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ASCRPTIVE NATIONALISM, DEMAGOGUERY, AND THE MODERN PRESIDENCY:
A CASE STUDY IN CONSTITUTIONAL DECAY

by

CHRISTOPHER J. PUTNEY

A master's thesis submitted to the Graduate Faculty in Political Science in partial fulfillment of the requirements for the degree of Master of Arts, The City University of New York

2020

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PUTNEY
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A Case Study in Constitutional Decay

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This manuscript has been read and accepted for the Graduate Faculty in Political
Science in satisfaction of the thesis requirement for the degree of Master of Arts.

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ABSTRACT

Advisor: Dr. Corey Robin, Brooklyn College, The Graduate Center (CUNY)

This study is an account of the modern presidency as a source—and under Donald Trump, an accelerant—of systemic problems in American politics. Against the prevailing scholarly view of the Trump presidency as an unqualified aberration, I argue that the signal features of his efforts at governance are actually the product of converging patterns of political and institutional order. Building on seminal (but previously disjointed) work on ascriptive Americanism and the rhetorical presidency, I show that Trump represents the political synthesis of America’s ascriptive tradition and a form of presidential leadership inaugurated more than a century ago by Woodrow Wilson. Moreover, I argue that Trump’s fusion of these two predominating forces in the polity has innovated the uses of presidential demagoguery, and in turn exacerbated pre-existing dilemmas of governance. Examining the key aspects of that convergence not only underscores the pitfalls of Wilson’s leadership doctrine manifest in Trump’s case, but also marks these as accelerants of a deeper problem—a process I call constitutional decay. By rethinking the relationship between Trump as an agent of ascriptive nationalism, and the pathologies built into the modern presidency, I ultimately show how independent patterns of continuity taken for granted in American politics can come together in subtle ways that affect systemic conditions.

ACKNOWLEDGMENTS

This project is both the start of a larger enterprise inevitably beyond the scope of any MA thesis, as well as the product of an idea planted in my mind eight years ago as an undergraduate at the University of Texas at Austin. That idea first took shape for me as I read Jeffrey Tulis's work on the presidency in the American constitutional order. It has roots in Aristotle, and in the writings of the late Herbert J. Storing, among others. Put in the form of a question, it is this: What do the *features* of a political order mean for the politics that come to shape the trials and tribulations of its people?

I began this project, in that sense, in what feels now like a distant era. Trying to make sense as an undergraduate of the constitutional theorizing enumerated more than two centuries ago in the *Federalist*, I have come to understand more deeply than ever the problems and possibilities engendered in American politics at its constitutional inception. And not *despite* the economic crises of neoliberalism we might characterize as foreign to the imaginations of the Constitution's framers, but in light of those very pathologies. To attempt to name and understand such problems is also to glimpse the most empirically and normatively defensible form of political science. It is defensible to the extent that it supplies a kind of *political* diagnosis: one that is not beholden to the narrow determinism or teleologies of purely material analyses on the one hand, nor the historically erroneous constitutional theory long-proffered by American conservatives on the other. "To

prosecute this kind of study of American politics, one needs to offer an account of the polity's fundamental political commitments, their philosophic or theoretical presuppositions, and their social, cultural, institutional, and policy implications."¹ At its base, in other words, thinking diagnostically about American politics lays bare the very things that much of contemporary social science would discount or seek to ignore by design. In this thesis I try to show, more than anything, that Americans cannot afford to ignore such questions.

If there is any merit in the arguments made in this study, it is due to the mentorship, unfailing patience, and years of generous (if tough) encouragement I have received from Jeff Tulis. Jeff is the rare kind of scholar who at once understands the stakes of what students of American politics, and its citizens, passionately debate, as well as what it really means to be a student *and* a teacher. My debt to his teaching and support over the years is beyond measure, and in ways he hardly knows. Moreover, I could not have said anything worth saying in this project—let alone completed the final version—without the sustained patience and rigorous guidance provided by my supervisor, Dr. Corey Robin. At the end of my first year at the Graduate Center, I came careening out of nowhere onto Prof. Robin's radar, asking him to supervise this thesis without having met or studied with him before, and in dire need of a mentor who thought about the things most of interest to me in American politics from a different vantage point. Across several grueling iterations of this

¹ Jeffrey K. Tulis, "Conclusion: *The Rhetorical Presidency* in Retrospect," in *Rethinking the Rhetorical Presidency*, Jeffrey Friedman and Shterna Friedman, eds. (New York: Routledge, 2012), 266-284.

study, he pushed me to break bad scholarly habits, look more closely at the evidence, and say more clearly and carefully what I meant. He is the sort of teacher that goes over and beyond mere professional obligation that his students might discover what lay on the other side of harrowing theoretical reconsiderations. This thesis is, mostly for those reasons, unrecognizable from earlier drafts that dealt chiefly with the problem of the Alt-Right and related white nationalist “movements”—and it is doubtless to Corey’s credit as a first-rate theorist and student of politics in the United States.

Professors Peter Beinart, Julie Suk, Alyson Cole, and Uday Mehta (who I originally came to New York to study with at Jeff’s urging, despite several years’ delay) have each been thoroughly encouraging to me during the last two years. I hold each of them in the highest regard as model teachers more interested in the moral imaginations and imperatives of Americans than the professional prestige that (rightly) surrounds their respective work. Samuel Goodson, my student comrade and fellow (transplanted) Southerner, has been an indispensable confidante in countless ways—especially during a period of profound personal difficulty throughout the previous year or so. (He is also easily the most astute, and humble, theorist in our cohort—as members of the short-lived Metaphysical Club, and his own mentors, surely know). Also, four brothers of mine who are mostly back in Texas—Houston, Justin, Brian, and Graham—have been a constant source of support, humor, and relief in what at times has felt like an endless sea made up of deadening stretches of

open water punctuated by sudden squalls. In similar fashion, Kyle Machado, the uncommon kind of progressive activist who actually understands what it means to see and meet the suffering of others because one has suffered—and to do so while loving one’s country *because* it is theirs to remake—has made my time living in Washington, D.C., the happiest in my life. If my ambitions to do the PhD fail—which seems wholly plausible as of this writing—perhaps it is because I can be of more use working on the policy fights Kyle has spent years strengthening during both Sanders campaigns.

Finally, I want to briefly acknowledge a special debt I owe to the most important mentor I’ve had as a graduate student—Professor Michael J. Fortner. Unfortunately, I only met Michael during my second year in New York, most of which I spent in Washington, but his seminar on race in American politics has been the most intellectually formative course I’ve ever taken. That intellectual experience—which weekly bridged the most wide-ranging historical, ontological, and empirical questions *any* student of American politics could conjure—was not just due to the diverse mix of intellectual and disciplinary backgrounds present in our seminar’s membership. It was also the product of Michael’s talent as a teacher and scholar. His rare ability is to simultaneously discern, challenge, and nurture the personal potential and interests of his students. And that ability is more than a testament to *his* teachers and his own erudition: it is a feature of his infectious passion for ideas and his (refreshing) authenticity. Michael’s approach to pedagogy, it might be said—just like

his own work² on race, class, and criminal justice—is born of that peculiar combination of intellectual power, humility, and moral urgency he exemplifies. That same admixture underlies (or should be recognized as underlying) the best scholarship our discipline has yet produced, despite the neo-positivist hegemony still pervading the field. And although Michael’s seminar was temporarily derailed by (and completed during) the tragic global crisis ushered in by Covid-19, it was ultimately made more vital and rich because of it. Conversations over Zoom and on the phone, along with plenty of emails, forced frequent communication with Michael, and helped make a protracted period of uncertainty, isolation, and anxiety more endurable. So beyond becoming an invaluable mentor and teacher, Michael has shown himself to be an equally valuable spiritual confidante in trying times. I will dearly miss those laughing fits in his office, and the breath-taking intellectual exchanges that weekly took place in seminar. Still, if I could re-write this thesis in light of all that I have *re*-thought respecting “race” in the polity’s development—an “issue” I *thought* I had grappled with deeply before Michael’s course—it would surely be a better study. I shall have to settle for doing so at a later date, and in a manner befitting the fuller set of questions I stumbled into under his guidance.

Most important of all is this acknowledgement: it is inconceivable that this project would have come together without the support of my partner, Taylor, and her seemingly endless ability to show me what matters *most* in life. Which is Love.

² See, e.g., Michael Javen Fortner, *Black Silent Majority: The Rockefeller Drug Laws and the Politics of Punishment* (Cambridge: Harvard University Press, 2015).

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INTRODUCTION

The prevailing scholarly view of Donald Trump’s presidency is that it represents either an aberration in presidential politics, an autocratic threat to the polity, or both.³ Yet the Trump regime’s defining features—the primacy of popular rhetoric and ascriptive nationalism—each have independent sets of antecedents that must be accounted for if we are to say clearly what is novel or routine about the administration. Exchanging contemporary histrionics for a wider historical lens, this thesis makes the case that this presidency’s signal features actually issue from sources that recast Trump not as an outlier, but as the *outgrowth* of converging patterns of political order in American political development.

As a political actor who won elective office in an upset, Trump has been the beneficiary of the forms of historical continuity I interpret in this study. But at a deeper level, his approach to governing constitutes the political synthesis of them: Trump has fused a century-old mode of presidential leadership stripped to its core logic—Woodrow Wilson’s “rhetorical presidency”—with an illiberal political tradition that predates the constitutional founding.⁴ He has, in his own way, sublimated the ideology of ascriptive nationalism and the leadership doctrine that made the modern presidency. By reinterpreting earlier scholarship on the presidency and the ascriptive tradition by Jeffrey Tulis and Rogers Smith, I try to show how the *systemic* effects of this sublimation mark the modern presidency

³ See e.g., Timothy Snyder, *On Tyranny: Twenty Lessons from the Twentieth-century* (London: Bodley Head, 2017); Jeffrey K. Tulis and James Russell Muirhead, “Will the Election of 2020 Be the End or a New Beginning?”, *Polity* (forthcoming); Rogers M. Smith “Lockean Liberalism and American Constitutionalism in the Twenty-First Century: The Declaration of Independence or “America First”?” in, *American Political Thought: A Journal of Ideas, Institutions, and Culture*, Vol. 8 (Spring 2019); Alyson Cole and George Shulman, “Donald Trump, the TV Show: Michael Rogin Redux,” *Theory & Event* 21, no. 2 (2018): 336-357; William E. Connolly, *Aspirational Fascism* (Minneapolis: University of Minnesota Press, 2018); Stephen Collinson, “Trump’s Authoritarian Streak,” *CNN*. October 12, 2017; Stephen M. Walt, “Top 10 Signs of Creeping Authoritarianism, Revisited,” *Foreign Policy*. July 27, 2017; David Frum, “How to Build an Autocracy,” *The Atlantic*. March 08, 2017; E. J. Dionne, Norman J. Ornstein, and Thomas E. Mann, *One Nation After Trump: A Guide for the Perplexed, the Disillusioned, the Desperate, and the Not-yet Deported* (New York: St. Martin’s Press, 2017). Cole and Shulman’s treatment of Michael Rogin’s marriage of the symbolic and material in American political history is superb. My thanks to Prof. Cole for pointing me towards Rogin’s relevance to contemporary politics.

⁴ Jeffrey K. Tulis, *The Rhetorical Presidency* (Princeton: Princeton University Press, 1987), hereafter cited as “Tulis (1987)”; idem., *The Rhetorical Presidency*, Princeton Classics ed. (Princeton: Princeton University Press, 2017); Rogers Smith, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* (New Haven: Yale University Press, 1997); idem., “Beyond Tocqueville, Myrdal, and Hartz: The Multiple Traditions in America,” *American Political Science Review* (1993) 87, no. 3: 549–66.

itself as a source—and in Trump’s case, an accelerant—of constitutional decay.⁵

The first chapter foregrounds the political logic built into Wilson’s rhetorical presidency to show how naturally traditional ascriptive appeals map onto that logic. Exploring that underlying theoretical harmony, I argue that Wilson’s failure to distinguish demagoguery from his conception of presidential leadership—a kind of messianic quest to divine national “purpose” *through* popular rhetoric—reveals their common “structural” core. By drawing out that underlying commonality in examples of Trump’s rhetoric and policy, we see the central role demagoguery plays in the synthesis of the long-standing patterns I identify. Illuminating the mechanics of that process evidences the remarkable extent to which Wilson’s efforts to redefine the purpose of the presidency in the constitutional order actually remade the institution into a source of political pathology.

The second chapter and conclusion explore why the converging patterns of order visible in Trump’s case matter for governance today. Analyzing several pre-existing systemic dilemmas debated by political scientists—what I call the “failure” of separation of powers and “governance by campaign”—I argue that Trump’s ascriptive demagoguery exacerbates the process of constitutional decay in important ways. The specific dilemmas I bring into view, building on Tulis’s earlier work, are elaborated as symptomatic of that process. I develop the concept of *decay*—instead of regime “breakdown” or democratic “decline”—because the account of contemporary politics I draw from Trump’s case isn’t a tale of political apocalypse, or the imposition of tyranny by an “imperial” president.⁶ It is instead a diagnostic story about how features of constitutional design built into American politics at the moment of its genesis have been transformed—by concrete developments—into the sources of systemic problems. The presidency is only one, but perhaps the most salient, of those sources.

⁵ I detail the origins of the concept of constitutional decay, and how I apply and develop it here, in Chapter Two.

⁶ See, e.g., *ibid.*, Snyder (2017). On the brilliant work that first used this phrase, see Arthur M. Schlesinger, Jr., *The Imperial Presidency* (Boston: Houghton Mifflin Harcourt, 1973).

Finally, although I find serious normative and practical problems in Trump's case, it should ultimately be understood not as a singular threat to the constitutional order, but a testament to how patterns of continuity taken for granted in American politics can come together in subtle ways that alter systemic conditions. In other words, I try to show how Trump's *approach* to governing is not merely the negotiation of a partisan landscape, as all presidencies are by definition, but also an influence on the political system itself in light of its infirmities.⁷ The marriage of the modern presidency and ascriptive nationalism Trump has engineered using demagoguery—and the converging background conditions that made that synthesis *possible*—are thus a window onto the broader dilemmas he exacerbates.

⁷ On debates about earlier versus more recent presidents, as well as periodization schemes and the problems germane to studying the office, see Jeffrey K. Tulis, "The President in the Political System—In Neustadt's Shadow," in *Presidential Power*, ed. Martha Kumar, Robert Shapiro, and Lawrence Jacobs (New York: Columbia University Press, 2000), 265-73; and "On the Politics Skowronek Makes," *Journal of Policy History* 8 (1996) 2: 248-49. On the possibilities and constraints common to all presidencies by virtue of the office's peculiarly disruptive nature—the best theory of presidential history to date—see Stephen Skowronek, *The Politics Presidents Make: Leadership from John Adams to Bill Clinton* (Cambridge: Belknap Press of Harvard University Press, 2003). Cf. Terri Bimes and Stephen Skowronek, "Woodrow Wilson's Critique of Popular Leadership: Reassessing the Modern-Traditional Divide in Presidential History," *Polity* 29, no. 1 (1996): 27-63. Bimes and Skowronek pose brilliant and challenging questions to Tulis's project, and hence, to the parts of Wilson's thought I emphasize in this study. But they also get Andrew Jackson's case of popular leadership (and Tulis's reading of it) totally wrong, and overlook Wilson's enduring influence as I hope to indicate below.

