

# PLAUSIBLE FUTURES

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January 20, 2009, marked the beginning of a new presidency. Did it also mark the beginning of a new political era in America? President Obama promised to “change Washington,” to offer “a new kind of politics,” and to be a “transformational” president. These commitments are unusually broad and deep. The usual concerns of journalists and political pundits are much narrower—about specific policy preferences and plans, about political scandal, about partisan tactics, or about political strategy. As Obama assumed the office, domestic and foreign circumstances inclined the polity to want the broader kind of leadership he promised. Transformational leaders have arisen in the past in circumstances like these—a severe economic crisis and a nation at war. It may be more than mere conventional wisdom that America has found her greatest leaders in times of greatest need.

Obama looks to Lincoln, FDR, and Ronald Reagan as models of transformative leadership. It is always wise to look to history for exemplary models as well as to avoid the mistakes of the past. But it may be an error to understand the promise and pitfalls of the present moment by analogizing them to these seemingly similar moments in the past. The error I wish to highlight is not that of Obama, who is wise to glean any and all lessons he can from studying the administrations of Lincoln, FDR, and Reagan. Obama may indeed be some kind of transformational leader—but if his presidency is successful on its own terms, he will transform the meaning of transformational leadership more than he transforms the polity he leads. That is, assuming and hoping for the best, Obama may turn the economy around and successfully contend with the threat of terrorism, for example, but nevertheless transform neither the partisan “regime” nor the constitutional regime. Put another way, should Obama successfully contend with the enormous challenges he faces, he could establish himself as a “great” president but not a trans-

formative president, or at least not transformative in the ways Lincoln and FDR are often described.

### A CRITICAL ELECTION?

Some elections are more important than others. The important elections signal or cause a durable shift in the partisan governing order. The notion of a “critical election,” or “critical realignment,” has been sharply criticized by political scientists in recent years, but it is hard to deny that Jefferson or FDR or Reagan altered the partisan landscape in ways that persisted for decades after their ascendance. Critics of realignment have focused too intently on nominal party identification and shifts (how many people identify as Republican or Democrat, or how many shift from one to the other, for example) rather than on the ideological direction of the realigning leader and the ideational content of policies fashioned under the auspices of a governing coalition.<sup>1</sup> Critical realignments may or may not be marked by durable shifts in party identification and they may or may not be marked by a landslide election. However, critical elections are always marked by a durable change in democratic discourse. One knows that a critical election has occurred when the basic terms of partisan debate are altered (for example, “government is not a solution to our problems, government is the problem”) and when the losing party talks like the winner, tacitly accepting the new terms of debate. A striking example of this is the insistence of Republicans since the 1950s that it is unfair to suggest that they would undermine the Social Security program—indeed, that it is dirty politics to suggest that intention, an equivalent to calling Republicans unpatriotic. One is asked to forget that Republicans vigorously opposed Social Security when FDR proposed it; they insisted then that it was equivalent to “socialism.” Similarly, following Ronald Reagan’s stunning transformation of the partisan political order, Bill Clinton endorsed the idea that the era of big government was over, notwithstanding the fact that he was a Democrat (and notwithstanding the fact that the era of big government was not over).

In partisan-ideological terms, how important was the election of 2008? The easy answer is that it is too soon to say. One can’t know whether an election alters the partisan governing order until it has done so. One could not easily outline the New Deal from the rhetoric of the 1932

campaign. Stunning electoral results are never sufficient, and they may not even be necessary conditions for durable shifts in partisan regimes. One has to wait to see what the leader says and does and whether or not he alters the political landscape in enduring ways.

A more complex answer begins with the observation that the presidential campaign of 2008 was unusual in ways that confound our normal expectations for transformative leadership. On the one hand, unlike “normal” elections, the Obama-McCain contest offered a much clearer ideological choice than the “Tweedledee, Tweedledum” choices that characterize most presidential elections in between critical realignments. On the other hand, the stark differences on domestic and foreign policy only seemed to rehearse New Deal Democratic positions, on the one hand, and Reagan Republican views, on the other. On the substantive policy choices, there was no true originality on either side. It was clear to most citizens that the electoral choice really mattered for the policy direction of the country, that the election would have significant consequences—but the anticipated policy trajectory of each choice was cognizable in very familiar political terms.

