



Debating Democracy

A Reader in American Politics

SEVENTH EDITION

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**Debating Democracy: A Reader
in American Politics,
Seventh Edition**
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In Memory

On October 30, 2007, Ray Seidelman, our coeditor and friend, died after a four-year battle with colon cancer. An incisive political thinker and inspiring teacher, Ray was also a model of the democratic intellectual who refuses to retreat into theory or succumb to cynicism.

*A graduate of the University of California–Santa Cruz, Ray earned his M.A. and Ph.D. degrees from Cornell University. For twenty-five years he taught at Sarah Lawrence College, where he held the Sarah Yates Exley Chair in Teaching Excellence. Devoted to his students, in 2002 Ray won the college’s Lipkin Prize for Inspirational Teaching. His 1985 book, *Disenchanted Realists*, critically examines the efforts of professional political scientists to marry the scientific study of politics to political reform.*

*In the summer of 1988 we joined Ray on a camping trip in the Catskills that ended up in a rundown motel room. Accompanied by the steady patter of rain on the roof, that night we came up with the idea for an introductory textbook in American politics that would draw its inspiration from the homegrown traditions of participatory democracy. *The Democratic Debate* is now in its fifth edition. Conceived as a companion to our textbook, *Debating Democracy* has taken on a life of its own, and this is its seventh edition.*

Ray loved political debate. Over the years the three of us argued long and loudly about what to include in the textbook and the reader. Ray always pushed us to go deeper in our analysis and to challenge students to think more critically. His sharp wit could penetrate the thickest skin and make you squirm. But he never came across as morally superior. You always had the feeling that Ray’s views were tentative, open to constant interrogation and change. Maybe that is why he was such a great teacher.

Listening to Ray criticize the distortions and elite manipulations of American democracy, you might have concluded that he was a cynic. You would have been wrong. Cynics don’t argue about global warming with strangers at a gas station. Cynics don’t accompany carloads of students to demonstrations against the war in Iraq. His views were not those of a cynic but of a lover of American democracy. Ray is greatly missed—not only by his family, friends, and students—but by supporters of democracy everywhere.

Bruce Miroff
Todd Swanstrom

However unwillingly a person who has strong opinion may admit the possibility that his opinion may be false, he ought to be moved by the consideration that, however true it may be, if it is not fully, frequently, and fearlessly discussed, it will be held as a dead dogma, not as a living truth.

John Stuart Mill, *On Liberty* (1859)



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Preface

We have been very pleased by readers' and reviewers' enthusiastic reactions to the previous editions of *Debating Democracy*. They warmly endorsed our belief in the need for a reader for courses in American politics that makes democracy its unifying theme. Of course, Americans agree in the abstract about democracy, but in practice we often disagree about democracy's meaning and implications. To explore these crucial disagreements, the seventh edition is constructed around a series of debates about democracy in America.

Special Features of *Debating Democracy*

Debating Democracy is different from other readers in American politics. The selections in our reader are organized around a common theme—the meaning and improvement of American democracy. Thus, reading through the selections has a cumulative effect, helping students to think more clearly and deeply about democracy.

Our experience as the teachers of introductory courses in American politics suggests that debate-type readers can leave students confused, wondering how to respond to a bewildering array of different arguments. Many students conclude that political debates are just a matter of opinion, that there is no cumulative knowledge generated by debating the issues. To prevent such confusion, we provide an introduction, praised by reviewers, that gives students a framework for evaluating democratic debates. This framework is designed to help students develop their own political philosophies and critical abilities for analyzing political issues. In the end, we believe, engaging students in these democratic debates will help them to understand that democracy is a complex and contested idea and that although there is no One Truth, the search for democratic truths is well worth the effort.

In order to engage students in the search for democratic truths, we have included lively and clearly written selections from political leaders, journalists, and scholars. In each case we have chosen two contrasting views on a controversial topic. To help students in evaluating the selections, we introduce each debate with a short essay that places the issue in a meaningful context and alerts the reader to be on the lookout for contrasting values and hidden assumptions.

Debating Democracy seeks to generate further debate. After each set of selections we include questions that can be used by readers to analyze the issues or by teachers to spark class discussions. We end with suggested readings and websites that students can use to pursue the topic further.

Each chapter in the book can be used as the basis for a structured in-class debate. Our own introductory lecture courses have included discussion sections of ten to twenty students led by teaching assistants. The TA divides the class in two and assigns each group one side in the debate. The students are asked to meet outside of class and prepare their arguments based on the readings. A session of the discussion section is then devoted to a formal debate. We do several of these structured debates in the course of a semester. Students enjoy these debates and often report that this is the high point of the course for them.

Following the formal debates, each student is required to write a short paper setting out the arguments of her or his side and rebutting the arguments of the other side. We are convinced that this exercise helps students to achieve what is often an important goal in introductory American politics courses: improving writing skills. Requiring students to take a stand on a political issue and develop a coherent argument for their position in a thematic essay is an effective way, we believe, to teach writing.

Structure of *Debating Democracy*

Debating Democracy has been structured to fit with almost all introductory texts in American politics. We cover topics usually covered in an introductory text, but we have also included debates on political economy, immigration, and religion because we believe these are important subjects for understanding contemporary American democracy.

The editors of this book make no claim to being impartial observers of democratic debates. We support the extension of democratic decision making into broader spheres of the economy and society with greater emphasis on equality and community. Our participatory democratic inclinations are evident in our textbook, *The Democratic Debate: American Politics in an Age of Change*, Fifth Edition (Cengage Learning 2010).

Although we make no claim to impartiality, we have made every effort in the chapters that follow to select the strongest arguments on both sides of the issues. The reader can be used with any textbook in American government, no matter what the political inclinations of the professor. The reader can also stand by itself as an introduction to the critical issues facing American democracy at the beginning of the twenty-first century.

New to the Seventh Edition

The seventh edition contains twelve new selections, comprising nearly 35 percent of the book. Several of the new chapters address profound issues currently facing American democracy, including the debates over corporate spending in elections, same-sex marriage, and negative campaigning.

There are four new chapters:

- Chapter 6 Civil Liberties and Elections: Is Corporate Spending on Elections the Equivalent of Free Speech?
- Chapter 7 Civil Rights: Debating Same-Sex Marriage
- Chapter 11 Campaigns and Elections: Do Negative Ads Damage Democracy?
- Chapter 12 The Federal Budget: Is the Deficit a Threat to the Nation?

In addition, we have one or two new selections in three chapters continued from the previous edition:

- Chapter 9 Digital Media: Do They Expand or Shrink Democracy?
- Chapter 13 Congress: Can Our Representatives Serve the Public Good?
- Chapter 17 Foreign Policy: Has the United States Become an Imperial Power?

Many of the essays in the book have been written by leading figures in political science, law, journalism, and politics. We are grateful to two leading scholars of the presidency, Fred Greenstein and Stephen Skowronek, for updating their essays in Chapter 14 specially for this edition in order to incorporate the presidency of Barack Obama.

Acknowledgments

We are grateful to all of those who helped us to carry forward our original hopes for *Debating Democracy*. At SUNY, Albany, skillful research assistance was supplied by Molly Flynn, Paul Goggi, Timothy Gordinier, Christopher Latimer, Liu Runyu, Jordan Wishy, Christopher Witko, and Fred Wood. At Saint Louis University, Allan Lamberg, Ann Robertson, and Scott Krummenacher provided invaluable help. Jennifer Edwards and Bruce Hanebrink at the University of Missouri, St. Louis skillfully helped with the seventh edition. We would like to thank the outside reviewers who have reviewed *Debating Democracy* in all its forms over the years. Their incisive suggestions led us to change some selections, add new subjects, and improve our pedagogical framework.

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Finally, we continue to depend on the love, the support, and especially the patience of our families: Melinda, Nick, and Anna; Fay, Eva, and Rosa; Katie, Jessica, Madeleine, and Eleanore.

B. M.

R. S.

T. S.

Introduction



How to Read This Book

When we think of democratic debates, we often think of the presidential debates that take place every four years. Beginning with the 1960 Kennedy–Nixon debate, these nationally televised events have been a crucial part of presidential campaigns. Presidential debates, however, are very different from the debates about the key issues facing American democracy that we have gathered together in this volume. A good way to understand this difference is to examine one of the most widely publicized exchanges between Barack Obama and Hillary Clinton in their closely contested battle for the Democratic presidential nomination in 2008.

The debate in question took place in Myrtle Beach, South Carolina, five days before the crucial South Carolina primary. Nasty exchanges between the candidates at this debate caused it to be quickly dubbed the “brawl on the beach.” Early in the debate the moderator, CNN’s Wolf Blitzer, asked Obama about one of Clinton’s criticisms of his programs. “What she said wasn’t true,” Obama said, going on to knock down other Clinton statements he thought were untrue. On whether he had said that Republicans had better economic policies in the 1980s, Obama said, “This simply is not true.”

“This is not the case,” Clinton retorted. “When it comes to a lot of the issues that are important in this race, it is sometimes difficult to understand what Senator Obama has said, because as soon as he is confronted on it, he says that’s not what he meant.”

When he got the microphone back, Obama counterattacked: “Hillary, we just had the tape. You just said that I complimented Republican ideas.... What I said was that Ronald Reagan was a transformative political figure because he was able to get Democrats to vote against their economic interests to form a majority to push through their agenda, an agenda that I objected to. Because while I was on those streets watching those folks see their jobs shift overseas, you were a corporate lawyer sitting on the board at Wal-Mart.”

A little later Clinton came back to the issue, saying that it certainly sounded as though Obama was praising Republican ideas. “Bad for America,” Clinton declared. “And I was fighting against those ideas when you were practicing law

and representing your contributor, Rezko, in his slum landlord business in inner-city Chicago.”

All Obama could say was, “No, no, no.”

In presidential debates the candidates often ignore the issues and attack their opponents. The average voter is primarily interested not in who is the better debater but in who has the best character, temperament, and leadership qualities to be president. In an issues debate, like the ones in this book, attacking one’s opponent is considered a logical fallacy (called the *ad hominem* fallacy, literally, addressing the man instead of the issue). Because the issue in presidential debates is choosing a president, attacking your opponent’s judgment or character is relevant. Clinton was trying to convince the voters that Obama was corrupt and not to be trusted, while Obama was trying to persuade them that Clinton was out of touch with ordinary Americans.

Instead of trying to persuade voters to change their positions on the issues, presidential candidates generally try to convince the voters that they are closest to the positions most voters already hold. Thoroughly briefed by pollsters about what the voters want to hear, each candidate, without appearing unprincipled, tries to mold his or her views to please the undecided voters.

Above all, skilled politicians try to use language to frame the issues in ways that favor their side. If you succeed in having your framing of the issue accepted, your opponent is at a distinct disadvantage. If Clinton can succeed in having the debate revolve around whether Obama praised Republican ideas, then no matter how hard Obama protests, Democratic primary voters will be reminded of this unflattering connection. No wonder Obama tried to shift the debate by charging that Clinton was cozy with Wal-Mart. Professor George Lakoff begins his class in linguistics by telling his students, “Don’t think of an elephant!” He has never found a student able to do this—illustrating his point that when we criticize a frame, we end up reinforcing it.¹ It is for this reason that politicians often end up speaking past each other, ignoring what their opponents have said and repeating again and again their own framing of the issue.

The preceding analysis of presidential debates could easily lead one to the cynical conclusion that political debates are nothing but rhetoric and manipulation. In the real world, however, debates range from manipulative to principled and everything in between. In the real world no debate is perfectly free and fair, if only because one side has more resources to make itself heard. The debates we have gathered together in *Debating Democracy* approximate the conditions of a free and fair debate. Each chapter addresses a central issue in American democracy. The debaters are experts and focus exclusively on the issue; the personality or background of the debaters is irrelevant. Each gets equal time. For the most part, they avoid begging (ignoring) the question, mudslinging, or manipulating stereotypes. They still try to frame the issue their way, but these frames are usually easier to see and analyze than is the case with the vague rhetoric of a political campaign. The contest is decided not by who has the most money or who projects the best image; you, the readers, decide who has the best argument using logical reasoning and facts.

Political debates are not just methods for acquiring information in elections; they are the heart of a democratic system. In a true democracy, debates do not just concern who will be elected to office every few years; they address the issues of everyday life, and they occur every day, extending from television studios to dinner tables, from shop floors to classrooms. Even though political debates can become heated because they involve our most deeply held beliefs, democracies do not deny anyone the right to disagree. In a democracy we recognize that no one has a monopoly on the truth. Debates are not tangential to democracy; they are central to its meaning. “Agreeing to disagree” is the essence of democracy.

Debate as the Lifeblood of Democracy

Debate as dialogue, not demagoguery, is the lifeblood of democracy. Democracy is the one form of government that requires leaders to give reasons for their decisions and defend them in public. Some theorists argue that free and fair deliberation, or debate, is not only a good method for arriving at democratic decisions but the essence of democracy itself.²

Debate is essential in a democracy not just because it leads to better decisions but also because it helps to create better citizens. Democratic debate requires that we be open-minded, that we listen to both sides. This process of listening attentively to different sides and examining their assumptions helps us to clarify and critically examine our own political beliefs. As the nineteenth-century British political philosopher John Stuart Mill wrote:

So essential is this discipline [attending equally and impartially to both sides] to a real understanding of moral and human subjects that, if opponents of all-important truths do not exist, it is indispensable to imagine them and supply them with the strongest arguments which the most skillful devil’s advocate can conjure up.³

According to Mill, if we are not challenged in our beliefs, they become dead dogmas instead of living truths. (Consider what happened to communist ideologies in Eastern Europe, where they were never tested in public debate.) Once we have honed our skills analyzing political debates, we are less vulnerable to being manipulated by demagogues. By hearing the rhetoric and manipulation in others’ speech, we are better able to purge it from our own.⁴ Instead of basing our beliefs on unconscious prejudices or ethnocentric values, we consciously and freely choose our political beliefs.

In order for a debate to be truly democratic, it must be free and fair. In a free and fair debate, the only power exerted is the power of reason. We are moved to adopt a position not by threats or force but by the persuasiveness of the argument. In a democratic debate, proponents argue for their positions not by appealing to this or that private interest but by appealing to the *public* interest, the values and aspirations we share as a democratic people. Democracy is not simply a process for adding up the individual preferences that citizens bring with them to the issues to see which side wins. In a democratic debate

people are required to frame their arguments in terms of the public interest.⁵ And as citizens deliberate about the public interest through debates, they are changed.⁶

In this book we have gathered two contrasting arguments on a range of the most pressing issues facing American democracy. The reader's task is to compare the two arguments and decide which is more persuasive. After reading the selections, readers may feel frustrated seeing that opponents can adopt diametrically opposed stands on the same issue depending on their point of view. It may seem as if political positions on the issues are based only on personal values, as if political judgments are simply a matter of opinion. Being able to understand viewpoints divergent from our own, however, is the beginning of political toleration and insight. There is no One Truth on political issues that can be handed to us on a platter by experts. Nevertheless, public choices are *not* simply based on opinion. Americans subscribe to fundamental political values and struggle to realize them in our political decisions. Political stands are not just a matter of opinion, because some decisions will promote the democratic public interest better than others.

The purpose of this introduction is to give you, the reader, tools for evaluating democratic debates. The agreements and disagreements in American politics are not random; they exhibit patterns, and understanding these patterns can help orient you in the debates. In the pages that follow we draw a preliminary map of the territory of democratic debates in the United States to guide you in negotiating this difficult terrain. Your goal should be not just to take a stand on this or that issue but to clarify your own values and chart your own path in pursuit of the public interest of American democracy.

Democratic Debates: Conflict within Consensus

In order for a true debate to occur, there must be both consensus and conflict. If there were no consensus, or agreement, on basic values or standards of evaluation, the debaters would talk past each other, like two people speaking in foreign tongues. Without some common standard of evaluation, there would be no way to settle the debate. However, if there were no fundamental disagreements, no conflict, the debate would be trivial and boring. Factual disagreements are not enough. Consider a debate between two political scientists about this question: How many people voted in the last election? The debate might be informative, but few people would care about the outcome because it does not engage deeply held values or beliefs. Factual disputes are important, but they rarely decide important political debates. Democratic debates are interesting and important when they engage us in struggles over the meaning and application of our basic values.

Judging a political debate is tricky. Political reasoning is different from economic reasoning or individual rational decision making. Political debates are rarely settled by toting up the costs and benefits of alternative courses of action and choosing the one that maximizes benefits over costs. It is not that costs and benefits do not matter; rather, what we see as benefits or costs depends on how

we frame the issue. In political debates each side tries to get the audience to see the issue its way, to frame the issue in language that reinforces its position. On the issue of abortion, for example, is your position best described as pro-choice or pro-life? Should programs to help minorities be characterized as affirmative action or reverse discrimination? Clearly, the terms we use to describe a political position make a difference. Each term casts light on the issue in a different way, highlighting different values that are at stake in the controversy. The terms used to describe the abortion position, for example, emphasize either the right of an unborn fetus or the right of a woman to control her body.

As these examples illustrate, in political debates the outcome frequently hinges on the standard of evaluation itself, on what values and principles will be applied to the decision at hand. In political debates the issue is always what is good for the community as a whole, the public interest, not just some segment of the community. The selections that follow are all examples of debates over the meaning of the public interest in American democracy. In the United States, political debates, with the notable exception of debates over slavery, have been characterized by consensus on basic democratic principles *combined with* conflicts over how best to realize those principles in practice.

As conflicts within a consensus, democratic debates in this country go back more than 200 years to the nation's founding and the original debate over the U.S. Constitution. Americans worship the Constitution as an almost divinely inspired document that embodies the highest ideals of democracy. Yet throughout history Americans have disagreed vehemently on what the Constitution means. This is not surprising. The Constitution was born as much in conflict and compromise as it was in consensus. In the words of former Supreme Court Justice William J. Brennan, Jr., the framers "hid their differences in cloaks of generality."⁷ The general language of the Constitution left many conflicts over specifics to later generations. For example, the Constitution gave the federal government the power to provide for the "general welfare," but we have been debating ever since about what this should include. Thus, the Constitution is both a source of consensus, by embodying our ideals, and a source of conflict, by failing to specify exactly how those ideals should be applied in practice.⁸

Three Sources of Conflict

Behind the words of the Constitution lie three ideals that supposedly animate our system of government: democracy, freedom, and equality. Americans agree that we should have a government of, by, and for the people (as President Lincoln so eloquently put it), a government that treats everybody equally, and a government that achieves the maximum level of freedom consistent with an ordered society. These ideals seem simple, but they are not. While Americans are united in their aspirations, they are divided in their visions of how to achieve those aspirations.⁹ Democracy, freedom, and equality are what political theorists call "essentially contested concepts."¹⁰

I. Democracy

Democracy comes from the Greek words *demos*, meaning “the people,” and *kratein*, meaning “to rule.” Hence, democracy means, simply, “rule by the people.” Americans agree that democracy is the best form of government. They disagree, however, on what this means.

Elite (Limited) Democracy For some, democracy is basically a method for making decisions. According to this minimalist definition of democracy, a decision is democratic if it is made according to the criterion of majority rule. Of course, there are other requirements of democratic decision making, such as open nominations for office and free speech, but once the basic conditions have been met, the resulting decision is by definition democratic.

Following this limited definition, the most important characteristic of a democracy is free and fair elections for choosing government officials. Democracy basically means the ability of citizens to choose their leaders.¹¹ Elites compete for the votes to win office, but once in office, they have substantial autonomy to rule as they see fit. According to this view, ultimate power rests in the hands of the people at election time, but between elections they cede decision-making authority to elites who have the expertise and experience to make the right decisions in a technologically complex and dangerous world. We call this school of democracy *elite democracy*.¹²

Elite democrats favor a minimal definition of democracy not because it is ideal but because it is the only type of democracy that is achievable in large modern nation-states. Thus, as you will see in the selection by John Mueller in Chapter 2, elite democrats question the validity of many of the precepts of participatory democracy. In contrast, Paul Rogat Loeb maintains that active citizens who sacrifice for the common good are possible, even in our flawed democratic system.

Popular (Expansive) Democracy Opponents of elite democrats adopt a more demanding definition of democracy. They argue that we cannot call a decision democratic just because it came out of a democratic process. Democratic decisions must also respect certain values such as tolerance, a respect for individual freedom, and the attainment of a basic level of social and economic equality. If the majority rules in a way that violates people’s rights or enacts policies that result in extreme inequalities of wealth, the system cannot be called democratic. For this group, democracy means more than a political system with free and fair elections; it means an economy and society that reflect a democratic desire for equality and respect for differences.

For adherents of an expansive definition of democracy, democracy means more than going to the polls every few years; it means citizens participating in the institutions of civil society, including corporations, unions, and neighborhood associations. In Chapter 5, Samuel Bowles, Frank Roosevelt, and Richard Edwards represent this position, calling for expanding democratic decision making into the economy. Countering the view of elite democrats that people are

not interested in or capable of governing effectively, those who advocate a more participatory system argue that in an atmosphere of toleration, respect, and rough equality, citizens are capable of governing themselves fairly and effectively. We call those who advocate a more participatory conception of democracy *popular democrats*.¹³

II. Freedom

Most of us have a basic intuitive idea of freedom: To be free means being able to do what we want, without someone telling us what to do. Any time we are forced to do something against our will by somebody else, our freedom is reduced. Freedom seems like an exceedingly simple idea. Once again, however, we find that there is plenty of room for disagreement.

Negative (Freedom From) The central issue for freedom is deciding where to draw the line between the power of the group and the freedom of the individual. In other words, how far should government power extend? Any time the government imposes a tax or passes a law, it limits someone's freedom. In a justly famous essay, *On Liberty*, John Stuart Mill argues that the only justification for government power over individuals is self-protection: "[T]he only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others."¹⁴ In other words, your freedom to swing your arm ends where my nose begins.

In Mill's view, the purpose of government is to maximize individual freedom. Freedom is understood negatively, as freedom from external constraints. Because government actions always reduce individual freedom, their only justification is to counter other restrictions on our freedom, as when the government passes laws against robbery or assault. Clearly, this view places severe limits on what democracies can legitimately do, even under the principle of majority rule. If the majority passes laws that restrict someone's freedom, without those laws being justified by the principle of self-protection, then it is no longer a true democracy because the laws violate a basic democratic value.

Positive (Freedom To) In contrast to the negative conception of freedom—freedom from—there is an equally compelling positive definition of freedom—freedom to.¹⁵ The positive idea of freedom recognizes that in order to be free, to exercise meaningful choice, we need to possess certain resources and have certain capacities. Education, for example, increases our freedom because it increases our ability to imagine alternatives and find solutions to problems. Freedom, therefore, is not simply the absence of external coercion but freedom to get an education, travel to foreign countries, or receive expert medical care.

A positive conception of freedom justifies an expanded role for government and for citizens acting together in other ways. When government taxes us, it reduces negative freedom, but when it uses the money to build a highway or a public library, it gives us a greater freedom to do things we previously were

unable to do. Under the positive conception of freedom, the scope of freedom is increased when the capacity of individuals to act is enhanced by government action, such as protecting the right of workers to join a union (thus giving workers the ability to bargain collectively over wages and working conditions) or requiring buildings to be handicapped accessible (thus giving the handicapped access to places they were previously excluded from).¹⁶

Whether one subscribes to a positive or a negative conception of freedom will make a big difference in one's political philosophy. The negative conception of freedom is conducive to limited government and highlights the more acquisitive and competitive side of human nature. Under this view, the expansion of power in one part of society necessarily leads to a reduction of freedom in some other part of society. The selection by Milton Friedman on political economy in Chapter 5 is based on a negative conception of freedom. Friedman warns that too much government leads to coercion and a reduction in individual freedom, which is maximized by free competition in the marketplace. The positive conception of freedom emphasizes the more cooperative side of human beings. According to this conception, government as a form of social cooperation can actually expand the realm of freedom by bringing more and more matters of social importance under human control.

III. Equality

Like democracy and freedom, equality seems an exceedingly simple idea. Equality marches forward under banners that read "Treat everybody equally" or "Treat like cases alike." These are not working definitions, however, but political rhetoric that hides serious ambiguities in the concept of equality. In truth, how we apply the idea of equality depends on how we envision it in a broader context.

Process Orientation For some people, equality is basically generated by a fair process. So long as the competition is fair—everybody has an equal opportunity to succeed—then the results are fair, even if the resulting distribution is highly unequal. Inequalities that reflect differences among people in intelligence, talent, ambition, or strength are viewed as legitimate. Inequalities that result from biases in the rules of competition are unjustified and should be eliminated.

The process orientation toward equality is best reflected in free-market theory. According to market theory, the distribution of income and wealth is fair if it is the result of a process of voluntary contracting among responsible adults. As long as the requirements for a free market are met (perfect competition, free flow of information, the absence of coercion or manipulation, and so on), no one exerts power over the market and market outcomes are just and fair. Market theorists such as Milton Friedman stress equal opportunity, not equal results. The role of government, in this view, is to serve as a neutral umpire, enforcing the rules and treating everyone alike.¹⁷

Results Orientation Opponents argue that if the government treats everybody equally, the results will still be highly unequal because people start the race from very different positions. Some have a head start in the race, while others enter with serious handicaps. To ignore these differences is to perpetuate inequalities. Treating unequals equally is, in effect, unequal. The French writer Anatole France mocked what he called “the majestic egalitarianism of the law, which forbids rich and poor alike to sleep under bridges, to beg in the streets, and to steal bread.”¹⁸ Even though the law formally treats everyone alike, it is clear that only certain people will suffer the consequences.

Those who take a results orientation toward equality do not deny the importance of equal opportunity but argue that equal opportunity means the ability of everyone to participate equally in the decisions that affect their lives. These democrats charge that their opponents elevate the individual over the community and privileged elites over ordinary citizens, as if the wagon train could make it to the promised land only if some of the weak and frail were left behind alongside the trail. Those who support a results orientation argue that it is possible for everyone to make it together.

Those who support a results orientation do not believe in a strict leveling of society but argue that certain resources are necessary for people to participate fully in society and realize their potential. In other words, government cannot just stand aside and watch people compete; it must establish the conditions for equal participation. At a minimum, many would argue, adequate nutrition, good education, safety, and decent health care are necessary for a fulfilling life.

American Ideologies: Patterns in Political Stands

With two contrasting positions on each of the three issues just discussed—democracy, equality, and freedom—there are eight possible combinations of issue positions. Stands on the three issues are not random, however; they correlate in ways that generate distinct patterns characteristic of American political ideologies.

One of the clearest ideological distinctions in American politics is between those who favor markets and those who favor government. As Charles Lindblom has noted, “Aside from the difference between despotic and libertarian governments, the greatest distinction between one government and another is in the degree to which market replaces government or government replaces market.”¹⁹ A central issue in American politics is where to draw the line between the public and private sectors. If you believe that the market is basically free and fair, then you will support only a limited role for government. Generally, those who favor the market subscribe to a negative conception of freedom and a process orientation toward equality. This position corresponds to what we call *free-market conservatism*. If, however, you believe that markets are penetrated by relations of power and are prone to discrimination, then you will support an expanded role for political participation and democratic government. Those who advocate an increased role for government generally subscribe to a positive conception of freedom and favor a results orientation toward equality. These views correspond to what is commonly called *liberalism*.

Usually, we think of social conservatives as adhering to a more elite view of democracy and social liberals as being more inclined toward popular democracy. In the 1960s, for example, *left-wing populists* supported maximum feasible participation by poor people to solve poverty and advocated democratic control of corporations. In recent years, however, because they support a large role for the federal government in Washington, D.C., liberals have been accused by conservatives of being, in effect, elitist. A *right-wing populist* movement has arisen that combines popular democratic appeals with a negative conception of individual freedom and a process approach to equality, opposing the redistribution of wealth through government. To add to the complexity, however, right-wing populists do not always favor limiting the role of government. The *religious right* generally wants the government to interfere less in the economy but more in society—exerting more government control over moral issues, such as abortion and pornography.

Although distinct patterns appear in American politics on the issues of democracy, freedom, and equality, they are not set in stone. It is possible to mix and match various positions in putting together your own political philosophy. In developing your own political philosophy, you will need to address a fundamental question: What are human beings capable of; that is, what is your conception of human nature?

Human Nature: The Big Debate

Throughout history, political philosophers have debated various conceptions of human nature. Human nature is the clay out of which all political systems must be molded. The nature of this clay, its elasticity or hardness, its ability to assume different shapes and hold them, largely determines what we can and cannot do in politics. Since the original debate over the U.S. Constitution, Americans have disagreed about human nature and therefore about politics.

The Private View Many argue that Americans are quintessentially individualistic, well suited to the marketplace and private pursuits but not well suited to democratic citizenship. The framers of the Constitution, the Federalists, argued that the common people were self-interested and passionate creatures who should not be entrusted with all of the reins of government. Thus, as you will see in Chapter 1, James Madison argues in “Federalist No. 10” that the greatest danger in a democracy is the tyranny of the majority, especially the majority of common people taking away the property of wealthy elites. Madison recommended various checks on majority rule that would guarantee the rights of minorities and give elites substantial autonomy to rule in the public interest.

This view of human nature is reflected in contemporary debates. In the United States the debate shifts from human nature to the nature of Americans as a people and whether we are different from other people. According to the theory of exceptionalism, Americans are more individualistic and self-interested than other people.²⁰ As a nation of immigrants, we fled feudal systems and traditional cultures in search of greater freedom and assimilated into an American value system that stressed upward mobility through individual effort. The pursuit

of fortune in the marketplace is the special genius of Americans. Whether this is good or bad depends on your view of markets and governments.

The Social View During the debate over the Constitution in the 1780s, a group of dissenters, the Anti-Federalists, argued that the Constitution placed too many limits on citizen participation. (We have included a selection by the Anti-Federalist Brutus in Chapter 1.) The Anti-Federalists argued that the common people could overcome or check their selfish inclinations through democratic participation and education in civic virtue. As much power as possible, therefore, should be placed in the hands of the people at the grassroots level. The main threat to democracy, Anti-Federalists believed, came not from the tyranny of the majority but from power-hungry elites. The best way to protect against elite tyranny was to have the people participate directly in deciding important issues. The Anti-Federalists founded the tradition of popular (expansive) democracy that is still alive in the United States.

Even today, when Americans seem caught up in acquisitive pursuits and politics seems so mean-spirited, some observers argue that there are important sources of social commitment in American culture. An influential book by Robert Bellah and colleagues, *Habits of the Heart*, argues that Americans are attached to powerful civic traditions that pull us out of our individualistic orientations. These civic traditions are rooted in religion and republicanism, both of which emphasize commitments to public service. Indeed, Americans exhibit lively commitments to grassroots participation and public service.

Conclusion: A Guide to Critical Thinking

Everyone has a political philosophy. Whether we recognize it or not, we bring certain assumptions about democracy, freedom, equality, and human nature to political debates. The goal is not to give up these assumptions but to convert them from unconscious prejudices into carefully chosen elements of a political philosophy. A good way to develop a thoughtful political philosophy is to analyze political debates like those included here. Clever debaters, for example, will appear as if they are supporting equality in general, but in order to make their argument work they must adopt one conception of equality over another. Readers must delve beneath the rhetoric and evaluate these assumptions, as well as the logic and evidence of the argument itself.

As a guide to critical thinking, we suggest that readers keep in mind the following five questions and evaluate the evidence that supports their answers. (Some questions may not apply to some selections.)

1. What is the author's concept of democracy—elite (limited) or popular (expansive)?
2. What is the author's concept of freedom—negative (freedom from) or positive (freedom to)?

3. What is the author's concept of equality—process or results?
4. How would you classify the author's ideology?
5. What concept of human nature, individualist or social, lies behind the author's argument?

This book is going to press during a time when the nation is deeply divided along partisan lines. Bitter conflicts over the financial bailout of Wall Street, the ballooning deficit, Obama's health care reform, the wars in Iraq and Afghanistan, global warming, and cultural issues such as abortion and gay marriage tear at the political fabric of our democracy. Especially during times like these, we need to keep in mind that there is one thing that finally does unite us: the belief that open and public debate is the best, in fact the only, democratic way to settle our differences.

