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A “WEAPON IN THE HANDS OF THE PEOPLE”:  
THE RHETORICAL PRESIDENCY IN HISTORICAL  
AND CONCEPTUAL CONTEXT

ABSTRACT: *The Tulis thesis becomes even more powerful when the constitutional revolution he describes is put in its Progressive-Era context. The public had long demanded social reforms designed to curb or replace laissez-faire capitalism, which was seen as antithetical to the interests of ordinary working people. But popular demands for social reform went largely unmet until the 1910s. Democratizing political reforms, such as the rhetorical presidency, were designed to facilitate “change” by finally giving the public the power to enact social reforms. The resulting political order has created systemic pressure for policy demagoguery in place of rational deliberation. Mass political mobilization seems to be better achieved by contests of grand principle that pit the well-meaning supporters of obviously needed reforms against “villains and conspirators,” than by technical discussions of the possibly counterproductive effects of those reforms.*

We advocate, not as ends in themselves, but as weapons in the hands of the people, all governmental devices which will make the representatives of the people more easily and certainly responsible to the people’s will.

—Theodore Roosevelt (1912a, 120)

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No good American denies the desirability of popular sovereignty and of a government which should somehow represent the popular will. While our national institutions may not be the perfect embodiment of these doctrines, a decisive and a resolute popular majority has the power to alter American institutions and to give them a more immediately representative character.

—*Herbert Croly* ([1909] 1911, 24)

Only a very gross substance of concrete conception can make any impression on the minds of the masses. They must get their ideas very absolutely put, and are much readier to receive a half truth which they can promptly understand than a whole truth which has too many sides to be seen all at once.

—*Woodrow Wilson* ([1890] 1952, 20)

How did presidents come to be quasi-religious figures, who (if they are successful) spark the zeal of millions with their “visions for the future” and their “dreams of a better country”? How is it that these high-minded aspirations never seem to be fulfilled, that the cynicism of dashed “hope” afflicts each new generation? Why is the politics of “idealism” shadowed by the “politics of personal destruction”?

*The Rhetorical Presidency*, by Jeffrey K. Tulis, is an essential starting point for answering such questions. It is one of the two or three most important and perceptive works written by a political scientist during the twentieth century, and it is the one that may help the most to explain the pathological aspects of modern politics—not only in the United States, but in all social democracies. It is an honor to present a special issue marking (a bit late) the twentieth anniversary of its publication. I thank Tulis and the other symposiasts for agreeing to look back over the course of two decades to see what we have learned since his book first appeared.

Each paper is self-contained and accessible to non-specialists. So rather than summarizing them, I will provide a conceptual outline of the book, emphasizing the rhetorical “logic” that animates contemporary politics. I will also provide some historical context, not for the book itself, but for the two moments it contrasts against each other: the advent of the U.S. Constitution at the end of the eighteenth century; and, at the beginning of the twentieth century, the “layering” of a new constitution on top of the old one.

It is inconceivable that Tulis would completely agree with my reading of his book, which, like all readings, is shaped by my own normative, positive, and historical views. Those who are provoked by what I write

should, therefore, read *The Rhetorical Presidency* and form their own ideas. They won't regret it.

### *The Quaint Old Constitution, and the Strange New One*

Successful works of literature are said to “estrangle” the reader by making the familiar seem unfamiliar. By this standard (and others), *The Rhetorical Presidency* is a smashing literary success. It underscores the strangeness of our own political practices simply by showing that things used to be very different—and by explaining why. In analyzing the constitutional logic of long-abandoned practices, Tulis calls into question the logic of the practices that have replaced them.

Thus, Tulis (1987, 48) finds it interesting, rather than quaint, that, after being inaugurated outdoors, George Washington moved inside to deliver his first presidential speech “to a select audience of congressmen and dignitaries,” whom he addressed as “Fellow Citizens of the Senate and House of Representatives.” Similarly, he wonders why Washington’s second inaugural speech—which the president *did* address to his fellow American citizens, as a contemporary president would—was only two paragraphs long (*ibid.*, 49). In trying to make sense of such “antiquated” practices, Tulis (1987, 65) also notices that while eighteenth- and nineteenth-century presidents, including Washington, did not hesitate to address the public *per se*, the vast majority of these speeches “were very brief ‘thank-you’ remarks” responding “to welcoming greetings” given to a president when he traveled around the country. What was missing from presidential interaction with the public were speeches proposing or attacking public policies or their proponents.

Such speeches, of course, are what we have come to expect of presidents and presidential candidates. We expect “vision,” and the vision must be backed with “substance.” The substance—the “beef”—consists of policy proposals, an “agenda of change” to solve public problems. Campaigns are supposed to be about “the issues,” i.e., the public problems that are thought to demand action; so the candidates are supposed to have “positions” on those issues, meaning “plans” to solve the problems. These plans are to be enacted if we, the voters, support the politicians who advocate them.

Tulis traces these now-ordinary expectations to the extraordinary presidencies of Theodore Roosevelt and Woodrow Wilson, who,

respectively, overturned the delicate customs of Washington and his successors, and then normalized the newly “rhetorical” presidency. Wilson, according to Tulis, deliberately set out to make the populist practices of Roosevelt permanent. Instead of refraining from public defense of his policy goals, *à la* Washington, the Wilsonian president is supposed to rally the public to exert pressure on Congress to pass problem-solving legislation, on pain of electoral backlash if it does not. This model of politics has so obscured the old view that, when we find earlier presidents reluctant to discuss public policy with the public, we find it incomprehensible—or we did, before Tulis came along.

Thus, Washington made but one public address—his Farewell Address—that “attempted to provide policy direction” (Tulis 1987, 68). Tulis (1987, Table 3.2, col. 7) finds no similar presidential communications to the public until the mid-nineteenth century. Even then, only Abraham Lincoln, Andrew Johnson, and Benjamin Harrison actually attacked or defended “a specific legislative proposal” (*ibid.*, col. 10).

Tulis’s most memorable illustration of his thesis, in fact, concerns Johnson, the only president to be impeached prior to Bill Clinton. Clinton’s “high crimes and misdemeanors” were perjury and obstruction of justice. And what were Johnson’s transgressions? *Inter alia*, according to the tenth Article of Impeachment (quoted in Tulis 1987, 91), Johnson

did . . . make and deliver with a loud voice certain intemperate, inflammatory, and scandalous harangues . . . [which,] highly censurable in any, are peculiarly indecent and unbecoming in the Chief Magistrate of the United States, by means whereof . . . Andrew Johnson has brought the high office of the President of the United States into contempt, ridicule, and disgrace, to the great scandal of all good citizens.

In short, Johnson’s behavior was considered unconstitutional, according to Tulis (1987, 89), because he used inadmissible rhetoric, rhetoric that damaged “the deliberative process as a whole.”

One may infer two senses in which this was the case. First, Johnson addressed policy matters emotionally rather than rationally; reason is usually considered the essence of deliberation. And second, Johnson’s policy appeals were directed to *the people*—who, in the Founding view, tend to be inherently incapable of rational deliberation about legislation.

Rational deliberation, in Tulis’s interpretation of the pre-Wilsonian Constitution, is what *Congress* is for. The legislature, not the general public, was expected to decide ordinary policy issues. When Wilson revolutionized the presidency, therefore, he also initiated a fundamentally

new distribution of political powers and responsibilities, which Tulis calls the “second constitution.”

Within the constraints of the first constitution, presidents were not allowed to do what we now expect them to do: inspire us to endorse their legislative agendas. Consequently, old-style presidential speeches tend to sound, to modern ears, either trivial or trite. This is because presidents restricted themselves to inconsequential formalities when they were not abstractly invoking constitutional principles that seem, to us, to be “mere rhetoric.” By violating these customs, Johnson crossed the boundary between the first constitution and what turned out—half a century later—to be the second.

Tulis concedes that, in his rhetorical technique, Johnson violated even the few constraints that most modern presidents observe in trying to rally public opinion. Johnson went so far as to call his congressional opponents traitors; most presidents, hemmed in by the expectations of statesmanlike, above-the-fray behavior emanating from the never-repealed first constitution, would not stoop so low. But while the first constitution is still there, the second one is dominant. Tulis (1987, 93) points out, then, that “while it is safe to surmise that Johnson’s fiery demagoguery would be considered improper even today, the *purpose* of his speech[es], to rouse public opinion in support of his policy initiatives in Congress, illegitimate in his time, has become acceptable, even commonplace, in ours.”

Not just acceptable and commonplace, but universally *expected and demanded*:

Today it is taken for granted that presidents have a *duty* constantly to defend themselves publicly, to promote policy initiatives nationwide, and to inspire the population. And for many, this presidential “function” is not one duty among many, but rather the heart of the presidency—its essential task. (Tulis 1987, 4)

Our pre-twentieth-century polity proscribed the rhetorical presidency as ardently as we prescribe it. (Ibid., 5)

Eleven years after Tulis published these words, it was revealed that President Clinton had probably perjured himself. This news happened to come out just a week before he was to deliver the 1998 State of the Union address. During that week there was much speculation about whether, having apparently committed a felony, Clinton might feel unable to face Congress and, through television, the American people. If he could not do so, it was widely assumed, he would have to resign

(Chadwick 2006)—because he would have failed in his constitutional obligation “from time to time [to] give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient.” In short, the “State of the Union” provision of the U.S. Constitution had now, in Wilson’s wake, come to be interpreted as *requiring* the president to appear in person, not only before Congress but before the general public—so as to inspire the latter to pressure the former into supporting a list of presidential policy goals (cf. Tulis 1987, 133). *Failure* to engage in the very behavior that was once considered grounds for impeachment was now considered grounds for resignation. Completing the irony, Clinton went on to save his presidency with a rousing State of the Union address in which he secured public favor by sternly demanding that Congress “save Social Security.”

### *The First Constitution and the Administrative Republic*

Tulis’s analysis of the first constitution’s informal proscriptions against policy rhetoric can be extended to formal institutions, too. The Electoral College; the selection of U.S. senators by state legislatures; the presidential nomination, and senatorial confirmation, of Supreme Court justices, and their life tenure; the division of the legislature into two houses; the presidential veto; and, therefore, the obstacle course run by any proposed national legislation: all of these can be seen as “brakes upon” the translation of public opinion into law (Tulis 1987, 35).

