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Mimesis and Miscarriage in *Unprecedented*

The project that resulted in *Unprecedented: The 2000 Presidential Election* began when documentary filmmakers Joan Sekler and Richard Ray Perez watched George W. Bush take the oath of office to become the forty-third president of the United States in January 2001. They "saw more people protesting the legitimacy of what had happened than supporting him" but noted that this "was never reported by the media."[1] Sekler cashed out her retirement funds to begin working on the film, then approached producer Earl Katz with "some very, very rough footage that Richard Perez had shot."[2] Katz found the footage compelling and agreed to become co-executive producer with Robert Greenwald. Sekler and Perez eventually interviewed over one hundred people and combed through hours of broadcast news footage, which they edited into an hour-long film. They rushed to have *Unprecedented* released just before the 2002 midterm elections, and then in 2004 a "campaign edition" was released on DVD with approximately thirty minutes of additional material, including an introduction and conclusion by actor Danny Glover. The film has won numerous awards, including the Grand Festival Award at the Berkeley Film and Video Festival and the Grand Jury Prize for Best Documentary and the Director's Award at the New York International Film Festival, and has become a part of a series of films produced by Greenwald, including *Uncovered: The War on Iraq*, *Outfoxed: Rupert Murdoch's War on Journalism*, and *Unconstitutional: The War on Our Civil Liberties* (all 2004).

Perez has described the film not only as "a wake-up call to say, the way we conduct our elections isn't necessarily democratic,"[3] but also as an effort

"to inspire people to come together to do something to fix these problems."[4] Perez intends, in other words, not only to shed light on a significant issue but also to call an audience to action. Lisa Selin Davis explains that "times have changed since *Titicut Follies* (1967) begot massive reform in mental health care or *The Thin Blue Line* (1988) helped clear Randall Adams of murder charges. These days, social issue filmmakers are doing more than trying to get their movies up on the big screen. They're . . . motivating audiences to stop eating their dinners and do something."[5] This understanding of the potential for documentary film to mobilize its audience is consonant with what Thomas Waugh has termed a "committed documentary," which he defines as a "specific ideological undertaking, a declaration of solidarity with the goal of radical socio-political transformation," and "a specific political positioning: activism, or intervention in the process of change itself."[6] *Unprecedented* exhibits this purpose throughout, but it expends its energy in the presentation of evidence rather than in a call to action.

Unprecedented makes three arguments. The first is that the state of Florida targeted African Americans and other likely Democratic voters through the misuse of a "felon purge list" to remove "anywhere from 57,000 to 91,000 voters from the rolls—more than half of them Democrats, and most of them non-felons."[7] This argument draws upon the work of Greg Palast, who in a series of essays published primarily in Britain's *Guardian* and *Observer* and then collected in *The Best Democracy Money Can Buy* (2000) detailed the way that Republican political functionaries in Florida manipulated the purge list to skew the election.[8] The second argument portrays the recount process and subsequent Supreme Court decision as sites of fraud, excess, and error, and the third argument is that if the manual recount of the Florida ballots had been handled in accordance with state law and good sense, then Al Gore probably would have won the election. For the purposes of this essay, the analysis concentrates on the 2004 DVD release of the film and treats the added introduction and conclusion as parts of the first and third arguments, respectively.

Arguments are presented to arouse the audience, but *Unprecedented* offers no viable modes of action for the members of the audience to take once they are aroused. In other words, *Unprecedented* does not fully deploy the *mimetic* potential of documentary. While the film does attempt to portray what many believe was a miscarriage of the political process, and while the form of the film—including its pacing and editing—may invite its audience to experience some sense of the disruption caused by the 2000 election in Florida, it does not portray for its audience any individuals or groups who act in a way worthy of emulation.

Film scholars seem largely in agreement concerning the rhetorical function of documentary film but theorize this function from a relatively anemic understanding of rhetoric. A more robust sense of rhetoric might contribute to a more nuanced conceptualization of the rhetorical relationship between a committed documentary and its audience. In particular, "mimesis" might be understood as a rhetorical strategy through which modes of ethical political judgment and action might be made available to the audience of a committed documentary.

Rhetorical Mimesis

In *Representing Reality*, his landmark book on documentary film, Bill Nichols argues that documentary has a "kinship" with what he calls "discourses of sobriety," which include "science, economics, politics, foreign policy, education, religion, welfare."[9] These are discourses of sobriety because they are "seldom receptive to 'make-believe' characters, events, or entire worlds" and because "they regard their relation to the real as direct, immediate, transparent."[10] Documentary film, however, "has never been accepted as a full equal" with other such discourses because of "the imagistic company it keeps."[11] In other words, documentary film can never become a full-fledged discourse of sobriety because it consists of images—and images, as Plato taught us long ago, are deceiving. This situation is something of a paradox, because photographic images generally are apprehended as having a special relationship to reality that Nichols calls *indexical*, referring "to signs that bear a physical trace of what they refer to, such as the fingerprint, X ray, or photograph."[12] Photographs, in other words, seem to capture reality mechanically, objectively, without human interference. As Nichols explains, "The primary importance of this indexical quality to the photographic image . . . is less in the unassailable authenticity of the bond between image and referent than in the *impression of authenticity* it conveys to a viewer."[13] It would seem that documentary film, if understood as a sort of moving indexical photograph, should share this same presumption. But, Nichols argues, documentary never can be entirely "sober" because it "fails to identify any structure or purpose of its own entirely absent from fiction or narrative."[14]

For Nichols, documentary is a hybrid genre, providing both visual pleasure and logical argument; it requires its audience to attend to rational assertions while at the same time it offers aesthetic resources designed to provoke emotional response. Documentary film, therefore, is not distinct from fictional film in any absolute sense but does display the evidentiary reasoning of the sober discourses. Understanding a form of discourse like documentary film,

Nichols argues, requires avoiding the extremes of a Platonic quest for indexical transparency and a Baudrillardian resignation to a universe of simulacra.[15] Like any medium, documentary cannot provide direct, immediate, or transparent access to reality, but because of its impression of authenticity, it directs the attention of its audience to reality in ways unavailable to fiction film.

