

An Analysis of the Nature and Tactics of Demagogues  
in ancient Athens and modern America

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## ABSTRACT

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In its original usage, “demagogue” did not carry any pejorative meaning. It was a term used to describe the tactics of a leader, not his character. The original definition was corrupted by Plutarch who, in his Athenian lives, created a distinction between demagogues (bad leaders), and statesmen (good leaders). But Plutarch’s distinction was not based on the actions or character of the leader, but simply on whether the historian Thucydides portrayed the politician in a positive or negative light.

This creates a problem for modern analysis of demagogues since it is difficult to define the characteristics of a demagogue. The most common practice today is to classify anyone who is aggressive in nature as a demagogue, which ultimately leads to an overly broad and amorphous category. But study of the traits and actions of ancient Athenian politicians, can discern the true nature and identifiers of destructive political leadership. My analysis of ancient Athenian politicians covers Pericles, Cleon, and Alcibiades. After determining the true nature of demagogic action in Athens, I applied my findings to the American system. This analysis identifies the Constitutional barriers that were designed to prevent the rise of demagogues, as well as the processes by which these barriers were dismantled. I then applied my findings of what constitutes true demagogic action to modern America in order to determine which institutions I found to be most emblematic of demagoguery. I discovered that the best example of demagoguery in modern America is the Drug Enforcement Administration since their parochial interests and manipulative popular tactics closely parallel those that were most destructive to the democracy of ancient Athens.

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## **I. Introduction**

“Demagogue” is a word that Americans have heard frequently in recent news coverage. Given the state of our current government, in which conflicting interests and irrational actions have become fundamental behaviors, it is a word that has become familiar to many modern Americans. Due to the proliferation of its usage though, the modern understanding of what defines a demagogue has become diluted. Today, almost any politician who is arrogant or bigoted can be referred to as a demagogue. Now, while those are certainly not traits that one would look for in an elected representative, they are not exclusively demagogic. In order to fully understand what defines a demagogue, one must trace back through the scholarship; first to discover the origin of the word, and next to discern the evolution of its meaning.

Upon doing this, it will become possible to analyze the correctness of modern scholars and their perceptions of the nature and effects of demagogues. I hope to show that, while many modern scholars are well aware of the negative aspects of demagoguery, there has been a fundamental disconnect between our modern conception and the true nature of demagogues in Athens. In modern political thought, the distinction between the evil demagogue and the virtuous statesman is widely recognized but, as I will argue, poorly understood. Rather than classifying politicians as either demagogues or statesmen based on their traits and policies, I believe it is necessary to instead determine their motives behind these actions. Accordingly, no one politician can be classified as definitively demagogic, as each action they undertake is likely to have new motives and new consequences. It is my hope that through this improved method of analysis, it may become possible to better understand what differentiates good political action from bad. And further, that through this understanding, we, as people and voters in the American system,

may be better able to discern the true motives of our politicians, and adjust our support accordingly. Ultimately, once this has been realized, we may be able to create institutions that are more effective in limiting selfish and harmful political action; thereby creating a more effective and harmonious government for all.

### ***Origins of Demagogic Understanding***

Although we use the word “demagogue” as a distinct term, the Ancient Athenians had a variety of words, all of which are frequently translated as simply “demagogue”. This multitude of Athenian terms can be condensed down to two root words; δημαγωγός (*demagogos*) and δημηγόρος (*demegoros*).<sup>1</sup> These two words are both derived from similar Greek roots, and therefore share a similar meaning. The prefixes present in both of these words, the nouns δημα- and δημη- respectively, both stem from the same word, δῆμος (*demos*), which means people. The suffix of the former stems from the verb ἄγω (*ago*), meaning to lead, while the latter is a form of the verb ἀγορεύω (*agoreuo*), meaning to speak in an assembly, “but the two root verbs are themselves closely related.”<sup>2</sup> Inherently then, both of these terms connote a leader who is capable of rallying massive public support, often using their abilities of oratory; particularly in the case of δημηγόρος. There is a common misconception, that even in its original usage, the word “demagogue” carried severely negative connotations. This is not the case. The traditional usage of this term carries no pejorative meaning, and is instead a neutral term used to describe tactics rather than effects.<sup>3</sup>

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1 Melissa Lane, *The Origins of the Statesman - Demagogue Distinction in and after Ancient Athens*, 180

2 Josiah Ober, *Mass and Elite in Democratic Athens*, 106 n.7

3 Melissa Lane, *The Origins of the Statesman - Demagogue Distinction in and after Ancient Athens*, 181

Lane affirms this fact by analyzing the usage of *δημαγωγός* and *δημηγόρος*, as well as their cognates, in Aristophanes' plays. Lane asserts that even Aristophanes, who is known for being most critical of Athenian demagogues, does not use the word negatively. In his play *Frogs*, Aristophanes uses the word *δημαγωγεῖ* (*demagogeí*) simply for comedic effect. He states that one of the main characters, Archidamus, is "acting demagogically" while among the dead in Hades. Rather than denigrating the politicking of Archidamus, Aristophanes simply means to draw attention to the irony of "rallying the people" whilst speaking solely to the dead.<sup>4</sup>

In addition to the lack of an unfavorable undertone, most modern scholars continue to perpetuate another falsehood; that the terms *δημαγωγός* and *δημηγόρος* were used frequently in Classical Greek. In fact, these words were used so sparsely that Thucydides only uses the word *δημαγωγός*, or its cognates, twice in his entire 8 book long *Histories*.<sup>5</sup> Instead, there were a full set of much more popular, descriptive terms which Classical Athenian politicians, historians, and scholars would use to describe their peers. These include *ὁ βουλόμενος* (*ho boulomenos*; the one willing) *προστάτες του δήμου* (*prostates tou demou*; standing before the people), *οἱ ῥητοῖρες καὶ οἱ στρατηγοί*, (*hoi rhetores kai hoi strategoi*; orators and generals).<sup>6</sup>

As it turns out, words from the *δημαγωγός* and *δημηγόρος* families did not fully receive their pejorative connotations until after the Classical period. It was not until Plutarch conducted his investigations into the lives of the Ancient Athenians that this meaning was fully realized. In conducting his research, Plutarch mistakenly views a distinction made by Plato as evidence of a negative connotation.<sup>7</sup> In his *Laws*, Plato defines two categories of political leaders; *πολιτικόν* (*politikon*; statesman) and *δημολογικόν* (*demalogikon*; demagogue). While the word

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4 Ibid. 185

5 Ibid. 186

6 Ibid. 182

7 Ibid. 192-3

δημολογικὸν does carry a pejorative sense, it is not from the families of either *δημαγωγός* or *δημηγόρος*. It is in fact a new term which Plato has himself coined.<sup>8</sup> Plutarch, not realizing this, takes Plato's distinction to mean that Classical Athenians had two commonly understood categories for political leaders; the statesman, who was good, and the demagogue, who was bad.<sup>9</sup> Accordingly, when Plutarch finds that Thucydides refers to leaders in negative ways, such as Cleon and Alcibiades, he labels them as demagogues, believing this to be commonly understood. Conversely, upon seeing the heroic nature of Pericles, he labels him a true statesman.<sup>10</sup>

The problem with making this distinction is that now, all of the actions of Alcibiades are seen as evil acts of a malicious demagogue, while the actions of Pericles are hailed as idyllic democratic deliberation. Unfortunately, this is not the case. While Pericles was indeed a highly successful leader of the Athens, he was not always perfect. Occasionally, even Pericles can be accused of acting in his own self interest, rather than the people's. Conversely, Alcibiades, although he often acted for his own aggrandizement, did have moments where he may have been solely responsible for preventing the utter annihilation of the Athenian state. Ultimately, as Lane points out, these set castes of democratic leaders put a stranglehold on any sort of productive discussion regarding demagogues. Rather than analyzing individual actions in order to determine their effectiveness or morality, all political actions, in addition to the politicians who perpetrate them, are painted with one of two exceedingly broad brushes.<sup>11</sup>

This distinction led to some widespread misunderstanding which can be found in the works of many post-Classical scholars, such as Pareto, Mosca, Michels, and even Hamilton in

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8 Ibid. 190

9 Ibid. 193

10 Ibid. 187, 193

11 Ibid. 199-200

both *Federalist 1* and 85.<sup>12</sup> Another scholar who Lane is highly critical of is Moses Finley. Lane argues that Finley fails to see the mistake inherent in the distinction, and relies far too heavily on it for his analysis. Conversely, I believe that Finley does the exact opposite. Rather than succumb to the distinction based on Thucydidean lines of good versus bad leaders, Finley uses the distinction between statesman and demagogue to analyze individual actions and place them accordingly. This, I will argue, is the correct way to view demagogues and demagogic action on the whole. Finley acknowledges the distinction, which is a necessary aspect of determining what makes a leader good, while also not allowing himself to place leaders based on predetermined categories.

Finley's refusal to fall along Thucydidean lines is most evident in his analysis of Pericles. Finley argues that Pericles

energetically pursued a policy of naval power, 'which gave the lower classes the audacity to take over the leadership in politics more and more'; and he introduced pay for jury service, thus bribing the people with their own money. These were demagogic practices and they brought Pericles to power, which, Aristotle agrees, he then used well and properly.<sup>13</sup>

Finley furthers this belief when he cites Plato in arguing that even the greatest of Athenian leaders, "Miltiades, Themistocles, Cimon, and Pericles" were not true statesmen, as they had each given in to some bad practices of governance. Rather, they were simply perceived as statesmen because "they had merely been more accomplished than their successors in

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<sup>12</sup> Ibid. 183, 193

<sup>13</sup> Moses Finley, *Athenian Demagogues*, 4-5



gratifying the desires of the *demos* with ships and walls and dockyards.”<sup>14</sup> In Finley’s mind, the most important aspect for Ancient Athenians in distinguishing a demagogue from a statesman is not the techniques, nor even the policies of a leader. Instead, “the crucial distinction is between the man who gives leadership with nothing else in mind but the good of the state, and the man whose self-interest makes his own position paramount and urges him to pander to the people.” Essentially, Finley argues that the motives which drive a leader are what define him as either a statesman or a demagogue. “From Aristophanes to Aristotle, the attack on demagogues always falls back on the one central question: in whose interests does the leader lead?”<sup>15</sup>

While Finley does attempt to include some form of this distinction, he also draws attention to the fact that, in analyzing the actions of an Athenian politician, it is absolutely necessary to account for 4 fundamental aspects of Athenian government. These fundamental aspects are (1) that Athens was a direct democracy, rather than a republic; (2) the “narrowness of space” resulting in close proximity of almost all of the citizens; (3) that the Assembly possessed all final Legislative and Executive authority regarding policy decisions of the state; and (4) that the Assembly was simply a group of unelected citizens who were highly susceptible to crowd behavior and mentality.<sup>16</sup> Essentially, Finley is attempting to draw attention to the fact that there were very few elected and representative positions in the Athenian government, and that the large majority of the “government” was simply a mass of citizens waiting to be persuaded by the best argument possible. Consequently, those who wished to gain sway over the Assembly needed to be highly effective orators. They needed to espouse rhetoric and ideas that reflected the wants and desires of the majority of the common people; actions which, according to the unrefined statesman-demagogue distinction, sound fundamentally demagogic.

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<sup>14</sup> Ibid. 7

<sup>15</sup> Ibid. 5

<sup>16</sup> Ibid. 9-10

Finley, in acknowledging this fact, goes against Lane's critique of his understanding. While Finley does recognize the need for a distinction between good and bad governance, he does not necessarily attribute all aspects of bad governance to "demagogues". Rather, Finley argues that demagogues - here used in the original, neutral sense - are a fundamental structural aspect of the Athenian political system. Finley asserts this based on a three-fold premise:

first, that the system could not function at all without them; second, that the term is equally applicable to all leaders, regardless of class or point of view; and third, that within rather broad limits they are to be judged individually and not by their manners or their methods, but by their performance.<sup>17</sup>

To Finley, popular appeals of politicians are a cornerstone of democracy, and are still a fundamental aspect of our American system. As a result, an understanding of the good and bad aspects of Athenian democracy is easily applicable to America, and can help us to identify dangerous actions or institutions in our system. Unfortunately, the comparison is not perfect. Finley identifies multiple reasons why the systems are not perfectly comparable, the most fundamental of them being the inherent differences between direct and representative democracies.<sup>18</sup> Due to these differences, both the harmful actions perpetrated by politicians, and the institutions designed to prevent them, must be somewhat different from those in Athens. As a result of this, massive debates rose regarding the best way to curtail selfish political action in our modern American system. And, while some of them have proven to be effective, many others

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<sup>17</sup> Ibid. 19

<sup>18</sup> Ibid. 19

were either improperly designed or have since been corrupted, as the warnings passed down by the Athenians have continually been misunderstood

### ***Demagogic Understanding in American Political Construction***

The Constitution of the United States is the founding document of our republic. It delineates all of the powers our government possesses, the limitations on them, and the institutions designed to ensure the successful implementation of this government. Despite the vast importance of the Constitution, it does not represent any one person's ideal form of government. Rather, the Constitution is the culmination of a long series of compromises between competing ideals. The most important scholars for analyzing these compromises, as well as the differing ideals which necessitated them, are Jeffrey Becker, Richard Hofstadter, Cecilia Kenyon, and Daniel and Stephen Wirls. These authors have all done extensive work to synthesize the opinions of the Federalists and Anti-Federalists respectively. Their works provide necessary insight into the institutions that these differing groups thought would be most effective in curtailing dangerous demagogic action.

Similar to the Athenians, one of the main concerns of the Founders is the inherent selfish interests that they believe characterize human nature. Madison, in his *Federalist Papers*, classifies this natural self interest as ambition. “*The Federalist* interprets ambition as an unquenchable, uneducable passion of the human heart controllable only in its effects on the polity.”<sup>19</sup> In Madison's mind, “ambition is the pursuit of self interest.”<sup>20</sup> Due to the Federalists' belief that every human is driven by self interest, they were highly skeptical of anyone willing to step forward for political positions. To them, these volunteers would only accept this

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<sup>19</sup> Jeffery A. Becker, *Ambition in America*, 39

<sup>20</sup> *Ibid.* 40

responsibility if it could provide them some personal advantage. Accordingly, these political leaders would almost completely disregard the public will unless it coincided with their own interests.<sup>21</sup> Madison recognized that in order to create a successful government, the Founders must create a system in which ambition can be neutralized. The institutions which Madison proposes to accomplish this are highly similar to our current measures under the Constitution.

In *Federalist 51*, Madison eloquently summarizes this system as one in which “ambition [is] made to counteract ambition.”<sup>22</sup> Becker argues that Madison intends to create a government of competing branches; each one possessed of a fundamentally different form of governmental authority. Essentially what he is proposing is our current system of checks and balances among a separation of powers.<sup>23</sup> Madison wishes to separate the legislative and executive authority, with the intention of pitting them against each other. Further, within the legislature itself, Madison plans to create two sub-branches; one which is populated by plebeians, the other consisting of aristocrats. The plebeian branch, known as the House of Representatives, will be selected through popular election, allowing the ambitions of the People to be productively channeled. Conversely, members of the aristocratic branch will be selected by state legislators and serve a longer term than representatives in the House. Madison also stipulates that the Executive will be indirectly elected by an electoral college, who in turn will be elected by state legislatures.<sup>24</sup>

All of these provisions serve a wide variety of purposes, while still mainly focusing on the prevention of demagogues from gaining too much influence. First, the separation of powers is designed to counteract the ambition of political leaders forcing those leaders to compete against each other for ultimate political control. Becker argues that this competition is explicitly

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<sup>21</sup> Ibid. 42-3

<sup>22</sup> Ibid. 43

<sup>23</sup> Ibid. 47

<sup>24</sup> Ibid. 40

designed “[t]o curtail the the threat of demagoguery” by diffusing the task of “representing and articulating the people’s interests across separate national institutions...”<sup>25</sup>

Second, the existence of an aristocratic branch suggests some sort of necessity for wise, deliberative leadership. These senators are not subject to popular election, and therefore are not intended to be beholden to popular will. While Becker only mentions this in passing, the theory will be fully developed in the discussion of Daniel and Stephen Wirls’ *The Invention of the United States Senate*.

Third, although there are some positions which are designed to have certain levels of independence from public will, many of the officers of the branches of government are subject to election. This forces politicians to act as representatives of the people, since any betrayal of the popular interest would almost surely result in the politician losing future elections.<sup>26</sup>

Fourth, executive authority is intentionally made difficult to maintain. Not only is the Executive exposed to an election every four years, but this election is also determined by an electoral college of voters rather than by the people directly. To Becker, the express purpose of these elections is to “prevent potential demagogues and tyrants from seizing the executive branch.” According to Becker, these four factors culminate in a system based on a two fold premise: “First, the people will restrain the arbitrary expression of power by ambitious people through representation. Second, once representatives are elected to office, the competition between them will render collusion between factions structurally difficult.”<sup>27</sup>

These institutions which Madison laid out will come to form the essential preventions of demagogic action; (1) representation, (2) checks and balances within a separation of powers, and (3) a deliberative senate capable of curtailing the fiery passions of the people. All of these

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<sup>25</sup> Ibid. 43

<sup>26</sup> Ibid. 40

<sup>27</sup> Ibid. 43

preventions are underlined by a final prerequisite; the establishment and adherence to the rule of law. Without the rule of law, politicians would be able to quickly undermine the three demagogic preventions, as they could use any instance of danger or sensationalization to rally the People against their safeguards. These four preventions form the underlying safeguards of all negative political action within our government. Becker enforces the necessity of those safeguards stating that:

Restraining ambition becomes the proper function of Constitutional government. To confront the people's penchant for demagoguery (embodied at the time by fear of figures like Daniel Shays), the Constitution institutionally restrains the ability of any one individual, or faction, to take control of the government.<sup>28</sup>

While Becker argues that the Federalists were at least somewhat optimistic regarding the effectiveness of their intended system, Kenyon presents completely different feelings from the Anti-Federalists. Kenyon argues that the Anti-Federalists had fundamental doubts that a republican form of government would even be possible in such a large and diverse Country as the United States.<sup>29</sup> These feelings are most eloquently portrayed by James Winthrop of Massachusetts when he states:

The idea of an uncompounded republick, on an average, one thousand miles in length, and eight hundred in breadth, and containing six millions of white inhabitants all reduced

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<sup>28</sup> Ibid. 47

<sup>29</sup> Cecilia M. Kenyon, *Men of Little Faith: The Anti-Federalists on the Nature of Representative Government*, 6

to the same standard of morals, or habits, and of laws, is in itself an absurdity, and contrary to the whole experience of mankind.<sup>30</sup>

Kenyon presents similar concerns of countless Anti-Federalists, all of whom doubt the possibility of success of such a large republic. Their main concern is that it will be almost impossible to determine which policy is in the “public interest” as a population with such geographic, economic, and religious diversity will rarely, if ever, agree on what their interests are. Kenyon argues that “any people who were to govern themselves must be relatively homogenous in interest, opinions, habits, and mores.” These feelings are echoed throughout Anti-Federalist writings from both the North and South. Southerners believed that, “men who come from New England are different from us”, while a Northerner was quoted as saying, “It is impossible for one code of laws to suit Georgia and Massachusetts.”<sup>31</sup> This level of division at such an early stage in the formation of the government also proves the Anti-Federalists’ point.