The overall effect, according to Tulis, is to sequester ordinary policy disputes from public debate. “The day-to-day conduct of governance” (Tulis 1987, 126) was to be entrusted to the president and Congress, not the people; and this is the situation that Wilson overturned, injecting the people directly into congressional deliberation by way of presidential leadership of public opinion. Congress was, according to Tulis (1987, 42), a specially constructed deliberative body; and the president was also supposed to be deliberative in his relationship with Congress, engaging in written dialogues with the legislature that are now unknown (*ibid.*, 55–59). The Founders thought that the public, removed from such structured deliberative processes, would be *incompetent* to deliberate rationally about ordinary policy issues. Thus, although “State of the Union” addresses, for example, would be publicly available in print, “to the

extent that the people read these speeches, they would be called upon to raise their understanding to the level of deliberative speech” (ibid.).

If, instead of using the force of argument, the president were to bully Congress with the club of public opinion—as Wilson came to prescribe—it would contradict the deliberative function of both the legislative and the executive branch. And were the president to rally the public in order to make his bullying credible, he would undermine perhaps the most important purpose of the Constitution: “to circumscribe politics, to narrow the public sphere” (Tulis 1987, 32, *emph. added*).

Thus, Alexander Hamilton had defended the Constitution as establishing “a politics of ‘administration,’ distinguishing it from the traditional politics of disputed ends.” The latter, Hamilton averred, threatened

“anarchy, civil war, a perpetual alienation of the states from each other, and perhaps the military despotism of a victorious demagogue.” Hamilton argued that the adoption of the Constitution would settle these perennially divisive questions for Americans, replacing those questions with smaller, less contentious issues. . . . If politics were transformed and narrowed in this way, thought Hamilton, demagogues would be deprived of part of their once-powerful arsenal of rhetorical weapons because certain topics would be rendered illegitimate for public discussion. (Tulis 1987, 31, 30–31)

Tulis (1987, 31) follows the once-standard view<sup>1</sup> that the topics to be removed from the public arena were those that threatened the Founders’ classical-liberal agenda. The politics of administration would render “the limited purposes of government (security, prosperity, and the protection of rights)” beyond dispute, giving “effect to the distinction between public and private life.” But this does not explain why the Federalists favored such an *undemocratic* post-Founding constitutional regime. Given the initial objective of sequestering the liberal *ends* of government from daily political dispute through the act of Founding itself, we can readily imagine a democratic, post-Founding “administrative” republic in which the people would be heavily involved in selecting the public-policy *means* for achieving those ends. We can readily imagine it, because it is the type of republic that we have all grown up under. It is precisely the populist form of administrative politics that, according to Tulis, Wilson institutionalized.

In Tulis’s view, Wilson made ordinary the extraordinary use of demagoguery resorted to, *in extremis*, by Theodore Roosevelt—who had been trying to defend the liberal constitutional order against socialist

revolution. To illustrate TR's "middle way" between the first and the second constitution, Tulis focuses on TR's barnstorming campaign in favor of the Hepburn Act, which strengthened the Interstate Commerce Commission's power over the railroads. The Hepburn Act, Tulis (1987, 101) writes, was TR's response to—and his attempt to end—"regime-level debate" about "the fundamental question of the relation of rich and poor." Railroad regulation "was perceived to be a moral issue" that raised "fundamental" questions, not administrative ones (*ibid.*, 102). In other words, TR believed that the original Founding had now failed in its mission of squelching

great debates over fundamental principles—for example, over the question whether to promote interests in the first place. Great questions were the stuff of crisis politics, and the founders placed much hope in securing the distinction between crisis and normal political life. (*Ibid.*, 126)

In response to this constitutional crisis, TR used demagogic rhetoric—but only, Tulis (1987, 111) argues, so as to end the crisis, thereby "moderat[ing] demagoguery." He felt that he had to be a demagogue if he was going to defend the liberal order against worse (socialist) demagogues, who "appeal[ed] to passion to exploit division" — the division between rich and poor (*ibid.*, 112). A constitutional "refounding" was needed to meet this crisis, and to do the job, Roosevelt "adopted a rhetoric of alarm and exaggeration—that is, of untruth" (*ibid.*). But his aim was to "restor[e] the administrative republic."

Wilson upset TR's appletart. He justified TR's extraordinary use of prerogative rhetorical power "with a new theory that would make popular [presidential] rhetoric routine" (Tulis 1987, 116). Wilson turned TR's "bully pulpit" into the main device of everyday politics, and this legacy structures *our* everyday politics.

Wilson's "new way" is fundamentally at odds with the premise of the old one: the premise that the public is incompetent to debate *either* "fundamental" matters of principle *or* "technical" administrative questions (Tulis 1987, 126). Under the first constitution, questions of principle were removed from politics altogether; if fundamental issues arose, it would mean that a constitutional crisis was occurring. Normally, however, all politics would be a matter of choosing the most effective policies for achieving generally accepted (liberal) goals. Such choices were too technical to lend themselves to competent public decision, and were therefore to be made—deliberatively—by Congress and the president. But under the

second constitution, the distinction between fundamental and technical questions is effaced. Indeed, the public is encouraged to view technical questions themselves as “major contests of principle” (ibid.). All politics therefore has a tendency to be—or to try to be—“crisis politics” (ibid., 181). The problems to be solved by some new law must be made to seem *urgent*, and the proposed law must be made to seem a panacea, if the public is to be mobilized to back the new law. Consequently, the rhetoric of everyday politics is now characterized by alarm and exaggeration—that is, of untruth. “The rhetorical presidency enhances the tendency to define issues in terms of the needs of persuasion rather than to develop a discourse suitable for the illumination and exploration of real issues” (ibid., 179).

Tulis (1987, 181) admires the second constitution’s capacity for popular mobilization, which he thinks is needed to address real crises, such as the Great Depression. But he concludes that, all things considered, “the rhetorical presidency is more deleterious than beneficial to American politics,” because its normalization of crisis politics leads to the overhyping of political urgency and, in turn, to crisis fatigue and political disillusionment; to the “manipulat[ion of] popular passions” rather than to real “political debate” (ibid., 188); and to the oversimplified analysis of social problems, generating unwise and, again, ultimately disillusioning policy responses.

### *Public Incompetence under the Articles of Confederation*

The story Tulis tells is original, profound, disturbing, and complicated. (Of necessity, I have left out many subtleties and implications.) Tulis challenges his readers, and not just at the level of making them question their blithe acceptance of contemporary political practices.

In particular, Tulis takes his readers’ historical knowledge for granted, omitting very much mention of the context of the Founding or of Wilson’s constitutional revolution. Of course, “historical context” is always a matter of interpretation. “The facts” never speak for themselves. Tulis might disagree, then, with the following attempt to supply the missing historical contexts.

The first context, I believe, was created by the Articles of Confederation, which the Constitution replaced. It seems clear that the Founders thought that under the Articles, popular legislation about “technical” issues had been tried, and had failed.

The worst examples tended to be in the field of economic policy. The most common forms of popular economic policy were currency inflation and *ex post facto* debt-relief laws. (Currency inflation achieved debt relief, too, by making the money a debtor paid back worth less than the money he had been lent.) These laws had undesirable “technical” consequences. “Public faith and private confidence were being destroyed by paper money and *ex post facto* legislation. Who would lend money, it was repeatedly asked, ‘if an omnipotent legislature can set aside contracts ratified by the sanction of law?’” (Wood 1969, 406). The intention of debt relief and currency inflation was to improve the lot of debtors. But the unintended consequence was to hurt debtors and creditors alike, by depriving the latter of their incentive to lend to the former. The position of debtors would be improved if they could pay back loans at more advantageous terms than they contracted for—but not if, as a result of the legislative imposition of more advantageous terms, there were no loans to be had.

James Madison said in 1786 that under the Articles, “‘lack of *wisdom* and *steadiness* in legislation’ . . . was ‘the grievance complained of in all our republics’” (Wood 1969, 406). “Lack of steadiness” meant that the public could be “capricious and arbitrary” (*ibid.*), or inconstant. But “lack of wisdom” seems to have referred to two things: the illiberal ends that the public sometimes sought; and the unintended consequences even of popular policies that were aimed at legitimate ends. The problem, then, was that the people were incompetent to make decisions about either ends or means.

Just as, in Tulis’s view, Theodore Roosevelt perceived a constitutional crisis that required a refounding, the Founders themselves were reacting to a constitutional crisis that “brought ‘into question the fundamental principle of republican Government, that the majority who rule in such governments are the safest Guardians both of public Good and private rights’” (Wood 1969, 410, quoting Madison). This was the constitutional problem posed by politics under the Articles of Confederation.

Yet what could be done? In 1786 a New Jersey critic of this majoritarian tyranny had argued that there were occasions when the legislature must ignore the voice of its constituents. “A virtuous legislature will not, cannot listen to any proposition, however popular, that came within the description of being unjust, impolitic or unnecessary.” “Then we are not a republican government,” was the formidable reply, “for the evident signification thereof is that the people (the majority of the people) bear

rule, and it is for them to determine whether a proposition is unjust, impolitic, and unnecessary or not.” (Ibid., 411, *emph. removed*)

The Constitution was an attempt to create a version of republican government that would not be so democratic that it resulted either in popular but illiberal ends being pursued, or in popular but counterproductive means to good ends being legislated. Hence, in Federalist 51, the famous conclusion that in the new United States, “a coalition of the majority of the whole society could seldom take place on any other principles than those of justice and the general good.” Democracy would be retained, but limited and thereby defanged.

“The course of the debates over the Constitution,” writes Gordon Wood (1969, 494),

seemed to confirm what the Federalists had believed all along. . . . The opponents of the Constitution . . . were essentially identical with those who were responsible for the evils the states were suffering from in the [1780s]—“narrowminded politicians . . . under the influence of local views.” . . . “The real object of all their zeal in opposing the system,” agreed Madison, was to maintain “the supremacy of the State Legislatures,” with all that meant in the printing of money and the violation of contracts.

### *The President as Policy Demagogue*

Given this context, it is not surprising that, as Tulis (1987, 27) writes,

the founders worried especially about the danger that a powerful executive might pose to the system if [presidential] power were derived from the role of popular leader. For most federalists, “demagogue” and “popular leader” were synonyms, and nearly all references to popular leaders in their writings are pejorative.

A president who might be a leader of the whole people of the United States—one who could unite the fractious interests into one great majority—would bring back full-fledged democracy, but on a larger scale. Such a president could be a national demagogue, subservient to the “unsteady and unwise” popular sentiments that the Constitution tried to sequester.

In explaining what the Founders were afraid of, Tulis builds on a distinction proffered by James Ceaser (1979) between “hard” and “soft” demagoguery.

