

*The Pseudodemocratization of the
American Presidency*

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I. THE MYTH OF THE MANDATE

On election night in 1980 the vice-president-elect enthusiastically informed the country that Ronald Reagan's triumph was "not simply a mandate for a change but a mandate for peace and freedom; a mandate for prosperity; a mandate for opportunity for all Americans regardless of race, sex, or creed; a mandate for leadership that is both strong and compassionate . . . a mandate to make government the servant of the people in the way our founding fathers intended; a mandate for hope; a mandate for hope for the fulfillment of the great dream that President-elect Reagan has worked for all his life" (Kelley 1983, 217). I suppose there are no limits to permissible exaggeration in the elation of victory, especially by a vice-president-elect. The vice-president-elect may therefore be excused, I imagine, for failing to note, as did many others who made comments in a similar vein in the weeks and months that followed, that Mr. Reagan's lofty mandate was provided by 50.9 percent of the voters. Nearly eight years later, it is much more evident, as it should have been then, that what was widely interpreted as Reagan's mandate, not only by supporters but by opponents, was more myth than reality.

In claiming that the outcome of the election provided a mandate to the president from the American people to bring about the policies, programs, emphases, and new directions uttered during the campaign by the winning candidate and his supporters, the vice-president-elect was like other commentators echoing a familiar theory.

ORIGIN AND DEVELOPMENT

A history of the theory of the presidential mandate has not been written and I have no intention of supplying one here. How-

ever, if anyone could be said to have created the myth of the presidential mandate, surely it would be Andrew Jackson. Although he never used the word “mandate,” so far as I know, he was the first American president to claim not only that the president is uniquely representative of all the people but that his election confers on him a mandate from the people in support of his policy.

Jackson’s claim was a fateful step in the democratization of the constitutional system of the United States—or rather what I prefer to call, for reasons I shall explain in the next lecture, the pseudodemocratization of the presidency.

As Leonard White observed, it was Jackson’s “settled conviction” that “the President was an immediate and direct representative of the people” (White 1954, 23). In his first presidential message to Congress, he proposed, presumably as a result of his defeat in 1824 in both the electoral college and the House of Representatives, that the Constitution be amended to provide for the direct election of the president, in order that “as few impediments as possible should exist to the free operation of the public will” (James D. Richardson, *A Compilation of the Messages and Papers of the Presidents, 1789–1910*. 2:448 [message of Dec. 8, 1829], cited in White 1954, 23). “To the people,” he said, “belongs the right of electing their Chief Magistrate: it was never designed that their choice should, in any case, be defeated, either by the intervention of electoral colleges or by . . . the House of Representatives” (Senate Documents 1, 1829–30, cited in Ceaser 1979, 160 n. 58). His great issue of policy was, of course, the Bank of the United States, which he unwaveringly believed was harmful to the general good. Acting on this conviction, in 1832 he vetoed the bill to renew the bank’s charter. It is worth mentioning that like his predecessors he justified the veto as a protection against unconstitutional legislation, but unlike his predecessors in their comparatively infrequent use of the veto he also justified it as a defense of his, or his party’s, policies.

Following upon his veto of the bank's charter, the bank became the main issue in the presidential election of 1832. As a consequence, Jackson's reelection was widely regarded, even among his opponents (in private, at least), as amounting to "something like a popular ratification" of his policy (White 1954, 23). When, in order to speed the demise of the bank, Jackson found it necessary to fire his Treasury secretary, he justified his action on the ground, among others, that "the President is the direct representative of the American people, but the Secretaries are not" (Richardson 3:90 [April 15, 1834], cited in White 1954, 23).

Innovative though it was, Jackson's theory of the presidential mandate was less robust than it was to become in the hands of his successors. In 1848 James Knox Polk explicitly formulated the claim, in a defense of his use of the veto on matters of policy, that as a representative of the people the president was, if not more representative than the Congress, at any rate equally so.

"The people, by the constitution, have commanded the President, as much as they have commanded the legislative branch of the Government, to execute their will. . . . The President represents in the executive department the whole people of the United States, as each member of the legislative department represents portions of them. . . ." The President is responsible "not only to an enlightened public opinion, but to the people of the whole Union, who elected him, as the representatives in the legislative branches . . . are responsible to the people *of* particular States or districts." (Richardson 4:664–65 [Dec. 5, 1848] cited in White 1954, 24)

Notice that in Jackson's and Polk's views, the president, both constitutionally and as a representative of the people, is on a par with Congress. They did not claim that in either respect the president is superior to Congress. It was Woodrow Wilson, as we shall see, who took the further step in the evolution of the theory, by asserting that in representing the people the president is not merely equal to Congress but actually superior to it.

Earlier Views

Because the theory of the presidential mandate espoused by Jackson and Polk has become an integral part of our present-day conception of the presidency, it may be hard for us to grasp how sharply that notion veered off from the views of the earlier presidents.

As James Ceaser has shown, the Framers designed the presidential selection process as a means of improving the chances of electing a *national* figure who would enjoy majority support. They hoped their contrivance would avoid not only the populist competition among candidates dependent on “the popular arts,” which they rightly believed would occur if the president were elected by the people, but also what they believed would necessarily be a factional choice if the president were chosen by the Congress, particularly by the House.¹

In adopting the solution of an electoral college, however, the Framers seriously underestimated the extent to which the strong impulse toward democratization that was already clearly evident among Americans —particularly among their opponents, the Anti-Federalists —would subvert and alter their carefully contrived constitutional structure. Since this is a theme I shall pick up in my second lecture, I want now to mention only two such failures that bear closely on the theory of the presidential mandate. First, the Founding Fathers did not foresee the development of political parties, nor did they comprehend how a two-party system might achieve their goal of ensuring the election of a figure of national rather than merely local renown. Second, as Ceaser (1979) remarks, although the Founders recognized “the need for a popular judgment of the performance of an incumbent,” and designed a method for selecting the president that

¹ Although Madison and Hamilton opposed the contingent solution of a House election in the event that no candidate received a majority of electoral votes, Gouverneur Morris and James Wilson accepted it as not too great a concession (Ceaser 1979, 80–81).

would, as they thought, provide that opportunity, they “did not see elections as performing the role of instituting decisive changes in policy in response to popular demands” (84). In short, the theory of the presidential mandate not only cannot be found in the Framers’ conception of the Constitution; almost certainly it violates that conception.

No president prior to Jackson challenged the view that Congress was the legitimate representative of the people. Even Thomas Jefferson, who adeptly employed the emerging role of party leader to gain congressional support for his policies and decisions, “was more Whig than . . . the British Whigs themselves in subordinating [the executive power] to ‘the supreme legislative power.’ . . . The tone of his messages is uniformly deferential to Congress. His first one closes with these words: ‘Nothing shall be wanting on my part to inform, as far as in my power, the legislative judgment, nor to carry that judgment into faithful execution’” (Corwin 1948, 20).

James Madison, demonstrating that a great constitutional theorist and an adept leader in Congress could be decidedly less than a great president, deferred so greatly to Congress that in his communications to that body his extreme caution rendered him “almost unintelligible” (Binkley 1947, 56) — a quality hardly to be expected from one who had been a master of lucid exposition at the Constitutional Convention. His successor, James Monroe, was so convinced that Congress should decide domestic issues without presidential influence that throughout the debates in Congress on “the greatest political issue of his day . . . the admission of Missouri and the status of slavery in Louisiana Territory,” he remained utterly silent (White 1951, 38).