It has been observed that the precipitous collapse of the banking industry and the economic crisis more generally greatly enhanced Obama’s electoral advantages. Less noticed is the fact that the economic crisis made it even more likely that Obama’s substantive agenda would echo the New Deal. Had Obama come to office in an environment less defined by economic emergency, his intimations of new policies to contend with truly new challenges, global warming, cyber crime, global terrorism, and so forth might have, over time, led to a range of proposals described and defended with a truly new “public philosophy.” The lingering recession has made Obama more inclined to defend an updated “New Deal” rather than some genuinely “new” Democratic program.

One could see this dynamic at work as President Obama confronted one of the greatest environmental catastrophes in American history. As oil gushed out of control and contaminated the Gulf region, Obama sought to contain the spill and to mitigate its effects on the economy, but he did not use the crisis to advance major new environmental legislation or to construct a genuinely new and transformative public philosophy.

The constraint of economic concerns and national security threats on the administration’s substantive agenda underscores another aspect of the campaign of 2008 that was unusual. At the same time that Obama

and McCain provided the citizenry a clear choice between conventional partisan alternatives, they agreed with each other on one truly original campaign issue. Both Obama and McCain offered themselves as reformers who would change the way politics was conducted in Washington. To be sure, rhetoric of reform by candidates running as outsiders against the Washington establishment is hardly new in American politics. What was new in 2008 was the centrality of governmental reform to the substantive agenda of both candidates. Both candidates pledged to alter the processes by which legislation was made and to diminish the role and effect of lobbyists in Congress and the bureaucracy. They both pledged to change the institutional culture of Congress and the manner of its interaction with the executive. They both pledged to reform the budget process in ways that would reduce wasteful earmarks. They both pledged to professionalize politics by toning down partisan rhetoric and by fostering bipartisan initiatives. Not since the development of the Civil Service toward the end of the nineteenth century has governmental reform been so central to a campaign agenda. This is really quite extraordinary. It is as if FDR had campaigned in 1932, in the midst of a depression, or in 1936, on the eve of war, for the Brownlow Commission (which he established in 1937 to reform the executive branch). It is as if when one asked, "What was the New Deal?" the answer was a committee to reorganize the executive branch and bring scientific management principles into public administration.

Had John McCain prevailed in the election, the reformist agenda would have been deployed on behalf of conservative policies and, more importantly, to conserve the partisan regime established by Ronald Reagan. McCain never depicted himself as a "transformational" leader. For Obama, the *mode* in which he sought to restore and extend the New Deal agenda was the core of his promise to be a transformational leader. What might he have meant? The key, I think, lies in his notion of a "post-partisan" politics. Both McCain and Obama promised more bipartisanship, but only Obama advanced the postpartisan notion. Bipartisanship refers to attempts to compromise partisan positions, to bring on board competing factions in the Congress by melding proposals from different ideological viewpoints. Obama's stimulus package was a bipartisan effort in this sense. Government spending projects proposed by the Democrats were joined to Republican tax-cut proposals. Bipartisanship is familiar enough as a political concept that Republicans have used it as a point of

criticism (“The bill is not bipartisan enough”). As Republicans mounted their critique in late January 2009, Democrats became displeased with Obama’s bipartisan strategy because the bill contained substantial concessions to Republicans at the very outset, leaving the Democrats disadvantaged for negotiations. Having won the election, Democrats chafed at premature concessions to the losers. But for Obama, this form of bipartisanship (where the bill proposed from the outset melds ideas from multiple viewpoints) is the first step to “postpartisanship.”

In Obama’s ideal “postpartisan” world, ideological posturing and ideological thinking would be replaced by problem-solving. To be sure, the diagnosis of problems, the priority of problems to be addressed, and the merits of solutions to the problems would all be informed by competing opinions. Where there are competing opinions, there will be competing factions, *The Federalist* reminds us. At the core of all political parties are competing ideas. Nevertheless, Obama’s postpartisan vision rests on the hope that ideas can supplant ideologies. Ideas are subject to revision in their confrontation with the “problem.” In the partisan world Obama seeks to reform, problems are subject to revision when shoehorned into standing ideologies.<sup>2</sup>

