georgia Press, 1977), 295-308.
[27] Bradley A. Smith, "The Myth of Campaign Finance Reform," *National Affairs* 2 (2010), 81.
[28] Stephen Kantrowitz, *Ben Tillman and the Reconstruction of White Supremacy* (Chapel Hill: University of North Carolina Press, 2000), 264-65.
[29] U.S. Congress, *Congressional Record*, 59th Cong., January 28, 1907, 1801.

his "unswerving opposition to corporate schemes of financial jobbery."[30] Tillman's desire to curb the influence of corporations, then, stemmed from a very different source than Chandler's. Rather than embrace the motives of popularly responsive government, Tillman crusaded against corporate wealth in his quest for a traditional Southern society featuring a subordinate black population and the restraint of invasive Northern influence.

A prohibition of corporate political contributions represented an ideal opportunity to strike back against creeping Northern business influence, and Tillman latched onto it. Following the conclusion of the Armstrong Committee hearings, Tillman delivered a lengthy speech in the Senate castigating the revelations of business-government corruption. His primary line of attack was corporate manipulation of politics through campaign contributions: "All will agree," Tillman said, "that the legislature of New York has been controlled in the interest of insurance companies."[31] Tillman saw the same subtle corporate control in the South Carolina legislature, venting his frustration to Chandler in mid-1906: "The corporations are very skillful and subtle in the management of our legislature."[32] Many Southern states, attempting to disrupt the silent dance of corruption among businesses and politicians, enacted laws to regulate lobbying and curb corporate monetary influence on elections.[33] The Tillman Act fit cleanly within this tradition. By sponsoring legislation that banned corporate contributions to campaign funds, Tillman looked to deal corporations and their political disciples a blow while simultaneously staving off the interference of Northern businesses in Southern elections.

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[30] Edward Jones to Tillman, February 11, 1907, Benjamin R. Tillman Papers. Another individual informed Tillman that his fight "against the insurance power of organized wealth is splendid." George H. Creed to Tillman, February 13, 1906, Benjamin R. Tillman Papers.
[31] U.S. Congress, *Congressional Record*, 59th Cong., December 7, 1905, 226.
[32] Tillman to Chandler, July 23, 1906, William E. Chandler Papers.
[33] Grantham, *Southern Progressivism*, 155-56.

From this perspective, campaign finance reform represented a means of controlling the dangerous, intrusive forces of organized wealth that threatened the traditional Southern order.

In addition, Tillman championed the legislation for distinctly partisan motives. By blaming the evils of corporate political contributions on Republicans—who benefited far more than Democrats from large business donations—Tillman hoped to embarrass his political opponents and damage the Republican Party's status throughout the nation. Even before he signed on to sponsor the contribution prohibition, Tillman attempted to exploit the situation for partisan advantage by calling for a full-scale Senate investigation regarding corporate donations to campaign funds. In an October 1905 letter, Tillman implied that he would "put on the war paint" by attempting to "make the topic of political contributions from any of the great corporations which have been fostered by the Republicans to be most interesting."[34] Tillman publicly demanded an investigation two months later, hoping to reveal corrupt dealings between Republican politicians and large corporations in all their glory (or lack thereof). In his speech, he launched a verbal indictment of the Republican National Committee for declining to return the large corporate contributions it had received.[35] The following day's *New York Times* colorfully described how "Senator Tillman made it warm for the New York Senators."[36] The South Carolinian and his fellow Democrats also hoped an inquiry would damage Theodore Roosevelt, whose 1904 presidential campaign had drawn questions regarding its reliance

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[34] Tillman to Chandler, October 19, 1905, William E. Chandler Papers.
[35] U.S. Congress, *Congressional Record*, 59th Cong., December 7, 1905, 228-29.
[36] "Senate Wants a List of Banks in Politics," *New York Times*, December 8, 1905. Tillman's speech received extensive newspaper coverage. For two examples, see "Tillman Stirs Up Senate," *Chicago Daily Tribune*, December 8, 1905; "Praises the Post: Senate Hears Tillman's Tribute to Its Reliability," *Washington Post*, December 8, 1905.

upon corporate financing.[37] Undoubtedly aware of the potential for unbridled public hostility, the Republican majority in Congress dragged its feet and obstructed any momentum for the inquiry.[38] By no means discouraged, however, Tillman conducted investigative work of his own. Individuals contacted included Charles Evans Hughes, whom Tillman asked for "a list of the various contributions to political committees, state and national, which your investigation has disclosed."[39] Partisan objectives thus fueled Tillman's movements surrounding the issue of corporate political contributions. The last thing Republicans who benefited from large donations desired was the shedding of additional light on the unseemly practice—only giving the matter increased urgency for Tillman.

The existence of such anti-corporate and partisan motives spoke to the supple nature of the Tillman Act that ultimately facilitated its passage: people could sign on to support the legislation for different reasons. While Chandler endorsed the prohibition of corporate contributions out of a genuine desire to return government to the people, this good government ambition was not part of Tillman's calculus. Instead, Tillman sponsored the bill in order to seek a partisan advantage and to deal a strike against encroaching Northern corporate wealth. While many of Tillman's fellow Democratic lawmakers did not share the senator's stridently racist views, they nevertheless eagerly seized the opportunity to publicly rebuke the nation's largest corporations and their

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[37] Simkins, *Pitchfork Ben Tillman*, 413.
[38] In March 1906, Chandler told a friend that "[t]here will be resistance to investigation in Congress, with a very great probability that there will be no investigation." Chandler to James W. Breen, March 20, 1906, William E. Chandler Papers.
[39] Charles Evans Hughes to Tillman, December 18, 1905. On at least two other occasions, Tillman sought information regarding allegations of graft and a national bank investigation. James W. Breen to Tillman, January 15, 1906; Elliott Pendleton to Tillman, April 21, 1906. All in Benjamin R. Tillman Papers.

Republican colleagues. During the floor debate on the Tillman Act, Joseph Robinson, Democrat from Arkansas, vehemently demanded that Republicans admit their wrongdoing: "I would like to see my friends [on] the other side of this Chamber come squarely up to the rack and say to the people of the United States that during the last Presidential campaign they took several hundred thousand dollars from the widows and orphans of this country."[40] A few moments later, another Southern Democrat demanded that Republicans return to the public the money they had obtained from corporations.[41] These legislators did not just seek the Tillman Act's passage—they sought humiliation of their political foes. With such statements, Democrats hoped to curb a practice that placed them at a political disadvantage while casting their opponents into the fire of public opinion.

When Tillman and other Democrats spoke on the contribution ban, their words reflected a larger fight against big-moneyed powers and the desire for revenge against the well-financed Republican Party. Their statements were utterly divorced from Chandler's advocacy for a responsive government free of back-door corporate dealings. Yet despite their contrasting purposes, Chandler and Tillman were nevertheless united around a single commitment. For these two men, any difference in motive was insignificant so long as their common goal—the prohibition of corporate contributions to campaign funds—was ultimately achieved. With public and business support at their backs, Chandler and Tillman's push for comprehensive reform seemed promising.

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[40] U.S. Congress, *Congressional Record*, 59th Cong., January 21, 1907, 1452-53. Robinson was frequently interrupted by applause from the Democratic side of the chamber.
[41] U.S. Congress, *Congressional Record*, 59th Cong., January 21, 1907, 1454.