Nichols turns to rhetoric as he develops a lens through which to view documentary film as a simultaneously aesthetic and argumentative form of discourse, but he defines "rhetoric" as "the means by which the author attempts to convey his or her outlook persuasively to the viewer" and the "means by which effects are achieved."[16] This is a narrowly rational and instrumental understanding of rhetoric that seems inadequate to the task of analyzing so complex a mode of public discourse as documentary film, and its shortcomings might be traced to Nichols's reliance upon Aristotle. As Eugene Garver notes, the "Aristotelian rhetorician succeeds when he has found the available means of persuasion, and that is a rational end."[17] Ekaterina V. Haskins has argued that Aristotle explicitly severed aesthetics from rhetoric, dividing the two concerns between his *Poetics* and his *Rhetoric* and relegating rhetoric to "the bottom of the hierarchy of legitimate disciplines."[18] Stripped of its aesthetic and emotive register and limited to rational argument, this conception of rhetoric cannot account for the ways that discourse might move its audience to take action. As Haskins puts it, Aristotelian rhetoric encourages "a distinctly transparent literate conception of the logos as reflection of the cosmos, not a creative force that shapes thought, action, and identity of human agents."[19]

The audience in such a conception is not constituted through discourse but instead consists of a preexisting reservoir of attitudes and beliefs that might be exploited by a savvy filmmaker. Nichols's discussion of ethos, pathos, and logos is indicative. Ethical proof, Nichols explains, often involves the use of "on-screen commentators and television anchorpeople" because audiences ascribe to these figures an ethical or "fair" stance. Ethical standards evidently are innate within an audience rather than invented in and through rhetorical discourse. Similarly, emotional proofs "in general depend on our preexisting emotional attachments to representations" rather than on the potential for discourse to suggest or encourage such emotional attachments. Demonstrative proof is disconnected from these other modes because it is concerned only with "making evidence persuasive, not [with] ensuring that it is fair, accurate, or even authentic," as though the presentation of unfair, inaccurate, or inauthentic evidence would have no bearing on the perceived quality of a rhetor's ethical or emotional proof.[20] This view leaves little room for understanding the potential of rhetoric to shape its audience by structuring the ethical and emotional standards through which demonstrative proofs might be assessed and thus cannot account for the potential of rhetoric to call an audience to judgment and action.

Paula Rabinowitz and Jane M. Gaines provide provocative emendations to Nichols's ideas, especially as they suggest a more active role for the audience. Rabinowitz, for example, argues that "by insisting on the dynamic relationship of viewer to view, documentary forms [can be understood to] invoke performance within their audiences as much as within their objects."[21] This is an active audience that cannot be accounted for within Nichols's instrumental rhetoric; rather than an audience merely acted upon, this is an audience that is invited to act. Rabinowitz continues: "If performance and action are at the center of documentary rhetoric, then it seems that what is being produced is less a psychoanalytical and more an ethnographic scene; an encounter in which observation slides into participation which somehow exceeds transference and identification."[22] That is, a documentary film does not invite the members of its audience merely to imagine themselves as participants within a projected narrative, but it instructs its audience in modes of participation and performance within the "real" world that is indexed by the projection. "If classical narrative constructs a subject of desire through mechanisms akin to the psychoanalytical processes of identification and refusal in the spectator," Rabinowitz explains, then "the historical documentary—the documentary that seeks to intervene in history—mobilizes a subject of agency. This subject desires too, but the desire is directed toward the social and political arenas of everyday experiences as well as world-historical events shaping those lives and away from the purely psychosexual manifestations of lack and plenitude, differentiation and identification, which characterize the fetishistic forms of narrative desire."[23] Ideally, for Rabinowitz, a political documentary "calls its audience to action."[24]

Rabinowitz draws from Terry Eagleton a more performative and constitutive understanding of rhetoric than that which Nichols extracts from Aristotle.[25] But she does not address the specific strategies through which documentary film might encourage an audience to act. Gaines suggests such a strategy, proposing "political mimesis" as a theory to account for the "relationship between bodies in two locations—on the screen and in the audience."[26] Specifically, political mimesis is intended to "account for . . . the fact that radical filmmakers have historically used mimesis not only in the interests of consciousness change but also in the service of making activists more active—of making them more *like* the moving bodies on the screen."[27] She is concerned, Gaines explains, "with the question of what it might be that *moves* viewers to want to act, that moves them to do something instead of nothing in relation to the political situation illustrated on the screen."[28] While Rabinowitz suggests that committed docu-

mentaries call their audiences to act, Gaines suggests that, through political mimesis, committed documentaries might call upon their audiences to act like the figures being screened. She describes political mimesis as "the starting point for the consideration of what the one body makes the other do."[29]

While Nichols's description of film's indexical quality directs our attention to one locus of mimesis—the relationship between the film and its object—Gaines directs our attention to another. This locus, residing in the relationship between the film and its audience, also is the locus of rhetoric, but we have seen that an Aristotelian conception of rhetoric cannot adequately account for political documentary as a hybrid genre integrating both aesthetic and persuasive appeals with the purpose of rousing its audience to civic action.

Isocrates, Aristotle's Athenian contemporary and pedagogical rival, offers a conception of rhetoric better suited to understanding the rhetorical dimensions of political documentary. Rabinowitz argues that "documentary . . . is meant to instruct through evidence,"[30] and viewing political documentary in an Isocratean frame helps to emphasize its educative potential. "While Isocrates's discourses about rhetoric are designed to contribute to civic education and civic virtue," Garver points out, "Aristotle's are not."[31] Haskins argues that "Isocrates and Aristotle constitute two distinct, even antagonistic, paradigms of reflection about discourse and human agency" and notes that a key difference between these models of rhetoric is that "Isocrates views rhetorical performance as constitutive of one's political agency, [while] Aristotle relegates performance to an external stylistic function."[32] In other words, an Aristotelian rhetoric marginalizes the performative interrelationship between rhetor and audience as merely aesthetic, while an Isocratean rhetoric emphasizes this performative moment as a significant locus of civic education.