“What the cynics fail to understand is that the ground has shifted beneath them, that the stale political arguments that have consumed us for so long no longer apply,” Obama said in his inaugural address. He went on to illustrate the pragmatic idea that is at the core of “postpartisanship.” “The question we ask today is not whether our government is too big or too small, but whether it works—whether it helps families find jobs at a decent wage, care they can afford, a retirement that is dignified.” The ideologue attacks or defends government. The postpartisan pragmatist attacks or defends particular programs, not government per se. Obama’s position is not neutral between the New Deal ideology and the Reagan Revolution. His claim is tilted toward the New Deal because big government is here to stay. It got bigger under Reagan, in fact. But as committed as he is to government, he signals that it is open season on any particular governmental program if that program doesn’t work. He makes a similar move with respect to the issue of markets. Markets are fundamental and here to stay. “But this crisis has reminded us that without a watchful eye, the market can spin out of control; that a nation cannot prosper long when it only favors the prosperous.” Pragmatic regulation is required for markets to work well. Finally, with respect to de-

fense, Obama rejects the false choice between our safety and our ideals. The false choice corresponds to familiar ideological alternatives. Facing the challenges of security as problems allows ideas to be melded rather than, as ideology does, to crowd out promising solutions.<sup>3</sup>

But the strongest sign that Obama means postpartisan to be post-ideological was his deployment of “truth.” Truth does not reside in the familiar agendas of the Democratic and Republican parties. For Obama, time-honored virtues like honesty and hard work, courage and fair play, tolerance and curiosity, loyalty and patriotism, are true. “What is demanded, then, is a return to these truths.” Truth does not inhere in ideological positions but in virtues, on the one hand, and reasoned solutions to problems on the other. “We will restore science to its rightful place,” he says.<sup>4</sup>

Two very plausible lines of resistance have developed against Obama’s postpartisanship. From the academy, conservative political theorist Harvey Mansfield argues that Obama’s faith in pragmatic problem-solving does not so much transcend partisanship as camouflage a progressive partisan position in scientific rhetoric. Mansfield thinks that such faith in science is naive and undemocratic because science cannot resolve disputes over political principle.<sup>5</sup> From the political world, Obama’s supporters worry that he has failed to lead his party and to aggressively attack Republicans. Where Mansfield sees a progressive takeover absent true democratic debate, Obama’s Democratic supporters see a missed opportunity for progressive ascendance. Thoughtful conservatives and liberals describe Obama’s politics and his policies in diametrically opposed ways, but they agree that he should be more avowedly partisan.

However, Obama’s postpartisanship is more subtle than his critics seem to realize. Obama seeks to change the tone of Washington politics by showing how, in a large administrative republic in late modernity, many political disputes are actually practical arguments about fitting means to ends—not disputes about purposes or visions. Those practical disputes can’t be magically solved by “science,” but they can best be attenuated in a spirit of reasoned problem-solving. Partisan and principled differences will persist, but they need not define or dominate every governmental challenge. Under the auspices of this practical orientation, the remaining narrower range of partisan disputes, though vigorous, might be contested more civilly.

If one is skeptical that such a vision is achievable, that politics could actually be conducted under the auspices of a vision like this, one has an immediate sense of just how transformative Obama would have to be to succeed. My point here is not about the likely success of this vision, but rather the simple claim that Obama's kind of transformative leadership does not track the usual understanding of reconstructive leadership and critical eras in American history. Both critics and supporters view the Obama presidency through the lens of prior transformative moments in American political history. Critics insist that Obama's policies are more radical than they actually are, while his most partisan supporters feel his policies are not progressive enough. Ironically, Obama's promised transformation has been read through a very familiar ideological prism. Obama is trying to transform the meaning of transformational leadership, but older meanings of this form of leadership hinder his effort at pragmatic reform. In a sense, postpartisanship is partisanship less tied to organized political parties. As one of Obama's campaign staffers put it: "It gets back to being a transformational leader. A party leader isn't about transformation."<sup>6</sup>

### TRANSFORMING THE CONSTITUTIONAL REGIME

Brilliant students of partisan regime change, such as Walter Dean Burnham, Theodore Lowi, and Bruce Ackerman, argue that partisan change in critical eras such as the Civil War and its aftermath or the New Deal transform the Constitution as well as the electoral landscape.<sup>7</sup> Ackerman sees partisan regime change inducing constitutional change because partisans in critical eras summon the people in their collective capacity to amend the Constitution outside the formal amending procedures. Lowi calls these partisan regime changes successive American "republics" (much like the first through fifth republics in France). They are wrong. It is true, of course, that partisan regime change has been the proximate cause of substantial change in constitutional practices on the ground. However, the changes partisans induce can be constitutionally transformative only if they alter the fundamental design. No partisan regime change in American history has done this. We have had one Republic, improved over time perhaps, but improved according to the original aspirations for which it was designed.