Kenyon addresses the similarities in both groups’ distrust of ambitious men. The Anti-Federalist shared sentiments of the selfishness of human nature as Kenyon argues that they believed “that the dominant motive of human behavior was self interest, and that this drive found its most extreme political expression in an insatiable lust for power.”<sup>32</sup> Despite the appearance of agreement, the Anti-Federalists even went as far as to chide the Federalists for their over reliance on virtue. Clearly the Anti-Federalist had extreme opinions if the Federalists’ complete distrust of political leaders is inadequate. Even Kenyon acknowledges the irony of the “Founding

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<sup>30</sup> James Winthrop, *Letters of Agrippa*, IV

<sup>31</sup> Cecilia M. Kenyon, *Men of Little Faith: The Anti-Federalists on the Nature of Representative Government*, 6-8

<sup>32</sup> *Ibid.* 13

Fathers, who prided themselves on their realism... [being] taken to task for excessive optimism.”<sup>33</sup>

The final concern of the Anti-Federalists was that the checks and balances system would ultimately fail due to the executive and legislative powers being “closely united.” This was a very serious concern as this was precisely the problem that caused the failure of the Articles of Confederation. As Kenyon points out, the necessity of a separate executive and legislature is a widespread belief amongst political theorist of the time including Rousseau, Montesquieu, Locke, Madison, Jefferson, and Monroe.<sup>34</sup> The first concern of the Anti-Federalist was that the sharing of treaty making and appointing powers between the President and the Senate would essentially create joint Senatorial-Presidential tyranny.<sup>35</sup> The second concern is that, precisely because of the representation stipulation, the branches of government would hardly be separate. Anti-Federalists believed that, because the people were responsible electing representatives based on their interests, these representatives would then begin working together, between the two branches, in order to achieve this interest.<sup>36</sup> Even though this may seem to advance the popular will more efficiently, the problem arises when one considers the effects of this sort of alliance between politicians who have more devious intentions.

### ***Looking Ahead***

Having established a basic understanding of the literature, both ancient and modern, surrounding demagogues, I will proceed by applying this understanding to the real world. I will begin by creating character profiles of three of the most prominent Athenian leaders; each of

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<sup>33</sup> Ibid. 14

<sup>34</sup> Ibid. 23

<sup>35</sup> Ibid. 26

<sup>36</sup> Ibid. 25



whom have been accused of perpetrating demagogic action. These leaders will be Pericles, Alcibiades, and Cleon. In addition to these three main profiles, I will also detail individual demagogic actions undertaken by less notable Athenians in order to create a more precise picture of all the different forms of demagoguery. I will use this analysis in order to construct a specific definition of what constitutes demagogic action.

From there, I will begin to relate this definition to the concerns of our Founders. Clearly, as the literature has shown, the Founders were well aware of a variety of negative political actions. I intend to demonstrate that the actions which they were most fearful of were almost perfect reincarnations of the demagogic action which destroyed Athens. By viewing their fears through the lense of demagoguery, I will be able to discern which policies they thought best in order to mitigate aspects of demagogic action. Having done this, I believe I will have an in depth and well rounded conception of not only what demagogic action is, but also the most (or in some cases, least) effective ways of preventing in.

I will then begin to trace these institutions through American history in order to determine which events either weakened, or altogether destroyed them. Having developed an understanding of how the safeguards of the Founders were defeated, I will show that these systematic subversions have resulted in a complete failure of the preventions. This failure has paved the way for countless demagogic institutions to corrupt the American government. One of the institutions most destructive to the rights and well-being of the People is the Drug Enforcement Administration. Using the definition of demagoguery developed from the study of Athenian politicians, I will demonstrate how the DEA represents both the dangerous self interest and imprudent action which was so harmful to the People of Athens.

## **II. Athenian Demagogues**

### ***Introduction***

Due to the statesman-demagogue distinction, which was founded by Plato and perpetuated by Plutarch, it is difficult to obtain an accurate perception of the defining characteristics of demagoguery. Although it is fairly easy to determine whether a particular politician was seen as a harmful leader or a beneficial one, these categories are overly broad and rarely provide any indication as to the specifics of why that leader was portrayed the way he was. While it is important to develop a general understanding of the character of our leaders, in the art of statebuilding, it is much more important to discern which actions or indicators of action will be detrimental to the State. For this reason, it is necessary to analyze the individual actions of a variety of Athenian politicians, in order to identify the motives behind their policies.

In the study of ancient Athens, this task is especially troublesome. Due to the fact that Plutarch is a major source of information regarding the lives and policies of many of the most influential Athenian politicians, careful consideration is required when attempting to discern the motives behind a politician's action. Additionally, it is necessary to examine politicians from throughout the statesman-demagogue spectrum, ranging from Alcibiades to Pericles, in order to ascertain what truly constitutes demagogic action.

## *Pericles*

Pericles is seen by many historians, both ancient and contemporary, to be the ideal Athenian statesman. He is described by Plutarch as being charming but austere, deliberative and intelligent, and possessed of an uncanny ability of corralling the spirits of the People when they are down, as well as mitigating their destructive nature when they become too inflamed. He is credited with this ability due to his reserved manner of speaking which Plutarch describes as

...not only a dignity of spirit and a nobility of utterance which was entirely free from the vulgar and unscrupulous buffooneries of mob oratory, but also a composure of countenance that never dissolved into laughter, a serenity in his movements and in the graceful arrangement of his dress which nothing could disturb while he was speaking, a firm and evenly modulated voice, and other characteristics of the same kind which deeply impressed his audience.<sup>1</sup>

This description of Pericles stands as a shining example of the manner in which an idyllic politician should conduct himself, and is further exemplified by the fact that Pericles is almost always described as guiding the people “by rational argument and persuasion”, rather than by appealing to their prejudices and ignorance.<sup>2</sup> Throughout his time as a prominent of the Athenian Assembly, Pericles constantly advised his fellow Athenians to be reserved in their action in order

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<sup>1</sup> Plutarch, *The Rise and Fall of Athens: Nine Greek Lives*, Pericles. 5

<sup>2</sup> Ibid. 15

that they may not rush to decisions that could ultimately result in damage to, if not the all out destruction of the Athenian state.<sup>3</sup>

There is no better example of Pericles' deliberative nature than in his multiple addresses to the Athenian assembly in which he urges them not to overextend themselves in their war against Sparta. He repeatedly advised the Athenians to rely on their Navy, which was of much greater strength than that of the Spartan's, rather than their armies on land, as the Spartans not only had the advantage of numbers, but also of training. Pericles instead suggests that the Athenians should retreat within the walls of Athens and outlast that Spartans, as they had ready access to supplies and food due to their Long Walls that connected Athens to the port of Piraeus.<sup>4</sup> This strategy, which was initially opposed by the People, who wished to see the Spartans crushed outright for their attack on Athens, could very well have prevented the destruction of Athens. At the very least, it undoubtedly prolonged the war to the advantage of the Athenians.<sup>5</sup>

Pericles also advised restraint on a variety of different occasions. First, when there was a contingent within the assembly who wished to invade Boeotia, the region of Greece just north of Attica. The contingent was led by the Athenian soldier Tolmides, who had a record of successful campaigns due in large part to his particularly good fortune. Tolmides had given little thought to the strategic planning of the invasion, a fact that Pericles repeatedly pointed out to the assembly. Tolmides went on to win this debate, being granted permission for the invasion, but invasion would turn out to be less than successful. Due to Tolmides brash action in rushing to battle, the Athenian force was all but destroyed. Tolmides himself was killed, along with a large portion of

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3 Ibid. 21

4 Thucydides, *History of the Peloponnesian War*, 2.22.1, 2.55.2

5 Ibid. 2.65

Athens' bravest fighting men.<sup>6</sup> Pericles again advocated patience and deliberation when the Athenians proposed an invasion of Sicily; a proposal that will later be brought to fruition by Alcibiades.<sup>7</sup> And finally when the assembly wished to launch an invasion of Egypt and the southeastern coast of the Persian Empire. These repeated attempts to control Athens' thirst for conquest demonstrated to the People that Pericles was a man of foresight and wariness who "never willingly engaged in a battle which involved much danger or uncertainty."<sup>8</sup>

This description of Pericles seems to stand in direct contrast with the Athenian view of a typical demagogue; whom Plato describes as "the most immoral individual in the πόλις. Based on purely selfish motives, he incites the δῆμος against the elite, only to turn his back on the former once he attains power, terminating the unrestricted freedom that had previously prevailed."<sup>9</sup> Thucydides further emphasizes this point when he contrasts the prudent nature of Pericles with the demagogic tendencies of his predecessors.<sup>10</sup> I would argue though, that while Pericles' policies frequently benefited the people of Athens, the tactics by which he is able to institute these policies fit the archetype of a demagogue almost perfectly.

Throughout Plutarch's description of Pericles, he is constantly described as having the ability to control the sentiment of the People, "using [their] hopes and fears as if they were rudders", an ability that sounds distinctly demagogic in nature. Thucydides also describes Pericles as possessing this quality when he says that "Pericles indeed, by his rank, ability, and known integrity, was enabled to exercise an independent control over the multitude - in short, to lead them instead of being led by them..."<sup>11</sup> These tactics and abilities found throughout both

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6 Plutarch, *The Rise and Fall of Athens: Nine Greek Lives*, Pericles. 18

7 Ibid. 20. Thucydides, *History of the Peloponnesian War*, 2.65.7

8 Plutarch, *The Rise and Fall of Athens: Nine Greek Lives*, Pericles. 20

9 Plato, *The Republic*, 564a and 569b-c

10 Thucydides, *History of the Peloponnesian War*, 2.65.7-13

11 Ibid. 2.65.8

ancient and modern descriptions of demagogues and have become a defining characteristic of them.

Why then, is Pericles not only not referred to as a demagogue, but traditionally stands as a figure in opposition to the demagogues; a great and noble leader who always strove for the betterment of the state? I believe that the answer lies, in part, in that very question. The reason Pericles is seen as a historically great leader, and not a demagogue, is because of the intentions and rationale behind his actions, rather than his tactics. It is precisely because Pericles strove to maintain the greatness of Athens and the preservation of the well-being of the Athenian people, that he is able to separate himself from the traditional demagogues. Rather than using his abilities of oratory and persuasion to increase his own power, wealth, or status by deceiving the Athenian people, as Plato suggests a demagogue would naturally do, Pericles instead uses these gifts to urge the Athenians to act in their own best interests in order to preserve the state as a whole.

Pericles' explains his dedication to the public good in a speech, as recorded by Thucydides, in which he attempts to prevent the Athenians from sending envoys to Sparta after the outbreak of the Plague in Athens. Pericles states:

I am of the opinion that national greatness is more to the advantage of private citizens than any individual well being coupled with humiliation. A man may be personally ever so well off, and yet if his country be ruined he must be ruined with it; whereas a flourishing commonwealth always affords chances of salvation to unfortunate individuals. Since then a state can support the misfortunes of private citizens, while they cannot support hers, it is surely the duty of everyone to be forward in her defense...<sup>12</sup>

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<sup>12</sup> Ibid. 2.60.2-4

This quote, more so than any other, outlines the exact reason why Pericles' demagogic actions were often beneficial to the Athenian state. As Pericles argues, in striving for the prosperity of the state, one may simultaneously be striving for the prosperity of one's self; so long as the interests of the two are aligned. Throughout his rule, Pericles frequently acts in ways that serve to either maintain or increase his political presence in Athens, as would a traditional demagogue. The difference between Pericles and the demagogues described by Plato though, is the fact that Pericles rarely acts in a manner that would benefit himself while doing harm to the State. By aligning his interests of personal and State gain, Pericles is able to create situations in which any benefit he receives personally, coincides with a benefit also to the State. Conversely, that any harm done to the State would also do harm to Pericles. The alignment of these interests is most evident in Pericles' use of public funds to provide income for the poorer classes of Athenians.

In the mid 460's BC, Pericles was in a struggle with his fellow politician Cimon for full political control of Athens. Cimon had a slight advantage over Pericles as Cimon was exceedingly wealthy and often provided food and clothing for the poor and sick out of his own private funds. His generosity won him much popularity in Athens, to the dismay of Pericles, who lacked the wealth necessary to compete with these public offerings. In order to compensate for this, Pericles devised a plan to create a series of programs within the State capable of providing similar support for the poor. By institutionalizing this welfare program, Pericles would not only be able to create a permanent support network, he would also be able to fund these programs through the public coffers, rather than his own. In total, Pericles created a wide variety of programs aimed at benefitting the lower classes of Athens. He passed a bill allowing the use of public funds to put on religious festivals, providing the people with entertainment. He gave plots

of conquered land to Athenian citizens in order that they may sustain themselves. He instituted pay for many public duties, most importantly jury service, which gave peasants a livable pay for completing their public obligations.<sup>13</sup> He also shifted the military emphasis of Athens towards their Navy, which employed countless peasants as rowers; and he augmented these benefits later by increasing the pay of the rowers.<sup>14</sup> By instituting all of these programs, Pericles had “succeeded in bribing the masses wholesale and enlisting their support.”<sup>15</sup> This support was crucial to Pericles’ rise as it allowed him to bring about the ostracism of Cimon; thereby consolidating control of the State in Pericles alone.

Now, while these actions clearly benefited Pericles, as he was now the de facto ruler of Athens, they also had a large impact on the well-being of Athens as a whole. The most obvious benefit was the potential income which he made available to the lower classes. Whether through the farming or ranching of allotted land, the execution of simple public duties, or service in the military, he provided countless peasants with a means to provide for themselves and their families. The pay for jury service was especially important as it gave many Athenians the opportunity to engage in politics, which they would never have had the time for previously. Common people could now have more influence on the day-to-day operations of the Athenian State, resulting in a more democratic system.<sup>16</sup> It is these benefits that are most influential in shaping the modern perception of Pericles as a true statesman. Despite Pericles’ use of undeniably demagogic tactics to increase his control over Athens, this is not how he is remembered. Instead, he is seen as a just leader who always has the best interests of the people at heart. The fundamental reason for this shift in perspective is due almost entirely to Pericles’

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<sup>13</sup> Plutarch, *The Rise and Fall of Athens: Nine Greek Lives*, Pericles. 9

<sup>14</sup> Aristotle, *Constitution of Athens*, 2. 27

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.



ability to align the interests of the State with his own, thereby allowing him to increase his own authority by acting in the interest of Athens. The simple fact that Pericles benefitted from these programs does not inherently make them unjust.<sup>17</sup> Rather, because the policy massively benefitted the People, it should be considered good governance.

Occasionally, Pericles even took the alignment of his interests to the extreme, offering to deliberately decrease his own wealth in order to benefit the state. In two specific instances, Pericles proactively diminishes his own wealth in order to preserve the greatness of Athens, and therefore of himself. The first mention of a sacrifice of wealth on behalf of Pericles occurs when fellow politician, Thucydides (not to be confused with the author of *The Peloponnesian War*), accuses Pericles of embezzling public funds for the enhancement of the Acropolis. Pericles responds to this accusation by saying, “Very well then, do not let it be charged to the public account but to my own, and I will dedicate all of the public buildings in my name.”<sup>18</sup> As a result, either out of jealousy of the glory Pericles would receive or their admiration of his generosity, the Athenian People responded by fully financing all of Pericles’ proposed works from the public coffers. Additionally, the People became outraged by Thucydides’ questioning of the generous and beloved Pericles, and they voted to ostracize him. “From this point political opposition was at an end... Pericles now proceeded to bring under his own control not only home affairs, but all issues in which the authority of Athens was involved.”<sup>19</sup>

Again, a situation has arisen in which Pericles uses his influence over the People in order to manipulate them into acting in a manner beneficial to him. Not only was Pericles allowed to publicly fund his building projects, he had also, once again, secured the defeat of his political opponents. Pericles had beguiled the People into granting him total control over almost every

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<sup>17</sup> Moses Finley, *Athenian Demagogues*, 19

<sup>18</sup> Plutarch, *The Rise and Fall of Athens: Nine Greek Lives*, Pericles. 14

<sup>19</sup> Ibid. 15

aspect of the lives of the People of both Athens and those of her subject states. In almost any other circumstance, this would be considered inexcusable demagogic action. But, because an additional consequence of his demagoguery was the creation of the Acropolis, a monument to Athenian greatness that has stood for almost 2500 years, his deceit has all but been forgotten.

It is for these reasons that Pericles is such an interesting figure in the study of demagoguery as a whole. Throughout history, he has constantly been referred to as a true statesman, possessed of foresight and patience, who always acted with the interests of the people at heart. Despite this, it is clear that Pericles often employed demagogic tactics to rally the assembly to act in his own self interest. The reason that Pericles managed to maintain his stellar reputation, rather than to be remembered as another destructive demagogue, is two-fold. First, it is due to his deliberative nature. Although Pericles was famous for his appeals to the People, these appeals were almost always based in fact and reason, as Pericles feared greatly “the results of a debate inspired by passion and not by prudence.”<sup>20</sup> Rather than using the passions of the People to his advantage, as most demagogues would do, Pericles worked tirelessly to quell these passions in order to preserve the safety of the State. Second, it is due to his ability to align the interests of the State with his own. The easiest way to identify a demagogue is to find a leader whose own well-being is constantly improving, while that of the State is in rapid decline. A much more difficult identification occurs when the welfare of the leader and the welfare of the State are inextricably linked to one another. Pericles was able in a masterful and repeated way to institute policies that seemed to serve both interests adequately. Although he frequently banished political rivals and consolidated control of the State under his authority, he was able to accomplish these actions without question due to the benefits Pericles provided to the People.

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<sup>20</sup> Thucydides, *History of the Peloponnesian War*, 2.22.1

## *Alcibiades*

Although all of the demagogues in ancient and in modern times are loved and hated by the citizens in their societies, there may never again be as polarizing a demagogue as Alcibiades of ancient Athens. Not only did Alcibiades achieve one of the highest ranking positions in the Athenian Assembly, serving as a General of Athens,<sup>21</sup> he also served as an advisor to the Persian satrap Tissaphernes,<sup>22</sup> and to the Spartan Assembly,<sup>23</sup> both of whom were active enemies of Athens throughout the Peloponnesian War. Despite these acts, which many would perceive as high treason and utter betrayal, Alcibiades' hold over the Athenian people was such that, upon his return from advising the enemies of Athens, he was elected again as a general by the Athenian people.

Like many of the other Athenian demagogues, Alcibiades derived the majority of his authority and hold over the people from his charm, and his skills in the art of oratory. Alcibiades is described by Plutarch as being reserved in his speech, waiting for the proper words and phrases to come to him in order to present his exact meaning to the Athenian people. Plutarch describes this slightly reserved nature by saying that:

[Alcibiades] strove to find not merely the right thing to say, but also the proper words and phrases in which to clothe his thoughts, and as he did not have a large command of vocabulary, he would often hesitate in the middle of his speech, and even stop dead and

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<sup>21</sup> Thucydides, *History of the Peloponnesian War*, 8.82.1

<sup>22</sup> *Ibid.* 8.45.1

<sup>23</sup> *Ibid.* 6.88.9

pause while the necessary phrase eluded him, and then he would start again with great caution.<sup>24</sup>

In this description, the manner of Alcibiades' speech seems similar to that of Pericles, who was also known to use caution and deliberation in his addresses to the Athenian Assembly.<sup>25</sup> Despite this, the two are often seen as possessing very different political styles and few historians consider their oratory to have much in common. The reason for this difference is not the style of their language, but rather the content of their speech. While Alcibiades may have been reserved in his diction, this is not to say that he shied away from giving fiery speeches or using deception to attack political opponents directly.