Support from these factions, however, would not be sufficient to guarantee passage of the Tillman Act. In the earliest years of the 20th century, the fate of federal legislation depended on the stance of the Republican Party, which in 1904 achieved its greatest congressional majority since the Civil War.[42] Though at times there existed ample bipartisanship—the Hepburn Act of 1906, which enhanced the railroad regulatory powers of the federal government, passed the Senate by a 71-3 vote—a dominant Republican coalition nevertheless oversaw all congressional movements.[43] In particular, House and Senate leadership consisted of a conservative faction of Republicans from the Northeast, which typically regarded reform and regulation initiatives with less enthusiasm than many of their peers.[44] When the issue of corporate political contributions came before Congress in the form of the Tillman Act, this Republican majority controlled the bill's fate and the prospect of reform.

Republican legislators found themselves in a substantial bind when it came time to consider the Tillman Act, as they had considerable incentive to preserve the existing state of the campaign finance system. Republicans reaped a significant fundraising advantage through sizable donations from corporations. In the 1896 election especially, many of the nation's largest businesses flocked to the Republican camp, citing fears of the Democratic free silver platform.[45] With the continued support of corporate elites in subsequent election cycles, the Republican National Committee dramatically out-raised

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[42] From 1905-1907, Senate Republicans outnumbered Democrats, 58 to 32; in the House, Republicans held a 251-135 advantage. "59th Congress (1905-1907)," Office of the Historian, United States House of Representatives.
[43] For analysis of the politics of the Hepburn Act, see Martin Sklar, *The Corporate Reconstruction of American Capitalism, 1890-1916* (New York: Cambridge University Press, 1988), 228-85.
[44] Hays, *The Response to Industrialism*, 183-84.
[45] Louise Overacker, *Money in Elections* (New York: Macmillan, 1932), 181.

its Democratic counterpart and had ample money for campaign spending.[46] This Republican advantage was no secret. One journal opined in October 1905 that "[a] great deal worse than a partisan insurance company is one which takes money out of democratic pockets to pay republican campaign expenses."[47] Testimony from the Armstrong Committee hearings revealed that New York Senator Thomas Platt exercised significant control over the state Republican Party through campaign fundraising, and a magazine series showed that another top-ranking Senate Republican fostered influence by disbursing Wall Street money to fellow candidates.[48] In the congressional debate over the Tillman Act, a Georgia Democrat sarcastically addressed reports full of "pride and pomp of heraldry that the Republican Party has a full treasury" and "overflowing coffers" due to corporate funds.[49] The alignment between large corporations and Republicans meant that the party overwhelmingly benefited from the plentiful campaign money that came its way. These lawmakers knew that a prohibition of corporate contributions would represent an end to a politically lucrative practice.

Indeed, calls for remedial legislation on the issue generated considerable anxiety within the political establishment. For Republicans, the advantages gained from corporate contributions made the practice a central component of their political strategy. When Congress first considered the Tillman Act in mid-1906, the *New York Times* articulated how, if passed, party chairmen "will have fits of blind staggers trying to make both ends

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[46] Mutch, *Buying the Vote*, 32-33, 49.
[47] "Perkins's Amazing Insurance Story," *Medical World* 23 (October 1905), 430.
[48] *Testimony Taken Before the Joint Committee*, 3396-97. The top-ranking Republican in question was Nelson Aldrich; the series concerning the Rhode Island Republican appeared in *Cosmopolitan Magazine* from February-November 1906. See David Graham Phillips, *The Treason of the Senate*, ed. George E. Mowry and Judson A. Grenier (Chicago: Quadrangle Books, 1964).
[49] U.S. Congress, *Congressional Record*, 59th Cong., January 21, 1907, 1454.

meet, even for the most ordinarily legitimate expenses."[50] The statement may not have been much of an exaggeration. It also rang true for Democrats, though to a lesser degree. At both the federal and state level, money from businesses constituted the bulk of income for both parties, when it was accepted.[51] One newspaper conveyed the threat a contribution ban posed: "The political managers of both parties in Congress are very much disturbed over the bill," which would "seriously affect the political campaign committees in securing the sinews of war for the coming congressional campaign."[52] The political establishment faced fundamentally undesirable outcomes if a sweeping corporate contribution ban became law—namely, a reduction in campaign effectiveness caused by the lowering of expenditures, along with a complete revision in fundraising strategy. Accordingly, the incentives were strong for entrenched politicians—especially the Republican Party—to preserve the status quo.

Beginning in the fall of 1905, however, an intense surge of public and business support for federal action on the subject of corporate campaign contributions created problems for politicians. Their immediate fundraising interests aside, Republicans could not ignore the strong combination of bottom-up and top-down voices that demanded a corporate contribution prohibition. Legislators knew these calls would not independently

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[50] "Happy Corporations," *New York Times*, June 17, 1906.

[51] James K. Pollock, *Party Campaign Funds* (New York: Alfred A. Knopf, 1926), 112; Earl Ray Sikes, *State and Federal Corrupt-Practices Legislation* (Durham: Duke University Press, 1928), 182. There existed no public funding system for elections. While occasional reformers did raise the prospect of public financing, their proposals never came close to gaining traction. Gary Gerstle, *Liberty and Coercion: The Paradox of American Government from the Founding to the Present* (Princeton: Princeton University Press, 2015), 177-78.

[52] "Money for Politics Causing Trouble," *Austin Statesman*, June 17, 1906. In 1894, then-lawyer Elihu Root echoed such sentiments in his own discussion of the fundamental dependence of political parties on large donations: "[W]e find enormous contributions necessary to maintain party machinery, to conduct party warfare." Perry Belmont, "Publicity of Election Expenditures," *North American Review* 180 (February 1905), 168.

dissipate; one news article cited the "widespread sentiment of hostility to the existing system" and claimed that "the House would not dare to vote down the [Tillman Act]."[53] Despite the benefit they reaped from the practice, many Republican legislators found themselves joining Democrats in verbally denouncing political donations the public found so scandalous. Conservative Republicans faced additional pressures when a coalition of Progressive Republicans exhibited their support for the reform, threatening to split the party on the issue.[54] Congressional leadership had an imperative for action thrust upon it regarding corporate political contributions. But the Republican-controlled Congress also enjoyed overwhelming incentives to maintain the existing state of the fundraising system. In the end, the clash of these two impulses ensured that the political powers did not fully submit to public and corporate calls for sweeping reform.

Looking beyond Congress, such reluctance to substantively address the subject also occurred at the level of the presidency. As Theodore Roosevelt knew firsthand the advantages corporate campaign contributions provided Republicans, it was natural that he was disinclined to endorse sweeping legislation. In his 1904 presidential campaign, Roosevelt's fundraising operation largely eschewed small individual contributions in favor of generous business donations; 73 percent of his campaign funds came by way of corporations.[55] When rumors began to swirl in 1904 about several large corporate

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[53] "Money for Politics Causing Trouble," *Austin Statesman*, June 17, 1906; Mutch, *Buying the Vote*, 43-45. Richard McCormick highlights the Progressive Era pattern of anti-business forces fueling reform movements, which often dwindled in intensity only upon the consideration and passage of some remedial legislation. McCormick, "The Discovery that Business Corrupts Politics," 129-30.

[54] "Two Moral Questions," *Atlanta Constitution*, October 19, 1905; Raymond J. La Raja, *Small Change: Money, Political Parties, and Campaign Finance Reform* (Ann Arbor: University of Michigan Press, 2008), 103.