Notes

1. See Lakoff's *Don't Think of an Elephant: Know Your Values and Frame the Debate* (White River Junction, Vt.: Chelsea Green, 2004). The Frameworks Institute has developed a set of tools for strategic framing of issues in policy advocacy; see www.frameworksinstitute.org.
2. See Jon Elster, ed., *Deliberative Democracy* (New York: Cambridge University Press, 1998). The German political theorist Jürgen Habermas has spent many years developing a theory of the ideal speech situation as the foundation of democracy. See especially his *The Theory of Communicative Action*, 2 vols. (Boston: Beacon Press, 1984–87).
3. John Stuart Mill, *On Liberty*, ed. and with an introduction by Currin V. Shields (Indianapolis, Ind.: Bobbs-Merrill, 1956), p. 46.
4. See Stephen L. Esquith, *Intimacy and Spectacle: Liberal Theory as Political Education* (Ithaca, N.Y.: Cornell University Press, 1994).
5. Amy Gutmann and Dennis Thompson call this the principle of reciprocity—that in a democratic debate citizens appeal to reasons that can be mutually acceptable to other citizens. See *Democracy and Disagreement* (Cambridge, Mass.: Harvard University Press, 1996).
6. Joshua Cohen, "Deliberation and Democratic Legitimacy," in *The Good Polity: Normative Analysis of the State* (Oxford: Basil Blackwell, 1989), p. 29.
7. Justice William J. Brennan Jr., "Federal Judges Properly and Inevitably Make Law Through 'Loose' Constitutional Construction," in *Debating American Government*, ed. Peter Woll (2nd ed.; Glenview, Ill.: Scott, Foresman, 1988), p. 338.
8. It is neither possible nor desirable for a constitution to specify every application. If it did, it would be a rigid constitution that would be incapable of adapting to changing conditions.
9. The following discussion of the sources of democratic disagreements in the United States draws heavily on Deborah A. Stone, *Political Paradox: The Art of Political Decision Making* (New York: W. W. Norton, 1997), and Frances Moore Lappé, *Rediscovering America's Values* (New York: Ballantine Books, 1989).

10. For an insightful discussion of essentially contested concepts, see William E. Connolly, *The Terms of Political Discourse* (2nd ed.; Princeton, N.J.: Princeton University Press, 1983). For an excellent overview of core political debates in the U.S., see Howard Fineman, *The Thirteen American Arguments that Define and Inspire Our Country* (New York: Random House, 2008).
11. For the most influential definition of democracy along these lines, see Joseph A. Schumpeter, *Capitalism, Socialism, and Democracy* (3rd ed.; New York: Harper, 1950), p. 269.
12. For elaboration on the concepts of elite and popular democracy, see Bruce Miroff, Raymond Seidelman, and Todd Swanstrom, *The Democratic Debate: An Introduction to American Politics* (5th ed.; Boston: Wadsworth, Cengage Learning, 2010).
13. Robert A. Dahl is the most influential contemporary political scientist who has written on the ideas of elite and popular democracy. Dahl began his career by defending a version of elite democratic theory in *A Preface to Democratic Theory* (Chicago: University of Chicago Press, 1956), and *Who Governs? Democracy and Power in an American City* (New Haven, Conn.: Yale University Press, 1961). In later works, Dahl shifted dramatically to a more popular democratic position. See *A Preface to Economic Democracy* (Berkeley and Los Angeles: University of California Press, 1985); *Democracy and Its Critics* (New Haven, Conn.: Yale University Press, 1989); and *How Democratic Is the American Constitution?* (New Haven, Conn.: Yale University Press, 2001).
14. Mill, *On Liberty*, p. 13.
15. The classic statement on positive and negative freedom is Isaiah Berlin's "Two Concepts of Liberty," in *Four Essays on Liberty* (New York: Oxford University Press, 1969), pp. 118–72.
16. For an eloquent defense of a positive conception of freedom, see President Franklin D. Roosevelt's speech to Congress on "An Economic Bill of Rights," in *Documents of American History*, ed. Henry Steele Commager (New York: Appleton-Century-Crofts, 1963), vol. 2, pp. 483–85.
17. One of the best statements of a process orientation toward equality is Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974).
18. *The Oxford Dictionary of Quotations* (3rd ed.; Oxford: Oxford University Press, 1979), p. 217.
19. Charles Lindblom, *Politics and Markets: The World's Political-Economic Systems* (New York: Basic Books, 1977), p. ix.
20. For an influential statement on American exceptionalism, see Louis Hartz, *The Liberal Tradition in American Thought* (New York: Harcourt, Brace, 1955).

Chapter 1



The Founding: Debating the Constitution

Although Americans relish political controversy in the present, we project onto the distant past of our nation's origins a more dignified political consensus. The founders of our republic—Washington, Adams, Jefferson, Hamilton, Madison—are cast in stone monuments and treated as political saints. Their ideas are invoked as hallowed truths that should inspire us. Seldom are these ideas treated as arguments that we should ponder and debate.

In fact, consensus was hardly the hallmark of the era in which the American republic was founded. Passionate political controversies raged during the American Revolution and its aftermath. These controversies ranged over the most basic issues of political life. The most profound was the debate over the ratification of the Constitution. The supporters of the Constitution, known as Federalists, and its opponents, known as Anti-Federalists, disagreed over what kind of a republic Americans should have. Although the debate took place more than 200 years ago, it still illuminates the core dilemmas of our democratic society.

The readings that follow highlight some of the fundamental issues debated by Federalists and Anti-Federalists. They pit the greatest thinker among the Federalists, James Madison, against a New York Anti-Federalist, who used the pseudonym Brutus, in an argument over the appropriate scale of democratic political life. (Scholars are not absolutely certain who Brutus was; the most likely candidate is Robert Yates, a New York judge. The pseudonym, by recalling the Roman republican who killed the tyrant Julius Caesar, evokes the threat allegedly posed by the Constitution to republican liberty.)

In his classic essay “Federalist No. 10,” Madison favors the large, national republic established by the Constitution over small republics (state governments). In small republics, Madison warns, selfish factions can attain majority status and will use their power over the government to oppress minorities (such as the wealthy or those who hold unorthodox religious beliefs). Small republics thus allow the worst qualities in human nature to prevail: They allow irrational

passion to overwhelm reasoned deliberation and injustice to supplant the public good.

The large republic created by the new Constitution, Madison prophesies, will be more rational and more just. Elected in large districts, representatives will likely be the most distinguished and patriotic citizens, and they will “refine and enlarge the public views” by filtering out the most selfish and shortsighted popular impulses. There will also be a greater diversity of factions in the large republic, making it unlikely that a majority can come together except on the basis of the common good. In Madison’s essay, the chief threat to republican liberty comes, ironically, from the people themselves. His solution is to create a large republic in which the people will be divided into so many different interest groups that they can do little harm, while a small number of decision makers at the top take care of the common needs.

Brutus’s essay (the first in a series that he wrote) takes issue with Madison on every count. He predicts that the large republic established by the Constitution will be run by aristocratic rulers who will eagerly expand their powers and oppress the common people. The greater distance from voters that Madison thinks will promote deliberation and public spirit in representatives will instead, Brutus argues, foster corruption and self-seeking in them. The diversity of the large republic is also, for Brutus, an unwelcome development because it will increase selfish factionalism, conflict, and stalemate.

Whereas Madison sees small republics as scenes of turbulence and misery, Brutus portrays them in a favorable light. In the smaller political scale of a state, the people will share common economic and social characteristics. Electoral districts will be smaller, therefore voters will personally know and trust their representatives and these representatives in turn will mirror their constituents’ values and sentiments. Rather than breeding tyrannical majorities, small republics, as Brutus depicts them, educate law-abiding and virtuous citizens. In sum, Brutus rests his political hopes on the mass of ordinary people in the small republic, whose political impulses Madison fears, while directing his criticisms against a national elite, to whom Madison looks for wise political rule.

Anti-Federalist fears that the Constitution would create an oppressive government, fatal to republican liberty, strike us today as grossly exaggerated. Yet in at least one respect these fears were fortunate—they helped produce the Bill of Rights. Initially, Federalists such as Madison and his collaborator on *The Federalist Papers*, Alexander Hamilton, claimed that a national bill of rights was both unnecessary and undesirable. By establishing a national government that possessed only enumerated, limited powers, they insisted, the Constitution had not granted any authority to invade the liberties and rights of the people; but if a list of particular rights was nonetheless appended to the Constitution, it might imply that the government *could* invade rights that had not been listed. These arguments were brushed aside by the Anti-Federalists, who continued to argue that without specific guarantees the liberties for which Americans had fought in the Revolution might be usurped by a government of their own creation. To conciliate the Anti-Federalists and win greater public support for the new Constitution, Madison dropped his objections and took the lead in pushing for the Bill of Rights in the first Congress.

Although Federalists and Anti-Federalists could ultimately find common ground in the Bill of Rights, the philosophical and political differences between them remained profound. Their disagreements began the American debate between elite democracy and popular democracy. Nowhere is this more evident than in the contrast between Madison's reliance on a deliberative elite and Brutus's regard for the capacities of ordinary citizens. However, it can also be seen in the difference between Madison's belief that liberty will inevitably produce inequality of property and Brutus's belief that in a small republic large-scale inequalities can be avoided.

The Federalists and Anti-Federalists debated basic questions about democracy, and their disagreements still echo in our politics today. Thinking about the issues in their debate can help to clarify your own perspective toward democracy in the United States. Do you believe, with Madison, that it is only at the national level that selfish majorities can be blocked and government policies can be framed by deliberative and public-spirited representatives? Do you believe, with Brutus, that we should prefer state and local governments in order to promote greater civic participation and to enhance the trust between representatives and their constituents? Even more fundamentally, do you agree with Madison that ordinary citizens are too uninformed and self-seeking to be trusted with great political influence and that decisions are best left to elected representatives who can "refine and enlarge" what the people think? Or do you agree with Brutus that elites pose the greater danger to democracy and that democracy flourishes only when conditions are established that encourage ordinary citizens to involve themselves in the search for the public good?

Federalist No. 10

JAMES MADISON

Among the numerous advantages promised by a well-constructed Union, none deserves to be more accurately developed than its tendency to break and control the violence of faction.¹ The friend of popular governments never finds himself so much alarmed for their character and fate as when he

1. In modern terms, both interest groups and political parties are examples of Madison's factions. Note that by the definition Madison offers later, no faction can legitimately claim to represent the public interest.

contemplates their propensity to this dangerous vice. He will not fail, therefore, to set a due value on any plan which, without violating the principles to which he is attached, provides a proper cure for it. The instability, injustice, and confusion introduced into the public councils have, in truth, been the mortal diseases under which popular governments have everywhere perished, as they continue to be the favorite and fruitful topics from which the adversaries to liberty derive their most specious declamations. The valuable improvements made by the American constitutions on the popular models, both ancient and modern, cannot certainly be too much admired; but it would be an unwarrantable partiality to contend that they have as effectually obviated the danger on this side, as was wished and expected. Complaints are everywhere heard from our most considerate and virtuous citizens, equally the friends of public and private faith and of public and personal liberty, that our governments are too unstable, that the public good is disregarded in the conflicts of rival parties, and that measures are too often decided, not according to the rules of justice and the rights of the minor party, but by the superior force of an interested and overbearing majority. However anxiously we may wish that these complaints had no foundation, the evidence of known facts will not permit us to deny that they are in some degree true. 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 be chiefly, if not wholly, effects of the unsteadiness and injustice with which a factious spirit has tainted our public administration.

By a faction I understand 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.

There are two methods of curing the mischiefs of faction: the one, by removing its causes; the other, by controlling its effects.

There are again two methods of removing the causes of faction: the one, by destroying the liberty which is essential to its existence; the other, by giving to every citizen the same opinions, the same passions, and the same interests.

It could never be more truly said than of the first remedy that it was worse than the disease. Liberty is to faction what air is to fire, an aliment without which it instantly expires. But it could not be a less folly to abolish liberty, which is essential to political life, because it nourishes faction than it would be to wish the annihilation of air, which is essential to animal life, because it imparts to fire its destructive agency.

The second expedient is as impracticable as the first would be unwise. As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed. 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. The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government. 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 ensues a division of the society into different interests and parties.

The latent causes of faction are thus sown in the nature of man; and we see them everywhere brought into different degrees of activity, according to the different circumstances of civil society. A zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; an attachment to different leaders ambitiously contending for pre-eminence and power; or to persons of other descriptions whose fortunes have been interesting to the human passions, have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to co-operate for their common good. So strong is this propensity of mankind to fall 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. But the most common and durable source of factions has been the various and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation and involves the spirit of party and faction in the necessary and ordinary operations of government.

No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity. With equal, nay with greater reason, a body of men are unfit to be both judges and parties at the same time; yet what are many of the most important acts of legislation but so many judicial determinations, not indeed concerning the rights of single persons, but concerning the rights of large bodies of citizens? And what are the different classes of legislators but advocates and parties to the causes which they determine? Is a law proposed concerning private debts? It is a question to which the creditors are parties on one side and the debtors on the other. Justice ought to hold the balance between them. Yet the parties are, and must be, themselves the judges; and the most numerous party, or in other words, the most powerful faction must be expected to prevail. Shall domestic manufacturers be encouraged, and in what degree, by restrictions on foreign manufacturers? are questions which would be differently decided by the landed and the manufacturing classes, and probably by neither with a sole regard to justice and the public good. The apportionment of taxes on the various descriptions of property is an act which seems to require the most exact impartiality; yet there is, perhaps, no

legislative act in which greater opportunity and temptation are given to a predominant party to trample on the rules of justice. Every shilling with which they overburden the inferior number is a shilling saved to their own pockets.

It is in vain to say that enlightened statesmen will be able to adjust these clashing interests and render them all subservient to the public good. Enlightened statesmen will not always be at the helm. Nor, in many cases, can such an adjustment be made at all without taking into view indirect and remote considerations, which will rarely prevail over the immediate interest which one party may find in disregarding the rights of another or the good of the whole.

The inference to which we are brought is that the *causes* of faction cannot be removed and that relief is only to be sought in the means of controlling its *effects*.

If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote. It may clog the administration, it may convulse the society; but it will be unable to execute and mask its violence under the forms of the Constitution. When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens. To secure the public good and private rights against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is then the great desideratum by which alone this form of government can be rescued from the opprobrium under which it has so long labored and be recommended to the esteem and adoption of mankind.

By what means is this object attainable? Evidently by one of two only. Either the existence of the same passion or interest in a majority at the same time must be prevented, or the majority, having such coexistent passion or interest, must be rendered, by their number and local situation, unable to concert and carry into effect schemes of oppression. If the impulse and the opportunity be suffered to coincide, we well know that neither moral nor religious motives can be relied on as an adequate control. They are not found to be such on the injustice and violence of individuals, and lose their efficacy in proportion to the number combined together, that is, in proportion as their efficacy becomes needful.

From this view of the subject it may be concluded that a pure democracy, by which I mean a society consisting of a small number of citizens, who assemble and administer the government in person, can admit of no cure for the mischiefs of faction. A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert results from the form of government itself; and there is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual. Hence it is that such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths. Theoretic politicians, who have patronized this species of government, have erroneously supposed that by reducing mankind to a perfect equality in their political rights, they would at the same time be perfectly equalized and assimilated in their possessions, their opinions, and their passions.

A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect and promises the cure for which we are seeking. Let us examine the points in which it varies from pure democracy, and we shall comprehend both the nature of the cure and the efficacy which it must derive from the Union.

The two great points of difference between a democracy and a republic are: first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens and greater sphere of country over which the latter may be extended.

The effect of the first difference is, on the one hand, to refine and enlarge the public views by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose. On the other hand, the effect may be inverted. Men of factious tempers, of local prejudices, or of sinister designs, may, by intrigue, by corruption, or by other means, first obtain the suffrages, and then betray the interests of the people. The question resulting is, whether small or extensive republics are most favorable to the election of proper guardians of the public weal; and it is clearly decided in favor of the latter by two obvious considerations.

In the first place it is to be remarked that however small the republic may be the representatives must be raised to a certain number in order to guard against the cabals of a few; and that however large it may be they must be limited to a certain number in order to guard against the confusion of a multitude. Hence, the number of representatives in the two cases not being in proportion to that of the constituents, and being proportionally greatest in the small republic, it follows that if the proportion of fit characters be not less in the large than in the small republic, the former will present a greater option, and consequently a greater probability of a fit choice.

In the next place, as each representative will be chosen by a greater number of citizens in the large than in the small republic, it will be more difficult for unworthy candidates to practise with success the vicious arts by which elections are too often carried; and the suffrages of the people being more free, will be more likely to center on men who possess the most attractive merit and the most diffusive and established characters.

It must be confessed that in this, as in most other cases, there is a mean, on both sides of which inconveniences will be found to lie. By enlarging too much the number of electors, you render the representative too little acquainted with all their local circumstances and lesser interests; as by reducing it too much, you render him unduly attached to these, and too little fit to comprehend and pursue great and national objects. The federal Constitution forms a happy combination in this respect; the great and aggregate interests being referred to the national, the local and particular to the State legislatures.

The other point of difference is the greater number of citizens and extent of territory which may be brought within the compass of republican than of

democratic government; and it is this circumstance principally which renders factious combinations less to be dreaded in the former than in the latter. The smaller the society, the fewer probably will be the distinct parties and interests composing it; the fewer the distinct parties and interests, the more frequently will a majority be found of the same party; and the smaller the number of individuals composing a majority, and the smaller the compass within which they are placed, the more easily will they concert and execute their plans of oppression. Extend the sphere and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength and to act in unison with each other. Besides other impediments, it may be remarked that, where there is a consciousness of unjust or dishonorable purposes, communication is always checked by distrust in proportion to the number whose concurrence is necessary.

Hence, it clearly appears that the same advantage which a republic has over a democracy in controlling the effects of faction is enjoyed by a large over a small republic—is enjoyed by the Union over the States composing it. Does this advantage consist in the substitution of representatives whose enlightened views and virtuous sentiments render them superior to local prejudices and to schemes of injustice? It will not be denied that the representation of the Union will be most likely to possess these requisite endowments. Does it consist in the greater security afforded by a greater variety of parties, against the event of any one party being able to outnumber and oppress the rest? In an equal degree does the increased variety of parties comprised within the Union increase this security. Does it, in fine, consist in the greater obstacles opposed to the concert and accomplishment of the secret wishes of an unjust and interested majority? Here again the extent of the Union gives it the most palpable advantage.

The influence of factious leaders may kindle a flame within their particular States but will be unable to spread a general conflagration through the other States. A religious sect may degenerate into a political faction in a part of the Confederacy; but the variety of sects dispersed over the entire face of it must secure the national councils against any danger from that source. A rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project, will be less apt to pervade the whole body of the Union than a particular member of it, in the same proportion as such a malady is more likely to taint a particular county or district than an entire State.²

In the extent and proper structure of the Union, therefore, we behold a republican remedy for the diseases most incident to republican government. And according to the degree of pleasure and pride we feel in being republicans ought to be our zeal in cherishing the spirit and supporting the character of federalists.

PUBLIUS

2. The examples of factional objectives (for example, paper money's benefiting debtors at the expense of creditors) that Madison cites are drawn from the economic conflicts that pervaded the states in the 1780s. The movement for a new national constitution aimed to put an end to the possibility that radical factional goals might be achieved in the states.

Anti-Federalist Paper, 18 October 1787

BRUTUS

To the Citizens of the State of New-York

Perhaps this country never saw so critical a period in their political concerns. We have felt the feebleness of the ties by which these United-States are held together, and the want of sufficient energy in our present confederation, to manage, in some instances, our general concerns. Various expedients have been proposed to remedy these evils, but none have succeeded. At length a Convention of the states has been assembled, they have formed a constitution which will now, probably, be submitted to the people to ratify or reject, who are the fountain of all power, to whom alone it of right belongs to make or unmake constitutions, or forms of government, at their pleasure. The most important question that was ever proposed to your decision, or to the decision of any people under heaven, is before you, and you are to decide upon it by men of your own election, chosen specially for this purpose. If the constitution, offered to your acceptance, be a wise one, calculated to preserve the invaluable blessings of liberty, to secure the inestimable rights of mankind, and promote human happiness, then, if you accept it, you will lay a lasting foundation of happiness for millions yet unborn; generations to come will rise up and call you blessed.... But if, on the other hand, this form of government contains principles that will lead to the subversion of liberty—if it tends to establish a despotism, or, what is worse, a tyrannic aristocracy; then, if you adopt it, this only remaining asylum for liberty will be shut up, and posterity will execrate your memory....

With these few introductory remarks, I shall proceed to a consideration of this constitution:

The first question that presents itself on the subject is, whether a confederated government be the best for the United States or not. Or in other words, whether the thirteen United States should be reduced to one great republic, governed by one legislature, and under the direction of one executive and judicial; or whether they should continue thirteen confederated republics, under the direction and control of a supreme federal head for certain defined national purposes only?

This enquiry is important, because, although the government reported by the convention does not go to a perfect and entire consolidation,¹ yet it approaches so near to it, that it must, if executed, certainly and infallibly terminate in it.

This government is to possess absolute and uncontrollable power, legislative, executive and judicial, with respect to every object to which it extends, for by the last clause of section 8th, article 1st, it is declared “that the Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution, in the government of the United States; or in any department or office thereof.” And by the 6th article, it is declared “that this constitution, and the laws of the United States, which shall be made in pursuance thereof, and the treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution, or law of any state to the contrary notwithstanding.” It appears from these articles that there is no need of any intervention of the state governments, between the Congress and the people, to execute any one power vested in the general government, and that the constitution and laws of every state are nullified and declared void, so far as they are or shall be inconsistent with this constitution, or the laws made in pursuance of it, or with treaties made under the authority of the United States.—The government then, so far as it extends, is a complete one, and not a confederation. It is as much one complete government as that of New-York or Massachusetts, has as absolute and perfect powers to make and execute all laws, to appoint officers, institute courts, declare offences, and annex penalties, with respect to every object to which it extends, as any other in the world. So far therefore as its powers reach, all ideas of confederation are given up and lost. It is true this government is limited to certain objects, or to speak more properly, some small degree of power is still left to the states, but a little attention to the powers vested in the general government, will convince every candid man, that if it is capable of being executed, all that is reserved for the individual states must very soon be annihilated, except so far as they are barely necessary to the organization of the general government. The powers of the general legislature extend to every case that is of the least importance—there is nothing valuable to human nature, nothing dear to freemen, but what is within its power. It has authority to make laws which will affect the lives, the liberty, and property of every man in the United States; nor can the constitution or laws of any state, in any way prevent or impede the full and complete execution of every power given. The legislative power is competent to lay taxes, duties, imposts, and excises—there is no limitation to this power, unless it be said that the clause which directs the use to which those taxes, and duties shall be applied, may be said to be a limitation: but this is no restriction of the power at all, for by this clause they are to be applied to pay the debts and provide for the common defence and general welfare of the

1. The Anti-Federalists charged that the proposed Constitution aimed not at federalism (a division of powers between the national government and the state governments) but at consolidation (the centralization of all powers in the national government).

United States; but the legislature have authority to contract debts at their discretion; they are the sole judges of what is necessary to provide for the common defence, and they only are to determine what is for the general welfare; this power therefore is neither more nor less, than a power to lay and collect taxes, imposts, and excises, at their pleasure; not only [is] the power to lay taxes unlimited, as to the amount they may require, but it is perfect and absolute to raise them in any mode they please. No state legislature, or any power in the state governments, have any more to do in carrying this into effect, than the authority of one state has to do with that of another. In the business therefore of laying and collecting taxes, the idea of confederation is totally lost, and that of one entire republic is embraced....

Let us now proceed to enquire, as I at first proposed, whether it be best the thirteen United States should be reduced to one great republic, or not? It is here taken for granted, that all agree in this, that whatever government we adopt, it ought to be a free one; that it should be so framed as to secure the liberty of the citizens of America, and such a one as to admit of a full, fair, and equal representation of the people. The question then will be, whether a government thus constituted, and founded on such principles, is practicable, and can be exercised over the whole United States, reduced into one state?

If respect is to be paid to the opinion of the greatest and wisest men who have ever thought or wrote on the science of government, we shall be constrained to conclude, that a free republic cannot succeed over a country of such immense extent, containing such a number of inhabitants, and these increasing in such rapid progression as that of the whole United States. Among the many illustrious authorities which might be produced to this point, I shall content myself with quoting only two. The one is the baron de Montesquieu, *spirit of laws*, chap. xvi. vol. I [book VIII].² “It is natural to a republic to have only a small territory, otherwise it cannot long subsist. In a large republic there are men of large fortunes, and consequently of less moderation; there are trusts too great to be placed in any single subject; he has interest of his own; he soon begins to think that he may be happy, great and glorious, by oppressing his fellow citizens; and that he may raise himself to grandeur on the ruins of his country. In a large republic, the public good is sacrificed to a thousand views; it is subordinate to exceptions, and depends on accidents. In a small one, the interest of the public is easier perceived, better understood, and more within the reach of every citizen; abuses are of less extent, and of course are less protected.” Of the same opinion is the marquis Beccaria.³

History furnishes no example of a free republic, any thing like the extent of the United States. The Grecian republics were of small extent; so also was that of the Romans. Both of these, it is true, in process of time, extended their conquests over large territories of country; and the consequence was, that their

2. Baron Charles de Montesquieu was an eighteenth-century French political theorist whose ideas were highly influential in the era of the American Revolution and the Constitution.

3. Cesare Beccaria was an eighteenth-century Italian legal philosopher.

governments were changed from that of free governments to those of the most tyrannical that ever existed in the world.

Not only the opinion of the greatest men, and the experience of mankind, are against the idea of an extensive republic, but a variety of reasons may be drawn from the reason and nature of things, against it. In every government, the will of the sovereign is the law. In despotic governments, the supreme authority being lodged in one, his will is law, and can be as easily expressed to a large extensive territory as to a small one. In a pure democracy the people are the sovereign, and their will is declared by themselves; for this purpose they must all come together to deliberate, and decide. This kind of government cannot be exercised, therefore, over a country of any considerable extent; it must be confined to a single city, or at least limited to such bounds as that the people can conveniently assemble, be able to debate, understand the subject submitted to them, and declare their opinion concerning it.

In a free republic, although all laws are derived from the consent of the people, yet the people do not declare their consent by themselves in person, but by representatives, chosen by them, who are supposed to know the minds of their constituents, and to be possessed of integrity to declare this mind.

In every free government, the people must give their assent to the laws by which they are governed. This is the true criterion between a free government and an arbitrary one. The former are ruled by the will of the whole, expressed in any manner they may agree upon; the latter by the will of one, or a few. If the people are to give their assent to the laws, by persons chosen and appointed by them, the manner of the choice and the number chosen, must be such, as to possess, be disposed, and consequently qualified to declare the sentiments of the people; for if they do not know, or are not disposed to speak the sentiments of the people, the people do not govern, but the sovereignty is in a few. Now, in a large extended country, it is impossible to have a representation, possessing the sentiments, and of integrity, to declare the minds of the people, without having it so numerous and unwieldy, as to be subject in great measure to the inconvenience of a democratic government.

The territory of the United States is of vast extent; it now contains near three millions of souls, and is capable of containing much more than ten times that number. Is it practicable for a country, so large and so numerous as they will soon become, to elect a representation, that will speak their sentiments, without their becoming so numerous as to be incapable of transacting public business? It certainly is not.

In a republic, the manners, sentiments, and interests of the people should be similar. If this be not the case, there will be a constant clashing of opinions; and the representatives of one part will be continually striving against those of the other. This will retard the operations of government, and prevent such conclusions as will promote the public good. If we apply this remark to the condition of the United States, we shall be convinced that it forbids that we should be one government. The United States includes a variety of climates. The productions of the different parts of the union are very variant, and their interests, of consequence, diverse. Their manners and habits differ as much as their climates and

productions; and their sentiments are by no means coincident. The laws and customs of the several states are, in many respects, very diverse, and in some opposite; each would be in favor of its own interests and customs, and, of consequence, a legislature, formed of representatives from the respective parts, would not only be too numerous to act with any care or decision, but would be composed of such heterogenous and discordant principles, as would constantly be contending with each other.

The laws cannot be executed in a republic, of an extent equal to that of the United States, with promptitude.

The magistrates in every government must be supported in the execution of the laws, either by an armed force, maintained at the public expence for that purpose; or by the people turning out to aid the magistrate upon his command, in case of resistance.

In despotic governments, as well as in all the monarchies of Europe, standing armies are kept up to execute the commands of the prince or the magistrate, and are employed for this purpose when occasion requires: But they have always proved the destruction of liberty, and [are] abhorrent to the spirit of a free republic. In England, where they depend upon the parliament for their annual support, they have always been complained of as oppressive and unconstitutional, and are seldom employed in executing of the laws; never except on extraordinary occasions, and then under the direction of a civil magistrate.

A free republic will never keep a standing army to execute its laws. It must depend upon the support of its citizens. But when a government is to receive its support from the aid of the citizens, it must be so constructed as to have the confidence, respect, and affection of the people. Men who, upon the call of the magistrate, offer themselves to execute the laws, are influenced to do it either by affection to the government, or from fear; where a standing army is at hand to punish offenders, every man is actuated by the latter principle, and therefore, when the magistrate calls, will obey: but, where this is not the case, the government must rest for its support upon the confidence and respect which the people have for their government and laws. The body of the people being attached, the government will always be sufficient to support and execute its laws, and to operate upon the fears of any faction which may be opposed to it, not only to prevent an opposition to the execution of the laws themselves, but also to compel the most of them to aid the magistrate; but the people will not be likely to have such confidence in their rulers, in a republic so extensive as the United States, as necessary for these purposes. The confidence which the people have in their rulers, in a free republic, arises from their knowing them, from their being responsible to them for their conduct, and from the power they have of displacing them when they misbehave: but in a republic of the extent of this continent, the people in general would be acquainted with very few of their rulers: the people at large would know little of their proceedings, and it would be extremely difficult to change them.... The consequence will be, they will have no confidence in their legislature, suspect them of ambitious views, be jealous of every measure they adopt, and will not support the laws they pass. Hence the government will be nerveless and inefficient, and no way will be left to render it otherwise, but by establishing an

armed force to execute the laws at the point of the bayonet—a government of all others the most to be dreaded.

In a republic of such vast extent as the United-States, the legislature cannot attend to the various concerns and wants of its different parts. It cannot be sufficiently numerous to be acquainted with the local condition and wants of the different districts, and if it could, it is impossible it should have sufficient time to attend to and provide for all the variety of cases of this nature, that would be continually arising.

In so extensive a republic, the great officers of government would soon become above the control of the people, and abuse their power to the purpose of aggrandizing themselves, and oppressing them. The trust committed to the executive offices, in a country of the extent of the United-States, must be various and of magnitude. The command of all the troops and navy of the republic, the appointment of officers, the power of pardoning offences, the collecting of all the public revenues, and the power of expending them, with a number of other powers, must be lodged and exercised in every state, in the hands of a few. When these are attended with great honor and emolument, as they always will be in large states, so as greatly to interest men to pursue them, and to be proper objects for ambitious and designing men, such men will be ever restless in their pursuit after them. They will use the power, when they have acquired it, to the purposes of gratifying their own interest and ambition, and it is scarcely possible, in a very large republic, to call them to account for their misconduct, or to prevent their abuse of power.

These are some of the reasons by which it appears, that a free republic cannot long subsist over a country of the great extent of these states. If then this new constitution is calculated to consolidate the thirteen states into one, as it evidently is, it ought not to be adopted....

Discussion Questions

1. How do the Federalists and the Anti-Federalists view human nature? Why does Madison think individuals are “much more disposed to vex and oppress each other than to co-operate for their common good”? Why is Brutus more hopeful that, under the proper political circumstances, citizens will cooperate for their common good? Whose perspective on human nature do you find more persuasive?
2. How do the Federalists and the Anti-Federalists view participation by ordinary citizens at the local level? Why does Madison feel that “pure democracy” leads to disaster? Why does Brutus have a more positive view of politics within local communities? Do you think a “face-to-face” politics of ordinary citizens fosters individual growth and public spirit, or does it produce ignorant decisions and unfairness to minorities?
3. How do the Federalists and the Anti-Federalists view the role of elected representatives? Why does Madison want representatives to deliberate at

a distance from the demands of their constituents? Why does Brutus want representatives to be closely tied to their constituents' ideas and interests? Do you think, like Madison, that representatives should be trustees who do what they think is best for the country, or do you believe, like Brutus, that representatives should be delegates who follow the expressed wishes of their constituents?

4. In what ways is the debate between Madison and Brutus reflected in today's political debates? In what ways have the arguments changed? Do contemporary defenders of a large policy role for the federal government share Madison's fundamental assumptions? Do contemporary critics of the federal government share Brutus's fundamental assumptions?