The medium of this civic education is mimesis. As Robert Hariman notes, Isocratean rhetoric is not focused "on the question of how literary art is capable of imitating reality"[33] but instead on the potentially mimetic relationship between discourse and audience. In a learning process governed by mimesis, students analyze exemplars that embody instantiated values, strategies, and judgments as they are performed through public discourse and then invent new discourses that are informed by this analysis. "In contrast with Plato's harsh judgment of democratic imitation as a numbing repetition," Haskins argues that Isocrates "presents a different kind of *mimesis*—not a satirical representation but a creative reenactment."[34] This creative reenactment—what Hariman calls "flexible" or "inventive" imitation—is intended not to discipline through duplication but instead as a "means of self-fashioning."[35] Just as Gaines wishes to disassociate political mimesis from understandings of mimesis as

"naïve realism, mindless imitation, mechanical copying, and even animality,"[36] Michael Leff explains that the goal of this mimetic pedagogy, often referred to as *imitatio*, is "not the mere repetition or mechanistic reproduction of something found in an existing text" but rather a hermeneutical practice that requires and fosters active judgment.[37] The task is not to do as the text does but to invent as the rhetor invents—not to produce a text that seems like the exemplar but to critique the exemplar as a performance of ways of thinking and acting that might be applicable in some present or future circumstance. The intended product is not a slavish copy but is instead the internalized patterns of judgment and action that might encourage the invention of discourses radically different from the originals.

An Isocratean conception of rhetoric addresses both the aesthetic and the argumentative components of discourse, understanding that an audience can be both persuaded to agree and moved to act. As such, this view begins to answer Gaines's call for "putting the sensuous back into the theory of political aesthetics."[38] The rhetorical potential of documentary film, in this view, relies not on an audience who merely provides the rhetor with resources that might be exploited in persuasion but instead on an audience who is actively engaged in judgment and action. The audience is encouraged not to ape the bodies on the screen but to assess possibilities of action and judgment that can be revealed only through interpretive work. Following from this amended understanding of political mimesis, a committed documentary should not ask the members of its audience to mimic the actions on the screen but instead to engage in inventive acts of their own.

But *Unprecedented* does not present a viable resource for political mimesis. It instead presents a Kafka-esque world in which effective moral action appears impossible. The people it portrays are uniformly either frustrated and impotent or self-interested and corrupt. As portrayed in this film, the 2000 election is merely another episode in the continuing post-Reconstruction effort to deny African Americans the right to vote, the Florida recount is confused and inconclusive, the Supreme Court is a rogue band of politicized power brokers, and improved voting technology is only another tool through which the ruling elite retain their positions. The audience is left without ethical guidance: no one challenges power and prevails, no one emerges as a principled political actor, and no one models a viable way to behave. In other words, and as the following textual analysis suggests, *Unprecedented* mimetically represents the truncated political miscarriage of the 2000 presidential election in Florida but fails to provide mimetic resources through which that miscarriage might be effectively addressed.

Repeated Impediments

The first third of the film exhibits a curious recursive quality. The narrative begins with the 2000 election, then twice jumps to a specific moment in the past before moving forward in time toward the election. This repeated pattern of presenting political back-story and then deferring forward movement helps to establish the 2000 election as an especially troublesome episode within a larger historical narrative, suggesting perhaps that getting past it requires building up some sort of kinetic momentum through repeated narrative trajectories.

The documentary opens with a close-up of Danny Glover looking at us, one of only three moments of direct address in the film: "I'm Danny Glover. The 2000 presidential election was a flashpoint event in American political history that tested the integrity of our democratic system."[39] Glover's introduction establishes the election in Florida as a synecdoche for the 2000 election in general—it is a flashpoint in American history, not just Floridian history—so that the corruptions that marred the election in Florida stand in for the corruptions that mar American democracy. A full-screen graphic fades in, reminding us that Al Gore won the popular vote in 2000 with 48,809,906 votes to 48,549,563 for George W. Bush. The graphic changes to a map of the United States, with states colored red and blue, and we zoom in on Florida, which glows yellow. Glover reminds us that "Florida became the battleground for the presidency of the United States," and his exordium concludes: "The documentary you are about to see is a chronicle of what happened in Florida and the chilling story of the undermining of democracy in America."

The remainder of this first section of the film establishes themes of chaos, confusion, and menace that will run throughout. Following the fade that closes Glover's introduction, the producer's name and the names of the filmmakers appear in stark white lettering against a black background. A single low piano note plays, and then we hear the sound of a protest crowd. Another low piano note, reminiscent of the notes that signal the appearance of the shark in *Jaws*, and then a crane shot presents us with George W. Bush's inaugural parade so that the motorcade seems to be heading directly toward us. Representing the moment that inspired the filmmakers to make the documentary, Bush emerges from his limousine to boos and cheers and takes the oath of office. This film would call us to action in response to this image, just as the filmmakers were called to action.

Following a second fade to black, we hear the first words of the first interview of the film, which would have been the first words of the 2002 version of the documentary: "It was mass confusion," declares Cathy Dubin, identified as a member of the Democratic Party in Palm Beach County. A series of rapid-fire images follows: a well-kempt, gray-haired white man holding a placard tells us that he is a veteran, a marine with a Purple Heart, and that he is "entitled to my vote" but that "they have just taken it away from me"; Thomasina Williams, voting rights attorney with the National Association for the Advancement of Colored People, explains that the organization had received reports of people being harassed by police while waiting in line to vote; local radio host Andy Johnson tells us that he received "calls from a lot of people who complained that they had gone to vote and that the local precinct didn't have their name on the list"; an African American man wonders why his name was not on the list; Yvonne Montalvo, poll volunteer, Orlando, explains that "there were no bilingual pollers, there were no bilingual translators, there was no one there." The speakers each talk to an off-camera interviewer, and there is no background music to smooth the transitions. In his introduction, Glover said that the "frenzied media created a cloud of confusion as they scrambled to make sense of this event," and this paratactic series of images invites the viewer to share in the disconnection and bewilderment being described. Pam Iorio, supervisor of elections, Hillsborough County, seems to sum it up, saying that "the story of the 2000 presidential election is a multifaceted story that has to do with decision-making at a lot of different levels and inconsistencies in policies and voting systems and technologies."

The first historical narrative begins when the narrator, actor Peter Coyote, tells us that "the story of the 2000 presidential election started long before election day"; the film then focuses on Jeb Bush's relationship with African American voters in Florida. That the relationship is an uneasy one is suggested by images of an African American man holding a placard that reads "NAACP Says Keep Affirmative Action" and of a sign held high above a crowd of protesters that reads "Jeb Crow." John Lantingua, Pulitzer Prize–winning investigative journalist, establishes the historical starting point for this particular narrative, noting that during Jeb Bush's unsuccessful campaign for Florida in 1994, he was asked what he would do, if elected, for Florida's African American community. "He gave a two-word answer," Lantingua tells us, "which was proved to be both accurate and prophetic. His answer was 'probably nothing.'"

