

choices made by democratic institutions, substantive representation of the interests of racial, ethnic, and gendered minorities duly suffers: the administrative state is constrained from using its discretion to make it easier for these citizens to fully benefit from policies intended to serve them. Government design of public policies that reinforce the existing power structure disproportionately serves the interests of entrenched dominant groups within society, rather than providing opportunity through social policies to empower historically disenfranchised groups. The policy implementation implications of political inequality generated from administrative burdens provide a much overdue complement to “upstream” research conducted earlier this decade on how political inequality shapes US government policy making; for example, Jacob Hacker and Paul Pierson’s *Winner Take All* (2010) and Nicholas Carnes’s *White Collar Government* (2013).

Herd and Moynihan provide an immensely useful (and long overdue) framework for systematically understanding both *how* and *why* citizens find it difficult to obtain government benefits and exercise rights because of administrative burdens. Yet, the framework that they offer falls short of providing a general theory of administrative burdens, because it does not consider the “counterfactual” instances when administrative burdens may serve beneficial purposes of both protecting and serving societal needs. Take one such example: administrative burdens imposed on producer groups (e.g., regulated firms) that restrict their behavior and choices and hence improve social welfare. Administrative burdens often restrict the exercise of private action/choice in a diverse array of important policy areas that favorably affect citizens, ranging from environmental regulation to consumer protection to workplace safety. In such instances, administrative burdens provide an additional layer of governmental protection that improves social welfare. Conversely, reducing administrative burdens in these situations—for example, achieved through deregulatory efforts in many industries since the mid-1970s—can decrease social welfare by making citizens, especially those whose policy interests are often underrepresented by government, worse off. Administrative burdens in regulatory areas constitute a rather complex issue that is influenced both by the nature and extent of regulatory capture by firms, industries, and other dominant interests (e.g., see Daniel Carpenter and David A. Moss, *Preventing Regulatory Capture: Special Interest Influence and How to Limit It*, 2013). Put simply, whether administrative burdens are normatively or positively desirable crucially depends on who is incurring the costs of administrative burdens, the nature of the policy activity in question, and whose interests are being served by government policies administered by unelected officials.

Although *Administrative Burdens* falls short of offering a general theory of administrative burdens, Herd and

Moynihan provide an invaluable touchstone on this topic that is poised to generate an expansive new research program at the nexus between public administration and public policy for an entire generation. *Administrative Burdens* will serve not only to guide scholarly understanding regarding how democratic values are channeled through the administration of government policies but will also inform practitioners’ knowledge of the evolving clientelistic relationship between citizens and their government.

Legacies of Losing in American Politics. By Jeffrey K. Tulis and Nicole Mellow. Chicago: University of Chicago Press, 2018. 224p. \$85.00 cloth, \$27.50 paper. doi:10.1017/S1537592719004547

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Winning. Whether it is a group of nine-year-olds playing a game of kickball at recess on an elementary school playground or the 106 adult men who play a football game every year in late January or early February that is watched by more than 100 million Americans, Americans can at times seem obsessed with winning. As General George S. Patton famously claimed, “America loves a winner,” and with apologies to the realms of warfare and sports, it often seems as if this laser-like focus on winning is nowhere more evident than it is in politics. Current president Donald Trump certainly seems to understand this: he constantly references his own “victories” (whether real or entirely fabricated) and announces to the world how much the United States is or will be winning because of his exploits, while at the same time ceaselessly denouncing his political opponents as losers (and, of course, far worse). Scholars of US politics too are often focused on winners, trying to explain episodes of political victory and analyzing such wins in an effort to understand important elements of US public life.

Jeffrey K. Tulis and Nicole Mellow take a totally different approach. In *Legacies of Losing in American Politics*, they argue that it is a mistake to ignore political losers. In fact, according to the authors, some of the biggest losers of all time in American politics have ended up having large and profound effects on the nation’s political development. In other words, short-term losing can eventually result in long-term winning. This is an interesting argument to say the least, and the reader is intrigued from the outset.