CHAPTER 1:
Rethinking the Trump Presidency

...he can speak what no man else knows, the common meaning of the common voice.
- Woodrow Wilson, 1909

The Rise of the Rhetorical Presidency

The first of these converging patterns is the collection of rhetorical and governance practices that have come to define the presidency in the modern era—what students of the office, following Jeffrey Tulis, collectively call the *rhetorical presidency*.⁸ Inaugurated in the early twentieth-century by Theodore Roosevelt, Tulis shows, that set of practices was transformed into a full-fledged doctrine of presidential leadership under Woodrow Wilson.⁹ Documenting those developments, Tulis demonstrates how the disarmingly familiar features of the presidency traceable to Wilson—the president as policy leader, partisan-in-chief, and popular orator—were actually striking departures from a form of political orthodoxy that dated back to the founding. “Today it is taken for granted,” Tulis writes, “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.” Those touchstones of contemporary governance, it turns out, were actually twentieth-century “inventions” and “discoveries.” The eighteenth- and nineteenth-century polity “*proscribed* the rhetorical presidency as ardently as we *prescribe* it.”¹⁰

Before the rise of Wilson’s “New Way,” presidents largely communicated through formal writing, seldom gave “popular” speeches, and almost never deployed direct appeals to “the people” at

⁸ Ibid., Tulis (1987); James W. Ceaser, Glen E. Thurow, Jeffrey Tulis, and Joseph M. Bessette, “The Rise of the Rhetorical Presidency,” in *Presidential Studies Quarterly*, Vol. 11, No. 2, “Presidential Power and Democratic Constraints: A Prospective and Retrospective Analysis” (Spring, 1981), 158-171.

⁹ Ibid., Tulis (1987). Cf. Skowronek and Bimes (1996).

¹⁰ Ibid., Tulis, intro., 4-5, 62-87, 95, 97, 110, 120-121, 137.

large to advance specific partisan policies.¹¹ The reason for that communicational restraint was the influence of “a common stock of political opinion and a family of rhetorical practices that constituted a doctrine”—what Tulis calls “the Old Way.”¹² This set of leadership norms was conceived by the founders as a kind of cultural corollary to the larger political architecture erected with the 1787 Constitution.¹³ Tulis identifies several signal concerns that shaped the new regime’s defining features—republicanism, executive independence, and the separation of powers for instance—but one of the overarching themes of political debate throughout the ratification period was the problem of “demagoguery.”¹⁴

Understood as the form of popular appeal directed at collective “passions,” the founders’ basic argument was that the Constitution’s institutional arrangements, because they were designed in accordance with the “republican principle,” could actually mitigate the tendency toward demagoguery visible in earlier democracies.¹⁵ Particular demagogues might be of the “hard” or “soft” variety, Tulis explains—either flattering or inflaming indignation in one or more of the polity’s groups—but their appeals are not native to the political left or right as such.¹⁶ At base, the “key characteristic of demagoguery seems to be an excess of passionate appeals”: the hard demagogue envisioned by the framers “create[s] or encourage[s] divisions among the people in order to build and maintain his

¹¹ Ibid., 45-62. See also Tulis (2017) at 205.

¹² Ibid., Tulis (1987), 25-31.

¹³ Ibid., 29, n6.

¹⁴ Ibid. Indeed, as Tulis points out, the collection of essays that would become the *Federalist* actually starts and ends with the issue of demagoguery. See Alexander Hamilton, James Madison, and John Jay, *The Federalist*. ed. by Charles R. Kesler. (New York: Signet Classics, 2005), nos. 1 and 85.

¹⁵ Ibid., Tulis (1987), 27-30. Ibid., *Federalist*, No. 71. Hamilton writes: “When occasions present themselves, in which the interests of the people are at variance with their inclinations, it is the duty of the persons whom they have appointed to be the guardians of those interests, to withstand the temporary delusion, in order to give them time and opportunity for more cool and sedate reflection. Instances might be cited in which a conduct of this kind has saved the people from very fatal consequences of their own mistakes...”

¹⁶ Tulis observes: “Since most speech contains a mix of rational and passionate appeals, it is difficult to specify demagoguery with precision...But...we cannot ignore the phenomenon just because it is difficult to define.” See *idem.*, 28-29.

constituency. Typically, this sort of appeal employs extremist rhetoric that ministers to fear.”¹⁷

In a new edition of *The Rhetorical Presidency*, Tulis elaborates that real demagogues “meet” four rules: “(1) They fashion themselves as a man or woman of the common people, as opposed to the elites; (2) that their politics depends on a powerful, visceral connection with the people that dramatically transcends ordinary political popularity; (3) that they manipulate this connection, and the raging popularity it affords, for their own benefit and ambition; and (4) that they threaten or outright break established rules of conduct, institutions, and even the law.”¹⁸

Surveying discussions of the dilemmas inherent to executive power from the founding juncture, Tulis shows how seriously the framers took the threat of demagogues in the new polity.¹⁹ Beyond the “indirect” institutional means thought suited to preventing or constraining demagoguery (e.g., the Madisonian iteration of separation of powers), the Old Way’s rhetorical standards for presidential leadership underscore their collective wariness.²⁰ Tulis finds two principal nineteenth-century “prescriptions” for presidential speech, each of which is defined by rhetoric’s intended audience, content, and form. The first of these measures was that presidential “policy rhetoric” should be *written*, and although publicly available and consumed, “addressed principally” to Congress on the assumption that doing so would productively structure legislative deliberation.²¹ Because this form of communication was shaped by an intended audience of national lawmakers, it was thought capable of “elevating” and instructing national discourse, instead of merely responding to or attempting to manipulate public opinion. “To the extent that people read these speeches”—and they did, Tulis tells

¹⁷ Ibid.

¹⁸ Ibid., 30; *ibid.*, Tulis (2017), 204 (quoting Michael Singer’s distillation of James Cooper’s earlier account). See generally Michael Signer, *Demagogue: The Fight to Save Democracy From Its Worst Enemies* (New York: St. Martin’s, 2009), 35; and James Fenimore Cooper, *The American Democrat* (Indianapolis, IN: Liberty Classics, 1931 reprint; orig. publ. 1838), 120.

¹⁹ Ibid., Tulis (1987), 30, n9.

²⁰ Ibid., 29-30.

²¹ Ibid.

us—“they would be called upon to raise their understanding to the level of deliberative speech.”²²

The second prescription was that genres of popular presidential speeches directed at the “people at large”—the inaugural address, for instance—would mirror the president’s written messages to Congress in their content and tone. Although orally delivered, these would remain consistent with the “constitutional tradition” of formal interbranch communication.²³ Prior to the twentieth-century, Tulis shows, these speeches “emphasized popular instruction in constitutional principle” (e.g., republicanism) and the broad “tenor and direction of presidential policy”—but they overwhelmingly avoided “discussion of the merits of particular policy proposals” thought better suited for congressional partisans and public debate.²⁴ Each of these customs was political orthodoxy not merely for formality’s sake, but because constitutional formality *reflected* the founders’ view that popular leaders were basically synonymous with demagogues.²⁵

Thus, in Tulis’s telling, by constitutional design presidents were meant to be “freed from the need to consult the people continually,” but were “judged by them periodically” in adherence to constitutional provisions (e.g., formal addresses and regular elections). They were thought institutionally “independent enough to be forceful and preeminent in matters of command,” and an “unequal” but active “partner in the deliberative process.” Embedded in an institutional matrix of offices defined by “structures and practices” that made demagoguery “unlikely and unprofitable,” he illustrates, presidents had a host of robust constitutional powers and duties; but all shared a political allergy to demagogic appeals inculcated by the combination of constitutional form and custom.²⁶

²² Ibid., 46.

²³ Ibid., 133-35. See also Jeffrey K. Tulis. “On Congress and Constitutional Responsibility,” in the *Boston University Law Review*, Vol. 89 (2008): 516; Jeffrey K. Tulis, “Deliberation Between Institutions,” in *Debating Deliberative Democracy* (James S. Fishkin & Peter Laslett eds., 2003), 200, 206.

²⁴ Ibid., 47. The Constitution “contains this principle [of prescribed presidential speech] in two of its provisions” designed to induce deliberation and inhibit demagoguery: Article I, Section 7, which establishes the requirements for a president’s veto message; and Article II, Section 3, which details the State of the Union procedures.

²⁵ Ibid., 45-47.

²⁶ Ibid.

Tulis excavates numerous examples of the “effect of doctrine as constraint” on nineteenth-century presidential behavior, but his discussions of Andrew Jackson are especially instructive.²⁷ One controversy in particular, the 1832 Nullification Crisis, might have invited occasion for passionate presidential appeals in response to the national economic strife and political divisions roiling partisans of that era.²⁸ But despite Jackson’s reputation for popular leadership (as well as outright demagoguery), Tulis explains, “this ‘popular leader’ had to forego politics...when he went on tour.”²⁹ “Jackson’s disposition was unlike that of [his predecessor John Quincy] Adams. He liked popular speaking and did much of it before becoming president.” Yet Jackson’s “most famous communication to the people”—the Nullification Proclamation—saw its content and tone considerably “constrained” by the written form prescribed in the founding doctrine. The “blatant appeal to passion” for which Jackson’s “oratorical abilities were reputedly well suited” are largely absent in the long train of legal arguments and intricate appeals to constitutional principle that make up that document.³⁰

Wilsonian Leadership as Interpretation

Tulis marks Theodore Roosevelt’s presidency as the transition between the Old Way and Wilson’s modern leadership dispensation.³¹ Elected in 1901, Roosevelt employed popular forms of presidential speech, “inspirational rhetoric,” that plainly flew in the face of the reigning nineteenth-

²⁷ Ibid., 5, n3, 74-75, n19.

²⁸ Ibid., 53, 79, n34.

²⁹ Ibid., 74-75.

³⁰ Ibid., 53. Consider a more dramatic illustration of the founding doctrine’s sway on presidential behavior: On the eve of the Civil War, a crowd gathered around president-elect Abraham Lincoln’s train at a stop in route to his inauguration. In response to spectators soliciting his views on the impending crisis, Tulis explains, Lincoln actually made spontaneous arguments about the inappropriateness of speaking to the subject as president, which would have been tantamount to reaffirming his election as primarily a partisan victory. Lincoln instead reiterated that “he could not discuss the issues of the day extemporaneously”—even under the extraordinary circumstances of southern secession—and that “they would have to await a ‘proper’ occasion.” Strikingly, Tulis explains, Lincoln’s rebuffs garnered outbreaks of applause and cheers from the crowd. See *idem.*, 5, n3. For the text of Andrew Jackson’s Proclamation see: https://avalon.law.yale.edu/19th_century/jack01.asp.

³¹ Ibid., 135.

century customs. But in a case study of TR's rhetorical campaign for passage of the Hepburn Act—a massive effort to regulate railroad monopolies and avert what looked like imminent class warfare—Tulis shows Roosevelt's departure from founding norms to be a self-conscious, temporary, aberration designed to contend with a national crisis.³² Roosevelt, in Tulis's telling, violated the founders' rhetorical standards in order to better accomplish their underlying goals of proscribing fundamental “regime-level” questions purportedly settled by the Constitution's ratification.³³

Having written and thought extensively about the threat of demagoguery, Roosevelt framed his passionate appeals as momentary necessities for restoring “normal” politics in a polity marred by class conflict and roiled by “true” demagogues like Illinois's John Peter Altgeld.³⁴ Tulis explains:

Roosevelt concluded that his public philosophy must distinguish individuals and corporations from the classes or categories in which they were subsumed. He would go after bad individuals and evil corporations, but...would chastise as demagogues those who opposed wealth as such or the impoverished as such....If popular rhetoric was proscribed in the nineteenth-century because it could manifest demagoguery, impede deliberation, and subvert the routines of republican governance, it could be defended by showing itself necessary to contend with these very same political difficulties...Roosevelt's presidency constituted a middle way between...the preceding-century and the rhetorical presidency that was to follow.³⁵

Elected in 1913, Woodrow Wilson brought to the presidency a detailed theory of leadership designed to justify and regularize the forms of popular rhetoric Roosevelt hoped would be temporary. In Tulis's telling, Wilson saw the complicated institutional arrangements and overall structural features of the 1787 Constitution as the central “defect” of American politics.³⁶ Although he would eventually

³² Ibid., 112-115, 135.

³³ The outbreak of the Civil War and the economic turmoil of the Gilded Age are only the most obvious examples of the fact that Hamilton's envisaged “politics of administration” has been periodically challenged by regime-level questions (e.g., “who rules, and via what forms?”) prior to TR's presidency. Roosevelt's case, in other words, is only one instance of the periodic resurgence of national debates over questions thought to be proscribed by liberalism's foundational focus on rights and constitutional forms, including the overall viability of the political system itself. See Tulis's discussion on the founders' attempts to permanently preclude those questions in national politics via the “architectonic act of regime founding,” and other means, in *ibid.*, 30-31.

³⁴ Ibid., 112, n26.

³⁵ Ibid., 95, 97-115.

³⁶ Ibid., 120-121, n.3-5. See generally Woodrow Wilson, *Congressional Government: A Study in American Politics* (1884; reprint ed.

abandon reform ideas tied to constitutional amendment, Wilson's core critique of the founders' polity remained functionalist: a sluggish legislative process, a fragmented state, corrupt party machines, and a lack of unified leadership at the national level were all traceable to the separation of powers architecture. In Wilson's mind, the framers mistakenly employed "Newtonian" assumptions, following Montesquieu, in adopting "mechanical" principles of constitutional design, when in reality government was inherently "Darwinian."³⁷ Modern constitutional forms, Wilson thought, were the cumulative but dynamic products of political life's ceaseless flux—products of organic political development and adaptation. Government was "not a machine but a living thing":

It [government] falls, not under the theory of the universe, but under the theory of organic life. It is accountable to Darwin, not to Newton...The makers of our federal Constitution followed the scheme as they found it expounded in Montesquieu, followed it with genuine scientific enthusiasm...Politics is turned into mechanics under [Montesquieu's] touch...[But] No living thing can have its organs offset against each other as checks and live...its life is dependent upon their quick cooperation, their ready response to the commands of instinct or intelligence, their amicable community of purpose...Living political constitutions must be Darwinian in structure and practice.³⁸

Tulis shows how Wilson ultimately identified the presidency as the best vehicle for constitutional innovation—a remedy for the polity's systemic ills he thought germane to the founders' "Newtonian" design.³⁹ Put simply, the new leadership standards Wilson labored to normalize as president reversed the constitutive ideas in that design, rejecting the founders' reasoning about deliberation and demagoguery.⁴⁰ Presidential rhetoric in the new formulation would *routinely* advocate for specific policies, equate those policies to "major contests" of principle—instead of debates over the technical merits of policy—and most important, would be "spoken and addressed principally to *the*

Gloucester, Mass.: Peter Smith, 1973), 141, 149, 164, 195; and *Constitutional Government in the United States* (New York: Columbia University Press, 1908), 56.

