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MAJORITY RULE

by

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INTRODUCTION

I

The Attack on Majority Rule

Who says democracy says majority rule! Some such imperative long seemed unassailable. The logic, at least, is impeccable. Democracy, whatever else it might mean, clearly claims that (1) the masses of people ought to govern themselves -- suffrage ought to be universal; (2) some procedures need to be established to elicit popular will -- periodic elections ought to be held; and (3) a sort of equality ought to exist among men -- each voter ought to have the same power to cast the deciding vote. If popular sovereignty is the order of the day and if there is formal political equality, then, in cases of division, in cases where unanimity does not prevail, the decision must go to that position supported by fifty per cent plus one. To award the victory to any lesser number would give added weight to the voice of someone in the minority and thus violate political equality. To allow any other voice, i.e., either a foreign or a specially designated group, to prevail would violate popular sovereignty. To most writers, however they may fully define democracy, this minimal argument has appeared persuasive. Accordingly, majority rule has been accepted as an axiom of democratic theory. Curiously, however, it has received very little attention as a separate concept.[1]

The axiomatic quality of the theory of majority rule among democrats (and their critics) gained further credence because

of its historical role; it emerged out of the struggle of the rising many to wrest power from the entrenched few. To fight for majority rule in these circumstances was to fight against privilege. The work of Edwin Mims, Jr. typifies the position of those who saw majority rule in this light. His book, The Majority of the People (1941), argues vigorously for the thesis that the majority rule/minority rights controversy only conceals the struggle between the upper and lower classes. Henry Steele Commager's work, Majority Rule and Minority Rights (1943) puts forth a similar argument, as does the work of Max Lerner, It Is Later Than You Think (1938).

To be sure, some voices have questioned the validity of a majority decision rule for democracies. John Stuart Mill, for example, challenged the legitimacy of simple majority rule and expressed interest in mechanisms that would represent minorities and not exclude them from final decisions. This is certainly the source of his interest in proportional representation (and even his proposal for giving the clerisy extra votes can be understood as an effort to give minorities the strength to be heard in majoritarian proceedings). Alexis de Tocqueville expressed misgivings about the social pressures to conform that might arise in democratic societies where public opinion prevailed. And Rousseau, who appears rather ambiguous about what majorities can and cannot express, at least raised the issue of the relationship between majority voting and genuine participation in self-government. In the twentieth century, in the most flourishing period of majority rule systems, Walter Lippmann resuscitated classical Greek concerns about majorities and the possession of

knowledge, especially in terms of the widening scope of political life and the technical requirements of modern policy-making. Yet, none of these criticisms led to an outright assault on the theory of majority rule. The defects of majority rule were assumed to be the defects of democracy itself. At best, the critics proposed some small qualifications on how a majority-rule system ought to work.

In the second half of the twentieth century, however, this situation changed and a more sustained and a more direct attack on the theory of majority rule arose. Harsher criticisms emerged from an age that witnessed the birth of many new states and the reorganization of old ones, the wild mixing of poverty and plenty sometimes side by side in large cities crowded with diverse groups of rootless peoples, and the worldwide spectre of totalitarianism ehivvying all.

Specifically, the events in Weimar Germany appeared to some to be a case where a democratic regime committed suicide or, more technically, made it possible for a constitutional ruler to establish a dictatorship. Since the moral acceptability of suicide has never been clear, there was a widespread conviction that something was wrong with a system that apparently allowed for it. Either, many reasoned,[2] approval of majority rule involves possible approval of suicide and thus approval of whatever results from self-destruction -- in this case Hitler -- or else there must be limits on what majorities can and cannot do, limits that include, for example, a prohibition of abdication. A decision rule that permits enthronement of

a totalitarian dictatorship, it was argued, cannot be a morally valid rule. "There can be nothing in the majority principle that requires that a majority should have the power to destroy it, for it is the very nature of a principle that it prohibits its own negation."[3] In the name of constitutionalism, or natural law, or logic, a search was instituted for the proper limits of majority rule. Advocacy of unlimited majority rule became associated with the Right,[4] not the Left. Unlike earlier times, when the triumph of majority rule was presumed to be a triumph of liberty, untrammeled majoritarianism was now seen as a handmaiden of tyranny. "Majoritarian" became an epithet. Beneath the surface impressions and name-calling, however, lay a genuine problem of importance to the concept of majority rule. As so often in the past, the politics of current events gave rise to a scholarly discussion that raised significant philosophical issues. Does the majority decision rule entail by its very nature limits on its scope? What is the relation between a community's decision rule and its standard of legitimacy? From this point on, no justification of majority rule could avoid those issues. And any would-be defender of the theory of majority rule now had to face the credibility that the raising of those issues bestowed upon anti-majoritarian sentiments.

A second new line of attack on the majority principle arose from an entirely different quarter, and also from a set of new circumstances, namely the post World War II rise of affluence and the rise to power of various democratic-socialist parties. Where originally support of majority rule had been synonymous with championship of the poor and downtrodden, this no longer

seemed (at least to some) to be the case. The hated privileged had now increased in numbers to such an extent that they had become the majority! The oppressed, Herbert Gans proclaimed on the pages of the New York Times, are not the masses but the minority, a minority in need of protection from majority power. The old minorities of privilege could protect themselves from the majority by utilizing the resources of privilege -- money, education, supportive and stable environments, organizational skills, and so forth. The new underprivileged minorities lack precisely all such resources. Previously, those who lacked the resources of the rich could substitute the strategic power of large numbers. The new minorities, however, obviously lack even this numerical power. They are, therefore, doubly disadvantaged by majoritarianism. Conceivably, they would be better off under a lottery. Those who wish to help the people most in need of help, it is claimed, must now call for the abolition of majority rule, for that decision rule further empowers those already privileged and entrenched.

Even more radically, some now argue that the status of these new minorities of the underprivileged may be a permanent phenomenon.[6] Since it is now in the interests of the many to ignore the expensive needs of the few, and since the new minorities cannot effectively bring to bear the traditional peaceful weapons of politics, they are doomed to perpetual exclusion from the rewards of self-government. The majority is permanently ensconced; the minority habitually excluded. Under these allegedly new circumstances majority rule renders some groups

effectively powerless. Self-government has become a mockery and those most in need of leverage in this world have lost it, or can no longer hope to maintain whatever modest hold on such leverage they ever had. The would-be defender of majority rule is thus suspect as a humanitarian; his conservative defense of the formerly liberating principle now upholds the status quo and marks him as an enemy of progress or human betterment. He stands accused of holding to selfish prerogatives in the face of morally compelling reasons to abandon them. Again, the tendentious labeling (libeling) reflects the uncovering of a latent difficulty in the concept of majority rule. New questions beg for analysis. Are majorities statistical entities? the byproducts of economic force? of biological factors? the results of chance? Perhaps a more precise understanding of the generation of majorities than previous justifications of majority rule have attempted would help. So far, however, the issues embedded in this attack have remained in the polemical realm and have yet to be joined on a more philosophical level.

Still another contemporary situation has contributed to the attack on the majority principle. The spectacular successes of the natural sciences have given all science a singularly prominent place in modern society, and have persuaded many that only scientific approaches to understanding (i.e., those that parallel the methodology of the natural sciences) can hope to find similar success and to warrant similar preeminence. This has meant, for many, the subjection of political life to behavioral

analysis. In search of operational definitions that concern measurable things and events, the behavioralist has disposed of much traditional terminology on the ground that imprecise terms mask reality. The concept of majority rule has been among the victims.

In the work of Robert Dahl, for example, the notion of rule has been reduced to control of issue outcomes. Issues have been selected, numerically ranked, and their prevalence counted. By this procedure only groups whose views on issues prevail can be said to rule. And, it turns out, rule in this sense has never characterized majorities. Rule, instead, is the product of various minorities. Majorities, Dahl claims, never form. Only minorities exist on public issues and, therefore, only minorities can be said to rule. If ruling force is to be construed as Dahl suggests, what are we to make of the long line of democratic theorists who have equated rule with majoritarian control of the personnel of government? Can rule be "operationalized" in some other way?

A number of writers influenced by the behavioral movement have sought to discuss ruling as the attainment of satisfaction. Majority rule, on this showing, must be defended as a device that "maximizes satisfaction". If it fails in democratic societies, to give the majority the most of what the majority wants, it stands condemned as an irrational decision rule. And, it is alleged,[7] the majority decision rule does indeed fail to maximize satisfaction.

Some have argued the case in terms of the so-called voter's paradox. Mathematically, voting on more than two issues in pairs yields paradoxical results. Undeterred by the consideration that all possible decision rules yield similar mathematical inconsistencies (and, perhaps, encouraged by the fact that Kenneth Arrow, whose name is most closely linked to mathematically oriented studies of social choice, has been awarded the Nobel Prize for his work) some writers have seized on the rediscovered Condorcet conundrum to cast doubt on the efficacy of majority rule. They suggest that, at minimum, no democrat has reason to hold the majority principle dear.[8] Other decision mechanisms might work better. Log-rolling, for example, might yield more rational results. So might certain strategies of coalition formation.[9] Further, if the amount of satisfaction produced is the measure of successful rule, why, some have asked,[10] shouldn't we weigh votes as well as count them? Not just how many heads have nodded agreement or disagreement ought to be considered, but the intensity of those nods needs measurement. Preferences are held both strongly and weakly. To neglect the amount of feeling behind a preference risks allowing apathetic majorities to prevail over passionate minorities, an event that supposedly would dilute the legitimacy or justice of majority predominance and endanger the stability of society.

These criticisms call attention to a number of possible ambiguities in the purposes of voting. The discussion of what, precisely, we are trying to ascertain when we vote has not moved much beyond Rousseau's differentiation of the general will from the particular will or the will of all. The focus of the

behavioralist thus illuminates the senses in which the majority principle can express some aspects of will and not others, and presses a would-be defender of majoritarianism to be more exact about what he hopes to accomplish when he argues that "the whole must be concluded by the majority." In democracies a majority decision rule presumably has a special function. If so, what it measures and why needs more careful elucidation or the behavioralist critique cannot be met.

The modern attack on majority rule has been mounted from yet another direction. Disillusioned about the effect of majority-rule systems on the quality of justice in society, a number of writers have concluded that what purports to be a majority decision rule actually, in most democracies, merely disguises rule by the minority. The will of the majority, especially on those questions of most importance to most people, does not prevail, and a powerful, privileged class really predominates.

The argument is presented in a number of ways. Some who take this position draw a distinction between formal and informal decision-making. Formal decisions, they claim, come only on the issues that the dominant minority allows to be raised. These decisions are of little interest to the masses. The questions most people would like to decide never reach the public forum because the minority has contrived to delimit the area of debate and to exclude them. What counts as rule in society, therefore, is not the ability to make decisions but the power to preclude them, what might be called non-decision making power. Such powers are exercised by creating fear of reprisal, by

socialization mechanisms, by domination of the media of communication, by coercive social pressures to conform, and by the general "mobilization of bias." Meanwhile, crucial questions of major import are decided in nongovernmental quarters, particularly in corporate boardrooms. Private executives decide how much to manufacture, where to locate plants, and how to organize production in terms of hours, job classifications, hierarchical authorities, and so forth. The kinds of decisions that mankind cares most about thus occur in private places where not even the facade of majority rule prevails.

Even if overstated, and overly dependent on a conspiratorial view of politics, this critique of majority rule raises important questions and exposes at least two heretofore unsuspected weaknesses in majority theory. First, what is the appropriate area for decision making? Do we mean by rule only activities of the state? Would this hold if the state habitually abandoned its traditional powers to private groups? Locating rule may be difficult. It may be especially difficult if rule is defined to include not only commands, but the early steps in policy making such as the initiation of proposals, the discussion process, and the framing of questions one way rather than another. To pinpoint what particular sense of the word rule one has in mind in the phrase majority rule requires not only a fairly clear conception of sovereignty, of what it means to have the last say, but, more important perhaps, a fuller conception of the phases of rule promulgation than anyone has yet bothered to lay down. What constitutes the beginnings of a particular public policy? At what political moment can it be

said to have been settled? The more one thinks about the term "rule," the more slippery it gets. Yet, the majority cannot be said to rule or not rule unless a definition of rule can be agreed upon, or, at least, a few guidelines established.

A second form of the attack on majority rule in terms of participation leads to a quest for the meaning of non-participation. The significance of counting noses surely varies with the number of noses present to be added up. When a large number of those who might reasonably be expected to participate do not take part in the proceedings some assessment of why this is so seems called for. What does self-exclusion signify? What rationale justifies accepting the majority of those voting in lieu of a majority of the whole? A decision rule held valid when all are present may be held less than valid when less than all join the game.

Whatever one may think of the feasibility or theoretical soundness of cries for participatory democracy, and even if one rejects as misconceived the Schumpeter distinction between classical participatory and modern non-participatory concepts of democracy, nevertheless, to raise the question of participation at all is both to force a closer analysis of appropriate levels and arenas for the operation of majoritarianism, and to require of the majority principle a better accounting of who it excludes from the reckoning. Again, polemical arguments lead to genuine problems not squarely faced in the past.

Another form sometimes taken by the argument that majority rule actually functions so as to keep power in the hands of a minority turns not on the foregoing questions, but rather on the composition of the majority will measured. That will, some allege (e.g., Herbert Marcuse) is spurious. It represents manipulated desires, wishes created by social indoctrination, wants that do not correspond to objective needs. Whether taking the form of a neo-Platonic dichotomy between real will and actual will, or of a vulgarised Marxist theory of false consciousness, many criticisms of majority rule apparently stem from a belief that mass society entails mass manipulation of a sort incompatible with the autonomous man posited by democratic theory. Some empiricists assert that operationally wants and needs are inseparable. Behaviorists insist that man is a conditioned, responding creature. Freudians suggest that man's passions (both conscious and unconscious) predominate over his reason. In all its guises this attack on majoritarianism constructs an image of man incongruent with the choosing animal of traditional democratic pictures, and suggests the need for (and sometimes even the actual existence of) an elite better able than the average man to discern the coercive conditioning factors and to rise above them. To the extent that such criticism entails anti-democratic assumptions about political equality and popular sovereignty, it lies beyond the scope of democratic majority-rule theory. To the extent that it entails elements applicable to democratic majority-rule theory, it directs attention to the socially contingent nature of majorities and to individuals as members of groups. To what extent does majoritarianism depend

on an individualist sociology? Is public opinion merely a reflection of social forces? The anti-democratic aspects of this line of thinking, in short, should not blind the democrat to the senses in which the problems raised may have relevance for democratic theory that he cannot afford to overlook.

II

The Principle of Majority Rule: A Preliminary Statement

Any major effort to work out the problems posed by contemporary attacks on majority rule requires a thorough analysis of the whole majoritarian concept. Because of the historical circumstances under which it arose, majority rule has never yet been the subject of a comprehensive, serious study. Now, however, under the impetus of much cogent critism, the moment for such a project seems appropriate. The undertaking necessitates, at the outset, a careful explication of what has been meant (in democracies) first, by the word "majority", and second, by the word "rule" when used in conjunction with majority.

The meaning of "majority" turns on the location of a finite group of people in a defined space in a specified period of time. A constituency of eligible voters counted in a particular way needs to be explained and justified, and the formation of a sub-unit within the group called a majority needs to be acounted for. This involves a number of ideas closely connected to a theory of democracy, including notions of citizenship, community, political time, and the generation of majorities. The concept of a majority derives from such contingent ideas and cannot be fully explained except in

reference to them. Once explained, at least more comprehensively than heretofore, the adequacy of majorities as decision making units can be evaluated, for within the context of democratic societies, only majorities of a certain kind can be justified.

After elucidating the meaning of majority in this way, the analysis must turn to a definition of rule. Here, a complete theory of ruling is not necessary, for the word describes a multiplicity of situations. What is required is a definition that includes a conception of sovereignty, of accountability, and of participation. With the word "rule," as with the word "majority", by breaking the idea into parts it is possible to evaluate the compatibility of some conceptions with the structure of democracies and to recognize the incompatibility of others.

The delineation of the appropriate standards for use of the term "majority rule," it will be found, yields a redefinition of the majority concept that might be stated as follows:

> In a system based on popular sovereignty and political equality the majority decision rule is both necessary and proper if, and only if:
>
> 1. Suffrage rules do not disadvantage any sizeable groups.
>   a. There is almost univeral suffrage.
>   b. Almost all citizens are eligible for office holding.
>   c. Exclusionary rules are non-arbitrary.
>   d. Self-exclusion is not the result of coercion.
>   e. Methods of counting, all of which inevitably skew results, do not do so disproportionately to the distortion of alternative methods.
> 2. Constituencies comprise geographical entities not too disparate in population size, that are designed to maintain an

equality of interest as well as numbers and to represent communities understood as small discrete units in which all the major phases of life in a culture can be lived.

3. The time span of a particular majority's control is presumed to be finite and short.

4. Rule means control of the rules under which political authority is allocated and operation of those rules so as to include at least the following:
    a. Having the last say (at least in cases of crisis or irreconcilable conflict).
    b. Holding the government accountable by controlling its personnel.
    c. Maintaining and encouraging easy and open access to the formative stages of public policy formation.
    d. Maintaining a procedure for hearing out diverse views prior to moving for a final vote on a final question.

5. There is sufficient freedom to create majorities by soliciting public support, a freedom limited only by the recalcitrance of human culture and the weight of tradition and not by deliberate, manipulative devices or monopoly control of communication.

When the diverse meanings of both the word "majority" and the word "rule" are held in mind, and when these standards appropriate to democratic societies are brought into play, then the various extant justifications of majority rule can be examined for their conformity to democratically permissable meanings of the concept as well as for their internal logic and persuasiveness. At that point, the attacks on majority rule can also be examined for their relevancy and cogency.

The majority decision rule, I will argue, does fall within the ambit of social justice because it encompasses the following instrinsic and instrumental goods:

Intrinsic:

1. Recognition of the equal worth of all as political decision makers expressing a judgement about social justice (not necessarily including a stand on this or that particular issue but always including the selection of particular personnel; the evaluation of other people).
2. Recognition of the value of discussion among such equals.
3. The kind of choice that creates responsibility (and thus expresses that freedom associated with the ultimate end of man).

Instrumental:

1. Promotion of the publicly contingent wishes and happiness of all, better than any other alternative.
2. Constriction of the amount of political exploitation in the world, better than any other alternative.
3. Institutionalization of democracy, better than any other alternative.

The ethical agrument is implied. Its full explication awaits a second volume.

The apparent generality of the terms in the foregoing definition and justification may be misleading. Each section of the re-stated rule and each of the grounds for accepting it rejects certain commonly held notion and provides a firmer base for the legitimacy of others. The ensuing chapters, it is hoped, will make this clear.

Finally, at the very end of this study, some assessment of the redefined majority decision rule and some overall evaluation of both the rule and its grounds will be ventured.

III

A Methodological Note

The majority principle can be and has been employed by a variety of organizations from the Boy Scouts to the Catholic

Church. It can become the habitual decision rule in undemocratic as well as democratic regimes. Only in the latter, however, is it subject to the constraints of political equality and popular sovereignty. Within the boundaries of these constraints a large number of important questions about majority rule can produce only a limited number of answers. Without the restrictions the possibilities multiply. To take but one example, the advantages of weighing votes as well as counting them may appear numerous, plausible, and attractive if the maintenance of political equality does not matter. Where political equality is an important value, however, there is less reason to weigh votes. Thus the medieval church could talk easily of a "maior et sanior pars" in a way that modern democratic nations cannot. Political equality reduces the options available in constructing a majority-rule system one way rather than another. Popular sovereignty imposes similar limitations.

Because of this factor, and because the attacks on majority rule refer primarily to its use in democratic societies, the scope of analysis in this study will be limited to the majority principle within the context of democratic government. Evidence will be drawn largely from the American political system. References to other regimes, both democratic and undemocratic, will appear only when comparison seems appropriate or when the American experience seems too parochial. This use of American material ought not to be misconstrued.

Examples of how a majority system can work, or does work, or has worked on occasion do not address the merits of the American system <u>out court</u> when they are shown to be theoretically viable, nor constitute an attack when they illuminate deficiencies. They are meant as illustrations of particular points and nothing more.

Footnotes - Introduction

1. The literature on majority rule includes only one full length book, Elias Berg's Democracy and the Majority Principle (Stockholm: Scandinavian University Books, 1965). This study contains a discussion of twelve writers who use the phrase majority rule, and includes a brief attempt to elucidate problems of the concept in terms of their usage. Henry Steele Commager's book, Majority Rule and Minority Rights (New York: Oxford University Press, 1943), is primarily an attack on the process of judicial review in America. Edward Mims, Jr.'s work, The Majority of the People (New York: Modern Age Books, 1941), is similarly an argument about the validity of various institutions and practices. John Locke and the Doctrine of Majority Rule (Urbana: University of Illinois Press, 1941) by Willmoore Kendall contains the richest discussion of the topic, but does not attempt to range too widely beyond Locke's formulation. (Cf., however, the definition of democracy used there, pp. 22-23, and the rendition here). Articles in periodical and scholarly journals handle various aspects of majority rule, but make no attempt to cover the subject broadly or comprehensively.

2. See, for example, Benjamin Lippincott, Democracy's Dilemma (New York: Ronald Press Company, 1965), p. 13.

3. Herbert McCloskey, "The Fallacy of Absolute Majority Rule," Journal of Politics, XI (1949), 643.

4. E.g., with Willmoore Kendall. See also Carl J. Friedrich, Constitutional Government and Democracy (rev. ed., New York: Ginn and Company, 1950), p. 150.

5. Herbert Gans "We Won't End the Urban Crisis Until We End Majority Rule", New York Times Magazine, August 3, 1969.

6. See, for example, the proclamation of black professionals in the American Political Science Review Supplement, Summer, 1969.

7. See, for example, J. Roland Pennock, "Majority Rule," International Encyclopedia of the Social Sciences, IX, 536-539, David L. Sills, ed. (New York: MacMillan Co. and The Free Press, 1969).

8. Robert Paul Wolff provides a ready example in In Defense of Anarchism (New York: Harper Torchbooks, 1970), pp. 58-67.

9. See, for example, Hardy Lee Wieting, Jr. "Philosophical Problems in Majority Rule and the Logrolling Solution," Ethics, LXXVI (1966), 85-101.

10. See James Buchanan and Gordon Tulock, The Calculus of of Consent (Ann Arbor: University of Michigan Press, 1962).

11. This phrase comes from E.E. Schattschneider, The Semi-Sovereign People (New York: Holt Rinehart and Winston, 1960), p. 71. Other well known exponents of this point of view include Peter Bachrach and Morton Baratz, "Two Faces of Power," American Political Science Review, LVI (1962), 947-952.

12. See, for example, Schattschneider, op. cit., pp. 102-103.

Part One

THE MEANING OF MAJORITY

Chapter I

PROBLEMS OF THE SUFFRAGE

To clarify the idea of "majority," it is necessary to deal at the outset with a group of problems that cluster about the nature of the suffrage. In any political system, the majority never refers literally to a majority of all inhabitants. A literal majority never has ruled, nor is it possible (or even desirable) for it to do so. Not all who reside in a state are citizens, the number of those eligible to vote is everywhere significantly less than the total number of citizens, the number of those who actually vote is always less than the number eligible, and the number who choose the winning candidate is appreciably less than the total number of voters. In this sense the majority never rules.[1] On the other hand, if the meaning of majority is delimited on the basis of conformity to ordinary standards of reasonableness, then a principled understanding of the term "majority" in relation to the suffrage may be feasible. The following pages, therefore, attempt to explore those problems that beset uses of the concept of majority when it comes up against the limitations of citizenship, unequal electoral participation, and varying methods of counting votes. In each of these three categories some restrictions on the term majority appear necessary and we need to find out whether or not, in the face of such narrowing, a reasonable theory of majority consonant with democracy can be sustained.[2]

Any decision rule used in a democracy must, minimally, conform to the requirements of political equality and popular

sovereignty. The possible manipulation of suffrage requirements so as to affect election results is obvious, has been recognized throughout the history of political thought, and has been commented upon by such writers as Aristotle, Montesquieu, and Harrington. We need to judge the common practices of current majority rule systems and see if they violate any democratic norms. We need to know just what sorts of suffrage situations the majority concept can be stretched to include.

I

Citizenship

One key question centers on eligibility. Who can justifiably be excluded from the suffrage and by whom? What are the actual or allegedly legitimate ground of inclusion and exclusion? Can we extract from these positions and professed principles or reasons an implied theory of citizenship?

In the eighteenth and nineteenth centuries when European liberalism and radicalism fought against entrenched privilege, the extension of the suffrage occasioned bitter controversy. At first, opposition to the power of the nobility and the Church did not necessarily make one a democrat. On the contrary, some early leaders of the middle classes looked to enlightened rulers. At one extreme it was held that only virtuous or excellent men can produce right policies, only a person capable of high reason can establish and maintain a reasonable regime. The reigns of Frederick the Great of Prussia and Catherine the

Great of Russia appeared to bolster this position.[3] At the other pole, less elitist writers like Jeremy Bentham argued that the few are more accessible to rational persuasion than the many and are, therefore, a more viable depository of power.[4] Undergirding both these attitudes lay the belief that the proper exercise of power required people possessing certain endowments such as mature reason, education, independence, leisure time, and property.

When reliance on enlightened leaders proved unworkable -- either because rulers were not always enlightened or enlightened men did not become rulers -- liberals such as James Madison turned to constitutionalism and attempted to provide for the new liberties sought by pledging their societies to specific procedures and principles. The personal qualities of electors so omnipresent in the Republican tradition receded in importance. Further, the legal and formal definition of who should be eligible to participate in public affairs so as to guarantee middle class access and promote liberal values swiftly opened the door to democratic arguments about popular sovereignty and political equality. Especially in America (partly in response to colonial and frontier power arrangements and partly in response to the thrust of influential social contract ideas, and partly perhaps, drawing on the tradition of civic humanism) a belief in the general populace as the repository of natural civic virtue became commonplace.[5] In short, once the idea of hereditary class privilege was discarded,

it became difficult to assert effective arguments against widespread suffrage. Extension of the suffrage, consequently, proceeded more or less rapidly in country after country. By early in the twentieth century, universal suffrage for men was the norm in all western democracies and, in most places, women won voting rights shortly afterwards. With the attainment of a situation in which no numerically large segment of the population was excluded, eligibility problems and the arguments surrounding them dwindled further in political significance.

Nevertheless, even under universal suffrage, nations continued to exclude some people because of age or illiteracy or insanity or criminality or peripatetic ways. And all societies made special provision for the aliens in their midst. It came to be widely believed that most, if not all, of these remaining restrictions were practically necessary. If arbitrary, they were inescapably so. Inclusions and exclusions came to be viewed as matters of expediency having to do with such practical necessities as prevention of fraud or of child voting rather than as significant parts of a democratic theory of citizenship. People stopped considering discriminations in a serious way. Yet, in country after country, and in locality after locality, certain restrictions persistently appeared apparently unrelated to any peculiar local needs and apparently apart from any considerations of particular local history. Such constancy at least raises the possibility that eligibility rules may be better explained by an implicit theory of democratic exclusion than by reference to

simple expediency. The matter seems worth exploring because expansion and contraction of the suffrage has been so important in the past that its possible role in the future cannot be taken for granted. If some rationally persuasive principles are involved here they need to be made explicit. Remaining voting restrictions, it can be argued, like their more formidable predecessors, stem from a theory that categorizes some types of exclusiveness as legitimate and others not. Although undoubtedly of minor importance in our current understanding of the word majority, the rational bases of common, current discriminations in voting rights deserve some attention.

Age

Not even the most radical egalitarian claims that children ought to vote. Infants simply cannot perform the task. Discrimination on the basis of age appears to be both a practical necessity and a desirable arrangement.

The alleged desirability of excluding those below a specified age could rest on a number of reasonable conceptions. Maturity probably ranks first. Adulthood is separated from childhood by attainments which may vary somewhat from society to society. No one confuses acorns with oak trees, although some may dispute at just what juncture in the growth cycle the seed may properly be described as a tree. What seems to be required in the case of humans is an adequate amount of experience (simply years living in this world as a human animal). The importance of length of

time in existence probably has to do with having a chance to undergo experiences common to men on earth and, with the full physical development of the body, a chance to share common human emotions, to react to the environment with feelings and frustrations that men know as a species.

Adulthood requires, in addition to experience, a certain faculty of judgment and, along with it, the ability to control behavior in conformity with reason.[6] Those unable to judge or to conform to the dictates of their own judgment are categorized separately, and rights and duties are assigned or not assigned accordingly. Reason, in this aspect of maturity, signifies only that amount of thought common to fully developed homo sapiens as a group and does not reflect differential individual ability.[7] Behavioral control is similarly conceived. Disqualifying children on the grounds of immaturity then, could be reasonably held to connect voting rights to experience, judgment, and self control, and to do so without violating political equality.

Age has sometimes been accepted as a just discriminatory category on grounds other than maturity. The young, some feel, lack independence. They do not possess the resources necessary for the maintenance of their lives. The argument goes something like Rousseau's,[8] the human liberty the state seeks to guarantee cannot subsist without equality, meaning by equality (among other things) that none shall have so much that he can buy another and none so little that he is forced to sell himself. In their inability to provide for their own clothing, food, and

shelter, young people are too excessively dependent upon others to be trusted to make uncoerced evaluations. But the linkage between independence and age is not always clear. Horatio Alger wrote stories filled with resourceful children who survived in cities without benefit of adult aid. A vagrant class of essentially homeless youths has probably always been a feature of urban life, at least since the time of Francois Villon. Conversely, the aged and the infirm are often far more dependent on others than children. The old might possess rights such as voting eligibility based on past performance of duty, but one would have to distinguish between types of dependencies in order, on these grounds, to exclude children and include, for example, the disabled. Where challenged, the idea that dependence involves loss of that liberty essential to having a will of one's own may be difficult to defend, at least too difficult to win general acceptance. To give but one instance, once it is allowed that men and women tied to each other by the bonds of a deep and abiding love must be considered individuals capable of independent judgment for voting purposes,[9] the case for other dependencies diminished.

Independence was a mainstay of republican reliance on property holding. Suffrage rules, in the days before the secret ballot, needed to hedge against the risk that the poor would sell their votes to the rich. A freehold, because it gave a man at least a subsistance livelihood, enabled him to thumb his nose at those in a position to retaliate against him. Only the advent of a closed ballot has decisively eliminated this whole area of concern. The case for independence as a standard of voting eligibility,

consequently, has tended to disappear along with voting in public.

Age requirements have yet other aspects. Acceptance of responsibility, for example, is also commonly thought to turn on age. Rites-of-passage ceremonies in many cultures demand proof of the capacity for responsibility through a demonstration of whatever skills are required by adult activities in the culture. Some societies stress the provision of a fair share of the community's food, others mastery of an important craft. In western civilization, the definition of maturity has been made heavily contingent on participation in the common defense. By accepting the obligation to help defend the community's safety or survival as a distinct unit, even if necessary, at the risk of one's life, an individual acquires the right to take part in public proceedings. These public proceedings involve, directly or indirectly, matters pertaining to defense and, therefore, those whose bodies may be sacrificed presumably deserve to have their voices heard. In modern America as well as in ancient Greece, democratic societies have connected soldiering to voting. Efforts to lower the voting age sometimes arise in time of war when the stake of young men in the decisions of the body politic loom especially large. "If he is old enough to serve he is old enough to vote" was certainly the most popular argument heard during recent successful efforts to give eighteen year olds access to the ballot in the United States.

Responsibility for military matters appears to account rather well for one major principle separating men and boys.

It provides no help, however, in separating women and girls. Coming of age for females has been connected, instead, to the assumption of household duties, particularly child bearing and rearing. The justification obviously rests on the society's need to perpetuate itself, a need felt to be commensurate with that of self defense. There is no reason, on this theory, to assume that boys and girls will "mature" at the same age. The earlier maturation process in females, for example, might provide the basis for their earlier admission to adult duties, and their earlier acquisition of concomitant rights.[10] But in the case of both boys and girls, the acceptance of responsibility as a standard to measure adulthood can occur without disturbing political equality for the requirements refer to abilities all achieve in a normal growth cycle within a culture, and, therefore, do not involve insidious discriminations.

Finally, age and education have been correlated, at least to some extent. Every society passes on its values, a sense of itself as a people in history, a rudimentary sense of physical place especially in relation to other places, and other peoples -- and also whatever other knowledge is deemed relevant and important to its distinctiveness and particularity. Children must imbibe such knowledge over a period of time. Full participation in community life comes only after the specified training period has elapsed. Besides this temporal dimension, education of course has substantive content. Agreement about

the quantity or quality of the content varies considerably. But, at a minimum, whatever material has been absorbed by an individual who undergoes the alloted training period is deemed sufficient.[11] Before educational requirements came under attack as designs to disenfranchise the poor, many American states accepted a fourth or a sixth grade diploma as evidence of an educational level high enough for voting eligibility on this score; others demanded only evidence of literacy, generally defined as the bare ability to read and write. The reason why even these scanty qualifications fell quickly when attacked may be that they were only meant to serve as symbols of adequate socialization, and not as yardsticks measuring some standard of educational achievement. The accumulation of knowledge understood in this sense, as acculturation rather than formal learning, helps explain the bond uniting age and education, however tenously. Once again the required distinction does not seem to necessitate a tendentious or arbitrary delimitation of the citizenry.

In sum, the apparent justification for using age as a discriminatory device in drawing up lists of eligible voters rests on values associated with maturation (understood as experience, reason, and self control), independence, responsibility (especially for group defense and perpetuation) and knowledge (conceived as socialization rather than information).

Maturity, responsibility, knowledge (but not independence) all provide a reasonable basis for limiting voting rights. These ideas are defensible as non-arbitrary restrictions. They affect the size of voting rolls, and drastically reduce

the numbers needed to amass a majority, but they change the conception of a literal majority in a reasonable fashion: they are not illogical or inconsistant; they are moderate and do not politically alienate or anger significant groups; they are practical, independent of any Utopian visions, attainable here and now; and they are minimal, not demanding more of the people when less will do. Further, the narrowing of the idea of a majority that these criteria entail, it can be argued, leaves democracy intact because they do not disturb what Carl Cohen calls the essential "equality of dignity" among men.[12]

The same reasonable criteria that may connect voting and age requirements also can be employed to explain other common restrictions on voting besides age. The effects of these additional discriminations on political equality, however, may be more problematical.

Literacy

Literacy requirements unattached to age brackets, for example, fail to go beyond the amount of education expected of children. When attacked, even low requirements tend to fall. Symbols can substitute for words so that those unable to read nevertheless can determine which levers to pull in a voting booth. The utilization of symbols is common in the United States as well as in so-called backward countries. Further, discussion, it has been claimed, substitutes easily for reading as a way of grasping, at least in a rudimentary fashion, the political issues at stake. Talk at bars, in factories, and on park benches, sup-

plemented today by radio and television coverage of the news, all generate an awareness of political situations. Arguments for democracy do not rest on a high regard for expertise. The masses never demanded power on grounds of superior intelligence or learning. A more primitive awareness serves adequately for making basic political decisions, or so some democrats have insisted.[13]

Leisure

While the level of discussion may not trouble every theory of democracy, the absence of discussion would create a more serious difficulty. Aristotle commended trust in the body of the citizens "when they come together" and pool their knowledge. Modern pluralists bargaining concepts depend upon correct assessments of the will of others. And perhaps all theories of popular control rely to some extent on intragroup communication. In order for meaningful talk to take place people need time to get their bearings, and they need to communicate with others. The insulation of the farmer busy with his chores from sunrise to sundown in some remote spot causes concern for his ability to comprehend issues in any adequate way.[14] Radio, T.V., and motorized transit may have assured the demise of this concern. Still, the more a society emphasizes the discussion process the more likely the emergence of questions about time for talk. Some minimal exchange of attitudes, some way to take account of the reactions of others is necessary and voting requirements could reasonably reflect these needs. Among the Greeks of Athens, leisure time was assumed indispensable for the exercise of full citizenship. Later suffrage requirements excluding the toiling classes may have reflected, in part, their obvious lack of such adequate time. Today, some communist societies require not

free exchange of ideas, of course, but exposure to public discussions. Forced attendance or forced listening undoubtedly oversteps the minimal aspects of a standard of reasonableness. Yet, within the tradition of associating suffrage rights with discussion, expansion of eligibility requirements in the direction of minimal exposure to the arguments is not wholly inconceivable or necessarily inappropriate, even if unwise.

Residency

Residency laws also seem to be based on a similar line of thought. If, in order to comprehend political order, an adult need only interact with others, and function within the system, then it is natural to require his being there, his actual exposure to the physical and verbal environment, as a prerequisite of participation. Close scrutiny of the current American debate about residency laws confirms this view.[15] College students are alleged to have the necessary voting qualifications because, wherever they live, on their campuses or at home, national questions are still at the forefront of their attention and have the same impact on their lives. But when it comes to participation in local affairs, student knowledge of the local scene becomes an issue. It becomes an issue, at least in part, because a student's position in town makes his experience of local laws and local bureaucracy decidedly different from those of everyone else. Partly this has to do with the impermanence or fragmentary character of his stay. Partly it has to do with the traditional separateness of town and gown:

colleges may be self contained communities within a larger community.[16] It is not, perhaps, a coincidence that a movement for political rights for students has arisen at a time when campus living is no longer confined to college dormitories and large numbers of students have found quarters in the surrounding countryside where they may indeed become as familiar as other residents with local problems. Once students come to partake of the common political setting, justification of their exclusion shifts away from arguments about residency towards the temporal nature of their stay. The discussion then moves into defense of a different sort of idea than one based on familiarity with circumstances. The sufficient capacity to take part in community life that lies at the root of discriminations based on age, education, sanity,[17] residency, (and, in the past, sex)[18] does not enter here. Rather, a new principle comes into play.

Having a "stake": property qualifications

The additional principle of eligibility introduced has to do with a kind of sharing. Communities have benefits and burdens to distribute. Political action brings consequences, in the form of material goods, like social security payments, or in the form of exactions like taxes. These constitute the common pie. Full membership in the community entitles one to a share in the available social goods and obliged one to accept the perhaps disagreeable duties common endeavors may also entail. In democracies the equality or proportion of the shares turns on agreement about which principles of justice ought to guide distributive

decisions. But however distributed, sharing in the common pie is part of what it means to participate in the political life of the group. Each person accepts possible risks and each hopes to obtain possible benefits. Everyone has something at stake and arguments revolve around what constitutes a fair share. Sheldon Wolin has labeled this sort of appropriating participation "possessive sharing."[19] It aims at "getting a piece of the action" and is judged by what it produces for those involved.

When arguments against student participation in local government are based on the impermanence or partialness of their residency the underlying assumption is probably that students will escape the consequences of their votes. They will influence decisions with which they will not have to live. Their "stake" is too temporary. They have not bought a sufficient interest in the enterprise.[20] (Where dormitory living still prevails, the students share even less in the common fate of the community and the argument against their participation becomes still more persuasive.) Power divorced from responsibility violates most people's conception of fairness, and voting restrictions reflect this accordingly.

The connection between voting and sharing in the common stock of welfare shows most clearly in the case of property qualifications. Like residency requirements that come only in some measure from the sharing principle, requirements based on wealth or possessions turn largely but not exclusively on the question of a man's stake or interest (for residency requirements also connect property to independence and sometimes have even

been defended as indicators of education or ability or capacity to participate).[21] The temptation to be irresponsible, to spend other people's money too greedily, to act capriciously and so forth, it has been argued, needs to be taken into consideration. In Europe, disqualification based on lack of material goods was so mixed with class distinctions that the idea of asking everyone to have something to risk is hard to disentangle from other matters. But in the United States, in the first 100 years when state constitutions were written, the large masses of people owned some property. The statutes in some states, as Robert Brown has pointed out in his critique of Charles Beard,[22] disenfranchised only a few (notably domestic servants). The motivation for the inclusion of a property requirement consequently, is not easy to relate to the exclusion of the lower classes. In the early United States it seems more probable that the property laws, in addition to assuring voter independence, aimed to insure responsibility, to guarentee that each voter stood ready to take concrete losses as well as reap advantages. Taxation required not only representation, but possessions to be taxed. What counted was not necessarily the size of one's stake (the property qualifications, at least for the lower house of the legislature, were fairly low in many states),[23] but the fact that one has a material interest and would materially gain or lose along with everyone else. Whatever the correct interpretation of historical reality, analytically property qualifications can be separated from ideas of class capacity and,

at least to some extent, the "separated" version of the relation between property and voting has probably played a part in common thought about the suffrage.

But with the advent of the Industrial Revolution the proportion of freeholders among the populace shrank, and the new, propertyless working classes quickly demanded (and got) access to the ballot. Their sheer numbers by the Jacksonian era soon deprived majority rule democrats of opposing arguments. In making their pleas for statutory changes or constitutional amendments to grant them the suffrage, it is interesting to note that these new groups assumed the idea they most needed to combat was the belief that property ownership, however,imperfect as a criterion, afforded the best evidence available of "permanent common interest with, and attachment to, the community."[24]

The principle of sharing, in the sense of having a stake in the profits and losses of the community, may account (again, in part) for the exclusion of aliens, too. Obviously aliens often do own property or hold a job or maintain a residence, all of which the laws of the land both endanger and protect. Their interest cannot be denied. But an alien may also have an interest in some distant community and has not pledged his loyalty in case of conflict. Further, like the impermanent student resident, he has maintained an option to leave so much more open to him than to anyone else that his possible escape from the consequences of his actions looms large.

Commitment: aliens and criminals

But sharing, in the sense of "sharing in" doesn't altogether explain the position of aliens. For them, the quality of what we mean by sharing takes on an added significance. At issue is the alien's willingness to "share with" others, to care, as they do, about the community's good and its ultimate fate. Even willingness to hazard one's life is insufficient in their case (e.g. you cannot, in the United States, become a citizen merely by serving in the armed forces), because by not becoming naturalized they maintain some reservation, they refrain from a public expression of the crucial emotional commitment. Voters, it appears, have to care. (Arguments for the poll tax used to stress this point, too: anyone who valued his vote so little that he thought it not worth a single dollar did not deserve the franchise).[25] A positive willingness to belong, to fulfill one's life within the confines of the community, to bear witness to the justice of its existence, all converge in words such as patriotism and loyalty, words closely associated with citizenship and with the distinction between alien and citizen. This cluster of attitudes brings to mind Rousseau's idea of the general will; it implicates participants in a profession of faith. To join is not simply to buy shares in a Lockean joint stock company, but to give oneself up to an experience with others, to enter a relationship not as in a market but as in a marriage.[26] Exclusion of aliens from the suffrage, even when they live and work in the community, apparently rests on suspicions about the attitudes of those who, having commitments elsewhere, fail to

profess publicly a sufficiently unqualified willingness to belong. Prejudice may well play a part in attitudes towards aliens, but the fact that such prejudice ceases to be decisive when naturalization takes place suggests a deeper cause of non-acceptance.

Suffrage rules about criminals who account for another common category of those proscribed from voting lists, further bolsters this connection between citizenship and emotionally sharing in a feeling of community.[27] At first, discrimination against criminals seems strange. All barrels have bad apples, why should they be catalogued as if they did not belong? Today, most people (including, according to social workers, most criminals) may not even know that conviction for a felony entails loss of voting rights.[28]

One possible explanation for this kind of law harks back to the concept of maturity, especially that part of it which expects a certain level of self control from all adults. You cannot murder your friend in a barroom dispute over the merits of your respective women and yet retain your status as a civilized adult. But the society displays more leniency if the murder occurs when you find your friend in bed with your wife. The tempered response comes because obviously what is at issue is not only the evil of killing, but the loss of control over some violent human passion which is considered more excusable in the second case than in the first. The felon, when he yields too much to temper or temptation, is relegated to the position of an asocialized or immature member of the species.

Criminals also suffer discrimination, however, because, like invaders from abroad, they are thought to have declared themselves enemies of the system. A criminal's actions demonstrate his unwillingness to accept legitimate group regulations and he, in effect, excludes himself from group membership. His status resembles that of the alien. His willingness to "share with" comes into question, for he separates himself from others and places himself above or against the common rules.[29] But just as an alien can remove the suspicions about him by going through a naturalization procedure, so can the criminal demonstrate that he has learned the error of his ways by accepting his punishment and, then, upon release, instituting proceedings for the restitution of his voting rights.[30]

A theory of citizenship

The above examination of the usual exclusionary categories for the assignment of voting rights reveals a number of common explanatory ideas behind them all. Although generally regarded as expedient policies, the classifications prove to be neither purely haphazard, nor arbitrary, nor even the concomitants of particular historical periods. Attached to the categories, accounting for the inclusion of some and the exclusion of others, are a collection of related notions which, may, in retrospect, add up to a workable theory of citizenship.[31]

What emerges from the commonly employed categories is a reasonable portrait of the full fledged citizen in a democracy. Three necessary characteristics distinguish him from others:

(1) he has the capacity to share in a specified community's life, (2) he possesses a stake in that community, and (3) he manifests a willingness to share with the community the common experiences, both the duties and the rewards, of group life. He stands able, involved, and committed.[32]

These three senses of sharing which citizenship both historically and analytically can be said to entail very widely in their flexibility. The measures of sharing as competence, we saw above, include rough indexes of maturity, responsibility, and knowledge. Acceptable levels of maturity remain closely tied to physical development so that the specified age of adulthood seems likely to keep approximately within th teenage range. No major reassessments of maturity appear in the offing. Responsibility also connects to closely to biological age to permit much leeway for differential estimates of capacity. Ability to share in the sense of acquiring some kinds of knowledge, may be slightly more elastic. Both knowledge and its importance have expanded and this may make a difference. Socialization already seems to involve a longer process in highly developed as opposed to undeveloped countries where work experiences come earlier in life. Nevertheless, voting qualifications, insofar as they rest on measures of individual ability to participate, seem unlikely candidates for radical change.

Somewhat more room for interpretaion surrounds the concept of "sharing in." Whether or not one has a genuine stake, whether the welfare of the group and the welfare of the individual hinge together in some indissoluable fashion, may not always be perfectly

clear. Some blacks in the United States today, for example, apparently feel that they cannot link their welfare to that of white America. Racial differences, they believe, make for separate destinies which cannot be bridged by common concerns. Some Catholics and Protestants in Northern Ireland feel similarly about religious diversity. The definition of citizenship does not rule out the possibility of a community's Balkanization and strategies of autonomy within their own boundaries may appeal to certain sub-groups at particular times. "Sharing in" suggests a certain kind of human fulfillment and to the extent that autonomy recognizes that need and amalgamation does not it remains a possibly fair demand. When people subjectively feel that some or all of their most valued needs cannot be met by participation in the group as a whole, they may legitimately seek greater power through demands for unhindered local self-government, or they may withdraw to self contained units and settle for less power but greater satisfaction. Only recognition of the primacy of what all have in common over what divides can overcome political alienation, and that is not always forthcoming. Demands for autonomy, therefore, even if ultimately unwise, will probably be a recurrent phenomenon in the foreseeable future.

But when claims for autonomy are made in terms of the separateness of welfare, the question of who should be included in which sub-unit becomes overwhelming. Dividing people on the basis of their stake or share (especially when non-material welfare must be considered along with primary social goods) holds

promise of creating more political problems for a people than could be compensated for by all the joys of autonomy. Indeed, the need to measure "stakes" may well prove an insuperable obstacle to strategies of autonomy.[33]

Citizenship as commitment is even less explicit than citizenship as involvement. In fact, the basic idea seems almost infinitely flexible. Consequently its current surge of popularity, the emphasis it has received in so much recent political journalism (e.g., Charles Reich's The Greening of America and Theodore Rozak's Counterculture) may well be a harbinger of serious problems to come. Alleged willingness or unwillingness to participate might well serve to deprive groups or classes of citizenship rights. By stressing material over non-material welfare, Israelis and Palestinian Arabs might cooperate in common government. But, how, without risking cultural suicide, can Israel admit resident Arabs as full citizens sharing with Israelis the experience of the Jewish people in a Jewish state? In other groups, willingness to work with one's hands (as in modern China) is another example of what might be set up as a criterion of commitment. Or, perhaps, willingness to accept publicly a particular ideology. Rousseau's strictures about the outward profession of a civil religion provide a prototype, and cultural or class origins have already been widely used in Communist countries to justify suspicion of an individual's willingness to belong and to relegate those without proletarian histories to inferior status. It is safe to assume that objective measures of the emotional states understandably sought in this

aspect of citizenship unfortunately will not readily be found. As a result, manipulation of eligibility requirements to suit the politics of those in power may too easily occur.

Insofar as reasonableness is an adequate criterion, the most common practices of modern democracies in regard to exclusion from the suffrage do not seem to violate the canons of social justice. However, the possible flexibility of the theory of citizenship implied in those practices, might well lead to unreasonable and unjust manipulations of the suffrage in order to deprive significant groups of political equality or to insure the maintenance of a particular ruling class. At present this does not appear to be the case, and the use of the idea of majority within the limitations now utilized seems warranted (even if one might dispute the fairness of this or that way of measuring the various standards of eligibility).

This is not to say that this implied theory of eligibility is necessarily ideal. One might, for example, contend that <u>ideally</u> the suffrage should be limited to those citizens whose sense of the community is such as always to lead them to act in furtherance of the public good, or in the interest of the greatest good for the greatest number, or some other alleged principle of justice. One might even argue that <u>ideally</u> the requirement of rationality should dictate not merely the exclusion of children and the mentally deficient but also those who are not "really" autonomous men, i.e., men who have been so conditioned

or socialized as to be unable to exercise independent judgment. Indeed, that notion of rationality might even be extended to warrant the exclusion of all who do not "know" what the common good is, or what measures are appropriate to its attainment. But in the real world, democratic states have not traditionally insisted on such ideal requirements. Nor does it seem possible for actual states to build upon them. Not only do rational and sincere men disagree as to what constitutes the public interest or common good, and disagree, too, as to what concretely should be done in this particular situation at this particular time to attain it; all men are in some measure conditioned or socialized individuals. No one is or can be exempt from the variety of influences that societies bring to bear upon him. All that democratic states can demand is that the voter not be demonstrably a robot. This demand, is met -- at least reasonably -- where individuals are exposed to a multiplicity of conflicting ideas and pressures.

Given the realities of this world -- that men are driven by self-interest as well as by common interests, that men disagree as to what constitutes those common interests, and that men are sufficiently autonomous so as to be able to choose between conflicting ideas -- the rules we have been discussing adequately exemplify the way certain democratic ideas are embodded in current practices. Typically, the optimism of democracy about the nature of man permeates all aspects of the suffrage system, and an overriding concern for equality and distrust of elites of all sorts combines with it to foster only minimal, species-wide standards.

Hence, under contemporary understanding of voter eligibility, democracy remains intact in spite of the aforementioned narrowings of the term majority, and justice is not flagrantly violated. The legitimacy of the majority decision rule within a democracy appears unscathed, at least to this point in the analysis.

A final word on the suffrage appears in order. Whatever the theory of participation, and whatever the ensuing definition of citizenship, it seems to be the general practice that those who already hold the franchise have the power to coopt their successors. Except in cases of revolution, or that institutionalized version of partial revolution called the constitutional amendment, eligibility is currently decided in democracies by at least a majority of those already admitted to the voting lists. Whether this ought to be so is another matter, but one that must wait for a fuller exposition of the problem of majority sovereignty (see below, chapter 5).

II

Problems of the Suffrage - The Sound of Silence

While some people are forcibly excluded from the franchise by eligibility requirements, many others voluntarily exclude themselves. Critics of modern western society have been quick to seize upon this group as evidence of democracy's failure. An active citizenry, they claim, is presupposed by democratic theory, and lack of participation indicates the emptiness of formal mechanisms, particularly the meaninglessness of majority

rule. Butressed by statistics that point to national electorates twenty or forty percent shy of their potential size, they indict the weakness of mandates based on a majority of those voting rather than on a majority of the whole, or at least of those eligible. In such critical interpretations, those who do not vote are understood to be making a negative comment on the political system. Not too much agreement prevails about the precise nature of that comment, although a number of plausible theories turning on alienation, apathy, and mobilized bias have been suggested. This whole school of critical analysis, of course, has not gone unchallenged, and several democratic theorists even have gone so far as to attempt to account for large-scale non-voting in positive terms.

The arguments on all sides of this controversy need careful examination, partly for the sake of finding the correct explanations of non-voting, but also for the sake of clarity about the grounds on which we can accept or reject a majority of less than the whole. The meaning of silence plays an important role in the meaning of "majority."

Non-voting and chance events

Some reasons for non-voting such as illness or weather conditions or car failure appear politically innocent. The potential voter, that is, fails to go to the polls for some apolitical reasons. The total number of such people, however, seems statistically insignificant.[34] And, even then, we need to remember the astonishing number of people who excuse their non-voting on personal grounds and proceed to reveal through

their answers to other questions strong correlations between their behavior and some political explanations of non-voting. The baby may really have developed a high fever or the car engine-trouble, yet, as behavioral scientists have discovered, highly partisan, well-motivated voters anxious to make their voice heard seem to get to the polls in spite of sick babies and cars. A two-inch snowfall may easily keep home a voter with uncertain preferences while a ten-inch accumulation may fail to bar the way of someone with strong opinions to express. Political and non-political explanations of non-voting thus tend to merge.

Bitterly contested elections, it has been observed generally produce higher turnouts on the day of voting, but while activating the minimally interested they also activate increased cross pressures on some and, therefore, keep certain customary voters away. Particular circumstances, that is, do affect voting behavior, but not in unambiguous ways.

