

Fate, Responsibility, and “Natural” Disaster Relief: Narrating the American Welfare State

Michele L. Landis

This essay argues that the history of the American welfare state is inextricably bound up with disaster relief. It focuses on the New Deal, which was justified using numerous precedents drawn from the previous 150 years of federal disaster relief. After sketching this early history, including the development of a compelling moral narrative of fault and blame, I examine congressional speeches, briefs filed in the central legal cases of the New Deal by the Roosevelt administration and its opponents, Steinbeck's *Grapes of Wrath*, and photographs taken by New Deal employees to trace how the Depression was narrated as a “disaster” whose victims were entitled to federal relief.

Will the Senator from Delaware explain, if he can, what difference it makes to a citizen of the United States if he is homeless, without food or clothing in the dead of winter, whether it is the result of flood, or whether it is due to an economic catastrophe over which he had no control? I see no distinction . . .

—Sen. Robert La Follette, Jr., December 1930

During the summer of 1930, in the midst of the deepening Depression, drought crept across the rural American South. Millions of families in an area spanning 26 states faced the coming winter literally barefoot and starving to death. In the bituminous coal fields of West Virginia and Kentucky, thousands of miners struck against the greedy brutality of the mine operators. The miners' families were evicted from company towns as the winter snow fell 10 inches thick across the Appalachian Mountains. The

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urban centers of the North fared little better, entering their second winter of bread lines and soaring unemployment. And in the Senate, a war raged from December to February over whether the federal government would dispense funds to ameliorate the suffering.

The charge for direct relief was led by the insurgent Wisconsin Republican Robert La Follette, Jr., who filled hundreds of pages in the *Congressional Record* with letters meticulously documenting the plight of the poor. President Hoover and the regular Republican leadership insisted that only state, local, and private funds could lawfully be expended to relieve both the drought and the Depression (Hoover 1934 [1931]). Despite Hoover's efforts to force the Red Cross to dispense private relief, the agency resisted, arguing that unemployment and drought were both outside its mandate because neither was a “natural” disaster (Woodruff 1985:40; Dulles 1950:278). According to the agency's Central Committee, the drought was caused by bad weather and bad credit, while unemployment was a purely “economic” problem. Only during true natural disasters could “victims of circumstance” be distinguished from those who were “wilfully and maliciously” needy (Dulles 1950:277–78). The winter dragged on as Congress, Hoover, and the Red Cross stalemated over aid.

Today, Hoover's stand against drought and unemployment relief is understood as the last gasp of the Old Order (Schlesinger 1957) before Roosevelt's New Deal swept both it and a recalcitrant Supreme Court away and restructured federal spending in a “constitutional moment” (Ackerman 1991:40; Sunstein 1996:253–55) ratifying, in Degler's (1959) view, a “third American revolution.” Hoover himself acknowledged as much. Speaking in St. Louis in 1935, he complained bitterly that despite his efforts to “relieve distress which flows from national calamity,” history had rewritten him as a heartless scrooge: “All this was forgotten on March 3, 1933. We may accept that the date of Creation was moved to March 4” (Hoover 1937 [1935]:385).

Hoover was right. It is an article of faith in the post–New Deal legal historiography of the American welfare state that American social welfare spending was stunted by a narrow conception of federal responsibility (Holt 1975; Tugwell 1957). Despite efforts by historians and Roosevelt detractors to rehabilitate Hoover, his image as short-sighted and hard-hearted persists (Romasco 1975; Mitchell 1947; Rausch 1944). Except in a few narrowly defined areas such as veterans' pensions, local and state treasuries and private philanthropy reportedly bore the entire relief burden until the crisis of the Depression necessitated federal intervention (Skocpol 1992; Piven & Cloward 1971; Handler & Hasenfeld 1991; Jensen 1996; Gordon 1994). In this view, pre–New Deal direct federal spending for the relief of distress was proscribed by

a strict “Madisonian” interpretation of the Constitution’s Spending Clause, which persisted from the Constitutional Convention until the Supreme Court’s decision in the 1936 case of *United States v. Butler* (Currie 1990). Legal scholars (e.g., Lessig 1995; Sunstein 1995), following Ackerman (1989:457, 1991), have similarly hailed the New Deal as a large-scale constitutional change that was necessary to the “triumph of the activist welfare state.” This romanticized view of the New Deal has uneasily coexisted with nearly obsessive attempts to explain the comparative chintziness of the weak and tardy American welfare state (see Skocpol 1992:12–30; Skocpol & Ikenberry 1983; Orloff 1993; Amenta & Skocpol 1989; Jensen 1996).

It is therefore curious that La Follette, in breaking with Hoover, did not demand a rethinking of American institutions as a necessary prerequisite to federal assistance for the needy. Instead, La Follette’s speeches on the Senate floor direct our attention toward an extensive history of congressional appropriations for direct federal relief of events characterized as “disasters.” His claim, later echoed by both Hoover and Roosevelt, was that this long-standing history of federal spending provided a precedent that not only supported but *mandated* massive direct relief for the Great Depression. La Follette and other advocates of federal aid urged not a break with tradition but *adherence* to it:

This cry of dole is preposterous . . . we have been told by those speaking for the administration that to appropriate money to relieve distress and suffering in the drought-stricken States would be to violate a great American principle. If that be true, Mr. President, we began violating that great American principle in 1827, when the policy of appropriating funds from the Federal Treasury for relief purposes was inaugurated . . . in order to assist relieving conditions created by a fire at Alexandria. . . . On the contrary, to refuse to meet this situation by a Federal appropriation is a violation of traditional American policy and is counter to the spirit of generosity which has always actuated the Government of the United States under similar conditions. (74 *Cong. Rec.* 4437, 71st Cong., 3d Sess. (1931)).¹

La Follette did not argue that providing relief to drought sufferers would require amending the Constitution or transforming the state. Instead, his more pragmatic task was to breach the intuitive distinction between losses caused by natural disasters and other sorts of needs. For La Follette, whether the drought was caused by bad weather or bad credit was irrelevant; Southerners were surely beset by forces beyond their control. In speech after speech, he interrogated the boundary between disaster relief and poor relief and found not discrete events such as earthquakes and floods but moral judgments about the blameworthiness of

¹ Here and throughout, most citations to the *Congressional Record*, *Annals of Congress*, and *Congressional Debates* appear in parentheses in text.

the claimants—ascriptions of fault and fate. The simple brilliance of La Follette’s rhetorical move was to identify the agency of the unemployed with that of the blameless victims of sudden catastrophe, to whom the federal government had consistently provided direct relief since 1794. By retelling poverty as a disaster, he re-visioned the shiftless unemployed as blameless victims equally deserving of federal relief and assistance.

For La Follette, the pragmatic historian of the welfare state, this insight gave access to the taxing and spending powers of the federal government through a series of relief appropriations beginning in 1932. For scholars of the welfare state, recognizing that proponents of the New Deal built their programs over the scaffolding of disaster relief provides a key insight into the American response to need both before and after the New Deal. This backward look is in keeping with Skocpol’s (1992:11) insight that “the roots and consequences of the earliest phases of modern American social politics hold lessons applicable to the politics of social provision in the United States right down to the present day.” However, while Skocpol identifies Civil War pensions as the earliest national welfare spending, I demonstrate that federal disaster relief, initiated in 1790, became in the political, legal, and rhetorical work of the New Deal an earlier and more important precursor to the American welfare state.

As this brief introduction makes apparent, it is impossible to disentangle the history of the welfare state from the work of legislators, lawyers, and partisans in telling that very history for their own purposes. Disaster relief became the template for the welfare state because people, engaged in practical politics and legal work, settled upon it as the most promising avenue for securing funding for relief of economic distress. In a legal and political system in which precedent plays a key legitimating role, reciting the history of past relief was a common practice in justifying policies in the present. For these relief advocates, the past was not a set of static “precursors” and “policy regimes” but a resource for staking and disputing claims to continuity and precedence. I suggest that it is more profitable to examine how those engaged in the effort to secure federal jurisdiction over direct relief in the 1930s told those stories, and with what consequence, than to construct our own, often markedly similar, accounts.

In the next section, I lay the groundwork for these arguments by sketching the early history of federal disaster relief, focusing on the importance of precedent and narratives of blame and fate defining its internal logic. I then trace the use of this history into the New Deal, exploring the way in which advocates made use of the past of federal social provision in order to shape the present of the welfare state. I show how Roosevelt, and other New Dealers, following La Follette’s lead, pressed the case that the effects of the economic downturn constituted a singular, brutal event—

the Great Depression—in political discourse, legal arguments before the Supreme Court, and literary and photographic images. Finally, I conclude with a reflection on the implications of a disaster-based welfare state.

Disaster Relief and Welfare State Theory

Let me say one thing right at the outset. There is no disagreement upon the public obligation to relieve distress which flows from national calamity.

—Herbert Hoover, 1937 [1935]

This bill screams individual responsibility.

—William Weld, *Austin American-Statesman* 1995

The idea that there is an entrenched American preference for certain kinds of plights over others has a particular resonance within the recent discourse over the “end of welfare as we know it” (Clinton & Gore 1992). Much has been written about the move to dismantle assistance programs initiated during the New Deal, such as Aid to Families with Dependent Children (Blank 1986, 1997; Aaronson 1996; White 1994, 1996; Piven 1996). Not all federal assistance to poor people has been reduced, however. In fact, federal subsidies for needy and destitute beneficiaries who have lost out in a “disaster” have increased at the same time that an astonishingly similar array of human needs are attributed to the moral failures of the claimants, and left to their “personal responsibility” to ameliorate (Reeves 1994; Rauch 1992).

American relief efforts have historically sorted the poor by their relative moral worth (Gans 1995; Katz 1989; Handler & Hasenfeld 1991; Gordon 1994; ten Broek 1964). This distinction has primarily been theorized as the gap between the “deserving” and the “undeserving” poor. Generally, the undeserving variety are thought to be distinguished by their able-bodied nature (Katz 1989). More recently, moral distinctions among the needy have been attributed to gender and race disparities (Gordon 1994; Fraser & Gordon 1994; Fineman 1995; Quadagno 1994; Abramovitz 1996; Nelson 1990). Disaster victims, however, have escaped any serious scrutiny as the able-bodied recipients of large, long-standing federal transfer payments. They have consequently been ignored by this moral and theoretical framework, omitted even when the definition of welfare is expanded to include all “programs that provide cash to citizens” such as college loans, home mortgage tax deductions, or Medicare (Gordon 1994). One of the few exceptions to this inattention is notable for its brevity: “federal aid was . . . given in cases of disasters such as floods and drought but not for the disaster of unemployment” (Piven & Cloward 1971:42). Disaster relief is not a subject of seri-

ous inquiry but an ironic trope in the plot development of “real” welfare.

Although the category “disaster” may at first appear intuitively natural and unproblematic, I suggest that we should see its boundaries and definition as precisely what is at stake in many contests over the allocation of resources. I argue that what distinguishes people who are poor because they are unemployed from people who are poor because of a flood or tornado is less a fact about their circumstances than about how their circumstances are discussed. In other words, in separating the “chronic” from the “calamitous” we are not describing natural facts but entering a field of distinctions fraught with ambiguity and contest.

Welfare Reform and Fish Stories

A recent example illustrates this point. On 10 February 1995, William Weld drew headlines when he became the first United States governor to sign a welfare reform bill that was then almost unthinkably restrictive. The new law imposed a two-year limit on benefits, required all recipients to work within two months of receiving benefits, and denied assistance to teenage mothers and to women who give birth while on aid. It also reduced the checks of mothers if their children skipped school. The law carried an explicit message to welfare mothers: “Get a job” (Eckelbecker 1995). Advocates for welfare recipients strenuously objected that the poor wanted jobs but there was no real labor market for the unskilled and inexperienced women. Responding to critics, a jubilant Weld proclaimed: “This bill screams individual responsibility” (Wong 1995).

Less well publicized was Weld’s effort, only a few weeks later, to pressure President Clinton into declaring the entire Massachusetts fishery a natural disaster (Lehigh & Phillips 1995). Weld desperately wanted his state to be declared a disaster area so that he could obtain millions of dollars in federal unemployment benefits, food stamps, interest free loans, housing assistance, and a raft of other disaster relief programs for fishermen hurt by the demise of New England groundfish stock. The popular governor pleaded for the funds to relieve conditions “more disastrous than the winds of a hurricane” (ibid.). He attributed the lack of fish in the ocean to sudden, natural causes beyond the fault of the unemployed fishermen, who were “taken by surprise” (ibid.).

Many people, however, were unmoved. The *New York Times* (1995) noted that “scientists and government experts generally agree that overfishing is the main reason for the reduction of the fish populations.” According to the *Times*, the fishermen were at fault for their own unemployment and could not be the victims of a disaster. Other newspapers were even less sympathetic:

Massachusetts Gov. William Weld, requesting federal aid for his state's fishing industry, reminds us of the man who murdered his parents asking the judge for mercy because he's an orphan. (Austin-American Statesman 1995).

The paper concluded that "it is sad to see an industry that dates to the earliest colonial period suffer so. But who is to blame, and what's to be done about it?" The *Boston Globe* also weighed in against the notion that the fishermen experienced a disaster, quoting former state fisheries commissioner Walter Bickford, who stated that "[t]he decline of the fisheries is no more a natural disaster than someone burning down their own house" (Coakley 1995).

Weld, eager to obtain federal relief for this depressed segment of his state's economy, insisted that the benefits were justified by the fact that the fishermen were the innocent victims of circumstances beyond their control. State officials, such as Trudy Coxe, the Massachusetts Secretary of Environmental Affairs, blamed a host of natural factors for the depleted stocks, from warmer-than-average water temperatures to a proliferation of mackerel and sea herring, predators of young haddock and cod. Coxe told reporters, "We are claiming that this is a natural disaster. . . . Yes, there has been overfishing. Yes, the federal government encouraged fishermen to go out and buy larger boats. But there are legitimate natural reasons why fish stocks are depleted" (Borg 1995). Fishermen and boat owners also proclaimed their innocence, blaming Japanese competitors, pollution, technology, and climatic changes.

The previous year, President Clinton had ceremoniously granted Weld's fishermen a \$30 million disaster relief package, carved out of the \$550 million Los Angeles earthquake fund (Borg 1994). Now they were back for more, attempting to narrate their loss of livelihood against a backdrop of increasing skepticism. At stake was whether the fishermen's unemployment and poverty resulted from a "disaster" that entitled them to generous federal welfare benefits. This claim was resisted with arguments that fishermen, like welfare mothers, made their own beds. "Since there is no indication that anything other than overfishing is to blame for the problem in Massachusetts, federal money is simply not appropriate for the situation" (Austin American-Statesman 1995).

The simultaneous debates over Weld's requests for welfare reform and disaster relief map the rhetorical terrain for this essay. The juxtaposition of Weld's chastisement of welfare recipients for their "dependency" with his solicitude for the fishermen is not merely a wry reflection on political duplicity. Instead, we should view Weld as an incisive sociologist of the moral order, discerning that in 1995 fishermen were plausible candidates for victimhood while welfare mothers were not. Weld's fishermen,

like drought-plagued farmers in the 1930s, could attribute their injury to the hand of fate. Weld was no “Hoover,” despite the fact that he denied relief to women and children with far more relish than Hoover ever would have.

