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MAKING CITIES WHOLE:
A STRATEGY FOR REDUCING SYSTEMATIC BIAS IN URBAN AMERICA

By

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ABSTRACT

MAKING CITIES WHOLE:
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This dissertation uses liberal political philosophy to examine urban politics. A key contention is that ideas have consequences and politics maters. The original ideas and politics upon which the American city was established were those of liberalism. This holds that people possess natural right and that legitimate government is based on the consent of the governed and exists to secure the property and the security of citizens. Citizens are otherwise left to pursue their own happiness following their own rational self-interest. However, self-interest is a problematic aspect of the human soul. When it is too narrow, exclusive, and short term, people will behave in a way that weakens the liberal regime. When it is broad, mutual, and long-term, people will behave in a way that strengthens the regime. Therefore, the key to stable urban regimes is an understanding of self-interest.

A survey of the history and literature of urban politics reveals that over time, the urban regime has departed from its founding principles. This is owing to changes in the intellectual and political atmosphere, beginning with the Progressive Movement and continuing with the rise of Pragmatic philosophy. This shift in the fundamental ideas and politics has resulted in a regime that is at odds with its founding principles. As a result,

urban regimes have become fractured and are weakened. Self-interest has tended toward the anti-social rather than the social variant.

In order to restore cities to greater wholeness, I reexamine the basic ideas of liberal philosophy. I focus in the relationship between self-interest and private property, arguing that where there are liberal property laws, citizens are more likely to exhibit the sort of self that is conducive to stability. Where they suspect property is insufficiently secure, they will tend to exhibit more narrow, exclusive, and short-term behavior.

In the second part of the dissertation, I examine urban redevelopment policy. I conclude that when policy deviates from liberal principles, especially in its treatment of private property, there is a greater tendency for citizens to behave in a way that undermines the intentions of policy makers. This behavior weakens the regime's ability to use policy to address problems such as poverty and segregation. However, when policy is framed in a way that adheres to liberal principles, citizens are less inclined to undermine it. As evidence I offer a case study of the Michigan Urban Homestead Act, which was drafted as a deliberate attempt to use liberal philosophy as a guide in policy making.

I conclude by suggesting ways that future redevelopment programs could follow the strategy used in the Michigan Urban Homestead Act.

To Amy, With Love

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CHAPTER ONE

The Origin of Systematic Bias: Fractured Ideas About the Fractured City

A few summers ago I was helping to develop a housing program for the Hudson Institute that was to be implemented in the State of Michigan. The project gave me an opportunity to meet with many people across the state. One meeting brought me to the office of Woodrow Stanley, the Mayor of Flint. We spoke at length about the problem of abandoned property and the need for neighborhood redevelopment. Then I presented him with a summary of the program we were considering. I touted it as a new tool for cities to use to revitalize themselves. When I was finished, Mayor Stanley politely offered his own analysis. He told me that more than any new tool or program, what cities like Flint need most is *to be made whole once again.*

It was only later that I began to think more seriously about what Mayor Stanley said. Reflecting on his words, I came to realize the ways places like Flint, Detroit, Cleveland, and most big cities are fractured and in need of being made whole. My thought was greatly aided by the recent proliferation of books written by or about big city mayors. As I read accounts of other cities, I learned how pervasive the problem really is. Former Philadelphia Mayor Ed Rendell, a Democrat, has made similar arguments (Bisinger, 1997). Republican Mayor of Indianapolis, Stephen Goldsmith has as well, which suggests that the matter is not simply partisan in nature (Goldsmith, 1997). Finally, Daniel Kemmis, Mayor of Missoula, Montana, makes largely the same argument in his book, *The Good City and the Good Life,* revealing that the problem is not confined to old rust belt cities (Kemmis, 1995).

Before long I learned that the matter of wholeness is hardly a new issue. Nor is it an issue recognized exclusively by politicians. Much of the early literature in the field of urban planning made note of the same problem mentioned by Mayors Stanley, Rendell, Goldsmith, and Kemmis. Lewis Mumford explained half a century ago that:

> The city, if it is anything, is an expression and symbolization of man's wholeness—a representation in buildings of his nature and purposes. This wholeness is not elementary; it emerges from the diversity of man's interests, activities, and purposes, from the division of labor and the differentiation of associations and institutions, and from all those infinitely varied human capacities which were perhaps latent but undeveloped in the primitive village. (1995, 162).

Mumford's description suggests that the city is meant to be whole, not in the way a sculpture is whole—carved out of a solid piece of material, but rather, the city is meant to be whole in the way that a finished jigsaw puzzle is whole—assembled out of various parts that fit together. Wholeness, therefore, requires diversity, but even more, it requires that diverse elements exist among one another and interact with one another. The problem, as an important critic of urban planning, Jane Jacobs, has argued, is that much of urban planning has destroyed this vital diversity. There seems to be an innate human desire to sort out differences and collect like with like. However, when this is done in a city, zoning specific areas for particular uses and densities, the effect is segregation.[1] That is, there comes to be a specific area of the city that is residential, another specific area that is commercial, and another that is industrial. Within these specific areas, zoning often further divides, for example by restricting certain residential areas for single family housing and other areas for multi-family housing, which can have the practical effect of

[1] Sam Bass Warner, Jr. (1995) offers an excellent discussion of the history of zoning regulations and their tendency to use the language of health, safety, and order as a thin veil for racial and economic discrimination. See especially pages 28-37.

economic segregation assuming a higher property value, and therefore degree of wealth, in the single family areas.

Often overlooked is the idea that satisfying the desire for orderliness may invite problems of a different kind. The imposed orderliness of the professional planner undermines the diversity and spontaneity of the city. Different activities occur at different times in the city. For example, commercial and industrial activity would be concentrated in the daytime hours. Residential areas are livelier in the evenings when workers return home. Nightlife is confined to areas zoned for entertainment and recreation. By segregating certain time critical activities to specific areas within the city, there will be rolling dead periods for each area as its use has its down time. This encourages crime and other anti-social behavior, as one might witness when straying too far from the theater district in search of a parking spot: such a situation takes one away from the designated "live" portion of the city and into a "dead" portion.[2] Even worse, segregating activities to different areas of the city is like sorting all of the pieces of a puzzle according to color: if planning stops there, the puzzle will never fit together. In terms of the city, this means that the diverse interaction, described by Mumford as part and parcel of the city's wholeness, is lost. People are able to restrict their activity to specific areas within the city, avoiding other areas that may be in decline. This means that people no longer confront the conditions of their fellow citizens, no longer exchange ideas with their fellow citizens, and in some sense, no longer consider their own well being connected to that of their fellow citizens. Another critic of planning summed up the problem well, concluding that "the big city is sliced into pieces, each of which is

[2] The idea of inadvertently wandering into a city's dead space is the premise of Tom Wolfe's novel, *Bonfire of the Vanities* (1987).

observed, purged and equalized. The mystery of the strange and the critical rationality of men are both removed from the city" (Jacobs, 1961, 238).[3]

At an even deeper level, another problem reveals itself. Planners do not seem to be aware of the tension between the planned city and the natural, diverse city. As a result, citizens may have a will different from the will of the planners. Consequently, citizens may resist the imposed order of the planner, undermining the intended policy goals. Yet, planners, blinded to the divide between their vision of the city and the citizens' vision of the city, may continue to analyze and create policy that appears sound from the perspective of an office in city hall, but functions poorly in the real world.[4] As Jacobs writes, "there are several dozen use categories, each differentiated most carefully and thoughtfully—and all of them are irrelevant to the real life problems of use in diverse city districts" (1961, 235). As a result, the best efforts of planners and policy experts may, at best, not lead to the expected results. At worst, they may have unintended results that actually make problems worse.

In addition to thinking and reading about cities, I continued to visit cities and pay closer attention to the fractures within them. Some of the ways that urban areas are fractured are fairly obvious. Central cities are divided from suburbs as a metropolitan region crumbles into numerous municipalities. Cutting across metropolitan regions, dividing them in other ways, are various special purpose governments, including school districts, transit authorities, and districts for utility service, resource management, or recreation. Cities are further divided internally by special districts and zones related to

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[3] Jane Jacobs quoting Paul J. Tillich.

[4] Note that this phenomenon puts society well on the way to a condition warned against by many political philosophers, most particularly, John Locke, whereby the government develops a will distinct from that of the people.

policy programs. To list just a few, there are certain neighborhoods designated as historic districts, certain industrial areas marked as redevelopment zones, and certain commercial areas cordoned off as principal shopping districts. Each area receives distinct treatment in terms of policy, setting it apart from the city as a whole. Each district also has its own governing board, often rival to one another and even to the general purpose government.[5] The result is that urban areas can literally have hundreds of divisions, subdivisions, and counter divisions. By one count, "Metropolitan New York City, for example, contains more than fifteen hundred separate governments. Metropolitan Chicago has over twelve hundred governments, Pittsburgh has over seven hundred, and Philadelphia over nine hundred" (Herson and Bolland, 1998, 241). In the wake of such fracture there is no single entity left with the legal power to coordinate the multitude of parts. As Ed Banfield argued, "The 'problem of metropolitan organization' exists in this country in a form that may be unique. Actually, it is really two quite different problems. One comes from the multiplicity of more or less overlapping jurisdictions within a single metropolitan area, and the other from the absence, in any such area, of a general-purpose government having jurisdiction over the whole of the area" (Banfield, 1991, 275).[6]

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[5] For example, the board overseeing the historic preservation district may see itself as rival to a tax increment financing authority or a brownfield redevelopment board because all three are competing for scarce resources via indirect tax subsidies. This topic will be covered in greater detail in Chapter Six.

[6] Some people have seized on this point to argue in favor of an expedient solution. They recommend the creation of a new level of general purpose government encompassing the entire metropolitan region and legally superior to all general and special purpose governments in the region (Orfield, 1998; Rusk, 1995). However, as will be argued in Chapter Five, this approach fails to address the source of the problem and would be, at best, only a partial solution. This point, too, was noted by Jane Jacobs writing that:

> There is widespread belief among many city experts today that city problems already beyond the comprehension and control of planners and other administrators can be solved better if only the territories involved and problems entailed are made larger still and can therefore be attacked more 'broadly.' This

Given the multiplicity of special purpose governments mentioned above, one might hope that at least the city government itself would speak with a single voice. This, however, is not the case. The greater complexity of public life has effected the design of urban institutions. Specifically, it has accelerated the rise of single purpose institutions, which deal with narrow slices of larger problems (Long, 1966).[7] Institutionally a city is divided into numerous departments and agencies, each specializing in a particular service such as transportation, health, housing, or sanitation. Each of these departments is often divided both horizontally—assigned different precincts of the city—and also vertically—responsible for particular aspects of the more general department. This organization scheme has a certain internal logic. As cities take on more complicated challenges, rationality and the desire for order demand that planners isolate distinct facets of city life and focus particular agencies on each facet. As articulated famously by Max Weber (1947, 329-41), this allows for practitioners to develop and apply expertise to each particular problem, be it transportation or public health, housing or economic development. It also allows for routine to develop, which can make service delivery more efficient.[8] However, this internal logic proves to be incomplete. Real problems can seldom be isolated because lives are not lived in a segmented manner. A city plagued by crime, for instance, may also face the related problem of poverty. Poverty

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> is escapism from intellectual helplessness. 'A Region,' somebody has wryly said, 'is an area safely larger than the last one to whose problems we found no solution.'" (1961, 410).

[7] This is similar to the argument made in the implementation literature, particularly by Pressman and Wildavsky (1984) who note that the complexity resulting from numerous and overlapping agency jurisdictions hampers the ability of policy, once crafted, to effect positive change See also Bardach (1977). The present study will not focus on the problem of fragmentation as it relates to implementation, but rather as it relates to policy formation. Far less attention has been paid to this topic, but see Yates (1977).

may stem from lack of economic development but also from inadequate transportation and child care. These may in turn contribute to problems in housing, health, education, and the environment. Simply put, the challenges of urban life—of political life more generally—are inter-related; they form a syndrome wherein one symptom triggers another, which triggers others in turn. Therefore, to understand any one component, or even to understand each component separately is not the same as understanding real problems as they effect real lives. Jane Jacobs summed up the problem well in arguing that "Each of the many internal divisions of responsibility, vertical or horizontal, is rational in its own terms, which is to say rational in a vacuum. Put them all together in terms of a big city itself and the sum is chaos" (1961, 411). Consequently, one agency may interfere with the work of another. This could be for deliberate (and sinister) reasons such as a competition for prestige, funding, or staff. However, it may be for a more innocent reason: If it is true that the problems plaguing a city are complicated, it is possible for two different experts to see the same problem as falling within the purview of different agencies. In such a case, each agency may develop a program, seeking to remedy the problem. However, lacking central coordination, the rival courses of action may undercut one another and offset the intended results.[9]

The consequences of urban fragmentation have been devastating. Metro areas and central cities are divided economically, racially, and socially. Demographically, many of the older core cities have experienced major changes in their populations. Most began losing white population in the 50s and saw an acceleration of flight in the 60s and

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[8] For a helpful discussion of Weber's influence on bureaucratic organization see Talcott Parsons's introduction in Weber, 1947, 13-15.

[9] For example, housing and transportation policies seem to have undermined the success of renewal and anti-poverty programs in the 1950s and 1960s.

70s. By the 80s, emigration was no longer restricted by race; the black population had begun to leave as well (Jackson, 1985). As a result, cities have more that ever become the home to a concentrated population of poor minorities (Harvey, 1973). Economically, cities have had to redefine themselves; they are no longer exclusively industrial powers, but are now centers of information and technology as well. With this transformation, old central cities have ended up competing less and less with each other for population and tax base, but they are forced instead to compete with their surrounding suburbs (Garreau, 1991; Rusk, 1995; Sugrue, 1996). The consequence of fragmentation coupled with segregation is that the areas that face the greatest challenges are also least equipped to deal with them. Those with the greatest capacity to engage in public problem solving sense the least need to do so. Their residents come to believe that they can isolate themselves from urban problems. Furthermore, they come to believe that the blame for those problems lies solely on others—on the people living in the city. Fragmentation has allowed segregation of race and of wealth, but more damaging, a segregation of civic responsibility, creativity, and ideas. As a result, the public sphere, from the level of identifying and articulating problems to the agenda setting and aggregation phase of policy making tends to be anemic—missing the very ideas that may be necessary to fulfill the larger principles of the liberal regime and the expectations of its citizens. This is the problem of systematic bias.

The Methodological Revolution and the Fracturing of Ideas

During the same period that I was visiting cities, I began to think about the scholarship on urban politics (and political science more generally), realizing that not only is our subject matter fragmented, but so is our *understanding* of the subject matter.

First, theories have been divided from methods, which has brought about further division within both theory and method. The result is conflicting theories and competing methods. Such a condition may be desirable from the perspective of science, as competing models are assumed to push research toward a greater understanding of the truth, but there is danger that methodological debates may distract researchers from the real world problems that initially attracted their attention.

Political research has not always been plagued by division. Scholars such as Lewis Mumford and Jane Jacobs wrote important books documenting the relationship between city planning, public policy, and the behavior of citizens both socially and economically. Others such as Ed Banfield took up less generalized, but still important studies. The common link among these scholars is that their research was never wholly theoretical, nor wholly empirical. The result of blending theory and empiricism by no means ensured agreement, but it did make possible a rich debate. At the same time, it gave birth to research that was critical without lapsing into cynicism. Thus, scholarship was realistic in its discussion of slums, corruption and the cleavages of class and race, yet it was optimistic enough not to destroy the image of cities as exciting centers of opportunity and potential integration.

This would not remain the norm. Changes with respect to approach and method, coupled with the greater specialization of the social sciences, would give way to a noticeable shift in the tone and conclusions of research. In the case of political science, the study of local government disintegrated into debates over power and institutional organization. Budgeting was largely relegated to the new field of public administration, and policy analysis came to resemble a cross between economic forecasting and cost

accounting. As is often the case when broad topics are reduced to single points, there came to be two general sides to each issue: In the case of power, there were disputes as to whether elitist or pluralist models best explained who controlled the city. With regard to institutions, the debate focused on machine versus reform cities. The budgeting debate found itself trapped inside the larger issue of federalism and the question of centralism versus localism.

The same period saw the development of new analytical tools. More sophisticated mathematical models on one hand and the growth of rational choice theory on the other brought new grounds for disagreement. What is more, they created new terms for debate well removed from the city itself: Controversies centered less on whether a given policy alternative was good for the city or whether a program would help those in need, and more on which data set should be used, how to operationalize a particular variable, and how best to specify a model. However, such highly specialized debates are meaningless to citizens, elected officials, and policy practitioners, meaning the research loses real world application.[10] This sentiment is reflected in a remark belonging to Ed Banfield, worth quoting at length:

> To be sure, many of those who have been trained in the techniques of policy science can adapt to a policymaking setting by subordinating 'science' to common sense. A policy scientist who lacks this flexibility, however, is likely to find that he can communicate only with other policy scientists. The political executive, whether elected or appointed, and the lawmaker and his staff, although intelligent and well informed, do not know now, and are not likely in the future to know enough statistics to interpret the analyst's reports; indeed, the method and mode of thought of the analyst are likely to strike the practical man as perverse, even ridiculous. (1980, 14).

[10] For a critical review of the literature spawned by the methodological revolution and its increasing irrelevance to the real world, see Green and Shapiro, 1994.

It is important to point out that the criticism is not of the methods *per se,* but rather of the way they have come to be used. There is a tacit assumption that sophisticated models can substitute for theoretical rigor. Furthermore, there is a tacit assumption that these models allow for a liberation of research from normative considerations. This is not correct. Models can not relieve us of theory, and is their methodological sophistication, there is actually greater need to ground research in normative assumptions—assumptions that should be made clear in the beginning of any research. Otherwise there is nothing to guide the methods. Method, as a tool, and like any tool, is neutral.[11]

Even as disputes enveloped political research, and questions arouse as to the validity of such work, scholars attempted to apply the new methods to the study of cities. However, when researchers attempted to compute the level of democracy in a city or the degree of equality in a program, they typically arrived at stark conclusions: cities almost always failed to measure up to expectations. The effect was an even greater degree of criticality—and a loss of the earlier spirit of optimism. This colored the image of urban politics such that by the late 60s, political scientists could seldom mention the city without also speaking of crisis. It is little wonder that by the 70s and 80s the discipline of political science was still of the rise, but attention had shifted to national politics and beyond. The study of the city, like the city itself, was in decline.

Others have commented on this matter. Paul Peterson has attributed the decline of post 60s scholarship to the fragmentation of the discipline. He compared the rise of numerous sub-specialties to "a multiplicity of feudal barons each encapsulated in remote

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[11] Note that I offer in Chapter Two a spatial model of Madison's argument in Fed 10. This is to serve as an example of the appropriate use of models connected to normative principles.

and insignificant provinces till[ing] fields of little concern to the larger world" (Peterson, 1981, x). Ira Katznelson suggests that "the ways we usually talk about urban politics make it impossible to know what has happened and why." This, he claims, is because "the language of analysis is clinical, not political; diagnostic, not historical. Far too much remains hidden from view." (Katznelson, 1981, 5). In an even more candid statement, Stephen Elkin admits that he is "embarrassed by the paucity of guidance for political affairs that political science presently offers." He argues that political science should be of value to the "intelligent citizen who might be gratified to gain a deeper understanding of what is required to create and maintain a political way of life that he considers worthy" (Elkin, 1987, ix). Putting these three statements together, we arrive at a troublesome conclusion: Political science fails to offer the real world practical advice because we do not understand or even attempt to operate in the real world. The image is reminiscent of Socrates' story about Thales who fell into a well because "in his eagerness to know the things in heaven ...[he] was unaware of the things in front of him and at his feet" (Plato, *Theaetetus*, 174).

Progressivism, Pragmatism and the Logic of Crisis.

Perhaps the political and the intellectual fragmentation are related. One may not have caused the other, but it may be that a common source drives both. They may result from a different way of thinking about intellectual life *and* political life owing to an idea that began late the 19th century. This was the era that introduced the Progressive Movement, which focused on the separation of politics from administration and secondarily, but importantly, on the creation of a professional class of administrators,

highly skilled in the emerging field of scientific management.[12] Basically, Progressivism sought to rid the city of ideology. The politics of old, associated with the corruption and waste of the machine, was to blame for the city's social ills. Thus, the driving force of Progressivism was that rational principles could be used to bring efficiency to the city. A city run with business-like efficiency would rid itself of poverty, crime, and ignorance. In effect, this turned out to be not merely the *separation* of politics from administration, but actually the *triumph* of the latter over the former. Soon the intellectual world witnessed its counterpart to the Progressive Movement with the birth of Pragmatism and its emphasis on specialization, reductionism, efficiency, expediency, and progress. There was no reason to judge a course of action based on its relation to founding principles such as natural right. Such matters were assumed to be settled, outdated, or both, and therefore irrelevant. Ideological debates only stood in the way of progress.

Thinking about the relationship between ideas and politics, and taking issue with Pragmatism and Progressivism gave birth to the two main assumptions that drive the present study: The first assumption is that ideas have consequences. Big ideas—comprehensive theories about human nature and its relationship to political society—have a way of dissipating into the culture at large. This is also a point made by Banfield, explaining that:

> Philosophical ideas somehow make their way directly and via the intuitions of great literary and other artists to lesser lights—professors, journalists, and

[12] The person associated most with pragmatism is John Dewey. See his *Liberalism and Social Action* (1935) and *The Public and Its Problems* (1946). Useful commentary can be found in Horwitz, 1987 and also Nichols, 1990. John Patrick Diggins (1984) demonstrates with lucidity the tension between Pragmatism and liberalism. A very useful history of the Progressive Movement can be found in Feingold, 1995, and a treatment focused more narrowly on the movement's political principles is in Schiesl, 1977. For a discussion more directly relating the Progressive Movement to developments in political science, see Banfield, 1980.

> others—whose writings convey them to politicians, lawyers, businessmen, and other managers of affairs, until finally the ideas (by this time much diluted and otherwise altered) become widely, even generally accepted as the views and standards—when verbalized, the cant—of the middle class. (1973, 12).

These ideas also help to define rights and responsibilities, which is to say what citizens expect from the regime and what they are willing to give to give it, and each other, in return.

The second assumption is that politics matters. Politics matters in two senses: In the narrow sense, the decisions made in the political process effect the conditions of society. The decision to use restrictive zoning changed the geography of the city immensely. Likewise, decisions regarding tax policy, land use, and social policy impact the city's physical features as well as the citizens' political, economic, and social behavior. These are inherently *political* decisions as they, by definition, show preference to one alternative way of life over another (Kelman, 1987).

Yet politics matters in a broader sense. The way we talk about issues and the people involved in the process (and not involved in the process) may effect the actual decisions that are made. That is, politics is not merely about outcomes, but also about the process that leads to outcomes. Even the most sensible or well intentioned outcomes may, therefore, be undermined if they are not reached via the appropriate procedure. This reveals a connection between ideas and politics. Ideas establish a normative foundation for the regime. Politics, to be effective, must operate within that foundation. As tension develops between a regime's political process and its normative foundation, there will be resistance to its policy decisions.

This leads to the heart of the problem: we have departed from the original normative foundation of the regime. The original normative basis of the regime, based

on a certain set of ideas and creating the foundation for a certain kind of politics, was liberalism: the idea that human beings possess natural right, are primarily motivated by rational self-interest, that government derives its legitimate power from the consent of the governed, and that its primary purpose is the protection of property and should otherwise be limited so as to maximize individual freedom to pursue happiness as one understands it. These ideas have been challenged, and sometimes abandoned, by the new pragmatists. Consequently, there has emerged a shift, or a fundamental tension between the original normative foundation of the regime and the present. This tension, I submit, is largely to account for the problems that challenge our regime in general and urban America in particular. The city's wholeness has been fragmented because of our abandonment of the normative lessons of the founders.

What has happened is this: Liberalism, from its inception, faced one great challenge—the need to manage self-interested people without sacrificing freedom and equality. By this very nature this means that the liberal regime can never be perfectly whole. It also means that the natural tendency of the liberal regime may be toward fragmentation. With fragmentation, the key problem is that some will be better equipped to deal with it than others. The strong, the wise, and the wealthy may be able to live an adequate existence in a fragmented world. But others cannot. They will be cut off from the benefits that were promised at the beginning of the regime and they will be ill equipped to participate in the regime. Thus, fragmentation leads to the existence of two classes of citizens: the privileged whose interests dominate public life and the underclass whose interests are effectively shut out of public life. The result: after being shut off for a long period of time, they will, as the founders of liberalism warned, reject the

legitimacy of the regime and rebel. In sum, these conditions are bad for all, but they are worse for the most vulnerable.

Political science lies at the crossroads between ideas and politics. If this is true, it seems to alter slightly, but importantly, the way we ought to understand the discipline. Typically we think of political science as offering models that describe the world as we find it. The models are neutral with respect to the world, as are models in the natural sciences. In the best case, the model allows us to explain and even predict future outcomes with some degree of accuracy. However, if ideas have consequences, it could be that the way we study politics actually effects our subject matter. That is, perhaps a model claiming merely to *describe* behavior in policymaking actually *teaches actors to exhibit that behavior.* What was at first a model is now a strategy. In short, thinking it may make it so. This would mean that models can not—and should not—be value free as political scientists normally claim them to be. A model will always contain some normative component. This means it is important to identify the normative component of any model and note the degree to which it is either in harmony or tension with the fundamental principles of a regime. This may reveal a serious problem: To the extent that a model is in normative tension with these principles, it will encourage behavior that is potentially dangerous to regime stability. Since politics matters, the policy made through a process rooted in such tension—for example the zoning policies described above—will likely face resistance.

Finally, if politics is not merely about outcomes, then the study of politics can not merely focus on "who gets what, when, and how." Since politics also involves procedure, political science must examine the impact different procedures has on those

outcomes—it becomes a study in the art of the possible. This implies that political science can never be simply descriptive. It must also be prescriptive. But this means that the methods used for mere description of a city will not be appropriate for research that seeks to move beyond. Pragmatism and the developments described as the methodological revolution brought about the rift between normative and empirical research. The problem, as Ed Banfield has stated well, is that "it is one thing to predict how people will behave; it is another to say how they would have to behave in order to get from life what they really want; and it is still something else to say how they ought to behave. A model of analysis well suited for positive studies may be inadequate for conditionally normative ones and pernicious for normative ones" (1991, 379). This gives us reason to reevaluate the dominant model of urban politics: pluralism.

Pluralism is important not simply because it is well known and widely accepted in academic circles. Rather, the importance lies in that it is the dominant model to have emerged at the critical time when Pragmatism and Progressivism had taken root in the regime. As has been argued, the ascendance of pragmatic philosophy and reform politics brought a preference for expedient outcomes without regard for ideological content. This was the moment, then, of the break between normative and empirical research, bringing soon thereafter the break between descriptive and prescriptive research. The new model offered by pluralism, focusing on the relationship between the aggregate strength of coalitions and policy decisions served the new politics well. In its parsimony and value neutrality, it also fit with the intention of Pragmatism. As a model it described the new political landscape—at least in certain cities: There continued to be competition among interest groups, but there was no longer a political machine capable of mitigating this

competition, and so government assumed the role of referee with an emphasis on efficiency and outcomes over problem solving. The substance of politics becomes identifying the winners and losers, and so the important question, exemplified by the title of the first important work in pluralism, was *Who Governs?* Lost was any regard for the question of *how* they govern (Dahl, 1961).

It is our departure from the original basis of liberalism—our move in favor of political expedience toward Progressivism and Pragmatism—that has rendered us unable to meet liberalism's greatest challenge of inclusion. Citizens are divided against each other and now organize not for the collective good, but for the sake of narrow, short-term benefits that come at the expense of others. Liberalism was not meant to have absolute winners and losers, but that is increasingly what we see when we look at our society. If this is true, then we must pay close attention to the warnings of the founders of liberalism, for it may be that they were aware of the danger and left us a lesson in how to deal with the danger. Furthermore, we need a new political science that is capable of understanding behavior.

The Emergence of Regime Theory.

Fortunately, we need not begin wholly anew in this endeavor. Others have written of this problem, particularly as it appears in the urban crisis literature, and some have gone on to offer advice for working beyond the crisis. Peterson argues that we must rise above the simple dichotomies that seduce us away from general theory. There is more to understanding local government than debating whether power is exercised according to pluralist or elitist models, and more to discussing institutions than arguing over machine vs. reform cities. These debates lead us down a path that too often

degrades into methodological disputes over units of analysis and data sets. Before long we suffer from the very problem Elkin bemoaned: we have spirited academic debate that is otherwise meaningless to the real world. Katznelson adds that if we are to produce work that will contribute toward a general theory of local government as opposed to specialty studies of budgeting, service delivery, or power, we must recover a sense of history. Elkin agrees that we need to move away from what he calls the "organ theory" and back toward discovering the body that connects the parts. More importantly, drawing from Tocqueville and Mill, he argues that "the study of local politics should be normative" (1987, 1).

By normative, Elkin does not mean that scholarship should focus solely on a discussion of what the city ought to be. He does not simply contrast normative from empirical research as if the two were independent of each other. Instead, he draws close connection between them. Building on his original argument that political science should be prescriptive as much as it is descriptive, he adds that scholarship "must rest on a more complex conception of the larger political whole." Furthermore, it must be "self conscious" meaning that researchers need to be aware of "the kinds of arguments that underlie their advice" (Elkin, 1987, 4). The study of policy, for example, must be more than a series of econometric models; it can not be isolated from questions of how that policy relates to the foundational assumptions of the political regime. Put another way, self conscious research not only asks the question "What is it?" but it also asks the question "Is it good?" or "Does it fit within the nature of the regime?"[13] Every regime is

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founded on a particular understanding of human nature. This determines the purpose of the regime and in turn gives form to its institutions. Institutions, Elkin notes, instruct citizens of their rights and duties—they shape what we expect from the regime and each other. Yet, institutions also establish the parameters for policy debate and place limits on certain outcomes. Ironically, the solutions most conducive to a good society—one that realizes its founding principles—may at times lie outside the horizons established by its own institutions. It is in the interest of understanding, and also expanding these horizons that regime theory emerged. This necessitates explaining and correcting the damage wrought by Pragmatism, Progressivism, and pluralism.

One of the first explanations of the inadequacy of pluralism appears in Paul Peterson's *City Limits.* There, he argues that rather than simply aggregating the demands of competing groups, we must understand policy outcomes as a function of the economic character of a particular program. In doing so we realize that "the social and economic context within which the city is embedded limits choice" (1984, xii). Cities seek to maximize their interests, which can be generally equated to the interests of their export industries. They also need to preserve their residential base (23). The limits on policy choices arise because cities have no legal authority to prevent residents or industries from leaving and taking their capital with them. Companies will leave a city if its policies interfere with profits and residents will leave if the costs of taxes too far exceed the benefits of services. Thus, cities are forced to compete with one another by offering the

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[13] In a sense, Elkin is recommending that we follow the model provided by Plato's *Republic*. The dialogue begins with a series of definitions of the subject matter, justice. However, the interlocutors (particularly Glaucon) are not satisfied with mere description or definition of justice, but rather, they ask Socrates to convince them that it is also good. This requires that they move beyond the empirical definition of justice to a normative or philosophical analysis of its nature.

most efficient settings with regard to land use, labor force, and capital (24). According to Peterson, the average resident already receives less than one dollar in services for every dollar paid in taxes (38). As cities engage in redistributive policy, that ratio becomes even less favorable and the odds of emigration increase (44). Leaders realize this, and the result is a chilling effect on policies that emphasize egalitarian concerns (69). In short, there is a strong bias in favor of policy that enhances the local economy, which Peterson calls developmental policy. As Peterson concludes, "the emphasis local governments place on efficiency at the expense of equality is due not to any antiegalitarian commitments of local policymakers, but to the constraints under which local governments operate" (71).