Madison and Monroe serve not as examples of how presidents should behave but as evidence of how early presidents thought they should behave. Considering the constitutional views and the behavior of Jackson’s predecessors, it is not hard to see why his opponents called themselves Whigs in order to emphasize his

dereliction from the earlier and presumably constitutionally correct view of the presidency.

Woodrow Wilson

The long and almost unbroken succession of mediocrities who succeeded to the presidency between Polk and Wilson for the most part subscribed to the Whig view of the office and seem to have laid no claim to a popular mandate for their policies — when they had any. Even Abraham Lincoln, in justifying the unprecedented scope of presidential power he believed he needed in order to meet secession and civil war, rested his case on constitutional grounds, and not as a mandate from the people.² Indeed, since he distinctly failed to gain a majority of votes in the election of 1860, any claim to a popular mandate would have been dubious at best. Like Lincoln, Theodore Roosevelt also had a rather unrestricted view of presidential power and he expressed the view then emerging among Progressives that chief executives were also representatives of the people. Yet the stewardship he claimed for the presidency was ostensibly drawn — rather freely drawn, I must say — from the Constitution, not from the mystique of the mandate.³

As I have already suggested, it was Woodrow Wilson, more as political scientist than as president, who brought the mandate theory to what now appears to be its canonical form. Wilson's

² Lincoln drew primarily on the “war power,” which he created by uniting the president's constitutional obligation “to take care that the laws be faithfully executed” with his power as commander-in-chief. He interpreted the war power as a veritable cornucopia of implicit constitutional authority for the extraordinary emergency measures he undertook during an extraordinary national crisis (Corwin 1948, 277–83).

³ “Every executive officer, in particular the President, Roosevelt maintained, ‘was a steward of the people bound actively and affirmatively to do all he could for the people. . . .’ He held therefore that, unless specifically forbidden by the Constitution or by law, the President had ‘to do anything that the needs of the nation demanded. . . .’ ‘Under this interpretation of executive power,’ he recalled, ‘I did and caused to be done many things not previously done. . . . I did not usurp power, but I did greatly broaden the use of executive power’” (Blum 1954, 108).

formulation was influenced by his admiration for the British system of cabinet government. You will recall that in 1879 while still a senior at Princeton he published an essay recommending the adoption of cabinet government in the United state.⁴ He provided little indication as to how this change was to be brought about, however, and soon abandoned the idea without yet having found an alternative solution.⁵ Nevertheless, he continued to contrast the American system of congressional government, in which Congress was all-powerful but lacked executive leadership, with British cabinet government, in which Parliament, though all-powerful, was firmly led by the prime minister and his cabinet. Since Americans were not likely to adopt the British cabinet system, however, he began to consider the alternative of more powerful presidential leadership.⁶ In his *Congressional Government*, published in 1885, he acknowledged that “the representatives of the people are the proper ultimate authority in all matters of government, and that administration is merely the clerical part of government” (Wilson (1885) 1956, 181). Congress is, “unquestionably, the predominant and controlling force, the center and source of all motive and of all regulative power” (31). Yet a discussion of policy that goes beyond “special pleas for special privilege” is simply impossible in the House, “a disintegrate mass

⁴ Published in August 1879 in *International Review* as “Cabinet Government in the United States,” and republished under that title in 1947 with an introductory note by Thomas K. Finletter (Stamford, Conn.: Overbrook Press).

⁵ “He seems not to have paid much attention to the practical question of how so radical an alteration was to be brought about. As far as I know, Wilson’s only published words on how to initiate the English system are in the article, *Committee or Cabinet Government*, which appeared in the *Overland Monthly* for January, 1884” (Walter Lippmann, in Wilson (1885) 1956, 14). His solution was to amend Section 6 of Article I of the Constitution to permit members of Congress to hold offices as members of the cabinet, and to extend the terms of the president and representatives (14–15).

⁶ His unfavorable comparative judgment is particularly clear in the last two chapters of *Congressional Government* (Wilson [1885] 1956, 163–215; see also 91–98). Just as Jackson had proposed the direct election of the president, in his first annual message Wilson proposed that a system of direct national primaries be adopted (Ceaser 1979, 173).

of jarring elements” while the Senate is no more than “a small, select, and leisurely House of Representatives” (72–73, 145).

By 1908, when *Constitutional Government in the United States* was published, he had arrived at strong presidential leadership as a feasible solution. He faults the earlier presidents who had adopted the Whig theory of the Constitution.

(T)he makers of the Constitution were not enacting Whig theory. . . . The President is at liberty, both in law and conscience, to be as big a man as he can. His capacity will set the limit; and if Congress be overborne by him, it will be no fault of the makers of the Constitution, — it will be from no lack of constitutional powers on its part, but only because the President has the nation behind him, and Congress has not. He has no means of compelling Congress except through public opinion. . . . (T)he early Whig theory of political dynamics . . . is far from being a democratic theory. . . . It is particularly intended to prevent the will of the people as a whole from having at any moment an unobstructed sweep and ascendancy.

And he contrasts the president with Congress in terms that will become commonplace among later generations of commentators, including political scientists:

Members of the House and Senate are representatives of localities, are voted for only by sections of voters, or by local bodies of electors like the members of the state legislature.⁷ There is no national party choice except that of President. No one else represents the people as a whole, exercising a national choice. . . . The nation as a whole has chosen him, and is conscious that it has no other political spokesman. His is the only national voice in affairs. . . . He is the representative of no constituency, but of the whole people. When he speaks in his true character, he speaks for no special interest. . . . [T]here is but one national voice in the country, and that is the voice of the President. (Wilson 1908, 67–68, 70, 202–3)

⁷ The Seventeenth Amendment, requiring direct election of senators, was not adopted until 1913.

Since Wilson it has become commonplace for presidents and commentators alike to argue that by virtue of his election the president has received a mandate for his aims and policies from the people of the United States. The myth of the mandate is now a standard weapon in the arsenal of persuasive symbols that all presidents exploit. For example, as the Watergate scandals emerged in mid-1973, Patrick Buchanan, then an aide in the Nixon White House, suggested that the president should accuse his accusers of “seeking to destroy the democratic mandate of 1972.” Three weeks later in an address to the country Nixon said: “Last November, the American people were given the clearest choice of this century. Your votes were a mandate, which I accepted, to complete the initiatives we began in my first term and to fulfill the promises I made for my second term” (Kelley 1983, 99). If the spurious nature of Nixon’s claim now seems self-evident, the dubious grounds for virtually all such pretensions are perhaps less obvious.⁸

A CRITIQUE OF THE THEORY

The Theory

What does a president’s claim to a mandate amount to? It is worth noting that the meaning of the term itself is not altogether clear.⁹ Fortunately, however, in his excellent book *Interpreting Elections*, Stanley Kelley has “piece(d) together a coherent statement of the theory” (Kelley 1983, 126).