Whether people in Massachusetts would receive federal welfare benefits depended on their ability to narrate their need as the result of forces beyond their control. Accounts of welfare dependency and stocks of fish are thus not unproblematic renderings of reality but are sustained and intense conflicts over the relative fault of the claimants for their own circumstances in which “Nature” serves as a proxy for blamelessness. Disasters, therefore, are *achievements* rather than natural facts about the world. The conflicts in Massachusetts reflect an understanding by politicians, claimants, and commentators of a logic that has curiously eluded nearly all academic analysts of the American welfare state: Access to federal resources depends on narrating their deprivation as a disaster—a sudden loss for which the claimant is not responsible.

Missing the centrality of disaster to the American welfare state has led analysts to conceive it as simply a hobbled version of more generous European welfare states, and to engage in a relentless search for the factors retarding America’s redistributive impulses. As Skocpol (1992:39) points out, generalizing from the German and to a lesser extent the English welfare states risks missing what is distinctive in the American context. Yet by not straying in her investigation of the history of American social provision beyond the examination of early pensions, a form drawn from the European example, Skocpol may commit the same error that she counsels against. Disaster relief did not ordinarily come in the form of a monthly check—it sometimes did—but it is a long-standing, bureaucratized, and entrenched system of federal transfer payments designed to ameliorate distress.

Origins

Despite La Follette’s claim during the 1930 relief debate, federal disaster relief did not begin with the 1827 fire in Alexandria, Virginia. Direct payments from the federal treasury to relieve “sufferers” actually began nearly 40 years earlier, in 1790.² These payments began as a series of private bills for the relief of individuals, and gave way by 1822 to general relief bills benefiting a defined class of claimants. By the time of the 1827 Alexandria fire, Congress had already granted 27 separate claims for relief, encompassing thousands of claimants and millions of dollars, for relief following events such as the Whiskey Rebellion, the slave

² There were two such appropriations that year (1790): An Act for the Relief of Thomas Jenkins & Company and An Act for the Relief of John Stewart and John Davidson.

insurrection on St. Domingo (Haiti), and various fires, floods, and storms. Beginning in 1794, with the relief of distress caused by the Whiskey Rebellion, these funds were most often administered through centralized federal relief bureaucracies appointed by the executive branch which evaluated applications and distributed benefits according to statutory eligibility criteria.

These early appropriations quickly hardened into a set of legislative precedents that were repeatedly invoked both for and against proposed relief measures. In this respect, Congress often acted less like a legislature than like a court, with members arguing that the government was either constrained or compelled by its prior decisions. Concerns among members of Congress about the equitable application of these precedents contributed to the construction of narratives that distinguished among events and petitioners—certain events were compensated while others were ignored. Successful appeals told of events in a particular narrative form: sudden, unforeseeable events for which the claimant was blameless. I have elsewhere detailed the history of these appropriations (Landis 1998). In this section, I touch on the key elements in this history, demonstrating that by 1827 disaster relief was already established as a nascent federal entitlement program that was seen as entirely constitutionally permissible (*ibid.*, pp. 975–78, 999–1004).

Very early in the life of the federal government requests began to pour in to Congress for the relief of individual citizens who lacked sufficient resources to pay their debts or taxes (White 1948). Congress handled these requests through the system of private bills introduced for the relief of the petitioner, who would prepare a request for relief in the form of a memorial or petition.³ The earliest private bills for the relief of economic distress requested the refund of taxes and duties paid on imported merchandise destroyed or damaged prior to sale. Between 1789 and 1801, there were 16 such refunds.⁴ In the few cases where relief was denied, it was primarily because the committee concluded that the petitioner was responsible for his situation, either by his actions or because he ostensibly assumed the risk of a foreseeable loss.⁵

³ Bills were generally presented by the Representative from the petitioner's home district. Many such requests were taken up immediately due to the "emergency" nature of the claims. Otherwise, the bill would be referred to a committee, usually the Committee on Claims, where it would be considered and a report issued. The Congress then voted on whether to concur in the report, often deferring to the committee's judgment (*Harvard Law Rev.* 1966:1685–92).

⁴ E.g., *Remission of Duties on Salt to Stewart & Davidson of Annapolis, Destroyed by Flood the Night after It Was Landed* (in 1790) and *An Act for the Remission of Duties on Eleven Hogsheads of Coffee Which Had Been Destroyed by Fire* (in 1794).

⁵ One such case concerned Nathaniel Cutter, who imported merchandise into Boston, where he paid the duties. He then attempted to transport the goods to the West Indies, where he was repeatedly captured by both the French and the British. He was not permitted by the leaders of the slave revolt on St. Domingo to unload his merchandise.

These early tax remissions gave way to direct federal relief, indemnifications of property loss and damage, and food distribution. Generally, appropriations during this period for those who suffered the loss of property or class status were uncontroversial, popular, and supported by both Federalists and Republicans. Although fears of setting a precedent that might prove “destructive to the resources of the nation” resulted in the denial of some early requests,⁶ the vast majority of claimants who successfully portrayed themselves as the blameless victims of sudden catastrophe obtained federal funds to ameliorate their deprivation. As with claims for tax relief, those denied direct relief generally were thought by the committee to be in some way responsible for their own hardship.⁷

Between 1789 and 1822, there was a dramatic shift in patterns of congressional appropriations for relief. While the system of private bills continued through the 19th century, it was increasingly eclipsed by general relief bills that appropriated a large amount of money for the benefit of all persons fitting the eligibility criteria set forth in the bill—for example, all the citizens of Alexandria suffering loss in the fire. This new species of request for the benefit of a *class* of persons first appeared in 1794. Committees reported bills for the relief of entire communities or certain segments of communities—for example, all citizens who lost property during the Revolutionary War (3 *Annals of Congress* 613–15, 989–95 (1794)), or the 1796 remission of distillery duties for those who suffered by the “destruction of fruit” in a drought (12 *Congressional Debates* 2581 (1836) (listing early relief appropriations)). In this new form of relief, Congress delegated broad administrative authority to commissioners, appointed by Congress and the President, who were charged with investigating applicants and distributing aid.

For example, when in 1816 Congress granted charitable relief for losses caused by the War of 1812, it built into the statute a fully elaborated bureaucratic mechanism for the distribution of

Finally, forced to return to the United States, he paid a second import duty on the same goods. The Committee on Finance reported against his claim for a refund, remarking that “it could find no good reason for relieving him against the consequences of a risk which every exporter ought to calculate for himself. 1 *American State Papers (Finance)* No. 120 (1798).

⁶ Indian Depredations and Cruelties in 1777, 9 *American State Papers (Claims)* No. 569 (1822) (petition of Elizabeth House for relief). House was kidnaped, raped, sold into sexual slavery, and forced to watch the murder of her children during the Indian wars in 1777. Although she was presumably a very sympathetic figure, her claim was denied because “if the present claim is allowed, others of a similar character cannot, with propriety, be rejected.”

⁷ For instance, in 1790, John Amelung was denied a loan from the federal government for his failing glass factory. During House debate, Representatives raised concerns about Amelung’s business management, suggesting that his misfortunes were his own fault: “[I]t is acknowledged that 20,000 pounds have been employed in the undertaking, and it is yet in danger of failing.” 1 *American State Papers (Finance)* No. 14 (1790); 2 *Annals of Congress* 1688 (1790).

funds. The Act directed President Madison to appoint, with the advice and consent of the Senate, a commissioner for a two-year term at an annual salary of \$2,000.⁸ It granted the office of the Relief Commissioner a franking privilege, specified the oath of office, and directed him to appoint a clerk. More important, the Act directed the Relief Commissioner to promulgate rules, regulations, and procedures to govern applications, evidence, authentication, and distribution of funds, and to publish those regulations for eight weeks in every newspaper in the country.⁹ Over a century before the New Deal ushered in the “administrative state,” and 70 years before the institution of Civil War pensions, Congress had established a fledgling federal administrative body with authority over national relief distribution.

Given the wide subscription to the notion that the formation of an American “activist welfare state” was constrained by the Constitution and the Supreme Court prior to the New Deal (Ackerman 1998), it is rather stunning to realize just how little role the Constitution played in these early questions of relief. Indeed, Bruce Ackerman argues that the federal welfare spending undertaken during the New Deal was such a dramatic departure from past practice that it must be considered to have effectively amended the Constitution. Even critics of this notion like Cass Sunstein (1995, 1996:253) concede that the New Deal was “of course a substantial reformation of the original constitutional structure.” To be sure, Ackerman is correct that formalistic accounts of constitutional change have neglected both the messiness of the actual practice of constitutional amendment and the effect of deep changes in interpretation short of actual amendment. However, we should notice, and follow up on, the assertion by La Follette and other New Dealers that much of the New Deal was not Ackerman’s sharp break with past practice but was entirely consistent with more than a century of federal involvement in the emergency relief of catastrophes.

Although there were some early conflicts over the constitutionality of relief, most notably following the Alexandria fire, the permissibility of federal relief for acts of “Providence” was only rarely and half-heartedly revisited by Congress after 1827.¹⁰ By

⁸ Ch. 40, §§ 11–12, 3 Stat. 263 (1816).

⁹ The Relief Commissioner appointed by Madison, Richard Bland Lee, was attacked in Congress for being too liberal in his eligibility determinations. Some members of Congress criticized not only Lee but also the decision to delegate benefit discretion to the executive branch. Proceedings of the Commissioner Appointed under the Act for the Payment of Property Taken or Destroyed by the Enemy during the War with Great Britain, in *9 American State Papers (Claims)* No. 324, at 492, pt. A (1816). Congress subsequently considered and rejected an amendment repealing the delegation of agency power and returning to Congress exclusive authority over eligibility and benefit decisions. *14 Annals of Cong.* 374–75, 441 (1816).

¹⁰ There was no mention of the Constitution in the debate over relieving the Whiskey Rebellion, the War of 1812, the Venezuelan earthquake of 1812, or 26 other relief measures passed between 1790 and 1827 (Landis 1998:999–1004). The Constitution was

the mid-19th century, the permissibility of relief appropriations following such events as grasshopper plagues, Mississippi River floods, and the Civil and Indian Wars was so uncontroversial that they were most often made by unanimous joint resolution. At that point, members of Congress turned their attention from whether they *could* provide relief to whether they *should*. Over the course of the next century, the Alexandria fire, the Whiskey Rebellion, the St. Domingo revolution, the Caracas earthquake, and hundreds of other grants served as precedents invoked in contested claims for relief.

Beginning in 1794 with the Whiskey Rebellion, every major congressional disaster relief debate showed a Congress both constrained and compelled by the force of its past and its future. It is not surprising that most members of early Congresses addressing relief stated that they felt bound by precedent. Early American legislatures often acted in a quasi-judicial capacity out of confusion surrounding the appropriate legislative role. Although Congress theoretically had unlimited power to alter the common law, it was unsure of its ability to do more than merely articulate a more fundamental natural law (Desan 1998; Nelson 1975:13–15; Harvard Law Review 1966). As Nelson (1975:19) noted in his study of legal change in Massachusetts during this same period, adherence to precedent was a nearly inviolate rule. Christine Desan's (1998:1392) recent important study demonstrates that New York's colonial assembly engaged in "legislative adjudication," acting like a court "with jurisdiction over cases concerning the public fisc." Desan argues that contemporary understandings of a separation of powers between the legislative and judicial branches are inconsistent with patterns of institutional practice in 1789, and that "popular support for a legislative role balancing claims of private right and the uses of public revenue remained high after the Ratification" (p. 1500).¹¹

Congress, in asserting and defending claims about precedent, often operated more like a court than a legislature, and this perception was so prevalent among the public that many relief petitions were drafted in the form of legal briefs, complete with tables of prior relief cases, statutes, and evidentiary records.¹² A congressman opposing relief for the Alexandria fire remarked on this incongruity between the theory and method of legislation:

raised as an argument against relief in debate following a fire in Savannah, Georgia, in 1796, the Alexandria fire, and for the white refugees fleeing the St. Domingo slave revolution. Ibid.

¹¹ With respect to disaster relief, the pattern of legislative adjudication traced by Desan to its roots in the New York case continued unabated not just into the Ratification but well beyond the point that contemporary understandings of the separation of powers were established.

¹² See Petition of the Sufferers of Wyoming, Pennsylvania, H. Doc. 25-203 (1839).

Precedents operated in judicial tribunals because the object of this judication was to obtain uniformity of decision. In a legislative jurisdiction, they had no binding operation, because the purpose was not so much to fix as to vary decision, till it is supposed to have attained correctness, and even to conform to the perpetual fluctuations of opinion. Precedents, then, were nothing as regarded their authority. (Statement of Rep. Archer, 3 *Congressional Debates* 761 (1827))

Nevertheless, concern that all persons receive equal treatment dispensed according to equitable principles pervaded virtually every discussion of relief. Between 1789 and 1836, 19 claims for relief were denied by Congress or congressional committees for fear of establishing a precedent.¹³ In an additional 4 cases, it was argued that relief should be denied because granting funds would be unfair to other analogous claimants who had previously been denied. Conversely, lists of precedents were also invoked to demand relief for 8 petitions that were arguably similar to those previously approved (Landis 1998).

Often precedents were cited by opposing sides of the same claim. Representative Goodhue complained about a request for relief due to a fire in 1794:

A fire happened lately in Boston, which destroyed perhaps ten or twenty thousand pounds worth of commodities that had paid duties. What kind of business would it be if all these persons were to come forward and make a demand of compensation. . . Claims of this kind would never have any end.

Other Congressmen recalled that the House had granted over \$10,000 in precisely this sort of relief six months prior and argued that the claimants “should have the same justice with other petitioners to that House” (statement of Rep. Parker, 4 *Annals of Congress* 988 (1794)). It was agreed that the petition could be “treated as others of that nature had been.”

Fear of setting a precedent was the primary reason for the denial of aid to Savannah, Georgia, following a devastating fire in November 1796. Opponents of the measure argued that approving relief to Savannah would set a precedent that would *require* Congress to grant relief for any other community experiencing a fire. Representative Cooper stated that if Congress “saw the losses that had been sustained at New York, Charleston &c. it would appear only reasonable that, if relief was afforded in one case, it ought to be extended to another” (see, e.g., 4 *Annals of Congress* 1719 (1796)). Representative Coit said that he did not object “on constitutional grounds . . . [but because] to agree with the resolution would be laying a dangerous precedent” (*ibid.*, p. 1725).

¹³ A claim was counted as denied on account of precedent if that was the only reason given for the denial. Precedent was additionally offered as a reason to deny 16 other claims during this same period.