[55] Kathleen Dalton, *Theodore Roosevelt: A Strenuous Life* (New York: Vintage Books, 2002), 265.

contributions the Roosevelt campaign accepted—including a $100,000 sum from Standard Oil—the President experienced a preview of the inflammatory public sentiment that would surface again the following year.[56] One newspaper went so far as to describe the fundraising practices as "the most flagrant corruption and the most notorious boodle-grabbing of recent memory."[57] Roosevelt's initial response reflected the great value he placed by corporate political contributions. When news of the Standard Oil donation seeped to the public, for instance, Roosevelt instructed his staff in writing to return the sum but cared not when they said it had already been spent, telling advisers, "Well, the letter will look well on the record anyhow."[58] Despite the hostility the Standard Oil episode provoked, Roosevelt took no steps to return money to other corporations that had written sizable checks of their own.[59] The reality was that Roosevelt believed corporate contributions to political funds were appropriate as long as they were not bribes or exacted under duress.[60] Far from an avid campaign finance reformer the likes of Chandler, Roosevelt in his 1904 campaign embodied the very corporate financing evils that so many people found particularly outrageous.

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[56] Doris Kearns Goodwin, *The Bully Pulpit: Theodore Roosevelt, William Howard Taft, and the Golden Age of Journalism* (New York: Simon and Schuster, 2013), 417.

[57] "Corporations Forbidden to Make Campaign Contributions," *Austin Statesman*, January 28, 1907.

[58] Michael Wolraich, *Unreasonable Men: Theodore Roosevelt and the Republican Rebels Who Created Progressive Politics* (New York: Palgrave Macmillan, 2014), 26. It was not uncommon for Republicans to return particularly large campaign contributions. Senator Albert J. Beveridge, a Republican from Indiana, returned three separate checks—together amounting to $57,500—in his 1904 reelection campaign. John Braeman, *Albert J. Beveridge: American Nationalist* (Chicago: University of Chicago Press, 1971), 223-24.

[59] Edmund Morris, *Theodore Rex* (New York: Modern Library, 2001), 361-62.

[60] Mutch, *Buying the Vote*, 55. In adopting this stance, Roosevelt undoubtedly harbored a motive of self-interest. Even if the corporate contributions did not buy victory in 1904, they undoubtedly helped his cause. "The Motive of the Mutual's Campaign Contributions," *New York Press*, October 12, 1905.

Even after the campaign finance scandal erupted a year later, Roosevelt never emerged as a champion of remedial legislation, only calling for a corporate contribution prohibition once political forces demanded it. Following the Armstrong Committee disclosures, the President could no longer avoid broaching the issue that inflamed public discourse. In his December 5, 1905 annual message to Congress, Roosevelt stated that "[a]ll contributions by corporations to any political committee or for any political purpose should be forbidden by law."[61] But despite the seemingly strong recommendation, context-aware contemporaries had reason to question the President's conviction. Just two weeks earlier, the *Nation* associated Roosevelt with an "unholy alliance" between politicians and businessmen and contended that only an outright endorsement of a prohibition would begin to "both clear his own skirts and do the country a service."[62] While historians have disagreed on what exactly motivated Roosevelt to call for a corporate contribution ban, many argue that he was far from a true believer in the reform. According to Adam Winkler, a combination of his own campaign scandal and the Armstrong Committee disclosures "shamed" Roosevelt into finally calling for the legislation.[63] For his own part, Robert Mutch notes how Roosevelt defended corporate contributions in private and that political necessity, rather than personal conviction, primarily fueled his delayed endorsement of a prohibition.[64] Like many of his fellow

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[61] Theodore Roosevelt, "Fifth Annual Message," December 5, 1905, *The American Presidency Project*.
[62] "The Unholy Alliance," *Nation* 81 (November 23, 1905), 415.
[63] Adam Winkler, "The Corporation in Election Law," *Loyola of Los Angeles Law Review* 32 (1999), 1247. Kurt Hohenstein takes a different side, contending that Roosevelt came out strongly in favor of the law. Kurt Hohenstein, *Coining Corruption: The Making of the American Campaign Finance System* (DeKalb, Northern Illinois University Press, 2007), 71.
[64] Mutch, *Buying the Vote*, 54-56. Compare New York Governor Frank Higgins, who in his January 3, 1906 address to the New York legislature went a step further than Roosevelt, calling the practice of corporate political contributions "morally, as well as legally, wrong." Frank W.

Republicans, Roosevelt was reluctant to do away with a reliable and lucrative source of campaign funds.

Indeed, Roosevelt faced considerable questions regarding his credibility and earnestness on the subject of corporate political contributions. The President remained unconvinced by the arguments of men like Chandler who advocated returning government from its capture by corporations to the hands of the people. Less than a week after endorsing a contribution ban in his annual message, Roosevelt clashed with Chandler, the architect of the very reform effort he supposedly supported. According to Chandler, Roosevelt objected to Chandler's use of the term "infernal" to describe corporate campaign contributions. Chandler tersely informed the President that he found "nothing which would make pertinent a suggestion that I should be careful about comparisons and use moderation in statement" with regard to money in elections.[65] Even as he called for reform, then, Roosevelt never embraced the popular motivation actually driving the reform. Nevertheless, some onlookers were quick to credit Roosevelt with facilitating the Tillman Act's passage. After the favorable congressional vote, the *Cincinnati Enquirer* published a story with the headline, "Goaded: By the Roosevelt Prod the House Passes Bill Against Campaign Contributions."[66] During the prior House debate, one congressman stated that "[Roosevelt] has recommended the passage of this

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Higgins, "Special Message to the Legislature," in *Messages from the Governors* (New York: J. B. Lyon, 1909), 846-47.

[65] Chandler to Theodore Roosevelt, December 9, 1905, William E. Chandler Papers.

[66] "Goaded: By the Roosevelt Prod the House Passes Bill Against Campaign Contributions," *Cincinnati Enquirer*, January 22, 1907. Roosevelt's second public endorsement of the bill came early in his 1906 annual message, once its passage was all but assured. Theodore Roosevelt, "Sixth Annual Message," December 3, 1906, *The American Presidency Project*.

bill, and I assume that all my Republican friends will vote for it for that reason."[67] But the reality was that Roosevelt never entirely embraced a ban on corporate political contributions. While the President's public support undoubtedly helped push the bill forward, mechanisms of reform were already churning before Roosevelt found himself forced into taking reluctant, delayed, and limited action. The result was that those demanding sweeping legislation received little meaningful backing from the leader of the Republican Party, thus blunting the intensity of a reform impulse in Congress.

The ample incentive for many politicians to preserve the existing fundraising system, along with a reluctant Roosevelt's tepid endorsement, combined to create a distinct lack of enthusiasm within the congressional Republican majority for comprehensive reform. To be sure, many considered a prohibition of corporate campaign contributions inevitable. But the ruling forces in Congress were never fully on board with the fervent public and business calls to end the practice. As a result, in translating the popular urge for reform into a concrete statute, the Republican Congress took deliberate steps to shape the legislation in accordance with its own interests and incentives. The political process thus featured a conservative distortion in producing the Tillman Act, which ultimately failed to fully satisfy the demands that reformers, newspapers, and business executives advocated in the months following the fall of 1905.

In early 1906, Senator Tillman introduced a broad campaign finance bill designed to roll back the influence of corporate contributions in elections throughout the nation.

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[67] U.S. Congress, *Congressional Record*, 59th Cong., January 21, 1907, 1453-54. One early history of corrupt practice legislation also portrayed Roosevelt's "powerful influence" as critical to the Tillman Act's passage. See Sikes, *State and Federal Corrupt-Practices Legislation*, 190-91.