Some percentage of non-voting has to do with particular voting institutions. In areas of the United States where one party so predominates that the election of its candidate is a foregone conclusion, the crucial struggles occur in the primary contests. Election statistics reflect that fact and reveal high turnouts for the primaries and a much lower rate of vote casting in the actual election.[35] But taking note of this (and other particular local situations) that affect turnout on election day, and even adding to it those who are genuinely estopped by chance personal events, still leaves out of account (or so it is widely believed) a goodly number of non-voters. It is this sizable group that has attracted much recent

attention and prompted a variety of explanatory theories.

Non-voting and the laws of nature

One theorist writing about democracy, Giovanni Sartori, has suggested that limited political participation, even among a self-governing people, is naturally necessary. The condition flows from the nature of man and his environment and cannot be much modified, given man as he is and the earth as we know it. "The truth," Professor Sartori argues, "is that the only matters we understand are those with which we have personal experience. . . ."[36] Since making and tending to the basic arrangements of a society requires the steady attention of only some, all will not always take part. Interest, Sartori suggests, goes with personal involvement, and initiative with immediate responsibility. Political affairs, like Beethoven symphonies, activate the interest of some and of some more than others. Their intrinsic worth or importance does not assure them universal appeal. The theory of democracy, he goes on to say,[37] requires only that the people possess power, not that they use it or use it well. Low voting turnouts may indicate defects in the quality and intensity of political life, but they are democratic defects. No political system can guarantee any particular results. Popular sovereignty merely makes power available and cannot, without resort to coercion, prescribe its proper exercise. If the opportunity to vote is available to all, and if all choose to make use of the opportunity, then the ideal of democracy would be achieved. But so long as no actual obstacles to participation on an equal basis exist,

power, for better or for worse, can be said to belong to the people who must then decide what, if anything, to do with it.

No real obstacles to voting do exist in current democracies, or so Sartori claims.[38] He rejects explanations of apathy in terms of illiteracy, for political illiteracy can be found among the educated, while some of those unable to read or write have an excellent grasp of issues affecting them. Poverty does not explain apathy because higher voter turnouts do not accompany rising standards of living or increased leisure time; in fact, some working class districts have less absenteeism than bourgeois areas. Sartori similarly rejects the Marxist claim that insufficient or tendentious information formulated in accordance with the interests of the rich causes most apathy, for, he points out, workers understand the issues about as much as employers, and even the political language employed in many campaigns, especially in Western Europe, leans heavily on words and phrases invented or popularized by radicals and not by entrenched upper classes.

From this point of view, non-voting reflects the limited interest in politics displayed by uncoerced men generally, and not something peculiar to men in modern, democratic political systems. A democratic political mandate continues to exist in spite of lack of participation for two reasons: first, because an alleged equal opportunity for the exercise of power militates against the reign of any fixed elite, and secondly, because so long as the choice of whether or not to

vote remains a free one, all eligible voters must be considered potential voters and those who seek popular support must court their favors and behave as if they might go to the polls (just as, for example, the potential threat of Congressional investigation hangs like the sword of Damocles over administration bureaucrats, holds them in check, and limits what they are likely to do). To be silent is thus neither to be ignored or deprived. Non-voting, consequently, can find acceptance within democratic theory. It simply reflects the fact that man is only mildly and periodically a voting animal. Insofar as the public life of a nation stimulates great interest in politics, appeals to a part of man's higher nature, and develops a desire to govern, it is to be applauded. But failure to do so says nothing derogatory about the quality of the political system, nor does it point to any radical defect in the operation of democracy. In fact, some analysts have claimed that taking an interest in politics is uneconomic in many situations, i.e., is an irrational thing for men to do given the nature of the rewards, and the costs of involvement.[39] Even if one disputes the measures of benefits that such economic theories of democracy employ, the reasoning behind such theories highlights the possible inutility of political participation in some circumstances and suggests that non-participation might reasonably be held to be compatible with democracy.

However successful as a defense of democracy against the simple equation of apathy and failure, these arguments leave

unexplained just why greater political participation has been valued more than lack of interest. What makes the possession of an interest in politics an asset? Is it to be valued for prudential reasons as the only adequate precaution against the erosion of other interests, as in John Stuart Mill's argument for self-government as self-protection?[40] If so, Professor Sartori's concept of the potential voter perhaps largely takes care of that concern, although something might be said for the importance of the habit of voting in guaranteeing that political power will become actual in time of need. Does the value come from the intrinsic merits of politics as one of the nobler activities of man, the art of politics ranking with other fine arts as a pursuit that enlarges and develops man's capacities in line with his potentialities?[41] If so, discussion contributes as much if not more than voting, and the educational worth of pulling a lever surely cannot compete with reading or speaking or listening.

Non-voting and stability

Bernard Berelson has gone so far as to argue that it is non-voting, not voting, which has intrinsic merit.[42] In his view, voting equals participation in partisan affairs, in matters of conflict. When people care strongly about something, their passions are as likely to be involved as their reason. Tempers flare, egotistic concerns predominate over the general welfare, and stability dissipates. The tempering of conflict, and the achievement of compromise, Berelson cautions, may depend upon

an electorate with only a moderate interest in politics. The indifference exemplified by the non-voter is a safety device that dampens conflict and protects society from the vicissitudes of overly emotional attitudes. Three centuries ago David Hume put forward a theory of the relationship between reason and passion far more sophisticated and elaborate than Berelson's and suggestive of a quite different political role for both reason and sentiment. Clearly, not everyone would agree with Berelson that emotions are, per se, an evil to be fought[43] (and clearly, Berelson shows no familiarity with alternative traditions).

Berelson's view, however, draws support from evidence such as that reported by Herbert Tingsten[44] who notes the strikingly high rise in electoral participation in Austria and Germany in the years preceding Fascism. Francis G. Wilson, on the basis of similar findings, argues that high political consciousness is a symptom of political tension, and that when 90% of the possible electorate go to the polls the degree of the intensity of concern tends to destroy "the will toward the constitutional" by making the opposing side's victory difficult to accept.[45] On this showing, apathy and satisfaction go hand in hand and action arises only from the failure to resolve conflict. Indifference is a product of consensus while contention produces the sort of difficult and dangerous partisan awareness that issues in large-scale voter turnouts.

In one sense Berelson does correctly highlight the role of consensus in politics. To paraphrase Rousseau, only when people possess some degree of contentment and see their interests over-

lapping the interests of others does politics become possible. But for several important reasons we need to question Berelson's thesis. Available empirical evidence, for example, fails to support the notion that non-voting can be correctly identified with satisfaction, for those with the highest socio-economic status, with the most reason to be satisfied with the political system, usually vote more frequently than those who, in the current scheme of things, have lost out and find themselves on the lower rungs of the ladder. More important, Berelson appears to mistake the nature of politics. As the other half of the Rousseau sentence alluded to above reminds us, conflict is what makes politics necessary. Controversy, it has been argued, is the stuff of politics (precisely because, as the Humean tradition claims, reason can never be more than the handmaiden of passion, and political goals can never be proved to be more than emotional preferences). Democratic political systems are thus constructed to resolve inevitable disputes in agreed upon ways. Voting is one such way, one method designed to handle conflict without resort to mutual slaughter. In denying the centrality of contention in politics, and apotheosizing stability, Berelson's conception of political life becomes compatible only with those political philosophies that value harmony above all else. Harmony, however, depends upon the agreement born of authoritative knowledge or chance unanimity and does not easily lead to either egalitarian principles or their natural progeny, voting systems. Voting substitutes for agreement (among equals). It is the beginning of that compromise Berelson recognizes as essential to social peace.

Non-voting, therefore, cannot win praise for its contribution to the attainment of agreement. The non-voter rejects either agreement or the system of reaching it. Why he does so, however, still requires explanation.

Non-voting and psychological needs: withdrawal, cross pressures and sense of efficacy

The relationship between psychology and politics lies beyond the scope of this study. Still some explanation of non-voting in terms of theories of personality cannot be ignored if silence is to be accounted for adequately enough to justify majorities as usually construed.

One such psychological explanation of non-voting might be inferred from the work of Erich Fromm. He has suggested that large numbers of men don't enjoy making choices. They find the responsibility unbearable and avoid it when possible. They wish to "escape from freedom."[46] Some kernel of truth is perhaps contained here, for one possible response to responsibility is withdrawal. On the other hand, especially in voting situations, withdrawal itself represents a decision and does not explain why choosing to absent oneself is preferable to choosing to mark the ballot. Especially where the normal social pattern involves voting, abstention requires a positive act of non-conformity. Fromm's ideas are richer and more subtle than indicated here and undoubtedly relevant to politics in additional ways. However, as a simple explanation of voting behavior, the escape from freedom thesis lacks prima facie plausibility. It does, however, connect non-participation to

unattractive aspects of the human personality and thus gives added support to those who suspect that silence is not a praiseworthy phenomenon.

Another version (and indictment) of non-voting comes from the belief that non-voters are those with weak egos. Self-confidence - a belief that what one does affects events - correlates with willingness to participate, or so the attitudinal measures recorded by many behavioral scientists suggest.[47] A sense of civic competence or incompetence apparently lies behind the voting behavior of some, or at minimum contributes to a syndrome of relevant characteristics. Non-voting, in other words, is one possible response to a feeling of political inadequacy. It isn't the only possible response (violence, for example, might be another) and the refusal to vote is not, of course, associated only with this particular psychic state. But again, even if nothing definitive can be said, the literature on political efficacy suggests a negative correlation between non-voting and a state of affairs worth encouraging or even tolerating.

Another psychological phenomenon motivating the non-voter has been called "cross pressure." Formulated by Lazarsfeld and supported by the work of other researchers into voting behavior, the concept involves a tendency for people subjected to conflicting pressures to end up by not voting.[48] When religion pulls the voter in one direction and his union in another, or when daily contacts with a higher socio-economic class give him one perspective and his home environment a conflicting one, or when ethnic loyalty directs him here and sectional loyalty there (and so on) the

beleagured target of diverse stimulation may find himself intellectually paralyzed and readily convinces himself that he ought not to vote: The candidates start to look alike, the issues unimportant, the efficacy of his vote nonexistent, and so forth. Whatever alibis he offers, the fact is that the poor fellow cannot make up his mind. The choices confronting him are too painful. The statistical evidence clearly suggests some relationship between conflicting demands and non-voting. It doesn't, of course, establish an incontrovertible causal connection. Unionized American workers, for example, experience considerable cross pressure and nevertheless turn out to vote in large numbers. The cross pressure hypothesis nevertheless appears to explain some cases of non-voting. It has the further merit of treating the decision not to vote as a rational strategy, not necessarily the wisest, the single best response to a situation, but a plausible, reasoned alternative. In this theory there is some modicum of respect for the voter. He is not simply a hapless victim responding as he must rather than as he wills.

Explanations of non-voting in terms of an individual's pattern of response to stress prove nothing conclusive or important. All these theories suggest that non-voting is a weakness that reasonable men ought to wish to overcome. But even in the more interesting works of Adorno and the Frankfurt school, such notions of individual inadequacy do not convincingly demonstrate that some alternative social or political organization of men would eliminate negative responses of this sort and create

a world of enthusiastically participating citizens. To be sure, some situations may encourage those asked to choose to perform the task while other conditions may more readily facilitate withdrawal. But I am not persuaded that psychological disabilities of the kind suggested here can be overcome by any known political arrangements. So long as major problems beset men as they have throughout recorded history, psychological responses that grant immediate comfort or relieve immediate distress will remain prominent regardless of their deleterious effect on more ultimate values. The refusal to make a difficult choice does not seem a likely matter for successful non-coercive reform.

Some of the more recent explanations of large-scale non-voting take an even dimmer view of man's capacities than the above psychological analyses. These critiques turn on three concepts: alienation, false consciousness, and nondecisions.

Non-voting and alienation

Those who attribute silence to alienation do not always mean the same thing by the term. Almond and Verba have called non-voters alienated in the sense that they fail to recognize that politics affect them.[49] The relevance of government policies to their lives, it is claimed, escapes them, presumably because when not directly in the line of fire they are too unsophisticated to perceive the more subtle aspects of battle. Thus, according to Lipset, wheat farmers have a higher voting rate than other farmers whom they resemble in every way except that they depend

on government regulation more clearly and directly. Workers in Western Europe who have been carefully organized by the Communist party demonstrate the effectiveness of their special education and discipline by voting much more frequently than their brethren in America.[50] Alienation in this version means the indifference born of ignorance.

But as Almond and Verba discovered when they probed for something more than perception of government or information about government, room for quite different orientations are to be found among people with the same political knowledgeability. Comparable groups of Mexicans and Italians, they ascertained, manifest quite different sentiments about the possible use and potential impact of government -- Italians revealing their hostility to state authority and Mexicans their growing aspiration for better, more effective state power. The positive attitudes of the Mexican thrives without an informational base and contrasts sharply with the negative "alienated" reactions to politics endemic among uneducated Italians.[51] The difference observed between these cultural groups can also be found between various personality types[52] and perhaps between other sub strata (ethnic, religious, etc.) as well. Alienation, in this version, while it accounts for some percentage of non-voters, is more complicated than it appears at first, and is somewhat over-simplified by those who connect it only to unawareness.

There may be additional types of alienation. Disassociation from political participation may develop among highly privileged

groups responding not to lack of efficacy or lack of knowledge, but to boredom, or to the elevation of the value of privacy, or to dislike of the people with whom cooperation necessarily brings them together, or to fascination with passivity producing drugs, and so on. Non-voters do not always comprise the out group. Middle class members of the establishment also have the capacity to experience themselves as somehow outside the system and of reacting to their sense of "separation" by dropping out of the political process. This kind of alienation needs more study before we can understand it better, but its apparent presence reminds us that the causal link between non-voting and alienation, in any of its senses, is tenuous and not a wholly satisfactory explanation of electoral turnouts. On the other hand, a feeling of apartness obviously correlates with so many negative features of a populace and so often afflicts the poor and the poorly educated that any society accommodating large doses of the phenomenon probably ought to feel unhealthy and in need of a cure.

Non-voting, false consciousness, and mobilized bias

The above underpinnings for theories of non-voting have aroused misgivings among some observers who seek more politicized explanations of political happenings. These critics have advanced two somewhat related hypotheses about the causes of a widespread disinclination to utilize the franchise in democracies. One notion goes back to the Marxian concept of false consciousness. Sometimes writers in this vein accept Berelson's equation of non-voting and contentment and argue that the satisfaction expressed

is spurious, the product of propaganda by the powers that be, the result of an educational system designed to prejudice pupils against ideas critical of the status quo, a measure of the success of a monopolistic mass media industry in creating an audience with the conservative idealogy it wished to uphold. The ruling classes always dictate a society's values and the rather circular proof is that the society embodies the values of its dominant members.

Substantial empirical evidence to support these ideas isn't readily available. No one has convincingly isolated and spelled out the ideology which the communications network of society promulgates to the exclusion of all competing ideas, or found out who makes the decisions that set the tone of American politics, or what these specific decisions have been. False consciousness may accurately account for some spurious feelings of satisfaction with the way things are and lead some people to keep away from polling booths. But the substantive material to back up the charge is lacking. In its place those who take this position put an appeal to the truth that all systems favor some ideas over others. An organization, by its nature, cannot be neutral. In Schattschneider's words: "...organization is the mobilization of bias. Some issues are organized into politics while others are organized out."[53] Non-voters thus reflect "the politics of happiness,"[54] but their bliss is held to be more apparent than real. Under the aegis of a different organization, a different regime, they would recognize their "true" interests and behave differently.

Another variant of this theme hears rebellion not happiness in the chorus of silence. Alienation in this version arises not

from fancied satisfaction but from "feelings of individual political futility" generated by an organization of politics unable to produce gratifying results.[55] Working within the system does not seem to pay. The political organization, by design, never articulates the concerns of some groups, or so it is argued, and therefore they remain outside the voting universe, untouched by the controversies which others go to the polls to decide.[56]

Robert Paul Wolff takes his fellow radicals to task on this issue for failing to identify precisely which controversies they mean. Most important questions, he argues, are ventilated at the polls. Those who rule in America, he contends, are public employees "completely vulnerable to popular opposition of even the most peaceful sort. ...Radical candidates run in countless elections... receive a measure of publicity and exposure which is surely in excess of their proportionate share... (and) in the face of an aroused citizenry bent upon instituting even so un-American a policy as socialism, ...rulers of American society would be quite powerless."[57] But however available alternative political questions may be, the outcome of contests between radical alternatives and current issues is so certain that some voters are understandably discouraged. Some Black Muslims, for example, have publicly proclaimed their inability to get what they want through elections, not because the opportunity to present their case is absent, but because their case consistently loses. A devoted follower of Joseph Cannon might feel similarly. Continual frustration may well diminish interest and contribute to the non-voting phenomenon.

The indictment of non-voting on grounds of false consciousness, however, is often connected to the notion that voting alternatives are deliberately denied to those who seek them. "Absenteeism," says Schattschneider, "reflects the suppression of the options and alternatives that reflect the needs of the non-participants."[58] Which needs" What options? Who is to know them, and by what means? Well, again, instead of hard empirical data we are told that "characteristically the process by which the forty million (eligible non-voters in America) are excluded from the political system are invisible and imperceptible."[59] Although they go unexpressed, the interests of these people are nevertheless known by observers to be there; they are objectively identifiable. But the criteria for such objective identification are not vouchsafed. Instead, we are again led to a concept of "real" interests and to a supposed elite that is alone capable of understanding them better than the individuals involved.

Non-voting and non-decisions

In an effort to get away from the philosophic difficulties of positions based on real goods (or happiness or interest), still another thesis has emerged. Based on a suggestion by Schattschneider and developed by Bachrach and Baratz, the problem of non-participation has been reformulated as the problem of non-decisions.[60] "...dominant values, procedural rules, power and authoritative relations, singly or in combination effectively prevent a latent issue from developing into a question which

requires a decision. To the extent therefore, that an individual, group, or institution participates in re-enforcing or creating a "mobilization of bias" ... to prevent potentially unfavorable issues from becoming overt, the nondecision-making process is utilized."[61] In short, some crucial questions fail to reach the agenda and their absence encourages disinterest.

The issues involved here are complex and range beyond the concerns of majoritarian analyses. But certain difficulties have bearing and need to be mentioned. The absence of an event, for example, cannot prove any particular cause.[62] How, within the theory of nondecisions, would we distinguish between a real and a spurious consensus? What evidence, what arguments could conclusively prove one or the other? We are probably faced with a non-falsifiable proposition.[63] Further, it is not unreasonable to assume that if nondecision making comes from fearful anticipation of the results of initiating something unpopular, that fear must be based on some past concrete observable experience of sanctions. But proponents of non-decision making theory do not provide any examples of the use of such sanctions. This, of course, doesn't prove they don't exist. Actually, it is only reasonable to assume that some individuals refrain, for example, from signing petitions for candidates who do interest them out of fear, a nameless general fear, or even a specific fear of job loss or social censure. But if empirical examples of occasions when fear prompted behavior were provided, we would then have to acknowledge that before suppression can be brought into play, the need to employ it must be anticipated, appropriate protection

planned, and the costs of such preparations allocated. Anyone who can force others into extensive defensive activity possesses formidable power, power perhaps comparable to that of positively wielding the ballot.

Concepts of alienation, false consciousness, and non-decision making then, call attention to those who do not vote and stir concern for any correlation between non-participation and low socio-economic status. They also point up the truism that society cannot treat all questions equally and must always give preference to some ideas and inhibit some controversies in a fashion that may depress or encourage participation. Insofar as these concepts emphasize these matters and foster awareness of them they serve as cautionary signs that prudent democrats may take into consideration as they organize and operate their polities. In so far as these concepts rest, however, on theories of "real" interest, recognized by some and not by others, they tend to fall outside the purview of democratic philosophy. The egalitarian suppositions of democratic thought demand that all men be treated as individuals capable of rational judgment. Whether or not the masses of men live rationally and operate with decent amounts of information or clairvoyance, is not decisive. Whatever the truth about man's nature, democrats commit themselves to a system which, at least for political purposes, deals with people as if they possessed the capacity for self-government. Those who find their fellows too brainwashed, too stupid, too ground down by poverty and hardship, and too filled with cynicism or

despair to function politically have no recourse within democratic theory beyond exhortation and education. Within the political system they must take all men seriously; they cannot work with the assumption that men know not what they do. While this holds true to some extent for all levels of participation, it applies particularly to voting behavior where no one can ever justly substitute his judgment for that of another.

It has been alleged that something more can be done about non-voting than accepting it and relying on exhortation to decrease it. The conditions that encourage apathy, some claim, can be abolished and those that help elicit the will of all can be stimulated. Among the negative conditions often mentioned in this context are poverty, ignorance, and noncompetitive alternatives. Among the positive conditions, simplicity of rules, participatory habits, and a sense of community are cited frequently.

Poverty and ignorance correlate significantly with every evil known to man. Their amelioration would undoubtedly improve everyone's marital choices as well as political choices. No one advocates subsistence living or worse, but many do disagree about appropriate remedial efforts, and everyone must live somehow while unpleasant conditions still abound. To attack the legitimacy of majority decisions on the ground that many failed to participate (although free from coercion) or that those who competed were uninteresting (when there are no prohibitive sanctions against competition) demands of a system what no political system can yield, namely the wise use of its facilities. At best, to push further in this direction is to reduce politics to an educational system which, in one sense, of course, is precisely the teaching

of Plato. But however metaphysically sound Plato is, we need to function until an ideal human nature has been developed, and to face a reality in which people disagree about just what conditions need to be remedied in just what way in order to liberate the human personality. Non-voting seems to be an inescapable part of the imperfect present.

Consideration of a few additional meanings of silence lends support to the justice of accepting non-voting in situations where all have the opportunity to cast ballots. First, it is well to remember that voting is not the only form of participation in community life. By itself, without other evidence, non-voting does not necessarily symbolize a lack of fraternity or the absence of a spirit of community. People may simply not have any grievance they choose to rectify politically or any project they wish to carry forward in the political arena. In the words of Samuel Johnson:[64]

> How small of all that human hearts endure
> That part which laws, or kings can cause or cure.

Further, the decision not to vote, need not in all cases be irrational or ill informed. In the elections of school boards in school districts in many areas of the United States, those without children often do not vote. They do not opt out because of indifference to education or lack of concern for its local quality. They may recognize the general importance of education, and may take great pride in the neighborhood school. Nor do they lack a sense of the relevance of school policy to their immediate lives. On the contrary, they may believe the

questions posed of great significance, and find the effect on their pocketbooks direct and unmistakable. Still, they might choose to leave the resolution of contention to others (and sometimes even screen themselves from information). They might simply feel that given the protection of the potentiality of their vote, they can afford to let others perform without them; they have faith that the general management of the enterprise can go forward without their intervention (although they may disagree with this or that policy or dislike this or that board member). With the proviso that they retain the power to take part, they decide not to do so. We can question the ultimate soundness of this stance, but we cannot easily deny its reasonableness. This sort of non-voting applies particularly in local elections where even those who normally participate actively in political affairs might feel that the choice of a new fire chief can be safely left in the hands of those active in or interested in the local fire brigade.

The above examples provide curious "counterfactuals" to the notion that an increased sense of belonging stimulates participation. Non-voting based on trust in others might increase rather than decrease if a sense of community was fostered. Since one cannot be equally interested in everything, one might gladly relinquish power in a variety of areas if it seemed safe to do so. Every increment of fraternity might yield a decrease in some type of active participation. Those immersed in the affairs of their P.T.A, or union, or church, or professional organization, or recreational group might be able to devote more of themselves to those preferred activities if they dared to devote less to local,

state, or national politics. Insofar as the virtues of participation reside in character building and in enlarging human capacity and producing greater self fulfillment, these goods might be served by a differential exercise of decision-making that may or may not include a heavy investment in political commitments.

Situations in which people, disliking all the alternatives offered, prefer to let others make the choice among evils, provide another example of justifiable non-participation. They will go along, they might say, with whichever of the options everyone else (or the majority) want. Again, they know the issues at stake, have appraised the candidates intelligently, and do not necessarily even wish to protest the system. They may wish to register both their disapproval of the candidates and their acceptance of the majority's wishes in this case. Again, the wisdom of such strategy may be criticized, but not the elector's reasoned, responsible attitudes.

Or consider the voter with extreme opinions who abstains and deliberately lets the party nearest his view lose in order to prevent it from moving toward the center. He wishes to keep open and viable the future possibility of his extreme view being considered.[65] Such calculation of future advantage is a completely rational tactic and constitutes positive participation in the electoral process, albeit through abstention.

Silence, then, may be a rational, an irrational, or a non-rational strategy usable in a variety of circumstances. The causes of silence are multiple. There is some merit

in most of the proffered theories. Each may well explain the behavior of some portion of the non-voters. But if neither the individual psychological stresses that produce non-voting, nor the false consciousness that allegedly accounts for apathy and alienation are significantly remediable within a democratic context in the modern world, what can be said for the critique of non-participation? Does it vitiate the legitimacy of majority voting?

I think not. Unless the fact that men participate unequally leads to a rejection of any system based on consent (i.e. to rejection of democracy), we have to accept uneven participation rates and, while working for any reforms believed to counter them, recognize that some non-voting will exist wherever people are free, and too much will occur so long as major problems remain on earth to cripple and stunt man's potential for effective action.

The consequences of silence bring in their train advantages and disadvantages both to the voter and to the community. As Robert Lane wrote at the conclusion of his detailed study of why people get involved in politics: "Both society and the individual gain in the widespread exercise of the right to participate in democratic processes - and both experience some loss."[66] Each decision brings rewards (e.g. protection of one' interests and a sense of fraternity for the individual, and less tension, more consensus, and more distributive fairness for the society). But decisions also have costs (e.g., for the individual, painful cross-pressures and loss of scarce time and energy, and for

society instability or the injection of ignorance and intolerance into public debate).

On balance, a democracy needs to encourage participation, to urge people to look out for themselves via political means, and to develop their political skills as part of their general capacity. But those who remain inpervious to the merits of the argument can be respected and accommodated without violation of any democratic values. Whatever may be whispered in the sounds of silence, it does not call for the rejection of the voice of these who do speak. A majority of those voting, it can be reasonably argued, justly bears authority in democratic government. How to go about ascertaining this majority of voters is another matter. It is to this problem that we must next turn our attention.

III

Problems of the Suffrage - Electoral Systems

Majority rule is a decision making device that involves counting, and counting involves the manipulation of numbers, and numbers can be manipulated to signify a variety of things. Two and two make four in base ten, but they add up to eleven if we think in terms of base three. The mathematics of majority voting has given rise to a variety of problems, for each arithmetic method has advantages and disadvantages which need to be measured against the purpose of voting.

Pluralities

A polity that wished to ascertain the desires of its electorate in respect to some dispute must make, at the outset,

a basic decision about whether to provide for voting within single member or multi-member districts. The United States makes extensive use of the single member system. Each individual voter within a unit selects one at large delegate to represent him. The candidate with the most votes win. When only two alternatives exist this way of going about an election achieves precisely what democracy wants: a settlement among conflicting ideas about who can better represent the district by an appeal which maintains political equality and discovers the will of a majority of voters. If many of those eligible fail to vote, the number of yeas may be less than fifty percent plus one of the potential electorate but, as we saw above, this situation, while not ideal, nevertheless may be construed in a fashion compatible with majority government.[67] The difficulty in single member districts arises when the candidates number more than two. In this case, no one may receive a majority of the votes cast. What, then, makes the winner by a plurality legitimate? Why should someone with, say, 35% of the votes be accepted by the other 65% who voted against him? Aren't some votes diminished and made to count for less than the votes of the 35% minority? After all, conceivably 51% may have preferred one of the losers to the man who actually won.

A plausible answer might run something like this: All rational decisions require the reduction of alternatives from many to a final choice of one. Everyone in society knows this. If they then decide to stop reducing alternatives before they

get down to a final choice between two, it can only mean that, for some reason, they value a final choice among 3 (or more) more than they value the achievement of a majority mandate. By their actions, by their refusal to pare down the list of candidates to two, they announce their willingness to accept or to risk the acceptance of a plurality winner. They could have avoided the plurality situation if they chose to do so.

Circumstances in which rational people might decide to stop winnowing before they reached a choice between only two alternatives are not hard to imagine. The final group of choices, for example, might all be too similar to allow for meaningful further discrimination. Or, all three final names might represent interests so mutually exclusive that a plurality choice would satisfy or fail to satisfy as many people as any reduction process. Or, as William Buckley candidly announced when the Conservative Party was formed in New York State, for the sake of future advantage - in his case a more right wing Republican Party - it was worthwhile to lessen the chance of a Republican majority mandate. To make Republican electoral chances more dependent on the organized Right in the future, he was willing to risk minority government in the present, even while declaring his ultimate loyalty to a two party system except for the temporary exigencies demanded by the political situation in New York, as he saw it. Pluralities, then, might be accepted in lieu of majorities if it is assumed that the failure to

reduce choice to a vote between only two alternatives represents a deliberate tactic, a strategic decision employable by reasonably rational people involved in a peaceful process of conflict resolution. At minimum, the argument can fairly be shifted to a consideration of the justice not of the plurality, but of the nominating procedures which brought it about.

Alternatives to pluralities: preferential ballots and run-offs

Some have argued, however, that we can do better, either by using a preferential ballot or by staging run-off elections. Under preferential ballot systems voters mark not only their first choice but their second (or third, fourth, etc.) choice as well and, in the event no one receives a majority of first choices, the second choices are brought into play by dropping all but the two highest candidates and adding to their totals the second choices cast for them (either the second choices cast for them on all ballots or the second choices on the ballots of dropped candidates). Run-off elections, often used in American primaries, are held when no one candidate receives a majority and a second ballot is conducted between the top two contenders. Under the preferential method an ordering of the candidates is thus used to supplement initial choice and a plurality winner is assured of having at least some luke warm support among those who failed to designate him as the most preferred. Where second elections are held an assumption is made that genuine revelations of relative strength are discovered

in the original balloting and that the resulting fight between the two strongest contenders enables majorities to coalesce around the only candidates who could possibly command a majority vote.

Both methods, however, involve one possible distortion of the vote. They both assume that the choice a person would make in a situation involving A, B, C, and D is the same option he would take when less than the original number of alternatives is involved. But obviously one might vote for A in a choice between A preferable, B tolerable, and C intolerable and yet vote for B if the defeat of C hinged on doing so. Preferences always depend, in part, on estimates of how others will behave.

The French once had experience with preferential voting which led them to conclude that even first choices or first ballots are strongly affected by whether or not a run-off is to be held. Voters, according to this old study, apparently postponed compromise and used the ballot to vent irritations and ideological preferences because they knew the actual choice would not come until a later stage.[68] In a preferential system the knowledge of how others feel as revealed by their first choice positions may change an individual's priorities. Similarly, with certain candidates dropped from the ballot, a voter's actual ranked list may change, but the electoral system records only his original opinion. American presidential nominating conventions which require a majority vote, never accept a plurality, and continue balloting without ever dropping the names of any nominee until such a majority is organized, recognize in practice the theoretical impossibility of accurately reflecting

voter's wishes in any other way. In general elections the convention voting system is not resorted to because the bargaining and discussion that eventually produces a majority in a convention hall among a given group of delegates cannot be duplicated out over the country. But attempts to capture the virtues of the nominating sessions by means of preference ballots and run-off elections cannot wholly succeed. They may be accepted as reasonable devices, but neither method can guarantee the total elimination of distortion and, therefore, their superiority to plurality elections in terms of fostering a more authoritative electoral mandate remains debatable.

Deadlock

Some political scientists see another sort of difficulty in single member district elections. They fear the possibility of deadlock and point to the inability of the majority decision-making rule, by itself, to resolve the problem of what to do when a 50-50 split occurs. No course of action compatible with popular sovereignty and political equality can be undertaken in such circumstances, they claim, and inaction gives the victory to those who favor the status quo.[59] Robert Dahl suggests that this dilemma explains American political behavior on a large number of significant issues (including the breakdown of peaceful conflict resolution and the resort to Civil War) and perhaps he is right. To work with a majority of one, as any parliamentarian knows, is difficult. Important policies usually require a sequence

of votes on a number of related measures. Where there is almost equal division about the overall policy aimed at, absolute discipline is not easily maintained on each issue, on each roll call. As a result, the vote sways one way on one bill and the other way on the next, and no consistent program emerges. Or, as James MacGregor Burns insists, the institutions of a society are so arranged (as in the United States) that majorities need to be created in more than one place before a policy can be effectively promulgated. A majority put together on the Congressional level cannot guarantee a similar majority on the Executive level. Different majorities may be involved. Or, the division out in the country may be so close that a bare 51-49 achieved in the legislature is no more accurate than the reverse reflected in some relevant administrative bureau. One possible result is stalemate among the institutions with the actions of one group nullifying that of others. Dependency on majority rule in situations where the distribution of voters clusters around opposite poles, Dahl has suggested, causes some sort of deadlock and cannot terminate in either effective or just government.

The consequences of all decision rules and all electoral arrangements depend upon the distribution of voters.[70] The influence flows in both directions: the voting system encourages certain patterns of voter distribution, and the behavior of the voters affects the way any arrangement works. Nevertheless, so long as people have the information with

which to calculate, and can choose freely, no options are theoretically foreclosed. In the case of the even or almost even split which Dahl has called to our attention, there is at least the possibility that the majority was willing to risk deadlock (or even Civil War) rather than adjust their polarized positions. Accomodation and compromise always remain feasible, even in closely contested cases when the possibility of a tie (which a rational decision maker must always consider) prominently begs for attention and insistently demands a choice reflecting recognition of what failure to break the deadlock will mean. One decision does not foreclose future decisions and every decision, at each point in time, reflects an estimate of opposition as a crucial part of any substantive preference. So, at least, one might argue.

The voter's paradox

The "Arrow problem" which has excited so much recent attention might also be answered in similar fashion.[71]

Those with a quantitative bent have been tantalized by the failure of a statistical "Latin design" to emerge from one particular social choice situation in which it seems as if perfect equality ought to prevail. When an individual orders his more than two preferences and a number of other individuals do the same, and a majority vote is taken on each pair of alternatives, no resolution should occur that is inconsistent with a majority's original individual orderings unless somehow some set of priorities is not being treated equally. Yet

logically, several writers have shown, such a resolution does seem possible. If three voters rank three preferences, each putting them in a different order, and if the preferences are then voted on in pairs, the majority, inexplicably can be arranged to prefer A to B and B to C while also preferring C to A.

	X	Y	Z
1	A	B	C
2	B	C	A
3	C	A	B

In a vote between A and B, A would win because both X and Z prefer A to B. In a vote between B and C, B would win because both X and Z prefer C to A. In a vote between A and C, C would win because Y and Z prefer C to A.

In some way, voting in pairs seems to put greater obstacles in the path of some preferences and makes the order in which alternatives are considered appear crucial.

Whatever the abstract answer to this logical puzzle may be, its relevance to the real world is doubtful. Numbers or letters stand for situations which cannot be manipulated in the same way as symbolic choices. None is linked to any outside consideration. But a flesh and blood voter does not really possess wants separable from his unified personality and capable of being judged rational or irrational on their own. A set of human preferences may easily be overruled by another set brought over from another parameter of concern. I may prefer Democrats to Republicans but cannot be pronounced muddleheaded if I then vote Republican because I may also prefer female to male candidates and the later set of preferences commands a higher place in my

hierarchy of values. Apparent contradictions, that is, may simply stem from contingent preferences which pure symbols cannot represent.

Or consider further the way that preferences in the symbolic choice situation fail to discriminate between an individual's ordering in solitude where nothing counts but his own proclivities, and an individual's ordering in a social situation where the desire for common enterprise might cause a readjustment of atomistic preferences. I may prefer game A to game B to game C, but in a group deciding what to play change my priorities in order to join in a group activity. Not only may I have a different preference in a group as opposed to when I am alone, but my desires in social situations are always influenced by something external, namely the need for mutual accommodation. Political choice is never purely a matter of being for this policy or against that. It is always partly a matter of being willing to compromise and adjust personal desires to accommodate the desires of others. Political priorities, therefore, unlike their mathematical representations, often shift as soon as a general pattern of preferences is known. They never exist as entities separate and apart from their strategic possibility of enactment. They always include some degree of commitment to the value of agreement itself.[72]

Insofar as he is a social animal, man's preferences must always reflect his desire to accommodate himself to group life and reach agreement with others, as well as his desire for this

or that candidate.[73] The logic of the voter's paradox fails to compute that concern. Nor does it take cognizance of the pre-final choice situation of discussion and deliberation in which possible alignments and coalitions and priority orderings are canvassed, and the possibility of the paradox contingency recognized, and either risked or rejected. No judgment of the rationality of a final vote can be complete without inclusion of these matters.[74] Only someone prepared totally to discount human deliberation could write, in light of the paradox, that "majority rule is fatally flawed by an internal inconsistency which ought to disqualify it from consideration in any political community whatsoever."[75] In spite of the so-called paradox of social choice, the majority decision rule remains a rational method of counting votes.[76]

Whether yielding a logically rational majority, or a plurality, or deadlock, votes in single member constituencies always give the winner all and the losers nothing. If democracy's justification rests on consent, critics have argued, then the only appropriate decision-making rule is one which reflects the will of all and not merely the will of a majority (or plurality). No variant of the single member district system, they contend, can satisfy the requirement that each viewpoint be represented in proportion to its strength. They have advoacted, therefore, a multi-member constituency formula.[77]

Proportional representation

Two basic types of proportional representation schemes predominate in both practice and the literature. One, called the single transferable vote, involves quotas for each elected representative and a transfer of second, third, and lower order choices (either from the surplus of those reaching the quota or from the eliminated lowest candidate), in successive steps until the required number of seats is filled. The party list system, on the other hand, involves the assignment of seats to a party in numbers proportional to the voting strength they have mustered as a group in all the constituencies added together. Both types secure a more mathematically exact reflection of opinion than can be obtained in single member constituencies. Most minorities are represented and assured at least some legislative weight. Shadings of opinion, lost amid the grand compromise of single member constituencies, find expression. Genuine interests discarded in the search for large scale majorities emerge intact. Unpopular or non-conforming or little known ideas have a chance to establish a base and win adherents. The psychological helplessness of the outnumbered is minimized and the alienation of hopelessness mitigated.

Nevertheless, proportional representation, in each variation that has been tried, still leaves standing a number of objections. First, as suggested in the discussion of preference voting, all transfers of votes are questionable as an accurate rendition of opinion. Secondly, because there are a set number of seats to be distributed, minorities in general tend to be over-

represented and some minorities, because too small or disunited, continue to be excluded. Thirdly, in strict logic, proportional representation advocates ought to object ever to electing a single man for a single office. In order precisely to reflect all shades of opinion, that is, all offices in a democracy ought to be plural - plural executives, plural judgeships, and so on - for if exact representation of the electorate's opinion is the sole end of voting then only a plural officialdom can satisfy that end. Finally, we now know on the basis of empirical evidence that proportional representation so encourages the multiplication of parties that a multi-party system always accompanies all proportional representation voting systems. Thus we are pushed to consider the conclusion that only multi-party formats can satisfy the requirements of democratic government.

This reductio ad absurdum has the advantage of providing clues to the difficulty with the proportional representation argument: voting does not take place only in order to represent all shades of opinion. The voter under proportional representation may indeed experience the kind of pure satisfaction that comes from publicly announcing his clear, unambiguous, ideological preferences. No two party arrangements can equal the maximization of his satisfaction. But voting also takes place, or so it might be argued, in order to settle disputes. At some point in conflict situations resolution becomes necessary. All that the various electoral systems do is change the times and places for reaching agreement. Under proportional representation compromise takes place in the legislature, within the elected

government, after the election. In two party systems a substantial reduction of alternatives occurs before the election, within the political parties. In all electoral systems what counts is open competiveness and the consequent equal opportunity to make each vote count equally. Any organization of voting procedures that provides all with an equal opportunity to be heard in some significant way at some point in the process satisfies democratic principles. Majorities, whether constructed after voting among many alternatives and by means of coalition within parliamentary governments, or after a vote between only two alternatives each of which already represents a coalition are both equally valid. The need for coalition does not vitiate the idea of a majority. Majority rule, as a concept, need not, therefore, dictate any particular voting system.

Economic conceptions of voting: measuring the intensity of preferences

If interest does not center on the construction of majoritarian agreement however, but turns instead toward securing some variant of the utilitarian principle of the greatest happiness of the greatest number, then the work of economists, particularly on theories of welfare, becomes relevant and suggestive of a number of additional problems. As soon as a switch is made from placing value on reaching a decision (in addition to valuing the content of the decision itself) to examining only the worth of the substantive subjects of decision, then, some have urged, interpersonal comparisons of the utility of decision can and ought to be attempted. Interpersonal comparisons, it has been argued, ought to measure preferences, not in terms of such a restricted utility function as the assumption of equal intensity of preferences, but in a

broader sense which encompasses the known fact that all those who choose A do not feel equally strongly about A.

The argument proceeds on two grounds. The normative case rests on the belief that something unfair goes on if an apathetic majority can prevail over an intense minority. The choice of a voter who cares passionately ought not to be equated with the choice of a voter only minimally interested in the issue at stake. "Why after all," says one writer, "should the voting procedure be allowed to ram an alternative highly distasteful to Zeus down his throat, at only a slight gain to the rest of society?"[78] Critics of simple majority rule who entertain doubts such as this believe that an increase in the personal satisfaction of everyone can be obtained when intensity differences are allowed for, interpersonal comparisons of welfare are made, and by thinking of votes as if they were dollars, methods of trading and compensation are provided.[79] Besides, apathetic majorities tyrannizing over intense minorities, it is believed, produces a condition of instability in society.[80] Because it makes many unwilling to go along with the society's decisional rules, and does not properly reward interest and enthusiasm, any decision making procedure that fails to take intensity into account fails to provide for a stable government order.

As a consequence of these moral stances the results of alternative decision devices such as vote trading and logrolling win ethical plaudits (although it is conceded that some people may find trading itself morally reprehensible).[81] But further, such alternatives are urged upon political theorists as accurate

explanations of what actually goes on in political processes. Where such economic mechanisms as exchanges and compensation apply (as in representative assemblies), logrolling, not simple majority rule, generally prevails and the outcome of legislative decisions, it is claimed, can be best explained and predicted by reference to the rules of bargaining (i.e. the usual market place economics of supply and demand, monetary exchange, etc.) and to such concepts as Pareto optimality (the achievement of an equilibrium in which any change will benefit at least one person and harm no one else).

Even outside legislative halls, in referendums where secret ballots, uncertainty about the time and content of future ballots, and the practical difficulties of nationwide trading prevent a market analogy from functioning, implicit logrolling allegedly occurs; among the nominators of candidates or issues, selection methods bear the characteristics of logrolling processes (e.g. I'll withdraw my man from contention in district A if you do the same in district B; or, I'll agree to support X if you will compromise on Y).[82]

Political choices, that is, do not move among mutually exclusive alternatives, but emanate from bargains which mutually benefit the parties concerned. "the existence of conflicts of interest does not preclude the attainment of unanimity..." if we quantify interests and, by comparing gains and losses in a variety of choices among alternatives in successive trades, solve the conflict by producing an advantage for everyone (as presumably,

in market place trading between buyers and sellers).[83] In order to quantify interest and so pose political problems in a form that emphasizes how seldom alternative solutions need to be mutually exclusive, preferences must be ranked and a weight assigned to each. Proposals favored only weakly can then be traded off for proposals intensely desired so that each individual can come out ahead, with a larger amount of satisfaction than he had before the game began.

The attractiveness of this approach is obvious. The calculation of advantages eliminates the need for both majority rule and minority rule and yet political equality appears to remain inviolate and even refined. The gross decisions made by majority rule procedures can be broken down into a series of smaller units and each unit, each desire can be valued (i.e., price tagged) and made part of an exchange system. Since many policies have differential effects on different groups, the voter can discriminate among consequences and effectively avoid the more onerous by utilizing the less offensive as bargaining tools, as money willingly paid for the elimination of greater disabilities. Votes have a flexibility from this point of view that they do not possess under majority decision making and, therefore, can more efficiently and more accurately represent will and consent. Unfortunately, closer scrutiny reveals difficulties with this approach that cannot be lightly dismissed. Before one admits that majority rule only counts votes when, to be just, it ought both to count and weigh them, it is necessary to look at possible objections to the procedure on both empirical and moral grounds.

Even if desirable, some have contended, the weighing of votes cannot be "operationalized." First of all, priority ordering of preferences cannot make perfect rational sense unless all of an individual's preferences, probably his total philosophy of life, are included. But it is doubtful if anyone can imagine and remember all the things he prefers more or less than the realization of any given policy and thus establish a complete priority order for himself.[84] For example, a rational set of preferences about which suitor I love best may be assembled and, on the reasonable assumption that I want to marry the man I most prefer one name will appear as my logical choice of a husband. But, obviously, I may also marry the man who most prefers me. From this point of view my priority orderings may need drastic revision. Drawing up one, final set of priorities that takes account of all contingent considerations may be beyond the competence of most people. Although some rought estimate of this sort is undoubtedly what we mean by making a judgment, an actual, definitive, rational listing may be hard to come by.

Or, to take another sort of difficulty, one may intensely prefer a substantive course of action and still not choose to do it because of some restraining moral duty. If what we want is going to be measured solely by our behavior then, in this example, we have no way of registering a desire that may consume our every waking moment and affect our every thought.[85] But what alternatives do we have, when choice is rejected, to indicate the strength of our wishes? Facial expression? Volubility? Body chemistry? We may end up measuring skill in histrionics or relative energy levels!

And finally if, as was suggested in the discussion of the voter's paradox, priorities always depend in part on considerations of long and short term political strategy as well as on a proposales specific content, then how can we separate these items for purposes of weighing, of finding the most preferred position? How, indeed, do we weigh long term as opposed to short run considerations? Intensity, furthermore, may often be a function of the voting system itself. It may reflect the enthusiasm born of a good winning chance or the discouragement of sensing oneself hopelessly outnumbered.

Logrolling and horse trading as it goes on in the United States Congress does of course provide some estimate of the intensity with which many support or oppose policies. But one would be hard put to draw up an even moderately exact intensity order based on the bargains concluded in any one session. In striking a bargain, history, tradition, moral commitments, personal friendship, and loyalty play roles supplementing the economics of trading. These things often cannot be strained out so that some particular trade stands unambiguously as an accurate reflection of intensity preferences. And, in general elections, the opportunities for trading diminish and operate, if at all, only in the course of the nominating process.

Robert Dahl has correlated the intensity issue with the problem of stability and argued for ascertaining the relative strengths of preference on grounds of the needs for systemic stability.[86] Assuming that intensity curves are not discrete but continuous,[87] we start to weigh, in his argument, when the stability of an ongoing order is threatened. This shifts the problem to "operationalizing" threatened equilibrium. How do

we find the precise moment when intensity threatens to upset order? Do we do it in terms of the amount of extant violence? The amount of change? We probably cannot secure agreement about what the boiling point of a system is much less about exactly when it has been reached. But Dahl's whole consideration leads back to the justification for intensity measurement based on moral theory. The intensity problem must be judged by ethical as well as operational criteria. On this level stability seems a weak value (few want peace at any price) and the possible objections to calibrating preferences multiply rapidly.

What is the relationship between feeling strongly and the good? The answer is not obvious. Intense feeling often accompanies impulses, and spontaneity, it may be argued, is highly regarded in American society. But impulses, obviously, can be either rational or irrational. When they are irrational they are often subsequently regretted and the virtue of having had the strength of an irrational emotion duly recorded by society's voting laws seems dubious. The same is true of irrational lethargy.[88] However, any government which makes intensity crucial invites its citizens to be intense (and, hence, unstable?) because the more intense they are the greater their influence. In fact, Willmoore Kendall and George Carey argue, to differentiate between the emotional involvement of voters is to violate political equality and to grant a larger share of power to those who can rouse their emotions than to those who remain calmly imperturbable. What conception of the good, they ask, justifies this? "Are citizens to be made 'less than equal' just because the issue being voted on

is one on which they do not happen to feel strongly?"[89] Provocatively, these writers go on to wonder whether it wouldn't make more sense for electoral machinery to take account of other differences among voters as well, such as differences in knowledge (should one equate a strong preference based on knowledge with a strong opinion based on ignorance?) or, perhaps, altruism (should one equate self interested intensity with intense compassion?).

Intensity, in sum, may be an inviting siren. Against the initial allure we need to balance the difficulties. Intensity may measure temporary and perhaps irrational states that many people, upon reflection, would rather leave officially unnoticed. Its measurement, by putting a premium upon an emotional state, encourages the production of that state in spite of adverse affects on stable government and ready agreement. Finally, and most importantly, the introduction of an intensity dimension attacks political equality in ways not permissable within the context of democratic theory.

These strictures apply only to official readings of political temperatures. They do not operate upon unofficial manifestations of intensity such as those revealed by bargaining processes. To give trading mechanisms their due, they explain some vote outcomes, particularly on policy questions where costs are the focus of controversy. Further, they acknowledge many aspects of political decisions (intensity of feelings, preferences, reciprocal relationships between the parties to the decision, and the obligatory rules of order under which the decision goes

forward). Whether or not they do so without violating political equality, however, is doubtful, for traders do not all start out with an equal stock of goods, all goods are not equally tradable, and everyone is not equally skilled at trading. (A contemporary philosopher, John Rawls, has suggested rules of justice, a basic social contract, that might overcome these objections, but his analysis involves more complex concerns than those registered by most economists and behavioralists who have viewed politics as the kind of calculus which, by analogy, matches the market place calculus.)

The very notion of quantifying interests has never been satisfactorily proved possible. The strongest adherents of quantification admit that all interests cannot be understood in numerical terms and merely plead that much public policy can be (and is) assessed in terms of quantifiable gains and losses.[90] Many, however, refuse to concede that important questions relating to meaningful values lend themselves to numerical ordering, or that interpersonal comparisons of utility can realistically be made, or made to decide major policies. How can we rate our antagonism to slavery as compared to our dislike of machine production? Do I ever really trade my vote against war for your vote against free speech? What monetary compensations would equate and therefore neutralize my dismay over the pollution of a favorite waterway? How does one quantify a desire (e.g. to stay alive) and a duty (to defend the national shores from an invader) that happen to conflict? Do they both

count as preferences? Must we yield up the common sense distinction between them? As soon as one leaves the world of fiscal policy and capital improvement projects, the logrolling model loses much of its plausibility. Applications of the social contract idea to the formulation of day to day policy or to the selection of candidates for public office appears to overextend the idea of a bargain. The model's appropriate motto--everything is for sale, it's only a question of price - simply does not cover the full meaning of politics.

The recent spate of literature that has questioned both the viability and justification of majority rule on grounds of inutility or rational inconsistency has called attention to a number of interesting problems in democratic theory, but has not made out a very formidable case against the majority principle. Primarily, writers in this area have rightly pointed to the importance in political systems of facilities for correct reciprocal anticipations of responses. Sometimes, foreseeing reactions enables one to strike a bargain and prevent a choice between mutually exclusive alternatives from ever developing. Sometimes an understanding of the intensity of reaction to a proposal may lead to modification for the sake of minimizing the costs of coercion or for the sake of obtaining reciprocal cooperation at some unspecified time in the future. When people intend to work together in a common organization their need for accurate mutual knowledge and understanding must have high priority if their activity is to be other than counterproductive.

To the extent that majority rule implies consultation procedures, the opportunity to hear out all positions and through discussion reach sympathetic comprehension of what others prefer, what things they want, how strongly they feel about their desires, and what they are likely to do about their feelings, the concept adequately covers the problems suggested. As long as voters can reckon beforehand with the nature and intensity of the possible reactions to their vote, majority rule elections are sufficient to sustain theories of democracy. Mere voting can never be sufficient, but voting preceded by institutionalized deliberation may be sufficient and even efficient depending on the adequacy of the deliberation mechanism.[91]

The effort to represent opinion accurately, if recognized as only one of the purposes behind voting, can be accommodated by majority rule systems through discussion processes and through strategic planning. More mathematically exact electoral systems, although not incompatible with majority rule, need to provide for agreement as well as for representation if they are to be acceptable decision-making mechanisms. Voting, that is, has several purposes. It must register opinion, it must resolve conflict, and it must make joint social endeavors possible. Pure maximizing of satisfaction is deceptively attractive. Those who search for it, apart from social accommodation, have seriously misunderstood the nature of political man, misconstrued the nature of politics in general, and misconceived the requirements of democratic political equality in particular.

The majority principle does not yield easily to attack upon it based upon alleged weaknesses in methods of tabulating votes. Neither the need for coalitions or the possibility of deadlock, or the lack of intensity orderings convincingly frustrate the purposes of majority voting.

In summary, the meaning of majority hinges on the answers we give to a number of questions related to the suffrage. The list of eligible voters can never be all inclusive, but its exclusionary categories must meet standards of reasonableness and must not do violence to political equality. Respect for the "equal dignity of all" requires the acceptance of non-voting (no less than of voting) in non-coercive situations, but, it should be recognized, reductions in the amount of substantive formal agreement brings costs in the successful solicitation of voluntary compliance and cooperation, and leaves untapped too many of the human resources democracy was designed to bring into play. Acceptance, therefore, does not constitute approval, and policies to reduce non-voting are always very much in order. Adding up a majority of those who do vote can be accomplished in a variety of ways because the multiple purposes of voting are always imperfectly and differentially served no matter which of the known systems of counting are employed. So long as a given mathematical majority does not represent a distortion of opinion significantly greater than that yielded by alternative methods, it can be accommodated as a valid rendition

of the majority concept (provided, of course, that it does not break the constraints of political equality).