At the same time that Peterson was explaining the economic limitations of pluralism, Ira Katznelson took up the institutional limitations in his *City Trenches*. His case study of northern Manhattan looked at political organization and noted that certain groups were faring much better than others. He explained this fact by demonstrating how the separation of work and community established a set of informal institutions or "trenches" that preclude certain kinds of political movements (1984, 18-19). Katznelson argues that the spatial distinction between work and home is key. As capitalism created this separation, it became possible for the first time for the wealthy to live apart from the poor. Thus, the spatial distinction compounded the preexisting class distinction (75). However, the working class only paid attention to the economic distinction when it was at work; at home, since all who lived in a given area were of the same class, the most noticeable distinction was ethnicity. The first lines of difference were between the area's Jewish and Irish residents. The wealthy, who controlled the city's formal institutions,

took advantage of the situation by creating a set of informal, community-based institutions that would accommodate the ethnic cleavage by providing a few basic services and petty offices of patronage. In doing this, they exasperated the ethnic cleavage and ruled out the possibility of class unity. Katznelson compared this to a system of trenches channeling one rival against another, and diverting both from their true opponent. As many white ethnics left the city for the suburbs, a second wave of immigrants, primarily African Americans and Hispanics, moved in. However, the minority of remaining white ethnics retained possession of the trenches. The city's response was to create yet another set of trenches exclusively for the new residents. These took on a character somewhat different from the original trenches, for they did not seek to remedy problems but merely "aimed at keeping angry people busy to prevent disorders" (141). The result is that the city remains less responsive to the working class. In Katznelson's own words, they are but "substitutes ... for structural economic changes and for a basic redistribution of wealth and power among classes and races" (188).

At first blush these two theories might appear to be at odds with one another. In Katznelson, the source of policy failure is the institutional arrangement of the city. In Peterson, the problem is the nature of the policy within the larger economic context. Katznelson implies that reform of our political institutions would create opportunities for progressive policy outcomes. Peterson's analysis of political economy would seem to suggest that outcomes are limited under any institutional arrangement as long as capital remains mobile. Regime theory, beginning with the work of Stephen Elkin and Clarence Stone, connected the two critical points by expanding the discussion to a larger theoretical context: Rather than focus on institutions or the political economy in isolation,

they pushed the analysis to a higher level of generalization and inquired into how both interact in the regime as a whole. Elkin and Stone developed a model sensitive to the nature of policy as well as the importance of institutions and the actors involved in the process—both government and citizen/business. This leads to regime theory, a more holistic understanding of the world, connected to the liberal normative foundation, and therefore the perfect antidote to Pragmatism, Progressivism, and pluralism

Systematic Bias.

One of the key features of regime theory is the problem of systematic bias. The problem stems from the tension between equality and efficiency. Elkin draws on Peterson's analysis of the problem: because policymakers tend to view these two qualities as being at odds with one another—what Arthur Okun called "the big tradeoff"—efficiency will generally win out (for reasons Peterson detailed in *City Limits*). This means that, as Katznelson portrays in *City Trenches*, marginalized classes who are in need of greater emphasis on equality will be effectively shut out from city politics. Thus, Peterson and Katznelson are both accurate in their respective analyses: As long as the political economy remains limited by a particular understanding of efficiency, the institutions of the city will be unable to accommodate certain interests. There will necessarily be groups who benefit at the expense of others. As Elkin puts it, "there are only certain kinds of politics that can flourish given the particular form that the division of labor between state and market has taken in cities" (36). These particular forms will "consistently favor some interests and impede others" (85). This is what Elkin terms "systematic bias". The idea of systematic bias reveals the theme common to Peterson, Katznelson, and Elkin: the horizons in which American local governments operate are

much too narrow, in policy terms, institutional terms and ideological terms. This has the effect of shutting creativity out of the public sphere and diminishing our ability to solve problems.[14]

This brings us to Elkin's prescriptive teaching. We must first come to understand equality and efficiency such that they are brought into harmony. To Elkin efficiency is a system that promotes social intelligence—the ability to deal with the problems that citizens face collectively. Linked to this is equality: a system that is free of systematic bias (1987, 4), for Elkin argues that "if the operation of popular control is systematically biased, problem solving is also likely to be ineffective, simply because some desirable alternatives will go unexplored" (95). Thus, each quality becomes a necessary component of the other. Yet, the fact remains that we do not ordinarily think of equality and efficiency in Elkin's terms. The reason is made clear by Elkin himself: the formative effects of our institutions have eclipsed such definitions from our minds. Elkin attributes this to our departure from the founders' intentions in calling America a commercial republic. It is not that they planned for the Chamber of Commerce to run the city. Nor did they intend the first order of politics to be the inducement of business activity (145). These circumstances would too easily allow for large concentrations of wealth—something the founders cautioned us against. Certainly, there was an intention that business and capitalism would prosper. However, these were largely means to a higher end: security and liberty.

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[14] For this reason, Elkin uses the term social intelligence to describe a system that is free from systematic bias and therefore able to solve problems. For an excellent application and elaboration of the concept (using instead the term social production) see Stone, 1989, 8-9, 226-229.

There is a connection between Elkin's account of systematic bias and James Madison's discussion of factions in *Federalist* #10. Madison warns that if a particular faction secures control of the regime, its members may use their power to serve their self interest at the expense of "the rights of other citizens or...the permanent and aggregate interests of the community." If one party continuously prevails over another, the resulting insecurity will breed "increasing distrust of public engagements" and perhaps ultimately rebellion. Madison councils that we not attempt to eliminate the cause of faction, but rather we should seek to control its effects. This gives rise to the need to extend the sphere of the regime so that there is a great variety of interests. There is more than a geographic context to this advice: we must also extend the sphere with regard to the *kinds* of interests presented in the regime. We must not only be a nation of farmers, but also of mechanics, manufacturers, and merchants. In short, we are intended to be a commercial republic. The resulting diversity will prevent any single interest, or faction, from dominating the public sphere and abusing the rights of others. Madison explains that "the most common and durable source of factions has been the various and unequal distribution of property" and that managing this is the first order of government. In this sense, systematic bias—our failure to control the effects of factions—is somehow related to our failure to manage property. Elkin agrees, suggesting that we have departed from the founders intentions regarding commercial republicanism.

If we consider the relationship from urban crisis to systematic bias to commercial republicanism, we arrive at a most startling, if not radical, conclusion: moving beyond the logic of crisis will require that we reevaluate our basic understanding of the regime. We need to understand more clearly the purpose and role of private property and commerce

as well as the expectations citizens ought to have with regard to the regime and each other. In short, we need to inquire into the very nature of the social contract. Elkin writes in the preface to *City and Regime* that "the test of a good essay is whether it can build on what is widely believed to be true—and present it in illuminating ways" (1987, x). I would submit that not only did he pass that test, but he also established a second test: A good essay should point beyond itself and stimulate further research. In using the problem of systematic bias as a conduit to connect the urban crisis to our founding principles, Elkin invites the next wave of research to reexamine those principles.

Overview of the Present Study.

Systematic bias emerged as a result of the fractured ideas about the fractured city. The effect has been a weakening of the urban regime's ability to solve problems and fulfill the expectations of its citizens. Indeed, because ideas have consequences and politics matters, there seems to be a cyclical relationship: Policy crafted in an atmosphere of systematic bias (the result of corrupt ideas and polluted politics) invites resistance from citizens, narrows their self interest, and creates even greater systematic bias for the future. This chapter has attempted to demonstrate the emergence of systematic bias out of an anemic understanding of politics—a politics that focuses on procedural expedience and assumes that a uniform procedure will produce efficient outcomes. Systematic bias, therefore, is the result of a certain kind of strategic behavior in the policy process—unwittingly taught by political scientists to a generation of practitioners due to the misguided belief that a model or a method can be neutral and merely describe the world without changing it. Moving beyond this crisis, therefore, requires a different strategy—

one that seeks to promote social production. Regime theory, I contend, is uniquely qualified to teach us this strategy.[15]

The role of strategy in politics has of course been studied and pointed out, perhaps most clearly by Machiavelli. The most provocative contemporary study on the matter is William H. Riker's *Art of Political Manipulation* (1986). The book is an excellent study in real political behavior, assembling twelve cases from history, beginning with the Roman republic and ending with twentieth century America. However, Riker commits the error of weakening the connection between strategy and normative principles. No better evidence to this point can be seen than Riker's choice of the term *manipulation* for the title. Riker casts himself as an impartial scientist merely describing a particular behavior, but by terming the behavior *manipulation*, rather than *strategy*—the more appropriate and neutral term, he casts an ominous shadow over the work. Furthermore, he refuses to show where the "manipulative" behavior that he describes is, at times in harmony with the normative principles of the regime and at other times, at odds with them.

The point is clear if we consider two cases more closely. Riker brilliantly demonstrates how Abraham Lincoln, in his debate with Stephen Douglas at Freeport, asked a question of his opponent that, in effect, destroyed the old Democratic party coalition. Lincoln's strategic framing of the Freeport question triggered a party realignment that gave the Republicans a working majority for much of the second half of the 19th century. On the other hand, the ratification debate in the State of Virginia for the

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[15] Regime theory was not originally crafted as a deliberate strategy any more than pluralism was, although the connection is more clear given Elkin's emphasis on political science being prescriptive

proposed Equal Rights Amendment in 1980 shows a different kind of strategic behavior. In this case whip counts revealed that there was a tie in the 40 member Senate, which would allow the Lieutenant Governor to cast the deciding vote. Knowing that the Lieutenant Governor would vote in favor of ratification, Senator John Chichester, who opposed ratification, refused to cast his vote at all. This produced a final vote count of 20-19 in favor of ratification, but deprived the resolution of the absolute majority it needed for passage (which it would have received had Chichester voted, produced a tie, and allowed the Lieutenant Governor to break the tie).

Both are merely examples of "manipulation" as Riker describes them. But this is irresponsible. Lincoln's "manipulation" certainly was strategic—but his strategy was in the service of natural right and liberal government (our normative foundations). Chichester's actions—described by Riker as just another case of manipulation—are far less defensible from the normative perspective. Riker's book is a fine teaching aid in its use of examples, but why portray them as if they were morally equivalent? It would be more valid to use the term "strategy" as opposed to "manipulation" and then point out that in Lincoln's case the strategy, being guided by our normative foundations, was actually a case of liberal statesmanship whereas Chichester's behavior, equal to Lincoln's on the empirical grounds of strategy, was indeed "manipulation" from the normative perspective.[16]

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[16] The difference between political manipulation and liberal statesmanship will also bear on the nature of political leadership as well as the role of the people in the policy process. One thing this suggests is that not *all* ideas need by admitted to the policy debate. Some are clearly destructive to natural right and the liberal regime. Stability would require the omission of these ideas as well as those, which would otherwise do violence to the process. So, some bias will exist in the agenda. However, *systematic* bias implies that the views being left out are *not* of the sort described here, but rather the legitimate views of distinct classes of citizens. Again, the key is that the decision to admit or restrict

There is also some reason for curiosity in Riker's decision to use the term *art*, as opposed to science or method. The text of the book betrays the idea of it being an art, for it treats the subject in the sterile language of science—best exemplified by Riker's invention of the term *heresthetic* to describe the technique of political manipulation (1986, ix). The text teaches the reader to consider heresthetics a mere tool, to be applied scientifcally (i.e. without moral consideration) and studied scientifically (without normative judgement). On the other hand, if we were discussing the truly neutral concept of strategy, it would be more appropriate to describe it as an art in the sense of Plato's discussion of the arts in the *Republic*. The arts are neutral and therefore subject to the moral vision of the practitioner. Knowledge of a certain art makes one person a good guard and another, using the same art, a good thief. The difference between the two is not detectable through method but rather through the moral vision that guides each person's behavior. Thus, just as Riker can not tell the difference between Lincoln and Chichester, he would presumably not see the difference between the guard and the thief. In the present context, he would not see the difference between pluralist politics that lead to expedient outcomes but are destructive to liberal society and regime politics that lead to socially productive urban policy.

Riker's work stands as the perfect symbol of the damage caused by the methodological revolution coupled with the ascendance of pragmatism. His error may lie in a tainted understanding of human nature—one created and propagated by pragmatic philosophers beginning with Dewey and Pierce. Riker focuses on the concept of self-interest, which certainly is important to liberal politics. However, Riker's pragmatic

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views has to be based ion the normative principles of the regime, not political expedience. This point may also bear on the important topic of discursive democracy.

understanding of self-interest leads him to see it as far too narrow and exclusive. In short, his work is at odds with the liberal understanding of human nature and the regime. For that reason, it is important to grasp exactly what those normative principles are, how they relate to politics, and what this implies about strategy. This establishes the organization of the rest of the present work.

Chapters Two through Four examine the principles of liberalism. The analysis explains why fragmentation is a potential problem for liberal society. More importantly, it demonstrates that the philosophers of liberalism, particularly John Locke and James Madison, were aware of this problem. Chapter Two focuses on the idea of self-interest. In its most extreme sense, self-interest can divide people against one another into a war of all against all, the most extreme form of fragmentation. Equally dangerous, self-interest can bring people together into groups, organized for the sake of gaining benefits at the expense of others. However, just as self-interest can lead to conflict and war, it can also lead to luxury, peace, and sometimes goodwill. The key for liberal regimes is to find a way to use self-interest to bring about the latter conditions without sacrificing freedom. Chapter Three examines the role private property plays in managing self-interest. Where there are liberal property laws, self-interest will broaden and allow the benefits of one person's property to spill over and benefit others and the community more generally. It is this political economy, I contend, that both Locke and Madison recommend as the best way of expanding self-interest in a way that is conducive to liberal politics. Chapter Four turns to the role of political leadership in the liberal regime. The discussion of property reveals a certain dilemma: An unregulated economy will be unable to sustain liberal politics. Likewise, an economy regulated with too heavy a hand will be resisted, giving

way to even more problems. I suggest that a careful reading of Locke and Madison reveals that they were aware of this problem and use it to offer a lesson in the importance of strong, yet subtle leadership.

Chapter Five is a case study of the housing project that first took me to Mayor Stanley's office. In it I examine the neighborhood redevelopment program alluded to at the beginning of this chapter. Part of the program included taking on a property tax issue that had been visited and revisited numerous times before by the legislature. Every time it yielded the same results: discord among interests and death in the legislature. This was not the case in the most recent attempt. I argue that success came because the issue was understood more broadly—understood not in a vacuum but understood as it impacts several other issues. The policy was intentionally drafted to bring in a greater variety of interests, building a foundation for agreement where there had been discord in the past. Equally important, the issue was framed so as to encourage broad over narrow interests. The chapter is, therefore, a case study of applied regime theory. It demonstrates the greater ability of regime politics to solve problems where pluralist politics can not.

Finally, Chapter Six examines redevelopment policy since the mid-20th century. In it I attempt to show the influence of Progressivism and Pragmatism on the policy formation. Programs such as urban renewal, model cities, and the more recent experiment with enterprise zones fail to treat property with the care recommended by liberal philosophers. As a result, these programs have a negative effect on the moral calculus, and therefore the political and economic behavior, of citizens. This, I contend, invites citizens to behave in a manner that undermines the intentions of policymakers.

In the end, it may not be that the city can be made perfectly whole. Indeed, we may not desire a *perfectly* whole city. Fortunately, we do not require the city to be *perfectly* whole. However, it is clear that we can not continue with the city as fragmented as it is and by no means can we allow it to become even more fragmented. Thus, this dissertation is meant to be a hopeful call for improvement, but not a utopian wish. It was once said that the ideal liberal citizen is neither a dreamer nor a schemer. I contend that the pragmatic era of systematic bias has moved us much more toward the latter. This dissertation is intended to get us on the road toward the former, in hopes of striking some middle ground.

CHAPTER TWO

Self-Interest: The Dilemma and the Promise

Before any strategy can be devised to restore urban politics to its liberal foundation, we must first make clear what is meant by liberalism. We will undertake such an explanation in this chapter and the next two. In this chapter we focus on the central concept of the liberal understanding of human nature, rational self-interest. Much work has been done on this topic. Social choice theorists offer complicated models of self-interested decision making in the collective setting (Arrow 1951, Mansbridge, 1990). Economists, too, explore the concept of self-interest, juxtaposing it to altruism (Sen, 1977). However, these works are inadequate for our purpose. They either treat the normative expectations related to self-interest as settled matters (Sen, 1977), or they divorce their studies from normative questions altogether (Arrow 1951). This not only ignores the very reason the topic is interesting in the first place, but it also makes it difficult to use these studies to advance a theory such as regime theory. For this reason, we must focus on the study of self-interest that is more satisfactory, both methodologically, and normatively. This is best accomplished by turning to the political philosophers of liberalism, John Locke and James Madison.

In Locke's *First* and *Second Treatise* we learn of the role self-interest (and the desire for self-preservation more generally) plays in human behavior. Furthermore, Locke explains the extent to which self-interest, united with the faculty of reason, presents certain problems but also a certain potential for our well being. Rational self-interest can divide people against one another, driving them to war or it can bring them together, allowing them to live in peace. In this sense, the tendency toward

fragmentation that we saw in chapter one is a function of human nature—but only one aspect of human nature. As we shall see, it is human nature in its least developed form that drives people apart. To resign ourselves to fragmentation is to neglect the more benign, but fragile, side of human nature—still a function of self-interest, but a more refined understanding of interest.

James Madison also took seriously the relationship between self-interest and liberalism. He focused less on the individual aspect of self-interest and turned instead to the special problem self-interest poses in liberal society. Madison's *Federalist* #10 warns us that the creation of political society may address the initial problem of self-interest driving people to an individual war of all against all, but this only gives rise to another challenge. Self-interested people in a liberal regime will soon discover that they can form into groups and use the power of the group to gain certain benefits at the expense of others. If these groups are left unchecked, they will undermine the stability of the regime.

Together, Locke and Madison reveal a dilemma attached to self-interest, and they also reveal the solution to that dilemma. On the one hand, self-interest can keep people apart and make them rivals on an individual level, rendering society impossible. On the other hand, it can get them to organize into groups that exist merely to take advantage of others, rendering any society unstable. At the same time, properly managed, self-interest can unlock liberalism's greatest asset: luxury. The key is to reduce the anti-social aspect of self-interest in both its individual and collective sense. This requires an understanding of self-interest and the role it lays in our moral and political calculus.

Our moral calculus was an important topic in urban literature prior to the methodological revolution. Jane Jacobs, Lewis Mumford, and Edward Banfield developed theories that looked to explain the condition of the American city not simply as a function of institutions or economics, but rather as a function of the character of the people who lived in them and ran them. Banfield in particular developed theories that saw institutions and economics as, at best, secondary issues—functions of the more important character, or as he called it, ethos, of the people (Banfield and Wilson, 1963). He considered self-interest to be a key to understanding ethos. This, he connected to one's sense of time: He asserted that as a person's sense of time extended, he became more future oriented, and his self-interest created a particular ethos; likewise, as a person's sense of time was constricted, he became more present oriented, and a different ethos came to light (Banfield, 1990; 1991). What remained a mystery for Banfield was what accounted for people's different sense of time in the first place.

In a sense, the questions pursued by the "old" urbanists are the same ones that confront the "new" urbanists. Banfield sought to explain essentially the same phenomenon that regime theorists such as Clarence Stone seek to explain today. In this regard it might make sense to attach regime theory to what we learned from Banfield—the importance of understanding self-interest. Yet, this is problematic, in that it means attaching it to the concept that Banfield himself claimed not to understand fully. Thus, if we are to advance regime theory, we must also solve Banfield's mystery—the mystery of self-interest.

Locke: The Problem and Potential of Self-Interest.

Locke's initial discussion of self-interest unites the concept of self-preservation with reason, stating that God "spoke to [man] directed him by his senses and reason, as he did the inferior animals by their sense and instinct, which he had placed in them to that purpose, to have use of those things, which were serviceable for his subsistence, and given him as means of his preservation" (1T§86.9-15).[17] The distinction between humans and animals is telling. Humans are directed by their "senses and reason" whereas animals are directed by their "sense and instinct." If we are to interpret Locke's words literally, two substantive differences come to light. First, in animals self-preservation is merely an instinct, whereas in human beings preservation is rooted in reason. Instinct is less sophisticated, generally offering the discrete options of fight or flight, with no middle ground, and so we should expect some degree of uniformity and regularity in the way animals seek preservation. However, in human beings, reason differs from instinct in that it assesses different circumstances differently. This is connected to the second difference. Along with instinct, animals rely on "sense" but along with reason, humans use their "senses". Like instinct, sense is discrete in its detection of danger. Thus, animals are simply either in danger or not in danger and therefore must either act or not act for self-preservation. Humans, on the other hand, having *senses*, are able to detect degrees of danger, and using *reason* they are able to respond with a variety of actions. It is the union of the senses and reason that sets humans apart from animals with regard to self-preservation.

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[17] All citations to the *First* and *Second Treatises* are to the Laslett edition. I use the standard convention of citing the abbreviated name, followed by the section number, followed by the specific line numbers where appropriate. For ease of reading I have modernized the spelling and capitalization of Locke's text.

The Moral Dimensions of Self-Interest

How to interpret conditions and react to them is the basis of human judgement and behavior. On the individual level this means attaching value to actions and outcomes. This is what modern political scientists refer to as preference formation and what more traditional theorists mean by morality or ethics. This moral calculus precedes and determines our behavior. Yet, moral calculus involves more than individual decision making. A critical element in the calculus—what we sense and how we reason—is other people. As we deliberate, we must decide the degree to which others are a threat and the degree to which they are a potential benefit. This shapes our actions relative to others. In this regard, the complexity of our senses coupled with reason shapes not merely individual moral calculus, but also relational political calculus—how we behave relative to others or more simply, how we behave in terms of group making and as members (and non-members) of groups. The greater complexity in a human's moral calculus creates greater variety among humans than among animals and also greater variety within a single human being over time (as he faces different circumstances). It is the variety born of this union that gives rise both to certain problems and a certain potential for human beings.

There are three characteristics that we must consider if we are to understand self-interest more fully. The first characteristic describes the scope of self-interest. In the narrowest sense self-interest is concerned with bare preservation. This expands slightly as a person desires to have use of those things, which were serviceable for his subsistence, and given him as means of his preservation" (1T§86.9-15). In the broadest sense, self-interest includes a concern for comfort. It is with the mention of comfort that

Locke first raises the issue of property, noting that "Adam's property in the creatures was founded upon the right he had to make use of those things, that were *necessary or useful* to his being" (1T§86.26-28 italics added). Finally, comfort itself proves to be an expansive term as Locke goes on to speak (1T§87), of the greatest comforts, and even convenience (2T§33).

The second characteristic of self-interest describes its relational dimension. Bare preservation is an exclusive concern, and the goods of sustenance are "for the benefit and sole advantage of the proprietor" (1T§92). On the other hand, comfort and convenience require us to take into consideration others, beginning with our offspring, but extending to strangers. Locke stresses that even though humans, like all animals possess the impulse of exclusive bare self-preservation, [18] adults will often sacrifice their own preservation for that of their offspring (1T§56).[19] Furthermore, he notes that the goods of comfort require innovation, which requires property rights. Property creates more sophisticated links between the interest of one and that of others. In the *First Treatise*, we learn that property allows us to benefit others by seeking our own self-interest. The most obvious way is that we acquire wealth that we may share with others. This is most clear in the discussion of inheritance. Locke explains that property rights passed from Adam to his children and the rest of his descendents, noting that the purpose of property is not merely for gaining things that are necessary or useful, but more broadly, for our "comfortable preservation" (1T§87). He explains that parents have an interest in sharing

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[18] Note that Laslett calls attention to Strauss's argument that Locke is echoing Hobbes. Laslett indicts Strauss's argument for reaching its conclusion based only on the "slight vacillation" at 1T§56. However, this is to neglect the later references to self-preservation and the context of the discussion in the *Second Treatise* (see Strauss, 1953, 227).

[19] As in his initial statement on the matter, Locke begins with something animals and humans share in common and then goes on to show where they differ.

their property with their children for several reasons: We have an interest in propagating the species (1T§56.20-27; §88.18-23), we have an interest in having others to take care of us when we are old (1T§90.25-30), and we have a natural love and tenderness for the young (1T§97.1-10). A key point is that what begins as a crude calculation of mutual interest has the possibility of developing into genuine affection. The luxury of affection comes only after one is reasonably secure in terms of personal, bare preservation and sustenance.[20] Ultimately, Locke tells us that the self-interested development and acquisition of property allows one to benefit others beyond offspring. It also may benefit mankind in general. Locke writes that:

> Upon this ground a man's having his stores filled in a time of scarcity, having money in his pocket, being a vessel at sea, being able to swim, etc. may as well be the foundation of rule and dominion, as being possessor of all the land in the world, any of these being sufficient to enable me to save a man's life who would perish if such assistance were denied him; and any thing by this rule that may be an occasion of working upon another's necessity, to save his life, or any thing dear to him, at the rate of his freedom, may be made a foundation of sovereignty as well as property."(I§43.11-20)

There is another aspect of property that makes possible mutual benefit, and perhaps even good will, which we see not by looking to the end of property—how it is used—but to the beginning—how it is acquired and the interconnected nature of property in a complex economy. Consider Locke's discussion of a simple loaf of bread. In order for more sophisticated goods to exist (the kind of goods that make possible comfortable existence), people must develop a complex economy. This requires a sort of cooperation, albeit one rooted in personal self-interest.

> For it is not barely the ploughman's pains, the reaper's and thresher's toil, and the baker's sweat, is to be counted into the bread we eat; the labour of those who

[20] Of course once this affection develops, most parents, according to Locke, would sacrifice even their own preservation for that of their children. The point here is that this would likely not be the case if the higher idea of self-interest never developed.

> broke the oxen, who digged and wrought the iron and stones, who felled and framed the timber employed about the plough, mill, oven, or any other utensils, which are a vast number, requisite to this corn, from its being seed to be sown to its being made bread, must all be charged on the account of labour, and received as an effect of that. (2T§43.13-21).

We learn that the acquisition and maintenance of property in any sophisticated form requires cooperation. This also extends the relational aspect of self-interest beyond heirs to non-related people such as friends, fellow citizens, and strangers. In sum, it may be an exclusive concern that drives a person to look to her own good without regard for others and in the extreme, even at the expense of others, or it may be a broader concern that drives a person to see her interest as mutual to that of others.

We have seen that self-interest can be narrow or broad, exclusive or mutual. Taken together, they point to a third characteristic of self-interest, related to a dimension of time. Bare preservation is an immediate need. When it is threatened, we take immediate action, without regard for long term consequences. We seek to preserve our existence at all costs. When circumstances are so dire that we decide our very existence is threatened, we may take actions that we otherwise would not—perhaps even actions that we regret in the future. When circumstances allow us to focus on the broader concept of self-interest, such as comfort, we may make decisions with a greater sense of the future in mind. That is, we take into account long term consequences of our actions. We may be more willing to risk investment of time and resources for these goods. For example, we may be willing to sow seeds, fertilize, irrigate, and chase pests away, in order to have better food. We may be willing to gather materials and assemble them together in order to have better shelter. If we did not have some reason to believe that we would be alive to reap the fruits of our labor, we would not engage in these activities.

Thus, it is when our immediate need for bare preservation has been reasonably secured that we may begin to calculate and act for the sake of longer-term interests like comfort.

The stark difference between those who calculate self-interest in the narrow, exclusive, and short term sense on one hand and those who look to the broad, mutual, and long term on the other is most clear in an anecdote Locke offers, almost in passing. He tells of a tribe of people who eat their own young rather than nurture them (1T§57.4-18). This anecdote may be the product of English arrogance and racism in the age of expansion, but the informative value of the statement is at he level of metaphor. When facing dire circumstances, self-interest may be so narrow and exclusive that we will harm others—even eat our young. In a time when we hear news reports of people selling their children or even prostituting them for drug money, this statement is all too real. Locke would tell us that the reason is a failure to heed his teaching about self-interest. Society has allowed conditions to degrade in certain areas so badly that self interest has become narrow and exclusive and people, figuratively, if not literally, are willing to "eat their young" for their own narrow and short term benefit.

The Political Dimensions of Self Interest.

The complexity of human self-interest leads to great variety in the way people deliberate and make decisions. This effects individual conduct, but more importantly, it effects social conduct and ultimately determines both the limits and the possibilities of politics. How this effects our relations with others is seen in Locke's discussion of the law of nature. As he announces it, "the state of nature has a law of nature to govern it, which obliges every one, and reason, which is that law, teaches all mankind who will but consult it, that being all equal and independent, no one ought to harm another in his life,

health, liberty or possessions." Note that he equates the law of nature with reason,which he elsewhere tells us is "our only star and compass" (1T§58.6). That is, like other tools of navigation, reason, or the Law of Nature, is used to decide the manner in which we pursue our interests. Therefore, understanding the Law of Nature helps us to understand how rational or sensible people will behave. This means that the law of nature is quite different from the concept it is meant to replace—the natural law. The law of nature is more like the laws of physics that Galileo and Newton devised to describe how certain bodies, for example planets, behave in relationship to one another. Newton's Law of Universal Gravitation, for example, tells us that if we want to understand the force generated between two bodies, we must examine the mass of each body and then the distance between them. Thus, we need two types of information: One in absolute terms (the masses of each body) and the other in relative terms (the distance between them). In the case of human behavior, Locke's Law of Nature tells us to look to the conditions in which people live, in both absolute terms and relative to one another. This is more clear in Locke's restatement of the Law of Nature, where he notes that:

> Every one as he is bound to preserve himself, and not to quit his station willfully, so by the like reason, when his own preservation comes not in competition, ought he as much as he can to preserve the rest of mankind, and not unless it be to do justice on an offender, take away or impair the life, or what tends to the preservation of the life, the liberty, health, limb, or goods of another. (2T§6.19-25).

We notice three general conditions: First, when there is no competition. We are obligated to preserve ourselves and others. This is reasonable because there is no incentive to fight. Second, when there is competition, we may act without regard for the good of others. Finally, when another's actions cause direct harm, we may act in a way that directly harms them.

The problem is twofold, partly material and partly moral. Materially, if there is scarcity of goods, then the third condition exists—mere consumption of any good meets the strict definition of theft and therefore we may act in a way that harms others,[21] for "every man hath a right to punish the offender, and be executioner of the law of nature" (2T§8.22-24). Conflict is imminent and violence is the only means of settling the conflict. The second problem is even more serious. Locke tells us that the law of nature is "in vain" with nobody to enforce it. Therefore, everyone may enforce it in nature. In other words, since the law of nature is reason, and reason, as we have seen, is in the service of self-interest, everyone is left to follow his or her personal rational self-interest. Chaos will ensue unless reason is able to hold a steady course. But this is not the case. Despite Locke's early assurance that "calm reason and conscience" (2T§8) will keep behavior moderate, his elaboration reveals the opposite: people are biased in their judgements. This means that even if scarcity is overcome, there may still be conflict. People will still consider themselves to be at risk and may still see others as competitors. This is owing to an aspect of human nature that Locke explains more clearly in his *Essay Concerning Human Understanding*. In the *Essay*, Locke elaborates on what it means to say humans are driven by desire. Desire, he argues, "is an uneasiness if the mind for want of some absent good" (Locke, 1975, Chapter XXI, §31,3-4). Furthermore, unease is not settled once a particular good is obtained, but instead, having obtained the object of a previous desire, we immediately discover yet another good that is absent. In other words, we are never fully satisfied. We are likely to see ourselves as vulnerable and always in need of acquiring more and more goods, in an attempt to settle our feeling of unease.

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[21] In the *Second Treatise* it is theft, or an invasion of one's neighbor's share to make use of anything that another needs for survival.

Consequently, we are likely to see others as competitors regardless of the wealth we have already acquired. In this case, reason (the law of nature) will still us to act without regard for others. Locke essentially admits this much in the Second Treatise, noting that reason is not always as calm as he first implied, but is instead subject to mistake, passion, and envy or the desire for revenge (2T§13, 87, 125).

This is likely to be a problem when we focus on the relational aspect of the Law of Nature—especially as inequality develops when some acquire more and others less. Those with less, the poor, may come to see those with more, the rich, as having gained at their expense. Likewise, the rich may suspect that the poor would gladly take from them what is rightfully theirs. Each comes to see the other as a threat, possibly a thief, and therefore will be told by reason (the law of nature) to punish his or her rival. This suggests that left unharnessed, rational self-interest is not sufficient for preserving peace. Even a person who has come to develop a broad, mutual, and long-term understanding of self-interest will, owing to insecurity and unease, tend to decay in moral terms into narrow, exclusive, and immediate interest. This will encourage behavior that, according to the law of nature, is antisocial and warlike.