³⁷ Ibid., Wilson, quoted in *ibid.*, Tulis (1987).

³⁸ Ibid.

³⁹ Ibid., Tulis, (1987).

⁴⁰ Ibid., 62-87, 97, 110, 120-121, 137.

people at large.” Seeking to diminish the importance of written communications that maintained nineteenth-century forms and content, Wilson displaced the Old Way’s prescription for a formal, deliberative, tone in popular presidential speeches with rhetoric “shaped” by the perceived demands of the People as its principal audience.⁴¹ That project, Tulis illustrates, amounted to a fundamental redefinition of the president’s purpose in the political order.⁴² At the heart of that revised purpose is Wilson’s conception of leadership—and the critical function a leader’s *words* play in a process he called “interpretation.”⁴³

Wilson urged that presidents derived their authority directly from the people as a whole—not the constitutional law—and that a true “leader’s rhetoric could *translate* the people’s felt desires into public policy.” It was the leader’s task to “sift through the multifarious currents of opinion to find a core of issues that he believed reflected majority will even if the majority was not fully aware of it.”⁴⁴ The president as leader-interpreter would “explain the people’s *true* desires [or needs] to them” in a manner that was both “easily comprehended and convincing,” and render a nation’s inchoate or latent longings to its citizens coherently and routinely, not just during national crises.⁴⁵ This quasi-messianic role, in Wilson’s telling, was only suited to the category of man that seeks “to read the destiny in affairs for others as well as for himself, for a nation as well as for individuals.”⁴⁶ In line with that belief, Tulis explains, Wilson “pressed for more ‘visionary’ speech” that would “articulate a picture of the future and impel a populace toward it. Rather than appealing to, and reinvigorating established principles, this forward-looking speech taps the public’s feelings and articulates its wishes...it creates, rather than

⁴¹ Ibid., 134-36.

⁴² Ibid., 132.

⁴³ Ibid., 128-32.

⁴⁴ Ibid.

⁴⁵ Ibid., 129.

⁴⁶ Michael Rogin, *Ronald Reagan: The Movie and Other Episodes in Political Demonology* (Berkeley: University of California Press, 1988), 93-95. Rogin’s account of demonology in American politics is authoritative, and today, perhaps more relevant than ever.

explains, principles.”⁴⁷

Wilson also believed that the redefinition of presidential leadership as interpretation was applicable to his own political career, and to the demands of his own time. As Michael Rogin has observed, “As he approached and occupied the White House,” Wilson’s “organic metaphors” went beyond earlier concerns about constitutional dysfunction and reform to the *de facto* marriage of presidential leadership and the nation’s destiny in his rhetoric.⁴⁸ In various speeches and discussions of Abraham Lincoln—Wilson’s interpretive exemplar—we glimpse his self-conception as “the embodiment of the people as a whole,” a leader who can “speak what no man else knows”:

When I speak the ideal purposes of history I know that I am speaking *the voice of America*, because I have saturated myself since I was a boy in the records of that spirit...When I read my own heart...I feel confident it is a sample American heart...whatever *strength* I have, and whatever *authority*, I possess only so long and so far as *I express the spirit and purpose of the American people*...A nation is led by a man who...speaks, not the rumors of the street, but a new principle for a new age; a man in whose ears the voices of the nation do not sound like the accidental and discordant notes that come from the voice of a mob, but concurrent and concordant...voices of a chorus, whose many meanings, spoken by melodious tongues, *unite in his understanding* in a *single meaning* and reveal to him a *single vision*, so that *he can speak* what no man else knows, the common meaning of the common voice...We know our task to be no mere task of politics but a task which shall search us through and through, whether we be able to understand our time and the need of our people, whether we be indeed *their spokesmen* and *interpreters*, whether we have the pure heart to comprehend and the rectified will to choose our high course of action.⁴⁹

In Wilson’s view, only an unmediated connection between the people and a presidential “spokesman” can indicate the imperatives of executive leadership—only that embodied relation, “a pure heart,” can signify which exercises of executive power, which national course, is appropriate at any given juncture. The definitional features of presidential “power”—a president’s “authority” or “strength” in Wilson’s

⁴⁷ Ibid., Tulis (1987), 135.

⁴⁸ Ibid., Rogin, 94, n39-42.

⁴⁹ Ibid., Wilson, quoted in Rogin. See also Woodrow Wilson, address at Sioux Falls, South Dakota. September 8th, 1919; idem., address at Saint Paul, Minnesota. September 9th, 1919. See *ibid.*, Tulis, 136-137, n33-34, 145-160. See also Woodrow Wilson, “Abraham Lincoln: A Man of the People,” in Baker and Dodd., ed., *College and State*, 2:94-95. My emphasis.

formulation—have no basis in law (e.g., in Article II), but derive exclusively from the extent to which a president expresses “*the spirit and purpose* of the American people” as she alone “comprehends” it.

Tulis correctly notes that Wilson’s critique of the Old Way and its corresponding remedy never supplies a satisfactory method for distinguishing between a benevolent popular leader and a demagogue.⁵⁰ Although he struggled to make that distinction intelligible in his writings on leadership, Wilson never did so, as he himself acknowledged.⁵¹ Channeling Lincoln’s reasoning from the (1838) Lyceum Address, Wilson once wrote that “some man with eloquent tongue could put this whole country into a flame...What an opportunity for some man without conscience to spring up and say: ‘This is the way. Follow me’—and lead in the paths of destruction!”⁵² At base, Tulis shows, the only safeguard against presidential demagoguery in Wilson’s new model is his belief that the people themselves would be able to tell between a malevolent demagogue and a true leader-interpreter.⁵³

It should be underscored that in Tulis’s account, Wilson’s critique of the founding architecture had merit on one score and oversights on another. The New Way’s legitimization of routine popular appeals responded to a real “constitutional deficiency” that was especially visible in Roosevelt’s case: the founders’ Constitution actually “promised” more governing capacity to presidents than it delivered in practice.⁵⁴ As a *form* of prerogative intrinsic to executive power, popular rhetorical leadership might very well be necessary—despite its attendant risks—if presidents need it to meet genuine national crises.⁵⁵ Yet on other features of regime design, especially separation of powers, Tulis shows that Wilson’s understanding was simply flawed. “The accuracy of Wilson’s portrayal of the founders,” he explains, “may be questioned. He reasoned backward from the malfunctioning system as he found it to

⁵⁰ Ibid., Tulis (1987), 131-132. See also *ibid.*, Wilson (1898), 143-147.

⁵¹ Ibid., Tulis, 130, 131, n25.

⁵² Ibid., Rogin, 93, n35.

⁵³ Ibid., Tulis, (1987), 130-132.

⁵⁴ Ibid., 7-8, n7-8. Interview with Jeffrey Tulis. “Jeffrey Tulis on ‘The Rhetorical Presidency’ on Steroids.” Podcast audio. *The Lawfare Podcast*. The Lawfare Institute and the Brookings Institution. Saturday January 26th, 2019. <https://www.lawfareblog.com/jeffrey-tulis-rhetorical-presidency-steroids>.

⁵⁵ Ibid., Tulis (1987), 202. See especially Tulis’s discussion of prerogative.

how they must have intended it...[But] If Wilson’s argument regarding demagoguery was strained or inadequate, it was a price he was willing to pay to remedy what he regarded as the founders’ inadequate provision for an energetic executive.”⁵⁶

What Tulis does not explore in-depth, however, is the extent to which Wilson’s idealized leader-interpreter is—at bottom—theoretically indistinguishable from the variety of demagogue feared by Roosevelt and the founders. What Wilson sought to cover over in his discussions of leadership is precisely this built-in tendency to political pathology: the fact that a hypothetical presidential demagogue would prosecute a *species of interpretation* by definition. Like the benevolent leader-interpreter, presumably, the passionate appeals of the demagogue would also purport “to understand our time and the need of our people,” to discern in the polity “a single meaning,” and to “reveal” and articulate “a single vision”—all under the benign auspices of “the common meaning of the common voice.”⁵⁷ The only difference being that instead of divining and instructing an underlying “majority will,” the demagogic interpreter would merely use impassioned “visionary speech” to divide the populace and embolden a loyal faction repackaged as “the people” writ large.⁵⁸ Wilson’s inability to distinguish clearly between a leader-interpreter and a demagogue evidences that the underlying logic of the rhetorical presidency can function as defining features of each.

At an empirical level, because the leader’s imperative to divine “a new principle for a new age” is what actually undergirds national policy debates in Wilson’s account, interpreters must recast the messy democratic process itself as high “contests of principle” instead of mere technical disputes

⁵⁶ Ibid., Tulis, 95. Tulis shows that Wilson did take the threat of demagoguery seriously, despite his ultimate conclusions about its (un)likelihood in the presidency. See idem., 4-5, 62-87, 97, 110, 120-121, 130-132, 137.

⁵⁷ Ibid., Wilson, “Abraham Lincoln: A Man of the People,” 94-95. Quoted in *ibid.*, Tulis (1987) 134-136.

⁵⁸ Tulis recently observed this tendency in Donald Trump’s Inaugural Address: “In the Inaugural, he [Trump] replaces references to himself [from his campaign stump speech] with invocations of the people. This is deceptive, however. The people he addresses in the Inaugural (and especially in later speeches, including his rally in Florida one month into his term) are his followers—a subset of the American people as a whole that he invests with the authority of the whole People. Trump then uses his constructed People, his made-up People, as authority for himself. He pledges no allegiance to the genuine source of his authority, the Constitution.” See generally, *ibid.*, (2017).

driven by legislative deliberation and elite bargaining. In effect, the content of presidential speech in this view—in addition to being popular, partisan, and policy specific—must be conceived as a medium for the deeper, quasi-oracular, task of interpretation. Simply put, Wilson’s doctrine logically requires the use of whatever rhetorical content is *perceived* necessary to meeting that task. Presidential leadership as interpretation becomes not only the ideal method, but the basic mission, of governance itself. The risk that “some man with eloquent tongue could put this whole country into a flame,” to use Wilson’s phrase, is simply factored into that messianic quest to divine national “purpose.”⁵⁹

* * * *

The features of Wilson’s project I have sketched have become entrenched aspects of the institution across the last century.⁶⁰ But beyond documenting that pattern, perhaps the most profound insight *The Rhetorical Presidency* offers is Tulis’s account of the long-term systemic effects engendered by those transformations. The most important of these is what he calls the permanent “ambivalence” of the office in today’s constitutional order.⁶¹ Tulis uses the metaphor of a “layered constitutional order” to explain this developmental picture: Wilson’s doctrine—his own idealized “constitution”—was foisted “over top” the founding architecture, but without replacing the governing structures and customs he sought to displace through popular leadership.⁶² Wilson’s efforts, Tulis shows, “proceeded through *reinterpretation* of the Constitution rather than by replacement, or even significant amendment, of its *structural* principles.”⁶³

This reality meant that Wilson, although successful in “alter[ing] elite and public understanding” of the ends *and* means of presidential leadership, did not erase the political “logic that

⁵⁹ Ibid., Wilson, quoted in Rogin 94, n39.

⁶⁰ Ibid., Tulis (1987), 145-189.

⁶¹ Ibid. See generally, ch.6, 161-205, and the afterword to the new edition (2017).

⁶² Ibid., Tulis (1987), 7-8, n6, 161.

⁶³ Ibid., 146. My emphasis.

informed the original Constitution.”⁶⁴ Hence, presidents today inhabit “an office structured by two systemic theories”—they are “caught between two layers of systemic thought, the product of a political hybrid.”⁶⁵ Recent presidents especially, Tulis demonstrates—from both Bushes, to Bill Clinton and Barack Obama—have increasingly struggled to “negotiate the dilemmas of the rhetorical presidency as they are pulled and hauled *between* the old Constitution and the new...[They] instinctively...try to appropriate the most useful aspects of each constitutional dispensation.”⁶⁶ Ultimately, he argues, all are “schooled by both constitutions,” even if they “only consciously understand the second.”⁶⁷ Rhetorical leadership on policy conceived in Wilsonian terms thus becomes, for every modern president, the *sine qua non* of leadership as such; but in practice, the old standards persist and subvert the new.

The Ascriptive Tradition in American Politics

Nested within these modern practices and conditions is the *political* logic inherent to Wilson’s leadership doctrine. That logic, I have argued, is at bottom theoretically synonymous with demagoguery—even if, as Tulis argues, extant elements of the Old Way have restricted presidents to the occasional demagogic appeal since Wilson.⁶⁸ But to see the full realization, and deeper meaning, of the rhetorical presidency’s pathological tendency is to understand Donald Trump’s *fusion* of its core logic to the demands of racial order germane to the ideology of ascriptive nationalism.

Turning to this second pattern of order evident in Trump’s case, consider the signal rhetorical and policy themes indicative of that synthesis: race, immigration, and anti-globalism. These themes and their policy corollaries occupy a very traditional place in the history of America’s constitutive political

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Ibid., Tulis (2017), afterword.

⁶⁷ Ibid.

⁶⁸ Ibid., afterword. See also James Ceaser, *Presidential Selection: Theory and Development* (Princeton, NJ: Princeton University Press, 1982); and Ceaser’s chapter on demagoguery in Jeffrey Friedman and Shterna Friedman, eds., *Rethinking the Rhetorical Presidency* (New York: Routledge, 2012).

traditions.⁶⁹ Rogers Smith’s (1997) study of American citizenship laws, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History*, marshalled two centuries worth of evidence to convey just how prominent a part ascriptive Americanism has played in that story.⁷⁰

Smith’s overarching contention was that American political culture should be understood, fundamentally, “as the often conflictual and contradictory product” of deeply linked “multiple political traditions”—*not* as an expression of a singular “hegemonic liberal or democratic tradition.”⁷¹ Smith shows how America’s core traditions—“liberalism,” “republicanism,” and “ascriptive Americanism”—are recurrent sets of ideas that simultaneously define, and order, social and economic institutions. They also seek to determine which Americans are “eligible to participate in them”—assigning the “roles or rights” to which people are entitled by virtue of membership in (or exclusion from) the polity.⁷² In this way, political traditions and the sorts of citizenship laws they construct reflect the deep networks of meaning assembled in a political culture, as much as they formally distribute “political powers” between members of the community.⁷³ Citizenship laws, in this more sophisticated empirical view, are much more than taken for granted amalgams of formal rights: they are the “most fundamental of political creations.”⁷⁴

Civic Ideals also overturned a profoundly influential set of premises about American politics that

⁶⁹ Ibid., Smith (1997); (1993), 549–66.

Cf. Karen Orren and Stephen Skowronek, *The Search for American Political Development* (Cambridge: Cambridge University Press, 2004); Nicole Mellow and Jeffrey K. Tulis, *Legacies of Losing in American Politics*, (Chicago: The University of Chicago Press, 2018); Louis Hartz, *The Liberal Tradition in America: An Interpretation of American Political Thought Since the Revolution* (New York: Harcourt, Brace and World, 1955).