The proposed legislation had two parts. The first prohibited "any national bank, or any corporation engaged in interstate or foreign commerce, or any corporation organized by authority of any laws of Congress" from making "a money contribution in connection with any election to a political office."[68] Considerably far reaching, this clause would have prohibited contributions to even state and local campaign and party funds from all but the smallest corporations.[69] The second part of the law operated at the federal level, banning any corporation whatever from spending money in connection with an election to the United States Congress.[70] If enacted in this form, the Tillman Act would have significantly revised campaign finance law at all electoral levels.

During its journey through Congress, however, the scope of the Tillman Act became significantly narrower, thereby limiting the legislation's reach and weakening its ability to generate widespread reform. The crucial moment came when the bill was under preliminary consideration in the Senate Committee on Privileges and Elections. Senator Joseph Foraker, committee chairman and Republican from Ohio, reported on April 27, 1906 that the bill had cleared his committee unanimously. But Foraker had amended the legislation in several ways, one of them quite glaring: the Republican chairman struck the phrase "or any corporation engaged in interstate or foreign commerce" from the first

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[68] U.S. Congress, "Money Contributions of Corporations in Connection with Political Elections," *Senate Committee on Privileges and Elections*, 59th Cong., April 27, 1906.
[69] If passed in this form, the Tillman Act likely would have drawn an early court challenge on the grounds of an unconstitutional extension of Congress's power under the Commerce Clause. As Eric Claeys describes, Progressives relied upon the Commerce Clause to justify a host of ambitious government regulations. See Eric R. Claeys, "The Living Commerce Clause: Federalism in Progressive Political Theory and the Commerce Clause after *Lopez* and *Morrison,*" *William & Mary Bill of Rights Journal* 11 (2002), 412-23.
[70] This provision was soon amended to include presidential elections in addition to congressional races.

part.[71] Under the revised bill, only national banks or congressionally chartered corporations would be prohibited from making political contributions in all elections. While banned from donating in races for federal offices, the vast majority of corporations could still employ monetary contributions at the state level. Thus, Foraker's revision had sweeping effects. When Foraker brought the new bill to the Senate floor on May 22, one Democrat voiced surprise at the change submitted without any explanation: "It seems to me that the parts stricken out are the most important parts of the bill."[72] Foraker's amendment remained intact when Roosevelt signed the Tillman Act into law eight months later, ensuring that the legislation fell short of the ardent hopes of reformers to eradicate corporate campaign contributions throughout the United States.

At its core, the decision to narrow the scope of the Tillman Act revolved around an effort to preserve elements of a favorable campaign finance system for political incumbents. Throughout Washington, D.C., Foraker bore the reputation of a man beholden to corporate interests; Roosevelt once called him "one of the most unblushing servers and beneficiaries of corporate wealth within or without office that I have ever met."[73] Like many of his Republican colleagues, Foraker benefited extensively from corporate donations to campaign funds, a reality that drove the senator's revisions of the Tillman Act. Significantly, by preserving corporate funding for state parties and state legislators—who in turn elected U.S. senators—Foraker ensured the survival of a

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[71] U.S. Congress, "Money Contributions of Corporations in Connection with Political Elections." Despite Tillman's sponsorship of the bill, the amendment process lay in the hands of Foraker and the Republican majority.
[72] U.S. Congress, *Congressional Record*, 59th Cong., May 22, 1906, 7213.
[73] Morris, *Theodore Rex*, 459. Prior to his Senate election, Foraker operated as legal counsel for various large corporations and trusts, and he continued such work even while in office. Everett Walters, *Joseph Benson Foraker, An Uncompromising Republican* (Columbus: Ohio History Press, 1948), 251-54.

substantial link between Congress and corporate campaign funds. As written, the Tillman Act also spared branches of larger companies that operated within a single state from any regulation with respect to non-federal elections.[74] Foraker never explained why he submitted his key amendment. But the answer, at least to his peers, was obvious. As Chandler described, Foraker dispensed with “the prohibition against corporations engaged in interstate or foreign commerce so as to allow railroads to continue their political contributions.”[75] By narrowing the corporations to which the Tillman Act applied—especially with regard to contributions in state and local elections—Foraker significantly scaled back the outcome of the reform. The result was the survival of aspects of the campaign finance system that operated in the interests of Foraker and his fellow Republicans.

Aware that campaign contributions did not cast their party in a favorable light, Republicans went to lengths to ensure the bill’s progression and amendment process were as far removed from the public eye as possible.[76] Foraker best illustrated this impulse in his dealings with the Tillman Act on the Senate floor. For instance, on May 22, 1906, the Ohio Republican attempted to slip the bill through the Senate in the middle of a weightier discussion concerning railroad rates. Clearly unwilling to examine the specifics of the legislation for the Senate record, Foraker twice warned the floor, “If there is any delay, I will withdraw it.” When Senator Malcolm Patterson, a Democrat from Tennessee, raised questions about the amendment process, Foraker replied tersely: “If the Secretary will

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[74] La Raja, *Small Change*, 50-51.
[75] Chandler to Perry Belmont, April 12, 1907, William E. Chandler Papers.
[76] La Raja, *Small Change*, 51. I could only find one brief newspaper bulletin announcing the bill’s clearance of Foraker’s Committee on Privileges and Elections: “Campaign Contribution Bill,” *Wall Street Journal*, April 28, 1906.

read the report, I think it will give the Senator all the information necessary."[77] Upon Patterson's persistence, Foraker quickly withdrew the bill from consideration. The entire episode was conducted quietly; the next day's papers contained no mention of the encounter.[78] Foraker finally succeeded in slipping the bill through the Senate several weeks later, avoiding any floor discussion besides a favorable vote.[79] Though this time there did exist subsequent press coverage, many articles merely reported the bill's passage without any substantive comment.[80] In the end, Foraker's critical scope-reducing amendment seemed to go unnoticed beyond Congress. Not once did the press mention the subtle yet significant moves undertaken to scale back the sweep of the legislation. The Republican majority thus quietly limited the effect of the Tillman Act, discreetly altering the ambitious vision of reformers to suit its own political purposes.

The far-reaching revisions of Foraker, however, were not the only means by which entrenched Republicans preserved certain elements of an advantageous corporate contribution system. While clear and direct in its language, the Tillman Act lacked a viable mechanism to enforce its prohibition. The law, which ran only four sentences in length, failed to clarify how government would actually detect violations. In the absence of a formal investigation, no regulatory agency had the ability to track contributions to party or campaign funds, rendering adequate enforcement essentially impossible.[81] Twenty-five years after the Tillman Act's passage, one political scientist articulated the

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[77] U.S. Congress, *Congressional Record*, 59th Cong., May 22, 1906, 7213.

[78] Coincidentally, the *Boston Daily Globe* ran a story the following morning on a completely separate subject, alleging Foraker had "deliberately chosen to represent the corporations rather than the people." "Republicans Score Foraker," *Boston Daily Globe*, May 23, 1906.

[79] U.S. Congress, *Congressional Record*, 59th Cong., June 9, 1906, 8162-63.

[80] For example, see "Campaign Fund Bill," *New York Tribune*, June 10, 1906; "No More Fat to be Fried," *Baltimore Sun*, June 10, 1906; "Punished By Fine," *Boston Daily Globe*, June 10, 1906.