For Burnham, Lowi, and Ackerman, the Constitution is understood

as a set of offices and practices defined by those that were operative at the time of the Constitution's adoption. The Constitution's meaning is tethered to the concrete states of mind of the founding generation (or the views in place at successive partisan refoundings) and to the extant political practices at each founding or refounding stage. For them, the reason constitutions change is that extant practices no longer serve the needs of a changed economy and society. In the understanding of these political scientists, constitutions periodically need to be transformed to contend with transformations in economy, society, and culture. What is striking about this picture is its unsophisticated understanding of constitutions.<sup>8</sup> In this picture, constitutions are, in their essence, settlements or bargains, not acts of political planning and design.

The American founders had a very different understanding of constitution making. Federalists and Anti-Federalists agreed that constitutions were not just about present political arrangements but also about plans to alter and configure the future. Indeed, plausible futures were the deepest source of dispute. In the late 1780s, America was an agrarian nation. Both Federalists and Anti-Federalists understood that if the Constitution was adopted, the nation would become largely urban and industrialized. Both sides agreed about this; the Federalists liked this plausible future and the Anti-Federalists disliked the prospect, but the power of constitutional decision to configure the future and the shape of the future was widely agreed among the founding generation. Prior to the adoption of the Constitution, the "national" government had a very weak, nearly nonexistent executive. Federalists and Anti-Federalists agreed that the American president would be a very strong executive. Some Federalists thought the executive would not be strong enough, while Anti-Federalists thought the president's strength was monarchical, but both sides agreed that presidents would be very strong. Both Federalists and Anti-Federalists anticipated that the national government would take over functions previously governed by states and localities. Despite a rhetorical effort to reassure nervous citizens that change would not be so dramatic, *The Federalist* explicitly anticipates the New Deal in essay number 10, where regulation "forms the principal task of modern legislation" and where property rights are deemed vital and important but not *fundamental*. Property rights derive from something more fundamental, "the diversity in the faculties of men." From the diversity and unequal talent in acquiring property the pos-



session of different degrees and kinds of property result. *The Federalist* makes clear that property rights should generally be protected in the service of that diversity of talent and therefore might occasionally be abrogated when property acquisition itself compromised its own fundamental rationale.<sup>9</sup>

The conventional wisdom about regime change in political science simply misses the idea that constitutional design can be about economy, society, and culture as well as about government. Constitutions, in the classic view embraced by the founders, are designs to bring into being a future state of affairs. Thus, Federalists and Anti-Federalists alike understood that the decision to form a regime of continental scope had social, economic, and cultural consequences. They understood that the establishment of a direct and unmediated coercive relationship between the central government and ordinary citizens meant that states would become less important political entities over time. Founders could take decisions that set a nation on a course of political development without knowing precisely when the changes set in motion by the founding act would take effect. The key point is that the growth of commerce, a complex industrial economy, social needs, and a culture that put a premium on work, wealth, and material things and a government adequate to the new needs of a commercial republic were all anticipated and indeed planned.<sup>10</sup>

One can make the same point about race relations. The Constitution perpetuated slavery through several of its provisions. Yet, as Frederick Douglass and Abraham Lincoln both understood, the Constitution was oriented to freedom even as it temporarily held some in bondage. The just protest against bondage was induced largely by the Constitution itself. The Constitution may have been perfected by the Reconstruction amendments, for example. But they were not truly “amendments” (changes) but rather elaborations of the core commitments of the original design.<sup>11</sup>

Thus, partisan regime change does not induce constitutional regime change. At its best, partisan regime change has induced elaboration and perfection, not transformative constitutional change. At its worst, partisan change layers ideas on top of a still working Constitution, complicating its operation without altering its basic design. Will Obama’s new kind of transformational leadership perfect the constitutional regime as previous so-called transformational leaders have? Or will he com-

plicate and extend the problems introduced by previous partisan challenges? The election of the first African American president obviously leads one to think that this president will further advance aspirations expressed in the Preamble and the Declaration of Independence—the founding documents referred to at the top of Obama’s inaugural address. Obama may well issue orders and advance legislation to provide benefits to disadvantaged minorities or to extend civil rights to gay couples, for example. However, if political reform and postpartisanship do indeed form the centerpiece of Obama’s attempted realignment, it is more likely that his constitutional legacy will be restorative rather than perfectionist.