This conjures up a troubling scenario. Consider a single transgression—or even a perceived transgression. A single passionate observer, interpreting the events and passing judgement based on his opinion might decide to take action against the wrongdoer. The person receiving the punishment may strike back, either because he, also judging in his own case, believes either he is innocent, or if he was guilty, believes the punishment is too severe. He may also simply act out of revenge against his tormenter. Others, observing the events may have differing opinions as to the guilt and innocence of

both parties and the appropriateness of the punishments. This would give them grounds, in their own opinions, to punish either the person originally accused of wrongdoing, the one issuing the original punishment, or both. Yet any action taken by these observers may lead to further disagreement and further punishments. In short order this could set off a chain reaction of violence that escalates to severe proportions—including death. This explains why an offense against one is an offense against all. It is not that one is harmed by the theft of another person's apple *per se*, but one is harmed by the threat that this single act poses to the general peace. If an act sets off a chain reaction, the peace of everybody is compromised. Locke stated explicitly that the law of nature is "in vain" if *nobody* possesses the executive authority. This analysis suggests that the law of nature is also "in vain" if *everybody* possesses the executive authority.

The point is that owing to unease, self-interest is dynamic, even fickle. There is no guarantee that people following self-interest can live in peace. However, there is some hope for peace, provided three problems are understood and managed: First, absolute scarcity must be overcome, creating some minimal level of security for all. Second, society must avoid great disparity of wealth or at least keep the material quality of life rising for all, even if at uneven rate. This is because people are apt to see themselves as worse off than they actually are, and others as better off than they actually are, and therefore conclude that others are benefiting at their own expense. Finally, A society must avoid conditions where wealth that is accumulated is unsecured. People will take harsh actions to protect what they have if they fear it is under attack. They will immediately revert to actions based on immediate, exclusive, and short term self-interest. Creating and managing the sort of equilibrium these conditions call for is a difficult task.

Owing to unease, what is sufficient at one time will not be in another, for people expect to improve their conditions over time. What is more, as people develop differently, owing to variety in tastes and desires, the diversity among people will intensify. Managing these differences will become more complicated and more delicate as a society becomes more complex over time.

This reveals a subtle, but very important point regarding Locke's teaching of the State of Nature, Civil Society, war and peace. Creating society is not enough to assure that war is ended—and war is never ended permanently. Therefore the challenge for political society is not simply preserving society itself, but maintaining it as a peaceful society. Unlike Hobbes, who is more explicit that the state of nature is simply a state of war,[22] Locke invites the reader to see greater distance between them. He writes that "the state of nature and the state of war, which however some men have confounded, are as far distant as a state of peace, goodwill, mutual assistance, and preservation; and a state of enmity, malice, violence and mutual destruction are one from another" (2T§19.1-5). While too cautious a writer to mention Hobbes by name in this passage, it would seem Locke is attempting to distance himself from his more reckless predecessor. Locke is explicit that conditions of war or peace may exist in both nature and civil society. In his words, "want of a common judge with authority puts all men in a state of nature; force without right upon a man's person makes a state of war both where there is, and is not, a common judge" (2T§19.22-25).[23] So the distinction between nature and society is the absence of a common judge in the former. The distinction between peace and war is the use of force without right in the latter. For this reason, it is important not to think of the

[22] See *Leviathan*, Chapter 13.
[23] See Goldwin, 1987.

state of nature as a historical period that permanently comes to an end with the creation of civil society, and it is even more important not to assume that war and peace correspond exclusively to either condition. Nevertheless, given that the slightest miscalculation can set off the chain reaction, and given man's natural propensity to miscalculation and personal bias, there is cause to doubt that the state of nature is very far from the state of peace after all. Indeed, peace in nature would appear to be very fragile. Thus, in order for Locke's statement to be true that nature and war are as distant as peace, goodwill, mutual assistance, and preservation are from enmity, malice, violence and mutual destruction, we have to read it in a different, far more shocking light: Just as nature and war are *not far apart*, peace and goodwill are *not far from* enmity and malice.

Perhaps Locke lists these conditions in a specific order, as a function of how self-interest reacts within what might be called our horizon of security. Self-interest, as we have seen, is ultimately concerned with preservation. However, as our security increases, self-interest is afforded greater breadth, and this breadth allows incrementally more social behavior. Thus, when our horizon of security is very narrow, self-interest must focus narrowly on preservation since the narrow horizon allows impending danger to be, quite literally, too close for comfort. However, if we become more comfortable, that is, more certain that our immediate preservation is secure, if we have less reason to see others as an immediate threat, self-interest will allow us, and perhaps even encourage us to cooperate in the limited sense of mutual assistance. This may mean that we agree to trade with others or cooperate in activities that lead to the goods of our next highest concern, subsistence. If this bears fruit, literally and metaphorically, and we are more secure with regard to both our immediate preservation and our access to the goods of

sustenance, this pushes our horizon of security back even further, thereby broadening the actions agreeable to our rational self-interest. Others will seem even less of a threat. As a result, we may find greater and more sophisticated ways to cooperate, perhaps in producing the goods Locke says are next in importance, goods of comfort. In such an atmosphere we may even come to regard others with goodwill. Finally, as we maximize our horizon of security, the goodwill may develop into peace. However, the fragility that Locke calls to our attention also suggests that if these conditions are not managed properly, people may come to see others as incrementally more threatening, thereby reducing their horizon of security and causing rational self-interest to become narrower and narrower. Thus, people will act incrementally more harshly, bringing about, in descending order, conditions of enmity, malice, violence, and mutual destruction.[24]

Maintaining these conditions therefore requires an acute understanding of self-interest. Lingering insecurity will naturally incline people toward narrow self-interest and lead them to act only for narrow, immediate, exclusive, interests. At the extreme, this would render society impossible. If society is maintained, but in its most unhealthy condition, they will only act to benefit themselves, their family, and an immediate circle of friends, which is socially problematic. Ironically, this means that people will organize for collective action, but only for a narrowly defined purpose—not for the interest of the society as a whole. This is the very problem James Madison analyzed in *Federalist #10*,

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[24] This phenomenon is also present in one of the classic works of rational choice theory, Robert Axelrod's *Evolution of Cooperation* (1984). Axelrod argues that the likelihood of any two people cooperating in the absence of central authority increases as the probability increases that they will meet again in the future. Likewise, as the probability of meeting again decreases, the incentive to take advantage of another gets stronger, i.e. people have greater reason to act on narrow self-interest owing to a constrained time horizon. This would also appear to support Banfield's general proposition.

naming such organizations *factions*. The control of factions requires that leaders broaden or enlarge people's views. That is, the liberal republic must enlighten self interest to behave in a way not expected if left to natural inclination. Madison's lesson in *Federalist #10* assumes some ability to manage self-interest. It takes for granted a certain moral character among the citizens, without directly explaining what that character is or how it is to be fostered.

Madison: Self-Interest and the Problem of Factions

The discussion so far reveals a critical challenge for liberal regimes: They must be organized so that rationally self-interested people are able to live in peace and work together to promote prosperity. As we saw, this requires great care because rational self-interest is fickle and can just as easily lead to enmity as goodwill, conflict as cooperation. This is further complicated by the fact that even as people are motivated by self-interest, they do not always take action as individuals. Rather, they often come together into groups to make competing demands of the regime.

The role of group politics is not comprehensively covered in Locke's political writing, but it is the primary focus of James Madison's contribution to liberal theory. Madison's criticism of the Articles of Confederation is that the document created a central government too weak to resist the domination of certain organized interests (Madison, 1987b). His fear was that unless this was corrected, America would suffer the same fate as the earlier republics catalogued in *Federalist #9*. With this in mind he helped to draft the new Constitution and then took charge of its ratification by collaborating with Alexander Hamilton and John Jay in writing the *Federalist Papers*. These essays can be read narrowly as persuasive attempts to win over the citizens of New

York. They may also be read as an important commentary on the intent of the delegates who met in Philadelphia to draft the Constitution. However, it is also appropriate to read them as the most comprehensive attempt to ground the new Republic in the Enlightenment's understanding of human nature. It is this reading that makes the *Federalist Papers* a philosophic text in its own right, and it is this reading that guides the present study.

Although Madison was writing primarily with the central government in mind and he had very little to say about local government, there is much that students of urban politics can learn from his thought. The study of groups has been a concern of urban politics since its emergence. Pluralists offered one theory explaining how groups obtain and use power. In Chapter One the case was begun that pluralism, when understood as a strategy for policymaking, poses a normative problem for liberal society: It encourages a process that divides groups against one another, sharpens their self-interest, and thereby reduces the effectiveness of policy and invites resistance from those who see their narrow interests as adversely effected. Here the case is developed to show that Madison would hardly approve of the work of contemporary pluralists who often cite him as their intellectual father. A complete understanding of Madison reveals the errors contemporary pluralists make and lays the groundwork for a correction.

The present analysis therefore serves three important purposes: First, it picks up where Locke left off and completes the study of rational self-interest. Second, it offers an interpretation of Madison's thought often misunderstood by scholars. Finally, it completes the connection of regime theory to the principles of liberalism by considering the way bourgeois citizens interact in the political context.

The three points are connected: with a proper understanding of rational self-interest, we are prepared to appreciate better the normative problem that leads to systematic bias. With this understanding, we may correct the pluralists and begin to draft a strategy that seeks to reduce systematic bias. This strategy must include a proper understanding of how diverse interests form groups, how these groups interact in the political arena, the dangers these interactions pose to liberal society, and the best way to reduce those dangers. This is what regime theory seeks to do as it attempts to understand how groups get and use power and the relationship between power and socially productive policy outcomes. In this regard, regime theorists, more than any others, seek to understand and apply the lessons offered by James Madison, particularly in his *Federalist #10.*

The Origin of Factions and the Threat They Pose

The subject of *Federalist #10* is factions. Madison defines a faction as "a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community" (10:54).[25] The essay, however, is about more than *defining* factions. It is also about explaining their source, the danger they pose, and offering a strategy that deals with the problem of factions without undermining the ideas of liberal republicanism. In that sense, Madison's essay fits the contemporary idea of multidisciplinary study: It begins with a philosophic consideration of human nature, explaining the forces that shape our preferences and the decisions we make. It next assumes the role of a psychological text in that it explains

why people disagree when faced with a common decision. Yet it is also a sociological study in that it details how disagreements lead to the formation of groups, and finally, it is a work of political science in that it demonstrates how groups gain and use power in a modern republic. At the same time, the essay is both empirical and normative: It describes the world as we find it, but also as we would like to find it. Finally, the essay is both diagnostic and prescriptive: It illuminates a problem and then offers a strategy for dealing with the problem.

Madison tells us that "as long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed" (10:55). The interplay between reason and self-interest is largely to account for factions. This is reminiscent of Locke's declaration that reason is our "star and compass" meaning it guides us to our desires. However, people have different desires depending on their experience and the information available to them.[26] Recall Locke's demonstration that reason guided parents to care for their young in one situation and eat their young in another; reason prompted people to kill each other in the context of the state of nature and to aid in mutual preservation in the context of civil society. Thus, reason is not an independent, external force operating free of the passions. If it were, people would be able to process identical information to arrive at identical conclusions. Two calculators can be fed identical information, such as 1+1 and arrive at identical conclusions, 2, but two humans can not necessarily be fed identical information regarding a matter such as gun ownership and arrive at identical conclusions. Some will think gun ownership is an absolute right;

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[25] Citations to the *Federalist Papers* will consist of two numbers separated by a colon. The first number is to the particular essay and the second number is to the corresponding page number of the Modern Library edition.

[26] See also Locke's discussion of how our senses and reason function 1T§86.9-15.

others will think it should be strictly regulated if not banned. Both are rational in the sense we have been discussing, but have arrived at different conclusions either because of different information (one might be aware of crime statistics and the other statistics regarding gun injury), different experiences (one possibly being the victim of a crime who now believes she could have prevented it had she been armed; the other having a child who was killed in a drive-by shooting), or a combination of the two.[27] If we could speak of reason as some external or controlling force, then either the two parties would agree on the issue, or it would be possible to say that one has reached a rational conclusion and the other has reached an irrational conclusion (i.e., reason successfully guided the one but broke down in the case of the other). Simply put, if reason were an external force, there would be agreement on issues in politics much the same way there is agreement on calculation in mathematics.

Madison continues, noting that "as long as the connection subsists between his reason and his self-love, his opinions and his passions will have a reciprocal influence on each other; and the former will be objects to which the latter will attach themselves" (10:55). This explains how the formation of groups follows from differing opinions. Consider this from the most basic level: Whenever two people discover that they differ on an issue, each will have a certain attachment to his or her own opinion. Both may acknowledge that flawed reason is to account for the disagreement, but each will assume the other suffers from this malady. That is, the first person will decide that he has reached the correct conclusion, but his rival suffers from flawed reason whereas the

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[27] Alexander Hamilton seems to agree with this as he writes in *Federalist* #1: "so numerous indeed and so powerful are the causes which serve to give a false bias to judgement, that we, upon many occasions, see wise and good men on the wrong as well as on the right side of questions of the first magnitude" (1:4).

second person will assume she is correct and it is *his* reason that is flawed. Self-love, or vanity, makes us assume we are correct and those who disagree with us suffer from flawed reason. However, vanity works in another way as well: it makes us uncomfortable to be aware of disagreement. We want to prove to others that we are correct. Since we can not do this through argument (since we assume we are dealing with people with flawed reason) we must do it with number. Therefore we seek the confirmation of others who agree with us. However, if one sees another, with whom he disagrees, uniting with others who share an aberrant opinion, the natural reaction is to seek confirmation of one's own, by finding others who share one's "correct" opinion. Thus, fallible reason leads to disagreement, which in turn leads to group formation.[28]

Yet, like individuals, groups are seldom content to agree to disagree. Instead, rival groups follow passions that have "inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to cooperate for their common good" (10:56). If we can not get others to think our way, we may settle for getting them to behave in a particular way. Therefore, in a republic, where the people have access to the workings of government, groups will attempt to use the force of law to control the behavior of others. Literally, our strongest desire may be to convince those who disagree with us that we are correct, but lacking the ability to do that, we settle for second best: we pass laws that force rival groups to conform to our preferences. It is for this reason that Madison calls factions the greatest threat to liberty in a republic: As the state allows itself to fall under the sway of powerful factions, and as it gives official

[28] See also John Jay's agreement with this sentiment in *Federalist #3* where he warns that pride will keep interests from "acknowledging correcting, or repairing their errors and offenses" and will "naturally dispose them to justify all their actions" (3:17).

sanction to one set of preferences over others, it violates the limited nature of liberal republican government.

However, any regulation made in this manner will offend the vanity (and in effect, the reason) of those in the minority. Therefore, those on the losing end—the minority faction—grow resentful. People may tolerate occasional and minor intrusions into their liberties, but will not accept it for long. Eventually, people will resist what they consider encroachments on their liberties.[29] This gives way to a deeper problem. Once resentment for authority develops, it makes little distinction in terms of justice. As we saw in the discussion of Locke, people judge poorly on their own behalf. Therefore, once a spirit of resistance is born, even for good reason, people may very well begin to see *every* law as an encroachment on their rights and a cause for resistance. This will lead people to undermine the intentions of otherwise productive policy.[30] Thus, there is a dual threat to the stability of the regime: One being the danger of factions trampling the common good with the force of law, the other being factions undermining law that serves the common good thereby interfering with government's ability to fulfill its obligations under the social contract.[31] In the end, the inability to solve the problem of factions will threaten the legitimacy of a government founded on the idea of natural rights.

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[29] In Lockean terms, such policy is founded on force without right, which is the definition of the state of war (2T§19).

[30] Compare with Madison's warning that "no man is allowed to be a judge in his own cause, because his interest would certainly bias his judgement, and, not improbably, corrupt his integrity" (10:56).

[31] Stone's study of Atlanta (1989) offers examples of just such injustices. In the urban renewal era some factions were able to benefit at the expense of others (16) and in the fight over historic preservation, certain factions blocked a program that would have been in the interest of all (126).

As will be discussed in detail below, this has become the problem of urban America. The public sphere in urban areas has fractured into several smaller spheres, which are too anemic to control the effects of factions. As a result, urban policymaking has reflected the preferences of a small number of groups, each getting its way periodically at the expense of effective problem solving, which is to say the expense of the public interest. As a result, not only do urban areas continue to serve as the site of our most prevalent social problems, but they also show to the greatest extent the sense of illegitimacy that always threatens stability in a republic. For these very practical reasons, Madison's teaching has particular relevance to those interested in urban politics. Yet, he warns that these safeguards are less useful in local government (10:61). The institutions he focuses on are national institutions. However, as will be shown, the institutional safeguards are the third line of defense following the procedural and moral safeguards. These more important lessons can be applied to local government.[32]

The Cure for Factions

Madison considers three possible cures for the problem of factions. Two possible solutions involve removing the causes of faction. On one hand, we might remove the liberty that makes factions possible; on the other, we might require that all citizens have the same opinions, passions, and interests. He rejects both of these plans—the first on the grounds that the cure is worse than the disease and the second on the grounds that it

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[32] We may still make inferences about the role of institutions based on their relative ability to fulfill the procedural and moral expectations of commercial republics. For example, city manager systems may be less receptive to open access and dialogue and therefore less likely to promote social learning. This is what Stephen Elkin (1987) found in his study of Dallas.

would be impracticable (10:55). This leads him to the third possible solution: controlling the effects.

To control the effects, Madison recommends that America become an extensive, commercial republic. This requires enlarging the size and complexity of the regime—"extending the sphere" as he calls it. The reason is simple:

> extend the sphere and you take in a variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive of citizens exists, it will be more difficult for all who feel it to discover their own strength and to act in unison with each other. (10:61)

In short, by creating a large regime, where many people have diverse interests, it becomes unlikely that any single faction will arise that can dominate politics to the extent necessary to oppress others. In simple terms, there will be no permanent majority.

There are two components to the cure: The first is a procedural component, which relies on the complexity of the commercial republic to make it difficult to organize and sustain factions. It is on this component that most scholars focus, particularly pluralists (Dahl, 1961). Yet this only works when joined with the subtler, moral component of Madison's teaching.[33] Madison has in mind that citizens in a commercial republic will come to have what we may call democratic temperament. In the narrowest sense, this stems from self-interest: we realize that we will not always be in the majority and the thought of occasionally being in the minority moderates our behavior.[34] But the more important aspect of democratic temperament stems from the counterpart to self-interest:

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[33] More recent scholarship among communitarians has begun to call attention to this point as well. See especially Sandel, 1988, 1996.

[34] How to bring about and institutionalize moderation is one of the dominant themes of the *Federalist Papers*. Hamilton tells us in the first essay that Publius seeks a "circumstance [that], if duly attended to, would furnish a lesson of moderation to those who are ever so much persuaded of their being in the right in any controversy" (1:4).

vanity. This both gives rise to the diversity of interests and also keeps the diverse interests in close proximity to one another. It also tempers the intensity of our opinions. That is, democratic temperament first influences the location of our preferences, and then it affects the degree of strength with which we hold them. In terms of location, there are two equal and opposite forces at work. On one hand there is a force that decentralizes interests in the regime; on the other is a force that holds them together. In terms of intensity, there are again two forces: On one hand we are strongly attached to certain general principles; on the other, we are more tepid in our attachment to specific details. Thus, the ideal moral conditions exist when there is a diversity of opinion, but the diversity is made up of people whose views differ only slightly, meaning any given interest is relatively close to any other interest. Furthermore, the ideal moral conditions exist when people are moderate in their attachment to their own opinions, meaning they are willing to accept views that differ, at least slightly, from their own. Absent these conditions, the procedural cure outlined in Madison's discussion of the extended sphere will not likely solve the problem of faction for very long. This analysis lends itself well to spatial modeling.

Diagramming Madison's Model of Republican Government.

An extensive republic will by definition encompass a large amount of territory with a diverse geography and it will be composed of a large number of people.[35] This will allow it to contain a large number of interests, which means the public agenda will

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[35] While John Locke was perhaps the most significant general influence on the thought of the founders, the philosopher cited most in the *Federalist Papers* is Montesquieu. The consideration of geography and climate as they relate to commerce and the mores of a people is clearly more attributable to Montesquieu's influence. See especially Book 18 of *Spirit of the Laws* (1989).

include a variety of issues. Generally speaking, as the population increases and the number of issues increases, the likelihood of a permanent majority decreases. In the simplest sense, consider a regime composed of three people, A, B, and C and an agenda composed of three issues: taxes, criminal justice, and education (See Figure 1). Furthermore, let us assume that for each issue, there are two alternative positions. For example, in the case of taxes, one position is that the regime should have higher taxes to pay for a greater number of public services, and the alternative is that there should be lower taxes and fewer public services. If we assume that any issue is decided by a bare majority, it will require two out of three people to render a decision. Now, it is possible that persons A and B unite in favor of lower taxes. However, just because A and B agree on taxes, it does not follow that they must necessarily agree on criminal justice. Consider the position that criminals should be punished in formal institutions or the alternative that criminals should be rehabilitated by keeping them in community based institutions such as half way houses. Perhaps B and C unite in favor of community based systems. Finally, consider two alternatives in education policy: we might craft a system that requires all children to receive a uniform public education, or we might leave education to the private market. Just because A and B agreed on tax policy and B and C agreed on criminal justice policy, we can not assume either pairing will hold for education policy. Indeed, it is possible that C and A, who agreed on neither of the other two issues, form the majority this time. Thus we see that even though a majority decided each issue, there was no *single* majority that decided *every* issue. As a result, each person was in the

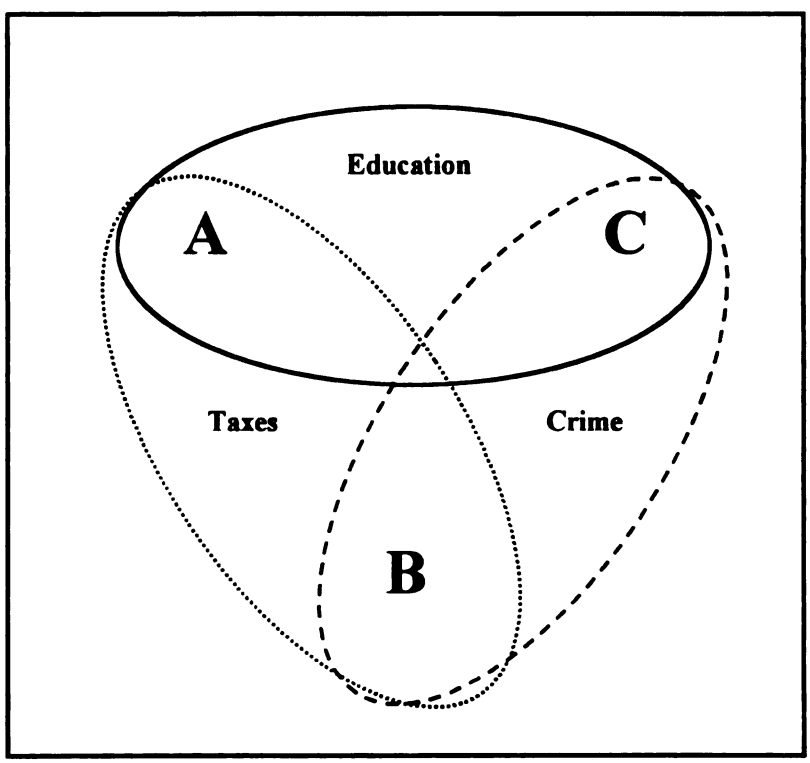

Figure 1: No Permanent Majority in a Simple System.

majority two out of three times.[36] If this is the case in the simple regime of three people and three issues, consider the sort of regime Madison recommends, where there is a large population taking in a large number of issues and making decisions through representatives.

A second factor making permanent majorities unlikely is that issues, in an extensive republic, are not likely to reduce simply to two alternatives. This is a function of the same force that causes people to disagree in the first place, flawed reason. It is not likely that reason will be flawed in a manner that divides people neatly into two groups on a given issue. Rather, we can expect that the variety of experiences and the differing amounts of information available to people will lead them to a great variety of positions on a given issue. As people discover these distinctions, they will form a variety of groups, each holding slightly different views. Furthermore, it is likely that no group will perfectly reflect the views of every member. Instead, people will join the group that best reflects their position—and the strength of their support for the group will likely be a function of the degree to which it matches their views. This means that in any group there will likely be some core segment that is more active and then a peripheral segment that is less active. This makes it more difficult for any group to act quickly and decisively.[37] In political terms, the multiplicity of interest groups surrounding any single issue means that decisions are unlikely to be made by any single, powerful group, but

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[36] This is similar to the paradox noted by French mathematical philosopher Condorcet. For a lucid analysis, see Riker, 1982. Much of the literature on Condorcet's Paradox implies that it is a problem for democratic government (Shepsle and Bonchek, 1997; Barry and Hardin, 1982). However, it need not be a problem for *republican* government. In fact, the present analysis suggests it may be a desirable thing.

[37] In this sense, it is desirable that groups face a problem of collective action, for it slows them down and renders them less likely to dominate the agenda. Although he does not share this normative position, see Olson, 1971 for a very useful discussion.

rather by coalitions of groups who find sufficient mutual interest. That is, politics becomes a matter of compromise for the sake of weaving several groups together. This is the impulse that pluralists pay attention to—but at the expense of the rest of Madison's teaching, as will be argued below.

The formal characteristics of republicanism, as opposed to pure democracy, also render permanent majorities unlikely. In a republic, people must elect a representative to govern on their behalf. Given the diversity of issues that will be present in an extensive commercial republic, there is less opportunity for a single issue to dominate an election. Let us assume that two candidates are vying for legislative office. One offers as a campaign issue a proposal catering to the narrow interests of a particular faction and contrary to the public good. The only way this candidate will win is for her issue to appeal to a majority of the voters, be communicated to them, and be important enough to them that it does not matter if they disagree on other aspects of the candidate's platform. In other words, a majority might support the unjust issue, but if they disagree with the candidate's position on several other issues, they will only vote for the candidate if they are much more strongly attached to the unjust issue than they are to all of the issues with which they disagree. As we have seen, democratic temperament is intended to discourage this sort of single-issue politics. This is compounded by the element of representation, for even if a great many people feel some unjust desire, abandon their shame and manage to organize around it, they are afforded some degree of anonymity by virtue of being in a group. However, that anonymity is stripped away from any person who seeks office as a representative of that group. Thus, shame first acts to prevent

organization, and then serves as a second line of defense by preventing representation should the first defense fail.

Finally, bicameralism, federalism, and the separation of powers work against the possibility of permanent majorities. Even if, from time to time, an unjust faction is able to organize and elect a single representative intent on using the force of law to carry out acts detrimental to the rights of others or the common good, there is another barrier in the institutional design of American government. In order to enact legislation friendly to a narrow and unjust interest, it would take a majority of legislators to support it. That means that the unjust faction would not only have to elect one member of the legislature, but many. Even at the time of the founding, when the nation was far smaller, this would have been very difficult given the diversity of interests. Furthermore, even if one legislative chamber were occupied by a corrupt majority, the other chamber would hold a check over it—and the executive and judicial branches would hold further checks (see *Federalist #51*). Thus, the only way to have an unjust faction seize control of government would be to organize across a large amount of territory and sustain itself long enough to capture a majority in the House and Senate as well as the Presidency.[38]

Still, the more important lesson lies not in the institutions *per se*, but the micro-level procedure of decision making. Consider again an issue that must be decided among three parties. As shown in Figure 2, each will have an initial, ideal position—a position that he or she would make the outcome if empowered to decide alone. Each person will also be willing to deviate from that ideal position some amount. We can represent the set

[38] This is the aspect of Madison's thought that is least applicable to local government given the differences in institutional design. This is not to say that institutions have no bearing on the subject of factions at the local level. This topic will be taken up in detail in Chapter Six.

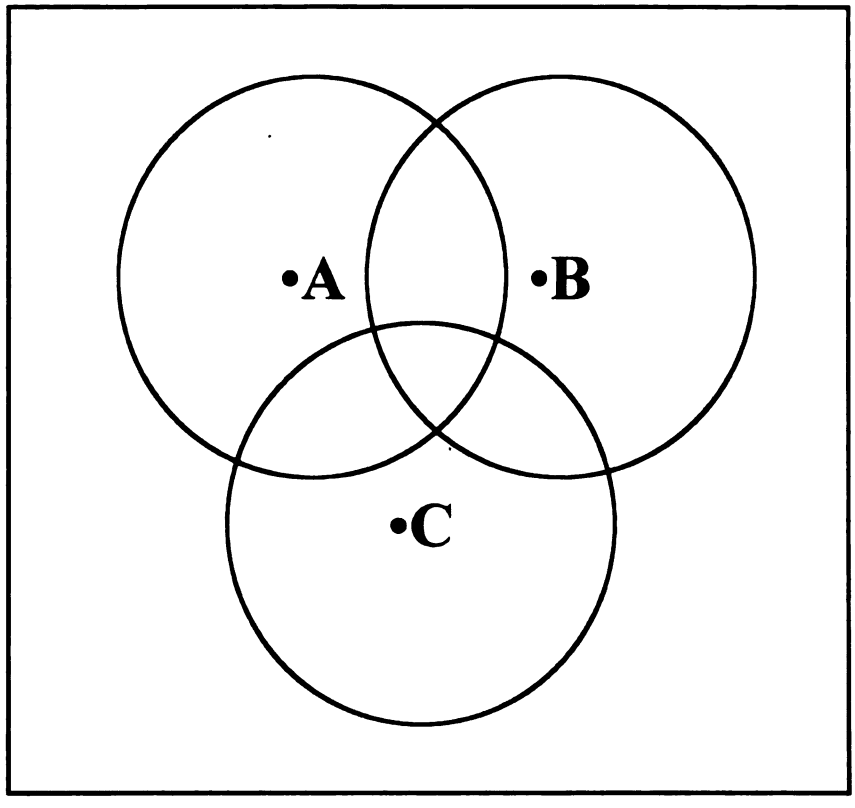

Figure 2: Indifference Curves for a Three Party Decision.

of possible outcomes, each of which is acceptable to a particular party, as an indifference curve: a path of points equidistant from the preferred point. Any outcome lying on or inside an actor's indifference curve would be acceptable; any outcome outside the indifference curve would not be acceptable (Stokey and Zeckhauser, 1978, 28-33, 266-270). Figure 2 shows a possible set of indifference curves for three parties. If a simple majority (in this case two out of three) must agree on an issue, then the only possible outcomes lie in the regions where any two indifference curves overlap. In regime terms, this is the solution set for the issue (Jones and Bachelor, 1993, 15-19).