Most strikingly, long lists of precedents were often marshaled to support requests for relief; the first statements uttered on the floor of the House in favor of relieving the Savannah fire recited a list of precedents. Representative Smith asserted that these cases *controlled* the decision, leaving Congress no room to refuse: “The precedents which had been adduced appeared to be no more strongly warranted than this. . . . Another case that occurred to him . . . the recompense allowed to persons who suffered in the Western insurrection. Was that authorized by the Constitution any more than the present?” (*ibid.*, p. 1724). Similarly, lists of precedents were cited several times during the 1836 debate over relief for white settlers following the Seminole War (12 *Congressional Debates* 2445 (1836)). Congressmen cited the Caracas earthquake, an earthquake that struck New Madrid, Missouri, in 1812, and other “repeated acts of this Government in charity for the visitations of Providence” (*ibid.*). The massive outlays for the War of 1812 were cited with particular force by Representative Harper:

If a precedent was wanted, it would be found in a vote given yesterday, to pay a man for a barn which was burnt in Virginia, by the enemy, twenty years ago; and could the House hesitate to vote for the relief of these women and children? (*Ibid.*, p. 2447)

By the time of the Alexandria fire in 1827, it was clear that many members in Congress felt bound by earlier grants. The experience of 40 years of relief measures, including over a million dollars for the War of 1812, led advocates of the Alexandria relief bill to charge that Congress was bound by its earlier actions to grant relief on grounds of equity. As relief appropriations continued to proliferate throughout the 19th century, debate about the controlling nature of precedent diminished. For example, during debate over relief for an 1836 fire in New York, long lists of precedents for fire relief were read into the record several times (*ibid.*, pp. 2581, 2587, 2590). No one contended that Congress was not bound by these earlier actions—the argument instead focused on distinguishing the New York fire from those previously listed and analogizing it instead to cases where relief had been denied (*ibid.*, p. 2555).

This legislative preoccupation with reasoning from cases and adhering to precedents critically shaped the terms of the American contest over relief. As Congress came to consider itself obligated to entertain—and pay—federal claims for the relief of similar circumstances, the categories defining that similarity became the site of intense contest. The need to fit new claims within a set of precedents required successful appeals to describe events in a particular narrative form: sudden, unforeseeable events for which the petitioner was blameless and that caused losses implicating the federal government. Conversely, opponents attempted

to distinguish claims along the same dimensions, arguing that the claim should be denied because the petitioner was responsible for his own plight. Ultimately, whether or not an event was a “calamity” deserving of federal intervention turned upon the ability of the claimants to argue that they, like those who previously received aid, were innocent victims of fate rather than irresponsible protagonists in their own misery.

One of the earliest relief debates, for losses arising out of the Whiskey Rebellion, centered on this question. Because nearly everyone in Western Pennsylvania vehemently hated the federal government and its excise tax, thousands rioted and many members of Congress resisted granting any relief on the principle that it would be impossible to find anyone who was innocent of wrongdoing (Slaughter 1986). Even if it was possible to identify those who “exerted themselves in defence of the Government” (statement of Rep. Sedgwick, 3 *Annals of Congress* 985 (1794)), it was difficult to see how they might be distinguished from others who had been denied relief following similar losses, such as Georgia settlers who sustained heavy losses in struggles with Creek Indians. Supporters of the Pennsylvanians responded by asserting a difference in the relative moral fault of the actors for their own losses. They argued that the Georgia settlers had assumed the risk of loss by “plac[ing] themselves in a place of danger knowingly.’ The Creeks were an open enemy, but the insurgents an unexpected one” (statement of Rep. Dexter, 3 *Annals of Congress* 993 (1794)).

Somewhat more subtle appeals to relative fault described a sudden, precipitous decline in class status or privilege, as for the claimants injured when the Mississippi overran its banks in 1874. “This distress,” argued Representative Morey, “is confined to no class of people. The colored laborer and the tenderly nurtured southern lady are alike suffering.” Relief was provided not for the “ordinary poor” of New Orleans but for those whose “homes have been swept from under them . . . without the means to obtain a single meal” (2 *Congressional Record* 3151, 3172 (1874)). Sudden loss of class status thus provided a proxy for blamelessness and unfair victimization by fate: federal relief was reserved for those who were “suddenly made poor by an act of Providence.”¹⁴

Relative fault was also invoked in early relief debates by pointing to foreseeability, a notion then coming into vogue in common law tort litigation (Horwitz 1977; Nelson 1975; Malone 1946). As in early negligence court cases, those who did not persuade Congress that they could not guard against their losses did not obtain relief. Often in this category in 18th- and 19th-century debates were losses attributed to the workings of the market,

¹⁴ 3 Cong. Deb. 759 (1827) (statement of Rep. Campbell supporting relief of the Alexandria fire).

either for unemployment or business failure. For instance, in 1840, the Committee on Claims reported against the petition of Martha Bailey for relief based on the fact that her late husband had not earned the expected profit from his contract to provide army rations due to a federal tax that raised the price of whiskey. Representative Giddings dismissively argued against the claim because “the entire risk of loss and hope of gain were taken by the contractor.”¹⁵ Any competent businessman would take into account the foreseeable risk of price fluctuations.

Deference to precedent and the early crystallization of the basic structure of the disaster narrative did not preclude innovation in what counted as a “disaster.” Instead, it defined the hurdles that a claimant had to overcome in order to be compensated “like what we have paid for in the past.” In particular, a successful disaster story had to identify an entity or event that was wholly outside the control of the would-be victim, yet which was causally linked to an outcome intimately affecting his or her material condition. The plot structure of the disaster narrative is fixed, but the set of plausible occupants for the roles of “disaster” and “victim” have expanded and contracted over the past two centuries. La Follette and other proponents of federal relief before and during the New Deal understood this dual imperative to conform their argument to the dictates of precedent and to construct a new causal logic linking economic upheaval to individual deprivation.

Origin Stories

It is clear from the foregoing that disaster relief is a far more important precursor to the modern American welfare state than has heretofore been realized. In particular, disaster relief is a better candidate for Skocpol’s “roots and consequences” of the national welfare state than are Civil War pensions or state mother’s aid. Skocpol identifies Civil War pensions as the earliest—indeed the only—form of federal social welfare spending prior to the New Deal. In her view, these pensions were a “first phase” of federal social spending whose chief effect was felt as an inhibition, a sort of ghost in the machine of the eventual welfare state, haunting policymakers with memories of the corruption they engendered (Skocpol 1992:532; Skocpol & Ikenberry 1983:140). Even these creaks and groans, she concedes, had only a slight effect on the emergence of the New Deal, which appears in her account, as in Ackerman’s, as a sharp break with the past, demanded by the overwhelming calamity of the Great Depression (Skocpol 1992:526).

¹⁵ H.R. Rep. No. 692, p. 2 (1840).

In Skocpol's wake, other scholars have also offered alternative or complementary historical candidates for influences and precursors to the American welfare state, such as Revolutionary War pensions (Jensen 1996), local poor relief based on Elizabethan poor law (Quigley 1996:74), and the adoption of state-level social insurance plans like Wisconsin's (Clemens 1997; Skocpol & Ikenberry 1983:135). Whether or not these contributions have uncovered the origins of the welfare state, they have certainly shed important and valuable light on the history of the effort to build a political majority for social insurance and the development of a competent federal civil service for its distribution.

However, whatever the differences among these various histories, including my own history of federal disaster relief, they share a common characteristic. They each aim to show how modern American welfare provisions are rooted in some earlier set of policies or practices that exert a continuing influence—that is, they work at establishing continuity between the past of the welfare state and its present. In that respect, these accounts are not innovative. After I had painstakingly compiled the history of federal disaster relief by paging through volumes of the *American State Papers* and the *Annals of Congress*, I discovered that my argument about the similarity between the legal and political justification of early federal disaster relief and the New Deal had already been published many times over: in the government's briefs defending the Social Security Act before the Supreme Court, in the *Congressional Record* transcripts of speeches by La Follette and others, in the political statements of Franklin Roosevelt, and in newspaper editorials supporting the New Deal. In fact, the history of disaster relief was the defining feature of countless histories of the welfare state told in order to show how the New Deal was consistent with this precedent for federal assistance and thus legitimate.

For example, in the last words uttered on the floor of the House prior to the enactment of the first New Deal unemployment relief bill, Alabama Representative Henry Steagall, like La Follette three years earlier, emphatically rejected the suggestion that the New Deal was social insurance on the model of Germany or England:

I think the gentleman will agree with me that he and I at least are estopped from complaining about anything socialistic in this legislation. There are abundant precedents to support this policy of having the Government supply aid, to supply food and clothing and shelter to relieve citizens in distress. We have done it for people in foreign lands; we have done it in various instances for our own citizens at home. That is all we are doing now. [Applause]. (76 *Congressional Record* 2118 (1933))

Steagall recited disaster relief precedents to defend the New Deal against attacks from the Right, which claimed its true antecedent

was not the history of disaster relief at all but instead was the history of European and state-level social insurance. Seeing the significance of such histories and counter-histories requires that scholars step back from our own, remarkably similar, efforts to chart the history of the welfare state. In doing so, we can see that the very questions of precedence and core logic that have characterized the literature on the welfare state, including my own account, have also occupied politicians and lawyers. In their case, however, they approached these questions with far more consequential ends, as practical questions of how to secure—or block—funding. This fact suggests that we should turn our attention away from constructing competing pasts for the welfare state and instead begin to focus on the way the history of the welfare state includes as a constitutive element the telling of that history. Thus, the remainder of this essay is not an argument for the primacy of disaster relief as the “real” or “true” antecedent but an examination of the careful and highly explicit way that case was made out during the Depression.

The Politics of Disaster and Unemployment before the New Deal

[I]t makes little or no difference to me whether the victims of this economic depression are suffering from a situation caused by the failure of industrial and financial leadership or lack of statesmanship in this country or whether men and women are suffering from some act of God. The suffering is just as acute and the victims are as much in need of relief in the one case as in the other.

—Senator Robert La Follette, Jr., December 1930

La Follette was not blazing new ground in contesting the relevance of the distinction between acts of God and acts of men in deciding who deserved relief. It was, ironically, Herbert Hoover who first saw clearly the difficulty of distinguishing the Economy from Nature during the drought of 1930–31. Drought, as the Red Cross noted, was a hard case to fit into the disaster narrative because it was generally considered just “one of the many hazards of farming—like the boll weevil or a bad harvest” (Woodruff 1985:9). The regions hit hardest by the drought were also staggering under the weight of economic collapse, so it was difficult to say what caused local poverty. For Hoover, the slight divide between drought and depression made federal drought relief a dangerous proposition, since it could draw the government into unemployment relief on an enormous scale. Hoover, who as Coolidge’s Commerce Secretary oversaw the Red Cross’s relief of the massive 1927 Mississippi River flood (Barry 1997), tried to turn back La Follette’s efforts by asking the Red Cross, America’s private disaster relief organization, to relieve both the drought

and unemployment (74 *Congressional Record* 2152–54 (14 Jan. 1931)).

Unfortunately for Hoover, the Red Cross was equally mindful of the difficulty in maintaining the precarious distinction between natural and economic calamities. The organization initially refused to relieve either the unemployed or the drought-stricken farmers, citing its charter authorizing relief for “pestilence, famine, fire, floods, and other national calamities” (Dulles 1950). The agency argued that the slow, creeping, and ordinary character of drought placed the sufferers outside the scope of Red Cross activity. Moreover, the entire South was a morass of economic devastation caused not only by the drought but also by the 1927 flood, the Southern sharecropping system, a rash of Southern bank failures, and the Depression. Red Cross administrators feared that it would be impossible to distinguish drought sufferers from the ordinary unemployed, and refused to provide any relief at all until the drought became a famine (Dulles 1950).

By December 1930, Hoover was desperate. Fearing that an increasingly angry Congress would approve direct federal relief, he pressed the Red Cross to take responsibility for both the drought and unemployment. The Red Cross resisted pressure from Congress, Hoover, and the President’s special Woods Committee on Employment, arguing that if it fed the farmers, the urban unemployed would be resentful (Woodruff 1985:66–95). Congress tried to force the issue by appropriating \$25 million for the Red Cross to distribute to drought-stricken farmers and the unemployed. The Red Cross refused the funds and instead issued a \$10 million drive for drought relief in the South, setting off howls of derision on Capitol Hill. Senators from drought states bitterly accused Hoover of using the agency for his own political purposes, and pointed out that the Red Cross had only recently requested a direct appropriation following a hurricane in Puerto Rico (74 *Congressional Record* 3369–74 (1931)). Although it continued to decline direct federal funding, eventually the Red Cross agreed to distribute government surplus wheat, cotton, and garden seeds (Hopkins 1936:30; American Red Cross 1932).

Children’s Bureau head Grace Abbott (1932) wrote an article in the leading social work journal that publicly ridiculed the Red Cross’ decision to limit relief to “calamities that may be classed as ‘acts of God.’” She also attacked the Supreme Court, caustically noting that although “one high ecclesiastical authority has characterized the world-wide depression as an act of God, it would not be placed in that category by judicial precedents in the United States.” Abbott demanded that relief workers question the increasingly fragile boundary that they were called upon to draw in giving food to certain people while refusing others. She pressed this point not only directly, but also subtly, as by placing

quotation marks around the word “disaster.” Nevertheless, Abbott and other relief advocates could not wholeheartedly agree with Hoover that the depression was like prior natural disasters. Taking such a position might provoke Congress to accede to Hoover’s desire to abandon the “disaster” to the recalcitrant Red Cross, dooming the prospect of federal intervention. Abbott attended to this risk by arguing that there was a crisis so huge that it was beyond the agency’s resources, and urged Red Cross social workers to lobby for federal relief. Many did, like Sylvia Quigley, a Red Cross county chairwoman from Nebraska:

Sentiment of the entire community is that funds should be provided by Government and administered through the Red Cross without further delay. If President Hoover and [Red Cross National Chairman] Judge Payne would circulate among the common people for a few hours, they might stop fiddling while the country starves.¹⁶

As Nan Woodruff (1985) notes, Hoover tied relief for the drought and the depression into a package and sought to hand it off to the Red Cross. By arguing that depression relief should operate on the same traditional principles guiding natural disaster relief, however, Hoover unwittingly drove the opening wedge for relief advocates who capitalized on the opportunity to treat the depression as a disaster. Hoover inadvertently opened the door for La Follette, and ultimately Roosevelt, to discover and use the extensive history of direct federal disaster relief as an explicit precedent for New Deal relief endeavors.

Ordinary Lawyering of Constitutional Moment

Turning this opportunity into a mandate for a large-scale unemployment relief required, as in the multitude of past invocations of precedent, that the history of federal disaster relief be made present in the contemporary debate. This required La Follette and, later, Roosevelt’s lawyers to become historians of disaster relief, citing the hundreds of occasions on which Congress had granted direct federal relief. This strategy presented invitingly narrow grounds on which relief might be granted, merely asking legislators, and later the Supreme Court, to conform to an overwhelming stream of precedents rather than inaugurate a radical departure. In this consummately lawyerly invocation of precedent, the New Deal’s forerunners and advocates defined their relief strategy as continuous with—in fact mandated by—past practice.

It was not only their substantive arguments for relief that echoed the past. Their method of disputing over the history of

¹⁶ Telegram from Quigley to William Baxter, St. Louis Red Cross manager, 74 *Congressional Record* 2140 (14 Jan. 1931)

disaster relief and the relevance of the precedent was itself also drawn from the prior debates. La Follette first began recounting the history of federal disaster relief in December 1930 when he attempted to tack aid for the unemployed onto one of the many failed drought relief bills. After ticking off dozens of instances of federal disaster relief, La Follette demanded that the Senate “adhere to the policy which the Government has always maintained of affording relief to citizens who are in distress and unable to meet their own problems” (74 *Congressional Record* 4438 (1931)). La Follette warned that this expectation of relief was so central to the American social contract that “[p]arties and leaders failing to meet their responsibilities and to carry out this traditional policy of the American Government in extending relief to innocent victims of disaster, whether created by nature or man, will be repudiated” (ibid.). Southern Senators from cash-starved drought states adopted La Follette’s stance, and on 14 January 1931, Tennessee Senator McKellar broke into debate out of order, and read a list of more than 100 disaster grants beginning with the Venezuela earthquake of 1812 and ranging over the next 120 years (74 *Congressional Record* 2144–46).