Nowadays—under the second constitution—“demagoguery” is an epithet almost exclusively used to describe the “hard” or divisive demagogue, who sets elements of the public against each other. The fear of *class* division under democracy goes back to Aristotle. Aristotle’s worry (shared, Tulis argues, by the Founders *before* the Constitution had been ratified) was that the more populous and impoverished class would tyrannize over the rich minority. Under the second constitution, however, we seek politicians who are “unifiers” not because we are afraid that otherwise, class conflict or despotism might break out, but because a divisive demagogue will undermine the popular unity *required for decisive government action*. “Change” cannot take place if the public is too divided to exert pressure on Congress to “get the people’s business done.” A president who can unify the people behind his “change agenda” is, therefore, considered a model politician—even though the Founders would have considered him merely a demagogue-in-chief.

Tulis (1987, 12) opens his book by discussing previous presidency scholarship, which he criticizes for displaying “institutional partisanship.” Institutional partisans evaluate modern presidents from the presidents’ own perspective: the perspective of their “‘effectiveness,’ understood as the long-term ability to accomplish whatever objectives presidents might have.” Institutionally partisan scholars, oblivious to the first constitution, take for granted the goodness of the second, so they measure a president against his *political* success in getting his agenda enacted—regardless of the wisdom of the agenda (because they do not pause to consider that a popular agenda might not be wise). From an institutionally partisan perspective, hard demagoguery may often be inadvisable, since “bringing people together” can be a more *effective* way to achieve a president’s objectives than dividing the public would be. The best way to get Congress to pass a president’s *problem-solving* agenda is to *unite* the people behind the legislation that will purportedly solve the problems. Thus, the president as public champion of problem-solving legislation is the center of the political universe created by the second constitution.

Legislation responsive to the force of unified public sentiment, rather than to the force of reasoned arguments, is exactly what the Founders were trying to avoid. Otherwise, their design for the *normal* politics that would follow the Founding would not have been so undemocratic: the creation of the administrative republic would itself, by definition, already have removed divisive and potentially violent questions of ends from the

table. When designing institutions for the day-to-day “administration” of the administrative republic, then, it would seem that the Founders’ chief concern must have been to proscribe “soft” demagoguery, which might unite the people behind legislation that is *intended* to achieve liberal ends, but that *inadvertently* fails to achieve them.

In general terms, soft demagoguery flatters the people “by claiming that they know what is best” (Ceaser 1979, 327, quoted in Tulis 1987, 28). That alone, like any flattery, might be distasteful. But it is nothing so worrisome as to warrant constitutional barriers against it. Hamilton expressed the real concern about soft demagoguery in Federalist 71:

It is a just observation that the people commonly *intend* the PUBLIC GOOD . . . . But their good sense would despise the adulator who should pretend that they always *reason right* about the *means* of promoting it. They know from experience that they sometimes err; and the wonder is that they so seldom err as they do, beset as they continually are by the wiles of parasites and sycophants, by the snares of the ambitious, the avaricious, the desperate, by the artifices of men who possess their confidence more than they deserve it, and of those who seek to possess rather than to deserve it. (Quoted, Tulis 1987, 29, *emph. original*)

One might note that, in this very public document, Hamilton was in the tricky position of trying to persuade the people of their own incompetence. So he himself engaged in soft demagoguery, blaming the people’s mistakes not on their ignorance or their faulty judgment, but on evil politicians who misled them: demagogues. For obvious reasons, this may be the only way in which the question of democratic incompetence can be publicly discussed in a democracy. Tulis (1987, 37, *emph. added*), however, free of the burden of trying to persuade a mass audience, connects Hamilton’s point about demagoguery to Madison’s concern about *policy failure*. “The ultimate reason for the rejection of ‘frequent popular appeals,’” Tulis writes, “is that they would undermine deliberation and result in *bad public policy*”—or what one of the greatest scholars of modern public opinion calls “technically stupid” public policy, grounded in the public’s ignorance of the best means to given ends (Zaller 1992, 331).<sup>2</sup>

As Tulis (1987, 37) puts it, “even a non-tyrannical majority may be a *foolish* one, preferring policies that do not further its interests.” Thus, while

the overriding concern about demagoguery in the extraordinary period before ratification of the Constitution was to prevent social disruption,

division, and possibly tyranny, the concerns expressed through the Constitution for normal times were broader: to create institutions that would be most likely to generate and execute good policy or be most likely to resist bad policy. (Ibid.)

### *The Triumph of the Will*

The policy demagogue is, from an institutionally partisan perspective, a “success”: he unites a big enough majority of the public to get their policy agenda enacted. But legislative measures demanded by an incompetent majority are unlikely to achieve the desired ends. The problems that were supposed to be solved by such measures will, despite their good intentions, persist; and new ones may unintentionally be spawned. Easy money, for example, is always popular, for the same reasons that it was popular under the Articles of Confederation. But it may produce consequences that run counter to the people’s intentions, just as it did back then.

*Policy failure* is not the same thing as *political failure*. Political failure is the inability to muster the resources to “get things done in Washington.” (A “do-nothing” Congress is, in effect, the perpetual foil of the rhetorical presidency.) Policy failure, by contrast, occurs when things *do* get done in Washington, but don’t achieve the intended results.

The second type of failure goes relatively unnoticed. It tends to be taken for granted that programs aimed at solving a problem really will solve it, as long as the programs are sufficiently comprehensive, well funded, and strictly enforced. Hence the importance of labeling bills by their intentions: the “Protect America Act,” the “No Child Left Behind Act,” the Humphrey–Hawkins “Full Employment Act.” Intending such goals is treated as akin to achieving them.

In the contemporary discourse of politics, the difficult thing—the part where hard-headed, ruthlessly “pragmatic” thinking is required—is not how to determine which policies to support, but “how to get from here to there”: how to get well-intended legislation passed, signed, funded, and enforced. Contemporary politics itself, in other words, is itself institutionally partisan. Perhaps a better term, though, is *systemically partisan*, since the equation of pragmatic problem-solving with pragmatic *politics* is now commonplace in Congress as well as among presidents, and among governors and state legislatures and municipal governments, too.

Thus, when contemporary politicians are criticized for being too “idealistic,” it is not meant that they unrealistically expect too much from well-intended *policies*, but that they expect too much from *politics*—if, for example, they think that high-flown “rhetoric” will get well-intended policies *enacted*. Pleasing “rhetoric,” in this view, will not dislodge the powerful forces that stand in the way of “common-sense solutions” to “the problems faced by ordinary people.” As Hillary Clinton (quoted in Higgins 2008) said, in her campaign against Barack Obama: “You can’t wave a magic wand and make the special interests disappear.” Thus, the *rhetorical articulation* of good intentions is thought equivalent to wishful thinking, unless it is coupled with an ability to fight ruthlessly to overcome resistance from people with *bad* (selfish) intentions: those who favor special interests, not the public interest.

The wishful thinking that is being condemned here is at the level of politics, not policy. What is rarely discussed is the possibility that even a carefully crafted, comprehensive, well-funded, and strictly enforced policy “plan,” once *enacted* (through a combination of high-minded rhetoric and tough-minded “politicking”), might unintentionally do more harm than good. Thus, Obama (quoted in Dionne 2008) responded to Clinton’s charge of wishful thinking by agreeing that “good intentions are not enough”—again, though, at the level of politics. At that level, good intentions must be “fortified with political will or political power” (*ibid.*). In short, good intentions are not enough to get well-intended legislation “successfully” enacted: *in addition* to good intentions, one needs political power. Political power might, as Clinton argued, issue from a well-intentioned politician’s own fierce will, if she is sufficiently determined to “fight for ordinary people.” But the requisite power might also be obtained by inspiring the *public’s* will through an infusion of “hope.” This would require overcoming the people’s “cynicism” *about politics* (not policy). One way to do this is to encourage people in the belief that, if they simply stand up for the new laws that are (obviously) needed, they will “make a difference”—by overwhelming with sheer force of numbers the forces of opposition to “change.” “The only way we will bring about real change in America,” Obama (2008) liked to say, “is if we can bring new people into the process, if we can attract young people, if we can attract independents, if we can stop fighting with Republicans and try to bring some of them over to our side.”

In this view, popular “unity” is not an end in itself. It is a means to the end of enacting “our side’s” policy agenda by getting more people to vote for it. This rationale for avoiding hard demagoguery displays a keen grasp of the change wrought by the rhetorical presidency—which can, at the risk of oversimplification, be summarized as having constitutionalized popular mobilization for “change.”

From the systemically partisan perspective, where popular mobilization is essential, “the change *is us*” not, as Obama was misconstrued to be saying, through some mysterious narcissistic alchemy, but as a matter of simple democratic politics. In a democracy, the majority wins—if it is big enough, and dogged enough, to overwhelm entrenched minorities. So if our side in the policy war isn’t winning, we must increase our numbers or stiffen our wills. Perhaps our numbers have been shrunk by political cynicism. Or perhaps a harsh tone or a rigid set of ideological demands has unnecessarily alienated potential recruits. Rousing rhetoric can solve the first problem, and civil rhetoric can solve the second, expanding our side’s numbers. If enough of “us” are thereby rallied to “participate in the process,” and if we are sufficiently determined, our policy agenda will eventually be enacted. In other words, “we are the ones we’ve been waiting for,” as long as our conception of our own political efficacy changes. If enough of us simply come to “believe” in the power of the majority to outvote the minority—no great leap of faith—then our belief will be self-executing, like any act of will. All we need do is vote for our rhetorical leader and then hold the legislature’s feet to the fire if it fails to do what he demands. As a matter of logic, the change in “us” will—if there are enough of us, and if we are determined enough—enact the policy “change” that we seek.

### *Economics, Political Science, and Deliberation*

A separate “pragmatic” question, however, is what policy changes we *should* seek.

In deciding among competing policy measures to advance a commonly accepted goal, the voter is, willy-nilly, being asked to consider the (possibly counterproductive) *consequences* of the different measures. Nobody wants debtors to suffer; but will their suffering be mitigated, or exacerbated, by easy money and the abrogation of contractual terms? Will military security be enhanced, or degraded, by a war on

a hostile state? Will deprivation be relieved, or entrenched, by a “war on poverty”? Will a given health-insurance “plan” inadvertently worsen people’s health by driving up costs, or by driving out new pharmaceuticals?<sup>3</sup> Answering such questions is an attempt to decide one’s will in one direction or another by *enlightening* oneself—not an attempt to *mobilize* one’s already “determined” will.

Taking action to solve a problem is irrational unless one has reason to think the action will succeed. So if one’s will is to be determined *rationaly*, germane information must be carefully and logically brought to bear on hypotheses about *which* action might solve the problem. Deliberation, not inspiration, is required. But deliberating is difficult, and the more complex the problem, the more difficult it is to deliberate well about its solution.

The main source of difficulty is, arguably, that each hypothesis about an action is a counterfactual. That is, it requires envisioning possible effects of an action that, not yet having occurred, are invisible. *Imagination* is therefore necessary. In the absence of imagination, counterfactual thinking will put a premium on what is easily envisioned. And only simple scenarios are easily envisioned; that is what makes them “simple,” to beings with minds shaped the way ours are.