Figure 3 uses the same spatial model to reveal a serious problem from the normative perspective: The solution set for procedurally expedient outcomes might not contain the best solution to the problem. In the first case, it could be that of the three parties involved in the decision, the best solution is inside the indifference curve of Person C at the location marked $*_1$. However, if she proposed that solution, she would be outvoted by Persons A and B because the proposal is outside their indifference curves. More troublesome is the possibility that the best solution is outside the indifference curves of *all three* parties to the decision, such as the location marked $*_2$. If the agenda is made up of all proposals that are inside any person's indifference curves, and only the proposals that make it onto the agenda get discussed, then it follows that plenty of potential solutions never get discussed because the advocates of those positions are not involved in the decision process. That is, those proposals never make it onto the agenda. In effect, this means that the proponents of those ideas are deprived of their voice in public affairs. It may not be too harmful if one is blocked from the public agenda on a single issue, but if the same people are continuously deprived of access to the agenda,

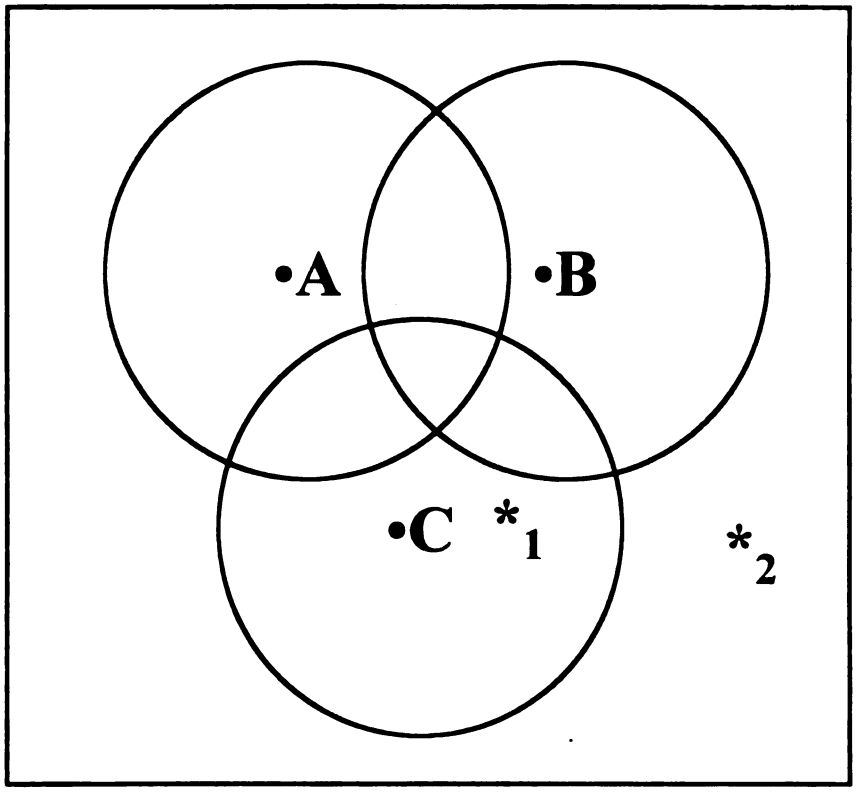

Figure 3: Systematic Bias in a Three Party Decision.

there is a serious problem. In regime terms, the agenda is systematically biased against those interests, and as a result of systematic bias, effective problem solving is rendered less likely (and in this case, impossible). In normative terms, there may be no permanent *majority*, but there may very well be a permanent *minority*—a group whose views never get reflected in policy outcomes. This is contrary to the principles of modern republicanism, and, given the initial discussion of the danger of factions, a condition that could undermine legitimacy and stability in a regime.[39]

Figures 4 and 5 demonstrate the full virtue of Madison's procedural teaching. In Figure 4 we see that the addition of a single new voice marks the beginning of the extended sphere. Figure 5 shows that yet another voice broadens the agenda even more and opens new possibilities that were not available in the regime diagrammed in Figures 1 and 2. The extended sphere of this regime takes in a greater variety of interests and thereby faces a greater likelihood that the best solution will be on the agenda. Assume the five interests, represented by A, B, C, D, and E must make a majority decision (three out of four must agree). In this case, the solution $*_1$, which was not viable in the three person scenario, is now politically possible, since it falls inside the indifference curves of C, D and E. Likewise, the solution $*_2$ which was not even known in the three person scenario is at least articulated by person D. It must be noted that this does not ensure that the best outcome will be selected; it only opens the possibility that did not exist under the earlier scenario. One need only continue this logic as a thought experiment to realize that extending the sphere even further will bring a greater diversity of interests into the process, reduce systematic bias, and improve the likelihood of productive outcomes.

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[39] The definitive work on this topic is Elkin (1987). Exactly whose voices are kept out of the debate due to systematic bias will be discussed in Chapter Four.

Still, reducing systematic bias is a necessary, but not sufficient condition for actually selecting the best outcome.[40]

It is crucial that the important distinction between a republic and a democracy be understood. It is true that the republican process is *more* democratic as it adds more voices to the process, but this is not to say it is *simply* democratic. After all, a simply democratic system might add more voices, but they might be voices of people holding preferences identical to persons A, B, or C. That is, even though more democratic in the strict sense, this would not promote greater diversity. Indeed, twenty additional voices each identical to the three existing voices would be far more democratic, but far less desirable than a single additional voice expressing a different preference.[41] So far the discussion has focused on the procedural aspect of Madison's teaching. Let us now return to the moral aspect to see how the two are intended to work in tandem.

The possibility of agreement is more likely if each group's indifference curves are of greater radius, meaning people are less strongly attached to their ideal preferences. Figure 6 illustrates this point. The three interests are each located by the point representing their ideal preference. In each case, there are two sets of indifference curves, one is a much smaller path of points (the broken line) and the other is much more

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[40] A cautionary note is necessary. Simply adding voices with alternative preferences is not sufficient, for additional voices could just as easily carry the process away from the best outcome as toward it. This suggests the greater importance of political leadership in the sense of knowing which interests will be most conducive to social production. One problem with relying on enlightened statesmen to assemble the right interests for the sake of social production is expressed in Madison's own words: "enlightened statesmen will not always be at the helm" (10:57).

[41] Actually, a multitude of voices all holding the same preference may appear procedurally more democratic, but may "drown out" other voices and undermine the more important democratic outcome. In this sense, if we value democratic outcomes, the best procedure for getting them is republicanism, not democracy. See *Federalist #58*, especially page 382.

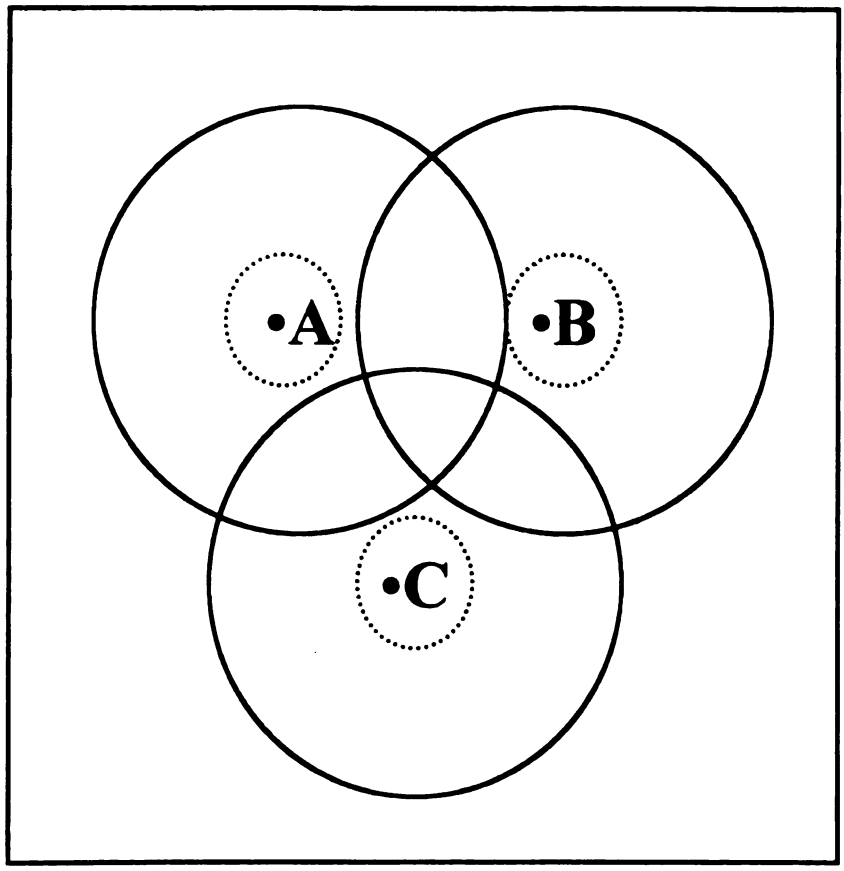

Figure 6: Strong versus Weak Preferences.

broad (the solid line). This reflects two different degrees of strength that the groups may have for their ideal preferences. Notice that where the indifference curves are narrower, where the groups hold their preferences more strongly, there is no overlap. Thus, as long as these positions are held, there is no way two or more parties could share in a collective decision; cooperation is impossible. However, where the indifference curves are broader, groups hold weaker preferences, and there are numerous places where two and even three indifference curves overlap. Thus, as preference strength decreases, the possibility of cooperation increases.[42] This demonstrates graphically the point noted earlier that the extensive republic is intended in part to dull down passions.

To summarize, much of the lesson of *Federalist #10* deals with a procedural strategy for the extensive republic. It is a strategy that offers, in Madison's words, "a republican remedy for the diseases most incident to republican government" (10:62). Yet the procedural strategy relies on an understanding of the moral lesson of republicanism, the creation of citizens with a democratic temperament. These citizens will hold diverse opinions, but the not so diverse that they are overly distant from one another. They will be deeply attached to the general principles that underlie their opinions, but they will not be too rigidly attached to the details of their opinions. With such a temperament, there is greater opportunity for inclusiveness in the decision process and compromise in the outcomes. Those who pay too little attention to the moral lesson and focus too narrowly on the procedural lesson are therefore likely to arrive at a flawed interpretation of Madison's teaching. The most prevalent example of such an error is the pluralist school.

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[42] It is also worth noting that we are more likely to get agreement among a greater number of parties if initial preferences are closer together.

For reasons that we shall turn to next, Madison would hardly approve of pluralists' teaching, even though they generally claim to be his progeny (Dahl, 1956).

The Problem with Pluralism

Pluralists focus too closely on the procedural aspect of Madison's teaching. As a result, they portray republicanism as a system wherein groups simply compete against each other issue after issue. This leads pluralists to pay attention to policy outcomes only inasmuch as they tell us which groups win and lose. In effect, policy outcomes serve as the pluralist scorecard. Following scorecard mentality, republican stability requires careful refereeing of the various groups to ensure that each dominates a sufficient amount of time. However, this means that pluralists have little to say about the *content* of outcomes and whether they actually improve whatever condition brought about the need for policy action in the first place.[43] Furthermore, the pluralist interpretation neglects the importance of minority opinion in influencing the content of outcomes.

Perhaps the most important difference between pluralism and Madison's idea of republicanism is the impact each has on minority opinion and the tone of policy discourse. Pluralists would have us believe that the policy process is akin to the children's game "king of the mountain" where players fight their way to the top, enjoy a single moment of domination, and then take turns knocking each other off. This is not what James Madison intended. Instead, he sought to create a system wherein interests are

[43] One might even compare the pluralist strategy to that of machine politics. The famous ward heeler of Tammany Hall, George Washington Plunkett openly bragged that he did not concern himself with policy arguments, but rather focused on doing favors for his constituents (Riordon, 1963). Like the pluralists, the goal was appeasement for the sake of political expedience. This raises doubts regarding the accomplishment of the Reform Movement which sought to destroy the machine and laid the groundwork for city government that has embraced the strategy of pluralism. This topic is examined more closely in Chapter Six.

substantively represented in the deliberation. The difference is that in the king of the mountain version, the outcome is not effected by the number of interests involved in the decision, for whatever interest prevails simply enacts its preferred position without regard to the (defeated) minority opinions. In effect, the only significance the number of players has is on the frequency of each player winning (and only then if the added players are strong enough to fight their way to the top periodically).

The pluralist strategy also poisons the nature of political communication and the tone of the discourse. Communication becomes the means to victory. Under pluralism the goal is not to educate one another, shape preferences, discover common advantages, and therefore arrive at policy outcomes that are collectively beneficial. Rather, discussions are about tradeoffs: who made concessions on the preceding issue and who is "due" victory in the present case. In this sort of communication, we could reconsider the three party decision process from Figure 1 and realize a certain danger. If A and B use the fact that they agree on the first issue, taxes, as a basis for negotiation on future issues of crime and education, they might strike a perverse deal: They might form an alliance such that whenever they disagree on an issue, they take turns each supporting the other's position regardless of the content (logrolling). If this is the case, when we move on to crime policy, perhaps A supports B in exchange for B's support on the education issue in the future. Now B, knowing that she will have the support of A, is free to set policy at her preferred outcome, without consulting C at all. Likewise, on education A is able to set policy at his ideal outcome without consulting C. In effect, there is still no permanent majority, A and B each get their ideal preference half the time, but C is rendered a

permanent minority and might as well not participate at all.[44] The outcomes in such a scenario will tend to be very close to if not exactly the ideal points of whichever interest is "due" to win on a certain issue, meaning the vast majority of alternative solutions go unexplored. The resulting policy is made in the interest of a subset of the whole society and may very likely be adverse to the interests of others or the common good: It is the very definition of Madison's factionalism. [45]

In the Madisonian model, the number of interests involved in the process does affect the content of the outcome. Consider a decision made by three parties. We have seen that as soon as two out of the three recognize some common ground, they could simply negotiate the outcome as if the third were not involved. If, for example, A and B recognize common ground and agree to decide based on that, the outcome would be the same regardless of whether C were ever involved in the process. This is like king of the hill: C was pushed off the hill early and has no impact on the rest of the game. Yet, if we follow Madisonian principles, it is desirable that A and B, even if they did share considerable common ground, not recognize the degree to which they agree. This is accomplished by having a larger number of interests in the process, preventing the sort of contact that would allow recognition. This creates opportunity for minority interests. As Figure 7 illustrates, if A and B are forced to negotiate with C, then C can make both A and B more aware that they share some common ground with it. This will prevent A and

[44] This seems to be what Clarence Stone found in his Atlanta study. During urban renewal, most of the land went to white owned business interests. As a side payment to black businessmen, some land was given to historically black Atlanta University. This was of little consequence, however, to the poor minorities who were displaced and unlikely to go to the university. See Stone, 1989, 40.

[45] This is the sort of political communication Madison hopes to render unlikely in the extensive commercial republic by making it "more difficult for all who feel it to discover their own strength, and to act in unison with each other" (10:61).

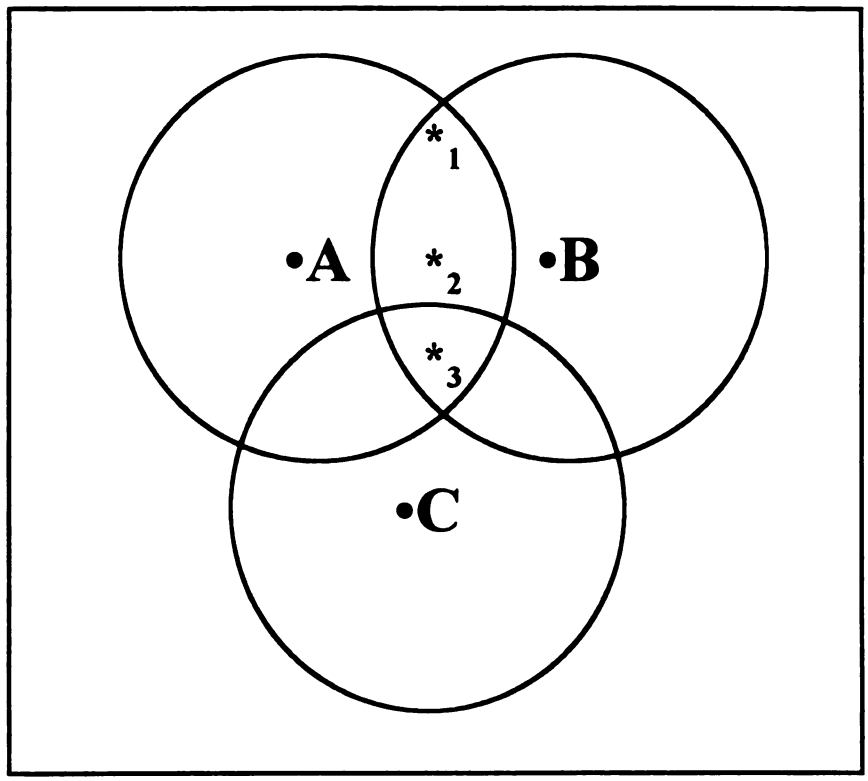

Figure 7: Impact of Minority Preferences on Outcomes.

B from cutting C out of the process. Therefore, C may be able to move an otherwise undesirable outcome $*_1$ toward a less offensive outcome, $*_2$ or even an acceptable outcome $*_3$. Even if C shared little or no common ground with the other parties initially, it could use persuasion and education to shape their preferences, moving their ideal points, broadening their indifference curves, or a combination of the two. Thus, even if C, in the end, does not get its preferred outcome—even if the outcome is still outside its indifference curve—the outcome may be more agreeable than it would have been had C not participated (and most important, the outcome would likely not be so offensive to C that it would have reason to resist the policy).

This exposes the great danger of the pluralist strategy: It encourages behavior clearly at odds with democratic temperament. Whatever group outmaneuvered its rivals would be practically free to implement its ideal position. Put another way, the system would be essentially zero sum with clear winners and losers, and the winners would have little incentive to compromise or be moderate in terms of the outcome. In formal terms, groups would not have very wide indifference curves. Therefore, as groups realize that they have little chance of winning on a given issue, they have little reason to stay engaged in the process. Just as smaller children find little reason to continue playing king of the mountain. The political consequences are grave. Weaker voices are pushed out and then, as political discourse takes on an increasingly belligerent tone, moderate voices of democratic temperament grow alienated and also drop out. This suggests that the voices that do remain will belong to the groups possessing the strongest opinions, and likely the most radical opinions. That is, the middle will exit, leaving the debate to take place among uncompromising, marginal voices. For this reason, whoever loses will be

more likely to harbor ill will. At the very least they will demand a side payment—some special benefit from government. More likely, after they lose the formal debate they will refuse to concede, instead shifting the "battle" from the policy making process to the implementation stage. That is, they will now dedicate their energies to circumventing whatever policy was made. Thus, policy will suffer in one of two ways: Either some other policy will be enacted as a side payment to the losers, a policy that is at odds with the initial policy, or the losers will use extra-political tactics to undermine the policy (perhaps both).

Under the Madisonian system, all parties engaged in the process have the opportunity to influence the outcome in ways not acknowledged by the pluralist models. This allows the greatest possibility that the solution reached will be one that is effective in terms of social production, and it also brings certain psychic advantages in that everyone involved develops a sense of agency in the process and therefore an sense of ownership in the result.[46] In Madisonian terms, the process takes advantage of human vanity or the union between reason and self-love. Certainly every group will not end up fully satisfied, but fewer groups should feel completely dissatisfied. The system, in short, should build capital with all involved and, at the every least, discourage them from taking action to undermine the results. Thus, the process is better because the dynamic among the diverse groups affords them opportunity to educate each other and shape one another's

[46] Hamilton writes in *Federalist #70* "men often oppose a thing, merely because they have had no agency in planning it, or because it may have been planned by those whom they dislike" (70:457). Hamilton goes on to warn that merely including a group in the decision process but then disregarding their opinion altogether could do more harm than good. In sum, the process must be inclusive, and the participation must be meaningful in order to avoid resentment.

preferences. In sum, what Madison intended, but the pluralist model does not allow, is a process of social learning or democratic education.

Conclusion

One of the unique features of human nature is our tendency to base decisions on rational self-interest rather than sense and instinct. This means that people will exhibit a greater variety of behavior leading to a greater variety of outcomes. Some of these, we have seen, are diametrically opposed to liberal politics, either because they pit all against all or one group against another. Yet, we have also seen that self-interest offers the potential of cooperation that is conducive to liberal politics. The difference between self-interest that undermines liberalism and that which supports it lies in the moral and political dimensions of self-interest described above. Self-interest can be narrow, exclusive, and short term, and therefore problematic, or it can be broad, mutual, and long range, and therefore salutary. As we have seen, we can first create liberal society and then preserve stability in that society by encouraging the latter form of self-interest. What remains to be seen is the best way to bring about the socially productive form of self-interest and limit the socially detrimental forms. This is the focus of Chapter Three.

CHAPTER THREE

The Virtues of Liberal Property Laws

In the discussion of self-interest, we saw the potential for a peace and the potential for conflict, on both the individual and the social level. The argument concluded that social stability requires the enlargement of self-interest, making it as broad, mutual, and long-range as possible. In every case we saw that the enlargement of self-interest required the creation of private property. Where there is a scarcity of goods, people will have to focus all of their attention on bare preservation. Self-interest therefore takes on its narrowest, most exclusive, and short term form. We saw that the law of nature uses two variables to explain human behavior, one absolute and the other relative. The absolute variable requires that people have some minimum level of security, that there not be absolute scarcity, for where there is, one person's use of any good deprives all others of the means of survival. It is tantamount to theft and therefore justifies violence. The creation of property, we shall see, allows for generating surpluses where nature provides only scarcity. Thus, property helps to enlarge self-interest and drives people to behave in the manner more conducive to liberal politics.

However, property brings with it certain new challenges. While it is necessary for peace, it is not sufficient. Property creates inequalities between people as some acquire more goods and others less. This material inequality makes more severe the moral problem resulting from our sense of unease. Those with a lower standard of living will become envious of those with a higher standard of living. They may even come to see the rich as having benefited at their expense. Likewise, the rich, far from immune to the sense of unease, may come to see the poor as a threat to their own wealth (and well

being). Madison reminds us that it is property that is the source of factions. In liberal society the sense of unease will tend to narrow people's self-interest and lead them to form groups for the sake of protecting their property, and even expanding their property, at the expense of the rights of others. This follows the relative aspect of the Law of Nature: As people see each other as competitors, they may act without regard for the rights of others.

For these reasons, an understanding of self-interest requires an understanding of private property. This chapter will explore the liberal idea of property, focusing on its basis and its purpose. A key concern will be whether the benefits of property are always exclusive to the owner, or whether property also creates benefits that spill over to the rest of society without diminishing the benefits exclusive to the owner. With such an understanding, we will be better prepared to understand how liberal property laws help to expand self-interest and also play a key role in controlling the effects of faction.

The Basis and Purpose of Property.

Locke's treatment of property in the *First Treatise* focuses on its purpose. It was given to mankind for the sake of convenience. Furthermore, it was given not for the convenience of *one* or *some*. Locke's analysis of Filmer's argument along with his interpretation of Genesis holds that property was to benefit *all* of mankind. Adam was to hold "dominion in common with the rest of mankind" (I§29.4). Scattered throughout Chapter IV are references to the communal nature of property (I§40.5-7, 19-27 and I§43. 10-20). The chapter concludes with perhaps the strongest statement on the matter:

> Upon this ground a man's having his stores filled in a time of scarcity, having money in his pocket, being a vessel at sea, being able to swim, etc. may as well be the foundation of rule and dominion, as being possessor of all the land in the world, any of these being sufficient to enable me to save a man's life who would

> perish if such assistance were denied him; and any thing by this rule that may be an occasion of working upon another's necessity, to save his life, or any thing dear to him, at the rate of his freedom, may be made a foundation of sovereignty as well as property. (I§43.11-20)

Thus, the purpose of both property and ruling is to build up surplus in a way that benefits even the neediest of people. That is, the foundation of property and sovereignty is, to some extent, the common good. There is a temptation to conclude, as some have (Tully, 1980), that Locke intended this as an endorsement of common ownership of property—an argument strengthened by reference to Locke's requirement in the *Second Treatise* that when labor is used as the basis of property, one must always leave "enough and as good for others" (II§27.13-14).

Yet, Locke's possible communism is called into doubt by his clear statements in the *Second Treatise* that property is to be owned individually and that ownership necessarily "excludes the common right of other men" (II§27.10). This suggests some tension between the treatment of property as we move from the *First Treatise* to the *Second*. However, this conclusion may be premature. As noted, Locke only states that the *benefits* of property are to extend to all of mankind (and he never states that they extend to mankind in equal portions). This does not mean that such a goal is best accomplished by forcing equal ownership. Indeed, Locke implies that the task of making property serve its purpose is too complicated to reduce to a simple rule like equal distribution. He mentions the important role of the regime in this task, faulting absolute monarchies for their inability to promote the "conveniences of life" (I§41.23-24). In so doing, he invites the reader to consider whether some other regime might be better equipped to manage property and thus whether some other distribution scheme better increases its conveniences.

With this in mind, the tension between the teaching of the *First Treatise* and *the Second Treatise* need not be real. If Locke can show that it is only through individual ownership and unequal distribution that the benefit of all is best served, and if he can show that any other distribution scheme, particularly the equal division of land, would actually be to the detriment of all, and would *decrease* not increase the conveniences of life, then the tension between the *First* and *Second Treatise* is contrived and Locke's supposed communism is refuted. The way to settle this is to examine the process by which we acquire property in the first place.

In the *Second Treatise* Locke explains that property is to be used "to the best advantage of life and convenience" (2T§26). This requires that property be exclusive to its owner. The original basis of property is that "every man has a *property* in his own *person*" (2T§27.2-3 emphasis in original). Furthermore, "the *labor* of his body and the *work* of his hands, we may say, are properly his." That is, through labor, we extend our original property beyond our bodies. By mixing labor with some good, we make that good our property. According to Locke, "he hath mixed his *labor* with it, and joined to it something that is his own, and thereby makes it his *property*" (5-7). The reason is that by mixing our labor with a good, our labor "marks" the products of nature; it makes the apple I pick distinct from the apple on the tree or the ground. This mark makes it my private property (2T§28). The good that I mix with my labor is exclusively mine to be used exclusively for my own benefit, as long as I abide by one rule: I must leave enough of that good for others, and that which I leave for others must be of the same quality as that which I take for myself. Thus Locke concludes, "for this *labor* being the unquestionable property of the laborer, no man but he can have a right to what that is

once joined to, at least where there is enough, and as good left in common for others" (10-13).

Modern economics offers terminology that may be helpful in understanding the concept. When studying the nature of a good, be it a private good or a public good, there are three factors to which we look: First, we determine whether the use of the good can be restricted only to the owner—that is, whether others can feasibly be excluded from using it along with us. Second, we look to the nature of the supply of the good. If the good is supplied such that one person's consumption of the good does not reduce the amount available to others, we say the good is jointly supplied. If the good is supplied in such a way that one person's use of the good reduces the amount available for others, we say the good is not jointly supplied. Finally, we look to the nature of the production of the good. If one person laboring alone can produce the good, we say the good is not jointly produced. If the good requires the cooperation of two or more people laboring together (but not necessarily sharing the burden equally), we say it is jointly produced. Applying these to Locke's argument, we see that the labor theory of value holds whenever there is feasible exclusion, jointness of supply, and non-jointness of production.

However, Locke adds another qualification. He states that we may have property "as much as any one can make use of to any advantage of life before it spoils; so much he may by his labor fix a property in. Whatever is beyond this, is more than his share, and belongs to others. Nothing was made by God for man to spoil or destroy" (2T§31.7-11). Importantly, he notes that there was some period of time when both the jointness of supply and the spoilage qualifications could be met. This was a time of natural peace for as long as there was a sufficient amount of basic resources there was "little room for

quarrels or contention about property so established [by the labor theory of value]" (2T§31.16-18). Conversely, this suggests that it is quarrels or contention about property that brings an end to peace.

Property, of course, means more than the exclusive use of certain goods. It also means the exclusive use of certain amounts of land. Locke therefore goes on to explain that man acquires property in land by the same method as goods—through labor (2T§32). This is subject to the same qualifications we saw above: whenever we mix our labor with a tract of unclaimed land, thereby removing it from the common stock, it becomes our exclusive property provided we leave "enough and as good left for others." As long as land continues to be jointly supplied its goods can be feasibly excluded from others (2T§34.9-12).[47] Thus, in both the case of property in goods and property in land we see an important normative connection between two of the economic characteristics described above: we may claim exclusive property only as long as it remains jointly supplied.

Locke goes on to offer examples where the labor theory has been used to acquire property. He notes that historically in England property was acquired through labor. He also explains that the labor basis of property was still in practice at the time of his writing in parts of Spain. However, he notes that in contemporary England (and "other countries") although there was still some common land, it could not be acquired by labor but required the consent of fellow citizens. This is because the conditions could not be met, for "the remainder, after such enclosure, would not be as good to the rest of the

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[47] In the context of landed property, Locke notes that it is to be used "for their benefit" and not simply for mere convenience, but for "the *greatest* conveniences of life they were capable to draw from it" (2T§34).

commoners as the whole was, when they could all make use of the whole" (2T§34.8-10). Still, the crucial point seems to be that these conditions could be met for some time, and they only cease to be met with the invention of money (2T§36.33-40). This suggests that it is not an increase in population that made it impossible to leave enough and as good for others. Indeed, he actually recommends that it is desirable to increase population so that there are more people to work the land, explaining that "numbers of men are to be preferred to largeness of dominions" (2T§42.21-22).

Rather than growth in population, it is growth in appetite that leads to scarcity. This is clear beginning with Locke's comment, almost in passing, noting the penury of man's natural condition (2T§32.12). The comment reveals some tension in the labor theory: If it is possible to satisfy the requirement that goods be jointly supplied, it would seem that there was not a problem with scarcity. Yet if scarcity were not a problem it would seem strange to describe our condition as poverty. The solution to the tension lies in understanding not the *quantity* of the goods available, but rather the *quality* of goods available. We lived in poverty, not because of a scarcity of goods in the strict sense, but because of the fact that the types of goods that were in sufficient supply—the kinds of goods that we could make our property based on the labor theory—were very basic: acorns to eat, water to drink, and leaves and skins to wear (2T§42). These goods remain jointly supplied because of their relative abundance and the natural limit to our consumption. One can only eat so many acorns. However, as we saw in the discussion of the *First Treatise*, people desire not merely preservation, and not merely sustenance, but comfort. With the expansion of property to land, and the note that landed property exists specifically for our comfortable preservation, we soon develop goods of higher

quality. Yet, as land comes to be used to produce the goods of comfort, it ceases to be jointly supplied. This gives rise to the need for consent to maintain ownership. The natural progression is described succinctly by Locke:

> But as families increased and industry enlarged their stocks, their possessions enlarged with the need of them; but yet it was commonly without any fixed property in the ground they made use of till they incorporated, settled themselves together, and built cities, and then, by consent, they came in time to set out the bounds of their distinct territories and agree on limits between them and their neighbors, and by laws within themselves settled the properties of those of the same society (2T§38.13-19).

The description also calls to our attention an important point about the condition of nature: There was enough basic materials and goods for a very basic life, but human appetite caused people to desire more and more.[48] However, there was scarcity of the goods necessary for this. Furthermore, those who attempted to produce them would invite the jealousy of those without them which would lead to quarrels and initiate the downward spiral to war.

Locke notes that land is not initially scarce, but becomes scarce as it is used to produce luxury goods (2T§45.6-8). It is tempting to think that this is owing to the greater need for raw materials (i.e., it takes more land to produce enough grain for bread to sustain life comfortably than it took to produce enough acorns to sustain life simply). But this is not the case. We need greater amounts of land to produce these goods not for raw materials simply, but more so to give the producers an incentive to overproduce. Overproduction is necessary so that there is a supply of goods adequate to meet the needs of landowners and non-owners alike. But why not simply divide the land up equally

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[48] Compare this passage with Glaucon's complaint in Plato's *Republic* (372c-d) that Socrates' description of the original city is fit only for sows and his insistence on a city with "relishes".

among all people, allowing each to make use of it as he or she sees fit? The problem is that due to an unequal distribution of knowledge, talents, and other factors, not everyone will be able to produce these goods, yet all will desire them. Therefore, those who received land under an equal division scheme would not be using it to its fullest potential. They would be wasting the land and depriving others of the goods that could otherwise be produced on the land. Thus, the only way to produce an adequate supply is to give the land to those Locke calls the "rational and industrious". They must possess enough land that they can produce enough goods for their own comfortable preservation and enough goods to sell off to make a profit that they can use for other items of luxury. The intention is to create conditions where their pursuit of luxury raises their own standard of living, but also pulls up the general standard of living. Thus, the Lockean economy is not simply materialist; it also is based on a moral understanding of human nature or what motivates desirable behavior and what is necessary for accomplishing desired ends.

The scarcity of land explains why allowing goods to spoil is equivalent to theft. If one allows bread to go stale that another could have eaten, but was unable to produce for herself, either because she lacks the ability or the resources, it proves that one has not left enough and as good for others to make use of. The first person has deprived the second of resources she could have put to better use for her own comfort. In fact, even if one leaves *plenty* of acorns behind for others to eat, they are not *as good as* the bread one is wasting. Reflecting on the discussion of self-preservation, this reveals the danger of the situation: If one begins to produce goods of comfort, but then allows them to spoil, these are goods another could have made use of for her own preservation. Likewise, the land that was dedicated to wasteful production could have been used by somebody more

industrious to produce those goods for herself and others. Since this deprives her of goods that would have been useful to her preservation, literally, the preservation of the land owner comes into competition with that of the non-owner—which, we have already seen means first that one who is without land no longer has to concern herself with the good of the landed. Then, when the landowner allows useful goods to spoil, he essentially steals from those without land. In Locke's words, he "invade[s] his neighbor's share" (2T§37.39), which escalates the competition. Those without land may now punish the wasteful landowner for violating the law of nature, which, as we have seen, would likely trigger a chain reaction bringing about war. The spoilage provision suggests that there is not, and can not be "enough and as good left for others" which invalidates the terms of the labor theory of value. It implies that there is scarcity in nature (perhaps not of all goods, but definitely of the most desired goods).[49] Since one person's consumption of these goods will reduce the supply available to others, the desirable goods are not jointly supplied and consequently can not meet the qualifications for the labor theory of value. This raises the need for a new justification for property. We move from the labor theory to consent: Literally, those without landed property agree to respect the ownership rights of those people who possess the land. Still, if the fact of the matter is that the goods most desirable are in scarce supply, why would anyone consent to property, thereby giving an advantage to some at the expense of others?