Suggested Readings and Internet Resources

The best source on the debate between the Federalists and the Anti-Federalists is the original texts themselves. For inexpensive editions, see Clinton Rossiter, ed., *The Federalist Papers* (New York: Mentor Books, 1999), and Ralph Ketcham, ed., *The Anti-Federalist Papers* (New York: Signet, 2003). On the political ideas of the founding era, see Gordon S. Wood, *The Creation of the American Republic, 1776–1787* (Chapel Hill: University of North Carolina Press, 1998), and Jack N. Rakove, *Original Meanings: Politics and Ideas in the Making of the Constitution* (New York: Alfred A. Knopf, 1996). In *If Men Were Angels: James Madison and the Heartless Empire of Reason* (Lawrence: University Press of Kansas, 1995), Richard K. Matthews provides a provocative interpretation of the great Federalist's political theory. Instructive commentaries on the political philosophy of the Anti-Federalists are Herbert J. Storing, *What the Anti-Federalists Were For* (Chicago: University of Chicago Press, 1981), and Saul Cornell, *The Other Founders: Anti-Federalism and the Dissenting Tradition in America, 1788–1828* (Chapel Hill: University of North Carolina Press, 1999).

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www.law.emory.edu/index.php

This searchable index of information on the Constitution and *The Federalist Papers* requires a forms-capable browser.

FoundingFathers.info

www.foundingfathers.info/federalistpapers

This site provides all of *The Federalist Papers* for downloading.

Chapter 2



Democracy: Overrated or Undervalued?

Almost everybody in America believes in democracy. When interviewers ask Americans basic questions of majority rule, equality of opportunity, or individual freedom, more than 95 percent profess a belief in democratic values. As our introduction to this book suggests, however, once we probe a bit deeper into what Americans think democracy means, we find that they are not at all of one mind about how far democracy should extend into political, social, and economic life. Elite democrats believe that democracy is a valuable method for selecting those who will govern us, but they are skeptical about the political capacities and interests of ordinary citizens and want important decisions left to those with experience and expertise. Popular democrats distrust elites as potentially self-serving and believe that under the right circumstances ordinary citizens are both capable of and entitled to a significant share in deciding public matters.

The debate over democracy began at the time of the nation's founding and has continued to this day. In the previous chapter, we saw Federalists and Anti-Federalists arguing about whether the American experiment in self-government should rest on elite democracy or popular democracy. To James Madison, only a national republic manned by a deliberative elite, who could filter out the irrational passions of the public, could sustain the American experiment. In the eyes of Brutus, this national republic would breed an oppressive aristocracy, who would crush popular democracy, which must be rooted in law-abiding and virtuous citizens and flourish at the local and state levels.

Although the Federalists prevailed in the original American debate over democracy, securing the ratification of the Constitution, nineteenth-century America looked more like the Anti-Federalists' (and Thomas Jefferson's) vision of democracy than the Federalists' vision. For most of the century, political and economic life was small-scale and decentralized, with the federal government in Washington, D.C., exercising only limited powers. Nineteenth-century America witnessed the establishment of the most democratic society the world had

contained since the Golden Age of democracy in ancient Athens. Levels of political involvement and rates of voting among ordinary citizens were remarkably high—much higher, in fact, than they would be a century later. To be sure, this was a white man's democracy; Native Americans, African Americans, and women paid a high price for white men's freedoms, and the latter two groups had to launch long and painful struggles for democratic inclusion that would not achieve much success until the twentieth century.

Between the Civil War and World War I, the United States evolved from being a largely agrarian and decentralized society into an urbanized and industrialized nation. This transformation called into question the popular democratic assumptions held by the heirs of the Anti-Federalists and Jefferson. Could ordinary citizens obtain, understand, and act on the increasingly complex information that characterized modern American society? America's premier journalist, Walter Lippmann, argued in the 1920s that ordinary citizens viewed the world through stereotypes, simplistic pictures that distorted reality, and that effective government for the industrial age required a greater emphasis on trained, dispassionate experts. Agreeing with Lippmann that the American public had been eclipsed by forces that seemed beyond its control, America's premier philosopher, John Dewey, warned of the elitist tendencies of Lippmann's experts. Dewey sought to revive popular democracy in face-to-face communities where ordinary citizens, informed by the latest findings of social science, would participate in public affairs.

In the 1950s (like the 1920s, a decade of apparent public apathy), Lippmann's argument received reinforcement from the empirical surveys conducted by political scientists. Most Americans, these surveys suggested, were not very interested in political life, did not know much about public affairs, and did not participate at very high levels in politics. Prevailing American conceptions about democracy would have to be modified, many political scientists then argued, to reflect what Robert Dahl called "citizenship without politics." However, in the 1960s a minority of political scientists began to object, on both theoretical and empirical grounds, to this redefinition of democracy, claiming that the new perspective was less democratic realism than it was democratic elitism. These critics found support among the emerging political movements that would mark the 1960s as a decade of popular democratic upsurge. Students for a Democratic Society (SDS), the most important organization of the '60s New Left, gave the period its political watchword: *participatory democracy*.

Our selections in this chapter are two of the more recent versions of the persisting debate over democracy. John Mueller, a political scientist, attacks what he considers to be the romantic and unrealistic conception of democracy put forward by popular democrats. All that is required for democracy, Mueller contends, is a political system that eschews violence and that allows citizens to criticize, pressure, and remove those in power. Democracy, he suggests, will always consist of a messy, unequal conflict for advantage among special interests. What it will never achieve, he argues, are the misty ideals of popular democrats: political equality, participation, and an enlightened citizenry. Holding democracy to these standards only fosters cynicism. Mueller's analysis updates the classic elite democratic perspective of Madison, Lippmann, and Dahl.

Paul Rogat Loeb, a political activist, represents the popular democratic perspective of the Anti-Federalists, Jefferson, Dewey, and the SDS. He ascribes the widespread cynicism about politics not to the romantic ideals of popular democrats but to the skeptical views of public involvement broadcast by the dominant forces in American society. "We've all but forgotten," he writes, "that public participation is the very soul of democratic citizenship, and how much it can enrich our lives." In our selection, Loeb tells the story of Pete Knutson (one of many stories in his book), a commercial fisherman who organized his fellow fishermen, environmentalists, and Native Americans to defeat an initiative by large industries that would have destroyed salmon spawning grounds. Loeb argues that active citizenship is required both to fulfill our responsibility to take care of the common good and to grow as individuals in psychological and spiritual depth.

Evaluating the debate between Mueller and Loeb should help to clarify your own conception of democracy. Do you believe, with Mueller, that Americans have many more interesting things to do than spend their time on political pursuits? Or do you believe, with Loeb, that political involvement is necessary for a sense of freedom and personal dignity? Do you believe, with Mueller, that self-interest and inequality will always characterize democracy and that attempts to reduce their influence through political and economic reforms will inevitably fail? Or do you believe, with Loeb, that politics can also reflect our more social impulses and can redress political and economic injustices? Above all, do you agree with Mueller that acceptance of elite democracy is the only realistic perspective, or do you agree with Loeb that the abandonment of popular democracy is a surrender to cynicism?

Democracy's Romantic Myths

JOHN MUELLER

There is a famous Norman Rockwell painting that purports to portray democracy in action. It depicts a New England town meeting in which a workingman has risen in a contentious situation to present his point of view. His rustic commonsense, it appears, has cut through the indecisiveness and bickering to provide a consensual solution to the problem at hand, and the others in the picture are looking up at him admiringly.

As it happens, that misty-eyed, idealized snapshot has almost nothing to do with democracy in actual practice. Democracy is not a process in which one

shining idea conquers all as erstwhile contenders fall into blissful consensus. Rather, it is an extremely disorderly muddle in which clashing ideas and interests (all of them “special”) do unkempt and unequal, if peaceful, battle and in which ideas are often reduced to slogans, data to distorted fragments, evidence to gestures, and arguments to poses. Speculation is rampant, caricature is routine, and posturing is de rigueur. If one idea wins out, it is likely to be severely compromised in the process, and no one goes away entirely reconciled or happy. And there is rarely a sense of completion or finality or permanence: in a democracy, as Tod Lindberg points out, “the fat lady never sings.” It’s a mess, and the only saving grace is that other methods for reaching decisions are even worse.

... I develop an approach to democracy that contrasts substantially with the romantic Rockwell ideal. It stresses petition and lobbying—the chaotic and distinctly nonconsensual combat of “special interests”—as the dominant and central characteristic of democracy and it suggests that while elections are useful and often valuable in a democracy, they may not be absolutely necessary. I also argue that democracy in practice is not about equality, but rather about the freedom to become politically unequal, and that it functions not so much by rule by the majority as by minority rule with majority acquiescence....

... I also contrast democracy with other governmental forms. Although the advantage is only comparative, democracy seems to do better at generating effective governments, choosing leaders, addressing minority concerns, creating a livable society, and functioning effectively with real, flawed human beings....

In defining democracy, it is particularly important, I think, to separate the essential institution itself from the operating devices that are commonly associated with it—mechanisms like written constitutions, the separation of powers or “checks and balances” (including an independent judiciary), and even elections. Any definition of democracy is inadequate, I think, if it can logically be taken to suggest that Britain (which has neither a written constitution nor separation of powers) is not a democracy or that Switzerland did not become one until 1971 (when women were finally given the vote)....

In my view, democracy is characterized by government that is necessarily and routinely responsive—although this responsiveness is not always even, fair, or equal. It comes into effect when the people effectively agree not to use violence to replace the leadership, and the leadership effectively leaves them free to criticize, to pressure, to organize, and to try to dislodge it by any other means. This approach can be used to set up a sort of sliding scale of governmental forms. An *authoritarian* government may effectively and sometimes intentionally allow a degree of opposition—a limited amount of press disagreement, for example, or the freedom to complain privately, something sometimes known as the freedom of conversation. But it will not tolerate organized attempts to replace it, even if they are peaceful. A *totalitarian* government does not allow even those limited freedoms. On the other end of the scale is *anarchy*: a condition which holds when a government “allows” the use of violence to try to overthrow it—presumably mainly out of weakness or ineffectiveness.

Authoritarian and even totalitarian governments can sometimes be responsive as well, of course. But their responsiveness depends on the will and the mindset of

the leadership. By contrast, democracy is *routinely, necessarily* responsive: because people are free to develop and use peaceful methods to criticize, pressure, and replace the leadership, the leaders must pay attention to their critics and petitioners.

It seems to me that the formal and informal institutional mechanisms variously applied in democracies to facilitate this core consideration are secondary—though this does not mean that all institutions are equally fair or efficient. One can embellish this central democratic relationship with concerns about ethos, way of life, social culture, shared goals, economic correlates, common purposes, customs, preferred policy outcomes, norms, patriotism, shared traditions, and the like. These issues are interesting, but ... they don't seem to be essential or necessary to the functioning of democracy....

Apathy

... One of the great, neglected aspects of free speech is the freedom not to listen. As Hubert Humphrey reportedly put it, "The right to be heard doesn't automatically include the right to be taken seriously."¹ It is no easy task to persuade free people to agree with one's point of view, but as any experienced demagogue is likely to point out with some exasperation, what is most difficult of all is to get them to pay attention at all. People, particularly those in a free, open society, are regularly barraged by shysters and schemers, by people with new angles and neglected remedies, with purveyors of panaceas and palliatives. Very few are successful—and even those who do succeed, including Adolf Hitler, owe their success as much to luck as to skill.

... [Such] apathy helps importantly with the problem that is usually called the tyranny of the majority. It is not difficult to find a place where the majority harbors a considerable hatred for a minority—indeed, it may be difficult to find one where this is not the case. Polls in the United States regularly have found plenty of people who would cheerfully restrict not only the undeserving rich, but also homosexuals, atheists, accused Communists, Nazi paraders, flag burners, and people who like to shout unpleasant words and perpetrate unconventional messages. But it is not easy to get this majority to do anything about it—after all, that would require a certain amount of work.

Because of apathy, therefore, people, sometimes despite their political predispositions, are effectively tolerant. For democracies the danger is not so much that agile demagogues will play on hatreds and weaknesses to fabricate a vindictive mob-like tyranny of the majority: the perversions of the French Revolution have proved unusual. More to be feared, it seems, is the tyranny of a few who obtain bland acquiescence from the uninterested, and essentially unaffected, many....

1. Hubert Humphrey was a Democratic senator from Minnesota and served as vice president under President Lyndon B. Johnson.

The Quest for Political Equality

... The notion that all men are created equal suggests that people are *born* equal—that is, that none should necessarily be denied political opportunity merely because of their hereditary entrance into the wrong social or economic class or because they do not adhere to the visions or dictates of a particular ideological group. The notion does not, however, suggest that people must necessarily be equal in their impact on the political system, but this damaging extrapolation is often made by reformers, at least as a goal to be quested after.

An extensive study on the issue of equality by a team of political scientists finds, none too surprisingly, that people in a real democracy like the United States differ in the degree to which they affect the political system. Political effectiveness, the study concludes, depends on three varying factors: resources, especially time, money, and skills; psychological engagement with politics; and “access to networks through which individuals can be recruited to political life.” The variance of effectiveness, the authors then conclude, poses a “threat to the democratic principle of equal protection of interests.” Another analyst, reviewing their findings, makes a similar observation: “liberal democracies fail to live up to the norm of equal responsiveness to the interests of each citizen.”

But instead of seeking to reform the system or the people who make it up, we may want instead to abandon, or at least substantially to modify, the principle and the norm. They clearly express a romantic perspective about democracy, a perspective which has now been fully and repeatedly disconfirmed in practice. Democracies are responsive and attentive to the interests of the citizenry—at least when compared to other forms of government—but they are nowhere near equally responsive to the interests of each citizen.

Related is the perennial clamor against “special interests.” As the futile struggle for campaign finance reform in the United States suggests, people who want or need to influence public policy are very likely to find ways to do so no matter how clever the laws that seek to restrict them. As Gil Troy observes, “for all the pious hopes, the goal of the Watergate-era reforms—to remove the influence of money from presidential elections—was, in hard and inescapable fact, ridiculous.” (He also notes that the entire cost of the 1996 election campaigns was about 25 percent of what Procter & Gamble routinely spends every year to market its products.) A rare voice of realism amid all the sanctimonious, politically correct bluster from politicians about campaign finance reform in the United States in the 1990s was that of Senator Robert Bennett of Utah: “rich people will always have influence in politics, and the solution is not to create barriers that cause the rich people to spend even more money to hire lawyers and consultants to find ways around the law to get the same results.”

In the end, “special interests” can be effectively reined in only by abandoning democracy itself, because their activities are absolutely vital to the form. Indeed, it is quite incredible that two prominent Washington reporters merely deem it “simplistic” to argue that “people with common interests should not attempt to sway government policy.” In a democracy the free, competitive play of “special interests” is fundamental. To reform this out of existence would be uncomprehending and profoundly antidemocratic.

Most of the agitation against political inequality is focused on the special privileges business is presumed to enjoy. For example, concern is voiced that the attention of public officials can be differently arrested: “a phone call from the CEO of a major employer in the district may carry considerably more weight than one from an unknown constituent.” It is possible, of course, that the unweighty and unknown constituent has just come up with a plan which will achieve permanent worldwide bliss in the course of the next six months, but, since there are only twenty-four hours in a day, public officials (like the rest of us) are forced to ration their time, and they are probably correct to assume, as a first approximation at least, that the concerns of a major employer are likely to be of wider relevance to more people than are those of the hapless lone constituent.

But if the CEO's access advantage to a time-pressured politician is somehow reprehensible and must be reformed, what about other inequalities—that is, why focus only on economic ones? A telephone call from a big-time political columnist like David Broder of the *Washington Post* is likely to get the politician's attention even faster than that of the CEO. Should the influential David Broder hold off on his next column until the rest of us deserving unknowns have had a chance to put in our two cents in the same forum? Inequalities like these are simply and unavoidably endemic to the whole political system as, indeed, they are to life itself. It may be possible to reduce this inequality, but it is difficult to imagine a reform that could possibly raise the political impact of the average factory worker—or even of the average business executive—remotely to equal that enjoyed by Broder....

The Quest for Participation

Democratic theorists, idealists, and image-makers maintain that “democratic states require ... participation in order to flourish,” or that “a politically active citizenry is a requisite of any theory of democracy,” or that “democracy was built on the principle that political participation was not only the privilege of every man, but a necessity in ensuring the efficiency and prosperity of the democratic system,” or that “high levels of electoral participation are essential for guaranteeing that government represents the public as a whole,” or that “to make a democracy that works, we need citizens who are engaged.”

But we now have over two hundred years of experience with living, breathing, messy democracy, and truly significant participation has almost never been achieved anywhere. Since democracy exists, *it simply can't be true* that wide participation is a notable requirement, requisite, guarantee, need, or necessity for it to prosper or work. Routinely, huge numbers of citizens even—in fact, especially—in “mature” democracies simply decline to participate, and the trend in participation seems to be, if anything, mostly downward. In the United States, nearly half of those eligible fail to vote even in high-visibility elections and only a few percent ever actively participate in politics. The final winner of a recent

election for the mayor of Rochester, N.Y., received only about 6 percent of the vote of the total electorate. (However, he is a very popular choice: if everybody had voted, he would almost certainly have achieved the same victory.) Switzerland is Europe's oldest democracy, and it also boasts the continent's lowest voter turnout.

Statistics like these frequently inspire a great deal of concern—after all, it is argued, “political participation” is one of the “basic democratic ideals.” But it may be more useful to reshape democratic theories and ideals to take notice of the elemental fact that democracy works even though it often fails to inspire very much in the way of participation from its citizenry.

And it might also be asked, why, exactly, is it so important for citizens to participate? Most analyses suggest that nonvoters do not differ all that much from voters in their policy concerns, though there are some (controversial) suggestions that leftist parties might do a bit better in some countries if everyone were forced to vote. However, once in office, responsible leftist and rightist parties both face the same constraining conditions and, despite their ideologies and campaign promises, often do not differ all that much from each other in their policies—frequently to the disillusionment and disgust of their supporters who may come to feel they have been conned.

Some hold voting to be important because “of the problem of legitimacy.” The idea is that “as fewer and fewer citizens participate in elections, the extent to which government truly rests on the consent of the governed may be called into question”; moreover the “quality of the link between elites and citizens” will erode. Actually, such callings into question seem to happen mostly when a candidate, like Bill Clinton in 1992, gets less than half of the recorded *vote*—and these are principally inspired by partisan maneuvering by the losers to undercut any claim that the winner has a mandate. And in local elections, the often exceedingly low turnout and participation levels rarely even cause much notice: I have yet to hear anyone suggest that the mayor of Rochester is illegitimate or “unlinked” because hardly anybody managed to make it to the polls when he was elected.

Moreover, it really seems to strain credulity to suggest that “if people feel distant from the electoral process, they can take no pride in the successes of the government.” No pride? It seems that even nonvoters celebrated victory in the Gulf War. Or that nonvoters “avoid responsibility for the problems facing the nation.” But nonvoters seem to have no more difficulty than voters in routinely (and sometimes even correctly) blaming the politicians for whatever is wrong. And it is simply too glib to conclude that “if you don't vote, you don't count.” If that were true, women would never have gotten the vote, slavery would still exist, and there would never have been prison reform or legislation aiding the homeless.

There are also claims that low turnout levels “contribute to the problem of an unrepresentative policy agenda.” But it is difficult to understand what this could possibly mean—or, better, what a “representative policy agenda” would look like. Agendas are set by people actively trying to pursue their interests; they are not out there somewhere in the miasma waiting for us objectively to snap them

up. As Steven Rosenstone and John Mark Hansen argue, “political participation is the product of strategic interactions of citizens and leaders.” People “participate when politicians, political parties, interest groups, and activists persuade them to get involved.” Thus, there will not be an “ideal” or even “normal” degree of participation. Rather, participation will increase when “salient issues reach the public agenda ... when governments approach crucial decisions ... when competitive election campaigns stimulate, when social movements inspire.”

Hundreds of years of experience, then, suggest that the pursuit of participation for the sake of participation is rather quixotic. Instead, applying a philosophical observation attributed to impresario Sol Hurok, perhaps we should accept the fact that “if people don’t want to come, nothing will stop them.” Moreover, discontent and cynicism about the system itself (and consequently perhaps non-voting) are increased when alarmists passionately lament that many people, as they have throughout democratic eternity, freely decide to pursue interests they find more pressing than politics, or manage to come up with more interesting things to do on election day than to go through the often inconsequential ritual of voting. (Sometimes, actually, nonvoters, by the very act of not voting, may be indicating their concerns and preferences more eloquently than those who actually do vote.)

The Quest for an Enlightened Citizenry

“If a nation expects to be ignorant and free,” Thomas Jefferson once said, “it expects what never was and never will be.” Pretty much ever since those memorable words were issued, the United States has managed to be both, and with considerable alacrity.

Fortunately for America, eternal vigilance has not proven to be the price of democracy—it can come quite a bit cheaper. In ideal democracies, James Bryce once suggested, “the average citizen will give close and constant attention to public affairs, recognizing that this is his interest as well as his duty”—but not in real ones.² And Horace Mann’s ringing prediction that “with universal suffrage, there must be universal elevation of character, intellectual and moral, or there will be universal mismanagement and calamity” has proven untrue.³

Nonetheless, democratic idealists continue to insist that “democracies require responsibility.” Or they contend that democracy “relies on informed popular judgment and political vigilance.” Or they persist in defining democracy “as a political system in which people actively attend to what is significant.” One would think it would be obvious by now that democracy works despite the fact that it often fails to inspire or require very much in the

2. James Bryce was a British writer who published a classic study, *The American Commonwealth*, in the late nineteenth century.

3. Horace Mann was a nineteenth-century educational reformer.

way of responsibility and knowledge from its citizenry. Democracy does feed on the bandying about of information, but that is going to happen pretty much automatically when people are free to ferret it out and to exchange it. Democracy clearly does not require that people generally be well informed, responsible, or actively attentive.

Recent surveys find that around half the American people haven't the foggiest idea which party controls the Senate or what the first ten amendments of the Constitution are called or what the Fifth Amendment does or who their congressional representative or senators are. Moreover, this lack of knowledge has generally increased (particularly when education is controlled for) since the 1940s. A month after the Republican victory in the 1994 election that propelled the vocal and energetic Newt Gingrich into the speakership of the House of Representatives and into the media stratosphere, a national poll found that 50 percent hadn't heard enough about Gingrich even to have an opinion about him. Four months later, after endless publicity over Gingrich's varying fortunes and after *Time* magazine had designated him its "Man of the Year," that number had not changed (so much for the power of the press). In a poll conducted two years later, half were still unable to indicate who the speaker was. Meanwhile, less than 20 percent guessed correctly that over the preceding twenty years air pollution and the number of the elderly living in poverty had declined, and most people were of the wildly distorted impression that foreign aid comprised a larger share of the federal budget than Medicare.

One recent analysis observes that "for the last 200 years the United States has survived as a stable democracy, despite continued evidence of an uninformed public." It also notes that "in theory, a democracy requires knowledgeable citizens." Although it then labels the contradictory condition "the paradox of modern democracy," it seems, rather, that it is the theory that should be called into question, not the reality.

Moreover, it may not be entirely clear why one should expect people to spend a lot of time worrying about politics when democratic capitalism not only leaves them free to choose other ways to get their kicks, but in its seemingly infinite quest for variety is constantly developing seductive distractions. Democratic theorists and idealists may be intensely interested in government and its processes, but it verges on the arrogant, even the self-righteous, to suggest that other people are somehow inadequate or derelict unless they share the same curious passion. Many studies have determined that it is the politically interested who are the most politically active. It is also doubtless true that those most interested in unidentified flying objects are the ones most likely to join UFO clubs. UFO enthusiasts, however, get no special credit by political theorists for servicing their particular obsession, while politics junkies are lauded because they seem to be fulfilling a higher, theory-sanctified function.

In the end, the insistence that terrible things will happen unless the citizenry becomes addicted to C-SPAN can inspire cynicism about the process when it is observed that the Beverly Hillbillies (or whatever) enjoy vastly higher ratings.

The Active Citizen

PAUL ROGAT LOEB

In the personal realm, most Americans are thoughtful, caring, generous. We try to do our best by family and friends. At times we'll even stop to help another driver stranded with a roadside breakdown, or give some spare change to a stranger. But increasingly, a wall now separates each of us from the world outside, and from others who've likewise taken refuge in their own private sanctuaries. We've all but forgotten that public participation is the very soul of democratic citizenship, and how much it can enrich our lives.

However, the reason for our wholesale retreat from social involvement is not, I believe, that most of us feel all is well with the world. I live in Seattle, a city with a seemingly unstoppable economy. Yet every time I go downtown I see men and women with signs saying "I'll work for food," or "Homeless vet. Please help." Their suffering diminishes me as a human being. I also travel extensively, doing research and giving lectures throughout the country. Except in the wealthiest of enclaves, people everywhere say, "Things are hard here." America's economic boom has passed many of us by. We struggle to live on meager paychecks. We worry about layoffs, random violence, the rising cost of health care, and the miseducation of our kids. Too stretched to save, uncertain about Social Security, many of us wonder just how we'll survive when we get old. We feel overwhelmed, we say, and helpless to change things.

Even those of us who are economically comfortable seem stressed. We spend hours commuting on crowded freeways, and hours more at jobs whose demands never end. We complain that we don't have enough time left for families and friends. We worry about the kind of world we'll pass on to our grandchildren. Then we also shrug and say there's nothing we can do.

To be sure, the issues we now face are complex—perhaps more so than in the past. How can we comprehend the moral implications of a world in which Nike pays Michael Jordan more to appear in its ads than it pays all the workers at its Indonesian shoe factories combined? Today the five hundred richest people on the planet control more wealth than the bottom three billion, half of the human population. Is it possible even to grasp the process that led to this most extraordinary imbalance? More important, how do we even begin to redress it?

Yet what leaves too many of us sitting on the sidelines is not only a lack of understanding of the complexities of our world. It's not only an absence of readily apparent ways to begin or resume public involvement. Certainly we need to decide for ourselves whether particular causes are wise or foolish—be they the politics of campaign finance reform, attempts to address the growing gap between rich and poor, or efforts to safeguard water, air, and wilderness. We need to identify

and connect with worthy groups that take on these issues, whether locally or globally. But first we need to believe that our individual involvement is worthwhile, that what we might do in the public sphere will not be in vain.

This means we face a challenge that is as much psychological as political. As the Ethiopian proverb says, "He who conceals his disease cannot be cured." We need to understand our cultural diseases of callousness, shortsightedness, and denial, and learn what it will take to heal our society and heal our souls. How did so many of us become convinced that we can do nothing to affect our common future? And how have some other Americans managed to remove the cataracts from their vision and work powerfully for change?

When we do take a stand, we grow psychologically and spiritually. Pete Knutson is one of my oldest friends. During his twenty-five years as a commercial fisherman in Washington and Alaska, he's been forced, time and again, to respond to the steady degradation of salmon spawning grounds. "You'd have a hard time spawning, too, if you had a bulldozer in your bedroom," he says, explaining the destruction of once-rich salmon habitat by commercial development and timber industry clear-cutting. Pete could have simply accepted this degradation as fate, focusing on getting a maximum share of the dwindling fish populations. Instead, he's gradually built an alliance between Washington State fishermen, environmentalists, and Native American tribes, persuading them to work collectively to demand that the habitat be preserved and restored.

The cooperation Pete created didn't come easy: Washington's fishermen were historically individualistic and politically mistrustful, more inclined, in Pete's judgment, "to grumble or blame the Indians than to act." Now, with their new allies, they began to push for cleaner spawning streams, preservation of the Endangered Species Act, and an increased flow of water over major regional dams to help boost salmon runs. But large industrial interests, such as the aluminum companies, feared that these measures would raise their electricity costs or restrict their opportunities for development. So a few years ago they bankrolled a statewide initiative to regulate fishing nets in a way that would eliminate small family fishing operations.

"I think we may be toast," said Pete, when Initiative 640 first surfaced. In an Orwellian twist, its backers even presented the initiative as environmentally friendly, to mislead casual voters. It was called "Save Our Sealife," although fishermen soon rechristened it "Save Our Smelters." At first, those opposing 640 thought they had no chance of success: They were outspent, outstaffed, outgunned. Similar initiatives had already passed in Florida, Louisiana, and Texas, backed by similar industrial interests. I remember Pete sitting in a Seattle tavern with two fisherman friends, laughing bitterly and saying, "The three of us are going to take on the aluminum companies? We're going to beat Reynolds and Kaiser?"

But they refused to give up. Instead, Pete and his coworkers systematically enlisted the region's major environmental groups to campaign against the initiative. They worked with the media to explain the larger issues at stake. And they focused public attention on the measure's powerful financial backers, and their interest in its outcome. On election night, November 1995, Initiative 640 was defeated throughout the state. White fishermen, Native American activists, and Friends of the Earth staffers threw their arms around each other in victory. "I'm

really proud of you, Dad,” Pete’s twelve-year-old son kept repeating. Pete was stunned.

“Everyone felt it was hopeless,” Pete said, looking back. “But if we were going to lose, I wanted at least to put up a good fight. And we won because of all the earlier work we’d done, year after year, to build up our environmental relationships, get some credibility, and show that we weren’t just in it for ourselves.”

We often think of social involvement as noble but impractical. Yet as Pete’s story attests, it can serve enlightened self-interest and the interests of others simultaneously, while giving us a sense of connection and purpose nearly impossible to find in purely private life. “It takes energy to act,” said Pete. “But it’s more draining to bury your anger, convince yourself you’re powerless, and swallow whatever’s handed to you. The times I’ve compromised my integrity and accepted something I shouldn’t, the ghosts of my choices have haunted me. When you get involved in something meaningful, you make your life count. What you do makes a difference. It blows my mind that we beat 640 starting out with just a small group of people who felt it was wrong to tell lies.”

In fighting to save the environment and his economic livelihood, Pete strengthened his own soul. How the rest of us might achieve something similar is not always clear. We often don’t know where to start. Most of us would like to see people treated more justly, to have the earth accorded the respect it deserves, and to feel less pressure in our lives. But we find it hard to imagine having much of a role in this process. We mistrust our own ability to make a difference. The magnitude of the issues at hand, coupled with this sense of powerlessness, has led far too many of us to conclude that social involvement isn’t worth the cost.

Such resignation isn’t an innate response, or the creation of some inevitable fate. Rather, it’s what psychologists call learned helplessness. Society has systematically taught us to ignore the ills we see, and leave them to others to handle. Understandably, we find it unsettling even to think about crises as huge and profound in their implications as the extinction of species, depletion of the ozone layer, and destruction of the rainforests. Or the desperate poverty that blights entire neighborhoods in our nation’s largest cities. We’re led to believe that if we can’t solve every one of these kinds of problems, we shouldn’t bother to become socially active at all. We’re also taught to doubt our voice—to feel we lack either the time to properly learn and articulate the issues we care about, or the standing to speak out and be heard. To get socially involved, we believe, requires almost saint-like judgment, confidence, and character—a standard we can never meet. Whatever impulses toward involvement we might have, they’re dampened by a culture that demeans idealism, enshrines cynicism, and makes us feel naïve for caring about our fellow human beings or the planet we inhabit....

Learned Helplessness

America’s prevailing culture of cynicism insists that nothing we do can matter. It teaches us not to get involved in shaping the world we’ll pass on to our children. It encourages us to leave such important decisions to others—whether they be

corporate and government leaders, or social activists whose lifestyles seem impossibly selfless or foreign. Sadly, and ironically, in a country born of a democratic political revolution, to be American today is to be apolitical. Civic withdrawal has become our norm. To challenge this requires courage. It also requires creating a renewed definition of ourselves as citizens—something closer to the nation of active stakeholders that leaders like Thomas Jefferson had in mind.

The importance of citizens' direct participation in a democracy was expressed thousands of years ago, by the ancient Greeks. In fact, they used the word "idiot" for people incapable of involving themselves in civic life. Now, the very word "political" has become so debased in our culture that we use it to describe either trivial office power plays or the inherently corrupt world of elected leaders. We've lost sight of its original roots in the Greek notion of the polis: the democratic sphere in which citizens, acting in concert, determine the character and direction of their society. "All persons alike," wrote Aristotle, should share "in the government to the utmost." ...

Bowling Alone

Creating any kind of activist community is harder when the civic associations and institutions that might once have offered a foundation have themselves eroded. In a much-discussed article, "Bowling Alone," the Harvard political theorist Robert Putnam observes that during the past thirty years Americans have steadily reduced their participation not only in voting, but also in traditional forms of community involvement, such as the PTA, the League of Women Voters, unions, mainstream churches, the Boy Scouts and Campfire Girls, and service clubs like the Lions and Kiwanis. We've squandered the "social capital" that allows people to work together effectively to pursue shared objectives. As a strangely poignant example of this trend, Putnam notes that local bowling leagues have seen a 40 percent decline in membership since 1980. During the same period, however, the number of individuals who actually bowl has risen until it now exceeds the number who vote in congressional elections. These trends bode ill for American democracy, Putnam argues, because the more socially isolated our citizens become, the fewer chances they have for the kinds of civic conversations that fuel involvement in crucial public concerns.