[81] Mutch, *Buying the Vote*, 49-50. The Federal Election Commission was not established until 1975.

difference between enacting a campaign finance law and actually ensuring its obedience: "The problem of the control of money in elections is, of course, largely a problem in the enforcement of whatever scheme of regulation is determined upon."[82] With the Tillman Act, the Republican-controlled Congress did not attempt to include any scheme of regulation whatsoever.

This shortcoming in enforcement was evident to people working on and observing the Tillman Act from the moment of its introduction. In March 1906, one Tillman correspondent voiced his doubts concerning the proposed bill's effectiveness when corporations and politicians so carefully hid their exchanges: "Can an adequate remedy be devised, or enforced against such contributing offenders, without specific prior evidence of the methods of such offenders?"[83] This concern, however, went unaddressed over the next ten months. In the eventual House debate, Democratic Representative John Gaines highlighted the troubling absence of a regulatory mechanism for reporting contributions: "The honest man who will tell the truth is at some disadvantage by comparison with the persons who are not so conscientious."[84] Gaines had lamented a week earlier the insufficient power of the court system in combating the evils of money in politics.[85] Despite the lack of an effective enforcement mechanism, the Tillman Act cleared the House of Representatives on January 21, 1907. Upon its passage, the *San Francisco Chronicle* adopted a particularly critical stance on what it considered decisive shortcomings in the legislation. Its shrewd editorial suggested that Congress may have

[82] Overacker, *Money in Elections*, 313.
[83] James W. Breen to Tillman, March 17, 1906, William E. Chandler Papers.
[84] U.S. Congress, *Congressional Record*, 59th Cong., January 21, 1907, 1455.
[85] U.S. Congress, "Money Contributions of Corporations in Connection with Political Elections," *House Elections Committee*, 59th Cong., January 15, 1907.

acted deliberately in failing to provide adequate enforcement: “If the law is what is to be inferred from that summary, it has been passed in order that it might not be obeyed.”[86]

Beyond a lack of enforcement, the inadequacy of the penalties for violation of the Tillman Act further reflected a Congress unwilling to fully embrace the desire of reformers to eradicate corporate political contributions. In its final form, the Tillman Act stated that businesses caught making illegal campaign contributions would face a fine of up to $5,000, with knowledgeable officers and directors looking at their own $1,000 penalties.[87] These consequences were relatively mild for some of the nation’s largest corporations, and several publications were quick to cast doubt upon their effectiveness.[88] The *New York Times*, for instance, wrote that “a fine might not be a sufficient deterrent” since they “are easily paid.”[89] Taking as an example a corporation with a dozen officers, the *Baltimore Sun* reasoned that “there are many great organizations of capital in the United States to which $17,000 is a mere bagatelle compared with the value of the benefits which they derive from certain legislation.”[90] In other words, the reward of securing favorable electoral outcomes could outweigh the risks of paying a meager fine.[91] The law also did nothing to prohibit politicians themselves from soliciting corporate

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[86] “Political Contributions,” *San Francisco Chronicle*, January 23, 1907.
[87] U.S. Congress, *Congressional Record*, 59th Cong., January 21, 1907, 1451. The fact that the Tillman Act only allowed for fines to “officers and directors” was itself a limitation. As Chandler pointed out, the law “exempted consenting stockholders and employees other than officers and directors from penalties.” Chandler to Perry Belmont, April 12, 1907, William E. Chandler Papers.
[88] John Thomas Noonan, *Bribes* (Berkeley: University of California Press, 1987), 626.
[89] “Corporations in Politics,” *New York Times*, January 23, 1907.
[90] “The Senate Bill Prohibiting Corporations from Giving to Political Campaigns,” *Baltimore Sun*, June 11, 1906.
[91] This perspective, of course, did not consider the damaging public hostility a corporation risked in making political contributions or the reasons they were inclined to support an end to the practice, as described in Chapter Two.

contributions, despite popular entreaties for the inclusion of such a provision.[92] Prior to the Tillman Act's passage, representatives amended the bill to include the potential for imprisonment of corporate offenders for up to one year. As one editorial claimed, "[t]here will be few attempts to evade a law which provides a jail sentence for those who do not obey it."[93] While this addition no doubt gave the bill more bite, the reality was that imprisonment represented only one of several possible options at a court's disposal. Indeed, there was considerable reason to doubt the implementation of the harshest penalties, which were not automatic and depended on discovery of wrongdoing in the first place.[94] In the end, the consequences for violations of the Tillman Act did not reflect the urgency of advocates for campaign finance reform. When it came to corporate political contributions, politicians in power had entirely different interests in mind.

One of the most glaring shortcomings of the Tillman Act was Congress's failure to guard against monetary contributions from individuals within a corporation. The result was a conspicuous loophole in the final version of the law. While corporations were prohibited from contributing to federal campaigns, individual businessmen within those very corporations were free to behave as they pleased. In 1910, one scholar explained how businesses and politicians could discreetly skirt the law: "A corporation may secretly direct one of its officials to make a large contribution with the understanding that the money is to be returned to him later, concealed, it may be, in the price paid for some property which he sells the corporation."[95] This was not a novel discovery; it was clear by

[92] "Corporate Absolutism," *Nation* 81 (September 28, 1905), 253.
[93] "The Senate Bill Prohibiting Corporations from Giving to Political Campaigns," *Baltimore Sun*, June 11, 1906.
[94] Overacker, *Money in Elections*, 314.
[95] Robert C. Brooks, *Corruption in American Politics and Life* (New York: Dodd, Mead, 1910), 246.

the Tillman Act's passage that there existed ways to evade its prohibitions. One newspaper claimed that "nothing" in the legislation would "prevent any man or corporation from contributing to a campaign fund if it is to his interest to do so."[96] Another paper explained how corporations were free to "double [an official's] salary without a word being said about his contributing half of it to a political committee."[97] Under such logic, a top executive could personally contribute to a campaign fund, accept a corporate reimbursement, and face effectively no risk of federal prosecution—the whole time sharing a (sometimes not so) tacit understanding with the recipient that the money had corporate origins.

Failure to check this mechanism once again reflected congressional neglect to fully eradicate the practice of corporate political contributions. Problems surrounding contributions from individuals within corporations appeared in conversation among lawmakers even prior to the Tillman Act's introduction. In late 1904, longtime Republican Senator Orville H. Platt voiced his concerns to Chandler on the issue: "'Corporation' is a very elastic word…. You certainly cannot draw the line between a corporation, as such, and individuals who are members of it."[98] Congress made no tangible effort to address this point, and the resulting deficiency of the Tillman Act was unmistakable to incumbent politicians. As one Democrat complained moments before the law's passage, "[T]he same [prohibition] ought to be enforced against the individual as against the corporation."[99] Yet the Tillman Act made no attempt to defend against—or even to discourage—its evasion through political contributions from members of

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96 "The Senate Bill Prohibiting Corporations from Giving to Political Campaigns," *Baltimore Sun*, June 11, 1906.
97 "Political Contributions," *San Francisco Chronicle*, January 23, 1907.
98 Orville H. Platt to Chandler, November 9, 1904, William E. Chandler Papers.
99 U.S. Congress, *Congressional Record*, 59th Cong., January 21, 1907, 1452.

corporations.[100] The simple reality was that there existed no practical distinction between a contribution from a corporate treasury and contributions from the very individuals who controlled it. By declining to address this critical point—of which representatives were clearly aware—Congress preserved a channel by which parties and candidates could seek corporate money for campaign funds, thus defying the spirit but not the letter of the Tillman Act.