The solution lies in an understanding of the productive capacity of the earth. Property gives us the opportunity to overcome the scarce supply of comfort goods. Locke's discussion of the productive capability of land is revealing. We learn that "he

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[49] Compare also 2T§38 and 2T§46.14-17.

who appropriates land to himself by his labor does not lessen, but increases the common stock of material" and furthermore that "the provisions serving to the support of human life, produced by one acre of enclosed and cultivated land, are (to speak much within compass) ten times more, than those, which are yielded by an acre of land, of an equal richness, lying waste in common." Thus, cultivated land is ten times more productive—which he immediately expands to one hundred times (2T§37.11-12, 22-29 see also §40.10-15) and then to one thousand times (§43.7). Properly harnessed, land can be used to support greater numbers of people. More important: It can also be used to provide them with higher degrees of comfort. The key is providing landowners with an incentive to produce surpluses and non-owners an incentive to consent to the legitimacy of private property.

Both incentives come with the creation of money. Locke explains why money makes possible the overproduction of certain goods (2T§48). In the pristine condition of nature, there is sufficient supply of acorns, water, leaves and skins for all to have some. Some people were not satisfied with these goods so they endeavored to create bread, wine, and clothing (these are people with greater appetite). The problem is that not everyone can produce these goods in nature. However, those who *can* produce luxury goods *could* make more than they need personally, provided the right incentives exist. To give them an incentive two things are necessary, the creation of money and the granting of large tracts of land to the industrious, for they possess the proper internal motive: a greater appetite for comfort. This will lead them to hoard up as much money as possible, which they will spend on greater luxury items and also save as insurance against future misfortune. The greed of the landed will also benefit the non-land owner. Unlike

the goods prior to the creation of money, which could generally be produced alone, most goods in the monetary economy are jointly produced. Locke offers an example of how even the simple loaf of bread might require the cooperation of several different people. He even plays it out to an extreme point demonstrating the effects of the bread used in international commerce (2T§43). In even the simple case, the wealthy will have to purchase labor from those without land. This provides the non-landed with some wealth—enough to purchase bread, wine, and clothing and thus rise above his former economy of acorns, water, and skins.

The greatest benefit is the existence of the market economy itself, for, properly designed, it attaches the well being of the rich to the welfare of the poor in two ways. First, they are connected directly as the wealthy will be expected to tolerate some degree of taxation, and the tax dollars are used to pay for public goods that improve their own lives, but also improve the lives of the poor. This would likely include safety net programs that insure a minimum standard of living to all.[50] Second, as the rich create new goods and services for themselves, a substantial amount of the benefits become available to the poor because the cost of most goods drops with each successive wave of innovation. This logic is the source of Locke's famous statement that a day laborer in England is better clad, fed, and housed than a prince of the Indians. That is, even though

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[50] Thus, some limited concept of the welfare state is perfectly compatible with Lockeanism. The poor give up certain freedoms they had in the state of nature and acknowledge the legitimacy of private property and the liberal state. In exchange they have every reason to expect some minimum standard of living. Of course this also means that it is important that the quality of life afforded by the welfare state not be greater than the quality of life afforded by work. Otherwise the system would encounter what economists call work disincentives. For a critique that the American welfare state under the Great Society suffered from such work disincentives, see Glazer, 1988 and Murray, 1994.

he lives far below the standard of living of the rich in his own society, the day laborer has access to goods that are not available to even the wealthiest person in a society without landed property.[51] This explains why those without land consent to the property rights of the landed: They accept that it is only through such an arrangement that the most desirable goods will be produced and they realize that even if the greatest comforts are not available to them, the products that *are* available are far superior to those that exist when land is jointly supplied and ownership is based on labor.[52]

There is also a moral justification for this arrangement. Property serves to maximize our horizon of security, which means it is our best hope for bringing about mutual assistance, goodwill, and peace. It allows the wealthy to let their guard down and act with a broader idea of self-interest—broad enough that it benefits those less well off. This is best seen in the changing nature of property. With the invention of money, the economy becomes more sophisticated and the benefits derived from any good, be it for use or for exchange, cease to be fully excludable.[53] In economic terms, there are direct benefits that continue to accrue only to the owner, but there are also indirect benefits that spill over to non-owners. The spillover benefits can take many forms including public goods paid for through philanthropy such as parks, museums, and recreation centers.

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[51] Consider that most poor in advanced capitalist societies have heated homes, automobiles, and television sets compared to the poor of non-capitalist societies.

[52] There may be a temptation to call this "trickle down" economics. This is at best half correct. The general logic is correct, but modern partisans of "trickle down" economics assume that these goals are best met via the unbridled market. This, as we shall see, is not exactly what Locke has in mind.

[53] Note that the distinction between use value and exchange value has existed since at least Aristotle, and is a particularly important issue for Marx. However, the present analysis does not depend on the distinction. I assert that goods used for both use and exchange have both direct and indirect benefits, the vast majority of which accrue to the owner, but some part of which spillover to benefit others.

Other important spillover benefits exist on a smaller scale, such as the decision to support a neighborhood playground. Even more important are non-material benefits that, in part, spill over from the leisure afforded by the material wealth of landowners. This is related to the notion of "social capital".[54] Finally, the most important externality generated by private property is its opposite: The public forum. That is, with a diversity of kinds and amounts of property will come a diversity of ideas and opinions. The exchange of these ideas and the sharing of knowledge such ideas generate is valuable to rich and poor alike. The key to all externalities is, first, not allowing the wealthy to recapture them, and second, not allowing the wealthy to isolate themselves in such a way that the spillover benefits only circulate to other wealthy landowners. The reason is best illustrated by example.

Consider a neighborhood school that draws from both wealthy and non-affluent families, living in close proximity to one another. The most obvious benefit is that the wealthy provide the greatest amount of tax dollars to operate the school. Second, the wealthy may decide to engage in philanthropy at the school, donating a large sum of money for a library or a computer laboratory. Even if their primary motive is to have these goods available to their own children, since they are public goods, they can not be excluded from the children of the non-affluent who also attend the school. Next, the wealthy may invest great amounts of social capital in the school by leading a parent organization that aggressively seeks teachers of high quality and a curriculum, both academic and social, that enriches *all* students. Finally, all children will benefit from the

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[54] See especially Putnam, 2000, 192-94.

diversity of ideas that circulate in the school owing to the diversity of property in the surrounding community.

This suggests something about the relationship between rich and poor in a properly ordered political economy. Even with the benefits afforded by the sophisticated economy, there will be a clear difference between those who own land and those who do not in terms of quality of life. The issue is against whom should those without land compare themselves? Certainly they do not benefit as much as the landholders, but the proper standard of comparison is not the landholders. They should compare themselves to their own condition were there no property—a condition in which they would be far worse off. That is, those without land are better off in a world where landed property exists than they would be in a world where it does not. They do not gain access to all of the luxury items that are made possible by landed property, but they do gain access to enough of them. Of course, as the luxury goods available to the landed rise, those without land expect to improve their conditions as well—even if only incrementally. As long as this remains true, they have a rational basis for consenting to the institution of landed property. Consequently, if there comes a point where they are shut off from these goods—say by the creation of a political system where the benefits of private property become perfectly excludable—then those without land would have a rational basis to revoke their consent, for such an arrangement would put them in a condition worse than the state of nature and according to Locke, "no man would consent to being worse off" (2T§131).[55]

[55] The assumption is that that civil society entails certain costs, such as limiting one's freedom by agreeing to respect private property, and certain benefits, such as access to the externalities generated by others' property. In the state of nature, the benefits would not be generated, but the costs would not be born. Therefore if the benefits are somehow

Still, there is a potential problem. Regardless of how broad our horizon of security grows, we will always be somewhat insecure. Doubts about the future will lead us to seek economic arrangements that maximize our benefits. This effects rich and poor alike. At the very least, the rich will have an incentive to minimize wages and maximize prices whereas the poor will have the opposite incentives. More interesting, the rich will have an incentive to maximize the amount of production that they keep and, if they become aware of the spillover benefits and suspect that they could put them to better use, they will desire to cut them off.[56] Likewise, the poor will have an incentive to maximize spillovers. Of course, if people are moved into sharpened self-interest, the rich will seek to maximize their utility by allowing the least possibile externalities—i.e. they will seek policies that allow them to insulate their wealth. As for the other part of the equation, they will also seek to minimize the expenditures on public gods—even reneging on prior commitments by privatizing traditional public goods (thereby cutting off access to the poor at the same time they dam the flow of spillover benefits).[57] In sum, if self-interest is sharpened, maximizing behavior will become more blatant, pitting rich and poor in a

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shut off, it is more preferable to be in nature (no costs, no benefits) than to be in the perverse version of civil society where one is expected to bear the costs but not enjoy the benefits.

[56] In economic terms, they will engage in rent seeking behavior.

[57] Applying this to the school example used above, the rich may find a way to segregate themselves from the poor. Then they will use their wealth exclusively to the improvement of their own schools, meaning the poor lose access to the excellent facilities, the computer labs, and the aggressive parent organization. This segregation can occur through literally moving, or through a system that allows the wealthy to opt out of the public system and use a private system. In the extreme case, this would lead to a rift in the society, dividing between the "haves" and "have nots", which would cast doubt on the legitimacy of the regime. For compelling arguments that this has become the case in the United States, see Harrington, 1997 and Piven and Cloward, 1997.

game of chicken.[58] Managing the liberal state therefore presents the challenge of maintaining a delicate balance among competing interests. This is a problem Madison explains in *Federalist #10*.

Private Property and Liberal Stability.

We saw that Madison's cure for the problem of factions has two components, one procedural and the other moral. The moral component of the cure requires that people be of a certain temperament. They should have a diversity of opinions, but still, not disagree so much that opinions are widely distributed and irreconcilable. Also, they should be only loosely attached to their opinions and willing to accept other ideas that differ from their own, as long as they do not differ too much. Finally, while there should be diversity regarding particular ideas and opinions, liberal citizens should also be strongly attached to certain general principles. Thus, there are numerous forces at work in the soul of liberal citizens. At the crossroads of these forces is a common source, private property.

Private property can serve as a decentralizing force. This is because of the relationship that exists between property and our opinions—more so the *type* of property than the *amount*.[59] In Madison's words:

> From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results; and from the influence of these on the sentiments and views of the respective proprietors, ensures a division of the society into different parties and interests. (10:55)

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[58] This behavior could be modeled by asking how much are the rich willing to tolerate in the way of spillovers before seeking to shut all off and how little are the poor willing to accept before rebelling.

[59] Some historians, following Beard (1986), attempt to draw a parallel between Madison and Marx given Madison's emphasis on property. To do so is to neglect the greater importance of a diversity of kinds of property.

For example, those with property rooted in the land will tend to have agricultural interests; those with property rooted in equipment will have industrial interests, and those with property rooted in trade will have mercantile interests. Likewise, the large farmer and the subsistence farmer—even the day laborer who owns no land but works for wages on another's farm—will all have more in common with each other than the wealthy farmer would have in common with the wealthy industrialist. In this regard a diversity of property will produce a diversity of interests. For this reason, we must be not only a republic, but a *commercial* republic for it is capitalism that "multiplies the means of gratification" by uniting the market with human appetite and allowing for innovation (12:70-71).[60] As we saw in the discussion of Locke, human appetite will give rise to new products and the market will provide an arena in which they are brought to the fore. As the market becomes more sophisticated, there will arise greater diversity of types of property, reflecting the new elements of the economy. There will be a related diversification of opinion. This fits with the natural desire, given us by vanity, to distinguish ourselves from others. The desire for distinction prompts us to engage in different activities, pursue different vocations, acquire different types and amounts of property, and therefore creates a diversity of opinion.[61]

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[60] See also *Federalist #56,* which speaks of the effects of time on the political economy. We will become more homogeneous at the national level, but more diverse at the local level. The point is that there will cease to be particular regions associated with only a single industry such as agriculture, but rather all regions will have some amount of agriculture, some industry, and some business (56:368).

[61] In *Federalist #2* John Jay calls attention to the "variety of soils and productions" in America but also the "one united people". He seems to suggest that diversity does not spring up naturally from the human soul, but rather comes from the diversity of industries or types of property (2:10-11).

Property can also serve as a centralizing force. The market may value diversity, but it does not value radical change.[62] Products must be appealing to others, therefore innovation can not carry us too far from the center. The margins are too risky in market terms. Likewise, we avoid opinions that would be regarded as marginal. As we noted, self-love leads us to want others to agree with us. For this reason, we are psychologically discouraged from taking up positions that stray too far from conventional opinion. That is, we are unlikely to embrace ideas that will be unpopular with others. This makes it less likely that we will speak openly and publicly about unjust desires. Assumedly we fear that others would not confirm such views, causing injury to our vanity. It is commonplace to speak today of there being a marketplace of ideas.[63] This catches the sentiment rather well: Just as others will not purchase products that are unpopular or too unconventional, the same is true for unpopular opinions: others will not adopt them. Thus, our desire for the affirmation of others will naturally lead us to locate our opinions toward the center.

Moreover, private property influences the intensity with which we hold our opinions, encouraging us to hold certain principles firmly and others less so. The principles we hold with great strength include the notion of human rights and liberty, but the most obvious attachment is to the concept of private property itself. Still, even the

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[62] Consider the role of innovation in industry, particularly the auto industry. Auto shows often feature "concept cars" but these cars are never immediately marketed. Instead, incremental changes are made every model year based on the concept cars. This is because the incremental changes strike the appropriate balance between the desire for innovation and the fear of radical change.

[63] A strong proponent of this concept is Justice Oliver Wendell Holmes who wrote "the ultimate good desired is better reached by free trade in ideas. . . . [and] the best [measure] of truth is the power of the thought to get itself accepted in the competition of the market." See his dissenting opinion in *Abrams v. United States* 250 U.S. 616 (1919), at 621.

attachment to property is not absolute, for capitalism also has a tendency to dull our interests. It offers a multitude of choices which means a wide variety of issues must compete for our attention. It is more likely to hold a position strongly if it is the only position of concern. Since capitalism leads to a complex society with a great variety of issues, we are less likely to focus on a single issue. With a multitude of issues competing for our attention, we must divide our time and therefore effort among the issues, meaning no single issue can be dominant. In this regard, just as our appetites shape the products of the market, those goods shape our appetites in return. As we chase one commodity after another in an ongoing quest for comfort, our other passions—such as the passions that would pose the greatest danger to liberty—grow duller. Those who are attached too strongly to a single issue are therefore seen as crusaders, zealots, even fanatics. For those who *do* hold strong passions, capitalism offers an arena of action and expression that channels ambition. It provides a socially beneficial outlet to our appetites—especially the appetites of the ambitious. This, too, is more than a material argument. There is also a moral lesson that stems from the vanity of democratic temperament: We realize that in order to get the confirmation of others, we can not be too rigid in our opinions. We must hold them tepidly, leaving room to adjust them to meet the demands of others. We end up holding fewer unjust interests, and to the extent that we do hold such interests, we do not hold them so strongly that we are willing to expend the energy to execute any unjust plan. To relate this back to Locke, by promoting the ownership of private property we push back people's horizon of security. This allows them to let down their guard and be more flexible in their positions. As long as the core principle of private property is secure,

people will be more liberal with regard to other issues. Conversely, if the core principle of private property is attacked, they will become more rigid in their views.

In sum, the commercial republic should promote a diversity of interests, but these interests should be clustered in close proximity to one another, with each group only moderately attached to its preferred position.[64] Put in more formal terms, capitalism helps to prevent extreme positions; it pulls most citizens toward the center and it moderates the intensity of our attachment to our positions. It is this moral dynamic, kept in careful balance, that allows the procedural aspect of Madison's argument to function. It also helps to bring about the beneficial aspects of self-interest that Locke recommended.

[64] The tendency for opinions to drift toward the center is explained in formal terms by Duncan Black's Median Voter Theorem (1958). The same phenomenon is explained philosophically by Alexis de Tocqueville (1969), who devoted particular attention to the effects of equality on the content of opinions. This stems epistemologically from the argument that "a middling standard has been established in America for all human knowledge. All minds come near to it, some by raising and some by lowering their standards" (56). From this middling effect, the majority comes to hold considerable power over thought (254-56) and in effect, morals (561-65, 594-600).

CHAPTER FOUR

The Role of Political Leadership in Liberal Society

Little has been said so far about leadership. This is, at first blush, not an obvious omission. Leadership is a suspicious topic in the liberal context, and the philosophers of liberalism seem oddly uninterested in it. Locke pays far less attention to his *executive* that Hobbes did to his *sovereign*. Madison's note that "enlightened statesmen will not always be at the helm" is often quoted as evidence that the liberal regime is too democratic to tolerate or require leaders in the traditional sense. However, the analysis of self-interest and private property reveals just how delicate a balance must be struck to keep human nature conducive to liberal society. The natural tendency is for people to allow the sense of unease to narrow their self-interest, causing them to behave in ways dangerous for liberal stability. However, if we continue our examination of Locke and Madison, focusing not the *substance* of their teachings, but rather the *way* their lessons are taught, we will see that they do offer an important lesson in leadership that anyone concerned with resisting liberalism's tendency toward fracture must learn.

The Rhetorical Strategy in Locke's Doctrine of Property

Interestingly, Locke never withdraws the labor theory of property. Indeed, he seems to prefer that most readers come away agreeing with it, since he is so subtle in the transition from one theory to the next. Even today our discourse is more attuned to the labor theory of property than consent: The Protestant Ethic tells us to praise hard work. We justify our possessions by claiming that we worked for them. Also, we speak as if we have left enough and as good for others: When faced with a beggar we may scold that he should "go get his own" or we may remind him that there are plenty of opportunities for

a person who is willing to work. Indeed, the very concept of the American Dream presupposes there is enough for others. Even the spoilage requirement remains firmly entrenched in our rhetoric as any child knows who is scolded by a parent for not eating certain foods: The exhortation to "clean your plate because there are children starving in Africa" implies that our wastefulness deprives them of food they could have eaten. It is impressive that an incomplete argument has proven so enduring.

Yet there is a reason the argument has endured. The labor theory of value appeals to our sense of justice. It is a moral argument—people deserve what they have worked for. The argument is designed to get those without land to accept property in a way they would not if they were taught that it is based solely on consent. The teaching of consent reveals the degree to which property rests not on justice, but chance and even force (the right of the first occupant). It is an argument less from the standpoint of justice than the standpoint of necessity: We need property to create an incentive to produce surpluses so that the greatest comfort of the greatest number is served; it creates conditions most conducive to peace in a way that equal distribution of property would not.[65] The labor theory of value makes being poor a bitter pill to swallow, but less so than the alternative. The poor are therefore less likely to demand redistribution and policies that will upset production if they accept the labor theory of value. Put another way, if property were understood to be so closely related to chance, like winning a game of dice, then it would be easier for the poor to demand another roll of the dice (an image that makes clear the double meaning of the term *fortune*). In sum, even though consent is the final basis for

[65] This is why Locke does not consider the idea that as goods cease to be jointly supplied, they should also completely cease to be excludable—an idea that, in the extreme, would lead to communism.

property, it is not the public argument used to justify it because that would weaken the institution.[66]

Nevertheless, this rhetorical strategy creates political challenges. It is not enough to create private property and establish a state to protect it. Questions arise immediately over the proper role of the state with regard to the economy. The desire to maximize personal utility will lead both rich and poor to seek assistance from the government. The poor will seek regulations on the economy that increase the spillovers they receive from other's wealth. The rich will attempt to remove regulations and even seek subsidies of their own. The state must use its power to preserve balance among competing interests. An even greater challenge has to do with the variety of human nature and the effects of time. Let us grant that the initial distribution of property roughly corresponded to people's ability to put the land to productive use. Therefore distribution of land followed the natural distribution of people's talents, knowledge, and ambition such that those who were most rational and industrious possessed the greatest amount of land. Even if this was possible, there is reason to doubt that such parity between character and ownership would carry over to the next generation. Simply because a parent is rational and industrious, a child may turn out to be ignorant or lazy. Likewise, if a person who receives no land in the initial distribution had children who were rational and industrious, it might make sense to redistribute the property to preserve parity between ability and estate. Yet, we have already seen that Locke intended children to inherit their parent's

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[66] It is worth noting that Locke, in a sense, does the same thing Socrates was charged with doing by his "first accusers" in that he makes the weaker speech the stronger. However, the connotation in the case of Socrates is that his rhetoric was intended for unjust ends whereas Locke's rhetoric is intended to serve just ends. See Plato's *Apology* 18c and also Aristophanes' *Clouds*, 112-118. For a useful discussion see footnote 9 of the West edition of the *Apology*.

land, and we have seen that any direct attempt to redistribute wealth will sharpen self-interest and invite resistance. It would appear that there are two alternatives possible: use draconian methods that can not be easily resisted, or use subtle methods that can not be easily detected. Given the principles of liberalism, it would seem that the second option, while imperfect, is to be preferred. Yet this means there is need for a political leader who is perceptive enough to recognize when the correlation between ability and estate has gone awry, and also clever enough to devise a subtle remedy to the problem.

Locke appears to be aware of these challenges. He acknowledges that there *is* a role for the state in regulating the economy by qualifying his paean to the improvement of land, noting that the "great art of government" is not simply the improving of land, but the "right improving" of land (2T§42.23-24). This means government must arrange things so that there is a surplus, but it must also regulate the economy so that there is adequate access to the benefits of property—particularly for those without land. Locke notes that the consensual basis of property includes an agreement to some degree of regulation. He says that once land became scarce, communities "regulated the properties of the private men of their society, and so, by compact and agreement, settled the property which labor and industry began." (2T§45). He makes the point even more strongly later arguing that:

> For it would be a direct contradiction for any one to enter into society with others for the securing and regulating of property, and yet to suppose his land, whose property is to be regulated by the laws of the society, should be exempt from the jurisdiction of that government to which he himself, and the property of the land, is a subject. (2T§120.6-11).

Yet he would not endorse a market where the regulations are so burdensome or restrictive as to create work disincentives among rich or poor (poor because the benefits of welfare

outweigh the benefits of work and the rich because the benefits of leisure outweigh those of work). The question is what government should do to encourage the "best advantage of life". This is not to say that the regulatory hand will be heavy (or even visible—Smith), but it will exist nonetheless. The regime will be capitalistic, but not laissez faire. The danger of the regulatory hand being too strong is that it will be perceived as a direct threat on property. This shrinks the horizon of security and therefore narrows self-interest. Literally, people will come to fear that the regulatory burdens will deprive them of the means needed for preservation.[67]

This leads to a problem: How does the government regulate property when the vast majority of citizens are taught the labor theory of value? Both the rich and the poor believe in the labor theory of property. Therefore any attempt to regulate in too direct or too heavy-handed a manner will invite resistance from the citizens. Even a *perceived* attack on property will sharpen the self-interest of the rich and cause them to behave in a manner contrary to the public interest. They will judge on their own behalf what constitutes an intrusion into property rights—meaning they will likely be quick to see the violation and hasty and extreme in their reaction. On the other hand, failure to manage property can lead to insular behavior by landowners. They will shut off the externalities to those in need, making their consent to property a bad deal. This will sharpen the self-interest of the poor causing them to behave in "bare preservationist" mode. They will resist civil society through crime, withdrawal, skepticism, and alienation. In short, poor management of property will shorten the distance between goodwill and enmity, even in

[67] See Tarcov, 1981.

civil society. Each class will begin to act on force, which is the definition of the state of war.[68]

This raises yet another level of the problem: the poor will become targets of politicians who capitalize on class animosity to gain power through demagoguery—and such politicians also fail to manage property, but do manage to raise expectations and fuel the fire of the underclass. The rich will become targets of politicians who make equally empty promises of freeing the market and "getting government off their backs" (a promise that is dangerous if broken and even more dangerous if kept). In short, what is needed is political leadership (statesmanship) that educates people with subtlety and manages property with caution.

Locke says "the increase of lands and the right improving of them is the great art of government. And that prince who shall be so wise and godlike as by established laws of liberty to secure protections and encouragement to the honest industry of mankind against the oppression of power and narrowness of party will quickly be too hard for his neighbors" (2T§42.22-28). He then promises to say more on this "bye the bye." Yet it is not until the chapter on prerogative that we learn more about the qualities of the Lockean executive. Interestingly, this chapter is the only other place in all of Locke's writing that he refers to the executive as "wise and godlike" (§166). His point may be that, despite earlier teaching that chastises arbitrary rule, the best princes are able to make greater use of prerogative (ruling without or even contrary to the law. See §165.10) without arousing the suspicion or resentment of the people. This is because his actions are seen to be in

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[68] Recall that the state of war can occur within civil society, for Locke writes that "force without right upon a man's person makes a state of war, both where there is, and is not, a common judge" (2T 19.22-24).

the public good. Perhaps one area that prerogative is most necessary and beneficial is the area of property regulation. As long as it is done with subtlety and results in enlarging the public good—that is, the actions lead to the "increase of lands and the right improving of them" (2T§42.23-24).[69]

We seem to have arrived at our goal—the answer to Banfield's mystery and the understanding necessary to ground regime theory in liberalism. In the case of Banfield, it is our relative security—linked closely to property—that most directly influences our sense of time. Where security is too weak, our self-interest is narrow and we take actions to serve more immediate needs. When security is stronger, self-interest is broader and we can look beyond immediate needs to the future. In the case of regime theory, it is our relative security, again with reference to property, that best explains our propensity to form and sustain groups.

The examination of Locke's political writings has demonstrated the closer proximity of peace and war, goodwill and enmity. We have learned that self-interest can be broad and long term—and therefore offer the promise of peace, or it can be narrow and immediate catalyzing the problem of war. Additionally, we see that disputes over property greatly effect the narrowness or breadth of self-interest. Finally, we see that government plays an important, but complex role in managing property so as to keep self-interest aimed at peace. Therefore, we need a liberal politics that will preserve this liberal formula for peace. We need a politics that is sensitive to the relationship between

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[69] Which means that this arrangement would bring harmony to the statement in the *First Treatise* (1T§43) that property is intended to promote the common good and also the lesson of the *Second Treatise* that property can not be equally distributed. It would, consequently cast doubt on interpretations stemming from the "possessive individualism" school, particularly that of Tully (1980).

property and self-interest—a politics that is aware of the important role of government and attuned to the need for subtlety. It is this kind of politics that the American founders in large part sought to design, and this kind of politics whose blueprint we find in the *Federalist Papers*.

The need to manage private property calls to mind the politics of class, but also interest group politics more generally. Keeping the horizon of security pushed to a maximum means that the wise and godlike prince must arrange society so that no single group can dominate others. Failing this, the moral calculus will shift in an adverse direction, allowing groups, and finally individuals, to regress toward narrow self-interest. The potential offered by self-interest will once again decay into the problem. Therefore, as important as understanding self-interest at the individual level is, the discussion can not end there. It gives us only a partial understanding of the liberal political economy. A fuller understanding requires that we turn to the study of how interest groups, composed of rationally self-interested people, compete for power and influence policy outcomes. This is a topic to which James Madison devoted considerable energy.

Leadership and Democratic Education

According to Madison, an important role of the democratic leader is to help "refine and enlarge the public views" in a regime (10:59). To accomplish this leaders must maintain two conditions critical for a robust public sphere. First, diverse interests must be brought together into a common public forum, and second, the forum must be capable of fostering a democratic temperament. Leaders may need to make an effort to include voices that are often underrepresented. Moreover, leaders may have to take action to ensure issues are framed so as to keep self-interest broad. But the most

important characteristic of leadership is far more subtle. As Madison notes, refining and enlarging citizens' views is not accomplished through direct action, but rather through "indirect and remote considerations" (10:57).

First, leaders must prevent an institutional arrangement that allows certain interests to exit into their own separate forum. If leaders fail on this account, they allow the public sphere to be fractured into several smaller spheres. This forsakes diversity of opinion. Figure 8 illustrates the problem. Interests A-K exist in close proximity to one another. They may be connected socially and economically, but they are divided politically into three sub-units (denoted by the solid lines). Rather than a large number of diverse interests, each sector is composed of only three fairly similar interests. The policy discourse in each sector will take on a different tone and include a different agenda. Solutions available to one sector will not be available to the other two—even if all three face similar challenges. We can expect that effective outcomes will be unlikely as a result of the fractured public sphere.

Second, leaders must prevent a discursive tone that places interests in a defensive posture with regard to one another. By extending the sphere, representatives of different groups have the opportunity to engage one another, discover commonalties, and therefore mutual interests. This serves as the basis of cooperation, which we have seen is more likely when self-interest is dulled down and people are less strongly attached to their ideal preferences. Both Locke and Madison stress the delicacy of the matter. As we saw in Chapter Two, the condition of goodwill and cooperation is not far from that of enmity and conflict, and it takes very little threat to move people from one to the other. Madison echoes this sentiment in his statement that "so strong is this propensity of mankind to fall

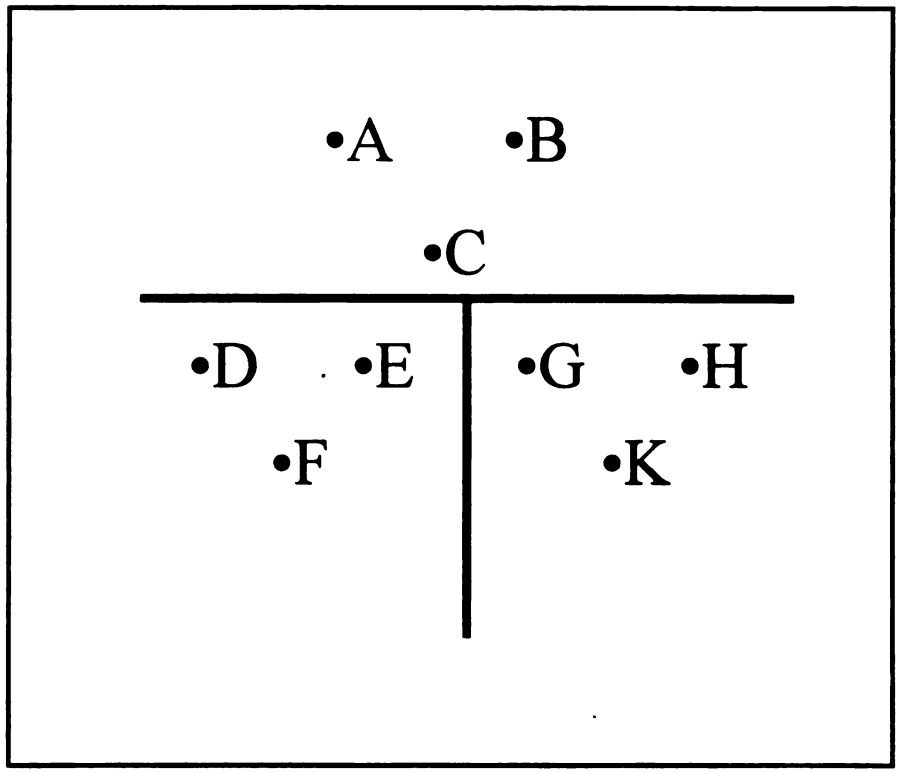

Figure 8: The Fractured Public Sphere.

into mutual animosities, that where no substantial occasion presents itself, the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions and excite their most violent conflicts" (10:56). As we saw in the discussion of Locke, such "unfriendly passions" are kindled when people feel that their security is being attacked—especially with respect to property.

Property turns out to be the key for maintaining the conditions needed for a healthy public sphere. We have already seen that Madison draws close connection between property and the *formation* of interests. As it turns out, there is also a connection between property and the *management* of interests. Madison writes, "the diversity in the faculties of men, from which the rights of private property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government" (10:55). That is, we best safeguard a diversity of interests by first protecting the diversity of property.[70] Second, Madison states that "the regulation of these various and interfering interests forms the principle task of modern legislation, and involves the spirit of party and faction in the necessary and ordinary operations of the government" (10:56). If the first object of government is to protect the diversity of faculties that makes property (and therefore diversity of interests) possible, and the principle task of government is to regulate the diversity of interests, it seems that we accomplish the principle task of government by attending to the first object

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[70] This reveals more fully the difference between Madison and Marx alluded to earlier (see note 11). While both are concerned with property, Marx's solution is to force equal distribution of property, assuming that it will cure alienation and liberate all of mankind (Marx, 1978, 484-91). Since diversity of property is the source of diversity of interests and therefore faction, the attempt to equalize property is equivalent to the attempt to remove the cause of faction. Madison, as we have seen, wholly rejects this strategy.

of government. In sum, regulating property is the way to exercise leadership in a remote and indirect manner. Leaders do not regulate the opinions themselves, but they regulate the source of those opinions—property.