When elected in 1998 with, as the narrator tells us, only 10 percent of the African American vote, Jeb Bush was asked, according to Lantingua, what he was going to do to "reassure black voters. And he said that 'I guess I'm going to have to reach out to that community.'" While we are shown photo-op pictures of Jeb shaking hands with African Americans, Lantingua continues: "And what he did was 'reach out' and take away almost all of the affirmative action programs in the state." In response, the African American leaders organized an "Arrive with Five" campaign, aggressively registering new black voters and encouraging them to bring five other voters to the polls with them. Sharon

Lettman-Pacheco, of the People for the American Way Foundation, describes the campaign; the narrator then informs us that in the 2000 election, "65 percent more black voters went to the polls than in the previous election." A middle-aged African American woman leaving the polls tells us proudly that she "voted Democrat all the way."

These images provide multiple mimetic opportunities as people protest, organize, march, speak at rallies, and vote—all possible and appropriate modes of civic participation that follow upon a prudent assessment of the political situation. The forward movement comes to an abrupt halt, however, when the narrator returns us to the chaos of November 7, noting that "when Election Day came, there were unexpected obstacles." Andrew Gillum of Florida A&M University tells of reports of voters finding that their names were no longer on the voting rolls. "Many more voting irregularities were confirmed," the narrator tells us, "when the NAACP held hearings a few days after the election." In C-SPAN footage of that hearing, Kweisi Mfume, NAACP president and CEO, explains that "this effort is to establish a record, a public record, which will further assist the Justice Department—which doesn't seem to be actively trying to establish its own record—with respect to whether or not there have been violations of civil rights and civil rights law." His voice is faded down as the narrator introduces the next argumentative section of the film, but the implication seems clear: the protesting, organizing, marching, speaking, and voting all have come to naught. The enthusiastic community-building modeled by the African Americans has given way to a procedural effort to establish a record of violations—a record that, Mfume strongly suggests, probably will be ignored anyway.

The second of the two recursive historical narratives in this first section of the documentary begins while Mfume's image is still on-screen and the volume fades. The narrator tells us, in what seems a continuation of Mfume's thought, that "the most serious voting rights violation was the misuse of something called the felon purge list." The narrative links the infamous "felon purge list" to the post-Reconstruction disenfranchisement of African American voters; thus, it begins in the present, jumps to the past, and progresses back toward the present.

The editing is particularly frenzied, and perhaps some sense of the pacing of the montage can be related through a brief synopsis of approximately five minutes of film: Greg Palast, author of *The Best Democracy Money Can Buy*, explains that the voter purge list consisted of names of voters removed from the rolls by Florida's secretary of state, Katherine Harris; as he mentions her name, she floats across the screen as a low-resolution specter. The narrator explains that it was Harris's job to implement this list, and this time we see

her at a press conference being introduced by Jeb Bush. Reverend Willie Whiting, a pastor in Tallahassee, recalls being denied the right to vote because he was listed as an ex-felon, even though he had served as a federal juror. John Lantingua tells us that Database Technologies (DBT) was chosen to create the lists. While the narrator explains that "Florida officials told DBT to use 'loose parameters' in setting up the database," database headers such as "voter birth date" and "felon birth date" float around the screen, and Palast explains several examples that are illustrated with graphics, showing how the state's call for loose parameters resulted in many "false positive" matches. Ion Sanchez, supervisor of elections in Leon County, reviewed the purge list he received from Harris's office name by name and was able to confirm that only 33 of the 690 people listed actually were felons; an image of an e-mail printout shows that Jeb Bush's administration encouraged these false positives.

Without breaking the editing rhythm, the camera begins to pan slowly, Ken Burns–style, across several racist newspaper cartoons from the nineteenth century. John Nichols, author of *Jews for Buchanan* (2001), explains that "the law to deny ex-felons the ability to vote was written into the state constitution in 1868 by ex-Confederate soldiers who did it because they were being forced to allow blacks to vote by the federal government, and so they wrote this law in, specifically to deny as many blacks as possible their franchise." We are told further that "blacks represented more than half the names on this purge list" and that "since blacks vote over 90 percent Democratic, the state's instructions eliminated thousands of Democratic voters from the rolls." The purge also denied the right to vote in Florida to ex-felons who had had their voting rights restored in other states, so these ex-felons had to petition to have their voting rights *re*-restored. As we see George W. Bush sitting next to his brother Jeb on an airplane, Palast explains that "90 to 93 percent of the people who come out of prison vote Democratic, so they knew exactly who they were removing from the voter rolls."

Unlike the first historical narrative, this one offers no promising mimetic potential that suddenly is cut off. The effect of this brief narrative instead is to crush the viewer beneath a unified wall of impenetrable corruption. Jeb Bush's office, relying upon nineteenth-century race laws, ordered the purges; the political operative implementing the purge was co-chair of Bush's campaign in Florida; DBT was instructed to cast as wide a net as possible so that many nonfelons were included on the list; all of these people knew that most of the purged voters were African American and would have been expected to vote Democratic. We are presented with a seamless narrative spanning over a century of corruption that rolls relentlessly forward into the present, providing little opportunity for intervention. Palast sums up the effacement of human

agency, saying that "now we're back to the basic issue: do black people have the right to vote? Except this time it's not George Wallace standing in the doorway of a schoolhouse saying 'segregation now and forever.' Now it's done quietly, and with computers." The utter futility of trying to engage the individuals involved is illustrated with white lettering against a black screen, informing us that "Jeb Bush denied our request for an interview" and that "Katherine Harris did not respond to repeated requests."

The documentary begins, then, by establishing the 2000 election in Florida as a synecdoche for American elections in general and presents the audience with two historical narratives that establish that the corruption of the 2000 election was not an aberration but instead an episode within a larger and continuing narrative. Human bodies in action—marching, speaking, voting—are first shown to be ineffective and then are effaced altogether as agency is reframed as behind-the-scenes maneuvering and computerized manipulation.