Even after scaling back the strength of the legislation in various fashions, the Republican congressional majority remained so unenthusiastic about the reform that it strategically delayed the Tillman Act's passage. Hoping to preserve their fundraising advantages for one more election cycle, incumbent Republicans declined to enact the legislation prior to the November 1906 midterm elections. The delay did not come as a surprise to some congressional observers. Upon the bill's clearance of the Senate in June, Tillman himself told the *New York Times* that he did not believe the House would pass anything before the upcoming elections.[101] Concurring with Tillman's assessment, one trade journal explained how politicians understood "that it will be difficult to get funds during the coming contest" if the Tillman Act became immediate law.[102] Chandler, too, remarked upon how the "exigencies of another political campaign" contributed to the six-month delay between the legislation's passage in the Senate and House.[103] No change

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[100] James Albert Woodburn, *Political Parties and Party Problems in the United States* (New York: Knickerbocker Press, 1914), 410-11; Pollock, *Party Campaign Funds*, 136. According to one 1920s political scientist, "It is easy, moreover, for a gift from a corporation to be disguised as a gift from an individual." Sikes, *State and Federal Corrupt-Practices Legislation*, 192.
[101] "Senators Ignore Tillman's Attack," *New York Times*, June 19, 1906.
[102] "Campaign Contributions," *United States Investor* 17 (June 16, 1906), 910. The *St. Louis Post-Dispatch* agreed, arguing that "its passage will seriously affect the political campaign committees in securing contributions for the coming congressional campaign." "Campaign Gift Bill in House," *St. Louis Post-Dispatch*, June 12, 1906.
[103] Chandler to Perry Belmont, April 12, 1907, William E. Chandler Papers.

occurred in the widespread support for the measure from 1906 to early 1907. Rather, the decision to postpone the Tillman Act stemmed from a partisan desire to secure for party managers one more cycle to bolster their war chests with corporate funds. The deferral of the law's enactment represented the culmination of a months-long congressional effort to roll back the effectiveness of the Tillman Act and the reform effort it purported to embody.

While Congress took steps to preserve elements of the corporate fundraising system, the Tillman Act nevertheless succeeded in reducing the frequency and extent of corporate political contributions. This effect was most pronounced in the 1908 presidential and congressional elections. If 1904 represented a high point in corporate money pouring into campaign funds, the 1908 season was the polar opposite. The Tillman Act culled corporate contributions during this cycle, significantly reducing the pervasiveness of a practice that had been on the rise for three decades.[104] Fundraising reports released after the 1908 campaign showed that neither the Republican nor Democratic National Committee accepted contributions of any amount from corporations or checks exceeding $10,000 from any individual.[105] Campaign and party managers also altered their fundraising strategies to compete effectively given the new federal standards.

[104] Richard L. McCormick, *From Realignment to Reform: Political Change in New York State, 1893-1910* (Ithaca: Cornell University Press, 1981), 216.
[105] Perley Orman Ray, *An Introduction to Political Parties and Practical Politics* (New York: Scribner's Sons, 1913), 223-24. Both parties voluntarily agreed to publish their election fundraising reports, marking what Ray described in 1913 as a "keen and unusual competition in political virtue."

In addition to assessing candidates and officeholders, parties began to more actively court small donors rather than rely on large sums from the financial elite.[106]

These developments fulfilled the expectations of a number of contemporaries. Once it became clear the Tillman Act would eventually pass, the *Washington Post* asserted that the "one thing against which the candidates and their managers will be most careful to guard will be the giving of cause for charges of corrupt use of money."[107] Similarly, one congressman claimed that the Tillman Act would "remedy an evil which has been very much complained of in the country."[108] Some of the adjustments in fundraising practices beginning in 1908 necessarily stemmed from fears of a hostile public reaction to discoveries of continued corporate campaign funding. But the Tillman Act managed to at least somewhat reduce corporate bankrolling of campaigns and overall expenditures in subsequent election cycles, despite its enforceability challenges.[109] At the conclusion of the 1908 campaign, a political scientist adopted a decidedly optimistic view that the problem of corporate political contributions had been contained: "It is highly improbable, therefore, that…corporations are likely to run the risks of penal law frequently in order that they may bestow their surplus wealth upon party organisations."[110]

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[106] Pollock, *Party Campaign Funds*, 112; Mutch, *Buying the Vote*, 65-67, 95.
[107] "Cash in Campaigns," *Washington Post*, June 9, 1906. The editorial also correctly predicted that "there will be much less money expended in 1908 than there has been in any of the past five or six campaigns."
[108] U.S. Congress, *Congressional Record*, 59th Cong., January 21, 1907, 1452.
[109] Richard McCormick argues that the Tillman Act "drastically reduced" secret election funds that had skyrocketed in prior decades. Other scholars, such as Melvin Urofsky, contend that the Tillman Act's effectiveness is more difficult to assess. McCormick, *From Realignment to Reform*, 216; Melvin I. Urofsky, *Money and Free Speech: Campaign Finance Reform and the Courts* (Lawrence: University Press of Kansas, 2005), 15.
[110] Brooks, *Corruption in American Politics and Life*, 247.

To a significant extent, however, such optimism was misplaced, as some politicians and party officials took advantage of the Tillman Act's weaknesses and loopholes to continue seeking campaign funds from corporations. The legislation's limited scope and enforceability problems combined to leave the door open for corporate contributions in ensuing elections. Once the reform surge abated and the subject faded from popular discourse following 1907, politicians gradually became more comfortable raising campaign funds from corporations once again. Large contributions from wealthy individuals and money originating from businesses eventually stabilized at a point hovering between the 1904 and 1908 extremes.[111] Some foresaw a failure in the Tillman Act's effectiveness from the beginning, including one newspaper that predicted "[s]uch corrupt practices will not stop suddenly."[112] During the House of Representatives debate over the legislation, one congressman voiced skepticism regarding its effectiveness in combating corruption: "I shall vote for the bill, and I shall do so simply…to help give the American people an opportunity to test the thing which, in my judgment, will be a total and significant failure."[113]

Such perspectives proved prescient, at least to some degree, as the Tillman Act by no means eliminated corporate political contributions from the nation's campaign finance system. Parties and candidates continued to seek and receive donations from corporations and their wealthy members after the first decade of the 20th century.[114] Politicians and

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[111] Mutch, *Buying the Vote*, 76, 95.
[112] "Law and Corruption Funds," *St. Louis Post-Dispatch*, June 13, 1906.
[113] U.S. Congress, *Congressional Record*, 59th Cong., January 21, 1907, 1455.
[114] In 1912, for instance, the Democratic National Committee appealed to New York businessman August Belmont, requesting the financial and organizing assistance of the "loyal and influential Democrat." In addition, George Thayer finds that pro- and anti-liquor forces spent considerable sums fighting the "drys" and the "wets"; the Pennsylvania Brewers Association funneled nearly $922,000 to political candidates between 1912 and 1916. T. P. Gore to August Belmont,

businesses went to lengths to conceal such payments—most notably by having company officers contribute individually to campaign funds in the name of the company.[115] One corporation from Ohio was known to engage in this very practice, reimbursing several executives for their donations with bonus checks.[116] Through such methods—which blurred to near futility any remaining distinction between contributions from corporations and payments from their leading executives—business money in politics persisted. The Tillman Act may have been passed with the stated intent of ending widespread corporate campaign contributions. Indeed, the reform movement fueling the law demanded as much. But the practical effect of the legislation was much more limited, falling short of the calls of reformers for the elimination of what they considered a contemptible feature of the American campaign finance system.