But even regulation of property must follow tactics that are indirect and remote. As we saw in Locke, people can be very defensive when it comes to property. By regulating property too closely and too obviously, people will react negatively. We will likely get less diversity of opinion and greater attachment to whatever opinions do exist. Simply put, the centralizing effect of property will be too strong. By not regulating property closely enough, we will get too many extreme positions and all positions will be held too weakly—we will suffer from relativism, which is no more conducive to meaningful debate than its opposite. In short, the decentralizing effect of property will be too great. A middle approach is needed. Regulation must be subtle, done not with a heavy hand, but rather, with, as Adam Smith suggests, an invisible hand.[71] The key to the middle ground may be related to another area Locke and Madison studied: religion. As we learn from Locke's writing on religious toleration, when people are inclined toward some view and they find it attacked, the natural response is to defend it.[72] As we saw in Locke's discussion of self-interest, the more severe, immediate, and concrete the threat, the more vigorous the defense. Thus, the strategy is to bring about the opposite conditions: remove the threat or make it as slight, distant, and abstract as possible. This

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[71] The idea of the invisible hand is falsely associated with laissez-faire economics. If that had been Smith's advice, he would have spoken of no hand at all

[72] It should be no surprise that religious toleration was a topic important to Madison as well (see Locke, 1950 and Madison, 1987a). A more complete study of the relationship between religious toleration and political economy is in order, but would carry us too far afield in the present study.

will allow people to let down their guard. It broadens their horizons and makes them more receptive to others and therefore opens possibilities for cooperation.

This is the key to the moral benefit of Madison's teaching. With a large diversity of voices involved in the process, there is more interaction, livelier debate, and more opportunity for preferences to be shaped by exposure to alternative views. Learning about other citizens creates the opportunity that people can recognize mutual interests and discover reasons to enlarge their own views. This suggests that the reason for keeping the process broad and inclusive is only partially owing to the contribution diverse interests have to make. The greater reason may be that they have something to learn.[73]

The most important thing rivals must learn is that a temporary sacrifice can be an investment. In this light, policies they might otherwise see as wasteful could prove beneficial. The importance of relying on mutual benefit over goodwill alone was clear even to the Federalists, for Hamilton writes that people are reluctant to:

> part with money for purposes that have outlived the exigencies which produced them, and interfere with the supply of immediate wants. Delinquencies, from whatever causes, would be productive of complaints, recriminations, and quarrels. There is, perhaps, nothing more likely to disturb the tranquility of nations than their being bound to mutual contributions for any common object that does not yield an equal and coincident benefit. (7:39).

Attention to this delicate fact would not only soften people and promote cooperation, but it would also reduce the need for the side payments that we saw in the pluralist strategy. Another reason is that as more interests are involved, more will feel they have had some impact on the outcome. Therefore, even if the outcome is still distant from their

[73] This is related to the concept of discursive democracy. See Bessette, 1980.

preference—and even if it is outside their indifference curve—they may have less incentive to take actions that might circumvent the policy's intended goals.[74]

This demonstrates the difference between republican leadership and social control. In the pluralist strategy, political leaders directly choose the winners and losers. They play a much more active role in determining outcomes, which means they privilege certain views at the expense of others. In the regime model, leadership is, "indirect and remote". The role of leaders is to act as a conduit, bringing together diverse voices and allowing them to engage in problem solving collectively. As Stone puts it politics is in part "the art of arranging" (1989, xii).

The Fractured Public Sphere and the Suburbanization of the Soul

Over time leaders have allowed actions that weaken both of the conditions necessary for a robust public sphere. They have allowed the size of the sphere to shrink, and the tone to be poisoned. Twentieth century philosophers Hannah Arendt (1958) and Jürgen Habermas (1991) have called attention to the changes in the public sphere in liberal society. They have also related changes in the public sphere to social ills and unrest. However, their work is less clear on the matter of what brought about the changes in the first place. The preceding analysis of Locke and Madison may be helpful in this capacity. In urban areas we have fractured the public sphere, dividing it into a multitude of municipalities and then subdividing it further with the use of special districts and targeted policy areas such as enterprise zones. At the same time, the policy we enact serves to sharpen self-interest and encourage self-preservationist behavior. This

[74] For exactly this reason it is worth considering the possibility that the legislative arena is preferable to the judicial arena when it comes to controversial issues such as school desegregation and even abortion.

organization is perfect for pluralism—which we have now seen is contrary to the spirit of republicanism.

As we would expect, much of the trouble follows from a mismanagement of private property. Tax and land use policy has vacillated between extremes of laissez-faire and burdensome regulations. As we saw in Chapter Three and Four, neither is compatible with Locke's political economy. Both have had a negative effect on the public sphere, narrowing self-interest and preventing the diversity needed for the Madisonian republic.[75] As Paul Peterson (1981) has shown, when property regulations become too burdensome, those with the means exit, taking their wealth and their contribution to the diversity of opinion with them. Recalling the argument in Chapter Three, we see a serious problem. If people leave the city and take their wealth with them, they effectively cut off the supply of spillover benefits to the less well off. Yet, as we saw, it is access to these externalities that forms the basis of consent to the institution of private property (and liberal government). Thus, the act to cut off the supply is facilitated by a government that no longer appreciates the need to control the effects of factions, and the result is a further loss of legitimacy and a redoubling of the tendency to look out for one's private interests at the expense of the public interest. Madison's critique of his own time would aptly to our own:

> It will be found, indeed, on a candid review of our situation, that some of the distresses under which we labor have been erroneously charged on the operation of our governments; but it will be found, at the same time, that other causes will not alone account for many of our heaviest misfortunes; and, particularly, for that prevailing and increasing distrust of public engagements, and alarm for private rights, which are echoed from one end of the continent to the other. These must

[75] This is confirmed by Stephen Elkin (1987, 90-95), who found that systematic bias is greatest in the issue of land use, which deals directly with property and therefore is the issue most likely to invite narrow self-interest. Elkin also relates the problem to pluralism at 55-59.

> be chiefly, if not wholly, effects of the unsteadiness and injustice with which a factious spirit has tainted our public administrations. (10:54).

The factious spirit has caused many to exit the public sphere and to assume a defensive posture with regard to their private rights. Those who remain in the anemic public sphere will become more narrowly attached to their opinions—a common reaction to a system seen as adversarial. This, in turn, invites more extreme positions, which renders cooperation all but impossible. Thus, if decisions are to be made, government may no longer act as a broker bringing interests together into a cooperative forum, but instead it must make itself a referee, choosing winners and losers. Thus, the politics of social control are born out of the corruption of the public sphere.[76]

This helps us to understand whose voices are most subject to systematic bias. Conventionally we are led to believe that systematic bias effects the poor and racial minorities most. There is good reason to suspect this. After all, if we look at our cities, we see that it is they who suffer most and they who most exhibit the signs of alienation (Wilson, 1987). Likewise, poor residents of urban areas have lower than average scores on "trust in government" assessments. Those who study the concept of social capital also find that even if the rate of decline is no greater among the urban poor, the negative effects stemming from decline are greater (Putnam, 312-317). Finally, at least since the release of the Kerner Commission Report (1968), we have been alerted to the problem of urban violence. However, to conclude that the poor simply exit from the political process is incorrect. Low social capital does not translate into lower rates of formal participation, especially voting (Berry, Portney, and Thompson, 1991). Consequently, it is too simplistic to say that the rich simply dominate the public agenda. Politics is not so

simple; it is not king of the mountain. If it were, and if the rich were the clear winners, getting to make their ideal preferences the outcomes, policy would reflect their exclusive and narrow interests. There would likely be extremely low taxes and few public services. The problems identified by Paul Peterson would not exist. Therefore, cities would be packed with business and industry—and wealthy residents.

But this is not what we see. Indeed, the greater problem seems to be that it is the middle who has exited the process, leaving politics to be conducted only between rich and poor. That leads to the present day mutation of republican politics we call pluralism and improperly ascribe to Madison. In such a regime, the government becomes a referee and chooses winners and losers. Importantly, we note that it is not simply the middle in the economic sense (although this is an important part of it) but also, it is the middle in terms of interests or opinions that is alienated from urban politics. These are the voices that were adversely effected by urban policy in the last half of the 20th century. These are the people whose self-interest was narrowed to the point that they chose to exit the public sphere and retreat to an alternative sub-regime that allowed them to live in isolation (suburbia).[77] Thus, suburbanization is a deliberate effort to escape from the city and isolate oneself from the problems related to race, crime, and poverty (Harvey, 1973). Suburbanization is in part a response to policy decisions that strengthened the desire to leave, but suburbanization is also made possible by yet other policy decisions that subsidized the cost (Jackson, 1985; Sugrue, 1996). One positive result of

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[76] On the polarizing effects of pluralist politics and the relation to social capital see Putnam, 2000, 339-344.

[77] Putnam (2000) presents significant empirical evidence on the declining participation of the middle. Beyond voting, middle class alienation is examined in Warren, 1978. For an interesting account of the alienation of what might be called middle intellectualism, see Wolfe, 1998a.

suburbanization has been the easing of certain cleavages within both the middle class (Wolfe, 1998b) and the upper class (Brooks, 2000). However, the uneven pattern of suburbanization has resulted in high levels of segregation based on class and race (Harvey, 1989; Massey and Denton, 1993). Consequently, the central city is left with far less diversity—generally the very poor who could not afford to get out and the very rich who never needed to get out, and the many suburbs are tiny islands of homogeneity. With no middle, cities lose the voices that make possible republican stability. Their exit left urban politics to be a narrow set of tradeoffs between the patriarchal rich and the dependent poor. Their exit rendered regime politics impossible.

This leads to the most significant level of the moral problem. Once the public sphere is fractured into several sub-spheres and institutions arise to give the arrangement official sanction, there develops a spirit of moral separation and moral difference. People come to believe that their well being is independent of the well being of others in separate sub-spheres, regardless of their geographic proximity. People exhibit what Alexis de Tocqueville called individualism:

> A calm and considered feeling which disposes each citizen to isolate himself from the mass of his fellows and withdraw into a circle of family and friends; with this little society formed to his taste, he gladly leaves the greater society to look after itself. (1966, 506).

Furthermore, once people believe they have isolated themselves morally from the rest of society, they are more apt to blame any defects in the society on the moral inadequacy of others (Young, 1990). The result is a sort of moral complacency and consequently, an intellectual complacency. Since we no longer identify certain conditions as problematic, we stop searching for solutions at all. The public suffers a massive loss of creativity.[78]

Yet Tocqueville notes that "individualism is based on misguided judgement" (1966, 506). People deceive themselves when they conclude that they can isolate themselves from others and that their own welfare is completely separable from the welfare of others. Recent history supports his position. The effects of a growing belief that those who have left the city have insulated themselves from the welfare of urban America and the resulting belief in moral difference are becoming clear. However, there may be a price to be paid for this. The problems they thought they could escape and insulate themselves from, crime, poverty, race, failing schools, are now showing up in the suburbs (Fishman, 1987). So the attempt to cut oneself off from the well being of the city is not only morally corrupt, it is also simply impossible. Suburbia looks more and more like the city, as we see school shootings, workplace violence, road rage, and other signs of collective desperation. Thus, the isolationist policies of suburban America have been bad for the inner city, but also bad for the suburbanites who demand them.

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[78] This points to a serious, perhaps even tragic problem. It could be that creativity is born out of tension, difference, and meaningful debate. Yet tension is contrary to our desire for comfort. Perhaps we have come to confuse ends with means. Human nature would have us desire comfort as an end. However, as we saw in Locke, this end is generally pursued through uncomfortable means—labor, research, negotiation, collective action, and the like, none of which are meant to be easy. It could be that if we attempt to make the process itself more accommodating to our lust for comfort, if we attempt to make it more expedient, we remove the tension that serves as the catalyst for creativity. However, with the loss of creativity we fail to develop those goods, which serve the greater comfort of the future. In other words, we sacrifice a process that was uncomfortable but produced desirable ends for a process that appears to be more comfortable, but has produced less desirable ends. In sum, our desire for comfort has corrupted the soul of American politics and weakened our desire and ability to think creatively at all. If this is true, then there is a force more harmful than systematic bias at work: Creative solutions need not be kept off the agenda by procedural machinations, for they are never thought of in the first place. A penetrating analysis of this problem is Allan Bloom's *Closing of the American Mind* (1987).

To counter the tendency toward individualism, Tocqueville recommends that citizens be "bound to take part in public affairs" for in doing so, they "must turn from the private interests and occasionally take a look at something other than themselves" (1966, 510). This calls to everyone's attention the degree to which people are not, can not, and should not be as independent as once thought. Furthermore, he notes that "when the public governs, all men feel the value of public goodwill and try to win it by gaining the esteem and affection of those among whom they must live" (ibid.). This seems to be exactly what Madison had in mind as well. But people can not govern together if they do not live together, and as we have seen, few people of diverse interests live together in the fractured public sphere of the modern metropolis.

This is the condition in which we find ourselves. We have abandoned the advice of Madison, ignored the warning of Tocqueville. Systematic bias has become severe, the public sphere has been fractured, and bourgeois morality has been corrupted, all of which has had a profound effect on policy. Ironically, at exactly the same time people are demanding a more active government, government is less equipped to facilitate problem solving. This does not mean that the content of urban policy is simply poor nor that policy has been an unqualified failure. Certainly good results have been achieved in certain cases. But this analysis does suggest that other potentially beneficial policy has been blocked. It also suggests that when decent policy is made, it is accomplished through a deeply flawed process. Because of this, some very harmful policy gets enacted and much of the decent policy is resisted and even offset by rival policy with contrary intentions. Indeed, it may be fair to wonder whether, in a case where logically sound policy is resisted by some element of the population, the same policy would have been

more acceptable had it been made under better conditions. Clearly the time is ripe to consider whether anything can or should be done to restore a public sphere wherein self-interest rightly understood can take root and people are once again drawn out of themselves.

Conclusion

Having completed our study of self-interest we see how closely related regime theory is to the basic principles of liberal political philosophy. Both assume that people are rational in their decision making. Both appreciate that self-interested people may at times act alone, but may also find reason to cooperate in collective action. Both are concerned with the relationship between coalition formation, policy outcomes, and regime stability. Finally, both understand the need for leadership, even in a liberal society.

The discussion has also revealed the extent to which much of urban politics, guided by the theory of pluralism, has strayed from the normative foundation of its subject matter. The politics of social control create conditions that weaken the republican spirit. Diversity is lost and self-interest is narrowed. Those who remain engaged in the process are left to focus their energy on survival in the politics of social control. This means that they give priority to tactics over problem solving. Consequently, government becomes, in the language of Tocqueville, more despotic, choosing temporary winners and losers in the interest of procedural expedience rather than facilitating a process whereby people share in decision making. The damage that results is obvious: greater distinction between the "haves" and the "have-nots" and a middle class that largely avoids public life altogether.

We also learn something about the nature of innovation and creativity in modern republics. First, it is likely the product of a dynamic that exists when a large number of groups are involved in the process—enabling the policy process to become a sort of dialectic. This dynamic is lost when the politics of social control reduces the number of interests. However, there appears to be a reciprocal relationship between the robustness of the public sphere and the quality of public policy. This chapter has given a theoretical account of the reason productive policy requires a robust public forum. Furthermore, it suggests that as the health of the public sphere deteriorates, the quality of policy will decline. Finally, the analysis implies the converse as well: substandard policy can serve to weaken the public sphere by dividing interests against each other and then narrowing them so as to make compromise unlikely.

All of this suggests a need to extend the sphere once again—a process that must begin with a proper balance in terms of property regulation. Changes in land use patterns could be the first step in drawing the stabilizing middle back into public life and moderating the difference between society's winners and losers. A contention made several times in this chapter is that the public sphere was damaged largely by inept policy decisions, especially related to land use. Before attempting to rebuild the public sphere, it may be useful to compare policy that has attempted to embrace liberal principles with policy that has departed from them. We do this in the next two chapters.

CHAPTER FIVE

A Floor Without a Ceiling: Redevelopment and the Social Production Model

On July 22, 1999 Governor John Engler signed into law the Michigan Urban Homestead Act. This ten bill package sought to aid urban areas in neighborhood redevelopment through two main features: The first reformed Michigan's tax reversion process, streamlining the way delinquent property taxes are collected and abandoned property reverts to the state for non-payment of taxes. The second created a process whereby abandoned houses and vacant land could be transferred to low- and moderate-income families at the cost of one dollar.

There was an air of jubilance at the signing ceremony. The Governor stated that "this legislation will bring the benefits of economic prosperity that much of Michigan has enjoyed for the past several years to our urban areas and the people who need it most." The legislature sent a bi-partisan delegation who spoke positively about the package. Mayors from many of the state's core cities attended along with representatives from interest groups as diverse as the Michigan Association of Realtors and the Michigan Poverty Law Center. Even before the signing, newspapers editorialized that the legislation marked a watershed in urban policy.[79] All said, one might get the impression that the legislation enjoyed widespread support from its inception.

However, this was not the case. There was initial doubt among political pundits that the legislation would, or should, pass. During the planning stages, the Detroit *Free Press* was skeptical, albeit hopeful, criticizing the record of Governor Engler and the Republican majorities in both the state House and Senate on urban policy, musing that if

[79] See particularly the Oakland *Press* Editorial Page, April 8, 1998.

nothing else, this would be an opportunity for Detroit to "call Engler's bluff."[80] Elected officials were doubtful. Lansing Mayor David Hollister stated "this is too revolutionary to get through the legislature in the foreseeable future." Concerned interest groups hired lobbyists to track, and if necessary fight the legislation. Indeed, the odds should have been on the side of the skeptics: Similar packages had failed in the past, and other economic development programs passed only after lengthy and contentious battles.

Academic literature helps us to understand the problem more fully. Redevelopment policy generally follows one of two strategies: redistribution of wealth or the attraction of capital through "supply side" methods. As Paul Peterson (1981) has pointed out, to the extent that policy involves redistribution of wealth, it will have a greater tendency to drive capital out of the city and invite opposition from business interests. Others have noted that the opposite approach—a free market strategy—leads to inequitable development: downtown regions prosper at the expense of neighborhoods where redevelopment is needed most (Judd and Fainstein, 1999). Consequently, the fault lines pit concern for efficiency against the desire to promote equality—with efficiency generally winning out. This being the case, initiatives that would be beneficial to combating poverty generally fail to make it onto the public agenda. This is even more the case when the anti-poverty measure is connected to land use, for as Stephen Elkin (1987) notes, land use policy is the area most susceptible to systematic bias, the creation and maintenance of a governing system whereby particular interests are effectively blocked from access to the public agenda.

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[80] Detroit *Free Press* Editorial Page, November 13, 1997.

The best indicator of systematic bias is the various coalitions that form on either side of an issue. This is explained most clearly in Clarence Stone's (1989) work on regime theory. Stone focuses on the crucial role coalitions play, not merely in electoral politics, but in actually governing. The way government, business, and civic interests come together determines the particular character of a regime, what problems make it onto the agenda, and the form solutions take. Where the problem of systematic bias is greatest, we can expect to see narrow coalitions; where it is less of a problem, we will see broader coalitions supporting the policy. This has significant effects on policy outcomes. As Bryan Jones and Lynn Bachelor have argued (1993, 15-19), the nature of a particular urban regime determines what ideas are available for consideration when it comes to a particular policy problem. The collection of viable alternatives, which they call the solution set, will be larger or smaller depending on the diversity of interests making up the regime. Therefore, where systematic bias is especially intense, we will see fewer interests involved in the process and thus particularly anemic solution sets. This reveals the connection between the academic literature and the initial impressions of the pundits: it is unlikely that a regime coalition will form in support of programs akin to the Michigan Urban Homestead Act. This program is probably not in the solution set of most regimes.

Nevertheless, the package overcame the initial skepticism. By the time it arrived in legislative committee, there was a broad and diverse coalition supporting it, driving it to eventual passage by overwhelming majorities in both chambers. This is owing to the work done during the critical period after the idea was hatched and before the actual legislation was drafted. In brief, the way the policy was framed attracted support where it

was otherwise not expected. In this regard, the Michigan Urban Homestead Act is something of an anomaly—expected by neither pundits nor academics—and therefore worthy of our attention. It offers not only an interesting case study of economic development policy, but also a lesson in the application of liberal principles or regime theory to actual policymaking.

The Challenge of Economic Redevelopment

Before we turn to a systematic discussion of the Michigan Urban Homestead Act, let us first consider the issue of economic redevelopment more generally. The challenges are well documented.[81] First, *redevelopment*, as opposed to development simply, is difficult to categorize. Using Paul Peterson's typology, it appears to be a hybrid between developmental policy and redistributive policy. The key is determining whether the policy will be a net generator or consumer of tax dollars. For example, an effort to redevelop a waterfront or build a stadium tends to be perceived as a tax generator and therefore more purely developmental, whereas an effort to revitalize neighborhoods and promote affordable homeownership tends to be perceived as a tax consumer and therefore more purely redistributive. A second challenge lies in the empirical question that must be answered: Does redevelopment primarily belong to the realm of economics or politics? The answer will impact not only how priorities are set, but also what methods will be used. Finally, there is a normative challenge: Since policy is often reduced to a tradeoff between efficiency and equality, we are tempted to believe we must sacrifice one for the other, further complicating the matter of priority setting. It would be very difficult to settle each of these issues separately, since they are clearly intertwined. Fortunately, a

[81] For a historical overview see particularly Teaford, 1990.

great deal of work has already been done in the emerging field of regime theory that will make our task simpler.

Economics or Politics?

Paul Peterson explains the difficulty of enacting local redistributive policy in his *City Limits* thesis. Building on the work of Charles Tiebout (1956), Peterson argues that cities seek to maximize their export industries, thereby enhancing overall fiscal health (Peterson, 1981, 23-24). To do this, a city must become as efficient as possible, striking a balance between its level of taxation and the amount of service benefits it offers. The problem is that the non-affluent consume a far greater share of services than they pay in taxes. This requires that services be subsidized by those who pay more in taxes than they consume in services. In this sense, even basic services are slightly redistributive (38). According to Peterson, wealthy residents and large businesses will tolerate this only to a certain degree. After the degree of redistribution exceeds an acceptable level, the rich will take advantage of the fact that capital is mobile but a city's borders (and thus its legal authority) are fixed. Therefore, programs that raise the marginal costs relative to the desired level of services will have a tendency to drive capital out of the city (49-50). Businesses and residents who require fewer services and desire lower taxes will relocate to rival cities where such a package exists. This leaves the more expensive city with less revenue to provide services to those who stay—who in turn are more likely to need greater services but lack the resources to pay for them. Realizing this to be the case, cities seek to maximize their efficiency relative to other cities, which means avoiding costly policies that would equalize residents' living condition (69). In short, when our

method of conceptualizing and analyzing the problem is almost purely economic, equality is sacrificed for efficiency.

A variation of the same problem occurs when cities attempt to avoid redistribution by adopting market model strategies. The logic of such programs is not unlike the logic in Peterson's thesis: If the costs and burdens of redistributive policy drive the tax base out of the city, perhaps reducing taxes and regulatory burdens in parts of the city will attract new businesses and residents. This is the impetus behind Empowerment Zones. Unfortunately, the evidence does not bear the theory out. Some businesses do locate to urban enterprise zones, but few of them appear to be new businesses, but are instead existing businesses that merely relocate. This would not be as grave a problem if the relocating businesses hired people from the surrounding distressed areas, but seldom has this been the case. The greater problem is that due to the tax breaks, these businesses contribute very little to the support of city services, yet they still require sewers, electrical service, maintained roadways, and police and fire protection. The burden of paying for these services is therefore shifted to the surrounding neighborhoods. At best, *laissez faire* methods lead to pockets of development inside a city, but those pockets afford little spillover benefit to surrounding residents who need it most (Lehmann, 1994). Once again, the problem is seen as one of economics, and once again, unqualified dedication to efficiency only compounds the problem of inequality.

There are others who approach the problem of redevelopment as a political rather than an economic issue. The emerging literature on regionalism is the best example. The goal of regionalism is to create a level of government that has unified power over an entire metropolitan region. This regional government would establish growth barriers by

restricting the spread of infrastructure beyond the regional limits, then it would seek to equalize conditions within the region by enacting tax base sharing—the transfer of resources from one municipality within the region to another (Orfield, 1988, 62-65; Rusk, 1999, 238-42). In a sense, regionalism attempts to overcome the city limits problem by extending the boundaries of government and limiting the ability of capital to escape without fleeing to expensive rural areas that lack infrastructure. There are, however, doubts as to the effectiveness of this strategy. First, lesser variations of it have existed for years through combined city county governments (Miami and Indianapolis) as well as through liberal annexation programs (Jacksonville and Houston). In none of these cases have the conditions within the region equalized (Nivola, 1999, 63-64). Second, it is not clear that the solution to the defects of one layer of government can simply be the creation of a new layer of government. All local government is subservient to the state legislature, where suburban interests have an advantage. Therefore, short of a statewide land use policy, which few states have, there is nothing blocking the state from subsidizing new infrastructure and a new wave of sprawl when wealthy interests complain. This suggests that just as the economic determinists neglect the importance of politics, regionalists and their ilk pay inadequate attention to the constraints of economics.[82]

[82] Regionalist's do offer a particularly useful point: they identify with great alacrity the problem of fractionalism among metropolitan governments created by suburbanization and scores of special purpose districts such as school districts and transportation authorities. Regionalists note that the best way to overcome this is to work at the level of state government (Rusk, 1995, 90-98). This was the strategy in case of the Michigan Urban Homestead Act.

It's the Regime, Stupid.

While accepting much of their basic logic, Clarence Stone seeks to moderate the economic determinism of theorists such as Peterson. Stone agrees that economics constrains choice, but at the same time, it is politics that plays the largest role in deciding where, within those constraints, a policy decision ends up. Even more important, politics has a reciprocal effect on economics, and therefore can serve to shape, and even expand, the economic constraints. The driving question for regime theory is "how, in a world of limited and dispersed authority, actors work together across institutional lines to produce a capacity to govern and to bring about significant results" (Stone, 1989, 8). For this reason, regime theory pays close attention to: 1. Who makes up the various coalitions involved in a particular policy decision; 2. What brings together the various actors in each coalition; 3. What sustains the various coalitions; and 4. How the coalitions help to shape policy outcomes (including not only what gets done, but sometimes more important, what does not get done).

Regime theory emerged in part as an alternative to the pluralist and elitist debate over the role of power in policymaking. At first blush, these models appear to be opposites. Elitists argue that power is concentrated in a small number of hands, generally large business interests, who use their power to control government officials and insure that policy outcomes preserve their social and economic advantage (Hunter, 1953). Thus, researchers find an inordinate bias toward the status quo and little opportunity for progressive policy alternatives (Harding, 1995). Pluralists, on the other hand, argue that power is distributed more widely (albeit not equally) throughout the society among organized interests. No single group is generally strong enough to dominate the agenda,

so several groups form temporary coalitions and compete against rival coalitions on specific issues (Dahl, 1961). However, common interests from one issue seldom carry over to the next. Therefore, as issues vary, so does the makeup of the competing coalitions. As a result, few people find themselves in the winning coalition on every issue (Dahl, 1982). Thus, there is no permanent majority, meaning there is greater opportunity for progressive outcomes (Wolfinger, 1973). This debate gave way to extensive literature that attempted to operationalize and test the models. Researchers assumed they were engaging in value free science. Whichever model best fit a given context was applied. However, the competing paradigms fell quickly into conflict: Disputes arose over contested terrain as each school argued its model best fit a particular city.

Some have pointed out that pluralists and elitists share common empirical errors regarding the nature of power (Bachrach and Baratz, 1962; Lukes, 1974). They err in treating power as if it were tangible and therefore directly observable and measurable. For this reason, they are able to personalize power; it is a possession belonging to different groups in varying amounts (Harding, 1995, 38-41). This leads us to assume power is used for the sake of control: Those who have it in greater amounts tend to control the process and in turn the actions of those who possess it in lesser amounts. In this regard, power comes to be seen as a zero sum good: as one entity gains power another must lose an equal amount of power. However, there is reason to believe that the differences between the two models have less to do with actual differences in the real world than with differences in their respective methodology (Judge, 1995, 19). Consequently, when we move from our theoretical framework to the real world, we find

that power is a more abstract and dynamic phenomenon. It is not tangible and therefore not so easy to observe, measure, and quantify in the direct sense that pluralists and elitists would have us believe. In scientific terms, the models lack external validity (Bachrach and Baratz, 1962, 949, 951). Yet this is more than a methodological issue: If the nature of power differs from the assumptions of our models, it is likely that the way power is used differs as well. Thus, there is reason to doubt that power can be used simply as a device of control. Seen in this light, the differences between pluralism and elitist theory all but disappear.

Less attention has been paid to the normative implications of the social control models. In taking note of this, we realize that policy makers may learn from the models in ways that academics do not necessarily intend. What was intended to be a value free descriptive model turns, in the hands of policy makers, into a strategy. If the policy process invites groups to compete against one another, there arises a need for a referee to determine the winners and losers at the end of the competition. Government fills this role. Once able to control the policy debate, elected officials are able to become, in the literal sense, agents of social control, framing policy in such a way as to pit interests against each other.[83] This allows for manipulation of the rules, and therefore of the political agenda, so as to favor certain groups at expense of others. That is, once in control of the agenda, elected officials may dictate outcomes without appearing to be undemocratic to the casual observer (possibly picking winners who can return favors).

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[83] Dahl argues that this is the Madisonian solution to the problem of factions (1956, 30-32, 133; 1989, 218-19). This is based on a hasty reading of *Federalist* #10 and leads to conclusions Madison would neither endorse nor recognize as his own. It has, however, taken root in contemporary democratic theory (see Parenti, 1980).

This is a point positive theorists such as Willaim H. Riker (1986) have made.[84] As a result of government assuming the role of referee, it also assumes an obligation to mitigate the zero sum nature of group competition by making side payments of select benefits to the losers.[85] However, this introduces a series of additional normative problems for democratic values related to citizenship and leadership: First, because government assumes the obligation of making side payments to the losers, it has an incentive to keep as many interests out of any given debate as possible to minimize the cost. Thus, the civic debate and the public agenda are constrained—artificially. Interests that otherwise would be articulated are not; ideas that might otherwise solve problems go unexplored.[86] Second, the process as a whole intensifies adversarial relations among groups and encourages them to engage in ledger checking. They constantly assess and reassess their number of wins and losses at the hands of government, not only in absolute terms, but also relative to rivals. Finally, the process creates greater chances that policy outcomes will be in conflict with the rights of certain groups or the public interest in general.[87]

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[84] One virtue of Riker's work is that even as he refrains from making normative applications of his conclusions, he does call attention to the possibility of doing so and invites readers to do so on their own.

[85] Stone (1989, 40) offers the example of land set aside for the historically Black college, Atlanta University, as a side payment to appease Blacks who were on the losing end of a land deal during urban renewal.

[86] Stone notes that the debate over historic preservation was artificially narrow—framed in such a way that no common ground could possibly be found first among the historic preservationists, and secondly between the preservationists and the business community. Therefore, the prospect that all property values are interrelated was never explored (Stone, 1989, 127).

[87] In Madisonian terms, the process will fail to control the effects of factions and therefore invite the problem of instability. See Chapter Two for a fuller discussion.

This is best understood by way of two examples from Stone's Atlanta research: First, the social control model allowed the enactment of policy that was not necessarily in the public interest. During the early urban renewal projects, large landowners from downtown joined forces to make sure that it was smaller landowners in the adjacent neighborhoods who were displaced, then they worked to secure the same land for expansion of the business district (Stone, 1989, 16). Thus, the wealthy enjoyed the benefits while the less well off bore the burdens. In the second example, the social control model prevented the passage of a policy that would likely have been in the public interest. Neighborhood activists and historic preservationists from across the city attempted to unite to support a major conservation program. However, when they came up against an organization of pro-development land owners—the same organization that skewed the urban renewal debate—the "preservationists failed to unify around an alternative to an investor-guided development process" (126). The reason is telling: when the proposal reached the city council, the preservationists failed to maintain a unified front, and given the nature of pluralism, when the council had to choose between a unified business community and a fragmented group of concerned citizens, it chose the former.