The press picked up La Follette’s drum and began to beat it. The *Baltimore Sun* on 12 January 1931 dismissed Hoover’s resistance as “idiotic bilge,” insisting: “There is not the slightest reason to think Government food relief will anymore really destroy self-respect now than famine relief, flood relief, and fire relief have done in the numerous instances in which they have been granted in the last 100 years (ibid., p. 2153). This view was echoed by the *Washington Daily News* two weeks later when it included La Follette’s list of precedents in an editorial demanding federal food aid. The list next surfaced at the other end of the Capitol, when Representative Hastings, from dusty Oklahoma, sent the *News* editorial to H. H. B. Meyer, Director of the Library of Congress’s Legislative Reference Service, requesting a list of the amount of money appropriated in each of the listed cases. He received a letter from Meyer the next day informing him that La Follette was a step ahead: “I find that we have already compiled a list of these appropriations acts, somewhat more full than that previously published,” and enclosing a list of over 100 separate acts. Hastings interrupted routine appropriations discussion on 26 January 1931 to argue the precedential value of the San Francisco earthquake and the Mississippi River flood. He then inserted the entire list, filling three full pages of the *Record* (74 *Congressional Record* 3241–43).

The deconstruction of the distinction between needs attributed to Nature and other sorts of needs was crucial to the measure’s success, and was therefore hotly contested. Relief opponents shored up the boundary by insisting that acts of God provided no precedent for what they characterized as purely eco-

nomic distress. For instance, Senator Hastings of Delaware responded to La Follette’s list by agreeing that drought relief was required under the precedents but that “an economic situation like the present one” was wholly another matter. La Follette derided this reasoning as the “splitting of legal hairs and theories” in which “I am not the least bit interested” (74 *Congressional Record* 709 (1930)). He responded, as had congressional relief advocates for over a century, by rhetorically linking the moral agency of current claimants with successful prior petitioners:

I know that those who oppose action looking to relief of destitute citizens of the United States to-day due to a national economic breakdown will contend that these precedents apply only to citizens who are suffering distress and privation due to an act of God. So far as the victims are concerned, it makes little difference to them whether they are homeless, cold, and hungry as a result of a physical trembling of the earth or whether they find themselves in that condition due to an economic earthquake which has deprived them of the opportunity of earning their daily bread. I cannot see fine, hair line distinctions which opponents of Federal assistance . . . draw with regard to these precedents. (75 *Congressional Record* 3069 (2 Feb. 1932))

The success of La Follette’s strategy was evident in the complaints of his opponents. A 16 January 1931 editorial in the *New York World* complained about the impossibility of reestablishing the eroded distinction between natural and economic disasters. “If the drought sufferers are the victims of conditions beyond their control,” the paper argued, “so are the idle coal miners, and so, for that matter, are the four or five million unemployed throughout the country” (74 *Congressional Record* 2364). Ultimately, even Hoover’s floor leader in the Senate, Indiana Republican “Sunny Jim” Watson conceded that the disaster relief precedents might well compel Congress to make “a single appropriation to meet a single emergent condition” for the depression if local governments and the Red Cross were overwhelmed (74 *Congressional Record* 703–4 (15 Dec. 1930)).

No general relief bill passed during that session due to Hoover’s continued opposition. La Follette returned the following year, however, to hold further hearings on unemployment relief with his newfound ally, freshman Colorado Senator Edward Costigan. On 1 February 1932, the two men again brought in a bill for direct federal unemployment relief. La Follette introduced the bill and immediately recited a string of disaster relief precedents, beginning with the 1827 Alexandria fire. Costigan also quickly evoked disaster relief images in his first speech on the Senate floor, which was praised by a journalist as “one of the most beautiful and telling I have ever heard” (Greenbaum 1971:125). He argued that “the lives of many American citizens,

without fault of their own, are today as definitely in danger as if menaced by flood, famine, or fire, or earthquake" (75 *Congressional Record* 3306–7 (3 Feb. 1932)). Costigan, a skilled trial lawyer, wryly reflected on the similarity between the Depression and the San Francisco earthquake, the Mississippi River flood of 1927, and several other disasters:

Permit me to refer to one or two extracts from the messages accompanying these separate occurrences, for they bear on what I said at the outset about American standards and American precedents with reference to the relief of human misery. In 1906, on April 19, the Senate of the United States passed a resolution which read in part:

Whereas the most terrible disaster which has ever taken place on this continent has occurred in the State of California.

Surely we are in a position to modify that statement at this hour. Unfortunately a more tragic disaster has overtaken America in the economic calamity we are discussing.

Whereas there is most urgent need of means to . . . care for the injured and shelter and feed the homeless.

What is to be said of the present need to shelter and feed the homeless and care for the injured of our industrial disaster? (Ibid., p. 3309)

By this time, the power of these connections, as well as the fear they engendered, was palpable. At literally the same time that La Follette and Costigan pressed their point on the Senate floor, across the river in Virginia historian Charles Warren railed at an auditorium full of law students against the illegitimacy of federal relief for any purpose. Warren was a conservative legal historian who had served as an assistant attorney general in the Wilson administration between 1914 and 1918. A close friend of Justice Brandeis, and a preeminent authority on early Constitutional history, Warren won the 1923 Pulitzer Prize for history with his monograph, *The Supreme Court in United States History*. As Congress battled the economic collapse, Warren fought against federal relief. His tactics, like Costigan's, were those of a lawyer: in a series of speeches at the University of Virginia in late January 1932, later published in book form as *Congress as Santa Claus or National Donations and the General Welfare Clause of the Constitution*, Warren methodically attempted to distinguish away each precedent cited by the Capitol Hill relief proponents.

Warren, like Hoover, conceded the identity between natural and economic injuries, and he therefore broke with those who rested their case on the definition of "acts of God." Instead, Warren echoed the *World* editorial, declaring *all* federal assistance utterly illegitimate, the result of "political and economic influences, of compromises, and of logrollings, and that they were enacted over the protest of a strong minority, and that, furthermore, the question of Constitutional power played only a small

part in the arguments or votes of the majority” (Warren 1932:13). In a determined, if polemic, style Warren worked his way through La Follette’s list, trying to undermine the precedential value of every single example. He concluded:

Practically no debate took place in Congress on any of these appropriations except for that of the Salem fire sufferers, which was vigorously opposed; and no one could answer the question: Even if we admit the power of Congress to appropriate under the General Welfare Clause, how do these appropriations for purely local relief come within the scope of the distinction insisted upon by Alexander Hamilton between National, general, public and local, individual benefit? (Pp. 107–8)

In a nice rhetorical turn, Warren argued that “a flood of laws bestowing Government alms has deluged our statute books” (p. 140). We should, however, notice and follow up upon the fact that Warren made this case against disaster relief in 1932. During Warren’s tenure as assistant attorney general from 1914 to 1918 there were more than a dozen separate disaster relief acts, totaling upward of \$2,000,000, including \$200,000 following the 1914 Salem fire in Warren’s own state of Massachusetts. Warren first raised his objection to disaster relief two decades later during the depression, when he became concerned that “the kinds of disaster and losses to be relieved by Government also constantly tend to increase in number” (p. 127). For Warren, the problem with fire relief in 1827 or 1914 was not that it was historical evidence of flawed constitutional logic but its ready availability to serve as persuasive legal authority for “an increasing movement in this country to redistribute private wealth by Legislative action” (p. 136).

Despite the efforts of La Follette and Costigan, Congress did not pass a bill for direct federal relief until after Roosevelt’s inauguration in 1933. Just as Warren feared, however, the disaster relief precedents they mustered during this period remained a critical part of the new administration’s strategy for crafting, and later for defending, New Deal social welfare programs. Roosevelt’s relief strategy was merely a continuation of La Follette’s efforts, and his legislative effort to pass a relief bill was engineered by La Follette himself. In January 1933, Roosevelt invited La Follette to his retreat in Warm Springs, Georgia, where they discussed numerous issues including unemployment relief. La Follette later wrote his brother Philip that Roosevelt “was in substantial accord with the progressive position” (Maney 1978:106–7).

With the support of Roosevelt and key administration figures like Harry Hopkins and Frances Perkins, La Follette and Costigan introduced still another unemployment relief proposal (for what ultimately became the Federal Emergency Relief Act of

1933) and held subcommittee hearings in the weeks immediately prior to Roosevelt's inauguration. Hopkins, who would soon take charge of all New Deal relief enterprises, testified at the hearings. According to his biographer (Sherwood 1948), Hopkins's "convenient idea" at this time with respect to unemployment relief was "that a precedent can almost always be found for a new idea, however revolutionary it may seem, if you really search for it." During the course of the hearing, a seven-page table entitled "Relief Legislation 1803–1931" was presented and inserted into the report; it was an expanded version of the Library of Congress's list. It detailed 135 separate disaster relief appropriations, beginning with the Caracas earthquake of 1812, and ending with the prior year's appropriation of \$500,000,000 to the Reconstruction Finance Corporation for unemployment relief loans to the states (U.S. Senate 1933). Within days of his inauguration, Roosevelt met with Hopkins, Perkins, La Follette, Costigan, and Senator Robert Wagner to discuss the relief bill (Greenbaum 1971: 133–34). With the president's support it passed quickly, and was signed into law on 12 May 1933.

Donald Howard, Assistant Director of the Charity Organization Department of the Russell Sage Foundation, wrote in 1945 that disaster relief provided "precedents which have probably been cited more frequently than any others in support of federal responsibility for relief needs, including those for 'fire, flood, grasshoppers, storms, drought, earthquake, volcanic eruption, war pestilence, and famine'" (Howard 1945:692–97). This view was seconded by Edward Ainsworth Williams (1939:22), a graduate student from Columbia University who worked for Hopkins and later wrote in his dissertation that the precedent provided by disaster relief was the "one major answer" to the assertion that relief was a local responsibility. La Follette's 1930 prediction that refusal to adhere to these precedents would carry political consequences is borne out by Howard's (1945:697) bitter complaint. "Despite this long list of precedents for using federal resources to relieve need arising from disaster, the Hoover administration in the early years of the Great Depression refused to look upon it . . . as a disaster, and long refused aid for the hapless victims."

Warren's tract on the Spending Clause did not attract the critical plaudits of his earlier constitutional scholarship, and might have slid unremarked into obscurity if not for federal court challenges to New Deal programs. In *United States v. Butler*, agricultural interests challenged Congress's authority to enact the New Deal's system of farm price supports. When the case reached the Supreme Court in 1935, the Roosevelt administration argued that relieving the depression was well within the parameters of the Spending Clause because it was for the "general

welfare.”¹⁷ As precedent for this contention, the New Dealers explicitly relied upon the history of “relief of distress caused by catastrophes,” including the Whiskey Rebellion and the Caracas earthquake.¹⁸ The government brief, written by a brilliant young government lawyer named Alger Hiss, included La Follette’s list as an appendix.¹⁹

Hiss argued in the brief that the Spending Clause permitted federal disaster relief, noting that since the Whiskey Rebellion

many appropriations have been made to aid sufferers from earthquakes, Indian depredations, fires, war, or famine, tornadoes or cyclones, yellow fever, grasshopper ravages, and floods. Even today the Federal Government in its vast relief program is furnishing means of subsistence to those destitute by reason of unemployment.²⁰

This thread was further woven into the government’s case during oral argument, when the solicitor general told the Justices that the Roosevelt’s administration’s interpretation of the Spending Clause was supported by the history of disaster relief and

which has met the approval of commentators from Story to Justice Miller. With but one exception that I can recall, they have been fully settled in the view that the appropriating power of Congress gave it the right to give money for relief, to aid those who were in distress, to lend where money was needed.²¹

In reply, Malcolm Donald, the Boston lawyer who represented the cotton manufacturers, submitted an amicus brief regurgitating Warren’s position on disaster relief and quoting liberally from *Congress as Santa Claus*. Donald’s brief attempted to distinguish away every instance of disaster relief on a case-by-case basis, beginning with the St. Domingo refugees, through the Civil War, up to the Depression, claiming that

there is not a single act in the early Congresses which constitutes a precedent. . . . As to later action by Congress, it carries little weight. It does not indicated the view of the framers of the Constitution. Unless adopted without dissent and unless there has been opportunity to test it in the courts, it has no persuasive force.²²

United States v. Butler was a pivotal moment in the formation of the American welfare state. After the Court eviscerated the regulatory provisions of the National Industrial Recovery Act in

¹⁷ Brief for the United States, *United States v. Butler* (1935) (No. 401).

¹⁸ *Ibid.*, pp. 154–55.

¹⁹ *Ibid.*, app. C, p. 61.

²⁰ *Ibid.*, p. 155.

²¹ Closing Argument of the Solicitor General, *United States v. Butler* (1935) (No. 401).

²² Brief Filed by Malcolm Donald as Amicus Curiae on Behalf of the National Association of Cotton Manufacturers, *United States v. Butler* (1935) (No. 401).

the *Schechter Poultry*²³ decision the previous year, Roosevelt braced himself to lose his welfare programs as well. Although the Court did invalidate the Agricultural Adjustment Act as a violation of states' rights, it did not shut the door to federal emergency relief spending, instead siding with the administration's view of congressional power under the Spending Clause. This cleared the way for the Public Works Administration and the Social Security Act to be upheld the following year.²⁴ In those cases, Roosevelt's lawyers again used disaster relief as the explicit foundation for relief work, unemployment compensation, and old age pensions, arguing that

no informed person suggests that in the majority of cases the individual worker loses his job through his own personal incapacity or dereliction. The loss comes to him as a disaster over which he has and can have no control. The disaster is not merely a personal misfortune, for when the breadwinner stops earning money his family, and ultimately society, suffer.²⁵

In fact, all the government briefs defending the fledgling welfare state against constitutional attack contained various forms of La Follette's disaster relief list, and claimed that Roosevelt's programs were drawn from that tradition. For example, the 1936 brief in *Duke Power v. Greenwood*, defending the work relief programs of the CWA and WPA, contained both La Follette's list and an "Appendix D" that provided a more detailed list, 21 pages long, including, incredibly, early acts providing work relief following floods.²⁶ Similar arguments and cross-references appeared in the briefs for other cases.²⁷ According to the Solicitor General, the weight of these precedents made it "indisputable that Congress has the power to appropriate funds to relieve the distress of the unemployed."²⁸

These citations of precedent show that lawyers seeking to defend these programs against legal attacks claimed that New Deal policies were continuous with past practice and fit squarely

²³ *A. L. A. Schechter Poultry Corp. v. United States*, 295 U.S. 495 (1935) (invalidating the "codes of fair competition" provisions of the National Industrial Recovery Act of 1934).

²⁴ *Helvering v. Davis* (1937) (upholding the old age provisions of the Social Security Act); *Chas. C. Steward Machine Co. v. Davis* (1937) (upholding the unemployment compensation provisions of the Social Security Act); *Duke Power Co. v. Greenwood County* (1938) (upholding the public works provisions of the National Industrial Recovery Act).