Its first element is the belief that elections carry messages about problems, policies, and programs —messages plain to all and specific enough to be directive. . . . Second, the theory holds that certain of these messages must be treated as authoritative commands . . . either to the victorious candidate or to the

⁸ For other examples of claims to a presidential mandate resulting from the election, see Safire 1978, 398, and Kelley 1983, 72–74, 126–29, 168.

⁹ See *OED* 1971, s.v. “mandate”; Safire 1978, 398; Plano and Greenberg 1979, 130; Gould and Kolb 1964, 404; Shafrit 1988, 340.

candidate and his party. . . . To qualify as mandates, messages about policies and programs must reflect the *stable* views both of individual voters and of the electorate. . . . In the electorate as a whole, the numbers of those for or against a policy or program matter. To suggest that a mandate exists for a particular policy is to suggest that more than a bare majority of those voting are agreed upon it. The common view holds that landslide victories are more likely to involve mandates than are narrow ones. . . . The final element of the theory is a negative imperative: Governments should not undertake major innovations in policy or procedure, except in emergencies, unless the electorate has had an opportunity to consider them in an election and thus to express its views. (Kelley 1983, 126–28)

To bring out the central problems more clearly let me extract what might be called the primitive theory of the popular presidential mandate. According to this view, a presidential election can accomplish four things :

1. It confers constitutional and legal authority on the victor.
2. At the same time, it also conveys information. At a minimum it reveals the first preferences for president of a plurality of voters.
3. However, according to the primitive theory the election, at least under the condition Kelley describes, conveys further information: namely that a clear majority of voters prefer the winner because they prefer his policies and wish him to pursue his policies.
4. Because the president's policies reflect the wishes of a majority of voters, when conflicts over policy arise between president and Congress, the president's policies ought to prevail.

Now you will notice that while we can readily accept the first two propositions the third, which is pivotal to the theory, might be false. But if the third is false, then so is the fourth. So the question arises, Beyond revealing the first preferences of a plurality of voters, do presidential elections also reveal the additional information that a plurality (or a majority) of voters prefer

the policies of the winner and wish the winner to pursue those policies?

A Critique

In appraising the theory I want to distinguish between two different kinds of criticisms. Some critics contend that even when the wishes of constituents can be known, they should not be regarded as in any way binding on a legislator. I have in mind, for example, Edmund Burke's famous argument that he would not sacrifice to public opinion his independent judgment of how well a policy would serve his constituents' interests, and the argument suggested by Hanna Pitkin that representatives bound by instructions would be prevented from entering into the compromises that legislation usually requires (Pitkin, cited in Kelley 1983, 133).

Some critics, on the other hand, may hold that when the wishes of constituents on matters of policy can be clearly discerned, they ought to be given great, and perhaps even decisive, weight. But, these critics contend, constituents' wishes usually cannot be known, at least when the constituency is large and diverse, as in presidential elections, for example. In expressing his doubts on the matter in 1913, A. Lawrence Lowell quoted Sir Henry Maine: "The devotee of democracy is much in the same position as the Greeks with their oracles. All agreed that the voice of an oracle was the voice of god, but everybody allowed that when he spoke he was not as intelligible as might be desired" (A. Lawrence Lowell, *Public Opinion and Popular Government*, 1913, 73, cited in Kelley 1983, 134).

It is exclusively the second kind of criticism that I want now to consider. Here again I am indebted to Stanley Kelley for his succinct summary of the main criticisms. "Critics allege that 1. some particular claim of a mandate is unsupported by adequate evidence; 2. most claims of mandates are unsupported by adequate evidence; 3. most claims of mandates are politically self-serving; or 4. it is not possible in principle to make a valid claim

of a mandate, since it is impossible to sort out voters' intentions" (Kelley 1983, 136). Kelley goes on to say that while the first three criticisms may well be valid, the fourth has been outdated by the sample survey, which "has again given us the ability to discover the grounds of voters' choices" (Kelley 1983, 136). In effect, then, Kelley rejects the primitive theory and advances the possibility of a more sophisticated mandate theory according to which the information about policies is conveyed not by the election outcome but instead by opinion surveys. Thus the two functions are cleanly split: presidential elections are for electing a president; opinion surveys provide information about the opinions, attitudes, and judgments that account for the outcome.

However, I would propose a fifth proposition, which I believe is also implicit in Kelley's analysis: while it may not be strictly impossible *in principle* to make a reasoned and well-grounded claim to a presidential mandate, to do so *in practice* requires a complex analysis that in the end may not yield much support for presidential claims.

But if we reject the primitive theory of the mandate and adopt the more sophisticated theory, then it follows that prior to the introduction of scientific sample surveys, no president could reasonably have defended his claim to a mandate. To put a precise date on the proposition, let me remind you that the first presidential election in which scientific surveys formed the basis of an extended and systematic analysis was 1940 (see Lazarsfeld, Berelson, and Gaudet 1948).

I do not mean to say that no election before 1940 now permits us to draw the conclusion that a president's major policies were supported by a substantial majority of the electorate. But I do mean to say that for most presidential elections before 1940 a valid reconstruction of the policy views of the electorate is impossible or enormously difficult, even with the aid of aggregate data and other indirect indicators of voters' views. When we consider that presidents ordinarily asserted their claims soon after

their election, well before historians and social scientists could have sifted through reams of indirect evidence, then we must conclude that before 1940 no contemporary claim to a presidential mandate could have been supported by the evidence available at the time.

While the absence of surveys undermines presidential claims to a mandate before 1940, the existence of surveys since then would not necessarily have supported such claims. Ignoring all other shortcomings of the early election studies, the fact is that the analysis of the 1940 election I just mentioned was not published until 1948. While that interval between the election and the analysis may have set a record, the systematic analysis of survey evidence that is necessary (though perhaps not sufficient) to interpret what a presidential election means always comes well after presidents and commentators have already told the world, on wholly inadequate evidence, what the election means.¹⁰ *The American Voter*, perhaps the most famous voting study to date, drew primarily on interviews conducted in 1952 and 1956, and did not appear until 1960 (Campbell et al. 1960). The book by Stanley Kelley published in 1983 that I have drawn on so freely here interprets the elections of 1964, 1972, and 1980.

A backward glance quickly reveals how empty the claims to a presidential mandate have been in recent elections. Take the year 1960. If more than a bare majority is essential to a mandate, then surely John F. Kennedy could have received no mandate, since he gained less than 50 percent of the total popular vote by the official count —just how much less by the unofficial count varies with the counter. Yet “on the day after election, and every day thereafter,” Theodore Sorenson tells us, “he rejected the argument that the country had given him no mandate. Every election has a winner and a loser, he said in effect. There may be difficulties with the

¹⁰ The early election studies are summarized in Berelson and Lazarsfeld 1954, 33–47.

Congress, but a margin of only one vote would still be a mandate” (quoted in Safire 1978, 398).

By contrast, 1964 was a landslide election, as was 1972. From his analysis, however, Kelley (1983) concludes that “Johnson’s and Nixon’s specific claims of meaningful mandates do not stand up well when confronted by evidence.” To be sure, in both elections some of the major policies of the winners were supported by large majorities among those to whom these issues were salient. Yet “none of these policies was cited by more than 21% of respondents as a reason to like Johnson, Nixon, or their parties” (139–40). So, on Kelley’s showing, no mandates there.