The limited effect of the Tillman Act, coupled with an appreciation of the deliberate moves undertaken to scale back the law during the political process, revealed the Progressive Era bill to be an instance of small, narrow change. Reformers began with high hopes for remedial legislation on the subject of corporate political contributions. As soon as the issue came to light in September 1905, the *Nation* captured these grand objectives: "The whole miserable business, however, must be ended…. [I]t must be made unlawful for corporations to make, or for party agents to solicit from them, campaign subscriptions."[117] Yet the Tillman Act ultimately came to represent only one modest

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September 25, 1912, Belmont Family Papers, Columbia University; George Thayer, *Who Shakes the Money Tree? American Campaign Financing Practices from 1789 to the Present* (New York: Simon and Schuster, 1973), 55-65.

[115] For some corporations, the supply of goods and services to politicians replaced money following the Tillman Act's passage. Herbert E. Alexander, *Financing Politics: Money, Elections, and Political Reform* (Washington, D.C.: CQ Quarterly, 1992), 24.

[116] Overacker, *Money in Elections*, 335.

[117] "Corporate Absolutism," *Nation* 81 (September 28, 1905), 253.

move toward that ambitious end. The *New York Times*, for example, characterized the law as "the first step, and therefore an important step, toward abridging the influence in politics of powerful organized interests."[118] The marginal legislative change typified by the Tillman Act reflected a larger trend throughout the Progressive Era. As Richard McCormick argues, early 20th century reformers time and again attempted to push through legislation so hastily that the outcome ended up being more conservative than their original hopes. For McCormick, rushed drives for reform often yielded incomplete legislative remedies that paled in comparison to initial demands.[119]

The Tillman Act thus represented an episode in which the goals of reform differed significantly from the results of reform. It bears emphasizing that the host of groups pushing for legislative action on the subject of corporate political contributions held different, often conflicting objectives. While popular forces supported a prohibition to combat a business-government relationship of corruption, the corporate community pursued a contribution ban to further its financial interests. And while reformers such as William Chandler invoked ideals of government responsive to the individual, Southern Democrats such as Ben Tillman harbored partisan and regional motives. The push for the Tillman Act was never as simple as a battle between the "interests" and the "people," as Samuel Hays characterizes prevailing historical interpretations of the Progressive Era. Rather, Hays argues, the diverse aims among varied groups demanding government regulation could have the effect of derailing unified, powerful drives for reform.[120] With regard to the Tillman Act, the absence of this singular motivation across advocates for remedial legislation—combined with a lack of enthusiasm from the powerful Republican

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[118] "Corporations in Politics," *New York Times*, January 23, 1907.
[119] McCormick, "The Discovery that Business Corrupts Politics," 128-29.
[120] Hays, *The Response to Industrialism*, 192-95.

Party—ensured that the final bill fell far short of initial hopes.[121] In the end, the results of reform seemed divorced from the visions of those who pushed for it, reflecting the distinct constraints such movements faced when attempting to upend established structures that operated in the interests of political elites.

Herein lay the true triumph of conservative politicians who benefited from corporate contributions: While shaping reform to their own advantage, lawmakers simultaneously succeeded in satisfying intense public pressure for legislative redress. A number of Progressive Era scholars have emphasized the importance of scandals in generating necessary momentum for legislative action on various subjects.[122] In turn, the scandal triggered by the Armstrong Committee hearings inflamed and consolidated public pressure for a remedy regarding corporate campaign contributions. Given such pressure, many conservative Republicans felt obliged to support a bill they personally opposed. According to the *Washington Post*, the Tillman Act's passage was effectively assured because public pressure left representatives with no choice: "No man in Congress dare say a word in opposition to it; no man in Congress dare vote against it."[123] When

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[121] Maureen Flanagan argues that the Progressive Era witnessed a divide between what reformers wanted and the lessons that individuals in control (in the case of the Tillman Act, the Republican congressional coalition) ultimately applied. For his own part, Hays establishes a distinction between political ideology and political practice in the Progressive Era. Middle class rhetoric often bore no relation to what reformers advocated in the political realm and what was actually accomplished. Flanagan, *America Reformed*, 159; Samuel P. Hays, "The Politics of Reform in Municipal Government in the Progressive Era," *Pacific Northwest Quarterly* 55 (1964), 158, 169.

[122] Gabriel Kolko argues that the scandal generated by the Armstrong Committee created an opportunity for Congress to pacify the public through "Progressive" federal life insurance regulations. Richard McCormick contends that scandal-driven investigations helped reveal the workings of corrupt business-government alliances and provide necessary stimulation for change. For his own part, Mutch credits "scandal-reform cycles" for producing a number of 20th century campaign finance laws. Gabriel Kolko, *The Triumph of Conservatism: A Reinterpretation of American History, 1900-1916* (New York: Free Press of Glencoe, 1963), 94-97; McCormick, *From Realignment to Reform*, 203; Mutch, *Buying the Vote*, 33.

[123] "Is It Lost in the Shuffle?" *Washington Post*, June 28, 1906. See also "Politicians in a Hole: Oppose It, but Dare Not Vote It Down," *Detroit Free Press*, June 12, 1906.

politicians did oppose it, their hands were often tied. One such Republican stated plainly, "I apprehend that the House will pass the bill, and there is no use of my protesting against it."[124] Even amidst warnings that the legislation had its limits, the general reaction to the Tillman Act was by no means critical. To the contrary, after the bill passed the Senate, one newspaper claimed that "public conscience" had triumphed and "publicity will have done its perfect work."[125] The legislation on paper seemed a significant intervention in the nation's campaign finance system; it was, after all, boldly introduced as "a bill to prohibit corporations from making money contributions in connection with political elections."[126] Lawmakers had thus succeeded in satisfying the basic public and business desire for a congressional response.[127] Yet even as they met this popular urge, unenthusiastic congressmen successfully fashioned a conservative solution that quietly preserved channels for corporate money to influence politics in years to come. The initial high hopes of reformers were subordinated to the imperatives of a powerful political class.

Fundamentally, the political process that produced the Tillman Act witnessed members of Congress co-opt an avid reform sentiment, seizing its initiative and tempering it to fit their own interests and more moderate ends. The verbal calls for

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[124] U.S. Congress, *Congressional Record*, 59th Cong., January 21, 1907, 1452. Mutch cites political science research showing that members often voted according to their constituents' positions even when they personally disagreed. Mutch, *Buying the Vote*, 49, 235.
[125] "Law and Corruption Funds," *St. Louis Post-Dispatch*, June 13, 1906.
[126] U.S. Congress, *Congressional Record*, 59th Cong., January 21, 1907, 1451.
[127] According to Richard McCormick, the attention of Progressive Era reformers often waned when it became time to discuss corrective legislation, rather than the provocative abuses that originally sparked concerns. Muckrakers and reformers tended to accept remedies that were insufficient to fully address the problems at hand. Along similar lines, Raymond La Raja argues that while scandals could serve as a catalyst, they were hardly ever sufficient for bringing about political reform, especially regarding campaign finance. McCormick, "The Discovery that Business Corrupts Politics," 129-30; La Raja, *Small Change*, 11.

remedy on the subject of corporate political contributions that intensified in late 1905 bore little likeness to the limited solution that powerful, controlling forces ultimately fashioned. Originally featuring a far-reaching vision from individuals across the social and economic spectrum, the Progressive Era reform effort ended on January 26, 1907 with an unsatisfying thud. The intervention of conservative forces along the pathway to the Tillman Act's passage considerably weakened the product of the popular surge, causing it to serve an entirely different constituency. Rather than representing a thorough victory for the individual citizen—for government of, by, and for the people—the Tillman Act epitomized the potential for systemic limits to dampen an initially ambitious attempt at reform. The modest outcome of the first significant challenge to the United States campaign finance system reflected the difficulty of achieving meaningful political change when the interests of empowered forces lay decidedly with the status quo.