### TRANSFORMATION AS RESTORATION

Obama invoked Lincoln, FDR, and Reagan at various points during the campaign, transition, and early days of his administration. Commentators have also compared his leadership project to those figures. Ironically, it may be Teddy Roosevelt, McCain’s hero, who comes closer to modeling the kind of restorative leadership Obama articulates. It was T.R. who said he didn’t care who got the credit as long as his adversary was going the same way; it was T.R. who laid out an economic and regulatory reform agenda to the public but left Congress discretion to craft the bill unpressured by a relentless, continuing public-speaking campaign; it was T.R. who offered moderation as the watchword of his policies and political/constitutional tactics. The principled search for the mean characterizes both the statesmanship of T.R. and the campaign and early days of the Obama administration.<sup>12</sup>

After the first six months of the Obama presidency, the outlines of a new kind of political transformation were becoming clearer. On the one hand, there is no new overarching public philosophy that would distinguish the array of Obama policies from those of his Democratic predecessors FDR, Kennedy, and Johnson. The understandings of justice and of the common good implicit in Obama’s policies are those made explicit by New Deal and Great Society ideas. On the other hand, the sheer scope and ambition of his economic and social policies are unprecedented. The massive spending required to support an economic stimulus package, financial-sector reform and bailouts, and bailouts and restructuring of the auto industry, as well as nearly universal health care

coverage, is likely to transform (for good or bad) American lives and political practices.

Obama has also begun to alter the relation of president and Congress. Unlike all recent presidents, Obama has not prepared legislation in the executive branch to be tweaked (at best) or rubber stamped (at worst) in the legislature. Instead, he has (1) established a priority or focus, (2) articulated and defended principles to guide legislation on the priority problem, (3) left the drafting of legislation to the Congress, and (4) used the advantages of his office to pressure Congress to do its job—to craft and pass legislation, rather than to campaign for a specific executive-designed bill. This political strategy alters a century of presidential practice and, if successful, may transform the way presidents lead on domestic policy and the way Congress legislates.

It is common to attribute the errors and excesses of the Bush administration to executive misjudgment and overreaching. Obama seems to understand that the pathology of modern governance lies more in the legislature than in the executive, notwithstanding his disagreements with Bush policies and practices. The failures of the Bush administration are the failure of government because aggressive executive decision was never tested by thoughtful deliberation in the legislature. Legislative deference is the root pathology of the modern constitutional order.<sup>13</sup> The tendency of the Congress to defer to the executive over matters that were previously subject to political contestation is deeply rooted in twentieth-century constitutional culture. In the nineteenth century, nominations to the Supreme Court were routinely contested by the Senate on the full range of considerations that influence presidential choices; for more than two hundred years, Congress more actively intervened and assessed presidential foreign policy decisions; until the mid-twentieth century, Congress took principal responsibility for budget-making; until relatively recently, “political questions” such as the status of executive agreements or executive privilege were resolved by Congress and the president, not by the courts. The exceptions to these tendencies, in our time, sometimes arise in divided government as partisan contestation becomes a surrogate for competing institutional perspectives.

Obama’s postpartisanship ideal can be viewed as an effort to reform the Congress as well as to solve particular problems. It remains to be seen, however, whether the need for emergency action trumps the need for governmental reform. Will the success of a health care package

that drew ideas from Republicans as well as Democrats set in motion a new way of doing business, or will its political legacy be polarization because it was passed along straight party lines? Can Obama's extraordinary grassroots organization, bolstered by technological savvy, usher in a new era of civic education? Or will it be remembered as just another high-tech means to attempt to pressure the Congress? These are all plausible futures, and at the midterm election of 2010, the failure of postpartisanship seems more likely.

It is ironic that the best solution to the decay of a vigorous national legislature may be presidential leadership itself. A president who seeks to recover the traditional functions and virtues of Congress in the separation-of-powers system may be a new kind of transformative leader—one who restores the constitutional order rather than perfects it. The motivation for such leadership could be the realization that George W. Bush's political interests were hindered, not helped, by the abdication of Congress. Had Congress challenged, or even seriously debated, Bush administration foreign policy, for example, the effectiveness and legitimacy of those policies might have been enhanced.