Cloistered Politics

The second major argument, occupying approximately the center third of the film, focuses on the legal and political wrangling over the manual recount and the decision of the Supreme Court that followed in the wake of the 2000 election. The screen goes dark as an unnamed MSNBC reporter states that "I don't think that anyone who went to bed last night could imagine waking up this morning and not knowing who the president of the United States is." When he appears on-screen, as though with the dawn, he is disheveled and harried, showing several newspapers with conflicting reports of the election outcome. A graphic fills the screen, showing that Al Gore unambiguously won the popular vote but that the election remains undecided. Another unnamed MSNBC reporter holds up a copy of the *Daily Mail* with the headline "President Who?"

In this section, the logic of the opening sequence is speeded up and repeated so that a series of potentially promising developments is presented, but each is immediately foiled. Because the election results were so close, we are told, Florida law mandates a recount, but then Jack Tapper, author of *Down and Dirty: The Plot to Steal the Presidency* (2001), tells us that "to this day there has not been a true statewide recount as mandated by state law." We see Jeb Bush recusing himself from the Florida election board to "ensure that there is not the slightest appearance of a conflict of interest," but then we are told that many members of his staff immediately began to work for the Bush campaign. Tapper tells us that George W. Bush, while governor of Texas, had signed into law "one of the most liberal hand recount laws that exists," but then the narrator states that "the Republicans began to advance the idea that there was something wrong with manual recounts," and we see news footage of James Baker saying that "the nation has left manual counting in favor of machine counting because it is less subject to human error and potential mischief." The narrator tells us that the manual recount from Broward County resulted in a net gain of 563 votes for Gore and that in Volusia County the gain was 96 votes for Gore, but then the Republicans attempted to have overseas absentee military ballots counted, even though they did not meet standards set by Florida law and therefore were, as Mark Herron, attorney for the Florida Democratic Party, puts it, "illegal as hell." The film shows the manual recount proceeding in an orderly manner, with teams of people studying each ballot closely, but then we see what Mark Seibel, news editor for the *Miami Herald*, calls a "Republican mini-riot" outside the rooms where the recount is taking place, incited by Republican staffers flown in from Washington, D.C.[40] The Florida Supreme Court moves the deadline for the manual recount to November 26, but then the Republicans take the issue to the more conservative U.S. Supreme Court.

The Supreme Court decision, of course, is the climax of this story. But by this point, the rhythmic and repeated denial of human agency has rendered the audience inert. Without offering any figure who has acted in both a moral and effective way, the film has minimized its potential to move its audience. Vincent Bugliosi reminds us that "we look up to the United States Supreme Court as a revered institution like no other" and that we "rely on them to be above the fray," but the statement seems ironic. This segment of the documentary aims to show that the Supreme Court is *not* above the fray of political maneuver and influence but that it *is* beyond the reach of ordinary citizens. After the Court reaches its decision, we can only, like the "lawyers, students, and history buffs" who are shown lined up in the night, "grab a copy of the ruling that ended it all." We're shown a printed copy of the ruling, but we cannot read it. We're shown the judges, but at some unnamed photo opportunity not connected with the 2000 election. The Supreme Court is not only "above the fray" but entirely inscrutable—the judges and their rulings are unavailable for any dialogue, unruffled by any crisis, and unapproachable by average citizens.

Though insulated and remote, the Supreme Court—unlike the audience—is not rendered politically inert. Jamin Raskin, professor of law at American University, reminds us that "the Supreme Court's a political institution, and we should be clear about that. Politics is inextricably bound up with the interpretation of the law. There's no use in pretending as if most of the time the Supreme Court acts like judges and in this one case they acted like politicians. No . . . politics is always part of what they do." Bugliosi suggests that this was a direct intervention in a specific political event, noting that "this is probably

the first time in the 210-year history of the United States Supreme Court that the court limited its ruling to the case in front of it. They knew that if that ruling were applied elsewhere, it would invalidate elections throughout the entire country." Ed Baker, professor of law at University of Pennsylvania, agrees. Alan Dershowitz and John Nichols both review the reasons that conservative justices Scalia, Thomas, and O'Connor should have recused themselves because of conflicts of interest.

Throughout this section, various pundits and professors stand in for ordinary citizens, modeling the only action available—analysis. This is not judgment, for it cannot culminate in action; there simply is nothing to be done. The only succor seems to be in the opinions of the four dissenting judges, whose head shots float across the screen. We are told that all agreed that the solution was to establish uniform recount procedures and then to continue the recount. Of the dissenting opinions, the narrator tells us that the most forceful was from Justice John Paul Stevens; as the camera slowly zooms in on an image of his face, the following quotation scrolls upward beside him and the narrator reads it aloud: "Although we may never know with complete certainty the winner of this year's presidential election, the identity of the loser is perfectly clear. It is the Nation's confidence in the judge as an impartial guardian of the rule of law." Indeed, the Supreme Court that *Unprecedented* presents to its audience is isolated, capricious, and politically biased, incapable of either protecting or reflecting the interests of the American public.

Diminished Returns

The final third of the documentary includes the original ending of the film together with the new ending added for the 2004 DVD release. It continues the pattern familiar from the first two-thirds of the film in that potentially productive modes of judgment and action are presented but then are shown to be inconclusive or ineffective.

For example, we see boxes of ballots being loaded on trucks and transported with a police escort as the narrator informs us that a media consortium, including the *Washington Post, Orlando Sentinel, New York Times,* and *Los Angeles Times*, conducted a thorough analysis of the 175,000 ballots that were never read in Florida. This would seem to suggest that some relatively clear answers should be forthcoming about who actually won the election, and Dan Keating, the *Washington Post* database editor, declares simply that "based on what is marked on the ballots, if you look at every ballot, it would indicate that more people voted for Gore." But then Sean Holton, projects editor for the *Orlando Sentinel*, says that they found that "anywhere from 2,000 to 25,000 ballots, out of these 175,000 ballots, were, in fact, legal votes," which

narrows considerably the potential impact of the unread ballots while at the same time opening a fairly wide range of votes as potentially readable. Keating explains that an "over-vote" occurs when a voter punches the ballot for the candidate and then also writes in the name of the candidate, but then, as the camera zooms in on a headline from the *Washington Post* that states "Florida Recounts Would Have Favored Bush," the narrator tells us that "it is only when the state's *under-votes* are counted that George Bush would have retained his lead" (emphasis added). The viewer has been given no unambiguous statement about the outcome of the recount and thus no unambiguous endorsement of the idea that counting all of the votes would have resulted in a different—or even more just—election outcome.