In 1968, Nixon gained office with only 43 percent of the popular vote. No mandate there. Likewise in 1976, Carter won with a bare 50.1 percent. Once again, no mandate.

When Reagan won in 1980, thanks to the much higher quality of surveys undertaken by the media a more sophisticated understanding of what that election meant no longer had to depend on the academic analyses that would only follow some years later. Nonetheless, many commentators, bemused as they so often are by the arithmetical peculiarities of the electoral college, immediately proclaimed both a landslide and a mandate for Reagan’s policies. What they often failed to note was that Reagan gained just under 51 percent of the popular vote. Despite the claims of the vice-president-elect, surely we can find no mandate there. Our doubts are strengthened by the fact that in the elections to the House, Democratic candidates won just over 50 percent of the popular vote and a majority of seats. However, they lost control of the Senate. No Democratic mandate there, either.

These clear and immediate signs that the elections of 1980 failed to confer a mandate on the president or his Democratic opponents were, however, largely ignored. For it was so widely asserted as to be commonplace that Reagan’s election reflected a profound shift of opinion away from New Deal programs and toward the new conservatism. However, from his analysis of the

survey evidence, Kelley (1983) concludes that the commitment of voters to candidates was weak; a substantial proportion of Reagan voters were more interested in voting against Carter than for Reagan; and despite claims by journalists and others, the New Deal coalition did not really collapse. Nor was there any profound shift toward conservatism. “The evidence from press surveys . . . contradicts the claims that voters shifted toward conservatism and that this ideological shift elected Reagan.” In any case, the relation between ideological location and policy preferences was “of a relatively modest magnitude” (170–72, 174–81, 185, and Warren E. Miller and Theresa Levitin [1979], 766, cited in Kelley, 1983, 187).

In winning by a landslide of popular votes in 1984, Reagan achieved one prerequisite to a mandate. Yet in that same election, Democratic candidates for the House won 52 percent of the popular votes. Two years earlier, they had won 55 percent of the votes. On the face of it, surely, the 1984 elections gave no mandate to Reagan.

Before the end of 1986, when the Democrats had once again won a majority of popular votes in elections to the House and had also regained a majority of seats in the Senate, it should have been clear, and it should be even clearer now, that the major social and economic policies for which Reagan and his supporters had claimed a mandate have persistently failed to gain majority support. Indeed, the major domestic policies and programs established during the thirty years preceding Reagan in the White House have not been overturned in the grand revolution of policy that his election was supposed to have ushered in. For nearly eight years, what Reagan and his supporters have claimed as a mandate to reverse those policies has been regularly rejected by means of the only legitimate and constitutional processes we Americans have for determining what the policies of the United States government should be.

CONCLUSION

What are we to make of this long history of unsupported claims to a presidential mandate?

The myth of the mandate would be less important if it were not one element in the larger process of the pseudodemocratization of the presidency —the creation of a type of chief executive that in my view should have no proper place in a democratic republic. I shall say more about that development in my next lecture.

Yet even if we consider it in isolation from the larger development of the presidency, the myth is harmful to American political life. By portraying the president as the only representative of the whole people and Congress as merely representing narrow, special, and parochial interests, the myth of the mandate elevates the president to an exalted position in our constitutional system at the expense of Congress. The myth of the mandate fosters the belief that the particular interests of the diverse human beings who form the citizen body in a large, complex, and pluralistic country like ours constitute no legitimate element in the general good. The myth confers on the aims of the groups who benefit from presidential policies an aura of national interest and public good to which they are no more entitled than the groups whose interests are reflected in the policies that gain support by congressional majorities. Because the myth is almost always employed to support deceptive, misleading, and manipulative interpretations, it is harmful to the political understanding of citizens.

It is, I imagine, now too deeply rooted in American political life and too useful a part of the political arsenal of presidents to be abandoned. Perhaps the most we can hope for is that commentators in public affairs, in the media, and in academic pursuits will dismiss claims to a presidential mandate with the scorn they usually deserve.

But if a presidential election does not confer a mandate on the victor, some of you may wonder, what does a presidential election

mean, if anything at all? The answer is, I think, that while a presidential election does not confer a popular mandate on the president —nor, for that matter, on congressional majorities— it confers the legitimate authority, right, and opportunity on a president to try to gain the adoption, by constitutional means, of the policies the president supports. In the same way, elections to Congress confer on a member of Congress the authority, right, and opportunity to try to gain the adoption by constitutional means of the policies he or she supports. Each may reasonably contend that a particular policy is in the public good or public interest and, moreover, is supported by a majority of citizens.

I do not say that whatever policy is finally adopted following discussion, debate, and constitutional processes necessarily reflects what a majority of citizens would prefer, or what would be in their interests, or what would be in the public good in any other sense. What I do say is that no elected leader, including the president, is uniquely privileged to say what an election means —nor, certainly, to claim that the election has conferred on the president a mandate to enact the particular policies the president supports.

II. AFTER THE BICENTENNIAL: THE CONSTITUTION RECONSIDERED

The bicentennial of the writing of the American Constitution was animated by a spirit of celebratory glorification, congratulation, and complacency that the Framers themselves, I sometimes thought, would have found embarrassing and perplexing. But perhaps I am only reflecting my own response. I feel about the Framers and their handiwork somewhat the same way I feel about the Wright brothers. What the Wright brothers achieved in developing powered flight should forever merit our unstinting admiration. But much as I admire their achievement, I would not want to fly in the machine that Orville flew for fifty-nine seconds at Kitty Hawk on that momentous day in 1903.

Considered against the background of world history, both earlier and later, what was achieved by the Framers of the American Constitution unquestionably warrants our praise. But considered in the context of its present difficulties, we are entitled to wonder whether the constitutional system that has evolved from their design is, two centuries later, adequate for governing a modern country.

The heart of the problem of the Constitution, as I see it, is this. The Framers created a political system that in important respects would not and was not intended to fit comfortably with the strong impulse toward democracy that by 1787 had already developed among many Americans and that was to grow stronger with the passage of time. As a consequence of this democratic impulse, from time to time efforts were made to democratize the original framework of government. Yet though these efforts successfully eliminated or altered certain features thought to be insufficiently democratic, democratization sometimes produced unforeseen consequences.

It is the unforeseen consequences of the democratization of the presidency that should most concern us. The long effort to democratize the presidency not only violated the clear intentions of the Framers — a consequence I confess I do not find particularly disturbing, though doubtless others will — but, in one of the ironies for which history is famous, has come to endanger the democratic process itself. This is why I want to call it the pseudo-democratization of the presidency.

THE DESIGN

Some features of the Constitution that advocates of democratization found objectionable, at the time or in later years, were deliberately designed, as we know, to serve as impediments to popular rule. The aims of the Framers in this respect are a well-worn theme, much discussed, sometimes played down, more often

exaggerated, and in important details still a matter of scholarly controversy.