In an attempt to dissuade the Athenians from accepting a peace treaty with the Spartans, Alcibiades is described as giving a speech against Nicias, the strongest supporter of the treaty, in which he slanders him with accusations containing just enough truth to make them believable to the Athenians. He accuses Nicias of failing to capture Spartan troops after defeating them on the island of Sphacteria, and of sending the ones whom he did capture back to Sparta in order to curry favor with their leaders. He also asserts that Nicias encouraged Sparta to make alliances with Corinth and Boeotia, while he placed staunch restrictions on which city-states Athens could make treaties with.<sup>26</sup>

In a similarly deceitful act, when the Spartan envoys arrive to discuss the terms of the treaty, he tricks the envoys into telling the Athenian Assembly that they have not come with the power to accept the treaty, but merely to negotiate, in order to avoid revealing to the Athenians their true position and intentions. To secure their compliance, Alcibiades even offered to return

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<sup>24</sup> Plutarch, *The Rise and Fall of Athens: Nine Greek Lives*, Alcibiades. 10

<sup>25</sup> Ibid. Pericles. 5

<sup>26</sup> Plutarch, *The Rise and Fall of Athens: Nine Greek Lives*, Alcibiades. 14

Pylos to the Spartans, a fortification recently captured by the Athenians. Upon relaying this information to the Assembly though, the Spartan envoys were vehemently chastised by Alcibiades. He is said to have “thundered more loudly than ever at the Spartans”,<sup>27</sup> and to have “attacked them furiously, as though he and not they were the injured party, and proceeded to denounce them as liars and opportunists who had no genuine mission in Athens at all.”<sup>28</sup>

The problem with Alcibiades’ use of such tactics is not the aggression itself, as vim and vigor are often highly effective at rallying support and swaying public opinion. The real issues arise from the motives behind Alcibiades’ multiple attacks. Unlike Pericles, who often used “rational arguments and persuasion”<sup>29</sup> to dissuade the Athenian people from making harmful, or even fatal mistakes,<sup>30</sup> Alcibiades frequently used his mastery of oratory to hurriedly force the People into making decisions with little thought to the long term consequences for Athens. In the incident regarding the Spartan envoys, for example, there is evidence to suggest that Alcibiades’ sabotage of the negotiations had little to do with any advantage that a war with Sparta would bring to Athens. Instead, it appears that Alcibiades felt slighted by the Spartans, as their main contact for negotiations was Alcibiades’ political rival, Nicias, despite the fact that Alcibiades was *πρόξενος* (*proxenos*) of Sparta in Athens.<sup>31</sup> As *πρόξενος*, Alcibiades was tasked with looking after the interests of the Spartan people in their relationship with Athens.<sup>32</sup> Additionally, Alcibiades had very recently worked to secure the safe return of 292 Spartan prisoners, 120 of whom were Spartiates, who had been captured by the Athenians at Sphacteria.<sup>33</sup> Because of his position and these recent acts, Alcibiades felt that the Spartans should negotiate with him rather

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<sup>27</sup> Thucydides, *History of the Peloponnesian War*, 5.45.1-4

<sup>28</sup> Plutarch, *The Rise and Fall of Athens: Nine Greek Lives*, Alcibiades. 14

<sup>29</sup> Ibid. Pericles. 15

<sup>30</sup> Ibid. 20 & Thucydides, *History of the Peloponnesian War*, 2.22.1, 2.55.2, 2.65.1-7

<sup>31</sup> Ibid. 14 & Thucydides, *History of the Peloponnesian War*, 5.43.2

<sup>32</sup> Encyclopedia Britannica, *Ancient Greek Civilization: Formal Relationships*

<sup>33</sup> Thucydides, *History of the Peloponnesian War*, 4.38.5, 5.43.2

than Nicias. By sabotaging any hope of peace negotiations with the Spartans, Alcibiades was clearly not relying on any rational argument or a deliberation of facts to lead him to believe that war was the solution. While Sparta was fairly weak at the time, Athens was as well, so there was no discernible advantage for the Athenians in reigniting the war. Rather, Alcibiades was demonstrating his demagogic nature by acting rashly and almost entirely in his own self interest.

Having reignited the war, Alcibiades' lack of discretion and foresight further damaged Athens when he advocated for the Athenian invasion of Sicily, which would turn out to be one of the most disastrous campaigns in the entirety of the Peloponnesian War.<sup>34</sup> Although Alcibiades support of the invasion was almost certainly demagogic, his motives may not have been as deceptive as they were in the case of the Spartan envoys. By advocating for, and subsequently leading the expedition, Alcibiades' wealth and reputation would have increased significantly had the expedition been successful. Further, had Alcibiades achieved his ultimate goal of using Sicily as a launching point for continued Athenian conquest in Carthage, Italy, and throughout the Mediterranean,<sup>35</sup> Alcibiades could have potentially been remembered as one of the greatest leaders in Athenian history. While there clearly were massive personal gains at stake for Alcibiades, all of these gains would have been the result of the significant benefit provided to the Athenian People. While Alcibiades may have been acting to his own advantage, in doing so he might also bring immense wealth, resources, lands, and glory to Athens as a whole. Because of the aligned interests of Alcibiades and Athens on this matter, it is difficult to determine whether his motives were distinctly demagogic.

Regardless of Alcibiades' true motives behind the invasion, it is obvious that he was far too consumed with the potential wealth and glory to be gained, whether by himself or by Athens,

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<sup>34</sup> Ibid. 2.65.7 & Plutarch, *The Rise and Fall of Athens: Nine Greek Lives*, Alcibiades. 20

<sup>35</sup> Donald Kagan, *The Peace of Nicias and the Sicilian Expedition*, 172

and had not rationally calculated the risks associated with the campaign. In his speech before the Athenian Assembly, Alcibiades' political rival, Nicias, enumerates just a few of the multitude of significant difficulties that the Athenians would potentially face in Sicily. Nicias begins by pointing out that the current state of Athens is fairly weak, and not capable of undertaking global conquest. Nicias points to the enemies of Athens who, although they are currently at peace with Athens, could foreseeably take advantage of the opportunity to attack Athens while the majority of its army was in Italy. Further, those enemies who were not at peace, such as Sparta and the rebels in Chalcidice, would almost certainly attack given the opportunity such a strategy presented.<sup>36</sup> Additionally, Athens had recently suffered the loss of an estimated 25% of their population due to the plague in 430 BC<sup>37</sup>, only 15 years earlier.<sup>38</sup>

Even if Athens had not been so recently damaged by the plague and the war, and even if Athens' political relations with its subject states were in a less precarious state, Nicias still argues that the expedition would be risky due to the size and scope necessary to conquer and rule all of Sicily. First, in order to conquer the island, Nicias asserts that the Athenians would need to send a force large enough that it could withstand the combined might of all the cities of Sicily, since the cities were likely to settle their differences and combine forces when faced with the threat of all out conquest. Nicias backs this assertion with the argument that even the Carthaginians, who possessed a great empire in close proximity to Syracuse, had been unable to conquer Sicily. How could the Athenians, who were at the time weaker and much further away, hope to have greater success?<sup>39</sup> Second, if the Athenians were able to conquer the Sicilians, the great distance between the two States would require massive resources and effort on behalf of the Athenians in

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<sup>36</sup> Ibid. 176 & Thucydides, *History of the Peloponnesian War*, 6.10

<sup>37</sup> Robert Littman, *The plague of Athens: Epidemiology and Paleopathology*

<sup>38</sup> Donald Kagan, *The Peace of Nicias and the Sicilian Expedition*, 170 & Thucydides, *History of the Peloponnesian War*, 6.12

<sup>39</sup> Ibid. 170

order to maintain control of the island, if it were even possible at all.<sup>40</sup> Third, Nicias deemed the invasion to be unnecessary, due to the limited probability that Sicily would attack Athens if unprovoked. It was believed at the time that the Sicilians greatly feared the military might of the Athenians. But, if the Sicilians were to face the Athenians in combat, they would surely become aware of some deficiencies of the Athenian military capability. And that knowledge would shatter the facade of Athenian dominance, and would therefore result in the planting of a seed for further retaliation in the minds of the Sicilians.<sup>41</sup>

While some of Nicias' arguments were certainly more effective than others, they had the advantage of being based in a rational consideration of the facts of the invasion, and the potential consequences that either victory or defeat would bring. Conversely, Alcibiades takes a much more demagogic route and, instead of focusing solely on the merits of the Athenian expeditionary force, begins by recounting all of the greatness that he has personally brought Athens in recent years. Alcibiades mentions the many victories which he had in the Olympics (including setting a record for entering seven chariots in the race as a private individual) as well as all of the money he had spent in providing choruses for the Athenian people during various festivals.<sup>42</sup> While these feats may have served to increase the perceived standing of Athens amongst its allies, they have little, if any bearing on Alcibiades' competence at organizing and executing the invasion of a foreign nation. However it seems that Alcibiades sought to sway the people to accept his advice based on his popularity in the city rather than on the merits of the invasion he proposed.

Alcibiades makes other questionable arguments when asserting that the Athenians have no choice but to invade Sicily. He contends that the purpose of the invasion is to aid Athenian

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<sup>40</sup> Thucydides, *History of the Peloponnesian War*, 6.11.1

<sup>41</sup> Ibid. 6.11.2-5

<sup>42</sup> Ibid. 6.16.2-3



allies in Sicily, and that a failure to do so would cause the remaining Athenian allies to lose faith in the Empire, and potentially to withdraw from their treaties.<sup>43</sup> While this argument is partially based in fact, it is also equally deceitful. A widely visible failure of the Athenians to come to the aid of one of their allies would indeed result in a loss of faith on the part of the remaining allied cities. The problem with this argument is that the true intention of the invasion is far more than a simple support mission for a small group of allies. Rather, it was widely accepted that the invasion itself was only a means to the ultimate end of conquering the entire Mediterranean. So, while Alcibiades may be accurate in asserting that inaction may result in damage to the standing of Athens among its allies, the action he proposes was far more than that which would have been necessary to maintain appearances. The true purpose of this argument is to force the Athenian People to decide between only two options, rather than to rationally consider a middle ground. Alcibiades deceived the Athenians into believing that the only options were to either let the Empire slowly atrophy, or to risk its total destruction on an invasion of an egregiously large scale.

In order to lessen the fear of total destruction, Alcibiades attempts to reassure the people that initiating the invasion would not pose a significant risk to the safety of Athens. He proclaims that the naval supremacy of Athens would prevent the Spartans from attacking while the majority of its forces were occupied in Sicily.<sup>44</sup> Additionally, Alcibiades states that even if Sparta were to invade Attica, they would be forced to do so on land, which, with the help of their ally Corinth, they could have done already.<sup>45</sup> Essentially, Alcibiades convinces the people of Athens that Sparta could do no real harm either to either their expedition in Sicily, or to the militarily weakened Athens itself. Unfortunately for the People of Athens, Alcibiades' selfish interests

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<sup>43</sup> Ibid. 6.18

<sup>44</sup> Henry D. Westlake, *Individuals in Thucydides*, 220

<sup>45</sup> Donald Kagan, *The Peace of Nicias and the Sicilian Expedition*, 183

have once again forced them to act rashly and without foresight. Not only were the promises made by Alcibiades untrue, he was aware of their inaccuracy.

In the winter of 415/4 BC, Alcibiades had been sentenced to death in Athens due to slanderous charges that had been brought against him by his political enemies in the city.<sup>46</sup> It is for this reason that Alcibiades had fled from the Athenian force in Sicily and sought asylum with the Spartans on the promise that he would aid them in bringing about the utter destruction of his former home. Upon arriving in Sparta, Alcibiades quickly undertook to gain the Spartans' trust by informing them of Athens' plan to conquer the isle of Sicily, and to use it as a base of operations to eventually defeat the Spartans and to bring the whole of Greece under Athenian control. Accordingly, Alcibiades urges the Spartans to strike back against the Athenians, proposing a three pronged attack on the weakest aspects of the current Athenian position - the same aspects that he previously assured the Athenians would be of no consequence.

First and foremost, Alcibiades asserts that the Spartans must prevent the Athenian invasion of Syracuse, the main port city of Sicily. He suggests that the Spartans send a fleet of ships manned entirely by soldiers capable of both rowing and fighting in order to create the most efficient force possible, in addition to retaining the element of surprise over the Athenians. He also advises them to send Gylippus, a *Spartiate*, a title achieved by only the most highly trained and respected soldiers in Spartan society, to ensure that the men fight bravely and to demonstrate Sparta's dedication to the Syracusans.<sup>47</sup> Second, Alcibiades advises that the Spartans redouble their efforts of fighting the Athenians in Greece itself, in order that Syracuse, as well as all of the other city-states currently under Spartan control, take heart in their resistance of Athenian

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<sup>46</sup> Thucydides, *History of the Peloponnesian War*, 6.61.6-7

<sup>47</sup> Ibid. 6.91.4, 6.93.2 & Plutarch, *The Rise and Fall of Athens: Nine Greek Lives*, Alcibiades. 23

dominance and create further complications for the Athenians in Greece.<sup>48</sup> Finally, Alcibiades reveals the most effective blow that the Spartans could strike against the Athenians, the fortification of the Spartan fort at Decelea.<sup>49</sup> Due to the location of such a fort in central Attica, residing only a few miles from Athens itself, a large Spartan presence there would cause the nearby city-states to succumb to Spartan authority, either by peaceful alliance or conquest. Additionally, by controlling the countryside of Attica, the Spartans could cut off the main trade routes to Athens, creating a chokehold on Athenian resources, most notably on their supply of silver from Laurium.<sup>50</sup> By accomplishing these three tasks, Alcibiades states that the Spartans would undermine Athenian control over the region and that the fall of Athens itself would be an inevitable outcome.

It is clear then that the promises of safety that Alcibiades made to the Athenians were nothing more than demagogic deceit, intended to lure the people of Athens to act in accordance with Alcibiades' interests. Alcibiades' speech before the Spartans is practically a point by point refutation of everything which he had assured the Athenians to be true. First, Alcibiades demonstrates how the naval superiority of Athens is of little consequence. He shows the Spartans that it would be possible to send a small, yet effective naval fighting force capable of mitigating the Athenian advantage of size and training on the seas. So while he was correct in telling the Athenians that the Spartan navy would stand no chance in an all out assault on the Athenian force, this had little bearing on the reality of the situation. The Spartans were clearly able to utilize their navy, without a direct confrontation with the Athenians, in a way that will almost surely prevent the Athenian conquest of Sicily. Second, Alcibiades demonstrates that Nicias' fear of a united Sicilian front against the Athenians is all too real, and not impossible as Alcibiades

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<sup>48</sup> Ibid. 6.91.5

<sup>49</sup> Plutarch, *The Rise and Fall of Athens: Nine Greek Lives*, Alcibiades. 23

<sup>50</sup> Thucydides, *History of the Peloponnesian War*, 6.91.6

had suggested. By sending a Spartiate to aid the Sicilians, while simultaneously redoubling the Spartan effort against the Athenians at home, the Spartans would demonstrate their commitment to their allies and unify them against the imperial machinations of Athens. Finally, Alcibiades was well aware of multiple ways in which the Spartans could severely damage the city of Athens itself, something he had promised the Athenians would be impossible. While it is true that, if they had wished, the Spartans could have invaded Attica and captured Decelea prior to the expedition, the fact that the majority of the Athenian army was almost 500 miles away gave the Spartans ample time to capture and fortify the fort before any major resistance could be mounted.

While Alcibiades' appeals to the Athenians could have previously been misconstrued as a misguided attempt to secure the greatness of Athens, it is now clear that this is not the case. Alcibiades knowingly and deliberately advocated for reckless action which placed the city and People of Athens at extreme risk. Being aware of the many dangers that the Athenians would face, and the slim chances of their success, it is obvious that Alcibiades was not acting in the best interest of Athens. Rather, he was only concerned with furthering his own career, and was willing to use his popularity and oratorical talent to do so, to the extreme detriment of his fellow Athenians. Alcibiades' blatant willingness to not only sacrifice but to actively undermine the well-being and safety of Athens, and her people, in order to obtain a higher personal standing among the Spartans, whom he had very recently considered to be his mortal enemies, demonstrates the lengths to which Alcibiades would go to preserve his own political power. In this case, not only has Alcibiades met Plato's definition of a demagogue,<sup>51</sup> through his action based on "purely selfish motives", he has far exceeded it. He has not only threatened the freedom of the Athenian people, but has threatened instead their lives and their very existence.

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<sup>51</sup> Plato, *The Republic*, 564a and 569b-c

Being aware of the appearance of these actions though, Alcibiades attempted to justify himself before the Spartan assembly in order that they not detect his demagoguery in his guise as a statesman. He argued that it was impossible for him to betray Athens, since the city betrayed him first by unjustly exiling him. Further, he contends that “the true lover of his country is not he who consents to lose it unjustly rather than attack it, but he who longs for it so much that he will go to all lengths to recover it.”<sup>52</sup> Essentially, Alcibiades rationalizes his attack on the Athenian state as a just retaliation against the rulers and the disillusioned populace who drove him from his beloved city. Additionally, he states that only a true patriot would be willing to carry out this attack in order to eventually return to his home. While this idea contains some pleasant sentiments, it falls short in two major aspects. First, it falls short in reality, due to the fact that there would have surely been other ways for Alcibiades to inform the people of the misinformation they had been given about his actions. In turn, this would incite an uprising against the unjust rulers who had concocted the plan for his demise, and rightfully return him to power in Athens, with no harm done to the people or the foreign affairs of the city. Second, it falls short in action, as Alcibiades, true to his demagogic nature, soon proves to the Spartans that he is indeed pursuing personal aggrandizement, rather than undertaking a misguided attempt to return home.

Although Alcibiades is initially able to hide his demagoguery from the Spartans, through the emphasis on their aligned interests in the destruction of Athens, his true nature is soon revealed as he makes repeated attempts to undermine the authority of the Spartan King Agis, while simultaneously looking to heighten his own political influence at Sparta. The first instance of this occurs in approximately 415/4 BC while Agis is away on campaign. Seeing the opportunity of Agis’ absence, Alcibiades seduces his wife, Timaea, who later bears a son by him.