Many recent attacks on majority rule can now be seen to be wide of the mark. On the whole, current eligibility rules do not unfairly disenfranchise any important groups. The practice of counting a majority of those voting rather than a majority of the whole is defensible in spite of the cogency of the critique of non-voting. And the majority decision rule stands up well as a measuring device in situations of social choice because, although inaccurate in various respects, one kind of distortion is no more preferable than another and all alternatives are similarly flawed or, worse, cannot be employed where political equality operates effectively.

Where the rules provide for almost universal suffrage and officeholding, and exclude only in non-arbitrary ways, and where self-exclusion does not stem from coercion, and methods of counting do not skew results disproportionately to the distortion of alternative methods, the majority principle remains an appropriate decision device for democracies. But majorities must be understood only in the above senses; no brief is made for other ways of construing the term.

Footnotes - Chapter I

1. This is essentially Charles Beard's point in "The Fiction of Majority Rule," Atlantic Monthly, CXL (December, 1927), 831-836.

2. Ultimate justification of a possible theory of majority rule is left, for the most part, to be considered in Section III and is referred to in this chapter only tangentially and only when it seems unavoidable. Each problem, that is, is handled as far as possible on its own merits and within the most limited possible context.

3. For a discussion of early modern liberalism see Guido de Ruggiero, The History of European Liberalism, trans. R.G. Collingwood (Boston: Beacon Press, 1964), especially p. 52, and Frederick Watkins, The Political Tradition of the West, (Cambridge, Mass.: Harvard University Press, 1948), especially Chapters 5 and 6.

4. Watkins, op. cit. The controversy over the historical accuracy of the use of the term "enlightened despotism" discussed and analyzed by Peter Gay, The Enlightenment: An Interpretation (New York: Alfred A. Knopf, 1969), II, especially pp. 483-496 and pp. 682-689, does not, I think, affect the limited point made here.

5. The development of this idea in the United States is discussed by Louis Hartz in The Liberal Tradition in America (New York: Harcourt, Brace and Company, 1955) and by Willmoore Kendall and George Carey in The Basic Symbols of the American Political Tradition (Baton Rouge: Louisiana State University Press, 1970). See also J.G.A. Pocock, "Civic Humanism and its Role in Anglo-American Thought", in his Politics, Language and Time (New York: Atheneum, 1971) and The Machiavellian Moment (Princeton: Princeton University Press, 1975), Chapter XV.

6. For a discussion of rationality as a suitable measure of maturity for voting purposes see Carl Cohen, "On the Child's Status in the Democratic State", Political Theory, III (1975), 458-463.

7. Some psychologists tend to use a racial rather than a species standard as the common denominator of maturation, e.g., Norman L. Munn, Psychology (Cambridge, Mass.: Houghton Mifflin Co., 1946). Perhaps they are correct. But racial differentiation has become a complex and emotionally volatile matter the intricacies of which it does not seem necessary to explore here. For political purposes the points at issue are equally well illustrated by universally human criteria.

8. Jean-Jacques Rousseau, The Social Contract, trans. Willmoore Kendall (Chicago: Henry Regnery & Co., 1954), Chapter XI, p. 55.

99. For voting purposes married independence is assumed but not, interestingly, for all civic purposes as witness the well known exemption of married folk from the duty to testify about each other in a trial.

10. In New York State women may marry at age 14, but men cannot do so until they reach the age of 16. (Domestic Relations Law of 1909, as amended 1964, Chapter 19, Article 3, Section 15a in The Consolidated Laws of New York (Brooklyn, N.Y.: Edward Thompson Co., 1964).

11. For a quite different conception of the educational requirements for voting, see Francis Shrag, "The Child's Status in The Democratic State", Political Theory, III (1975), 441-457.

12. Cohen, op. cit.

13. E.g., Colonel Rainborough, Andrew Jackson. Even Aristotle's "he whom the shoe pinches" argument has been interpreted to indicate the sufficiency of uneducated but felt practical needs.

14. Cf. the occasional exclusion of anchorites, and some monks and nuns (Henry B. Mayo, An Introduction to Democratic Theory (New York: Oxford University Press, 1960) pp. 114-115).

15. The reasoning summarized here is deduced from the arguments made in court cases on voting rights. See Allen J. Hoover, "Students and the Vote," De Paul Law Review, XIII (1964) 278-286; John R. Schmidhauser, "Residency Requirements for Voting and the Tensions of a Mobile Society," Michigan Law Review, LXI (1963), 823-840; Harvard Law Review, LXXVII (1964), 574-578.

16. Evidence indicating that any self contained community within a community might be similarly regarded can be drawn from state constitutions many of which discriminate against transient soldiers stationed on army bases within the state on grounds much the same as those employed against students. The Supreme Court has recently struck down one such state clause claiming that the prohibition was too absolute and, by failing to provide soldiers with an opportunity to prove their local interests and commitments, unfairly discriminated against them in violation of the equal protection clause of the 14th amendment. Carrington v. Rash, 380 U.S. 89 (1965).

17. Discrimination on the basis of sanity rests clearly on questions of capacity so similar to those connected with age that no separate discussion appears necessary. The controversy over what constitutes sanity is real and important, but not, I think, germane here.

18. Sexual exclusion also pretty clearly rested on ideas already discussed such as the alleged inadequacy of female reasoning, woman's lack of emotional fortitude and stability, or the absence of sufficient female independence to allow formation of uncoerced ideas, etc.

19. Sheldon Wolin, unpublished manuscript, delivered orally, CUNY, 1972.

20. Cf. John Stuart Mill's argument in Representative Government (Everyman edition, E.P. Dutton & Co., 1919, 1936) for the payment of direct per capita taxes and for the disenfranchisement of paupers so that "everyone might feel that the money which he assisted in voting was partly his own and that he was interested in keeping down its amount" (pp. 280-281).

21. The argument based on independence is subject to the same sort of weaknesses noted in the case of children: some of the excluded are, in fact, independent, and many of the included less independent than those proscribed. But in the case of property, the independence it allegedly brings is not only thought to prevent coercion by private parties, but also to provide a shield between man and government, to give everyone an ability to resist official power. This line of thought figures prominently in the tradition of civic humanism discussed by J.G.A. Pocock in "Machiavelli, Harrington, and English Political Ideologies," in Politics, Language and Time, pp. 104-147. In the Soviet Union, where private power was viewed as the equivalent of exploitation, ownership of property, until 1936, disenfranchised the citizen (see Mayo, op. cit., p. 109).

22. Robert Brown, Charles Beard and the Constitution (Princeton: Princeton University Press, 1956). Bernard Bailyn, Origins of American Politics (New York: Alfred A. Knopf, 1968), estimates that as high as 75 percent of the adult white males were entitled to vote - more in some colonies, less in others (p. 87). Note further, Bailyn's comment (p. 100) that "There were no classes" in colonial politics, in the sense of economic or occupational groups whose political interests were entirely stable, clear, and consistent through substantial periods of time." According to Gordon Wood, The Creation of the American Republic 1776-1787 (Chapel Hill: University of North Carolina Press, 1969), p. 169, Pennsylvania suffrage requirements in 1776 consisted only of age, one year residence, and the paying of public taxes.

23. In Oceana a subsistence freehold sufficed for citizenship or, at least, arms bearing.

24. See, for example, the "Memorial of the Non-Freeholders of Richmond" (1830), reprinted in Political Thought in America, Andrew M. Scott, editor (New York: Holt, Rinehart and Winston, 1966), pp. 204-210, especially p. 206., Pocock, op. cit., p. 91.

claims that in England, too, Republicans accepted market property in lieu of landed property and did not view the market itself as involving relationships destructive of independence and responsibility.

25. See the dissents of Justice Black and Justice Harlan (joined by Justice Stewart) in Harper v. Virginia Board of Elections, 383 US 663 (1966).

26. The language echoes the Bible (as well as the rhetoric of the New Left). It appeals to men's feelings, to their spiritual and mystical dimension, in its call for a spontaneous, emotional sharing of experiences apart from any calculation of advantage.

27. This discussion makes no attempt to contribute to the philosophy of punishment as undertaken, for example, by G.W.F. Hegel in his Philosophy of Right, trans. Knox (London: Oxford University Press, 1942), pp. 69-73. It is concerned only with the more limited question of why voting rights and criminality have been connected, and might fall into place in a variety of philosophies of crime and punishment.

28. New York Election Law, L1949, #153, Article 7. Chapter 17, McKinney's Laws, The Consolidated Laws of New York, annotated, pp. 339-340.

29. The idea here is ancient. In celebrating the Passover meal described in the Old Testament, Jews have traditionally included as part of that service a series of questions asked by young people each of whom represents a different quality of character. Labeled "wicked" is the youngster who says you instead of we, for he thereby takes himself out of the group. This is the aspect of criminality to which certain modern writers refer when they claim that rapists and revolutionaries differ only in the level of their political consciousness (see, for example, Marshall Berman, The Politics of Authenticity, (New York: Atheneum, 1970), especially pp. 102-107).

30. McKinney's Laws, op. cit.

31. For a contrary view see H. Mark Roelofs, The Tension of Citizenship (New York: Rinehart & Co., 1957), especially p. 7.

32. I have made no effort to put forward conclusive proof of the historicity of this view of citizenship, but rather have used history as suggestive of a possible interpretation of the underlying basis of citizenship. The theory put forward here derives whatever persuasiveness it possesses from standards of reasonableness. These standards, I believe, do not violate, at least not flagrantly, either historical experiences or current common practices, nor do they cross swords with any notable philosophies of the democratic suffrage. Their justification, however, appeals to logic and justice, not tradition.

33. In the U.S. one recent Supreme Court decision addressed itself to the problem of differential interest in the political issues at stake in an election and, in its decision, apparently denied the possibility of distinguishing interest and non interest precisely enough to nullify the constitutional guarantee of equal rights. All potential voters, on the majority of the court's showing, have an interest in all public questions and, consequently, no discrimination among the electorate on the basis of interest in the matters on the ballot will be acceptable to the court. The case, Kramer v. Union Free School District, 395 US 621 (1969), involved a plaintiff suing for the right to vote for school board members although he was a single man who neither rented nor owned property in the school district where he resided with his parents.

34. Angus Campbell, Philip Converse, Warren E. Miller, Donald Stokes, The American Voter (New York: John Wiley & Sons, 1964) pp. 60-61. But compare Anthony Downs on inconveniences and the costs of voting, An Economic Theory of Democracy (New York: Harper and Brothers., 1957), p. 266.

35. V. O. Key, Jr., Politics, Parties, and Pressure Groups, 5th ed. (New York: Crowell, 1964).

36. Giovanni Sartori, Democratic Theory (New York: Frederick A. Praeger, 1965), p. 89.

37. Ibid., Chapter 5. For a similar view, cf. David Spitz, Democracy and the Challenge of Power (New York: Columbia University Press, 1958).

38. Sartori, op. cit.

39. See Downs, op. cit.

40. Mill, op. cit., p. 208.

41. Charles Seymour and Donald Paige Frary, How the World Votes (Springfield, Mass.: C. A. Nichols Co., 1918), p. 15.

42. Bernard Berelson, Paul F. Lazarsfeld, and William McPhee, Voting (Chicago: University of Chicago Press, 1954). For a similar analysis see Lester Milbraith, Political Participation (Chicago: Rand MacNally, 1965).

43. David Hume, A Treatise of Human Nature, ed. L.A. Selby-Bigge (1888, London: Oxford University Press, 1951).

44. Herbert Tingsten, Political Behavior (Totowa, New Jersey: The Bedminster Press, 1963).

45. Francis G. Wilson, "The Inactive Electorate and Social Revolution," Southwestern Social Science Quarterly, XVI (1936), 73-84.

46. Erich Fromm, Escape from Freedom (New York: Rinehart & Co., 1941).

47. Robert E. Lane, Political Life (New York: The Free Press, 1959), Chapter 11. Almond & Verba, op. cit., Chapters VI, VII and VIII.

48. Paul F. Lazarsfeld, Bernard Berelson, Hazel Gaudet, The People's Choice (New York: Duell, Sloan & Pearce, 1944), pp. 56-64; Angus Campbell, Gerald Gurin, Warren C. Miller, The Voter Decides (New York: Row, Peterson and Company, 1954); Seymour Martin Lipset, Political Man (New York: Doubleday & Co., Anchor Books, 1963), pp. 211-229.

49. Gabriel Almond and Sidney Verba, Civic Culture (Boston: Little Brown & Co., 1965), p. 49.

50. Lipset, op. cit., pp. 224-225.

51. Almond and Verba, op. cit., Chapter III.

52. Lane, op. cit.

53. Schattschneider, op. cit., p. 71.

54. Heine Eulau, "The Politics of Happiness", Antioch Review, XVI (1956), 259-264.

55. Walter Dean Burnham "The Changing Shape of the American Political Universe," American Political Science Review (1965), 27.

56. Habermas argues that the depoliticazation of the masses is itself one of the inevitable tendencies built into the organization of modern societies. See, for example, Toward A Rational Society (London: Heinemann, 1971), especially Chapter 6.

57. Robert Paul Wolff, The Poverty of Liberalism (Boston: Beacon Press, 1968), pp. 84-121.

58. Schattschneider, op. cit., p. 105.

59. Ibid., p. 108.

60. Peter Bachrach and Morton Baratz, "Decisions and Non-Decisions: An Analytical Framework" American Political Science Review, LVII (1963), 632-642.

61. Peter Bachrach, The Theory of Democratic Elitism, a Critique (Boston: Little, Brown & Co., 1967), p. 78.

62. Richard Merelman, "On the Neo-Elitist Critique of Community Power," American Political Science Review, LXII (1968), 451-460.

63. Steven Lukes' interesting attempt, Power: A Radical View (London: Macmillan, 1974), to rescue non-decision theories (by deducing the presence of spurious consensus from empirical evidence which provides relevant "counter-factuals" to the ongoing situation) does not seem to me to be successful. The assumption behind his work is that there are things people objectively need about which there can be no reasonable dispute (a proper "three dimensional view of power," he says, enables us to locate those needs even when people do not lay claim to them). I doubt that there has ever yet been in human history a major policy about which reasonable men could not and did not disagree. The notion that science, empirical investigation, yields incontrovertible policy directives goes back once again to Marx's denigration of politics and its ultimate reduction to the administration of things". Lukes (like the neo-Marxist Barrington Moore) cannot believe that good men, uncoerced by the powers that be, and no more the victims of ignorance or "socialization" than their critics, can hold disparate views on, for example, air pollution in Gary, Indiana. U.S. Steel, he claims, citing Crenson's study, exercised institutional power to prevent local citizens from expressing their "real" anti-pollution preferences. The alleged proof of this assertion is the presence of air pollution programs in other cities where a large company with a large stake in maintaining pollution does not exist. Lukes does not recognize that this requires us to believe that all people would give primacy to avoidance of air pollution except business executives who would eagerly sacrifice their own lives and those of their wives and children for the sake of greater corporate profits. Are we to believe this on the ground that everyone always conceives of his interest, consciously or unconsciously, whether he acts or fails to act, solely in terms of his monetary stake? (If a strict economic determinism prevailed, and if we could equalize information, then all votes would be predictable and elections superfluous). I remain convinced that so-called "counterfactuals" are not just difficult to locate but impossible to agree upon; insofar as politics is based on agreement therefore, "real" interest theory remains inseparable from elitism, from a paternalistic attempt to impose one person's judgment on another.

For a criticism of Luke's position in terms of wider issues, see "On Three-Dimensional Power", Barry Hindess, Political Studies, September 1976, pp. 329-333.

64. Samuel Johnson, lines added to Oliver Goldsmith's "The Traveler," quoted in James Boswell, The Life of Samuel Johnson (London: Oxford University Press, 1960), p. 355.

65. Downs, op. cit.

66. Lane, op. cit., p. 338.

67. For a defense of the logic (not the ethical implications) of this proposition, see the contention of Robert Dahl that majority rule "applies to individuals with preferences and not to individuals without preferences." Robert Dahl, Preface to Democratic Theory, (Chicago: University of Chicago Press, 1956), p. 39.

68. Rapport Supplementaire, no. 4625 (Baretz), Chambres des Deputes, 1937, referred to in Herman Finer, Theory and Practice of Modern Government (New York: Henry Holt and Co., 1949), pp. 553-554.

69. Dahl, op. cit., pp. 39-42. See also James M. Burns, The Deadlock of Democracy (Englewood Cliffs, New Jersey: Prentice Hall, 1963).

70. Downs, op. cit.

71. Kenneth Arrow, Social Choice and Individual Values, (New York: John Wiley and Sons, 1964), p. 3, n. 3.

72. See Robert Dahl and Charles Lindblom, Politics, Economics, and Welfare (New York: Harper and Brothers, 1953).

73. For some reason that is not clear to this author, economically oriented writers such as James Buchanon and Gordon Tullock apparently believe that the choice between an organic conception of the collectivity and atomistic individualism is exhaustive, and they do not consider the possibility of other positions. See, for example, The Calculus of Consent (Ann Arbor: University of Michigan Press, 1962), p. 13, and, on page 32, the following comment: "Except for the acceptance of some organic conception of the social group and its activity it is difficult to understand why group decisions should be directed toward the achievement of any specific end or goal." Cf. Downs, op. cit., pp. 160-161.

74. Cf. Buchanon and Tullock, op. cit., p. 37. "When uncertainty exists due to the impossibility of reciprocal behavioral prediction among individuals, it may be reduced only by agreement among these individuals." All political systems, even dictatorships, depend to some extent on correct reciprocal predictions of behavior and there are, of course, a number of ways to achieve the necessary knowledge including besides agreement, spying and, more optimistically, discussion. See also Downs, op. cit., p. 14, n. 14.

75. Robert Paul Woff, Anarchism (New York: Harper and Row, 1970), p. 59.

76. See my "Paradox Lost - Majority Rule Regained," Ethics, LXXXIV (1973), 48-50.

77. Influential works advocating proportional representation include Thomas Hare's Treatise on the Election of Representatives (1859), whose scheme was publicized by J. S. Mill in Representative Government, and Thomas Gilpin's On the Representation of Minorities of Electors to Act with the Majority in Elected Assemblies which appeared in America in Philadelphia in 1844. Strenous objections to proportional representation have been raised by Ferdinand Hermens, Democracy or Anarchy? (Notre Dame: The Review of Politics, 1941). A summary of many of the major arguments, for and against, can be found in Alfred De Grazia, Public and Republic (New York: Alfred A. Knopf, 1951).

78. Hardy Lee Wieting, Jr., "Philosophical Problems in Majority Rule and the Logrolling Solution," Ethics, (1968), 85-101.

79. Expositions of this view can be found in Buchnan and Tullock, op. cit., Downs, op. cit., Benjamin Ward, "Majority Rule and Allocation," The Journal of Conflict Resolution, V (1961), 379-389, and J. Roland Pennock, "Majority Rule," International Encyclopedia of the Social Sciences.

80. Dahl, op. cit., pp. 39-41.

81. Buchanan and Tullock, op. cit., p. 134.

82. Ibid., pp. 134-135.

83. Ibid., p. 255.

84. Elias Berg, Democracy and the Majority Principle (Stockholm: Scandinavian Universities Press, 1965), pp. 181-182.

85. Willmoore Kendall and George Carey, "The Intensity Problem and Democratic Theory," American Political Science Review, LXII (1968), 15. See, contra, Dahl, op. cit.

86. Dahl, op. cit., p. 90.

87. Kendall and Carey, "The Intensity Problem..." op. cit.

88. Berg, op. cit., pp. 80-82.

89. Kendall and Carey, "The Intensity Problem..." op. cit.

90. Buchanan and Tullock, op. cit., p. 22: "In the context of a limited government devoted to the passage of general legislation applying, by and large, to all groups, the development of an individualist and economic theory of collective choice is perhaps not of major import. However, when the government machinery directly uses almost one third of the national product, when special interest groups clearly recognize "profits" to be made through political action, and when a substantial proportion of all legislation exerts measurably differential effects on the separate groups of the population, an economic theory can be of great help in pointing toward some means through which these conflicting interests may be ultimately reconciled."

91. Refusal to consider discussion as a part (much less an indispensable part) of democratic theory leads behavioralists to some curious positions. They end up claiming that democracy must involve large doses of uncertainty, uncertainty causes irrationality, and, therefore, democracy is inherently irrational. Or, it is alleged, obtaining information has costs, people naturally shirk costs, without information individuals cannot see to their interests, and, therefore, democracy does not reflect the real consent of the governed. See, for example, Downs, op. cit., p. 236.

Chapter II

CONSTITUENCY

If by majority people mean something other than a majority of the whole world, on what basis are divisions made? How ought they to be determined? What purposes are, or ought to be, served by political segmentation?

The clarity of the term "majority" increases once we successfully join it with conceptions of eligibility and with specified ways of counting. But suffrage lists can only be compiled and voters aggregated within some defined area. Majorities, therefore, must be conceived as entities which form and come to prevail in some particular space (and time).[1] But why in one place rather than in another? What justifies boundary lines?

I

There is a sense in which the very idea of districting subverts the concept of a majority.[2] As soon as any representative is chosen by a method other than at-large voting in a single unit the results of the election will depend, to some extent, on the distribution of voters. Even when the pros and cons scatter themselves fairly evenly within each and every district, the laws of chance militate against perfectly congruent arrangements, and there is little hope that the majority in one

constituency will be precisely the same size as the majority in another. Representatives thus do not and cannot represent the same number of people or reflect with precision the relative strength of all opinions. This, of course, gives rise to the suspicion that political equality is violated whenever districts are utilized. Worse, since (as indicated in Chapter I) individual decisions are always social decisions dependent, in part, on the desire for cooperative ventures, the need to reach agreement, and strategic considerations involving the lay-out of preferences, individual choices inevitably involve a calculation of the presumed spatial pattern of votes.[3] The uneveness of opinion distribution in this way becomes an integral part of the whole voting procedure. "It is demonstrably impossible," Robert Dixon, Jr. has pointed out, "to arrange districts of equal population under which no groups or political parties are especially advantaged or disadvantaged."[4] There is, therefore, at least a prima facie case for thinking that democratic majorities are simply incompatible with district representation of any sort.

Such a conclusion, it might be argued, violates our intuitive understanding. People do not feel unequal in a politically relevant way simply because they live in different electoral districts which exhibit varying clusters of opinion. The disparity here demands further examination of exactly what voting can accomplish. "One cannot speak of 'debasement' or 'dilution' of the value of a vote until a standard of reference is first defined as to what a vote should be worth."[5] We need to be aware, in other words, of competing philosophies of representation in

order to understand better what votes can and do signify. Only with such significance firmly in mind can subdivisions for representative purposes be evaluated.

The Concept of Representation

A representative assembly, said Mirabeau, should be a "carte reduite", a map to scale of public opinion, a working model of the will of the people.[6] In this theory what a representative does, symbolically, is stand for his constituents who are not literally present. He makes present whatever it is that properly describes his electors. He is their mirror image. This is the fundamental principle behind proportional representation.[7] The representatives are viewed as a sample of the populace. As Hanna Pitkin points out in her extensive analysis of descriptive representation,[8] emphasis is placed on participation in deliberation rather than on governing. Legislative majorities are viewed as instruments of representation, not necessarily as instruments of action. From this perspective other elements associated with the idea of representation tend to disappear. Mirrors, after all, present, not re-present: nothing is absent which needs to be shown. But "represent" suggests the giving of information not otherwise available; it suggests an activity of some sort, a kind of substantive acting for others which can be done well or badly.

Whether thought of primarily as a subordinate deputy or a responsible trustee, as preeminently independent or in the service of a mandate, it is almost always the case that an

elected legislator is also customarily regarded as one who, in some sense, brings to bear on a question before him his considered judgment. If this is so, then representing does not mean mechanically weighing set positions. It involves deliberative action. But that action is of a specific kind. It is neither the movement of a puppet nor of a totally free agent. Rather it is a mixture, a restricted freedom guided by a number of possible considerations.

A decision may reflect the representative's sense of himself as a broker for his constituents, as someone formally authorized by them to mediate their diverse demands before committing them in certain specified ways, as someone subordinate to their wishes, an employee responsible only for using his broker's skill to carry out his employer's instructions. Or, a decision may reflect his sense of himself in a fiduciary capacity, elected by his constituents to look after their interests, bound by his duty to serve them, but free within those bounds to maneuver, and consequently to be responsible for his own decisions. These considerations, these possible different emphases, add to the term representation in two ways.

1. Authorization. First, alongside the idea of "standing for," representation entails the notion of a formal authorization to act, of a legal agency that may set limits to what a representative can do yet still enables him to make commitments and incur consequences for others. A people's willingness so to authorize anyone has considerable significance. It can be thought of as

an expression of their desire to integrate and harmonize their multifarious and discordant wills. Or, as in Hobbes' Leviathan it may be thought of as an act which, at least in part, established their unity and provides a necessary ingredient for effective sovereignty. What an authorized person does, e.g., his reduction of choices and his resolution of conflicts, apparently joins with responsiveness to popular preferences as part of the substantive content of the activity called representation.[9] Differences, A.D. Lindsay has suggested, are represented in order to achieve some common purpose, be it maintenance of individuality without a war of all against all, or the benefits of a project requiring cooperation.[10]

Thus representation can be seen to have a specific substantive content. It needs to be viewed as an activity designed for social purposes: it must enable individuals to register their preferences, and it must also enable collectivities to settle differences among their memberships. The goals of representation are neither individualistic nor communitarian. They encompass basic needs of individuals who must accommodate themselves to each other. This, of course, is but a way of looking at the Hobbesian notion of sovereignty, of Hobbes' belief that no society can exist without an authorized wielder of ultimate power.[11] Hobbes' operative sovereign, in a democracy, is the elected representative (or the elected representative assembly as a whole). The people as a whole exercise sovereignty only insofar as they agree to authorize an agent or agents.[12]

James Madison, in Federalist No. 10, makes a further argument for the necessity of representation. He suggests that

an assemblage of citizens directly administering government, cannot rule justly because (in part) immediate passion will predominate, and weaker factions and individuals will be unable to protect themselves. Direct action, he implies, has the disadvantage of sweeping us up in a clapping, chanting, marching crowd, or letting our minds be carried off on waves of emotion stirred by rhetoric. Without the mediation of leadership, men are susceptible to temporary foolish fevers. Less able or courageous men, he might have added, in the presence of employers, mothers-in-law, or hooting neighbors, are particularly unlikely to be able to pursue their interests adequately. Representative government, Madison concludes, may express better and more accurately than does "pure" democracy both individual and community preferences.

Madison goes on to argue that there is yet another advantage to representative procedures. In the small groups required by direct action, he says, one interest may so predominate as to overwhelm minorities. The control of majority tyranny, Madison believes, depends on diversity. The argument would hold, it seems to me, even if direct action, thanks to electronic devices, could be introduced into large groups. For what is missing in direct action are mechanisms for discussion by spokesmen for various positions and time for bargaining among those positions by those spokesmen. This is not necessarily an elitist position, but only a recognition that statesmanship, like violin playing, requires certain talents which all may judge and all may learn to judge adequately, but which all will

never possess or choose to develop in themselves. Leadership and popular sovereignty are not incompatible. Representation, therefore, suitably and perhaps more ably than any alternatives, expresses the desire for the exercise of sovereign power that voting is designed to elicit.

2. Interests. Voting, however, involves a second sort of consideration. A representative's own possible view of himself and his work also brings into play the concept of interest. Those who authorize his activity consent to his exercise of their rights on their behalf, or in their interest. For the purpose of analyzing representaion a number of distinctions about interests need to be kept in mind.

a. Individual Versus Social Interests.

"Interest" has been used, for example, to refer to the welfare of individuals and also to the welfare of groups. It is, therefore, not clear when we talk of a representative acting in the interests of those who elected him whether we mean the electors considered as discrete beings or as aggregations of individuals such as those who comprise a political party or a labor union or a church. Are the interests with which a representative is concerned individual or social? What are the demands of individuality and sociality in this context?

Consider one answer to these questions suggested by Edmund Burke. In his judgment, man is so completely a social animal that only corporate interests can adequately represent his being. Burke believed that the claims of individual interest most often

stem from a doctrine of natural rights, and since "by nature there is no such thing as politic or corporate personality... men as men are individuals, and nothing else" and, therefore, either every man ought to govern himself or send his personal representative where he cannot go.[13] Burke countered this modern version of natural rights with a more Aristotelian conception of natural ends for mankind, and claimed that with regard to these ends "The individual is foolish...but the species is wise."[14] As part of a species, Burke argued, "We have obligations to mankind at large which are not in consequence of any special voluntary pact. They arise from the relations of man to man, and the relation of man to God, which relations are not matters of choice."[15] The source of these relations lie in "physical causes, unknown to us, perhaps unknowable," which, however, give rise to moral duties that "as we are able perfectly to comprehend, we are bound indispensably to perform."[16] The web of social ties begins, he says, with marriage, is extended by parenthood and, spinning out of these physical relations, other elements of social order such as community and commonwealth come into being. One's place in the ongoing social state into which one is born determines one's obligations and thus no man can call himself free, possessed of an unrestrained will.

> I cannot too often recommend it to the serious consideration of all men who think civil society to be within the province of moral jurisdiction, that if we owe it to any duty, it is not subject to our will. Duties are not voluntary. Duty and will are even contradictory terms."[17]

For Burke, then, a man's interests are defined by his duties, not merely by will. Limiting obligations arise from inevitable, allegedly natural human associations (including, for Burke, a natural aristocracy), and these social arrangements become fixed by habit and history in particular forms whose justification is their practical efficacy over time.[18] In Burke's analysis, interest attaches to communities of interrelated beings and consists largely of the duties and obligations of group life within a particular tradition. Individuals (except, perhaps, for the natural preeminence of some) have no standing. They are inextricably caught up in a social fabric which they can adjust but not altogether change.

John Stuart Mill's account of what it means to be human contrasts notably with the Burkean view. It is not that Mill or other major proponenets of liberalism deny the interdependence of men, or fail to acknowledge that men are the products of their society, or denigrate the social obligations that flow from life in community. Those who have accused liberals of postulating an atomistic creature are simply mistaken. Mill's essays on Bentham and Coleridge amply illustrate his appreciation of man's debt to communal history, to culture, to language, to social union; and the very title of his famous chapter on individuality in On Liberty reveals his awareness of the force of group claims: "Of Individuality, as one of the Elements of Well-Being." (Italics added)[19] So, too, with others who followed Mill's lead. A.D. Lindsay coupled democracy and

socialism,[20] John Dewey argued the importance of group feeling and commitment,[21] Robert MacIver wrote extensively about the nature of community and its importance in political life.[22] And all major liberal writers have consistently emphasized the fact that men have interests in common and that consequently politics must be constructed, in part, on this recognition.[23] What separates liberal doctines from those of Burke are not these matters, but stress, priorities, and insistence on the centrality of conflict in human affairs.

Liberals do concentrate on the individual and his potentialities. They see there the possibilities for growth, for creativity, for self-development. And in these qualities they find the highest values.[24] To some extent these qualities indicate that activity which is part of happiness itself; to some extent they are the means to happiness, the means of contributing to society, of solving the problems of the times, of enlarging the general capacity for self-fulfillment. Society, in turn, is worth having because cooperative endeavor can alone provide for and nurture and protect these valued qualities of individuals. Man is the measure. The common good safeguarded by the state is defined by A.D. Lindsay, for example, as the maintenance of individuality, the promotion of each developing his own personality.[25]

One of the grounds for treating each unique personality as an end in itself, separate from its role as a part of various social entities, has to do with a certain conception of knowledge.[26] Each man (as well as each group of men) views the universe from an unavoidably skewed angle. The nature of the knowability of

knowledge thus limits man and excludes certainty from his world. Situated differently in terms of status, wisdom, geography, profession and so forth, no person can fully perceive the interests of another; differing judgments of interest are thus inevitable. Man's sociality does not eliminate his individuality, and political life must recognize both what he shares with others, and what is uniquely his own. In liberal thought, a collectivity's interest claims, rest on each man's acknowledgment of his social debts and involvements, and his consequent consent to whatever decision-making procedure he deems appropriate to handle the conflicts of claims that must arise. Differences, therefore, between autonomous views and views requiring accommodation with others find recognition. The latter may win high praise, but never exclusive sway.[37]

These doctrines eliminate the possibility that interests can be adequately understood solely in corporate terms. But they leave open the question of whether or not that portion of interest that is shared and non-conflicting can be corporately expressed. Liberal literature, in its concerns for safeguarding the individual, tends to neglect extensive discussion of how common projects might adequately operate. Representation of interests, as that term is used by Burke, requires intermediary associations between voters and legislatures. The liberal concept of interest may or may not include group carriers of interest, but, at minimum, it does demand instead of, or in addition to, voters counted as unique individuals.

For the purposes of this study it is not necessary to pursue further the issues embedded in the individual-social dichotomy. But the points already raised should serve sufficiently to indicate that the two views adumbrated above are not wholly incompatible. The interests of a single person may have both a social and an individual dimension.

This, surely, is what has been meant by proponents of "enlightened self-interest" or "self-interest rightly understood." Social-regarding self-interests make perfectly good sense.[28] In fact, in political affairs most relevant interest would fall into this category, at least insofar as choices always involve accommodation with others. It may be painfully against my egoistic interest to take a cut in my pay as a Professor. Yet, I may well vote to do that in order, in a financial crisis, to save the jobs of my colleagues and thus to preserve the strength of my University. Any view of my interests which overlooked this attitude would misread my conception of my interests. This case does not (necessarily) involve benevolence, but only self-satisfaction. Strong universities simply rank higher on the list of what would benefit me than stable income. Nothing in the theory of democracy (i.e., nothing in the combined notions of popular sovereignty and political equality) excludes the idea of representing both individual and social dimensions of interest, or proscribes all ways in which these two aspects of man may be taken account of in representative institutions. The weights a particular democracy assigns to the importance of either aspect will simply vary with the general established political orientation.

In constructing constituencies for representative purposes some attention, therefore, must be paid to both aspects of man. A constituency exclusively directed to one or the other would fail to represent people in an adequate way.

b. "Real" Interests.

Representation of "interests" involves yet another problem. Hobbes spoke of a man's "apparent" interest, Plato of his "real" interest.[29] Hobbes based his usage on the non-existence, or non-operativeness, or unknowability of the nature of the good, and the consequent need to work with whatever desires men choose to believe or call good. Plato can be understood as arguing for the objective reality of the good and for a politics based on the best obtainable conception of it. That dispute cannot be examined here.[30] But perhaps it will suffice to suggest that even if a case for the identification of "real" interest can be constructed, the idea of political equality precludes its implementation. For political purposes, no one in a democracy can substitute his alleged wise judgment for that of another's allegedly unwise judgment. Exhortation is as far as the holder of a claimed truth may go. Coercion must always be a product of consent. The recent spate of literature attempting to bypass this democratic requirement and to establish ideals without establishing an aristocracy to enforce them has not yet successfully reconciled "real" interest and political equality.[31] We can continue, therefore, to assume that all derivatives of Platonism, however interesting or praiseworthy, remain outside

the purview of democratic politics and cannot be embraced by any system of democratic representation.[32]

Up to this point then we have argued that constituencies can only be accepted if they produce a justifiable sort of representation. Representation, in turn, must be understood to involve not only a descriptive and symbolic element, a map of opinion, but also an authorization to act, to take part in a semi-free activity on the behalf of others. This activity, although not easily elucidated, apparently includes recognizing conflicting interests, arranging alternative courses of proceeding given the layout of the conflicts, and eventually participating in the choice of a fair resolution of the problems so that a heterogeneous group of people can function as a single unit. The interests involved must be understood subjectively, not objectively; they must be held by individuals and, perhaps, may be carried by groups as well; and, finally, they must include both individual and social values and obligations.

How then does one person, in the senses adumbrated above, represent another? How might elements of descriptive, ascriptive, symbolic, and interest-centered representation combine in one activity? A. Phillips Griffith has suggested what I find an appealing answer. He has suggested that the absent quality which a legislator makes present is his constituent's concern for justice.[33] After hearing out all views, a representative studies the diverse claims and attitudes and makes a judgment about what ought or ought not to be done. In the legislative discussion process he puts forward his consti-

tuent's point of view. He listens to others with the attention his electors would wish to bring to bear if they were present. And then he does something which is uniquely his own-- he makes a judgment. In a campaign for election, he may use his stand on issues or his personal characteristics to convince voters of the rightness of what justice looks like to him. As a legislator he then brings that sense of justice to bear. He weighs local concerns against national concerns just as any individual might weigh his own welfare against his family's welfare. He performs, in short, all the motions recognizable in an individual act of justice

Citizens, as individuals, have neither the time nor the energy to make all the assessments of public affairs necessary to the performance of such activity; nor, outside of a deliberative assembly, do they have the necessary information. A representative appears to be one of the specialists produced by an efficient division of labor. In this role he may lead (i.e., develop positions, promote the supremacy of this or that value, assign priorities to public matters, and so forth) or he may follow (reflect the positions already held by his party or by his constituents as revealed in communications to him or in public opinion polls). As with most people, his final judgments probably involve a bit of both: his decisions incorporate the dictates of his conscience, his information, his responsibilities, his commitments, his desires, his bargaining abilities, and his calculation of consequences. A concern for political justice, even if tied to some general orientation, always means something more than the mere sum of one's political opinions. Thus, if

a conception of justice authoritatively brought to bear on a decision made at the end of a discussion process into which the electorate's views have been injected is what constitutes representing others in politics, then the function of a legislator is more complex than the old mandate versus independence or descriptive versus ascriptive controversies suggest. It is this more intricate theory of representation that needs to be kept in mind when attempting the analysis of the subdivision of the world into constituencies designed to provide for the representative function. Subdivisions, in order to be justifiable, must meet the standards required by the purposes of representation. We now need to examine traditional types of constituencies to see if they do, in fact, measure up.

II

The political division of the earth for representational purposes has taken place largely within independent countries, not between them. A theory of democracy, however, and an analysis of majority rule as an appropriate decision-making mechanism for a democracy, ought (ideally) to be as applicable to world governments as to national governments, and ought (ideally) to take cognizance of the fact that the nation-state has not always been the predominant governmental unit and may not be so in the future. But since we live, now and in the forseeable futere, in the age of the nation-state, the analysis here will be limited to the meaning of majority within the nation-state.

Within each country the basic unit of representation to the major lawmaking body has been founded on geography, or corporate groups, or numerical aggregates of individuals. These three traditional answers to the question of where majorities ought to be based need close inspection.

Corporate Constituencies

The most extreme form of the argument for interest group constituencies rests on the idea that isolated men, as such, have no views. Social justice, on this showing, is a matter of interrelatedness and can only be represented by those who function within a group context.[34] Democratic literature does not contain any prominent, explicit defense of this position, although the works of several writers imply such a theory (e.g., Arthur F. Bentley and David Truman).[35] Usually, the statement of this point of view appears in more moderate form. Burke, for example, would insist that "single, unsupported, desultary, unsystematic" endeavors get nowhere and abandon the field to those who have the foresight to unite. Since only organized action can be effective action, society's interests can only be represented where men, tied by common principles, work together, striving amid all the connections of trust and association.[36] Corporate representation, here, is both an explanation of how men do function politically as well as a normative statement about how they ought to operate. Free men form groups as a matter of course in order to promote desired results. Insofar as they effectively articulate political positions, individuals

do so as members of churches, classes, unions, P.T.A.'s, and so forth.

G.D.H. Cole is one major writer who, at least early in his career, seriously proposed the organization of constituencies on purely functional lines.

> "The essentials of democratic representation," he felt, "...are first, that the represented shall have free choice of, constant contact with, and considerable control over, his representative. The second is that he should be called upon, not to choose someone to represent him as a man or as a citizen in all aspects of citizenship, but only to choose someone to represent his point of view in relation to some particular purpose or group of purposes, in other words, some particular function. All true democratic representation is therefore functional representation."[37]

He touted representation through interest groups because allegedly it makes constituency influence or control of the representative more direct. Further, by not requiring each citizen to sort out his whole philosophy of life, a functional system divides up a person's interests for him, gives him a chance to choose meaningfully, and enables him to be more effective. Politics becomes clearly relevant to those activities in which a voter actually participates and thus political choice relates to his work or life-style, to his more immediate experiences.[38]

Perhaps the most sophisticated argument for functional representation was made by John C. Calhoun, and on grounds quite different from Cole's. Calhoun made his case in the name of constitutionalism, of limited government, and of minority rights. A perfect democracy, he said, would be one embracing the consent of every member. Because of its

impracticability, a substitution for this ideal is necessary. Some, mistakenly, accept the numerical majority in lieu of the whole. But others, correctly, look to interests as well as numbers and recognize that the community consists of different and conflicting orders whose majority more fairly represents the will of the people than does the numerical majority.[39]

Like all constitutionalists, Calhoun mistrusts absolute power no matter where it is lodged. Government can be vouchsafed the ability to act only when its actions can be carefully circumscribed; without limits, controlling individuals or classes will plunder and aggrandize for their own welfare. Institutional checks on governmental power are not sufficient to counteract abuse, Calhoun claimed, because a strong, organized majority party can erode all restraints, capture all independent departments, and, eventually, if required, support a loose construction of the initial confining written constitution to achieve its ends and convert the government to one of unlimited powers.

The failure of institutional checks and balances to provide adequately for minority rights is equalled by the similar failure of right principles and right men. Good men are insufficient for the same reason government is necessary at all, Calhoun argues; and an appeal to the safeguard offered by adherence to proper principles (e.g., universal suffrage, a free press, education) similarly cannot supersede the grasping nature of man nor harmoniously integrate the diverse interests which produce conflict.[40]

No minority can consistently elude oppression, Calhoun concluded, unless invested with the power to protect itself. He proposed, therefore, that individuals be represented through the groups in which they hold membership, and that each group be granted a veto power over any proposal within its area of concern.

Calhoun defended his scheme from the charge that it would produce stalemate by pointing to the ability of juries to arrive at unanimous decisions under the compelling pressure to reach a verdict. Majority rule, Calhoun contended, depends on force, on the strength of the majority, whereas groups possessed of a negative veto would voluntarily achieve harmony prodded solely by the desire for a common result. The carrot of mutual agreement would replace the stick of preponderant power.

At least one state has flirted with a system such as Calhoun's,[41] but no democratic nation has actually adopted one. Interest groups, where used at all, have usually served in government in some advisory capacity. The numerous difficulties with corporate representation suggest why this has been so.

The problems are legion. Some opponents have insisted that the increased consent Calhoun sought must come from consensus, and that a politics which builds primarily on conflicting interests instead of on the elements of common agreement in society dooms itself to civil war.[42] Other writers have pointed to the complexity of assigning votes on the basis of group associations in countries which contain a great many organizations of varying sizes and significance, and with overlapping memberships. Although Calhoun believed that even representation of a few major units would be better than none,[43] it is doubtful that functional

constituencies of any feasible number can be made congruent with political equality (at least not to the satisfaction of those involved).[44] The numerical disparity between notable minorities in a nation like the United States is so great that granting equal bargaining power to, say, Jews and Catholics would annihilate the concept of each man counting for one. Nor can we assume that groups are monolithic for each organization contains its own factions. Some groups, furthermore, exist only as a potential force, a possible association whose birth might be hindered or prevented by its non-recognition within a group-oriented politics.

Unlike proportional representation whose justification also stems from the desire to protect minorities (both latent and actual), corporate constituencies serve non-voluntary, fixed interests. One is a member of a subdivision not by choice but by virtue of one's income, or occupation, or racial identity, and so on. The claim for representation of the will of the people through agencies which they have not willed to join seems at best a tenuous one.

Insofar as the organs of representation envisioned by a Calhoun or a Cole arise from permanent interests, they call into play precisely the sort of politics that a James Madison most feared. Madison, in the Federalist,[45] expressed the hope that a free people would form shifting alliances, joining with this group on issue A and with that group on issue B. Interests in a large geographically extensive area of varied population would, he believed, be temporary ones. People would coalesce around policies of the moment. Organization on the basis of perpe-

tual interests, he worried, would either tear apart the fabric holding the heterogeneous nation together, or result in the tyranny of one faction over the others. He placed his bets on the unlikelihood of the formation of a politically viable eternal subdivision of the people, so long, at least, as each constituency remained large and suitably inclusive of a variety of interest groups, and so long as electoral rules required that majorities be fairly evenly distributed over a wide countryside.[46]

A system of constituencies, in Madison's formulation, ought to foster moderation and compromise or, in Griffith's terms, the will for justice. It ought to discourage, even if it cannot totally eliminate, the accumulation of power for unfair purposes that fail to take into account the wishes of all. Madison felt that size, diversity, and regional balance would discourage permanent majorities sufficiently to protect minority rights. A sympathetic reading of the empirical record in the United States bears out Madison's theory. Political parties and pressure groups tend to be locally based. Majorities tend to amass by means of ever-changing coalitions. No distinguishable, unified, coherent majority has ever captured total power for itself. Minorities have not been obliterated and have maintained some modicum of maneuverability. Pluralism, in this view, has combined with political equality and popular sovereignty so as to insure majority rule and, at the same time, inhibit majority tyranny. "Inhibit," it should be emphasized,

does not mean "eliminate." The United States did have a bloody Civil War, Blacks were long persecuted, Indian treaties abrogated, Mormon polygamy outlawed, and so forth. Majorities, especially overwhelming majorities, have tyrannized. The historical evidences of lapses into majority oppression of minorities seem to underscore the importance of Madison's concern. However, the fact that many of these oppressions have been mitigated over time, coupled with the fact that no one interest has emerged as the single dominant power in the country, also testify to the effectiveness of Madison's solution. Because Madison's arrangements have yielded far from perfect results, no one can be sanguine about powerful majorities. On the other hand, no one can help but be impressed by his brilliant understanding of the reality of diversity, and his utilization of this understanding to fragment power and modify the majority's sway.

The Madisonian position says something important about the possible nature of different kinds of majorities[47] and indicates, perhaps, a crucial normative ingredient of successful democratic constituency formation: the inclusion of diversity.

Intransigent bloc voting may not only endanger the stability of free states for Madison's reasons, but it also may intolerably cross pressure individual citizens. A woman might belong to a group which pursuing a goal of equal pay for equal work and believing the currently proposed equal rights amendment to the American constitution an asset worth having in that pursuit, endorses the proposed amendment. The same woman may be a waitress whose union worked diligently for years to secure

discriminatory working conditions that clearly benefit feminine restaurant employees, and her union delegate, therefore, opposes the passage of the equal rights amendment. Who truly speaks for the individual woman -- the sisterhood or the union? A unified will cannot always be obtained from multiple sources.

Because such examples can be endlessly multiplied the underlying theoretical difficulty needs to be stressed. The individual has many facets, but none of them ought to be substituted for or mistaken for the unified whole person. For certain purposes an individual may wish to have his union speak for him, or his church, or his family. All his various loyalties, however, must be weighted and ordered if he is to develop his own conception of social justice. That task only he can perform. No one can do it for him. No substitute for his judgment exists. And, as suggested above, political representation aims to bring to bear on group conflicts and projects precisely the particular conception of social justice arrived at by an individual. The representative embodies both an elector's orientation to justice and his will to see it enacted. Functional representation, because of its segmentary character, fails to fulfill the purposes of representation. It does not elicit what political representation seeks. It cannot provide for an individual a resolution of his conflicting desires nor for a priority ordering among them. Functional representation thus proves unsatisfactory on ethical as well as practical grounds. Not surprisingly, therefore, other bases for constituencies have been sought more frequently.

Constituencies of Numerical Aggregates

Constituencies based on interest groups fragment the idea of an individual. The whole person needs to be represented, some theorists have felt, and not bits and pieces of him. "Men," Robert MacIver wrote, "are not content to be represented simply as farmers or as engineers or as Anglicans or as lovers of music or any other art or recreation; they want also to be represented as citizens. Otherwise, the unity of their individual lives is unexpressed, no less than the unity of society."[48] Especially if the representative function is conceived as focusing on a concern for justice, the conception of right must flow from unified personalities and stand for that view of social justice a preponderance of them are willing to accept.

Pushing the argument even further, some have claimed that only individuals make judgments; groups do not possess minds and cannot exercise will except metaphorically. The radical individualism expressed here, "the doctrine that the individual is a self-determined whole, and that any larger whole is merely an aggregate of individuals, which if they act upon each other at all do so only externally,"[49] has an illustrious history. It is closely connected with the Renaissance glorification of man:[50] Machiavelli's virtu as the energy and force enabling each to overcome fortune and necessity; Rembrandt's moving portraits of unique characters; the Reformation's stress on each soul's direct relationship with God;[51] Montaigne's emphasis on personal achievement; Cellini's autobiographical celebration of individual talent. A release of human power from the shackles of tradition,

corporate structures, and hierarchical patterns once seemed to promise unending progress. Perhaps in reaction to the limiting communal arrangements of medieval society, the break-up of that life liberated initiative and gave everyone a heady sense of potential accomplishment. "What a piece of work is a man, how noble in reason, how infinite in faculties," said Shakespreare, catching the spirit of individuality which the Renaissance bequeathed to the modern age.

Nowhere is this legacy more apparant than in the legislative apportionment controversy that, over the past several years, has intimately involved the United States Supreme Court in the philosophy of representation. Chief Justice Warren harbored no doubts about the supremacy of a doctrine of individuality. "Legislators," he firmly pronounced, "represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests.... Citizens not history cast votes... to the extent that a citizen's right to vote is debased he is that much less a citizen."[52]

Warren regarded the political process from the viewpoint of the individual and his rights. Equal representation, the Court decided, is an individual right guaranteed by the American constitution,[53] and therefore the issue seemed unmistakably clear to him: "An individual's constitutionally protected right to cast an equally weighted vote cannot be denied even by a vote of a majority of a state's electorate, if the apportionment scheme adopted by the voters fails to measure up to the requirements of the Equal Protection Clause."[54]

Constituencies, for Warren, have nothing to do with consent, or accommodation, or collectivities, or interests. Districts are merely arbitrary groupings of people. Their design must fulfill the democratic requirement of one man, one vote, and apparently, no other criteria. In the wake of the original precedent-setting apportionment decision (Baker v. Carr 369 US 186, 1962), the Court has held invalid the bicameral Alabama legislature because while one house was based on equal population the other involved geographic considerations;[55] has denied the right of a majority of Colorado citizens to decide by referendum that they wish sparsely settled sections of their state to send representatives to the state legislature;[56] has sanctioned weighted voting to provide a remedy for inequalities in district populations thereby involving itself in some very dubious arithmatic;[57] and has sunk even deeper into a mathematical quagmire by basing its decisions on percentage deviations between districts (rather than, for example, average deviations) and reSorting to multi-member districts.[58] Those caught up in the dynamics of American politics, meanwhile, have continued to gerrymander, ingeniously varying their techniques so as to meet court strictures and still effectively continuing to deprive minority groups or parties of power or, at least, to advantage their own interests.[59] The upshot has been a serious reappraisal of their original position by many who initially rallied to the one man, one vote population standard. With the results bewailed by friends and foes alike, the diffi-

culty besetting constituencies based solely on equal numbers stands in need of careful examination.

One possible source of the trouble is the concept of equality itself. To treat people equally, Richard Flathman points out,[60] means to treat them in the same manner, according to some rule, to some standard which can be generalized and made universally applicable to all similar people similarly circumstanced. Equality as a positive normative standard depends, then on the empirical validity of assuming that large numbers of diverse men in their usual diverse situations can be considered so alike that their differences are irrelevant to the particular case to be decided, and that, therefore, to treat them equally is to treat them rightly. Since, however, most men are unequal in many ways, to decide to treat them alike is to choose one among several possible respects in which they might be considered and to elevate some points of comparison between them above other and competing points. Such a choice must be made (explicitly or tacitly) on the basis of a principle other than equality. Right and equality, as Flathman contends, are not equivalent terms. Unless people are alike in all respects that might affect the situation demanding action, one cannot decide how to proceed in a given instance without making a choice among relevant comparative aspects. And once that choice is made, some criterion other than the rule that people ought to be treated equally is utilized. Whenever generalized, in other words, equality becomes a derivative value, justifiable in terms of some other values, but insufficient by itself as a way of determining rightness or wrongness.

Not surprisingly, when seeking a political example to illustrate his argument about the derivative nature of egalitarian rules applied to any policy implementing those rules, Professor Flathman turned to the United States Supreme Court apportionment decisions. Chief Justice Warren's claim that all citizens, if they are to be treated equally, must be treated according to the rule "equal representation for equal population" is seen to rest on the assumption that "with respect to the allocation of legislative representation, all voters, as citizens of the State stand in the same relation regardless of where they live," or their party affiliation, or the size of their district, or the geographic configurations of the area, or the predominant interest pattern in the constituency, and so on.[61] History, tradition, geography, economics and other factors that otherwise might be included in the notion of equal representation are excluded from the idea of equal treatment and, by definition, Warren's equal population rule makes equality of numbers the only relevant equality in the voting situation.