What is often forgotten, however, is that the Constitution that emerged from the convention in 1787 and was adopted in 1789 — let me call it the 1789 Constitution — was not, bicentennial mythology to the contrary, the product of a single, coherent theory of government. The 1789 Constitution was also a product of compromises, of logrolling, and of ignorance. Compromises were necessary, among other reasons, because of conflicts between advocates and opponents of greater national power; because of ideological differences among the delegates, notably differences between the more aristocratic republicans and the more democratic republicans; because of the ultimately uncompromisable institution of slavery; and because of the deep and protracted dispute over the relative weight in the federal system that was to be given to larger and smaller states, a difference that was of far greater importance to the delegates than it has ever actually been in American political life. Logrolling was facilitated by the small number of delegates, the even smaller number who ordinarily attended, and the fact that votes were assigned not to delegates but to states — one vote to each state.

Finally, we must not underestimate the importance of ignorance. Ignorance was inherent in the situation of the Framers, simply because in all prior history, no people other than the Americans themselves during their brief period of government under the Articles of Confederation had ever attempted the daunting task of operating a large representative republic. Although the delegates drew readily on the history of earlier democratic and republican governments, they could find none, not Athens, Rome, Venice, Holland, Switzerland, or any other, that provided truly comparable experiences. Probably in no respect did history provide less guidance than on the matter of the executive. It is no wonder that on this question, perhaps more than on any other, the delegates floundered, adopting one solution after another, until

they finally settled, for reasons that are by no means clear, on the executive they provided for in Article II.

Before we fault them for their ignorance, I suggest we try to imagine ourselves as delegates to a convention today, called for the purpose of designing a new constitution for the United States. After *two* centuries of experience with our own political system, which is far and away the most fully studied political system in the history of the world, and the invaluable addition of substantial comparative evidence from a very large number of other countries, I wonder how much better we would be at predicting —or better, guessing —how new political institutions would actually work in practice.

THE CONSTITUTION JUDGED BY DEMOCRATIC STANDARDS

Whether as a result of deliberate purpose, compromises, or an inability of the delegates to foresee what would actually develop out of their initial framework, the Constitution of 1789 failed to satisfy democratic standards in a number of ways. By democratic standards I mean standards that existed to a considerable degree at the time in some quarters. They existed among Anti-Federalists, for example, many of whom advocated a much more democratic doctrine than did most of the delegates to the convention. But I also mean the democratic standards that would develop in the course of the next two centuries, not only in the United States but in other democratic countries.

Are Democratic Standards Relevant?

Let me anticipate an objection to evaluating the work of the Framers by democratic standards. You might say that they did not intend to create a democratic government and therefore it is anachronistic or otherwise mistaken to judge them by standards they did not themselves adhere to. But this objection is either trivial, wrong, irrelevant, or all of these. One common and trivial argument in this vein is that what they intended to create and did

create was not a democracy but a republic. To the Framers and their contemporaries, the argument runs, “democracy” meant direct government by a citizen assembly, whereas by “republic” they meant a representative government; since their Constitution put forth a representative government it obviously was not intended to be a democracy. But if this argument is meant to be an objection to our employing democratic standards to judge their work, it is simply trivial. For even if the terms “democracy” and “republic” were so distinguished in the eighteenth century, that distinction rapidly disappeared from ordinary usage, and what we mean by “democracy” today obviously includes the possibility of representative government.

However, that particular objection is not only trivial but it is also wrong. Despite Madison’s insistence to the contrary in *The Federalist Papers*, it is simply not true that “democracy” was consistently used to mean direct assembly government and “republic” to mean representative government. In his excellent study, Willi Paul Adams (1980) remarks that “even today one still encounters the pseudo-learned argument that the founding fathers intended the United States to be a republic but not a democracy” (117). Adams quotes, among others, the *Providence Gazette* for August 9, 1777: “By a *democracy* is meant, that form of government where the highest power of making laws is lodged in the common people, or persons chosen out from them. This is what by some is called a republic, a commonwealth, or free state, and seems to be most agreeable to *natural right and liberty*” (99; and see pp. 99–117).¹¹

Yet even if objections like these were not trivial or wrong

¹¹ Robert W. Shoemaker (1966) agrees that “the terms were used in a variety of ways. Often, for example, they were used synonymously,” but he concludes that “representation was much more often associated with republicanism than with democracy, and thus serves as a legitimate criterion to distinguish the two” (83 and 89). His conclusion seems to me unwarranted. He does not convincingly demonstrate that “representation was much more often associated with republicanism than with democracy.” In any case, given the fact that the terms were used “in a variety of ways” and often synonymously, it is arbitrary to say that representation “serves as a legitimate criterion to distinguish the two.”

they would still be irrelevant to our needs. It is we after all, not the Framers, who live under the American Constitution. Just as we are entitled to employ our own standards, and not those of the Wright brothers or other Americans in 1903, in judging the desirability of using their 1903 airplane to fly from Boston to Los Angeles or London, surely we are entitled to bring our own standards to bear on the task of evaluating that Constitution. The question is not whether the Framers and the Wright brothers were great men and made great contributions. The question is whether their concrete historical contributions now serve our needs. In answering this question with respect to the concrete work of the Framers, we are entitled to consider how well or how poorly the Constitution now meets democratic criteria. Even if democratic standards are not the only ones we might reasonably employ to judge the present suitability of our Constitution, to Americans they are among the most relevant standards for judging the worth of political institutions.

Undemocratic Aspects of the Constitution

In a number of respects the 1789 Constitution was inconsistent with the commitment to the democratic process that was evolving among Americans, or at least elements of the politically active stratum sufficiently numerous and influential to bring about changes both in the formal Constitution itself and in the political processes by which Americans were governed.

As everyone knows, the 1789 Constitution contained no explicit guarantee of political and civil rights. The omission was of course one of the principal targets of the Anti-Federalists, whose objections at the state ratifying conventions, particularly in Virginia and New York, persuaded Madison and others to agree to add a Bill of Rights.

The omission was so swiftly corrected, then, that we can properly think of the first ten amendments as integral with the original Constitution. But other omissions proved less easy to correct. As

we all know, the Constitution not only lacked any prohibition against slavery, in effect it authorized slavery for the near future and arguably for longer.¹² Because even free citizens, of whatever race or color, were not guaranteed the right to vote, the states were authorized to exclude whomever they chose from the suffrage. Women were excluded from the suffrage almost everywhere.¹³ For generations many states, north and south, continued by law to exclude free blacks (Elliott 1974, 40). Native Americans —Indians— were not only excluded from the suffrage but often treated as enemies without rights of any kind. Thus the republic founded by the Constitution was at most a white male republic.

The 1789 Constitution also deliberately limited popular sovereignty by its indirect system for choosing senators and the president. In addition, it placed significant restrictions on the power of national majorities to govern. This it accomplished by its limits on congressional authority in Article I; by the guarantee resulting from the famous Connecticut Compromise that each state was entitled to equal representation in the Senate without respect to population; by a complex procedure for amendment that would allow tiny but strategically located minorities to block changes;¹⁴ by vesting federal judicial power in judges who were not subject to popular election or recall; and by sufficient vagueness in Article III about the powers of the judiciary to permit the development of a

¹² Article I, Section 9, denied Congress the power to prohibit until 1808 “The Migration or Importation of Such Persons as any of the States now existing shall think proper to admit” (i.e., slaves) and Article V prohibited any amendments to this provision before 1808. Article IV, Section 2(3), required that fugitive slaves escaping to another state “shall be delivered up on Claim of the Party to whom such Service of Labour may be due.”