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<sup>52</sup> Thucydides, *History of the Peloponnesian War*, 6.92.4

While she names Leotychides publicly, she reportedly refers to him privately as Alcibiades.<sup>53</sup> Rather than keep this extramarital affair a secret, Alcibiades publicizes the true parentage of Leotychides, stating that he planned to impregnate the Queen with the intention that one day his descendants would rule over all of Sparta.<sup>54</sup>

Alcibiades further insults Agis in 412 BC when he conspires with the Ephors to allow him to go to Ionia, a region on the western coast of modern day Turkey, to stir up the city-states there into a revolt against Athens, causing them to unify on behalf of the Spartan cause. In order to persuade the Ephors to agree with this plan, Alcibiades acts as he so often has before, by making the interests of the Ephors, as well as his own, appear to be one and the same. He convinces the Ephors that by sending him, instead of Agis to inspire the Ionian revolt, the Spartans would see the revolt as a master plan of the Ephors, rather than a plan that was conceived and executed solely by Agis.<sup>55</sup> Blinded by their hopes of fame and honor among the Spartans upon the revolt of the Ionians, the Ephors were unable to see that Alcibiades was chiefly concerned with his own exaltation, rather than that of the state as a whole. Unfortunately for Alcibiades, Agis and the other Spartan leaders became aware of his demagogic intentions and, while he was away in Ionia, ordered for him to be captured and executed. Fortunately for Alcibiades, he received word of his impending execution and was able to escape the Spartan camp before his capture. Having been sentenced to death by both the leaders and the people of the two main Hellenic powers, Alcibiades was forced to turn to the last main power in the region, the Persian Empire, where he would continue his demagogic pursuits.<sup>56</sup>

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<sup>53</sup> Plutarch, *The Rise and Fall of Athens: Nine Greek Lives*, Alcibiades. 23

<sup>54</sup> Thucydides, *History of the Peloponnesian War*, 8.12.2

<sup>55</sup> Ibid. 8.12.2

<sup>56</sup> Ibid. 8.45.1

Such was the charm of Alcibiades. Not only was he able to bend people, even his enemies, to his will, he could then, when it was in his best interest to befriend those he had betrayed, gain back their trust and continue to inspire them to act in accordance with his desires. While this may seem an impossible task, even for the most charismatic and capable of demagogues, Alcibiades was able to achieve success in these endeavors on multiple occasions, mainly due to his uncanny ability to align his own interests with those of the people he wished to persuade. Plutarch describes this ability of Alcibiades as that of a chameleon, being able to fully and plausibly adopt almost every aspect of the specific cultures where he resided at the moment:

Thus, in Sparta he was all for physical exercise, the simple life, and an appearance of forbidding austerity; in Ionia for luxury, pleasure, and indolence; in Thrace he could drink with the best; in Thessaly he was never out of the saddle, and when he found himself in the company of Tissaphernes the satrap, he surpassed even the magnificence of the Persian in his pomp and extravagance.<sup>57</sup>

This description illustrates best the differences between Alcibiades, who embodies the self-interested demagogue, and Pericles, who is seen as the ideal statesman. While many of their tactics and actions possessed striking similarities, it is the motives behind, and the interests of these actions that separate the two leaders.

The reason that Pericles was able to use traditionally demagogic tactics to advance his personal standing without stirring alarm amongst the People of Athens is because the interests of the two were truly one in the same. Whenever Pericles moved to ostracize a political opponent, he was successful not because of some flowery speech appealing to the prejudices of the People.

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<sup>57</sup> Plutarch, *The Rise and Fall of Athens: Nine Greek Lives*, Alcibiades. 23

Instead, he was successful because he had worked tirelessly to gain the support of the People by increasing their personal well-being as well as their political and democratic abilities. Rarely, if ever, did Pericles exploit the fears and prejudices of the People in order to hurry them into a decision that, while massively benefitting Pericles, would ultimately harm them. Conversely, this exact form of exploitation was a defining characteristic of Alcibiades' political career. In almost every city in which he ruled, he gained his authority through superficial actions, such as those mentioned by Plutarch above, rather than by working to improve the lives or the democratic freedoms of the People. Even worse, his actions often had little justification based on the facts of the situation and there was limited consideration of the long term effects that they might have. Instead, Alcibiades often capitalized on the fears and hopes of the people in order to inflame their spirits and urge them to imprudent actions with disastrous consequences.

While both Pericles and Alcibiades instituted a variety of policies, some of which were more demagogic than others, their actions were mainly consistent with their portrayals in the statesman-demagogue distinction. Meaning, that while Pericles occasionally acted in order to advance his own interests, the majority of his actions were in keeping with the traditional perception of a statesman. Conversely, Alcibiades may have instituted policies that benefitted the People, but the main motive behind the majority of his actions was the advancement of his own well-being. Despite these two politicians remaining, for the most part, true to their portrayals, this was not always the case. In some instances, there were politicians who were particularly hated, but who had not acted in ways which are definitively demagogic. One such politician was Cleon.



## *Cleon*

While there have not been many accounts written about the life of Cleon son of Cleaenetus, he carries the reputation of being one of the most brash and violent demagogues in Classical Athenian history. He is often described as a petulant rabble-rouser who cares more for aggressively attacking and slandering his enemies to the advantage of himself, than for the betterment of state. He is frequently credited with heralding the destruction of the Athenian Empire through his demagoguery and wanton disregard for the safety of the people.<sup>58</sup> The modern perception of Cleon is most accurately represented by Temple Stanyan who describes him by saying:

He was rash, arrogant and obstinate, contentious, envious and malicious, covetous and corrupt. And yet with all these bad qualities, he had some little arts of popularity, which raised and supported him. That which Cleon chiefly depended on was his eloquence: But it was of a boisterous kind, verbose and petulant, and consisted more in the vehemence of his stile and utterance, and the frantickness of his action and gesture than in the strength of his reasoning. By this furious manner of haranguing he introduced among the orators and statesmen a licentiousness and indecency, which were not known before; and gave rise to the many riotous and disorderly proceedings, which were afterwards in the assemblies, when almost everything was carried by noise and tumult.<sup>59</sup>

Similar descriptions of Cleon can be found throughout both modern and ancient scholarship. He is described by Plutarch as possessing “disgusting boldness” and “versatile

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<sup>58</sup> Karen Whedbee, *Reclaiming Rhetorical Democracy: George Grote’s Defense of Cleon and the Athenian Demagogues*, 86

<sup>59</sup> *Ibid.* 76

buffoonery”.<sup>60</sup> Aristotle viewed Cleon “to have been the cause of the corruption of the democracy by his wild undertakings; and he was the first to use unseemly shouting... and to harangue the people with his cloak girt up short about him.”<sup>61</sup> Even Thucydides, known for his impartiality, calls Cleon βιαίωτατος τῶν πολιτῶν τῷ δήμῳ (*biaiotatos tone politone toe deimoe*; the most violent in the city to the people).<sup>62</sup> Due to the variety and intensity of these descriptions, it seems clear that Cleon was a power hungry demagogue who manipulated the people, with flame and vigor, into repeatedly harming themselves to his benefit. But this is not the case. The reason for these highly critical analyses of Cleon’s actions is mainly due to the characterization of him in the two main accounts of his life that survive to this day. One of these accounts can be found in Thucydides’ *Histories*, while the other is in the works of Aristophanes, in his plays *Wasps* and *Knights*. The problem with these two accounts is that there is evidence to suggest that both of the authors, Thucydides and Aristophanes, were highly biased against Cleon.

In the case of Aristophanes, his disdain for Cleon is widely believed to be the result of an incident in which Cleon prosecuted Aristophanes for his negative portrayal of Athens in the play *Babylonians*. In the play, Aristophanes depicts member cities of the Delian league as slaves forced to work the mill; an allegory for the way Athens treated its allied city-states.<sup>63</sup> While this would normally be of no consequence, it is widely believed that the presence of foreign dignitaries at the performance resulted in the embarrassment of Athens in a time of war. Because of this, Aristophanes was prosecuted by Cleon and his plays were subsequently banned from being performed at the Dionysia, the largest theatrical festival in Athens. Instead, Aristophanes was only allowed to enter his plays in the Lenaea, a minor festival, at which no dignitaries would

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<sup>60</sup> Plutarch, *The Rise and Fall of Athens: Nine Greek Lives*, Nicias. 2-3

<sup>61</sup> Aristotle, *Constitution of Athens*, 3.28

<sup>62</sup> Thucydides, *History of the Peloponnesian War*, 3.36.6

<sup>63</sup> Peter Levi, *The Oxford History of the Classical World: Greek Drama*, 177

be present.<sup>64</sup> It is after this prosecution that Aristophanes becomes highly critical of the actions and character of Cleon, publishing his most damning works, *Knights* and *Wasps*. The accuracy of the portrayal of Cleon in these two plays is further weakened due to the inherent nature of the plays as satires.<sup>65</sup>

Aristophanes was famous for ridiculing politicians and famous Athenians of the time, and made his living by satirizing some of their worst qualities. Aristophanes even goes as far as to mock Socrates, who was believed to be one of his friends. In *Clouds*, Aristophanes depicts Socrates as “a dishonest rogue, the head of a fantastic school of students, a disbeliever in the orthodox deities, an utterly anti-social individual who passed his life completely sheltered from sun, air, and physical exercise...”<sup>66</sup> Now, while some of these descriptions may be based in a small truth, they are clearly exaggerations designed to entertain the audience viewing them, rather than informative descriptions of the actions and character of Socrates. If this is how negatively Aristophanes is willing to satirize one of his friends, it seems reasonable to imagine him being much more unfair in his depictions of a man against whom he has a personal vendetta.

In the case of Thucydides, a similar trial is believed to have taken place. In the winter of 424/3 BC, Thucydides, who was then a general at Athens, was tasked with preventing the Spartan general Brasidas from capturing the northern city of Amphipolis. Unfortunately for Thucydides, he was unable to reach Amphipolis in time, and Brasidas captured the city before Thucydides could arrive.<sup>67</sup> Because of his failure to save Amphipolis, Thucydides was tried by the Athenians for military incompetence and negligence. As a result of this trial, Thucydides was found guilty and sentenced to exile from Athens. It is widely believed among scholars that Cleon

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<sup>64</sup> Encyclopedia Britannica, *Aristophanes*

<sup>65</sup> Livius, *Cleon*

<sup>66</sup> Thomas Dorey, *Aristophanes and Cleon*, 137

<sup>67</sup> Thucydides, *History of the Peloponnesian War*, 4.106

may have been one of the leading members of the group prosecuting Thucydides for his failure.<sup>68</sup> Surely, this would give Thucydides ample justification for holding a personal grudge against Cleon, as “it would be naive to think that he could have written without prejudice about a man who prosecuted him for official incompetence.”<sup>69</sup> While there is some debate over whether Cleon was indeed the main proponent of Thucydides’ exile, Thucydides’ bias against Cleon is clear. Almost every description Thucydides provides of Cleon possesses speculation as to the selfish and harmful motives behind Cleon’s actions. While this fact in itself calls the reliability of Thucydides’ accounts into question, one becomes even more skeptical when considering that Cleon is the only character described in such a way in the entirety of Thucydides’ works. Save for a single passage regarding Nicias, Cleon is the only person, whether Athenian, Spartan, or Persian, whose character and conduct are explicitly and repeatedly condemned by Thucydides. Regardless of the justification for this hatred, Thucydides’ bias against Cleon “has been noted by very many scholars and is indisputable.”<sup>70</sup>

This prejudice may be further exacerbated by the fact that Thucydides represented the old-guard of aristocratic, military politicians, while Cleon belonged to a “new class of politicians”,<sup>71</sup> who hailed from less prestigious backgrounds. This new breed of politicians was most famous for their ardent attacks of the old, military elite, which were often characterized as being particularly vicious and tumultuous. While many in the aristocratic elite blamed the violence of this new breed of politicians on their low birth and therefore lesser class and intelligence,<sup>72</sup> Grote offers a different solution.

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68 Henry D. Westlake, *Individuals in Thucydides*, 60

69 Karen Whedbee, *Reclaiming Rhetorical Democracy: George Grote’s Defense of Cleon and the Athenian Demagogues*, 79

70 Henry D. Westlake, *Individuals in Thucydides*, 60

71 George Grote, *A History of Greece*, 5.165-6

72 Karen Whedbee, *Reclaiming Rhetorical Democracy: George Grote’s Defense of Cleon and the Athenian Demagogues*, 80

Men of the middling class, like Kleon and Hyberbolus, who preserved in addressing the public assembly and trying to take a leading part in it, against persons of greater family pretension than themselves, were pretty sure to be men of more than usual audacity.

Without this quality, they would have never surmounted the opposition made to them<sup>73</sup>

Rather than simply viewing the new politicians as ignorant, violent rabble rousers, Grote takes into account the complicated economic and social situations which these leaders would have faced. While these leaders may have indeed been particularly vicious and emphatic in their speeches, this is likely due to the fact that these skills were necessary in order for this lower class of leaders to gain any popularity. These leaders were not afforded the luxury of being able to rely on their immense wealth or powerful family name in order to gain traction with the assembly. Instead, they were forced to build their own reputations through hard work and by holding the elites accountable for their undemocratic actions.<sup>74</sup> As a consequence of their anti-aristocratic platform, many new leaders such as Cleon, were unfairly portrayed by the elite as demagogues and tyrants whose sole intention was to achieve total political control by rallying the uneducated masses towards imprudent and self-destructive action, designed to benefit the demagogues. It is because of these historical prejudices that one must look to the actions of leaders such as Cleon in order to determine their character, rather than the potentially biased accounts of others.

In his time as a leading politician at Athens, Cleon was engaged in three highly influential debates in which his actions, and therefore his character, can be analyzed. The first of these debates concerns the fate of the Mytilenean people, while the second and third debates are focused on how the Athenians should handle the Spartan garrison at Pylos. While Cleon

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<sup>73</sup> George Grote, *A History of Greece*, 5.167

<sup>74</sup> Karen Whedbee, *Reclaiming Rhetorical Democracy: George Grote's Defense of Cleon and the Athenian Demagogues*, 80

maintains his traditionally abrasive and vociferous manner of speech throughout the debates, his actions appear to stand in direct contrast with the portrayal of him in the majority of scholarship. In the first debate, regarding whether the entire male population of Mytilene, the main city on the Island of Lesbos, should be put to death, Cleon takes a harsh yet fundamentally un-demagogic approach to the situation.

From the very beginning of the debate, Cleon's anti-demagogic stance is abundantly clear. He begins his speech by chastising the people for their tendency to be swayed by the elaborate rhetorical style of the sophists, rather than by arguments based in fact and logic. Cleon claims that this is the fault of the People,

who go to see an oration as you would to see a sight, take [their] facts on hearsay, judge the practicability of a project by the wit of its advocates, and trust for the truth as to past events, not to the fact which [they] saw more than to the clever strictures which [they] hear...<sup>75</sup>

Further, Cleon criticizes those who would use this form of argument as well. He states that men of this sort often rely far too heavily on their perceived intelligence, rather than on the laws of the State to make their legal decisions. That these men are the same who attempt to overrule the laws in matters of debate, in order to demonstrate their wit and advance their own standing among the People. It is these types of arguments, Cleon asserts, that ultimately lead to the destruction of democracy and the ruin of the State.<sup>76</sup> Cleon's arguments in this case reflect those of other Athenian politicians and thinkers. Aristotle even goes as far as to define a

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<sup>75</sup> Thucydides, *History of the Peloponnesian War*, 3.38.4

<sup>76</sup> Ibid. 3.37.3-4

demagogue as exactly that; a politician who uses popular appeals to overrule the laws of the State.<sup>77</sup> In making this argument, Cleon takes a firm stand against many of the tactics which traditional demagogues use in order to gain control over the People. Not only does Cleon condemn these tactics, but he actively brings them to the attention of the People, and pleads with them to not succumb to their enticing nature.

Pursuant to the theme of his opening argument, Cleon next discusses the facts of the present case. He argues that the Mytilenean people have perpetrated one of the worst acts of treason possible against the Athenian Empire. Cleon asserts that the Mytileneans had no reason to revolt other than their wish for the utter destruction of the Athenians. According to Cleon, the Athenians had acted in no way to oppress the citizens of Mytilene, nor had Athens' enemies attacked, or even applied pressure to the city, which would have forced their hand. Additionally, the city of Mytilene was highly fortified and possessed its own fleet of triremes, making it capable of withstanding an assault from the Spartans or Persians. In Cleon's mind, this leaves only one reason for their aggression; a "deliberate and wanton... attempt to ruin [Athens]."<sup>78</sup> As a result of this warrantless aggression, Cleon suggests that the Athenians respond in kind. He argues that, had the Mytileneans succeeded, their revolt would have resulted in the utter destruction of Athens, and the needless deaths of countless of her citizens. Accordingly, the Athenians must send a strong message that this sort of unwarranted malice will not be tolerated, and that those who would plot to perpetrate such acts do not deserve mercy, as they would not extend any themselves.<sup>79</sup>

Cleon's opponent, Diodotus, even agrees with Cleon that the execution of the Mytilene people is just. The true point of contention between them is not whether executing the

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<sup>77</sup> Melissa Lane, *The Origins of the Statesman - Demagogue Distinction in and after Ancient Athens*, 190-91

<sup>78</sup> Thucydides, *History of the Peloponnesian War*, 3.39.2

<sup>79</sup> *Ibid.* 3.40

Mytileneans would be best just, but whether it would be for Athens. “Though I prove them ever so guilty, I shall not, advise their death... unless it be clearly for the good of the country.”<sup>80</sup> In this case, Diodotus does not argue that Cleon’s conclusion for the fate of the Mytileneans is unjust, he simply argues that the survival of the Mytileneans would provide a greater benefit to the Athenians than their deaths. As can clearly be seen from the account of Thucydides, this is not some battle between a self interested demagogue fighting for the destruction of Athens against a noble statesman who only seeks to preserve her well-being. What it is in fact, is a disagreement between two politicians regarding which action would be in the best interest of Athens. There is no evidence available to suggest that either politician would personally gain from their course of action being undertaken. And while they may disagree over which method is best, neither action would pose a major threat to Athens or the welfare of her People.

Cleon’s actions are further justified by the fact that Athens had a history of brutality in ruling its empire. One of Pericles’ central pieces of advice to the Athenian People on how best to protect themselves in the war was to keep a strong hold over their allies.<sup>81</sup> Even Pericles himself was guilty of harsh treatment towards uncooperative allies, since he exiled the entire population of Histiaea from their city after they revolted against Athens;<sup>82</sup> a move which Xenophon condemned as an oppressive act “for which the Athenians at the end of the war expected to suffer reprisals.”<sup>83</sup> While the execution of an entire state is certainly more extreme than expulsion, the actions which Cleon sought to undertake were in keeping with Athens’ history of harsh action against revolting cities. Although Cleon’s argument for the execution of the Mytileneans is indeed particularly brutal and violent, Cleon’s motives behind his decision are

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<sup>80</sup> Ibid. 3.44.2

<sup>81</sup> Ibid. 2.13.2

<sup>82</sup> Ibid. 1.114.3

<sup>83</sup> Henry D. Westlake, *Individuals in Thucydides*, 65



not. Not only does Cleon base his argument solely on facts and rational, legal arguments stemming from the actions of Mytilene, but Cleon in no way would gain from the execution of the city's people. Further, Cleon's proposed plan of action, if it were carried out, would pose no significant threat to the safety of Athens or to the democratic freedoms of her People. The only objection to his plan is that it may simply not be the *most* beneficial solution. Considering all of these factors, it is clear that Cleon's proposal and his actions in supporting it are in no way examples of demagogic action.