Enough has been said already about the nature of representation to suggest that to treat A and B equally in terms of equal representation for equal population is not necessarily to treat them equally at all. "Judicial creation of equal population districts, without more, cannot be counted on to produce either "equally weighted" votes or "equally effective" votes."[62] It might, in fact, involve treating citizens unequally in respects more important to them and to the representation system. The

American constitution guarantees the right of citizens to petition their government. If, in one district, a voter need travel only a short distance via convenient transportation to contact his representative about his special grievance, but in another district the voter must go hundreds of miles without rapid transit in order to reach the governmental center and present his petition, are the voters of both districts equally represented? In this case we might well decide that modern transportation and communication make distance unimportant, but it is easy to think of political decisions where geographical remoteness might be less trivial -- e.g, decisions about where to build highways or lay pipelines in which knowledge of the terrain would play an important role, and areas unrepresented by a delegate knowledgeable about that land and its land use patterns would suffer in comparison with areas whose problems were familiar to any likely representative.

Consideration of major interests within constituencies makes the probability of unequal treatment under an equal population standard even clearer. The distribution of population in one state may secure, through constituencies of equal population, the representation of every significant economic group within its confines. In another state the layout of cities might, under the equal population rule, effectively disenfranchise all farm interests.

Possible inequalities resulting from equal treatment in respect to population size involve not only geography and interest groups but cultural discrimination as well. Where

numbers become the only criteria of constituency formation some individuals sharing a common history, language, culture, and tradition will find themselves split up (perhaps for political ends) and made parts of various amorphous conglomeration of unrelated peoples. Lewis A. Dexter has argued that an individual's sense of political efficacy is destroyed when, for voting purposes, he is removed from the area where he trades, reads newspapers, works, and makes friends. He cannot easily compete for public office in a district where he is unknown. A politics that ignores his sentiments seems less worthwhile. And if the differences between the group he identifies with and others is great, or if his group's problems appear separate and distinctive, he may feel altogether unrepresented in spite of his allegedly equal vote.[63] This is precisely the position taken by Harlem leaders in New York City after one court induced redistricting.[64] It is the position taken by Hassidic Jews in Brooklyn today.[65]

Further, it is possible to imagine that as a matter of values and priorities a nation may wish to preserve its rural areas or its ethnic minorities. The equal population districting rule may militate against such a policy and prevent the achievement of such a purpose. Equality, at this point, begins to conflict with popular sovereignty and thus to become inappropriate in a democracy.[66]

The problem of drawing up constituencies on the basis of numbers includes not only difficulties with the concept of equality, but with the idea of minority rights as well. One

of the interesting things to note about minorities is that they usually feel it important to be represented even when outvoted. The reasons for this have to do with the centrality of discussion in the representative process. "From apportionment and districting," Professor Robert Dixon reminds us, "derive the representation features that temper majoritarianism with requirements of deliberation and consensus."[67]

One of the earliest philosophers to mark the importance of discussion in democracies was Aristotle. He defended the amount of wisdom likely to emanate from the masses on the ground that "when they all come together... they may surpass -- collectively and as a body, although not individually -- the quality of the few best. ...when there are many who contribute to the process of deliberation, each can bring his share of goodness and moral prudence; ...some appreciate one part, some another, and all together appreciate all."[68] The majority, in other words, deserves the power to rule only through mechanisms that require that everyone be heard and considered. As A.D. Lindsay put it: "The creativeness of discussion assumes a common purpose animating those who take part in it. They are trying to find something out. They are asking what the purpose of their community requires."[69] Common ends do not, of course, always control discussion and, at some point, outside of Quaker societies, action is required whether or not a "sense of the meeting" has been reached. The discussion process alone is not decisive. But it remains a crucial element.

Insofar as people wish to continue to live together in one society, a general will for that society may be said to prevail. Where some kind of rough consensus does not exist, where common understanding is overshadowed by economic or religious or social cleavages, representative government becomes impossible. A single person acceptable to all as their delegate on matters of public justice cannot be found. Nor can a minority agree to accept the majority's rule. Representation comes into play precisely at the precarious point in politics where disparate, perhaps conflicting forces need resolution. Then, representation needs to reflect both unity (common purpose) and the differences behind that unity, and somehow to balance the two. "Representative government is a process of accommodating group interests through democratic institutional arrangements," said the Warren Court dissenters. "Its function is to channel the numerous opinions, interests, and abilities of the people of a State into the making of the State's public policy."[70] To achieve a proper balance between exercising the particular popular will and maintaining the general will, constituency organization must be sufficiently egalitarian to guarantee majority rather than minority rule, but also sufficiently representative to yield accommodation as well as action.[71] The harmony of social justice depends on a medley of voices. They must all be heard, evaluated, reckoned with, and only then, if necessary, may some be rejected (and the risk of non-compliance or non-cooperation taken). The discussion process directs attention to the problem of conflict and to the costs of coercing those who disagree. Force is expensive and counter-productive.

Legislatures, therefore, do not simply wield raw power. Some effort to secure agreement is always worthwhile. But to calculate opposition and to reach compromises, differences must be understood. Without the presence of diverse viewpoints a legislature cannot function effectively. Thus, constituency design must be drawn in terms of an effort to register a society's diversity. Even such a stalwart crusader against malapportionment as Gordon E. Baker has admitted that "a realistic approach to the problem of representation today must go beyond the terminology of individualism and consider the relevance of group dynamics in the political process."[72]

A common problem underlies both the difficulties with equality and with discussions that an individualist one man, one vote standard encounters. Representation, as analyzed above, involves authorization not simply to mirror a political position, but also to resolve conflicts among competing positions. Constituencies based solely on numbers provide for the reflection of allegedly equal, unified, individual points of view or wills (as functional constituencies could not) but they fail or could fail to provide for a reflection of the variety amid which such wills exist (or out of which they were formed). A representative system based on individual interests (subjectively defined) does not necessarily recognize that other individuals also form opinions and, with equal legitimacy, press their claim to have them enacted. Yet part of the reason interests need an agent to express them in a politically meaningful way is because representatives must accommodate diverse, often clashing

interests in a manner satisfactory to all. Mutual accommodation is not an automatic process. It requires doing. A representative's job necessitates his maneuvering among all the different individual interests which normally abound in a free society. A representative who has no diversity to contend with has less to do than is envisioned by the idea of representation.

In majority rule systems all preferences are not guaranteed a voice, much less an effective voice; only those that receive a requisite number of votes in some constituency acquire a legislative seat. Because of the layout of individual priority orderings and because of the chance arrangement of individuals within any given grouping, consideration of some special interests may never occur. This creates an unsatisfactory situation because if mutual accomodation (i.e., a common interest?) is as much a part of the representative process as the pursuit of individual interest, then reflection of <u>all</u> points of view becomes as important as the maintenance of the integrity of the individual's unified judgment. Constituencies based on numbers might happily reflect both, especially if proportional representation is employed. The laws of chance, however, (and the disadvantages of proportional representation) militate against that probability. The temptation to gerrymander further reduces the likelihood of a fortuitous emergence of all interests. Therefore, some guarantee that no important particular interest will be overlooked in the course of expressing the unified will of each citizen seems appropriate.

The unsatisfactory nature of a constituency pattern in which all interests (as well as all citizens) do not have a place may stem not only from its curtailed ability to provide for conflict resolution, but also from the limitation it may place on accurate representation of individuals. Some aspects of political being can best be expressed by groups because they involve a range of concerns whose significance is their shared quality -- e.g., class memberships, or ethnic identification. These interests make sense only if pursued jointly with others. The group, therefore, more fully represents that interest than does any particular member.

Some thinkers have approached this problem from a somewhat different perspective. They have contended that group interests mediate between man and government. Families, churches, or trade associations deal directly with people. They stand between a citizen and his government. Within these narrow allegiances the larger values and purposes of society take on clearer meaning for the individual. Robert Nisbet even claims that groups "are essentially prior to the individual," and man, severed from these associations, becomes isolated from history and his fellow man and thus becomes less of a person.[73]

For present purposes, it is not necessary to push any of these ideas any farther. It is sufficient to note the existence of something other than discrete individuals that counts in the resolution of political affairs, and to suggest that a representative system ought to be organized in a manner that provides some place and some effective consideration for social forces

apart from or in conjunction with individual will.

The legal recognition of certain categories of people may violate the equal protection clause of the American constitution simply by the act of classifying them. And some compelling justification is surely needed to allow for departure from the equal population standard in constituency construction. But the land between the extremes of group representation (to the exclusion of individual will) and individual representation (to the exclusion of group considerations) is not necessarily barren. It may contain a substantive standard for districting that can meet the problems of both random numerical and corporate forms of representation. In this light geographical constituencies hold special interest.

Geographical Constituencies

Geographical areas form the most common basis of representation. History provides a partial explanation of why geography has played so prominent a role. Many large government units originated in a confederation of independent, smaller regions. The Greek polis was a union of tribes, Tudor England was a union of the houses of York and Lancaster, the United States was a union of thirteen separate colonies, and so on. For whatever reasons, at some points in time the smaller groups joined with or were forcibly welded to a larger entity. But they often retained their sense of separate identity; the union did not obliterate its parts. In fact, the sanctions of tradition which encouraged the maintenance of a parochial

outlook were often bolstered by the incorporation of geographical enclaves into the functional structures of the new, more extensive governments. Links to the deme were reinforced by making it a source of representation, Burgundy retained its uniqueness by becoming an administrative unit of the Central regime; the King's men, in Wales and Scotland, guaranteed the viability of local governments by enforcing local laws and keeping the peace. Thus the interplay of custom and practice (particularly political practices) maintained the vitality of some geographical places long after they had ceased to be independent.[74]

In the days before rapid transportation and communication, historically separate localities often coincided with distinct cultural groups. Political units sometimes corresponded to clusters of people sharing a common language or dialect, or possessing a common history and traditions, or participating in common associations and habitual ways, or working at similar tasks within the same industry. Place and culture often went hand in hand (and in some parts of the world still do). In these cases, the political will for community may appear localized, part of the general cultural pattern, limited by the group's intellectual as well as physical horizons. The sanctions of mores, in such places, reenforce the cultural patterns and, therefore, the sense of political identification as well. In this manner, in some areas, the particular geographic setting and politics still seem closely intertwined (e.g., Wales or New York City's Harlem). Differentiation between such geographical sub-divisions and political sub-divisions do not readily occur, at least not

spontaneously. There may be deliberate efforts to break up such areas, of course, especially by outside forces pursuing their own political purposes.[75]

The connection between geographically defined locations (geographic in what sense depending upon the theoretical school of geography to which one subscribes) and viable political units might have allegedly natural as well as historical causes.[76] This is true in two senses. First, rivers, mountains, valleys, and other configurations of land and sea, sometimes demarcate inhabitable regions, separate them from each other by physical barriers, and thus give rise to unrelated settlements. Some of these natural topographic boundaries are traversed by men when their needs dictate the effort (e.g., Switzerland, although surrounded by the Alps, became a center of trade routes from the Aegean to the Northern Sea), but others remain formidable even in the midst of the industrialized world which has the technology to overcome them (e.g., the Himalayas). In both cases, however, regions outlined by physical features seem to be natural units for political purposes simply because of their location, especially their location in relation to other places.[77]

Regions may also appear to be so-called natural divisions in another sense. These areas dictate land use patterns that have political ramifications. Political implications arise from geography in part because a physical sense of place is an aspect of human life. Thus, besides providing a physical

environment which may encourage separatism, land features influence the way people view the world. High population density, annual floods, tropical heat, the absence of seas or waterways, mountains and deserts all affect the kinds of difficulties individuals learn to handle, the methods of cooperation they find effective, and their general perspective on the world.[78]

Each physical environment also creates its own particular set of problems with which inhabitants learn to cope. The details of all policies need this experience and familiarity of usage which living in a locale provides. In this way, spatially demarcated areas have a natural affinity with one dimension of many political programs -- regionally differentiated application. Familiar landscapes also evoke sentiments of attachment that cannot be aroused by land in the abstract. Such local spirit may often seek expression in political life.

Whether or not rooted in historical or physical situations that seem to call for political representation, the claim for geographic constituencies usually rests on some concept of community, on some sort of relatedness between people living in relative proximity to each other. Just what sort of relatedness counts is a matter geographers and other scholars fail to agree upon. The concept of community lacks clarity. In a recently published reader called The Concept of Community, the editors include within the compass of their title meanings as diverse as the sharing of values, the sharing

of place, world-wide humanism, any organized group.[79] The Nomos volume on community[80] also contains disparate conceptions of the term: for Jacob Taubes, community is the eschatological fellowship of sinners awaiting regeneration; for George Catlin it has to do with likemindedness, a mood in common; while for Herbert Schneider it involves a public recognition of mutual obligations symbolically communicated.

These seemingly incompatible renderings leave intact, John Ladd has suggested,[81] a broad application of the term involving some sort of binding together of men for some purposes that create among them commitments and claims or rights and obligations perhaps resulting in concomitant attitudes or feelings. This rendering keeps a core of meaning, and yet allows applications of the word to quite different kinds of aggregations.

But does this purposive binding occur in spatially definable regions? A number of writers have thought it does, although their views of the elements of community differ markedly. Thomas Aquinas described community in terms of hierarchical patterns.[82] Each genuine community, he believed, consists of a series of authoritative relationships such as those between peasant and landowners and artisans and merchants and clergy and professional men. Differentiations between people create functional and socio-economic class categories woven together into a social system. Each class is deemed necessary to the sufficiency of a human group. The concept is essentially Aristotelian, relating the organization of men to their natural end (although, of course, including a prominent place for man's

eternal end and, therefore, for the clergy). Men came together in social groups to fulfill their natural purpose on earth, and the groups are defined by the functions essential to them. Aquinas did not elaborate on this idea in any sociologically significant way, but his criteria for community did seem to include unity of purpose, a chain or chains of command, mutual duties and obligations, and a common set of relationships. Modern neighborhoods sometimes exhibit some of the sort of characteristics St. Thomas had in mind: each has its homegrown leaders; everyone relates to the neighborhood school, the local doctor, the major churches, the various storekeepers, and income, education, or authority creates acknowledged hierarchies.

Professor Robert Nisbet writes, in the twentieth century, in a similar vein.[83] Social functions and authorities create a context of relationships which, Nisbet believes, gives an individual a sense of status (sonship or fatherhood, shoemaker or doctor), a set of values to work within, and a meaningful way of participating in the larger society, all of which is indispensable to his sense of well being. All cultures, Nisbet writes, require "functionally significant and psychologically meaningful groups and associations lying intermediate to the individual and the larger values and purposes of his society."[84] An individual (as in Burke) cannot be separated from a plurality of social allegiances and memberships, beliefs and habits which constitute his culture. These elements of man necessitate

"codes of authority" plus primary and secondary groups that perform the tasks essential to "autonomous and collective fulfillment of internal objectives."[85] Modern society fails man, Nisbet believes, by centralizing authority and making man's nuclear relationships (family, neighborhood, church) functionally irrelevant to the state and economy. Without family, neighborhood, and church a person cannot acquire a concept of the outer world or his position in it, he claims, and, therefore, man experiences the world as an impersonal force and is filled with alienating anxiety. Or, in Sebastian de Grazia's terms, anomie follows from the separation anxieties which make the world a fearful place for men, and it drives them ultimately to suicide or to political mass movements.[86]

Presumably, without active interference by the larger society, locally shared values and functions would result in spontaneous, recognizable communities, in areas of common life distinguishable from other areas.[87] These would "naturally" seek political expression and would serve admirably as decentralized depositories of diversity, contributing as a unit to the larger institutional goals of society. Current groups and associations, instead, tend to be agencies of the state, plural in number but not in ultimate allegiance or purpose. Territorial boundaries ought, some believe, to readily determine genuine community, for "local contiguity not only permits the conversion of pre-existent like interests into common interests, but itself assures the operation of biological and psychical

laws which constantly weave new common interests."[88] This argument, plausible when settlements were physically fairly isolated, appears difficult to support in the modern age. Spontaneous associations arise among disparately located people (e.g., The Richard III Society, The International Political Science Association) and shared belief systems apparently cut across all the usual political demarcations (e.g., The Montessori Movement, Jehovah's Witnesses, etc.). Authority patterns, often imposed from above, correspond to historical accident or arbitrary divisions rather than to any discernible spatially composed communities.

Is there anything that still can be said, in the twentieth century, for any sense in which men are "bound together" in spatially definable patterns? This question raises two matters that need further, albeit brief, consideration: one relates to the scale of human organization, the other to the concrete nature of social structure.

In the writings of Jean-Jacques Rousseau, a society can exist without coercion only where a general will for social unity prevails.[89] This general will can never, he thought, be represented because it has to be lived, to be actively expressed as a conscious emotion. In Rousseau's model, the larger the society the less possible the experience of the general will and, consequently, the greater the need for coercion. One possible interpretation of this position would involve thinking of an elected representative as one who stands for the majority's sense of justice --its desire to resolve particular

conflicts or to embark on specific joint projects -- but whose ability to exist depends upon the prior existence of a general will for social peace. The delegate does not stand for that will for peace (that is what cannot be represented but must be lived) but only serves to work out the details of the articles of peace. A representative, even in this sense, works effectively only in close contact with the general will.

The extent of such a will, a will requiring active emotional involvement, must obviously be limited, but not necessarily to areas as small as the Swiss city-states usually associated with Rousseau's thinking. Modern communication permits those who never meet, nevertheless, to watch daily events together, to experience common reactions, and even, on occasion, to erupt simultaneously in joyous or sorrowful expression of shared feeling (the evidence of exuberance in all parts of New York when the Mets took the pennant, or the hushed atmosphere in the streets when President John Kennedy was assasinated, or even the often noted friendliness that overcomes impersonal city life during a commonly shared snow storm). Something common can activate very large numbers of people and create a Rousseauean general will among them. Large size, that is, need not prevent (although it may hinder) the formation of community in Rousseau's sense of existential participation.[90]

What Rousseau's emphasis often does prevent, however, is consideration of James Madison's concern for a scale of organization large enough to encompass great diversity. An individual,

given the opportunity, associates with a plurality of authorities and joins a number of groups. The wholeness of his being can only be expressed by a suitable variety. Political life, therefore, must operate so as to provide for diversity. Constituencies, in this view, need to be large enough to accommodate the normal range of interests free men propagate, as well as small enough to include a general will for unity that transcends but never supercedes the diversity. The scale of political life, then, may vary within the range permitted by these twin goals. Absolute size is not the key. A general will may prevail throughout China and be impossible to achieve in Ireland. Or, Amish country may be too homogenous for most free men, and New York City's twentieth Congressional district too actively heterogenous for integration. But all political subdivision for representational purposes ought to be planned with these considerations in mind.

A close look at the precise nature of social organization reveals further reasons why its scale may be so variable. Talcott Parsons calls community "that aspect of the structure of social systems which is referable to the territorial location of persons (i.e., human individuals as organisms) and their activities."[91] Men take up residence in some particular location, Parsons suggests, and play institutionalized roles in that dwelling place based on their biological position (generation, sex, parentage). Men also work at some particular location and their occupation, whether or not independent of the household, involves transportation and communication links with the residential premises.

Both house and work fall within the territorial jurisdiction of some relevant agency "held to have legitimate authority under a system of normative order" and believed to impose obligations on categories of persons by some decision-making process.[92] Segmentation depends on the diffuseness of the communication required, and boundaries are determined by the ability to elicit an effective response, to form a pattern of conditions appropriate to action. Thus the individualizing needs of the family makes child rearing a function of small organizations while the generalization of commitments and expectations in politics may be much broader.

Anthropologists, concerned to compare data from widely differing groups, have produced an even more precise analysis of the nature of community. Conrad Arensberg and Solon Kimball, for example, describe community as a sample of a society's culture with culture understood as "socially repetitive, evolutionarily cumulative, individually learned, and symbolically transmitted personal activities and interpersonal relationships, connected in a specific pattern."[93] The pattern requires a special structuring of social space and time. The unit that embodies the roles, relationships, and activities comprising the pattern is a community: it is a local version of the wider culture and, as the "nexus of habits, skills, norms, and interfunctioning roles" is central to cultural continuity.[94]

The variables indicating the presence or absence of a community include, Arensberg and Kimball claim, those items which determine the repetitive character and the wholeness of the culture.

Their checklist would read something like this:[95]

1. "an enduring natural unit of both process and organization in living phenomena": the minimal unit of population that must co-exist in order to continue the species (three generations, two sexes, and some of each biological age -- baby, child, adolescent, adult, aged);

2. a territorial and resource unit (similar to Parson's residential and occupational places -- the minmum area necessary to provide for food and shelter);

3. a temporal dimension -- sufficient to allow individuals to go through all the characteristic relationships from birth to death known in that culture (anthropologists measure dispersal and assemblage patterns and other periodicities through which communities structure the passage of time and the progression of life);

4. an inventory of contentual behavior and cultural patterns: the minimal unit needed to transmit culture (learning, tradition) and the minimum unit of necessary functions (this is the least specific item, but does include provision for procuring mates, for defense, and for resource exploitation).

In sum, Professors Arensberg and Kimball view a community as the smallest aggregate of people capable of structuring lifetimes and their activities in a particular society. It is a "characteristic minimal unit of personnel" which subsists in a territory, endures over members' lives, and insures continuity. It contains "persons and roles and statuses or the transmitted and learned awareness of them, for every kind of office of mankind that the culture knows: husband, artisan, miser, mother, priest, criminal, aristocrat, heretic, etc."[96] It has the minimum personnel and organization to man the roles the culture defines, and to provide for its continuance. Aggregations with such characteristics can be separated from monasteries, or from bedroom suburbs that house a narrow income range of people between the ages of thirty and fifty and their schoolage children, or even from some Indian villages where the community, in the anthropological sense, turns out to be a circle of villages, a larger whole.[97] To function as a community, a unit must include representatives of each role and status, or contacts with each, or a clear awareness of each. A community may have a local speciality, but it cannot be such as to dominate experience. A community may embody within its limits both strife and mutual adaptation, bounded only by the need for its own survival. Even in the twentieth century, and even with the break up of many traditional villages or easily distinguishable towns we can always find, Professors Arensberg and Kimball argue, "a minimal pattern of social and spatial organization uniting the ages, sexes, and kinds of human animal..." and these patterns "always duplicate themselves"

in cell-like units of organization which are the bearers of culture in time and space.[98]

Whether or not this biological analogy works out with any great precision in social life, political scientists will easily recognize the general validity of the history of American community forms and their European roots that Professors Arensberg and Kimball trace. Onto the three original distinctive types -- the New England town, the Southern county and the Americanized Scotch-Irish open country neighborhoods or cross road hamlets -- were grafted the mill and factory towns (stratified by class, zones, and having a railroad assemblage center and a time scheme based on the factory whistle) and, more recently, automobile and communication centered patterns emphasizing peer groups and characterized by large metropolitan areas. The forms change, complexity varies, size expands and contracts, centralization, and decentralization occur, but the life cycle still requires provision for the same basic functions among all men in all cultures. Our notions of community rest heavily on these traceable patterns and help explain why, although communities can be both good and bad, the concept of community nevertheless carries with it approbatory connotations. It is its close connection with the apparently elementary characteristics of man that makes community a laudable idea.

Perhaps the anthropological conception of community adumbrated above explains as well why communities seek political expression, or why they seem appropriate units of political subdivision. Territorial representation based on community

can, roughly, take account of the prerequisites of social organization, incorporating both individuals and their interrelationships in a meaningful way. And such geographical constituencies can do so without encountering the philosophical difficulties of either corporate representation or the representation of random numerical aggregates. They can encompass both a sense of unity and a regard for diversity. They can assure a multiplicity of power sources and may even occasion the competiveness that stimulates greater political responsiveness. Because local application of policy is always important, community decentralization provides a mechanism for bringing local opinion to bear. At minimum, spatial units, expecially if thought of in functional terms, can provide a politically neutral substantive standard for apportionment (in addition to equality) that modern democratic politics appears to need.[99] The application of such a standard may vary, and changing patterns of human activity will always require its adjustment. But the connection to group dynamics is at least there, and arbitrary aggregations are at least absent.

Conclusion -- Towards A Theory of Constituency

All subdivisions for representational purposes affect the formation of majorities and minorities. Which groups will be heard with organized effectiveness and which will be rendered impotent by dispersal, all depend upon voter distribution and the drawing of boundaries. So, too, does the expression of

unorganized individual opinion and the chance that like-minded souls will act similarly and have an opportunity to produce a joint effect. In part, problems of this sort are handled in democracies by provisions for limited government, by restraints on majority action, and by guarantees to all regardless of the decision-making procedure.[100] In part, the inequities of voting systems are compensated for by other institutions.[101] But the formation of constituencies within which majorities are expected to form must hold a central place in any political system heavily dependent on majority rule. The implications of all alternative methods of constituency construction need to be kept in mind, the districting standards adopted explicitly stated, and the nature of what it is we seek to represent, held firmly in place.

A full blown theory of constituency cannot be developed here; the subject deserves a work of its own. Some of the ideas dealt with above have been suggestive, however, and can serve as a preliminary basis for further discussion. The elements of district design, we have seen, must provide for representation of the whole person, not some fragment of him. The representative system must call into play both individual interests and group concerns, both divisive interests and accommodating drives, so that, whatever the general sense of justice, it pervades both conflict resolution and the assignment of project priorities. The consensus which makes possible a general will for a unified existence must find expression, perhaps through small units which carry the culture and link primary and secondary groups to the larger society. The varied and numerous interests around

which free men habitually organize must be reflected, although perhaps not in a manner which encourages those interests to be other than transitory and fluid. Political equality, in the sense of each counting for one, needs safeguarding, but always with one eye on the inequalities that the elevation of numerical equality may require.

Geographic boundaries, drawn with consideration for all the above matters, have served traditionally, and perhaps intuitively, as the most common basis of political subdivision. More conscious use of common patterns of social interaction can be employed, especially as we come to understand them better and to recognize their varied forms. Geography serves, not because we wish to represent trees or acreage, but because there is a spatial dimension to human organization which binds people together in territorial groups that may be roughly identified and demarcated from other similar groups without violating the canons of individuality.

Constituencies drawn so as to include all the above concerns would negatively eliminate the Warren Court standards and, positively, would require that community characteristics take precedence over the need for numerical equality whenever the two directly conflict. Such lexical ordering could establish priorities without eliminating either set of values. The community standard would insure diversity and group dynamics while numerical equality would recognize the claims of individuality.

This solution to the problem of constituency formation does not eliminate the possibility that certain groups might

remain unrepresented. It does, however, reduce considerably the likelihood of such an occurence because communitarian considerations tend to cut across race, class, religion and other usual lines and to suggest that those participating in an integrated unit share more common than divergent sub-unit interests. They belong together in a sense that is meaningful to them all. Some individuals or groups may never join, but then they choose to live as perpetual outlaws. Others, may join and still find themselves, in spite of diversity, and in spite of common interests, consistent losers on matters that count. Insofar as this happens, the above theory of constituency does not improve upon those already extant. On the other hand, some evidence exists to suggest that where only a single interest divides (e.g., race or religion) and all else is integrated, minority factions do not readily form around the one divisive interest (e.g., in black suburban areas the universal taxpayer concerns of homeowners often prevail over racial considerations in votes on the school budgets).

Geographic areas work so well as units of political organization that some writers have called for greater regional autonomy, for greater reliance on the subdivisions for the fulfillment of political purposes, and for the abandonment of constituency control by the larger society. Usually, the call for autonomy comes when the local unit feels oppressed and wishes to work out its destiny in its own way unhindered by the concerns of the contingent world. "...the minority," writes Herbert Gans, "should have the right to secede, establishing its own institutions with-

out being financially punished by the majority."[102]

Such power bases, however, have drawbacks, perhaps insuperable ones. Autonomous units can still operate unfairly on those within its purview, and few groups are so homogenous that internal minorities cease to exist. But further, if all conflict results in secession what is the point of having a state? The absence of effective government is all that can result from a system that cannot coerce the inevitable opposition. Since autonomy does not attack whatever attitudes it flees, but by withdrawal may help maintain them, it fails as a moral device as well as a political one. Construction of autonomous geographic constituencies may have strategic value in some particular controversy, but as a general solution to the problems of minorities in representative systems it holds little promise. Some geographic constituencies, then, (particularly, in current affairs, urban neighborhoods) may be in danger of being pushed beyond their strength because their considerable usefulness makes such a course of action appear tempting. That usefulness, however, is based on their lack of impersonal randomness, and their connection with common, seemingly internal social groupings, and not on their ability to substitute for all other political organizations.

However, if used carefully, geography can help define justifiable political constituencies. Different ways of thinking about geographic boundaries arising from different schools of geographic thought have to be considered. Various sociological analyses of group formation obviously have bearing.[103] Anthro-

pological studies of spatially connected human organization have especially important significance because they point toward a possible definition of community that might serve political purposes. Certain political ingredients also seem indispensable: a general will to act as a unit, diversity of interests within the unit, and prominently, expressions of integrated, individual judgments. And in democracies, of course, the constraints of political equality and popular sovereignty must be observed as well.

A serious analysis and synthesis of these elements should yield a sound theory of constituency. Majorities, it is clear, cannot be justified unless what they are measuring can be defined and a constituency system that reasonably realizes all the purposes of political decision-making can be constructed. Functional constituencies blatantly fail to measure up to those purposes (even in the inadequate form in which those purposes are currently understood). Numerical aggregations are also unsatisfactory. Geographic regions work best, but not as well as they might if consistent geographical and anthropological theories were operative.

On this analysis the alleged problem of permanent minorities acquires special properties. If we mean by minority some racial or ethnic or religious or socio-economic group, its members cannot, in one sense, be fitted into a scheme of political organization based on the representation of orientations to justice. Obviously, concepts of justice do not divide along such lines. For this reason no one in the United States, for example, can speak for all blacks or all Jews or all farmhands. From the point of view of social justice these are not monolithic groups of individuals

sharing identical, identifiable positions. When we seek to represent a sense of political right we eliminate, for these peoples, the fear that activated Tocqueville, that the very point that separates them from others is the one at issue, the one which divides majorities from minorities.[104] Where the division is indeed one of permanent irreconciliable views of the right -- as, perhaps in Northern Ireland, Lebanon and Israel -- the potential for civil war increases, and the resort to violence precludes mere political settlement or, at minimum, violence becomes the key bargaining weapon in the society's politics.[105]

While permanant minorities, on this showing, cannot exist as cohesive, long-lived groups, they can exist on a temporary basis. Skin color, for example, may not determine one's standard of justice in any ultimate sense, yet it may be decisive on so large a range of immediate issues as to equal a pervasive political orientation. What kind of districting guarantees the articulation of this sort of feeling? How, if at all, do these momentary shared orientations join the political process? In such cases the spotlight might properly be turned on the society's system of organizing for the representation of diverse conceptions of justice, of organizing the representative system in general, and of creating coalitions and consolidating interests for the purpose of efficient action. The opportunities for organizing and becoming a majority or a minority become critical, at least insofar as the decision-making system fulfills a crucial role in the political process. Any group which feels it has a fair chance to dominate or influence importantly the outcome of the poli-

tical process will not be likely to feel permanently excluded.

The task of cutting across all fixed group lines, and providing a forum for working out of social justice falls, in democracies, to the political parties. How well or how badly they meet the problem of majority organization is, therefore, the next matter we need to examine.

FOOTNOTES - Chapter II

1. For a discussion of the temporal aspects of majorities, see below, Chapter IV.

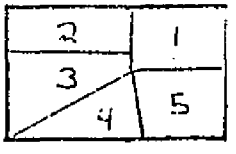
2. See Jerold Israel, "Non Population Factors Relevant To An Acceptable Standard of Apportionment," Notre Dame Lawyer, XXXVIII (1963), 499-517.

3. On the rationality of social choice in terms of voter distribution patterns, see Downs, op. cit.

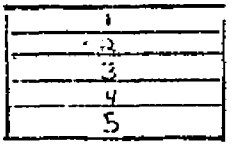
4. Robert G. Dixon, Jr., "Reapportionment in the Supreme Court and Congress: Constitutional Struggle For Fair Representation," Michigan Law Review, December 1964, p. 226. Consider the following:

   Assume a geographical area with a population divided between 60% Democratic voters and 40% Republican voters. That area can be districted in a variety of ways. For example:

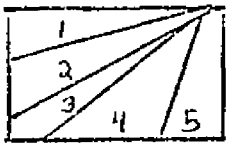
   A  By choosing 5 representatives at large. The result will be 5 Democratic representatives.

   B 

   By concentrating the Democratic voters in the urban district, The result will be 1 Democrat and 4 (Districts 2 to 5) Republican representatives.

   C 

   Here Districts 1 and 2 will yield Democratic representatives; District 3 to 5 will produce Republicans.

   D 

   This arrangement will give us 5 Republican representatives.

   Now if all men are equal and we count nothing but numbers then all of the above arrangements are legitimate. But if we distingusih among men so as to take account of their political affiliations, or economic interests, or ethnicity, and the like, then fairness enters to control equality. What does the majority principle dictate?

5. Baker v. Carr, 369 U.S. 186 (1962); dissent by Justice Felix Frankfurter.

6. Cited in Austin Ranney and Willmoore Kendall, Democracy and the American Party System (New York: Harcourt, Brace & Co., 1956), p. 63. For an American version of this theory see Thoughts on American Government by John Adams: a representative assembly "should be in miniature an exact portrait of the people at large. It should think, feel, reason and act like them." The Political Writings of John Adams, ed. George A. Peck, Jr. (New York: Bobbs Merrill Co. Inc., American Heritage Series, n.d. -- originally published by The Liberal Arts Press, 1954), p. 86.

7. For a discussion of proportional representation's alleged strengths and weaknesses, see above, Chapter I.

8. Hanna Pitkin, The Concept of Representation (Los Angeles and Berkeley: University of California Press, 1967), Chapter 4. The limits on descriptive representation, she suggests stem from one's general politics (Chapter 7). Many of the distinctions worked with below are developed by Professor Pitkin throughout her valuable study of representation.

9. Sartori, op. cit., p. 108, recognizes this aspect of of representation when he writes that "the purpose of elections is to select leadership, not to maximize democracy." But, I believe, he overstates his case. Elections may both select leaders and also set out some guidelines or limits to the direction and range of discretion the electorate will find responsive to their needs. Further, Sartori, while noting the distinctions between rulership, leadership, and elitism, nevertheless intertwined his observations on representation with a particular view about the intrinsic merits of superior individuals in a class conscious fashion that not everyone will accept as valid. Cf. also Eric Vogelin's idea of a representative as one who, by exacting voluntary compliance, enables a society to exist for action in history. The New Science of Politics (Chicago: University of Chicago Press, 1952).

10. A.D. Lindsay, The Essentials of Democracy (Oxford: Clarendon Press, 1929) especially pp. 33-46.

11. The Quaker notion of a "sense of the meeting" rejects precisely this conception of politics arising out of conflict. The Quakers assume that either harmony can prevail (if mutual understanding is sought) or that development of a general will costs more than it is worth. Failure to reach agreement usually signifies the lack of proper mutual knowledge and the necessity

for more talk. If talk goes on long enough resolution will probably occur voluntarily. If it does not materialize, the price of coercion, of the exercise of power, is the violation of individual autonomy, and it is assumed to be greater than any possible benefit to be derived from pushing on without unanimity. Discussion, here, is not only a means but an end in itself, an affirmation of individual worth. The nature of man assumes attractively gentle, but unrealistic proportions. It is interesting to note that without fundamental allowance for human conflict the Quaker communities have had, historically, few resources for handling differences and have resorted to rather violent means of dealing with dissent, e.g., "shunning" or expulsion.

12. No society ever gets complete unanimity even on basic adherence to the system in general. Some individuals always remain unbound; the outlaw is a perennial feature of human life. This poses some nice questions about the justifiability of government by consent that will be bypassed here except to simply assert that the legitimacy of the consensual state probably remains intact so long as the amount of force (as opposed to consent) involved remains less than that of the coercive apparatus required by any other arrangement.

13. "Speech on a motion for a Committee to Inquire into the State of the Representation of the Commons in Parliament," June 16, 1784, in Edmund Burke on Revolution, ed. Robert A. Smith (New York: Harper & Row, 1968), p. 112.

14. Ibid., p. 113.

15. "An Appeal from the New to the Old Whigs," 1791, Ibid., p. 163.

16. Ibid.

17. Ibid., p. 162.

18. "These interests, in the England of his age, were not represented in Parliament on the principle of numbers, and Burke defended this arrangement of 'rotten boroughs' insofar as he believed it worked. When he asked himself 'is Warwick Stafford more opulent, happy, or free than Newcastle, or than Birmingham,' he found the answer clearly no. The interests of the unrepresented communities were cared for by 'virtual' representation, e.g., by agents from similar types of constituencies whose involvement in the general interest and general sympathy guaranteed the prosperity of the whole which more local passions might have thwarted. In the case of the Irish, however, Burke found their interests unattended and thus in need of separate representation. "Speech On a Motion..." Ibid., p. 116.

19. John Stuart Mill, On Liberty (London: World Classics Edition, Oxford University Press, 1912) Chapter III, p. 69. For a discussion of this point see David Spitz, "Freedom and Individuality: Mill's Liberty in Retrospect," in Liberty, Nomos IV, ed. Carl J. Friedrich (New York: Atherton Press, 1966).

20. Lindsay, op. cit., especially Lecture V and Introduction.

21. John Dewey, The Public and Its Problems (Denver: Alan Swallow, n.d., original edition, Henry Holt & Co., 1927).

22. Robert M. MacIver, Community (London: Macmillan & Co., 1928).

23. E.g., Rousseau, op. cit.

24. E.G., Mill, On Liberty, especially p. 16.

25. Lindsay, op. cit., p. 70.

26. Mill, makes this connection in On Liberty, p. 63.

27. For the claim that socially oriented views are often morally superior to autonomous opinions, see Brian Barry, Political Argument (London: Routledge & Kegan Paul, 1965), pp. 61, 73, 74 and 299-301.

28. For a discussion of this point see Richard Flathman, "Some Familiar But False Dichotomies Concerning 'Interests'," Political Theory, III (1975), 277, 278. An earlier attempt to balance the two concerns can be found in the works of T.H. Green. See Melvin Richter, The Politics of Conscience (Cambridge, Mass., Harvard University Press, 1964) especially Chapters 6 and 7.

29. Thomas Hobbes, Leviathan; Plato, especially The Republic and Gorgias.

30. For a discussion of trans-subjective standards as they bear on the concept of interest see Richard E. Flathman, The Public Interest. (New York: John Wiley and Sons, 1966), Part I.

31. Those who believe they have successfully introduced ideals include Brian Barry, op. cit., who denies the possibility of talking about government action for human welfare apart from ideals, and assumes that just criteria emerge from those who make policy -- an ill defined elite of experts (e.g., p. 81 -- "Once commissioned (to teach, to write, to produce a television show, to plan a new civic center) the person entrusted with the job would be left to his responsibility rather than checked out every step by those employing him". Also see

David Braybrooke, Three Tests for Democracy (New York: Random House, 1968), who argues for some circumscribed government promotion of welfare with welfare understood apart from individual preference (see especially pp. 121-141); William Connolly, "On 'Interests' in Politics," Politics and Society, Summer 1972, who believes objective criteria of interest exist, is nevertheless wary, and doesn't wish to impose one person's judgment on another, but fails to provide any alternative way of handling conflict; Herbert Marcuse, "Repressive Tolerance," in A Critique of Pure Tolerance (Boston: Beacon Press, 1969), who believes a number of truths so firmly established that society is free to act as if it possessed certainty and to treat dissent on a wide range of issues as untruth, as a punishable wrong; Barrington Moore, "Tolerance and the Scientific Outlook" in A Critique of Pure Tolerance, op. cit., who writes within a neo-Marxist tradition, and views politics as ultimately the administration of things with conflicts having been resolved by the emergence of objective, scientific criteria; Theodore Benditt, "The Concept of Interest in Political Theory," Political Theory, August 1975, pp. 245-257, who attempts to connect interests to a person's good, to what benefits more than harms one's happiness. For an analysis of the dangers of all these attempts, of the ways in which they destroy all intimacy between an individual and his interest, see Flathman, "Familiar But False Dichotomies...", op. cit.

32. See also Chapter IX.

33. A. Philips Griffith, "How Can One Person Represent Another," In Representation, ed. Hanna Pitkin (New York: Atherton Press, 1969), pp. 133-156. For some criticisms of this conception of representation see J. Roland Pennock, "Political Representation: An Overview," in Representation, ed. J.R. Pennock and J.W. Chapman, Nomos (New York: Atherton Press, 1968), p. 11, X n. 18.

34. Ranney and Kendall, op. cit., p. 67.

35. For non-democratic advocacy of corporate representation see Giovanni Gentile, The Origins and Doctrine of Fascism (1934) excerpt in Italian Fascisms, Adrian Lyttelton, Ed., Douglas Parmee, Transl. (New York: Harper and Row, Harper Torchbooks, 1975), p. 312.

36. See, for example, "Thoughts on the Cause of the Present Discontents."

37. G. D. H. Cole, Guild Socialism Re-stated (London: L. Parsons, 1920) pp. 32-33.

38. G. D. H. Cole and Margaret Cole, A Guide to Modern Politics (New York: Alfred A. Knopf, 1934). In later works Cole abandoned his belief in functional representation.

39. John C. Calhoun, A Disquisition on Government, ed. G. Gordon Post (New York: Bobbs-Merrill, American Heritage Series, n.d., originally published by the Liberal Arts Press, 1953), especially pp. 20-31.

40. Ibid.

41. The nearest to functional representation in a democracy was the Irish Senate, a second chamber with at least important delaying powers, which was selected by corporate groups from 1922 to 1936. (Ranney & Kendall, op. cit., pp. 70-71).

42. Ibid., p. 71.

43. Calhoun, op. cit., p. 21.

44. In the Fascist dictatorships of the 1930's corporate representation was imposed by fiat; it was never the result of popular consent or agreement.

45. The argument here represents one possible interpretation of the Federalist, especially No. 10.

46. Martin Diamond, in "Democracy and the Federalist: A Reconsideration of the Framers' Intent," American Political Science Review, March, 1959, pp. 52-68, argues for this interpretation of Madison and goes so far as to suggest that even the extraordinary majority required for Constitutional amendments can be understood as an essentially majoritarian device so long as majority is thought to mean some geographically widespread alliance that persists over time.

47. The nature of majorities implies a great deal about the nature of minorities but does not exhaust the subject. For a discussion of the possible nature of minorities and of the problem of permanent minorities, see below pp. 54-56, and Chapter III.

48. R. M. MacIver, The Modern State (London: Oxford University Press, Oxford Paperback, 1964), p. 466.

49. "Individualism," Oxford English Dictionary (London; Oxford University Press, 1933, 61) V, 224. Jeremy Bentham figures prominently among theorists who have denied the reality of community.

50. Individualism flowered in the Renaissance but sent up sprouts even earlier, e.g., Chaucer's Nun's Priest Tale.

51. Robert Nisbet, in Community and Power (New York: Oxford University Press, 1962), p. 14, makes Protestantism, for this precise reason, the chief culprit in the destruction of "community" and the consequent alienation of man.

52. Chief Justice Earl Warren, majority opinion, Reynolds v. Sims, 377 US 565-566 (1964). Cf. by way of contrast E. Burke: "Society is...a partnership in all science; a partnership in all art; a partnership in every virtue and in all perfection. ...it becomes a partnership not only between those who are living, but between those who are dead, and those who are to be born." Reflections on the Revolution in France (New York: Liberal Arts Press Inc., 1955), p. 110.

53. As an individual right (apart from the guarantee of republican government), it is not explicitly in the American Constitution. Those sympathetic to the Warren Court, however, defend a loose interpretation of the Equal Protection clause to imply one man, one vote, as necessary in order to solve the serious political problems caused by gross malapportionments. See Gordon E. Baker, The Reapportionment Revolution (New York: Random House, 1955, 1966) p. 139.

54. Chief Justice Warren's majority opinion in Lucas v. 44 General Assembly of Colorado, 377 US 713 (1964).

55. Reynolds v. Sims, 377 US 565-566 (1964).

56. Lucas v. 44 General Assembly of Colorado, 377 U.S. 713 (1964).

57. See John F. Banzhaf, III, "Weighted Voting Doesn't Work: A Mathematical Analysis," Rutgers Law Review, XIX (1965) 317-343; and William Riker and Lloyd Shapley, "Weighted Voting: A Mathematical Analysis For Instrumental Judgments," In Representation, Nomos X, eds. J. Roland Pennock and John W. Chapman (New York: Atherton Press, 1968).

58. See John F. Banzhaf, III, "Multi-Member Districts -- Do They Violate The One Man, One Vote" Principle, Yale Law Journal, LXXV (1966), 1309-1338. "...it can be shown that legislative systems employing districts electing different numbers of representatives inequitably allocate greater voting power to voters in the more populous districts. This discrimination, which is inherent in all such systems, is proportional to the square root of the district population..." p. 1337.

59. In Virginia, the city of Richmond, according to the N.Y. Times (Saturday, November 13, 1976, p. 48) annexed 23 square miles of adjacent Chesterfield County in order to increase its population of white voters. See also Robert C. Dixon, "Representation Values and Reapportionment Practice: The Eschatology of 'One-Man, One-Vote'", in Representation,

J. Roland Pennock and John W. Chapman, eds. Nomos V (New York: Atherton Press, 1968), pp. 170-171, especially n. 11.

60. Richard E. Flathman, "Equality and Generalization, A Formal Analysis," in Equality, eds. J. Roland Pennock and John W. Chapman, Nomos IX (New York: Atherton Press, 1967), pp. 38-60.

61. Reynolds, v. Sims.

62. Dixon, op. cit., p. 219.

63. Lewis A. Dexter, "Standards for Representative Selection and Apportionment," in Representation, eds. J. Roland Pennock and John W. Chapman, Nomos X (New York: Atherton Press, 1968).

64. Their comments, printed in the New York Times of August August 9, 1962, p. 1 col. 6, are quoted in Alexander Bickel, "Durability of Colegrove v. Green," Yale Law Journal, XII, 1962-63. "Is it irrational," Bickel asks, "or otherwise forbidden so to gerrymander districts that a solid Negro or Puerto Rican vote is ensured, thus making certain that legislative bodies will contain members of these minority groups?" (p. 43).

65. See the case of the United Jewish Organizations of Williamsburgh, Inc. v. Malcolm Wilson (Governor of New York) argued in the Second Circuit Court of Appeals before Judge Walter Bushausen (377 Fed. Supp. 1164) who affirmed dismissal of the original injunction, but admitted grounds for further appeal. The plaintiffs did appeal and won (510 f.2nd. p. 512) in 1974. The State of New York, with the name of Governor Carey now substituted for Wilson, appealed to the United States Supreme Court which, United States Law Week reported on January 11, 1977, granted certiorari (44 L.W. 3279 - official report not yet printed) during its 1976-77 term and heard argument on October 6, 1976 (44 L.W. 3276). Decision in the case (docket # 75-104) is pending.

66. The Colorado case, Lucas v. 44 General Assembly of Colorado, 377 U.S. 713 (1964), is directly to the point: the majority of citizens of that state in a clear referendum that involved alternatives, chose to forego their right to total domination of the state legislature and provided for representatives from sparsely settled areas of the state far from major urban centers although this would, in the language of the Warren court, "dilute" the value of their votes as opposed to the vote of the minority in the less populous regions, presumably the majority valued non-urban opinion and wished it brought to bear on legislative matters, or felt simple fairness required that all areas of the state be represented.

67. Dixon, op. cit., p. 225.

68. Aristotle, Politics, ed. and transl., Ernest Barker (New York: Oxford University Press, 1972), p. 123. See also p. 126 and Barker's note 1: "The people at large have the merit of a good collective judgment not as a static mass, but when they are dynamic -- in other words when they assemble, and when the process of debate begins. It is thus not an unfair gloss to suggest that Aristotle by implication assumes that the dialectic of debate is the final foundation of the principle of popular government, so far as he accepts that principle. In other words, democracy is based upon discussion."

69. Lindsay, op. cit., p. 42.

70. Justice Potter Stewart (joined by Justice Tom Clark), dissent, Lucas v. 44 General Assembly of Colorado, 377 U.S. 713 (1964).

71. Dixon, op. cit., p. 230. See also his "Representation Values and Reapportionment Practice: Eschatology of 'One Man, One Vote'" in Representation, Nomos X, ed. Pennock & Chapman (New York: Atherton Press, 1968).

72. Quoted in Glendon Schubert Reapportionment (New York: Charles Scribner's Sons, 1965), p. 31.

73. Robert A. Nisbet, Community and Power (New York: Oxford University Press, 1953, 1962 paperback edition), p. 25.

74. See J.R.V. Prescott, The Geography of Frontiers and Boundaries (Chicago: Aldine Publishing Company, 1965) pp. 10, 12, and 72. This aspect of regional geography was emphasized by the German geographer Friedrich Ratzel (1844-1904), especially in his Political Geography.

75. Paul Vidal de la Blache (1845-1918), an influential French geographer, is the name most closely associated with regionalism in this sense. See James R. McDonald, A Geography of Regions (Dubuque, Iowa: William C. Brown Publishers, 1972), Chapter 2; and Robert E. Dickinson, Regional Ecology (New York: John Wiley & Sons, Inc., 1970), especially pp. 176-181.

76. Natural, as used here, means not deliberately made by man. Whether allegedly natural regions stem from other activities of people, whether they are good or bad, or any other sound theoretical questions raised by the use of the term natural are not addressed here for reasons of convenience. Toward the end of the chapter their significance, where relevant, will be assayed.

77. The concept of the natural region in the history of geographic thought is explained in T.W. Freeman, A Hundred Years of Geography (Chicago: Aldine Publishing Co., Inc., 1961), Chapter 6.

78. This idea is exploited in the Work of Karl Wittfogel, Oriental Despotism (New Haven: Yale University Press, 1957), and, centuries earlier, in the sociology of Montesquieu, Spirit of the Laws, trans. Thomas Nugent (New York: Hafner Publishing Co., 1949), Books XIV, XVII.

79. The Concept of Community, eds. David W. Minar and Scott Grier (New York: Aldine-Atherton, 1969).

80. Community, Nomos II, ed. Carl J. Friedrich (New York: Liberal Arts Press, Inc., 1959).

81. John Ladd, "The Concept of Community: "A Logical Analysis" in Community, Nomos II, op. cit.

82. St. Thomas' views on Communities, discussed by George Sabine, A History of Political Theory (New York: Henry Holt and Co., 1937, 56), p. 249, and by Otto Gierke, Political Theories of the Middle Ages, transl. Frederic William Maitland (Boston: Beacon Press, 1958), pp. 21-30, 61-63, are largely drawn from his writings on the nature of human organization and on the founding of states. See especially, Summa Contra Gentiles, Book III, Chapters 2, 22, 79, and 81; Summa Theologica, Questions 47, 95, and 96; and On Princely Government, Book I, Chapters 1, 4. 13, 14, and 15 in Aquinas, A. P. D'Entreves, ed., J. G. Dawson, trans. (Oxford: Basil Blackwell, 1948) and Basic Writings of St. Thomas Aquinas, Anton C. Pegis, Ed. (New York: Random House, 1945).

83. Nisbet, op. cit.

84. Ibid., p. 70.

85. Ibid., p. xv.

86. Sebastian de Grazia, The Political Community: A Study of Anomie (Chicago: University of Chicago Press, 1948). Also Nisbet, op. cit. pp. 49-53.

87. R. M. MacIver, Community (London: MacMillan Co., 1928), Chapter II.

88. Ibid., p. 110.

89. Rousseau, op. cit., especially p. 64.

90. For a contrary view of what Rousseau's strictures on scale mean, see Bertrand de Jouvenel, "Jean-Jacques Rousseau," Encounter, December 1962.

91. Talcott Parsons, "The Principal Structures of Community: A Sociological View," in Community, Nomos II, op. cit., p. 152.

92. Ibid., p. 160.

93. Conrad M. Arensberg and Solon T. Kimball, Culture and Community, (New York: Harcourt, Brace & World, 1965), p. x.

94. Ibid.

95. Ibid., pp. 18-20.

96. Ibid., p. 21.

97. Ibid., p. 47.

98. Ibid., pp. 45, 97, and 102.

99. See, on the need for standards, "Baker v. Carr and Legislative Apportionment: A Problem of Standards," Yale Law Journal, LXXII (1963), especially p. 1040 "...only a substantive standard of some sort can both meet the problem posed by malapportionment and satisfy to some degree the demand of equality of representation." For similar difficulties in another democracy, see "Baker v. Carr Abroad: The Swiss Federal Tribunal and Cantonal Elections." by F. William O'Brian, in "A Symposium on Baker v. Carr," Yale Law Journal, LXXII (1962-63), 46-63.

100. E.g., multiple access routes to government; constitutional guarantees, etc.

101. See below, chapter VII.

102. Herbert Gans, "We Won't End The Urban Crisis Until We End Majority Rule," New York Times Magazine, August 3, 1969, p.28.

103. Sociological standards of community proposed by a number of different social theorists have not been explored here because of the belief that other criteria will prove more useful in politics. They are, however, far from irrelevant and would merit consideration in any full-blown study of constituency formation. I have in mind such theories of community as those based on shared consciousness (consciousness of a territorial base -- as in the work of Weber and MacIver; citizen consciousness of having a public role to play -- as in the work of Dicey; awareness of public issues, of the possibility of a public opinion -- as in Bendix, shared trust, particularly

in the machinery of one's own government especially as opposed to other governments, or to political enemies, or to those not within the social community -- as in the works of Bendix, Tocqueville, and Weber) as well as those theories suggesting such standards as identifiable leaders and intermediary organizations (e.g., Bentley, Nesbit) or possessing a stake, having economic and political opportunities and hopes for betterment (e.g., T.H. Marshall).