⁷⁰ Ibid., Smith (1997). For one compelling example of how this work has been developed along precisely racial lines (which is to say beyond political culture), see Desmond S. King and Rogers Smith, “Racial Orders in American Political Development,” *American Political Science Review* 99, no. 1 (2005): 75–92.

⁷¹ Ibid. Smith (1993); idem., (1997), 17–18. See generally ch. 1 (on civic identity and the advantages of examining the politics of citizenship laws).

⁷² Ibid., (1993); (1997), 30.

⁷³ Ibid., (1997), 5–6, n11. Cf. Anne Norton, *95 Theses on Politics, Culture, and Method* (New Haven: Yale University Press, 2003); ibid., Orren and Skowronek (2008).

⁷⁴ Ibid., 30.

date back to Tocqueville: namely, that the U.S. could *only* be described as a paradigmatically “liberal democratic” society—one whose distinctive developmental trajectory was “shaped most by the comparatively free and equal conditions” and “Enlightenment ideals” that supposedly “prevailed” at the founding.⁷⁵ Smith illustrates that the Tocquevillian thesis failed “to give due weight to inegalitarian ideologies and conditions that have shaped the *participants* and the *substance* of American politics just as deeply” as America’s liberal, democratic, or republican principles. Far from being “destined to marginality by their lack of rational defenses,” Americans’ illiberal and inegalitarian “beliefs and practices” have sustained multiform hierarchies based on ascribed qualities like race, ethnicity, gender, religion, and class.⁷⁶ Distilled to its essence by Stephen A. Douglas and “attributed to the Constitution” by Roger Taney in the 1857 *Dred Scott* case, ascriptive nationalism’s central racialized tenet is that the American polity was “made by the white man, for the benefit of the white man, to be administered by white men” (preferably of an Anglo-Saxon, Protestant background).⁷⁷

By tracing the imperatives of “nation-building” across the whole of American history, Smith illustrates how struggles over civic ideology have induced political leaders of the left and right—and of both parties—to instrumentalize “aspects of all three of these heterogeneous traditions” in their rhetoric and policy according to political expediency.⁷⁸ In the earliest, and probably most wide-ranging instance, Smith shows how an emergent “proto-nationalist” identity forged amid the revolutionary zeal

⁷⁵ Ibid., 549, 555. Alexis de Tocqueville, *Democracy in America*, trans. Harvey C. Mansfield and Delba Winthrop (Chicago: University of Chicago Press, 2000).

⁷⁶ Ibid. Twentieth-century accounts of political culture in the United States sustained by Louis Hartz and Gunnar Myrdal, Smith also shows—because they issued from and incorporated these Tocquevillian assumptions—found further affirmation for those assumptions in later work by scholars as diverse as Samuel Huntington, Walter Dean Burnham, Ira Katznelson, and John Diggins. See *idem.*, 549.

⁷⁷ Quoted in *ibid.*, Smith (1997), 249–50. Smith’s approach to multi-faceted ascriptive hierarchy, innovative in many respects, is particularly keen on underscoring the historical “places” and possibilities inherited by numerous subgroups, especially women and immigrants. Theorizing the mutually reinforcing relationships between gender, patriarchy, nativism, and race across the whole of American history—that is, in a comprehensive way—it is plausible that recent pathbreaking work on intersectionality and contemporary forms of ascriptive domination would have been much hindered without the focus on rights and citizenship Smith first insisted upon.

⁷⁸ Ibid., 558.

of the 1770s ensured that the roles of women were defined by patriarchal rule, and that the subhuman statuses of enslaved (and free) blacks and Native Americans were made absolute in Thomas Paine's America.⁷⁹ Civic reforms in the wake of the Constitution's ratification a decade later, during Reconstruction's collapse in the 1870s, and especially in the early Progressive years, merely recapitulate those patterns: ascriptive Americanism is powerfully challenged by forces of reform, and then decisively reinforced in law and custom—often under the auspices of liberal or republican principles.⁸⁰

Trump's Ascriptive Nationalism

Ascriptive Americanists today, as they always have, thus make claims—some implicit, some comprehensive—about who may be counted among the members of the political community and what rights or privileges they are entitled to by virtue of that membership.⁸¹ Prior to his official candidacy, throughout the 2016 presidential campaign, and repeatedly since taking office, Donald Trump's signal rhetoric and policies have fit squarely in this political tradition. To see this is not difficult. Consider the widely reported utterances and policies that most cohere around the themes mentioned above: immigration, race, and anti-globalism.

As early as 2010, Trump began to publicly (and erroneously) claim that Barack Obama, the first African-American president, was not born in the United States and that his election—and by extension

⁷⁹ Ibid., 69-74. During the Revolution, Smith shows, writers like Paine exploited the colonists' growing sense that they were the "sole bearers of the providentially favored" Anglo-Saxon race, destined to "Build a realm of enlightenment and spiritual and political liberty." As God's "Chosen People," colonists were thought better equipped to realize the republican "destiny" accorded to them by their English heritage. See *idem.*, 74-75, n13-15.

⁸⁰ See generally, Smith, (1997); (1993). For one of the most important discussions of racism in the United States to date, see the seminal essay by Barbara Jeanne Fields, "Slavery, Race and Ideology in the United States of America," *New Left Review* 181, no. 1 (1990): 95-118. Fields deals in a sweeping, but richly empirical fashion, with the processes by which forms of racial ideology (anti-black racism) were forged, embedded, and socially reproduced in American political culture—and thus understood, ontologically and historically, as a "distillate of experience." See especially her discussion of the relationship between "power" and "authority" in U.S. colonial history at 102-108.

⁸¹ See Smith's discussion of the history of birthright citizenship and competing interpretations of English subjectship, in *ibid.*, (1997), at 40, and in *ibid.*, (1993). See also Adam Serwer, "The Nationalist's Delusion," *The Atlantic*. November 20th, 2017. <https://www.theatlantic.com/politics/archive/2017/11/the-nationalists-delusion/546356/>.

his administration—was illegitimate.⁸² A slew of conspiracy theorists, federal and state law makers, and other commentators, consistently denied or questioned Obama’s citizenship (and some still do).⁸³ Trump’s role in the entire “Birther” controversy indicates an instinctual grasp of the closely guarded sense of ethnonational identity long cultivated by white political leaders throughout the ascriptive tradition.⁸⁴ In one analyst’s helpful formulation: “Obama was not merely black but also a foreigner, not just black and foreign but also a secret Muslim. Birtherism was not simply racism, but nationalism—a statement of values and a definition of who belongs in America.”⁸⁵ Appealing to fears of immigrants

⁸² *Fox News Insider*, “O’Reilly Challenges Trump on His Views on Obama’s Birth Certificate”. Filmed March, 2011. YouTube video, 5:33. Posted March 31st, 2011. <https://www.youtube.com/watch?v=HQFbVWHnzp0>. Earlier drafts of this study focused at length on Trump’s anti-black policy efforts, rhetoric, and the galvanic effects his political rise has had on numerous white nationalist groups in the United States. Unfortunately, what the latter half of Trump’s first term has showcased is a burgeoning anti-immigrant message that actually subsumes explicit and implicit white supremacy traditionally trained on violence against African-Americans. For those reasons, and for analytic clarity in this draft, I have chosen not to develop those tendencies here. For useful accounts (especially those tied to the emergent Alt-Right and neo-Nazism), see George Hawley’s *Making Sense of the Alt-Right* (New York: Columbia University Press, 2019) and *Right-Wing Critics of American Conservatism* (Lawrence: University Press of Kansas, 2016); Angela Nagle, *Kill All Normies: Online Culture Wars from 4chan and Tumblr to Trump and the Alt-Right* (United Kingdom: Zero Books, 2017); Matthew Lyons, *CTRL-ALT-DELETE: The Origins and Ideology of the Alternative Right* (Somerville: Political Research Associates, 2017); and David A. Graham, Adrienne Green, Cullen Murphy, and Parker Richards, “An Oral History of Trump’s Bigotry.” *The Atlantic*, June 2019. <https://www.theatlantic.com/magazine/archive/2019/06/trump-racism-comments/588067/>. See especially Thomas J. Main, *The Rise of the Alt-Right* (Washington, D.C.: Brookings Press, 2018), 216-230.

My sincere thanks to Prof. Main for early input on the seeds of this project, as well as George Hawley’s expert guidance on the often disturbing origin story of the contemporary Alt-Right that figured in earlier drafts. My thanks to Brian Witte, Specialist 3rd Class, U.S. Army, for many insightful conversations about the features of the movement that so often get overlooked in mainstream discourse.

⁸³ Trump ultimately conceded in 2016—six years after the release of Obama’s long-form birth certificate in April of 2011—that Obama was indeed a U.S. citizen. Jacob Pramuk, “Trump: ‘President Barack Obama was born in the United States. Period’”. *CNBC*. September 16, 2016. <https://www.cnn.com/2016/09/16/trump-president-obama-was-born-in-the-united-states-period.html>.

⁸⁴ *Ibid.*, Smith (1993), 559-560. See especially Smith’s discussion of the Supreme Court’s upholding of the Chinese Exclusion laws in the late 1880s. See generally *Chae Chan Ping v. United States*, 130 U.S. 581 (1889). For a compelling historical treatment of the processes by which Asian Americans have been “triangulated” (by white “opinion-makers” and politicians) *vis-à-vis* “Black-White” conflict in the United States—and hence, systematically exploited, along with African Americans, by virtue of those processes—see Claire Jean Kim, “The Racial Triangulation of Asian Americans,” *Politics & Society*, 27 no. 1 (1999): 105-138.

⁸⁵ *Ibid.*, Serwer (2018). As Sides et al. have shown, in 2016 30% of Trump supporters thought that it was “important” for Americans to be of European ancestry, 72% thought that Americans should be “born in the United States,” and 63% thought that being Christian was “fairly or very important to being American.” Quoted in *ibid.*, Smith (2019). See John Sides, Michael Tesler, and Lynn Vavreck, *Identity Crisis: The 2016 Presidential Campaign and the Battle for the Meaning of America* (Princeton: Princeton University Press, 2017).

and Mexicans during his campaign announcement speech in New York, Trump famously averred that: “When Mexico sends its people, they’re not sending their best. They’re not sending you...They’re sending people that have lots of problems and they’re bringing those problems with us [*sic*]. They’re bringing drugs, they’re bringing crime, they’re rapists...”⁸⁶

The candidate’s early promise to erect a wall along the country’s southern border (“a great, great wall”) would become a centerpiece of the campaign, and two years later, of budgetary fights with Congress over the construction of new border fencing.⁸⁷ One Rose Garden speech echoed the early rhetoric’s demonization of Mexican immigrants as criminals and degenerates: “We’re going to confront the national security crisis on our southern border, and we’re going to do it one way or the other...It’s an invasion...We have an *invasion* of drugs and criminals coming into our country.”⁸⁸ Similar examples range from over seven-hundred tweets focused on the southern border and migrant “invasions,” to unscripted remarks at periodic (*pre-re-election* campaign) rallies.⁸⁹ In the final days before the 2018 midterm elections, Trump even deployed more than 5,000 active-duty military troops to the U.S.-Mexico border, across three states, on the pretense of stopping the migrant “caravan,” warning—without evidence⁹⁰—that “Criminals and unknown Middle Easterners” were “mixed in” with the

⁸⁶ Text of Donald Trump’s Presidential Announcement Speech, *Time*. June 16th, 2016. <https://time.com/3923128/donald-trump-announcement-speech/>. Hereafter cited as “Campaign Announcement Speech”.

⁸⁷ The most dramatic of these standoffs led Trump to orchestrate the longest governmental shutdown in U.S. history, which I discuss in detail in the subsequent chapter. See Nicholas Fandos, Sheryl Gay Stolberg and Peter Baker, “Trump Signs Bill Reopening Government for 3 Weeks in Surprise Retreat From Wall.” *New York Times*. January 25th, 2019. <https://www.nytimes.com/2019/01/25/us/politics/trump-shutdowndeal.html?action=click&module=Top%20Stories&pgtype=Homepage>.

⁸⁸ Aaron Blake, “Trump’s national emergency press conference, annotated,” *The Washington Post*, February 15th, 2019. Hereafter cited as “National Emergency Declaration”.

⁸⁹ Kirk Semple, “What Is the Migrant Caravan and Why Does Trump Care?” *New York Times*. October 18th, 2018. <https://www.nytimes.com/2018/10/18/world/americas/trump-migrant-caravan.html?module=inline>. Donald Trump. Twitter Posts. November 18, 2018, 1:42pm. <https://twitter.com/realDonaldTrump/status/1064227483187318784?s=20>; June 24, 2018, 11:02am. <https://twitter.com/realDonaldTrump/status/1010900865602019329?s=200>; October 29, 2018, 10:41am. <https://twitter.com/realDonaldTrump/status/1056919064906469376?s=200>. <https://factba.se/topic/twitter?q=border&f=>.

⁹⁰ Michael D. Shear and Thomas Gibbons-Neff, “Trump Sending 5,200 Troops to the Border in an Election-Season Response to Migrants.” *New York Times*. October 29th, 2018. <https://www.nytimes.com/2018/10/29/us/politics/border-security-troops-trump.html>.

migrants.⁹¹

This theme—the demonization of immigrants and racial or ethnic minorities—has been deployed and elaborated repeatedly over the course of Trump’s first term. It has also played a corresponding role in the administration’s immigration regime, especially in policies that have either targeted, or adversely affected, Muslims, Mexicans, and South and Central Americans. Executive Order 13769, the first iteration of the so-called “Muslim ban” (or “travel ban”) as well as the policy of separating migrant children from families seeking asylum at the southern border, are the most overt examples.⁹² In her dissent in *Trump v. Hawaii*—the ruling that upheld the third iteration of the ban—Justice Sonya Sotomayor cited some of Trump’s characteristic tweets at length, one of which justifies discrimination against Muslims explicitly: “That’s right, we need a TRAVEL BAN for certain DANGEROUS countries, not some politically correct term that won’t help us protect our people!”⁹³ These policies have met with mounting legal challenges in light of numerous federal rule violations and human rights abuses.⁹⁴

Trump’s Inaugural Address, as well as later speeches to the United Nations General Assembly, merely integrate the themes of race and immigration I’ve sketched with anti-globalism. In one characteristic speech, Trump performs this integration with a mix of economic and political diagnoses,

⁹¹ Donald Trump. Twitter Post. October 22, 2018, 8:37am, <https://twitter.com/realDonaldTrump/status/1054351078328885248?s=200>.

⁹² “Executive Order 13769 of January 27, 2017, Protecting the Nation From Foreign Terrorist Entry Into the United States,” Code of Federal Regulations, title 3 (2017): 8977-8982, <https://www.federalregister.gov/documents/2017/02/01/2017-02281/protecting-the-nation-from-foreign-terrorist-entry-into-the-united-states>.