In the next instance where Cleon is centrally featured, the two debates regarding the Spartan garrison at Pylos, Thucydides once again portrays Cleon in a highly pejorative manner and this time with even greater bias and speculation. "Nowhere in the first half of his *Histories* is the personal element so prominent, and nowhere in his whole work is a major figure presented so unfavorably."<sup>84</sup> In his record of these debates, Thucydides takes the unprecedented step of purporting to possess insight as to Cleon's precise thoughts and motives behind his actions throughout the debate.<sup>85</sup>

Thucydides begins by criticizing Cleon for berating the Spartans and sabotaging potential negotiations of peace. While Thucydides' original description of the incident describes no ulterior motives of Cleon, other than thinking peace to be disadvantageous to the Athenians at that time,<sup>86</sup> he later asserts that Cleon's sabotage was intended to prolong the war so that Cleon's demagogic ways would be less susceptible to detection.<sup>87</sup> Thucydides' presentation of this event is inconsistent with the rest of his work in a number of ways. First, Thucydides criticizes Cleon for war mongering and demagoguery because of his refusal to accept peace, despite the fact that

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<sup>84</sup> Ibid. 70

<sup>85</sup> Ibid. 70-72

<sup>86</sup> Thucydides, *History of the Peloponnesian War*, 4.22

<sup>87</sup> Ibid. 5.16.1

this was precisely the policy of Pericles which Thucydides had so highly praised less than a decade earlier.<sup>88</sup> Second, Thucydides chastises Cleon for his deceptive tactics in dispatching the Spartans, despite the fact that these tactics were used frequently by other politicians. Both Alcibiades and Nicias are guilty of this sort of deception, in the former's dismissal of a future offer of Spartan peace and in the latter's attempt to prevent the Sicilian expedition.<sup>89</sup> In both of these instances, Thucydides presents no indication of demagoguery on behalf of Alcibiades or Nicias, and both cases "are recorded by Thucydides without any perceptible disapproval of their fraudulence."<sup>90</sup>

Clearly then, the disapproval of Thucydides must due to some other cause. Thucydides has shown that he has no general difficulties with refusals of peace, and additionally that he does not struggle with the tactics by which Cleon was able to achieve this. Therefore, the true disapproval of Thucydides must be a result of the timing of the refusal. At the time, Athens was in a much more advantageous position than Sparta, having suffered few major defeats thus far, and most likely could have forced the Spartans to agree to disadvantageous terms.<sup>91</sup> Instead, the Athenians, on the advice of Cleon, were persuaded to reject those terms and continue the war, which would ultimately end with the destruction of Athens. While Thucydides may be right in his assessment that Cleon had doomed the Athenian People, Cleon's decision was based solely on what he perceived to be the best course of action for the Athenians, and was influenced in no way by any demagoguery. Even in Thucydides' highly biased account, "there is no suggestion that Cleon was acting dishonestly or was misleading the Athenians in order to promote his own

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88 Ibid. 1.144

89 Ibid. 5.45 & 6.19-24

90 Henry D. Westlake, *Individuals in Thucydides*, 67

91 Ibid. 68

interest.”<sup>92</sup> This is just another example of an unsuccessful policy proposal by Cleon that is perverted by Thucydides to illustrate Cleon’s deeply demagogic nature, despite there being no evidence to suggest any self-interest on behalf of Cleon.

Thucydides’ bias is revealed even further in the second debate regarding Athenian action at Pylos, as he continues to accuse Cleon of demagoguery despite Cleon actually being the victim of demagoguery on behalf of Nicias. Having sabotaged the peace negotiations at Pylos, Cleon soon challenges the incompetence of the Athenian military leadership there for their failure to capture the Spartan force. He accuses Nicias of cowardice for failing to attack the Spartans there, which he derisively claims to be an easy task. Rather than responding to the charges which Cleon presented, Nicias retorted by saying that if defeating the Spartans were so trivial, Cleon himself should do it.<sup>93</sup> By challenging Cleon in this way, Nicias has trapped Cleon into one of two responses, both of which are harmful to him. Either Cleon rejects the challenge, causing him to seem a coward spewing empty rhetoric, or he accepts the challenge and will likely fail and be killed due to his limited military knowledge and inexperience.<sup>94</sup> In this way, it is Nicias who is acting demagogically, rather than Cleon. By forcing Cleon to accept the assignment, Nicias has willingly risked the prosperity of Athens and potential victory in the war in order to consolidate his own power by eliminating his political rival. Not only was Nicias’ interest in this matter explicitly selfish, he also deceived the Athenian People, at their own peril, in order to achieve his self serving ends. Nicias’ actions in this case fit every indicator for demagoguery and, despite this, it was still Cleon who Thucydides accused of wrongdoing.

In his account, Thucydides claims to have a complete understanding of all of Cleon’s motives behind his actions, and he presents them as indisputable facts to the reader. In the span

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<sup>92</sup> Ibid. 69

<sup>93</sup> Thucydides, *History of the Peloponnesian War*, 4.28.1

<sup>94</sup> Karen Whedbee, *Reclaiming Rhetorical Democracy: George Grote’s Defense of Cleon and the Athenian Demagogues*, 81

of a few pages, Thucydides uses these perceived motives to endow Cleon with almost every negative stereotype of traditional demagogues. Thucydides describes Cleon as lying to the people in order to hide his demagogic nature; of attempting to shift the blame away from himself for sabotaging the peace negotiations, and trapping himself into going on the expedition due to his demagogic intentions in accusing Nicias of incompetence, despite there being no evidence to support these claims.<sup>95</sup> In actuality, Cleon once again took a decidedly non-demagogic approach to the situation. Rather than arrogantly attempting to undertake the assault himself, which would guarantee him all of the glory if he were victorious, Cleon requested that Demosthenes, a highly successful Athenian general, assist him.<sup>96</sup> Furthermore during the campaign, rather than attempting to overshadow Demosthenes to his own advantage, Cleon strategically used the differing merits of Demosthenes and himself to the advantage of the Athenians. The entirety of the planning of the assault was left to Demosthenes, who was a much more effective military commander, while Cleon handled the political aspects, at which he far exceeded that of Demosthenes.<sup>97</sup> By working unselfishly and harmoniously with Demosthenes, Cleon was able not only to defeat the Spartans in battle, but also to secure the surrender of 292 Spartans and use them as a bargaining tool to the advantage of the Athenians. Because of the great benefit which this expedition brought Athens, coupled with the relatively minor personal gain of Cleon, and the limited risk which Athens was exposed to on his behalf, Thucydides description of Cleon as a selfish, deceitful, power hungry demagogue is proven to be completely unfounded and inaccurate.

Why then, if it is so clear that the actions of Cleon in no way align with those which are seen as characteristic of demagogues, is Cleon frequently portrayed as the most violent and

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<sup>95</sup> Ibid. 72-73 & Thucydides, *History of the Peloponnesian War*, 4.27.3 - 28.4

<sup>96</sup> Thucydides, *History of the Peloponnesian War*, 4.29.1

<sup>97</sup> Karen Whedbee, *Reclaiming Rhetorical Democracy: George Grote's Defense of Cleon and the Athenian Demagogues*, 75

harmful demagogue in Athenian history? The answer, which has much to do with the physical process of recording history in ancient Athens, is threefold. First, it is because of Cleon's aggressive manner of speech and his frequent attacks on other politicians. Although many of Cleon's attacks are designed to hold the politicians accountable to the will of the People, they are not perceived as such. Rather, the aristocratic politicians view these attacks as the violent harangues of a rabble-rousing demagogue who attempts to upset the established aristocratic order for his own benefit. Now, while this is clearly not the case, the fact that the elites were responsible for almost all of the historical record keeping in antiquity allowed their view of Cleon's actions to be passed down as truth. These false perceptions become even further exacerbated when Cleon has personally offended those doing the record keeping. This brings us to the second reason for the demonization of Cleon; his prosecutions of Aristophanes and Thucydides. The initiation of the trials against these two individuals was particularly harmful to the reputation of Cleon as they are the two remaining first-hand accounts of his life and actions. While the biases present in Aristophanes and Thucydides are detectable by those willing to investigate them, to the average reader, Cleon is simply a detestable politician who represented all of the worst qualities of a leader.

The final reason as to why Cleon has been consistently portrayed so negatively throughout the scholarship is due to the statesman-demagogue distinction. It is precisely because Cleon was portrayed as such a violent demagogue in the works of Thucydides and Aristophanes that this portrayal of him continues to this day. Due to the fact that none of the scholars have taken the time to analyze the physical actions of Cleon, or his likely motives behind them, their analyses are reduced to mere copies of the biased works of the classical authors. The only reason that scholarship in support of Cleon exists, is because authors like George Grote and Karen

Whedbee were willing to judge Cleon based on his individual actions, rather than his contemporaries' perceptions of him.

### ***Conclusion***

It is for this reason that Cleon makes for such an interesting analysis in the study of demagoguery. Cleon is portrayed as one of the most destructive and harmful demagogues in Athenian history, despite the reality of him being nothing more than a leader of the middling class who attempted to protect the rights and well-being of his fellow countrymen. It is precisely because of this misconception that an exceptionally careful analysis is necessary in order to determine what aspects of political action are most harmful to democratic government. If instead, one were to rely simply on the portrayal of certain leaders to determine the causes of these harms, the vast misconceptions surrounding demagoguery would likely result in either a skewed or an extremely broad conception of what constitutes poor governmental action. Such a conception would be of no use to any state builder, as it would be impossible to institute preventions of this sort of actions without first properly identifying it.

### III. Constitutional Construction of Demagogic Preventions

#### *Introduction*

Despite the many misconceptions in scholarship surrounding demagoguery, the Founding Fathers had a clear conception of what sorts of action would be harmful to the new republic they were working to create. While the Founders may not always identify actions of this sort as “demagoguery” specifically, the behaviors and motives with which the Founders were most concerned are fundamentally identical to the destructive demagogic action present in ancient Athens. The Founding Fathers were well aware of the disastrous effects that self interested politicians can have on a State.<sup>1</sup> Both Federalists and Anti-Federalists viewed self interest as inherent to human nature, and therefore a fundamental threat to the success of a republican government.<sup>2</sup> Accordingly, they believed that a system capable of curtailing this ambition into productive political action was absolutely necessary, were their new government to succeed in eliminating the tyranny from which they had so recently freed themselves. James Madison, a Federalist, stresses this point in his famous quote:

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this:

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<sup>1</sup> Jeffery A. Becker, *Ambition in America*, 39

<sup>2</sup> Cecilia M. Kenyon, *Men of Little Faith: The Anti-Federalists on the Nature of Representative Government*, 14

you must first enable the government to control the governed; and in the next place oblige it to control itself.<sup>3</sup>

John Lansing, an Anti-Federalist Founder from New York, echoes Madison's point almost perfectly. He argues that:

Scruples would be impertinent, arguments would be in vain, checks would be useless, if we were certain our rulers would be good men; but for the virtuous government is not instituted. Its object is to restrain and punish vice; and all free constitutions are for with two views - to deter the governed from crime, and the governors from tyranny.<sup>4</sup>

What the Founders strove to create was a system in which any politician who attempted to perpetrate actions that were similar to those of Alcibiades, actions which were self interested in nature, manipulative of the People, and potentially harmful to the state, would have their demagogic machinations rejected and their personal influence diminished.

In order to create a system capable of identifying and rejecting demagogic action, the Founders needed to break demagoguery down into its respective aspects. The first, and most fundamental aspect which the Founders sought to limit was the tendency of demagogues to act in their own self interest.<sup>5</sup> Self aggrandizing policies have long been a defining characteristic of demagoguery and have led to such disastrous results as Alcibiades' Sicilian expedition and Tolmides' invasion of Boeotia. Despite the intrinsic nature of self interest, the Founders thought it possible to overcome by addressing both sides of the issue. First, the Founders endeavored to

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<sup>3</sup> Publius, *Federalist Paper No. 51*

<sup>4</sup> John Lansing, *Anti-Federalist Paper No. 65*

<sup>5</sup> Jeffery A. Becker, *Ambition in America*, 39-40



promote the interests of the People through the popular election of representatives.<sup>6</sup> Second, once the representatives had been chosen, the Founders hoped to limit their ability to act in their own interest by separating the executive and legislative powers into different branches of government.<sup>7</sup> By creating a system of representation with separate powers designed to naturally check each other, the Founders believed that the People would be able to uphold the interests of the State above those of the demagogue. Despite these provisions, there was still a very real fear of the ability of demagogues to manipulate the ignorance and prejudices of the People, forcing them to think they are acting in their own interest, when in fact they are only serving the demagogue. To prevent this form of brash and uninformed action, the Founders saw the necessity for a wise and deliberative senate, whose purpose was to allay the fears of the People, and to guide the reasoned and logical discussion of the most important decisions our country would inevitably be forced to make.<sup>8</sup>

By perfectly instituting the three safeguards of representation, separation of powers, and wise, deliberate oversight, the Founders believed it possibly to severely hinder, if not eliminate, the ability of demagogues to seize political control and corrupt the republic to tyranny. Unfortunately, the system which they implemented, despite the colossal success which it was, failed to achieve perfection. The process of creation for America took almost four months of heated debate between the 55 most intelligent and capable men in the country. It required massive amounts of compromise, as each of the delegates vehemently argued for the institution of the system they thought best.<sup>9</sup> It was this compromise, while necessary at the time, which led to routes of subversion beneath the three safeguards. Over time, the three fundamental

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6 Ibid. 41-45

7 Ibid. 43 & Daniel and Stephen Wirls, *The Invention of the United States Senate*, 19

8 Daniel and Stephen Wirls, *The Invention of the United States Senate*, 4-5

9 Lance Banning, *Founding Visions: The Ideas, Individuals, and Intersections that Created America*, 111-113

preventions to demagoguery became increasingly inadequate as the political process naturally weakened the limits imposed upon itself. In order to identify the deficiencies within the system, it is necessary to look back to the creation of each of the three safeguards, and trace the path by which they came to fail so thoroughly.

## ***Representation***

At the time of the drafting of the Constitution, America had very recently freed itself from the “corrupt and tyrannical government” of Great Britain.<sup>10</sup> The Founders, as well as the American People themselves, had witnessed first hand the fall of a once great empire due to the toxic nature of self interest. Benjamin Franklin blamed the deterioration of Great Britain on the politicians who became more concerned with obtaining “enormous salaries, pensions... contracts and jobs”, than providing for the welfare of the British People. James Otis described the pervasive and overwhelming emphasis on self interest as creating a society in which the sole pursuits of the rulers were “whoring, smoking, and drinking” and the People consisted of “...gamesters, pensioners, pimps, and whore masters.”<sup>11</sup> These practices also had largely detrimental effects on Britain’s ability to rule its colonies in America. If the British rulers were incapable of advocating for the interests of their own People, they surely lacked any ability whatsoever to provide for those of the colonists. “Every man that has lived any time in America, under regal government, knows what frequent, and almost continual oppression there is between the country interest and those in power.”<sup>12</sup> Due to the destruction which corrupt, self interested politicians had wrought in Great Britain, the Founders greatly feared a system in which the interests of the rulers did not reflect those of the People.<sup>13</sup>

In order to ensure that the public interest was upheld, the Founders created a powerful legislative body consisting of representatives of the People, chosen by the People, who would

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10 Richard Hofstadter, *The Idea of a Party System*, 43

11 H. Trevor Colbourn, *The Lamp of Experience*, 72, 97, 130-31

12 Gordon Wood, *The Creation of the American Republic*, 57

13 Cecilia M. Kenyon, *Men of Little Faith: The Anti-Federalists on the Nature of Representative Government*, 11

naturally promote the People's interests. John Adams argues that this body, "should be in miniature an exact portrait of the people at large" and that it should therefore be able to "think, feel, reason, and act like [the People]."14 George Mason furthers this view by advocating that the representatives themselves "...ought to mix with the people, think as they think, feel as they feel, --ought to be... thoroughly acquainted with their interest and condition."15 Because the representatives were intended to be chosen directly from the lot of the People, even the most self interested representatives would act in favor of the People, as their interests would be one in the same.16 The logic of the Founders in this instance is strikingly similar to that of Pericles. What the Founders intended to create was a system in which "one's own safety and prosperity depend upon the safety and prosperity of the whole."17 By elevating representatives from among the ranks of the People, the representatives would naturally advocate for the welfare of the People, as it would be intrinsically linked, almost indistinguishable, from their personal welfare. Pericles had professed this argument as the precise cause of his own ability to act in the interest of the People.

I am of the opinion that national greatness is more to the advantage of private citizens than any individual well being coupled with humiliation... Since then a state can support the misfortunes of private citizens, while they cannot support hers, it is surely the duty of everyone to be forward in her defense...18

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14 John Adams, *Thoughts on Government*

15 Cecilia M. Kenyon, *Men of Little Faith: The Anti-Federalists on the Nature of Representative Government*, 10

16 Ibid. 11

17 Daniel and Stephen Wirls, *The Invention of the United States Senate*, 65

18 Thucydides, *History of the Peloponnesian War*, 2.60.2-4

Similar to Adam's goal of achieving virtue throughout society, the Founders hoped that by elevating the interests of the People, they would be able to achieve some abstract form of the "public good."<sup>19</sup> The goal of fostering a universal public good was an almost unanimous pursuit amongst the Founders. Regardless of the process by which they thought it best achieved, promoting the good of everyone was a fundamental aspect of the Constitution. "To make the people's welfare - the public good - the exclusive end of government became for the Americans, as one general put it, their 'Polar Star'..."<sup>20</sup> Theophilus Parsons demonstrates this point when he states that the sole purpose behind creating a representative system was to find leaders who possessed a disposition to promote the public good and the wisdom to enact policies in pursuit of it.<sup>21</sup> Despite the Founders' universal agreement in achieving the goal of providing for the good of everyone, in reality, this goal was near impossible to achieve; especially given the immense size of the new republic. While almost everyone agreed that the People should represent their own interests and provide for the common good for all, the debate now became whether this lofty goal would ever be realized.

The group who viewed the possibility of achieving a universal public good most pessimistically was, without question, the Anti-Federalists. Including such prevalent revolutionaries as Samuel Adams, Thomas Jefferson, and James Winthrop,<sup>22</sup> the Anti-Federalists fundamentally doubted the ability of a unified, national interest to even exist, much less be attainable. They argued that to reduce the welfare of the entirety of the American population to a single, predominant interest was an inconceivable task. These feelings are most eloquently portrayed by James Winthrop of Massachusetts:

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<sup>19</sup> Gordon Wood, *The Creation of the American Republic*, 53-54

<sup>20</sup> *Ibid.* 55

<sup>21</sup> Daniel and Stephen Wirls, *The Invention of the United States Senate*, 54

<sup>22</sup> Cecilia M. Kenyon, *Men of Little Faith: The Anti-Federalists on the Nature of Representative Government*

The idea of an uncompounded republick, on an average, one thousand miles in length, and eight hundred in breadth, and containing six millions of white inhabitants all reduced to the same standard of morals, or habits, and of laws, is in itself an absurdity, and contrary to the whole experience of mankind.<sup>23</sup>

Cecilia Kenyon presents similar concerns from countless Anti-Federalists, all of whom doubt the possibility of success of such a large republic. Their main concern is that it will be almost impossible to determine which policy is in the “public interest” as a population with such geographic, economic, and religious diversity will rarely, if ever, agree on what their interests are. Kenyon argues that “any people who were to govern themselves must be relatively homogenous in interest, opinions, habits, and mores.”<sup>24</sup> Samuel Adams argues further that because the “public good” is an entity which transcends the interests of the individuals, rather than a conglomeration of them, any successful republic must necessarily be based in a small territory and consist of a like-minded populace.<sup>25</sup> These feelings are echoed throughout Anti-Federalist writings from both the North and South. Southerners believed that, “men who come from New England are different from us”, while Northerners argued that “It is impossible for one code of laws to suit Georgia and Massachusetts.”<sup>26</sup> This level of division at such an early stage in the formation of the government also serves to prove the Anti-Federalists’ point.