104. Alexis de Tocqueville, Democracy in America (New York, Vintage Books, n.d., originally printed by Alfred Knopf, Inc., 1945), Vol. I, Chapter XV, pp. 264-280.

105. A minority with a sense of justice it cannot easily hope to persuade others to join might possibly co-exist with a majority, but the division would be voluntary and the key word "easily" -- i.e., it might be difficult to persuade others, but not impossible and, therefore, they would not necessarily be permanently in the minority.

Chapter III

MAJORITY FORMATION

Even if a majority can be located in some non-arbitrary conception of space, we still need to account for its origin, for how it came to be there. The gestation of majorities cannot be left a mystery because, conceivably, one sort of origin might appear legitimate and another not. The process of majority formation might contravene democratic moral constraints (e.g., might occur in a manner that treats people unequally in an important and politically relevant way) or violate ordinary canons of justice, or, depend upon an inappropriate methodological individualism. Examples come readily to mind. The refusal of the Democratic Party in the American South for a long period of time to allow Blacks to participate in party activities; or the authoratative intimidation of political activists in many communities; or the prohibition of anti-government publications in Argentina at various times; or the effective silencing of critical comment in India today. We need to explore how majorities come into existence in order to be sure that the usual activities accounting for their formation can accord with reasonable judgment.

One way to think about majorities is to conceive of statistical groupings that occur without benefit of human will. A percentage of people in a given society will

be bald-headed, or sports fans, or under 21 years of age. Man-made abstractions constitute the categories, although "unmade" empirical realities are described. Even as such arbitrary numerical entities majorities have significant sociological properties. They confer norms and create social patterns.[1] Think, for example, of a community in which a majority is black, or illiterate, or over fifty years of age. Such random but universal types of majorities, and diversity in their nature as well as in their proportions (from 51 to 99 percent) cause variations in the structure and functions of the societies in which they appear. Relative size has significance in itself.

Political majorities have special attributes (which may or may not be shared by other kinds of majorities). They present themselves not just logically, but in terms of some organization, some interrelatedness, and, generally, some consciousness of kind. Because proportions do matter, efforts to create, sustain, or destroy political majorities are as likely as any other rational human activity. Once their importance is recognized, their formation is not often left to fortune. Especially where majorities are granted authoritative decision-making powers. some people are bound to make majority creation their special concern. Whether spurred by shared identifications, impelled by the necessities or opportunities arising from social interdependence, motivated by spontaneous leadership, or intrigued by the art of social manipulation, political brokers always arise in social groups and, in majority-rule systems,

go about the business of bringing people together in numbers sufficient to generate and capture political power.

Philosophers have long debated the wisdom of such proceedings. More recently, political scientists have questioned whether or not such a process actually does take place. Opinions range from those who deny the existence of majorities in any important sense, to those who treat preponderant opinion as the decisive element in political affairs (and disagree only about how that unified interest ought to be construed). Between these poles lie modified versions of both viewpoints.

Dahl and "minorities rule"

Robert Dahl occupies one of the polar positions. He contends that political majorities do not, in fact, occur, never have occurred, and are not called for by the requirements of majoritarian decision-making rules in any contemporary democratic societies.

According to Dahl, there is something in society called a consensus which is made up of the values of the politically active members of the community. It consists of their limited ideas as "indoctrinated" members of their societies and of their expectations about what policies will enable them to win office in elections. It includes agreement on substantive matters (e.g., the prohibition of slavery) as well as on procedural rules. Elections take place within this prior

consensus among political leaders who are in some way dependent on mass acceptance. Specific policies, however, "tend to be products of minorities' rule." The difference between democracies and dictatorships turns not on the question of minority versus majority rule, but on the fact that democracies "greatly extend the number, size, and diversity of the minorities whose preference will influence the outcome of governmental decisions," and on the reciprocal effect this has on political culture.[2]

Minorities rule, Dahl explains in Who Governs, because they control the resources necessary for power (money, expertise, influence, etc.). No one controls more than a small fraction of the total resources in a country, usually only that portion connected with some particular interest (e.g., education or housing). In order to pursue particular policies in their field, groups may form coalitions and leaders may bargain with other leaders, but essentially everyone is content to let small organized interest groups dominate policy making within their restricted spheres of influence. Political parties are considered as one among many such groups, with nominations for public office designated as their peculiar area of concern.[3]

Dahl's model, "polyarchy" (outlined in his Preface to Democratic Theory and allegedly confirmed by his empirical studies of New Haven), involves two versions of democratic policy making. Either power flows from an oligarchy (different oligarchies dominating fields of interest) and apathetic

masses (the majority of citizens) consent to this arrangement by their inaction, or oligarchical power (supported by inert masses) is modified by the need to compromise in order to form alliances with other oligarchies and to create coalitions.

In either version, this rendition of democratic theory poses serious difficulties. Basically, it might be argued, observation of behavior is a necessary but not a sufficient ground for the analysis of politics. There are rules to the game of life that are operative although invisible. And there is an internal point of view held by the players about these rules that cannot be discovered merely by watching external action on the playing field. A ball game, H.L.A. Hart points out in his book on The Concept of Law,[4] is not solely a matter of umpires meting out sanctions to disobedient subjects, however much that may appear to be the case to one who merely observes a game in progress and fails to bring along any knowledge of the nature of the game or the agreed upon purposes of the players. There is a need to know not just what people do, but why they do it, and what purposes they fulfill or think they fulfill by their activity.

On Dahl's analysis, for example, disparate and possibly conflicting groups compete with each other, or at least their leaders do battle. Out of the welter of combat comes not chaos and violence, but equilibrium and stability. Why? What holds the system together? Who wills the homeostasis?

What activities make it possible? Who performs them? Dahl refuses to recognize any answers which rest on the importance of the majority decision making requirement. He also rejects any major role for law or institutions.[5] Insofar as he answers these kinds of questions at all, Dahl falls back on the concept of consensus and shifts the entire burden of the rationale for social peace or for common projects and priorities to the existence of a pre-electoral agreement (at least among leaders) about "important values."[6] But if all we have to work with in politics are "groups of various types and sizes, all seeking in various ways to advance their goals, usually at the expense, at least in part of others,"[7] where does a consensus about important substantive values come from? What accounts for its change? Why should anyone want to reach agreement?

Dahl's polyarchy may describe what he sees in American society, but his limited visions fails adequately to explain what goes on. His rejection of alternative theories of democracy suffers similarly. It rests, for example, on the virtual exclusion of deliberation in the exercise of choice as an expression of will. Legislatures (in his view) don't really count; in some essentially trivial fashion they record decisions made elsewhere. Interests (in his view) do not exist apart from their organized expression in activity and therefore, distinctions between latent groups and actual groups or between potential power and actual power cannot easily be made. The voice of minority factions within

organized groups largely disappear from his political universe. Since only political choice matters, all the complex reasons for abstention from voting tend to get lumped together under an undifferentiated umbrella called mass apathy. The very idea of popular sovereignty disintegrates because no such thing as a people is discernible and because power is only conceptualized in fragmented forms. Political equality, too, becomes equality alone because the political appears only as one among many groupings of relevant activity and in no way of architectonic importance.

Most strikingly, the theory of minorities rules denies to political parties any important role in the formation of majorities. "Elections and political competition," says Dahl,[8] "do not make for government by majorities in any very significant way." The numerical majority achieved at election time should not, in Dahl's view, be construed as more than an arithmetic expression. Which minorities fall within the winning coalition presumably does not much matter, for this numerical majority "is incapable of undertaking any coordinated action."[9] Parties organize elections, but this is not perceived as involving them in the articulation of interests across class and group lines. Parties run candidates, but are not in any important way responsible for the particular majority that, at election time, accounts for a winner.

To suggest that there are serious theoretical and empirical shortcomings in Dahl's thesis is not, of course,

wholly to denigrate its explanatory power. The merit of that thesis is that it calls attention to the dispersal of power in pluralist societies such as the United States. It points up the need for intergroups alliances in order to influence policy. It emphasizes the strategic role of group leaders upon whose bargaining skills the content of decisions so often rests. It explains why policy initiatives frequently come from outside both government agencies and political parties. It helps to account for the crazy-quilt pattern of policy making. It demonstrates the effect of inequality of resources as well as their differential use. But because it cannot treat political parties as entities essentially different from other interest groups, because it cannot discover either the nature of social unity or its source, because it discounts far too heavily both law and institutions, and because the normative aspects of politics recede to the outskirts of its focus, Dahl's thesis of minorities rule requires serious modification. It needs to be incorporated within a more comprehensive explanation of power; it is not itself that adequate explanation.

Variations in Pluralism

Moving away from the extreme denial of any possible overriding public unity about policy, one can find a number of political theories which posit some modicum of agreement about substantive decisions. Those writers, for example, who talk about politics as the art of compromise can be understood

to mean that a mutual agreement between conflicting parties to yield a portion of their respective positions results in a certain coordination of policy. In view of the need for social accomodation (in addition to the pursuit of individual or group goals), the compromise arrived at represents a genuine common choice. Some, perhaps a significant amount, of coherent programming issues from compromise and is as real (or even more real) an expression of joint purpose as any choice made without regard to the wishes of others.

The idea of compromise suggests that there may be a number of ways of achieving unity in collective choice short of general consent to a spontaneous commonly desired set of policies. For instance, Arthur Bentley's concept of overlapping memberships and David Truman's idea of potential interest groups[10] both recognize the existence of some minimal unity even within plural politics. The several interests of any individual, as Bentley points out, may not initially coincide. A person may oppose a policy as a loyal union member, but may support the same policy as a loyal churchgoer. A modification of the policy in question which makes allowance for both his class and his religious ideas might genuinely represent his opinion better than either of the original competing positions. Indeed, Bentley ascribed a good deal of societal stability to just such a modifying process.. Truman adds another dimension to this formation. Groups, he explains, may be unorganized; they may be potential rather than actual. Sometimes a potential

group signifies developing interest not yet articulated in an organized fashion. More often, potentiality reflects consensus, attitudes so widely shared that no special organization seems necessary to put them into effect, yet so influential that they often prevail because everyone tends to acknowledge them as a matter of course. "Multiple memberships in potential groups based on widely held or accepted interests," says Truman, "serve as a balance wheel in a going political system like that of the United States."[11] All citizens do not experience consensual politics continuously or with equal intensity, but without positing the existence of such common public attitudes, at least as a restraining force, a limit on group struggle, both Bentley and Truman admit they cannot adequately account for the viability of the American political system or coherently describe it.

Among those writers who, influenced by economics, seek to explain politics primarily in terms of the relation between atomistic individuals there is also some provision for unified, consistent public policy. Their elevation of logrolling to a major place in politics provides a case in point. Writers who use the concept analyze public affairs as if they replicate the market place with political "goods" each assigned a value and traded to the mutual benefit of the participating merchants. Each voter calculates how to maximize his particular advantage. Yet each completed trade involves a decision by all parties to it, and that decision, because it is mutual and a genuine choice among alternatives, constitutes an agreed

upon public policy. Exchange theory (including exchanges of the information necessary for correct reciprocal behavior prediction) presents a highly individual conception of politics which surely applies to only a part of the political scene.[12] Yet, where applicable, trading and logrolling techniques involve substantive decisions which more or less accurately reflect collective political positions. And because in large, complex societies an individual's acts are generally of little consequence, each citizen can avoid the costs of political participation without greatly diminishing his own welfare and live on those goods (e.g., peace and order) which when received by any person in a class effectively supplies the whole class. In this way, with little activity, one assents to quite particular collective policies,[13] or, at least, it is possible to interpret individual behavior in this way.

What is involved is not just the automatic aggregation of individual preferences, but the social acceptance of that aggregation. Such acceptance constitutes at least some modicum of substantive common ground. Current work with game theory and coalition formation involves a similar notion of public unity. Riker and Ordeshook call this dependence on collective will "cultural agreement."[14] Some degree of equilibrium issues from individualized processes that go on within (and only within) a specified range of activity. The range is shaped by common institutions and norms. Public policy can be described as the willingness of the public to accept whatever results occur from processes pursued within

the confines of those institutions. Each strategic choice can be justified as useful to each individual in an ultimate sense only if the agreement on this cultural setting is operative and rational.

Understood this way, both interest group theories and theories of politics as the calculus of individual decisions acknowledge a more compelling view of the rôle of general opinion than does Dahl's apparent rejection of politically important opinion across narrow group lines. Neither approach, however, makes the formation of common purpose decisive. Those who see public policy as the outcome which does and/or ought to result from the identifiable will of a specific collectivity work within a school of thought much further removed from Dahl's polar position.

Public Interest Theory

Just how to describe the common elements of the public will that is and/or ought to be a decisive element in policy making remains a matter of dispute among those who have taken seriously the idea of a public interest. One problem for thinkers in this vein revolves around the difference between a private will and a public will. Many writers have struggled to put into coherent form the senses in which this distinction makes for different categories of activity.[15] Some (e.g. Bentham) believe that all wants assert a legitimate claim for satisfaction; others (e.g., Brian Barry) hold that only some wants claim satisfaction as a right; and still others (e.g., David

Braybrooke) view interests as moral claims always asserted against others. Or the autonomous views of individuals are contrasted (as in Barry) with individual viewpoints which take cognizance of their effect on others and of the consequent need for accommodation.

Another problem in theories of the public interest turns on whether a preponderance of individual interests (sometimes conceived -- as with Bentham -- as an aggregation of objective utilities, and sometimes -- as with Hume -- as the superior force of subjective opinion) is sufficient to justify particular policies. Do we, in order to make an ethical judgment about what ought to be done, need to introduce some other types of criteria? Prominent examples of other suggested standards include the extent to which the interest is shared by all,[16] the equality of the distribution of benefits and burdens entailed,[17] the presence of an underlying unanimity about decisions making rules for collective action (e.g., Buchanan and Tullock) or a moral concept derivable from a hierarchical unitary scheme of values (e.g., Plato, Strauss, Flathman).

Preponderance theories rest on some notion of utility and have floundered in the difficulties of measuring and comparing utilities[18] as well as in the difficulty of justifying the inequality that may result if we always opt for what is most useful to the largest number. Ideal conceptions based on a hierarchical ethical system fail to provide for the practical resolution of conflict about policy except to insist that the contending parties cannot both be correct. The attempt to denude public interest of substantive content and

to rest the justification of policy solely on the justice of a polity's decision-making mechanism successfully deals with the problem of conflict, but pushes the ethical dilemma to another plane where a more inclusive ethics must resolve the possible clash between individuals and their decision-making system or between two political systems.

All these interpretations of what the public interest is or ought to be, in spite of important differences, share a belief in the reality (and desirability) of some sort of bond among a people which does or should find expression in the particular programs they adopt or reject. All theories of the public interest, that is, presuppose a notion of social unity accounting, at least in part, for the acceptance of collective choice and for the consequent emergence of social equilibrium. Discussions about the public interest, although directed primarily at the object or result of policy and not at its source, nevertheless, constitute a body of material which implicitly supports the position that unified preferences do (or should) arise in communities and do (and should) influence the course of policy.

Consensus and the Rule of Public Opinion

Consensus theory is a variant of public interest thought. Those who use the idea of a consensus seem to mean by it some specific agreed upon collective purposes. An individual opinion is simply for or against this or that policy; but

public opinion refers to the fact that large numbers of people are for or against a particular policy. Policy reflects either the consensus itself or the clashes contained within its confining bounds. Less precise and less sophisticated than public interest analysis, the concept of consensus is widely used and accepted as one of the givens of the political universe. Voting, on this showing, decisively represents public opinion. Support for policy clearly and directly relates to the size of the vote amassed by contenders. Bare majorities, for example, indicate minimal consensus and, therefore, make strong policies risky and more moderate versions likely. Large majorities give greater rein. Consensus inherently acknowledges the relative size of groups and the special role of majorities, but the precise nature of the phenomenon called consensus remains obscure and in need of more careful analysis.

The most extreme contentions about the existence and conclusive effect of unified public agreements are found in the works of John Stuart Mill and Alexis de Tocqueville. For these writers, the general orientation of both public law and social mores stems from the sway of popular ideas. A coordinated, coherent public opinion backed by legal and social sanctions decisively influences policy on all levels -- from policies fashioned in the halls of parliament to those articulated at private dinner parties. Rule by the quantitatively weightier portion of that opinion, therefore, may, among other things, result in tyranny of either a social

or governmental variety. Numerical superiority, Tocqueville feared, has a tendency to breed qualitative approval (e.g., the interests of the many are "better" than the interests of the few).[19] Picking up the thread of this idea, John Stuart Mill worried about the possibility that the aborning age of democracy might also entail an age of conformity as mass power translated into an irresistably widespread approval or disapproval of human activity. As Giovanni Sartori has pointed out,[20] the fusion of spontaneous private wills to produce that public opinion which is the key to popular political power is not quite the same thing as fused other-directed wills, as wills formed by the coercive pressures of society. Mass, socially produced wills, Sartori suggests, means tyranny of a peculiarly modern and particularly insidious sort.

These analyses of democratic government exhibit an unqualified belief in the importance of overarching, collective preferences, and share an undoubting attitude about the constant existence and play of such preferences. Dahl's skepticism finds no berth whatsoever. Perhaps this failure to raise Dahl's question may explain why a conformist society has not emerged on the scale sometimes contemplated by Tocqueville and Mill.[21]

Their concern for the quality of public opinion, however merits consideration. It directs attention toward the social milieu, toward the sources of ideas, and toward the level of adult reasoning ability. Mill recognized that some societies

function so as to make the justification for following the dictates of public opinion untenable. But it is doubtful that, consequently, he would have agreed with (say) the Frankfurt School, and denied the legitimacy of modern western governments on grounds of cultural inadequacy.

At what point is public policy vitiated by "spurious" consensus? What constitutes "genuine" or acceptable opinion? Upon what sort of state of human consciousness do the benefits of self-government depend? Although these are serious questions the validity of majority rule seldom turns on the answers given. No society is perfect. No modern state or historically known community conforms in all ways to Mill's (or any one else's) ideally best conception of representative government, but, as Mill argued, "From the general weakness of the people or of the state of civilization, the one and his counsellors, or the few, are not likely to be habitually exempt..." and, therefore, "It would be absurd to construct institutions for the mere purpose of taking advantage of such possibilities."[22]

What Mill called "infirmities" of majority-rule systems do not, by themselves, negate their advantages. Mill's teaching suggests, on the contrary, that so long as a system affords people alternatives, so long as rational argument can take place among them and the possibility of their being moved by discussion exists, they are as far along the road to human betterment as any political system can take them. The "infirmities" of alternative types of government are more severe, while the "dangers" of democracy even where

aggravated by an unreflective public opinion, are at least open to mitigation, certainly in the long run.[23] Mill can support the sway of public opinion even while working for its improvement. The significance of public opinion need not rest solely on conformity to high standards of cogency.

Thus, embedded in various conceptions of politics lie divergent views about the reality and significance of widespread public unity. To comprehend in what sense majorities can be understood to form at all or, if they do coalesce, can be said to carry weight in public affairs, we need to sort out and examine these multifarious notions of political life.

Majority Existence: An Evaluation

The idea that opinion never crosses narrow interest group lines (except when carried by leaders in search of their individual leadership goals) appears unlikely. It presupposes an image of men so different from each other that common reactions or pursuits would constitute drastic deviations from the norm. But the daily life experiences of most people consist of many like concerns; the occurence of language, the very ability of humans to communicate with each other, suggests the shared nature of their make-up and knowledge and interests.

Besides the kindred general experiences that yield common opinion on policy of public import, a specific people may share uniquely national aspects of life as well, and these, too, produce a unified politics. Joint residence on a particular portion of the earth with its individual land use patterns or climate or topography often mean cognate perspectives on appropriate policy. Culture certainly moves across many ordinary divisions: those who grow up watching the same television shows, playing the same ballgames, telling the same jokes, going to similarly structured schools with similarly designed curricula do not simply shed their fraternity in political matters -- however partisan they eventually become, their capacity for unity remains and is unlikely to go untapped.

Considerable empirical evidence supports these logical expectations. Groups, operating within their special area of concern probably have been squelched by the larger society as often as they have dominated policy within their sphere of influence. Labor legislation, to take but one example, often results, it is true, from a union-management tug-of-war (ie., from maneuvering among minorities). But sometimes a single issue, such as the union shop, patently grows into a matter of general public concern. In Ohio in the 1950's, contention between such minorities produced a defeat for labor in the Ohio legislature and the enactment of a right-to-work law. Labor then attempted and succeeded in appealing to a statewide popular majority opposing the law and defeated

Republican Governor Rhodes in a largely single issue campaign.

In other elections, in spite of the activity of numerically powerful unions, union shop laws have been defeated, i.e., a vocal interest group, labor, has not been allowed to dictate policy. Labor's control of the resources that, on Dahl's showing, make for power (large numbers, money, expertise, organizational skill and experience) often does not enable it to prevail, nor can labor's defeats easily be explained in terms of veto by congeries of other concerned, organized minorities, for support of right-to-work laws apparently flows across established interest group lines. Instead, mobilization of electoral opinion occurs (either spontaneously, or through political parties). Groups do not function as sovereigns, nor do veto groups suffice as a negative force.

Political patterns, in short, do not always fit the decision-making model Dahl pictured in New Haven. Minorities, it would seem, contend for power with other minorities in regions of common interest only when the general public (or a majority of it) permits policy to be made in that way (which, as Dahl correctly notices, it frequently does). But the people at large always have the option to interfere and they sometimes exercise that option. Their potential power, in fact, always enters the political process because it becomes a part of all sub-group calculations and strategies and thus influences substantive policy decisions even <u>in absentia</u>.

In addition, some important policies fall beyond the purview of any special minorities and appear, from their outset, to dissect groups and involve the whole population. Unlike housing and education policies, the debate over prohibition or the Viet Name War can hardly be ascribed to inter-group bargaining. The decision making Dahl examined in New Haven might, upon further empirical investigation, turn out to characterize only certain categories of issues. Other issues, of equal if not greater political importance, appear to be resolved differently. On matters of war and peace, on questions involving national moral standards, the decision making constituency apparently tumbles over all known factional boundaries and something aptly labeled public opinion emerges. Power, on such matters, depends directly on a majority of the general populace in a way that housing and education policy may not.

On what grounds, then are we to believe that life in common is irrelevant to the general public arrangements called politics? But if not totally irrelevant, how relevant is it? How is it manifested in and how does it affect political life?

Perhaps enough has been said to hazard the suggestion that some degree of social cohesion, stemming from some mutuality of needs and concerns, underlies all distinct groupings, including modern nation-states. Whatever the intra-group differences, and however significantly they

modify the bonds of cohesion, those bonds nevertheless have an indispensable place in political affairs. How the forces of unity are gathered and structured and brought into play, therefore, constitutes an important aspect of politics. Nor is the adjustment of conflict either self-explanatory or self-regulating. It, too, takes shape within certain boundaries, goes forward via certain machinery, involves both open-ended resolutions (e.g., market mechanisms) and determined substantive decisions (e.g., specific mass mandates).

Most importantly, the kind of unity achieved (trade-offs, joint discovery of viable alternatives, coalitions, modifications of demands, etc.) and the level on which it occurs (constitutional or legislative, local or national, among masses or leaders, in legislatures or bureaucracies)[24] depends on how the institutions of a society handle such matters. No society leaves the production of unity altogether to chance. Traditional ways, or designated authorities, or particular organizations perform unifying functions. Where the social unity sought is a minimum number -- 50 percent plus 1 -- the bringing together of that number will be the special business of some. How they go about that business is as crucial to a judgment of the justice of a society as the existence of the numerical requirement itself. Although mindful of the fact that all issues don't evoke a distinguishable transfactional opinion, and that the extent of

the occurrence of such opinion may vary from time to time and policy to policy, we nevertheless can assume that some unification does take place and is capable of critically directing the course of events.

Mechanisms of Majority Formation

The role of majorities is not only complex in terms of the amount or significance of the direction a majority can give a society, but it is also far from simple in terms of the mechanisms it does or might utilize in the course of performing its functions. Majorities, for example, can form simultaneously on different levels of government and, in federal systems, a majority thought appropriate for one unit of government may not be acceptable for another. Jurisdictional problems become inevitable and the difference between (say) local and national majorities becomes a source of confusing and conflicting claims. A majority must not only coalesce, but come together in a particular constituency that, in a given governmental system, is considered proper for the policy or personnel concerned. Some local majorities cannot successfully be maintained on the national scene, and some national majorities fall apart under the pressure of local applications. The need for political artistry to form appropriate majorities appears compelling. And, in most societies, such would-be artisans do come to the fore.

Factions and cliques have always provided political organization insofar as they are able. But the narrowness of their concerns, especially in modern countries with mass electorates, militates against their successful manipulation of wide ranging programs or their control of widespread offices. While the small circle of participating citizens enabled forceful or brilliant leaders, or possessors of major resources (especially economic ones), to play a central part in nineteenth century British politics, today, even where voluntary non-participation runs high, the electorate is too large and diverse to favor successful exploitation by groups based on personality or family or regionalism. The numerous, wealthy, magnetic Kennedys in America, for example, have had to build a far flung political machine well beyond the confines of Massachusetts and the circle of their friends. Even a charismatic leader cannot function for long without some sort of organization with an extensive local apparatus.[25]

Organized pressure groups suffer similarly. If they have local organization, it revolves around and is dependent upon a range of concerns too narrow for the larger purposes of political majorities. The internal cohesion of the most powerful of these groups rests on the promulgation of programs that cannot easily be exppnded. Organized labor, organized religion, student movements, consumer groups, and so on, all lack the broad appeal necessary for the successful pursuit of public ppwer, for control of the government.

The Role of Parties

Political parties have appeared on the stage precisely to make the arrangements left unattended by traditional groupings. In democratic countries where the majority decision rule operates, political parties are in the business of generating majorities. In order to comprehend the general features of their enterprise, it may be useful to sketch how American parties go about their integrative tasks. In some ways distinctively American patterns may color their work. Still, observation of the American scene should yield some information about the inherent logic involved in building majorities and, therefore, apply, at least to some extent, elsewhere.[26]

1. Inclusivity

First of all, American parties are inclusive. In multi-party countries some exclusivity is retained for purposes of nominating and electing candidates and then dropped in order to form a broad coalition to govern. American political parties, like those in many other two-part systems, seek to accommodate all voices, a seemingly improbable goal in so heterogeneous a nation. Yet, neither the Republicans nor the Democrats deliberately exclude possible supporters or turn a deaf ear to any segments of the voting populace. Strategy may call for favoring one group or another, or writing off the support of some faction, but neither in rhetoric nor in practice do the parties often

outrightly reject would-be adherents. Neither party lightly ignores those who speak either in significant numbers or with significant influence. Both parties actively seek to recruit voters in quantity or to recruit in quality so as to affect large numbers indirectly. Minorities, if they can muster strategic numbers or strategic personalities, always get a hearing and at least a formal welcome. The overwhelming desire to win demands non-alienation; it is not a matter of ideological tolerance, but of calculated self-preservation. Loyalty to the party (and a very watered down version of loyalty at that) suffices for admission to the power-seeking alliance. While frustrating to those with tidy minds who prefer clean-cut ideological positions, the inclusive nature of parties provides insurance for minorities who can hope to exert some influence in exchange for their participation, and to attract some attention to their concerns that might otherwise remain neglected in systems that can better afford to ignore them.

2. Coalition formation.

A second characteristic integrative function of parties involves taking a leading role in the organization of coalitions. To know who is likely to join forces with whom at any given time requires perceptive skills of the sort successful American politicians usually possess. A sensitivity to the political climate, a feel for the temper of groups, a correct reading of moods as well as motives --

these are among the qualities that usually distinguish political leaders from others. There aren't any clearly rational formulas for welding alliances, for bringing people together in numbers and common purpose sufficient to capture political power.[27] Plato's statesman delicately wove threads to produce a serviceable (and perhaps beautiful) fabric. Modern politicians, mixing cajolery and intimidation, flattery and promises, programs and rhetoric, are busy constructing the same kind of integrated pattern.

These patterns lack permanence. Rather, they constitute temporary alliances always tenuously held together by whatever fragile allegiance to the party political leadership can muster. Usually, they can muster only sufficient strength to guarantee the continous operation of government, just enough to provide minimal continuity and order, but seldom enough to promulgate a coherent, national, partisan program.[28] Restraints on what can be undertaken come from local interests, from the other party or parties, and from opposition (often organized opposition) within the coalition. Loyalty is to the organization as such, to the party as a responsible agency of government. Justification for an allegiance of this sort rests on a general recognition of the usefulness of the party's functions.[29]

Curiously, party activity in coalition formation does not preclude or come into conflict with their inclusivity; all may be welcome, but some are more welcome than others, more sought after, more valued. Majorities seem to be organized by both specific alliances and open invitations

to others to join. To woo new adherents with ardor does not necessarily require the rejection of other more sustaining relationships. A proper balance of competing forces suffices.

In an older view, parties rest primarily on principles, on some organization of opinion around a program or set of ideas. This view was most familiarly articulated by Burke, who provided a definition of party that asserts the primacy of "common sympathies." As electorates have been enlarged, however, and the role of party in cutting across established group lines has become clearer, this position seems increasingly alien to reality. Those who uphold the centrality of principles in the structure and functioning of parties usually point to what they take to be the continuing importance of class divisions in society and view party adherence as a class related matter. Deviations are variously explained in terms of charismatic leaders, historical idiosyncracies, geographic accidents, a temporary upsurgence of non-economic issues, the aberrations of ethnic, religious or racial minorities, or the intrusion of international considerations. All differences not related to the rich-poor dichotomy (or, in Marxist terms, the worker-owner dichotomy) are assumed to be "parochial," and in any case of secondary importance. The "real issues," for those who write of principles as the defining characteristic of

parties, remain class issues. The failure of an electorate to divide roughly into a party of the rich or bourgeoisie, and a party of the poor, or proletariat (each angling for middle class votes), is explained by Marxists in terms of "false consciousness" and by non-Marxists as abnormal in a variety of senses (e.g., some workers have authoritarian personalities and believe the rich better able to rule, the American southern Democrats are really Republicans in the wrong party because of peculiar historical circumstances, there is an anachronistic Protestant fear of Catholic power).

One interpretation of what all these positions share is that they all theoretically reject a conception of politics as a matter of shifting strategic alliances in which principles may play a part, but (especially purely economic principles) usually only a small part. They are all put off by the sheer pragmatism of the opposing view, and either believe economic realities do play a larger role in life or that they ought to. If the empirical argument is made it might rest on the fact that a majority of Republicans have opposed a majority of Democrats on specific issues, such as increasing unemployment benefits, allocating funds for public housing, promoting urban mass transportation, and EOA poverty programs. But opposing empiricists either point to different issues (e.g., civil rights, aid to parochial education, foreign aid) where the side that one could argue

would redound to the economic benefit of the non-privileged was supported by a majority of Republicans and opposed by a majority of Democrats, or they point to internal party splits on all these issues (e.g., a majority of Democrats opposed the Taft-Hartley Act but 40 percent of them voted for the bill) and claim that the differences between party factions are as great as are differences between the parties.

The dispute about parties based on principles goes further. Some deny that any issue can be seen purely as an economic question; they hold in contrast that in all cases there are multiple aspects to be considered. Some believe that the burdens and benefits of economic policies fall unevenly on social or economic classes; others believe that these policies fall unevenly on individuals within economic classes depending upon occupation, age, region, or race and, therefore, cannot logically apply to populations divided into rich and poor, or bourgeois and proletariat.

These variations in interpretation involve matters rather far afield from the central concern here, namely, the specific manner in which majorities are created. What can reasonably be argued within the confines of this concern is that principled divisions between parties are not invariably necessary to the performance of party functions. Organization may sometimes revolve around principles, but the intrusion of principle more often divides than unites, or, at least, presents risks of disunity that parties would

be foolish to run (strategically, if not morally).

3. The reduction of choice

What unquestionably does persuade many to join parties in a common effort is the obvious need to reduce choices to a manageable number. Reduction takes place initially by the substitution of people for interests or ideologies. While majority agreement on specific policies may be difficult to achieve, such agreement on personnel can more readily be secured, probably for reasons having to do with the nature of representation.[30] For a group to function as a unit the minimal need is for some shared sense of elementary justice. As long as the group can agree on a person whose judgment they trust (at least to the extent of hiring him for the job, of granting him temporary authority), they can proceed as a unified body. But this usually necessitates the selection of candidates with bread appeal rather than sectarian strengths. The logic of the party's role pushes individuals even more than programs to a center position, away from extremists of all kinds, and towards flexible, amiable, pragmatic types.

The sort of person likely to arouse widespread interest or trust or acceptability varies with what Rousseau would have called the virtue of the community. Better men are likely to choose "better" officials. However virtue may be defined, some recognition as a virtuous man counts significantly in America (e.g., "I vote for the man, not

the party") along with the possession of relevant skills, visibility and so on; for only by an appeal to the commonly recognizable characteristics associated with a community's sense of justice can parties bring together, in multifarious societies, sufficient unity to operate a government. In Pendleton Herring's words, "parties launch leaders selected for their availability and their capacity to attract political support."[31]

A further reduction in choices takes place by the winnowing of suitable personalities. Sometimes a political party must search for an appropriate candidate. More often, they choose among a large number of possibilities. The centrality of such nomination procedures distinguishes parties from all interest groups. In the language of group theorists, candidates are the party's greatest resource, selection processes their realm of expertise. In short, political parties negotiate the formation of majority seeking coalitions primarily by producing from among the bewildering plethora of political ideas and would-be leaders, a single nominee around whom a sufficient measure of allegiance can be constructed.

4. Enunciations of principles

It does not follow that government built on party loyalty need make <u>no</u> allowance for programs or principles, but only that the allowance is likely to be minimal and general. What parties do, what even the relatively disci-

plined British parties do, cannot be explained in terms of a simple mandate theory,[32] of parties elected to carry out specific policies. Politicians face issues as they arise and in concrete terms. Party enunciations of general principles, therefore, tend to occur in oblique ways. First, and perhaps most important, those elected to office build a record for their party. The party is judged in terms of the success or failure of whatever programs their elected officials effected or failed to effect. Interest centers on the results of policy rather than belief in this or that proposal and result is measured by the pragmatic test of acceptance: no one complains too loudly. Factionalism testifies to disunity, to lack of agreement. The achievement of bi-partisan support in the U.S. counts as success. Resistance, especially violence, serves to measure failure.

Further, since all policies either maintain or change the status quo, to the extent that parties enunciate any program at all, it would tend to be the most inclusive possible one, most commonly an orientation toward change.[33] The party's stance, however, would probably be adopted with a minimum of debate about abstract principles or final ends. The Democrats in America in the 1930's, for example, carried on a program of quite basic readjustments without pursuing widespread discussion of ultimate aims.[34] Labels such as liberal or conservative, or left and right,

attach to a tendency, to an overall outlook about the needs of the moment rather than to specific substantive items. Because an orientation in this diluted sense often, in American politics, does separate men politically and does distinguish what equally virtuous men might disagree about, a programmatic or ideological element does enter into, although it does not simply determine, party allegiance. The need for agreement severely restricts the role of principles, especially their specificity, although it may not wholly eliminate them. American parties tend, however, always to broaden special interests and pointed appeals in order to win over large numbers.

5. Organization

In order to perform its function a party builds an organization. A group of people devoted to the business of nominating candidates and winning elections meet together and set up procedures for going about the explicit tasks involved. They organize meetings, invite speakers, and publish literature about office holders (both potential and actual) and sometimes about important issues. They attempt to enroll new voters, and to make themselves useful to members (both potential and actual, both active and marginal) by interceding with government personnel to fix traffic tickets, find jobs, procure inside information, consider contract bids, and so on.

Winning power requires organization. The tendency of any organization, however, is to be self-perpetuating and

self-rewarding. As Robert Michels sadly noted long ago, the maintenance and enhancement of organization itself becomes an interest, an interest which competes with other social goals.[35] Alleged organizational necessities inevitably mix with pure party functions and dilute the larger objectives that the party originally aimed to fulfill.

This single fact was sufficient to make an honorable descendent of the founding fathers like Henry Adams recoil from democratic government. Worse, as Adams realized, the nature of political organization presents opportunities for bribery and corruption that prove irresistible to party functionaries.[36] Patronage, untied to policy, often plays a key role in keeping the party operating as a unit. Scandal is so frequent that disrespect for the party process has become endemic to American life. The smell of corruption hovers over even those deals and bargains which majority formation might sanction justifiably.

Regulation and control of party machinery, therefore, cannot be altogether separated from the problem of generating majorities. The internal processes of parties may violate elementary notions of fairness, and provide means (to approved ends) that lie outside a society's moral consensus or even stipulated rules of the game. Or, party procedures may fail to conform to the requirements of political equality, favoring those with more money or more friends in high places, and excluding some representing larger constituencies or more pressing problems.

While party organization, in the above ways, can interfere with and distort the role parties clearly fulfill in majoritarian systems, it cannot vitiate the essential party process except temporarily. Most irregular internal procedures depend upon public indifference which disappears just often enough to make corruption a risky venture. Unwarranted discrimination, too, depends upon general voter inattention. As the Democrats discovered when McGovern supporters entered local club houses en masse, or as the Republicans found out when Goldwater adherents took control of party machinery in 1964, American party organizations are vulnerable bodies. Parties cannot be protected easily from political activists who wish to participate. Inclusivity leads to lax membership regulations, and direct primaries for party offices force acknowledgement of dissident factions. Since parties cannot be sustained without the rewards of office, elections must be won; this, in turn, requires a certain amount of sensitivity to public opinion. Because even the most powerful party machines live on the sort of loyalty that feeds on success, no party group can afford to risk losing very often. The need for victory forces even the most influential bosses to work hard to create genuine majority-sized coalitions. They can squeeze by on less only for limited periods. Support has to be courted every day for tomorrow it may slip away and rivals always lie in wait. Thus, in the free-wheeling American system,

party organizations, in spite of their potentiality for conflict with party functions, only occasionally get in the way of those who wish to play the part of political brokers and to generate majorities capable of electing governments. In fact, the brokers themselves have often come from the ranks of the less privileged, and party organization has sometimes served as a vehicle of upward mobility for ambitious men.

In recent years, some candidates have organized personal organizations which have competed successfully with regular party factions. Whereas Franklin Delano Roosevelt was the presidential candidate of Democratic Party bosses, John F. Kennedy built his own national machine. George McGovern attempted (unsuccessfully) to mobilize a fresh grass roots, door bell ringing brigade, and today, Jimmy Carter is making an interesting attempt to forge a new coalition by bypassing many party bosses and appealing (in part) directly to Democratic party members. Mass media reach voters without the aid of party leaders and this fact alone may change the procedural requirements for success. The perspective of the present is inadequate for full understanding. Permanent party organizations might look quite different in the future, and their roles may change considerably as new methods of organizing voters come into play.

Party Methods

The job of creating majorities, then, falls preeminantly to political parties. They perform the work by integrating societies across traditional group lines, by making themselves inclusive organizations, by forming coalitions among established interests, by reducing options from an unmanageable number, by proclaiming some very general organizing principle, by enlarging all special pleadings to make them agreeable to majority-sized groupings and, above all, by securing agreement on personnel even when programmatic agreement is lacking. To achieve these integrative goals, especially in free societies where multiple interests freely develop, parties characteristically employ a number of methods. They select candidates to fill the necessary offices of government. They mobilize portions of the electorate to compete for these offices against others similarly bent on capturing power. And, if they win, they organize the government; if they lose, they organize themselves as the opposition.

Providing personnel, as already indicated, is their primary way of producing unity. Contesting for power follows from their need to discover common ground in situations where differences exist and resolutions must gain popular approval. As Giovanni Sartori has put it, "a party is a part and therefore implies a counterpart."[37] Competition is built into their nature. Emerging as the loyal oppo-

sition is a bit more complicated but equally explainable in terms of the logic of the game. Parties play politics in America as if the following rules had been established:

1. they must create unity (in the sense already described;

2. the smallest amount of unity possible that would still enable them to operate the government suffices;

3. winners have at their disposal resources for the maintenance of unity that the possession of power brings (jobs, money, status);

4. losers have at their disposal their readiness to serve as an alternative to the winners:

   a. they stand ready to criticize all incumbant moves, to explore the potentiality of any move as a point in their campaign to take over;

   b. they stand poised (and semi-mobilized) to do the job themselves.

The parties, that is, operate within a framework of ins versus outs because the kind of unity they exist to provide requires no more, and an attempt to elicit more might be counter-productive. Provision for simple alternations in

in power satisfies the functional requirements of a democratic system. A structure analagous to the classic British loyal opposition model emerges because it conforms to the logic of the process. Specific representation of less inclusive points of view may be desirable, but party government does not need them. Its purposes can be fulfilled with only two contenders, a single organization of those in power and a single organization of those seeking power. The most efficient scheme of development may not be the best for reasons non-contingent upon the minimal functions performed. However, countervailing forces would need to be strong to prevent or modify the structural tendency produced by the logic of obtaining public power in pluralist democracies.

Majority Formation and Political Parties: An Evaluation

Majorities, it has been argued above, do not happen by chance. They are the intended products of deliberate efforts. Their cultivation has a logic of its own. It revolves around a person more easily than a program. It excludes no one. It requires construction of a record of success. It may include selection of a general political orientation. It necessitates organization with grass roots. It involves a willingness to compete for control of government and to contend with government when others control it.

If understood in this fashion, can the role of political parties in the formation of majorities be justified? Do

parties perform their function well or badly? Does the construction of majorities go forward in a manner that conforms to the constraints of political equality and popular sovereignty? Does it meet the requirements of justice?

Only a work which investigates the practices of parties in detail can answer these questions adequately. On the basis of the limited analysis undertaken here all that can be done is to hazard a few general comments.

In the United States (and presumably in other democratic countries as well) the parties successfully marshall agreement where none exists prior to their efforts. They have had only one notable failure in America, i.e., the Civil War episode. Stability may be one of the less exalted virtues, but American parties do produce it. In as heterogeneous a nation as the United States that is probably no small accomplishment. A more programmatic sort of agreement than the parties have traditionally put forth may be impossible and, considering the range and depth of differences in this country, may not be desirable. Moreover, the amount of change achieved without principled programs is impressive (e.g., from agriculture to industry, from limited state to welfare state, from colony to world power).

Apart from the quality of rule provided, what can be said of the methods of putting together a governing group? The requirements of equality, because open to dispute, cannot be definitely measured. Certain things, however, would

count from most viewpoints: access, money, nomination procedures, discussion.

Access to American parties appears fairly open (e.g., important aspects of opinion or numerically significant groups can influence present parties, form their own parties, or effectively threaten to form their own party).

The role of money remains ambiguous: no amount of it and no proportion of it guarantees victory, but its absence apparently guarantees defeat. Public funding helps equalize resources, but also rejuvenates splinter sects otherwise headed for a natural death from lack of support. Control of private funding restricts the power play of the wealthy, but also squelches legitimate expressions of support (the relation between free spending and free speech has only begun to be explored). Regulation minimizes but does not eliminate bribery.

Irregularity marks party nomination procedures and recruitment practices. An equal ability to cast the decisive vote in these matters does not always obtain. Formal mechanisms, on the other hand, e.g., direct primaries and quota systems, skew the results in favor of activists and certain minorities, a consequence whose justice to the lazy non-participant is offset by the injustice of unrepresentativeness. Parties responsive to the public hinge as much on an old boy network which happens fortuitously to symbolize accurately

the common man as on effective techniques of mass organization.

Complacency about these diverse procedures seems far from warranted. But remedies would depend on why such practices prevail, and only an extensive empirical investigation could provide the necessary data. Any assessment of how seriously nominating procedures detract from the legitimacy of majority rule must await more evidence. But suspended judgment ought not to be construed as approval. The capacity to manipulate these activities in unjustifiable ways obviously exists, and the great personal wealth of so many recent American presidential candidates cannot help but give pause to Democrats.

Insofar as the discussion process rests in their hands, parties also perform both dismally and well. They ignore divisive issues as long as possible and yet, when a position has sufficient adherents it does get picked up (as witness the number of minor party planks taken over by the major parties). They foster debate rather than a genuine search for just resolutions of conflicts, but these adversary proceedings often produce as much fairness as one can reasonably hope to get in this world. American parties, by their regulations and procedures (e.g., registration requirements, petition requirements, etc.) encourage passivity, and yet their propaganda has helped to make voting a prevailing norm. They seldom innovate and are often corrupt, but they have provided a forum for every major cause.

The Special Role of Free Speech and Association

Many conditions may facilitate the process of majority formation or influence it in significant ways. A lack of economic resources may plague some groups; an absence of outstanding leaders another; excessive media control may seem to advantage some; and lack of prestige disadvantage others. Conditions vary in importance from time to time and place to place. Nevertheless, one set of conditions, one encompassing the rights to freedom of speech and organization (including meeting with others, circulating opinions, discussing reactions, criticizing, suggesting, forming associations) separates itself from all others by its indispensability to the whole enterprise. When these rights obtain the activities they include go on, no matter how unequal any other competitive conditions may be. Political parties seem to grow out of the need to find minimal agreement within communities with multiple interests. In order to do that in the fashion outlined above, they must hold discussions, persuade, and eventually nominate candidates and solicit votes. Where perfect harmony (or an alleged harmony) between the state and society reigns, parties may be used as an arm of the state for mobilization purposes, but they are not needed to weld a basic unity. Societies forced to manufacture harmony from admitted discord have to provide the tools for doing so. The right freely to speak and to form associations (especially associations and speech that oppose the regime in

power) are those necessary tools.

The unique role of freedom of speech in majority formation does not, however, touch the question of how absolute such freedom ought to be in the society in general, nor even settle the question of how absolute political freedom needs to be in order to allow majorities to form freely within the confines of popular sovereignty and political equality. It only suggests that the creation of majorities involves a very widespread freedom of speech and, perhaps, absolute freedom of association.[38] The grounds of the argument here are pragmatic and completely instrumental and, therefore, not necessarily as stringent as the claims that issue from the argument of John Stuart Mill which rests on somewhat different propositions.[39]

In sum, majorities do not always exist on all issues. When they do come into being they may arise as abstract unwilled entities, but if politically relevant are more likely to be deliberately organized. Such organization occurs on different governmental levels simultaneously and is the work preeminently of political parties, who do it minimally by getting agreement on candidates within a framework of ins versus outs.

Whatever the deficiencies of present party goals and methods, majorities could not come to power without allowance for party work. The justice of the majority decision rule

in democracies depends upon the free formation of majorities and the competitive operation of parties (or equivalent mechanisms) capable of generating such formations. Without competitive parties, fifty percent plus one could only prevail by chance and, in the face of the advantages those already in office would then hold, the odds on such a chance event would be very low indeed. Political parties, or some such organization of brokerage functions, are indispensable to rule by the majority, at least in modern large-scale societies.

One implication of this formulation ought to be noted. Neither the processes nor the methods of majority creation condemn any group to permanent minority status. No one is excluded by definition; on the contrary, all are guaranteed entry and all are subjected to dependence on leadership, strategy, and the ability to grow larger.

If majorities come together and make their presence felt in a manner roughly like that described here, how long can they be presumed to last? For what length of time is their legitimacy tenable? Over what period of time can they commit their societies? It is to questions of this order that we next turn our attention.

FOOTNOTES -- Chapter III

1. For a typology of the sociological attribute of majorities see Robert Bierstedt's "The Sociology of Majorities," American Sociological Review, XIII (1948), 700-710.

2. Dahl, A Preface to Democratic Theory, pp. 1313-134.

3. Dahl, Who Governs? (New Haven: Yale University Press, 1961).

4. H.L.A. Hart, The Concept of Law (London: Oxford University Press, 1961).

5. See especially Dahl, Preface, pp. 21-22.

6. Ibid., p. 132. Dahl apparently uses the term 'values' here in a tautological fashion, i.e., values are defined as what holds the system together and the explanation of what holds the system together is labeled values. An examination of values which might well reveal that they are something more than anyone's arbitrary preferences, might serve, therefore, to open up the whole nature of consensus. As currently used in the literature, however, consensus remains a rather unsatisfactory construct, suspect as a tautology.

7. Ibid., p. 131.

8. Ibid., p. 132.

9. Ibid., p. 146.

10. See David Truman, The Governmental Process (New York: Alfred Knopf, 1951), p. 508 foreword for a discussion of these issues. Also Arthur E. Bentley, The Process of Government (1908) (Bloomington, Indiana: The Principia Press, 1949).

11. Truman, op. cit., p. 514.

12. It excludes those who have nothing to trade or have so few resources or so little inclination to bargain that they find this method of reaching decisions inadequate to their needs and a violation of their political equality. For criticism of economic theory as an explanation of politics see Jack Lively, Democracy (New York: St. Martins Press, 1970), p. 93; Brian Barry. Sociologists, Economists and Democracy (London: Collier-MacMillan, 1970), pp. 14-16,

31; J. Plamenatz, The English Utilitarians (Oxford: Basil Blackwell, 1958), pp. 173-5. Cf. Buchanan and Tullock, op. cit., p. 22. See also footnote 48, Chapter I above.

13. For a discussion of the free rider problem see William H. Riker and Peter C. Ordeshook, An Introduction to Positive Political Theory (Englewood Cliffs, New Jersey: Prentice Hall, 1973), p. 57.

14. Ibid., pp. 151, 60-68, and 105.

15. Richard Flathman, The Public Interest (New York: John Wiley and Sons, 1966) Chapter 5.

16. In Rousseau "objectivity" shared; in MacIver, "subjectivity" shared.

17. E.g., as in Pareto optimality.

18. For an excellent summary of interest group theories and their difficulties, see Virginia Held, The Public Interest and Individual Interests (New York: Basic Books, 1970).

19. Note, however, Tocqueville's frequent recognition of contrary tendencies as for example in his discussion of the legal profession and its prominence.

20. Sartori, op. cit., p. 101.

21. Some writers, of course, believe a conformists society has emerged, e.g., Herbert Marcuse in One Dimensional Man.

22. John Stuart Mill, Representative Government, pp. 224-225.

23. See especially Chapters 4 and 6 of Mill's Representative Government. For further discussion of this issue, see Chapter IX below.

24. The distinctions drawn by Robert MacIver in The Modern State (London: Oxford University Press, 1926), pp. 10-12, between the will for the state (or constitution), the will for the regime (or government) and the will for particular policies are well taken. All levels, however, probably operate simultaneously to some extent (e.g., acceptance of a particular law may rest in part on the legitimacy of the state and in part on the popularity of the constitution) and certainly all affect the course of events. Since the majority principle has never been

decisively ruled out as inappropriate for decision making on any of the levels noted, MacIver's discriminations may obscure rather than charify the problems of forming or sustaining majorities. For further discussion of levels of majoritarian will, see below, Chapter V.

25. Cf. Weber on the routinization of charisma.

26. Even under totalitarian regimes not dependent on freely formed majoritarian consent, the need for an integrative force to cut across class and group and geographic lines has led to the preeminence of the political party. See also Samuel Huntington, Political Order in Changing Societies (New Haven: Yale University Press, 1968), p. 40.

27. A contrasting opinion is involved in the work of Anthony Downs, op. cit.

28. Clinton Rossiter claims they serve only to "Keep the Consensus alive and also to keep all our independent centers of power in touch with one another." Parties and Politics in America (New York: The New American Library of World Literature, 1964, first published by Cornell University Press, 1960), p. 70.

29. For a similar view of parties, see Pendleton Herring, The Politics of Democracy (New York: W.W. Norton and Co., 1940), especially Chapters 6 and 7.

30. See Chapter II.

31. Herring, op. cit., p. 116.

32. For an interesting analysis of how British parties operate see Samuel H. Beer, "New Structures of Democracy: Britain and America," in Democracy in the Mid-Twentieth Century, William N. Chambers and Robert H. Salisbury eds., (Saint Louis: The Washington University Press, 1960), pp. 30-59.

33. See MacIver, The Modern State, p. 410: "It is the attitude toward the established order of things which fundamentally distinguishes party from party."

34. Cf. the Hungarian Communists who, in the face of critical challenge in 1966, significantly preserved a way of life.

35. In Communists countries party organization has become, a, if not the, power base; to struggle for control of

the party in these single party systems is to fight for control of the country.

36. Or so one might infer from his novel, Democracy (Greenwich, Connecticut: Fawcett Publications, 1961).

37. Sartori, op. cit., p. 84.

38. Outlawing any would-be political party appears to violate this condition and, therefore, to restrict the free formation of majorities. Those in favor of such restrictions, however, have argued that those outlawed are not true parties because they refuse to commit themselves to the whole electoral process, and particularly refuse to play the role of loyal opposition. See, for example, the reasoning of the American Supreme Court in Dennis v. U.S., 341 US 494 (1950). For a fuller discussion of possible limits to majority rule, see Chapter V.

39. Reference is to Mill's On Liberty and to that interpretation of his stance found in, e.g., Albert Levi, "The Value of Freedom: Mill's Liberty 1859-1959," Ethics, LXX (1959), 37-46.