⁹³ *Trump v. Hawaii*, No. 17-965, 585 U.S. ____ (2018). In her dissent, Sotomayor writes that the Court’s ruling “...leaves undisturbed a policy first advertised openly and unequivocally as a ‘total and complete shutdown of Muslims entering the United States’ [quoting Trump] because the policy now masquerades behind a façade of national-security concerns...[and] The majority holds otherwise by ignoring the facts, misconstruing our legal precedent, and turning a blind eye to the pain and suffering the Proclamation inflicts upon countless families and individuals, many of whom are United States citizens.”

⁹⁴ Trump’s Department of Homeland Security (DHS) refused public acknowledgement of widely reported instances of child-separation and neglect until June of 2018, finally disclosing—after mounting public outcries—that officials had “separated nearly 2,000 children from their parents or legal guardians between April 19 and May 31.” See Southern Poverty Law Center (SPLC), *Family Separation Under the Trump Administration—A Timeline*. September 24, 2019. <https://www.splcenter.org/news/2019/09/24/family-separation-under-trump-administration-timeline>.

the nationalist prescriptions for which are to be found in the president’s governing “vision” offered in the Inaugural—“America First.”⁹⁵

Defending the role of “national foundations” in the “free world,” Trump makes the case to the UN Assembly that a multicultural pluralism between nations—and, implicitly, within them—is a corrosive threat to national identity, to Americanism itself. “Each of you,” he claims, “has the absolute right to protect your borders. And so, of course, does our country...The free world must embrace its national foundations. It must not attempt to erase them or replace them...The future does not belong to globalists...the future belongs to patriots.”⁹⁶ In the speech’s crescendo, Trump’s language channels, with remarkable clarity, earlier ascriptive appeals to a racially homogenous (presumably Anglo-Saxon) conception of American identity—complete with invocations of “culture,” “history,” and threats from “uncontrolled migration.”⁹⁷ America First understood as the president has presented it—as a governing “political vision”—is less a principle designed to regulate foreign and domestic policy in adherence to anti-globalism, and more a definitionally exclusionary form of nationalism. America First *is* ascriptive nationalism.

Presidential Demagoguery as Method: Political Synthesis

What the rhetoric and policy I have sampled here share is an ideological hallmark of their common ascriptive heritage. This is the underlying notion that non-white “outsiders” (be they legal citizens or otherwise) are at minimum a threat to national security—and a defined ethnonational identity—and at maximum, subhuman, and thus not entitled to the protections of the law.⁹⁸ Critics of

⁹⁵ Ibid., Inaugural Address (2016).

⁹⁶ Remarks by President Donald Trump to the 74th Session of the United Nations General Assembly. Delivered September 25, 2019, in New York, NY. Text available at: <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-74th-session-united-nations-general-assembly/>. Hereafter cited as “UN Speech”. See also, *ibid.*, Cole and Shulman (2018) on Trump’s break with Republican orthodoxy on the NATO alliance, at 343.

⁹⁷ Ibid., UN Speech.

⁹⁸ See generally *ibid.*, Smith (1997), 243-285, 347-409, especially his thematic case law Index at 672-699. See also “Executive

Trump often lament his rhetoric (and its policy corollaries) as the corrosion of presidential norms against demagoguery native to the founders' Old Way.⁹⁹ But in doing so, they fail to see how the vulgarized objects of that lament reflect, rather than corrode, the defining features of the modern institution forged by Wilson. Those features are independent of Trump, or any other politician, since any president is simultaneously capable of demagoguery *and* expected to negotiate leadership in Wilsonian terms, i.e., as a leader-interpreter. The ascriptive appeals catalogued above merely expose empirically the pathological potential Wilson's leadership teaching has always necessarily contained. Trump demonstrates the ease with which the competing, pre-Wilson, sources of constraint can be jettisoned, and the office administered as a vehicle for unmitigated presidential demagoguery.

Consider, for example, how Trump's rhetoric around race, immigration, and anti-globalism satisfies the "four rules" of demagogic leadership described by Tulis: (1) Trump's refrains about "political correctness," "corrupt" elites in the media (and both parties), a "rigged" system, and the unprecedented numbers of conspiratorial claims he proffers, all imply a "concern for the common people as opposed to the elites."¹⁰⁰ (2) As his tweets, speeches, and outsized media coverage indicates, Trump's "politics depends on a powerful, visceral connection with his supporters" that appears to "dramatically transcend ordinary political popularity."¹⁰¹ (3) Trump's incessant Twitter usage in particular, in tandem with the steadfast support by his electoral base indicated in polling, illustrates his

Order 13841 of June 20, 2018, Affording Congress an Opportunity To Address Family Separation," Code of Federal Regulations, title 3 (2018): 29435-29436, <https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/>.

⁹⁹ Paul Steinhauser, "Conservative Bill Kristol Brings His Never-Trump Message To New Hampshire," *CBS News*, May 23, 2018; E.J. Dionne, "What unites Trump's apologists? Minority rule," *Washington Post*, November 24th, 2019, https://www.washingtonpost.com/opinions/what-unites-trumps-apologists-minority-rule/2019/11/24/152c5d06-0d6c-11ea-97ac-a7ccc8dd1ebc_story.html.

¹⁰⁰ On the new conspiracism Trump reflects and emboldens, see Nancy L. Rosenblum and Russell Muirhead's brilliant new book, *A Lot of People Are Saying: The New Conspiracism and the Assault on Democracy* (Princeton: Princeton University Press, 2019).

¹⁰¹ This is not to say that Trump or the policies I note are popular nationally—polling indicates the opposite scenario. Trump's steadfast popularity within his base, in this account of demagoguery, is "transcendent" in the sense that nothing Trump has done or said has altered that numerical minority's loyalties and support.

ability to “manipulate this connection, and the raging popularity it affords him” with a minority faction.¹⁰² (4) Finally, if anything is clear about Trump’s approach to governance, it is his willingness to “threaten or outright break established rules of conduct, institutions, and even the law.”¹⁰³

But Trump is more than the variety of demagogue thought unlikely by Wilson, and feared by the founders and Roosevelt. The way in which the themes of race, immigration, and anti-globalism course through his policy and rhetoric¹⁰⁴ also represent what is most fundamental in Trump’s governing “vision”—they are elemental to the *process* of converging patterns of order his rhetorical approach signifies, the very ideological content needed to define and realize the “leadership” impulse. Trump has instinctively brought these two entrenched patterns in American politics *together* in a manner unseen in the modern era.¹⁰⁵

¹⁰² Tulis shows that although emergent mass communication tools like radio, television (and more recently, social media) have certainly supplied better technological capacity to presidents, it is Wilson’s new leadership doctrine—not communicational means per se—that legitimate presidential use of new media. Trump’s prolific Twitter feed confirms that pattern. On the wholly unprecedented *volume* of popular appeals made by Trump, see the empirical data and analysis in this recent project: Michael D. Shear, Maggie Haberman, Nicholas Confessore, Karen Yourish, Larry Buchana, and Keith Collins, “How Trump Reshaped the Presidency in Over 11,000 Tweets.” *New York Times*. November 2nd, 2019. <https://www.nytimes.com/interactive/2019/11/02/us/politics/trump-twitter-presidency.html>. Hereafter “New York Times study.”

¹⁰³ See *ibid.*, Tulis (2017), 204; *ibid.*, Singer. Trump has seen mounting legal challenges on a variety of fronts during his first term—personal and official—but it is unclear whether or what legal charges might be (or have been) filed beyond his recent impeachment in the House for his actions in Ukraine. Trump was acquitted in the Senate. The historic impeachment trial was ongoing during the composition of this study’s second draft, but as of this (final) writing, Trump also faces multiple instances of pending litigation related to his tax records, as well as federal charges linked to Trump University in New York State.

¹⁰⁴ David A. Graham, Adrienne Green, Cullen Murphy, and Parker Richards, “An Oral History of Trump’s Bigotry,” *The Atlantic*. June 2019 Issue; Bernard E. Harcourt, “How Trump Fuels the Fascist Right,” *The New York Review of Books*. November 29, 2018 Issue.

¹⁰⁵ The only analog for the demagoguery, and frequency of rhetoric, proffered by Trump is Andrew Johnson—who Tulis calls the “great exception” to the nineteenth-century doctrine’s influence. In the wake of Lincoln’s assassination, Johnson deployed incendiary personal attacks against political opponents, threatened violence against his partisan critics, used the power of his office to block Reconstruction reforms, and compared himself to Jesus Christ—along with a host of other highly scandalous actions—before being impeached (and then acquitted in the Senate by one vote). Of course, many presidents have held (and overtly expressed) ascriptive or racist views, and either endorsed or failed to challenge racist policies. But the problem is that either these were during the pre-Wilson era, before popular leadership came to predominate, or because the Old Way actually did consistently hold sway over their conduct—as with presidents Richard Nixon, or Wilson, for instance. Both Wilson and Nixon are widely known to have been white supremacists, and Wilson was an open segregationist and Confederate apologist. However, explicit expressions of white supremacy as an animating principle or core policy aim—as opposed to one component or outcome of

Finally, what many analysts of Trump have overlooked about his signal rhetoric is not only how the form of its delivery constitutes the political apotheosis of the rhetorical presidency—the core principles of the New Way taken to their logical extreme. But also, how naturally that speech’s content, the ideological claims germane to ascriptive Americanism, *map onto* or comport with Wilson’s interpretive logic. Trump’s overt ascriptive appeals illustrate that the need to exclude and dominate marginalized groups inherent to the nativist, racist, and ethnocentric demonologies proffered by ascriptive nationalists, shares an underlying grammatical *structure* with hard demagoguery by definition; and therefore, with the messianic principle at the heart of Wilson’s teaching. Trump’s synthesis of ascriptive nationalism and the paradigmatic Wilsonian impulse recasts the modern presidency *itself* as the kind of institutional vehicle precisely calibrated for civic exclusions, social divisions, and the demagogic appeals to inegalitarian hierarchy typified in the ascriptive tradition.

The only truly “novel” dimension of Trump’s presidency, then, might be this instinctive fusion of these long-standing patterns by virtue of their underlying logical compatibility. That demagoguery is dangerous when wedded to the most powerful reservoir of executive power in the world is not a new notion—or an entirely unprecedented occurrence—as Tulis’s account reminds us.¹⁰⁶ That demagogic “leadership” represents, on the other hand, the ends *and* the means of presidential power, is another matter entirely. Trump’s innovation is that presidential demagoguery understood as a species of interpretation becomes, under his adaptation, not simply one mode of deploying prerogative power for governing purposes—for promoting or defending policy tied to ascriptive nationalism or other political projects—but the *whole* of executive power, an object in itself.

* * * *

imperial or domestic policy—were not *fundamental* to their presidencies as such, or to the signal features of their policy priorities. On Wilson’s racism and southern roots, see Stephen Skowronek, “The Reassociation of Ideas and Purposes: Racism, Liberalism, and the American Political Tradition,” *American Political Science Review* 100, no. 3 (2006): 385-401.

¹⁰⁶ Ibid., Tulis (1987), 87-95 (on Andrew Johnson).

CHAPTER 2: Symptoms of Constitutional Decay

The true good of a nation can only be pursued by those who love it: by citizens who are rooted in its history, who are nourished by its culture...and who know that its future is theirs to build or theirs to lose.

- Donald Trump, 2019

The effects of the scenario described in the foregoing chapter pose a problem for the political system. Not because Trump’s demagogic appeals or ascriptive policy “arguments” are novel: as I have stressed, Trump’s only innovation has been to fully synthesize patterns of *continuity* long predominant in the polity. Nor because, as the conventional wisdom¹⁰⁷ would have it, Trump’s demagoguery and its policy corollaries auger an authoritarian collapse of the political order, or even brazen abuses of executive power.¹⁰⁸ Although Trump may talk like an “authoritarian,” he has consistently failed to marshal the formal powers of his office for authoritarian ends, his embattled immigration policies not excepted.¹⁰⁹

Instead, Trump’s new synthesis of old elements is a problem because it constitutes the effective redefinition of presidential power as *pure* Wilsonian interpretation—a proliferation of unmitigated demagoguery that constitutes the de facto eclipse of the Old Way, a symbol of that doctrine’s impotence (or irrelevance) in the Trump regime.¹¹⁰ The key question in Trump’s case, then, is what the material consequences of that demagogic rhetoric are in the polity. Does that particular mode of communication—supposing it does issue from, and fuse, the antecedents I’ve traced—

¹⁰⁷ Ibid., Snyder (2017).

¹⁰⁸ To be sure, specific abuses of the powers of Trump’s office have taken place during the first term—the conduct leading to his impeachment is the most important of these. But that conduct was markedly not brazen—it was a secret scheme. Authoritarians don’t care about cover-ups.

¹⁰⁹ See generally Corey Robin, *The Reactionary Mind: Conservatism from Edmund Burke to Donald Trump*, (New York: Oxford University Press, 2018); and “The Politics Trump Makes,” *N+1 Magazine*. January 11, 2017. <https://nplusonemag.com/online-only/online-only/the-politics-trump-makes/>.

¹¹⁰ Christopher J. Putney, “The Metapolitics of Illiberalism and the Alt-Right: Intellectual Origins and Constitutional Decay.” Paper given at the Annual American Political Science Association Meeting, Washington, D.C., August 31st, 2019.

amount to anything more than a presidential aesthetic for citizens to praise or lament? Trump's exacerbation of several governance dilemmas suggests it does.

Dilemmas of Decay

Trump's case illustrates that presidential demagoguery constitutes more than a mode of communication. It is also a mode—for him, the only mode—of governing. Although ascriptive nationalism and Wilson's New Way have coexisted in American politics across the last century in ways largely “independent” of each other, they are the essence of *Trump's* presidency because their synthesis constitutes his only conception of governance: “Life is a campaign. Make America Great Again is a campaign. For me, [the presidency] is a campaign.”¹¹¹ That conception—widely noted by Trump's critics—has been chalked up to the eccentricities of Trump's personality, but little understood.¹¹² At the deepest level, it evidences that the century-old ingredients of demagogic pathology embedded in Wilson's doctrine have been unleashed under the auspices of Trump's nationalism, and hence, that the office itself operates today as an accelerant of constitutional decay.

The forms of dysfunction that attest to that acceleration—what I call governance by campaign and the failure of separation of powers—are mutually reinforcing, and both *systemic* in nature. They materially affect core functions of the political system itself, i.e., those features prefigured in the constitutional design understood as an architectonic structure.¹¹³ To the extent that those pre-existing

¹¹¹ Lindsey Bever, “‘Demonic Activity was Palpable’ at Trump's rally, Pastor says,” *Washington Post*, February 22, 2017. “One advisor calls political rallies the president's ‘oxygen.’” https://www.washingtonpost.com/news/acts-of-faith/wp/2017/02/22/demonic-activity-palpable-at-president-trumps-rally-pastor-says/?tid=sm_fb&utm_term=.e09de89c9308 (accessed February 25, 2017).

¹¹² Lauren Katz, “Trump rallies aren't a sideshow—they're his entire campaign,” *VOX*, November 6th, 2019.