Approaching the election of 2010, Obama's political successes and setbacks confirmed the general shape of these plausible futures that were visible in the campaign and early days in office, now bringing them into sharper focus. As mentioned above, Obama secured a large economic stimulus package, a large financial bailout of the banking industry, a bailout of the auto industry followed by the forced bankruptcy of General Motors, and passage of a comprehensive health care package. His foreign and military policies have been marked by a distinct change in tone and rhetoric from those of the Bush administration, but the actual policies regarding Iraq and Afghanistan extend and do not substantially change the policies of his predecessor. The Obama administration has extended and defended in court many Bush administration policies regarding detention and trial of terror suspects, even while modifying detention and interrogation practices to be more in line with national and international values and standards of conduct. All of these efforts evidence an approach to politics more pragmatic than ideological.

The debate on health care offers an excellent case in point. No new principle marked this effort. It was offered explicitly as a version of the past, likened to other policies in place such as Medicare, and open to a variety of institutional mechanisms to advance its purposes. To be sure,

fevered rhetoric from partisan critics painted the health care proposal in ideological terms—as socialism or, in the minds of some gun-toting protesters, as Nazism—but these heated criticisms only served to underscore how nonideological, how pragmatic Obama’s policy actually is. If there is any merit, for example, to the “socialism” worry, it could only be a kind of slippery-slope argument that the new policy will lead to socialism. The policy itself cannot fairly be described as socialism. It was presented as a way to save and improve the American capitalist order, and indeed, the main capitalists relevant to the issue, the large insurance companies, were brought into the policymaking process.

No one can deny that the cumulative effects of these policies might dramatically transform life in America or America’s place in the world. The array of new domestic spending on top of a continuing war in the Middle East offers the prospect of enormous deficits whose costs may be incalculable at this moment and whose future effects are presently unfathomable. The point I want to stress, however, is that whether Obama becomes a failed president because of the problems his policies create or a successful one because of the problems he solves, his presidency will not have transformed any core principles, any core ideas, the way previous “transformational” presidents have done. The potentially massive changes on the ground induced by Obama’s pragmatism may be lasting and profound but still not regime-changing, even if life in the regime is much better or much worse than before he took office. What many are struck by, causing them to erroneously label Obama as potentially transformative, is the sheer size, the sheer mass and cost, of Obama’s domestic agenda. But Obama’s ambition is better understood as restorative in the sense that Obama extends and elaborates the New Deal of the 1930s and the Great Society of the 1960s, which itself was an elaboration of the New Deal. As Obama himself points out, the problem of deficits and national debt really stem from structural aspects of governance set in place long before he took office, as well as massive war spending by the Bush administration. In all these respects, Obama’s debt-enhancing policies are extensions, not transformations, of past practices and policies.

The second way Obama may be changing the meaning of transformative leadership, his emphasis on the form of leadership—providing principles rather than detailed legislative proposals and deferring to the legislative work of the House and Senate—was also more evident after

the first two years of this administration. During the primary campaign, Obama distinguished himself from his opponent Hillary Clinton by suggesting their differences to be more style of governance than substance of policy. One should not underestimate the importance of this point. Near the beginning of the primary season, I described Obama's view this way:

Just beneath the surface of Obama's call for a new kind of leadership that transcends previous partisan divisions and old habits of political contestation is a new constitutional theory—or, perhaps more accurately, a better understanding of our Constitution whose meaning has been lost over time and whose principal political institutions have begun to decay. In Obama's vision, presidential success is not measured by how many detailed policy proposals he can ram through Congress. Rather, his vision sets a new standard, that presidential success will be measured by an improved functioning of the government as a whole. In this vision, the details of policy are not as important as the principles that guide policy. In this vision, it is less important to secure one's preferred version of a bill than it is to mobilize Congress to solve the problem for which the legislation was designed.

In contrast, all recent presidents, and especially Senator Clinton, understand the President as the chief legislator, as the person and the place where legislation is made. She seems incensed that anyone not as technically skilled as she in legislative craftsmanship would think they are as qualified for election to the presidency. Obama understands that although the president needs to be very knowledgeable about public policy, to demonstrate that knowledge, and even, as president, to offer legislative proposals to the Congress—he has an instinctive sense that his job is to lead, not to legislate.