Chapter IV

AN INTERVAL OF TIME

A government newly elevated to power by a majority needs sufficient time in which to enact its program and to have people experience some at least of the effects of that program before it should properly be judged. But it should not have so much time as to commit great follies before it is recalled. Politics is not mathematics, but a line must somehow be drawn. What can be said concerning the drawing of that line? And what can be said concerning the binding power of past majorities -- what, indeed, divides a past majority from a present majority (or a present majority from a future majority)? Are there logical limits to a given majority's duration? When should they play a political role? Should the results of a current public opinion poll take precedence over the will of a previously elected government? Do majorities really have a finite existence?

These are not easy or trivial questions, especially when we bear in mind the difficulties that philosophers and even physical scientists encounter when they grapple with the concept of time. The very idea of time -- pervasive in all human life, including political life -- too easily eludes understanding.[1] Each day differs from every other day and yet we experience a sense of continuity. A moment passes before anyone can finish exclaiming over it and yet we desig-

nate some interval the present (and differentiate it from past and future). Some spans of time we call long and others short, but an objective standard of measurement is not readily apparent. There appears to be a passage of time, although no one can authoritatively define the space in which time passes, for the past does not now exist nor does the future. Perhaps, as a four-dimensional changeless manifold the world ought to be described in tenseless verbs, except that this solution leaves unsatisfied questions about what changes when man perceives what he thinks is change. Do we perceive time passing, or, as St. Augustine speculated, seem to perceive it?[2] Time might be a subjective matter of memory and expectation rather than an objective reality. Or, time senses may enter the mind as social constructs, conventional aspects of culture.

Whether time has reality only as a dimension of space,[3] or whether (as Henri Bergson would argue) it reflects an inner, intuitive psychological experience, or whether it mirrors a group's historical experience of itself in socially generated time categories,[4] the sociology of time has special political significance. Temporal perspectives affect political vision. Compare, for example, Greek cyclical conceptions of time and their concomitant fatalism, and the Christian conception of eternity with the patient endurance it produces on the part of believers. As a cultural

phenomenon, temporal perspectives vary[5] and produce diverse strategies for dealing with time segmentations.[6] One writer preoccupied with aspects of political time has claimed that temporal perspective tends to be either radical or conservative.[7] Using Weberian classifications, he finds that conservatives explain the present in terms of the past, as part of an ongoing tradition, and therefore, give great weight to the authority of the past and judge the present accordingly. The radical, often from the vantage point of liberating charismatic movements, views continuity with misgivings and minimizes or denies the claims of tradition. Whether historically accurate or not, this theory has the merit of emphasizing the importance of a time sense in political life and underscoring the kind of bias that different solutions to the riddle of time tend to produce.

Behind all conceptions of political legitimacy and political obligation lie metaphysically grounded positions about the passage of time, the significance of periodicity, and the nature and direction of change. The acceptability of majority decision making over varying lengths of time does not escape these influences. From the perspective of eternity, majorities may appear both trivial and unjustifiable. Within particular stages of history they may seem more formidable. As long as we realize that nothing -- including political majorities -- exists in time in some scientifically locatable way, we can (as we must) but work

with currently conventional time categories.

Common Categories of Political Time

Democratic legitimacy, in so far as it turns on duration, commonly rests on three criteria, on three elements of temporal political perspective: the past as embodied in a constitution, the present as embodied in temporal electoral agreements, and the future as embodied in those mechanisms designed to serve as vehicles of change (e.g, constitutional amendments and statutes).

A constitution, written or unwritten, is the equivalent of a polity's past. It represents the more fundamental laws that bind a group together as a unit in history, and that, in a democracy, connect the living to their ancestors through continuous consent to whatever constitutes the basic arrangements of that society. Insofar as men view themselves as forming part of a distinct or unique people, a group that can be meaningfully differentiated from other groups, they accept (in democracies) what some previous majority has wrought until that inherited decision is either challenged or comes up for review. The democracy of the dead holds and is counted as if it were still alive and present unless, in ways that are themselves part of the original compact, a new generation (as measured by a new majority) opts for a change. On the constitutional level the weight of the past rests heavily, although it never

altogether obliterates other concerns. Thomas Jefferson, who claimed that "The Creator has made the earth for the living not the dead" and that "a generation may bind itself as long as its majority continues in life; when that has disappeared another majority is in place, holds all the rights... and may change the laws and institutions to suit themselves,"[8] nevertheless also wrote:

> "I am certainly not an advocate for frequent and untried changes in laws and constitutions. I think moderate imperfections had better be borne with, because, when once known, we accommodate ourselves to them and find practical means of correcting their ill effects."[9]

For Jefferson, then, the past bound the present's institutional framework, at least to some extent, for practical reasons. Other democratic theorists have held similar positions albeit on different grounds: e.g., their view of the conservative nature of the law itself,[10] veneration for the wisdom of the ages,[11] a high regard for stability,[12] and so on. All democratic theory grants continuity an overriding importance <u>on this level</u>, but no democratic theory gives the past exclusive or unlimited sway. Jefferson represents the more radical approach to constitutionalism, praising the bloodshed of rebellion as the natural manure that refreshes the tree of liberty and advocating review of all basic laws every nineteen or twenty years.[13] Daniel Webster represents the most conservative pole of democratic theory on this score, writing of constitutions as sacred documents infused with the unchangeable spirit of a people.[14]

In spite of the decisive influence of constitutions, that interval of time commonly called the present incorporates within itself the major components of political legitimacy; it plays by far the largest role in politics. Through the mechanism of elections, a majority comes to be recognized as rightfully exercising all the authority of the present. From this standpoint, elections accomplish three things. First, at a given time they locate a particular majority. Elections, in all democracies, take place at specified intervals, usually involving fairly short spans of time. Secondly, elections constitute conscious social decisions; the grant of authority they yield is deliberate and not a by-product of something else. As suggested in the preceding chapter, the electoral majority, in some sense, is not a statistical accident, but an organized, contrived grouping. And finally, elections comprise an agreement; they are a product of consent, albeit a transient choice. Because elections encompass such important elements of majoritarianism (periodic consultation, deliberate action, and concluding decision), present majorities count more heavily than all other elements in policy formation in democracies. This is true in both theory and practice, although one could, of course, argue about whether such current majorities weigh heavily enough.

The force of present majorities, even when added to the authority of past majorities, does not preclude a grant

of rights to those yet unborn. Jefferson sought to compute statistically the average lifetime of a generation and urged the absence of obligations extending beyond that period.[15] Jefferson wished to protect the rights of future generations by providing for periodic constitutional conventions to reaffirm the basic arrangements or to change them to "keep pace with the advance of the age in science and experience." And, in addition, he held each generation both capable and entitled to undo the work of the past whenever it saw fit.[16]

Democratic societies, on the historical record, have been loathe to use the mechanism of the constitutional convention, presumably on the grounds that to reopen Pandora's box is to risk too much, and that it is impossible to separate one generation from another in simple mechanistic fashion, since death and birth form a continuing process. They have, instead, characteristically provided for the future by a guarantee of those liberties deemed indispensable for the formation of new majorities[17] and by use of the constitutional amendment process.

Constitutional amendments, however, often (as in the United States) require extraordinary majorities and this, it has sometimes been claimed, vitiates democratic theory and destroys the logic of the majority decision making rule. Professor Martin Diamond, on the other hand, has sought to demonstrate that in the American case, at least, the intent

and the effect of the higher than 50 percent plus one number to secure passage to an amendment has not been to bypass majority rule, but to assure majorities of a certain nature, namely those that permeate the society rather than represent no more than sectional or fixed group amalgamations.[18] The aim, he asserts, is to require nationally distributed majorities and to guard against changes passed by a few populous states or geographic regions. The resultant ability of a minority to block preponderant numbers is accidental and offers no special privilege to any particular minority whether economic, religious, or occupational. If the distribution of special interests should become tied to regionalism the maintenance of a single society would become problematical anyway, and few political theorists have held high hopes for the viability of a society so divided.

In countries with written constitutions and in countries with unwritten constitutions, in places where provision is made for the future via constitutional amendment and in places where no such formal procedure exists, in all democratic enclaves, the second part of Jefferson's provision for the future -- the right of each generation to change everything -- raises serious problems for democratic theory. It pushes immediate rights so hard that both past obligations and future promises seem to lose all standing. The claims involved here need closer scrutiny.

The Claims of Tradition

True to the rationalism of his age, Jefferson's attitude toward constitutions suggests that they, like cakes and pies, can be concocted solely from recipes. Experience helps the cook, of course, but a moderate amount of intelligence and culinary knowledge can and should be expected to issue in great dishes. This rather cavalier engineer's attitude toward the basic arrangements of society epitomizes what so distresses Michael Oakeshott about the rationalist school of thought.[19] Recipes, Professor Oakeshott insists, could not possibly be followed much less generated, if the chef were not already thoroughly imbued with a kind of knowledge of the sort passed on from father to son, from master to apprentice, until it becomes part of the fundamentals of a trade, a part of the customary and habitual lore which enables men to function in their tasks and relationships.[20] To one who is a stranger in the kitchen, recipes remain a mystery. "One quarter of a cup" presupposes knowledge of the sort of utensil called a cup. A technical explanation of "cream the butter and sugar" cannot substitute for the experience of creaming many many times. And only someone thoroughly accustomed to following such directions is likely to think up a variation suggested by the process and create a successful new delicacy. Taste cannot be taught; it can only be cultivated.

It is mastery of the given which leads to appropriate rather than inchoate change, according to Oakeshott, not the mere application of intelligence to a tabula rasa. In fact, Oakeshott argues, we never have, even in the most revolutionary times, much that is new compared to the amount of the old with which we must work. Massive change for the better is, therefore, improbable and subject to the suspicion that, given the intricate nature of human life, great change for the better is beyond prudent predictability.

The opposing orientations of a Jefferson and an Oakeshott indicate contrasting epistemologies, disparate estimates of what man can reasonably hope to accomplish, and thus, differing images of what it means to be a human being. Jefferson and Paine and the stream of American thinking they influenced tend to conceive of man as self made, pushing the frontiers of civilization before him by his own, immediate efforts. The picture is attractively energetic, free-wheeling, and achievement oriented. But to an Edmund Burke, such men were mere "flies of a summer night."[21] Burke roots his opposing conception of man in a web of meaningful, customary enterprises and complex interrelationships by means of which men participate in society and define themselves. The past is in partnership with the present because no current individual can be conceptualized apart from his heritage and station.

Ways of thinking about change and continuity also fall between similar opposing poles. For Oakeshott life is a

matter of adjusting common familiar arrangements to which people feel attached. What already exists (i.e., the work of the past) is all we know. "...change is a threat to identity and every change is an emblem of extinction." It is not merely a matter of being obligated to the society that has produced us (as Socrates argued in the Crito) but of being unable to assimilate the new without "anchoring our identity in what is not new or theoretical."[22]

For Thomas Paine, on the other hand, society is what man wishes to make it, and past society is significant only as an encumbrance.[23]

Few would defend either of these polar extremes. The proper form of the question about the claims of tradition is not, are we and ought we to be restricted by the past, but how much do we owe, how much must (and ought) men to yield to their heritage?

No society starts de novo, hence if only for that reason, the present is incapable of totally undoing the past. Plato, in order to establish an ideal Republic, required that all persons over the age of ten be sent out of the community to rusticate. Desert island stories which depend on starting life over in a small group washed ashore on an isolated coral reef often forget that the shipwrecked come to never-never land with a store of traditional knowledge and can only build on that foundation.[24] Oakeshott

is right to remind men that they cannot, no matter what they will, change very much. But how much change and which changes are consonant with continuity, with what he has called the "pursuit of intimations," in a state, or with ironing out "inconsistencies" in the fabric of society, remains unclear. That there are limits to what men can do (i.e., to what men can do successfully without paying too high a price: it is always possible to gas five million people, jail all prostitutes, etc.) must be acknowledged. That continuity avoids the injustice of arbitrariness can also be granted. Oakeshott leaves the drawing of the proper line to the working out of a tradition, and maybe that is all that can be done. But just who goes about drawing those lines, even if the drawing is the unconscious result of numerous daily practices, still bedevils those who view shifts in power as significant. Whatever it is that can be decided, who makes the decisions? How is Oakeshott's interpretation of politics to be institutionalized?

The Claims of the Present

Answers to the above questions may lead back to the notion of a social contract. Decision rests with those in the positions to which a given society has consented to attach authority.[25] In the work of John Rawls and others, this is both an empirical observation and a proper normative standard. In majority rule systems, the current majority,

generated according to the rules of the past to be sure, holds sway. It may, for Jefferson's prudential reasons, limit its own power, and it may be forced, by Oakeshott's circumstances to modify its desire for radical change. But as Sir Roger Twyden is reported to have remarked: "The world, now about 5,500 years old, hath found means to limit Kings, but never yet any republique."[26]

In spite of all restrictions allegedly emanating from the laws of nature, the imperatives of knowledge and social organization, the chains of custom and habit, or the obligations accumulated in taking advantage of the given, human will nevertheless exists, and it exists only in the present. Societies based on will, therefore, rest their temporal claims squarely on these facts. In states governed by the majority principle, the will of the current majority prevails for as long a period as the people in that state have agreed to allow legitimate claims to power to operate.

That interval, however long or short, must be specifically designated. No grant of authority is eternal. The length of the specific period may vary from place to place. Estimates of what constitutes a fair amount of time will differ with diverse conditions (e.g., average age at death) or with diverse values (e.g., an emphasis on youth versus veneration of the elderly).

While the logic of majoritarianism does not require any particular interval, practice suggests short time spans. In slow moving eras, incumbants can be re-elected; in times of great change, new forces can be recognized. Modern democracies seek to recognize shifts in the make-up of majority opinion, and also the need for time in which to carry out policies by calling for reassessments at least every two to six years. Current practices, in short, appear eminently reasonable.

The Claims of the Future

During their allotted time period, whatever it is, majorities rule the present, overthrow whatever of the past they want and are able to undo, and, in addition, bind the future. Oakeshott's limiting factors apply from present to future as well as from past to present. Predictability, therefore, is not one of the outstanding features of human relations and efforts to form the world of those yet unborn often go awry. Still, even if to some extent men know not what they do, entails have significance, especially in the modern world.

The attempt to use rationally and fully the earth's resources, and the enormity of ventures such as space exploration require long range plans. These plans extend beyond the usual two to six years leeway granted majorities in power and involve organizations and arrangements on a scale that cannot be completed in a short span of time.

The literature on planning and majority rule, once burgeoning with fierce debates, has now left the questions argued to recede behind the exigencies of practice. The issues raised in that earlier literature, however, remain pertinent. An extensive review of the problems cannot be undertaken here, but some of the more crucial conclusions contained in that literature deserve mention.[27]

As long as people change their minds, as long as majorities shift, and as long as government reflects majority opinion, plans for the future must be made with the understanding that choice cannot be eliminated. No blueprint can be so comprehensive and so financed or organized that those who inherit it have a) no real choice about accepting or rejecting it and b) no change to reverse what has been done. As Carl Friedrich has pointed out,[28] these strictures are probably amenable to ordinary budgetary techniques and to other organizational mechanisms for insuring governmental responsiveness. Treaties, for example, have long posed this sort of difficulty. If only a current Congress can declare war, what is the weight of a treaty promise to come to the aid of an attacked alliance partner? Promises act as restraints but, as every child knows, promises can be broken and, perhaps, sometimes ought to be.[29]

Similarly, long-term monetary debts are incurred with the expectation that, as with all debts, those who inherit the debt will pay up, and with the knowledge that no absolute security that they will pay up can be forthcoming.

All creditors take some risk. And should a society saddle its children with too great a debt, or if it makes arrangements earmarking too high a percentage of their children's budget, the new generation may be expected to rebel: they may refuse to honor their alleged obligations on the ground that their inheritance is an intolerable burden.

In order to prevent such future disastrous reactions to their work, majorities need to allow for challenges, even for challenges to fairly comprehensive schemes and fairly long-term projects. The mechanisms will vary. They may include periodic reviews or frequent amendments, but the potential of reversability and the actuality of choice must continue to play important roles.[30]

Some have argued that the exigencies of bureaucracy and big government necessitate a place for violence in order to generate new current majorities, make them effective, and reverse developed patterns. A few see violence as always necessary and others as sometimes called for. All governments experience a certain amount of violence in protest against its activities. This is neither new nor remarkable. Different societies tolerate different amounts of disorder and the problems raised seem no more acute than the usual problems of compliance. All that the future can demand of the present is that there is provision for change, even radical change, and that change <u>can</u>, as it has in the past,

occur without severe disruption (although it won't always do so).

In sum, if guaranteed the right to come into being, future majorities, even in the face of major government enterprises, are no more (or less) bound by the past than are present majorities. The future cannot be mortgaged against its will by the present; it can only be inconvenienced. How inconvenienced it ought to be depends on the operating values of the currently empowered.

Conclusion

Men acknowledge a partnership between the dead, the living, and the generations to come. Individuals and groups form part of a continuity. Politically, therefore, men accept constitutions and plan for the future. The "now," however, always takes precedence. It possesses the bulk of political right and power commensurate with such right. The time limits on that power are set by constitutional agreement (in deference to the past) and are changeable (in deference to the future). Legitimacy thus has a time dimension. Political majorities can in fact be located in time, although the events and fixed intervals used to define them are in some sense arbitrary and conventional. Surely our present perspective, centered as it is on the most current, corresponds to our predominantly brash, active, irreverent, and secular contemporary society.

The temporal limits on majorities are, admittedly, vague, turning heavily on matters of judgment and the ultimate values brought into play. More stringent limitations may, perhaps, arise from the nature of ruling rather than from the nature of majorities. An analysis of majority rule needs to explore that possibility next.

FOOTNOTES -- Chapter IV

1. For recent formulations of the problems, see J.J.C. Smart and C.W.K. Mundle on Time in The Encyclopedia of Philosophy, Paul Edwards, ed. (New York; MacMillan and the Free Press, 1967), VIII, 126-139, especially pp. 127 and 136; also Paul Fraisse, Jack Goody and George H. Nadel in the International Encyclopedia of the Social Sciences, ed. David Sills (New York: The Macmillan Company and the Free Press, 1968), XVI, 31-41, and XI, 581-584.

2. The Confessions of St. Augustine, trans. Dr. E.B. Pusey (New York and London: E.P. Dutton and Company and J.M. Dent and Son, 1950), Book XI, especially pp. 287-300.

3. C.W.K. Mundle, "Time, Consciousness of," Encyclopedia of Philosophy, VIII, 136.

4. Jack Goody, "Time-Social Organization" and George H. Nadel, "Periodization," in International Encyclopedia of Social Sciences.

5. Some aspects of time consciousness may have universal attributes, perhaps as a conditioned response to natural events, e.g. day and night. Others seem culturally specific (e.g., Biblical 7-year rotations), and still others uniquely individual.

6. Note, for example, recent orientations toward China: Sinologists view it as part of a great civilization and describe what they see as traditional (e.g., autocracy, bureaucracy, all embracing ideology) or non-traditional (e.g., family life, the role of the military); students of totalitarianism see China as part of a modern Communist movement and describe her single political party, communication monopoly, or other institutions allegedly common to Communist regimes; other specialists view China as an underdeveloped nation and focus on those problems and options typical of a state striving for modernization.

7. J.G.A. Pocock, Politics, Language and Time, pp. 233-272.

8. Thomas Jefferson, Letter to John Cartwright, June 3, 1824, in The Political Writings of Thomas Jefferson, Edward Dumbould, ed. (New York and Indianapolis: Bobbs-Merrill Company, The Liberal Arts Press, 1955), p. 126.

9. Ibid., Letter to Samuel Kercheval, July 12, 1816, p. 124.

10. As explicated, for example, by H.L.A. Hart in The Concept of Law (London: Oxford University Press, 1961), or by Charles McIlwain in Constitutionalism Ancient and Modern (Ithaca: Cornell University Press, rev. ed., 1947).

11. This Burkean view can be found in such democratic theorists as Clinton Rossiter, Conservatism in America (New York: Alfred A. Knopf, 1955).

12. E.g., in the theories of Robert Dahl or David Easton.

13. Jefferson, Letters to James Madison, January 30, 1787, and December 20, 1787; to Ezra Stiles, December 24, 1786; and to William S. Smith, November 13, 1787, op. cit., pp. 66-69.

14. "...a constitution ... is no longer a mere agreement. When the people agree to erect a government, and actually erect it, the thing is done, and the agreement is at an end. The compact is executed, and the end designed by it attained. ...there can be no longer a subsisting agreement or compact to form a constitution or government, after that constitution or government has been actually formed and established." Quoted in Jacobson's Development of American Political Thought, Thorton Anderson (New York: Appleton-Century-Crofts, 2nd edition, 1961), p. 427.

15. Jefferson, op. cit., p. 125.

16. Ibid. It is interesting to note, however, that the same letter which takes up this extreme view of the independence of each generation also explicitly limits the range of what any majority, past, present, or future can do: "Nothing then is unchangeable but the inherent and unalienable rights of man." (Letter to John Cartwright, June 5, 1824, op. cit., p. 126). For further comment on this sort of limitation, see the discussion in Chapter V.

17. See above, Chapter III.

18. Martin Diamond, op. cit.

19. Michael Oakeshott, Rationalism in Politics (New York: Basic Books, 1962).

20. Ibid., especially "Rationalism in Politics" and "Political Education".

21. Edmund Burke, Reflections on the Revolution in France, (New York: The Liberal Arts Press, 1955), p. 108.

22. Oakeshott, op. cit., p. 70.

23. Thomas Paine, The Rights of Man.

24. See the analysis by David Spitz of one such story, "Power and Authority: An Interpretation of Golding's Lord of the Flies," The Antioch Review, Spring 1970, pp. 21-33.

25. The problem of duration is thus settled by an appeal to group agreement. The "right" of this or that individual to be counted in the majority at any particular moment is ignored. The difficulty of counting noses among a group of eligible participants that changes with the frequency of deaths and birthdays is also put aside. However much these things may matter, social agreement matters more. Insofar as, majorities are a group phenomena fulfilling group needs, social understanding of time takes moral precedence over other possible ways of construing things.

26. Quoted in McIlwain, Constitutionalism Ancient and Modern, p. 138. For a fuller discussion of limits on ruling, see below, Chapter V.

27. Carl Friedrich's book, Constitutional Government and Democracy, rev. ed. (Boston, Ginn and Company, The Atheneum Press, 1950) contains in Chapter 23 an excellent, temperate discussion of the key problems besetting democratic planning, and his notes include a good, select bibliography on the subject to that time.

28. Ibid., pp. 491 and 510.

29. While all promises act as restraints, so do many choices, for the decisions to do X may eliminate the possibility of doing Y.

30. For a contrary view, see Barbara Wootton, Freedom Under Planning (Chapel Hill: University of North Carolina Press, 1945), especially p. 131, where she claims that "nothing can alter the fact that we cannot both make effective long-term plans, and continually exercise the right to change our minds about anything at any time." This statement is made consistent with

belief in democracy by means of a tendency, common among some socialists, to postulate, under Socialism, an essentially conflictless economic order. See for example, Wootton's statements about the eventual lack of need for more than one political party (p. 156).

SUMMARY OF PART I

The term majority, it has been argued, depends upon:

1. an understanding of suffrage requirements (including a theory of eligibility, a theory of participation, and a theory of aggregation);

2. an understanding of the nature of constituency (one that gives due weight to numbers, interests, and geography);

3. an understanding of the sources of majorities (particularly the role of political parties in their generation); and

4. an understanding of political time (with its determinants of a past, present, future continuum.)

A grasp of these elements, all contained in the single word majority should clarify usage and indicate what is at stake when the majority concept is brought into play.

Suggested, although not always explicitly stated throughout the analysis so far, is a thesis about the proper way to think of majorities in modern democracies. Essentially it is an attempt to break loose from ideas that no longer seem appropriate to the human condition. The image of omnicompetent man, for example, no longer frees human beings and allows them to develop their potentialities more fully, but rather ties men to an egocentrism that thwarts solving the problems at hand. The notion of what being human entails, consequently, has shifted to a more socially contigent, less individually independent conception of man.

Past usages of majoritarianism, likewise, seemed to build on a notion of majority constructed from atomistic parts. In the preceding chapters, an effort has been made to get away from this vision, and to connect all the elements implicit in the word majority to majorities conceived as a group phenomena that arises from group needs.

In the chapter on the suffrage, eligibility lists emerged as products of a theory of citizenship. And the idea of citizenship, it turned out, stemmed from a conception of group needs and purposes, and the skills or attitudes necessary to provide for them. Similarly, participation was viewed as a normal expectation among group members and non-participation as a more or less excusable deviation that requires explanation and assessment in terms of a polity's goals. Aggregation problems were also set in the context of decision making among related (not discrete) individuals involved in a common commitment and activity (not solitary decision makers calculating purely egotistic concerns).

In the discussion of constituencies the underlying attempt was again to demonstrate the inadequacy of individual rights criteria (i.e., the one-man one-vote standard) and to suggest a more communitarian orientation toward districting that might preserve individual integrity and political equality while injecting group dynamics into the representative process.

The genesis of majorities was then traced to a deliberate social proceeding performed by people engaged in a social enterprise (pace Anthony Downs) indispensable to the group's ability to act as a unit. The majority rounded up by the political party process was then located in time primarily on the basis of social agreements about periodicity and change.

In sum, any understanding of majority rule must rest on a picture of majorities as entities enmeshed in a social fabric, operating for social purposes in a particular social milieu. A profitable examination of what power majorities have or ought to have, or the justice or injustice of majority rule systems, cannot be undertaken unless majorities are thought of in this socially dependent fashion. (Nor can the proper understanding and role of minorities be attained, if they, too, are viewed as arbitrary amalgamations, isolated from group life.)

As this exploration of the concept of majority rule moves from analysis of the term majority to the analysis of the term rule, the shift away from atomistic majorities toward more socially intertwined majorities should be kept in mind.

Part Two

THE MEANING OF RULE

INTRODUCTION

Among the more ambiguous terms in the lexicon of political scientists, the concept of ruling must surely rank very high. Varied connotations attached to the word produce conversations that fly past one another without ever meeting. Does a father rule his children in the same sense that Parliament rules Britain? Does a priest rule his flock in the same sense that a Governor rules his territory? Are Englishmen ruled by the common law or customary law in the same sense that they are ruled by positive law? Do social classes rule? Do titans of industry rule? Generals and Admirals? union officials? policemen? gangsters? The concept of ruling carries within itself ideas about authority and power (both influence and coercion) as well as about legal systems, political societies, and moral orders.

The bewildering mix need not, however, yield only despair. Like the problems concealed within the term Majority the problems associated with RULE can be grouped into clusters for purposes of analysis. Unlike the concept of majority, however, the notion of rule contains meanings far afield from the uses of the word when it is employed in conjunction with the word majority. Therefore, while the clarification of majority attempted to be fairly comprehensive, ruling can be considered in a more restricted way. In the following sections, certain aspects of ruling are scrutinized, not because they add up to an all encompassing definition

of rule, but because they concern those elements indispensable to a minimum theory of rule in a modern democratic state.

Pinpointing the meaning of rule that one might have in mind when talking of majority rule requires examination of at least three sorts of ideas. One centers on the problem of sovereignty. To what extent does ruling mean having the last say? Is it possible to conceptualize a national system of order that does not include a supreme decision maker and decision enforcer? If there must be such a supreme authority or power, what characteristics would it need to have? Can a sovereign so conceived function within a democracy? Is a majority that sovereign? Or, if democracy incorporates certain inalienable rights, and if sovereignty entails a power so great as to override those rights, are democracy and sovereignty really incompatible terms? A misunderstanding of sovereignty may be involved here and this provides a primary reason for paying careful attention to the meaning of sovereignty in the following section. If there must be an ultimate power in a state (and I think a strong case can be made for the impossibility of adequately describing a modern political system without such power) then the repository of that power cannot be ignored when an understanding of ruling is sought. Majorities attract our interest precisely because they allegedly claim sovereign power.

A second group of problems related to the meaning of ruling centers around ideas of responsiveness. What is the difference between direct and indirect rule? Is ruling the same as holding accountable? How does a majority provoke governmental response? This cluster of questions is faced in a subsequent chapter and will be illuminated, perhaps, by the preceding discussion of majority sovereignty.

A third set of ideas about ruling involves the notion of participation. All rule involves some consent. At least over extended periods of time, even a totalitarian dictator needs a modicum of cooperation. How, then, can a line be drawn between ruling and being ruled? What forms of consultation or cooperation prevail in the twentieth century? Are they an important aspect of modern rule? Do they vitiate the majority decision rule? The final chapter of this part of the analysis of majoritarianism will explore these matters.

Chapter V

RULING AS SOVEREIGNTY

I

The General Problem of Sovereignty

The classical theory of sovereignty appeared along with the rise of the modern state. When men began to think of government as a separate force, something apart from society, a kind of rule distinct from the segmented "natural" political community of fathers and sons, or elders and kinship groups, or even tribes, they also began to think about the ultimate authority upon which the power of the state rested. Especially when they began to identify the claims of that unifying state with the needs of community, and to regard government as part of the community and not alien to or imposed upon community, then the discussions of political power began to take place in terms of sovereignty. The history of the concept of sovereignty, that is, suggests that when central government is judged necessary to community the idea of a final and absolute authority in the political community (and no final and absolute authority elsewhere) becomes central to the problems of political legitimacy and obligation.[1]

The integration of territories into nation-states occurred in a variety of ways, and the understanding of sovereign power also varied with the particular way centrali-

zation proceeded. In some places, especially during the Middle Ages, rulers and populace were conceived as distinguishable personalities with separate rights. In these circumstances, the rise of the state occasioned struggles between those who saw the visible ruler as the personification of the body politic and those who saw the people as the embodiment of the polity. The idea of the state as a single unit incorporating both ruler and ruled came later. And it is only in the modern period that the concept of popular sovereignty has held sway.

Jean Bodin in sixteenth century France, first formulated the idea inherent in the emerging nations: if a political community is to exist, act as a unity, and provide for itself the kind of order circumstances require, than there must be an indivisible, inalienable supreme authority within that community wielding the necessary ultimate power.

Although sometimes taken as an empirical statement, Bodin's theory is better comprehended as a logical principle: if X, then Y. This conception of sovereignty does not refer to power alone, but to a particular relationship between the organization of power and the requirements of political order.[2] Thus, by definition, sovereignty is limited; it refers not to the use of power in any and all fashions, but to the employment of power in order to avoid anarchy, to contain conflict. It has no place in harmonious societies. It lacks relevance where unitary existence and action are not sought.

Further, the theory of sovereignty so understood, far from requiring absolutism, is compatible with a variety of governmental forms depending on how much order and what kind of order a particular community deems desirable.[3] It says nothing about where sovereign power should rest nor about which order of norms it should protect.

The indivisibility and inalienability of sovereignty stem from its inner logic. Divided authority maintains rather than eliminates conflict in society and, therefore, does not provide for the unified type of action desired in the modern world (and perhaps necessitated by modern conditions) which the theory of sovereignty seeks to provide. Similarly, an ultimate authority loses its supremacy if its power can be overridden by another authority: that other authority would then be more ultimate.

Much of the discussion about the viability of the concept of sovereignty has turned on the possible location of a power with the characteristics Bodin's theory posited. Differences of opinion readily occur because supreme authority, in the sense of having the last say, is capable of more than one meaning. Does it refer to a legal last say? to some ultimate institutional sanction? to the highest dictates of morality?

The theory of sovereignty fits most closely the requirements of a legal system. The law at any given moment appears as a body of rules. Interpretation and application of these rules

depend on having some point of reference against which to measure their validity. Juristic functioning goes on within an area demarcated by the supreme norm upon which the law is founded. In order for the laws to be effectively administered and for legal issues to be decided with certainty, there must be some final legal authority to say what the law means and which rules apply. A written constitution is the example par excellence of such a legal sovereign providing the ultimate criterion.

Legal theorists generally agree with this description of the necessary role of sovereignty in jurisprudence. Difficulty arises, however, because having the last say in these legal terms apparently separates authority and power, while in the classical theory, certainly in the thought of both Bodin and Hobbes, sovereignty involves both legitimate legal authority and legitimate coercive control. Law, in short, cannot be substituted for politics; it is an element of the state but only one element among many. To know, for example, that the validity of a law depends upon it having secured a majority vote is not necessarily to know whether that majority will is habitually carried out or ignored in a given society, nor whether it is spontaneously formed or decisively manipulated. The formal requirements of a system may not match daily practices. A principle that seeks to explain modern rule must encompass more than juristic truths. This can easily be seen if several limiting characteristics of law are recognized.

First, the rules of law are static.[4] They refer to situations already known or contemplated. Political rule, on the other hand, is dynamic; it is meant to deal creatively with changing conditions and problems. Secondly, the law does not comprehend all possible situations that demand decisions. Everything is not either legal or illegal: many classes of things are neither predicted by law nor taken into legal account. Earthquakes, poverty and diseases, as Professor Stankiewiez has pointed out, are the very matters which demand political action and yet they are not classifiable as legal or illegal occurrences.[5] Thirdly, even where legal systems include fairly comprehensive categories, something outside the legal system is needed to clear up the inevitable confusions and disagreements about what properly belongs in which category. Phenomena do not classify themselves.[6]

These considerations suggest that the rule of law, or at least a legal code, is not sufficient for political rule. The law cannot rule all by itself. This is the reason why theories of sovereignty postulate a sovereign legislator.[7] Since laws do not enforce themselves, a supreme decision maker is called for. Without the existence of a ruler capable of deciding conflicts of opinion about new situations and about whether action should or should not take place, society would face the very kind of disorder that the state has been designed to foreclose. Even if more than one sort of institution is granted ultimate power each within its own jurisdiction, someone or some body has to settle disputes between

them should they arise.

At this juncture the concept of sovereignty gets into trouble with certain egalitarian assumptions. The laws seem unable to establish a workable system without an ultimate decision maker, decision making can only be done by human beings, any ultimate legislator appears to be some one or some group with more power than others, and thus the theory of political equality is violated. On some understandings of equality this may be so. But, if equality does not mean sameness, and equality is itself always a derivative idea,[8] the conflict may be more apparent then real. The concept of rule embodied in sovereignty need not vitiate democracy provided that equality is not so defined as to preclude the idea of government. The problem here, in any case, is probably better understood in conjunction with ruling and responsiveness rather than as part of the nature of sovereignty.[9]

Legal sovereignty then, explains the hierarchical nature of conflict resolution between subordinate members of the legal order. However, if there is even to be a legal order it must be created and given form by other political processes. Sovereignty, therefore, includes the idea of a political institution or person that functions as a supreme authority in a more comprehensive way than does the law. Without such a political entity, it has been claimed, conflict remains possible and the raison d'etre of the state is brought into question. Unitary action requires an ultimate sovereign author of decisions.

There is a sense in which this explanation does not quite accord with political reality. Society becomes, in this view, a logical and rational construct which it is doubtful that any society has ever been. The features of sovereignty depend on perfect order, the possible resolution of all conflict. Yet no state has ever maintained total order, and nations as well as individuals always live amid both contradictory principles and practices. Order is not a question of all or none, absolute consistency or absolute chaos. This observation leads Bernard Crick to suggest that sovereignty should be taken as a potentiality capable of realization in times of emergency, but irrelevant under normal political conditions.[10] Absolute authority may reside somewhere in every state, says Professor Crick, but it emerges only during crisis where, faced with a clear and present danger to survival, states must find a capacity for decisive, centralized, and unquestioned action. On a day to day basis however, it remains inoperative, and divided powers prevail.

Men, in other words, live tolerably well with some disorder, some unresolved power structures, some irrationality. The concept of sovereignty may stress government as survival too heavily and neglect government as welfare provider. The bulk of government activity involves policies about such things as housing and health, and in these areas, unlike war and peace, conflicting programs may coexist and may compete with private individual and group practices. The state may have the power and/or the authority to reconcile all these

sorts of inner conflicts, but states, as known today, seldom exercise such a perogative. The significance of sovereignty, therefore, can easily be overestimated.

On the other hand, the significance of sovereign power can also be underestimated. Men not only wish to survive, they wish, in Hobbes' famous phrase, to live commodiously. The welfare activities of the state may not always require a unified decisive will, but often they may involve exactly that. The tolerance of diversity and disorder cannot mask the simultaneous exercise of concluding direction and action: many (although not all) conflicts are resolved and many points of view lose out. In majority rule systems, the majority's will holds sway; it is no mere fiction or reserved potentiality. Whether that authoritative last say always coincides with a final coercive power is another matter, the discussion of which needs to be put aside for the moment[11] in favor of a more intriguing question: does an authoritative last say even in a combined legal and institutional sense coincide with an ultimate moral sanction? Can a legal and political sovereign be challenged by a superior, a more ultimate moral authority?

"The sovereign", says Rousseau, "needs only to exist in order to be what it ought to be."[12] The addition of this moral quality to the coneept of sovereignty comes about because Rousseau considers the state a relationship among people analogous to the relationship between bride and groom

that constitutes a marriage. Once they have signed the contract the individuals in both cases have agreed to pursue whatever is necessary and good for the union. They may be mistaken about their common good, but because their promises do and ought to bind them, they cannot morally put their individual wills and their singular interests against the common will of the new unity they have, of their own volition, consented to form; they "are promised" to preserve that unity which sovereignty expresses. Insofar as the state is necessary for the welfare of the social unit, subordination to the state is necessary for the welfare of the social unit, subordination to the state is a logical consequence of belonging to the social unit. And since society is morally preferable to the state of nature, the moral good must consist of what is good for the community, for the union to which the individual has committed himself initially.[13] Each realizes his highest ends in submission to the general will which is the will for the common good. The state's sovereignty lay, for Rousseau (as also for Hegel), in its moral pre-eminence over all other forms of human association. Because, in Rousseau, the bearers of state sovereignty are the people, his theory is compatible with democratic notions of equality. Sovereignty, meaning popular sovereignty, has become ever since the most prominent form of Bodin's original principle.

Criticism of the moral sovereignty of the state turns on the question of whether or not the authority and power

of the sovereign are limited in any way. Now the word "unlimited" may mean omnipotent. But no one has ever argued that a sovereign either can or should do everything. Theologians are still arguing about God's omnipotence and no one has seriously suggested God-like qualities on an earthly sovereign. But "unlimited" may also mean superior to any other. In this sense unlimited and sovereign are apparently the same thing. Some who have argued to the contrary have insisted that the state is only one of many human associations and thus bears only a part of right (and, consequently, is only owed partial obligation).[14] This effort to maintain a distinction between state and society is not without difficulty, and the further effort to make the various parts of society morally autonomous is even more arduous. For those who see the state as an ideal Idea (as in Hegel), other parts of society can only partially reflect that Idea and must, therefore, remain subordinate entities. However, those who see the state as a mere referee among many groups also, in spite of their obvious desire to do otherwise, seemingly grant to the state rights of review and disallowance that set it above other associations and make it authoritatively superior.[15] Another tack, the effort to ground all morality in the individual's subjective sense of right, ends by acknowledging an insoluble tension within each personality between its obligations to the group of which it is a part, and its obligation to itself as an autonomous unit. In Hugo Krabbe's terms, one of the tragedies of human life is that most choices force

a decision that violates some segment of an individual and that the plurality of the personality, like the plurality of society, makes this situation inescapable.

Another, perhaps more promising way of handling moral sovereignty, is to separate the two terms and, following Aristotle's lead, consider ethics methodologically prior to politics, the moral order prior to the sovereign power.[16]

A moral order, in this procedure, is erected first. Then, political forms congruent with it are constructed. The state, in this kind of analysis, sustains a particular ethic, and insofar as one supports the ethic and recognizes the value of the state in protecting it, one accepts the legitimacy of state power. This way of thinking grants the state moral authority, but a legitimacy limited by agreement to the dictates of the prior moral code. Whatever decisions can be made under that limited authority, the sovereign makes. Political obligation rests heavily, but not wholly, on acceptance of the legitimacy of the sovereign power: a sovereign recognized as legitimate may violate the moral code and the individual citizen is then, presumably, free, with consistency, to oppose his will in spite of its legitimacy. This problem of the limits of the sovereign power of the community leads to the question, who decides when a limit has been crossed or when a former limit is no longer acceptable and requires change?[17] A standard of legitimacy need not be a permanent limitation, but something adaptable, capable of revision. Because this is so, and because decisions about

the standard must be made by authorities who derive their legitimacy from their congruity with the ethical premises of a society, the proper exercise of sovereignty in this area becomes a very complex and difficult matter.

Sovereignty might mean the absolute moral supremacy of the sovereign so long as, while acting in the name of the group (of society), there is no violation of the moral order that makes being part of the group worthwhile. A sovereign, in this formulation, might possibly earn rejection by negating the principles that brought the group together in the first place or kept them together over time. Acknowledging a person or body's right to be sovereign does not mean believing that, as sovereign he cannot abrogate the terms of sovereign rule and thus cease to command rightful obedience. Where no unified or common interest exists, no sovereign can speak in its names. Sovereign power is relevant only where the fusion of interests makes it possible.[18] The individual never loses his right to judge either the adequacy or the integrity of the standard of legitimacy he adopts.

Cases in which an individual stands against the group of which he is a member and questions the terms of association occur rarely. To refuse to join any ongoing system of order requires an act of courage beyond the psychological capabilities of most people. The benefits of belonging always seem to outweigh the disadvantages; to hope for the development of a superior moral code outside of society usually seems Utopian. The individual is so indissolubly tied to his community

that he may never actually choose between his own moral convictions and his desire for group activity. Rather, he makes a single hierarchy of decisions incorporating both his individual and group interests. His singular interests appear so inescapably social that he cannot easily measure them against some external, superior realm of values.

Nevertheless, there are outer reaches of community, parts of life where joint action with others seems minimal or not worth the effort. And there are extreme moments when arguments for the painful separation from one's community seem compelling. (Surely the experience of the German Jews in the 1930's as they faced the prudential course of leaving their homeland reflects, among other things, the agony and tragedy of separation.) However modified a person's capacity for being apart from the group may be, it does exist. So long as life in common remains outside the realm of inexorable necessity and its terms amenable to questioning and alteration, so long can sovereignty coexist with moral choice.

Understood in this way, sovereignty can stand in all its senses, legal, political, and moral. And, in all its senses, it can defend itself against charges of being incompatible with normative order or with other than state absolutism.[19]

Majority sovereignty is only a special case of the general concept of sovereignty. It shares all the difficulties raised by the general principle and also poses a few special problems of its own. To come to terms with majority rule it is crucial to examine precisely what is involved in ruling majorities conceived as wielders of sovereign power.

II

Absolute Majority Rule

The debate about the proper reaches of majority rule arises with special urgency primarily because the logical necessity for a decision making rule based on majority voting has appeared to so many as so inescapable in democracies. Whatever else may be needed to justify using the term democracy in reference to a state, two items have, historically, won widespread recognition: popular sovereignty and political equality. In a democratic state, decisions rest on the consent of all (and not on agreement among any special group or any separate segment of the whole community). In measuring that consent, each individual member of the electorate counts for one, and no one counts for more than one. There are, to be sure, problems here (about, for example, how questions get framed as opposed to voted on, variations in influence, and so forth), but formally these two requirements hold, and probably in practice as well. Once there is a state[20] which conceives itself to be made up of political equals (or where, at least, political equality is a value to which the nation stands committed), and once there are differences of opinion within that nation about how to proceed or who shall be given authority to take action, then allegedly there is only one rule for making decisions that that society can adopt without violating the idea of political equality or the right of

action to reside with all eligible voters. Any procedure which allows less than fifty percent plus one to have the last say must somehow be weighing somebody's vote more than someone else's. The choice between the majority principle and some principle that would entrust power to a minority is an exhaustive choice. There is no alternative possibility.

Those who have contended that the highest authority in a democracy is and ought to be the majority of its electorate have done so primarily because of these allegedly logical requirements. The majority therefore, corresponds in democratic theory, to the sovereign described by the classical theories of sovereignty as a hallmark of the functioning state.[21] Insofar as rule means sovereign power, majorities wield that sort of rule.

This argument which seemed so airtight for so many generations of democratic theorists, appears, on the basis of this analysis, somewhat less simple or persuasive. Majorities, as we have seen, come in a variety of types. A majority of those eligible (especially, where eligibility rules are indefensible) might add up to only a minority, unless the possible justification of the failure to winnow choice down to two alternatives was itself a product of group decision and majority control. Random numbers of people might constitute a majority, but if they were unrelated people, individuals uninvolved in the dynamics of the same group, then the legitimacy of such a majority might certainly be

questioned. At the same time, the extraordinary majority required for (say) a constitutional amendment might be defended as necessary for obtaining a nationwide as opposed to a sectional majority and, it could be argued, such a procedure ordinarily would not give power to any particular minority.

The logic of majority sovereignty, in short, makes sense only in the context of that group life which majorities and minorities share, only as an aspect of that common interest which binds decision-makers together in spite of their divisions. Not any majority can legitimately hold sovereign sway, nor do all apparent minorities vitiate democratic values.

It must be remembered at this juncture, that sovereignty -- the ultimate ability to command -- forms but one part of the meaning of rule; it does not exhaust the concept. Ruling also involves consensus and participation as will be examined in Chapters 6 and 7. The following sections deal only with sovereign power, i.e., with ruling as the right to have the last say.

In spite of all the above modifications, the common majoritarian procedures of modern western states can claim justification and do involve majorities in the exercise of sovereign power.

In modern democracies popular sovereignty as an expression of a combined will for the state and for action within the state, works itself out in a variety of ways.

To the extent that sovereignty means legal last say there is usually a constitution which lays down a number of fundamental rules, including guidelines about the proper extent of the state's power. A system of courts then commonly supports the constitutional framework and provides for determinations of legality and illegality through some sort of hierarchial structures. In the United States the reaches of this legal sovereignty extend up to the Supreme Court, which has the final power to interpret the validity of legislation in light of the Constitution. The courts, however, including the Supreme Court, are in crucial respects controllable by the representative executive and legislature (through appointment of judges in unrestricted numbers and through jurisdictional grants), and the executive and legislature in turn are controlled by the electorate.[22] A country, therefore, can have a locatable legal sovereign (e.g., the United States Supreme Court), an organ authorized to make final settlement of conflicts, and still maintain ultimate authority (albeit indirectly through Congress and the President) in the voting majority.[23] The operation of majority power is delegated but not diluted.

Court ordered busing for the purposes of school desegregation in the United States affords an example of legal political sovereignty in practice. The court's interpretation of equality and its remedies are generally accepted as legally binding even by staunch opponents of the court's

actions. But the power of the courts is diminished by recalcitrance to enforcement of its orders and by the election of unsympathetic school board personnel. As popular sentiment against busing has developed, legislative and executive proposals designed to circumvent or supersede the courts have proliferated. The court now faces the prospect of curtailed authority in this area. When a similar confrontation rose in the United States in the 1930's, the court backed down from its unpopular decisions, bowing to the wishes of the sovereign people by modifying its rulings. The same fate probably awaits court ordered prescriptions for school segregation patterns.

The experience of Americans with racial issues such as school desegregation belies those attacks on majoritarianism made in the name of society's one dimensionality or its control by a power elite. Judges and school boards and parents and communities all partake of the same culture, but they seriously disagree about racial matters. If both racial integration and racial separatism move along one dimension -- the maintenance of the status quo -- what can status quo mean? For which minority are the apparent majorities a mask? Where is the power elite -- among the resisters or the supporters of the courts? If civil rights decisions fall among C. Wright Mills' "middle levels of power" which are of no great consequence, then surely his definition of power is deficient, for it is hard to imagine policy that more radically changes the everyday lives of so many people. What "non-decision,"

of more crucial import than the questions decided, hovers in the background unable to make its way to the public agenda.?

The anti-majoritarian argument put forward by Herbert Gans about the vast reaches of majority power has more apparent congruence with political reality. Racial policy in America lends itself to his formulation of rampant majoritarianism uncheckable by any of the groups permanently condemned to minority status.

Professor Gans' thesis, however, requires several cautionary notes. Up to a point the courts are obviously able to issue orders that could never muster a majority in legislative halls. When riled public opinion lessens court effectiveness, the multiplicity of access routes to power in a plural society quickly becomes apparent as, in the busing cases, the fight emerges on other levels: in Executive Departments, in State Legislatures, in Congress, in City Councils and School Boards, or even in attempts to reformulate the problem for further court review. Evidence of the black minority's acceptance of failure or of the hopelessness of their cause would be hard to find. They win in some places and lose in others. They never rest content with defeat.

Secondly, the busing question, like most major divisive issues, does not exist in pure form with all the blacks ranged on one side and whites on the other. Economic factors help determine the sides with middle class blacks as likely

as middle class whites to resist the inclusion of a low income housing project in their school district. Neighborhood control of education means a great deal to some people and they (both blacks and whites) may oppose busing as a diminuition of local power or as poor educational policy. Black power advocates sometimes find the fight for integration demeaning and believe, as a matter of strategy or wisdom, that separatism best fulfills black needs. Busing, in short, is a multiple issue, so that pinpointing who wins and who loses in any particular decision cannot easily be done in terms of racial categories.

For these reasons, it is questionable whether the legal sovereignty of the majority by itself can establish permanent minorities.

Political sovereignty (as opposed to merely legal power) in democracies rests with legislatures, again, an institution subservient to an electoral majority. Even under a Presidential system control of a powerful executive can be accomplished by a determined legislature. Bernard Crick is correct to suggest that the sort of ultimate authority involved in the exercise of such legislative power is not an everyday occurrence. But the mere existence of potential rights (e.g., the right to impeach a President) creates a situation in which those subject to such possible control behave differently than they might if no such sanction lurked in the wings. The same is true of court packing. A very occasional flexing of its muscles gives a legislature more day to day authority over the Executive

and the Judiciary than perhaps Professor Crick would admit or find salutary.[24]

The sovereign power of the majority also extends substantially into the moral realm. A popularly elected Parliament in its daily business of legislating creates, sustains, or destroys societal norms. It does this whether it wills so or not because most decisions, because they involve a choice of one policy rather than another, grant legitimacy to some moral positions and repudiate others. Obviously true in the case of (say) desegregation legislation in the United States, it also applies, although more subtly to (say) tax policy as well where kinds of income and categories of people are differentially encouraged or discouraged. Besides upholding norms, legislation gives a society direction. It organizes a socialist economy or a corporate state, it wipes out illiteracy, develops wilderness into cities, militarizes all, inaugurates wholesale changes in demographic configurations, and so forth. It arranges many of the characteristic forms of a society.

In the course of this work, some activities are categorized as legal and some as illegal. The consequent effect of legislative and concomitant executive authority is to establish a particular kind of order, an order that contrasts with other orders. Anarchy does not reign in most college classrooms where students generally sit and listen more or less attentively to a lecture, yet the usual order exhibited

there differs drastically from that at West Point where students enter the room in strict formation, maintain a disciplined upright posture in their seats, and never chew gum. Orderliness, it is clear can differ in amount; it can also vary in type: there are radically disparate theories about what constitutes order (compare, for example, Eton and Summerhill). States function with both contrasting amounts of rationally organized behavior and contrasting forms of authoritative conflict resolution. In all these various ways, states exercise moral authority. In case of controversy with other moral authorities, the majority, through its control of the state, prevails.

It is important, at this juncture, to notice that majority sovereignty as outlined so far says a great deal about how a majority rule system makes decisions without unanimity, but says nothing about which substantive decisions and which substantive conflicts are within its purview. It answers questions about what method of making decisions a majoritarian is committed to and says nothing about the standard by which this or that exercise of the community's collective power ought to be judged. That standard would depend, as pointed out in Willmoore Kendall's well known explication of majority rule,[25] on the nature of the ethical code that, prior to the organization of a polity, has garnered consent among those proposing to unite together and act jointly. Those decisions which a given value system grants a political society must be judged

for their conformity to the grant and must also be measured, in terms of their content, for congruence with the substance of that value system. How an individual goes about performing this task, it has sometimes been claimed, concerns theologians and moral teachers but not political scientists, whose work begins at a different level where the problem is not how one reconciles group obligations and the demands of individual conscience, but how, given a resolution of that moral difficulty, citizens may then construct a political society that conforms to the resolution's dictates.

A standard of legitimacy, on this showing, limits majority sovereignty, but it leaves majority rule absolute within the realm of political decision making. If a collection of individuals have a common interest and are determined to realize that interest by acting in concert, then the majority speaks for the group. The voice of the majority cannot articulate a will that does not operate, or pronounce a group's decision where no principles of unification among individuals have bearing. Only where a group has coalesced in some way for some purposes can a majority be considered its rightful spokesman. Majorities are not legitimate in all possible cases of united action, only in those grounded in certain values. Nor are they legitimate when they violate the purposes behind a particular group's formation.[27]

Separation of the majority's ruling authority from all-encompassing authority in the above fashion has led some writers

to suppose that a similar separation can occur within the arena of proper group decisions as well.[28] Church-state relations stand out as the prime examples such thinkers have in mind. In some theologies, the church need not have the last say in order to carry out its purpose and indeed, in the thought of a Roger Williams, cannot possess coercive control without corrupting itself.[29] The successful separation of church and state in the United States proves, so the argument goes, that plural power structures can coexist within a polity and never seriously impinge upon each other. The inadequacy of this attempt to retain autonomy for segments of the community (for minorities, for example), can best be seen by consideration of certain complicating factors in the operation of majority sovereignty.