²⁵ Brief for the Respondent at 12, *Chas. C. Steward Machine Co. v. Davis* (1937) (No. 837).

²⁶ Brief for Respondent Harold I. Ickes as Federal Emergency Administrator of Public Works, p. 164 & n.80, App. D, pp. 68–89, *Duke Power Co. v. Greenwood County* (1936) (No. 32).

²⁷ Brief for the Respondent, p. 132, *Chas. C. Steward Machine Co. v. Davis* (1937) (No. 837) (citing the disaster relief list in the appendix to the *Duke Power* brief); Brief for the Petitioner at 47, *Helvering v. Davis* (1937) (No. 910) (citing the disaster relief argument and list of disaster appropriations in both the *Butler* brief and the *Duke Power* brief).

²⁸ Brief for Respondent Harold I. Ickes (cited in note 26).

within the range of prior federal relief endeavors. Citing the mountain of disaster relief precedents, however, was only part of the job of building and defending the New Deal. After all, the precedents—no matter how many—are irrelevant if the cases are not convincingly analogous in significant respects. In the following section, I examine the work of transforming the economic depression of the 1930s into a disaster as a means of justifying federal relief. I focus on several sites where these efforts were particularly visible: political speeches and arguments like those of La Follette and Roosevelt, the government’s arguments in New Deal Supreme Court cases, and the work of artists and writers, such as John Steinbeck and Dorothea Lange, sympathetic to, or even employed by, the New Deal.

Narrating the New Deal as Natural Disaster Relief

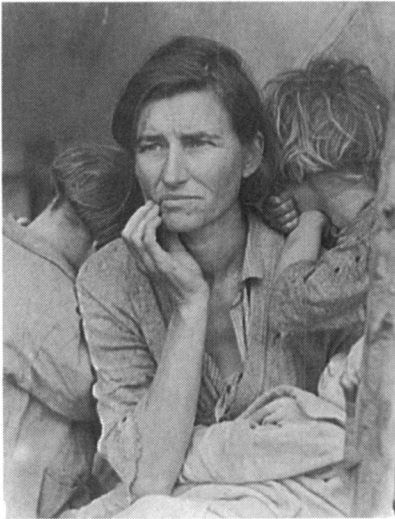


Fig. 1. Migrant Mother. Farm Security Administration, Dorothea Lange (1936).

Well, this guy that come aroun’ talked nice as pie. ‘You got to get off. It ain’t my fault.’ ‘Well,’ I says, ‘whose fault is it? I’ll go an’ I’ll nut the fella.’ ‘It’s the Shawnee Lan’ an’ Cattle Company. I jus’ got orders.’ ‘Who’s the Shawnee Lan’ an’ Cattle Company?’ ‘It ain’t nobody. It’s a company.’ Got a fella crazy. There wasn’t nobody you could lay for.

—John Steinbeck, *The Grapes of Wrath*

People want . . . some safeguard against misfortunes which cannot be wholly eliminated in this man-made world of ours.

—President Franklin Delano Roosevelt, 8 June 1934

The plausibility of a disaster story depends on the causal link between event and outcome, and that tie is therefore its point of greatest vulnerability. It is not enough to identify a need or loss. In fact, the loss is always a potential embarrassment to a claim, because it is necessarily closely linked to the victim. The most

easily available candidate for blame, after all, is the claimant himself or herself, who can too easily slip from victim to malfeasant. A “disaster” is achieved by constructing a causal link to another, more distant entity to which responsibility can be credibly assigned. Disaster narratives thus trade on logics imported from other moral, political, and technical domains where entities are forged and causal accounts developed. Indeed, factors such as race and gender crucially shape relief claimants’ ability to successfully portray themselves as deserving victims of forces beyond their own control (Landis 1998:1024–29). Recalling the case of Weld’s fishermen and welfare mothers, the ability to sustain a narrative of blamelessness depends on the strength of those causal links in the face of attack from those opposed to compensation.

In the case of the depression, blaming an external event or entity posed peculiar problems of documentation and visual imagery. Ordinarily, the task of inserting an entity into the role of “disaster” was greatly aided by the ability to describe its qualities: the height of a flood, the ferocity of a savage attack, the all-consuming power of a fire. The depression, by contrast, was difficult to disentangle from its victims. How to separate “unemployment” from the individual unemployed, or migration from the migrant, so that blame might be channeled away from the claimant? Images of the depression threatened to collapse into descriptions of need, which in America, unlike in universal social welfare systems constructed along different logics, often compel contempt rather than relief.

Successfully narrating the economic dislocation of the 1930s as a disaster meant constructing an event—the “Great Depression”—that was beyond the control of those without jobs but that was sufficiently tangible that it could be seen as the cause of their unemployment. Conversely, relief advocates had to subsume individual cases of misery in the broader logic of disaster, so that whatever the details of particular misfortunes, they could function as examples of the effects of large forces. The solution was to use two techniques to ensure that the individual unemployed rarely came into sharp focus: *aggregation* and *iconization*. In the first, New Dealers subsumed individuals into a mass, for instance, through the use of statistics or photographic images of crowds. In the second, they employed various discourse strategies to render individuals as representatives of a type—victims of circumstance—rather than as individuals with personal biographies that included, at least at this moment, being desperate, rootless, or jobless.

Courting Disaster: Constructing the “Depression”

Relief advocates during the winter of 1930 were immediately confronted by the problem of heterogeneity. Faced with millions of individual losses separated by time and space, each with its own set of circumstances and consequences, La Follette and others trying to get direct federal relief needed to find a way to rhetorically overcome this fracturing. In response, they crafted a network of connections between people and events. These ties allowed them to elide the local qualities of effects and to use them as evidence of a single, overarching cause—the Depression. This effort drew on the research methods of social work, sociology, and economics, as well as the then-developing field that Dorothea Lange called “sociological photography” (Meltzer 1978: 209). Once built, this object was available to serve as the causal agent in a disaster narrative that would—through the application of precedent—provide an avenue to the resources of the federal government.

La Follette’s famous “survey” was one strategy for building these networks. During the fall of 1930, La Follette became suspicious of what he regarded as overly optimistic information about unemployment coming from the Hoover administration. In December, La Follette and Massachusetts Democrat David Walsh sent an inquiry to the mayors of every American town with more than 5,000 residents. They received in response thousands of letters detailing the number of the unemployed and the inadequacy of state, local, and private relief. La Follette obtained similar telegrams from the American Federation of Labor’s national office, which he immediately brought to the floor of the Senate and read to his colleagues. The union’s survey results reflected a numbing, rhythmic, sameness:

Ten thousand or more through chamber of commerce all people working for city 1 percent of their salary. Widespread distress and suffering exists. Yes; people are suffering from hunger, lack of clothing, fuel, and shelter and protection.

Over 5,000 unemployed at Kansas City, Kans. Soup line established at free employment bureau. Widespread distress and suffering exists among men, women, and children for lack necessities of life. Deplorable condition growing steadily as winter advances. No relief in sight.

Approximately 15,000 unemployed in Memphis. Suffering intense. Emergency committee appointed by mayor working to relieve situation. No outlook for immediate future. Trades council working in conjunction with committee.

Fully 15,000 unemployed in Mobile and in need of food and clothing. Community chest limited to rendering aid to most urgent cases. Conditions growing worse as weather grows colder,

forcing unemployed workers South. City has opened free lodging house. No provision made to feed hungry central trades council people.

At least 50,000 workers idle in St. Louis, Mo., with no chance to secure employment. A number of relief agencies are providing some relief, but not sufficient to prevent extensive suffering amongst thousands of families suffering for the want of food, clothing, fuel, shelter, and other necessities of life. (*74 Congressional Record* 702–7 (15 Dec. 1930))²⁹

La Follette used these telegrams from local union secretaries to tie together the fates of “these four or five million unemployed and their dependents,” arguing that they were all “innocent victims of this economic disaster.” He continued this strategy over the following year by filling over 200 pages of the record with his own survey results in February 1932 (*75 Congressional Record* 3096 (2 Feb. 1932)). He also began at that time to use statistics from the Bureau of Labor Statistics and the Children’s Bureau. These numerical abstractions allowed the aggregation of large numbers of the unemployed into a loss of almost unimaginably large proportions and at the same time into the visible trace of, in Edward Costigan’s terms, “what is commonly spoken of as the depression” (*ibid.*, p. 3071). Speaking of “the depression” was made much easier by drawing its statistical portrait. La Follette avowed that the results of his questionnaires—“the only reliable information in existence”—proved the consequences of “this holocaust of depression” (*ibid.*, pp. 3067–68). In contrast with the prior year’s debates, when the term was only mentioned once or twice, on the day he submitted his survey results to the Senate La Follette used the word “depression” 15 times just in the opening moments of his speech.

The rhetorical force of La Follette’s move to aggregate is underlined by the Hoover administration’s staunch refusal to do so. Hoover appointed two separate committees to study the problem of unemployment between 1930 and 1933. The second of these was headed by Walter Gifford, the president of AT&T. Gifford, called before La Follette’s 1931 subcommittee hearings on relief, had no idea how many were jobless anywhere in the country and insisted that no such figures were available. Under intense questioning from Senator Costigan, Gifford admitted his ignorance of how many people were on relief in urban or rural areas, and even of “how many at this hour are on the verge of starvation.” This resistance to the compilation of effects was not accidental; it allowed Gifford to avoid the conclusion that there was a causal event lurking in the background. Gifford concluded his testi-

²⁹ One newspaper reportedly criticized La Follette because it cost the government \$6,000 to print the thousands of replies in the *Congressional Record* (Maney 1978:82 n.16).

mony by stating that he “found it pleasant to be hopeful” (ibid., p. 3072).

The work of establishing the Depression as a singular event—a disaster—for millions did not stop after Roosevelt’s election. If anything, the New Dealers worked harder than their predecessors at establishing the exact contours of the catastrophe.³⁰ They used this information to justify their alphabet of programs to mitigate its effects and later to defend those agencies and programs in the courts. For example, the 1937 brief for the United States defending the unemployment compensation program contained an expansive statistical, sociological, economic, and historical analysis of unemployment and included several tables and statistical graphs in an appendix.³¹ Similarly, the Roosevelt administration devoted extensive space in its brief defending the old age pensions of the Social Security Act to a report written by four economists detailing “The Problem of Old Age Dependency.”³² On the basis of their data, the government brief concluded that “urbanization and industrialization” had transformed the end of the life cycle into a nightmare of dependency due to the “ravages of economic depressions.”³³

This goal also found expression in the artwork and photographs produced by various New Deal agencies, such as the Resettlement Administration (RA). Initially headed by liberal Columbia economics professor Rexford Tugwell, the RA, later renamed the Farm Security Administration (FSA), had the broad charge of ameliorating rural poverty; its Historical Section employed photographers, writers, and other artists to marshal support for the New Deal. The section head, Roy Stryker, hired a staff of photographers including Dorothea Lange, Walker Evans, Ben Shahn, Russell Lee, and Arthur Rothstein, sending them out armed with “shooting scripts” to track the effects of the Depression and the benefits of Roosevelt’s programs (Meltzer 1978:144, Bustard 1997:34–35). Stryker’s scripts requested particular shots and also asked the photographer to focus on a sociological “theme” which advanced the politics of the administration. Most often, the photographers mailed in their film to Stryker’s unit for development, numbering, and printing. Stryker himself was pri-

³⁰ The effort to compile this information did not end with the passage of the Social Security Act but was ongoing throughout the 1930s as the programs were subject to repeated legal challenges. For example, in 1937, Roosevelt announced a national “Unemployment Census,” in which a double postcard was sent to every home in the country asking 14 questions about unemployment. See Franklin Roosevelt, Fireside Chat, 14 Nov. 1937, <http://newdeal.feri.org/chat/chat11.htm>. New Deal Network, <http://newdeal.feri.org> (6 May 1999).

³¹ Brief for the Respondent, pp. 9–29, app., *Chas. C. Steward Machine Co. v. Davis* (1937) (No. 837).

³² Brief for the Petitioner, pp. 49–74, app. table 2-5, *Helvering v. Davis* (1937) (No. 910).

³³ Ibid., pp. 52–53.

marily responsible for reviewing contact prints and selecting those he deemed “suitable” for printing. Images Stryker rejected for printing were classified as “killed,” and sometimes Stryker punched a hole through the killed negative.³⁴ Those images selected for printing were frequently carried in newspapers and magazines around the country, contained in reports given to Roosevelt and Congress, and displayed at conventions of social workers (Meltzer 1978). Like the Lange photo that introduced this section (Fig. 1), many of these pictures quickly came to stand in for the Depression itself.

Dauber (1992), following art historian Michael Baxandall (1985), argues that the particular form taken by cultural objects is best seen as the result of efforts by producers to anticipate the effects of their work on their audiences. It is not necessary, however, to parse the New Dealers’ intentions from the range of possible variation, because Stryker left a detailed record including scripts, letters, diaries, and memoranda. This evidence, coupled with the images themselves—both selected and killed—show that New Deal artists and bureaucrats explicitly chose forms, as did La Follette, that were most likely to elicit sympathy for the depression’s victims. The photographic equivalents of labor statistics and compilations of surveys were images of crowds awaiting various sorts of relief: unemployment checks, bread, soup. In fact, photographers working for Stryker and other New Deal agencies experimented with a variety of techniques for capturing masses of people within the bounds of the photograph, including views from above and foreshortening. These efforts are all an attempt to overcome the difficulty inherent in making visible abstractions like “unemployment,” “hunger,” and “blamelessness.”

The queue photos in Figures 2–6 are a clear example. The viewer is prevented from identifying the men as individuals by the hats, shadows, and hazy focus that obscure details of physiognomy. These are people made equal in their loss. This homogeneity was an intentional theme of several New Deal artists (Bustard 1997:50). The photos also transmit the blameless character of the needy by their orderliness and through racial appeals. After all, these are queues and not riots, composed principally of downcast white people waiting patiently and lawfully for relief. The importance of these themes is evident in Figures 7 and 8. These shots were part of a 1938 series taken by Ben Shahn of people awaiting distribution of relief commodities in Ohio. Figure 7 was selected and captioned by Stryker. Figure 8, however,

³⁴ Library of Cong., FSA-OWI: About the Collection, “How the Photographs Were Produced,” <http://lcweb2.loc.gov/ammmem/fsahtml/fabout.html> (viewed 7 May 1999). The killed negatives were never printed and were consequently never available to the public or researchers. The Library of Congress recently made these images, consisting of nearly 100,000 black and white killed negatives and 77,000 printed photos, available on its website in an online exhibition.

was killed. Stryker also explicitly instructed the FSA photographers not to take any “mob scene” photos and tried to discourage Dorothea Lange from taking pictures of her favorite subject—strikes—asking her instead to take her famous intimate portraits of suffering (Horwarth 1990:79; Meltzer 1978:143–45) (Figs. 1, 9, 11, 16, 19–20).



Fig. 2. *Our Daily Bread*, Ewing Gallo- way Studio (1933).

Fig. 3. Unemployed line up at Chi- cago Soup Kitchen. F.D.R. Library (1931).



Fig. 4. San Francisco Social Security Office, Dorothea Lange. F.D.R. Library (1938).



