

When Antitrust Decided Presidential Elections

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1912: Wilson, Roosevelt, Taft & Debs – The Election That Changed the Country
James Chace (\$25.95 Simon & Schuster: New York 2004)

It is hard to believe that antitrust was once the stuff that decided Presidential elections in the United States. And yet the four way race of 1912 turned in large part on precisely this issue. James Chace focuses on this race and highlights the issue of competition and competition law as a campaign issue in his history of the 1912 election which resulted in the Woodrow Wilson's victory, at that point only the second Democrat to win the White House since the Civil War.

The 1912 election was historic in many ways. The incumbent Republican William Howard Taft was a learned lawyer, jurist, and the hand-picked successor to Theodore Roosevelt who retired after two terms in office.¹ Taft had never wanted to be president but had reluctantly bowed to pressure from both his wife and from Roosevelt who wanted an heir to carry on his progressive tradition. Taft had always preferred being a lawyer and a judge and his only real ambition was to serve on the Supreme Court, an ambition that would only be fulfilled until the 1920s. In his earlier life as a federal appellate judge, Taft had authored the landmark antitrust ruling in the *Addyston Pipe* case establishing the ancillary restraint rule that survives largely intact to this day. As President, he had enforced the Sherman Act more vigorously than Roosevelt who had earned the reputation of being a trustbuster, despite being more ambivalent about the antitrust laws than his reputation suggested.

Despite having instituted the famous *Northern Securities* and *Standard Oil* cases, Roosevelt was not a believer in unfettered economic competition. He believed that free competition was a thing of the past and, for the good of the country and the modern economy, the law should distinguish between good trusts and bad trusts based on how they treated their competition, their customers, and their workers. For example, the author sets out why Taft chose to prosecute US Steel although Roosevelt did not, although Roosevelt later maintained that he would have in fact brought the case if he had not been lied to by the industry leaders at the time.

Following his retirement from office, Roosevelt became increasingly convinced that Taft had

¹ Although two terms in office was not yet constitutionally mandated, it was the custom changed only by Franklin Roosevelt's unprecedented four terms in office during the Great Depression and World War II and the subsequent constitutional amendment restoring the two term limitation.

betrayed his Progressive roots and become the lackey of the business establishment. When Roosevelt was denied the Republican nomination for President, he formed a new Progressive Party calling for a “New Nationalism” which included acceptance, but regulation, of the trusts as part of a broader agenda of national governmental activism for social welfare and justice.

Wilson meanwhile was a first term governor of New Jersey and previously President of Princeton University. He was a recent convert to progressive causes and was heavily influenced by Louis Brandeis who had a well thought out philosophy on antitrust and competition. Wilson became the unlikely Democrat nominee on the 46th ballot of his party’s convention and laid out a platform calling for a “New Freedom,” in order to contrast himself from his Republican and third-party opponents. The “New Freedom” was aimed both against Roosevelt and Taft by calling for amendments to strength the antitrust laws, more vigorous enforcement of the existing laws, and ridiculing Roosevelt’s distinction between good and bad trusts as a sell out to corporate interests.

The final piece of the puzzle was Eugene Debs, the national Union leader and perennial Socialist candidate. Debs, committed to both socialist and democratic principles, ignored antitrust as part of the overall capitalist system that he was seeking to change through union activity and electoral victory.

1912 lays out in a swift and often exciting manner how these four men campaigned across the country laying out their distinct visions for the American voter. In many ways, this was the first modern campaign in US presidential history with serious fund raising, mass marketing of the candidates, campaign surrogates, truth squads, and celebrity endorsers. In the end, the results were in many ways extraordinary. Roosevelt finished second, the strongest showing of a third party presidential candidate in US history, and Debs received approximately 6% of the vote, the highest percentage for a socialist presidential candidate in US history.

Obviously competition law issues were not the only issues in the campaign but they were arguably the most important, although later dwarfed by the beginning of World War I and America’s eventual entry into the war. But for a time, antitrust reigned supreme and the result was a Wilson victory and the enactment of both the Clayton Act and the Federal Trade Commission and the completion of the legal structure of modern competition law in the United States. *1912* tells that story and much more in a enjoyable, compact, and readable style.