Putnam's critics, like *Atlantic Monthly* writer Nicholas Lemann, have argued that citizens are still just as likely to get involved in community social networks, but that as America's population shifts toward the suburbs, the networks have changed form. Youth soccer leagues, in which parents participate on the weekends, are booming, he says. So are Internet discussion groups and self-help associations like Alcoholics Anonymous. Organizations from NOW and the Sierra Club to the NRA and the Christian Coalition have taken the place of the old political machines.¹

Such examples notwithstanding, I remain convinced by Putnam's basic proposition, that civic involvement has dropped off significantly. In a follow-up

1. NOW is an acronym for the National Organization for Women; NRA is an acronym for the National Rifle Association.

article, Putnam examines a number of possible causes for the decline, including suburbanization, the increased numbers of women in the work force, and the general demands of modern life. While most of these factors seem to play some role, they don't account for the fact that the decline cuts across cities and suburbs, the married and the single, working men, working women, and stay-at-home moms. The key change during the past fifty years, Putnam concludes, is the steadily increasing influence of television. Regardless of background or current circumstances, the more people watch TV, he finds, the less they involve themselves in civic activities of any kind, and the more mistrusting and pessimistic they become about human nature. As their sense of connectedness and common purpose erodes, they find it easy to scapegoat others, to view the world in prejudicial and unforgiving terms, and to believe that ordinary citizens can do nothing to shape the history of our time. This is all the more troubling given that extensive TV watching now begins in early childhood, taking up as much time among average kids aged nine to fourteen as all other discretionary activities combined. For many adults, TV has gradually replaced nearly every social activity outside the home.

It worries me that so many of us now sit alone for hours on end, passive spectators, paying more attention to the strangers on the screen than to the real people next door. What are the consequences for ourselves and our society? The greatest misfortune, in my view, is that by focusing so much on stories scripted by others, we forfeit the opportunity to create our own.

Fishing Together

Whatever the reasons for our declining civic involvement, we need to rebuild local communities even as we work to expand their vision. Pete Knutson took this approach in working with his fellow fishermen: First he helped create a cohesive community; then he involved its members in larger public issues. Pete, the son of a plainspoken Lutheran minister, grew up in the hardscrabble mill town of Everett, Washington. He had a Barry Goldwater poster on his wall, "because Goldwater spoke his mind."² At first Pete supported the Vietnam War, and even got a jingoistic letter published on the *Everett Herald's* youth page. His views changed as friends who'd enlisted came back, feeling betrayed, and told him, "Don't believe anything the military tells you. They always lie." Before long, Pete was organizing an antiwar moratorium at his high school; then he went off to Stanford, and became the only draft-age man to testify before Congress. He even got his fifteen minutes of fame on the national news, after Strom Thurmond stormed out when Pete had the audacity to ask a Senate committee, "If you're so eager to fight this war, why don't you pick up an M16 and lead the first wave?"

Pete began fishing to work his way through school. Soon, fishing became a way of life, as he bought his own boat, with borrowed money, to support his wife and two young sons. Because he knew his fellow fishermen were powerless in

2. Barry Goldwater, a founder of modern American conservatism and a senator from Arizona, was the Republican candidate for president in 1964.

isolation, he helped build the Puget Sound Gillnetters' Association, which enabled members to market fish jointly, lobby on laws that affected them, and gain leverage against the giant canneries. "I felt we had to trust each other," he says. "If we didn't, we had no chance." The association became a base through which fishermen gradually became conversant with large ecological issues, such as the destruction of salmon habitat, upon whose outcome their livelihoods depended.

Pete worked steadily to bridge the gap between fishermen and the generally more middle-class environmentalists. That was no easy task, given long-standing mutual mistrust fed by class divides and stereotypes. Yet a coalition did in fact emerge, and the fishermen brought a powerful blue-collar presence to issues like the Endangered Species Act and habitat protection. When President Clinton visited Seattle for a Pacific Rim trade conference, a parade of fishing boats joined with Greenpeace activists to challenge his environmental timidity. Both Pete's ethical stand and pride in craft were evoked by the bumper sticker on his truck: "Jesus Was a Gillnetter."

This hard-won and unexpected alliance proved critical when Initiative 640 threatened to shut down the gillnetters' operations by banning the nets they used. The fishermen held joint press conferences with the now-supportive environmental groups, picketed a pleasure-boat company that was a prime initial backer of the initiative, and generally refused to succumb quietly to their opponents' well-financed campaign. They survived because Pete, along with a few others, had helped change their vision from one of enlightened self-interest to a more complex and sustainable ethic, best summed up when he spoke of nurturing the salmon habitat "so my kids can fish, too, and everyone's children can inherit a healthy planet." First the fishermen learned to work together, then to reach beyond their own ranks. Building their association's internal cohesion made it easier for them to tackle difficult issues later on....

The Fullness of Time

However we promote social change, we do so in time: We link past, present, and future in our attempts to create a better world. Some historical eras, however, seem more pregnant with possibility than others....

The 1960s were marked by a ... sense of urgency and creative ferment. Ordinary people worldwide challenged entrenched institutions and policies. They talked of realizing a more humane and generous future. These movements then collapsed because of powerful opposition, their participants' exhaustion, and some dangerous moments of arrogance. But for a time, people unleashed powerful dreams.

Our lives today are hardly stagnant. We have access to a world of food, music, sights, sounds, and healing traditions. We can log onto websites from Bangkok and Reykjavik to Nairobi and Calcutta. As technology changes by leaps and bounds, it alters our lives and the earth at an almost incomprehensible pace. So does the relentless global economy. Change happens so fast we can barely keep up.

But politically, we often feel powerless, incapable of moving forward. We may have witnessed citizens fighting for democracy in the streets of Prague,

Berlin, and Moscow, Tiananmen Square and Soweto, Manila, and Jakarta. But we saw them from a distance on TV. People risked their lives to have a say in their common future, but the lessons seemed remote from our world. They didn't apply to us. Not here, and certainly not now.

It's tempting to gaze back longingly toward the most dramatic periods of history, while disdaining our own era as unheroic and meaningless. "People seem so stuck these days," says Ginny Nicarchy. "But things looked pretty grim in the late 1950s too, when I first got involved. A dozen of us would picket the bomb shelters or stores that were racist in their hiring, and people would yell at us, tell us to 'Go back to Russia,' 'Go back to your kitchen, where you belong.' There were no clear reasons to believe that we could change things, but somehow we did. We leaped forward, started the ball rolling, and built enough political mass that it kept going. Maybe we need to do that again."

Seeding the ground for the next round of highly visible social progress will take work. Yet major gains for human dignity are possible, even in seemingly resistant times. Indeed, our efforts may be even more critical now than in periods when the whole world seems to be watching.

The Turnings of History

Historical contexts can change shape suddenly and dramatically. As Václav Havel wrote before the epochal Eastern European revolutions, "Hope is not prognostication."³ Richard Flacks remembers visiting Berkeley in September 1964 and hearing members of the activist student group SDS complain that their fellow students were almost terminally apathetic, uncaring, and passive. They said that nothing they could try would work. A few weeks later, the free speech movement erupted.

We can never predict when a historical mood will suddenly shift and new hopes and possibilities emerge. But we do know that this shift won't occur unless someone takes action. Recall the struggle of Susan B. Anthony. She labored her entire life for women's suffrage, then died fourteen years before it was achieved. Thirty years ago, few would have thought that the Soviet bloc would crumble, thanks in part to the persistence of individuals from Havel to Lech Walesa and Andrei Sakharov, who voiced prophetic truths despite all costs. Few would have thought that South Africa would become a democracy, with Nelson Mandela its president. Few would have imagined that women throughout the world would begin to insist on shaping their own destiny. Major victories for human dignity rarely come easily or quickly. But they do come.

"When nothing seems to help," said the early twentieth-century reformer Jacob Riis, "I go and look at a stonemason hammering away at his rock perhaps a hundred times without as much as a crack showing in it. Yet at the hundred

3. Václav Havel, a prominent playwright and a dissident during communist rule in Czechoslovakia, became president of the Czech Republic.

and first blow it will split in two, and I know it was not that blow that did it—but all that had gone before.” ...

Faith and Hope

Even if the past holds no guarantees for the future, we can still take heart from previous examples of courage and vision. We can draw hope from those who came before us, to whom we owe so much. We can remember that history unfolds in ways we can never predict, but that again and again bring astounding transformations, often against the longest of odds. Our strength can come, as I've suggested, from a radical stubbornness, from savoring the richness of our journey, and from the victories we win and the lives that we change. We can draw on the community we build.

More than anything, activists religious and secular keep going because participation is essential to their dignity, to their very identity, to the person they see in the mirror. To stay silent, they say, would be self-betrayal, a violation of their soul. Plainly stated, it would feel cheap and tacky. “That’s why we were put here on this earth,” they stress again and again. “What better thing can you do with your life?” “There’ll be nobody like you ever again,” says veteran environmentalist David Brower. “Make the most of every molecule you’ve got, as long as you’ve got a second to go. That’s your charge.”

This means responding to the ills of our time with what Rabbi Abraham Heschel once called “a persistent effort to be worthy of the name human.” A technical editor who chaired her local Amnesty International chapter felt demeaned just by knowing about incidents of torture. To do something about it helped her recover her spirit. “When you stand in front of the Creator,” says Carol McNulty, “you want to say, ‘I tried to make a difference.’ It isn’t going to be what kind of car I had or how big a house. I’d like to think I tried.”

Being true to oneself in this fashion doesn’t eradicate human destructiveness. We need to live, as Albert Camus suggests, with a “double memory—a memory of the best and the worst.”⁴ We can’t deny the cynicism and callousness of which humans are capable. We also can’t deny the courage and compassion that offer us hope. It’s our choice which characteristics we’ll steer our lives by....

Discussion Questions

1. What are the most important differences between the elite democratic perspective and the popular democratic perspective? In your view, which side has the stronger case?
2. Mueller argues that “‘special interests’ can be effectively reined in only by abandoning democracy itself.” Do you agree?

4. Albert Camus was a French philosopher and novelist who won the Nobel Prize for Literature in 1957.

3. Mueller believes that there is no greater intrinsic value in being a “politics junkie” than in pursuing any other interest or hobby, whereas Loeb sees public involvement as essential for personal growth. Is there anything distinctive about political participation that makes it especially worthy of our time and commitments?
4. Are most Americans too preoccupied with their private affairs to pay much attention to public ones, or can they be taught to see critical links between their own needs and interests and the shared pursuit of public goods?

Suggested Readings and Internet Resources

The classic work on the meaning, practices, and dilemmas of American democracy remains Alexis de Tocqueville, *Democracy in America*, vols. 1 and 2 (New York: Vintage Books, 1990). Two provocative histories of American democracy are Robert H. Wiebe, *Self-Rule: A Cultural History of American Democracy* (Chicago: University of Chicago Press, 1995), and Michael Schudson, *The Good Citizen: A History of American Civic Life* (Cambridge, Mass.: Harvard University Press, 1999). Perhaps the greatest work of modern political science in the elite democratic vein is Robert A. Dahl, *Who Governs? Democracy and Power in an American City* (New Haven, Conn.: Yale University Press, 1961). For a fascinating study of the 1960s experiment with participatory democracy, see James Miller, *“Democracy Is in the Streets”*: From Port Huron to the Siege of Chicago (Cambridge, Mass.: Harvard University Press, 1994). For critical accounts of the current status of democracy in America, see Theda Skocpol, *Diminished Democracy: From Membership to Management in American Civic Life* (Norman: University of Oklahoma Press, 2003), and Matthew A. Crenson and Benjamin Ginsberg, *Downsizing Democracy: How America Sidelined Its Citizens and Privatized Its Public* (Baltimore, Md.: Johns Hopkins University Press, 2004).

Center for Democracy and Citizenship
www.publicwork.org

The Center for Democracy and Citizenship offers information about various citizenship projects as well as information about the center’s own publications; it provides links to other sites on citizenship.

Institute for the Study of Civic Values
www.iscv.org

The Institute for the Study of Civic Values is a nonprofit organization in Philadelphia. Its website provides classic articles and lectures on American democratic values as well as information on civic values projects.

The Democracy Collaborative
www.democracycollaborative.org

The Democracy Collaborative’s website provides scholarly materials “in support of democratic renewal, civic participation, and community building.”

Chapter 3



The New Federalism: Does It Create Laboratories of Democracy or a Race to the Bottom?

Addressing the National Governors Association in Philadelphia in December 2008, President-elect Barack Obama quoted Justice Louis Brandeis's famous dissent in a 1932 Supreme Court case celebrating the ability of "a single courageous state" to "serve as a laboratory experimenting with innovative solutions to our economic problems." In the 2008 presidential campaign Obama did not articulate a theory of federalism, outlining how power should be divided between the federal government and the states. Obama's speech to the National Governors Association suggests that he favors giving more power to the states to experiment with new policies. In fact, Obama, like most presidents, is more of a pragmatist, favoring state power only when it favors his goals. Shortly after assuming office, for example, Obama reversed a Bush administration policy that had forbidden states, such as California, to have more stringent auto emissions standards than the federal government.

American politics often takes a peculiar form: instead of debating *what* policy should be enacted, people argue about *where* the policy decision should be made—at the federal, state, or local level. One side will proclaim its adherence to "states' rights" or "community control," invoking Brandeis's metaphor of states as laboratories of democracy. Critics of decentralization argue that giving states too much power can

Note: Both phrases in the chapter title, "laboratories of democracy" and "race to the bottom," were coined by Louis Brandeis, U.S. Supreme Court justice from 1916 to 1939.

lead to a “race to the bottom” in which states favor wealthy investors over the poor, in order to attract investment, or violate the rights of minorities. Proponents of federal power argue that that it is needed to guarantee fairness and equal protection of the laws. Usually the two sides are sincere in their defense of different levels of democracy. As you might suspect, however, the debate is not just about ideals but about who will win and who will lose. This is because where decisions are made greatly affects who wins and who loses. This peculiar quality of the “game” of politics in the United States is determined by a system we call *federalism*.

Federalism is a system of government that divides power between a central government and state and local governments. As a theory of government, federalism was born in compromise during the struggle over the U.S. Constitution. Some of the framers of the Constitution favored a unitary system in which all significant powers would be placed in the hands of a central government. Realizing that such a system would never be approved by the voters, the framers compromised on a system that divided power between the two levels of government. As we saw in Chapter 1, the opponents of the Constitution, the Anti-Federalists, still feared that too much power had been given to the federal government at the expense of the states.

The ratification of the Constitution in 1789 did not settle the federalism issue, primarily because the language in the Constitution is exceedingly vague. The framers were themselves divided, so they left it up to future generations to settle the issue. The biggest crisis of federalism occurred over slavery. In 1861, the southern states decided they had the right to secede from the United States if they did not agree with the policies of the federal government. The issue was settled in a bloody civil war: States do *not* have the right to secede unilaterally from the union; they have to work out their differences within the federal system.

Until Franklin Roosevelt’s New Deal of the 1930s, the federal government was remarkably uninvolved in a wide range of domestic policy functions where we now take for granted vigorous federal action. The halting response of states and localities to the Great Depression changed all that. Roosevelt swiftly moved the federal government into a wide range of functions, including Social Security, welfare, and regulation of the economy, that had previously been considered off limits. For the most part, however, Washington did not take over these functions but instead funded new programs with grants that were administered by state and local governments under varied federal rules. In the 1960s, under President Lyndon Johnson’s leadership, the system of intergovernmental grants expanded tremendously.

Richard Nixon’s election in 1968 began a period of reaction against the expanded powers of the federal government that has continued to this day. For the most part, Nixon did not try to roll back the functions of the federal government but instead deregulated the federal grant system and gave more power over grants to states and localities. The election of Ronald Reagan inaugurated a more radical phase of this new federalism in which efforts were made to return to the system that had existed before the New Deal when the federal government left many domestic policy functions to the states. Although confidence in all levels of government has fallen since the 1960s, the drop in confidence has been most severe for the federal government. A 2009 Pew Research Center poll found that only

42 percent of Americans had a “very or mostly favorable” opinion of the federal government compared to 50 and 60 percent favorable ratings for state and local governments, respectively.

The 1994 Republican takeover of Congress accelerated the trend toward devolution of federal powers to the states. In 1996, Congress passed, and President Bill Clinton signed, the Personal Responsibility and Work Opportunity Act, which converted welfare from a federal entitlement for individuals to a block grant to states, leaving them significant freedom to set their own eligibility criteria and conditions for aid.

The Supreme Court is also moving in the direction of restricting federal power. In 1995, the Court ruled for the first time in sixty years that Congress had exceeded its authority under the Interstate Commerce Clause of the Constitution and declared the federal Gun-Free School Zone Act of 1990 unconstitutional (*U.S. v. Lopez*). In a series of cases decided in 1999, 2000, and 2001, the Supreme Court made it more difficult for the federal government to enforce uniform national standards by giving states immunity against lawsuits alleging violation of federal laws in areas such as labor rights, violence against women, and discrimination on the basis of age or disability.

In times of crisis, however, the federal government invariably expands its power as the public looks to it for decisive action. The September 11 terrorist attacks greatly strengthened the case for expanded federal responsibilities, especially in law enforcement, public health, and airline safety. The financial crisis and economic recession that began in 2008 prompted major expansions of the federal government under both Republican and Democratic presidents. Facing a possible financial panic following the collapse of the Wall Street firm Lehman Brothers, President Bush approved the \$700 billion Troubled Assets Relief Program (TARP), which authorized the Secretary of the Treasury to buy up troubled securities in order to stabilize the financial system and encourage lending. In February 2009 President Obama signed the American Recovery and Reinvestment Act (ARRA), which authorized pumping \$787 billion into many different sectors of the American economy in order to stimulate recovery. The *New York Times* called this act “a striking return of big government” and conservatives attacked the expansion of the federal government and ballooning deficit (a debate we cover in Chapter 12).

In their essay “Beyond the Beltway,” William Eggers and John O’Leary identify themselves with the “devolution revolution” generally supported by conservatives. They stress that the purpose of devolution is not just to make the existing government programs work more efficiently but to raise the question of whether certain functions should be the responsibility of government at all. Such decisions, they maintain, are better left with those governments that are closest to the grass roots, where citizens can see immediately the costs as well as the benefits of government programs. Shrink the federal government, Eggers and O’Leary say, and grass-roots organizations will flourish, becoming “laboratories of democracy.” Moreover, argue Eggers and O’Leary in a section of their book not reprinted here, the expanded powers of the federal government violate the U.S. Constitution, which in the Tenth Amendment reserves all powers not specifically given to the federal government “to the States respectively, or to the people.”

John Donahue, the author of “The Devil in Devolution,” argues that the words of the Constitution are much more ambiguous about the division of power between the federal government and the states than Eggers and O’Leary acknowledge. Moreover, Donahue argues, it is up to each generation to adapt the federal system to the needs of the time. Donahue criticizes the trend toward devolution. Whereas Eggers and O’Leary base their argument primarily on what we call (in the introduction) negative freedom—getting the government out of individuals’ lives—Donahue stresses positive freedom, or the idea that by acting together, we can accomplish things we cannot accomplish separately. Donahue argues that when each state acts separately, those things that we all share, what he calls the “commons,” can be damaged. For example, states may pursue economic development knowing that much of the pollution produced by it will drift to neighboring states. Instead of devolution resulting in “laboratories of democracy,” Donahue suggests, the more likely result will be a “race to the bottom.”

An intriguing aspect of this debate is that each side argues that its position is reinforced by modern technology. The reader will have to sort this out. Do you think that new technologies make it easier for decision making to be decentralized, or do they increase the interdependencies in society, thus requiring more central coordination? Note that the two sides in the debate stress different values. Eggers and O’Leary emphasize individual freedom and local democracy, whereas Donahue puts more stress on national values and equality. In this debate, are we forced to choose among competing values, or is there some way to slip between the horns of the dilemma of devolution and serve all values?

The contemporary debate on federalism reverberates with the same issues and arguments that have been made since the country’s founding. It is unlikely that this debate will ever be completely settled. It seems as though each generation is doomed to decide anew the proper balance between Washington, D.C., and the states and localities. Even though there is no one neat answer, this does not mean there is not a *better* answer for our time. It is up to the reader to decide which position will best serve the core values of American democracy.

Beyond the Beltway

WILLIAM D. EGGERS AND JOHN O’LEARY

Our swollen federal government is in large measure incompatible with the demands of a modern society. In today’s Information Age, there is little rationale for the federal government to control as much as it does. Large, centralized

bureaucracies—whether that be IBM headquarters, the Kremlin, or Washington, D.C.—aren't well suited to an age of rapid technological change. In business, companies are decentralizing, empowering workers, and establishing autonomous business units. (It's not just trendy, it's an economic necessity.) In politics, economic reality is relegating central planning to the dustbin of history.

Washington, D.C., is becoming increasingly irrelevant. Explain authors Alvin and Heidi Toffler:

It is not possible for a society to de-massify economic activity, communications and many other crucial processes without also, sooner or later, being compelled to decentralize government decision making as well. There is no possibility of restoring sense, order, and management "efficiency" to many governments without a substantial devolution of central power.

In today's rapidly changing world, the performance of the federal government looks worse and worse. There is a reason for this. As technology advances, decentralized decision making becomes more efficient in more and more cases. The problems of centralized decision making are inherent to *any* central authority, whether corporate or governmental, and are based on the relationship between knowledge, decision-making power, and technology.

As technology advances, productivity increasingly depends on knowledge. And, as communications technology advances, *general* knowledge—the kind that can be written down—becomes widely accessible. But *specific* knowledge—the kind that requires firsthand experience and that is difficult to communicate—is as difficult to obtain today as it has ever been. Other things being equal, *specific* knowledge—the kind that is dispersed throughout society—is growing in importance relative to *general* knowledge. Thus, as technology advances, it makes less and less sense to bottle up decision-making authority in a distant, centralized bureaucracy. Dictating the "one best way" from Washington, whether in education, welfare, or crime fighting, makes less and less sense. In particular cases, there may be a compelling reason for maintaining centralized control, such as the need for a coordinated national defense. But as a general principle, for efficiency's sake we should be increasingly devolving power *away* from centralized bureaucracies.

More than simply efficiency is at stake, however. We need to return to our roots as self-governing people. Democracy is not a spectator sport. In a healthy democracy, citizens are actively involved in their own governance—and not simply on election day. Americans need to reconnect with the political process. Numerous functions now handled (and mishandled) by the federal government should be transferred back to the states and, wherever possible, to communities and individuals. Radical devolution brings government closer to home.

The Revolt Against Washington

In 1992, a highly respected economist wrote, "The federal government should eliminate most of its programs in education, housing, highways, social services, economic development, and job training."

These radical sentiments come from Alice Rivlin, then a Brookings Institution scholar and currently President Clinton's director of the Office of Management and Budget. Writing as an independent scholar, Rivlin called for a massive, radical devolution of federal programs to states.

Devolution is not a partisan issue. It is a recognition that centralized control and centralized decision making carry unacceptably high costs, in terms of both efficiency and democratic accountability. It is not a question of Democratic dictates from Washington versus Republican dictates. Following the election of 1994, Republican governors seem ready to oppose federal usurpation even when orchestrated by their fellow party members. "My priority is for Texans to be running Texas," says Texas Governor George W. Bush. "We're pretty good at what we do in Texas, and we like to be left alone by the federal government as much as possible." It's time to end the unequal partnership and the whole idea of one-size-fits-all national prescriptions. The American people have said it's time to move power and responsibility out of Washington—for good.

Devolution would restore clearer lines of responsibility between state and federal tasks. By bringing government closer to home, citizens could once again understand what each level of government does and hold the appropriate officials accountable at election time. Radical devolution will make much of what goes on inside the Beltway redundant or unnecessary. "You have to get rid of a lot of those vested interests in Washington," says Mayor [Stephen] Goldsmith [of Indianapolis]. "There are tens of thousands of people there whose only job in life is to control what I do."

The Department of Education, for example, spends about \$15 billion a year on 150 different elementary and secondary programs. Since the department was created in 1979, Washington has become fond of imposing top-down solutions on local schools. Ohio Governor George Voinovich says his state's school superintendents spend nearly half their time filling out federal forms to get money that makes up only 5 to 6 percent of their school budgets.

... Joann Wysocki, [a] first-grade teacher from the Los Angeles Unified School District, ... told us that the federal government was providing money for school days lost due to the 1994 earthquake. The rules required a special form, so every teacher had to copy *by hand* the attendance register. Photocopies were not acceptable. That's the rule. Wysocki doesn't like to jump through hoops for money from Washington, "That 'federal money' is our money to begin with, on the local level," she says. "Please don't insult anyone's intelligence saying anything else. The money comes back to us with strings attached. Why should the money go in the first place? Let it stay!"

Former Education Secretary William J. Bennett concurs: "We really do not need a Department of Education. We were educating our kids better before we had a Department of Education. Why do we have to pass the dollars from the states and locales to Washington and back out again?"

Sending housing, welfare, and social service programs to the states, as Rivlin proposes, would mean that Health and Human Services (HHS) and the Department of Housing and Urban Development (HUD) can also be dramatically downsized or eliminated. Even [former] Housing Secretary Henry Cisneros has

admitted that much of what HUD does is expendable. “Many aspects of this department are simply indefensible,” said Cisneros. “Change is necessary.”

As for the Environmental Protection Agency (EPA), state environmental agencies are better positioned to know the problems of their states. “We don’t need an EPA in Washington, D.C.,” says [Arizona] Governor [Fife] Symington. “We have a Department of Environmental Quality in Arizona that is better at dealing with environmental problems in our state. You don’t need an EPA in Washington with a command-and-control structure dictating environmental policies to the states.” Though we believe the EPA’s powers should be greatly curtailed, we’re not as radical as Governor Symington in this regard. There are certain cross-border pollution issues that may require some form of federal involvement.

No More Federal Santa Claus

For radical devolution to become a reality will require a fundamental change in mind-set not only in Washington, but also among state and local politicians. Since the beginning of the Great Society, state and local officials have come to see the federal government as a kind of Santa Claus, doling out money for all sorts of programs. Many mayors and governors became professional beggars at the Capitol’s steps. Programs that would never be funded with local tax dollars become “vital” so long as they are paid for with “federal” dollars.

Even more than states, big cities turned to Washington for help. Today, most cities are addicted to federal funds. Local politicians fear the loss of federal funds, but where do they imagine this money comes from in the first place? France, perhaps? Jersey City Mayor Bret Schundler, one of the few big-city mayors to oppose the crime bill, did so because he recognized that all “federal money” comes from people living in one of the 50 states to begin with. Says Schundler:

Clinton wants to shift the burden of policing to the federal government and increase taxes. After he takes his big cut, he’ll give us a portion of the money back for local policing. What a bonehead idea. The solution is not to shift taxes and make us pay more. The solution is reducing the cost of local policing.

Washington doesn’t add any value to the tax dollars it receives and then sends back down to cities and states; in fact, the federal bureaucracy subtracts value as it takes its cut before sending money back to local governments.

Less federal money flowing out of Washington should mean less money flowing into Washington from the residents of cities and states. Keeping the money closer to home will also mean more flexibility, control, and accountability. “We understand this is going to mean less dollars from Washington,” says New Jersey Governor Christine Todd Whitman, “but if you relieve us of some of the most onerous mandates, we will live with that.” State and local officials need to stop judging the worth of joint federal/state programs merely in terms of whether

they are funded by “federal dollars.” “We as Governors need to begin to ask a new question about programs,” says Utah Governor Mike Leavitt. “Instead of asking is this a funded program, we should ask, should there be a federal role?”

In the transportation arena, for example, the federal government could get out of highway and airport funding by forgoing the gasoline tax and letting states raise construction money themselves—whether through a state gasoline tax, by raising landing fees or highway tolls, or by securing private debt. This approach would allow states to avoid a host of federal mandates—including the 55-mile-per-hour speed limit, the Davis Bacon Act, and the minimum drinking age—that accompany acceptance of federal highway funds.

Local Money for Local Problems

In many areas the ultimate goal of policy must be to transfer as much power, authority, and responsibility as possible from government to individuals and local communities. Once citizens see the true cost of local programs now being financed from Washington, they may not think they're worth the tax dollars spent on them.

Consider, for example, the uproar that ensued in Manhattan Beach, California (where one of us lives), after the city council voted to spend money expanding a parking garage that residents felt would benefit only merchants. A front-page story in *The Beach Reporter* noted that “three dozen residents ... bombarded the Manhattan Beach City Council on Tuesday....” Another story noted:

[M]any residents complained that they were continually having to come down to City Hall to protect their interests. District 4 Council-member Bob Pinzler told the residents that they should continue voicing their opinions and concerns. “You have to keep coming down here to protect your interests,” Pinzler said, “because the special interest groups are here all the time.”

This is democracy at its local, messy best, with vigilant residents watching over elected officials spending their tax dollars. Chances are no one in Manhattan Beach even knew that the federal government spent \$2.5 million of tax money to build a parking garage in Burlington, Iowa. That little item didn't make the front page of *The Beach Reporter*, and no Manhattan Beach residents drove the 3,000-odd miles to Washington, D.C., to testify before a congressional committee. At the federal level, organized interests have an enormous advantage. Former Education Secretary William Bennett estimates that 285 education lobbying groups have offices within walking distance of the Department of Education headquarters. The average Manhattan Beach parent doesn't have a prayer.

The parking garage story illustrates the phenomenon known as “bill averaging.” Imagine going out to dinner by yourself. When ordering, you'll closely watch the cost of each menu selection because you'll be paying the entire bill. Even if you were going out to dinner with one or two friends, you still wouldn't spend outrageously because you'd still be footing a good portion of the bill.

Now imagine that you are going out to dinner with 75 strangers, and that the bill is to be divided evenly. If you are like most people, you are going to order liberally, enjoy an extra drink, maybe even dessert and coffee. And why not? Your order will only affect your bill a minuscule amount; besides, you can bet that everyone else will be ordering big. The only way to get your “fair share” is to order lobster and Lowenbrau.

The federal government is like going to dinner with 250 million strangers. Rather than everyone paying his own way, a complex tangle of cross-subsidies obscures everyone’s actual bill.

It’s time to ask for separate checks. The good folks of Burlington, Iowa, got a new parking garage because Uncle Sam took about one penny from every Manhattan Beach resident—and every other American. Because local taxpayers don’t feel the bite, local officials love to spend “federal dollars.” Would Altoonans have approved Altoona, Pennsylvania’s multimillion dollar moving sidewalk if Altoonan taxes were going to pay for it? Unlikely. But since the folks in Burlington, Iowa, and Manhattan Beach, California, are footing the bill, the Altoonans are happy to be carried along.

The Devil in Devolution

JOHN D. DONAHUE

The shift in government’s center of gravity away from Washington and toward the states—a transition propelled by both popular sentiment and budget imperatives, and blessed by leaders in both major parties—reflects an uncommon pause in an endless American argument over the balance between nation and state.

This moment of consensus in favor of letting Washington fade while the states take the lead is badly timed. The public sector’s current trajectory—the devolution of welfare and other programs, legislative and judicial action circumscribing Washington’s authority, and the federal government’s retreat to a domestic role largely defined by writing checks to entitlement claimants, creditors, and state and local governments—would make sense if economic and cultural ties reaching across state lines were *weakening* over time. But state borders are becoming more, not less, permeable.

From a vantage point three-fifths of the way between James Madison’s day and our own, Woodrow Wilson wrote that the “common interests of a nation brought together in thought and interest and action by the telegraph and the telephone, as well as by the rushing mails which every express train carries,

have a scope and variety, an infinite multiplication and intricate interlacing, of which a simpler day can have had no conception.” Issues in which other states’ citizens have no stakes, and hence no valid claim to a voice, are becoming rarer still in an age of air freight, interlinked computers, nonstop currency trading, and site-shopping global corporations. Our current enchantment with devolution will be seen one day as oddly discordant with our era’s challenges.

The concept of “the commons” can help to cast in a sharper light the perils of fragmented decision making on issues of national consequence. In a much-noted 1968 article in *Science*, biologist Garrett Hardin invoked the parable of a herdsman pondering how many cattle to graze on the village commons. Self-interest will lead the herdsman to increase the size of his herd even if the commons is already overburdened, since he alone benefits from raising an extra animal, but shares the consequent damage to the common pasture. As each farmer follows the same logic, overgrazing wrecks the commons.