Chapter 1 lays out both the fundamental argument and structure of the book. It is a work in the subfield of American Political Development and, as such, is centrally concerned with the themes of change and continuity in US politics (p. 3). Tulis and Mellow choose three “moments” of transformational conflict and change in US politics and government: the ratification of the Constitution and the founding era, post–Civil War

Reconstruction, and the New Deal. As Tulis and Mellow note and concur, any student of US politics would agree that the winners in these three transformational moments—the Federalists, the Radical Republicans, and FDR and congressional Democrats, respectively—enacted policy initiatives that fundamentally altered the course and nature of US politics and government. Indeed, it would be impossible to deny the significance of these winners’ achievements. Where Tulis and Mellow chart new scholarly territory, however, is by flipping the script and focusing on the losers in these three transformational conflicts. According to the authors, each of the losers in these three instances—the Anti-Federalists, Andrew Johnson, and Barry Goldwater, respectively—consciously acted in such a way as to enable the raw material for their ideas and intellectual heirs to achieve down the line what they could not in their own time—to win where they once lost. Each transformational “moment” has its reciprocal “antimoment” that ultimately shapes US politics and government just as fundamentally as the political victory that made it a loser in the first place. The use of the word “consciously” is important here. The idea of agency on the part of the losers is critical to the argument Tulis and Mellow are making. In their analysis, each of the losers they examine makes conscious decisions and takes deliberate actions that go against success in the present with the aim of increasing the likelihood of political success at some future point in time. In the words of Tulis and Mellow, these are episodes of “self-transforming failure” (p. 11).

With the necessary groundwork laid, Tulis and Mellow move to individual chapter analysis of each of their three examples, beginning with the founding era. Based on a detailed and insightful examination of the Federalist Papers and assorted Anti-Federalist writings, readers are presented with a series of ratification arguments advanced by the two sides. Tulis and Mellow skillfully demonstrate how the arguments of the Anti-Federalists forced Publius to change their rhetoric on fundamentally important matters such as states’ rights and the separation of powers. Although the Federalists’ shift in rhetoric undoubtedly helped them reach their goal of constitutional ratification, Tulis and Mellow convincingly show how these rhetorical shifts also paved the way for the victory of Anti-Federalist constitutional interpretations down the road. It is worth quoting the text at length on this point (p. 59):

On every contested topic, *The Federalist’s* rhetorical strategy is to follow an initial denial of the logic of the Anti-Federalist position with a second or third iteration in which the normative conclusion of the Anti-Federalist is contested but the Anti-Federal picture of the logic of American political development is elaborated and endorsed. This rhetorical strategy helped Federalists succeed in the ratification debate, yet it provided the tools and authority by which their constitutional intentions and aspirations could, to this day, be challenged.

Not only does this quote explain the long-term significance of the losing Anti-Federalists but it also hints

at the crucial role they played in enabling the ultimate success of the other two political losers identified here. In addition to Anti-Federalist rhetoric being adopted by Federalists to ensure the ratification of the Constitution, the Anti-Federalist–fueled defenses of the Constitution put out by the Federalists provided the intellectual heft and basis for Andrew Johnson to champion states’ rights in the aftermath of the Civil War and for Barry Goldwater to do the same and attack the overall scope of the national government in the 1960s. Tulis and Mellow make clear that the Anti-Federalist episode of loser-turning-winner is critical to the similar transformations of the visions of both Johnson and Goldwater; they also show clearly that Johnson’s experience shaped Goldwater’s. This is crucial to understanding the authors’ claim that, rather than the multiple governing regimes that some scholars see as present in US political history, there really is only one—molded and transformed by the conflicts described here but still at the same time fundamentally of a piece. It is here that Tulis and Mellow engage Rogers Smith’s seminal theory of multiple traditions in US political development (“Beyond Tocqueville, Myrdal, and Hartz: The Multiple Traditions in America,” *American Political Science Review* 87 [3], 1993) and offer perhaps the study’s most valuable insight as to how both liberalism and Smith’s “ascriptive” traditions can coexist in the story of US political development: “Rather than a narrative of liberal constitutional progress, we offer an interpretation of a braided developmental process in which liberal constitutional moments are entwined with constitutional antimoments that sustain and ingrain illiberalisms or ascriptive hierarchies” (p. 6).

Legacies of Losing is an impressive work that all scholars of US political development and of US partisan change will need to engage. Some may argue with how much agency was actually exhibited by the political losers in question here, and others may point to other individuals and forces beyond Andrew Johnson that served to sink the liberal experiment of Reconstruction. It is also certainly the case that the key concept of “political logic” is left somewhat unclear throughout the text. So be it. *Legacies of Losing in American Politics* is a significant scholarly work that will shape the intellectual debate for years to come.

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David Ricci’s *Politics without Stories: The Liberal Predicament* claims that, in the United States, liberals campaign at a chronic philosophical disadvantage. By