The next segment opens with the blatant doublespeak of Florida election officials, who have played the role of villain throughout the documentary, but then the villain role is enlarged in an unexpected way. Clayton Roberts, Florida director of elections, and Katherine Harris are shown in C-SPAN footage listening to a question at an unnamed hearing: "How can some counties be counted, and others not have, without discrimination?" With Harris looking on approvingly, Roberts—after a long pause—answers that "I . . . I don't think that they can. But there are some counties where the supervisors have interpreted the statutes to not require a machine recount in that automatic machine recount." While the images of Harris and Roberts linger on the screen, Francis Fox Piven, co-author of *Why Americans Don't Vote* (1989), tells us that "the people who commit a kind of voter fraud regularly in American elections are the people who run those elections." The implication is clear: Harris and Roberts are the sort of election officials who regularly commit voter fraud.

Over images of Warren Christopher and James Baker, Piven notes that "American elections are run by the parties." Then the Gore campaign is critiqued for seeking a recount only in heavily Democratic counties instead of seeking a recount of all 175,000 unread ballots. The irony is brought home by John Nichols: "After the election, their job was to make sure that the votes were counted. *All* the votes, not just their own. They got so concerned about finding the five hundred votes that they needed that they forgot their broader responsibility. . . . The Gore camp would have won . . . had they been good citizens." The election waters have been fouled not only by Jeb Bush, Katherine Harris, Clayton Roberts, and the other Republican functionaries but also by Al Gore, who to this point has been cast as an innocent victim. No one at all, it seems, has acted with the greater good in mind.

The segment that originally closed the documentary begins with Juanita Cohen, a resident of Lake Park, explaining that it is "a hard task for an African American person to really go out and vote, because we're not sure if this person

is really for us or against us." *Unprecedented* models no procedure through which it might become easier for African Americans—or anyone else—to make informed voting decisions. As Gwendolyn Johnson, a Wellington resident, explains: "They [the candidates, or the parties] have the money, and they have the plans." Barbara Devane, a white grassroots organizer with We All Count, reminds us to "always remember that one person can make a difference in this world," but *Unprecedented* has shown us no one who has made a difference, either by voting or through any other means. Of course, it has shown us people successfully stealing an election.

The shot that ended the original version of the documentary is Kweisi Mfume delivering the following speech at the NAACP hearing: "We recognize that this strange and sometimes twisted democracy that we have is our democracy nonetheless. It is what we make it. And so as stewards of that democracy, I think we have a very special responsibility to make sure that we improve upon it, and that we leave a democracy and a democratic form of government and quite frankly a republic to the next generation that they can be proud of and recognize that it is one that has survived the test of time and it will survive this and it will get better because of this." The message of this documentary, in contrast, is that those in power seek to deprive others of their rights, that seemingly noble acts actually are political maneuvers, that the highest court of the land is both corrupt and aloof, and that the processes that are supposed to protect our democratic culture are hopelessly flawed. Despite Mfume's statement, the documentary gives its viewers little reason to believe that going to the polls is a politically effective mode of action.

Throughout the documentary, human agents have been shown to be unreliable or disenfranchised and thus have offered no models for productive mimesis, but the final section warns that the viewer should not hold out hope for a technological solution that might bypass human bias and error. Danny Glover returns and offers a brief update that closes the "chapter of American history" represented by the 2000 presidential election in Florida. He then warns us of "a new set of challenges to our democratic system," addressing the camera directly to say that "Congress passed federal legislation to replace outdated voting systems. Many states responded by purchasing fully computerized, touch-screen voting machines." Among the problems with such a proposal, as Stanford University professor David Dill tells us, is that "there is absolutely no way to check" for voter fraud when using an electronic touch-screen voting machine. Several experts tell us how easily such machines can be rigged. Glover, in a voice-over, tells us that "in Georgia, some unexpected election results undermined voter confidence in the new technology." After a vote that resulted in six upsets, including the election of a Republican governor

for the first time since the Civil War, "there was no way to recount anything or to audit anything." In addition, according to Avi Ruben of the Information Security Institute at Johns Hopkins University, "when anybody asks . . . how does the machine work, can we see the design of the machine, can we see the code, the voting machine companies say, 'No, that's proprietary.'" Computerized voting represents a closed system, as impervious to citizen intervention or influence as the Supreme Court. And perhaps as biased. Glover's voice tells us, for example, that "the owners and board members of companies that manufacture touch-screen voting systems have unsettling conflicts of interest. Some actively raise money for political parties and candidates, and one elected official was a head of a voting machine company—a company whose machines later would count his votes." Ruben sums up the argument: "You shouldn't have to trust computer scientists; we don't want them running the world. And you shouldn't have to trust politicians. You should be able to verify for yourself that your vote counted and that there's some hope that in a recount your vote will continue to count."

As the documentary's theme music comes up, Dill tells us that "people have to act now. Basically, elections have been handed over to the election community, which consists of vendors, election officials, and the people who orbit around them. As a rule, they are gung-ho for this conversion to touch-screen machines. Stopping that is going to depend on the American people. It has to be a grassroots effort to persuade the people that represent us that this is not what we want. We want a system we can trust." But this documentary has shown us no grassroots organization that was not undermined through bureaucratic manipulation or maneuvering and no government entity, public personage, or private individual who was not misinformed, ineffective, or corrupt. In this context, Glover's peroration rings hollow: surrounded by the technological apparatus of a modern digital production studio, he faces the camera in a medium close shot and tells us that "the United States was founded on the principles of democracy, equality, and individual freedom. The survival of our republic is our responsibility. Elections provide us the opportunity to uphold these ideals by participating in our democracy by exercising and protecting our precious right to vote. . . . I encourage you to exercise your right to vote."

Missed Opportunity

Unprecedented may offer an accurate portrayal of the "real" world of the 2000 presidential election, and through its form it may invite its audiences to experience some of the chaos and frustration that characterized that historical moment. Shedding light on public issues is a vital contribution made by political documentaries. But while this film may mimetically reproduce the events

in Florida, it offers its audience no mimetic models worthy of reproduction. Democratic culture depends upon a populace that is encouraged and enabled to intervene through direct participation, and *Unprecedented* offers no resources toward this end. It does not call its audience to action.