Recognition of the limits of sovereign power in general and majority sovereignty in particular leads naturally to speculation about how, in a concrete instance, the standard of limitation can be applied. "One of the things" Willmoore Kendall pointed out, "that a community has to decide and keep deciding in order to function as a community is the question what kind of collective action shall be regarded as ultra vires?"[30] Decisions have to be made about what the standard of legitimacy means in a given case, and what adaptations of the standard are acceptable in changing circumstances. As a community changes and modifies the value premises upon which the standard of legitimacy rests, someone must have the authority to articulate the new ideas and adjust the standard

accordingly. To some extent, a community, "makes its own standard as it goes along."[31] To make or unmake a standard requires decisions. Such decisions are not likely to be unanimous and, therefore, some decision rule has to be brought into play. Many who are comitted to majority rule systems believe that only the majority procedure is appropriate for enunciating the necessary adjustments or changes in the underlying standards of legitimacy.[32] Limits, in short, need interpreters. Limits also need flexibility. How, in democracies, can interpretation and flexibility be provided at this outer limit of sovereign power except by majority decision?

The church-state example, especially in the United States, simply provides a case in point. The so-called separation of two powers does not prevent the majority (through its governmental instruments) from encouraging religion as opposed to atheism, busing children to religious schools, maintaining chaplains in the armed forces, prohibiting polygamy among Mormons, proscribing religious marriages not valid under law, and in other ways superimposing its religious policies on allegedly autonomous churches. The constitutional clause against an established church constantly demands interpretation and adaptation -- and the majority regularly supplies it. Conceivably the majority may act to loosen the obligation to obey entailed by membership in a community, and individuals may opt for exile, or rebellion, or the hermitage and so forth. But that is another matter.

While the group functions as a unit the majority is its legitimate spokesman at the outer realms of community power as well as in more mundane affairs. In democracies, at least, no alternative is available.

Before turning to the arguments of those who find flaws in this analysis of a majority's authorization to rule, one further consideration needs to be borne in mind. Nothing in the theory of absolute majoritarians prevents majorities from exercising some sort of self-restraint. Self-applied limitation on ruling power may take various forms. It may come about through substantially unconscious adherence to a social ethos. Most people grow up with notions of right and wrong which probably extend to political choices and successfully inhibit desires. A Christian who feels it somehow immoral for the strong to take advantage of the weak narrows his options in politics. Most Americans, accustomed from grade school on to couple the phrase minority rights with majority rule, probably have built-in restraints on their political behavior and, insofar as an ethic engraved in the minds and hearts of the electorate operates, majority power obviously functions with important limitations that one might applaud or denounce but, in either case, would find hard to undo.

Self-restraint, on occasion, may be something more than an unconscious or semi-conscious reflex. It may be a matter of deliberate policy. In order to rule effectively, all sovereigns need cooperation. In order to rule

at all, they need to judge how far they can stretch the bonds of that unity in whose name they function. For both of these reasons a majority may not do what it wishes to do and has the authority to do. It may behave this way deliberately and rationally with a quite lucid grasp of what is at stake and of all the issues involved.

The American public provides an interesting case study of majorities who indicate time and again that they believe in estopping their own power. Americans apparently want judicial review of their policies and did not support a popular President when he attempted to circumvent the Supreme Court. They consistently support checks and balances and separation of powers in spite of the obstacles these institutional devices present to the operation of direct majority rule. They support state's rights and habitually resist centralization. They display no inclination to change their slow moving amendment machinery. All of which, David Spitz points out,[33] results in an intriguing paradox: to institute swift and direct majority rule in the United States one would have to ignore the majority's will and impose a minority opinion upon it. Majority rule, in America, requires minority rule.

However odd the American situation may sound when described in this way, it serves as a reminder that the theory of majority rule, even absolute majority rule, does not prescribe the content of majority decisions. The theory gives authority to the majority, but it does not

tell them how to use that authority. An electorate remains free to place obstacles in its own path, slow down the pace of its own decisions, and require numerous reconsiderations of its own will. It also remains free to extend its own authority, reinterpreting its original grant of power and applying its own understanding of the reaches of its authority amid changing circumstances and conditions. It is this last claim that makes some writers cavil. Majority power appears in this statement too unrestricted for safety. Consequently, a number of attempts have been made to reformulate the concept of majority sovereignty so as to make it more amenable to containment and less worrisome to those who fear the possible abuse inherent in state power.

III

Limited Majority Rule

Within democratic theory most efforts to restrict the play of government by majorities center on the belief that something in the nature of a sovereign defines the possible content of sovereign decisions.

One such line of argument develops a purely logical demonstration. Decision by a majoritarian procedure, Professor Thomas Thorson says,[34] is the only proper deci-

sion rule in democracies because all alternative rules would violate popular sovereignty and political equality. Therefore, Thorson suggests, if the majority decision rule also violates popular sovereignty and political equality, then it, too, can be declared logically incompatible with the requirements of democracy. If this is so, he goes on, then the choice of decision rules rests not on logic, but on prudential considerations about how best to preserve democracy, and might include a rule that formally checks the majority's ability to infringe popular sovereignty and political equality. It is easy to see that a majority might modify or even destroy popular sovereignty and political equality by, for example, voting to restrict the suffrage. A formal institutional limitation on their ability to do such a thing thus sounds reasonable and commands a certain ready acceptance. But this position, upon closer examination, cannot be sustained.

As Austin Ranney has pointed out,[35] to equate majority and minority rule, as Thorson does, is to shift from method to content the meaning of what makes a decision rule incompatible with popular sovereignty and political equality. They are incompatible with minority rule because as a method it does not square with the two democratic axioms, and this is true regardless of how well the content of the minority decision conforms to the two axioms. Minority rule is anathema in democracies even if the minority is benevolent and allows a wide franchise

or encourages widespread participation in government.[36] Majority rule, however, is held inadequate solely because of the substance of a policy it might initiate. Aside from the likelihood that any grant of power enabling a sovereign to do good will also give him power to do evil, that power, by its nature, always entails a potential for both good and evil; the impossibility of limiting the content of the decision of a supreme decision maker becomes clear the moment one asks who decides whether or not a particular policy does or does not violate the democratic axioms. Does the elimination of the insane from the voting rolls violate the axioms? of non-Jews in a state formed to promote Judaism? of those who admire and work for dictatorship in democracies? The answers to these questions are not obvious. They require, as all specific proposals require, an interpretation of underlying principles, an effort to adapt general principles to concrete situations. Phenomena, remember, do not classify themselves. Who in a democracy but the majority ought to render binding opinions about the appropriateness of the content of policies? Who should decide constitutional structure or the congruity of constitutional structure and the standard of legitimacy behind it? Thorson has not discovered a logical way to avoid the majoritarian solution.

Sometimes an attempt upon unfettered majority power occurs by way of examining what happens when a majority

destroys itself, e.g., votes into office a dictator or party that, perhaps as pledged in the election campaign, abolishes majority rule.[37] A majority, it is felt, simply cannot do that, and no one living in a democratic society ought to have to take the risks that some ill advised majority may take it into its head to destroy itself. There must be something wrong, it is held, with a theory that commits one to the acceptance of suicide. A group must have some protection against self-destruction. Again, a surface plausibility exists, but again it does not survive close scrutiny.

The basic laws of a viable society are not eternal. The power to change those laws must rest somewhere. The problem is not that such power lives, but where it is lodged. Democratic values require that that power be placed only in the hands of a majority. But no matter which group or person holds such power it is potentially self-destructive. The power of self-destruction is not peculiar to democracies but is shared by all governments.[38]

Further, there is a danger that the question of suicide is put so as to suggest that commitment to majority rule obligates one to submit to the results of the majority's rule, in this case to the results of its suicide. Sympathy for limiting majority rule has a tendency to draw upon this fear. On the above analysis of sovereignty, however, the methodological mistake inherent in that ten-

dency should be clear. Acceptance of a majority decision rule is an unqualified duty of citizens within a democracy; it is not necessarily their duty outside a democracy, in a society built on other values. Commitments appropriate to a functioning democracy do not prevail when that democracy has disappeared. Within a democratic state one consents to lose. What one does outside a democratic state is an entirely different matter. John Locke, who does indeed speak of the individual's "obligation -- to submit to the determination of the majority, and to be concluded by it,"[39] also recognizes an "appeal to heaven" (i.e., to revolution and resistance) when the constitution of a political society has broken down. In short, commitment to majority rule continues only as long as commitment to the political society in which it functions continues. And its validity does not depend on a society's perfect ability to hold the loyalty of its citizens forever. Just as a monarchist pledges allegiance to his King knowing full well that the King is capable of putting a bullet in his own head, or abdicating, or turning his regime into a republic, so the democrat bows to the majority even though he knows full well that the sovereign has the capacity to destroy itself, abdicate, or transform the character of the government it controls. When kings or majorities behave in these untoward ways the citizen's obligations then simply change as he faces a new and different problem of political obligation,

one revolving around his desire to join or to oppose the new group based on the new understandings that have arisen.

There remains one further sort of attempt to limit the majority's absolute rule, a line of reasoning somewhat more attractive than those already mentioned, and one harder (although not impossible) to meet. The argument goes like this:[40]

1. All sovereigns are limited by the purpose of their being.
2. The purpose of majority rule systems is to discover the will of the community.
3. If the majority rule device does not fulfill that purpose it loses its validity.
4. Majorities can fail to find genuine consent by:
   a) abolishing opposition and not permitting majorities to form freely (e.g. by violating free speech and assembly and inhibiting party organization); and
   b) preventing government accountability to the electorate (e.g. prohibiting criticism and not providing for replacement of those in power).

The "political rights traditionally associated with democratic thought and practice"[41] receive, in this analysis, a special place among the values holding a democratic community together which, indeed, they may have. Transgression of the rules that create legitimacy appears to give adequate cause to any efforts to disallow that happening. Yet, it is difficult to believe that a violation of political freedom would dissolve the political obligations of a democrat and that violation of (say) his freedom of of religion would not.[42] Preservation of majority rule may be necessary to avoid surrendering a claim on the

loyalty of democratic citizens, but so might many other socio-economic policies. How does the maintenance of "majorities-freely-arrived-at" attain a unique status among governmental action?[43] Why not such legendary hedges against totalitarian power as the right of contract or the right to private property, or a host of other traditional or "natural" rights? What does it mean to say that there is justice in absolute majority power in all areas "except over those matters upon which the authorization (of power) itself depends"?[44]

The difficulty lies in the second of the above propositions. The purpose of majority rule is to resolve conflict within a democratic community, not to discover the general will.[45] The alleged "fallacy of absolute majority rule" rests on a failure to separate the concept of a community's decision rule from the concept of a community's standard of legitimacy. Because in a given situation the two questions often occur together, and because a similar standard may suffice for both problems, it is tempting to conflate the two considerations. Succumbing to the temptation, however, yields confusion, not clarity.

The general will includes many items, some perhaps more important even than those about political freedom.[46] At this level all sovereigns are limited in the sense of being measured against the justice or injustice of collective action itself. Many categories of collective action may lie beyond

a states purview. Mixing this concern with the problem of choosing an appropriate decision rule for democracies serves no useful purpose. That such confusion does exist becomes apparent as soon as one looks at what precisely it is that, in the above argument, provides limits on the majority's authorization to act. The limits turn out to be "a framework of rules, established formally or traditionally, to which the community in general adheres" or "a framework of rules established and/or agreed to by all."[47] The very vagueness of the formulations demand a knowledge of who will interpret and enforce these rules. Avoiding a majoritarian solution to that demand leads to limitations promulgated by an ethos rather than by laws or institutions, or some similar and politically not very satisfactory explanation.[48]

While both the prosecution and the defense in the debate about absolute majority rule share an interest in the elaboration of a standard by which the legitimacy of community action can be tested, restriction of that standard to matters of political freedom sharply separates them as, I'm afraid, it would disunite the populace of most ongoing democracies. An effective argument for limiting majority rule has yet to be developed and, if the general theory of sovereignty is sound, such an argument is not in the offing.

A range of discussion not considered here concerns the

use of qualified majorities and institutional checks in order to limit majority power. Such discussions do not claim that majorities lack authority in this or that field, but rather that as a matter of prudence, as a sop to the fallibility of all sovereigns, even the majority of the people, rightful power should be made to jump through hoops and not permitted to operate simply and directly. The idea is not that majorities ought not to have power or that anyone other than a majority ought to wield power. It is an insistence that majority rule (and probably all rule) needs to be tempered by time and forced to withstand various rounds of criticism before becoming operative. Whether or not checks and balances, bicameralism, separation of powers, judicial review, and federalism serve as masks for those who secretly oppose majority power need not be examined here, for the arguments used by proponents of these institutions, whether sincere or specious, are drawn from the majoritarian arsenal and not some alternative line of defense. Nor is it necessary to assess the merits of these devices for, wisely or not, they are supported within the majoritarian position.

IV

The Absence of Sovereignty

A few writers have never accepted the idea of sovereignty and still contend that nations can be, and indeed are,

effectively ruled without recourse to Bodin's construct. Some of their ideas are of considerable interest.

Law, according to some, is not merely what is promulgated. All law, whether in the form of common law or customary law or positive legislation, shares certain characteristics. These include a tendency to develop over time through usage. The parts spelled out directly by definitions always change under the pressures of experience, application to specific cases, and in the normal course of administration. Charles McIlwain, in his Constitutionalism Ancient and Modern,[49] quotes Sir Henry Maine to the effect that principles of law "are gradually secreted in the interstices of procedure" which develop as needs require. The principles develop as rationalizations of existing and only partial remedies for current problems. The idea bears a close affinity to the Burkean belief in deducing principles from a Nation's actual institutions. From this point of view, the reality of legal, political, and moral authority never appears to be a matter of free will, certainly not some identifiable person's or body's will, but rather something that emerges from an accretion of many wills struggling to adjust to the newness of each day with implements from yesterday. The mystical overtones here might be dismissed summarily, but the element of truth is probably inescapable: authority cannot be pinpointed

with any great exactitude and, in practical if not in philosophic affairs, men do function with a vague sense that basic principles of power do emanate from incremental patterns and not solely from decisive pronunciamentos by Presidents, and legislatures, and courts.

One writer in this vein makes a sharp distinction between questions about who should rule and questions about how who holds office should rule.[50] Whenever limits of law are decided by fiat, he writes, the result is a "clash between the popular will and the individual conscience which will reduce society either to anarchy or terror, and since, in the last resort, anarchy is the worst of all conditions, terror is the inevitable consequence."[51] A sensible political society, therefore, rejects clearcut demarcations of authority. "... it is surely the supreme virtue of the Anglo-American political tradition," Peregrine Worsthorne claims, "that this mischievious question (where ultimate authority resides or ought to reside) has never been settled, because it is never raised."[52] Instead, the Anglo-American tradition contents itself with deciding the lesser purely practical question of who should rule. The English and their former colonies avoid, as a matter of deliberate policy or innate good sense, the task (impossible for those who love liberty) of assigning supreme authority to some particular part of the realm.[53] Presumably they may make use of a legal fiction such as the sovereignty of the

crown in Parliament, but, it is argued, everyone knows this is a myth and that for all practical purposes there are many, many things that no Crown-in-Parliament would dare to touch without daring revolution in the same breath.[54] What precisely lies in those untouchable areas (dictates of natural law?) and who, precisely, would revolt (those who share an interpretation of natural law based on shared religious and ethical principles?) are questions left to the unfolding of tradition, questions inherently unanswerable in any other way.[55]

A critique of this denial of sovereignty in the nation-state would involve an empirical exploration that cannot be undertaken here. In the absence of such an empirical study or any offer of evidence from those who support this Oakshottian position, not much can be done with the viewpoint in spite of its obvious merits. One suspects that power is not really all that vague, all that much of a mystery, or all that attached to prepolitical understanding. But proof of that hunch must await other investigations.[56]

To rule, then, is to have the last word in all the senses explored above and with all the qualifications noted. To rule, however, is also to evoke response to that last word. Ruling is a relationship, not a one-sided affair. Some of the elements of that relationship need examination before an adequate statement of what majority rule means can be made. The relational aspects of rule, therefore, form the subject of the next stage of this analysis.

FOOTNOTES -- Chapter V

1. The history of sovereignty understood in this way has been traced by F.H. Hinsley, Sovereignty (London: C.A. Watts and Co. 1966).

2. W.J. Stankiewicz, "In Defense of Sovereignty," in the collection of essays he edited, In Defense of Sovereignty (New York, London and Toronto: Oxford University Press, 1969), pp. 3-38.

3. Prominent among those who believe sovereignty and absolutism to be indissolubly connected is Jacques Maritain. See his essay "The Concept of Sovereignty," in Ibid., pp. 41-64.

4. Stankiewicz, op. cit., p. 18.

5. Ibid., p. 17, n. 9.

6. Ibid., p. 18, n. 11.

7. Ibid., p. 18.

8. See above, Chapter II.

9. For an analysis of equality relevant to the distinctions required here, see David Spitz, "A Grammer of Equality," Dissent, XXI (1974), 63-78. A fuller discussion of equality and rule can be found below, Chapter VI.

10. Bernard Crick, "Sovereignty," International Encyclopedia of the Social Sciences, XV, 77-82.

11. See Chapter VI.

12. Rousseau, op. cit., p. 18.

13. Cf. Georg Simmel's interpretation of Rousseau in "The Phenomenon of Out Voting," The Sociology of Georg Simmel, ed. and trans. Kurt H. Wolff (Glencoe, Illinois: The Free Press, 1950), p. 245.

14. E.g., Harold Laski, Hugo Krabbe.

15. See the analysis of this point in Stanley Benn, "Sovereignty," Encyclopedia of Philosophy, VII, 504.

16. This is the procedure recommended by Willmoore Kendall in his "Prolegemena To Any Future Work on Majority Rule," Journal of Politics, XII (1950), 694-713.

17. Ibid.

18. Cf. Simmel, op. cit., p. 245.

19. An interesting version of the contrary position is rendered by Peregrine Worsthorne, "Democracy v. Liberty?" Encounter, VI (January 1956), 5-13.

20. How such a state comes about, especially how many are coerced into joining it, raises serious moral questions. These questions cannot adequately be explored here, but it is necessary to acknowledge the possibility of attacking majority sovereignty on the grounds of the allegedly immoral origins of the state in which majorities function. All states arise and sustain themselves amid some coercion; unanimity of acquiesence to any system is unobtainable. The non-voluntary nature of the adherence of some, even in democratic states, can probably be defended (perhaps by pursuing the notion that the coercion of some involves less coercion than would otherwise obtain in the world). Whether the presence in all groups of non-voluntary members ought, however, to limit sovereign power appears more debatable. To explore problems of this sort only a major ethical inquiry that carefully provides the framework for a political state will serve.

21. For an opposing view, one that denies the possibility of sovereignty resting with the people, see Charles McIlwain, "Sovereignty In The World Today," Measure, I (Spring 1950), 111 who writes: "...whether we like it or not, in choosing a legislature we are choosing a master, and because we choose it, it is no less a master than a monarch with hereditary title."

22. Ultimate subservience to the legislature is further bolstered by the Courts' lack of enforcement machinery (neither sword nor purse). A less sanguine view of the place of judicial review in a democracy is taken by Edwin Mims, Jr., The Majority of the People (New York: Modern Age Books Inc., 1941), and Henry Steel Commager, Majority Rule and Minority Rights. (New York: Oxford University Press, 1943).

23. Cf. the remarks of James Madison in the Virginia Constitutional Convention of 1829:

> ....A Political system which does not contain an effective provision for a peaceable decision of all controversies arising within itself, would be a Government in name only. Such a provision is obviously essential; and it is equally obvious that it cannot be either peaceable or effective by making every part an

> authoritative empire. The final appeal in such cases must be to the authority of the whole, not to that of the parts separately and independently.
>
> This was the view taken of the subject whilst the Constitution was under the consideration of the people. It was this view of it which dictated the clause declaring that the Constitution and law of the United States should be the supreme law of the Land...

24. Crick, op. cit.

25. Kendall "Prolegomena..." op. cit., p. 707.

26. Ibid., p. 708.

27. The bonds uniting a community are not easily broken. Even as provoking an issue as racial prejudice in the United States fails to create disaffection on a large scale as most blacks seem more intent on wresting a fair share of the American pie than on joining separatist movements or allying themselves with African nations. Some Jews who might have escaped from Nazi Germany tragically waited until it was too late to get out as they found their homeland difficult to reject even in the face of menacing anti-semitism. Yet in Britain, after centuries of unity and no major discrimination, Scotch and Welsh nationalists have shown surprising strength. The limits of sovereignty are hard to fathom.

28. For example, John Courtney Murray, S. J., We Hold These Truths (Garden City, New York: Image Books, Doubleday and Co., 1964).

29. Roger Williams, The Bloody Tenent of Persecution, in Jacobson's Development of American Thought, Thornton Anderson, Ed. (New York: Appleton-Century Crofts, 1961), p. 49.

30. Kendall, "Prolegomena..," op. cit., p. 709.

31. Ibid.

32. See, for example, Rousseau, op. cit.

33. David Spitz, Democracy and the Challenge of Power (New York: Columbia University Press, 1958), pp. 150-160.

34. Thomas L. Thorson, "Epilogue on Absolute Majority Rule," Journal of Politics, XXIII (1961), 557-65.

35. Austin Ranney, "Postlude To The Epilogue," Journal of Politics, XXIII (1961), 566-69.

36. Sometimes an attempt is made to distinguish between rule and veto power. A minority's ability to block decisions would not be considered the same thing as the ability to make decisions. The difference does not, I think, change the argument grounded in the requirements of political equality: in both blocking and forwarding a policy some people count for more than others.

37. See, for example Herbert McCloskey, "The Fallacy of Absolute Majority Rule," Journal of Politics, XI (1949), 637-54. Also Thorson, op. cit., and Worsthorne, op. cit.

38. Kendall, "Prolegomena...", op. cit., pp. 703-4.

39. John Locke. The Second Treatise of Civil Government, ed. J.W. Gough (Oxford: Basil Blackwell, 1948) Chapter VIII, p. 48.

40. McClosky, op. cit.

41. Ibid., p. 642.

42. Willmoore Kendall "Prologomena..." op. cit., p. 712. puts the difficulty in grim language: "...McClosky is prepared to entrust (to the majority) the 'exercise of power' over all matters save those that he defines as strictly political... on these trivial matters in other words, we can trust the majority to delimit itself, and so can leave it free inter alia to set up extermination camps for Jewish children (not Jewish adults because that would evidently prevent majorities from being freely arrived at by silencing some electors)..."

43. See McClosky, op. cit., p. 642. The seriousness of the difficulties in this argument can perhaps be appreciated by noting one suggestion to which it has given rise:

> ....If the rule that 'majorities must be freely-arrived-at is indeed the supreme mandate, one wonders why the obligation to do nothing to prevent their being freely-arrived-at thus hogs the footlights at the expense of the obligation to take positive action to assure their being freely-arrived-at. Why for

> example, should positive action against the Communist movement, which as McClosky recognizes looks precisely to future prevention of majorities being freely-arrived-at, not enjoy anyhow equal status with permitting all individuals, including presumably the Communists to speak and publish, and so forth... (Kendall, "Prolegomena..." p. 712.).

44. Ibid., p. 647.

45. Professor John Clarke Adams, in his book The Quest For Democratic Law (New York: Thomas Y. Crowell, 1970), puts it this way: "... the function of an institution is not so much to express the will of the members of the spontaneous social group it represents as to supply an ersatz will for the will that the spontaneous group has not formulated. So long as the spontaneous group has the time and energy to formulate and express a will, there is no need for an institution. It is when this will, essential for the realization of group interests, is lacking that it becomes necessary to establish an institution."

46. Cf. MacIver, who writes in The Modern State, op. cit., p. 10 that the general will is the "spirit of citizenship" and (p. 11) "not the will of a citizen but the will of the person to be a citizen."

47. McClosky, op. cit., p. 652.

48. In his recent book Jean Bodin and the Rise of Absolutist Theory (Cambridge, England: Cambridge University Press, 1973), Julian Franklin argues convincingly about Bodin's place in the French constitutionalists tradition but less so about Bodin's theory of absolute sovereignty. Franklin defends, contra Bodin's eventual position, the notion of limited sovereignty, because, he says, it is always necessary both to obtain popular consent to rule and to allow diverse groups to participate in policy-making. But participation and cooperation, as I will try to demonstrate in Chapters VI and VII, are merely other aspects of ruling, aspects which do not negate the necessity for command, and thus for a supreme commander, that Bodin sought to delineate. Franklin's apparent assumption that the laws of custom can substitute for commands is precisely what needs to be argued if the later Bodin is to be successfully refuted. A considerable literature contends, contra Franklin, that political traditions - even where unitary, which they seldom are - cannot establish political obligations superior to those owed present political authority for, among

other things, it is always existing authority which must decide among conflicting customs, and conflicting interpretations of their dictates.

49. McIlwain, op. cit., p. 48.

50. Worsthorne, op. cit.

51. Ibid., p. 11.

52. Ibid., p. 8.

53. Ibid.

54. Cf. McIlwain, "Sovereignty In The World Today," op. cit., p. 117.

55. In Anglo-American history, it is claimed (e.g. by Worsthorne), liberty has flowered as a product of long experience in governments that had to win consent from a diverse populace, and not as a result of the functioning, settled, will of the people.

56. For a relevant critique of Oakeshott's general political position see Hanna Pitkin, "The Roots of Conservatism: Michael Oakeshott and the Denial of Politics" in The New Conservatism, eds. Lewis Coser, and Irving Howe (New York: Quadrangle, The New York Times Book Company, 1974), pp. 243-288.

Chapter VI

RULING AS ACCOUNTABILITY

I

The Impossibility of Direct Rule

As many a parent has discovered, possessing final, absolute authority and garnering compliance with that authority are two quite different things. A king or dictator may give commands, but it does not necessarily follow that he always receives obedience or achieves his goals. Orders, have to be transmitted and, as in the childhood party game of telephone, messages can all too easily be distorted in the process. Each who relays the words of authority gives them his own interpretation, repeats them with his own emphases, and often only remembers a part of the whole, usually that part he wanted to hear. Further, when news of the authoritative purpose to be pursued has been recieved, it needs to be carried out in ways seldom made precise in the original directive or made clear by the nature of the policy. An order to spend fifty million dollars on food distribution to the poor leaves open which foods are to be chosen, what distribution centers are to be used, who is to disperse the food, and so on. Administrative policy, as well as the spirit with which the administrative work is done, of course,

can thwart intent or modify authoritative decisions. And finally, the absolute monarch who, unfettered, makes all decisions cannot, unaided, see to the enforcement of his wishes. To check on compliance he needs, at a minimum, assistants who will inspect and report back to him. In fact, it is doubtul that he can even make correct decisions alone, for he can only function effectively if he possesses proper information; for that he is, again, dependent on others. In the language of administrators, the "span of control" of even the most determined despot limits the nature of his rule.

Because of the short reaches of personal activity, rulers (whether dictators or democrats) must impose their will through others who are responsive to their demands. Rule is seldom direct. Nor has any political system ever perfectly solved the problem of organizing so that he who rules always, without mishap, successfully holds others accountable for carrying out commands. But since all systems are not equally imperfect in this respect, differences in who or what is how well controlled are not unimportant. The sovereign majority shares with all sovereigns the difficult task of delegating power without losing control, or, more accurately, without losing too much control.

The difficulty of ruling through subordinates led Gaetano Mosca to describe a coterie of minions, constituting a distinct stratum of society, who, he claimed, always

surrounds all ruling groups.[1] If, however, Mosca is correct and a special class of skilled functionaries is indispensable to effective rule, then the question of who rules must be reopened; for to be literally indispensable is to share in ultimate power. This, at any rate, is the conclusion to which one eccentric but interesting writer, Max Nomad, was drawn. In several books and articles, Nomad, building on the teaching of Waclaw Machajski, argues that it is the intelligentsia who comprise the indispensable class (because they possess the necessary information and expertise) and who, in effect, always rule regardless of what type of regime holds sway. In fact, he claims, revolutions come and go, ushering in sweeping changes of policy, but the personnel who actually do the ruling remain the same (or of the same class), surviving all change and adjusting to all innovation. They are, therefore, the true rulers.[2]

Whether or not power devolves onto the shoulders of a specific class as these theorists claim, and whether or not all supposed rulers are actually in thrall to this class, power does have to delegated in some fashion by any and all rulers who must then face the problem of keeping those with delegated authority accountable to the sovereign. Different societies institutionalize different methods of providing for this problem, and societies in which the majority rules not only face the same difficulties, but also operate with similarly diverse methods of control.

A comprehensive examination of the sort of matters delegated or the sorts of methods of accountability utilized need not concern us here. What can be indicated, however, is a general idea of the way ruling is undertaken by majorities in many prominent modern democracies, and the standard methods of maintaining control of government by the electoral majority can be listed and evaluated.

II

Nature of Powers Delegated

The first thing to notice about the declaration of power is that it is usually made to government in general, to a government that legislates, executes, and juridically interprets laws, and not to some one part of government only. In the United States, there the Chief Executive and many judges are elected, this is fairly clear, but it is equally true in parliamentary systems. The legislature may be the cynosure of democratic government, but the majority's right to govern does not stop at the doors of legislative halls, yielding to someone else in administrative corridors, or in courts of law. The explanation of why, if this is true in fact as well as theory, the opinions of electoral majorities do not always match particular legislative politicies (or administrative orders or judicial decisions) goes back to a recognition of what is represented by a representative government. As suggested in the discussion of the nature of representation[3] what majorities seek to delegate to their government is something broader than their stands on this or that policy, namely their sense

of justice, perhaps particularly their notion of social justice. The proverbial town meeting cannot promulgate its sense of justice, except in minimal ways, because all rule involves administration and enforcement as well as legislation, and the town meeting substitutes for only a part of the more common governing processes (i.e., for that part of the legislative process concerned with passing laws but not, note bene, for that part of the legislative process concerned with oversight of administration).[4]

A second major characteristic of the operation of ruling is that much of it is done by (a) indirection and (b) self-limitation. The electoral majority, theoretically free to will anything it wishes to will, in practice limits its demands. Whether self-imposed restrictions on government stem from the nature of the scheme of justice a particular majority wishes to further, or whether it is simply a matter of prudence, of believing it not worth the effort or cost to do more, the empirical record suggests that a prevailing majority seldom exercises the extreme reaches of its power. Further, a great deal of what it does do it accomplishes indirectly. In many cases, that is, a majority seems to say to groups of less than fifty percent: "I could force you to your knees if I chose. Keep that fact in the back of your mind, give evidence now and then that you remember it, and I'll let you alone to go your own way unimpeded." The private university in America provides a

ready example. The majority, through its control of government, could make any university's life untenable even without changing the Constitution: through tax policies, competitive advantages to public colleges, and so forth. Every once in a while government does remind these private associations that there are limits to their power over education (e.g., they cannot exclude students on the basis of race). And every once in a while the universities show recognition of their ultimate susceptibility to government control (e.g., they begin counting the number of women on their faculties). Within the context of this reciprocity of muscle flexing and subservience, private universities decisively influence, and in many places dominate, one of the more important policy areas of modern society, namely, the field of higher education. The universities rule in the educational field, but in a sense they do so because the majority has delegated ruling power to them. And so, like the Supreme Court judges who, although appointed for life, have been shown to follow the election returns to a remarkable extent, so, too the private universities in their policies and programs also respond to public opinion.[5] What is true of the university is equally true of other non-governmental institutions which allegedly govern other important areas of social life. A major bank does not raise the prime rate without careful consideration of what the government's reaction might be.

General Motors does not invest a substantial percentage of its capital abroad without considering the possible response of government to such activity. Major foundations do not fund community action programs without calculating the amount of government support or opposition their programs will arouse. Important private institutions run important segments of their societies, but their functioning depends upon majority sufferance and takes place within an arena determined by a certain awareness of the power arrangement.

It is this inclination for indirect rule which has led to the so-called plural society. The leading democracies in the world all exhibit a marked tendency to govern amid a plethora of unofficial, non-public groups which have great impact on social life. Governments do not attempt to make all the decisions that can be made about areas of common public concern, and some degree of autonomy for private power prevails. The practice of pluralism may stem from tradition: the central teaching of Michael Oakeshott is surely that the freedom so highly prized by Englishmen arises from delicate maneuvering within the web of their spontaneous and customary associations.[6] Or, the plural society may arise from the nature of commercial, affluent civilizations as James Madison suggested. However it comes about, group politics is an empirical reality in modern societies and is the reality within which

comtemporary majority rule systems flourish.

To accept the existence of the mutual awareness between private groups and government of their power relationship is not necessarily to accept whatever terms of operation currently prevail. Some people obviously wish to reduce government interference and to restrict further the areas of direct majority rule. There is no principled way to pursue such a policy except to urge the majority to forbear. Without limiting the right of the majority to rule, a shift in the delegation of powers toward greater sub-contracting cannot be accomplished institutionally unless the majority chooses to bow out. Rationalization of that course in the light of a belief in majority decision making grows difficult and, perhaps, cannot be achieved within democratic systems. For those who favor an extension of rule, on the other hand, the problem is a little different. Consistent commitment to majority rule does not preclude, for example, a decrease in delegation and a concomitant increase in direct control. The government might take over the ownership of industry or certain industries, or might prohibit private education and run a centralized educational program attuned to those needs it believes preeminent. Nothing in majority rule theory (or democratic theory) obviates that recourse. Or, the government might increase the regulations under which pluralism functions. Private colleges, for example, might be continued, but only if they conform to more stringent

terms; they might be asked to devote a certain portion of their curriculum to courses the majority finds important, or be asked not to offend the majority by their admission policies, or be required to provide work brigades to help alleviate various social problems, and so on. Again, nothing in the theory of majority rule stands in the way of those options.

Another proposal aimed at stretching the reach of the majority's power to control society calls for the extension of majority rule (presumably by law) to arenas of non-governmental decision making. Colleges, that is, should be required to adopt only those policies that secure majority approval within the college community. Variations on this theme form the core of what is popularly called "participatory democracy."[7] Thus Peter Bachrach suggests worker's councils in factories, Milton Kotler praises neighborhood government, Steward C. Perry urges community development corporations, Marilyn Gittell recommends local school boards, and all wax enthusiastic about giving people more direct and immediate control over the everyday aspects of their lives.[8]

This whole school of thought tends to be long on rhetoric and short on theory, which makes careful consideration of the viewpoint difficult. Sometimes a close examination of the argument reveals that the speaker merely wants people to have more influence over their daily routines.

This might take the form of consultation by authorities with all those concerned in an enterprise, or it might involve the kind of access to decision making that enables more people more equally to influence the course of decisions. Or, it might mean actual majority control. Carole Pateman takes a dim view of anything short of control referring to it as "pseudo participation" or "partial participation."[9] David Kramer adopts a more sanguine attitude, accepting as significant any increase in the influencing of decisions by those who must be ruled.[10]

Insofar as the extension of democracy to the work place or to other hierarchially organized units does not involve control and thus does not involve the resolution of conflict by means of the majority decision making rule, its merits lie, on the whole, beyond this study. They are of tangential concern here only because the alleged reasons behind such participation include the development of psychological qualities in citizens (particularly a sense of political efficacy, an ability to use conflict resolving procedures with skill and a release from alienation) which, it is claimed, are either necessary or important to the maintenance of democratic societies that must, in their absence, suffer losses in their sense of integration and in their level of acceptance of collective decisions. Although some evidence suggesting a connection between habits of participation and habits of voting in national

elections exists, nothing conclusive can yet be said and the importance (much less the necessity) of the role of so-called participatory devices in upholding majority rule systems remains to be evaluated on the basis of more experience and further study.

Insofar as participatory democracy refers to actual control of non-governmental enterprises (and not to greater influence within them), the problems to be confronted become quite relevant here and the workability of such schemes needs consideration, especially as the mechanisms affect power relationships in the wider society.

The first problem to be met concerns the definition of the decision making group. Shall the decisions of General Motors be made by workers and managers in the plants? by workers, managers, and such staff personnel as lawyers, accountants, and investment analysts? Do stockholders participate? consumers of General Motors' products? The local townspeople where the factories are located? General Motor's chief suppliers? What, in short, constitutes General Motors' constituency? And, within the constituency, are all to have equal voice in all matters? Do the janitors at Harvard participate in the structuring of the curriculum? Does the faculty participate in decisions about which buildings are to be kept open when? Majority decision making, remember, makes sense only when there are common interests so overriding that

belonging to the group and submitting to group discipline is worthwhile. Evidence that such solidarity exists in communities as ill-defined as, say, the Consolidated Edison Company is lacking.[11] A factory is not a community and like interests ought not be mistaken for those common interests which make life in community a worthwhile human enterprise.[12]

Even if the constituency problem could be overcome, the suggested extension of majority rule would not necessarily lead to more majoritarian results and might, in fact, bolster the power of minorities. This could happen in two ways. If Harvard discriminates against blacks, the society wide governing majority can decide to tolerate or to fight that policy. But if legitimacy comes from in-house majority decision making and a majority at Harvard wishes to discriminate against blacks, then only a theory which makes clear to Harvard that it is not the ultimate decision maker, that it cannot in any final sense rule its own bailiwick, can legitimately overcome that discriminatory policy. Of course to make that clear would inculcate precisely the feeling of impotence at Harvard that participatory devices are supposed to combat. Without such overweening society-wide power, however, entrenched minorities in industry or labor or other groups gain added power, perhaps in contradistinction to the wishes of the majority, from every course of action which grants political

legitimacy to their decisions. The diffusion of majority rule might, in this way, weaken overall majority rule. This thought does not dismay everyone. On the contrary, Herbert Gans, for example, has called for the abolition of overall majority rule in order to achieve greater autonomy for separate units of society in the belief that modern society needs to enhance minority power. Majorities, he argues, are made up of the rich and the privileged. In affluent America, the poor, who need power, are a minority. Gans, therefore, wishes to destroy the ability of the majority to control social policy and proposes, instead, the creation of a number of small, autonomous majority rule systems each with control of its own constituency.[13] Minority rule prevails in his program and must meet all the theoretical and practical objections to its sway.

Objections, of course, are numerous. Preeminently, if autonomy destroys majority rule and if, as suggested earlier, the choice between majority rule and minority rule is (in some sense) exhaustive, then minorities replace the majority as the repository of sovereignty and the difficulty of maintaining a society without the means of conflict resolution among these minorities must be faced.[14] Perhaps equally important, one would have to confront James Madison's contention that it is parochialism which makes the success of democracies improbable and thus only extensive constituencies overcome the ability of cliques or special interests to dominate. The little evidence accumu-

lated in participatory experiments rather support Madison (e.g., anti-Semitism and anti-unionism in the Brownsville school district, the high pay raises Yugoslav workers awarded themselves without regard to productivity or inflationary effects), although it is not, of course, conclusive.[15] Another objection centers on the means of financing decentralized units. Most advocates of participatory schemes recognize that small enclaves can not hope to be financially independent. Which minorities, then, would control how much of the majority's taxes? At its extreme, participatory schemes shade off into anarchism. In more modified versions they shift power to minorities in highly controversial ways.

Besides enhancing minority legitimacy, the compulsory extension of majority rule into non-governmental arenas might give minorities greater power in still another fashion. The average man cannot be expected to participate in the decision making process of all groups which importantly affect his daily life. Can a college professor (even one who loves to go to meetings) reasonably be presumed to be able and interested in participating in the affairs of his department, his division, his college, his alma mater, his union, his professional association, his church, his bowling league, the Parents and Teachers Association of his children's schools, his political party, as well as the pressure group dedicated to his intense

concern for the preservation of wilderness areas? As Michael Walzer has humorously pointed out,[16] the average man doesn't have time for the activist's paradise which can only be described as a lover's nightmare. But while ordinary citizens hold hands in the moonlight or romp with their children, a passionate minority, with single-minded devotion to a particular position, takes over the local school or church or union or other institution which, in the theory of participatory democracy, has been made dependent on in-house majority rule. Under the guise of increasing majority control over more things that matter, minorities might easily end up in the saddle.[17]

Although the feasibility of extending majority rule to private groups looks less than promising as a way of enhancing majority control of the society it presumably rules, certain advantages of the proposal ought not to be overlooked. The majority decision making rule (and democracy in general) depends (to some extent anyway) on an ethos conducive to acceptance of the values it encompasses. A people gets into the habit of ruling (rather than passively accepting authority). They come to expect the solicitation of their consent to policies rather than to have programs imposed on them. Helping to formulate group decisions by making their point of view known, hearing out others, deliberating and caming

to conclusions may seem as natural in some societies as helping to make beds is in family households. There are patterns of authority, Professor Eckstein has sought to demonstrate in his study of democracy in Norway,[18] which carry over from social life into political life and influence the behavior and expectations of participants. The extension of majority rule to the workplace and other institutions might thus faciliate the successful operation of the majority decision rule in politics. As an educational device "participatory democracy" may have much to recommend it.

"Participatory democracy" also looks to the enrichment of the quality of decisions made through their infusion with the values and interests of those who have to live with those decisions in some immediate sense. The range of contextual considerations brought to bear on a decision expands, if the number of people or the number of categories of people consulted increases. Economic decisions have been of special concern and various schemes for "industrial democracy" look to bringing the benefits of the discussion process to the organization and distribution of production in every plant. Whatever the merits of such plans, they in no way affect the workings of majority rule or its legitimacy. Whether industrial decisions are made by stockholders, or managers, or unions, or by workers within each production unit, such decisions are all equally

subject to regulation or control by government, by the centralized authority accountable to the sovereign majority. Only those schemes which deny decisive regulatory power to government (e.g., syndicalism or anarchism) interfere significantly with the majority decision rule.

Thus, in spite of the attractiveness of the various ideas subsumed under the rubric "participatory democracy," the major power of majorities remains (and probably must remain in the forseeable future) that familiar in modern democracies: legislative, executive, and judicial control by government (national and local), and pluralist dispersal of power among private organizations held ultimately but not directly answerable to government. These are the powers with which citizens must work. To rule is to hold officials accountable for the manner in which they exercise this range of power.[19]

III

Methods of Accountability

In all democracies, elections serve as the primary method of majority-control. Some elections concern specific issues. The majority in referenda, attempt to control policy by saying yes or no to some particular question (e.g., shall the government float bonds for public housing projects? hold a state lottery to raise revenue for education? prohibit racial discrimination in housing?). Occasionally this elicitation of opinion is meant to be advisory, but often it is decisive, and then

a number of difficulties arise. Discussion of the issues cannot take place systematically as in a legislative hall where there are procedures to provide a hearing for all, facilities for bargaining, ways to reformulate the question or seek qualifications to it. Yes or no questions are usually deceptively oversimplified, and discussion of them not fully productive if it cannot produce adjustments in the formulation. Policies decided under these conditions may exacerbate politically relevant inequalities (e.g., lack of money for publicity) and may de-emphasize both rational consideration and valuable compromise. Direct decisions by all, in short, may do a disservice to the actual prevailing sense of justice and may record (more frequently than is likely when representative assemblies filter arguments through parliamentary procedures) a less accurate rendition of community desires. Elections, consequently, are most often used to solicit the personnel of government rather than to conclude the issues of the day.

Elections take place on a number of levels, in the United States on a seemingly bewildering number of levels. Among the advantages of multiple tiers of government is the ability it gives majorities to make known their thinking at different times and in different places. When Allende adherents in Chile won many local contests in 1973, the national government hailed the results as a mandate for

their program. If Republicans in the United States won the majority of a number of large cities in 1974, the national party would be strengthened and encouraged to pursue its policies in 1976. Local elections serve as bellweathers of public sentiment on non-local issues and, in this way, influence the course of a country's politics.[20] Similarly, staggered elections give majorities leverage in the years between Presidential elections. The United States Congress obviously took into account in its impeachment proceedings against Richard Nixon the failure of Republicans to be returned to office in districts where they might have been expected to win but for public disapproval of their party's national leader.

Impeachments themselves (and other recall devices) constitute, of course, another method of majority control. What counts is not the frequency with which they are employed, but the fact that they exist and that no official in public office rests entirely free from the fear of losing his job between elections. These devices serve to check the behavior of those with authority by facilitating the ability of the ruled to fire their rulers. Limitations on terms of office also assert the ascendancy of the electorate over its temporary representatives. Although it may be true that lame duck officials feel more free to go their own way than those who hope to be re-elected, the original idea behind ceilings on the years allowed in office was to prevent

the undue accretion of powers in the hands of those who govern. All these electoral mechanisms affect all three branches of government.

Petition, broadly conceived, comprises another standard method meant to hold officialdom close to the will of the majority. Individual letters to individual representatives commonly receive prompt attention and the aggregate of letters especially commands responsiveness. Joint communications, especially memorials of a grass roots nature, also secure consideration and are not lightly bypassed. Public hearings designed primarily to solicit the range of ongoing opinions and interests have a tendency to do more, for advice given formally demands a formal reply. Having to make an official rebuttal may itself sometimes modify proposed programs.

Rallies and demonstrations also carry weight. Politicians habitually count the size of crowds as an indicator of public sentiment. Movements which attract prominent personalities or arouse intense feelings often use large scale gathering effectively. The threat they imply to government cannot easily be missed. The Viet Nam antiwar groups, believing the more traditional Congressional and Administrative channels either closed or malfunctioning or inhospitable, relied heavily on open-meetings, their Washington march embodying literally the idea of petitioning government for a redress of grievances. Besides their

contribution to the discussion process, these demonstrations had immediate effects on government policy and elicited immediate responses on a number of governmental levels. The ultimate success of the general policy espoused -- the extrication of the United States from major involvement in the war in Viet Nam -- testifies to the possible effectiveness of this method of controlling government even in so improbable an arena as military affairs.

Certain acts of civil disobedience also fall within the realm of attempts to control government through the force of public opinion. The refusal to obey may be used to attract attention to a point of view and, especially when the disobedients profess a willingness to go to jail for their actions, record an intensity of conviction that cannot fail to enter into authoritative calculations of policy.

Some claims have been entered for the efficacy of violence. Only violent resistance to established policy or violent intimidation in the pursuit of new policies, or even aimless violence as a general indicator of deep dissatisfaction, some suggest, can make those in power responsive to those being ruled, at least in these days of mammoth-scaled, bureaucratic, impersonalized government. "Power," Mao Tse Tung has taught, "comes from the barrel of a gun," and only physical fear, presumably, can persuade officials to look after the interests of those who pay

their salaries. It cannot be denied that recourse to violence has sometimes been effective in evoking an official response. But that response has occasionally been repressive rather than constructive, and in any case, estimating the tolerance for a program, or the cooperation it may or may not evoke is so much a part of normal, successful rule that it is difficult to believe that only physical coercion can achieve an appropriate reaction. A government so insulated from the electorate as to be impervious to all moves except violent ones would be likely to evidence many signs of serious difficulty in ruling. Even when a history of passivity coupled with the use of terror has prevailed (e.g., for the Negro in the American South as late as the 1950's), far reaching change was achieved without resort to violence. So long as alternate channels exists, violence, for most men, remains a last resort.

One major (and often overlooked) way in which the electorate ensures government accountability might be termed "competition." Competitive devices guarantee that it will be to someone's advantage to expose malpractice or to seek remedial action, or to exploit that aspect of the public's opinion which contravenes government policy. Competition harnesses individual satisfactions to public purposes. Some such devices are built into public service. The separation of powers which gives independence to different parts of government results, for example in attorney generals who make names for themselves by exposing

the violation of public law or trust committed by those far superior to them in prestige and power. The fall of Vice President Agnew based on the work of a Baltimore public prosecutor furnishes an obvious case in point. Overlapping jurisdictions provide similar incentives. Competition that plays this sort of role may also stem from non-public bodies. Newspapers out to get a good story and to increase circulation or even to pander outrightly to the public for their own profit have often, as in the Watergate scandal, embarrassed those in office and led to their early retirement. Indeed, the investigative activities of a free press have become a prime reason for the common belief that such a press is indispensable to responsible government. But other private organizations also have strong motives to serve as watchdogs and have also had notable success in their efforts (e.g., Ralph Nader and auto safety devices, or the American Civil Liberties Union and free speech).

The salutory effect of constant criticism has led to one of the outstanding features of modern democracies, the institutionalization of opposition. The very idea of a loyal opposition makes manifest the difference between possessing sovereignty and exercising government power, for an attack upon the ruler does not symbolize an attack upon the constitutional order.[21] Opposition, in fact , is part of the system, one of the parts whereby the sovereign majority controls those who govern in its name. Its function

is to provide an alternative to those in power on the ground that having the capability to remove those in office or to refuse to return them to positions of authority avails not at all if unaccompanied by the capability of getting the job done by someone else. A loyal opposition is one that stands poised to capitalize on any mistakes made by government and to appeal to the majority to substitute themselves for the miscreants. Between consent and present authority lies not anarchy, but an alternative authority. No single factor holds the personnel in office closer to majority will than the presence of an ever ready opposing team anxious and eager to take over. Political parties that organize the majority also organize the residual minority and jockey for competitive advantage daily as well as on election day. Viewed in this way, the crucial place of loyal oppositions accounts for many of their often noted characteristics: they are not a faction but have a more comprehensive interest; they do not obstruct, but may even collaborate; they are not anti-system; and they differ from irresponsible oppositions who know they will not be called on to govern.[22]

Closely related to competition in democratic accountability is the open recruitment of candidates. If anyone who decides to seek office may do so, then everyone must be considered a potential competitor. Criticism, required explanations, pressures for a particular point of view,

all might be stifled if candidates had to meet stringent criteria. Opposition could be muted by widespread restrictions on who can serve. But where rulers and ruled can always change places, the situation is different. Open recruitment deprives the government of a powerful weapon of control, adds another card to the hand of the electorate, and by increasing competition makes the game more equal.

Finally, the advantages of competition in the accountability process may depend upon the possession of some independence. A concern for a supply of power outside government sufficient to withstand the coercive forces of government has led some to believe that a measure of private property is inseparable from the maintenance of popular sovereignty. Short of revolution, the ruled must be reasonably able to survive on their own if those in power are not always to prevail over those who put them in power. A people completely dependent on government for food, clothing and shelter, it is argued, could not hope to bend that government to its will. Private property, it is contended, is necessary to liberty, and liberty to democracy. If politics involves conflict, the fighters all need turf on which to fight. To fight always on another's territory weights the battle too unfairly.

Consider, for example, the case of a man who, in a situation where the government owns all housing, is denied an apartment or home on the ground that his criticism of

the government makes him an enemy of the people. How much private property and how much independence are needed has not been precisely spelled out and probably would vary from one era or place to another. But this fear of government monopoly can be found in the writings of a liberal such as John Stuart Mill, and in the thought of a socialist like Bertrand Russell, as well as in conservative writers whose interest in property might be suspect as a defense of privilege.[23] The full controversy over the importance of private property cannot be examined here, but perhaps it suffices to note that consideration of the possible effect of the abolition of private property on the ability of a people to be self-governing cannot be safely neglected.

In sum, the majority expresses its consent to government in a variety of ways. The majority is not a passive sovereign (as some democratic theories appear to suggest). It does not transfer its powers to delegates and then sit back, inert, until the next offical selection of personnel takes place. On the contrary, the amalgamation of majorities goes on all the time, and once contrived, these majorities continuously and actively strive to hold officialdom accountable, employing every device at hand to make their rule effective. Primarily, their consent is to particular individuals and not to particular policies, but insofar as individuals incorporate attitudes and beliefs in their persons, political positions never become irrelevant.

Nothing in this account is meant to suggest that these devices always work effectively or that modern democracies are sufficiently accountable to majorities. The purpose has been to describe mechanisms that are theoretically viable and that in practice are used frequently in a fashion that successfully ties the operations of authorities to the results of the majority decision rule.

To hold governments accountable in the ways described above, thus forms a good part of what is meant by "rule." It is not, however, the whole story, for neither leaders nor programs emerge full blown from the ear of Zeus, but must be developed and nurtured by human endeavors, endeavors which constitute another aspect of ruling that still remains to be elucidated.

FOOTNOTES - Chapter VI

1. Gaetano Mosca, The Ruling Class (New York and London: McGraw-Hill Book Company, 1939), Chapter II, esp. p. 51.

2. Max Nomad, Aspects of Revolt, (New York: The Noonday Press, 1961).

3. See Chapter II.

4. Cf. Mosca, op. cit., p. 157.

5. For a contrary point of view see Robert Dahl, Democracy in the United States (Chicago: Rand McNally and Co., 1967, 73), p. 42.

6. See Hanna Pitkin, op. cit.

7. I have used the phrase "participatory democracy" in quotations because it is not clear what collection of ideas non-participatory democracy might refer to nor what the phrase itself actually means: the qualifying punctuation is meant to suggest the tenuousness of the concept and its general unacceptability.

8. Peter Bachrach, The Theory of Democratic Elitism (Boston: Little Brown and Co., 1967), Chapter 7; Milton Kotler, Neighborhood Government (Indianapolis: Bobbs-Merrill Co., 1969); Stuart E. Perry, "A Note on the Genesis of the Community Development Corporations," in The Case for Participatory Democracy, ed. C. George Benello and Dimitrios Roussopoulos (New York: The Viking Press, 1971); Marilyn Gittell and Mario D. Fantini, Decentralization: Achieving Reform (New York: C. Praeger, 1973).

9. Carole Pateman, Participation and Democratic Theory (Cambridge, England: Cambridge University Press, 1970), pp. 68-70.

10. Daniel C. Kramer, Participatory Democracy (Cambridge, Massachusetts: Schenkman Publishing Co., 1972), especially Chapter III.

11. See the suggestion in Terrence E. Cook and Patrick M. Morgan, Participatory Democracy (San Francisco: Canfield Press, 1971), p. 25, that no criteria of constituency within which participation is to take place exists because each of those who call for restructuring of authority patterns favors whatever sort of arena

makes possible a more favorable share of power for their own interests or the interests of some group that they prefer (i.e., expediency nor principle prevails and the absence of theory is not, therefore an accident).