Obama knows instinctively that Senator Clinton did not learn the major lesson from the failure of her health care plan at the beginning of her husband's term. For Obama, the lesson is that one does not take over the role of Congress, in secret meetings of unelected friends and colleagues and then insist that the presidential product be given a mere seal of approval

by the Congress of the United States. He knows that presidential leadership is much more than a matter of bargaining from a strong position but includes, as well, facilitating the work of others. Obama knows that his job will be to initiate and nurture a legislative process. He will offer a plan, to be sure. He will use his plan to illustrate the principles he wishes to guide legislative craftsmanship: that all Americans have access to health insurance and that it be affordable. He will make speeches and he will call, meet, and cajole members of Congress. But he will not substitute “administration” for “deliberation.” If as Congress deliberates it becomes clear that Senator Clinton’s plan accomplishes his principled objectives better than his own plan, he will embrace it, praise it, and praise her. Obama seems to understand that this sort of scenario would represent success not only because the nation’s health care system would be improved, but also because it would signify that the government, not just the presidency but the government as a whole, was not broken anymore. He would show the world that some meaningful vision of democracy was still workable.<sup>14</sup>

This intimation of Obama’s intention turned out to be an accurate description of his approach to health care once in office. Again and again, Obama insisted that his principles were more important than specific policies, and he challenged Congress to do the actual work of legislation. Many of his supporters were frustrated by this posture, and his partisan critics painted him as weak and ineffectual—but Obama sensed that his transformative potential derived as much from his new mode of leadership as it did from the policy project he proposed. Yet, like the domestic policies themselves, this “new” mode of leadership is not really new. Rather, Obama’s principled deference to Congress is a restoration of a leadership mode common to the nineteenth century and early twentieth century. While Obama needed to be more aggressive than Teddy Roosevelt as the health care legislation moved to the floor of each chamber and as Senate and House bills were reconciled, his general strategy was to define principles and leave particulars to the legislature. As I mentioned previously, this style closely mirrored the leadership of Roosevelt.

Because most transformations in American politics perfect some

element of the past, one may wonder whether there is a real distinction between perfection and restoration.<sup>15</sup> The distinction is this: transformations like the Reconstruction Amendments or the New Deal elaborate an aspiration buried in the Constitution's genetic structure. They bring to fruition something latent in the past but not previously realized. Restorations, such as Obama's, recover past ideas and practices that have been buried or covered over, making present once again something that was previously manifest and real.

One can not conclude the subject of transformational change without reflecting upon the fact that Barack Obama is the first African American president of the United States. The fact of his elevation has brought many Americans an extraordinary sense of pride, has attracted the admiration and attention of millions of people across the globe, and clearly marks a watershed in American political history. Yet, even this extraordinary change was cast in, and perhaps depended upon, a restorative orientation. Obama did not campaign as an African American but rather as a postracial politician. To be sure, race was a central topic in his campaign, but he was pushed to address it by his critics. He spoke eloquently about race, but he did not define his campaign or his presidency in racial terms. Instead, his conjunction of postpartisan pragmatism and inspirational eloquence harked back to the politics of America's greatest statesmen: Abraham Lincoln, Frederick Douglass, and most importantly, George Washington.

David Brooks recently wrote that our culture today suffers from an almost total absence of the understanding and practice of dignity. In the first year of the Obama presidency, we endured a corrupt governor of Illinois whose fall from office was marked by a complete lack of dignity or grace, a governor of South Carolina who publicly humiliated his family and himself, and a governor of Alaska who, according to Brooks, "aspires to a high public role but is unfamiliar with the traits of equipoise and constancy, which are the sources of authority and trust."<sup>16</sup>

But then there is Obama. "Whatever policy differences people may have with him, we can all agree that he exemplifies reticence, dispassion and the other traits associated with dignity. The cultural effects of his presidency are not yet clear, but they may surpass his policy impact. He may revitalize the concept of dignity for a new generation and embody a new set of rules for self-mastery."<sup>17</sup>



In the context of our time, to dignify our regime would surely be to transform it. Yet, from the wider-angle lens of our entire political history, it would be the most deeply *restorative* transformation of them all, pointing beyond the Great Society and New Deal origins of health policy, beyond the capitalism-enhancing regulatory politics of Teddy Roosevelt's Square Deal, to the very origins of the presidency itself, to the person and statecraft of George Washington, America's *prepartisan* president. Forrest McDonald's description of Washington's most important and most subtle legacy might well describe President Barack Obama: "He endowed the presidency with the capacity—and the awesome responsibility—to serve as the symbol of the nation, of what it is and what it can aspire to be."<sup>18</sup>

## NOTES

1. David Mayhew, *Electoral Realignments* (New Haven, CT: Yale Univ. Press, 2004); Byron E. Shafer, *End of Realignment? Interpreting American Electoral Eras* (Madison: Univ. of Wisconsin Press, 1991). For an excellent account of Mayhew's failure to comprehend the systemic significance of realignments, see Curt Nichols, "Reconsidering Realignment from a Systemic Perspective," *Clio* 19 (Spring–Summer 2009): 2.