Where the nation as a whole is a commons, whether as an economic reality or as a political ideal, and states take action that ignores or narrowly exploits that fact, the frequent result is the kind of “tragedy” that Hardin’s metaphor predicts: Collective value is squandered in the name of a constricted definition of gain. States win advantages that seem worthwhile only because other states bear much of the costs. America’s most urgent public challenges—shoring up the economic underpinnings of an imperiled middle-class culture; developing and deploying productive workplace skills; orchestrating Americans’ engagement with increasingly global capital—involve the stewardship of common interests. The fragmentation of authority makes success less likely. The phenomenon is by no means limited to contemporary economic issues, and a smattering of examples from other times and other policy agendas illustrate the theme.

Environmental Regulation

Antipollution law is perhaps the most obvious application of the “commons” metaphor to policymaking in a federal system. If a state maintains a lax regime of environmental laws it spares its own citizens, businesses, and government agencies from economic burdens. The “benefits” of environmental recklessness, in other words, are collected in-state. Part of the pollution consequently dumped into the air or water, however, drifts away to do its damage elsewhere in the nation. If states held all authority over environmental rule making, the predictable result would be feeble regulations against any kinds of pollution where in-state costs and benefits of control are seriously out of balance. Even in states whose citizens valued the environment—even if the citizens of *all* states were willing to accept substantial economic costs in the name of cleaner air and water—constituents and representatives would calculate that their sacrifice could not on its own stem the tide and reluctantly settle for weaker rules than they would otherwise prefer.

A state contemplating tough antipollution rules might calculate that its citizens will pay for environmental improvements that will be enjoyed, in part, by others. Even worse, by imposing higher costs on business than do other states, it

risks repelling investment, and thus losing jobs and tax revenues to states with weak environmental laws. Congress explicitly invoked the specter of a “race for the bottom”—competitive loosening of environmental laws in order to lure business—to justify federal standards that would “preclude efforts on the part of states to compete with each other in trying to attract new plants.” In a series of legislative changes starting in the early 1970s, the major choices about how aggressively to act against pollution were moved to the federal government. While aspects of enforcement remained state responsibilities—introducing another level of complications that continues to plague environmental policy—the trade-off between environmental and economic values moved much closer to a single national standard.

National regulation in a diverse economy does have a downside. States differ in their environmental problems, and in the priorities of their citizens. Requiring all states to accept the same balance between environmental and economic values imposes some real costs and generates real political friction. Yet even if the tilt toward national authority is, on balance, the correct approach to environmental regulation, there is reason to doubt we got all the details right. Moreover, logic suggests that the federal role should be stronger for forms of pollution that readily cross state borders, and weaker for pollution that stays put. But federal authority is actually weaker under the Clean Air Act and the Clean Water Act than under the “Superfund” law covering hazardous waste. Toxic-waste sites are undeniably nasty things. But most of them are situated within a single state, and stay there.

Governmental Efficiency

There is an alluring a priori case for predicting that public-sector efficiency will increase as responsibilities flow to lower levels of government. Yet this *potential* advantage largely fails to pan out; there is little evidence of a significant or systematic state efficiency edge. The states share with Washington the basic operational handicaps of the public sector.

The devolution debate, moreover, is almost wholly irrelevant to the debt service and middle-class entitlements causing most of the strain on citizens’ tolerance for taxation. It is safe to assert that the ascendancy of the states will have, at best, a limited impact on the cost of American government. This is not an argument based on ideology, or economic theory, or learned predictions about comparative administrative behavior. It is a matter of arithmetic. In 1996 total public spending came to about \$2.3 trillion. State and local activities, funded by state and local taxes, *already* accounted for about one-third of this total. Another one-third consisted of check-writing programs like Social Security and Medicare. National defense (12 percent of the total), interest on the national debt (10 percent), and federal grants to state and local governments (another 10 percent) accounted for most of the remaining third of the public sector. All other federal domestic undertakings, taken together, claimed between 4 and 5 percent of total government spending. Suppose every last thing the federal government does, aside from running defense and foreign affairs and writing checks (to entitlement claimants, debt

holders, and state and local governments) were transferred to the states—national parks and museums, air-traffic control, the FBI, the border patrol, the Centers for Disease Control, the National Weather Service, student loans, the space program, and all the rest. Suppose, then, that the states proved able to do *everything* that the federal government used to do a full 10 percent more efficiently. The cost of government would fall by a little under one-half of one percent.

Beyond the low ceiling on cost savings—and more pertinent to the hidden issue of the *quality* of government—is the similarity between most federal agencies and most state agencies on the core characteristics of scale, complexity, and administration by legislative statute and formal rules. It is rare that economic or managerial imperatives will call for the reassignment of authority away from central government, but then stop at the states. State boundaries have been drawn by a capricious history, and only occasionally (and then by accident) does a state constitute the most logical economic unit for either making policy or delivering services. The coalition between the state-sovereignty constitutionalists and the efficient-scale de-centralizers is based on a misunderstanding, and will break down as soon as it begins to succeed.

More promising strategies for improving the efficiency with which public purposes are pursued usually involve going *beyond* devolution to the states. The array of options includes privatization, to enlist private-sector efficiency advantages in the service of public goals; vouchers, to assign purchasing power while letting individuals choose how to deploy it; and the empowerment (through authority and resources) of levels of government smaller than the state, including cities, towns, and school districts. None of these strategies is without its risks and limits, but together they form a far richer menu of reform possibilities than the simple switch from federal to state bureaucracy.

Devolution is often, though misleadingly, cast as a way station toward such fundamental reforms. Its popularity among those convinced of American government's shortcomings, and committed to repairing them, diverts reformist energy that could be put to better use. State governments are only slightly, if any, less bureaucratic than Washington, and no less jealous of power or resistant to change. Power dislodged from federal bureaus is likely to stick at the state level instead of diffusing further. The characteristic pattern of American intergovernmental relations is rivalry between state and local officials, and Washington more often acts as local government's shield against state hegemony than as the common oppressor of cities and states. The ascendancy of the states is thus unlikely either to liberate local governments or to unleash fundamental reform in how government operates.

Rising Inequality

It is by no means certain that America will prove able to reverse growing economic inequality and the erosion of the middle class, no matter how we structure our politics. Devolution, however, will worsen the odds. Shared prosperity, amid the maelstrom of economic change tearing away at the industrial underpinnings of

middle-class culture, is an artifact of policy. Policies to shore up the middle class include work-based antipoverty efforts that become both more important and more expensive as unskilled jobs evaporate; relentless investments in education and job training; measures to strengthen employees' leverage in the workplace; and a more progressive tilt in the overall burden of taxation. The individual states—each scrambling to lure mobile capital, fearful of losing businesses and well-off residents to lower-tax rivals, anxious to minimize their burden of needy citizens—will find such policies nearly impossible to sustain. As Washington sheds responsibilities and interstate rivalry intensifies, only a small-government agenda becomes realistic. But even for principled small-government conservatives, devolution is likely to prove less satisfying than many expect. Since it has been justified in terms of improving, not shrinking, government, the ascendancy of the states represents no conclusion to the debate over the public sector's proper size and scope.

Like the run-up in federal debt in the 1980s and early 1990s, devolution short-circuits (rather than settles) deliberation over government's purpose by making activism impossible—for a time. America's federal system is sufficiently resilient that unless citizens are convinced of small government's merits, the tilt toward the states that suppress public-sector ambition will eventually be reversed, though only after an unpredictable price has been paid. The conservative intellectual Herbert Storing has argued that a strategy of crippling the activist impulse through devolution, instead of discrediting it through reasoned appeal, was "not only contrary to the best conservative tradition but also hopelessly unrealistic." By attempting to enthrone the states as the sole locus of legitimate government, conservatives muffle their own voices in the conversation over the country's future.

By the standards of those who credit any diagnosis of what ails America *other than* "big government," shifting authority to competing states is likely to solve minor problems while causing, or perpetuating, far graver ills. As states gain a greater share of governmental duties but prove reluctant or unable to tax mobile firms or well-off individuals, the burden of funding the public sector will tilt even more heavily toward middle-class taxpayers. Their resentment of government can be expected to intensify. Efforts to use state laws or regulations to strengthen employees' leverage in the workplace will often be rendered unworkable by interstate competition for business. America's largest source of fiscal imbalance—the unsustainability of middle-class entitlement programs as the baby boom generation ages—will be untouched by devolution, feeding cynicism about the imperviousness to solution of America's public problems. And the fragmentation of taxing and spending authority puts in peril the education and training agenda that defines our single most promising tactic for shoring up the middle class.

The global marketplace both gives new fuel to America's culture of opportunity *and* allows the range of economic conditions experienced within this erstwhile middle-class country to reflect, with less and less filtering, the whole planet's disparate array of fates. A middle-class national economy, within a world of economic extremes, is a precious but unnatural thing. The policies that sustain shared prosperity will be difficult, perhaps impossible, to pursue if America's center of gravity in economic policymaking continues its precipitous shift toward the separate states. Federal officials, as a class, are certainly no wiser, more

farsighted, or defter at implementation than their state counterparts. But our country as a whole remains much less subject to the flight of wealth and the influx of need than are its constituent states. Policies to shrink the underclass and solidify the middle class are thus far more sustainable at the federal level.

Fixing the federal government is an intimidating proposition in the late 1990s. The trajectory of fiscal and political trends suggests that devolution will remain the focus of politicians' promises and citizens' hopes for some time to come. But the inherent limits of a fragmented approach to national adaptation will eventually inspire America to reappraise the ascendancy of the states. Not too far into the new century we will again collect the resolve to confront together our common fate. And we will once more take up, in the two-century tradition of Americans before us, the echoing challenge of George Washington's 1796 farewell address: "Is there a doubt whether a common government can embrace so large a sphere? Let experience solve it."

Discussion Questions

1. Think of a policy issue that you are interested in. Which level of government do you think is the most appropriate one to make decisions on this issue? Why?
2. Which level of government do you think is the most democratic—federal, state, or local? Can privileged elites more easily dominate at the local level or at the national level?
3. Many people argue that justice should be the same no matter where you live and therefore the federal government should establish minimal standards of fairness on certain issues. Do you agree or disagree? Do you think the federal government should guarantee every American medical care or a minimum income?
4. One of the problems with decentralizing decision making is that some local governments have much larger tax resources than others. Many inner cities and small towns, for example, are poor. How would Eggers and O'Leary respond to this problem? What can be done about it?
5. Do you think that marriage law (divorce, child custody, and so on) should be decided by the federal government or the states? What about educational policy? Should the federal government establish national standards in education?

Suggested Readings and Internet Resources

In *From New Federalism to Devolution* (Washington, D.C.: Brookings Institution Press, 1998) Timothy Conlan argues that Nixon and Reagan actually had very different approaches to federalism. Jeffrey M. Berry, Kent E. Portney, and

Ken Thomson in *The Rebirth of Urban Democracy* (Washington, D.C.: Brookings Institution Press, 1993) present evidence that decentralizing some positions all the way to neighborhood governments makes sense. Grant McConnell, in *Private Power and American Democracy* (New York: Vintage Books, 1966), argues, in contrast, that decentralization of power leads to tyranny by elites. Probably the best book on the possibilities and limits of state economic development efforts is Paul Brace, *State Government and Economic Performance* (Baltimore, Md.: Johns Hopkins University Press, 1993). In *Tense Commandments: Federal Prescriptions and City Problems* (Washington, D.C.: Brookings Institution Press, 2002), Pietro S. Nivola argues that federal programs often tie the hands of local administrators, making city renewal even more difficult. For a comprehensive, up-to-date treatment of the issues, see Laurence J. O'Toole Jr., ed., *American Intergovernmental Relations: Foundations, Perspectives, and Issues* (Washington, D.C.: Congressional Quarterly Press, 2007). For an intriguing change of pace, read Ernest Callenbach's *Ecotopia* (New York: Bantam Books, 1975), an entertaining novel about environmentalists who take over part of the Northwest and secede from the United States.

James Madison Institute
www.jamesmadison.org

The James Madison Institute is a public policy research organization dedicated to promoting economic freedom, limited government, federalism, the rule of law, and individual liberty coupled with individual responsibility. The site includes a list of current books and policy studies.

The Council of State Governments
www.csg.org

The website of the Council of State Governments has information on state governments and state-level public policies.

Close Up Foundation
www.closeup.org

The Close Up Foundation Special Topic Page on federalism in the United States features an overview, a timeline, a teaching activity, and an annotated list of links to additional sources of information.

Chapter 4



Immigration: Does It Strengthen or Threaten American Democracy?

On April 23, 2010 Arizona Republican Governor Jan Brewer signed into law the nation's most restrictive bill on illegal immigration. The law makes it a crime not to carry immigration papers and gives the police broad powers to detain anyone suspected of being in the county illegally. Proponents argued that the federal government was not adequately policing the border and the state needed to do something to discourage illegal immigration. Opponents of the law staged noisy demonstrations across the country charging that the law would encourage racial and ethnic profiling by police who could harass Hispanics without any evidence that they had committed a crime. Even before the bill was signed into law President Obama criticized it as threatening "to undermine basic notions of fairness that we cherish as Americans." The immigration issue was sure to play into the Fall 2010 elections with Republicans using their support of the Arizona law to mobilize voters concerned about jobs lost to illegal immigrations, while Democrats used Republican support of the law to rally Hispanic voters to their side.

Americans are deeply ambivalent about immigration. On the one hand, with the exception of Native Americans, all Americans are descendants of immigrants. Since its founding, the United States has probably been the most welcoming nation in the world for immigrants. The Statue of Liberty, a gift from France in 1886, is an enduring symbol of this welcoming attitude toward immigrants. At its base are written the famous words "Give me your tired, your poor, your huddled masses yearning to breathe free." Throughout most of American history, no limits were placed on the number of immigrants who could enter. Unlike other nations, there is no "blood" requirement to becoming an American citizen. The road to citizenship is easy: basically, a person must pass a simple civics test and take an oath of allegiance to the United States and the Constitution. According

to the Fourteenth Amendment, anyone born in the United States, even if both parents are noncitizens, is automatically a U.S. citizen.

On the other hand, Americans have always been fearful of immigrants who are different from most Americans—ethnically, racially, religiously. Four years before the Statue of Liberty arrived Congress passed the Chinese Exclusion Act, prohibiting immigration by anyone of Chinese origin. Opposition to immigrants from non-European countries culminated in laws passed in the 1920s that established quotas for immigrants from each nation based on their percentage in the U.S. population at the time. Because most Americans were of Northern European stock (English, German, or Scandinavian), this meant the number of immigrants from Southern Europe (such as Italian or Slavic) and the rest of the world was strictly limited.

Strict limits on immigration ended in 1965 with the passage of the Immigration and Nationality Act, which eliminated quotas and based immigration for the most part on family reunification. This meant that someone with a close relative living in the United States could probably immigrate here legally. More immigrants entered the United States in the 1990s than at any other decade in American history. In 2008 fully 12.5 percent of the population was foreign-born.

Not only has there been a huge surge in immigration since 1965, but there has also been an enormous diversification of the immigrant stream. Instead of emigrating from Europe, most immigrants now come from Asia, Central America, Latin America, and, to a lesser extent, Africa and Eastern Europe. Increasingly, the population of the United States resembles that of the world in general. This diversification of the immigrant stream coincided with the rise of multiculturalism, the idea that instead of a “melting pot” we should celebrate the diversity of cultures that make up the “mosaic” of America.

September 11, 2001, cast a pall over the celebration of diversity and the faith in liberal immigration laws. The terrorists who crashed planes into the World Trade Center and the Pentagon had entered the United States under either a student visa or a visa waiver program. Americans demanded tighter border controls, especially in light of the estimated 11 million illegal immigrants already living in the country. In 2003 the Immigration and Naturalization Service (INS) was abolished and its functions were taken over by the newly formed Department of Homeland Security, which proceeded to deport thousands of illegal immigrants and make it more difficult for those wishing to study in the United States to acquire a student visa.

During the Bush administration, Congress failed to pass comprehensive immigration reform. “Comprehensive” reform means legislation that would both create a process for illegal, or undocumented, workers to become citizens and reduce the number of illegal immigrants through stricter border controls and harsher penalties on those who attempt to cross. (In 1986, Congress passed a controversial law that enabled millions of illegal immigrants to become citizens.) Although Democrats tend to be more pro-immigrant (some say to let in more Democratic-leaning voters) and Republicans generally support greater restrictions, positions on immigration do not follow strictly partisan lines. In the 2008 presidential campaign, President Obama promised he would pursue comprehensive immigration reform, but the economic crisis put that on the back burner.

The two essays that follow illustrate conflicting attitudes on immigration. Ben Wattenberg, a Senior Fellow at the conservative American Enterprise Institute, an author, and a frequent commentator on public television, argues that the declining birthrate in the United States requires large numbers of immigrants to meet the future demand for labor. The idea that immigrants will refuse to learn English or assimilate into American culture is false, Wattenberg maintains. In the long run, immigration will make America a stronger nation, one that can project its universal Western values around the globe.

Newt Gingrich, former Speaker of the House of Representatives and possible future candidate for the presidency, is much more critical of U.S. open immigration policies. Although Gingrich is not opposed to legal immigration, he is concerned that too many immigrants refuse to assimilate into American culture and he proposes several programs to encourage them to become patriotic Americans. Above all, Gingrich argues, immigration is a national security issue and America has to do whatever is necessary to protect itself from terrorists.

As you read through the two selections, think about the distinction made in the book's introduction between elite and popular democracy. How do these two approaches to democracy line up on immigration? On the one hand, the pro-immigration side would appear to be more popular democratic because it promotes easier paths to citizenship and voting rights for immigrants who are often poor. On the other hand, many argue that immigration harms working-class Americans by forcing them to compete with cheap labor at the same time that wealthy elites benefit from lower wages paid to many service workers such as maids, gardeners, and construction workers. You decide: Is immigration good or bad for average Americans?

Immigration Strengthens American Democracy

BEN WATTENBERG

Many leading thinkers tell us we are now in a culture clash that will determine the course of history, that today's war is for Western civilization itself. There is a demographic dimension to this "clash of civilizations." While certain of today's demographic signals bode well for America, some look very bad. If we are to assess America's future prospects, we must start by asking, "Who are we?" "Who will we

be?” and “How will we relate to the rest of the world?” The answers all involve immigration.

As data from the 2000 census trickled out, one item hit the headline jackpot. By the year 2050, we were told, America would be “majority nonwhite.” The census count showed more Hispanics in America than had been expected, making them “America’s largest minority.” When blacks, Asians, and Native Americans are added to the Hispanic total, the “nonwhite” population emerges as a large minority, on the way to becoming a small majority around the middle of this century.

The first thing worth noting is that these rigid racial definitions are absurd. The whole concept of race as a biological category is becoming evermore dubious in America. Consider:

Under the Clinton administration’s census rules, any American who checks both the black and white boxes on the form inquiring about “race” is counted as black, even if his heritage is, say, one eighth black and seven eighths white. In effect, this enshrines the infamous segregationist view that one drop of black blood makes a person black.

Although most Americans of Hispanic heritage declare themselves “white,” they are often inferentially counted as non-white, as in the erroneous *New York Times* headline which recently declared: “Census Confirms Whites Now a Minority” in California.

If those of Hispanic descent, hailing originally from about 40 nations, are counted as a minority, why aren’t those of Eastern European descent, coming from about 10 nations, also counted as a minority? (In which case the Eastern European “minority” would be larger than the Hispanic minority.)

But within this jumble of numbers there lies a central truth: America is becoming a *universal nation*, with significant representation of nearly all human hues, creeds, ethnicities, and national ancestries. Continued moderate immigration will make us an even more universal nation as time goes on. And this process may well play a serious role in determining the outcome of the contest of civilizations taking place across the globe.

And current immigration rates *are* moderate, even though America admitted more legal immigrants from 1991 to 2000 than in any previous decade—between 10 and 11 million. The highest previous decade was 1901–1910, when 8.8 million people arrived. In addition, each decade now, several million illegal immigrants enter the U.S., thanks partly to ease of transportation.

Critics like Pat Buchanan say that absorbing all those immigrants will “swamp” the American culture and bring Third World chaos inside our borders. I disagree. Keep in mind: Those 8.8 million immigrants who arrived in the U.S. between 1901 and 1910 increased the total American population by 1 percent per year. (Our numbers grew from 76 million to 92 million during that decade.) In our most recent decade, on the other hand, the 10 million legal immigrants represented annual growth of only 0.36 percent (as the U.S. went from 249 million to 281 million).

Overall, nearly 15 percent of Americans were foreign-born in 1910. In 1999, our foreign-born were about 10 percent of our total. (In 1970, the foreign-born portion of our population was down to about 5 percent. Most of the rebound resulted from a more liberal immigration law enacted in 1965.) Or look at the “foreign stock”

data. These figures combine Americans born in foreign lands *and* their offspring, even if those children have only one foreign-born parent. Today, America's "foreign stock" amounts to 21 percent of the population and heading up. But in 1910, the comparable figure was 34 percent—one-third of the entire country—and the heavens did not collapse.

We can take in more immigrants, if we want to. Should we?

Return to the idea that immigrants could swamp American culture. If that is true, we clearly should not increase our intake. But what if, instead of swamping us, immigration helps us become a stronger nation and a *swamper of others* in the global competition of civilizations?

Immigration is now what keeps America growing. According to the UN, the typical American woman today bears an average of 1.93 children over the course of her childbearing years. That is mildly below the 2.1 "replacement" rate required to keep a population stable over time, absent immigration. The "medium variant" of the most recent Census Bureau projections posits that the U.S. population will grow from 281 million in 2000 to 397 million in 2050 with expected immigration, but only to 328 million should we choose a path of zero immigration. That is a difference of a population growth of 47 million versus 116 million. (The 47 million rise is due mostly to demographic momentum from previous higher birthrates.) If we have zero immigration with today's low birthrates indefinitely, the American population would eventually begin to *shrink*, albeit slowly.

Is more population good for America? When it comes to potential global power and influence, numbers can matter a great deal. Taxpayers, many of them, pay for a fleet of aircraft carriers. And on the economic side it is better to have a customer boom than a customer bust. (It may well be that Japan's stagnant demography is one cause of its decade-long slump.) The environmental case could be debated all day long, but remember that an immigrant does not add to the global population—he merely moves from one spot on the planet to another.

But will the current crop of immigrants acculturate? Immigrants to America always have. Some critics, like Mr. Buchanan, claim that this time, it's different. Mexicans seem to draw his particular ire, probably because they are currently our largest single source of immigration.

Yet only about a fifth (22 percent) of legal immigrants to America currently come from Mexico. Adding illegal immigrants might boost the figure to 30 percent, but the proportion of Mexican immigrants will almost surely shrink over time. Mexican fertility has diminished from 6.5 children per woman 30 years ago to 2.5 children now, and continues to fall. If high immigration continues under such circumstances, Mexico will run out of Mexicans.

California hosts a wide variety of immigrant groups in addition to Mexicans. And the children and grandchildren of Koreans, Chinese, Khmer, Russian Jews, Iranians, and Thai (to name a few) will speak English, not Spanish. Even among Mexican-Americans, many second- and third-generation offspring speak no Spanish at all, often to the dismay of their elders (a familiar American story).

Michael Barone's book *The New Americans* theorizes that Mexican immigrants are following roughly the same course of earlier Italian and Irish immigrants. Noel

Ignatiev's book *How the Irish Became White* notes that it took a hundred years until Irish-Americans (who were routinely characterized as drunken "gorillas") reached full income parity with the rest of America.

California recently repealed its bilingual education programs. Nearly half of Latino voters supported the proposition, even though it was demonized by opponents as being anti-Hispanic. Latina mothers reportedly tell their children, with no intent to disparage the Spanish language, that "Spanish is the language of busboys"—stressing that in America you have to speak English to get ahead.

The huge immigration wave at the dawn of the twentieth century undeniably brought tumult to America. Many early social scientists promoted theories of what is now called "scientific racism," which "proved" that persons from Northwest Europe were biologically superior. The new immigrants—Jews, Poles, and Italians—were considered racially apart and far down the totem pole of human character and intelligence. Blacks and Asians were hardly worth measuring. The immigration wave sparked a resurgence of the Ku Klux Klan, peaking in the early 1920s. At that time, the biggest KKK state was not in the South; it was Indiana, where Catholics, Jews, and immigrants, as well as blacks, were targets.

Francis Walker, superintendent of the U.S. Bureau of the Census in the late 1890s, and later president of MIT, wrote in 1896 that "The entrance of such vast masses of peasantry degraded below our utmost conceptions is a matter which no intelligent patriot can look upon without the gravest apprehension and alarm. They are beaten men from beaten races. They have none of the ideas and aptitudes such as belong to those who were descended from the tribes that met under the oak trees of old Germany to make laws and choose chiefs." (Sorry, Francis, but Germany did not have a good twentieth century.)

Fast-forward to the present. By high margins, Americans now tell pollsters it was a very good thing that Poles, Italians, and Jews emigrated to America. Once again, it's the *newcomers* who are viewed with suspicion. This time, it's the Mexicans, Filipinos, and people from the Caribbean who make Americans nervous. But such views change over time. The newer immigrant groups are typically more popular now than they were even a decade ago.

Look at the high rates of intermarriage. Most Americans have long since lost their qualms about marriage between people of different European ethnicities. That is spreading across new boundaries. In 1990, 64 percent of Asian Americans married outside their heritage, as did 37 percent of Hispanics. Black-white intermarriage is much lower, but it climbed from 3 percent in 1980 to 9 percent in 1998. (One reason to do away with the race question on the census is that within a few decades we won't be able to know who's what.)

Can the West, led by America, prevail in a world full of sometimes unfriendly neighbors? Substantial numbers of people are necessary (though not sufficient) for a country, or a civilization, to be globally influential. Will America and its Western allies have enough people to keep their ideas and principles alive?

On the surface, it doesn't look good. In 1986, I wrote a book called *The Birth Dearth*. My thesis was that birth rates in developed parts of the world—Europe,

North America, Australia, and Japan, nations where liberal Western values are rooted—had sunk so low that there was danger ahead. At that time, women in those modern countries were bearing a lifetime average of 1.83 children, the lowest rate ever absent war, famine, economic depression, or epidemic illness. It was, in fact, 15 percent below the long-term population replacement level.

Those trendlines have now plummeted even further. Today, the fertility rate in the modern countries averages 1.5 children per woman, 28 percent below the replacement level. The European rate, astonishingly, is 1.34 children per woman—radically below replacement level. The Japanese rate is similar. The United States is the exceptional country in the current demographic scene.

As a whole, the nations of the Western world will soon be less populous, and a substantially smaller fraction of the world population. Demographer Samuel Preston estimates that even if European fertility rates jump back to replacement level immediately (which won't happen) the continent would still lose 100 million people by 2060. Should the rate not level off fairly soon, the ramifications are incalculable, or, as the Italian demographer Antonio Golini likes to mutter at demographic meetings, "unsustainable ... unsustainable." (Shockingly, the current Italian fertility rate is 1.2 children per woman, and it has been at or below 1.5 for 20 years—a full generation.)

The modern countries of the world, the bearers of Western civilization, made up one third of the global population in 1950, and one fifth in 2000, and are projected to represent one eighth by 2050. If we end up in a world with nine competing civilizations, as Samuel Huntington maintains, this will make it that much harder for Western values to prevail in the cultural and political arenas.

The good news is that fertility rates have also plunged in the less developed countries—from 6 children in 1970 to 2.9 today. By the middle to end of this century, there should be a rough global convergence of fertility rates and population growth.

Since September 11, immigration has gotten bad press in America. The terrorist villains, indeed, were foreigners. Not only in the U.S. but in many other nations as well, governments are suddenly cracking down on illegal entry. This is understandable for the moment. But an enduring turn away from legal immigration would be foolhardy for America and its allies.

If America doesn't continue to take in immigrants, it won't continue to grow in the long run. If the Europeans and Japanese don't start to accept more immigrants they will evaporate. Who will empty the bedpans in Italy's retirement homes? The only major pool of immigrants available to Western countries hails from the less developed world, i.e., non-white, and non-Western countries.

The West as a whole is in a deep demographic ditch. Accordingly, Western countries should try to make it easier for couples who want to have children. In America, the advent of tax credits for children (which went from zero to \$1,000 per child per year over the last decade) is a small step in the direction of fertility reflation. Some European nations are enacting similar pronatal policies. But their fertility rates are so low, and their economies so constrained, that any such actions can only be of limited help.

That leaves immigration. I suggest America should make immigration safer (by more carefully investigating new entrants), but not cut it back. It may even be wise to make a small increase in our current immigration rate. America needs to keep growing, and we can fruitfully use both high- and low-skill immigrants. Pluralism works here, as it does in Canada and Australia.

Can pluralism work in Europe? I don't know, and neither do the Europeans. They hate the idea, but they will depopulate if they don't embrace pluralism, via immigration. Perhaps our example can help Europeans see that pluralism might work in the admittedly more complex European context. Japan is probably a hopeless case; perhaps the Japanese should just change the name of their country to Dwindle.

Our non-pluralist Western allies will likely diminish in population, relative power, and influence during this century. They will become much grayer. Nevertheless, by 2050 there will still be 750 million of them left, so the U.S. needs to keep the Western alliance strong. For all our bickering, let us not forget that the European story in the second half of the twentieth century was a wonderful one; Western Europeans stopped killing each other. Now they are joining hands politically. The next big prize may be Russia. If the Russians choose our path, we will see what [nineteenth-century French theorist Alexis de] Tocqueville saw: that America and Russia are natural allies.

We must enlist other allies as well. America and India, for instance, are logical partners—pluralist, large, English-speaking, and democratic. We must tell our story. And our immigrants, who come to our land by choice, are our best salesmen. We should extend our radio services to the Islamic world, as we have to the unliberated nations of Asia through Radio Free Asia. The people at the microphones will be U.S. immigrants.

We can lose the contest of civilizations if the developing countries don't evolve toward Western values. One of the best forms of "public diplomacy" is immigration. New immigrants send money home, bypassing corrupt governments—the best kind of foreign aid there is. They go back home to visit and tell their families and friends in the motherland that American modernism, while not perfect, ain't half-bad. Some return home permanently, but they bring with them Western expectations of open government, economic efficiency, and personal liberty. They know that Westernism need not be restricted to the West, and they often have an influence on local politics when they return to their home countries.

Still, because of Europe and Japan, the demographic slide of Western civilization will continue. And so, America must be prepared to go it alone. If we keep admitting immigrants at our current levels there will be almost 400 million Americans by 2050. That can keep us strong enough to defend and perhaps extend our views and values. And the civilization we will be advancing may not just be Western, but even more universal: American.

Patriotic Immigration

NEWT GINGRICH

A chilling hearing before the Senate Intelligence Committee last year provides the starting point of our national debate on immigration reform. Former CIA Chief Porter Goss set the stage by testifying that “it may be only a matter of time” before al Qaeda or another terrorist group attempts to use a chemical, biological, or nuclear weapon against the United States. And then Admiral James Loy, the Deputy Secretary of Homeland Security, added the detail that should have every American demanding immediate action about our uncontrolled borders: Loy testified that evidence “strongly suggests” that the same terrorists who are planning on using a weapon of mass destruction against the United States have considered using our south-west border as an entry point.

Nearly five years after 9/11, our bureaucratic system is so broken we don’t even know who is in our country. In the age of terrorism, no nation can afford to have uncontrolled borders with millions crossing illegally. There is no point in having a war on terrorism—much less a \$9 billion a year national missile defense program—when the same terrorists can rent a truck in Mexico and drive a weapon of mass destruction over the border. A government team recently proved that it was easy to do.

And the threat of uncontrolled borders isn’t confined to terrorism. Gangs, drug dealers, and common criminals are drawn to our border as lawlessness breeds more lawlessness. The sheriff of Val Verde County, Texas, reports that people crossing the U.S.–Mexico border illegally no longer bother running from the authorities. “They make it known to the deputies,” he said. “We’re going through; you’re not going to stop us.”

When our government fails to enforce immigration law, it sends a signal that our laws don’t matter. And when people learn that we won’t enforce some laws, they don’t respect other laws. The failure to control our borders has led to a dramatic increase in violent crime in our country. One government study found that in 2003 there were 74,000 criminals in state prisons who are here illegally and 147,000 in local jails.

Our immigration debate is about many things: how we see ourselves as a people; our compassion for those seeking a better life; and our respect for the rule of law. But first and foremost, we must treat immigration as a national security issue. We have an absolute obligation to control our borders. Not to close them, but to control them. The safety of our people depends on it. But many Americans believe their leaders in Washington are not serious about stopping illegal immigration and are rightly frustrated.

I don't worry about people who want to come to the United States to obey the law, work hard, pay taxes, and become Americans. In fact, I am delighted to have new Americans join our country, because historically they have been a source of enormous talent, energy, and courage. From Alexander Hamilton to Andrew Carnegie to Albert Einstein to Henry Kissinger to Arnold Schwarzenegger, people who wanted to improve their lives, and in the process improve the country, have enriched America.