The fear of the Anti-Federalists was that, given the perceived impossibility of achieving the interests of everyone in society, the only interests which would be upheld are those of the

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<sup>23</sup> James Winthrop, *Letters of Agrippa*, IV

<sup>24</sup> Cecilia M. Kenyon, *Men of Little Faith: The Anti-Federalists on the Nature of Representative Government*, 7-8

<sup>25</sup> Gordon Wood, *The Creation of the American Republic*, 58

<sup>26</sup> Cecilia M. Kenyon, *Men of Little Faith: The Anti-Federalists on the Nature of Representative Government*, 7-8

ruling class. Additionally, they argued that the House of Representatives consisted of too few seats, which would make it almost impossible for a true representative of the People to gain any influence. Consequently, the House would become almost identical to the Senate, and “would not be democratic at all. It would, instead, be filled by aristocrats, possibly by military heroes and demagogues.” This belief was based on a twofold premise that; first, only members of the upper class would be able to afford an education and leisure time in which to study laws and politics and second, that running for political office would be so expensive as to prohibit any true plebeians from running. To make matters worse, the Anti-Federalists believed that the aristocratic nature of government would divide the common people against themselves. In this case, “there will be scarcely a chance of their uniting in any other but some great man, unless in some popular demagogue, who will probably be destitute of principle.” Consequently, the government “would not truly reflect the interests of all groups in the community, and would almost certainly become oppressive.”<sup>27</sup> These issues of representation presented by the Anti-Federalists are troubling to say the least. If their concerns were to come to fruition, the nation would become reliant on the hope that elected leaders would be virtuous and benevolent; representing a complete failure of the system explicitly designed to require such traits.

Although the Anti-Federalist believed the breadth of the nation and the diversity of its citizens to be the destruction of the republican system, the Federalists found the opposite to be true. Rather than perceiving conflicting interests and ideals as the inherent downfall of the republic, the Federalists saw them as the saving grace. The reason for this discrepancy is due to the fact that the main fear of the Anti-Federalists was a tyranny of the elite minority, while the Federalists were far more concerned with the tyranny of a majority faction.<sup>28</sup> In *Federalist 10*,

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<sup>27</sup> Ibid. 10-11

<sup>28</sup> Richard Hofstadter, *The Idea of a Party System*, 67

James Madison asserts that it is in fact small republics which have the least chance of achieving common interests. Madison believes that because a small republic would contain very few interests, it would be all too easy for a majority of the People to assert their interests over those of their neighbors. Conversely, in a large republic such as the United States, “you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens.”<sup>29</sup>

While Madison believed that the diversity of the American populace was a strength, other Federalists argued that the diversity in question was nonexistent, and therefore needn't be worried about. James Monroe is the main proponent of this idea. He suggests that the American people are actually quite homogenous in nature, and therefore their interests could be aligned to create a form of the “public good”. The homogeneity which Monroe identified was not due to any geographic or economic influence, as both were quite various across the country.<sup>30</sup> Rather, Monroe viewed the interests of the People as universally similar due to the lack of what is conventionally called the “feudal shackles”. Monroe asserted that, due to the lack of any deep seated, societal or class differences between the People of America, their interests should be relatively similar. Each individual would likely strive to increase their personal welfare, while also being indifferent to the concurrent increases to the welfare of other classes or peoples.<sup>31</sup> Because of this, it would be possible to increase the welfare of everyone by advancing the interests of the state; again reflecting the ideal first proposed by Pericles.

Despite the heated debate which took place regarding the best way to promote the will of the People, it was clear that, regardless of the method, the People needed to have an influential say in the conduct of the State. Were the entirety of the affairs entrusted to the hands of the self

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29 Publius, *Federalist Paper No. 10*

30 Cecilia M. Kenyon, *Men of Little Faith: The Anti-Federalists on the Nature of Representative Government*, 7-9

31 Richard Hofstadter, *The Idea of a Party System*, 22-23



interested elite, it was clear that the country would soon degenerate into a system of corruption and maladministration similar to that of Great Britain.<sup>32</sup> The Founders believed that by allowing the People to choose their representatives, those representatives would possess the same interests as the People, and if not, would be held accountable by the People and would be removed from office. This would create a system in which the interests of the People would rarely be undermined, as the People would have complete control over the political authority of the State, and could easily remove it from any potential demagogue who would seek to subvert those interests. By entrusting this power to the whole of the People, rather than a select group of aristocrats, the Founders thought it possible to achieve the public good, to the benefit of all in society.

Although the Founders recognized the necessity of promoting popular interests, they were nevertheless perturbed by the likely possibility of demagogues abusing the power entrusted to the People. Given the manipulative nature of demagogues, coupled with the brash and imprudent nature of the People, it was clear that other safeguards would be required to maintain the efficacy of the democratic system. After having established a system by which the interest of the People would be promoted, the next consequent safeguard was to restrict the ability of representatives to act against those interests.

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<sup>32</sup> Ibid., 44

## *Separation of Powers*

One of the most destructive facets of the Athenian demagogues was their ability to both propose and perpetrate self interested action. After having convinced the People to condone their impetuous policies, the demagogues were then able to carry out these policies to their fullest extent. This allowed for very little oversight by the People, since the demagogues were responsible for administrating every aspect of the institution of a particular policy. Consequently, it bred corruption on behalf of the demagogues due to the fact that the only prevention against their unfair aggrandizement of their estate was their own integrity; which was hardly a reliable barrier. Even in the case of some of the most just and honorable leaders, such as Pericles, the blending of executive and legislative authority proved overly tempting and resulted in demagoguery. In Plutarch's *Life of Pericles*, he describes an instance in which Pericles' supreme authority over the state led to the embezzlement of funds from the treasury. He recounts that, in Pericles' expenditure reports from his campaign against the Spartans, he accounted for the expense of 10 talents "for sundry needs". These 10 talents, which went uninvestigated by the assembly, were reportedly given to the Spartan King, Pleistoanax, in order that he be "speedily corrupted... with bribes" and lead his force out of Attica<sup>33</sup>

It is for this very reason that the Founding Fathers were so highly skeptical of any government in which the legislative and executive authority were situated within the same body. While the Founders represented a wide variety of differing views as to the ideal administration of popular government, on this point, they were undivided. Both Federalists and Anti-Federalists, Northerners and Southerners, agreed that a government in which these two authorities were

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<sup>33</sup> Plutarch, *The Rise and Fall of Athens: Nine Greek Lives*, Pericles. 23

blended would result in the highest forms of tyranny and corruption, and would not be long for this world. The Anti-Federalists, at the Virginia Convention, made this fact abundantly evident in their argument.

That the legislative, executive, and judicial powers should be separate and distinct, in all free governments, is a political fact so well established, that I presume I shall not be thought arrogant, when I affirm that no country ever did, or ever can, long remain free, where they are blended.<sup>34</sup>

George Bryan, in his Anti-Federalist pamphlet asserts the inherent consequences of such a system.

This mixture of the legislative and executive moreover highly tends to corruption. The chief improvement in government, in modern times, has been the complete separation of the great distinctions of power; placing the legislative in different hands from those which hold the executive; and again severing the judicial part from the ordinary administrative. 'When the legislative and executive powers (says Montesquieu) are united in the same person, or in the same body of magistrates, there can be no liberty.'<sup>35</sup>

The Anti-Federalists clearly viewed any sort of mixed system as susceptible to egregious abuses of power and all sorts of corruption and demagoguery. While the Anti-Federalists presented their blatant disapproval of such a system, the Federalists showed even more disdain.

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<sup>34</sup> Cecilia M. Kenyon, *Men of Little Faith: The Anti-Federalists on the Nature of Representative Government*, 23-24

<sup>35</sup> *Ibid.* 24

James Madison asserts that the very existence of such a system was definitively corrupt, regardless of the nature government in which these powers are mixed. “The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self appointed, or elective, may justly be pronounced the very definition of tyranny.”<sup>36</sup> Similarly, John Adams argues that the same effects experienced in Athens, rampant demagoguery and self interest, were the only possible outcomes of a government in which all of the powers were united in a single body. “...a single assembly, possessed of all the powers of government, would make arbitrary laws for their own interest, execute all laws arbitrarily for their own interest, and adjudge all controversies in their own favor.”<sup>37</sup>

Although all of the Founders stood in firm agreement that the legislative and executive powers must be separate, there still remained the question as to how they would interact. By definition, the executive would appear to be the subservient branch to the legislative, since the sole purpose of the executive is simply to execute those actions which were commanded of it by the legislative. The difficulty with this relationship though, is the ease with which the legislative would be capable of overpowering the executive; thereby eliminating any separation of the two. Consequently, the true debate between the Founders focused on how to balance the two branches, and to what extent institutional checks between them should be implemented.<sup>38</sup>

The first check on the relationship between the two branches was widely believed to be a natural consequence of their placement in opposition to each other. This idea had been realized and accepted long before the Constitutional debates; originating in 1688 with John Locke. Locke asserts that the executive, rather than being a subordinate of the legislative, is in fact a natural safe guard against any self serving actions of the legislature. Due to the executive’s

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<sup>36</sup> Publius, *Federalist Paper No. 47*

<sup>37</sup> John Adams, *Thoughts on Government*

<sup>38</sup> Publius, *Federalist Paper No. 48*

responsibility of enforcing the laws of the land upon *all* of the citizens of the nation, he would hold the legislature in check by requiring that they also follow the laws which are passed.<sup>39</sup> This would prevent the legislature from creating laws harmful to the rights of ordinary citizens, which the legislators themselves could then ignore. Conversely, the fact that the executive is limited in action to those which have been explicitly outlined by the legislature, would prevent a potentially demagogic executive from exerting their authority strictly for their own benefit.<sup>40</sup> While an inherent check between the two branches conveys the possibility of a productive relationship between them, the Founders believed this sole check to be ineffective in preventing demagoguery.

Will it be sufficient to mark, with precision, the boundaries of these departments, in the constitution of the government, and to trust to these parchment barriers against the encroaching spirit of power?... experience assures us, that the efficacy of the provision has been greatly overrated; and that some more adequate defense is indispensably necessary...<sup>41</sup>

In order to create a more effective system of safeguards between the two separate branches, the Founders recognized the necessity to give the branches some limited forms of control over one another.<sup>42</sup> As much as the Founders were terrified of a system in which the executive and legislative powers were invested in the same body, they were equally skeptical of a system in which the powers were separate, but had no control whatsoever of the actions of their

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<sup>39</sup> John Locke, *Second Treatise of Government*

<sup>40</sup> Daniel and Stephen Wirls, *The Invention of the United States Senate*, 19

<sup>41</sup> Publius, *Federalist Paper No. 48*

<sup>42</sup> Publius, *Federalist Paper No. 47*

counterpart. The Founders solved this conundrum by settling somewhere in the middle. Rather than completely separating or integrating the powers with one another, they gave each branch small, institutional controls by which they would be capable of curtailing destructive or demagogic actions of the other branch.<sup>43</sup>

To the executive branch, Hamilton suggested the Founders imbue it with the power to veto bills passed by the legislature. This veto would allow the executive to prevent the institution of any laws made by the legislature which the executive found to be demagogic or contrary to the principles established in the constitution. The purpose of this veto was two fold. First, the veto would allow the executive to prohibit any attempted usurpations of executive authority by members of the legislature. Second, the executive could also prevent the enactment of any laws which he found to be either a violation of the rights of the People, or a danger to their well-being.<sup>44</sup> While granting the executive the authority to review and reject any law passed by the legislature suggests a system of executive supremacy, Hamilton argues that this is not the case.

The propriety of the thing does not turn upon the supposition of superior wisdom or virtue in the Executive, but upon the supposition that the legislature will not be infallible; that the love of power may sometimes betray it into a disposition to encroach upon the rights of other members of the government; that a spirit of faction may sometimes pervert its deliberations; that impressions of the moment may sometimes hurry it into measures which itself, on maturer reflexion, would condemn.<sup>45</sup>

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43 Publius, *Federalist Paper No. 48*

44 Publius, *Federalist Paper No. 73*

45 Ibid.

Rather than viewing the veto as a constitutional condemnation of the competence of the legislature, the Founders simply intended for the veto to be used as a final prevention if necessary, but more commonly, as a motivational tool to ensure the proper institution of laws by the legislature. Similarly, the Founders endowed the legislature with multiple approval powers designed not to question the authority of the executive, but rather to ensure that its motives are solely to ensure the public good.

The first approval power which the legislature possesses is that of accepting or denying any appointment of an ambassador or public minister by the executive. Just as the executive veto is not designed to raise the authority of the executive over that of the legislature, the opposite is true in the case of appointment approval. The legislature in this case is not granted the ability to make the appointment, as that is solely the prerogative of the executive. Rather, the intended result is that the executive be motivated to only appoint officials who are believed to have the best interest of the People in mind, as any demagogic officials would surely be rejected.<sup>46</sup> The second approval power of the legislature consists of their responsibility to serve as a court of impeachment for any executive officers. Impeachment of an executive can be both initiated and prosecuted solely by the legislature, and can be brought about if the executive is believed to be involved in “Treason, Bribery, or other high Crimes and Misdemeanors.”<sup>47</sup> This is the most direct check against demagoguery which the Founders have granted one of the branches, as it is explicitly designed to deter the executive “from the abuse or violation of some public trust.”<sup>48</sup>

While the Federalists believed these checks to be sufficient preventions against collusion between, or domination of one branch over the other, the Anti-Federalists were not as confident. They believed that, given the current system, it would only be a matter of time until self

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<sup>46</sup> Publius, *Federalist Paper No. 76*

<sup>47</sup> Constitution of the United States of America, Art II. §4

<sup>48</sup> Publius, *Federalist Paper No. 65*

interested factions within the government managed to undermine these checks, “and that corruption leading to tyranny would be the inevitable result.”<sup>49</sup> Due to the unanimous agreement between the Founders that a mixing of the legislative and executive authority would inevitably result in demagoguery and tyranny, the Anti-Federalists believed that every precaution possible should be taken to prevent this mixing. What the Anti-Federalist proposed was a much more rigid and defined system of checks between the two branches. One of the main concerns of the Anti-Federalist was the ability of the President to maintain office for life, if so elected. It was believed that a politician possessed of sufficient skills in oratory, would be able to manipulate both the People and the legislature into perpetuating his rule indefinitely, essentially creating an “elective monarchy.”<sup>50</sup> Further, William Grayson predicts that the legislature and executive will simply form a “*quid pro quo* alliance” against the People, in order to advance their collective interests against those of the public. George Mason sees it as an inevitability, rather than a possibility, that “they will always consider their interests as united... The executive and legislative powers, thus connected, will destroy all balances...”<sup>51</sup> Despite the many fears of the Anti-Federalist, few of their concerns were actually implemented in the fabric of the government.

The immense importance of the separation of the legislative and executive powers was an uncontested fact amongst the Founding Fathers. They found this separation to be an absolute prerequisite of good governance, and accordingly provided an extensive system of checks and mutual competition to ensure that the powers always be placed in opposition to one another. In addition to the separation, the Founders also recognized the necessity of enabling the branches to have various sorts of approval powers over the actions of the other branch. These approval

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49 Cecilia M. Kenyon, *Men of Little Faith: The Anti-Federalists on the Nature of Representative Government*, 23

50 *Ibid.* 28

51 *Ibid.* 26



mechanisms were designed to act as both final preventions, as well as deterrents to demagogic action since the opposing branch would be capable of prohibiting action that was either against the interests of the People, or an over extension of the statutory authority of the branch. By creating a system of separate, but balanced powers in which the representatives possessing those powers are chosen and held accountable by the People, the Founders had nearly succeeded in creating a government in which the interests of the People would be of paramount concern. The only difficulty which persisted was the ability of demagogues to convince the People that certain actions *were* in the interest of the People, when in fact they stood in direct opposition to them.

## *Wise, Deliberative Senate*

A fundamental aspect of almost every definition of demagoguery throughout history is the ability of demagogues to chore the People into acting in accordance with the desires of the demagogue, often using their abilities in oratory to accomplish their goals. The problem with these appeals is that they are often based in emotional arguments, designed to inflame the passions and prejudices of the People, rather than stemming from a rational contemplation of the facts at hand. This rash action often proves detrimental to the welfare of the People or the state, due to the fact that the selfish interests of the demagogue are almost always the motivation behind the action. Plato accurately captures these negative effects in his description of a demagogue as:

the most immoral individual in the city. Based on purely selfish motives, he incites the people against the elite, only to turn his back on the former once he attains power, terminating the unrestricted freedom that had previously prevailed”<sup>52</sup>

Political action of this sort was rampant and systemic in the ancient Athenian government and led to a series of political missteps, ultimately culminating in the destruction of the Athenian Empire. The most destructive instances of this demagoguery were perpetrated by Alcibiades, who used his rhetorical ability to constantly manipulate the People into acting contrary to their best interests. He was first guilty of this manipulation when he violently chastised the Spartan envoys sent to discuss terms of peace with the Athenians. Rather than listening to their proposal,

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<sup>52</sup> Plato, *The Republic*, 564a and 569b-c

and deliberating on the facts and merits of it, Alcibiades prevents the envoys from even presenting their offer by berating them and denouncing their motives. While this maneuver benefitted Alcibiades, as he had achieved his revenge on the Spartans for offending him, it prolonged the war to the extreme detriment of the People. Later, Alcibiades again used his tactics of persuasion to convince the People to mount an expedition to Sicily. While Alcibiades claimed that the expedition was designed to ensure the safety of Athens, the sole purpose was in fact to conquer the entirety of the Mediterranean; a task which Athens was egregiously unprepared to undertake. Even worse, Alcibiades motive behind the expedition was to bring himself glory, as he would be seen as the greatest ruler in Athenian history.

While all of these actions were clearly detrimental to the State and the People, they are extremely difficult to prevent. In both instances, the actions of Alcibiades were supported and approved by the People. Therefore, any institutional preventions of these actions would naturally be partially targeted at limiting the influence of the People; an act which in itself appears fundamentally undemocratic. Despite these difficulties, the Founders recognized a necessity to create a wise and stable body that would be capable of providing the People with prudent guidance when their decision making may otherwise be compromised, whether by significant threats to the state or by the rabble-rousing of demagogues. What the Founders hoped to create was an institution which would be able to provide the People with similar guidance to that which Pericles provided the Athenians. A body capable of making the interests of the People their preeminent concern, and only using rational deliberations of facts to reach conclusions regarding which actions would most advance those interests. In the American system, these responsibilities were embodied in the Senate.