Fig. 6. Seven a.m. relief line up on U.S. 99, Arvin, California, April 10, 1940. F.S.A., Dorothea Lange (1940). ©The Dorothea Lange Collection, The Oakland Museum of California, Oakland, California. Gift of Paul S. Taylor.



Fig. 8. Untitled. Unprinted FSA Negative. Ben Shahn (1938).

Fig. 5. White Angel Bread Line, Dorothea Lange (1933). ©The Dorothea Lange Collection. The Oakland Museum of California, Oakland, California. Gift of Paul S. Taylor.



Fig. 7. Waiting for relief commodities, Urbana, Ohio, FSA, Ben Shahn (1938).



Their Blood Is Strong: The Iconization of the Depression Victim

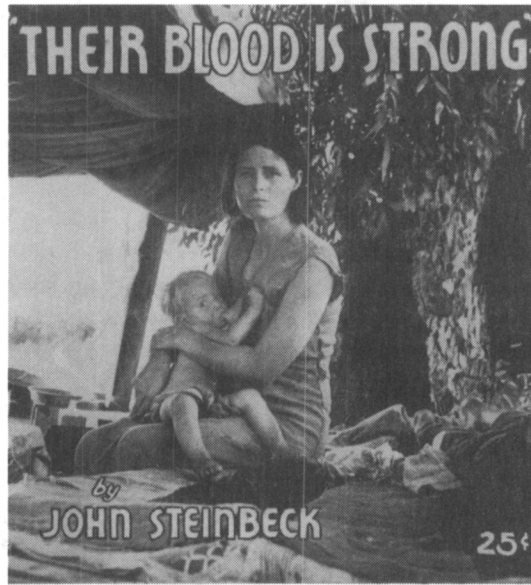


Fig. 9. Dorothea Lange (1936) (courtesy of the Martha Heasley Cox Center for Steinbeck Studies).

Now Tom said “Mom, wherever there’s a cop beatin’ a guy
 Wherever a hungry newborn baby cries
 Where there’s a fight ‘gainst the blood and hatred in the air
 Look for me Mom I’ll be there
 Whenever there’s somebody fightin’ for a place to stand
 Or decent job or a helpin’ hand
 Wherever somebody’s strugglin’ to be free
 Look in their eyes Mom you’ll see me.”

—Bruce Springsteen, *The Ghost of Tom Joad* (© 1995 Bruce Springsteen, Columbia Records)

While the task of constructing the Depression as an event could best be accomplished with a wide-angle lens, the work of narrating the Depression as a disaster demanded a tighter focus. The disaster story, after all, has two main actors. Having built an event large enough to qualify as a disaster outside the range of human agency, the New Dealers next turned their attention to representing its victims. Here they confronted another, perhaps thornier, abstraction. Making the heterogeneous mass of poor people into disaster victims meant justifying their circumstances as the result of fate. In this project, the details of individual encounters with economic hardship had to be exposed to view, but in a manner that foreclosed the conclusion that the needy themselves were to blame for their own hard times. This, in turn, required that images and words depict individuals shorn of their

biographies, leaving only the Depression itself as a cause of their deprivation. In this section, I illustrate this process using examples drawn, not coincidentally, from the most famous of Depression literature and art, as well as from political discourse.

The imperative to suppress claimants' own moral agency accounts for one of the most striking qualities of Depression-era images of the victims: their simplicity and surface clarity. These images, drawn both in words and in photographs, are intended to immediately engage the viewer in the suffering depicted while discouraging any lingering interest in the particular case represented. Thus we have, in some of the most enduring visual images of the Depression, vivid pictures of babies being nursed by migrant women who are otherwise wholly anonymous, without clues to family status, location, or historical circumstances. This focus on obvious surfaces at the expense of complicated depths is a consequence of the purpose of these images, which is to stand in for an otherwise abstract and inaccessible class: the victims of the Depression, whatever their personal circumstances and individual histories. It is also this focus that qualifies these images as icons, as vehicles for making present in the experience of the viewer entities that would otherwise be beyond sensation. But just as religious icons run the risk of involving the believer in the signifier to the exclusion of the signified, so too did images of Depression victims run the risk of being too engaging. The artists and bureaucrats who made these images thus employed various strategies to manage an anxious relation between their icons and the entire class of fellow sufferers they represented.

One of the most well-known and successful efforts to narrate the Depression as a disaster by transforming its victims into icons of blameless suffering was John Steinbeck's 1939 novel, *The Grapes of Wrath*. Historian Howard Stein (1973:202) recounts the way that the story was often compared with Harriet Beecher Stowe's famous iconization of slaves: "*The Grapes of Wrath* could well have been rechristened 'Uncle Tom Moves West.'" As with Stowe's novel, the public's pity passed effortlessly through the characters to the class they symbolized, at least for an admittedly interested reader like Franklin Roosevelt, who told a 1940 radio audience, "I have read a book recently. It is called *The Grapes of Wrath*. There are 500,000 Americans that live in the covers of that book." In fact, Steinbeck so succeeded in installing the Joads as icons that within a year, all of California's migrants were commonly referred to as "Joads" (Stein 1973:208). And as the epigraph above suggests, the imprint left by Steinbeck's work extended beyond Depression-era California: over half a century later, Tom Joad still appears in rock music as the powerful, instantly recognizable, bowed-but-unbroken victim of large forces beyond his control.

Steinbeck's novel, like Lange's photographs, was an intentional effort to win public sympathy for federal intervention and relief. In February and March 1938, John Steinbeck participated in an FSA effort to rescue thousands of migrant families caught by flooding in the pea fields of Visalia and Nipomo, California. The agricultural workers, who already subsisted in deplorable conditions, were stranded by torrential rains and were starving to death. Although the FSA attempted to get food and medical care to the migrants, the Growers' Association sabotaged and disrupted the relief effort. Five thousand workers, mostly women and children, died of starvation and smallpox. Steinbeck later told FSA camp manager Tom Collins that the flood “hit me and hit me hard for it hurts inside clear to the back of my head. I got pains all over my head, hard pains. Have never had pains like this before” (DeMott 1989:xliv). Although he had already been working with the FSA, writing journalistic exposes and articles about the migrants for two years, including a series of articles punctuated by Dorothea Lange's photographs (see Fig. 9), Steinbeck was overwhelmed by the events of that winter and “knew he had witnessed the stuff of tragedy.” He abandoned his other projects in favor of writing a realist novel, the literary form best suited, according to Nussbaum, (1995:66) to the elicitation of sympathy.

The book was an instant smash. It was first published in March 1939, and by mid-May it was the best-selling book in the country. By the beginning of 1940, it had sold 500,000 copies and won both the National Book Award and the Pulitzer Prize for fiction. It was hailed as an American masterpiece and made into an Academy Award-winning film within a year of its publication. With the rise of the New Criticism a few years later, however, came the complaint that Steinbeck had not drawn his characters as fully as he could have, given his obvious literary gifts (Lisca 1957:757, Levant 1974:127–29). The characters were thought fuzzy, flat, and out of focus; in the words of one critic, the Joads were “fitted into allegorical role, heightened beyond the limits of credibility” (Levant 1974:128). Critics also argued that the plot was thin and inexplicably interpolated with long exegeses on politics, history, and economics (Stein 1973:202). As a text, the novel's endurance and power was a mystery to critics, who felt that it lacked “the most essential elements of fiction—plot and character” (Lisca 1957:757).

If we read *The Grapes of Wrath* as a claim on federal resources for victims of the Depression, and not just as a work of literary art, we can make sense of the flaws that puzzled the New Critics. Steinbeck faced two related risks in his effort to elicit compassion for the migrants. The first was that readers would conclude that his characters, pitiful though they may be, were dispossessed not by dust or tractors but by their own hands—that the story might channel blame toward them rather than carry it away. If the

Joads were to be grasped as victims of the Depression, rather than of their own, idiosyncratic, personal histories and characters, then their uniqueness had to be suppressed in favor of what was common to all such victims. Second, at the other extreme, readers might become so attached to the characters in the novel that they would sympathize solely with Steinbeck's Joads and, by some exceptionalist logic, no others. Steinbeck needed to transfer readers' sympathies from the Joads to the class of victims. Had the Joads been fully realized, readers might have refused to take this next step, instead seeing the Joad family as uniquely deserving of emotional engagement. In this Steinbeck faced a risk like that of makers of religious icons: that viewers might venerate the image and forget the more abstract reality it represented.

Steinbeck carefully steered a course between these two hazards by using the very techniques that so distressed the New Critics. To ensure that the Joads could not be blamed for their state of want, Steinbeck suppressed facts about them other than their dispossession, ultimately entirely stripping them of their history, and rendering them flatly against a dreary backdrop of suffering. Steinbeck then reminded the reader that the Joads were mere place holders for real people by interweaving sociological discourses on the lives and conditions of migrants with his story about the Joads. Finally, Steinbeck impeded any desire to worship his icons by painting them as flawed, not in large ways that caused their predicament but in small, human, ways that made them ordinary rather than saintly. These techniques cut the Joads off from their own past and consequently from alternative explanations for their deprivation, while at the same time seamlessly blending them into all of the other migrants whose fate they shared.

The thinness of Steinbeck's characterization of the Joads can be seen in how little the reader knows about their life before the migration. By the time we encounter them, they have been "tractored off" their land, their little house knocked off its foundation. All that remains of their domestic life at the story's opening is a shell:

The kitchen was empty of furniture, stove gone and the round stovepipe hole in the wall showing light. On the sink shelf lay an old beer opener and a broken fork with its wooden handle gone. . . . An old copy of the Philadelphia ledger was on the floor against the wall, its pages yellow and curling. Joad looked into the bedroom—no bed, no chairs, no nothing. On the wall, a picture of an Indian girl in color, labeled Red Wing. A high button shoe, curled up at the toe and broken over its instep. (Steinbeck 1939:35)

When Tom finally locates his family, their way of life has already faded away, and their truck was now "the new hearth, the living

center of the family" (p. 87). This shift of focus, from the house to the truck, is a device that propels them onto the road but also breaks their connections to their past. Yet even this light baggage seems too much for Steinbeck, and he repeatedly has the Joads shed more of their past on their way west. Even before they leave, Ma Joad burns her small stationary box full of keepsakes accumulated over the course of her life: after removing a few items of jewelry, she burns the paper records of her family's existence in Oklahoma: letters, clippings, photographs. She is troubled by losing this trace into the past and hesitates before placing the box "gently among the coals" (p. 95).

Once on the road, the Joads are increasingly stripped of aspects of any identity other than that of migrants. The grandparents die at the side of the highway, as does the family dog. The oldest son, Noah, refuses to cross the river into California and runs off. Rose of Sharon's immature husband abandons her. Ma is despondent over the breakup of the family (p. 132). As they glimpse California, they are transformed into people with barely any link to their past, one of thousands packing the ragged trucks streaming into the lush valley. Tom notes their new, anonymous status, exclaiming, "Jesus, are we gonna start clean! We sure ain't bringin' nothin' with us" (p. 205). The effect is to leave readers with ever fewer bases for countering Steinbeck's identification of the causes of the Joads' disaster, even if they want to.

The decontextualized characters, and their missing internal lives, are puzzling indeed for a novel lauded as a masterpiece, particularly when we consider Nussbaum's (1995:32) insight that the power of a novel to elicit pity for its subjects lies in its very capacity to draw the reader into the "richness of the inner world" of its characters. Yet, Steinbeck gives only glances at history, at emotions, at relationships. We know that "Grampa fit in the Revolution" and that something happened with Indians in his distant past. We know that Ma and Pa are married, but we experience none of their reflections on their courtship, none of their internal feelings for each other, nor any depth to their bond. We know that Tom was in prison for four years, but he won't discuss the experience, preferring to "jus' lay one foot down in front a the other" (Steinbeck 1939:156). We know that Al is going to marry Aggie Wainwright, who lives at the other end of their boxcar, but we do not see or experience any moments with these lovers who are always "out walkin.'" We know nothing of their passion, their desire, their sexuality—we suspect that they have been so dehumanized by now that they have nothing of these complex emotions left. In fact, the only feelings they are allowed are those of pride, grief, remorse, fear, and eventually anger—defining them as oppressed and forlorn but nothing else.

It was essential to Steinbeck's project that the Joads be both more and less than compelling characters; they had to be sufficiently generic to stand in for Roosevelt's "500,000 people who live between the covers of the book." Unfortunately, the very features of the novel as literary genre—its ability to elicit compassion by bringing readers into the emotional world of individual characters—threatened to undermine this purpose, a problem, as Nussbaum (1995:70–72) notes, general to the socialist novel. Steinbeck maintained the reader's pity for his characters but diminished the distracting features of individualism by continually alternating the reader's perspective between near and far views, bringing the Joads into sharp focus, then zooming out until they were so small that their cars "crawled out like bugs" (Steinbeck 1939:178).

Steinbeck's interjection of what he called the "general" in the midst of the "particular" narrative of the Joads might be seen, as it was by the New Critics, as a sign of confusion between the literary forms of novel and political essay (Steinbeck 1989:23). And, as I have noted, it certainly did depart from the novel's typical insistence on richly detailed, highly individualized portraits. But it can more profitably be recognized as an example of another literary form with which Steinbeck was undoubtedly acquainted: the ethnography. As James Clifford (1988) and others (e.g., Boon 1983; Manganaro 1992) have pointed out, ethnographers beginning with Bronislaw Malinowski's famous 1922 monograph *Argonauts of the Western Pacific* had, by the time of Steinbeck's writing, worked out a technique for alternating between vivid description and theoretical explanation in order to produce authoritative accounts of culture. Ethnographers wrote detailed descriptions of far-off individuals in order to create a sympathetic relativism in which their subjects could be perceived as not bad, just different. Steinbeck, following this insight, adopted their literary style in his rendering of the foreign and increasingly racialized Okies (Stein 1973:213–15). His project was, then, both novelistic and ethnographic: Using the literary device of the Joads, he authoritatively narrated the migrants' rituals for birth, death, maturation, marriage; their religious, economic, and welfare institutions; and their efforts to maintain those practices under the intense pressures of deprivation.

In the now-familiar rhythm of ethnography, particular segments of interaction between the Joad family and others are recounted, then given context and meaning by the ethnographer. In one example, the Joads stop for the night in the first of many ditch camps. In the next chapter, Steinbeck interprets the activity in the camp for the reader, described in his journal as "the change on the roads" (Steinbeck 1989:51):

At first the families were timid in the building and tumbling worlds, but gradually the technique of building worlds became their technique. Then leaders emerged, then laws were made, then codes came into being. And as the worlds moved westward they were more complete and better furnished, for their builders were more experienced in building them.

This shift in literary voice, from the involved novelist to the authoritative social scientist, generates distance between the reader and the Joads, reducing them from the status of friends to the subjects of a case study. Moreover, by continually sifting the Joads into the masses and then culling them out again, Steinbeck highlights their status as examples, so that readers' attachment to the Joads never overwhelmed their status as representatives of a type.