There is ample evidence for my supposition that academic models can influence the real world. This was, after all, the explicit intention as the 19th Century closed and the 20th began and the Progressive Movement sought to "rationalize government in order to rationalize society" (Wilson, 1989, 376).[88] The advocates of Progressivism, from philosophers such as John Dewey to politicians such as Teddy Roosevelt (and even more

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[88] I thank Richard Hula for calling this important point to my attention.

so, Woodrow Wilson who attempted to be both), sought deliberately to change the way policy is made and implemented through the application of scientific principles. With respect to local government, the movement's chief proponent was Andrew White, who argued that:

> what is most needed in regard to municipal public affairs, as in regard to public affairs generally, is the quiet, steady evolution of a knowledge of truth and of proper action in view of it. The truth, as regards city government, is simply the truth that municipal affairs are not political. (White, 1998, 126).[89]

White and his followers influenced attitudes regarding how policy should be made and implemented, and also shaped the criteria by which policy is analyzed and evaluated—stressing the importance of efficiency (Schiesl, 1977). Yet the most significant impact of the Progressives was the introduction of new institutions, including the city manager, at-large council, and professional bureaucracy, to facilitate these new public values (East, 1965).

After years of neglect, contemporary literature has once again begun to acknowledge the connection between the policy process and civic values. From the side of the practitioner, Robert Reich (1988) has called attention to the effect of "public ideas" on the policy process. The reverse, the impact of policy on citizenship has also been explored in both a theoretical treatment by Stephen Elkin (1987, 84) and a more empirical study by Helen Ingram and Anne Schneider (1993). Beyond the subfield of public policy, we also see two very different areas of political science taking up this

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[89] This is not to imply that the Progressives were a homogeneous group. Some focused on structural reforms; others on social or behavioral reforms. Some, such as Dewey, were democratic in disposition; others, such as White, were weary of democracy. The unifying theme was a belief in the ability of scientific rationalism, grounded in "big ideas" to improve the general welfare of society. For a historical treatment that is sensitive both to the diversity and unity of Progressivism, see Finegold (1995).

issue. First, Robert Axelrod (1984), a positivist, concludes his very important work--a work often held up as the epitome of rigorous science--by making recommendations for applying the lessons gleaned from his work to the real world. Second, the emerging influence of postmodern philosophy, seen most clearly in the work of Deborah Stone (1997), notes that even when researchers are not explicit about the normative implications of their work, they still exist implicitly. Tying these strains together, it seems doubtful that any step in the policy process can be value free. The values that bear on the process must come from somewhere. My contention is simply that it is plausible that after more than a generation of teaching students in government classes about pluralism, this is one likely source of those values.

This brings us to the virtue of regime theory. The regime analysis of power is scientifically more valid and robust, and it is less in tension with our normative principles. Rather than assume that government exists to referee, the social production model begins with a policy goal and then determines the kind of coalition that leaders must bring together and sustain in order to accomplish that goal. Thus, power is not wielded by some over others; it does not describe the players in the process, but is a dynamic current that describes the entire process itself. Rather than speak of "power over" something, it is more appropriate to speak of "power to do" something (Stone, 1989, 229). That is, power is not a controlling force, but a productive force. It should be noted, however, that to the casual observer, this might appear similar to social control; government still plays an important role in the process as it acts to bring the various interests together. However, under the social production model, government has an interest in bringing a greater number, and more importantly, a greater diversity of

interests into the process. More important, while government still has some control over the process, it has far less control over the outcomes, at least in the direct sense. This makes it more conducive to problem solving. Four points follow from this: First, because its focus on coalitions goes beyond "counting votes and sorting through the wants of rational egoists" it is a more valid way of describing the world (Stone, 1989, 239). Second, as a model, it is more robust in that it encompasses the best aspects of pluralism and elitism. That is, regime theory takes into account the importance of coalition behavior as does pluralism, but it also takes into account the disproportionate advantage enjoyed by business interests noted by elitists. Next, Regime theory is more explicit about its intention to be both descriptive and prescriptive (Stone, 1989, 254-58; Elkin, 1987, ix). Finally, whereas the social control model has a normative bias that is at odds with our values of liberalism and democratic republicanism, regime theory's social production model, when used as a prescriptive strategy, is more harmonious with the normative principles of modern liberalism. Therefore it is more likely to lead to outcomes that are publicly acceptable.

Operating under the social control model for decades has proven detrimental to urban areas—especially in terms of economic redevelopment. Land use is an especially delicate issue because, as Stone notes, "the value of any parcel of land is heavily influenced by uses and investment decisions on adjoining parcels" (Stone, 1989, 137). Therefore, when the city decides to spend resources on a redevelopment project, nearly all property owners want the project to raise the value of land near their own. In almost every case, business interests succeed in having the redevelopment project located

downtown.[90] Thus, we see more resources devoted to building the components of what Dennis Judd calls the "urban tourist bubble" including athletic stadiums, convention centers, and waterfronts than we see being spent on neighborhood development or the promotion of affordable housing (Judd and Fainstein, 1999).[91] In Stone's words, "housing for the non-affluent, who lack a power base, gives way to competing demands" (143). More bluntly: the poor simply lack the resources to compete under the social control model, which has had grave consequences for the American city.

Yet, we are left to wonder why *particular* interests are routinely favored over other interests. It would seem at least logically possible given the complexity of the world, the number of potential interests, and the variety of issues, that we might see some groups left off the agenda on one issue and other groups left off as the issues changed. That is, there would still be bias, but the target of bias would shift as the issue varied. This might not be ideal, but it would be less damaging to democracy than *systematic* bias, where the *same* interests are consistently left out (Elkin, 1987). However, this is not the case: Stone and others report that it is consistently the business elite who are favored over non-affluent interests.[92] This is because where government picks the winners and losers, it has an interest in making business the winners to protect its tax base, and unfortunately,

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[90] Conversely, when it comes to siting a public housing project or a freeway, it is poor neighborhoods that bear the brunt of the burden.

[91] Casual observers who restrict their visits to the tourist bubble are then led to conclude that most cities are making a comeback: they see a new stadium, a redeveloped waterfront and an occasional new restaurant or nightspot and decide that the city has been rejuvenated.

[92] Even a regime that declares its intention to promote the interests of the poor can not escape this. Such regimes generally discover the impossibility of governing without the business elite and quickly change their priorities, such as Atlanta under the Mayoralty of Andrew Young (or they simply perish out of ineffectiveness such as the Maynard Jackson regime).

policy tends to pit the concerns of business against those of progressives. This is a refinement of Peterson's argument: The nature of policy has an effect on its viability, although not necessarily in the direct linear manner that Peterson suggests. Policy is framed in such a way as to pit equality against efficiency. Large business elites are primarily interested in efficiency whereas progressives are interested in equality. The essential point: Systematic bias is the ultimate result of government picking winners and losers, a task it has accepted due to the perceived tradeoff between efficiency and equality. This leads to the most important set of questions: Why *does* policy tend to pit equality against efficiency? Is the tradeoff necessary? Can anything be done to ease the tension? These are explored in the next section.

Efficiency vs. Equality: The Necessary Tradeoff?

In support of the notion that efficiency and equality are at odds, many cite the work of Arthur Okun. According to Okun, the tension is the result of "uneasy compromises" between market economics and liberal institutions. He elaborates: "to the extent that the system succeeds, it generates an efficient economy. But that pursuit of efficiency necessarily creates inequalities. And hence, society faces a tradeoff between equality and efficiency" (Okun, 1975, 1).

The tradeoff manifests itself in many ways. For example, if we seek to promote equality too directly through a process of wealth redistribution, we encounter not only political opposition from the wealthy, but we also effect their economic behavior in ways that actually harm the poor. In Okun's example, "measures that might soak the rich so much as to destroy investment and hence impair the quality and quantity of jobs for the poor could worsen both efficiency and equality" (4). Put metaphorically, "any insistence

on carving the pie into equal slices would shrink the size of the pie" (48). On the other hand, if we seek efficiency without qualification, we create other problems for equality and rights. This is because Okun's working definition of efficiency assumes that the default bias of efficiency would lead the rich to get richer and the poor to get poorer, and his working definition of equality assumes that wealth can purchase a greater share of rights either directly or indirectly (22).

Still, the picture need not be so bleak. Okun does offer at least a hypothetical example of the way equality and efficiency could be jointly enhanced. He suggests that "techniques that improve the productivity and earnings potential of unskilled workers might benefit society with greater efficiency *and* greater equality" (4, emphasis in original). Elsewhere he offers two general strategies for easing the tension. First is what he calls "upside down economics". The idea is to raise the cost of upper marginal growth so that the rich find it less worthwhile to increase their wealth.[93] The second strategy he calls the "floor without a ceiling" approach. Here the idea is to tolerate upper marginal growth, but link it to lower marginal growth, so that if the rich desire to get richer, they incidentally raise the living standards of the poor along the way. Okun does not officially endorse one or the other of these strategies, but it would seem that the floor without a ceiling approach best reflects the hypothetical example discussed above.

Before turning to Okun's formal policy recommendations, there are two additional assumptions he makes that are worth noting. First, he denies that there is any ethical basis for capitalism, arguing that its only justification is its efficiency (64). In so doing, he rejects the labor theory of value, which he calls the marginal productivity

[93] What it really does is increase the marginal value of leisure, so rich people spend more time consuming their wealth than expanding it. See Okun, 96.

theory. That is, he denies that a person should be rewarded economically based on the amount of labor he or she contributes. His second additional assumption is that the only reason people object to redistribution is because of the inefficiency attached to it due to information, administration, and transaction costs, as well as corruption. He uses the analogy of a leaky bucket to illustrate typical redistribution schemes, and implies that if the leaks could be plugged, people would support redistribution (91-95). That being said, his recommendations for easing the tension between equality and efficiency focuses on raising the top marginal income tax rate and increasing both the estate tax and the capital gains tax.[94]

A complete criticism of Okun's assumptions is not necessary. It will suffice to reserve criticism primarily to his policy recommendations, and only as they bear on the social production model. It is difficult to see how a series of tax increases on the rich will do anything other than discourage upper marginal growth. Okun as much as admits this himself in the playful comment that "high taxes are followed by attempts of ingenious men to beat them as surely as snow is followed by little boys on sleds" (97). Nevertheless, the plan fits with the first of his strategies, inverse economics. However, it is not clear how this actually helps the poor, or how it avoids the problem Okun himself notes when admitting that an attempt to carve the pie into equal slices reduces its size. What is more, his substantive recommendations seem to betray the principles found in statements such as "if the losers can still lead a decent life, prizes for the winners in the form of swimming pools and bigger houses seem especially innocuous in terms of their social impact" (49-50) and "the thousand dollar a day lawyer need not be a grave threat if

[94] We should bear in mind that Okun wrote this in 1975 when the top marginal rate was already much higher than it is at the end of the 20th century.

adequate public defenders are available" (31). These statements are much more in line with his second strategy of linking upper marginal growth to lower marginal growth, yet on this point he abstains from any substantive recommendations. The most significant criticism of this is that none of his recommendations are likely to inspire the kind of coalitions needed for getting them passed, easing systematic bias, and encouraging social production and problem solving. This brings us back to regime theory.

Applying the Social Production Model.

Although Clarence Stone acknowledges the tension between efficiency and equality, he takes more seriously than Arthur Okun the possibility of easing that tension. This is because Stone has a different understanding of the problem both empirically and normatively. Empirically, Stone argues that "effectiveness is itself a complex phenomenon—too complex to constitute a simple tradeoff with equity" (1989, 201). Likewise, while there is clearly some relationship between economics and human behavior, Stone doubts that it is linear in the way Paul Peterson's city limits thesis assumes (164). But even more important is that Stone's empirical observations can not be divorced from his normative vision for the city. He realizes that as long as we accept the tradeoff as inevitable, leaders will continue to embrace the politics of social control: In a sense, thinking it makes it so. This means that participation will be discouraged, rather than encouraged. As a result, regimes will refrain from progressive policymaking and permit systematic bias to continue. By allowing creative alternatives to go unexplored, policymakers fail to address the problems of the city as fully as possible. Quick fixes coupled with side payments to losers continue to be preferred over long term problem solving. This serves as the basis of the two general recommendations for

applying the social production model: Promote civic engagement and frame issues effectively. This is the constructive side of regime theory.

Social production is "the capacity to assemble and use needed resources for a policy initiative" which requires bringing more interests into the process and encouraging civic engagement (1989, 227). This means arranging the process in such a way that interests who once saw each other as natural adversaries under the social control model now have incentive to talk to each other. As Stone puts it, "we should see reform as a more diffuse process of establishing an environment within which new relationships can take hold" (1999a, 4). Ideally, goodwill forms among former adversaries, but in reality, mutually recognized, long term self-interest is sufficient. This idea of civic engagement is not unlike the advice Madison offered the new republic in *Federalist* #10: "extend the sphere and take in a variety of interests." By increasing the number and the type of stakeholders politics need no longer simply pit one against the other. We transform a zero-sum game into a variable sum game, meaning that in every issue it becomes likely that no single interest wins, and no single interest loses. Instead, everyone gets some degree of benefit. As a result, the system not only benefits from an infusion of new ideas and creative alternatives, but it also abandons the need for side payments to the losers. The problem is that even though "we know that relationships of civic engagement do develop and provide a capacity for ameliorating social problems, we don't know much about the conditions under which they form or what gives them durability" (1999a, 24).

Stone identifies the framing stage of the policy process as key to bringing about those conditions (1999b, 7). In large measure this will involve framing the issue so that efficiency and equality appear to be less in tension. The implication is clear: the tension

is in large part an artifact of poor policy framing, and as a result, a given issue appeals less broadly to groups, and does so in a manner that places them in an adversarial relationship. It is unlikely that framing can remove the tension entirely, and it is doubtful that it will work in all cases, but it should go a long way toward mending the rifts that are taken for granted under the politics of social control. With this, we see another refinement of Peterson's core logic: The nature of a piece of policy does have impact on its likelihood of success. Peterson errs only in cutting short the discussion and failing to consider the ability of political discourse to shape preferences and broaden self-interest. This also refines Okun's key point: the underlying need to balance concern for equality against regard for efficiency still exists, but now the fulcrum upon which that balance is struck is politics. This means that politics must be understood less as "who gets what" and more as "the art of the possible" which requires a greater degree of subtlety and insight. In Stone's words, "effectiveness for a regime acting in the name of the whole community thus calls for broad comprehension of social change and awareness of a wide range of situations and potential consequences" (1989, 211). It is exactly this insight that guided the Michigan Urban Homestead Act.

The Changing Michigan Landscape

Economic development policy has had a controversial history in Michigan. It has also had varying degrees of success, related closely to mayoral leadership as Bryan Jones and Lynn Bachelor have demonstrated (1993). However, there has been one consistent theme: Policies claiming to enhance economic development have often been used to veil programs that contribute to segregation and disinvestment (Darden et. al, 1987). This was certainly the case with urban renewal and the first wave of public housing which first

created incentives for middle class whites to leave the city then subsidized their flight to the suburbs (Sugrue, 1996).[95] More recently, programs such as tax increment financing and quasi-privatization schemes including principle shopping districts and business improvement districts allow business interests to insulate their wealth and recapture their tax dollars for their own use. At the same time, generous tax abatements coupled with Michigan's variation of the enterprise zone, called the renaissance zone, have shifted the burden of financing municipal services away from downtown and into the neighborhoods. For all of these reasons, it is not surprising that these proposals invite a great deal of contention in the legislature, often dividing sharply on party lines, but also along racial lines. Likewise, it is not surprising that new economic development programs face increasing amounts of suspicion. Nevertheless, contention was almost nonexistent in the case of the Michigan Urban Homestead Act. As we shall see, success is owing to the shift away from the social control model and toward the social production model.

The Michigan Urban Homestead Act

Initially the plan was only to create a low- and moderate-income housing program that encouraged the rehabilitation of city owned vacant houses. However, early in the research stage it was discovered that the stock of houses available for homesteading was beyond mere disrepair; it was dilapidated. Indeed, the cost of rehabilitation would far exceed the means of low- and moderate-income families. Furthermore, in nearly every case, city owned vacant houses suffered from clouded title, creating legal barriers to conveying the property to new owners. As a result, in many cities the volume of

[95] As Kenneth T. Jackson (1985) has shown, this problem is not local to Michigan, but was the dominant trend in all of America's urban centers.

abandoned property grew to unmanageable levels.[96] Investigation revealed that the same culprit was to blame for both the structural and legal obstacles: the tax reversion process. Therefore a decision was made to connect the two issues: Reforming tax reversion would improve the supply of houses available for urban homesteading. and an urban homesteading program would offer cities a new tool for disposing of reverted property.

The tax reversion process in Michigan is governed by the General Property Tax Act.[97] According to the statute, all real property taxes are due on January 1st for the preceding year and are considered delinquent on March 1st if they are not paid. Local units of government (cities, villages, and townships) compose a delinquent tax roll, which they turn over to their county treasurer who is the chief tax collecting agent. The county treasurer immediately reimburses municipalities and all other taxing jurisdictions (school districts, transit authorities, libraries, and park systems) out of a special revolving fund, so that they need not carry delinquent taxes as debt. County treasurers capitalize the revolving funds by selling delinquent tax anticipation notes, which they pay off as they collect taxes, interest, and penalties from property owners.[98]

Two years after receiving the delinquent taxes from the local unit of government, the county treasurer holds an auction selling a lien against the property to anyone willing to pay the outstanding taxes, interest, and penalties. Whoever buys the lien then assumes

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[96] For example, officials from the City of Detroit acknowledged in testimony before the Michigan House Committee on Local Government and Urban Affairs that they had an estimated 40,000 parcels of abandoned property in 1999. This is consistent with the findings of a University of Michigan School of Public Policy study titled "Abandoned Commercial Property in Detroit" released April 25, 1998.

[97] The standard citation for the General Property Tax Act is M.C.L. 211.1. The delinquent collection process is specified in sections 55-131e. My summary is based on reading the legislation, but helpful commentaries can be found in Smith (1996) and Bogdan (1997).

primary responsibility for collecting the debt; no legal interest in the property transfers at this time. If the taxes remain unpaid a year later, the lien converts to a deed and the deed holder is entitled to a penalty of 150% of the tax value. If the penalty goes unpaid, the deed holder may seek foreclosure in the courts. The county treasurer transfers those parcels which fail to sell at the lien auction to the state Department of Treasury where they sit for another year, continuing to accrue interest and penalties.

If nobody redeems the taxes after the third year, the foreclosure process begins. The state orders a title search and attempts to notify all parties discovered to have a legal interest in the property. Within the next year, the Department of Treasury holds an administrative hearing, after which, if the taxes remain unpaid, a new title is issued in the name of the state. The Department of Treasury then transfers responsibility for all tax reverted property to the state Department of Natural Resources for final disposition. The Department of Natural Resources visits the property, assesses its value and either schedules it for auction or conveys it back to the local unit of government.[99] In rare cases the Department of Natural Resources may elect to retain the property for public use—generally only when the property is contiguous to existing state land such as a park, forest, or other recreation or conservation area. Altogether, the process could take more than five years and involve complicated tradeoffs among municipal, county, and state officials, not to mention investors from the private sector.

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[98] Interest accrues at 1.25% per month (15% APR), and several flat rate penalties attach to the tax bill at various stages in the process.

[99] The Department of Natural Resources holds eighteen real estate auctions each year. Unlike the county lien sales, these auctions convey ownership in the property, although there are generally problems clearing the title as noted below.

There are several problems associated with the tax reversion process.[100] First, by most accounts, the rights of property owners were in peril. According to the United States Supreme Court, property owners facing adversarial action for non-payment of taxes are entitled to notice and a hearing wherein they may challenge the delinquency.[101] Proper notice requires that all persons with a legal interest in the property be discovered through a complete title search and a search of other relevant documents.[102] Unfortunately, the large volume of delinquent parcels (more than 10,000 per year) requiring such treatment makes the cost of adequate discovery prohibitive. According to the Department of Treasury, the state was paying an average of $20 per parcel for title work—far below the actual cost for reliable information (in the committee hearings real estate experts testified that the typical cost for a quality title search is $150). As a result, cases arose with considerable frequency where property was foreclosed without all owners receiving notification. Each case lead to a successful legal challenge which has caused the title insurance industry to balk at all tax reverted property; for them it is

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[100] Many of these points were brought to light in testimony offered by the Hudson Institute before the Senate Committee on Economic Development and Regulatory Affairs on March 9, 1999 and before the House Committee on Local Government and Urban Affairs on March 18, 1999.

[101] See *Mennonite Board of Missions v. Adams*, 462 U.S. 791 and *Dow v. State of Michigan*, 396 Mich. 192. Note that this is not the appropriate forum for challenging the tax itself; the only challengable issue is whether the taxes are in arrears.

[102] Other appropriate records include assessment records and probate records. Michigan also draws a distinction between a primary and secondary residence, taxing the primary residence at a lower rate. In order to qualify for the rate reduction, homeowners must file an affidavit with the local treasurer. These are also useful in determining ownership interests. Michigan does not, however, require that the parties to a land contract sale file any records until the sale is complete (often several years after initiation). This creates a fairly large category of people with unrecorded interests. Since land contracts are often the instrument of sale in cases where conventional mortgages are unavailable, due to the credit or income situation of the purchaser or the age or condition of the house, there is a high concentration of these sales in older urban neighborhoods. Not coincidentally, the pattern of tax delinquency and abandonment follows.

simply a bad risk. This means that before the property can be reused, whoever receives it from the state must perform new title work and sue for quiet title in circuit court. This drains valuable resources that might otherwise be used for rehabilitation.

A second problem is that the system exacerbates the financial hardships of poor families and creates opportunities for them to be taken advantage of. A five year redemption period seems generous, but in reality, it merely extends the time for interest and penalties to accrue. By the time a $1,000 tax bill comes to the end of the process, a family would have to pay a minimum of $2,100 to avoid foreclosure. To make matters worse, the law required that if the property was more than three years delinquent, an owner would have to bring all taxes up to date, not simply pay the oldest year's taxes. This means that in the most severe cases, where a family is chronically delinquent perhaps due to a job loss or the illness or death of a wage earner, a family might have to come up with nearly ten thousand dollars to avoid foreclosure. In cases where the lien was sold at county auction, responsibility for collecting the debt shifts to private speculators. The people who purchased tax liens were seldom interested in the property itself, but only the potential of nearly doubling their money within two years.[103] When the legislature began hearings on reforming the process, a good deal of evidence was presented of lien buyers misrepresenting themselves as agents of the government, using intimidation tactics, and otherwise violating the spirit of the law at the expense of delinquent property owners.

[103] Indeed, the Michigan system was featured in television infomercials and web sites such as www.taxsales.com and www.taxforfeited.com making these very claims.

The gravest problem stems from the length of time it takes for a parcel to pass completely through the system.[104] While there are many responsible landlords in Michigan's cities, unfortunately, there are also plenty of slumlords. These people charge high rents for low quality houses, often in poor condition. In order to maximize their return, they often allow the taxes to go unpaid, knowing that it will take several years for the system to catch up with them. In the meantime, they allow the house to fall further into disrepair. Ultimately, they allow the house to revert, apparently caring little about the devastating effects on families and neighborhoods. Greater problems arise when the structure is unoccupied. Michigan's winters are cold and snowy. Five years can transform a vacant house into a pile of rubble. Aside from the structural damage, vacant houses wreck havoc on a neighborhood: They attract dumping, which is both an eyesore and harmful for the environment. Worse, these structures can provide cover for criminals and increase the risk of fires.

Abandoned houses also impose financial burdens on the community beyond lost tax revenue: Even though the procedural responsibility for these parcels has shifted to the county or to investors or to the state, the fact is that the structure itself remains in the city and in the neighborhood. If the windows are to be covered with boards in hopes of keeping vandals out, the cost is bore by the city. If the weeds are to be cut and rubbish hauled away, the cost is bore by the city. When the time comes for the structure to be

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[104] As noted above, if the lien remains in the hands of government it takes approximately five years to process. In cases where the lien is sold to a private investor, the lien converts to a deed one year after purchase from the county treasurer. This gives the investor the right, but no obligation to foreclose after the three year mark. Since few lien buyers are interested in taking title to the property, this seldom occurs. In such cases, the lien expires five years after converting to a deed—a total of eight years after the initial delinquency. In the meantime, the clouded title makes it nearly impossible to transfer the property.

demolished, that cost, too, is bore by the city. Finally, the lengthy, confusing process compounds the difficulty of assembling land for major redevelopment projects therefore discouraging reinvestment. In the words of Mark Horrigan, City Councilman from Flint, "these abandoned houses are nothing more than billboards telling people to leave." [105] Altogether, the tax reversion facilitated slumlording, imposed both social and financial costs on local government, and discouraged neighborhood reinvestment; it is the key component of a circuit of blight. For this reason, the General Property Tax Act was redrafted, the goal being to make the process shorter, simpler, and more certain.[106]

The entire process was shortened: County Treasurers would no longer hold the delinquent tax roll for two years before taking action to collect. The additional year following the lien sale was also eliminated, meaning title work begins on delinquent parcels fourteen months after delinquency. Therefore, the length of time from initial delinquency to foreclosure would now be two years and final disposal of reversions would take only an additional four to nine months. A process that used to grind on for more than five years would essentially be cut in half. No longer would the tax reversion system serve as an invitation to absentee landlords to milk property of its value while shirking the obligation to maintain their property. The circuit of blight would be disconnected.

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[105] Over several months in 1998 the House Committee on Urban Policy and Economic Development held bearings in central cities throughout the state. On November 24, 1998 it released a report summarizing the hearings. Councilman Horrigan's comments appear on page six of the report. The connection between tax reversion and blight is also made in a report issued by the Citizens Research Council of Michigan titled "Delinquent Property Taxes as an Impediment to Development in Michigan." The report is available on line at www.crcmich.org.

[106] The summary that follows is based on a reading of PA 123 of 1999 as well as a Citizens Research Council of Michigan Memorandum titled "Changes to the Property Tax Delinquency and Reversion Process in Michigan."

The new process was also to be simpler. The decision was made to reduce the number of complicated tradeoffs and the number of hands involved in the process. To accomplish this, the new reform would eliminate the county lien sale. The sale served a useful purpose in 1896 when the General Property Tax Act was first drafted and Michigan's economy was chiefly agricultural. It did give an infusion of cash to local treasuries in the first part of the 20th century. However, with the creation of county delinquent tax revolving funds in the 1970s, the lien buyer's role became obsolete. It was not even needed to reimburse the revolving funds, as collected interest and penalties took care of that. The new system would also allow the county treasurers to administer the entire process, including the title work and sale of the property—tasks that had heretofore been handled by the state Department of Treasury and the Department of Natural Resources. Fewer hands involved in the process would make it easier for taxpayers to know how to redeem their debt and preserve their ownership rights. It would also leave fewer opportunities for unscrupulous people to take advantage of others.

Finally, steps would be taken to insure that the process led to a more certain result. Over the course of the second year, collecting agents would perform a complete title search and send a series of notices to the property and all discovered interests. They would also place a notice in the local newspaper, and even visit the property serving personal notice on the occupants. If these attempts to collect the delinquent taxes went unanswered, the collecting agent would file a petition with the circuit court seeking foreclosure. This provided much needed oversight and also won the support of the title insurance industry. As long as a judge was convinced that every effort was made to collect the debt and all interested parties received notice and had an opportunity to be

heard, he or she would order foreclosure and issue a quiet title. All prior interests in the property and all other encumbrances other than utility rights of way and special assessments were canceled. The new owners would be ready to restore the property to productive use immediately.

Coupled with the new tax reversion process was a statewide urban homestead program.[107] This would be entirely new to Michigan. The program can be administered either by a local non-profit agency or by a department inside the municipal government. Whoever administers the program is responsible for screening eligible families and monitoring their progress during the homestead period. Eligibility requirements called for families to be below median income, have at least one adult family member employed, and all children in the household attending school. The head of the household also must have no felony convictions for the previous five years and demonstrate that he or she is drug free.[108] Once an eligible family is coupled with an available house, the homestead period begins. The family must continue to meet all eligibility requirements, perform all necessary repairs to the satisfaction of the administrator, and pay a modest rent determined by the administrator for five years. The rent is used to pay administrative costs of the program and is also pooled with other money to create a loan fund out of which homesteaders may borrow to aid in their repairs.[109] At the end of the homestead

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[107] This summary is based on a reading of PA127 of 1999, which created the new program, along with testimony before the Senate Committee on Economic Development and Regulatory Affairs on March 2, 1999.

[108] These requirements were by far the most contentious of the entire package. This was particularly evident in the debates in committee and on the floor of the Michigan legislature. Some members took offense to the requirements; others wanted them to be even tougher. In the end, a compromise was reached and only one Senator appears to have opposed the legislation based on the requirements.

[109] The interest rate on these loans is capped, not to exceed the rate for Federal Housing Administration home improvement loans under Title I of the National Housing Act.

period, the family takes clear title to the house for the cost of one dollar. The family is free to continue living in the house, or it may sell the house at any time following transfer, retaining the entire resale profit (under the assumption that whatever value exists in the house was created by the family).

From Social Control to Social Production.

The politics of social control thwarted previous attempts at tax reversion reform.[110] Legislative records reveal that in every case the approach was similar: A proposal was offered and interest groups would form coalitions either supporting or opposing the plan. The principal stakeholders would be the Michigan Association of County Treasurers on one side and the Michigan Tax Certificate Association (an organization of people who purchase tax liens at the county sales) on the other side. The Treasurers would argue that the county lien sale was obsolete and brought unnecessary administrative burdens. The Tax Certificate Association would retort that they did a better job collecting debt than treasurers did. They also cast themselves as family businesses and argued that the service they provided was similar to privatization—which appealed especially to the Republicans. There was no serious discussion of shortening the process or of correcting the title problems, and so when community groups, affordable housing advocates and good government organizations tried to weigh in, there was little room for their voices. In the end, government, in the form of the legislative

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[110] In 1990 the Michigan House considered a bill (HB4670) that would have slightly shortened the process. In 1993 the legislature enacted a measure designed to accelerate the foreclosure of abandoned residential property, but it required that all taxing units forego reimbursement from the county revolving fund, therefore it has never been used. In 1997 three bills were introduced related to tax reversion: HB5353, HB5354, and SB791. According to Scott Schrager, the Senior Legislative Director for the Michigan Municipal League and a former staff member of the Michigan House, the issue of tax reversion was also taken up several times in the 70s and 80s all without consequence.

committee, would choose the winners and losers, and every time it chose to preserve the status quo.

The 1999 proposal was different. The issue was framed much more broadly, and therefore a greater variety of interest groups entered the debate. Yet, this introduced new challenges as each interest group weighed in with particular concerns. The Michigan Association of Realtors and the Michigan Home Builders expressed fear that property rights might be trampled in the rush to foreclose on delinquent owners. Anti-poverty groups such as the Michigan Poverty Law Center and Michigan Legal Services worried that shortening the process might jeopardize the tenancy of low-income homeowners and displace renters whose landlords were delinquent. The Michigan Association of County Treasurers along with the Michigan Association of Counties feared that they would incur greater liability as their role in the process increased. They also noted that the improved title search, notification, and hearing requirements would be costly and cited the Headlee Amendment to the Michigan Constitution, which forbade the state from imposing unfunded mandates on local units of government.[111] Members of the private sector, specifically the Michigan Tax Certificate Association argued furiously that the new legislation would eliminate their livelihood and drive business out of Michigan, turning a private sector function over to bigger government. Finally, the Michigan Environmental Action Council called for caution noting that a fair amount of abandoned commercial and industrial property suffered from contamination. The fear was that releasing it to a new owner without a plan for cleanup would hasten another wave of abandonment. Attempting to draft legislation that addressed each of these concerns would not be easy.

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[111] Michigan Constitution, Article IX, Section 25.

Faced with competing interests, the managers of the issue faced two options: They could revert to the politics of social control, or they could engage in the politics of social production.

The most important decision facilitating social production came prior to any legislative action. In October 1997 the Engler administration and state Senator Bill Schuette invited the Hudson Institute, a national think tank, to help develop an urban homeownership strategy. Hudson Institute would begin by conducting a year long study of the issue. Members of the Hudson team would also assist in drafting the legislation and play an active role in the ensuing debates. This is significant, for as regime theorists argue, social production requires that the policy process stimulate civic engagement by getting a greater diversity of interests involved. To this end, Stone notes that "an institutionalized policy research capacity independent of the governing coalition" can be quite useful (Stone, 1989, 149). While Hudson Institute was an invited guest to the proceedings, it was entirely funded by private dollars, giving it the needed independence.