This curiously inert quality is especially ironic given the avowed purpose of political films such as *Unprecedented* to ignite or participate in a progressive revival. Because of their ability to represent reality, documentary films perhaps possess an unusual rhetorical potential, a concrete realization of the suasory force of Aristotle's "bringing-before-the-eyes."[41] Because of the pervasiveness of such mediated representations in contemporary culture, political documentaries might be able to collect a broader and more diverse audience than that ever available to orators. But as Jeffrey Isaac explains in *The Poverty of Progressivism* (2003), a progressive revival seems unlikely. He argues that the decline of liberal Protestantism and the rise of antihumanist fundamentalism have eviscerated progressive politics of the Christian theology that once motivated a good number of its adherents; that modern research universities are largely devoid of the public purposiveness that once undergirded the social contract; and that the politicized class conflict that drove much progressive reform has simply vanished from contemporary public discourse. Leftist politics in America has never recovered from the fragmentation of the 1960s, and the public sphere is perhaps irrecoverably anemic.[42]

Isaac's assessment is compelling, but there may be one further poverty of progressivism that documentary film is especially well suited to ameliorate—not through its reflective, indexical quality but instead through its productive mimetic potential. This potential is clarified by extending Gaines's ideas with an Isocratean notion of rhetoric and by attending particularly to the ways in which public discourse, such as political documentary, might model for its audience modes of judgment and action. As Hariman notes, "Isocrates teaches us that inventive imitation is an important element of democratic discourse."[43] Democratic citizenship is neither a pledged oath nor an accident of birth but a sustained performance of cultural production, and citizens in a democratic culture must be provided viable models of civic conduct and critique. The doubled mimesis of documentary film—its imitation of reality and its invitation to its audiences—presents a potent means of providing these models. Documentary possesses an unusual capacity to school its audiences in strategies of interpretation and intervention. If progressive politics is to regain traction in American public life, there should exist within public discourse a supply of exemplary individuals and collectivities engaged in successful intervention in the public sphere, for it is through such exemplars that a public might be mobilized.

It may be true, as Gaines suggests, that the connection between political documentary and social change is merely a myth that filmmakers tell among themselves.[44] Certainly, there can be no magic bullet that would enable any single documentary, no matter how eloquent, to inspire mass movement on a national scale. No single film could either elect a president or prevent one from being elected. But if documentary film is to translate its remarkable power to bring social issues before the eyes of its audiences into a faculty to motivate them toward addressing those social issues, it cannot ignore the potentials of political mimesis as thoroughly as does *Unprecedented*.

Notes

1. "Nüz: Jim Crow Laws Rising," *Metro Santa Cruz*, May 21–28, 2003, http://www.metroactive.com/papers/cruz/05.21.03/nuz-0321.html (accessed June 9, 2005).

2. "Earl Katz, Co-Executive Producer of the Documentary 'Unprecedented: The 2000 Presidential Election': A BuzzFlash Interview," *BuzzFlash*, January 29, 2003, http://www.buzzflash.com/interviews/03/01/29_Unprecedented.html (accessed June 6, 2005).

3. Rod Harman, "An 'Unprecedented' Examination of Florida's Flawed 2000 Election," *Bradenton Herald*, September 22, 2002, http://www.bradenton.com/mld/bradenton/news/local/4125711.htm (accessed June 7, 2005).

4. Coralie Carlson, "Critical Documentary on Florida 2000 Election Screened in Miami," *Florida Times-Union*, September 20, 2002, http://www.jacksonville.com/tu-online/apnews/stories/092002/D7M5N0001.html (accessed June 9, 2005).

5. Lisa Selin Davis, "Do-Something Documentaries: Effecting Change beyond Affecting Attitudes," *The Independent: A Magazine for Video and Filmmakers* 28, no. 3 (2005): 40–43. Davis describes the emerging interrelationship between political documentaries and "outreach" through related Web sites and political organizations. Pat Aufderheide provides a more thorough analysis of these interrelationships and quotes Robert Greenwald as saying, with respect to "house parties" and the Internet as modes of distribution for documentaries such as *Unprecedented*, that "frankly, I think what we've learned about distribution may be more important in the long run than the films themselves." Pat Aufderheide, "The Changing Documentary Marketplace," *Cineaste* (Summer 2005): 24–28. While this topic is an important part of the story of the political role that *Unprecedented* and other documentaries have played in recent American elections, it lies beyond the scope of this essay. I thank my colleague Josh Malitsy for bringing Aufderheide's essay to my attention.

6. Thomas Waugh, *"Show Us Life": Toward a History and Aesthetics of the Committed Documentary* (Metuchen, N.J.: Scarecrow Press, 1984), xiv.

7. Harman, "An 'Unprecedented' Examination."

8. Greg Palast, *The Best Democracy Money Can Buy* (London: Pluto Press, 2002).

9. Bill Nichols, *Representing Reality: Issues and Concepts in Documentary* (Bloomington: Indiana University Press, 1991), 3.

10. Ibid., 4. Nichols is not implying that these discourses do have a direct, immediate, and transparent relationship with the real but that they portray themselves as having such a relationship.

11. Ibid.

12. Bill Nichols, *Blurred Boundaries: Questions of Meaning in Contemporary Culture* (Bloomington: Indiana University Press, 1994), ix. David Bordwell develops this sense of mimesis in *Narration in the Fiction Film* (Madison: University of Wisconsin Press, 1985), 3–15.

13. Nichols, *Representing Reality*, 150. Nichols seems to follow closely André Bazin's conception of the "ontology of the photographic image." André Bazin, *What Is Cinema?*, trans. H. Gray, vol. 1 (Berkeley: University of California Press, 1967), 9–16.

14. Nichols, *Representing Reality*, 6.

15. Ibid.

16. Ibid., 134.

17. Eugene Garver, "Philosophy, Rhetoric, and Civic Education in Aristotle and Isocrates," in *Isocrates and Civic Education*, ed. Takis Poulakos and David Depew (Austin: University of Texas Press, 2004), 194.