One of the things that human beings seem to find “complicated” is that their actions may have results that contradict their intentions. Thus, serious thinking about “unintended consequences” didn’t get underway until 1714, when Bernard of Mandeville’s *Fable of the Bees* suggested that selfish actions might have altruistic results. The scandalized reaction to Mandeville suggests how *counterintuitive* this particular mode of counterfactual thinking was. Adam Smith expanded on Mandeville’s idea in *The Wealth of Nations* (1776), and there is no doubt that the Founders had read their Smith. On the other hand, most ordinary citizens had not read Smith in 1789, and they still haven’t. And at the “elite” level, Smith’s message has been so bowdlerized—especially by professional economists—that few scholars in other fields think it worthwhile to read Smith (or any other economist).

Perversely, while paying lip service to “unintended consequences,” professional economists have tended to equate *good* consequences with *selfishly* motivated actions—retaining the intuitive, easily envisioned link between intentions and results; but reversing the polarity of the outcome that we would intuitively expect. The real challenge posed by Smith, though, is more complicated. His idea is not that selfish

intentions always produce beneficent results; nor that, by some “law” of unintended consequences, altruistic intentions always produce counterproductive results. It is simply that actions *may have* unintended consequences, that people don’t necessarily *know* how their actions will turn out—so merely willing a good end may not suffice to achieve it.

Thus, Smith opened a path leading away from the classical and republican political theorists’ obsession with intentions. He did this by emphasizing human ignorance.<sup>4</sup> But post-Smithian economists have no place in their model for real ignorance (Friedman 2006, 491–97). Misinterpreting Smith as predicting that all people everywhere are always selfish, post-Smithian economists gravitated toward the idea that “incentives” can get people to do anything. Therefore, given enough “incentives” to “gather costly information,” *Homo economicus* would be able to overcome ignorance and accurately predict the consequences of his actions. And if sufficiently incentivized selfish people can unerringly know the best means to their ends, perhaps they should be left alone to do as they wish: “laissez faire.”

Woodrow Wilson was deeply involved in, and Theodore Roosevelt deeply influenced by, the reaction against late nineteenth-century American versions of this model. The American Economic Association (AEA) had, in 1885, split off from the American Social Science Association (ASSA) as part of a revolt against the “deductive,” “speculative,” hence un-“empirical” models of laissez-faire that had (previously) been hegemonic in the ASSA (Furner 1975, ch. 3; Ross 1991, 111; Gunnell 2006, 479).

The instigator of the revolt was Richard T. Ely, a Johns Hopkins and, later, University of Wisconsin professor whose graduate students included key figures in the future not only of economics, but of the other academic fields—history, sociology, and political science—that split off from the ASSA at the turn of the century. His pupils also included many influential political activists, a future editor of *The New York Times*, a future president of the University of Illinois—and Woodrow Wilson (Fine 1956, 239–40).<sup>5</sup> Under Ely’s guidance, Wilson repudiated the laissez-faire doctrines he had learned as an undergraduate at Princeton. In turn, one of Wilson’s students, W. W. Willoughby, became the driving force behind the new American Political Science Association (APSA). Wilson was among the first officers chosen by both the AEA and the APSA (Fine 1956, 276–77; Gunnell 2006, 481–82).

These disciplinary reactions against the old economics may have been intellectually necessary. But the fact that economists had botched the idea of unintended consequences doesn't mean that the possibility of unintended consequences should be overlooked.

Counterfactuals that are difficult to envision, however, are *easy* to overlook. Good counterfactual thinking is therefore a challenge. But a politics aimed at successfully mobilizing people's wills is unlikely to challenge their intellects. It is much easier to get people to act by portraying, or implying without saying, that the consequences of action will be (self-evidently) positive than to mention the possibility of unforeseen (difficult to envision) complications.

Almost by necessity, popularly endorsed policy measures will be intuitively credible to large numbers of people, but will not incorporate whatever it is that human beings happen to find "complex." Too much thinking about complexities would paralyze the will. This may be why human evolution has not displaced emotion with reason. A neocortex without a limbic system would endlessly deliberate about the possible consequences of action, and a creature that never acted would not long survive (cf. Westen 2007, 51). Thus, as a literal matter of anatomy, the neurological capacity for deliberation has been "layered" on top of the propensity to act unreflectively—i.e., instinctually.

It might then seem that the most "effective" way for a rhetorical politician to mobilize the voter would be to bypass the neocortex and go straight for the limbic system. However, emotional reactions are immediate and can, given the passage of time, be countermanded by the intellect. The public's "temporary delusions" can pass. And only by capitalizing on some crude dispositional action valence can the public be emotionally aroused to vote for a *particular* candidate, party, or policy measure in the first place. A commercial that associates one's opponent with the image of a frightening spider might work, but otherwise, a canny politician does well to engage the intellect in order to get the voter not only to vote, but to vote "the right way."

Engaging the intellect, however, does not require *challenging* it. One does better to appeal to the intellect's previously formed judgments: its culturally or neurologically generated biases. One such bias seems to be that good intentions will achieve good results.

Envisioning consequences that align with intentions does not take a lot of imagination. This bias—I dub it the "intentions heuristic"—reduces the political problem to a matter of sheer willpower: a matter,

that is, of *acting* on one's good intentions, and acting with enough *determination* that one won't be discouraged by political setbacks. A politician can activate this heuristic by demonstrating his or her own good intentions, by exhorting the voters to be altruistic, and by encouraging the assumption that the only thing standing in the way of good consequences is well-intentioned voters' "apathy." Such rhetorical appeals tend to *rule out* deliberation about possible unintended consequences—not by argument, but by assumption.

Opponents might object that the costs of the proposed measure outweigh the (visualized, intended) benefits. Here, too, the best course is to simplify, by counting only the easily visualized (and spuriously quantifiable) costs: tax dollars. If voters decide that according to their implicit hierarchies of value, the visible benefits of a measure exceed its visible costs, the only remaining problem will be the systemically partisan matter of getting the measure enacted and enforced. The net effect of such simplistic deliberation is to bracket the question of the *desirability* of the measure as being too obvious to warrant discussion.

As a practical matter, therefore, measures intended to achieve a certain end will tend to be treated as if they were ends in themselves. If a policy measure is equated with its intended consequences, then one favors the policy simply as a matter of the "values" that dispose one to favor those consequences. Thus, for example, the objective of universal, "quality" health care is portrayed as a "Democratic party value" (Clinton 2008), and that value is then equated with a particular Democratic candidate's health-care "plan." Those who are against the plan must have *different* values. They must either place an excessive value on the costs, meaning that they have different "priorities" than Democrats do; or they must be against solving the problem—meaning, again, that they have different priorities than Democrats do.

Rankings of ends are, like ends themselves, incapable of rational mediation.<sup>6</sup> This is why Max Weber (1918, 117) undisparagingly called values matters of "faith." A faith is what one believes is true, even though, by its very nature, it cannot be proven to be true.

This does not mean that there *is* no truth about values, or, for that matter, about the objects of religious faith. Mathematical axioms aren't provable either, but that doesn't make them any less true. "Ultimate ends" are, like mathematical axioms, faiths in the sense of being "self-evident truths." But like religious faiths, different people take different ultimate ends to be self-evidently true. These differences cannot be

rationally debated, which is why, in the end, politics is a matter of force.<sup>7</sup> In democratic politics, value differences are resolved through the imposition of the majority's will on the minority. This is why the object is to mobilize action, not to reason about which action to take.

### *The Politics of Intentions and the Tyranny of the Obvious*

Perceived value differences are potent mobilizing tools. Logically speaking, the opponent of one's "conception of the good" is a proponent of one's conception of the bad. It is even worse, though, if those on "the other side" *don't* admit that they have different values, or value priorities, than our side has.

For example, few of those who oppose "universal, quality" health-care proposals contend that it is a good thing, or a matter of indifference, that some people are devastated by the costs of medical care for a severe illness. So, on the surface at least, it would appear that the opponents share the ends of the proposals' proponents. But if the opponents don't discuss the proposals' allegedly counterproductive effects; or if they discuss them and fail to be heard, or to be understood; then those effects will remain invisible to the proponents. It seems to follow logically that the opponents, having no legitimate reason for opposition, must be *evil*—they must have malign intent. Why else would they oppose a measure that "we all know we have to see" enacted (Clinton 2008) if not because they are insensitive to the suffering that "we all know" the measure will stop?

The real division between us and them, therefore, *must be* between those who, like us, are "compassionate, moral, or progressive," and those who, like them, are "insensitive, selfish, or backward" (Tulis 1987, 29–30). Tulis counts such divisions, or perceived divisions, as evidence of hard demagoguery, but the divisiveness is inadvertent. The politicians who pronounce such divisions, and their followers, have little choice but to believe that their opponents are uncaring—given their own equation of their proposals with their compassionate intentions, and the absence of overt conflict over those intentions. If we all claim to agree about the ends, and no serious qualms about the actual effects of the means are acknowledged, then our opponents must be *lying* about their real ends. "The opponent has always to be explained, and the last explanation that we ever look for is that he sees a different set of facts" (Lippmann [1922] 1977, 82).

Antipathy of this sort will tend to flow in both directions. The opponents of the proposal, trapped in their own version of “the facts”—which they see not as an “interpretation” of the possibly counterproductive effects of the measure, but as an obvious truth—will attribute sinister motives to its *proponents*. Why else would they favor a measure that is so clearly bound to produce disastrous results? Since each side interprets its version of the facts as obviously true—as if it has been delivered by reality directly to their minds, without mediation by the selective perception and retention of “information”—it will be “almost impossible for them to credit each other with honesty” (Lippmann [1922] 1977, 82). “Out of the opposition,” therefore, “we make villains and conspiracies” (*ibid.*, 83).