¹³ My colleague Rogers Smith has called my attention to one exception: The constitution of New Jersey permitted women to vote until 1807.

¹⁴ Based on 1980 state populations, it would be theoretically possible for a proposed amendment to be blocked by thirty-four senators from the seventeen smallest states with 7.1 percent of the population of the United States. Since it is extremely unlikely that opinion in these seventeen states would be unanimous, a veto bloc could consist of less than 7 percent; in principle, a bit less than 4 percent would be sufficient. Admittedly this theoretical outcome is most unlikely.

Supreme Court empowered in effect to exercise a veto over laws enacted by Congress and the president.

Democratizing the Constitution

Some of these exclusions from full citizenship, limits on popular sovereignty, and limits on majority rule evidently violated beliefs about government that were expressed in the democratic attitudes and ideas that, as best one can tell, formed the public ideology of a substantial majority of political activists. Many Anti-Federalists became Jeffersonian Republicans and they now extended their already existing commitments to popular sovereignty over state and local governments to the national government. In the long run it was the democratic elements of Anti-Federalist thought, applied, however, to governments at all levels, that prevailed among political activists and probably the general public as well.

As a consequence, many important features of the American political system, including the Constitution of 1789, were altered to make them conform more closely to the evolving democratic ideology. It is striking that nearly all the amendments to the Constitution since 1791 — that is, after the adoption of the Bill of Rights — have further democratized it.¹⁵ Of the sixteen amendments after the Bill of Rights, three were mainly to cure flaws that had little or nothing to do with democracy. Two restricted majority rule and popular sovereignty in certain respects. But the remaining eleven can properly be counted as expanding democracy by reducing or eliminating exclusions from the full rights of citizenship, limits on popular sovereignty, or limits on majority rule (tables 1 and 2; for more detail, see Grimes 1979, 157–67 and *passim*).

It was not only by constitutional amendments that the prevailing democratic ideology worked its influence on political struc-

¹⁵ “In large measure, the progress of democratic rights is recorded in the amendments to the Constitution” (Grimes 1979, 163).

TABLE 1. DEMOCRATIZING THE CONSTITUTION BY AMENDMENT

Art. No.	Original provision	Amend. No.	Date	Subject
	No explicit guarantee of political and civil rights	1	1791	Bill of rights
		14	1868	Citizenship, due process, equal protection
	Exclusions from rights			
	Slaves			
	Slavery not prohibited	13	1865	Slavery prohibited
IV,2	Fugitive slaves			
I,9	Importation authorized		1808	Authoriz. lapses
	Slaves not citizens	14	1868	Citizenship
	Suffrage			
I,2	No guarantees, left to states			
I,3		15	1870	Race
I,4		19	1920	Sex
		23	1961	Poll tax outlawed
		24	1964	D.C. residents
		26	1971	Age
	Limits on Pop. Sovereignty			
	Indirect elections			
II	President			Popular election of electors (1789–1868)
I,3	Senators	17	1913	Direct election
III	Judiciary: life appt. ^a			Unchanged
	No referenda ^b			Unchanged
	Limits on majority rule			
I	Limited cong. powers	16	1913	Income tax Judicial interpretation
I,3	Compos. of Senate			Unchanged
V	Amending process			Unchanged
	Supreme Court: judicial review			Unchanged

Note: Amendments 11, 18, 20, 21, and 25 are not germane.

^aSome democratic countries provide limited terms of office for members of the highest court.

^bThe United States “is one of only four of the long-term democracies — the others are Israel, Japan, and the Netherlands — in which a national referendum has never been held” (Lijphart 1985, 21).

TABLE 2. THE TENDENCY OF CONSTITUTIONAL AMENDMENTS AFTER 1791

Subject	No.	Expanding	Restricting	Other
Suits vs. states	11			x
Pres. election	12	x		x
Abolition	13	x		
Rights	14	x		
Suffrage	15	x		
Income tax	16	x		
Dir. elec. of senators	17	x		
Prohibition	18		x	
Suffrage (gender)	19	x		
Terms (succession)	20			x
Repeal	21	x		
Pres. (two terms)	22		x	
Suffrage (poll tax)	23	x		
Suffrage (D.C. res.)	24	x		
Succession	25			x
Suffrage (18 yrs.)	26	x		

tures and processes but also in extra-constitutional ways. Let me briefly mention two familiar developments of exceptional importance. One, which began soon after the political machinery of the Constitution was in place, was the emergence of political parties. The other, which we have witnessed in operation quite recently, was the exertion of political influence over judicial appointments, particularly appointments to the Supreme Court. The effect was to limit the antidemocratic potential of judicial review by ensuring that the Court would not hold out for long against national majorities that were large and enduring enough to capture the Congress, particularly the Senate, and the presidency.

Each of these developments helped to democratize the constitutional and political processes in substantial ways. But each is a large and complex topic in itself, and while they greatly reinforced that general process, I shall say little about them here.

THE DEMOCRATIZATION OF THE PRESIDENCY

Let me turn instead to the presidency. It was inevitable that the executive designed by the Framers would be fundamentally

altered in response to the powerful influence of democratizing impulses. If the Framers had intended a chief executive whose selection and capacity for governing would not require him to compete for popular approval and who therefore would not depend on “the popular arts” of winning public support (Ceaser 1979, 47), they seriously underestimated both the strength of the democratic impulses among their fellow citizens and its effects on the presidency. Nothing reveals this more clearly than the amazing speed with which their design for the executive was replaced by a presidency dependent on popular election and popular approval.

The consequences of democratization were evident almost at once and gained strength with the passage of time. I have already described one aspect of this process of democratization in some detail: the invention of the theory of the presidential mandate. Jackson’s invention was, however, preceded by decades of democratization that gave plausibility to the theory.

By Jackson’s time the presidency had long since become an office sought by partisan candidates in popular elections. Earlier I alluded to the creation of political parties. Though political parties had existed in Britain and Sweden as elite organizations in systems with a severely limited suffrage, under the leadership of Jefferson and Madison the Republican party became an instrument by which popular majorities could be organized, mobilized, and made effective in influencing the conduct of government. Henceforth a president would combine his role as a presumably nonpartisan chief executive with his role as a national leader of a partisan organization with a partisan following.¹⁶

¹⁶ As Ceaser (1979) remarks, “The nonpartisan selection system established by the Founders barely survived a decade. By the election of 1796, traces of partisanship were already clearly in evidence, and by 1800 the contest was being fought on strictly partisan lines” (88). Like many other innovations, Jefferson’s had unintended consequences. “Jefferson . . . had an abiding distrust of national elections and, except in the case of his own election, never regarded them as the proper forum for making decisive changes. . . . The paradox of Jefferson’s election in 1800 was that while he was chosen for partisan reasons, he did not intend to institute a system of permanent party competition (90).

If the presidential office was to be attained by partisan contestation, then in order to reach that office a serious presidential candidate would ordinarily need to gain the endorsement and support of a political party. Though the story of the evolution of the presidential nominating process has often been told, it so vividly reveals the impact of democratizing impulses that I want to summarize it briefly.