¹¹³ For a rich account of the founding design, see *ibid.*, Tulis (1987), 25-87. For an account of how the constitutive “instruments and institutions” of the Constitution itself have been used for the purposes of systematic oppression and illiberal governance regimes, see Corey Robin, “Fragmented State, Pluralist Society: How Liberal Institutions Promote Fear,” in *Missouri Law Review*, vol. 69 (May 2006), 1062-1093; *Fear: The History of a Political Idea* (New York: Oxford University Press, 2006); and “American Institutions Won't Keep Us Safe from Donald Trump's Excesses,” *The Guardian*, February 02, 2017.

problems are enhanced by Trump's conduct as president, his case should be understood as hastening, but not engendering, them (as many analysts have implied).¹¹⁴ I develop the concept of constitutional decay here to explain these infirmities, but it was anticipated thirty years ago in *The Rhetorical Presidency*.¹¹⁵

In several case studies of governance crises linked to Wilson's project, Tulis traces the contours of a number of systemic "dilemmas" caused or compounded by the ambivalence of the modern presidency I noted earlier: the underlying tension between the Old and New Ways that has (at least until Trump) reliably structured presidential behavior.¹¹⁶ In these cases he underscores numerous institutional trends, but his discussions of presidential speech, the role of mass media in popular policy appeals, and modern White House communications operations are the most instructive for our purposes. These insights supply the basics of a framework for explaining the contemporary forms of constitutional decay exacerbated by Trump.¹¹⁷

The first is the increasingly effaced distinction between political campaigns and the administration of government during the last half-century or so, for which scholars still offer countless and contradictory explanations.¹¹⁸ Without wading into that on-going debate, Tulis details the ubiquitous manner in which perceived Wilsonian leadership imperatives have come to predominate the

¹¹⁴ See, for example, authors listed in n2 above.

¹¹⁵ Ibid., Tulis (1987), 137, 145, 173-205. Tulis has used the term "constitutional decay" in several places, very broadly, but has resisted developing the subject further in a systematic way. There has been a flood in recent years—especially since Trump's election—of works by legal scholars, political scientists, and journalists interested in the broadly related themes of constitutional dysfunction or "rot," regime "decay," democratic "retrogression," and constitutional "crisis." The most important of these are works by Jack Balkin, John Finn, Sanford Levinson, Bruce Ackerman, and Keith Whittington. Balkin's concept of "constitutional rot" has several overlapping areas of concern with what I take to be, following Tulis, evidence of systemic maladies in American politics, but there are several key differences between his broader view and my focus on the presidency in the constitutional order. Because of constraints of space I don't explore those here. See generally Jack Balkin and Sanford Levinson, *Democracy and Dysfunction* (Chicago: University of Chicago Press, 2018).

¹¹⁶ Ibid., Tulis, 173. He observes that: "The development of the rhetorical presidency does not appear to be an unqualified blessing as most scholars, citizens, and politicians assume, but rather a political development whose enormous political promise has been accompanied by considerable systemic costs." See idem., 12-13, 173-202.

¹¹⁷ Ibid., 161-172, 189. See generally ch. 7, at 205.

¹¹⁸ Ibid., Tulis and Muirhead (forthcoming).

crafting of presidential speech—“popular” or otherwise—as well as national policy debate. Even more detrimentally, he shows the manner in which presidential rhetoric actually *structures* the conceptualization and production of policy itself in the post-Wilson polity.¹¹⁹ In this scenario, within and outside of Congress and the executive branch, policy “slogans” shape the conception and production of law, instead of legislative substance or the merits of competing policy approaches. Increasingly ambitious legislative reforms (e.g., the New Deal, the War on Poverty, Obamacare) are constructed in complex packages—in LBJ’s case, with remarkable rapidity—in ways that incorporate, or are, quite literally, *policy* versions of presidential metaphors and campaign rhetoric.¹²⁰

As partisan regimes ascend and decay, these legislative packages are discarded or adopted wholesale, without substantive deliberation over modifications or experimentation with past or present policy alternatives. This cycle on repeat, Tulis shows, erodes “the processes of deliberation” Congress was designed to impel, as well as subsequent reform efforts.¹²¹ The churn of the modern news cycle, in addition to the competing rhetorical appeals made by other institutional actors (e.g., senators), in turn generate “fictive worlds” that are recreated as “constitutive features” of “real” politics.¹²² The development of institutionalized speechwriting (and other communications) staff, pollsters, and campaign consultants in the White House during the postwar years—and the senior policy roles increasingly filled by those staffers—is a symptom of those trends.¹²³

With the “decay of deliberation in government” aggravated by these practices, Tulis writes, the

¹¹⁹ Ibid., Tulis., 161, 174-181.

¹²⁰ Ibid., 161-189. See especially Johnson’s War on Poverty case at 161.

¹²¹ Ibid., 161-189.

¹²² On political “spectacles” generally, see Murray Edelman, *Constructing the Political Spectacle* (Chicago: University of Chicago Press, 1988). On spectacles and symbolism as it relates to problem definition and policy development, see Frank R. Baumgartner, and Bryan D. Jones, “Agenda dynamics and policy subsystems,” *The Journal of Politics* 53, no. 4 (1991): 1044-1074; Deborah A. Stone, “Causal Stories and the Formation of Policy Agendas,” *Political Science Quarterly* 104, no. 2 (1989): 281-300; Roger W. Cobb, and David A. Rochefort, *The Politics of Problem Definition: Shaping the Policy Agenda* (Lawrence: University Press of Kansas, 1995), and John Kingdon, *Agendas, Alternatives and Public Policies* (Boston: Little, Brown, 1984).

¹²³ Tulis, 186, n.20. In “reinforcing the fictive qualities of presidential speech,” Tulis observes, “this institution of experts exercises a subtle but considerable influence upon how a president thinks about politics—upon the presidential mind.”

“officers of our major political branches speak past one another to a vast amorphous constituency.”¹²⁴

These dynamics, taken together, end up obscuring the complex nature and salience of “real” issues, and constraining legislative debate in ways that yield long-term governance problems.¹²⁵ In turn, the incentives and expectations for popular policy appeals—for national policy itself—routinize “crisis politics,” and distort the very purposes and outcomes of lawmaking.¹²⁶ He explains:

...the more the rhetorical presidency succeeds as a strategy in the short term, the more likely it is that deliberative processes will be eroded...It is increasingly the case that presidential speeches *themselves* [including, today at least, tweets] have become the issues and events of modern politics rather than the *medium* through which issues and events are discussed and assessed...When speech is designed to appeal to public opinion, especially in oral, visible performance, the effect upon political discourse is more troublesome than a transient arousal of passion in the demos. More significantly, the terms of discourse that structure subsequent “sober” discussion of policy are altered, reshaping the political world in which that policy and future policy is understood and implemented. By changing the meaning of policy, rhetoric alters policy itself and the meaning of politics in the future.¹²⁷

Returning to the themes of immigration, race, and anti-globalism in Trump’s case, we find these earlier trends enhanced and compounded. One useful vantage point onto these dilemmas is the border wall controversy that began with Trump’s demonization of Mexicans and immigrants at the outset of his campaign. A shallow interpretation of the challenges linked to constructing new fencing along the U.S.-Mexico border that have punctuated Trump’s first term would suggest standard fiscal and political explanations.¹²⁸ But “The Wall,” understood as policy-metaphor, actually bears out the deeper problem and effects—namely, how the concept functions as much more than mere campaign demagoguery. It also supplies Trump the underlying logic, the very conceptual vocabulary, of his

¹²⁴ It is difficult to overstate how much this picture contrasts with earlier Congresses, especially those from the first half-century following Ratification. See *ibid.*, Tulis (2003), 200, 206.

¹²⁵ One robust example is the numerous implementation failures, and adverse effects, of War on Poverty policies shaped at their basic levels by the war *metaphor*. See *ibid.*, Tulis (1987), 161-189.

¹²⁶ *Ibid.*, 174-181.

¹²⁷ *Ibid.*, 178-179, n.8.

¹²⁸ *Ibid.*, Blake, “Trump’s national emergency press conference.”

governance process in this instance.

The Wall is a symbolic nexus of ascriptive themes and their policy corollaries—akin to Trump’s Birtherism. Just as Birtherism implied a set of interconnected racist, Islamophobic, and anti-immigrant discourses, well-constructed—i.e., resonant—policy-metaphors like The Wall distill a complicated set of messages into a form suited to popular appeals: Trump tweeted, as of late 2019, 1,159 times about immigration understood through the border wall lens.¹²⁹ Moreover, instead of marshalling widespread support among voters and lawmakers of both parties for comprehensive immigration reform—only one facet of which would be the southern border—once in office, Trump elaborated the ascriptive, crisis rhetoric of the campaign in ways that actually literalized those themes in policy terms. After vetoing a bipartisan spending bill that rejected Trump’s request for increased funding for the “great, great wall” devised in the campaign, he orchestrated the longest governmental shutdown in U.S. history in hopes of pressuring Democrats (and Republicans) in Congress to reconsider the measure in terms he found preferable.¹³⁰ Doubling down on his earlier claims that there was “a national security crisis on our southern border,” “an *invasion* of drugs and criminals coming into our country,” Trump formally declared a “national emergency” at the border. The emergency declaration was designed to justify the reallocation of \$3.6 billion, originally appropriated for unrelated military spending, to wall construction.¹³¹

Consider the conventional reading of this sequence of events from the point of view devised

¹²⁹ Ibid., New York Times Study. Most of the American politics literature dealing with “framing” issues treats those processes from the perspective of discrete experimental studies which, beyond the generalizability problems that always attend positivistic or purely psychological paradigms, also ignore the crucial historical contexts within which issue frames and policy debate exist—questions of cultural and institutional continuity and change are absent by design. Against those flawed explanatory frameworks and the ontologies they necessarily ignore or obscure, Smith and King (2005) rightly observe that political scientists must “treat political entrepreneurs and the preexisting institutional orders in which they operate as the key independent variables shaping all political change,” including issue frames.

¹³⁰ Nicholas Fandos, Sheryl Gay Stolberg and Peter Baker, “Trump Signs Bill Reopening Government for 3 Weeks in Surprise Retreat From Wall.” *New York Times*. January 25th, 2019. <https://www.nytimes.com/2019/01/25/us/politics/trump-shutdown-deal.html?action=click&module=Top%20Stories&pgtype=Homepage>.

¹³¹ Ibid.

first by Wilson, in his redefinition of presidential purpose, and unwittingly reiterated in influential works by later scholars like Richard Neustadt and Stephen Skowronek.¹³² Looking at the border controversy from “over the president’s shoulder”—“out and down” from the leader’s viewpoint (in Neustadt’s formulation)—the president sought to overcome the structural obstacles put in his place by “separate institutions sharing power.”¹³³ He made sustained popular policy appeals, both during the campaign and well into the governing phase, *interpreting* what he took to be the deeper “purpose” and “need” of the people—the source of his “strength” and “authority” in the Wilsonian view. Ascriptive Americanism, in defining the ideological and general policy content of those needs, also defined “the people”—those who Trump, in the emergency declaration speech, called “the *real* country...the people that *really* love our country.”¹³⁴ And in instinctively seeking to exploit the disruptive political possibilities afforded him by his particular place in the cyclical authority structures written into “political time,” Trump used the prerogatives at his disposal like all presidents do: he sought to push back against the political, institutional, and other constraints supplied by the particular historical context he found himself in.¹³⁵ He issued a veto, “went public” with demagogic appeals, sought to bargain with or pressure partisans in Congress and the executive branch, and ultimately used the unilateral emergency declaration that executive discretion supplies.

The problem with that version of events is its premises. In taking for granted the institutionally “partisan” perspective Neustadt developed following (however unwittingly) Wilson’s modern leadership model—wherein “success” in policy is conflated with success for the polity itself—it obscures the effects of the underlying pathology exploited by presidential demagogues. Governance by

¹³² Richard E. Neustadt, *Presidential Power: The Politics of Leadership with Reflections on Johnson and Nixon*. (New York: John Wiley, 1976, orig. pub. 1960). As Tulis has aptly noted: “Neustadt’s influence is evidenced by our own inclination to think about the presidency with categories he constructed, as well as by our inability to see how formative those categories have become...Most writing about the presidency today is done under the auspices of a perspective invented by Neustadt, and all presidents since Kennedy have been held to Neustadt’s standards.” See *ibid.*, Tulis (2000), 265-73 and *ibid.*, Skowronek (2003).

¹³³ *Ibid.*, Neustadt (1976), preface, 43, 179, 35, 183.

¹³⁴ *Ibid.*, Blake, “Trump’s national emergency press conference.”

¹³⁵ *Ibid.*, Skowronek (2003).

campaign, and its consequences for the separation of powers, are misconstrued as marks of business-as-usual instead of as evidence of constitutional decay. A systemic point of view, i.e., a view from the perspective of the polity's multiple and often conflicting principles of governance—robust legislative deliberation, intelligent national debate, and productive institutional contestation in this case—supplies a very different version of events.¹³⁶

The president's wall rhetoric, in proffering a demonstrably fabricated "crisis" that implies resources requisite to a "national emergency," actually *replicates* the campaign's "invasion" narrative surrounding the border—ascriptive appeals included—*within* the process of governance. Just as (for Trump) the 2016 campaign never really ended, neither did the core national crisis against which he wielded the racialized ideological grammar of America First. In the campaign, Trump's critiques of "globalism," immigration, and minorities were shorthand for the story long recycled by ascriptive Americanists: that non-white immigrants were *invading*, and endangering, traditional American "identity," "culture," or other euphemisms for inegalitarian hierarchy and white supremacy. The Wall, in that story, served as a symbol of the problem and the solution—a demagogic tool for marshalling electoral support. Critics of that campaign narrative (or at least its paragon) were complicit, it was suggested, in abetting the "invasion," and Trump's election held up as a messianic aversion of disaster (e.g., "I alone can fix it"). If that crisis narrative arch seems familiar as the stuff of normal presidential politics—even in less demagogic forms—it is because, as Wilson intended, it has become the standard template. The features of the modern selection system and new mass communications technologies

¹³⁶ The systemic approach "permits one to probe the various ways our political system" fosters or constrains the actions of political leaders, and views forces of continuity and change in American politics from the vantage point of the system as a whole, instead of from the necessarily limited perspective of the courts, the presidency, Congress, or a single social movement, as the case may be. See *ibid.*, Tulis (1987), intro. On related, but distinct, approaches to the self-consciously systemic analytic vantage point see Robert C. Lieberman, "Ideas, Institutions, and Political Order: Explaining Political Change," in *American Political Science Review*, 96 (2002), no. 4: 697-712; and Karen Orren and Stephen Skowronek, "Beyond the Iconography of Order: Notes for a 'New Institutionalism,'" in *The Dynamics of American Politics: Approaches and Interpretations*, ed. Lawrence C. Dodd and Calvin Jillson (Boulder, CO: Westview Press, 1994).

like the Internet and social media have merely enhanced or further regularized that standard.¹³⁷

In the *governing* phase, however, these very categories—the campaign’s central themes—are reproduced as the features of Trump’s conception and administration of policy, the substance and operating logic of presidential leadership in practice. Understood in this light, Trump’s on-going “rallies”—which did not cease following his inauguration—take on a whole new significance. The Wall still functions as a symbol of immigrants-as-threat, and as the only measure befitting the “crisis” at hand. Congressional lawmakers uninterested in the construction of a massive border wall are again made synonymous with the immigrant enemy—and thus complicit in the “invasion of drugs and criminals” (“They [lawmakers] say walls don’t work. Walls work 100 percent.”).¹³⁸ But the critical difference in the governing narrative, obviously, is that if The Wall metaphor was powerful enough to impel voters to support Trump’s ultimate election—the realization of the campaign’s definitional goal—it was *not* enough to translate the policy-metaphor into a real-life barrier of the size and scope Trump had regaled his supporters with throughout the campaign. Just as with the Muslim ban, Trump had to resort to unilateral measures like executive orders to cut through institutional intransigence and “pursue” the ascriptive-nationalist agenda his candidacy defined.