America has a long history of absorbing and blending peoples of many languages and backgrounds. There have always been non-English newspapers in America and now we have non-English radio and television. I am also not worried that some immigrants come here only to earn money and then go home (Italian immigrants, in particular, did that in the late 19th century).

What worries me is the breakdown of will on the part of America's leaders to control our borders and to ensure that new immigrants learn to be American.

A Continent of Hope

Pope John Paul II had a beautiful and inspiring vision for America. From his first trip abroad to Mexico in 1979 to the mass he celebrated in Mexico City's Basilica of Our Lady of Guadalupe in 1999, he consistently spoke of America as a "Continent of Hope." By America, John Paul was referring to both North *and* South America to express his desire for greater unity and mutual respect.

The United States has a special place in this vision of a Continent of Hope. We are a very special nation because we are founded on a revolutionary idea: That we are all created equal—citizen and non-citizen alike—and endowed by our Creator with inalienable rights to life, liberty, and the pursuit of happiness.

The idea of America as a Continent of Hope carries both privileges and responsibilities for the people of the United States. It means that every person has an inherent human dignity that must be respected, including those who are in our country illegally. But it also means that all of us must respect the laws that have been passed to ensure freedom and security. As Pope John Paul II recognized, "The rule of law is the necessary condition for establishing true democracy."

In fulfilling a vision of America as a Continent of Hope, two values are inextricably linked: our compassion for those who come to our country for a better life and our commitment to the rule of law. Just as we would betray this vision by turning our backs on the poverty and injustice suffered by our neighbors, we would also undermine the very foundation of our nation by tolerating eleven million people in our midst in open violation of our laws. If we fail to abide by either of these values, we risk becoming less of the nation our Founders and Pope John Paul II believed we could be, and which we have been for 230 years.

But how do we reconcile this inspiring vision of America with the day-to-day demands of controlling our borders? To build a Continent of Hope we need

a system of “patriotic immigration.” Patriotic immigration means knowing that all immigrants to our country are legal and accounted for, and that once they’re here, they learn to be Americans before they can become citizens. It means using the technology we have—today—to enforce our immigration laws. And it means that immigrants become Americans. Not that they simply mimic American popular culture, but that they learn the language, history, and values that bind us together as a nation.

The way forward lies in a logical set of step-by-step, sustainable solutions that build a momentum and over time will result in a rational and orderly immigration policy acceptable to a majority of the American people.

Controlling Our Borders

In Los Angeles, police are prohibited from asking about the immigration status of people they arrest. In Denver, police aren’t allowed to enforce laws against employing workers who are illegal. And in Seattle, law enforcement officials can’t report violent criminals that they believe are here illegally to federal immigration authorities.

All of these cities, and many more from Anchorage, Alaska, to Cambridge, Massachusetts, have declared themselves “sanctuary cities” and prohibit their police from enforcing federal immigration law. But maybe we shouldn’t be surprised that these cities have thrown up a white flag. The lack of respect for the law that began at the border and spread to American businesses routinely employing those here illegally was bound to infiltrate our cities.

Sanctuary cities—what should be called “lawless cities”—should lose their federal funding if they continue to refuse to enforce our immigration laws. Cracking down on these “don’t ask, don’t enforce” havens of lawlessness would be an important part of controlling our borders.

Our standard must be absolute: complete control of our borders and coasts. We have the technology and the capability to control border crossing. We simply need the will to use it. Secure card technology used very effectively by companies like Visa, MasterCard and American Express is one example we should adopt.

A comprehensive border control program should begin with demanding that everyone entering the United States provide a biometric identifier, like a thumbprint or an embedded retinal scan, along with a photograph. Background checks should screen out those with criminal records. Foreign governments that want their citizens to participate should turn over up-to-date records of convicted felons so they can be prohibited from entering the United States.

Saying No to Amnesty

Every parent knows that if you reward a behavior, you get more of it. That’s why amnesty would be a disaster both for the United States and for immigrants: By

rewarding breaking the law to enter our country, amnesty sends the signal that we will not enforce our laws. Moreover, the word would quickly spread that it will only be a matter of time before another amnesty is granted.

But more than the temptation it poses to would-be illegal immigrants, amnesty makes a fool out of the cousin back home or the hopeful Asian or African who is playing by the rules and waiting in line to enter the United States legally. It tells them that they are wasting their time trying to obey our laws. And it tells their governments that they don't need to reform their economies to provide more jobs and opportunity. All they have to do is allow or encourage emigration and rely on the economic engine of the United States to provide jobs for their workers—and checks sent back home.

Maybe the most compelling moral argument against amnesty is that it actually harms those who enter our country illegally. By encouraging more illegal immigration, amnesty encourages more people to come to our country only to live on the margins of society. It means more—not fewer—immigrants subject to exploitation by unscrupulous employers, criminals, and predatory businesses. Amnesty means more families living fearfully in the shadows instead of participating fully in their communities.

Instead of sending the message that our laws are meaningless, we should send the message that they are non-negotiable and at the heart of our system. Along with total border control, we must make it easier for people to enter the United States legally, to work for a set period of time, obey the law, and return home. The requirements for participation in a worker visa program should be tough and uncompromising. The first is essential: Everyone currently working in the United States illegally must return to their home country to apply for the worker visa program. Anything less than requiring those who are here illegally to return home to apply for legal status is amnesty, plain and simple.

Our out-of-control borders didn't get that way overnight, and transitioning from a pattern of illegal immigration to a legal system will take some time. Besides the obvious fact that it will become harder and harder to find work without participating in the worker visa program, those here illegally would have other incentives to return home to apply. If an individual working here illegally knows that improved border control will make it nearly impossible to cross the border again, that stepped up law enforcement and removal will dramatically increase the chances of being picked up and returned home, that there is a legal way to work here, and that there is a very reasonable transition period in which to return home and apply, then we should expect people will choose to participate in a dramatically improved immigration system that will save lives and protect the rule of law.

Work visa holders should have to fulfill other requirements as well. All work visa holders must sign an agreement to pay taxes, obey the law, and waive any rights to appeal their removal from the United States within seventy-two hours if they violate their agreement.

Also, critically, all work visa holders would have to carry a tamperproof, electronic “smart card” with their photo and the thumbprint or iris scan they

provided when they entered the United States. This would be their passport to legal employment. And to make sure that the program is administered effectively, it should be outsourced to a company like Visa, MasterCard, or American Express that has a proven track record of preventing fraud and ensuring accountability in a card program. Most Americans have zero confidence that the federal bureaucracy could run such a program competently, so we should give the job to those who can.

And finally, because it takes two to break the law by working here illegally—both an illegal worker and an illegal employer—we must get serious about penalizing employers who hire illegal workers. Astonishingly, the federal government did not levy a single fine on a single employer for hiring illegal workers in 2004. This must change, and under a worker visa program it would change. Employers who hire workers without smart cards that verify their legal status would receive staggering financial penalties that would escalate dramatically with a second and third offense. We must recognize that our failure to enforce our laws against employers who hire illegal workers has contributed to the explosion of illegal immigration into our country.

Making New Americans

For much of our history, America has absorbed waves of immigrants by helping newcomers assimilate into American culture. After all, there is no such thing as a genetic American. To become an American means becoming an American in values, culture, and historic understanding.

But in the last two generations the Left-liberal establishment has undermined and ridiculed American values, American history, and even the idea of American citizenship. Today, Left-liberals want voting opened to non-citizens, including those who are here illegally. That is why the Left-liberal fights against a voter identity card even though Americans overwhelmingly support the idea of limiting their elections to legal citizens. The Left-liberal regards national identity and patriotic commitment to America as irrelevant.

An essential part of encouraging patriotic immigration is a renewal of our commitment to what Senator Lamar Alexander calls patriotic integration: education about American citizenship based on American history; the English language; and the core values of American civilization. American citizenship is not just a piece of paper to be granted but a set of values to be understood and accepted. We must insist that permanent immigrants to this country are encouraged to become citizens, and that the path to citizenship is through a comprehensive understanding of the value, history, language, and culture of our country.

Eighty-eight percent of Americans agree that “schools should make a special effort to teach new immigrants about American values.” American feel so strongly about teaching America’s language and culture to new immigrants that 65 percent believe schools should help immigrants learn America’s language and

culture even if it means their native culture is neglected. When asked “what should be the bigger priority; teaching students to be proud of being part of this country and learning the rights and responsibilities of citizenship, or focusing on instilling pride in their ethnic group’s identity and heritage,” 79 percent of parents chose pride and learning about America.

Similarly, foreign-born parents know how important it is for their children to learn about their new country. In the same Public Agenda 2000 survey, 80 percent of Hispanic parents chose pride and learning about America and 73 percent of foreign-born parents preferred learning about America to their country of origin.

What We Can Do

At the federal and state levels, we can take a number of steps to encourage the teaching of American history to immigrants. The U.S. Department of Education should cooperate with state governments to create online American studies programs in every major city. The Office of Migrant Education should have an American studies program. Every English language instruction course should be required by federal law to base its instruction on patriotic American history.

One of the more sensitive and contentious questions surrounding assimilation of new immigrants is language. English is not and never has been the only language in America. We have a long tradition of people speaking many languages in their local community and with other immigrants. But English has been and should remain our language of government and public discourse.

Americans instinctively know that English matters—81 percent believe immigrants should learn English. Ninety percent believe speaking and writing English should be a primary characteristic of American citizenship. But instead of listening to the American people, the liberal establishment has done everything it can to diminish the importance of English and to promote bilingual education. We cannot let Left-liberals divide the country this way. One proposal to accelerate English fluency is to create a National Program for English Instruction. The program would be modeled after the highly successful “Ulpan Studies” program in Israel. Former Congressman Chris Cox of California describes the program in a bill he introduced in Congress:

Like the United States, Israel has a polyglot immigrant mix, including Eastern Europeans, Central Asians and Ethiopians. Every new immigrant to Israel is entitled to 500 hours of intensive Hebrew language training, which is designed to give them the language and practical skills to participate in everyday Israeli life. Although the program is not compulsory, participants receive a small stipend to defray expenses and receive a certificate upon successful completion of the program.

This certificate has real value, since many employers require an “Ulpan certificate” for a job and many schools require one for admission.

Chris Cox’s proposal is the kind of innovative solution that is a “win-win” for new immigrants and the future of America. Like the Israeli program, it would provide highly intensive English, American history, and civics training for immigrants so they can acquire the practical skills to participate fully in their communities and workplaces. To encourage participation, immigrants could be given a modest stipend. In addition, the time required for naturalization could be shortened for those who successfully complete the program.

And hand-in-hand with this focus on English language education should be a requirement that a written test in English of American history be passed by those wishing to become citizens. What’s more, Executive Order 13166 requiring federal documents to be published in many different languages should be rescinded. We must put an end to providing ballots and election materials in foreign languages. And we should renew our efforts to help immigrants learn English. And in return, we should ask immigrants to commit to learning and using the English language as part of being an American.

For four hundred years, from the founding of the Jamestown colony in 1607, people who believe their rights come from God have been building an exciting, prosperous, and free society in America. They have been open to people of many backgrounds and many languages but they have insisted that they become American.

We must return to that great tradition of being pro-immigration and pro-legality, being pro-newcomer and pro-integration into American history, American traditions, and American civic values.

This is the only path which will sustain American civilization for the next generation.

Discussion Questions

1. Do you have any relatives who were immigrants? If so, ask them what their experience was like. Did they feel welcome, and how long did it take before they began to participate in the political process?
2. Should illegal immigrants be eligible for welfare, food stamps, or Medicaid (government health insurance)?
3. How is being an immigrant today different from a hundred years ago? Is it more difficult today or easier?
4. Should employers who hire illegal immigrants be punished?

5. Should the United States construct a wall along the entire U.S.–Mexican border?
6. Instead of erecting a wall, should the United States provide economic development aid to Mexico so that Mexicans can find decent-paying jobs there?
7. In your experience, do most immigrants want to assimilate into American culture or do they want to maintain a separate culture?
8. Should legal immigrants be given the right to vote even before they become naturalized citizens?

Suggested Readings and Internet Resources

In *Who Are We? The Challenges to America's National Identity* (New York: Simon & Schuster, 2004), Samuel Huntington argues that the recent wave of non-European immigrants threatens Americans' identity and cultural consensus. Patrick J. Buchanan sounds the alarm about current high levels of immigration in his *State of Emergency: The Third World Invasion and Conquest of America* (New York: St. Martin's Press, 2006). Aviva Chomsky attacks what she calls "myths" about immigration in *"They Take Our Jobs!" and 20 Other Myths About Immigration* (Boston: Beacon Press, 2007). In *Heaven's Door: Immigration Policy and the American Economy* (Princeton, N.J.: Princeton University Press, 1999) George Borjas documents the negative effects of immigration on low-wage-earning Americans. For a scholarly and critical analysis of efforts to restrict immigration, see Roger Daniels, *Guarding the Golden Door: American Immigration Policy Since 1882* (New York: Hill and Wang, 2004). In *Remaking the American Mainstream: Assimilation and Contemporary Immigration* (Cambridge, Mass.: Harvard University Press, 2003), Richard Alba and Victor Nee argue that as immigrants assimilate into American culture, they also change it.

National Immigration Forum

www.immigrationforum.org

Considered the nation's foremost immigrant rights organization, the National Immigration Forum does research and promotes policies to curb illegal immigration and help immigrants assimilate into American society.

Federation for American Immigration Reform (FAIR)

www.fairus.org

FAIR promotes the view that excessive immigration imposes burdens on governments and schools and creates greater income inequality in American society.

U.S. Citizenship and Immigration Service (USCIS)

www.uscis.gov

Part of the Department of Homeland Security, the USCIS website provides comprehensive and up-to-date information on immigration and naturalization news, applications, forms, and announcements.

Chapter 5



Political Economy: How Democratic Is the Free Market Economy?

At first glance, democratic politics and free market economics seem to go together. The liberty to speak, to practice any religion or none at all, and to participate in politics has often come to be associated with the right to make as much money as we can, to succeed or fail according to our own merits in a free marketplace. Free enterprise seems as unthreatening as a yard sale or a bazaar, with many buyers and sellers, colorful haggling, and a variety of products from which to choose. In contrast, big, intrusive government, with its taxes, police, laws, and bureaucracy, appears to present the greatest threat to all these rights. The equation of democracy with free market capitalism seems, especially since the demise of communism, the best and now the only economic game in town. After all, aren't the most prosperous countries in the world also the most free from governmental control? And even if there are sometimes problems, what alternative do we have?

Upon closer inspection, though, the marriage between democracy and contemporary capitalism continues to be a contentious one. In Singapore and China, and arguably in many states of the former USSR, the rise of the market economy has certainly not led to political freedom; and in America, free enterprise capitalism and political democracy may exist at the same time, but their relationship is hardly cozy. Everywhere, free market capitalism seems to generate enormous wealth, but also wrenching instability and inequalities. *Political economy* is the study of the relationship between politics and economics in different countries around the globe. The two essays that follow ask what the roles of government, citizens, corporations, workers, and consumers actually are in America and also what they *should be* to best serve the public interest.

Perhaps the most important debate in political economy concerns the relationship among democracy, equality, and economic efficiency. Aristotle wrote

that democracy could not tolerate extremes of wealth and poverty; large inequalities destroyed the spirit of self-sacrifice and fellowship necessary in a democracy. Politics became less the search for the common good than the single-minded pursuit of material interests by rich and poor alike. While the wealthy fell into luxury and decadence, the poor would sink into ignorance and envy.

For those who believe that economic equality and social equality are important for democratic politics, recent trends in America's political economy are indeed ominous. As we go to press, the economy is locked in a recession caused by greed and excessive risk-taking by the mortgage industry and Wall Street. Unemployment is hovering around 10 percent. The income and wealth gap has widened continually at the expense of what was once a very large and politically predominant middle class. In 2003, nearly half the national income went to just 20 percent of the population, and the top 20,000 income earners accumulated as much as the bottom 96 million. (The inequality debate is covered in Chapter 16.) Most U.S. wage earners face increased insecurity, as waves of corporate mergers, downsizing, outsourcing, and other "innovations" make companies leaner but also meaner. Is the free market really free? If it produces such results, can democracy survive such new extremes?

Many corporations and individuals as well as ordinary Americans defend such inequalities by pointing to the efficiency, growth, and technological innovation that are the products of the free enterprise system. They argue that it is better to divide a very large economic pie unequally than to have less pie to divide; they go on to say that many of the changes represent necessary and inevitable adjustments to the realities of the new global economy. The market, its many defenders claim, also preserves liberty by allowing each individual to compete fairly and consumers to choose among a wide range of new products. Free market economies are said to be meritocracies, rewarding the industrious with wealth and punishing the lazy with hardship. In George Gilder's words, "A successful economy depends on the proliferation of the rich, on creating a large class of risk-taking men who are willing to shun the easy channels of a comfortable life in order to create new enterprise, win huge profits, and invest them again."

The two essays that follow not only offer opposing views about the meanings of American democracy and capitalism; they also differ about the meaning of freedom, individual liberty, and equality. They disagree profoundly about what role government actually does play in relationship to the U.S. market economy as well as about what role it should play.

The first essay is excerpted from *Capitalism and Freedom*, by Nobel Prize-winner Milton Friedman, who died in 2006. It was originally written in 1962 and has since been reissued in many editions. Friedman describes himself as a "classic liberal" and tries to restore the original doctrine's political and moral meanings. Classic liberals like Friedman advocate maximum individual freedom in the face of government's tendency to tyrannize. The market economy, Friedman argues, "remov[es] the organization of economic activity from the control of political authority," thereby "eliminat[ing] this source of coercive power." Because liberty is synonymous with democracy, Friedman argues that government has only two legitimate roles: It must defend the national territory and

act as an umpire, deciding the rules of the market “game” and interpreting them as necessary when free individuals compete with one another.

In the second essay, Samuel Bowles, Frank Roosevelt, and Richard Edwards deny Friedman’s claim that market capitalism and small government go together. They argue that “the expansion of the role of government in the United States is not something that happened in *opposition* to capitalism” but something that happened “in *response* to the development of capitalism.” Bowles, Roosevelt, and Edwards go on to claim that a capitalist market economy is hardly a meritocracy; political power and economic power are linked through biased rules. Unlike Friedman, they say that the marketplace concentrates both kinds of power. Hierarchical corporations determine the investments and life circumstances for workers and communities and severely limit the meaning and scope of democratic government and citizenship themselves. For these writers, growing economic inequality spells the effective denial of liberty to the many. Corporate power often buys undue political influence, whether through campaign contributions or corporate ownership of the mass media.

The authors of both essays base their arguments on a defense of democracy. While reading them, ask the following questions: How would Friedman have defended himself against the charge that the market economy produces corporations that exercise unchecked and undemocratic power? What would Bowles, Roosevelt, and Edwards say to Friedman’s charge that government often poses a threat to individual freedom and choice and thus to democratic liberty? How do both essays deal with voters and citizens and their potential role in controlling the production and distribution of economic resources? How would the U.S. political economy change if each author had his way? How would it stay the same?

Capitalism and Freedom

MILTON FRIEDMAN

Introduction

The free man will ask neither what his country can do for him nor what he can do for his country.¹ He will ask rather “What can I and my compatriots do through government” to help us discharge our individual responsibilities, to

1. Friedman is referring to John F. Kennedy’s 1961 inaugural address.

achieve our several goals and purposes, and above all, to protect our freedom? And he will accompany this question with another: How can we keep the government we create from becoming a Frankenstein that will destroy the very freedom we establish it to protect? Freedom is a rare and delicate plant. Our minds tell us, and history confirms, that the great threat to freedom is the concentration of power. Government is necessary to preserve our freedom, it is an instrument through which we can exercise our freedom; yet by concentrating power in political hands, it is also a threat to freedom. Even though the men who wield this power initially be of good will and even though they be not corrupted by the power they exercise, the power will both attract and form men of a different stamp.

How can we benefit from the promise of government while avoiding the threat to freedom? Two broad principles embodied in our Constitution give an answer that has preserved our freedom so far, though they have been violated repeatedly in practice while proclaimed as precept.

First, the scope of government must be limited. Its major function must be to protect our freedom both from the enemies outside our gates and from our fellow-citizens: to preserve law and order, to enforce private contracts, to foster competitive markets. Beyond this major function, government may enable us at times to accomplish jointly what we would find it more difficult or expensive to accomplish severally. However, any such use of government is fraught with danger. We should not and cannot avoid using government in this way. But there should be a clear and large balance of advantages before we do. By relying primarily on voluntary co-operation and private enterprise, in both economic and other activities, we can insure that the private sector is a check on the powers of the governmental sector and an effective protection of freedom of speech, of religion, and of thought.

The second broad principle is that government power must be dispersed. If government is to exercise power, better in the county than in the state, better in the state than in Washington. If I do not like what my local community does, be it in sewage disposal, or zoning, or schools, I can move to another local community, and though few may take this step, the mere possibility acts as a check. If I do not like what my state does, I can move to another. If I do not like what Washington imposes, I have few alternatives in this world of jealous nations....

Government can never duplicate the variety and diversity of individual action. At any moment in time, by imposing uniform standards in housing, or nutrition, or clothing, government could undoubtedly improve the level of living of many individuals; by imposing uniform standards in schooling, road construction, or sanitation, central government could undoubtedly improve the level of performance in many local areas and perhaps even on the average of all communities. But in the process, government would replace progress by stagnation, it would substitute uniform mediocrity for the variety essential for that experimentation which can bring tomorrow's laggards above today's mean....

The Relation between Economic Freedom and Political Freedom

It is widely believed that politics and economics are separate and largely unconnected; that individual freedom is a political problem and material welfare an economic problem; and that any kind of political arrangements can be combined with any kind of economic arrangements.... The thesis of this chapter is ... that there is an intimate connection between economics and politics, that only certain combinations of political and economic arrangements are possible, and that in particular, a society which is socialist cannot also be democratic, in the sense of guaranteeing individual freedom.

Economic arrangements play a dual role in the promotion of a free society. On the one hand, freedom in economic arrangements is itself a component of freedom broadly understood, so economic freedom is an end in itself. In the second place, economic freedom is also an indispensable means toward the achievement of political freedom.

The first of these roles of economic freedom needs special emphasis because intellectuals in particular have a strong bias against regarding this aspect of freedom as important. They tend to express contempt for what they regard as material aspects of life, and to regard their own pursuit of allegedly higher values as on a different plane of significance and as deserving of special attention. For most citizens of the country, however, if not for the intellectual, the direct importance of economic freedom is at least comparable in significance to the indirect importance of economic freedom as a means to political freedom....

Viewed as a means to the end of political freedom, economic arrangements are important because of their effect on the concentration or dispersion of power. The kind of economic organization that provides economic freedom directly, namely, competitive capitalism, also promotes political freedom because it separates economic power from political power and in this way enables the one to offset the other.

Historical evidence speaks with a single voice on the relation between political freedom and a free market. I know of no example in time or place of a society that has been marked by a large measure of political freedom, and that has not also used something comparable to a free market to organize the bulk of economic activity.

Because we live in a largely free society, we tend to forget how limited is the span of time and the part of the globe for which there has ever been anything like political freedom: the typical state of mankind is tyranny, servitude, and misery. The nineteenth century and early twentieth century in the Western world stand out as striking exceptions to the general trend of historical development. Political freedom in this instance clearly came along with the free market and the development of capitalist institutions. So also did political freedom in the golden age of Greece and in the early days of the Roman era.

History suggests only that capitalism is a necessary condition for political freedom. Clearly it is not a sufficient condition. Fascist Italy and Fascist Spain,

Germany at various times in the last seventy years, Japan before World Wars I and II, czarist Russia in the decades before World War I—are all societies that cannot conceivably be described as politically free. Yet, in each, private enterprise was the dominant form of economic organization. It is therefore clearly possible to have economic arrangements that are fundamentally capitalist and political arrangements that are not free.

Even in those societies, the citizenry had a good deal more freedom than citizens of a modern totalitarian state.² ... Even in Russia under the Tzars, it was possible for some citizens, under some circumstances, to change their jobs without getting permission from political authority because capitalism and the existence of private property provided some check to the centralized power of the state....

Historical evidence by itself can never be convincing. Perhaps it was sheer coincidence that the expansion of freedom occurred at the same time as the development of capitalist and market institutions. Why should there be a connection? What are the logical links between economic and political freedom? In discussing these questions we shall consider first the market as a direct component of freedom, and then the indirect relation between market arrangements and political freedom. A by-product will be an outline of the ideal economic arrangements for a free society.

As liberals, we take freedom of the individual, or perhaps the family, as our ultimate goal in judging social arrangements. Freedom as a value in this sense has to do with the interrelations among people; it has no meaning whatsoever to a Robinson Crusoe on an isolated island.... Robinson Crusoe on his island is subject to “constraint,” he has limited “power,” and he has only a limited number of alternatives, but there is no problem of freedom in the sense that is relevant to our discussion. Similarly, in a society freedom has nothing to say about what an individual does with his freedom; it is not an all-embracing ethic. Indeed, a major aim of the liberal is to leave the ethical problem for the individual to wrestle with. The “really” important ethical problems are those that face an individual in a free society—what he should do with his freedom. There are thus two sets of values that a liberal will emphasize—the values that are relevant to relations among people, which is the context in which he assigns first priority to freedom; and the values that are relevant to the individual in the exercise of his freedom, which is the realm of individual ethics and philosophy.

The liberal conceives of men as imperfect beings. He regards the problem of social organization to be as much a negative problem of preventing “bad” people from doing harm as of enabling “good” people to do good; and, of course, “bad” and “good” people may be the same people, depending on who is judging them.

The basic problem of social organization is how to co-ordinate the economic activities of large numbers of people. Even in relatively backward societies, extensive division of labor and specialization of function is required to make effective use of available resources. In advanced societies, the scale on which co-ordination is needed, to take full advantage of the opportunities offered by

2. A totalitarian state is a political order in which state power is held by a single political party, with no political rights accorded to individuals. Friedman here is referring to the former Soviet Union and to other communist countries.

modern science and technology, is enormously greater. Literally millions of people are involved in providing one another with their daily bread, let alone with their yearly automobiles. The challenge to the believer in liberty is to reconcile this widespread interdependence with individual freedom.

Fundamentally, there are only two ways of co-ordinating the economic activities of millions. One is central direction involving the use of coercion—the technique of the army and of the modern totalitarian state. The other is voluntary co-operation of individuals—the technique of the market place.

The possibility of co-ordination through voluntary co-operation rests on the elementary—yet frequently denied—proposition that both parties to an economic transaction benefit from it, *provided the transaction is bilaterally voluntary and informed*.

Exchange can therefore bring about co-ordination without coercion. A working model of a society organized through voluntary exchange is a *free private enterprise exchange economy*—what we have been calling competitive capitalism.

In its simplest form, such a society consists of a number of independent households—a collection of Robinson Crusoes, as it were. Each household uses the resources it controls to produce goods and services that it exchanges for goods and services produced by other households, on terms mutually acceptable to the two parties to the bargain. It is thereby enabled to satisfy its wants indirectly by producing goods and services for others, rather than directly by producing goods for its own immediate use. The incentive for adopting this indirect route is, of course, the increased product made possible by division of labor and specialization of function. Since the household always has the alternative of producing directly for itself, it need not enter into any exchange unless it benefits from it. Hence, no exchange will take place unless both parties do benefit from it. Co-operation is thereby achieved without coercion.

Specialization of function and division of labor would not go far if the ultimate productive unit were the household. In a modern society, we have gone much further. We have introduced enterprises which are intermediaries between individuals in their capacities as suppliers of service and as purchasers of goods. And similarly, specialization of function and division of labor could not go very far if we had to continue to rely on the barter of product for product. In consequence, money has been introduced as a means of facilitating exchange, and of enabling the acts of purchase and of sale to be separated into two parts.

Despite the important role of enterprises and of money in our actual economy, and despite the numerous and complex problems they raise, the central characteristic of the market technique of achieving co-ordination is fully displayed in the simple exchange economy that contains neither enterprises nor money. As in that simple model, so in the complex enterprise and money-exchange economy, co-operation is strictly individual and voluntary *provided*: (a) that enterprises are private, so that the ultimate contracting parties are individuals and (b) that individuals are effectively free to enter or not to enter into any particular exchange, so that every transaction is strictly voluntary....

So long as effective freedom of exchange is maintained, the central feature of the market organization of economic activity is that it prevents one person from interfering with another in respect of most of his activities. The consumer is

protected from coercion by the seller because of the presence of other sellers with whom he can deal. The seller is protected from coercion by the consumer because of other consumers to whom he can sell. The employee is protected from coercion by the employer because of other employers for whom he can work, and so on. And the market does this impersonally and without centralized authority.

Indeed, a major source of objection to a free economy is precisely that it does this task so well. It gives people what they want instead of what a particular group thinks they ought to want. Underlying most arguments against the free market is a lack of belief in freedom itself.

The existence of a free market does not of course eliminate the need for government. On the contrary, government is essential both as a forum for determining the "rules of the game" and as an umpire to interpret and enforce the rules decided on. What the market does is to reduce greatly the range of issues that must be decided through political means, and thereby to minimize the extent to which government need participate directly in the game. The characteristic feature of action through political channels is that it tends to require or enforce substantial conformity. The great advantage of the market, on the other hand, is that it permits wide diversity. It is, in political terms, a system of proportional representation. Each man can vote, as it were, for the color of tie he wants and get it; he does not have to see what color the majority wants and then, if he is in the minority, submit.

It is this feature of the market that we refer to when we say that the market provides economic freedom. But this characteristic also has implications that go far beyond the narrowly economic. Political freedom means the absence of coercion of a man by his fellow men. The fundamental threat to freedom is power to coerce, be it in the hands of a monarch, a dictator, an oligarchy, or a momentary majority. The preservation of freedom requires the elimination of such concentration of power to the fullest possible extent and the dispersal and distribution of whatever power cannot be eliminated—a system of checks and balances. By removing the organization of economic activity from the control of political authority, the market eliminates this source of coercive power. It enables economic strength to be a check to political power rather than a reinforcement.

Economic power can be widely dispersed. There is no law of conservation which forces the growth of new centers of economic strength to be at the expense of existing centers. Political power, on the other hand, is more difficult to decentralize. There can be numerous small independent governments. But it is far more difficult to maintain numerous equipotent small centers of political power in a single large government than it is to have numerous centers of economic strength in a single large economy. There can be many millionaires in one large economy. But can there be more than one really outstanding leader, one person on whom the energies and enthusiasms of his countrymen are centered? If the central government gains power, it is likely to be at the expense of local governments. There seems to be something like a fixed total of political power to be distributed. Consequently, if economic power is joined to political power, concentration seems almost inevitable. On the other hand, if economic power is kept in separate hands from political power, it can serve as a check and a counter to political power....

In a capitalist society, it is only necessary to convince a few wealthy people to get funds to launch any idea, however strange, and there are many such persons, many independent foci of support. And, indeed, it is not even necessary to persuade people or financial institutions with available funds of the soundness of the ideas to be propagated. It is only necessary to persuade them that the propagation can be financially successful; that the newspaper or magazine or book or other venture will be profitable. The competitive publisher, for example, cannot afford to publish only writing with which he personally agrees; his touchstone must be the likelihood that the market will be large enough to yield a satisfactory return on his investment....

The Role of Government in a Free Society

... From this standpoint, the role of the market is that it permits unanimity without conformity.... On the other hand, the characteristic feature of action through explicitly political channels is that it tends to require or to enforce substantial conformity.... The typical issue must be decided "yes" or "no"; at most, provision can be made for a fairly limited number of alternatives....

The use of political channels, while inevitable, tends to strain the social cohesion essential for a stable society. The strain is least if agreement for joint action need be reached only on a limited range of issues on which people in any event have common views. Every extension of the range of issues for which explicit agreement is sought strains further the delicate threads that hold society together. If it goes so far as to touch an issue on which men feel deeply yet differently, it may well disrupt the society. Fundamental differences in basic values can seldom if ever be resolved at the ballot box; ultimately they can only be decided, though not resolved, by conflict. The religious and civil wars of history are a bloody testament to this judgment.

The widespread use of the market reduces the strain on the social fabric by rendering conformity unnecessary with respect to any activities it encompasses. The wider the range of activities covered by the market, the fewer are the issues on which explicitly political decisions are required and hence on which it is necessary to achieve agreement. In turn, the fewer the issues on which agreement is necessary, the greater is the likelihood of getting agreement while maintaining a free society....