Such polarization is, arguably, the main consequence of Wilson’s design. Tulis emphasizes that Wilson sought to elevate policy discussions “to the level of major contests of principle.” Wilson knew that otherwise, the press and the public would not pay attention (Tulis 1987, 126). Tulis does not go as far as to say so, but major contests of principle would seem to require objectives that are so self-evidently good as almost to be ends in themselves. They will, in short, come to resemble, or to be, moral crusades. Politicians who foster such crusades feed on *intellectual* tyranny: the tyranny of whatever “facts” about the current “crisis” seem to speak for themselves; the facts that are so “obviously” true and important that they demand action as a matter of principle.<sup>8</sup>

In this context, argument by anecdote naturally replaces argument by analysis, and the anecdotes that succeed will describe problems whose solutions seem so self-evident as to go unstated. Such anecdotes, in short, must contain a straightforward, intuitively plausible, but tacit *theory* about the way that, say, a modern industrial economy, or some other “complex” reality, works. Since “we do not see what our eyes are not accustomed to take into account,” we tend only to be “impressed by those facts which fit our philosophy. . . . This philosophy is a more or less organized series of images for describing the unseen world (Lippmann [1922] 1977, 78). The most persuasive policy demagogue, like the most persuasive politician in general, will so vividly “see” the imagery of his version of the truth that he won’t even recognize that it is a theory about a world that is, in fact, unseen (except anecdotally). Thus, Roosevelt (1912b, 316–17) reported,

I usually found that my interest in any given side of a question of justice was aroused by some concrete case. . . . My friends come from many walks

of life. The need for a workmen's compensation act was driven home to me by my knowing a brakeman who had lost his legs in an accident, and whose family was thereby at once reduced from self-respecting comfort to conditions that at one time became very dreadful. Of course, after coming across various concrete instances of this kind, I would begin to read up on the subject, and then I would get in touch with social workers and others who were experts and could acquaint me with what is vital in the matter. Looking back, it seems to me that I made my greatest strides forward while I was police commissioner [of New York], and this largely through my intimacy with Jacob Riis [the crusading photojournalist], for he opened all kinds of windows into the matter for me.

The anecdotal approach to social analysis can be found in any modern campaign. Was NAFTA a good thing? One candidate looks at booming towns along the Mexican border and says yes, while another looks at decrepit towns in the industrial Midwest and says no. Neither of them, however, can really weigh up the costs against the benefits, nor can either of them really tell whether the images they evoke were actually caused by NAFTA or by something else entirely. Knowing such things would require careful theorizing and data analysis of the sort that divides even the "experts."

The tyranny of the obvious suppresses the thought that the world may be too complicated to yield to amateur (or even expert)<sup>9</sup> analysis. Only in a very simple world would the public be able to use "common sense" to form an intelligent opinion about which policy, or policy-implementing candidate, or party, or "belief system" (Converse [1964] 2006) to endorse, or about which "experts" to trust. But modern politics constantly advertises that the world is just that simple, and is therefore legible to all of us, the citizen-social scientists empowered by the second constitution.

The illusion of legibility encourages both simplistic rhetoric and the simple division of politics into those who are so idealistic as to seek what is obviously right, and those who are so evil as to resist the righteous. But is the illusion of legibility, itself, an effect of the second constitution, or its cause?

### *Cultural Roots of the Second Constitution*

The second constitution was "adopted" at the height of the Progressive Era. Wilson, Roosevelt, and their supporters were all progressives.

Among the supporters were not only economists and political scientists,<sup>10</sup> but “an influential group of Progressive historians, led by such luminaries as Charles Beard, Frederick Jackson Turner, and Vernon Louis Parrington,” who “viewed American history as a continuing battle between capitalism and democracy” (Piereson 2007, 21, 18). (Beard, a former student of Ely, equated the Constitution with the class interests of the rich.) In talent and influence, however, the progressive historians, economists, and political scientists were more than matched by the progressive jurists, most notably Oliver Wendell Holmes, Learned Hand, and Louis Brandeis.

The progressive jurists sought to reinterpret the Constitution because, like the progressive economists, political scientists, and historians, they saw it as protecting laissez-faire capitalism against democratic reforms. “This generation contained a huge contingent of writers and activists who outspokenly disrespected the Constitution, which they viewed as a threat to, rather than the support for, American democracy” (Taylor 2004, 20). Holmes, Hand, and Brandeis were their intellectual leaders.

Shortly after its publication in 1910, Judge Hand sent Roosevelt a copy of Herbert Croly’s progressive manifesto, *The Promise of American Life*, which TR read so enthusiastically that it was widely credited with inspiring TR’s “New Nationalism,” his platform in the presidential campaign of 1912 (but see Forcey 1961, 127ff.). In turn, Wilson’s 1912 campaign theme, the “New Freedom,” grew out of long discussions with Brandeis (Chace 2004, 194–95), whom Wilson later appointed to the Supreme Court. There, Brandeis would often join Justice Holmes in dissenting from efforts to strike down progressive economic legislation as unconstitutional.

Tulis (1987, 105) alludes to the Progressive-Era context when he explains the popular clamor for railroad regulation that led to the Hepburn Act. “The high salience of railroad regulation was due in part to . . . very extensive media coverage, which pitted colorful ‘muckrakers’ against a well-endowed propaganda campaign engineered by the railroad industry.” However, the muckrakers easily won this contest, because they were telling the public “facts” that confirmed a theory that the public already took to be obvious. The public had assimilated this theory for decades: that big business was running amok, and needed to be curbed—by the people. Thomas L. Haskell (1977, 184) points out that “in denouncing pure laissez-faire theory,” Ely and his colleagues had not been “boldly attacking a still-strong citadel of orthodoxy, as they pretended, but merely capitalizing on a shift of mood that

was already underway and awaited articulation.” This shift had already occurred, among intellectuals, by 1885. Twenty-one years later, by the time TR pushed for the Hepburn Act, public opinion seems to have shifted as well.

The perception of a conflict between capitalism and democracy first came into wide American circulation after the Civil War, as shown by the popularity of utopian socialism.

Beginning with Bellamy’s *Looking Backward* in 1888—a book which influenced nearly every one of the muckrakers—utopian projections flourished until the end of the Progressive period, culminating in 1913 in Jeff Hayes’s *Paradise on Earth*. As one of the leading muckrakers, David Graham Phillips, summarized the source of this impulse for his age, the “Messiah-longing . . . has been the dream of the whole human race, toiling away in obscurity, exploited, fooled, despised.” (Martin 1973, 102)

In fact, Edward Bellamy did not yearn for a messiah. But he did yearn for a solution to “the sad effects of unrestrained capitalism upon the obscure toilers” (*ibid.*). His theory was that the problems of capitalism were caused by monopolistic businesses, and that the source of monopoly was its economic efficiency. This led him to predict a surprisingly good outcome of capitalist development: the emergence of one big, super-efficient monopoly, which could be seized and run by the people. Bellamy ([1888] 1951, 147, 151) explicitly emphasized that running this monopoly, *i.e.*, the entire economy, would be a very simple matter. To the efficiencies achieved by present-day monopolies would be added the simplification derived from getting rid of the real source of complexity: the need to anticipate what business competitors might do.<sup>11</sup>

In this respect—and, more importantly, in Bellamy’s assumption that the (monopolistic) cause of the workers’ grievances was easily discerned—he was certainly an *epistemological* “utopian.” But that isn’t what people usually mean by “utopianism”; and Bellamy’s vision was *not* utopian in the usually connoted sense. He did not think that the new social order would depend on a magical transformation of human nature, although he did expect welcome transformations of human nature *after* the competition between monopolies was replaced by the new social order (with all the stress-free prosperity it would allow). He was, therefore, more *grandiose* in his expectations than the progressives would be. But Wilson, Roosevelt, and the other progressives were at one with him—and with the muckrakers who followed him—in assuming the legibility

of the sources of and remedies for social problems. This accounts for the apparently anomalous link between the utopians and the severely empirical muckrakers. The muckrakers simply reported “the facts” they had seen with their own eyes—i.e., those that struck them as emblematic of larger social problems, worthy of public attention because they were tractable to political correction. While the muckrakers “had in common a passion for dispassionate investigation,” they also maintained “a faith that exposure would manifest truth through public awakening and legislation. . . . Exposing the facts, the muckrakers sought to remove impediments to the [utopian] ideal” (Martin 1973, 103).

Muckraking journalism is usually periodized to coincide precisely with the Progressive Era, and it is true that starting around 1900, exposés of poverty and capitalist perfidy began to be published in such widely read magazines as *McClure's*,<sup>12</sup> *The Independent*, *Harper's*, *Everybody's*, *Ladies' Home Journal*, and *Cosmopolitan*; and in books such as Theodore Dreiser's *Sister Carrie* (1900), David Graham Philips's *The Great God Success* (1901), Frank Norris's *The Octopus* (1901), Lincoln Steffens's *The Shame of the Cities* (1904), Ida Tarbell's *History of the Standard Oil Company* (1904), and Upton Sinclair's *The Jungle* (1906). But as far back as 1871, *Chapters of Erie* had “dealt with the lurid railroad frauds of the time.” Jacob Riis, the “expert” to whom Roosevelt turned for insights into the social injustices he had seen with his own eyes, had scandalized the public with his exposés of New York slums in the 1880s, culminating in *How the Other Half Lives* (1890). Riis was a photographer. Short of direct observation, what is better than a picture to make reality vividly legible, to focus attention on problems that are germane to political discussion, and thereby to dispose of the complexities of Lippmann's “unseen world”?

The highbrow literature of exposé, although tremendously important in its own right, also had many mass counterparts, such as “an irate Chicagoan[’s]” 1885 volume, *An Iron Crown or: the Modern Mammon: A Graphic and Thrilling History of Great Money-Makers and How They Got Millions . . . Railway Kings, Coal Barons, Bonanza Miners and Their Victims . . .* (Cawelti 1973, 85). Thus, by the time Wilson's constitutional revolution took place, an avalanche of what we would now call “socially aware” publicity had blanketed the literate classes of the United States for decades. Its influence cannot be overstated. Bellamy's *Looking Backward*, for example, sold more than 300,000 copies between 1888 and 1890, spawned thousands of “Bellamy clubs,” and was, in 1935, placed after

only Marx's *Capital* in John Dewey's ranking of the most influential books in America during the previous fifty years (Shurter 1951).

### *Seeds of Outrage*

One of the many sympathetic historians of progressivism has somewhat misleadingly called it a movement of "fierce discontent" (McGerr 2003). Discontent connotes an *automatic* subjective reaction to deplorable objective conditions. But however deplorable were the conditions publicized by the "utopians" and muckrakers, the progressives' subjective reaction—*outrage*—entails an extended chain of reasoning about objective truths, even if this deliberation is tacit. Such outrage depends on accepting as self-evident to any caring person a long list of facts, and several assumptions about their representativeness, their relevance, their causes, and their cures. Political outrage of the modern type, then, is anything but simple. Whether one witnesses the suffering of other people directly or indirectly (mediated by photographs, novels, or investigative journalism), an outraged response to it entails, first, the assumption that *corrigible* human actions, whether individual or systemic, caused the distress—i.e., that the distress is an injustice, not a mere misfortune. Second, one must assume that the injustice is so widespread as to demand some form of *systemic* response. Finally, one must assume that the nature of the appropriate response is as self-evident as the injustice itself; otherwise, one would be perplexed by the problem, not outraged at the failure to solve it.