While the American Senate was a uniquely constitutional construction, the idea of a deliberative Senate can be traced back to Rome, and even further, to the works of Aristotle. In his construction of the ideal Roman Republic, Marcus Tullius Cicero proposes a system in which the guiding principle is “prudence, the virtue of correct deliberation and decision in practical matters.”<sup>53</sup> Cicero bases his system on the works of Aristotle, which identifies prudence as the true “legislative science” as it is the most effective means of achieving the greatest possible good for society as a whole. Cicero identifies the two essential elements of prudence; practical knowledge and moderation. Practical knowledge because in order to institute just policy, one must possess the experience to know which policies will result in the most beneficial outcomes, and moderation because without it, leaders would succumb to their passions and desires and would legislate according to them.<sup>54</sup> Consequently, Cicero argues that “the fundamental political conflict is, then, between the passionate and imprudent on the one hand, and the rational, moderate, and wise on the other.”<sup>55</sup>

Given the Founding Fathers’ view of self interest and ambition as fundamental to human nature,<sup>56</sup> they realized that, although the input of the People was fundamentally necessary to ensure their best interests, it needed to be moderated in order to prevent brash action which the People had a tendency to favor. For this reason, they created the Senate to stand in opposition to the House of Representatives, which consisted of the popularly elected representatives of the People. Just as the executive and legislative powers were placed in opposition in order that the competition between them would act as a check against demagoguery, the Founders saw the opposition of the House to the Senate as “mutual checks upon the legislative process” which

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53 Daniel and Stephen Wirls, *The Invention of the United States Senate*, 12-13

54 Marcus Tullius Cicero, *De Legibus*, 1.12-13, 15-16 & 3.1-3

55 Daniel and Stephen Wirls, *The Invention of the United States Senate*, 13

56 Jeffery A. Becker, *Ambition in America*, 39-40

would “mitigate the likelihood of its producing decisions that are hasty or ill-considered.”<sup>57</sup> In this relationship, they expected the House to prevent demagoguery by promoting the interests of the People over those of individuals, and the Senate to prevent the corruption of these interest by acting as a “more stable house of superior practical knowledge that would... provide a general stewardship over public policy.”<sup>58</sup> John Adams argues that without the Senate, the House would become “subject to fits of humor, starts of passion, flights of enthusiasm, partialities, or prejudice, and consequently productive of hasty results and absurd judgments.”<sup>59</sup>

An even worse system in Adams’ mind, is one in which the Senate and the House are mixed in a single legislative body. Due to the self interest and cunning of the aristocratic class, Adams believes that if they were to be mixed with the popular assembly, they would soon overwhelm the sensibilities of the People and create a form of aristocratic tyranny.<sup>60</sup> Adams argues that the higher level of education and advanced rhetorical abilities of the elite would allow demagogues to easily sway the popular representatives and corrupt their interests. The end result would be a legislature consisting of “a few rich and honourable families, who have united with each other against both the people and the [executive]” allowing demagogues to corrupt the interests of the People to such an extent that they may “destroy all equality and liberty with the consent and acclamations of the people themselves.”<sup>61</sup> As much as the Senate was designed to prevent the People from brash action due to their ignorance or bias, it was equally designed to limit the aristocracy from corrupting the People through demagoguery.

Due to the ease with which demagoguery of this sort would be possible given the combination of plebeian and aristocratic representatives, the Founders saw it necessary to not

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<sup>57</sup> Daniel and Stephen Wirls, *The Invention of the United States Senate*, 4

<sup>58</sup> *Ibid.* 5

<sup>59</sup> John Adams, *Thoughts on Government*

<sup>60</sup> Daniel and Stephen Wirls, *The Invention of the United States Senate*, 59

<sup>61</sup> John Adams, *A Defence of the Constitutions of Government of the United States of America*, 35

only separate the representative bodies of the two classes, but also to severely restrict, and in some instances eliminate, popular influence on the election of Senators. Rather than leaving the election of Senators to the People themselves, the most practical solution for many of the Founders was to allow the members of the House, who were seen to be “a few of the most wise and good”<sup>62</sup>, to select the members of the Senate. This idea is supported by both John Adams and Carter Braxton,<sup>63</sup> who believe that the members of the house will only select the most wise and prudent among them for service in the Senate. The problem with this method though, is the fact that the Senators would then be held accountable by the representatives, rather than the other way around. Due to the need of Senators to maintain their popularity among the representatives to ensure reelection, Braxton argues that the Senators would forsake their responsibility of upholding the public good in favor of proposing policies which were popular amongst the representatives. To compensate for this, Braxton proposes long terms of office for Senators, including 7 years, 9 years, or life as possible suggestions. This proposal is further supported by Thomas Jefferson, who adds the caveat of permanent disqualification from reelection to that office,<sup>64</sup> with the intention that it will “make [senators] perfectly independent when chosen.”<sup>65</sup>

By separating the House and the Senate, and eliminating popular influence from the election of senators, the Founders hoped to reduce the implementation of parochial and imprudent policies which were abundant under the Articles of Confederation.<sup>66</sup> James Madison argues that by creating a Senate whose members were elected through a rigorous process within the House, the senators would be endowed with virtue and prudence, and would be capable of realizing the long term interests of the State. Madison’s rationale behind this, similar to the

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62 John Adams, *Thoughts on Government*

63 Daniel and Stephen Wirls, *The Invention of the United States Senate*, 48-50

64 Ibid. 49-52

65 Thomas Jefferson, *Writings*, 755-6

66 Daniel and Stephen Wirls, *The Invention of the United States Senate*, 62

rationale behind many of the Founders' proposals, was to foster an attitude amongst the leaders of the country identical to that of Pericles'. Wirls argues that Madison intended the process of senatorial election to instill a "practical understanding that one's own safety and prosperity depend upon the safety and prosperity of the whole and that the pursuit of particular and immediate interests will tend to harm those very interests in the long run."<sup>67</sup>

## *Conclusion*

Due to the dangerous and destructive nature of demagogic actions that political leaders were freely able to perpetrate in ancient Athens, the Founders recognized a need to create institutional preventions against these actions. In order to create these preventions, the Founders examined the demagoguery of ancient Athenians in order to determine what exactly made their actions so harmful to the welfare and rights of the People. In their analysis the Founders broke demagogic action into three subsequent parts; that of being self interested, harmful to the People, and often imprudently manipulative of the popular will. Given these three subdivisions of demagoguery, the Founders' next move was to create a series of institutions that would be capable of restricting the ability of anyone to perpetrate action which possessed any of those three characteristics. In order to prevent self interest, the Founders promoted popular interest through representation. To prevent unnecessary damage being done to the People the Founders separated and balanced the legislative and executive authorities to limit the ability of leaders to promote their own interests. Finally, to prevent manipulations of the popular will, the Founders created the Senate; a wise and prudent body capable of overseeing the actions of the State and guiding the People towards the most beneficial policies.

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<sup>67</sup> Ibid. 65

While in theory these preventions should be able to effectively diminish the ability of demagogues to harm the democratic nature of the State, in reality they failed to do so. With the rise of institutional bureaucracies in the mid-19th century, countless loopholes were created in the preventions of the Founders. These bureaucracies consist of masses of unelected representatives who are largely independent from either the People or the government. Due to their independence, these “agencies take sustained patterns of action consistent with their own wishes, patterns that will not be checked or reversed by elected authorities, organized interests, or courts.”<sup>68</sup> But, just as not every politician in Athens was inherently demagogic, not every bureaucracy in America is either. The difficulty then lies in applying the definition of demagoguery, as it was understood in ancient Athens and by our Founding Fathers, in order to determine which agencies are using their authority for the good of the People, and which are using it for demagogic purposes.

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<sup>68</sup> Daniel Carpenter, *The Forging of Bureaucratic Autonomy*, 14



## IV. American Case Study

### *The Drug Enforcement Administration*

Since the creation of bureaucracies, they have been rapidly proliferating throughout various spheres of the American Government. The institutions are often marked by rapid growth and innovation, as entrepreneurial bureaucrats often utilize a wide network of political connections to achieve their interests.<sup>1</sup> Just as it was in ancient Athens, these institutions represent a wide variety of goals and interest; some of which are aligned with the interests of the People, and some of which stand in unambiguously opposed to those interests. While there are countless institutions of this sort, one such institution whose interests are particularly self serving and destructive to the rights and welfare of the People is the Drug Enforcement Administration (DEA). Time and again, since the creation of the agency, the DEA has utilized its inherent subversions of the preventions of the Founders to act against the interests of the People, often in violation of their rights, for its own benefit.

The DEA was officially created on July 1, 1973 pursuant to Reorganization Plan No. 2 of 1973.<sup>2</sup> The DEA was tasked with enforcing the provisions of Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, known as the Controlled Substances Act (CSA).<sup>3</sup> From its conception, the DEA represented a dangerous mix of executive and legislative authority. The executive authority of the DEA is definitively evident from the entrusted responsibilities of:

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<sup>1</sup> Daniel Carpenter, *The Forging of Bureaucratic Autonomy*, 15-17

<sup>2</sup> Reorganization Plan No. 2 of 1973, 38 F.R. 15932, 87 Stat. 1091

<sup>3</sup> Ibid. & 21 U.S.C.

“development of overall Federal drug law enforcement strategy, programs, planning, and evaluation; full investigation and preparation for prosecution of suspects for violations under all Federal drug trafficking laws;... conduct of all relations with drug law enforcement officials of foreign governments... full coordination and cooperation with State and local law enforcement officials... regulation of the legal manufacture of drugs and other controlled substances under Federal regulations”<sup>4</sup>

These responsibilities represent indisputably executive functions, which have been appropriately and constitutionally assigned to a division of the executive branch. The difficulty with the powers assigned to the DEA arise due to the fact that this administration, which appears purely executive in nature, was granted additional legislative authority by Congress. Although the initial scheduling of illegal substances was done solely by Congress, and was established in the CSA, Congress included a separate clause within the CSA that provided for any future additions, subtractions, or rearrangements in the scheduling of substances to be the responsibility of the Attorney General.<sup>5</sup> After the Attorney General has determined the harmful effects of a substance, he need only receive approval of his decision from the Secretary of Health and Human Services,<sup>6</sup> another officer of the executive branch. The ability of the Attorney General “to transfer a substance from one schedule to another or remove a substance from the CSA altogether” is understood by Congress to represent “legislative or administrative action.”<sup>7</sup> Due to the Attorney General’s position as the head of the Department of Justice (DOJ), of which the

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<sup>4</sup> Ibid.

<sup>5</sup> 21 U.S.C. § 811(a)

<sup>6</sup> 21 U.S.C. § 811(b)

<sup>7</sup> Congressional Research Service, *Drug Enforcement in the United States: History, Policy, and Trends*, 2014

DEA is a subject agency, this resulted in the executive branch possessing the authority to not only enforce the law regarding controlled substances, but also to create it; only requiring the approval of the other executive officers to do so. Further, although the Attorney General has the de jure authority to institute the legislative scheduling changes, in practice, the responsibility is largely left to the Administrator of the DEA. While the Attorney General may have the final say in matters of rescheduling, the DEA is responsible for much of the fact finding and investigative process, resulting in the Attorney General acting through the DEA, often maintaining their findings in matters of major reschedules. The level of de facto authority of the DEA is well understood, to the point that official congressional reports often list the DEA as the perpetrator of legislative scheduling changes,<sup>8</sup> and the DEA itself is often responsible for entering schedule changes into the Federal Register.<sup>9</sup>

This blending of powers was further amplified in 1984 when the CSA was amended by the Comprehensive Crime Control Act of 1984 (CCCA). This act added, among other things, the ability of the Attorney General to exercise emergency scheduling powers of a substance in order to “avoid imminent hazards to public safety.”<sup>10</sup> While in theory, this represents a powerful tool in the rapidly changing battlefield of the international drug trade, in reality, it allowed the DEA to make unsupervised and unchecked changes to federal law without the consent of either the People or their representatives. This provision allows the DEA, via the Attorney General, to make the subjective decision as to whether a situation has arisen that requires emergency scheduling “without regard to the requirements of subsection (b)”, which outlines the necessary prerequisites of scheduling a substance. The danger of imprudence in emergency scheduling is further heightened due to the fact that “An order issued under [this provision] is not subject to

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<sup>8</sup> Ibid. 13

<sup>9</sup> Richard Boire, *The Politics of Medicine: The Scheduling of MDMA*

<sup>10</sup> 21 U.S.C §811(h)(1)

judicial review.”<sup>11</sup> Additionally, the provision allows any emergency classification to be binding by law for up to “2 years from the date of the issuance of the order scheduling such substance” with the option to “extend the temporary scheduling for up to 1 year...”<sup>12</sup>

Essentially, the DEA is an agency which possesses complete executive authority, as well as some legislative authority, over the control of illegal narcotics, while also being able to perpetrate actions which, given a state of emergency as deemed by the DEA themselves, need not abide by the statutes of the legislature and is unreviewable by the judiciary for up to 3 years. This single administration not only represents an almost perfect reflection of the flaws which resulted in the downfall of the Athenian democracy, but is also the realization of the type institution that the Founders desperately tried to prevent. John Adams predicted the outcome of such an agency, as he feared that “...a single assembly, possessed of all the powers of government, would make arbitrary laws for their own interest, execute all laws arbitrarily for their own interest, and adjudge all controversies in their own favor.”<sup>13</sup> The DEA has continually lived up to Adams’ belief, as there have been multiple occasions in which the DEA has abused their emergency scheduling authority against the interest of the People.

Immediately following the passage of the CCCA, the Administrator of the DEA, John C. Lawn, used the newly granted emergency legislative authority to classify MDMA as a Schedule I substance in the Federal Register. This scheduling came despite public support from psychiatrists, who insisted that multiple studies had demonstrated the potential of medically beneficial properties of the substance.<sup>14</sup> The outcry of psychiatrists was sufficient to warrant a judicial review of the actions of the DEA before MDMA could be permanently added to

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<sup>11</sup> 21 U.S.C. §811(h)(6)

<sup>12</sup> 21 U.S.C. §811(h)(2)

<sup>13</sup> John Adams, *Thoughts on Government*

<sup>14</sup> Jose Bouso, *Using MDMA in the Treatment of Post-Traumatic Stress Disorder*; June Riedlinger, R.Ph., Pharm. D., et al., *Using MDMA in the Treatment of Depression*; Julie Holland, M.D., *Using MDMA in the Treatment of Schizophrenia*; Ralph Metzner, PhD, et al. *Using MDMA in Healing, Psychotherapy, and Spiritual Practice*

Schedule I. In this review, the Chief Administrative Law Judge of the DEA, Francis Young, “found that MDMA did not meet a single one of the three criteria necessary for placement in Schedule I”. He reported that “MDMA had a safe and accepted medical use in the US under medical supervision” and “found that the evidence failed to establish that MDMA had a high potential for abuse.”<sup>15</sup> As Chief Administrative Law Judge, Young’s responsibility is to provide advice, which can either be accepted or denied by the Administrator, as to whether the DEA’s actions are consistent with the legal precedents established by Congress.<sup>16</sup>

Despite Judge Young’s recommendation, the DEA refused to reschedule MDMA to Schedule III, maintaining that MDMA had no accepted medical use, simply because it had not yet been approved by the FDA for interstate marketing.<sup>17</sup> This argument was later challenged when Lester Grinspoon, a professor of Psychiatry at Harvard Medical School, sued the DEA for their classification. In this suit, the US First Circuit Court found the DEA argument’s reliance on an FDA approval to be “strained and unpersuasive.”<sup>18</sup> The court found “no necessary linkage between failure to obtain FDA interstate marketing approval and a determination that the substance in question is unsafe *and* has no medical use.” Further, the court chastised the DEA for their “blind reliance on the lack of FDA interstate marketing approval” which “could cause a substance to be placed in Schedule I, even though one or two of the three requirements prescribed by Congress for placement of a drug in Schedule I have not been proven.”<sup>19</sup>

The DEA would once again contravene the orders of federal judges less than two years later, this time regarding the danger posed by marijuana. The ruling on this matter was in response to a 1972 petition requesting the rescheduling of marijuana, which was delayed by the

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<sup>15</sup> Richard Boire, *The Politics of Medicine: The Scheduling of MDMA*

<sup>16</sup> Daniel Solomon, *Summary of Administrative Law Judge Responsibilities*

<sup>17</sup> Richard Boire, *The Politics of Medicine: The Scheduling of MDMA*

<sup>18</sup> *Grinspoon v. DEA* (1<sup>st</sup> Cir. 1987) 828 F.2d 886.

<sup>19</sup> *Ibid.* 887-8

DEA for almost two decades, until it was heard in 1988. In the ruling, Judge Young determined that

Marijuana, in its natural form, is one of the safest therapeutically active substances known to man. By any measure of rational analysis marijuana can be safely used within a supervised routine of medical care... It would be unreasonable, arbitrary and capricious for DEA to continue to stand between those sufferers and the benefits of this substance in light of the evidence in this record.<sup>20</sup>

Despite this overwhelmingly positive analysis of the medical effects of marijuana, the DEA again refused to accept the advice, maintaining the Schedule I classification of marijuana. The problem with the DEA's decision in this case is that their legislative authority allows the federal government to maintain a monopoly over the rights to research marijuana and its effects. Currently, the only institution in the United States that is permitted to conduct research is the National Institute on Drug Abuse (NIDA), whose stated mission is that of "advanc[ing] science on the causes and consequences of drug use and addiction."<sup>21</sup> While an agency whose main focus is the study of drug addiction would surely be able to determine whether marijuana meets the first criterion of a Schedule I substance, that of having "a high potential for abuse",<sup>22</sup> it may be less apt in determining whether the other two requirements are met.

These other requirements, of having "no currently accepted medical use in treatment in the United States"<sup>23</sup> and "there [being] a lack of accepted safety for use of the drug or other

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<sup>20</sup> Francis Young, *In the Matter of Marijuana Rescheduling Petition*

<sup>21</sup> National Institute on drug Abuse, *About NIDA*

<sup>22</sup> 21 U.S.C §812(b)(1)(A)

<sup>23</sup> *Ibid.* §812(b)(1)(B)

substance under medical supervision”<sup>24</sup>, could be much more adequately studied by an organization whose sole purpose is medical research. Despite this, the DEA is reluctant to grant petitions for the study of marijuana to any outside institutions. These restrictions which the DEA places on the research of marijuana, despite evidence indicating the potential value of that research, demonstrate that the DEA is acting imprudently and is possibly acting against the interests of the People. If another institution were to be able study the effects of marijuana, they would be able to provide the DEA with accurate and applicable information regarding the potential medical effects of marijuana, upon which the DEA could make a more informed policy decision.<sup>25</sup> Despite the likely benefits of a more informed, and therefore prudent, policy decision, the DEA is content to rely on the incomplete data which they currently have. Further, if the additional research were to demonstrate beneficial medical effects of marijuana, as some studies have already shown,<sup>26</sup> the DEA’s action would be undoubtedly opposed to the interest of the People. This would mean that countless Americans would be prohibited from receiving safe, viable treatment simply because the DEA refuses to permit the scientific study of a plant.

The combination of executive and legislative authority which was granted to the DEA is therefore a danger to the American public, and stands in contrast to the system which the Founders intended to create. Due to the DEA’s authority to legislate regarding illegal narcotics, many of the checks instituted by the Founders have been utterly defeated. The fundamental check proposed by Locke has been overcome since there is no separate executive body to enforce to laws of the DEA upon itself, and there is no separate legislative body to limit the DEA’s enforcement capabilities.<sup>27</sup> The additional checks proposed by the Founders have also

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<sup>24</sup> Ibid. §812(b)(1)(C)

<sup>25</sup> *Cracker v. DEA* (1<sup>st</sup> Circuit 2013) No. 09-1220

<sup>26</sup> Itay Lotan, M.D., et al., *Cannabis (Medical Marijuana) Treatment for Motor and Non-Motor Symptoms of Parkinson Disease*

<sup>27</sup> Daniel and Stephen Wirls, *The Invention of the United States Senate*, 19

been circumvented as there would be no reason for the DEA to veto its own bills or to remove its own officers, due to their interests being aligned with one another.<sup>28</sup>

The consolidation of executive and legislative powers within the same body has created a large sphere of authority in which demagogic actions may be perpetrated, especially due to the narrowness of the checks which have been instituted to curb DEA's actions. While Congress is able to pass legislation overruling that of the DEA, this represents only a retroactive check, and in no way prevents the DEA from action in the first place. The only such preventions which the DEA faces are the approvals of the Administrative Law Judge of the DEA, whose advice need not be heeded, and the Secretary of Health and Human Services, whose position as an executive officer should grant him no authority to review legislative decisions. While the inadequacies of these checks does not inherently guarantee that the DEA will use their authority for demagoguery, it represents a dangerous reliance on the virtue of the DEA to institute just policies and actions.