Government as Rule-Maker and Umpire

... Just as a good game requires acceptance by the players both of the rules and of the umpire to interpret and enforce them, so a good society requires that its members agree on the general conditions that will govern relations among them, on some means of arbitrating different interpretations of these conditions, and on some device for enforcing compliance with the generally accepted rules.... In both games and society also, no set of rules can prevail unless most participants

most of the time conform to them without external sanctions; unless that is, there is a broad underlying social consensus. But we cannot rely on custom or on this consensus alone to interpret and to enforce the rules; we need an umpire. These then are the basic roles of government in a free society: to provide a means whereby we can modify the rules, to mediate differences among us on the meaning of the rules, and to enforce compliance with the rules on the part of those few who would otherwise not play the game.

The need for government in these respects arises because absolute freedom is impossible. However attractive anarchy may be as a philosophy, it is not feasible in a world of imperfect men. Men's freedoms can conflict, and when they do, one man's freedom must be limited to preserve another's—as a Supreme Court Justice once put it, "My freedom to move my fist must be limited by the proximity of your chin."...

Action through Government on Grounds of Technical Monopoly and Neighborhood Effects

The role of government ... is to do something that the market cannot do for itself, namely, to determine, arbitrate, and enforce the rules of the game. We may also want to do through government some things that might conceivably be done through the market but that technical or similar conditions render it difficult to do in that way. These all reduce to cases in which strictly voluntary exchange is either exceedingly costly or practically impossible. There are two general classes of such cases: monopoly and similar market imperfections, and neighborhood effects.

Exchange is truly voluntary only when nearly equivalent alternatives exist. Monopoly implies the absence of alternatives and thereby inhibits effective freedom of exchange. In practice, monopoly frequently, if not generally, arises from government support or from collusive agreements among individuals. With respect to these, the problem is either to avoid governmental fostering of monopoly or to stimulate the effective enforcement of rules such as those embodied in our anti-trust laws. However, monopoly may also arise because it is technically efficient to have a single producer or enterprise. I venture to suggest that such cases are more limited than is supposed but they unquestionably do arise....

A second general class of cases in which strictly voluntary exchange is impossible arises when actions of individuals have effects on other individuals for which it is not feasible to charge or recompense them. This is the problem of "neighborhood effects." An obvious example is the pollution of a stream. The man who pollutes a stream is in effect forcing others to exchange good water for bad. These others might be willing to make the exchange at a price. But it is not feasible for them, acting individually, to avoid the exchange or to enforce appropriate compensation....

Parks are an interesting example because they illustrate the difference between cases that can and cases that cannot be justified by neighborhood effects, and because almost everyone at first sight regards the conduct of national parks as

obviously a valid function of government. In fact, however, neighborhood effects may justify a city park; they do not justify a national park, like Yellowstone National Park or the Grand Canyon. What is the fundamental difference between the two? For the city park, it is extremely difficult to identify the people who benefit from it and to charge them for the benefits which they receive. If there is a park in the middle of the city, the houses on all sides get the benefit of the open space, and people who walk through it or by it also benefit. To maintain toll collectors at the gates or to impose annual charges per window overlooking the park would be very expensive and difficult. The entrances to a national park like Yellowstone, on the other hand, are few; most of the people who come stay for a considerable period of time and it is perfectly feasible to set up toll gates and collect admission charges. This is indeed now done, though the charges do not cover the whole costs. If the public wants this kind of an activity enough to pay for it, private enterprises will have every incentive to provide such parks. And, of course, there are many private enterprises of this nature now in existence. I cannot myself conjure up any neighborhood effects or important monopoly effects that would justify governmental activity in this area.

Considerations like those I have treated under the heading of neighborhood effects have been used to rationalize almost every conceivable intervention. In many instances, however, this rationalization is special pleading rather than a legitimate application of the concept of neighborhood effects. Neighborhood effects cut both ways. They can be a reason for limiting the activities of government as well as for expanding them....

Action through Government on Paternalistic Grounds

Freedom is a tenable objective only for responsible individuals. We do not believe in freedom for madmen or children. The necessity of drawing a line between responsible individuals and others is inescapable, yet it means that there is an essential ambiguity in our ultimate objective of freedom. Paternalism is inescapable for those whom we designate as not responsible.

The clearest case, perhaps, is that of madmen. We are willing neither to permit them freedom nor to shoot them. It would be nice if we could rely on voluntary activities of individuals to house and care for the madmen. But I think we cannot rule out the possibility that such charitable activities will be inadequate, if only because of the neighborhood effect involved in the fact that I benefit if another man contributes to the care of the insane. For this reason, we may be willing to arrange for their care through government.

Children offer a more difficult case. The ultimate operative unit in our society is the family, not the individual. Yet the acceptance of the family as the unit rests in considerable part on expediency rather than principle. We believe that parents are generally best able to protect their children and to provide for their development into responsible individuals for whom freedom is appropriate. But we do not believe in the freedom of parents to do what they will with other people. The children are responsible individuals in embryo, and a believer in freedom believes in protecting their ultimate rights.

To put this in a different and what may seem a more callous way, children are at one and the same time consumer goods and potentially responsible members of society. The freedom of individuals to use their economic resources as they want includes the freedom to use them to have children—to buy, as it were, the services of children as a particular form of consumption. But once this choice is exercised, the children have a value in and of themselves and have a freedom of their own that is not simply an extension of the freedom of the parents.

The paternalistic ground for governmental activity is in many ways the most troublesome to a liberal; for it involves the acceptance of a principle—that some shall decide for others—which he finds objectionable in most applications and which he rightly regards as a hallmark of his chief intellectual opponents, the proponents of collectivism in one or another of its guises, whether it be communism, socialism, or a welfare state. Yet there is no use pretending that problems are simpler than in fact they are. There is no avoiding the need for some measure of paternalism....

Conclusion

A government which maintained law and order, defined property rights, served as a means whereby we could modify property rights and other rules of the economic game, adjudicated disputes about the interpretation of the rules, enforced contracts, promoted competition, provided a monetary framework, engaged in activities to counter technical monopolies and to overcome neighborhood effects widely regarded as sufficiently important to justify government intervention, and which supplemented private charity and the private family in protecting the irresponsible, whether madman or child—such a government would clearly have important functions to perform. The consistent liberal is not an anarchist....

Is it an accident that so many of the governmental reforms of recent decades have gone awry, that the bright hopes have turned to ashes? Is it simply because the programs are faulty in detail?

I believe the answer is clearly in the negative. The central defect of these measures is that they seek through government to force people to act against their own immediate interests in order to promote a supposedly general interest. They seek to resolve what is supposedly a conflict of interest, or a difference in view about interests, not by establishing a framework that will eliminate the conflict, or by persuading people to have different interests, but by forcing people to act against their own interest. They substitute the values of outsiders for the values of participants; either some telling others what is good for them, or the government taking from some to benefit others. These measures are therefore countered by one of the strongest and most creative forces known to man—the attempt by millions of individuals to promote their own interests, to live their lives by their own values. This is the major reason why the measures have so often had the opposite of the effects intended. It is also one of the major strengths of a free society and explains why governmental regulation does not strangle it.

Corporate Capitalism Hurts American Democracy

SAMUEL BOWLES, FRANK ROOSEVELT,
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A capitalist economy operates on the basis of a set of principles—rules of the game—designed to organize commodity production for profit using wage labor and privately owned capital goods. Governments, on the other hand, are organized according to different principles, a different set of rules. These rules make possible collective action, and involve a compulsory relationship between citizens and their government. Governments—or government leaders—act on behalf of the entire population of a nation, and their actions can be enforced on all of its residents.

The principles of democratic government are very different from those that govern the capitalist economy. Generally, the employees of a corporation do not elect its leaders—the management—and neither does the community in which the corporation is located. In fact, corporate leaders are not elected at all in the sense that is usually attached to the word *election*. The people who own the corporation select them, with each owner having as many votes as the number of shares of stock he or she owns. Similarly, freedom of speech and other civil liberties guaranteed in the political sphere are often limited in the workplace. Many businesses enforce dress codes, and employees are generally not free to post information such as appeals from labor unions.

These two sets of rules—the rules of democratic government and the rules of a capitalist economy—exist side by side in our society. Both affect the economy, and they each conflict. Why has government grown and what does it have to do with the capitalist economy? Do citizens or capitalists have power in politics? Below, we address these questions.

The Expansion of Government Economic Activity

During the past century, the economic importance of the government has grown dramatically. Because its role has expanded qualitatively as well as quantitatively, and because not all government activities are equally important in relation to the economy, there is no single measure by which the expansion of the government's role can be adequately gauged. Measured in dollars, however, federal, state, and local government spending in the United States increased from 7.7 percent of the total output of the economy in 1902 to 31 percent of it in 2002.

In the United States, increases in military, Social Security, and health-related programs in the twentieth century led to substantial growth of expenditures at the level of the federal government. Expansion of such direct services as public schools, municipal hospitals, and police and fire protection led to even more rapid growth of employment at the state and local levels.

Although government expenditures at all levels in the United States increased greatly during the past century, the sum of such expenditures, as a share of the nation's total output of goods and services, is smaller than the comparable percentages of national output spent by governments in other advanced capitalist countries.

The reasons for the increased economic importance of the government are much debated. Some people see growing government as a triumph by the ordinary citizen over the self-serving interests of business. Others see the growth as a triumph of the bureaucratic mentality, which assumes that if there is a problem its solution must take the form of a government program. Still others see big government and the free market economy as opposites.

But there is a more persuasive explanation for the increasing role of government in economic life: **The survival and workability of capitalism as an economic system has required the government to grow.** The ceaseless search for extra profits and the ensuing social, technical, and other changes ... have created conditions that have led to demands for a more active government. These demands, as we will see, have come as often from businesspeople as from workers, as often from the Chamber of Commerce as from the AFL-CIO, as often from Republicans as from Democrats. The expansion of the role of government in the United States is not something that happened in *opposition* to capitalism; rather, it is something that has happened in *response* to the development of capitalism. In what specific ways did this expansion occur?

Economic Concentration

Much of the growth of governmental economic activity can be explained by the growth of large corporations and the decline of small producers. The enormous power of modern corporations in the United States has allowed their owners to lobby the government for favors and to influence the formation of public opinion. Thus, big business is able to induce the government to do things that enhance profit making. Examples of this would include subsidies for the nuclear power industry and exorbitant purchases of military hardware. U.S. corporate leaders have also supported the expansion of government regulation in those many situations in which they wanted protection from competitive pressures that might lower profits. Examples of such situations include regulation of the quality of meat and other food to prevent competition from companies that would lower the quality of such products. In addition, consumers and workers have supported the expansion of the economic role of the government, in part to protect themselves from the power of the giant corporations. Passage of the Sherman Antitrust Act (1890), the Clean Air Act (1970), and the Consumer Product Safety Act (1973) are examples of this.

International Expansion

The increasingly global reach of large American corporations has contributed to the development of a conception of “U.S. interests” around the world. As corporations expanded from national to international businesses, they changed from wanting the government to impose tariffs to keep out goods made abroad to insisting that the government protect U.S. investments around the world. They have promoted the development of an increasingly expensive military establishment to defend these interests. Preparations for war and the payment of interest on the national debt—much of which was borrowed to pay for past wars—have accounted for much of the growth in federal expenditures. Capitalism did not invent war, but the degree of international economic interdependence and rivalry produced by the expansion of capitalism did make *world wars* more likely. After World War II, high levels of military expenditure became a permanent feature of the U.S. economy. In 2002 military expenditures amounted to nearly one-half of the “discretionary spending” part of the U.S. federal budget—the part not already committed to paying for “entitlements” such as Social Security and Medicare. In the aftermath of the terrorist attack on the World Trade Center in 2001 the role of government has increased still further with the creation of the Department of Homeland Security and with the government now empowered to monitor private individuals’ e-mail communications and to bypass some of the rights of privacy that Americans had long taken for granted.

Economic Instability

The increasing instability of the economy, marked by periods of severe unemployment and dramatized by the worldwide Great Depression of the 1930s, has been another reason for the growing economic importance of the government. The stabilization of the U.S. economy was a major objective of the businessmen who promoted the formation of the Federal Reserve System in 1913 and the Securities and Exchange Commission in 1935. An even more significant impetus for governmental intervention was the persistence of the Great Depression until military expenditures brought about full employment at the beginning of World War II. During the depressed 1930s, radical political movements of both the left and the right spread around the world generating political instability as people responded in different ways to the failure of capitalist economies to provide for their livelihoods.

In many countries, broad coalitions of employers and workers pushed the government to take greater responsibility for maintaining economic growth, profits, and employment through its activities as a macroeconomic regulator. Immediately following World War II, organizations such as the Committee for Economic Development in the United States were successful in gaining congressional passage of the Employment Act of 1946. This legislation committed the U.S. federal government, at least in principle, to insuring that there would be adequate job opportunities for everyone in the labor force.

The post-World War II growth of total government expenditures has increased the ability of the government to stabilize employment. Some government

programs (such as unemployment insurance) act as built-in stabilizers that automatically raise government spending when the economy slows down, thus helping to maintain enough total demand to avoid severe recessions. Other more deliberate macroeconomic regulation such as new tax policies or changes in the rate of interest may also counteract the economy's tendency to provide too few jobs. Except during the Korean War, the Vietnam War, and the late 1990s, however, such policies have not succeeded in bringing about full employment in the United States. In part this is because, despite the Employment Act of 1946, the elimination of unemployment has never actually been the objective of the government's macroeconomic regulation. Alben Barkley, a U.S. senator at the time of its passage, drew attention to the inadequacy of the Full Employment Act by saying that the new law "promised anyone needing a job the right to go out and look for one."

Income Support

During the Great Depression, many Americans became convinced that those unable to make an adequate living should be supported, at least at some minimal level, by the government. Government programs to support poor people replaced informal support systems and private charity, both because people who fell on hard times could no longer count on their families or neighbors to tide them over and because private charities did not have sufficient funds to take care of them. In the 1930s unemployment compensation, general relief, and Social Security were established. With the numerical growth and political mobilization of the aged population and of single parent families during the 1960s and early 1970s, benefits and beneficiaries expanded.

In recent years, however, the idea of government support for those in need has come under serious attack from political forces on the right. From the early 1970s through the 1990s, the expansion of income support programs was halted and, in some cases, reversed. In the 1990s, for example, the average weekly unemployment insurance benefit payment was lower in real terms (corrected for inflation) than it had been twenty years earlier.

With the 1996 "welfare reform" legislation passed by the Republican-dominated Congress and signed into law by President Clinton, the federal role in maintaining income support through Aid to Families with Dependent Children (AFDC) was eliminated altogether. Under the Temporary Assistance to Needy Families (TANF) legislation, blocks of aid were granted to states, which then became solely responsible for providing relief. From 1996 to 2002 welfare rolls were further cut back by new regulations requiring all able-bodied former recipients to work at menial jobs in order to qualify for aid. It is too soon to judge whether this recent curtailment of federal support will have beneficial or harmful economic consequences for America's neediest citizens over the long term.

Changing Patterns of Family Life

The combination in the late 1960s of a slowdown in the growth of real wages and an upsurge of women's demands for equality had the effect of altering

relationships between women and men both in the household and in the economy as a whole. The two developments have made it less likely that men will be the sole “breadwinners” while their wives stay home to take care of the children, cook the meals, and clean the house. In 1900, only 20 percent of American women worked outside the home; by 2000, the percentage of women between the ages of 25 and 64 in the paid labor force had increased to 73.5 percent.

In the face of wage stagnation from the late 1960s to the mid-1990s, more and more families found that they needed to have both husband and wife in the paid labor force in order to support their living standards. At the same time, the women’s movement changed people’s consciousness in ways that led at least some men to take more responsibility for household tasks and allowed many more women to take full-time jobs and have careers. Of course these changes have been accompanied by an increasing commodification of household tasks: more children are now taken care of in daycare centers or by paid “nannies,” more meals are eaten out or ordered in, and more housecleaning is done by paid “help.”

Increases in the labor force participation of women and the broader changes in society’s gender roles became yet another set of factors making for expansion of the government’s role in the economy. To break down barriers to women’s equality in the workplace, new laws and new enforcement activities were required. In the United States, the Civil Rights Act of 1964 created the Equal Employment Opportunity Commission (EEOC) to secure the rights of women as well as members of minority groups to equal opportunities in the workplace. To help both women and men combine paid work with family responsibilities, the U.S. Congress passed and President Clinton signed the 1993 Family and Medical Leave Act. Although compliance with these laws has been less than perfect, they are both significant in bringing U.S. policies closer to those in other advanced industrial nations.

However, citizens in Japan and many Western nations have long had rights to government-funded childcare, to health care for children as well as adults, and to paid parental leave as well as generous required vacation time. In contrast, the U.S. government has been reluctant to formulate comprehensive policies for the support of families, the only exception being for families at or below the poverty line.

Still, the passage of the U.S. Family and Medical Leave Act in 1993 was at least a small step in the direction of governmental support for working families. The Act requires that all workers in firms with more than fifty employees be allowed to take up to twelve weeks of unpaid leave at the time of the birth or adoption of a child or when an ill family member needs to be cared for. Both women and men are covered by the Act. Although their leave is unpaid, employees retain their health benefits while they are on leave and are assured of an equivalent position within their firm when they return to work. What both the Equal Employment Opportunity Commission and the Family and Medical Leave Act do, then, is to assign greater responsibility to the U.S. government for regulating relationships between employers and their employees.

Public Safety

Many groups have demanded that government mediate the conflict between profitability and public safety. While competition generally pushes firms to develop the most profitable technology, the resulting technological advancements do not always result in net benefits to society. The pharmaceutical industry provides an example of the danger of leaving economic decision making solely up to firms seeking to maximize their profits. Certain drugs may be very profitable for the companies, but their side effects, though often complicated and long delayed, may ultimately be damaging to people's health. The chemical industry offers another example of the conflict between profit making and public safety. Some highly profitable production processes in this industry may cause brain damage, sterility, or cancer in the workers who run them; such effects may become known only after many years of exposure....

Environmental Protection

Another issue that has aroused public demands for governmental intervention is the growing need to protect the natural environment from the effects of industrial production. Our natural surroundings—our land, fresh water, air, and oceans—are not only being used, they are being used up or contaminated as corporations compete to produce goods more cheaply. Historically, there have been no prices charged for the use—or misuse—of air and water, and the result has been the pollution of the elements that sustain life. In many cases the most profitable way of disposing of wastes—even very hazardous ones—has been simply to throw them away, using our natural environment as a free dumping ground. Incidents such as the burning of Ohio's Cuyahoga River in 1969, the poisoning of the Love Canal residential area outside of Buffalo in the 1970s, and the 1989 Exxon *Valdez* oil spill off the coast of Alaska have dramatized the need for more adequate controls. The creation of the Environmental Protection Agency and the passage of the Clean Air Act and the Water Pollution Control Act in the early 1970s were important steps in this direction.

Discrimination

Over the last three decades people have come to realize that the unrestricted exercise of private property rights can result in racial and sexual discrimination against both customers and workers. The lunch-counter sit-ins that set off the civil rights movement in the early 1960s brought the issue into sharp relief: should the owners of restaurants and lunch counters have the right to do whatever they please with their property, even if it involves the exclusion of black customers? Or do black people have a right to be treated equally in public places? Since 1964 the U.S. Civil Rights Commission has brought suits against companies, unions, and other institutions to force them to abandon discriminatory practices.

Many of the causes of expanded government economic activity discussed above may be understood as responses to particular aspects of the accumulation

process of the capitalist economy. Thus the growth of government regulation has been as much a part of capitalist economic development as the growth of investment or the growth of technology.

But if government has had to grow to repair the problems and hardships caused by the development of the economy, it does not follow that such growth has always succeeded in meeting human needs. It is debatable whether people are today more secure economically than they were a hundred years ago, or better protected from the arbitrary power of giant corporations, or less susceptible to environmental or natural disaster, or less likely to encounter health hazards in their workplace or in their food. Many of the political battles during the last century have been about the extent to which the government can or should be called on to solve social problems caused by economic forces beyond the control of individuals.

Just as we should not overrate the impact of the government's economic activities, we should not exaggerate their extent. Government employment, including the military, is only 15 percent of the total labor force, and of greater significance is the fact that the most important determinant of the future course of the economy—investment—is still almost entirely in private hands....

Government and Corporate Profits

While there is much controversy over the amount of government participation in the economy, the more essential question might be the ways in which government activity and taxation policy affect corporate profits. In general, when it comes to governmental intervention and the corporate profit rate, the power of ordinary citizens and workers is often sacrificed to the needs and political power of large companies and their biggest shareholders. Government can have a huge impact on both the pre-tax profit rate and, through taxation, on how much the after-tax profit rate of corporations rewards shareholders.

Government can improve corporate profits through relatively noncontroversial means, such as promoting research. Yet most other activities provide benefits to some groups and classes and harm others. Consider work regulations and the minimum hourly wage; minimal work regulation and a low minimum wage—both current policies—provide a higher profit rate by cutting corners with safety and by causing higher levels of job insecurity. Current policies permit employers to pay relatively low wages compared to other wealthy countries, speed up work, and obtain other concessions from workers without the time and expense of bargaining with them. These measures are all contrary to what workers generally want—higher wages, safer and less stressful working conditions, and more job opportunities....

Businesses themselves may have contradictory goals for government. Each firm is not so concerned about the economy-wide profit rate as it is about its own profit rate. Thus businesses are often ready to urge the government to adopt policies that will raise their own profit rates even though such policies

may push down the profit rates of other businesses. Individual firms lobby the government to reduce their own taxes, to obtain subsidies, or to be allowed to set high prices for their output. Big oil companies benefit enormously from tax credits for foreign royalties paid. The Boeing Corporation has regularly obtained support through government-subsidized cheap credit for the company's foreign customers. Companies in the oil industry were quite happy when the government lifted its controls on oil prices, permitting the price of oil (a raw material input for most other companies) to go up, not down. The oil companies' support of decontrol seemed unaffected by the fact that this policy inflicted big losses on the auto industry, whose high-profit gas guzzlers fell from favor among consumers as gasoline prices rose. Most businesses would be happy to promote government policies that would allow them to pay their own workers less while forcing other firms to pay more. In all these ways, businesses lobby for special benefits that are often in conflict with policies to raise the general profit rate.

Workers, too, have divided interests concerning what the government should do, although often for quite different reasons. Workers in the automobile industry, for example, may want government policies to limit imports of cars produced elsewhere; other workers may want to save money by purchasing a cheaper automobile made in, say, Japan. To take another example, unions that have mainly white male members may be less enthusiastic about government programs designed to secure equal employment opportunities for women and minority workers than unions with substantial minority and female memberships.

Our understanding of government policy is further complicated by the fact that employers and workers are not the only players in the game. Government leaders have their own objectives and face their own constraints. Most of all, they must find ways of getting reelected or reappointed. Such concerns may necessitate appealing to large numbers of voters, an objective that itself may require a combination of two strategies: adopting policies that are in the interest of a majority of voters, and instituting policies that appeal to individuals who can make substantial financial contributions to election campaigns. Only a combination of these strategies would improve one's chance of being reelected: politicians who faithfully serve the interests of the majority but cannot finance election campaigns are just as surely losers as the ones who too blatantly favor the few at the expense of the many.

Government leaders, like businesspeople, may thus find that their objectives work at cross-purposes. To gain favor with business, government leaders may want to cut taxes on profits or high incomes. But raising other taxes to maintain sufficient government revenues may incur the wrath of the broader electorate. And with lower taxes all around, it may be impossible for government leaders to offer public services that are considered essential by a majority of voters.

The three-way tug of war among government leaders, citizens (including workers), and business executives is illustrated, in the following section, by the problem of macroeconomic regulation of the unemployment rate....

The Limits of Democratic Control of the Capitalist Economy

If government has often grown in response to the needs of the capitalist economy, might the economic powers of government be used instead to achieve economic growth that would benefit everyone? Can the citizens of a democratic society control the economy in ways that will promote their own well-being?

... The ability of voters—even large majorities of them—to alter the course of economic events is quite limited as long as the economy remains capitalist.

To understand the limits on government, think of our economy as a game in which there are two different sets of rules. One set of rules—the rules of a capitalist economy—confers power and privilege on those who own and control the capital goods used in production, particularly on the owners and managers of the largest corporations. The other set of rules—the rules of democratic government—confers substantial power on the electorate, that is, on the majority of adult citizens. Thus our social system gives rise to two types of power: the *power of capital* and the *power of the citizenry*.

Those powers are often at loggerheads, as when citizens want to restrict the power of capitalists to sell dangerous or environmentally destructive products. In most such conflicts, capitalists have immense and often overwhelming advantages, despite the fact that the owners of businesses (and particularly the owners of large businesses) are greatly outnumbered in the political arena. There are three explanations for their political power—one obvious, the other two not so obvious.

One reason capitalists have a significant amount of political power is that economic resources can often be translated *directly* into political power. Businesses or wealthy individuals can contribute to political campaigns; they can buy advertisements to alter public opinion; they can hire lawyers, expert witnesses, and others to influence the detailed drafting and implementation of legislation; and they can use their economic resources in other ways—engaging in outright bribery, for example—to influence the political system. In all these ways corporate control of economic resources makes it possible for businesspeople to influence government officials and economic policies.

A second reason for the disproportionate political power of business leaders is more indirect. The owners of today's media conglomerates control the TV stations, newspapers, publishing houses, and other capital goods used in the media that shape public opinion. Even "public" radio and TV now depend heavily on corporate contributions. The constitutional rights to freedom of speech and of the press (which includes TV and radio) guarantee that people can say, and journalists can write, whatever they please. However, the private ownership of the capital goods used in the TV industry, for example, guarantees that what is broadcast is in the end controlled by corporate leaders—either the owners of the stations or the owners of the major corporations that buy the advertising for the programs. These are people who generally have little interest in promoting citizen power because increases in such power may jeopardize their profits.

A third way in which money brings power has to do with the fact that capitalists control investment and therefore can influence what happens in the economy of any particular area. If businesspeople see an area as having a bad investment climate, meaning that they may have difficulty making profits there, they will not invest in that area but will choose instead to invest somewhere else (if they invest at all). If they do not invest in a particular area, the result will be unemployment, economic stagnation, and probably a decline in living standards. This explains why political leaders in particular areas are apt to be easily influenced by the demands of business leaders. If the former do not go along with the wishes of the latter, the population of the area will suffer economic hardships and, placing at least part of the blame for their difficulties on their political leaders, will vote the incumbents out in the next election.

Something like the same process plays a role in the political business cycle. When there has been a long expansion, government leaders are usually willing to go along with the demands of business leaders to bring about a recession that will raise the rate of unemployment. Why is this? It is because, in this situation, government officials can anticipate that business leaders will blame them for any decline in profit rates that might result from increases in the power of workers. If the profit rate was in fact threatened, business leaders would not only withhold their investment, thereby causing economic hardships that would lead people to express their anger in the next election; they would also deny the current political leaders the financial support the latter would need in order to finance a reelection campaign.

When business leaders refuse to invest in a particular area, whether it is a locality, an area such as a state in the United States, or an entire nation, the area will experience what is referred to as a *capital strike*. When workers strike, they refuse to do their part in the economy: they do not work. When capitalists strike, they also refuse to do their part: they do not invest. But here the similarity between the strikes of workers and those of capitalists ends. When workers strike they must organize themselves so that they all strike together. A single worker cannot go on strike (that would be called quitting). By contrast, when capital goes on strike, no coordination is needed.... Each corporation routinely studies the economic and other conditions relevant to its decision to invest. If the executives of the corporation do not like what they see, they will not invest. Nobody organizes a capital strike. Such strikes happen through the independent decisions of corporate leaders. If things look bad to a significant number of corporations, the effect of their combined withholding of investment will be large enough to change the economic conditions of a whole area.

The potential for a capital strike severely limits what citizen power can accomplish when citizen power conflicts with the power of capital. A hypothetical scenario will make this clear. It is currently the policy in the United States that unemployed workers are entitled to receive unemployment insurance checks for 26 weeks after they lose their jobs. But imagine what would happen if the government of a particular state—let's call it "Anystate, USA"—were to decide to provide longer-lasting unemployment benefits so that workers could continue to receive unemployment insurance checks as long as they are unemployed. And let's say that these payments are financed by heavy taxes on the profits of firms

that pollute the environment. If a majority of Anystate's citizens support these policies, the state government will adopt them, paying the additional benefits to unemployed workers and collecting the "pollution taxes" to pay for them.

Now imagine that you are the chief executive officer (CEO) of a large multinational corporation—let's call it "MNC Enterprises, Inc."—that employs large numbers of workers in Anystate. Assume that you are considering investing in Anystate, say, by building a new plant there. Not only will you worry about the potential taxes (applicable to any production process that pollutes the environment); you will also be uncertain, first, about how much power you will have over your employees and, second, about how hard they will work, knowing that they are entitled to receive unemployment insurance checks for a long period if you fire them.

You may even ask yourself what the citizenry will vote for next—and you will certainly think twice before investing in Anystate, not necessarily because you personally do not like the new laws, but because your profit rate, both before and after taxes, would most likely be lower in Anystate than it might be elsewhere. Not only would a low profit rate make it difficult for MNC Enterprises to maintain its competitive position relative to other corporations; it would also have additional consequences. Once it became known that the company's profit rate was falling, the price of the company's stock in the stock market would fall. This, in turn, might cause the stockholders to sell their shares, putting more downward pressure on the price of the stock. It is also possible that the Board of Directors of the company, in response to its poor "performance," would begin thinking about replacing you with a new CEO. Anticipating all this, you will probably put any new plant somewhere else, perhaps in a state that actively advertises its favorable investment climate.

Quite independently, other businesspeople will, no doubt, come to the same conclusion. Some may even close plants or offices in Anystate and move them elsewhere. The cumulative effect of these independently made decisions will be increasing unemployment and lower incomes for the people of Anystate.

The hard times may bring on a state financial crisis. As unemployment increases, state expenditures on unemployment insurance will rise, as will the costs of other income support programs. As people's incomes fall, the state's tax revenues will also fall, and a deficit will appear in the state's budget. (Most states are required by their state constitutions to balance their budgets.)

But the problems have only just begun. In order to spend more money than taxes are currently bringing in, the state government will be forced to raise taxes further or to borrow money from banks or individuals willing to make loans to the state or buy bonds (IOUs) issued by the state government. Because of the decline in Anystate's economy, the banks cannot be sure that their loans will be paid back promptly or that they will ever be paid back. If they agree to lend money to the state, they will do so only at high interest rates (to cover the risk of lending to the state). Similarly, investors will be willing to buy the state's newly issued bonds only if they are guaranteed high rates of interest. If the loans are granted and the bonds are bought, the state will have more money to finance its current expenditure, but its fundamental problems will only be put

off. They will return with greater intensity when the high interest charges have to be paid, adding to the other demands on state revenues. The resulting vicious cycle, now evident in many U.S. states, is called a *state fiscal crisis*.

There are two likely outcomes. First, with repayment increasingly uncertain, the banks may refuse further loans until the state government changes its policy. If the state government is on the verge of bankruptcy—which means breaking contracts with state employees and not paying wages or bills—the bank’s policy recommendations may be quite persuasive. Second, the sovereign citizens of Anystate may decide to elect a new government, in order to have the laws revoked. In either case the new laws will be repealed.

Our example was for a single state, but in fact the process we have outlined could well occur in any state or even in any nation. After all, MNC Enterprises did not have to locate any of its factories in the United States.

Let’s go back over our “Anystate” example. Were the citizens’ voting rights or civil liberties violated? No. Did capitalists collude to deliberately undermine citizen power? No, they acted independently and in competition with each other. Did they use campaign contributions or lobbyists to influence government officials or elections? They might have but they did not need to.

Did the citizens exercise control over the economy? That is a much harder question. The capitalist economy certainly imposed limits on what they could do. The citizens could vote for any policy they wanted, but they could not force businesses to invest in Anystate, and that fact severely limited the political outcomes.

Where did they go wrong? The example could have turned out very differently.

One course the citizens of Anystate could have followed would have been to limit their expectations; they could have instructed their government to concentrate only on those programs that would benefit citizens but at the same time *raise*—or at least not lower—the profit rates of companies in the state. In other words, they might have accepted from the outset the fact that they were not “sovereign” in economic matters. This would have allowed them to make the best of a less-than-ideal situation.

Thus, for example, the citizens might have concentrated solely on eliminating the forms of air pollution that push down property values by reducing profits in recreation businesses. They might have designed programs to give economic security to the elderly, but not to current workers. They might have tried to increase employment and equality of opportunity by giving all children more business-oriented schooling. And they might have voted to finance these programs by taxes that did not affect profits. If they had adopted any or all of these policies, many Anystate citizens would have benefited, and those who were adversely affected might not have been in a position to block the adoption of them. Specifically, capitalists might have looked favorably or at least indifferently at such policies and might not have brought about economic decline in the state by withholding or withdrawing their investments.