As Harry H. Stein and John M. Harrison (1973, 14, *emph. added*) point out in a discussion of advocacy journalism in general,

the muckraking work, already selective in facts and emphasis to elicit indignation or anger, proceeds beyond the investigative form to indicate how extensive, not unique, are the practices and ideas exposed. It denounces or praises specific individuals, conditions, or values, and exhorts its audience, explicitly or by tone, to "take action" or to support specific remedies. In a sense, muckrakers have insisted directly and investigative journalists indirectly that Americans concern themselves with . . . *the nature of existing realities* and social change.

Stein and Harrison (1973, 14) note that advocacy journalism "has been characterized by deliberate silence on some topics, suppression of

material uncomplimentary to its partisans, and intentional bias in selection of subjects, emphasis, and interpretations.” In effect, muckrakers were insisting that the general public, their readers, become good social scientists. In identifying the “existing realities” that demanded public scrutiny, however, the muckrakers hardly set a good social-scientific example—although it was an example that has been widely followed under the second constitution. Muckrakers “resembled advocacy journalists in making emotional appeals, in personalizing complex issues, and in thus placing a premium on public opinion to right wrongs, defeat conspiracies, or alter institutions, attitudes, or values” (ibid., 15). Replace “muckrakers” with “modern presidents,” and one might have drawn this passage straight from *The Rhetorical Presidency*.

The distortions of the advocacy journalist are not deliberate: they conform to his or her perceptions of the obvious representativeness, injustice, and systemic corrigibility of the facts being reported. These perceptions are the source of the journalist’s crusading zeal. Likewise the progressives in general. “Everyone of ordinary sense could see” that the welfare of the masses required an abandonment of *laissez faire* (Furner 1975, 60), in Ely’s view.<sup>13</sup> It could not be plainer to the progressives that industrial capitalism cried out for such interventions as “the abolition of child labor . . . shorter working hours and safer conditions for industrial workers . . . a minimum wage for women laborers, old age insurance, better housing laws, consumer protection, and other reforms” (Milkis and Tichenor 2004, 295). Riis declared “his own personal war” against “the exploiting employers and landlords” who were so clearly “responsible for the physical, moral, and spiritual degradation of thousands of the city’s men, women, and children” (Dilliard 1973, 3). Simply “by *showing* what their surroundings were doing to the young, Riis stirred hundreds of sympathetic readers who joined his attack with energy” (ibid., 4, *emph. added*).

To Riis, child labor was also an undeniable evil, and

if he alone could have abolished child labor he would have done so gladly. But since he could not, he did what he could: he launched an almost unbroken succession of campaigns for the prohibitory legislation that would be enacted years later in Washington and Albany and other capitals. (Dilliard 1973, 4)

But why the delay?

Reforms did sometimes get made—but not often, and not quickly. The outrageous evils, although known to the public, seemed to grow pretty much unchecked. The public was ready to *act*. But the public was not really in charge. Capitalism was trumping *democracy*.

### *The Politics of Reform and the Election of Woodrow Wilson*

The *political* reforms championed by the progressives—“sunshine” instead of secrecy in government; congressional reform (formerly Wilson’s specialty); the direct election of judges, senators, and the president; primary elections to choose the candidates; initiative elections; recall elections; policy referenda; judicial-interpretation referenda—all followed directly from the progressives’ assumptions about the obviousness of the need for *social* reform.

Since the need was so obvious, what must have been causing the delay in taking corrective action was one of two things, or both of them. First, there was a very limited form of public ignorance: not ignorance about the need for social reform, or the direction it should take, or the consequences it would have; but ignorance about which politicians were standing in the way.<sup>14</sup> Second, the public’s power to cashier the bad politicians, and to elect good ones, was limited by the ability of “malefactors of great wealth” to use the Constitution to forestall “change.” In “smoke-filled rooms,” “lobbyists” for “big business” were secretly blocking reform. “Special interests” were corrupting legislators who were supposed to serve the public interest. The progressive political agenda, therefore, demanded public “accountability”: “publicity” to inform the public about which politicians were well intentioned and which ones were corrupt; and the power to enforce the public will.

Progressive political reforms were instrumental, then, to progressive social reforms. The former were all designed to “help break up the corrupt partnership of corporations and politicians” that was blocking the latter (Roosevelt 1912c, 154). The political reforms were “‘checks and balances’ which may check and balance the special interests and their allies. That is their purpose” (ibid., 153). Unexpectedly, the rhetorical presidency proved to be the most potent of these reforms. The new-model president could capture the public’s attention, unite it behind self-evidently just causes, and use the force of public opinion to sweep opposition aside. The rhetorical presidency was a means to the end of

solving “the social problem” (Croly [1909] 1911, 25). The need for some such solution was obvious to all well-intentioned and tolerably well-informed members of the public.

In the campaign of 1912, President Taft—TR’s former vice-president, protégé, and best friend—was the sole major opponent of the presidentialist version of progressive political reform. He shared progressive social goals, but could not go along with the evisceration of the old constitution entailed by the new way. So he had insisted on deferring to Congress, negotiating quietly with anti-reform leaders to lower the protective tariff, for instance, rather than rallying the public against them. Before deciding to run against Taft, TR complained to Henry Cabot Lodge that because of the president’s failure to use the bully pulpit, Taft had become “absolutely connected in the popular mind with” the congressional reactionaries,

Aldrich . . . Cannon . . . and company. And the anti-Taft leadership, on the other hand, has tended to fall into the hands of narrow fanatics, wild visionaries and self-seeking demagogues, with the result that a great many sober and honest men are growing to hate the word “Reform.” (Quoted in Chace 2004, 57)

Taft was a progressive of long standing, whose speeches were filled with “laundry lists’ of legislative initiatives” (Tulis 1987, 118), and whose Department of Justice launched nearly a hundred antitrust suits. Even when he assumed a defensive posture against TR’s efforts to undermine the first constitution, Taft did not repudiate any of the legislation that had attempted to curb *laissez faire*, such as the Sherman Antitrust Act, the Pure Food and Drug Act, the Interstate Commerce Act, or Roosevelt’s amendment of the last of these—the Hepburn Act. TR and his Progressive party, however, demanded much more. Jane Addams, seconding the party’s nomination of Roosevelt, declared that the party had “pledged itself to the protection of children, to the care of the aged, to the relief of overworked girls, to the safeguarding of burdened men,” and had “become the American exponent of a worldwide movement towards juster social conditions, a movement which the United States, lagging behind other great nations, has been unaccountably slow to embody in political action” (quoted in Milkis and Tichenor 1994, 308). Roosevelt “had long championed such measures as minimum wage levels, worker compensation laws, and pure food and drug policies. At the Progressive convention he went further and called for the creation of a full welfare

state” (ibid., 307). The Socialist candidate, Eugene Debs, complained without much exaggeration that Roosevelt had “bodily stolen” his own platform (Chace 2004, 163).

Wilson was less explicit. “He felt it was far better to reach the people by stressing his crusade for economic equality of opportunity . . . than to delve into the arcane issues of the high tariff and the essential meaning of monopoly” (Chace 2004, 228). But as the governor of New Jersey, he had pushed through a workmen’s compensation act, a public utilities commission, a primary-election law, and a campaign-reform act. Once elected president, he would be responsible for creating the Federal Reserve—to break the “money trust”—and the Federal Trade Commission; and for enacting the Clayton Anti-Trust Act, the first graduated income tax, and the Seventeenth Amendment, requiring the direct election of senators.

The central issue of the campaign of 1912 was “the trusts.” Roosevelt sought to regulate them, as the Hepburn Act had regulated the railroads. Wilson, however, found in TR’s position an opening for some soft demagoguery: He ridiculed regulation as amounting to “government by experts” (quoted in Chace 2004, 203). Brandeis had suggested to Wilson that instead of being regulated, monopolies should simply be banned.

Wilson’s accusations of elitism, however, were baseless. Roosevelt’s New Nationalism was so named because it put

national need before sectional or personal advantage. It is impatient of the utter confusion that results from local legislatures attempting to treat national issues as local issues. It is still more impatient of the impotence which springs from overdivision of government powers, the impotence which makes it possible for local selfishness or for legal cunning, hired by wealthy special interests, to bring national activities to a deadlock. This New Nationalism regards the executive as the steward of the public welfare. It demands of the judiciary that it shall be interested primarily in human welfare rather than prosperity, just as it demands that the representative body shall represent all the people rather than any one class or section. (Roosevelt 1910, 19–20)

Accordingly, the Progressive party not only “called for national regulations and social welfare measures that would not be enacted until the New Deal”; it seamlessly proposed, as well, “measures for ‘pure democracy,’ including the universal use of the direct primary, an easier method to amend the Constitution, [and] the initiative,” to provide “a more

direct relationship between government action and public opinion” (Milkis and Tichenor 1994, 287). TR did not suggest that there was some elite that knew what was good for the public better than the public itself knew; popular and elite opinion were, in fact, united. Regulatory commissions were not attempts to substitute the judgment of “experts” for that of the public, but to tame big business without destroying its efficiencies—all in response to public demand.

Roosevelt (1912a, 120) summarized the new party’s creed as the belief “that the people have the right, the power, and the duty to protect themselves and their own welfare,” and that “unless representative government does absolutely represent the people it is not representative government at all.” He treated “the common welfare” and “the people’s will” as interchangeable, and justified “the absolute right of the people to rule themselves” as instrumental to “their social and industrial well-being” (*ibid.*, 121). Similarly, in “How I Became a Progressive,” he explained that it was “the effort to secure social and industrial justice that first led me to taking so keen an interest in popular rule” (Roosevelt 1912b, 316). Popular rule would end the tyranny of the special interests that were blocking progressive legislation. And progressive legislation was the obvious remedy for the self-evident injustices of *laissez faire*.