One Thousand Words

In crafting his portrait of the Depression victim, Steinbeck drew heavily on the work of other artists involved in the effort to dramatize the migrants' plight, many of whom were employed by Stryker or other New Deal agencies. In particular, he was influenced by the photographs of Dorothea Lange and Horace Bristol, as well as by the groundbreaking documentary films of Pare Lorentz (Meltzer 1978:202–3; Howarth 1990:77–92). Kehl (1974) has traced the links between characters in Steinbeck's book and Lange's pictures, arguing that the writer's portraits of Tom Joad and Jim Casey were based on her work. Lange's photos were clearly associated with the novel: They were used to illustrate Steinbeck's 1936 series for the *San Francisco News*, later reprinted as *Their Blood Is Strong* with a Lange shot of a nursing mother on the cover (see Fig. 9).

New Dealers recognized early the power of photography to construct sympathetic icons of the Depression's ravaging effects. Many of the most famous photographers and documentary filmmakers of this period, including Lange, Walker Evans, and Lorenz, were employees of the Roosevelt administration, under explicit direction to document the effects both of the depression and of Roosevelt's programs. The intimate portraits of the poor taken by Lange during her time with the RA and the FSA were originally taken to illustrate statistical reports written by her husband and collaborator, Paul Schuster Taylor. Taylor, a student of John Commons, was a liberal labor economist and young assistant professor at Berkeley when he and Lange began to document the effects of the depression in California. When FERA official Lawrence Hewes took Taylor and Lange's report to Washington in 1935 and showed it to politicians like Tugwell, Eleanor Roosevelt, and Senator La Follette, he quickly realized that Lange's pictures—39 shots on 24 pages—“were about the most important thing in the whole show.” Her photos were a

huge success and were an important element in Harry Hopkins's decision to allocate funds for federal migrant camps, which Taylor noted were "the first federal public housing in the United States" (Meltzer 1978:101).

One reason Lange's photos were so compelling, according to Pare Lorentz, was that they portrayed the dust bowl refugees as blameless victims of fate: "You do not find in her portrait gallery the bindle stiffs, the drifters, the tramps, the unfortunate aimless dregs of the country. Her people stand straight and look you in the eye. They have the simple dignity of people who leaned against the wind, and worked in the sun, and owned their own land" (Meltzer 1978:105). Lorentz was so impressed with Lange's ability to portray the innocence of the migrants that he hired her to assist him when he made a documentary film for the RA about the dust bowl called *The Plow that Broke the Plains*.

At Stryker's direction, Lange and other RA/FSA photographers took thousands of "idealized pictures of decent, dignified, folk who were blamelessly down on their luck" (Horwarth 1990:79). They were pictures not of people but of suffering itself. Lange and Taylor agreed that her photos were designed to explicitly argue that "These people are worth helping! They are down and out but they are not the dregs of society. They've just hit bottom, that's all" (Meltzer 1978:186). They were, according to the couple, "the children of distress, driven West by dust, drought, and Depression" (*ibid.*, p. 105). Lange's pictures thus were used by the Roosevelt administration to stand for not only the plight of the migrants but also for the suffering of the entire nation under the Depression, itself an interesting fact given their regional specificity. As Lange noted, her task was to represent virtue in a single image and with no props except the people themselves:

Their roots were all torn out. The only background they had was a background of utter poverty. It's very hard to photograph a proud man against a background like that because it doesn't show what he's proud about. I had to get my camera to register the things about these people that were more important than how poor they were—their pride, their strength, their spirit. (*Ibid.*, p. 97)

Lange's conviction, reflected in her photographs, that images of surfaces could suggest depths without actually portraying them was undoubtedly shaped by her pre-Depression work as a commercial portrait photographer. She knew from experience that viewers read into photographs significance that would be impossible to represent directly. Thus the use of a direct gaze to signify honesty and dignity, or of eyes gazing downward to signify humility and passivity, was part of Lange's photographic repertoire before she took any pictures of migrants (for a discussion of the encoding of social relations in photographs, see Goffman

1979). Lange was a master at signaling moral qualities while leaving ambiguous the details of the lives of the people she photographed. In this project she was doing with a camera what Steinbeck did with a pen. Like Steinbeck she drew on the techniques of her craft and on the visual competencies of her audience.

Two well-known images produced by photographers during the Depression illustrate another element in the iconization of victims: the use of white mothers and babies, and preferably both. “Madonna of the Flood” (Fig. 10) was shot on the levee following the Mississippi River flood of 1937, carried on the AP wire, and widely published in newspapers around the country. It was reprinted in the 1937 Red Cross Annual Report on federal and private assistance to the flood victims. Its title invoked arguments about innocence from religious domains. In the background, sandbags and rising water are visible: as with the migrant photos, there is no context for the picture other than the disaster and suffering. Scores of similar pictures featuring white women nursing, cradling, and feeding babies fill the FSA archives.



Fig. 10. Madonna of the Flood. 1937. FSA (A.P.)

The most successful such image, and the picture that has “come to symbolize the entire Depression experience in America” (Bustard 1997:90) is Lange’s Migrant Mother (see Fig. 1). Lange took the photo in February 1935 at a pea-pickers’ camp in Nipomo. The original caption for the photograph was “Destitute peapickers in California; a 32 year old mother of seven children. February, 1936.” Even this sparse biography evidently offered too much information from which an account of the subject’s culpability might be forged (seven children?), and the picture became known by its present iconic title. Stryker himself gloried in the picture, calling it the “ultimate” and “the picture of Farm Security” (Meltzer 1978:133). It has become a transparent

icon of blameless victimization in contexts as varied as the Spanish Civil War and the Black Nationalist movement. According to George Elliot's introduction to the Museum of Modern Art's Lange retrospective (1966), the picture "leads a life of its own," in its ability to crystalize "the humanly universal results of poverty."³⁵ Figure 11 shows another shot of the same woman taken by Lange that same day, this one again invoking claims about innocence through the use of a nursing baby.



Fig. 11. Nipomo, Calif. Mar. 1936. Migrant agricultural worker's family. Seven hungry children. Mother aged 32. Father is a native Californian. FSA, Dorothea Lange (1936).

The importance of women and children in Lange's visual repertoire seems to lend support to Skocpol's (1992) argument that the New Deal, and the American welfare state more generally, have "maternalist" origins. Yet Lange and other government photographers also took many pictures of men, alone and in groups (see Figs. 2–8), and some of the FSA's most famous images of women and children included men (Fig. 12). The portrait in Figure 12, part of a series by FSA photographer Walker Evans, directly involves the man with his family. Similarly, Figure 13, taken by Russell Lee in 1936, shows an unemployed worker with his wife and children.

Rather than reading these pictures of men as somehow peripheral to the New Deal's rhetoric, it is more useful to see Stryker, Lange, Evans, and others as drawing on a moral economy of blame and moral virtue in crafting these images of need. New Deal photography was not bent on showing that the Depres-

³⁵ The photograph is still so successful at evoking this response that it was recently issued on a U.S. postage stamp commemorating the decade of the 1930s with the caption "America Survives the Depression." According to the Postal Service's accompanying text, the photograph "symbolizes the courage of Americans as they tried to survive the hard times of the **Great Depression**" (emphasis in original).



Fig. 12. Bud Fields and family at home, Hale County, Alabama. FSA, Walker Evans (1935 or 1936).



Fig. 13. Homer Sharer and family. Estherville, Iowa. He has rented farms in the past. Was last employed as hired hand for sixteen months, but is on unemployment relief. FSA, Russell Lee (1936).

sion claimed women and children as victims, and therefore that unemployment should be relieved. Rather, photographers looked for subjects who could be protected against the collapse of need into blame and responsibility. For this purpose children, and most especially babies, were ideal, since their responsibility for their own misfortune could be easily refuted. Men presented difficulties because gendered conceptions by viewers threatened to undermine the male subjects' status as icons of deprivation. For this reason it was imperative that their biographies, as glimpsed through the lens of the camera, gave no indication of any complicity in their own circumstances. Pictures of men thus required a greater effort on the part of the photographer to represent dignity, hard work, and moral innocence than those of women and children, whose portraits traded on already-established logics of virtue and blamelessness.

Lange often attempted to accomplish this by appending page-length captions to photos including men, explaining in detail the reasons for the father's unemployment:

Migrant family from Oklahoma. A family of six alongside the road. An example of how they fall between the relief agencies. The father, age thirty-five, is an intelligent fellow, a painter by trade. Advanced tuberculosis, victim of an occupational disease. Ineligible for WPA (Works Progress Administration), rated as totally disabled. As a state charge under Oklahoma relief standards, the family were told the maximum relief would be seven dollars every two weeks. They lost their home, their furniture, took to the road a year ago and when the photographs were made they were found to be without money, shelter, and without food for the four children.³⁶

In another example, Lange describes a family living in a tent camp outside Sacramento. "Father was coal miner in Tennessee but when the mines were not working received two days a week relief work. 'Thought we could make it better out here.'"³⁷ These captions demonstrate the intense effort required to direct blame away from images of needy men. A more frequently adopted strategy was merely to omit men from the photos altogether, taking alternative views or shots of a family that included only the woman, baby, and perhaps another younger child. Figures 14 and 15 exemplify this approach, taken by Evans and Lee with respect to the same families shown in Figures 12 and 13, now shorn of their adult male members and even of older male children.



Fig. 14. Lily Rogers Fields with children.
Hale County, Alabama. FSA,
Walker Evans (1935 or 1936).

³⁶ Caption to photograph No. LC-USF34-009731-E, FSA-OWI Collection, <http://lcweb2.loc.gov/> (viewed 7 May 1999).

³⁷ Caption to photograph No. LC-USF34-009906-C, FSA-OWI Collection, <http://lcweb2.loc.gov/> (viewed 7 May 1999).



Fig. 15. Wife of Homer Sharer and the baby, one of five children. Former tenant farmers and hired hands. They are now living on unemployment relief in Estherville, Iowa. FSA, Russell Lee (1936).

Dust to Dust: Constructing Old Age as a Natural Disaster



Fig. 16. “Old Age” near Washington, Pennsylvania. FSA, Dorothea Lange (1936).

We refused to leave the problems of our common welfare to be solved by the winds of chance and the hurricanes of disaster.

—President Franklin Delano Roosevelt, 20 January 1937

Once constructed as an entity, the Depression was available for description and, ultimately, analogy. This was, to be sure, not a linear process; the use of disaster metaphors themselves helped to reify the collection of effects into a solitary experience, in La Follette’s terms, an “economic earthquake” (74 *Congressional Record* 703 (15 Dec. 1930)). This effort did not escape Hoover’s notice. By his count, Roosevelt based more than 200 executive orders on “emergency” grounds and used the word “emergency” more than 400 times in public statements between during 1933

and 1934 (Higgs 1987:170–71).³⁸ But it was by transporting the discourse about the “Depression” into the realm of federal resource allocation that La Follette and others found their payoff. The pragmatic Roosevelt grasped the importance of the analogy with startling clarity. For example, addressing an audience in Gainesville, Georgia, in 1938, the president called their attention to the tornado that had demolished their town two years before: “Gainesville suffered a great disaster. So did the Nation in those eight years of false prosperity followed by four years of collapse” (Roosevelt 1938). He reminded the conservative Southern Democrats that they had received over a million dollars in federal disaster relief and urged their continued support for aid to the unemployed because “the application of this principle to national problems would amply solve our national needs.”

Renderings of the Depression by Roosevelt, La Follette, and others likened it to hurricanes, floods, fires, tornados, droughts, storms, wars, tidal waves, plagues of locusts, and other disasters. The unemployed, in turn, became “these innocent victims of this economic disaster” (74 *Congressional Record* 707 (15 Dec. 1930)). In Roosevelt’s speech accepting the Democratic presidential nomination in 1936, he characterized the Democratic Party platform, and in particular, its Social Security plank, as one that

sets forth that government in a modern civilization has certain inescapable obligations to its citizens, among which are protection of the family and the home, the establishment of a democracy of opportunity and aid to those overtaken by disaster.³⁹

His description was then quoted in the Democratic Party’s campaign literature and disseminated to campaign workers all over the country, who were instructed to use it when responding to Republican arguments against Social Security.

The analogy was sometimes vulnerable, however, as Senator Norris acknowledged. “It may be that in some cases those who suffer are in part and are sometimes wholly to blame, but . . . when people, especially little children, are suffering for the necessities of life, the first thing to do is bring relief . . . from the Federal Treasury” (74 *Congressional Record* 2141 (14 Jan. 1931)). Norris, like Steinbeck and Lange, presented the poor stripped of biographical detail in order to minimize the possibility that their need could be attributed to their own fault and, like Lange, resorted to the use of children as icons of blamelessness. Others,

³⁸ Not all of this work was rhetorical; Higgs (1987) argues that Roosevelt purposefully closed banks upon taking office in order to provoke a crisis that would justify federal intervention on the model of World War I. According to Leuchtenberg (1964), the analogy to World War I was far too weak to sustain such innovations as the industry regulating “codes” of the NIRA. However, the idea that the nation was experiencing an “emergency” provided an important rhetorical argument that the economic situation was a sudden catastrophe.

³⁹ “Don’t Go Back and Backward with Republicans,” Democratic Party Campaign Literature, 1936.

like Senator McKellar, worked at perfecting and defending the metaphor:

It was not the fault of these people that there was a great panic in New York. It is not their fault that there is a great period of depression in this country. It is their misfortune, and this country has from time immemorial provided for such a situation and it is our duty to provide for this one now. (*Ibid.*, p. 2145)

Certain claimants were far more easily able to describe their loss as the result of a big, sudden calamity. Similarly, some claimants were better able than others—due to features of their biographies, such as youth, or race, or gender—to portray themselves as innocent. Some cases, like the migrants fleeing the Dust Bowl—white families including women and children who were at least partially affected by bad weather—were highly persuasive on both dimensions, and required very little work by advocates to narrate their need as the result of a disaster. Others, like retirees who were expected to save for their old age—a slow process that was entirely foreseeable and hardly sudden—had a harder story to tell.

The drought and dust storms of 1934–36, as well as the floods of 1938, eased the migrants’ claim to federal aid by providing large, sudden events linked, however precariously, to “nature.” Steinbeck opened his story with the dust and closed with the flood, despite his awareness that the Dust Bowl had relatively little to do with the situation of most of the migrants.⁴⁰ In fact, as Stein notes (1973:13), most of the migrants were refugees not from the weather but from mechanization, what Dorothea Lange called “tractor refugees” (Meltzer 1978:175). In a revealing series (Figs. 17–18), Lange tried to make the case that tractors were as much a disaster for the tenant farmer as the dust. Many of these tractors were purchased by large landowners with payments under the Agricultural Adjustment Act, however, and the FSA discouraged Lange and Taylor from this line of argument. Similarly, Steinbeck’s novel presented mechanization and greed as principal causes of the migrants’ need (though sandwiched between the drought and the floods). By the time of the film, however, all reference to tractors had been excised in favor of an opening disclaimer that explicitly blamed the Joad’s troubles on the weather.

⁴⁰ Steinbeck’s decision to bracket the intentional injuries of capitalism with the vicissitudes of fate pointed readers to one of the central ironies of his tale. The Growers’ Association starved the Joads in the midst of plenty; clearly the dust could have done no worse.



Fig. 17. Power farming displaces tenants from the land in the western dry cotton area, Childress County, Texas Panhandle, FSA, Dorothea Lange (1938).



Fig. 18. FSA, Dorothea Lange (1938).