Yet if that disjunction between campaigning and governing, between political fantasy and administrative fact, proves Trump’s “weakness” as an “aspirational fascist” or Wilsonian leader-interpreter—by both measures, it does—the border controversy does not imply that his attempts to translate campaign forms into the objects of executive power are impotent. These have real consequences for the political system itself. Trump’s unmitigated demagoguery accelerates constitutional decay because the polity’s core institutional features, which are reflected in the separation of powers scheme, presuppose conditions that permit the operation of its political logic in practice. Legislative deliberation and a dynamic agonism within and between federal branches are those

¹³⁷ Ibid., Ceaser (1982).

¹³⁸ Ibid., Blake, “Trump’s national emergency press conference.”

conditions, and they reflect the same principles of regime design we saw earlier in Wilson’s critique of the framers.

* * * *

To glimpse the exacerbated degeneration of policy discourse (i.e., deliberation on policy *merit*) in Trump’s case is to perceive deepening institutional imbecility in American politics. Consider the issue of deliberation in lawmaking in the context of the Old Way’s theory of separation of powers. Contrary to an overly legalistic view popularized by legal scholars and judges over the last century, the theory of separation of powers delineated in *Federalist* 47-51 is actually a sly revision of Montesquieu’s “checks and balances” view of competing institutions.¹³⁹ That revision is also considerably more sophisticated than what Montesquieu (or most constitutional lawyers) would probably permit.

The 1787 framework provides a matrix of offices and structures institutionally “biased” towards serving their own public ends—governance goals that in theory accord with each branch’s distinctive institutional resources for public “goods.”¹⁴⁰ But this architecture was not only configured to neutralize political contestation or “limit” federal power by cabining it—as circuits structure and control electricity, and as conservative jurists often emphasize—but also to *induce* a kind of institutional dynamism. In a word, to *generate* and exploit power in such a way as to make representation and effective governance workable on an untested continental scale.¹⁴¹ The corresponding public goals of these arrangements across branches are familiar: popular will, the protection of rights, national security, and legislative deliberation (among others). In Tulis’s useful formulation of the scheme’s political logic: “ordinary self-interest can be tied to institutional place and transformed into public-regarding behavior, regardless of whether individual political motives are authentic or sincere...individual self-interest is *translated* into ambition, ambition into policy position, policy

¹³⁹ Ibid., Madison, *Federalist* nos. 47-51; *ibid.*, Tulis (1987); Tulis and Mellow (2018), especially chap.1.

¹⁴⁰ Ibid., Tulis (2008).

¹⁴¹ Ibid., Tulis (1987), 41.

position into policy argument, and in some important instances, policy argument into constitutional argument.”¹⁴²

In this view, legislative deliberation could facilitate a process of collective reasoning among elites that Congress would be uniquely equipped to foster, even despite familiar “collective action” problems.¹⁴³ By design, as we saw earlier, the presidency would have a central role to play in this process—both deliberatively, and, at a larger level, administratively—but Congress would be the nexus of issue-debate and policy production.¹⁴⁴ Formal power, in the Madisonian dispensation, by the inducement of public-regarding behavior in ambitious legislative actors, would thus make representative democracy workable: the Constitution would solicit, absorb, and then structure, competing responses to public problems.

Returning to Trump’s case, if the Old Way’s model of policy deliberation and institutional dynamism appears a total anachronism today, that appearance is a testament to the role of the modern presidency in merging the processes of governing and campaigning.¹⁴⁵ Trump’s immigration demagoguery as president is a further devolution of those tendencies: the parlance of his racial and ethnic demonologies—terms like “invasion,” “crisis,” “emergency,” and “criminals”—obviously figure centrally in The Wall metaphor, just as they did throughout the campaign. But they also *set the terms of debate* among elites in Congress, and the nation more generally. They camouflage—and in so doing,

¹⁴² Ibid., Tulis (2008), 516. Tulis adds: “The genius of this induced train of actions is that at no moment need the actor be motivated by his or her argument, even though he or she feels compelled to respond to the arguments of others....[I]f hypocrisy is a defect of individual character, it is an institutional virtue intended by the design of the Constitution and perhaps by the nature of modern liberalism more generally.” See also idem., (2003), 200, 206.

¹⁴³ Tulis (1987); (2008).

¹⁴⁴ Ibid. Tulis (2008), 516. Congresses legislating during the Adams, Jackson, Tyler, and Polk Administrations, for example, constituted “a locus of robust constitutional discourse”—sites “of healthy constitutional contestation” amidst profoundly partisan policy disputes and other major governance problems.

¹⁴⁵ Ibid., Tulis (1987); Christopher J. Putney, “Why Donald Trump’s Model of Executive Power Cannot Cope with the Covid-19 Crisis.” March 19th, 2020. *United States Politics and Policy Blog*, The London School of Economics U.S. Centre. Accessible at: <https://blogs.lse.ac.uk/usappblog/2020/03/19/why-donald-trumps-model-of-executive-power-cannot-cope-with-the-covid-19-crisis/>. See also Sidney Blumenthal’s seminal, *The Permanent Campaign: Inside the World of Elite Political Operatives* (Boston: Beacon Press, 1980).

they erase—the real (and inherently contestable) regulatory and ethical questions implied by the problem of immigration reform itself, as well as modern policy production more generally.

Were the terms of this demagogic approach muted, modified, or even absent in Trump’s rhetoric, Congress would likely be tasked by citizens with deliberating—even legislating—on the issue. Especially, it might be said, based on the pre-existing support for immigration reform in the wider public. But because the entire *set of issues* related to immigration—not only the southern border, or fence construction, or reform per se, but the entire legal *genre* of immigration policy—is distilled down to binary opposition or support for The Wall in elite discourse, alternative terms are effectively irrelevant. Trump’s frequent attacks that Democrats and earlier administrations are to blame for a “broken immigration system,” and even his invocations of the need for comprehensive “reform,” do not displace the primacy of The Wall metaphor. They simply work to reinforce it by virtue of the fact that he is the one speaking (or tweeting) on the topic—his past remarks, and by extension, the policy-metaphor, are ever-present subtexts. Just like the similitudes of demagoguery and leadership-as-interpretation, ascriptive Americanism and hard demagoguery, or campaigns and governance—eventually, the *terms* of the policy-metaphor become indistinguishable from the issue, from a policy’s underlying and contestable purposes, and as we see here, from the policy itself.

* * * *

CONCLUSION

There is no description for the scenario I have detailed in Trump's case other than multiform systemic dysfunction. Highly imperfect in numerous respects, and nowhere close to devoid of “polarized” or bitter partisanship, earlier Congresses regularly responded to complex issues in ways that meaningfully challenged presidents' authority, cooperated on heavily debated policy questions, and deployed their unique institutional tools within and between institutions in the pursuit of their goals.¹⁴⁶

Under the original theory of separation of powers, the combination of formal power and custom might have induced Trump—or members of Congress—to either establish or contest the principles capable of informing and guiding productive deliberation on the issues.¹⁴⁷ It is not incomprehensible that Trump could have done this in a fashion similar to several recent presidents—Bill Clinton or Barack Obama on healthcare policy, for instance. It is also plausible that Trump could have done so in ways that might have actually accorded with his own preferences or increased his political popularity (as a purported “deal-maker”). But campaigns do not reward protracted and vigorous deliberation on policy merits, and they rarely reward comity with opponents. That kind of calculus—the logic of governing that comes from thinking about the presidency as one salient piece in a larger whole—does not apply in a national “crisis.” Emergencies in today's decaying constitutional order demand a single *leader*; a leader-interpreter.

So if the central problem with classical demagoguery accepted in the founding model—the one articulated by Hamilton, et al. in the *Federalist*—was that it augured the consolidation of state power by a single faction, or regime collapse at the hands of a divisive autocrat, unrestrained *presidential* demagoguery today suggests another possibility. At least in Trump's case, we have seen, it seems to

¹⁴⁶ Ibid., Tulis (1987), 25-110, *ibid.*, (2008).

¹⁴⁷ Ibid. On the courts' related but complicated roles in the changing landscape of governance across the polity's history, see Keith Whittington, *Political Foundations of Judicial Supremacy* (Princeton: Princeton University Press, 2007).

exacerbate forms of systemic imbecility in a manner that speaks to deeper dilemmas born of the system itself. In other words, if the synthesis of ascriptive nationalism and the modern presidency made manifest by Trump's election accelerates these infirmities, it is because those problems were well under way in the operation of American politics: the conditions of constitutional decay that attend the predominance of the rhetorical presidency have long served as the quotidian substance of national governance in the polity. The core problem presented by the presidency today, then—at least based on that insight—might be two-fold.

The first issue is the permanence of Wilson's important efforts at innovation—the doctrinal ambivalence that undergirds the institution detailed in the first chapter. Despite Trump's disinterestedness in the elements of the Old Way his critics often invoke against him, understood as an engine of governance dilemmas, that ambivalence still pre-dates Trump. And just like the Wilsonian teaching's tendency to pathology, or the ascriptive tradition more generally, that ambivalence is a feature of American politics independent of Trump the man. After Trump's presidency comes to a close, the “political hybrid” that Wilson's reconstitution of the office amounted to may very well “revert” back to the uneasy tension between the Old and New Ways, and simply resume its tendency to structure modern leadership and its problems in familiar ways. But what would that scenario look like? Would it be any different because of the apotheosis of the Wilsonian impulse we have seen under Trump's tenure?

Presidents elected in the near future may have a much lower—or much higher, depending on one's perspective—threshold for “success” according to standards tied to either dispensation, Old or New. Trump's unpopularity outside of his base, after all, may powerfully incentivize a renewal of norms of constraint (or less rhetorical “leadership”) among Trump's immediate successors. But it seems almost inconceivable that popular rhetoric and its effects couldn't continue to play a central role in near-term presidencies, given the primacy of performativity and governance by campaign in contemporary politics. In other words, nothing about Trump's case indicates that future presidents

won't be “pulled and hauled” between the two theories of presidential purpose after he leaves office. More than likely, presidents in the years following Trump, in seeking to negotiate that enduring ambivalent environment, will continue to be defined by an institution and a polity that at once struggle to define themselves and each other. In a politics marred by the incoherence between a deracinated left and an empowered but delegitimized right, the leadership challenges of any future president look formidable, even beyond these underlying doctrinal conflicts.

The second matter raised by Trump's case is which features of regime design might themselves be contributing to constitutional decay. One starting point for this set of questions, based on my discussions of the founders' constitutional theory, is obvious but nonetheless timely: were the twin presuppositions of the American separation of powers scheme—the reliability or expectation of *institutional* loyalty, and a modicum of *engaged* civic participation—fatal errors for the system writ large? It seems increasingly clear that today's form of party loyalty (as well as ideological sorting between the two parties), although certainly not unprecedented, has *subsumed* the institutional partisanship Madison presumed would be durable enough to make that system's “series of translations” work. Are the “interests of the man” *really* “connected to the constitutional rights of the place” anymore? ¹⁴⁸ This seems doubtful.

The functional issue of “parliamentary parties” in a separation of powers system is not new, but Trump's case problematizes it further. With heightened expectations throughout the populace for concerted policy leadership by presidents and other actors, governance by campaign becomes more intractable, and more counterproductive. The incentives seem to shift from the “jealously guarded” prerogatives of a given institution—the Senator thinking of herself as a senator first, and a partisan second—to the demands of party orthodoxy and competing rhetorical imperatives. What I tried to underscore in Trump's wall controversy is linked to one of Tulis's earlier insights on this point: that

¹⁴⁸ Ibid., Madison, *Federalist* no. 51.

the standards of speech and discourse that have come to predominate in American politics have materially transformed much of day-to-day governing into a *series* of utterances—tweets, interviews, speeches, or other rhetorical events—which instead of serving as the medium for competing arguments, become (and later structure) the *substance* of politics and policy. The political logic at the core of separation of powers appears at best eroded, and at worst, inverted, by these interlocking dynamics. Put simply: contemporary partisanship and governance by campaign cause older institutional incentives to fail.

As in the case of policy-metaphors like The Wall, they also further inhibit deliberation between engaged citizens and lawmakers, and between lawmakers and other officials: issues are obscured or defined incompletely, and policy's merits are jettisoned for fictive campaigns. Governance by campaign—especially in Trump's case—and the breakdown of separation of powers viewed in light of those corrosive effects, thus combine in ways that deeply de-politicize politics in the United States. This form of de-politicization, understood as a problem for democratic governance in liberal regimes, may be one of the ultimate—but perhaps logically necessary—products of modern liberalism itself. In other words, if the theory underlying modern representative forms developed by the framers—one rooted in the political anthropology delineated (though not uniformly) by Enlightenment theorists like Hobbes, Locke, and Montesquieu—sought to mitigate or transform the possibilities of power's usage by circumscribing its legitimate purposes *constitutionally*, then the American case demonstrates the manifest limits of that modern architectonic theory; not only for resolving modern power's conflictual imperatives (e.g., security vs. rights or positive law's inherent ambiguities), but also for the inconsistent tendency of separation of powers to actually foster effective governance by its own standards.

Finally, in this study, I have tried to show how independent patterns of continuity taken for granted in American politics can come together in subtle ways that actually affect systemic conditions. Affect, not *reorder*: saying that the capture of the presidency's demagogic leadership capacity by an ascriptive nationalist has accelerated forms of constitutional decay is different from claiming that

Trump is a “proto-fascist” unrestrained by anyone or anything. The latter characterization, scholars have shown, overlooks the material weaknesses of the Republican regime, the national unpopularity of many of Trump’s policies, and the broader ideological incoherence among conservatives visible in his first term.¹⁴⁹ But the larger arguments I have tried to make in reinterpreting Trump are an advertisement for how we might rethink the presidency’s place in American politics more generally, and in a more diagnostic fashion. For the relationships I have tried to discern in Trump’s contemporary case—between ascriptive nationalism, Wilsonian leadership, demagoguery, and constitutional decay—all evidence the need for more diagnosis.

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¹⁴⁹ See *ibid.*, Robin (2017).