TR, in fact, was so committed to untrammelled democracy that he supported popular referenda to recall unpopular judges, and to reverse lower-court decisions on the unconstitutionality of progressive reforms. These were his most controversial proposals, and became the main bone of contention between him and Taft, who claimed that in advocating such measures, TR was “sowing the seeds of confusion and tyranny” (quoted in Roosevelt 1912c, 156–57). Roosevelt responded by citing Justice Holmes, who had argued (in Roosevelt’s words) that “the general welfare” is a matter of “the prevailing morality or preponderant opinion,” and that the preponderant morality or opinion could not better be ascertained than by referendum. Therefore, Taft’s accusation was ridiculous. By “tyranny,” TR scoffed, Taft meant

the tyranny of the majority, that is, the tyranny of the American people as a whole. . . . This criticism is really less a criticism of my proposal than a criticism of all popular government. It is wholly unfounded, unless it is founded on the belief that the people are fundamentally untrustworthy. (*Ibid.*, 157)

In contrast, Roosevelt proclaimed:

I believe the majority of the plain people of the United States will, day in and day out, make fewer mistakes in governing themselves than any smaller class or body of men, no matter what their training. (Roosevelt 1912c, 151)

In short, Roosevelt played the soft demagogue against Taft, equating judges with an anti-democratic “elite.” The results of popular self-government would be legislation that *would work*. To allow judges to strike down the legislation would impugn the people’s wisdom, since it is the people’s wisdom that justifies popular sovereignty. In the epochal speech entitled “The Right of the People to Rule,” delivered at Carnegie Hall before the Republican machine denied him the GOP nomination, Roosevelt put it this way:

The great fundamental issue now before the Republican party and before our people can be stated briefly. It is, Are the American people fit to govern themselves, to rule themselves, to control themselves? I believe they are. My opponents do not. (Ibid., 151)

Taft refused to try to out-demagogue TR, or to out-campaign him—not just because of the hopelessness of such an endeavor, but because it would undermine the dignity of his office. “I have been told that I ought to” barnstorm the country, he said, and “I know it, but I can’t do it. I couldn’t if I would, and I wouldn’t if I could” (quoted in Chace 2004, 200). So Taft gave only two major speeches during the general-election campaign. In the first, delivered at the White House to party loyalists, he aligned himself with the only potential bloc of voters that might support an alternative to Wilson, Roosevelt, and Debs: the reactionaries. He seemed to blame poverty on “laziness, lack of attention, lack of industry, the yielding to appetite and passion, carelessness, dishonesty, and disloyalty.” And he said that in attempting legislative remedies for poverty, Roosevelt and Wilson were proposing to make “the rich . . . reasonably poor and the poor reasonably rich by law,” which “involves a forced division of property, and that means socialism” (quoted in Chace 2004, 220). In this contest, it was Roosevelt who engaged in “normal,” crusading social-democratic politics, while Taft objected that TR was thus threatening the classical-liberal regime.

Among the other three main candidates, the only question was: Who was the real agent of progressive “change”? In trying to answer that

question, Roosevelt, Wilson, and Debs illustrated how readily progressive politics degenerates into the personal attacks that are now so familiar.

The politics of personal attack are endemic to the politics of intentions. Attacks on a candidate for being beholden to special interests, for example, are simply efforts to show that he or she does *not* intend to achieve the common good. “The opponent is made a villain or a conspirator.” If good intentions, once translated into “action,” will presumptively produce good results, then nothing could be more reasonable than to suggest that a political opponent, being corrupt, lacks the requisite good intentions.

Thus, Debs called Roosevelt a “servile functionary of the trusts” and Wilson “a kid glove on the paw of the Tammany tiger” (quoted in Chace 2004, 223, 225). And Wilson (1912b, 353) wondered why Roosevelt had failed to enact the progressive measures he now advocated when he’d had a chance—during his two previous terms as president. While claiming that it would be “distasteful” to “conjecture” about the “influences” responsible for TR’s previous inaction, Wilson managed to “call in question the motives of these gentlemen” by coyly refusing to name them (*ibid.*, 352). He also suggested that the steel companies were allies of the Progressive party because Roosevelt, rather than trying to ban monopolies, merely wanted to regulate them (Chace 2004, 227). In turn, when Wilson, in line with the Brandeis version of progressivism, said that “the history of liberty is a history of the limitation of government power, not the increase of it,”<sup>15</sup> TR pounced. Failing to note that Wilson meant that, in securing people’s *economic* liberty from monopolistic businesses, the government should be prevented from itself acquiring tyrannical powers (Foner 1999, 259), Roosevelt called Wilson’s adage “the key” to understanding his “position,” and accused Richard Ely’s student of believing in “the laissez-faire doctrine of English political economists three-quarters of a century ago.” The problem with this “outworn academic doctrine” was indicated by the fact that, according to TR, “it had been kept in the schoolroom and the professional study for a generation after it had been abandoned by all who had experience of *actual life*.”<sup>16</sup>

### *The New Consensus*

It is always a temptation to overanalyze election results, especially in ideological terms. Political ideologies are foreign to most voters

(Converse [1964] 2006), and many other factors are always in play, including party loyalty. The worst mistake of all would be to assume that details about the candidates' positions get through to the vast majority of inattentive voters.

Yet these caveats make the magnitude of Taft's defeat even more astonishing. An incumbent president, the nominee of the dominant party of the era, and running at a time of peace and prosperity, he received a mere 23 percent of the vote. (At the height of the Great Depression, even Herbert Hoover managed 40 percent.) Wilson received 42 percent, Roosevelt 27 percent, Debs 6 percent, and the Prohibition party (representing another version of progressivism) 1 percent. It is hard to see any way around declaring this the biggest landslide in American presidential history: a landslide for progressivism. Progressive assumptions about the tractability of social problems to democratic analysis appear to have been shared by an overwhelming majority of Americans, and few of them were bothered by the constitutional revolution that seemed to be necessary if the problems were to be solved.

After 1912, no American political party could successfully run against the progressive precepts of the second constitution, failing some massive popular repudiation of the people's own wisdom.<sup>17</sup> Tulis (1987, 189ff.) justifiably invokes Ronald Reagan as a rhetorical president, but a reader may thus gain an exaggerated picture of Reagan's success in getting his policies adopted, which was minimal (Schwab 1991, chs. 7–8). Likewise, Republicans nostalgic for Reagan's "visionary leadership," i.e., his success *as a rhetorician*, fail to remember how little Reagan actually accomplished on the home turf of the second constitution: domestic policy. From an institutionally partisan perspective, he was an "unsuccessful" president, completely failing in his mission to limit, let alone shrink, the federal government. The reason is not hard to find. The public-opinion research shows that big government is something that the public opposes only in an abstract sense (McClosky and Zaller 1984; Bennett and Bennett 1990; Schwab 1991, chs. 2, 4; Page and Shapiro 1992; Miller 2007). Americans consider "big government" a bad thing in general, but they also favor each of the major components of big government—all of which were, in principle at least,<sup>18</sup> enacted after having already been judged by the people to be an obviously necessary response to some pressing social problem.

As long as the public's implicit estimate of its own ability to do such judging remains unchanged, the only general direction for the size of

government is up, as new problems arise that just as obviously seem to demand a political response. The problem-solving efficacy of the proposed responses is underplayed in political debate, precisely because they would not be proposed in the first place if they did not really seem likely to be efficacious. If the media pound home the message that the problem in question constitutes a crisis, the eventual adoption of some widely plausible new program to solve the problem is a foregone conclusion.

As gross evidence that this process rarely prompts the public to question its own wisdom in having passed previous measures intended to solve pressing problems, one could cite the virtual absence from all the social democracies of popular demands for the repeal of previously adopted solutions. Either the public's judgments are not only wise, but nearly unerring; or the question of its wisdom rarely even arises.

### *The Politics of Intentions and the Ethic of Conviction*

The Federalists often portrayed the Constitution as *slowing down* the action of democracy, so that “sudden breeze[s] of passion” could pass, and the “cool and deliberate sense of the community” could prevail. Here the premise was that emotion is the problem, and that being *deliberate*—in the sense of taking one's time, so that “reason” has a chance to catch up to the passions—is the solution (*The Federalist*, Nos. 71 and 63; cf. Nos. 49 and 55). The sharp dichotomy of passions and reason, however, does an injustice to the Federalists' own objections to the “unwise” laws that were passed under the Articles of Confederation. Currency inflation and debt relief may have been popular “delusions,” but they gave (and give) no indication of being temporary ones, emanating from transient passions.

By sequestering the public from debate over what Tulis justly calls “technical” issues, therefore, the Constitution may be seen as trying to address a *cognitive* problem, albeit one with affective implications. This problem is, I have suggested, the “complexity” of the modern world, which would be responsible for the tendency of actions to have unintended consequences. Delay may have helped produce good public policy when the key “technical” decision was whether or not to go to war against Sparta, and hotheads needed time to cool down. But as Ronald Steel (1997, xiii) points out, in his preface to the greatest work of a disillusioned progressive—Lippmann's *Public Opinion* (1922)—:

The problem is that most of us do not live in the world of the Greek city-state or the New England town village; we are called upon as voters to make decisions about issues we cannot experience first hand or often even fully comprehend. Should we sign a trade agreement with China, send troops to Bosnia, adopt a new national health care system? The external world has become too complex for any person, however well intentioned, to grasp.

What Weber (1918, 120) called the “ethic of responsibility” requires that before acting, one weigh the consequences. The “ethic of conviction,” by contrast, treats an action as an end in itself, incumbent upon the actor *regardless* of the consequences. There is nothing wrong with the ethic of conviction when an action *is* an end in itself: a “duty.” But participants in politics cannot act *merely* from a perceived civic duty to “participate.” Politics is a contest among options. Which option should participants favor: proposed solution A to social problem x? A different proposed solution? Doing nothing, because of the imagined unintended consequences of both proposals? Answering such questions *entails* an ethic of responsibility—if one’s political participation is to be rational.

It is a telling feature of our political life that, just as “apathy” is considered bad in itself, “activism” is considered good. What is usually meant, of course, is *progressive* activism; and this is appropriate if, as I have argued, the premise of progressivism, and thus the tectonic constant under the landscape of the second constitution, is the equation of political action with desirable consequences. The intention to do good things, however, carries with it the responsibility to find out if one’s actions are succeeding. To treat the matter as self-evident is, in Weberian terms, to act irresponsibly. For it means treating political actions as matters of incumbent duty rather than deliberative choice.

The ethic of conviction is a systemic (culturally hegemonic) tendency of the second constitution, since this ethic rules out the option of doing nothing, and since it almost as effectively discourages inquiry into the downsides of policy “actions,” which are difficult to imagine anyway.<sup>19</sup> If one is to rally the public to act, then action should be portrayed as a matter of principle—not as a subject for ratiocination.

Those are some of the problems that Weber thought are raised by modern democracies, where policy actions may be inefficacious or counterproductive; but where the natural temptation is to skip over deliberation about such matters in the interest of political mobilization. Mobilization demands conviction, not deliberation, and conviction is likely to stem from seeing the political objective as a matter of high principle, such that failure

to act is equivalent to letting the bad people win. When people treat politics as a matter of principle (such that “change” is *appropriately* a matter of “passion”), they relinquish the autonomy that is often blithely imputed to *Homo politicus*. The wills of those who treat policy change as a cause to which they should rally are, themselves, being *caused*—heteronomously determined—by their unexamined, undeliberative assumptions about the obvious facts of the “crisis” they are trying to alleviate.