Despite the relative ease with which the migrant story fit the structure of the disaster narrative, efforts were made to destabilize the legitimacy of the migrants' claim on federal relief by calling attention to their relative fault for their own deprivation. In a 1940 letter to Roosevelt, quoted in Stein (1973:61), a native Californian expressed commonly held views:

The fact that they are leaving their native land unfit for human habitation is not surprising. Their ignorance and maliciousness in caring for trees, crops, vines, and the land is such that California will be ruined if farming is left to them. Please do not put these vile people at my door to depreciate my property and loot my ranch.

Moreover, the migrants' claims of innocence were threatened by attempts to racialize them as "Okies" and describe them as members of a "degenerate" minority group, a "degraded American stock," rather than as white, northern Europeans (Stein 1973:60). I have elsewhere (Landis 1998:1022–27) detailed the difficulty confronting members of racial minority groups seeking to present their losses as the result of fate because they are highly likely to be cast as a "disaster" for the dominant racial group. This was the case with the California agricultural migrants, who, once racialized, were described by Californians as a disaster for health, education, and social order. The attack on their whiteness was therefore a tactic which, if successful, was potentially fatal to claims of moral innocence. It was refuted with extreme vigor by Steinbeck and the entire staff of the FSA's Historical Section. Pictures taken by Lange, Rothstein, and others focused on blond-haired children. For example, the title of Steinbeck's pamphlet (see Fig. 9) "Their Blood Is Strong" is a direct claim for the pure racial stock of the migrants. Stein (1973:215) concludes that the effort to transform the Okies into a disfavored racial minority ultimately failed, commenting acidly that "no novel, however brilliant, which chronicled the migratory

route of the Pedro Morenos in California’s valleys could have become a bestseller.”

Understanding the features of the migrants’ claim that fit easily within the structure of the disaster narrative helps to make sense of the apparently odd fact of their iconic status. Why, after all, should Lange’s migrant mother come to represent the suffering of the urban unemployed or of the elderly indigent? It is curious that these images, taken quite late in the Depression—1936–40—of groups who were entirely excluded from the Social Security Act as agricultural laborers, should be taken as representations of the Depression itself. The force of their case lies not in really good pictures, or in a really good book, but in the reason that these objects are yet today regarded as “really good”—that is, in the features of their story which lent themselves to an easy construction of the migrants as disaster victims.

By contrast, what is today regarded as the centerpiece of the New Deal, the Old Age Insurance provisions of the Social Security Act of 1935, was extremely difficult for Roosevelt to fit within the disaster narrative, and required tremendous effort to squeeze it into conformity with the scheme of precedents authorizing federal aid. The migrants could point to a number of events beyond their fault—weather, banks, unscrupulous capitalists, tractors. The urban unemployed could, of course, attribute their losses to the agency of the Depression, which was constructed as a sudden catastrophe. Dependent children could point to the death or abandonment by a parent, and the blind and disabled could attribute their injuries or illnesses to accidents or to the agency of germs. The dependent elderly, however, had no such bad luck. They aged slowly, inevitably, and were expected to save for that eventuality. The fact that they turned up impoverished after their retirement was a claim that was dangerously embarrassed by its connection to their own conduct. Although it is today common to view these pensions as the most favored form of American welfare (Gordon 1994:185), old age insurance was in 1935 the most controversial part of the Social Security Act and was thought likely to be stricken from the bill (Stevens 1970:144) in part because it “does not purport to be an emergency measure” (U.S. Senate 1935). In the end, it was only the insistence of Roosevelt himself that salvaged this portion of the law (Skocpol & Ikenberry 1983:133; Witte 1963:146–52).

The Social Security Act ultimately passed by Congress provided minor matching grants to the states for direct relief to the indigent elderly who had lost savings and suffered during the Depression, but it resoundingly rejected the efforts of the Townsend and Lundeen movements for direct federal pensions for the elderly financed out of general revenues. Long-term assistance for the elderly was provided by the old age insurance program, which was financed by a regressive tax on employees, excluded

most poorer workers, and encouraged “thrift.” Benefits were keyed to contribution levels, and the program emulated an annuity form of “true insurance” rather than social insurance. Today, we see this program as the best form of welfare; that social security is contributory and is thought of as “insurance” is now viewed as fostering the program’s popularity with the middle class. But these features should also be seen as a product of the difficulty of narrating something foreseeable, inevitable, and long term as aging as a disaster.

Roosevelt repeatedly demonstrated that he recognized both the necessity of the disaster narrative as a prerequisite for federal funding and the fragility of the analogy between disaster relief and old age insurance. From the outset of his push for social security, he used rhetorical strategies designed to strengthen the link between disaster victims and the elderly and to minimize features of aging that appeared to undermine his claim. For instance, during his famous speech of 8 June 1934 announcing his intention to seek economic security legislation, Roosevelt focused not on pensions but on the Dust Bowl. He carefully mapped the analogy: “Economic circumstances and the forces of nature themselves dictate the need of constant thought as to the means by which a wise Government may help the necessary readjustment of the population.” Invoking religious images of innocence, the president described the way that “the top soil in dry season is blown away like driven snow,” and went on to discuss the ways in which irrigation and other kinds of “human engineering” can be “employed in the attack on impossible social and economic conditions.” He concluded that only comprehensive national planning rather than a piecemeal approach by “the 48 states” could solve the problem.

Roosevelt then shifted abruptly to social security, tying it to the drought. He drew an identity between the people affected by the drought and the Depression, sounding the administration’s theme of “human erosion”⁴¹ (Meltzer 1978:164) and arguing that “it must be clear to all of us that for many years to come we shall be engaged in the task of rehabilitating many hundreds of thousands of our American families” just as we will be rehabilitating the dirt. By his invocation of the Dust Bowl during his inauguration of social security, Roosevelt sought to blur the boundary between old age and drought. He sought to highlight both the social causes of the Dust Bowl and the natural causes of dependency in order to make the two more closely comparable and to use the acknowledged legitimacy of federal drought relief as a springboard for his social insurance scheme.

⁴¹ This was a persistent analogy throughout the Roosevelt administration, expressed by the president’s Committee on Farm Tenancy as “erosion of soil has its counterpart in the erosion of our society.” In 1937, Roy Stryker prepared a layout of Dorothea Lange photographs of the migrants with the theme of “human erosion.”

This was accomplished by slipping smoothly from protection against the hazards of wind and drought to “security against the hazards and vicissitudes of life” and joining the two under the umbrella of “safeguards against misfortunes which cannot be wholly eliminated in this man-made world of ours.” Roosevelt concluded with an appeal to precedent, asserting that his program of social provision required no shift in American principles or values, but was entirely consistent with past practices of federal relief.⁴² Further driving home his point, the next day, 9 June 1934, the president asked for, and obtained, what was then the largest single disaster relief measure in American history: \$525,000,000, for drought relief.⁴³ This case was also made by Stryker’s photographers, particularly Lange, who took heartrending shots of impoverished elderly women dislocated by the Dust Bowl (Figs. 19 and 20).



Fig. 19. Mother of family camped near a creek bed, panning for gold. “Slept in a bed all my life long till now—sleeping on the ground.” Near Redding, California. Dorothea Lange (1935).

Fig. 20. Grandmother of twenty-two children, from a farm in Oklahoma; eighty years old. Now living in camp on the outskirts of Bakersfield, California. “If you lose your pluck you lose the most there is in you—all you’ve got to live with.” Dorothea Lange (1936).



⁴² Message to the Congress Reviewing the Broad Objectives and Accomplishments of the Administration, 4 Roosevelt Papers 287–92 (8 June 1934).

⁴³ The President Asks the Congress for Additional Funds to Carry on Drought Relief, 4 Roosevelt Papers 293–97 (9 June 1934).

Roosevelt's attempt to describe aging as a disaster by characterizing it as a "misfortune" and as a "hazard and vicissitude of life" was often quoted by both his Committee on Economic Security and congressional advocates as the primary focus of the legislation. When it became clear by November of that year that the committee regarded unemployment as far more within the scope of what could properly be considered a "hazard" or an "emergency," Roosevelt shored up the old age provisions in a speech to the National Conference on Economic Security, saying:

There are other matters with which we must deal before we shall give adequate protection to the individual against the many economic hazards. Old age is at once the most certain, and for many people the most tragic of all hazards. There is no tragedy in growing old, but there is tragedy in growing old without means of support.⁴⁴

In this example Roosevelt described aging as a disaster with reference to "events" in order to transform the otherwise normal process of growing old into a disaster. This was a strategy adopted by his Committee on Economic Security and later by New Deal lawyers defending the scheme before the Supreme Court. These efforts relied on descriptions of urbanization, bank failures that wiped out savings during the Depression, industrialization, farm foreclosure, and demographic data showing longer life expectancies, all of which combined to transform the aging process from a bucolic vision of familial support into a disastrous dependency (see Fig. 16).⁴⁵

By persuading the Court that the Depression was a disaster and citing scores of disaster relief precedents, Roosevelt's lawyers were able to claim that the New Deal policies were continuous with past practice and gain purchase on federal relief dollars. The language of the Court's opinions reflected the success of their approach. Justice Cardozo insisted that he was merely expanding an existing category and not constructing a new one because "[w]hat is critical or urgent changes with the times" (*Helvering v. Davis* 1937:641). Writing for the Court in *Chas. C. Steward Machine Co. v. Davis* (1937:586–87), Justice Cardozo adopted both the metaphor and the rationale of the administration: "Disaster to the breadwinner meant disaster to dependents . . . the *parens patriae* has many reasons—fiscal and economic as well as social and moral—for planning to mitigate disasters that bring these burdens in their train." Again, in *Helvering* (p. 641), the Court upheld the Old Age Insurance provisions of the Social

⁴⁴ Presidential Address to National Conference on Economic Security, 4 Roosevelt Papers 452 (14 Nov. 1934).

⁴⁵ Brief for the Petitioner, pp. 49–74, app. table 2-5, *Helvering v. Davis* (1937) (No. 910).

Security Act as a cure for “the purge of nationwide calamity” (1937:641).

This is powerful evidence for Lawrence Lessig’s (1995:467) argument that the Court’s reaction to the New Deal is best seen not, as Ackerman (1991) asserts, as a repudiation of its prior constitutional interpretations but as a faithful interpretation rendered against a changed factual background. In Lessig’s view, the Depression hit the country with such blinding, unforeseeable force that it destabilized the once taken-for-granted assumption that the economy was essentially self-correcting. However, where Lessig sees the Depression as a prepolitical, exogenous fact of such magnitude and duration that it transformed the legal landscape, I have argued here for the opposite conclusion. That is, while the suffering during the period 1930–37 was doubtless real, I contend that the aggregation of the dispersed, local effects of that suffering into a singular event was deeply political, driven at least in part by the decision to utilize the precedent of federal disaster relief. This point is perhaps clearer when it is recognized that La Follette first asserted a claim to disaster relief for the unemployed and recited lists of precedents in the opening moments of the downturn—before anyone had yet used the word “depression” (let alone with a capital “D”) on the Senate floor. Thus, while I agree with Lessig that the Supreme Court was indeed convinced that the world had changed, that change was not independent of the effort to convince the Court that it had. On the contrary, it was at least in part the result of a masterful, sustained, and successful effort by politicians, lawyers, bureaucrats, artists, writers, and others to make the world over in the image of particular historical and legal categories.

The political compromises that resulted in a disaster-based rationale for the welfare state were not simply a fancy bit of Law and Literature. They were moves with lasting implications for the eventual structure and strength of the American welfare state, as the New Dealers’ reliance on disaster relief as the explicit legal precedent for federal social welfare spending ultimately constrained the shape of their programs and policies. My argument, that the history of the American welfare state was path-dependent, is consistent with Skocpol’s (1992:58) notion of “policy feedbacks,” the way that policies affect both interest group politics and state capacities, ultimately limiting the range of future innovation. She argues (p. 59):

[P]ositive or negative policy feedbacks can also “spill over” from one policy to influence the fate of another policy proposal that seems analogous in the eyes of relevant officials and groups. Tracing these feedback processes is crucial for explaining the further development of social provision after initial measures are instituted.

The bitterness of attacks from the left serve to illustrate the extent to which reliance on historical American patterns of disaster-based rationales for social welfare spending influenced the course taken during the Depression. Roosevelt supporters such as Children's Bureau head Grace Abbott (1941:37) criticized the administration for losing the opportunity to use federal relief as "a lever for building up a permanent federal state relief program" because of an emergency orientation. Gordon (1994:205) notes that welfare state advocates like Labor Secretary Frances Perkins disliked Federal Emergency Relief Administrator Harry Hopkins's "propensity for makeshift, emergency programs" at the expense of long-term systemic change. Conversely, liberal RA head Rexford Tugwell was driven from the administration despite his close ties to Roosevelt because his preference for long-term systemic change over temporary, emergency relief for the displaced farmers was seen as too radical, earning him the epithet "Rex the Red."

Skocpol, however, devotes scant attention to legal arguments and lawyers and does not seem to consider the talk of lawyers to be the sort of "policy" that can constrain future action by the state. Perhaps we are accustomed to considering legal discourse as necessarily strategic and therefore untrustworthy and irrelevant. Instead, I contend that these arguments generated what might be called "discourse feedbacks" which limited the way that problems and solutions were discussed and addressed during the Depression. Moreover, it may even be that the characterization of the Depression as a disaster in the end affected not only the scope of the federal relief effort but also the way people came to understand and discuss their own experiences during the 1930s—as tragic victims entitled to receive help.

While these ways of talking may indeed be strategic political and legal compromises, they have significant effects, a fact noted at the very outset by Fiorello La Guardia, who chided Senator La Follette and his allies for their failure to perceive this danger:

Our situation is not temporary, and gentlemen, you will be making a great mistake in your legislative enactments if you consider unemployment as merely something temporary or spasmodic. With all due deference to the recommendations that have been made to Congress that only temporary relief is necessary and essential, and of course it is, yet temporary relief is not the solution of our problem.

La Guardia broke with La Follette because, like Perkins's later criticism of Hopkins, he feared that La Follette's willingness to assert that the Depression could be addressed under the rubric of disaster relief would limit the range of policy alternatives. Instead, La Guardia argued that "we must go now to the root of our troubles and adjust the relations between employer and employee," and restructure the relations between the citizen and

the state, with such programs as child labor laws, wage/hour restrictions, workers' compensation, national pensions on the German model, state controls on the use of technology and mechanization, and confiscatory income taxes (74 *Congressional Record* 135–40 (3 Dec. 1930)). La Guardia understood that talking about the Depression as a disaster would have implications far beyond the particular vote on the floor of the Senate, because it tied these events to the entire history of federal relief appropriations. If the Depression was a disaster, then that history became relevant to its remediation.

In this regard the effort to narrate the Depression as a disaster was by no means unprecedented. Every claim for relief over the past century and a half had posed the question whether the events at issue really fit into the category of misfortunes that had been relieved in the past. Proponents of relief argued that their case fit the general rule of blamelessness, while opponents searched for ways in which what claimants represented as fate was really bad judgment. While we would be naive to believe that participants in these debates took positions based only on their evaluation of the evidence, the logic of blame and fault was the language within which justification and rebuttal took place. We can therefore see the question whether, and how, the Depression should be relieved through direct federal intervention as another iteration in a long series of efforts, still ongoing, to narrate the story of an event as either calamitous or predictable, a product of large forces or of local missteps.

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