BIBLIOGRAPHY

- Balkin, Jack and Sanford Levinson. *Democracy and Dysfunction*. Chicago: University of Chicago Press, 2018.
- Baumgartner, Frank R., and Bryan D. Jones, “Agenda dynamics and policy subsystems.” *The Journal of Politics* 53, no. 4 (1991): 1044-1074.
- Blake, Aaron. “Trump’s national emergency press conference, annotated.” *The Washington Post*, February 15th, 2019, <https://www.washingtonpost.com/politics/2019/02/15/trumps-bewildering-national-emergency-press-conference-annotated/>.
- Blumenthal, Sidney. *The Permanent Campaign: Inside the World of Elite Political Operatives*. Boston: Beacon Press, 1980.
- Bever, Lindsey. “‘Demonic Activity was Palpable’ at Trump’s rally, Pastor says.” *Washington Post*, February 22, 2017, https://www.washingtonpost.com/news/acts-of-faith/wp/2017/02/22/demonic-activity-palpable-at-president-trumps-rally-pastor-says/?tid=sm_fb&utm_term=.e09de89c9308.
- Bimes, Terri and Stephen Skowronek. “Woodrow Wilson’s Critique of Popular Leadership: Reassessing the Modern-Traditional Divide in Presidential History.” *Polity* 29, no. 1 (1996): 27-63.
- Ceaser, James W., Glen E. Thurow, Jeffrey Tulis, and Joseph M. Bessette. “The Rise of the Rhetorical Presidency.” *Presidential Studies Quarterly*, Vol. 11, No. 2, “Presidential Power and Democratic Constraints: A Prospective and Retrospective Analysis” (Spring, 1981), 158-171.
- Ceaser, James. *Presidential Selection: Theory and Development*. Princeton, NJ: Princeton University Press, 1982.
- Cobb, Roger W., and David A. Rochefort, *The Politics of Problem Definition: Shaping the Policy Agenda*. Lawrence: University Press of Kansas, 1995.
- Cole, Alyson and George Shulman. “Donald Trump, the TV Show: Michael Rogin Redux.” *Theory & Event* 21, no. 2 (2018): 336-357.
- Collinson, Stephen. “Trump’s Authoritarian Streak.” *CNN*, October 12, 2017, <https://www.cnn.com/2017/10/12/politics/donald-trump-autocrats-politics/index.html>.
- Connolly, William E. *Aspirational Fascism*. Minneapolis: University of Minnesota Press, 2018.
- Cooper, James Fenimore. *The American Democrat*. Indianapolis, IN: Liberty Classics, 1931 reprint; orig. publ. 1838.
- Dionne, E. J., Norman J. Ornstein, and Thomas E. Mann. *One Nation After Trump: A Guide for the Perplexed, the Disillusioned, the Desperate, and the Not-yet Deported*. New York: St. Martin’s Press, 2017.
- Dionne, E.J. “What unites Trump’s apologists? Minority rule.” *Washington Post*, November 24th, 2019,

- https://www.washingtonpost.com/opinions/what-unites-trumps-apologists-minority-rule/2019/11/24/152c5d06-0d6c-11ea-97ac-a7ccc8dd1ebc_story.html.
- Edelman, Murray. *Constructing the Political Spectacle*. Chicago: University of Chicago Press, 1988.
- Fandos, Nicholas, Sheryl Gay Stolberg and Peter Baker. "Trump Signs Bill Reopening Government for 3 Weeks in Surprise Retreat From Wall." *New York Times*, January 25th, 2019, <https://www.nytimes.com/2019/01/25/us/politics/trumpshutdowndeal.html?action=click&module=Top%20Stories&pgtype=Homepage>.
- Fields, Barbara Jeanne. "Slavery, Race and Ideology in the United States of America." *New Left Review* 181, no. 1 (1990): 95-118.
- Friedman, Jeffrey and Shterna Friedman. *Rethinking the Rhetorical Presidency*. New York: Routledge, 2012.
- Fox News Insider*, "O'Reilly Challenges Trump on His Views on Obama's Birth Certificate." Filmed March, 2011. YouTube video, 5:33. Posted March 31st, 2011, <https://www.youtube.com/watch?v=HQFbVWHnzp0>.
- Frum, David. "How to Build an Autocracy." *The Atlantic*, March 08, 2017, <https://www.theatlantic.com/magazine/archive/2017/03/how-to-build-an-autocracy/513872/>.
- Graham, David A., Adrienne Green, Cullen Murphy, and Parker Richards. "An Oral History of Trump's Bigotry." *The Atlantic*, June 2019, <https://www.theatlantic.com/magazine/archive/2019/06/trump-racism-comments/588067/>.
- Harcourt, Bernard E. "How Trump Fuels the Fascist Right." *The New York Review of Books*, November 29, 2018, <https://www.nybooks.com/daily/2018/11/29/how-trump-fuels-the-fascist-right/>.
- Hartz, Louis. *The Liberal Tradition in America: An Interpretation of American Political Thought Since the Revolution*. New York: Harcourt, Brace and World, 1955.
- Hamilton, Alexander, James Madison, and John Jay. *The Federalist*. ed. Charles R. Kesler. New York: Signet Classics, 2005.
- Hawley, George. *Right-Wing Critics of American Conservatism*. Lawrence: University Press of Kansas, 2016.
- Hawley, George. *Making Sense of the Alt-Right*. New York: Columbia University Press, 2019.
- Katz, Lauren. "Trump rallies aren't a sideshow—they're his entire campaign." *VOX*, November 6th, 2019, <https://www.vox.com/policy-and-politics/2019/11/6/20950388/donald-trump-rally-2020-presidential-election-today-explained>.
- Kim, Claire Jean. "The Racial Triangulation of Asian Americans." *Politics & Society*, 27 no. 1 (1999): 105-138.
- King, Desmond S., and Rogers M. Smith. "Racial Orders in American Political Development." *American Political Science Review* 99, no. 1(2005): 75-92.
- Kingdon, John. *Agendas, Alternatives and Public Policies*. Boston: Little, Brown, 1984.
- Lieberman, Robert C. "Ideas, Institutions, and Political Order: Explaining Political Change." *American*

- Political Science Review*, 96 (2002), no. 4: 697-712.
- Lyons, Matthew. *CTRL-ALT-DELETE: The Origins and Ideology of the Alternative Right*. Somerville: Political Research Associates, 2017.
- Main, Thomas J. *The Rise of the Alt-Right*. Washington, D.C.: Brookings Press, 2018.
- Mellow, Nicole and Jeffrey K. Tulis. *Legacies of Losing in American Politics*. Chicago: The University of Chicago Press, 2018.
- Nagle, Angela. *Kill All Normies: Online Culture Wars from 4chan and Tumblr to Trump and the Alt-Right*. United Kingdom: Zero Books, 2017.
- Norton, Anne. *95 Theses on Politics, Culture, and Method*. New Haven: Yale University Press, 2003.
- Neustadt, Richard E. *Presidential Power: The Politics of Leadership with Reflections on Johnson and Nixon*. New York: John Wiley, 1976, orig. pub. 1960.
- Orren, Karen and Stephen Skowronek. *The Search for American Political Development*. Cambridge: Cambridge University Press, 2004.
- Orren, Karen and Stephen Skowronek. "Beyond the Iconography of Order: Notes for a 'New Institutionalism,'" in *The Dynamics of American Politics: Approaches and Interpretations*, ed. Lawrence C. Dodd and Calvin Jillson. Boulder, CO: Westview Press, 1994.
- Pramuk, Jacob. "Trump: 'President Barack Obama was born in the United States. Period.'" *CNBC*, September 16, 2016, <https://www.cnbc.com/2016/09/16/trump-president-obama-was-born-in-the-united-states-period.html>.
- Putney, Christopher J. "The Metapolitics of Illiberalism and the Alt-Right: Intellectual Origins and Constitutional Decay." Paper given at the Annual American Political Science Association Meeting, Washington, D.C., August 31st, 2019.
- Putney, Christopher J. "Why Donald Trump's Model of Executive Power Cannot Cope with the Covid-19 Crisis." *American Politics and Policy Blog*, March 19th, 2020, The London School of Economics, U.S. Centre, <https://blogs.lse.ac.uk/usappblog/2020/03/19/why-donald-trumps-model-of-executive-power-cannot-cope-with-the-covid-19-crisis/>.
- Robin, Corey. "Fragmented State, Pluralist Society: How Liberal Institutions Promote Fear." *Missouri Law Review*, vol. 69 (May 2006), 1062-1093.
- Robin, Corey. *Fear: The History of a Political Idea*. New York: Oxford University Press, 2006.
- Robin, Corey. "The American Terrible." *Coreyrobin.com*, January 2017, <http://coreyrobin.com/2017/01/31/the-american-terrible/>.
- Robin, Corey. "The Politics Trump Makes." *N+1 Magazine*, January 11, 2017, <https://nplusonemag.com/online-only/online-only/the-politics-trump-makes/>.
- Robin, Corey. "American Institutions Won't Keep Us Safe from Donald Trump's Excesses." *The Guardian*, February 02, 2017, <https://www.theguardian.com/commentisfree/2017/feb/02/american-institutions-wont-keep-you-safe-trumps-excesses>.

- Robin, Corey. *The Reactionary Mind: Conservatism from Edmund Burke to Donald Trump*. New York: Oxford University Press, 2018.
- Rogin, Michael. *Ronald Reagan: The Movie and Other Episodes in Political Demonology*. Berkeley: University of California Press, 1988.
- Rosenblum, Nancy L. and Russell Muirhead. *A Lot of People Are Saying: The New Conspiracism and the Assault on Democracy*. Princeton: Princeton University Press, 2019.
- Schlesinger, Jr., Arthur M. *The Imperial Presidency*. Boston: Houghton Mifflin Harcourt, 1973.
- Semple, Kirk. “What Is the Migrant Caravan and Why Does Trump Care?” *New York Times*, October 18th, 2018, <https://www.nytimes.com/2018/10/18/world/americas/trump-migrant-caravan.html?module=inline>.
- Serwer, Adam. “The Nationalist’s Delusion.” *The Atlantic*, November 20th, 2017, <https://www.theatlantic.com/politics/archive/2017/11/the-nationalists-delusion/546356/>.
- Shear, Michael D. and Thomas Gibbons-Neff. “Trump Sending 5,200 Troops to the Border in an Election-Season Response to Migrants.” *New York Times*, October 29th, 2018, <https://www.nytimes.com/2018/10/29/us/politics/border-security-troops-trump.html>.
- Shear, Michael D., Maggie Haberman, Nicholas Confessore, Karen Yourish, Larry Buchana, and Keith Collins. “How Trump Reshaped the Presidency in Over 11,000 Tweets.” *New York Times*, November 2nd, 2019, <https://www.nytimes.com/interactive/2019/11/02/us/politics/trump-twitter-presidency.html>.
- Sides, John, Michael Tesler, and Lynn Vavreck. *Identity Crisis: The 2016 Presidential Campaign and the Battle for the Meaning of America*. Princeton: Princeton University Press, 2017.
- Signer, Michael. *Demagogue: The Fight to Save Democracy From Its Worst Enemies*. New York: St. Martin’s, 2009.
- Skowronek, Stephen. *The Politics Presidents Make: Leadership from John Adams to Bill Clinton*. Cambridge: Belknap Press of Harvard University Press, 2003.
- Smith, Rogers M. “Beyond Tocqueville, Myrdal, and Hartz: The Multiple Traditions in America.” *American Political Science Review* (1993) 87, no. 3: 549–66.
- Smith, Rogers M. *Civic Ideals: Conflicting Visions of Citizenship in U.S. History*. New Haven: Yale University Press, 1997.
- Smith, Rogers M. “Lockean Liberalism and American Constitutionalism in the Twenty-First Century: The Declaration of Independence or “America First”?. *American Political Thought: A Journal of Ideas, Institutions, and Culture*, Vol. 8 (Spring 2019).
- Snyder, Timothy. *On Tyranny: Twenty Lessons from the Twentieth-century*. London: Bodley Head, 2017.
- Steinhauser, Paul. “Conservative Bill Kristol Brings His Never-Trump Message To New Hampshire.” *CBS News*, May 23, 2018, <https://www.cbsnews.com/news/conservative-bill-kristol-brings-his-never-trump-message-to-new-hampshire/>.
- Stone, Deborah A. “Causal Stories and the Formation of Policy Agendas.” *Political Science*

- Quarterly* 104, no. 2 (1989): 281-300.
- The Southern Poverty Law Center. *Family Separation Under the Trump Administration—A Timeline*. September 24, 2019, <https://www.splcenter.org/news/2019/09/24/family-separation-under-trump-administration-timeline>.
- Tocqueville, Alexis de. *Democracy in America*, eds. and trans. Harvey C. Mansfield and Delba Winthrop. Chicago: University of Chicago Press, 2000.
- Trump, Donald. “Presidential Announcement Speech.” *Time*, June 16th, 2016, <https://time.com/3923128/donald-trump-announcement-speech/>.
- Trump, Donald. “Remarks by President Donald Trump to the 74th Session of the United Nations General Assembly.” September 25, 2019, New York, NY, <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-74th-session-united-nations-general-assembly/>.
- Tulis, Jeffrey K. *The Rhetorical Presidency*, 1st ed. Princeton: Princeton University Press, 1987.
- Tulis, Jeffrey K. “On the Politics Skowronek Makes.” *Journal of Policy History* 8 (1996) 2: 248–49.
- Tulis, Jeffrey K. “The President in the Political System—In Neustadt’s Shadow,” in *Presidential Power*, Martha Kumar, Robert Shapiro, and Lawrence Jacobs ed. New York: Columbia University Press, 2000, 265-73.
- Tulis, Jeffrey K. “Deliberation Between Institutions,” in *Debating Deliberative Democracy*, James S. Fishkin & Peter Laslett eds., 2003.
- Tulis, Jeffrey K. “On Congress and Constitutional Responsibility.” *Boston University Law Review*, Vol. 89 (2008): 516.
- Tulis, Jeffrey K. *The Rhetorical Presidency*, 2nd ed. Princeton: Princeton University Press, 2017.
- Tulis, Jeffrey K. Interview. “Jeffrey Tulis on ‘The Rhetorical Presidency’ on Steroids.” *The Lawfare Podcast*. The Lawfare Institute and the Brookings Institution, Saturday January 26th, 2019. <https://www.lawfareblog.com/jeffrey-tulis-rhetorical-presidency-steroids>.
- Tulis, Jeffrey K. and James Russell Muirhead. “Will the Election of 2020 Be the End or a New Beginning?”. *Polity* (forthcoming).
- Walt, Stephen M. “Top 10 Signs of Creeping Authoritarianism, Revisited.” *Foreign Policy*, July 27, 2017, <https://foreignpolicy.com/2017/07/27/top-10-signs-of-creeping-authoritarianism-revisited/>.
- Whittington, Keith. *Political Foundations of Judicial Supremacy*. Princeton: Princeton University Press, 2007.
- Wilson, Woodrow. *Congressional Government: A Study in American Politics*. 1884 reprint ed. Gloucester, Mass.: Peter Smith, 1973.
- Wilson, Woodrow. “Abraham Lincoln: A Man of the People.” Baker and Dodd., ed., *College and State*, 2:94-95.
- Wilson, Woodrow. *Constitutional Government in the United States*. New York: Columbia University Press, 1908.