During the study phase, members of the Hudson Institute research team met with people in several of Michigan's core cities. They met with elected officials and local administrators, hearing first hand about the policy challenges to homeownership and neighborhood redevelopment. They also spoke with business leaders where they learned of the burden tax reversion imposed for land assembly. Finally, they toured neighborhoods and spoke with civic organizations and families about the devastating effect abandoned houses have on property values, not to mention morale. Through such extensive contact, the Hudson Institute researchers identified many interests who had not been part of the process in the past. This proved very useful during the policy framing

phase as it encouraged all involved to understand the issue in broader terms than it had been before. For the first time, tax reversion would not simply be about collecting revenue, but rather it would be connected to the larger problem of abandoned property, land assembly, and urban blight.

Ultimately this allowed Hudson Institute to keep the debate moving in a productive direction. Many groups had met individually with Hudson Institute, but few had spoken directly to each other. During markup sessions and committee hearings the legislature relied on Hudson Institute to act as a conduit, bringing groups together and fostering a cooperative atmosphere. When disagreements arose, they gave top priority to getting the interests to talk with each other. In some cases this helped to shape preferences—led to compromises that settled the disagreement.[112] Those concerned with the rights of both property owners and poor families realized that the dangers were far greater under the old system than the new system. Both agreed in the end that the key to protecting families, wealthy and poor alike, is not giving them a long time to pay the debt (and in turn accrue interest) but rather to make the system as accessible as possible.[113] In

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[112] In this sense the interest groups represented various facets of public opinion which were refined through civil debate. What emerged from the process was not everything the majority might initially have wanted, but everything that did emerge was acceptable to a substantial majority and not destructive to the minority. This seems to be what the founders had in mind. It is also what interests researchers in the area of deliberative democracy. On this point see especially Bessette, 1980. For a recent discussion of the idea that this system leads to policy outcomes that are seldom outstanding but generally acceptable see Mueller, 1999.

[113] As evidence that a shorter process was not incompatible with a fair process, it was noted that under the new legislation the owner of a parcel facing foreclosure for a $1,000 tax debt would need only pay $1,365 to avoid foreclosure whereas he or she would have to pay more than $2,100 under the unreformed system. It was also discovered that existing law (M.C.L. 211.7u) allowed taxing authorities to reduce or even waive property taxes in cases of extreme hardship. All parties agreed that it would be better to use this option than to slow down the collection process for all delinquent parcels for the sake of a few hardship cases.

other cases, where a change in the legislation could not be avoided, Hudson Institute helped to make the change in a way that satisfied the concerned interest, remained consistent with the policy objectives, and did not give way to new concerns from another interest. This required a great deal of communication, and an even greater deal of subtlety, but in the end organizations that had been fierce opponents in the past found themselves working toward a common goal.

At all times it was paramount that the debate not decay into a quarrel over efficiency versus equality. Hudson Institute and the legislative sponsors worked to keep the two concepts linked. They argued that treasurers would be able to collect taxes more efficiently, but also that getting property back into productive use was the most efficient way to have it produce tax revenue again. At the same time, they reminded local activists that legislation provides neighborhood leaders and local development officials a new tool to preserve value in distressed areas and promote homeownership among people who have been traditionally left out of the American dream. In this regard, the legislation will improve the living conditions of those most in need—that is, it would promote equality. Real estate organizations were quick to note that this also stimulated the marketability of urban neighborhoods, making more business for their members. Finally, those who feared that ending the county lien sales would destroy business opportunity were disproved: In fact, investment in tax debt was still possible through the purchase of delinquent tax anticipation notes, issued by each of the counties every year, paying a generous rate, and backed by the full faith and credit of the government. Furthermore, investors were still free to approach individual taxpayers with an offer to extend personal credit to cover tax debt. Finally, as the legislation was coming up for a committee vote,

there was evidence that the reformed system would actually *stimulate new business* as vendors offered services to counties to assist in the title work and notification process required for due diligence. By the time the legislation arrived on the floor of the House and Senate, it was nearly impossible to find anyone who did not agree that the hazards were greater under the unreformed law than they would be under the new version.

The shift from social control to social production was successful. By the end of the committee hearings every group that had been involved in the process with the exception of the lien buyers had endorsed the legislation. This translated to legislative success. The main tax reversion bill passed the House on June 1, 1999 by a margin of 101-7. It unanimously passed the Senate on June 9, 1999. The primary urban homestead bill passed the House on June 10, 1999 with an 82-17 vote, and it passed the Senate on June 9, 1999 with only one dissenting vote. In the end consensus emerged because the legislation followed the strategy Arthur Okun outlined but then neglected: it ties upper marginal growth to lower marginal growth in that wealthy developers who want access to land for major projects became advocates for a process that also enhances neighborhood redevelopment along the way—this is the true idea of creating a floor without a ceiling.

Conclusion

By applying the lessons of regime theory and engaging in social production, the Michigan Urban Homestead Act could serve as the starting point for future cooperation in the state. Likewise, it serves as an example for future policy making in state houses across the country. This will be particularly useful as the states assume greater responsibility for their destiny in the era of devolution. However, this case study suggests a few points future researchers should bear in mind: First, social production is

not the most expedient way to make policy. The Michigan Urban Homestead Act took nearly three years from its initial conceptualization to the day Governor Engler signed the legislation. Second, social production is not a guaranteed solution. As the case study illustrates, the process is fragile and constantly subject to breakdown. Success requires that whoever manages the process act with delicacy, a sense of timing, leadership, and patience. One ought to have a keen sense of economics and politics, but also of human nature more generally.

What weighs heavily in favor of regime theory is the fact that it fits well into the liberal origins of the republic. As we saw in the Michigan example, there was no attempt to change human nature by making people act on anything other than self-interest. However, regime theory takes on a more sophisticated understanding of self-interest. It realizes that self-interest can be narrow or broad, depending on the context. When political interests are threatened and pit against each other as they have been under the social control model, they have a tendency to be sharper: people tend to look out for themselves in a narrow or immediate sense. They engage in self-preservationist behavior. On the other hand, when placed in a less adversarial forum, it is possible, through civic engagement and democratic discourse to have groups recognize mutual interests—which are broader and more long term. Consequently, interests let down their defenses slightly and find ways to cooperate. In sum, regime theory encourages exactly what Alexis de Tocqueville had in mind when he spoke of self-interest properly understood.

In the end, a shift away from social control and toward social production might not change the fact that we are more likely to see non-cooperation than cooperation, but it

does suggest that we might increase the likelihood of bringing about cooperation. This is most likely to happen if future research attempts to ground regime theory even more directly in a study of human nature—preferably one that takes into account the normative framework of the liberal regime and the nature of the city in a commercial republic.

CHAPTER SIX

Anatomy of the Crisis: The Consequences of Urban America's Departure from Liberalism

We have seen so far that systematic bias poses the ultimate threat of instability, or, to a lesser degree, it poses the danger that policy will be less effective in solving the problem it was designed to address. From James Madison we have learned the importance of managing self-interest so that stable liberal politics is possible. This, we saw, requires two important conditions: self-interest must be broad rather than narrow and citizens must interact in a cohesive, diverse public forum. From Locke we learned that the best way to keep self-interest broad is to extend people's horizon of security, which is best accomplished through liberal property laws. Liberal property laws allow people to unlock the productive capacity of the earth, which increases both the quantity of goods as well as the quality of goods. Even if these goods are not equally distributed, the very existence of property and the commercial economy will create external goods that spill over to benefit everyone. This requires careful and very subtle management so that externalities are maximized. These ideas serve as the normative foundation of the liberal regime.

Unfortunately, we have also seen that over time, we have departed from the ideas of the liberal regime. Pragmatism introduced new ideas into American culture. Ideas have consequences, and in the case of Pragmatism, the ideas resulted in a new strategy for politics—a strategy not merely described, but also prescribed by pluralism. Because politics matters, the politics of pluralism, rooted in ideas that are rival to liberalism resulted in a politics that is hostile to liberalism. In urban America we see the departure

from the liberal foundation when we consider the changes in institutional design that followed the Progressive Movement as well as the policies these institutions embraced.

Bosses and Bureaucrats: A Reconsideration of Urban Institutions.

With successive waves of immigration, the American population rose late in the Nineteenth Century and shifted away from the farm and toward the city. The influx of people, many of whom did not speak English, and few of whom had experience with participatory democracy, gave rise to the need for an intermediary institution. This marked the birth of the machine.

The machine was not only an intermediary between the people and government, but also between the market and government. Thus, the machine was able to coordinate what each part of the city had to offer with what each needed in return: The people needed jobs and services. In return they offered the votes needed to gain and maintain office. The market needed assistance gaining public contracts and accommodations such as licenses and permits. In return it had money to offer. Politicians needed both the people's votes and the market's money. In return they were able to award public contracts and place people in thousands of city jobs. However, each facet of the city had to work through the machine to get what it needed. By preventing citizens, politicians, and businesses from directly exchanging goods and services, the machine placed itself in a powerful position.

The machine has had its critics since its inception. It continues to have critics today. Still, this peculiar institution is not without its defenders, who note that the machine served a beneficial function by helping to integrate the diverse citizenry into a common system. The machine existed for a very narrow purpose: maintaining political

stability and turning money and votes into power. Since at least the second of these goals could be achieved by any number of means, some of them respecting natural right and some of them not respecting natural right, the machine is ultimately in fundamental tension with the Madisonian idea of liberalism. However, the bosses and ward operatives took such a very broad view of how best to accomplish the first part of their mission, maintaining political stability, that even though it was probably the secondary of the goals (or more properly, it was seen as a necessity for maintaining power) the machine did ultimately attempt to serve the needs of nearly everyone in the city (even if unequally). That is, bosses took a broad view of the best way of accomplishing their narrow mission. In this regard, the machine was at least inadvertently likely to make policy decisions that appear Madisonian.

Nevertheless, steeped in the reductionist logic of pragmatism, some came to see the machine as the source of urban social problems. Reformers attributed poverty, crime, and even problems such as alcoholism on inefficiency—and they blamed the inefficiency on the political machine. Reformers argued that contracts were awarded based on bribes to the machine rather than the quality of a company's work or its ability to deliver goods and services on time and under budget. Reformers also argued that city jobs were based on rewards for loyal voters and their families, meaning that people were placed without regard for competence. In sum, the reformers concluded that the machine's corruption and its willingness to allocate resources based on political reward and punishment inhibited the city's ability to deliver quality services and respond to citizens' problems. As a corrective, reformers believed that the relationship that gave the machine its power should be dismantled: politics should be separated from administration. For this reason,

reformers sought to change the way the city operated administratively, but in order to accomplish this, it had to change the way the city operated politically and institutionally.

Reformers had an ambitious agenda. First, they initiated ballot reform, insisting that candidates be selected through open primaries rather than back room deals. Second, they sought to eliminate the use of public jobs as patronage. Reformers insisted that the key to separating administration from politics was a professional bureaucracy, where personnel were hired based on merit and placed in offices based on their particular skills and areas of expertise. The professional bureaucracy would then address problems with efficiency, allocating the city's resources based on economic analysis rather than political expedience. The city, in short, would be run like a business. Institutionally they recommended the manager over the mayor who, like any chief executive officer, would be held accountable to the "shareholders" in the electorate.

In retrospect, we might cast blame on the Reform Movement for introducing the idea of "responsive" government in the first place. Reading the *Federalist Papers*, it does not appear that the founders intended that government be responsive in the direct and literal sense. Indeed, with some qualifications they might have preferred the more spontaneous responsiveness of the machine to the rigid and formulaic responsiveness of the reform bureaucracy. If this is true then the very idea of "responsive" government does damage to the liberal idea and corrupts the moral calculus of liberal citizens. It is worth noting that with Reform government American politics came to focus not simply on *organized interests* but on *interest groups*. Without the machine to mediate, and with a new sense of responsiveness, groups organized more formally than in the past to make demands on government. Also, interest groups were no longer geographic based—rooted

in a particular neighborhood—rather they became identity based—rooted in race or class. Government, in return, was less able to coordinate those groups in the manner that machine bosses and captains could. As a result, it abandoned the machine tactics of subtle control, and took a more direct control, weighing the claims of competing groups against each other, ultimately choosing the winners and the losers. Thus was born the conditions that would be institutionalized as pluralist politics. From the regime perspective, then, neither machine nor reform government has proven adequate for coalition politics. Consequently, both are examples of the politics of social control. The main difference is that under machine government the agent of social control is the party boss and the precinct captain whereas under reform government, the agent of control is the elected official and the bureaucrat.

Yet the greatest trouble comes when bureaucratic Reform government attempts to replicate the responsiveness of the machine. The machine, being an informal organization, was able to appear spontaneous (even if it was in reality very strategic). The machine was able to use creative tactics to mollify citizens. If citizens required recreation, the machine could organize a softball tournament. If they required entertainment, the machine could organize a glee club or community theatre. If there was a fire, the machine could respond with supplies and emergency shelter faster than the government by simply calling in favors from local businesses. In short, it was able to promote problem solving indirectly. The government, being based on principles of efficiency, and lacking the ability to amuse citizens with bread and circuses, was left to address problems in a more dangerous way: directly. Because they used using tactics that sharpened the self-interest of citizens, undermining the conditions necessary for

cooperation, government ended up assuming greater responsibility at exactly the wrong time and in the wrong way. It was left without the benefit of mediating non-governmental institutions such as the machine, and dealing with a citizenry whose expectations were greater than ever and ability to compromise weaker than ever.

As a result, government did what any pragmatist would: it divided the large problems up into smaller, more manageable "issues" and divided the citizens up into smaller more manageable "client groups".[114] Then it crafted policy that addressed each narrow issue and appealed to each specific client. This coincides with the development of pluralist models in political science, as discussed in Chapter One.[115] What remains to be seen is the way this form of policy making actually effected the form of the public sphere. As will be shown below, the policy taken up by the "responsive" government brought the break with liberalism to completion by weakening the two conditions Madison considered necessary. That is, Reform government adopted policies that fractured the public sphere and sharpened citizens' self-interest. In this regard, the "urban crisis" as it has come to be called in the literature can best be understood by examining those policies made as government sought to replace the bread and circuses of the machine with social policy of its own.

Birds of a Feather: Welfare State and Market Model Redevelopment Programs

Government has taken two general strategies in crafting social policy. First, under the broad heading of the welfare state, government sought to create a safety net.

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[114] The machine would never introduce issues into politics. See above, page 136, note 104.

[115] Thus, the elements of pluralism were existent when the model was developed. What the founders of pluralism did not made clear was the relative novelty of these elements—and the departure from liberalism that their presence marked.

The intention was to establish a minimum standard of living to which every person was entitled. The logic was to use government power to redistribute wealth, assuming that as aggregate income grew to a level sufficient to guarantee a decent standard of living, the conditions of the city would improve. The problem was that the market, left to its own devices, would not accomplish such a task. For this reason, government raised taxes on the wealthy, with the intention of spending the money on social programs that would accomplish redistribution. Second, largely in response to what was perceived as the failure of the welfare state, government has initiated a set of policies that fall under the general heading of the market model. The logic holds that the best way to improve people's aggregate welfare is to free the market from regulatory policy and tax burdens. As the economy grows, the benefits will trickle down and improve the living conditions of the lower half of the wealth distribution. From this perspective, these two policy directions appear to be in diametric opposition. However, as will be argued, from a regime perspective, there is very little difference.

The Welfare State

During the era of the welfare state, government sought to address social problems directly through public policy. Specifically, government developed programs for public housing, urban renewal, single-family housing, and transportation. Yet the policies enacted in this era, developed in the piecemeal fashion of pragmatism and enacted through pluralist strategy suffered in two important ways—two ways not immediately apparent if we simply analyze the economics of the program, but more obvious from the regime perspective. First, by narrowly targeting specific client groups, and by directly seeking to regulate property, the policies had the effect of narrowing self-interest.

Second, parts of the program ended up undermining other parts of the program. The two problems are related: The reason is that while the welfare state initially seems to be a set of policies intended specifically for the poor, resistance to these policies prompted those in control to redesign the program so that it offered something for everyone. In doing so, certain aspects of the program ended up undermining the intentions of other aspects.

Government's experiment with public housing began with the Housing Act of 1938. This was the part of the welfare state most explicitly aimed at the poor. The idea was to offer a safe, affordable alternative to the slums and tenements that activists sympathetic to the Progressive Movement had called to the nation's attention.[116] This housing of last resort, as it was considered, was also intended to be a temporary place where families would stay only long enough to establish themselves economically. Once established, they would vacate the project, move into market rate housing, and leave behind the public housing unit for the next family in need.

However, there were several problems not accounted for in the original design of public housing programs. First, they did not account for the work disincentive caused by the fear that a family might too quickly make too much money to qualify for public housing, but not yet make enough to afford market rate housing. Second, they did not account for the negative impact on surrounding neighborhoods. Homeowners in nearby areas feared that if a public housing project were located too close, it would adversely affect their own property value. That is, out of fear for their property—the source of a person's security—many families took up the cause of "Not In My Backyard" or

[116] The most powerful account of tenement life is Jacob A. Riis's photographic essays *How the Other Half Lives* (1971) originally published in 1890, near the beginning of the Reform Movement and almost 40 years before the Housing Act of 1938.

NIMBYism. Finally, they did not account for the social damage created simply by concentrating poverty and segregating it from the rest of the city.

As suggested above, it would be in error to assume the welfare state meant welfare exclusively for the poor. The rich had a welfare program of their own. This was the force behind urban renewal. Redevelopment of the city was encumbered by the difficulty in assembling the requisite amount of land for a large development and also by the cost of land clearance—not to mention the higher tax on the property. Newly developing suburbs offered open space and low taxes. Thus, the cost of construction in the city compared to the cost of construction in the suburb made it unlikely that new development would occur in the city. If cities were to compete with their surrounding suburbs, something had to be done.

Under the Renewal program the federal government appropriated funds to local renewal corporations (established by state enabling legislation). Initial funds were used to aid in land acquisition through the power of eminent domain and site clearing. Then state, local, and private resources were to be used to redevelop the property. Many renewal sites were residential areas—often residential areas with high concentrations of poor and minority residents. Renewal corporations preferred to clear the homes and replace them with higher rent uses such as commercial property like office high rises. Yet, renewal assumed that the only reason the city was losing investment was because of the difficulty in land assembly; it did not consider the negative impact of taxes and regulatory policy. Nor did it consider the social challenges related to race. Consequently, it did not alter the political and economic variables that made the suburbs attractive to investment.

The net effect of urban renewal was threefold. First, it resulted in a significant loss of houses in the central city, since many of the units were not replaced. Second, it helped to continue the economic and racial segregation between city and suburb and also within the city itself since those who were displaced by renewal went one of two ways: If they had some assets and could secure a mortgage (often assisted by the federal government as discussed below) they moved out of the city. If they had no assets, they ended up in public housing. Also, urban renewal effected the city in a startling way: after clearing large tracts of land, but failing to attract new development, urban renewal helped to send business and industry to the suburbs and leave huge fields of disinvestment in the central city. Finally, this massive seizure of private property likely created grave insecurity among residents—which, if the analysis of Locke in Chapter Three is correct, means the policy reduced citizens' horizon of security and narrowed their self-interest; it gave them reason to take a defensive posture, seeing government—and in effect each other—as rivals. Thus, the joint effect of public housing and urban renewal was a segregation more severe than anything that has existed heretofore.

These programs, taken up by a government intoxicated with reform principles and pragmatic intentions, come out of the pluralist strategy. They were crafted by a careful manipulation of interests, in the manner discussed in Chapter Four, such that interests were pitted against each other, with government choosing winners and losers. This means that government also assumed the obligation of making side payments to the losers. In this case, the side payments came in the form of subsidized mortgages through the Federal Housing Administration (FHA) and public investment in extending infrastructure into the rural fringes surrounding the cities, most prominently through the

interstate system. These side payments had the effect of undermining the goals of the original programs.

The side payments resulting from urban renewal include new programs in the area of transportation and single family housing. The new transportation networks—particularly the system of interstate expressways had three effects. First, they disrupted many neighborhoods in the central city and continued the assault on private property begun with urban renewal. Second, they were often used to create buffers between public housing projects and nearby neighborhoods, thereby further segregating the public housing projects. Finally, the expressways made it much more convenient to move out of the city for those with the means to do so. At the same time the government crafted two major policy programs effecting single family housing. First, the government, under the auspices of the FHA lead the way in the creation of the thirty year mortgage. This spread the cost of a home over enough time that the monthly payments were manageable to middle class families. Also, the FHA began insuring mortgages so that banks were more willing to lend money to families that would otherwise have been considered a bad risk. However, they were only willing to secure mortgages for houses located in "marketable" neighborhoods, which excluded neighborhoods with high proportions of minorities and preferred neighborhoods outside the city altogether (a process called redlining). The second policy decision was to use the tax code to subsidize homeownership by allowing families to deduct mortgage interest from their annual income taxes.[117] Together these

[117] Other areas of tax policy create the incentive to build new houses over the purchase of previously owned houses. Families can avoid paying a capital gains tax on a home sale only by reinvesting the proceeds of a sale in the purchase of a house of greater value. However, the reality of housing markets means that in seeking a house of greater value people will prefer new construction. This also means they will tend to locate their new

programs made it economically viable to leave the city—which people who had witnessed the divisive politics of renewal and sharpened their self-interest perceiving greater threats to their private property were now inclined to do. In sum, transportation and single family housing policy constituted welfare for the middle class. Unlike the welfare for the rich and poor in the renewal and public housing examples, this program relocated most of its clients outside the city altogether. It was a public subsidy for the fragmentation of metropolitan America.

The Market Model.

More recently, urban areas have followed the trend begun at the national level to attract reinvestment by lowering taxes and easing regulatory burdens. These so-called market model tools are often seen as dramatic departures from the programs of the welfare state. Certainly from the point of view of the economist they look different. More importantly, one who views the city through the lens of pluralism would also see the market model as a very different approach. After all, such policies appear to benefit a different category of interests and so it makes sense to conclude that they signify a different answer to the question of who governs. However, if we examine the specific policies more closely, and through the lens of regime theory, we reach a more startling conclusion: There is very little difference in regime terms between the policies of the welfare state and those of the market model.

One such tool is the use of Tax Increment Financing (TIF). Consider a business located in the city, with a facility that is inadequate either because it is too small, in disrepair due to age, or simply lacking in the amenities available in a newer facility. That

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houses even further away from the central city where cheap land is available. Thus, the capital gains tax creates an incentive for greater urban fragmentation.

business owner faces a difficult choice: She may reinvest in the existing property by expanding the facility or making other capital improvements. Or she may relocate her business to a different facility altogether. The economic calculation bodes poorly for the inner city because capital improvements will bring reassessment of the property and higher taxes. On the other hand, the same marginal investment would yield a better return if she purchased undeveloped land outside the city where property taxes are generally lower. Tax incriminate financing is designed to overcoming this problem. The plan allows businesses to recapture the increased tax.[118]

Generally, tax increment financing is available only to businesses within a predetermined district. Businesses outside the TIF district are not eligible to recapture the incremental increases in taxes due to capital improvements. An added feature is that TIF districts are governed by a TIF board. Businesses within the TIF district must apply and be approved by the board before making any improvements eligible for recapture. Often TIF boards have the authority to sell bonds to finance the improvements. The funds raised through the bond issue are then dispersed to businesses proportionate to their share of the anticipated TIF rebate over a set number of years. These funds are then used to finance the capital improvements. That is, once a business is approved for, say, ten years of tax increment financing, it may be able to receive its entire subsidy in the form of a loan guaranteed by the public credit.[119]

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[118] Tax increment financing is akin to the more general tax abatement. Abatements, however, are not used to retain existing business, but to attract new business to the city.
[119] Some states, such as Michigan, also allow the use of TIF for special purposes beyond capital improvements. A good example is the Brownfield Redevelopment District, which allows qualified facilities to recapture nearly all of their taxes provided the money is used to clean up a contaminated site.

This is a less noticeable way of accomplishing what may be less politically tenable had the property owner paid the full value of her tax and then received a direct subsidy from the city as a general appropriation. However, if understood from this perspective, the reality is more clear: the foregone tax revenue is competing with other public expenditures for such goods as police and fire service, infrastructure maintenance and repair, and public health. Consequently, the cost of these services is shifted to residents, thereby driving up the cost of living in the city relative to the suburbs.

The hallmark of the market model is the enterprise zone. There are various programs that operate on the logic of the enterprise zone, including the federally run Empowerment Zone/Enterprise Community (EZ/EC) program and various state run programs such as Michigan's Renaissance Zone program. In this program both businesses and residents of designated portions of the city receive abatements on nearly all state and local taxes. The assumption is that by lowering the marginal cost of living and doing business these portions of the city will be able to compete with the suburbs for residents and entrepreneurs.

Analyses of these programs are mixed. Some suggest that they are attracting new businesses resulting in thousands of jobs that would otherwise be located in the suburbs and beyond the reach of inner city residents. Others are more critical, arguing that the businesses that locate inside an enterprise zone simply come from areas within the city but outside the zone. Thus, the zone does not really lead to new business, but rather it merely invites a relocating of existing business. Consequently, there is very little net increase in jobs or capital as a result of the subsidies. Furthermore, the programs do little to prevent the greater problem that because the owners generally do not reside in the city,

the actual profit these businesses generate still ends up beyond the city limits. This is the situation warned against based on the analysis of Locke: Too little regulation in the market allows the wealthy to isolate themselves economically and shut off the flow of beneficial externalities to the greater community. In the meantime, businesses continue to use city infrastructure and require services such as police and fire protection, while paying less in taxes. Because the services still must be paid for, the effect is similar to that seen in the Tax Increment Financing scheme: it shifts the burden to residents, who are least equipped to foot the bill.

Another market tactic is privatization either through direct effort such as a transit system or less direct through putting certain services up for competitive bid and subjecting the contract to periodic renewal, such as a city garbage collection service.[120] The benefit is that it lowers the aggregate cost of the service. The problem with privatization is that it creates a fee for service economy. This eliminates the marginal discount for scale afforded to public services, thus raising the marginal costs to each consumer.[121] This also announces to the public that certain services are no longer considered fundamental and will only be available to those who can afford the higher cost. The logic therefore must assume that the privatized service exclusively benefits each particular user—that is, a person's use of that service benefits him alone, and his

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[120] See Goldsmith and Norquist.

[121] Consider two scenarios for a city of 1,000,000 residents: In the first, the public purchases a service with tax dollars. The service costs $1,000,000 per year, and is available to all residents, translating to a marginal cost of one dollar per resident per year. In the second scenario, the service is privatized, and therefore available on a fee for service basis only. The privatized service costs $500,000 per year, but now only 100,000 residents are able to pay for it, translating to a marginal cost of five dollars per user per year. In the aggregate, the cost is lower in the privatized scenario, but in terms of marginal cost, it is five times more expensive and beyond the means of most citizens.

inability to get that service harms him alone, so there is no public damage if the poor go without the service. This becomes deeply flawed when applied to services such as garbage collection. If one neighbor refuses to purchase a trash removal service, the negative effects on sanitation, the environment, and aesthetics will spill over and damage the neighbor who does purchase such a service.

Closely related to the concept of privatization is the quasi-privatized idea of the Business Improvement District (BID). The BID exists to allow a group of businesses within a defined area to assess extra taxes on themselves for the purpose of purchasing additional services beyond those offered by the city.[122] These include hiring custodial services to empty litter receptacles and sweep the walkways more frequently than municipal workers, purchasing additional streetlights (or even more decorative fixtures such as gas lights) to augment the lighting supplied by the city, and even contracting with private security to patrol the BID as an augmentation to the municipal police. The willingness to pay for the extra services appears benign enough, but the problem is that they are only willing to pay for services as long as the benefits are restricted to themselves. This defeats the very idea of a public. It creates privileged enclaves within the city that essentially buy their way out of the public at large, leaving the rest of the city to settle for the mediocre services available to them. Since the businesses that form BIDs are often the most profitable in the city, they would pay the bulk of a general assessment to improve services in the city as a whole. Therefore, the BID is divisive as it allows a

[122] The most popular type of BID is the Principle Shopping District (PSD). However, in most enabling legislation, a city is allowed to designate only one area as a PSD. Therefore if any other areas within the city wish to take advantage of the same opportunity, they must form the more generic BID.

group of elites to agree to almost the same increase, but only on the condition that the money benefit them exclusively and not the city as a whole.

These programs all share in common that they continue to fragment the city, either by subsidizing the exodus which leads to suburbanization—the development of numerous competing municipalities—or by marking off certain particular areas of the city and treating them different with regard to policy. There is little difference between the FHA's use of redlining to declare certain neighborhoods unmarketable, urban renewal's declaring certain business districts within a city unmarketable, or the enterprise zone's similar treatment of both residential and commercial areas simultaneously. These programs also share in common that they too directly tamper with private property. As we saw in Chapters Three and Four, property must be regulated carefully, for too direct a control will invite resistance. Two undesirable conditions result: restricting access to the market for some (so that they do not see the benefit of a property-based society) or allowing others to horde up property without the important stipulation that they not isolate themselves from the rest of society (which is too often the result of laissez-faire treatment). The result is the same: the self interest of both rich and poor is narrowed which, as we saw in the discussion of Madison, renders regime type cooperation unlikely if not impossible. Couple the fact that imprudent policy (or policy that was made through an imprudent process) has sharpened citizens' self-interest with the fact that fragmentation has turned what was once a common, diverse public sphere into numerous, more homogenous sub-spheres, and we experience the condition Tocqueville warned against: Citizens have come to see their well being as independent of the welfare of others. The critical point is that this moral condition did not develop independently: it

was in large part the unintended result of policy decisions made over the past fifty years—policy decisions reached through a process that was shifted away from the original normative foundation and set atop a different foundation. In this sense, resistance to policy objectives stems from a failure to preserve the liberal principles upon which the regime was founded. Urban crisis, then, is not simply economic or political in nature, but rather it is moral in nature.

Conclusion

In the course of this study, several lessons have revealed themselves. One is that the first attempt by "responsive" government resulted in policy that was too direct and too heavy handed. This had the effect of narrowing self-interest and encouraging isolationist behavior. The second attempt by "responsive" government was not strong enough. It allows the wealthy to benefit without creating externalities that improve the conditions of the poor. In a sense, we have missed the mark on each side of the approach demanded by liberalism. What is needed then is a policy approach that steers the course between the Scylla and Charybdis. The relatively successful Michigan Urban Policy Initiative, described in Chapter Five, set against the more troubling redevelopment programs outlined above, helps to instruct us in the way to steer such a course.

However, this is a provisional conclusion, based on only one case. What is needed now is more cases where regime principles are deliberately used to craft policy. It must be noted, of course, that the strategy worked in the case of the Michigan Urban Policy Initiative primarily because it was so subtle. The most important lesson of this entire study could be that too direct an attempt to control or to force what should be

spontaneous would be problematic and would likely invite resistance. In sum, liberalism seems to work best as a normative foundation at the level of the sublime.

The best thing that can be done is to educate future policy makers in the tradition of liberalism—and teach the strategic model offered by regime theory as rival to that offered by pluralism. As people come to recognize the dangers of fragmentation, systematic bias, and ultimately the threat they pose to the legitimacy of a regime that fails to secure the natural rights of its citizens, they may shrug off the seductive, but poisonous, expedience offered by pragmatism. They may move to restore wholeness to the city and thereby restore diversity in the sense it was recommended by Madison. Ultimately, they may take the very steps needed to reduce systematic bias in urban America.

The problem is that restoration requires an acceptance that it comes with risk. Because cities can be made more whole, but not perfectly whole, and systematic bias can be reduced, but not eliminated, one should not enter into the task of restoration with utopian ideations. Liberalism means that there is freedom to make choices that are conducive to regime stability, but it also means freedom to make choices that are detrimental to regime stability. Thus, with a restoration to liberalism comes a restoration to the experimentalism spoken of favorably in the *Federalist Papers*. This may seem unsettling to the generations of Americans currently infected with the ideas of Pragmatism. However, to shy away from the contingent nature of experimentalism in favor of control over the outcomes in life is to answer in the negative the great question of the *Federalist* asking whether we can institute civil government by reflection and

choice. To prefer control is to abandon freedom in favor of the alternative basis of government: accident and force.

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