The Nominating Process

The first organized system for nominating candidates for president and vice-president was the congressional caucus, which both the Republicans and the Federalists introduced in 1800 (Cunningham 1957, 163–65). Yet given the emerging strength of democratic ideology, a system so obtrusively closed to participation by any but a small group of congressional politicians was clearly vulnerable. Democratic sentiments we would find familiar in our own time were expressed in a resolution passed in the Ohio legislature in 1823: “The time has now arrived when the machinations of the *few* to dictate to the *many* . . . will be met . . . by a people jealous of their rights. . . . The only unexceptional source from which nominations can proceed is the people themselves. To them belongs the right of choosing; and they alone can with propriety take any previous steps” (Ostrogorski 1926, 12 n. 1).

By 1824, when the candidate of the congressional caucus of Democratic Republicans trailed a bad fourth in the election behind Jackson, John Quincy Adams, and Henry Clay, who all ran without benefit of a blessing by the caucus, the outrage to democratic sentiments was easily exploited, most notably by Jackson and his supporters, and the congressional nominating caucus came to an end.¹⁷

In an obvious extension of democratic ideas, which by then had thoroughly assimilated the concept of representation, in 1831

¹⁷ Though Jackson gained more votes than Adams, both popular and electoral, he was denied victory in the House of Representatives.

and 1832 the nominating convention came into existence. But in due time, “just as once the democratic passions of the people were roused against the Congressional caucus, so now they were turned against the convention system. . . . Away therefore with the delegates, who can never be trusted, and back to the people!” Ostrogorski 1926, 342).

So in a further obvious extension of democratic ideas to the nominating process, from 1901 onward the direct primary was introduced, initially for state and congressional nominations, and soon for presidential candidates. The presidential primary system was in turn subjected to the democratizing impulse. “By the election of 1972,” Ceaser remarks, “the election process had been transformed into what is essentially a plebiscitary system.”¹⁸

Reducing “Intermediation”

The democratization of the nominating process is instructive for many reasons —among others because after almost two centuries of trials employing three major forms with many variations, a sensible method of nominating presidential candidates still seems beyond the reach of Americans. The present system has its defenders, no doubt, but they seem to be rapidly diminishing.

The democratization of the nominating process is also instructive because it shows how the relations between the public and presidents or presidential candidates have become increasingly direct. Jeffrey Tulis has recently described the enormous change that has taken place in the way presidents address the public-presidential speech, if you like. The view that prevailed during the early years of the republic, and for much of the nineteenth century, tended to follow “two general prescriptions for presidential speech.” First, proposals for laws and policies would be

¹⁸ Ceaser (1979) describes three phases in the evolution of the presidential selection process since the introduction of the primaries: 1912–20, a period of the expansion of the primaries and the “plebiscitary model”; 1920–60s, which saw the decline of primaries and the resurgence of parties; and the period since 1972 (215).

written and directed principally to Congress, and though public they would be fashioned for congressional needs and not necessarily for general public understanding or approval. Second, when presidential speech was directed primarily to the people at large it would address general principles rather than specific issues. “The inaugural address, for example, developed along lines that emphasized popular instruction in constitutional principle and the articulation of the general tenor and direction of presidential policy, while tending to avoid discussion of the merits of particular policy proposals” (Tulis 1987, 46-47).

Presidents rarely directly addressed the general public, except possibly on official occasions. From George Washington through Andrew Jackson, no president gave more than five speeches a year to the general public, a total that was not exceeded by half the presidents from Washington through William McKinley. When they did address the general public the early presidents rarely employed popular rhetoric or discussed their policies (Tulis 1987, tables 3.1 and 3.2).¹⁹ Moreover, Gil Troy (1988) has recently discovered that until Woodrow Wilson no president had ever “stumped on his own behalf.” Until the 1830s, even presidential candidates did not make stump speeches. “Such behavior,” Troy has written, “was thought undignified —and unwise. Presidential candidates, especially after nomination, were supposed to stand, not run, for election.”

What we now take as normal presidential behavior is a product of this century. The innovators were Theodore Roosevelt and, to an even greater extent, Woodrow Wilson.²⁰ Since their day, and particularly in recent decades, the task of shaping presidential speech to influence and manipulate public opinion, if necessary by appeals made over the heads of Congress in order to induce the

¹⁹ The great exception was Andrew Johnson, who, however, scarcely served as a model for his successors (Tulis 1987, 87-93).

²⁰ On Theodore Roosevelt, see Tulis 1987, 95-116, on Wilson, 118-37.

Congress to support the president's policies, has become a central element in the art and science of presidential conduct.

THE PRESIDENT AND THE CONSTITUTIONAL SYSTEM

Thus the presidency has developed into an office that is the very embodiment of the kind of executive the Framers, so far as we can discern their intentions, strove to avoid. They did not wish an executive who would be a tribune of the people, a champion of popular majorities; who would gain office by popular election; who as a consequence of his popular election would claim a mandate for his policies; who in order to mobilize popular support for his policies would appeal directly to the people; who would shape the language, style, and delivery of his appeals so as best to create a public opinion favorable to his ambitions; and who whenever it seemed expedient would bypass the members of the deliberative body in order to mobilize public opinion and thereby induce a reluctant Congress to enact his policies. That is, however, a fair description of the presidency that emerged out of the intersection of the Framers' design with the strongly democratic ideology that came to prevail among politically active Americans.

Other democratic countries have rejected the American presidency as a model. Of the twenty-two countries that have been democratic since 1950, seventeen possess parliamentary governments in which the chief executive is dependent on the confidence of the legislature. One, Switzerland, has a unique plural executive, a Federal Council of seven members elected by parliament for fixed four-year terms. Only four democratic countries have a president who is vested with significant authority and not dependent on the legislature's confidence. These, in addition to the United States, are Finland, France since 1958 under the Fifth Republic, and Costa Rica (which has been continuously democratic since the restoration of civilian rule and the abolition of its military in 1950 following a coup in 1948). In both Finland and France, however, the president shares with a prime minister both

formal constitutional authority and a great deal of actual control over policies. The American system for selecting candidates and presidents, indeed any general system of direct primaries for choosing candidates for public office, is unique.²¹ The Latin American republics have been most prone to adopt a strong presidential system — with, on the whole, most unhappy results. It is worth noting that the authors of the preliminary draft of the new constitution for Argentina explicitly recognized the dangers of presidential government and have proposed to reduce them by a solution like the French Fifth Republic, that is, a popularly elected president and a prime minister and cabinet dependent on Parliament.²²

One response to this kind of presidency is to argue that these developments are, on the whole, good. They are good, it might be said, because democracy is good, more democracy is better than less democracy, and a more democratized presidency is better than a less democratized presidency. In the immortal cliché of the McGovern-Fraser Commission, “the cure for the ills of democracy is more democracy” (cited in Ceaser 1979, 275). Yet this response does not seem to quiet the fears of a growing number of critics. In Arthur Schlesinger’s now popular term, the presidency was transformed into the imperial presidency (1973); James Ceaser, Theodore Lowi, and others have referred to the development of the plebiscitary presidency (Ceaser 1979, 5, 17, 214; Lowi 1985, 97–175); Lowi has also dubbed it the personal presidency, remarking that “the new politics of the president-centered Second

²¹ For the twenty-two democratic countries, see Lijphart 1984, table 5.1. Lijphart’s list counts both the Fourth and Fifth Republics in France and does not include Costa Rica. I have counted only the Fifth Republic and have included Costa Rica. In an article appropriately entitled “The Pattern of Electoral Rules in the United States: A Deviant Case among the Industrialized Democracies” (1985), he remarks that “there are a few non-American examples that resemble . . . primaries . . . but primaries according to [Austin] Ranney’s strict definition occur not only exclusively but pervasively in the United States” (20).