Conclusion

Follow the Green: Big Money and Responsive Politics

Moments before the passage of the Tillman Act, Representative Joseph Robinson captured the incomplete nature of the proposed reform. "It is a step in the right direction," the Democrat contended, "but it does not go far enough."[1] If Robinson expected at some moment the full elimination of corporate money in politics, however, he would still be waiting. In the years after 1907, Congress repeatedly declined to make dramatic interventions in the nation's campaign finance system, instead opting for occasional, incremental legislation. One example came in 1910, when Congress passed a law requiring public disclosure of receipts and expenditures in House elections, extending the act to cover Senate races the following year. Decades later, the 1971 Federal Election Campaign Act and subsequent amendments represented perhaps the most significant alteration to the nation's campaign finance system, codifying a presidential public funding system and finally establishing an enforcement mechanism through the Federal Election Commission.[2] Since the early 1970s, present law has developed through an extended interplay between Congress and the Supreme Court. While corporations are barred from contributing directly to political candidates or parties from their general treasuries, they nevertheless play an outsized role in the political system through

[1] U.S. Congress, *Congressional Record*, 59th Cong., January 21, 1907, 1452.
[2] See Raymond J. La Raja, *Small Change: Money, Political Parties, and Campaign Finance Reform* (Ann Arbor: University of Michigan Press, 2008), 42-80 for a condensed account of the course of American campaign finance regulation.

independent expenditures and political action committee contributions.[3] Ultimately, the grand effort to eradicate corporate money in politics was never realized. The promise that reformers so optimistically exuded beginning in late 1905 did not translate to reality.

Despite the Tillman Act's strong initial billing, the dominant Republican congressional majority ensured that the legislation did not significantly revise the role of corporations in the nation's campaign finance system. The law's critical shortcomings—from a failure to contain individual businessman contributions to a neglect to establish an enforcement mechanism—reinforced the notion that the Tillman Act was far from transformative. Reformers initially seeking to fundamentally rethink campaign fundraising in the United States were stymied by conservative political elites who had other intentions. The Tillman Act's minimal, incremental, and imperfect change had the effect of scaling back the involvement of corporations in political finance, rather than eradicating it. Though corporate money in American elections was temporarily threatened, Congress never advanced a serious attempt to do away with it completely.[4]

The significance of the Tillman Act, however, lies not in what it did or did not accomplish, but rather in the process by which a united, concerted, and resonant reform effort produced a law that paled in comparison to the demands of its widespread advocates. On a subject that directly concerned its interests, Congress faced a pair of conflicting incentives: responding to the persistent calls of middle class citizens,

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[3] Today, corporations possess the ability to make direct political contributions through PACs, a reality fundamentally at odds with the prohibition of the Tillman Act. Ted Nace, *Gangs of America: The Rise of Corporate Power and the Disabling of Democracy* (San Francisco: Berrett-Koehler, 2003), 149.

[4] According to Richard Hofstadter, the actual results of Progressive reform, in many cases, did not significantly alter the status quo. To the extent that there remained channels for corporate money to enter politics after January 1907, the Tillman Act reflected Hofstadter's interpretation. Richard Hofstadter, *The Age of Reform: From Bryan to F.D.R.* (New York: Vintage Books, 1955), 16-19, 133-34.

newspapers, and businesses for reform, or maintaining a corporate contribution practice that operated in the interests of a majority of its members. The solution manifested itself in the final version of the Tillman Act. While outwardly fulfilling the desires of constituents, the legislation in reality quietly rolled back an ambitious reform urge and preserved the core elements of a favorable fundraising system. Congress, the ultimate gatekeeper for reform movements, had absorbed a sweeping vision and produced something markedly different.

Viewed from this perspective, the Tillman Act becomes far more than a singular piece of outdated legislation of questionable consequence. No longer can it serve as a mere footnote in works of history, lucky to escape an editor's cutting room floor. Its story becomes valuable to scholars of campaign finance, revealing the importance of partisan motivations and financial incentives in dictating outcomes of federal reform.[5] Analyses of popular perspectives and business views do not necessarily yield reasonable expectations for the results of legislative processes. Such was decidedly the case with the Tillman Act. Moreover, the origins of the Tillman Act yield insight into the potential for alternative drivers of reform in Progressive Era literature, which so often neglects to include any discussion of the law. Just as a surge of vibrant, persistent public pressure never achieved its intended ambitious ends, so too did the business community fail to shape the legislation through the political process in accordance with its economic objectives. To the contrary, the Tillman Act represented an account of politicians benefiting at the expense—quite literally—of the middle class population and business forces. The latter

[5] La Raja seeks to explain 20th century campaign finance legislation in terms of a battle over electoral resources—mainly, money and influence—between political parties. La Raja, *Small Change*, 10-11.

two coalitions, so often depicted as pivotal engines of Progressive Era reform, suddenly seemed quite powerless.

Finally, and most broadly, the Tillman Act embodied the potential for empowered political forces to act not in the united interests of an affiliated constituency, but rather in their *own* interests. Gary Gerstle hints at this point in his recent study of American government, advancing an intriguing framework concerning the historical relationship between the federal government and the private sector.[6] In order to unleash new avenues of potential or carry out otherwise infeasible tasks, the state at times adopted a strategy of "privatization," entailing the reliance upon private groups to perform functions normally reserved to the government.[7] Similarly, in order to compete in an electoral system that mushroomed in cost and complexity throughout the 19th century, political parties became reliant upon large sources of private wealth to fund their vital functions. While benefiting both participants in the exchange, this public-private interdependence had a cost: the corruption of the integrity of the American democratic process.[8]

This very phenomenon was on display from the moment Congress began grappling with the Tillman Act. Thoroughly dependent on large corporate campaign contributions, members of Congress and the political parties they represented simply could not afford to do away with a fundraising practice that put them—and kept them—in power. This fundamental reliance on the private sector ensured that democracy could not properly operate. Despite a resounding public mandate in favor of decisive campaign finance reform, Congress found itself able to take only limited, feeble action. The

[6] Gary Gerstle, *Liberty and Coercion: The Paradox of American Government from the Founding to the Present* (Princeton: Princeton University Press, 2015).
[7] These functions could include, for example, construction of a railroad line or a highway system.
[8] Gerstle, *Liberty and Coercion*, 107-18, 154-55.

weakness of the Tillman Act represented a consequence of the porous boundaries between the state and the private sector: the state could not divorce itself from deeply-rooted ties to private wealth, around which the nation's campaign finance system had come to revolve.

Indeed, the political process that produced the Tillman Act reflected a distinct lack of autonomy for popular forces and coalitions. The financial dependence of candidates and parties upon entrenched forces of economic power—networks of corporate campaign contributions—dramatically lessened the prospects of success for any far-reaching reform effort. Accordingly, the broader consequences of this anti-democratic reality of American politics extend and resonate far beyond the subject of the Tillman Act and the setting of the Progressive Era. As long as elected officials, political parties, and interested donors remain mutually dependent upon large amounts of private money, the lessons of the Tillman Act—both its promises and failings—will remain relevant.

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