18. Ekaterina V. Haskins, *Logos and Power in Isocrates and Aristotle* (Columbia: University of South Carolina Press, 2004), 50.

19. Ibid., 29–30. A similarly narrow and instrumental view of rhetoric is articulated by David Bordwell in *Making Meaning: Inference and Rhetoric in the Interpretation of Cinema* (Cambridge, Mass.: Harvard University Press, 1989). Nichols understands the limitations of his conception of rhetoric and supplements it with discussions of "style" and "excess" in documentary film (*Representing Reality*, 134–36).

20. Nichols, *Representing Reality*, 135–36.

21. Paula Rabinowitz, *They Must Be Represented: The Politics of Documentary* (New York: Verso, 1994), 9.

22. Ibid., 9.

23. Ibid., 23–24.

24. Ibid., 26. Bluem concurs: "Documentary communication seeks to initiate a process which culminates in public action by presenting information, and to complete the process by making this presentation persuasive. Documentary seeks to inform but, above all, it seeks to influence." William A. Bluem, "The Documentary Idea: A Frame of Reference (1965)," in *Nonfiction Film Theory and Criticism*, ed. Richard Meran Barsam (New York: E. P. Dutton, 1976), 77–78.

25. "Recent theorists of documentary, such as Thomas Guynn and Bill Nichols, have argued that the documentary film is primarily discursive; it seeks overtly to persuade its viewers by taking a side and arguing it. Rhetoric, according to Eagleton, does just that. It is fundamentally performative, interested in examining the ways discourses are constructed in order to achieve their desired effects. Interested and activist, rhetoric stakes a position from which to make its case" (Rabinowitz, *They Must Be Represented*, 11).

26. Jane M. Gaines, "Political Mimesis," in *Collecting Visible Evidence*, ed. Jane M. Gaines and Michael Renov (Minneapolis: University of Minnesota Press, 1999), 90. Gaines suggests that political documentary bears some kinship with Linda Williams's "body genres." See Linda Williams, "Film Bodies: Gender, Genre, and Excess," *Film Quarterly* 44 (1991).

27. Gaines, "Political Mimesis," 93. Documentary filmmaker Jill Godmilow similarly states that she desires her own films "to produce an audience of individuals who can learn some conceptual tools with which to articulate a critique—a critique applicable to all kinds of social and historical situations, not just to the materials at hand." Quoted in Ann-Louise Shapiro, "How Real Is the Reality in Documentary Film?" *History and Theory* 36 (1997): 83.

28. Gaines, "Political Mimesis," 89.

29. Ibid., 90. Gaines acknowledges that an "argument for mimesis as a form of knowledge will meet with resistance in the First World, especially because the concept has long been associated with not-knowing, or 'only imitating,' reproducing without adding anything, and learning by means of the body without the engagement of the mind" (93–94). Postcolonial critiques of mimesis have to do with its potential as a discourse of power through which the colonized can be made to be more like the colonizer. See, for example, Homi B. Bhabha, "Of Mimicry and Man: The Ambivalence of Colonial Discourse," in *The Location of Culture* (New York: Routledge, 1994), 85–92. I thank my colleague Jane Goodman for alerting me to this particular critique of mimesis.

30. Rabinowitz, *They Must Be Represented*, 18. Robert Greenwald suggests the pedagogical potential of this film specifically: "I remember thinking, this is important to do. I figured, if you're ignorant of history, it will be repeated. . . . So I envisioned that maybe in three or four years, a student would be doing a paper on the Florida election and would to go the library and dig this out and use it." Quoted in Stewart Oksenhorn, "What's Up? Docs," *Aspen Times*, September 30, 2004, http://www.aspentimes.com/apps/pbcs.dll/article?AID=/20040930 (accessed June 6, 2005).

31. Garver, "Philosophy, Rhetoric, and Civic Education," 204.

32. Haskins, *Logos and Power*, 30.

33. Robert Hariman, "Civic Education, Classical Imitation, and Democratic Polity," in *Isocrates and Civic Education*, ed. Takis Poulakos and David Depew (Austin: University of Texas, 2004), 218.

34. Haskins, *Logos and Power*, 76.

35. Hariman, "Civic Education," 226, 229, 224.

36. Gaines, "Political Mimesis," 93. Gaines breaks off her theoretical argument to discuss the mimetic potential of the infamous Rodney King video, which she describes as "an example par excellence of the powers of mimesis": "It seems that the footage of police brutally beating a black man *made* disaffected African Americans and Asians in South-Central Los Angeles riot and loot, when it was actually the *world* of the footage—the world within which police conduct humiliating strip searches on young black men—that *made* people riot" (96).

37. Michael Leff, "The Idea of Rhetoric as Interpretive Practice: A Humanist's Response to Gaonkar," in *Rhetorical Hermeneutics: Invention and Interpretation in the Age of Science*, ed. Alan G. Gross and William M. Keith (Albany: State University of New York Press, 1997), 97. George A. Kennedy provides a useful brief overview of mimesis in the rhetorical tradition in "Imitation," in *Encyclopedia of Rhetoric*, ed. T. O. Sloane (Oxford: Oxford University Press, 2001), 381–84. See also James Jasinski, "Invention," in *Sourcebook on Rhetoric: Key Concepts in Contemporary Rhetorical Studies* (Thousand Oaks, Calif.: Sage, 2001), 327–30.

38. Gaines, "Political Mimesis," 88.

39. The other two moments occur in the final section of the film, also added for the 2004 DVD release.

40. The film freezes one such demonstration and identifies each of the participants as a Republican congressional aid or an employee of the national Republican Party. See also Tim Padgett, "Mob Scene in Miami," *Time Europe*, December 4, 2000, http://www.time.com/time/europe/magazine/2000/1204/cover_riot.html (accessed June 22, 2005).

41. Sara Newman, "Aristotle's Notion of 'Bringing-Before-the-Eyes': Its Contributions to Aristotelian and Contemporary Conceptualizations of Metaphor, Style, and Audience," *Rhetorica* 20 (2002): 1–23.

42. Jeffrey C. Isaac, *The Poverty of Progressivism: The Future of American Democracy in a Time of Liberal Decline* (Lanham, Md.: Rowman and Littlefield, 2003), 77–116.

43. Hariman, "Civic Education," 229.

44. Gaines, "Political Mimesis," 85.