²² These proposals were submitted in 1986 by The Council for the Consolidation of Democracy and the Reform of the Constitution. See *El Consejo*, 1986, 49–57.

Republic can best be described as a plebiscitary republic with a personal presidency” (xi); in his recent book, Jeffrey Tulis (1987) calls the presidency that was seeded by Wilson and cultivated by his successors the rhetorical presidency.

In criticisms of the modern presidency I want to distinguish several different perspectives. From one perspective, what is lamentable is the break with the doctrines, intentions, and designs of the Founders. A rather different perspective, one more pragmatic and functional, emphasizes that the presidency is simply no longer working satisfactorily in its existing constitutional setting. For example, a president claiming a mandate for his policies may be blocked in one or both houses of Congress by a majority of members who, in effect, also claim a mandate for their policies. The result is not constructive compromise but deadlock or contradictions in policies. Examples are the recent conflicts over the deficit and over American policies in Central America.

From a third perspective, however, the presidency has come to endanger the operation of democratic processes. It is this perspective that I want to emphasize here.

I have alluded to the developments over the past two centuries as the *pseudodemocratization* of the presidency. I have no wish, much less any hope, of adding to the other Greco-Latin epithets another even more cumbersome and more ugly, but the term does speak directly to my concerns. By pseudodemocratization I mean a change taken with the ostensible, and perhaps even actual, purpose of enhancing the democratic process that in practice retains the aura of its democratic justification and yet has the effect, intended or unintended, of weakening the democratic process.

In the case of the presidency, I have two adverse consequences in mind. One, the more obvious, is a loss of popular and congressional control, direct and indirect, over the policies and decisions of the president. A president endowed with the mystique of a mandate, a mystique that may sometimes be deepened in a demo-

cratic country by the majesty and mystery generated by his popularity and his capacity to evoke and reflect popular feelings, yearnings, and hopes, may encounter resistance to a particular policy — resistance from Congress, perhaps even from the public. So he exploits all the resources of his office to overcome that resistance: his rhetorical resources, his unique capacity to influence or even manipulate public opinion, and all the power and authority derived properly or factitiously from the Constitution, including his power as commander-in-chief, his unique authority over foreign affairs, his right or claim to executive privilege and secrecy, his authority and influence over officials in the executive branch, over the objectives they are obliged or induced to seek, and over the moneys and other resources necessary to reach those objectives. Whatever term we may wish to apply to an executive like this, we can hardly call it democratic.

The other consequence, though more elusive and not wholly independent of the first, is equally important. Now in one view — which I would describe as either simplistic or hostile — democracy means rule by public opinion. This view is, I believe, mistaken both historically and theoretically. Democracy cannot be justified, I think, and its advocates have rarely sought to justify it, as no more than the triumph of raw will. It can be justified, and I believe it is justified, because more than any feasible alternative it provides ordinary people with opportunities to discover what public policies and activities are best for themselves and for others, and to ensure that collective decisions conform with — or at least do not persistently and fundamentally violate — the policies they believe best for themselves and for others.

I cannot undertake to explicate the complexities in the notion of discovering what is best for themselves and for others, nor, I think, do I need to. For it is obvious that discovering what is best for oneself or others requires far more than announcing one's raw will or surface preferences. Imagine this extreme situation. Suppose we were called upon to vote in a national plebiscite on a

proposed treaty governing nuclear weapons that had been secretly negotiated between the president and the leader of the Soviet Union. Suppose further that the plebiscite is to be held one day after the agreement between the two leaders, and that we are to vote yes or no. The very perversity of this example serves to emphasize the crucial importance of opportunities for *understanding* as a requirement in the democratic process and illustrates why in the absence of such opportunities we should speak instead of a pseudodemocratic process.

Many writers have stressed the importance of *deliberation*. While some of them associate it with classical republicanism, deliberation is surely central to the idea of democratic decision making. What I have referred to elsewhere as enlightened understanding is, I believe, an essential criterion for the democratic process. Deliberation is one crucial means, though I think not the only means, to enlightened understanding. Others include systematic research and analysis, experimentation, consultation with experts, orderly discussion, casual and disorderly discussion, day-dreaming, and self-inquiry.

The modern presidency, I believe, all too often impairs not only deliberation but also other means to a more enlightened understanding by citizens and the Congress. Nelson Polsby's conclusions about the presidential selection process should, I think, be extended to the presidency as a whole. The increasing directness of relationships between a candidate or president and the public means that the traditional "intermediation processes," to use his term, have become less effective. Face-to-face groups, political parties, and interest groups are less autonomous and now rely heavily on the mass media (Polsby 1983, 134, 170–72). For example, some nice experiments have recently shown that in assessing the relative importance of different issues, citizens are strongly influenced by television news (Iyengar and Kinder 1987). I share Polsby's judgment that not only are deliberate processes weak in the general public's consideration of candidates and presi-

dents, but they are also insufficiently subject to extensive review and appraisal by their peers (Polsby 1983, 134, 170–72). I also share his judgment that “the directness of direct democracy in a very large scale society seems . . . illusory” (147).

CONCLUSION

How serious a matter is the pseudodemocratization of the presidency, and what, if anything, can and should we do about it?

To answer those questions responsibly would obviously take us far beyond the slender limits of these lectures. Among friends and colleagues I think I detect rather sharply differing perspectives. Let me list several.

1. The problem is not serious.
2. Though the problem is serious, the solution is to elect one more great president.
3. The problem is serious but there isn't much we can do about it.
4. The problem is serious but can be corrected by fairly modest incremental changes, possibly including a constitutional amendment, say one providing for an American equivalent to the question hour.
5. The problem is so profoundly built into the interaction between the constitutional framework and democratic ideology that it cannot be solved without a fundamental alteration in one or the other.

The last view is the one to which I find myself increasingly drawn. However, given that conclusion, a solution, assuming one is attainable, could require that we Americans either transform our constitutional framework or instead give up our democratic beliefs. I think some critics may hope that Americans will reject their democratic ideology in favor of what these critics believe to be eighteenth-century republican doctrines that would restore the Constitution to its pristine condition in the form the Framers pre-

sumably intended. I think this alternative is not only morally wrong but politically and historically illusory.

A goal more suitable to the democratic beliefs of Americans would be for us to begin the arduous task of rethinking our constitutional needs in order to determine whether we may not design a form of government better adapted to the requirements of democracy and less conducive to pseudodemocratization. Among other rethinking we need to consider how to create better opportunities for deliberation and other means by which citizens might gain a more enlightened understanding of their political goals.

To achieve the daunting goal of rethinking our Constitution will not be easy and no one should believe that, properly done, it can be accomplished quickly. But begun now, we might yet achieve it before this century is over. It would be an appropriate undertaking to commence during the year following the bicentennial of the American Constitution.

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