2. To understand why Obama's stated objective is "postpartisan," see J. Russell Muirhead, "A Defense of Party Spirit," *Perspectives on Politics* (Dec. 2006): 713–27.

3. President Barack Obama, inaugural address, Jan. 20, 2009, [www.whitehouse.gov/blog/inaugural-address/](http://www.whitehouse.gov/blog/inaugural-address/).

4. *Ibid.*

5. Harvey Mansfield, "What Obama Isn't Saying: The Apolitical Politics of Progressivism," *Weekly Standard*, Feb. 8, 2010. For a contrary view, see William Galston, "Freedom Agenda: Obama's Politics Aren't Anti-democratic. They're Liberal," *New Republic*, Feb. 4, 2010.

6. Cornell Belcher, quoted in Matt Bai, "Democrat in Chief," *New York Times Magazine*, June 13, 2010, 38.

7. Walter Dean Burnham, *Critical Elections: The Mainsprings of American Politics* (New York: Norton, 1971); Theodore Lowi, *The Personal Presidency: Power Invested, Promise Unfulfilled* (Ithaca, NY: Cornell Univ. Press, 1986); Bruce Ackerman, *We the People: Foundations* (Cambridge, MA: Harvard Univ. Press, 1993). In his important book, Stephen Skowronek ties his influential notion of reconstructive leadership to critical elections, but he does not argue that each of those eras signals a change in the constitutional, as opposed to partisan,

regime. Skowronek, *The Politics Presidents Make: Leadership from John Adams to Bill Clinton* (Cambridge, MA: Harvard Univ. Press, 1997).

8. This legalistic misunderstanding of constitution as tethered to the concrete intentions or extant practices at the origin or making of the document is a central premise or claim of the essays by Stephen Skowronek and Robert Spitzer in this volume, although they draw very different conclusions from this assumption. For Skowronek, the irrelevance of the Constitution to subsequently devised governing arrangements means we should think less about the Constitution. Spitzer, in contrast, is upset that contemporary presidents and scholars have abandoned the Constitution as originally understood, despite the fact that by his own account it is irrelevant to contemporary problems and circumstances.

9. See especially Herbert J. Storing, *Toward a More Perfect Union* (Washington, DC: AEI Press, 1995), chap. 14.

10. Jeffrey K. Tulis, "The Constitutional Presidency and American Political Development," in *The Constitution and the American Presidency*, ed. Martin Fausold and Alan Shank (Albany, NY: SUNY Press, 1991). See also Sotirios A. Barber, *Welfare and the Constitution* (Princeton, NJ: Princeton Univ. Press, 2005).

11. Storing, *Toward a More Perfect Union*, chaps. 6, 7.

12. See Jeffrey K. Tulis, *The Rhetorical Presidency* (Princeton, NJ: Princeton Univ. Press, 1987), chap. 4, "The Middle Way: Statesmanship as Moderation."

13. This is the subject of my forthcoming book *The Politics of Deference*. For a preview, see Jeffrey K. Tulis, "On Congress and Constitutional Responsibility," *Boston University Law Review* (April 2009): 515–24.

14. Jeffrey K. Tulis, "Obama's Beef," *Balkinization*, Jan. 30, 2008, <http://balkin.blogspot.com/2008/01/obamas-beef.html>.

15. I am grateful to Hugh Hecl, who raised this question at the Regents University symposium where the first draft of this essay was presented.

16. David Brooks, "In Search of Dignity," *New York Times*, July 7, 2009, A23.

17. *Ibid.*

18. Forrest McDonald, "Today's Indispensable Man," in *Patriot Sage: George Washington and the American Political Tradition*, ed. Gary L. Gregg II and Matthew Spalding (Wilmington, DE: ISI Books, 1999), 37.