Again, our Anystate example is hypothetical, but it is in fact similar to a process that actually occurred in Wisconsin early in the twentieth century. Wisconsin was a leader in trying out programs to make the most of citizen power while operating within the limits of a capitalist economy. Moreover, the federal

government and a number of state and local governments now engage in many beneficial economic activities that also fit this description. Providing for social needs within the general framework of a capitalist economy has been the aim of European nations such as Sweden and Austria, where social democratic governments have been in power during much of the last century. As beneficial as these programs have been, however, they are severely limited by the fact that many of the ways to improve living standards and the quality of life sooner or later also threaten the rate of profit.

There is yet another course that Anystate citizens could have followed, which, if not likely, is at least conceivable. When MNC Enterprises (or other companies) decided to close down their operations in Anystate, the plants could have been bought by their local communities, by their workers, or by the state government itself. When a business leaves a community, what it takes with it, usually, is just its money. The plant, equipment and machinery—not to mention the workers—are left behind. If a way could be found to purchase the firm and sell its output, there is no reason why the workers who held jobs in the MNC Enterprises plant could not continue working there. They could do this by forming a community-owned enterprise, a worker-owned firm, or some other type of democratic organization.

We may conclude from our Anystate example that citizen power is severely limited in its ability to alter fundamental economic policies. These limits can only be overcome if citizens commit themselves to altering the rules of a capitalist economy.... The rules of a capitalist economy are not the same as those of democratic government. To achieve a democratic *society*—not just a democratic *government*—decision making in the economy, as well as in the government, would have to be made accountable to a majority of its participants.

Discussion Questions

1. Friedman stresses that the market economy is made up of *voluntary exchanges*. No one is forced to buy a particular product or to work for a particular company. What would Bowles, Roosevelt, and Edwards say about Friedman's argument?
2. There is a substantial amount of income inequality in the United States. As long as all citizens still maintain equal political rights, is such inequality necessarily harmful to democracy? Where would you draw the line between acceptable and unacceptable levels of economic inequality in a democracy?
3. Friedman argues that the free market promotes individual liberty. Yet many citizens in democratic countries use their liberty to support government programs that limit and regulate the scope and power of the marketplace itself. How might Friedman have responded to this reality?
4. "If you work hard and play the rules, *anyone*, regardless of race, religion, educational or class background, can achieve the American Dream." Agree or disagree. Be sure to define what you mean by the American Dream.

Suggested Readings and Internet Resources

How democratic is the U.S. capitalist system? What are and what should be the roles of government and democratic citizens in the creation and distribution of economic resources? How “free” is our market system and how “equal” its citizens? Two excellent introductions to the answers of these questions are Joseph Schumpeter, *Capitalism, Socialism, and Democracy* (New Haven, Conn.: Yale University Press, 1984), and Charles Lindblom, *The Market System: What It Is, How It Works, and What to Make of It* (New Haven, Conn.: Yale University Press, 2002). In a highly accessible book written with his wife, Rose Friedman, Milton Friedman defends free market capitalism: *Free to Choose: A Personal Statement* (San Diego, Calif.: Harcourt, 1980). For a mainstream account of a new, healthy globalized economy, see Thomas Friedman, *The Lexus and the Olive Tree* (New York: Anchor Books, 2000). *New York Times* Pulitzer-Prize-winning journalist David Cay Johnston documents how the wealthy distort the rules in *Perfectly Legal: The Covert Campaign to Rig Our Tax System to Benefit the Super Rich—and Cheat Everybody Else* (New York: Penguin, 2003).

The Policy Action Network

www.movingideas.org

This is the best site for extensive data on and analyses of current economic policy issues from a liberal perspective. Click on the internal links to the Economic Policy Institute or the Center on Budget and Policy Priorities for an analysis of current issues, or use the topic search engine. This site is sponsored by *O*, a liberal opinion magazine.

The Heritage Foundation

www.heritage.org

This site contains economic news and policy prescriptions from the premier right-wing think tank, as well as good links to other conservative foundations and public policy lobbies.

The Left Business Observer

www.leftbusinessobserver.com

A spirited, iconoclastic newsletter by corporate critic Doug Henwood, this website has interesting statistics and many links to unconventional left- and right-wing websites.

The Cato Institute

www.cato.org

Here are speeches, research, and opinion from the leading libertarian think tank in the United States. This site provides economic data and opinion supportive of privatization of now-public functions, from Social Security to environmental protection and education.

Chapter 6



Civil Liberties: Is Corporate Spending on Elections the Equivalent of Free Speech?

Citizens United is a conservative advocacy group dedicated to restoring “traditional values” and the free market in American society. After producing a documentary film, *Hillary: The Movie*, highly critical of then-Senator Hillary Clinton, Citizens United sought to run television ads for the movie shortly before the Democratic primaries for president. According to the Bipartisan Campaign Reform Act (BCRA) of 2002, commonly known as McCain-Feingold (after the two senators who co-sponsored it), corporations may not spend money that expressly advocates the election or defeat of a candidate for 30 days before a primary (or 60 days before a general election). The Federal Election Commission (FEC) concluded that *Hillary* was being distributed for no other reason than to discredit Clinton in the upcoming presidential primaries and ruled that the ads could not be aired. This ruling was upheld by the U.S. District Court for the District of Columbia. Citizens United appealed the decision and the Supreme Court agreed to hear the case.

The Supreme Court could have ruled narrowly on the case, for example, by simply deciding whether television ads for distributing a film by DirectTV were prohibited under BCRA. Instead, the Supreme Court decided to broaden the case to examine the constitutionality of the system of campaign finance regulations established by BCRA. On January 21, 2010 the Supreme Court announced its momentous decision overturning over a century of law and declared that profit and nonprofit corporations can spend unlimited funds to elect or defeat candidates for public office. Corporate spending, the Court ruled in a close 5-4 vote, was free speech protected under the First Amendment: “If the First Amendment has any force, it prohibits Congress from fining or jailing citizens, or associations of citizens, for simply engaging in political speech.”

The announcement immediately unleashed a torrent of free speech for and against the ruling in *Citizens United v. Federal Election Commission*. Defenders extolled the Supreme Court for eliminating an egregious example of government censorship. As David Bossie, the president of Citizens United, put it, “The Supreme Court stopped a 100-year slide down a very slippery and dangerous slope last week, and I am proud to have played a role.” The *New York Times*, on the other hand, attacked the decision in an editorial: “The Supreme Court has handed lobbyists a new weapon. A lobbyist can now tell any elected official: if you vote wrong, my company, labor union or interest group will spend unlimited sums explicitly advertising against your re-election.” In his weekly radio address, President Obama charged that the ruling “strikes at our democracy itself,” adding “I can’t think of anything more devastating to the public interest.”

In order to evaluate this debate, you need to understand the system of campaign finance regulations that has grown up since the Watergate scandal of the Nixon administration. Congress has sought to limit the role of big contributors in elections by placing rules on who can give money for what purposes. The original legislation passed in 1974, the Federal Election Campaign Act (FECA), made a distinction between hard and soft money. If corporations wanted to contribute money directly to a candidate, they had to do it with hard money, which means money contributed to Political Action Committees (PACs), which are regulated by the FEC. However, soft money, or contributions that were independent of the candidate or party, were unregulated. The result was a flood of soft money into elections, supposedly independent of the campaign, but which might as well have been controlled by the party or the candidate because they had the effect of directly supporting the election of particular candidates. The 2002 BCRA, or McCain-Feingold Act, attempted to fill this hole by banning independent expenditures financing television advertising right before an election. Thus, before *Citizens United* corporations could not independently fund ads to defeat or elect specific candidates.

Citizens United makes it difficult for the government to regulate corporate spending on elections because it gives corporations the same free speech rights as individuals. By striking down the ban on independent corporate contributions the Court overturned federal law going back to the Tillman Act of 1907 that enabled the government to distinguish between expenditures by individuals and expenditures by corporations. The former were protected as free speech while corporate spending could be regulated. *Citizens United* eliminated this distinction, which had been upheld in *McConnell v. Federal Election Commission* (2003) and *Austin v. Michigan Chamber of Commerce* (1990), and equated corporate spending with individual free speech. The Supreme Court ruling potentially strikes down similar state laws, but at the same time that it strikes down limits on corporate spending it upholds the authority of government to require disclosure of who is paying for the ads.

What follow are excerpts from the majority opinion, written by Justice Anthony Kennedy, and from the minority dissenting opinion, written by Justice John Paul Stevens. We have edited out the extensive citations and footnotes that are found in the original opinions. (Readers are encouraged to read the

full original opinions which are easily accessible online.) Both opinions are splendid examples of careful reasoning on a crucial issue facing modern democracies—whether and how to regulate corporate spending on elections. Justice Kennedy argues that the Constitution does not allow the government to make a distinction between different types of speakers, regulating some and not regulating others. He sees no evidence that independent corporate expenditures will corrupt politicians. Justice Stevens, on the other hand, argues that there is no evidence that the framers of the Constitution wanted no distinctions between corporations and individuals. Clearly, Stevens argues, corporations are different from individuals and more dangerous to democracy; Congress has every right to regulate corporate expenditures.

When you read the democratic debate between Justice Kennedy and Justice Stevens you should consider a number of issues that have been raised. Conservatives pride themselves on upholding precedent in judicial decision making (called *stare decisis*) and judicial restraint (not overturning laws passed by Congress). In this case, the majority opinion overturns longstanding legal decisions and laws. Should the conservative justices have been more deferential to judicial precedent and the will of Congress? It is difficult to know the intent of the framers of the Constitution with regard to corporations because large private corporations, as we know them today, did not exist in 1789. If so, how does Justice Kennedy argue that the framers actually would have approved of regulating corporate spending on elections?

Corporate Spending on Elections Is Free Speech and Should Not Be Regulated (Excerpts from the Majority Opinion)

JUSTICE ANTHONY KENNEDY

The First Amendment provides that “Congress shall make no law... abridging the freedom of speech.” Laws enacted to control or suppress speech may operate at different points in the speech process....

The law before us is an outright ban, backed by criminal sanctions. Section 441b¹ makes it a felony for all corporations—including nonprofit advocacy

1. The relevant section of the Bipartisan Campaign Reform Act of 2002.

corporations—either to expressly advocate the election or defeat of candidates or to broadcast electioneering communications within 30 days of a primary election and 60 days of a general election. Thus, the following acts would all be felonies under §441b: The Sierra Club runs an ad, within the crucial phase of 60 days before the general election, that exhorts the public to disapprove of a Congressman who favors logging in national forests; the National Rifle Association publishes a book urging the public to vote for the challenger because the incumbent U. S. Senator supports a handgun ban; and the American Civil Liberties Union creates a Web site telling the public to vote for a Presidential candidate in light of that candidate's defense of free speech. These prohibitions are classic examples of censorship.

Section 441b is a ban on corporate speech notwithstanding the fact that a PAC created by a corporation can still speak. A PAC is a separate association from the corporation. So the PAC exemption from §441b's expenditure ban, does not allow corporations to speak. Even if a PAC could somehow allow a corporation to speak—and it does not—the option to form PACs does not alleviate the First Amendment problems with §441b. PACs are burdensome alternatives; they are expensive to administer and subject to extensive regulations. For example, every PAC must appoint a treasurer, forward donations to the treasurer promptly, keep detailed records of the identities of the persons making donations, preserve receipts for three years, and file an organization statement and report changes to this information within 10 days.

And that is just the beginning. PACs must file detailed monthly reports with the FEC, which are due at different times depending on the type of election that is about to occur:

These reports must contain information regarding the amount of cash on hand; the total amount of receipts, detailed by 10 different categories; the identification of each political committee and candidate's authorized or affiliated committee making contributions, and any persons making loans, providing rebates, refunds, dividends, or interest or any other offset to operating expenditures in an aggregate amount over \$200; the total amount of all disbursements, detailed by 12 different categories; the names of all authorized or affiliated committees to whom expenditures aggregating over \$200 have been made; persons to whom loan repayments or refunds have been made; the total sum of all contributions, operating expenses, outstanding debts and obligations, and the settlement terms of the retirement of any debt or obligation.

PACs have to comply with these regulations just to speak. This might explain why fewer than 2,000 of the millions of corporations in this country have PACs.

PACs, furthermore, must exist before they can speak. Given the onerous restrictions, a corporation may not be able to establish a PAC in time to make its views known regarding candidates and issues in a current campaign.

Section 441b's prohibition on corporate independent expenditures is thus a ban on speech. As a "restriction on the amount of money a person or group can spend on political communication during a campaign," that statute "necessarily reduces the quantity of expression by restricting the number of issues discussed,

the depth of their exploration, and the size of the audience reached.” Were the Court to uphold these restrictions, the Government could repress speech by silencing certain voices at any of the various points in the speech process. (Government could repress speech by “attacking all levels of the production and dissemination of ideas,” for “effective public communication requires the speaker to make use of the services of others.”) If §441b applied to individuals, no one would believe that it is merely a time, place, or manner restriction on speech. Its purpose and effect are to silence entities whose voices the Government deems to be suspect.

Speech is an essential mechanism of democracy, for it is the means to hold officials accountable to the people. (“In a republic where the people are sovereign, the ability of the citizenry to make informed choices among candidates for office is essential.”) The right of citizens to inquire, to hear, to speak, and to use information to reach consensus is a precondition to enlightened self-government and a necessary means to protect it. The First Amendment “has its fullest and most urgent application’ to speech uttered during a campaign for political office...”

For these reasons, political speech must prevail against laws that would suppress it, whether by design or inadvertence. Laws that burden political speech are “subject to strict scrutiny,” which requires the Government to prove that the restriction “furthers a compelling interest and is narrowly tailored to achieve that interest.” While it might be maintained that political speech simply cannot be banned or restricted as a categorical matter, the quoted language provides a sufficient framework for protecting the relevant First Amendment interests in this case. We shall employ it here.

Premised on mistrust of governmental power, the First Amendment stands against attempts to disfavor certain subjects or viewpoints. Prohibited, too, are restrictions distinguishing among different speakers, allowing speech by some but not others. As instruments to censor, these categories are interrelated: Speech restrictions based on the identity of the speaker are all too often simply a means to control content.

Quite apart from the purpose or effect of regulating content, moreover, the Government may commit a constitutional wrong when by law it identifies certain preferred speakers. By taking the right to speak from some and giving it to others, the Government deprives the disadvantaged person or class of the right to use speech to strive to establish worth, standing, and respect for the speaker’s voice. The Government may not by these means deprive the public of the right and privilege to determine for itself what speech and speakers are worthy of consideration. The First Amendment protects speech and speaker, and the ideas that flow from each...

We find no basis for the proposition that, in the context of political speech, the Government may impose restrictions on certain disfavored speakers. Both history and logic lead us to this conclusion...

If the First Amendment has any force, it prohibits Congress from fining or jailing citizens, or associations of citizens, for simply engaging in political speech. If the antidistortion rationale were to be accepted, however, it would permit

Government to ban political speech simply because the speaker is an association that has taken on the corporate form. The Government contends that *Austin* permits it to ban corporate expenditures for almost all forms of communication stemming from a corporation. If *Austin* were correct, the Government could prohibit a corporation from expressing political views in media beyond those presented here, such as by printing books. The Government responds “that the FEC has never applied this statute to a book,” and if it did, “there would be quite [a] good as-applied challenge.” This troubling assertion of brooding governmental power cannot be reconciled with the confidence and stability in civic discourse that the First Amendment must secure.

Political speech is “indispensable to decision making in a democracy, and this is no less true because the speech comes from a corporation rather than an individual.” (“[T]he concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment....”)

It is irrelevant for purposes of the First Amendment that corporate funds may “have little or no correlation to the public’s support for the corporation’s political ideas.” All speakers, including individuals and the media, use money amassed from the economic marketplace to fund their speech. The First Amendment protects the resulting speech, even if it was enabled by economic transactions with persons or entities who disagree with the speaker’s ideas...

Austin interferes with the “open marketplace” of ideas protected by the First Amendment.² It permits the Government to ban the political speech of millions of associations of citizens. Most of these are small corporations without large amounts of wealth...

This fact belies the Government’s argument that the statute is justified on the ground that it prevents the “distorting effects of immense aggregations of wealth.” It is not even aimed at amassed wealth.

The censorship we now confront is vast in its reach. The Government has “muffle[d] the voices that best represent the most significant segments of the economy.” And “the electorate [has been] deprived of information, knowledge and opinion vital to its function.” By suppressing the speech of manifold corporations, both for-profit and nonprofit, the Government prevents their voices and viewpoints from reaching the public and advising voters on which persons or entities are hostile to their interests. Factions will necessarily form in our Republic, but the remedy of “destroying the liberty” of some factions is “worse than the disease.” The Federalist No. 10, p. 130 (B. Wright ed. 1961) (J. Madison). Factions should be checked by permitting them all to speak and by entrusting the people to judge what is true and what is false....

When Government seeks to use its full power, including the criminal law, to command where a person may get his or her information or what distrusted source he or she may not hear, it uses censorship to control thought. This is unlawful. The First Amendment confirms the freedom to think for ourselves....

2. *Austin v. Michigan Chamber of commerce* (1990) which upheld regulation of corporate spending on elections.

The appearance of influence or access, furthermore, will not cause the electorate to lose faith in our democracy. By definition, an independent expenditure is political speech presented to the electorate that is not coordinated with a candidate. The fact that a corporation, or any other speaker, is willing to spend money to try to persuade voters presupposes that the people have the ultimate influence over elected officials. This is inconsistent with any suggestion that the electorate will refuse “to take part in democratic governance” because of additional political speech made by a corporation or any other speaker....

Austin is undermined by experience since its announcement. Political speech is so ingrained in our culture that speakers find ways to circumvent campaign finance laws. Our Nation’s speech dynamic is changing, and informative voices should not have to circumvent onerous restrictions to exercise their First Amendment rights. Speakers have become adept at presenting citizens with sound bites, talking points, and scripted messages that dominate the 24-hour news cycle. Corporations, like individuals, do not have monolithic views. On certain topics corporations may possess valuable expertise, leaving them the best equipped to point out errors or fallacies in speech of all sorts, including the speech of candidates and elected officials.

Rapid changes in technology—and the creative dynamic inherent in the concept of free expression—counsel against upholding a law that restricts political speech in certain media or by certain speakers. Today, 30-second television ads may be the most effective way to convey a political message. Soon, however, it may be that Internet sources, such as blogs and social networking Web sites, will provide citizens with significant information about political candidates and issues. Yet, §441b would seem to ban a blog post expressly advocating the election or defeat of a candidate if that blog were created with corporate funds. The First Amendment does not permit Congress to make these categorical distinctions based on the corporate identity of the speaker and the content of the political speech.

When word concerning the plot of the movie *Mr. Smith Goes to Washington* reached the circles of Government, some officials sought, by persuasion, to discourage its distribution.³ Under *Austin*, though, officials could have done more than discourage its distribution—they could have banned the film. After all, it, like *Hillary*, was speech funded by a corporation that was critical of Members of Congress. *Mr. Smith Goes to Washington* may be fiction and caricature; but fiction and caricature can be a powerful force.

Modern day movies, television comedies, or skits on Youtube.com might portray public officials or public policies in unflattering ways. Yet if a covered transmission during the blackout period creates the background for candidate endorsement or opposition, a felony occurs solely because a corporation, other than an exempt media corporation, has made the “purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value” in order to engage in political speech. Speech would be suppressed in the realm where its necessity is most evident: in the public dialogue preceding a real election. Governments

3. A 1939 film starring James Stewart as an idealistic young man who dramatically confronts corruption in Congress.

are often hostile to speech, but under our law and our tradition it seems stranger than fiction for our Government to make this political speech a crime. Yet this is the statute's purpose and design.

Some members of the public might consider *Hillary* to be insightful and instructive; some might find it to be neither high art nor a fair discussion on how to set the Nation's course; still others simply might suspend judgment on these points but decide to think more about issues and candidates. Those choices and assessments, however, are not for the Government to make. "The First Amendment underwrites the freedom to experiment and to create in the realm of thought and speech. Citizens must be free to use new forms, and new forums, for the expression of ideas. The civic discourse belongs to the people, and the Government may not prescribe the means used to conduct it."

The judgment of the District Court is reversed with respect to the constitutionality of 2 U. S. C. §441b's restrictions on corporate independent expenditures.

Corporate Spending on Elections Is Not Free Speech and Can Be Regulated (Excerpts from Minority Opinion)

JUSTICE JOHN PAUL STEVENS

The basic premise underlying the Court's ruling is its iteration, and constant reiteration, of the proposition that the First Amendment bars regulatory distinctions based on a speaker's identity, including its "identity" as a corporation. While that glittering generality has rhetorical appeal, it is not a correct statement of the law. Nor does it tell us when a corporation may engage in electioneering that some of its shareholders oppose. It does not even resolve the specific question whether Citizens United may be required to finance some of its messages with the money in its PAC. The conceit that corporations must be treated identically to natural persons in the political sphere is not only inaccurate but also inadequate to justify the Court's disposition of this case.

In the context of election to public office, the distinction between corporate and human speakers is significant. Although they make enormous contributions to our society, corporations are not actually members of it. They cannot vote or run for office. Because they may be managed and controlled by nonresidents, their interests may conflict in fundamental respects with the interests of eligible

voters. The financial resources, legal structure, and instrumental orientation of corporations raise legitimate concerns about their role in the electoral process. Our lawmakers have a compelling constitutional basis, if not also a democratic duty, to take measures designed to guard against the potentially deleterious effects of corporate spending in local and national races....

The Court's ruling threatens to undermine the integrity of elected institutions across the Nation. The path it has taken to reach its outcome will, I fear, do damage to this institution....

The So-Called "Ban"

Pervading the Court's analysis is the ominous image of a "categorical ba[n]" on corporate speech. Indeed, the majority invokes the specter of a "ban" on nearly every page of its opinion. This characterization is highly misleading, and needs to be corrected....

Under BCRA, any corporation's "stockholders and their families and its executive or administrative personnel and their families" can pool their resources to finance electioneering communications. A significant and growing number of corporations avail themselves of this option; during the most recent election cycle, corporate and union PACs raised nearly a billion dollars. Administering a PAC entails some administrative burden, but so does complying with the disclaimer, disclosure, and reporting requirements that the Court today upholds, and no one has suggested that the burden is severe for a sophisticated for-profit corporation. To the extent the majority is worried about this issue, it is important to keep in mind that we have no record to show how substantial the burden really is, just the majority's own unsupported factfinding. Like all other natural persons, every shareholder of every corporation remains entirely free under *Austin* and *McConnell* to do however much electioneering she pleases outside of the corporate form.¹ The owners of a "mom & pop" store can simply place ads in their own names, rather than the store's....

So let us be clear: Neither *Austin* nor *McConnell* held or implied that corporations may be silenced; the FEC is not a "censor"; and in the years since these cases were decided, corporations have continued to play a major role in the national dialogue....

Identity-Based Distinctions

The second pillar of the Court's opinion is its assertion that "the Government cannot restrict political speech based on the speaker's ... identity...."

"Our jurisprudence over the past 216 years has rejected an absolutist interpretation" of the First Amendment. The First Amendment provides that "Congress shall make no law ... abridging the freedom of speech, or of the

1. *McConnell v. FEC* (2003) which upheld regulation of corporate spending on elections.

press.” Apart perhaps from measures designed to protect the press that text might seem to permit no distinctions of any kind. Yet in a variety of contexts, we have held that speech can be regulated differentially on account of the speaker’s identity, when identity is understood in categorical or institutional terms. The Government routinely places special restrictions on the speech rights of students, prisoners, members of the Armed Forces, foreigners, and its own employees. When such restrictions are justified by a legitimate governmental interest, they do not necessarily raise constitutional problems. In contrast to the blanket rule that the majority espouses, our cases recognize that the Government’s interests may be more or less compelling with respect to different classes of speakers....

As we have unanimously observed, legislatures are entitled to decide “that the special characteristics of the corporate structure require particularly careful regulation” in an electoral context. Not only has the distinctive potential of corporations to corrupt the electoral process long been recognized, but within the area of campaign finance, corporate spending is also “furthest from the core of political expression, since corporations’ First Amendment speech and association interests are derived largely from those of their members and of the public in receiving information.” Campaign finance distinctions based on corporate identity tend to be less worrisome, in other words, because the “speakers” are not natural persons, much less members of our political community, and the governmental interests are of the highest order....

If taken seriously, our colleagues’ assumption that the identity of a speaker has *no* relevance to the Government’s ability to regulate political speech would lead to some remarkable conclusions. Such an assumption would have accorded the propaganda broadcasts to our troops by “Tokyo Rose” during World War II the same protection as speech by Allied commanders.² More pertinently, it would appear to afford the same protection to multinational corporations controlled by foreigners as to individual Americans: To do otherwise, after all, could “enhance the relative voice” of some (*i.e.*, humans) over others (*i.e.*, nonhumans). Under the majority’s view, I suppose it may be a First Amendment problem that corporations are not permitted to vote, given that voting is, among other things, a form of speech.

In short, the Court dramatically overstates its critique of identity-based distinctions, without ever explaining why corporate identity demands the same treatment as individual identity. Only the most wooden approach to the First Amendment could justify the unprecedented line it seeks to draw.

Our First Amendment Tradition

The Framers took it as a given that corporations could be comprehensively regulated in the service of the public welfare. Unlike our colleagues, they had little trouble distinguishing corporations from human beings, and when they

2. The name given to Japanese broadcasters of anti-American propaganda during world war II.

constitutionalized the right to free speech in the First Amendment, it was the free speech of individual Americans that they had in mind. While individuals might join together to exercise their speech rights, business corporations, at least, were plainly not seen as facilitating such associational or expressive ends. Even “the notion that business corporations could invoke the First Amendment would probably have been quite a novelty,” given that “at the time, the legitimacy of every corporate activity was thought to rest entirely in a concession of the sovereign.”

In light of these background practices and understandings, it seems to me implausible that the Framers believed “the freedom of speech” would extend equally to all corporate speakers, much less that it would preclude legislatures from taking limited measures to guard against corporate capture of elections....

Having explained why ... *Austin* and *McConnell* sit perfectly well with “First Amendment principles,” I come at last to the interests that are at stake. The majority recognizes that *Austin* and *McConnell* may be defended on anticorruption, antidistortion, and shareholder protection rationales. It badly errs both in explaining the nature of these rationales, which overlap and complement each other, and in applying them to the case at hand.

The Anticorruption Interest

Undergirding the majority’s approach to the merits is the claim that the only “sufficiently important governmental interest in preventing corruption or the appearance of corruption” is one that is “limited to *quid pro quo* corruption....”³ While it is true that we have not always spoken about corruption in a clear or consistent voice, the approach taken by the majority cannot be right, in my judgment. It disregards our constitutional history and the fundamental demands of a democratic society.

On numerous occasions we have recognized Congress’ legitimate interest in preventing the money that is spent on elections from exerting an “undue influence on an officeholder’s judgment” and from creating “the appearance of such influence,” beyond the sphere of *quid pro quo* relationships. Corruption can take many forms. Bribery may be the paradigm case. But the difference between selling a vote and selling access is a matter of degree, not kind. And selling access is not qualitatively different from giving special preference to those who spent money on one’s behalf. Corruption operates along a spectrum, and the majority’s apparent belief that *quid pro quo* arrangements can be neatly demarcated from other improper influences does not accord with the theory or reality of politics. It certainly does not accord with the record Congress developed in passing BCRA, a record that stands as a remarkable testament to the energy and ingenuity with which corporations, unions, lobbyists, and politicians may go about scratching each other’s backs—and which amply supported Congress’ determination to target a limited set of especially destructive practices....

3. Corruption in which someone pays off a politician in exchange for political favors.

Our “undue influence” cases have allowed the American people to cast a wider net through legislative experiments designed to ensure, to some minimal extent, “that officeholders will decide issues ... on the merits or the desires of their constituencies,” and not “according to the wishes of those who have made large financial contributions”—or expenditures—“valued by the officeholder.” When private interests are seen to exert outsized control over officeholders solely on account of the money spent on (or withheld from) their campaigns, the result can depart so thoroughly “from what is pure or correct” in the conduct of Government....

At stake in the legislative efforts to address this threat is therefore not only the legitimacy and quality of Government but also the public’s faith therein, not only “the capacity of this democracy to represent its constituents [but also] the confidence of its citizens in their capacity to govern themselves.” “Take away Congress’ authority to regulate the appearance of undue influence and ‘the cynical assumption that large donors call the tune could jeopardize the willingness of voters to take part in democratic governance....”

In short, regulations impose only a limited burden on First Amendment freedoms not only because they target a narrow subset of expenditures and leave untouched the broader “public dialogue,” but also because they leave untouched the speech of natural persons....

In addition to this immediate drowning out of noncorporate voices, there may be deleterious effects that follow soon thereafter. Corporate “domination” of electioneering, can generate the impression that corporations dominate our democracy. When citizens turn on their televisions and radios before an election and hear only corporate electioneering they may lose faith in their capacity, as citizens, to influence public policy. A Government captured by corporate interests, they may come to believe, will be neither responsive to their needs nor willing to give their views a fair hearing. The predictable result is cynicism and disenchantment: an increased perception that large spenders “call the tune” and a reduced “willingness of voters to take part in democratic governance.” To the extent that corporations are allowed to exert undue influence in electoral races, the speech of the eventual winners of those races may also be chilled. Politicians who fear that a certain corporation can make or break their reelection chances may be cowed into silence about that corporation. On a variety of levels, unregulated corporate electioneering might diminish the ability of citizens to “hold officials accountable to the people,” and disserve the goal of a public debate that is “uninhibited, robust, and wide-open.” At the least, I stress again, a legislature is entitled to credit these concerns and to take tailored measures in response....

All of the majority’s theoretical arguments turn on a proposition with undeniable surface appeal but little grounding in evidence or experience, “that there is no such thing as too much speech.” If individuals in our society had infinite free time to listen to and contemplate every last bit of speech uttered by anyone, anywhere; and if broadcast advertisements had no special ability to influence elections apart from the merits of their arguments (to the extent they make any); and if legislators always operated with nothing less than perfect virtue; then I suppose

the majority's premise would be sound. In the real world, we have seen, corporate domination of the airwaves prior to an election may decrease the average listener's exposure to relevant viewpoints, and it may diminish citizens' willingness and capacity to participate in the democratic process.

In a democratic society, the longstanding consensus on the need to limit corporate campaign spending should outweigh the wooden application of judge-made rules.

At bottom, the Court's opinion is a rejection of the common sense of the American people, who have recognized a need to prevent corporations from undermining self-government since the founding, and who have fought against the distinctive corrupting potential of corporate electioneering since the days of Theodore Roosevelt. It is a strange time to repudiate that common sense. While American democracy is imperfect, few outside the majority of this Court would have thought its flaws included a dearth of corporate money in politics.

Discussion Questions

1. Do you think that *Citizens United* will unleash a torrent of corporate spending that will corrupt the political process? Will elected officials now be afraid to vote against the interests of large corporations?
2. Opponents of *Citizens United* argue that corporations spend funds that ultimately belong to shareholders without getting the permission of shareholders. Is this a problem? If you owned stock in a corporation, would you object to that company spending money to defeat an elected official whom you supported?
3. Do you think full disclosure of who paid for an ad, including the name of the chief elected officer (CEO), will cause corporations to limit their campaign spending for fear of offending customers or investors?
4. Do you favor a system of public financing of elections in which candidates who receive a minimum of support can opt for public funding of their campaigns, paid for by voluntary dues checked-off on income tax returns, and thus avoid all private contributions?

Suggested Readings and Internet Resources

For a comprehensive examination of campaign finance laws before *Citizens United* see Michael Malbin, ed., *Life After Reform: When the Bipartisan Campaign Finance Reform Act Meets Politics* (New York: Rowman and Littlefield, 2003). Revealing examinations of the effects of private money on electoral politics are found in Charles Lewis, *The Buying of the President, 2004* (New York: Perennial, 2004) and in Robert G. Kaiser, *So Damn Much Money: The Triumph of Lobbying and the Corrosion of American Government* (New York: Alfred A. Knopf, 2009). For

a critical analysis of attempts to regulate campaign finance, see Bradley Smith, *Unfree Speech: The Folly of Campaign Finance Reform* (Princeton, N.J.: Princeton University Press, 2001).

Federal Election Commission (FEC)

www.fec.gov

The FEC's official government site provides access to data on campaign contributions and information on campaign regulations.

Center for Responsive Politics

www.opensecrets.org

This site provides accessible data, based on FEC reports, on campaign contributions to candidates across the country.

Campaign Finance Institute

www.cfinst.org

The Campaign Finance Institute is a non-partisan, non-profit institute, affiliated with George Washington University, that conducts research and makes recommendations for policy change in the field of campaign finance.