Even though deliberation and mobilization are very different things, they are not logically *incompatible*. After all, reasoning about the orientation of one’s will is pointless unless one then mobilizes the will to act in the direction “determined” by the deliberation. But as a practical matter, deliberation and mobilization are at odds. Thus, despite the logical possibility that the policy demagogue will himself have deliberated sufficiently to inspire only mass actions that have good consequences, there are serious reasons to think this unlikely. “The demagogue,” Weber (1918, 116) writes, “is compelled to count upon” rhetorical “‘effect.’ He therefore is constantly in danger of becoming an actor as well as taking lightly the responsibility for the outcome of his actions and of being concerned merely with the ‘impression’ that he makes.” In that case, the demagogue, just like the masses he leads, is liable to skip over deliberation about which policy serves good ends. He will persuade people that popular policies should be treated as ends in themselves merely because they are (already) popular—“common-sense solutions for our problems,” as candidates love to say.

We might add that the most effective rhetorician is surely the one whose words are sincere. The most successful politicians, therefore, are likely to be those who truly *believe* that the “changes” they advocate are self-evidently good. The best policy demagogue, in short, is an *ideologue*.

At this point, we are in a position to suggest how Tulis’s remarkable study might be integrated with the findings of research on public opinion and political psychology.

Tulis allows us to say of modern politics that its aim is to mobilize mass political action, and that the most potent instrument of mass mobilization will often be “crisis” rhetoric. The history of the progressive movement suggests that such rhetoric is inherently simplistic. Public-opinion research adds that most people take their political views from elite opinion leaders (Zaller 1992); and that those who are well-enough informed about politics even to formulate political opinions, let alone lead public opinion, are far from likely to be autonomous deliberators. Rather, they tend to be “constrained” by ideological “belief systems” that allow them

to organize much more political information than they otherwise could (Converse [1964] 2006). Political psychology suggests, in turn, that, like any human beings, these ideologues will be inclined to “see” only what they are prepared to see, and to dismiss discrepant information (Taber and Lodge 2006); and that dogmatism will even extend to the “experts” upon whom political leaders so often rely (Tetlock 2005). The empirical research suggests, then, that the constitution Tulis describes is geared to the mobilization of popular prejudices by demagogues who are well informed about the evidence supporting their interpretation of the world; but who are ignorant of the possibility that the “facts” that seem to make the consequences of well-intended legislation obvious are, in reality, merely the cultural deposits of the conventional wisdom of their crowd.

#### NOTES

1. Among intellectual historians, the liberal-centric interpretation has been challenged by scholarship on “civic republicanism,” e.g., Wood 1969 and Pocock 1975. While I follow Wood in my discussion of the Founding below, I think that the evidence sustains only a moderately republican interpretation, with the addition of a strong liberal element. The liberal element is the Founders’ conviction that individual freedom is a paramount end. The quasi-republican element is a commitment, as well, to a common good. Some Federalists clung to the traditional republican conviction that the common good could be achieved primarily by *virtuous* citizens, but in the passages from Wood that I quote, this conviction is tempered by a dawning awareness that even virtuous intentions might have counterproductive consequences, as in the case of economic legislation under the Articles of Confederation.
2. Zaller suggests that the public is profoundly ignorant of political issues, and is led, herdlike, by the views of relatively informed elites. Cf. Somin 1998 and 2006.
3. Clifford Winston’s recent survey (Winston 2006) of the economic research on the effectiveness of state and federal regulatory policy concludes that, in every field where there is persuasive evidence (except pollution control), regulations have tended to do great harm at high cost while accomplishing little good, often in response to popularly imagined but actually nonexistent problems.
4. Smith wrote, for example, that “though the interest of the labourer is strictly connected with that of the society, he is incapable either of comprehending that interest, or of understanding its connection with his own” (*The Wealth of Nations*, I.xi.9). I thank Dan Klein for guiding me to this passage.
5. According to Ely’s (perhaps questionable) testimony, Theodore Roosevelt said of Ely that he “first introduced me to radicalism in economics and then made me sane in my radicalism” (Fine 1956, 240). Less doubtful is Ely’s influence on Wisconsin Senator Robert La Follette, economist John R. Commons, sociologist

Edward A. Ross, historian Frederick Jackson Turner, and many other key progressives (*ibid.*, 239–40).

At Princeton, Wilson had identified with the Manchester school of Cobden and Bright (Diamond 1943, 25). At Hopkins, under Ely's tutelage, he read Francis A. Walker and John Bates Clark, who persuaded him that labor legislation and other departures from *laissez faire* were in keeping with economic *realities*, as opposed to dogmatic theoretical assumptions (*ibid.*, 31–33). He may even have read Gustav Schmoller, the leader of the German Historical School (*ibid.*, 29), who contended that no social science—dealing, after all, with *a posteriori* facts—could be derived *a priori*. These writers posed a bracing challenge to “deductive” *laissez-faire* claims about “immutable economic laws” comparable to those of Newtonian physics (Furner 1975, 42). For Wilson, the arrival of *neoclassical* economics, which turned the *a priori* principles of classical economics into mathematical formulae, only seemed to widen the distance between economics and empirics. “Wilson had no taste for the mathematics of price or market theory, and he was repulsed by the new marginal utility mathematics, although Clark had been one of its fathers” (*ibid.*, 34).

6. Tulis would, I think, disagree. He seems to believe in the possibility not only of deliberation about means, but about ends.
7. In Weber's view, a politics of conflicting ends is ultimately a religious war, decidable only by demagoguery or force.
8. Tulis (1987, 106) notes that after barnstorming the country for the Hepburn Act, TR stopped making public statements while Congress deliberated about it. However, “at one crucial juncture during the Senate debate in March [1906], Roosevelt had his Bureau of Corporations release its report on the Standard Oil Corporation, showing that it had benefited by secret railroad rebates. It was as if ‘the facts’ could speak while Roosevelt himself remained statesmanlike.”
9. See Tetlock 2005.
10. The second editor of the *American Political Science Review*, Albert Shaw, previously the editor of the progressive *American Review of Reviews*, was “a proponent of local government reform, coiner of the phrase ‘municipal socialism,’ and another graduate of Hopkins and student of Ely.” He was also an adviser to Roosevelt (Gunnell 2006, 483).
11. Bellamy (1888, 149–51) was very nearly a “market socialist” *avant la lettre*. For an account of market socialism, see Lavoie 1985.
12. In his 1912 campaign chronicle, William F. McCombs (1921, 90), Wilson's campaign manager, wrote:

The Rural Free Delivery had changed the general methods of politics. The United States had become more of a reading public. People in remote districts read monthly and weekly magazines. Daily newspapers were delivered at doors quickly. I thought that we should have support among monthly and weekly magazines. Mr. McClure, of *McClure's Magazine*, was approached for an article on Woodrow Wilson. . . .

13. Mary Furner (1975, 60) describes Ely's position as boiling down to this: The “old economists” who defended *laissez faire*

believed in the existence of a priori laws which could not be changed, no matter who suffered, while new economists recognized what everyone of ordinary sense could see—that economic policies changed with the times. The old economics was a science of wealth that glorified the baser human emotions, justified selfishness, and raised competition to the level of divine ordinance. The new economics would serve all mankind, the laboring masses as well as the capitalist classes.

14. Often the literature on “public ignorance” still makes this assumption, and therefore focuses obsessively on the public’s inability to identify the partisan affiliation of politicians.
15. “Roosevelt Scorns Wilson’s Philosophy: Declares in San Francisco that Governor Knows Little of Real Life of To-day.” *The New York Times*, 15 September 1912.
16. *Ibid.*, *emph. added.*
17. The half-hearted, back-pedaling social democracy typical of the Republican party since Eisenhower is not due to lack of backbone, but lack of popular support. Taft, and such successors as Alf Landon and Barry Goldwater, demonstrated that trying to revert to the first constitution meant electoral suicide. Thus, Republicans have never abolished a major federal agency or reduced the size and scope of the ever-growing government. *Successful* conservative politicians cannot be hard-core opponents of progressive, or “social,” democracy; they have to go along with it, dragging their feet as best they can. Their electoral advantage lies in changing the subject—to high taxes, or military defense, or “character,” or “values” (meaning non-economic values).

Since successful democratic politics tends to rule out technical arguments about the counterproductivity of policy proposals, such arguments can gain political potency only if the anti-regulatory *conclusions* of these arguments are portrayed as ends in themselves—e.g., freedom, property rights, “strict” constitutionalism, or individual self-reliance—that have electoral appeal. An economist once remarked that “nobody goes to the barricades for marginal-utility theory.” This is especially true when most people have never heard of such theory, or any other brand of economics; and when those who have heard of it can (with some justice) dismiss it as unrealistic (Boettke 1997). In short, progressive politics can be challenged *politically* only by playing under the rules of the second constitution, and these rules demand that questions about means be turned into great crusades about fundamental principles. However, the manifest failure of Libertarian candidates to persuade the public that such principles as untrammelled private property or narrow definitions of individual “liberty” trump the popularly perceived need for progressive legislation suggests the basic contradiction in trying to win popular votes for a platform of popular self-renunciation.

18. In reality, of course, the sheer quantity of rules and regulations enacted by social democracies precludes public awareness of the vast majority of them, so the public is in no real position to approve of each of them (Somin 1998, DeCanio 2000, and DeCanio 2006). Still, public opinion must set general boundaries within which semi-autonomous state elites operate, at least where there are independent news media. These media can thrive by exposing unpopular

legislative, bureaucratic, and judicial decisions, bringing electoral pressure to bear for the decisions' reversal. Judges, bureaucrats, and, especially, elected legislators must look over their shoulders if they want to take advantage of public ignorance to make decisions that the public—if informed by the media—would reject. This makes attention to media bias extremely important in the analysis of state autonomy: the media will only trouble to expose autonomous state actions that the journalists themselves find objectionable.

19. One might expect that competition among *different* policy proposals would prompt the policies' promoters to point out the counterproductive effects of their competitors' "plans." This does happen to some extent (Jerit 2008), but the problem is how to maintain public attention and credibility when making such claims. The credibility problem is essentially unsolvable, since each side can always find "experts" who will endorse their plan, and the public is powerless to decide which expert, if any, is right. (That would require the public to become even more expert than the putative experts: more familiar with the evidence, and more adept at theorizing about which evidence is representative and germane.) In such cases, the best course will be to reconfigure technical disagreements, as between Wilson's and Roosevelt's antitrust policies, as matters of high principle. "Wilson's lament that little deliberation took place in Congress was not that the merits of policies were left unexplored, but rather that because the discussions were not elevated to the level of major contests of principle, the public generally did not interest itself" (Tulis 1987, 126).

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