Not only have these checks been defeated, but the consolidation of legislative and executive authority has in fact incentivized the DEA to act in its own interests. If the DEA were to remove substances such as marijuana and MDMA from federal scheduling, they would essentially be using their legislative authority to diminish their executive authority. By decreasing the number of substances which they are able to control, the DEA would simultaneously be reducing their need for additional funding and agents, since their enforcement responsibilities would be reduced. Therefore, it is actually in the interest of the DEA to maintain the scheduling of as many substances as possible, since this would maximize their executive jurisdiction. Inherently then, there must be cases in which the interests of the DEA and the People conflict. Due to the DEA's incentive to maintain the illegality of as many substances as

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<sup>28</sup> Publius, *Federalist Paper No. 65, No. 73, No. 76*



possible, if there were to be a substance whose legalization was in the interest of the People, virtue on behalf of the DEA is unlikely due to the innate conflict of the situation.

The ability of the DEA to be virtuous and to achieve the public good is further weakened by the lack of popular representation in the DEA. Due to the nature of bureaucracies, the DEA does not contain any members who were elected by the American public. This poses a threat to the public good since it would be extremely difficult for the DEA to “think, feel, reason, and act like [the People]”<sup>29</sup> as the Founders hoped the government would, without knowing what the People are thinking and feeling. While this does not intrinsically result in the interest of the People being undermined, in the case of the DEA, they have repeatedly acted in a manner which is opposed to the will and interests of the People. The most obvious and recent refusal of the DEA to abide by the public will can be found in the DEA’s support of the federal prohibition of marijuana.

As it currently stands, 28 States, the District of Columbia, Guam, and Puerto Rico have instituted some form of comprehensive medicinal marijuana programs available to the public.<sup>30</sup> Of those 28 States and 3 territories, 8 States and the District of Columbia have gone as far as legalizing marijuana for every day, recreational use.<sup>31</sup> Additionally, some 57% of voting age adults believe that marijuana should be legalized at the federal level, while only 37% of adults are opposed to legalization.<sup>32</sup> If the argument were whether marijuana should be available as medicine, rather than full legalization, the support becomes even more staggering. A recent poll conducted by Quinnipiac University found that over 89% of Americans believe that marijuana

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<sup>29</sup> John Adams, *Thoughts on Government*

<sup>30</sup> National Conference of State Legislatures, *State Medical Marijuana Laws*

<sup>31</sup> Governing.com, *State Marijuana Laws in 2016*

<sup>32</sup> Pew Research Center, *Support for Marijuana Legalization Continues to Rise*

should be made available to patients who have been prescribed it by their doctors.<sup>33</sup> Despite the abundance of positive support for some type of reform to the current laws regarding marijuana usage, the DEA remains firm in their stance that marijuana is a dangerous drug with “a high potential for abuse...no currently accepted medical use in treatment in the United States... [with] a lack of accepted safety for use of the drug... under medical supervision.”<sup>34</sup>

A similar disregard for the will of the People is prevalent in the DEA’s actions regarding a variety of other substances as well. Kratom, a native Indonesian plant which is a member of the coffee family,<sup>35</sup> is another substance which the DEA is actively attempting to outlaw, despite public support for its use. In an uncharacteristic move, the DEA requested a public poll of people who support the use of kratom as medicine, prior to their attempts to outlaw the plant. Of the 23,232 people who participated in the poll, 23,119 people supported the use of kratom, while only 113 people were opposed. That represents a 99.1% approval rating for the use of kratom<sup>36</sup>. Regardless of the results of this study, the DEA is currently continuing the process to classify kratom as a Schedule I substance.

While the Founders did not suggest a blind reliance on the will of the People as a basis for government, they were almost unanimous in their beliefs regarding the importance of incorporating the interests of the People into policy decisions. Many Founders were convinced that elevating the will of the People was the most effective way to limit the destructive nature of tyrants and demagogues.<sup>37</sup> While a lack of popular representation does not ensure that the DEA will act demagogically, the inherent possibility of a conflict of interests between the DEA and the People, in addition to the fact that the DEA is not beholden to popular action via elections,

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<sup>33</sup> Steven Nelson, *Debate Over? 89 Percent Support Medical Pot in New Poll*

<sup>34</sup> 21 U.S.C. §812(b)(1)

<sup>35</sup> Taxon: *Mitragyna Speciosa* Korth

<sup>36</sup> Nick Wing, *DEA Asked Public To Comment On Its Proposed Kratom Ban And 99 Percent Opposed It*

<sup>37</sup> Cecilia M. Kenyon, *Men of Little Faith: The Anti-Federalists on the Nature of Representative Government*, 10

has resulted in the DEA not only undermining the will of the People, but also violating their Constitutional rights.

Within the DEA, there is a subdivision known as the Special Operations Division (SOD). This branch of the DEA was created in secret and was specifically designed to operate without the knowledge of the American People. As a result of this secrecy, the SOD has been found to perpetrate a wide variety of unconstitutional actions in order to advance their own interests. One of the most flagrant violations of the Constitution which the SOD has been found guilty of is the deliberate misrepresentation of evidence in copious State and Federal trials. The SOD so frequently uses these tactics, that they have an official name for the method, “parallel construction”, and provide their agents with step by step instructions as to how they can hide the true nature of evidence from judges and prosecutors.<sup>38</sup> In parallel construction, the DEA will utilize information gathered by the SOD to arrest a subject, but will simultaneously create a false set of circumstances by which they can claim the arrest was made. For example, a common practice in parallel construction is for the DEA to receive information about a car that may be smuggling drugs. They will then stop the car, arrest the driver, and confiscate the drugs, but will claim that the entirety of this actions was the result of a routine traffic stop, and not from the information gathered by the SOD.<sup>39</sup> This actions represents a litany of violations against the constitutional rights of the defendant, since the only evidence made available to them will be that which was gathered at the traffic stop. The entirety of the DEA’s case against the defendant prior to the stop remains secret, and any bias, entrapment, or exculpatory evidence is never revealed to either the defendant or the court.<sup>40</sup> Parallel construction is therefore a blatant violation of the 5th and 6th Amendment rights of the defendant, which provide that any defendant will “be informed

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<sup>38</sup> John Shiffman, Kristina Cooke, *Exclusive: U.S. directs agents to cover up program used to investigate Americans*

<sup>39</sup> Ibid.

<sup>40</sup> SOD Pamphlet regarding guidelines of required action

of the nature and cause of the accusation”<sup>41</sup> and will not “be deprived of life, liberty, or property, without due process of law.”<sup>42</sup>

Further, because the DEA refuses to reveal the methods which the SOD uses to obtain evidence against potential targets, the rates at which the SOD uses improper procedures or unreliable witnesses is almost entirely unknown. There is currently an ongoing investigation within the Office of the Inspector General (OIG) as to whether the DEA has been working in tandem with the NSA in order to use bulk metadata, unconstitutionally collected by the NSA, to aid in its drug investigations.<sup>43</sup> This investigation is intended to determine whether the DEA has the legal authority to access this data, whether adequate safeguards have been instituted, whether information collected is actually of use, and whether the DEA is constitutionally permitted to use parallel construction to conceal the origin of this information. While the results of this investigation have yet to be seen, the DEA has been investigated by the OIG in the past for instances of behavior detrimental to the Constitutional rights of defendants in drug related trials.

In these past investigations, the OIG found that many of the DEA’s evidence gathering practices possess an “unacceptably increased potential for fraud, waste, and abuse.”<sup>44</sup> In his report, the Inspector General chastised the DEA for a myriad of transgressions against the prescribed oversight and use of confidential sources. The Inspector General “found that the DEA did not adequately oversee payments to its sources” including the payment of “\$9.4 million to more than 800 deactivated sources between fiscal years (FY) 2011 and 2015.”<sup>45</sup> These deactivated sources are sources whose use has been previously banned by the DEA due to

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41 U.S. Const. Amend. VI

42 U.S. Const. Amend. V

43 Office of the Inspector General: Ongoing Work

44 Office of the Inspector General, *Audit of the Drug Enforcement Administration’s Management and Oversight of its Confidential Source Program*, 2016

45 *Ibid.* i

criminal activity or false testimony. But, despite the obvious and outright unreliability of these sources, the DEA continued to pay them large sums of money and grant them immunity for their support. The DEA was also found to have been incentivizing TSA and Amtrak agents, as well as parcel employees of FedEx and UPS, with cash payments for them to search “suspicious” luggage or packages. These sources include “an airline employee who received more than \$600,000 in less than 4 years, and a parcel employee who received over \$1 million in 5 years”. Even after the OIG filed an injunction prohibiting the DEA from improperly using federal employees, “the DEA continued to use seven Amtrak employees as sources.”<sup>46</sup>

The main difficulty which the OIG had with the DEA providing large cash payments in exchange for information and testimony is the likelihood that the “confidential sources can be motivated by factors other than combating crime, including financial gain and avoidance of punishment.”<sup>47</sup> The likelihood of these ulterior motives affecting the accuracy of information provided by the sources is even further increased due to the fact that the DEA has been utilizing sources who have proven themselves willing to provide false testimony in exchange for monetary gain.<sup>48</sup> Further, the OIG found that because Amtrak and TSA agents were specifically directed by the DEA to gather information, they had exceeded their authority as members of those agencies, and in some instances, had violated the rights of the passengers in doing so.<sup>49</sup>

These violations of the rights of the People on behalf of the DEA further enforce the fact that a lack popular representation in government creates pathways by which demagogic action may be perpetrated. While in many cases the DEA has been reprimanded for their action, these rebukes have often come months or even years after the DEA has begun to act demagogically.

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<sup>46</sup> Ibid. ii

<sup>47</sup> Ibid. i

<sup>48</sup> See Note 42

<sup>49</sup> Office of the Inspector General, *Investigative Summary of Findings Concerning the DEA's Use of Amtrak Employees as Paid Confidential Sources*, 2016

Additionally, many of these retroactive checks only serve as a form of public embarrassment, rather than official condemnations and prohibitions of the action. The rulings of federal judges and the OIG are largely ignored by the DEA, whose typical reaction to these charges is an official apology followed by a continuation of the action with slight modifications; as was the case with the scheduling of MDMA and the use of Amtrak and TSA agents.<sup>50</sup> What is allowing the DEA to continue their demagogic action is the lack of the proactive and preemptive checks which the Founders instituted. Since these preventions have been made moot by bureaucracies like the DEA, it seems the only punitive measure in the current American government is to chastise demagogues after they have acted, rather than preventing the action in the first place. In practice, this system allows demagogues to institute policies which are either harmful to the welfare of the People, or serve to advance interests counter to their stated mission, as was so common in ancient Athens. The DEA is no different in this case, since many of their policies have either failed to reduce, or in some cases increased the prevalence, purity, and usage of illegal narcotics.

Despite the DEA's multitude of policies to limit marijuana in the US, domestic production of marijuana has increased tenfold, from 2.2 million pounds in 1981 to 22 million pounds in 2006<sup>51</sup>. Additionally, past-year usage of marijuana has doubled, from 4.1% of Americans in 2001 to 9.5% of Americans in 2012<sup>52</sup>. Beyond marijuana, the DEA's policies regarding the prohibition of multiple other substance has also been wholly ineffective at limiting their use. Despite a yearly expenditure in excess of \$21 billion on supply-side reduction of narcotics, the DEA has failed to limit the supply, price, purity, or usage of almost every single

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<sup>50</sup> See Notes 18, 19, & 46

<sup>51</sup> Foundation for a Drug Free World, *International Statistics*

<sup>52</sup> National Institutes of Health, *Prevalence of Marijuana Use Among U.S. Adults Doubles Over Past Decade*=

major narcotic<sup>53</sup>. Since 1981, the per gram cost of both cocaine and heroin has rapidly declined. In 1981, cocaine cost on average \$544.59 per gram and heroin cost \$1974.49 per gram. Conversely, in 2003, cocaine cost only \$106.54 per gram and heroin cost only \$361.95 per gram. The sharp decline in the prices of these drugs has resulted in either an increase or no change in their use. In 2013, it was estimated that 681,000 Americans had used heroin in the past year, which more than double the number from 2003, of only 314,000 Americans. For cocaine, the DEA's policies have had little effect, as past year usage remains fairly constant, hovering between 1.5% and 2% of Americans.<sup>54</sup>

While the DEA's actions have at best done nothing, and at worse, exacerbated the problem of drug use and sales in the United States, they have also had significantly negative externalities on the remainder of the American People. Currently, the United States incarcerates a higher percentage of individuals for drug related offenses than the European Union does for all crimes combined<sup>55</sup>. There are currently 92,000 individuals serving time in federal prisons for drug offenses, which represents almost half of the federal prison population. That is in addition to the 206,300 individuals who are currently incarcerated for drug use in the state prison system.<sup>56</sup> These massive levels of incarceration are estimated to cost the federal government between \$12-\$15 billion per year, a figure which does not account for the massive social costs which are accompanied by such a significant percentage of the population being out of work and unable to provide for their families. While some may argue that incarceration is the best method for dealing with drug offenders, studies have shown that this is not the case. A study conducted by the National Criminal Justice Reference Service (NCJRS), found that the US currently

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53 Vanda Felbab-Brown, *Counternarcotics Policy Overview: Global Trends & Strategies*, 18

54 *Ibid.* 10, 13

55 *Ibid.* 3

56 Drug War Facts, *Prisons, Jails, and People Arrested for Drugs*

receives a \$2.21 benefit for every \$1 spent on treatment of at risk drug offenders. Given the fact that only 55,000 of the estimated 1.5 million at risk arrestees receive treatment, the NCJRS estimated that a total treatment plan would cost \$14 billion, but would provide a \$3.36 benefit for every \$1 spent. Ultimately, this policy is estimated to result in a \$46 billion net gain to society, and therefore the People<sup>57</sup>. The fact that the DEA still favors incarceration to treatment despite both methods costing the federal government the same, and the overwhelmingly positive effects of treatment versus the negative effects of incarceration, is revealing of the true motives of the DEA. This is an agency which has proven itself to be indifferent to the will and rights of the People, and to the effects which its actions will have on them. Given the opportunity to massively increase the benefit of their actions to society by treating drug users rather than punishing them, the DEA refused.

## ***Conclusion***

The DEA is just one of many agencies throughout the United States government which represents a total collapse of the systematic preventions against demagoguery. While our Founders instituted effective demagogic preventions within the government they created, they could not have foreseen the rise of bureaucracies, and the complications which they would create within the system. Due to the nature of bureaucracies as unelected agencies, with distinct and individual interests, who often possess executive, as well as some form of legislative authority, there is little the preventions of the Founders can do to restrict their actions. In the case of the DEA specifically, it possess broad executive and legislative authority over the prohibition of narcotics. The consolidation of these two authorities provides the DEA with added incentive to abuse its legislative powers in order to expand its executive control, often to the detriment of the

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<sup>57</sup> Vanda Felbab-Brown, *Counternarcotics Policy Overview: Global Trends & Strategies*, 24



interests of the People. The lack of representation within the DEA further compounds this conflict, since the People have no direct authority to influence the composition of the DEA. This creates a system in which the interests of the People are diminished, while the DEA possess substantial authority to promote their own interests. Just as the Founders predicted, this system is liable to violations of the rights of the People, through the Constitutional violations of the DEA, and reductions in their well-being, due to the massive external cost of incarcerating non-violent drug offenders at such a high rate.

## V. Conclusion

In the government of ancient Athens, politicians were capable of achieving almost complete political control of the affairs of the State, if they were able to convince the People of the effectiveness of their policies. Due to the possibility of consolidation of this control into one, or a small group of politicians, countless individuals strove to influence the People to accept their policies. While one may think that this would result in the proposed policies providing for the betterment of the State and the People, this was not always the case. There were some politicians who abused the responsibility entrusted to them by the People in order to advance their own interests and agenda. Often times, the self interest of the politician resulted in the enactment of policies that were directly responsible for harm to the People or a reduction of their rights. While there was no specific name for these politicians in the time of their rule, later authors, such as Plutarch and Plato, deemed these destructive politicians “demagogues”. Unfortunately, this categorization was based not on a specific pattern of actions or motives, but rather on whether the politician was portrayed positively or negatively by historians of his time. While this may be helpful in creating a binary distinction of whether a ruler was either good or bad, it provides no information as to why the policies of that leader resulted in his dislike among the People.

In order to alleviate this complication, a careful study of the policies and motives of Athenian leaders is necessary. Having examined the actual policies of a leader, rather than his general perception, it is possible to determine which actions of the leader were most harmful and why. This allows for the creation of a more concrete definition of what defines a demagogue, since the causes and consequences of their actions can be analyzed to ascertain what specific actions and motives constitute demagoguery. In performing this analysis, a clear trend soon

becomes visible. The most consistently destructive actions of politicians in ancient Athens were those which were in the interest of the politician, against the interests of the People, and often based in emotional or biased appeals, rather than a rational deliberation of facts. The difficulty in establishing this understanding is the fact that actions of this sort were perpetrated by politicians who were considered the best of society at the time, such as Pericles and Alcibiades, in addition to those who were considered the worst.

While this sort of action may not have been understood by the Founding Fathers to be demagoguery specifically, the Founders were abundantly aware of the destructive nature of these actions, and therefore undertook to institutionally restrict the possibility of their implementation. In order to sufficiently restrict demagoguery, the Founders created a system of safeguards, each one designed to prevent a particular aspect of demagoguery. The Founders determined that the most efficient way to promote the interests of the People over those of the demagogue was to grant the People representative authority by which they were responsible for the election of their leaders. Simultaneously, the Founders also restricted the authority of these leaders, dividing the legislative and executive authorities into separate institutions, with the intention that these institutions would check and balance each other, preventing one politician or interest from dominating control of the State. Finally, the Founders recognized the necessity for a body capable of facilitating rational policy discussions based on facts, rather than emotion, with the resulting institution embodied by the senate. Given these three preventions, each one targeted at a definitive aspect of demagogic action, the Founders believed they had successfully created a system in which demagoguery would be severely limited, if not impossible.

Unfortunately, despite the unrivaled intelligence and foresight of the Founders, even they were unable to predict all of the possible outcomes of the system which they had created.

One of the biggest unanticipated consequences of the system was the rise of institutional bureaucracies which would become a cornerstone of governmental operation in America. These bureaucracies often possess a mix of executive and legislative authority, consist of unelected officials, and often have unique interests, which are aligned with neither those of the State nor of the People. Consequently, these institutions represent a total failure of the system of the Founders, since they are capable of overriding every one of their preventions.

This is not to say that bureaucracies are not useful, though. Many bureaucracies are protectors of the interests of the People, and are necessary institutions, often capable of instituting quick, reactionary policies without being forced to submit to the gridlock of republican government. Similar to the Athenian politicians, who should not be categorized as either a demagogue or a statesman, but whose individual actions should be analyzed to determine their merit, bureaucracies are neither inherently good nor inherently bad. The reason that they represent such a danger to the American system is because they possess the ability to subvert the demagogic preventions. The problem with this is that now, one of the only safeguards which the People can rely on to protect their well-being, their rights, and their interests, is the virtue of these massive institutions. Given the Founders' firm and unanimous belief that a blind reliance on virtue will inevitably result in demagoguery and tyranny, this is clearly a problem. The current system under which our government operates is therefore inadequate and requires substantial reform if we hope to avoid the downfall which this exact form of unrestricted demagoguery caused in ancient Athens.

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