12. For the distinction between like interests and common interests see Robert M. MacIver, Society (New York: Rinehart and Co., 1937), pp. 30-31.

13. Herbert Gans doesn't quite put his argument this way but see his "We Won't Solve Our Urban Problems Until We Abolish Majority Rule," The New York Times Magazine, Aug. 3, 1969, pp. 10-15.

14. See the discussion of sovereignty in the preceding Chapter.

15. Cf. Kramer, op. cit., Chapter VIII. In some very special communities such as the Quakers, the scanty evidence does not confirm these hazards.

16. Michael Walzer, "A Day in the Life of a Socialist Citizen," Dissent, May-June, 1968.

17. Cf. the increased power of organized unions in current German programs for industry governance.

18. H. Eckstein, Division and Cohesion in Democracy (Princeton: Princeton University Press, 1966).

19. For an interesting theory claiming that additional participation in work situations has been coming to the fore and will do so increasingly for technological not psychological reasons (i.e. as a response to the need for specialized expertise on all levels, and the necessary dependence of executives on the knowledge of those below), see Max Ways, "More Power to Everybody," Fortune, May 1970, pp. 173-5, 292, 295, 296, 299.

20. Note the failure of Rousseau to recognize the effect of multiple and staggered elections (as well as the other methods of accountability described in this chapter) in his criticism of elections as too infrequent an exercise of the general will to be meaningful over extended periods of time. Many other writers have shared Rousseau's view, mistaken I think, that the influence of elections ceases when the polls close. See Rousseau, The Social Contract, p. 108.

21. Rodney Barker, Studies in Opposition (London: MacMillan and St. Martins Press, 1971), Introduction, p. 8.

22. Giovanni Sartori's essay in Barker, Studies in Opposition See also Political Oppositions in Western Democracies, ed. Robert A. Dahl (New Haven: Yale University Press, 1966) especially the essays by Dahl for further analysis of patterns of opposition.

23. John Stuart Mill, Principles of Political Economy, in Collected Works, Vols. II and III (Toronto: University of Toronto Press, 1965), Bk. II, Chapters 1 and 2; Bk. V, Chapters I and II, esp. pp. 947-950; Bertrand Russell, Power (New York: W.W. Norton, 1938), Chapter VIII; Milton Friedman, Capitalism and Freedom, (Chicago: University of Chicago Press, 1962).

Chapter VII

RULING AS CONSULTATION

John Austin thought that laws were simply commands of the sovereign, effective because backed by sanctions. This construction, as many critics have pointed out, oversimplifies the nature of law, especially because it downgrades the role of consensus. In addition, however, Austin's command theory seems to center too completely on the final stage of rule promulgation. Rules or laws emanate from an involved decision making complex. Austin focuses on but a single act, the ultimate choice of one policy, and shifts attention away from the deliberative process that precedes choice. The mind, however, seldom confronts a simple proposition that pops up spontaneously on a blank slate. Typically, the slate is covered with possibilities entered on it by many forces, all of which must be considered and weighed and winnowed until a single formulation of the matter can be arranged. Only then, at the end of this intricate procedure, does a dichotomy appear and the sort of decision making that concerned Austin occur. To rule is certainly to command, but to rule is also to select areas of policy for consideration, to piece together a set of problems within that area, to arrange priorities, to test possibilities, and then to frame a question so that choice narrows to a manageable number of alternatives, and, only finally, to make a deci-

sion, to pick one policy and make it the prevailing law. If majorities rule in a meaningful sense, then they must participate in the policy formulation aspects of ruling as well as in ruling understood as issuing commands or holding governments accountable. Do majorities in fact operate in this area? At what point do they come into play? How does the process work? This range of questions demands consideration.

Ruling in this more extended sense of the word lends itself to social interaction, to group processes. Traditional avenues of consultation are group oriented. Individuals do not ordinarily use them; groups do. The mediation of small groups appears necessary to make both individuals and large aggregations effective. Since decision making in politics is a group matter this is not surprising. But the process obscures the role of majoritarianism. Majoritarian considerations operate clearly, I believe, at the command level, when the moment for final choice arrives. Before that moment, however, smaller groups prevail (and majorities are formed out of their interaction). The nearer one gets to final resolution, the more majority-sized coalitions matter, but in the earlier phases of consultation small groups are much more important. Majoritarian concerns, however, are never entirely absent because the eventual need for majority support enters into all calculations at all stages.

The consultation involved in deliberative proceedings has seldom, in the past, been formalized and made strictly a matter of law. Arrangements for consultation outside the boundaries of government agencies do not generally appear in constitutions. Most democracies seem to depend on a spontaneous extra-governmental apparatus (or, more recently, on provisions for consultation set up in individual legislative acts).[1] A single piece of legislation, to cite an obvious example, whether spawned by a particular government department or an individual Congressman, often traces its origin to the proposal of some private interest group. Ruling surely involves this sort of initiating function. However, to pursue the nature of rule too far in this direction would risk the danger of treating all influence as rule. A failure to make necessary distinctions in this area characterizes a number of writings on power and accounts for some misgivings about majority rule especially among adherents of power elite theories. Admittedly, a clear line separating the mere ability to persuade others from an exercise of power which is significant and authoritative is not always readily apparent. Nevertheless, at least the grosser forms of non-governmental power are discernible, and, therefore, the theoretical distinction between influence and rule can, initially, be ignored, while the ways in which influence functions can be illuminated. We will then be in a better position to judge the seriousness of

unequal influence and its affect on the legitimacy of the majority decision rule.

Many ways of participating in policy-making short of authoritatively issuing commands come readily to mind. While an exhaustive inventory need not be compiled here, a survey of the more traditional methods and mention of a few of the most recent proposals can serve to indicate the range of activity encompassed by ruling understood as participation in the earlier stages of policy formation.

I

Traditional Methods of Participation

Pressure groups illustrate a common pattern. Usually, they seek to promote the interests of their members by lobbying in Congress and administrative agencies, by formally or informally proffering advice, by disseminating information, and by arousing interest in their concerns and proposals through the mass media, professional communities, and other opinion-leading agencies. Pressuring in the formative period of a policy goes on in many places because strategic centers of influence abound in a plural society. Strong leadership propels some issues (e.g., Martin Luther King and civil rights), professional competence dominates others (e.g., doctors and medical programs), quantitatively large constituencies effectively raise some questions (e.g., dog lovers and anti-vivesection). A tightly knit organization may wield the influence of numbers or intensity or

strategic location or professionalism (while a loosely structured group may be unable to function in any of those ways). In addition, agencies propel their favorite programs, and individuals with personal stakes attempt to defend or improve their position. Initially, pressure activity in all its guises is minority activity; each segment seeks its own special advantage. Even when altruism prevails, the altruists seek their particular (minority) version of a good for others.

But soon after the initiation of discussion, relationships must be developed with other groups and other individuals who also exercise influence in the same or in related field. Interaction develops, at first, among clusters of agencies and clienteles, and eventually, especially through the action of power brokers, the politicians, the deliberative process is funneled up to a broader arena where society-wide majoritarian considerations converge. In the opening stages, however, questions arise, are dismissed or considered, are framed this way rather than that way, are discussed and bargained about, all within a context of interaction among minorities. Whether, or to what extent, therefore, these processes vitiate or violate the majority decision rule (and the premises of political equality and popular sovereignty from which it stems) presents a serious problem.

Those who contend that democratic principles remain

intact in spite of the minority centered aspects of plural politics make a number of arguments.[2] With James Madison in Federalist No. 10, they emphasize the broadly inclusive nature of the minorities engaged in policy formation. They build on the principle of diversity and look to an institutional framework that makes participation feasible and profitable for all and awards special privilege to none.[3] By multiplying the number and types of groups represented and the number and types of governmental units concerned in the process, a system built on minorities can, by the sheer range of its inclusivity, it is claimed, encompass the majority. So long as the majority sets and polices the rules, and retains the power to alter and adjust the overall structure (i.e. continues, as sovereign, to have the last say), the role of minority interests remains properly subordinate. In their subordinate role, however, minorities provide the spontaneity and initiative that give life to the system. Integration takes place only after individuality makes its contribution.

The optimism of this belief in competitive equilibrium is bolstered by a number of further considerations: checks and balances within government can be used effectively to counteract both personal ambition and special treatment for favored groups; bureaucratic staffs openly recruited and offered modest salaries and even more modest status prevent the development of a cohesive elite class; men of

diverse origins operate within the pressure groups as well as the government; regulatory legislation can further the sort of internal group democracy that insures the genuine representativeness of group leaders; and finally, political appointees, deriving their authority from officials chosen more directly through a national process of majority formation, occupy crucial positions in both the administrative and legislative branches of government.

Three major conerns predominate in the thought of those unconvinced by the above contentions.[4] First, some question the democratic character of the leadership of pressure groups, especially those with large and diverse memberships, on the ground that, at best, leaders represent only a majority of the organization's constituency, leaving unattended the views and interests of large internal minorities. Are general practitioners and heart surgeons equally well represented within the American Medical Association? private physicians and those on the public payroll? hospital administrators as well as laboratory researchers? The elected leaders of such disparate groups speak with a single voice that fails, it is claimed, to reflect the actual divisions within those groups. Although this argument tends to rely too heavily on the mirror image concept of representation, there is much truth in the assertion that pressure groups, by their internal structure, accommodate some, but not all views.

Of course factions, in a free society, are at liberty to split off and form separate groups, to proselytize and win adherents, and to challenge top management. These recourses lie behind the demands for increased regulation of the internal procedures of pressure groups to force conformity to rules which foster mobility in ideas and leadership. The consequences, therefore, of unequal factional influence are neither drastic nor permanent. They reflect the truism that those already in power always have some advantage over those seeking power. Some privilege attaches to the status quo whatever that happens to be, but otherwise pressure activity is neutral and does not benefit any particular organized interest. So long as channels for change remain open and reasonably usable, political equality does not appear to be violated in any serious way. If however, political equality is measured not in terms of equal group access, but in terms of equal individual influence then the results are different. Equal political participation can be defended in this sphere as an organized group activity, but not on an individual basis, for individuals obviously lack the time and expertise that pressure activities require.

The fear that the nature of pressure groups militates against the adequate protection of some minorities frequently supplements the fear that they give too much power to some minorities. Encouraging participation so that final government policy will reflect broad agreement implies fac-

tional activity, but factional activity creates the possibility of decisions tied too closely to the particular needs of sub-groups and too loosely to the overall needs of a society-wide majority. The case of regulatory commissions subservient to the wishes of those they allegedly regulate provides a ready example to students of American government.[5] Even without sinister designs on public policy for private advantage, familiarity with the problems of a particular industry or group, added to close association with the personnel involved, all too easily results in a narrowed perspective and an over-abundance of sympathy. Theodore Lowi has canvassed thoroughly the disastrous results of using active minority groups as official wielders of policy and this evidence need not be repeated here. His argument for an increase in decision making at the level where majorities function is unexceptionable and does not require any adjustment in the theory of majority rule.[6] Possible checks on favoritism toward minority rather than majority needs already exist (e.g., newpaper exposés, or the replacement of top echelons through the political party process) and are used with varying amounts of frequency and success in different times and places. Additional mechanisms are constantly being proposed (e.g., the recent spate of "sunshine" laws).

The difficulty with overweening minority power as well as with minority vulnerability emerges from (or so it is argued) the unevenness of group organization.

Groupings vary in cohesiveness, in territorial dispersement, in skills and experience, in resources (especially money), in size, in the intensity of the feelings of support that they engender, even in their sheer ability to utilize techniques for their own advantage. All too often the result is a plethora of active middle class factions, especially from the business community, and a relative absence of participation by the least advantaged: the poor, the sick, the uneducated, the unskilled, and the rural dwellers. Further, those groups already organized receive the kind of recognition and encouragement that places at a disadvantage any potential or embryonic groups not yet fully articulated.

The force of these contentions has won widespread recognition. The inability of many (who especially need to influence policy to gain recognition of their difficulties) to use the otherwise neutral machinery of pressure activity has led to a variety of innovative devices designed to overcome the disadvantage of such weakness. (See Section II below.) There is little evidence that minority centered pressure group work is intentionally structured so as to exclude some groups or that remedial efforts would require more than recognition of the problem and a will to make necessary adjustments. No insuperable obstacles to fair majority rule appear to lie here: to jump from acknowledgement of disparate organizational effectiveness to the undesirability of majority rule seems unreasonable. The need for

such a leap remains to be demonstrated.

Compunding inequalities in the opportunity or ability to participate in the early part of policy making process is the unequal distribution of information. Government monopolizes crucial amounts of data necessary to rational policy development which it may or may not disseminate adequately or fairly. Besides the obvious use of classified materials where national defense needs makes some secrecy a requirement (and where abuse of security provisions is always possible), many government agencies and individual officials often deliberately withhold facts which, if furnished, would enable some groups or individuals to modify policy in some officially unwanted fashion (or, commonly, withhold information indicating official favoritism to some). The administrative state makes privileged knowledge a valuable commodity and its undemocratic misuse an all too common bureaucratic crime. Legal disclosure requirements help curtail both unequal access to information and irregular reporting of information, but probably cannot entirely remedy the difficulty.[7] Political interference in administration by political parties and elected representatives, although not favored by those concerned with the integrity of administration, provides information access more in line with the majority decision rule, for even when used to favor some individual or some minority, the interference reflects on the party, the party can be held somewhat responsible,

and majoritarian considerations come bark into play.

To ferret out the large scale abuses of an information monopoly and to counteract the mobilization of opinion such a monopoly theoretically makes possible, democratic nations have traditionally depended heavily upon a free press. They have relied, that is, upon a private portion of the community whose competitive economic and professional interests combine to make the discovery of interesting information and the promulgation of opposing opinion a primary concern. Mass media (including institutional house organs, local radio and television stations as well as national newspapers and networks) are thus not some sort of luxury which democratic states allow themselves, but are functionally indispensable parts of the system. Most societies subscribing to the majority decision rule depend upon diverse communication systems to check government power, to publicize unequal treatment of groups or unfair conditions of access that may develop, and to circulate both information and ideas.

In order to perform these crucial functions the communications system itself must incorporate variety, for a condition of communications uniformity, conceivably, could render majority decision-making ineffective. Some modern thinkers believe the latter condition already obtains in all the major democratic states and thus claim that majoritarian action, because taken by "one-dimensional men" -- men necessarily choosing among narrow, predetermined ranges

of opinion -- can no longer claim the allegiance of those who believe in self-government. This concern about the forces of political socialization (by those who, evidently, have themselves miraculously escaped them), while much overstated, reflects a serious difficulty. To maintain conditions that support a multiplicity of viewpoints requires constant reassessment and innovation. In days of rising newsprint prices, to take but one example, reliance on competitive newspaper markets may be insufficient. The majority (i.e. the governing regime) might, for example, wish to set up its own mass media organs dedicated to the presentation of controversy or to the exploration of currently esoteric views. Or, conversely, in a society torn by dissension, government media might be used to publicize unifying as well as diverse, themes. Or, the idea of the market might be expanded to include such things as home subscriptions to television programs. Or, majority regulation of already existing opinion circulators might require, as in the equal time television provisions, space for diverse ideas, for rebuttals, for debates, and for generally widespread group access to the printed page.

In sum, both pressure groups and the mass media have traditionally played important roles in consultative aspects of ruling. They have always played their parts, however, under a set of rules determined by the majority whose legitimate concern with the organization of opinion demands the maintenance of conditions of diversity. Such well-worn

avenues of participation as media and pressure groups, therefore, have always been regulated and may be regulated in new ways as the majority enforces those rules of the game that best support majoritarianism.

Besides pressure activity by organized interests and besides the opinion-forming activities of the media, gross inequality in participation in the formative stages of policy making has been hedged against in a number of other familiar ways including the open recruitment of personnel for both public jobs and elective offices. Public jobs, filled either through party patronage or the civil service, recruit and draw officials from disparate backgrounds.

The Civil Service, which staffs 86 percent of the jobs on the public payroll in the United States, sets hiring procedures which militate against arbitrary decisions, subjects (or is supposed to subject) all applicants to impersonal standards, and makes government jobs available to all appropriately educated segments of the population. Closely supervised by the congressional organs of the majority, the Civil Service System, in America at least, has, in combination with compulsory education laws, successfully prevented the emergence of a distinct bureaucratic class which theoretically might monopolize formative policy proposals. It has succeeded in recruiting personnel from a variety of geographic areas, ethnic groups, and educational institutions (although the middle class predominates

for obvious reasons). Patronage, while often undercutting objective standards and concerns of neutrality, supplements the recruitment process and injects into the job structure those to whom the reigning party owes something. On low levels this sometimes brings the working class and lower middle class to government positions; politics has thus served, in the United States to provide a common route of upward mobility (e.g., the staffing of the U.S. Post Office).[8] In areas of greater responsibility patronage introduces into administration skilled partisan people who have executive experience. Since every ruling party (in democratic systems) hopes to retain power, at least in part, by building an appealing record, political appointments and how they turn out make up a formidable part of that record. Not surprisingly, therefore, both the political parties and the Civil Service have sometimes made deliberate efforts to broaden the pool of applicants and have sought personnel from underrepresented interest groups. The diplomatic corps in the United States, for example, has recruited actively in educational institutions outside the coterie of schools that, it was found, usually placed its graduates in government service; and, to take a very different sort of example, the upper echelons of government agencies have tried to entice dollar-a-year men from the experienced ranks of private industry. As with pressure groups, the least advantaged groups in society

tend to be the least represented in the personnel rosters. Although no one is excluded by custom or fiat, and all are encouraged to participate, the absence of some important elements of society poses a problem for democratic states, which, in pursuit of equality and fairness, need to find some way, beyond the formal lack of an exclusionary principle, to incorporate such groups into the ranks of office holders. Affirmative action policies and commitment to specialized recruitment practices currently indicate American society's efforts to deal with the difficulty. But it is too early to judge the adequacy of these programs. Educational disadvantages are hard to overcome and prejudice difficult to eliminate. However, again, no insuperable obstacles to the majority decision rule seem to be embedded in this aspect of ruling.

Elected officialdom, often occupying the most strategic positions in policy formulating agencies, supplement the infusion of diverse viewpoints into public programming. Here, too, inequalities appear substantial. Money enables a candidate to buy exposure, and unequal spending unequally affects, even if it doesn't always dominate, political campaigns. Such inequalities are, of course, controllable and the majority can, if it wishes, effectively regulate election expenditures. Like civil servants, elected American officials actually have come from diverse backgrounds. Men born and raised in modest circumstances have become Presidents, and millionaires who have spent lavishly on their

campaigns have found that money does not always control the scene. The effect of large scale spending, however, is always pernicious, and left unchecked it alters the nature of open elections by forcing dependence on financial contributors and by limiting the field to those who have money or access to it.

II

New Methods of Participation

Mass industrial society has brought in its wake a number of innovative efforts to provide for widespread participation in the initial stages of public policy formation. One new device closely related to the new technology is public opinion polling. Elected officials, government agencies, and political parties all nowadays make extensive use of polling in the same fashion as do market researchers. Sophisticated sampling and computer programming make available to the political process the answers or the probable answers to a wide range of questions: what are the Greek Americans in my district currently thinking about aid to Turkey? Which kinds of taxes have most distressed those in the ten to fifteeen thousand dollar a year income bracket? how widespread is public awareness of vest-pocket housing? what percentage of blacks support school busing? It is true that opinion surveys often measure what is transitory, that the form in which the

question is put often makes the results highly suspect, and that commonly a large number of respondents register no opinion; these all limit the usefulness of opinion polling. Nevertheless, as rough indicators of which way the wind is blowing they inject heretofore unavailable elements into policy making. It is interesting to note that much public opinion polling depends upon group identification. The random sample, like the isolated individual, occupies a restricted place. Individuals count and can influence policy by the recording of their views primarily as they belong to a variety of recognized socio-economic categories.[9] As measurement of a collection of related persons, polling enables opinion to have impact in a way that measurement of autonomous individual opinion does not permit.

Many new methods of participation in the formative periods of policy making attempt to counteract weaknesses in the more traditional avenues. Consider, for example, current community action programs. In an effort to involve non-middle class people in traditional pressure activities, laws have provided for the hiring of trained personnel to help communities organize appropriate self-help programs. Skilled social workers, hired especially for this purpose, provide the leadership heretofore absent, develop indigenous leaders, and also teach those unaccustomed to utilizing organization how to affect public policy by

the pressure of their numbers, or of publicity, and so forth. There are many problems connected with the use of paid government employees in local areas with the vague mission of involving the community in political action, but the possibilities for reducing a common past inequality in participation is also obvious, as any assessment of the failures and success of paid community leadership programs should reveal.

The employment of ombudsmen serves a not too dissimilar purpose. The funneling of grievances through an individual paid because of his skill at operating amid the laws of a bureaucratic society for those less able, again aims to correct a weakness in past participatory mechanisms, namely the inability of disadvantaged groups to move with ease among the intricacies of large scale government.

Some of the newer laws aimed at benefiting the less privileged members of society encourage the development and enhancement of indigenous local leadership by providing for the formal elicitation of community opinion through popularly selected local advisory boards. In the case of community school boards the elected leaders have had actual operating power (with, not surprisingly, mixed results) but in the case of some housing laws or manpower training acts the legally provided for local output is advisory.[10]

Advisory councils, in fact, are an interesting way of securing participation that has considerable influence. If there are formal requirements for approval or disapproval of specific actions, then moving contrary to the advice received may become not feasible politically. In universities, for example, a committee empowered to give no more than advice about, say, the selection of a University President, may actually hold the decisive appointment power because formally and publicly to reject their considered advice requires formal and public explanation of the reason for that rejection. Further, few administrators would care to move into a position which those he was to supervise had carefully, with supportive, detailed reasons, found him incompetent to hold. Advisory boards, if they function with all the paraphernalia of formal hearings, interviews, collection of documents, and perhaps even paid staff workers, may be formidable bodies with which to contend. Laws which require programs subject to such advisory boards may well inject powerful voices into policy formation.

Even requirements for formal hearings often have this effect. Notification to diverse interested parties about contemplated programs or policies has become standard legislative committee procedure, and is either a common practice or a legal requirement for many administrative units. Relevant documents about new proposals are made available for scrutiny, and time is allotted for the preparation of

comments and criticisms. Where formal hearings take place, proponents of a policy may find themselves facing formidable opposing legal briefs meant to provide the basis for a later court case should rejection of any of the positions urged not strictly follow the formal procedures or stray too far from "reasonable" discretion. And, of course, hearings give publicity to opposing views, thereby increasing the difficulty of defeating them or battling against them. Under these circumstances, privileged maneuvering cannot easily substitute for a strong case (or, at least, a politically popular one), nor can an outright assertion of power easily substitute for a genuine discussion.

Without changing the majority-minority power relationship, the above sort of goldfish-bowl politics makes access to policy-making more widespread. While this has the obvious disadvantage of tempting everyone into posturing and pandering, it also makes it less likely that any one interest can be run over roughshod. Those without the inclination or skill to use organizational forums, or without the resources to hire or otherwise secure expert help (legal or technical), remain disadvantaged, to be sure. But expertise is the common resource of organizations (as opposed to individuals), and while formal procedures eliminate the possible participation of many individuals, they eliminate only the very weakest and most inchoate group.

Fortune magazine has highlighted a new tendency in modern organizations that may have considerable bearing on future participation in formative stages of policy-making. The increasing technical knowledge required in all jobs, says Max Ways,[11] means that those at the top of hierarchical ladders of responsibility must rely more and more heavily on the judgment of those below. In government as well as in industry, and even in the army, those in command of an enterprise must depend upon the opinions of those in specialized areas below who have the technical skill to make the necessary judgments. What makes the Israeli army so effective, says Mr. Ways, is that each man is in a sense his own commander, expected to shoulder responsibility within his area of competence. Higher echelons inevitably lean upon the judgments relayed upwards and make their broader decisions often without checking or countermanding the information and advice from the lower ranks (something they assume they could not effectively do if they wished). The success of the enterprise thus depends on the reliability of many lower echelon experts rather than simply on the capacity of a few top generals (who, to be sure, must sort out and make sense of the cacophony of diverse, specialized voices). In this sense, Engels' "administration of things" may be nearer at hand than is realized. And political participation in the technological future may grow decisively without any political intentions.

Modes of consultation undoubtedly vary from one historical period to another, and change in response to developments in the technology and structure of society. Democracies of the future, in seeking compliance with the majority decision making rule, may expand traditional methods of participation (e.g., by more extensive regulation of common carriers of influence), may adopt more of the new procedures (e.g., publicly financed influence peddling), or may invent still undreamed of participatory modes that will seem appropriate to the groups and group relationships affected. Whatever methods come to prevail, they will surely vary with the type of input sought and with the particular phase of early-stage decision making to be influenced. Any discussion of consultation, therefore, ought perhaps to include at least a brief rundown of the more obvious categories of activity to which access might be deemed important.

III

Types of Inputs

Both the new and the traditional methods of consultation are involved in all the standard types of policy making contributions. All policies, for example, must be initiated, and the ability to start a discussion even if it never gets to the final agenda, has political impact. Pressure groups recognize the importance of raising issues

and see a goodly part of their job as doing just that. Administrators, with first hand knowledge of the problems at hand, are also well motivated to create new programs or come up with new ideas, and thus form a second common group of idea initiators. Individual lawmakers sometimes launch an issue for reasons ranging from the furthering of their private ambitions to altruistic zeal for a pet area of concern. And minor political parties may also have an important stake in putting new questions, for they must attract attention if they are to grow and novel ideas may capture both publicity and interest.

Once ideas have been thrown into the arena of public discussion, a more systematic solicitation of opinion may occur. Discussion, in modern democratic governments, necessitates formal and informal hearings with a variety of publics. As a result, some parts of the original idea gain emphasis and other parts recede from view. Whatever the inherent possibilities of the original idea and whatever the intentions of the initiators, a winnowing process occurs in the course of discussion. Many possibilities of the idea are whittled away and a general idea begins to be formed as a particular question: should we do X or should we stop doing Y? requiring a yes or no answer. Raising the question of air pollution in a city, for example, may resolve itself into the question of whether or not a pedestrian mall should be created on a particular street now congested with cars and people. Framing the specific question

out of the initial concern, and subsequent discussion of the question, is a process that traditionally has involved primarily the press and the parties. Politicians see at least part of their job as the making of proposals and are therefore quick to reformulate ideas in terms of concrete programs. The media often performs this role unconsciously. The newsman's understanding of what is at stake(woefully inadequate as it so often is) persuades him about the real implications of a story, and he then picks up those responses to an idea that make sense to him. The intellectual level of a discussion in this way often seems dependent upon the education of the press corps, and the orientation of the discussion dependent upon the perspectives they bring to it. Insofar as journalists, like local politicians, owe their success to their representative qualities, to their embodiment of the values and understandings of those they serve, reliance on their rendition of the options available probably does little harm to the principles of majority rule. Where they constitute a special interest group, or are the products of a parochial milieu, or identify themselves with a particular strata of society, the inconveniences of their crucial middleman role may become serious impediments to the sort of fair discussion democratic rule demands. Government rules regulating fair shares of media time or space present many difficulties and sometimes, as a by-product, grant those in office too much

power to protect themselves from criticism and to attain partisan advantage.[12] The encouragement of widespread media usage (e.g., by granting special postal rates to little magazines and newspapers) is probably a more promising sort of remedy, especially among an increasingly better educated populace. But the problems of communication will probably always pose great difficulties in majority rule systems.

When discussion yields a particular question (or possible set of questions), final decision still remains a long way off. First, the bargaining process must come into play. Original positions shift and modify in the course of give and take, compromises are hammered out, and the original question often undergoes modification in order to accommodate not merely the substantive merits of the case but the layout of feelings and desires about the matter at hand. Administrators often get involved at this stage and pressure groups remain active. But the preeminent role appropriately shifts to the political parties, to political leaders. The nearer to final decision one moves, the more society-wide forces make themselves felt. Those responsible for the unification of diversities move to the foreground and the majoritarian concerns of politicians become the focal point of maneuvers. The scene of action shifts to wherever elected officials hold sway, i.e., to legislative halls and executive mansions.

The last pre-decision stage involves calculations of strategy. Compromises and bargains are valuable only if they can be enacted, and so further modification of positions and even reformulations of the central question occur in deference to the imperatives of strategic consideration. The logic of ultimate choice depends as heavily on the possibility of success as on the substantive merits of a policy. At this stage of policy-making strange bedfellows appear and arguments bewildering from the point of view of a policy's content occur, and again, elected political officials (or party cadres) play the crucial roles.

Finally, a rule is promulgated. A law is passed or an executive order pronounced. Those who rule in terms of Austin's command theory at last prevail. The issue at hand, however, is seldom settled with any degree of firm finality, for the vagaries of enforcement remain to be worked out. In order to secure enforcement of one kind rather than another, all the early stages of participation may once again be reenacted. This is not to say that final decisions don't count. They do. They provide the framework within which all future maneuvers will take place. Sometimes the law leaves great scope for administrative discretion, and sometimes only narrow options. In all cases, however, enforcement always modifies the law in some way. Which of all possible modifications will prevail is the subject that brings forth reenactment of the above

described processes. They are part of ruling, but not, surely, a more crucial aspect of rule than the actual promulgation of the law.

Rule, in sum, can be understood as meaning more than mere final choice. It involves initiation of issues, discussion, question-framing, bargaining and maneuvering, as well as selection between the final two or three alternatives. Minorities make their parochial contributions in the early rounds, but are forced to submit to majoritarian strategies well before the final bout, and, when the closing bell rings, they have been more or less thoroughly submerged in majority coalitions. Problems in maintaining equality of pressures abound, but while they demand attention they do not present themselves as theoretically insuperable obstacles to the fair generation of majorities.

FOOTNOTES -- Chapter VII

1. E.g., The National Health Planning and Resources Development Act of 1974 (42 USC 3 ook), Section 1524.

2. See, for example, Sartori, Democratic Theory, p. 80, and Emmette Redford, Democracy and the Administrative State (New York: Oxford University Press, 1969).

3. I.e., to no substantive group. Organizational imperatives (e.g., widely scattered vs. closely gathered clienteles) may encourage or discourage some groups more than others.

4. A fourth argument, belief in the reality of a power elite, has already been touched upon. See above, Chapter I.

5. For the belief that this sort of occurrence is pervasive in American politics, see Theodore Lowi, The End of Liberalism (New York: W.W. Norton & Co., 1969).

6. Ibid.

7. See Redford, op. cit., p. 88, on the importance of bureaucratic recordkeeping in the maintenance of democratic society.

8. Emmette Redford, David Truman, Alan Westin, Robert Wood, Politics and Government in the United States (New York: Harcourt Brace and World, 1965, 68), p. 205. See also Robert K. Merton, "The Functions of the Political Machine," in Political Parties and Pressure Groups, Frank Munger and Douglas Price, eds. (New York: Thomas Y. Crowell, 1964), pp. 222-224.

9. Sample categories commonly employed include: Those in the same income brackets, co-religionists, occupational groups, ethnically related people, regionally related people, those with shared educational experiences, or those of a common national origin, and groups based on age or sex. See, for example, Redford, et. al., op. cit., p. 243.

10. E.g., The Health Act of 1974, op. cit.

11. Max Ways, "More Power to Everybody," Fortune (May, 1970).

12. See Fred W. Friendly, The Good Guys, The Bad Guys, and The First Amendment (New York: Random House, 1976).

SUMMARY OF PART II

Ruling involves more than issuing commands. Insofar as ruling means having the last say, the majority serves as sovereign. Its power cannot be limited, but extends no further than the outer reaches of community life. Often, diverse views co-exists and a single decisive direction need not be taken. However, even when a majority is not called upon to promulgate a rule or elect a candidate, its latent power to do so pervades political arrangements and influences action. Frequently, of course, majorities do act directly, making decisions of great import.

But such decisions, it should now be apparent, do not suffice for effective government. Authority must be delegated and yet controlled. Officials must be held accountable. Information must be garnered, cooperation obtained, and compliance produced by methods short of brute coercion. To rule is to be involved in a whole range of intermediary activities prior to final choice. These activities are not, by and large, majoritarian affairs, at least not initially.

In one sense, minority-centered aspects of ruling add to the justice of majority rule because they involve widespread participation. But in another sense they create problems for democracies because the maintenance of equality is difficult where minorities predominate. Sensitive areas develop, especially around the use of money and the

control of communications. Nothing goes on that, theoretically, interferes with the fair operation of majoritarianism, but reforms are now very much in order. They will probably always be in order because the kinds of equality deemed important will vary, and changing social conditions will continually require adjustments.

The complexity of "ruling" affects the controversies over majority rule. Different critiques may be appropriate to some parts of the ruling process and not others. The nature of rule needs to be kept in mind as we turn to an examination of the moral arguments.

Part Three

SHOULD THE MAJORITY RULE?

INTRODUCTION

Does a majority have a right to prevail? This question animates all discussions of majority rule. The myriad problems surrounding the majoritarian concept that we have treated to this point have significance primarily because they contribute to the debate over the justice of the decision rule. Much of that debate, however, needs review.

First, the grounds employed in the arguments require systematic presentation and analysis. Secondly, the foregoing treatment of the meaning of "majority" and of "rule," besides being an effort to clarify usage, needs to be employed to illuminate both the defense of majority determination and the assault on it. In surveying the moral claims put forward to support or oppose the principle, the deeper understandings of "majority" and "rule" may enable us to look at old arguments in new ways. Final evaluation of majority rule waits upon the results of such an examination.

The first chapter of this section, therefore, explores the work of those who have written in defense of majoritarianism. The reasons they give for the moral worth of the decision rule are analyzed and lines of criticism suggested. In the following chapters, the moral grounds for

opposition are detailed and appraised. In light of the sustainable charges against majority rule, a third chapter attempts to evaluate the adequacy of traditional defenses. Finally, an effort will be made to set out those arguments, both new and old, that are indispensable if the practice of majority rule is to claim justifiable standing in a moral democratic society.

Chapter VIII

JUSTIFICATIONS

Justifications of majority rule range from attempts to delineate its role as a necessary part of justice itself to pragmatic (at times skeptical, at times even cynical) defenses of the decision rule as a necessary evil. The following survey abstracts from a variety of writings the most important positions on an imaginary continuum between these polar evaluations. More moderate intermediate estimates hold that the majority decision rule can justify itself as a contributor to the achievement of other important values.

I

Majority Rule As A Positive Good

One of the strongest arguments for the intrinsic good of rule by the majority is also the oldest. Aristotle, although opting for a mixed regime which he thought superior to democracy, nevertheless set down with great cogency the things that might be said on behalf of rule by the many.[1] To be sure, he talks about popular sovereignty and not a particular decision rule. Still, the claims he makes, it can be argued, apply by implication to majoritarianism as well, and can fairly be understood as a defense of majority control.

The well known formula, virtue = knowledge, succinctly sums up the Aristotelian position which underlies his discussion of democracy. The question thus becomes: who holds the relevant knowledge about political affairs? The majority's case for pushing its judgment rests on two grounds. First, Aristotle suggests, ordinary people have the information given by experience. Just as the consumer of food may know what tastes good better than does a dietician or cook, or the dweller in a home may know what constitutes a good house better than does an architect or builder, so, in the same sense, those affected by public policy have the ability to reach sound conclusions about the content of public policy. This is the famous "he whom the shoe pinches" argument. A second claim bolsters the position. Even if possession of knowledge is unequal so that some know more than others, still the smaller amounts of understanding common to most individuals, when added together, produce a sum of wisdom among the majority larger than the sum of expertise likely to be extant among any smaller grouping. Each contributes his modest store and a collective understanding emerges superior to the genius of any one man or any minor number of men. "Feasts to which many contribute may excel those provided at one man's expense."[2]

The strength of Aristotle's claim for majority sovereignty on the grounds of majority knowledgeability (and,

hence, the superior virtue of the majority, its superior ability to provide a good quality of life), especially the collective wisdom part of the reasoning, rests largely, if not altogether, on a conception of the efficacy of discussion. Aristotle admits the potential quality of quantitative judgments by people "when they meet together."[3] The composite merit of the majority is always qualified by the notion of exchange among the members. When they become one body, when they dynamically join their qualities of character and intelligence, then, in most cases,[4] the unity may well have those superior attributes which entail the right to rule. This, at any rate, is the interpretation picked up and expanded upon by Ernest Barker.[5]

Barker calls democracy a system of government by discussion. Discussion, he says, implies common ground. At the very least, it reflects a unified agreement to talk and to accept the possibility of difference. In the process there is a give and take among the participants: merely to hear out the other side cannot help but enlarge one's own views. Thus, the understanding that existed prior to the discussion among any of the parties to the discourse is not likely to be the same as that developed by the end of the dialogue. The opinion of the majority is no longer an abstract, isolated will; nor is that of the minority. For both some fusion will have occurred and, perhaps, some accommodation taken place. "The majority will, when discussion is finished and the final vote is

taken, will have assumed a new quality. It will not, indeed, have become the agreed and active will of all. But it . . . can become something of the nature of the will of all . . . when it has thus attained a content or substance which does justice to the whole of the community. . . ."[6] The ultimate result of the process of discussion, Barker argues, is opinion based on modifications or adjustments made in an attempt to do justice to all points of view, and an opinion thereby entitled to ask the great concession of acceptance or toleration by all. The minority agrees to let the majority prevail because it acknowledges, in some sense, the merit of the majority's decision. The majority's judgment may still be wrong, of course, but, says Barker, "We may fairly assume that a process which has collected and distilled public opinion will have gone as far as is humanly possible toward the attainment of the public weal."[7]

For Barker, then, as for Aristotle, majority rule has merit because of the quality of the decisions likely to be reached. Barker, however, enlarges upon the classical themes. First, he argues that the quality of majority decisions is good because it incorporates the will of all and, since the only practical criterion of the public good in a democracy is public opinion, it thereby promotes the public interest. Secondly, he points out that majority sovereignty, like all sovereignty,[8] expresses diversity

within unity. Disagreement rests on a "procedural prior consensus."[9] The apparent conflict between opposing ideas is thus actually less sharp than it seems, and the resolution of the substantive conflict should be viewed as only a part of a larger, more harmonious relationship. In this way Barker minimizes the old majority rule versus minority rights controversy and suggests the sense in which the concept of sovereignty, as he understands it, belies the traditional use of those terms. The clash of different views takes place among a group unified by enough common purposes to make each member (while he may recognize the diversity of the group) willing to accept a single authority who can speak in the group's name. Further, a consensus among the group also exists, not on substantive matters, perhaps, but on a procedure to follow in deciding substantive questions. These procedures may be part of a written constitution or an unwritten one, part of a tradition, or the concomitant of a religious affiliation. In all cases they represent the prior consensus on which sovereign power rests and within which dispute goes on.[10]

A number of further arguments, drawn from suggestions in Aristotle's politics, might also be made in support of majority worthiness. In majority rule systems, for example, the procedure agreed to is itself neutral and, therefore, no one feels himself caught on the short end of the bargain.

Because he is a full-fledged player in the game, even the loser does not experience a sense of inequality. The psychological feeling of disadvantage to which Aristotle attributed democratic instability[11] remains at bay, mitigated by a recognition that everyone counts (whatever the results) and that each might cast the deciding vote. Thus majorities and minorities are encouraged, by the very method used to reach decisions, to experience themselves as equals.

Besides preventing psychological inequality the majority decision rule also contributes positively to the production of an unalienated citizenry. Discussion, after all, advances awareness of clashing viewpoints and thus promotes mutual understanding. Those who share in a discussion tend to feel part of a common undertaking regardless of whether or not they come to prevail. They have a chance to say their piece. Their cause is aired publicly. Their right to have claims is recognized. Their role as citizens is acknowledged. The decision rule itself, by fostering exchange of opinion (perhaps especially sworn testimony, advisory boards), helps to build a consciousness of community and to combat those negative feelings commonly called political alienation.

No other decisions rule, it should be noted, meets the twin egalitarian criteria that Aristotle suggests. The incentive to participate hinges on an awareness of

equal worth and equal potential power that only majority voting can produce. Participation alone is insufficient because it omits the possibility of decisive sway crucial to a recognition of political efficacy. It may serve adequately at some stages of ruling, but probably cannot suffice without formal decision-making power at some point in the procedures. Unanimity (and any requirement for extraordinary majorities) grants decisive power to minorities, thus violating not only equality but also the collective wisdom standard, for the smaller number then in control cannot command the amount of political expertise that, in the opinion of some, tends to go with numerical superiority.

The good of the majority in the foregoing analysis is the good of a group. It cannot be reduced to the good of an individual or even of numbers of individuals added together. It makes sense only as an aspect of a group situation and group processes. Individuals count primarily as they participate in group political life. The calculus of consent here has a social as opposed to an individual basis, and it serves irreducibly social ends. The benefit of self-fulfillment comes, at least in part, through activities and projects shared with others and not through the solitary pursuit of self-interest.

The social nature of democratic politics in Aristotle derives from his recognition of the difference between a

political community and a random assortment of people. "If," Aristotle says, "the spirit of their (the citizens) intercourse were still the same after their coming together as it had been when they were living apart, their association . . . would not be deemed by any accurate thinker to be a polis."[12] A good policy involves participation in a purposive relationship and such does not exist in arbitrary groups lacking some minimal common will. Common purpose may consist in no more than a set of common procedural practices that allow for the free development of myriad private purposes (as Michael Oakeshott has both observed and praised) or it may include vast common enterprises. In either case, a policy's decision-making rule crucially depends for its justification on the social nature of its setting.

Not only must there be some minimal basis of unity forming the justifiable political group, for Aristotle, but unity within the group must reflect the diversities being brought together. Majorities, as he points out in Book IV, may be of more than one kind. It makes a difference whether the majority is made up of members from all social classes and interests or from only one numerically dominant strata. Numbers alone have importance (for the reasons already noted) but every aggregate possesses -- besides its numerical aspect -- qualitative attributes of some sort.[13] In systems of popular rule, he therefore goes

on to argue, certain prominant qualitative weaknesses of majorities ought to be guarded against. The ruling majority, for example, should include representation of multiple, not single, interests which should be sought in a number of ways (e.g., recruitment of officeholders) so that policy will be more likely to include the concerns of all. The law should be protected from exploitative use either by separating the source of laws and decrees and giving majorities control of only the former, or, if popular sovereignty includes control of both, then by placing restraints on power itself as, for example, in the decentralization of authority.[14]

Above all, Aristotle cautions, majorities (or any other legitimate power wielders) ought to be formed so as to foster moderation, to make it difficult for whatever extremes of wealth, birth, or talent exist in a society to prevail. Following this suggestion, those who believe the majority decision rule forms an intrinsic part of political justice might be tempted to argue the marked tendency of majoritarian systems to give power to the middle classes or to centrist opinion. In order to amass fifty percent plus one, appeal must generally be made to the many who usually cannot be found around opposite poles. But that, of course, assumes a normal distribution of opinions or interests along a continuum that may not accurately describe a particular society at a particular time. As some political scientists have

demonstrated, lack of single peakedness or polarization in society might require strategies other than moderation in a majority rule system.[15]

Except, therefore, by forcing discussion (which, of course, constitutes a momentous exception) the majority decision rule in itself cannot guarantee the qualities associated with justice. If accompanied by brakes on the operation of power generally (e.g. in the United States, constitutional guarantees, federalism, separation of powers, checks and balances), the deliberative aspects of majoritarianism may well both inhibit tyranny and constitute a significant element of social justice. But this, it should be noted, requires thinking of a majority as an aggregation with qualitative dimensions such as those noted in the earlier parts of this study: as a part of a worthwhile whole, as a diverse collectivity deliberately organized in order to be able to act as a unit for some specific, short period of time, as representative of major interests (economic, cultural, geographic), and so forth. The intrinsic goodness of the majority decision rule depends here on the prior existence of a relatedness among the group using it (and the justifiability of that prior consensus) and upon an operational procedure that encourages the participation of all, excludes no one arbitrarily, and provides for mutual exchange of views. The absolute sovereignty of majorities so conceived can be linked successfully to ultimate justice -- perhaps.

Acknowledging all that can be claimed on behalf of the virtue of majoritarianism within the Aristotelian framework still necessitates the qualifying "perhaps." To foster, to advance, to promote, or to encourage does not equal to guarantee, to insure, to produce, or to oblige. The decision rule cannot promise a particular result. It can help facilitate results of a certain kind, but given human ingenuity, duplicity, orneriness, and prominently in Aristotle, human inequalities, it cannot pronounce results with certainty. It cannot rule out the chance that decisions reached by employing its format will be tyrannical, will foist the views of some upon others as a master dominates his slaves. One can praise majority rule for its prudential properties. To be more positive, however, to identify the decision rule as itself a good, requires, in addition to the grounds so far discussed, an act of faith in the likely reasonable behavior of most people in most situations and in the unlikelihood of unusual situations. But a faith is not a reason. It may or may not be another way of "knowing," but it certainly lies beyond the pale of what can be said within the realm of science. Thus, on the foregoing analysis, the possibility (though not the probability) of majority rule engendered evil remains.

There have been, however, other sorts of attempts to justify the intrinsic merit of majoritarianism. For example, in contrast to the diversity-within-unity posited by

Aristotle or Barker and the image of the individual within a social nexus that they project, are those arguments for majoritarianism that proceed from assumptions of human autonomy and an ideal of perfect social harmony. Majorities are accepted by some writers because, it is argued, they most closely approximate the situation with the strongest ethical claim, namely individual consent and unanimity.[16]

In some versions these ideas involve a very particular conception of equality. Equality, says one of the writers who supports this school of thought, means sameness, "the identity of men in their generic essence."[17] Whatever the differences among men, they all have the same worth. Their equal quality derives from their common possession of reason. The results of reason produce diversity because as yet they are individuals pursuing their self-interests and have not yet attained the ideal conflictless situation to which the full development of rationality leads. In the meanwhile men need to compromise in order to live together. Their generic equality cannot find immediate expression and they have to face the problem of provisionally atomistic individuals in socially intertwined lives, the problem of man versus society, or private lives versus public roles. To overcome these problems men employ majority rule. "As against social totality, majority rule represents the minimum men have attained as yet; as against fundamental

individualism, it represents the maximum men have attained so far."[18]

This rather extreme notion of the meaning of equality which eventuates in a society characterized by the absence of conflict probably derives from Locke, who may be seen to make a similar argument, but who may also be understood to mean something rather different.

Locke enunciated a logical relationship between consent and majoritarianism.[19] If the will of all has authority, who can it have authority over if there is unanimity? The assumption made in compacting for a government is that there will be "variety of opinions and contrariety of interests,"[20] but that in order for the group to act as a group individuals give up their right to do only what they agree to and yield to the demand that they sometimes do what they do not wish to do. Thus, "every man, by consenting with others to make one body politic under one government, puts himself under an obligation to everyone of that society, to submit to the determination of the majority."[21] Further, individual consent constitutes the basis of rightful power. A majority has more of those individual consents than any other group. Thus, in the absence of unanimity, when the need to surrender some portion of liberty arises, majorities have the best claim to the exercise of power. In this sense, popular sovereignty leads inescapably to majority rule.

A conflictless situation, however, does not provide the appropriate setting for majority rule. Majorities act as sovereigns and sovereignty has bearing only where conflict needs resolution. Any understanding of modern nation states which denies the centrality of the problem of conflict misunderstands the nature of sovereignty and thus misconstrues the role of the majority. Locke himself does not make this mistake, but he abets the confusion because even when he acknowledges the part majority rule plays in enabling a group to function as a unit, he sees the majority that arises as the aggregation of individual opinions and not as the product of social forces. His claim posits neither the sort of equality or individualism or estimate of rationality described in the previous argument, but it leads to some of the same conclusions. Locke's reasoning about <u>why</u> the people should be sovereign suggests a possible explanation of why this is so, for it supplies the egalitarian element missing in his logical argument for majoritarianism.

In both civil society and the state of nature, Locke claims, all people have equally inalienable rights. Their lives in the state of nature correspond to the good life because they enjoy autonomy and "naturally" cooperate together to fulfill joint needs and to mutually insure each others' well-being. The good life of equal freedom in the state of nature, however, falters on the inability to protect everyone's inalienable rights without the re-

sources of a common judge in those cases where individual perceptions of justice differ. Men whose rationality may differ substantially are nonetheless unanimously persuaded, therefore, to establish government to better protect their rights. All are equal in the sense that all are equally capable of granting or withholding their consent to the social contract and to the government that issues from it. Locke thus links the definition of the good to the idea of consent.

But why should the protection of the objectively good life rest on men's wills? Here Locke's critics diverge. Some claim Locke never satisfactorily explains why.[22] Others put Locke down as an inconsistent writer whose defense of inalienable rights and of popular sovereignty cannot be reconciled.[23] C.B. Macpherson believes Locke's conception of the people was pretty much restricted to bourgeois capitalists who would, of course, preserve those rights necessary to the maintenance of their economic system.[24] Peter Laslett suggests a concept of "natural civic virtue" underlying Locke's thinking: whatever else people may do of a good or evil nature, they can be counted upon to preserve natural rights and are, as a whole, a safe repository of ultimate powers, safer, at least, than can be found elsewhere (e.g., in kings or aristocracies).[25] This natural political virtue explains the quasi-social character of the state of nature and explains why a majority

"a random sample of those who voted . . . will under this doctrine tend to act with some responsibility. . ."[26] Willmoore Kendall spins a more radical interpretation.[27] Locke, he writes, must be understood in terms of a "latent premise," which holds that the people "always wills that which is right."[28] They are not right because they are numerous (Locke is not a moral relativist), but their will is probably as close to rationality and justice as one can get. Locke, says Kendall, professes faith in the moral capacity of the many. A basic decency resides within mankind and, most of the time, most of the people behave according to the dictates of objective right.[29] The necessity for all of them to be "concluded by the majority,"[30] thus stems not from their equal rationality which would in all other decision rules be violated, but, as in Laslett's interpretation, from their equal political virtue. The majority stands for the "average" man. Others subject themselves to majority authority since majority judgments are, or are likely to be, those of reason and justice. Majority legitimacy here hinges on a probability estimate of human character, one perhaps made by many, certainly many confessed democrats.[31]

The foregoing considerations have persuaded some writers that Locke actually formulated a might-makes-right argument and that majoritarianism rests on some such viewpoint. This conclusion can be reached in at least

two ways. First, if consent is the motivating force of a political community, then, like all bodies, the body politic naturally moves in whatever direction its greater force propels it. To attempt a movement counter to the natural force would upset nature's course and cause dissolution of a society, or, at minimum, of its equilibrium.[32] No one can rule without acceptance, at least not with any reasonable amount of stability, and therefore majority determination in politics is as much a part of the law of nature as response to the pull of gravity. The majority's will equals the greater political force and, since will as expressed in consent forms the basis of right, the greater force, where popular sovereignty and political equality prevail, constitutes the right force. The majority is right because of its might.

Since the content of the laws of nature may be more problematic than the foregoing contention allows, and the relationship between majority predominance and the general welfare (or existence) of societies less clear than the above argument suggests, an alternative statement of the majority claim based on strength needs to be sought. Georg Simmel points out how such a position might be constructed.[33] In all societies the claim of the individual for recognition of his view competes with the claim of the social unit to a unified result of deliberation. A unanimity decision rule cannot dissolve the tension because the re-

sultant "minorization" might negate individuality, too. Nor can appeal to the unity of truth (as on juries) alleviate the problems because minority control threatens the integrity of that solution also. But voting among equals might overcome the tension because voting substitutes for immediate physical clash and allows the minority, the weaker side, to realize the unhappy potential consequences of resistance. Individuals in the minority then give in because it is cheaper to go along with the stronger than to fight. "Voting . . . is a projection of real forces and their proportions upon the plane of intellectuality; it anticipates, in an abstract symbol, the result of concrete battle and coercion."[34] Voting, to the results of which the minority agrees to yield, thus transforms conflicting individuals into a unity capable of acting as a whole. Insofar as the unity of social entities is worth preserving (i.e., insofar as it is worthwhile to have a society), minority acceptance of majority rule contributes to that good. Succumbing to the rule of the stronger has positive merit. If the sole alternative to counting heads is breaking them, then this argument for majority determination possesses a certain amount of reasonableness. The might of the majority in this formulation is an intellectual might which substitutes for the physical might which would otherwise prevail. Procedure (voting) replaces force and ballots replace

bullets, while the connection between might and right remains intact.

As in the first version of this position, stability, or at least the preservation of the social unit, takes precedence over all other considerations. People obviously do hold other values, but the number of times those other values would commend civil war for their satisfaction might be rare. In most cases where individual wills come into conflict, some means of settlement short of dissolution of the community has greater appeal. Then the cost of swimming against the tide may well enter calculations and persuade many that the greater good lies in drifting along rather than in resisting.

Nevertheless, all versions of the might-makes-right position, whatever their merit, harbor fatal weaknesses. They all utilize the word majority as if it referred to some sort of given element in the community, and they talk of majorities as if they consisted of random collections of individuals. But, as we have discovered in the course of this analysis, these claims lack accuracy. Majorities are conventional, not natural groups. They are man-made, deliberately and purposefully fabricated. They might, therefore, pit a minority of all the cunning against a majority of dolts and innocents. What law of nature indicates on which side might would then lie? Majorities are not always the stronger political force even in systems

based on will (except insofar as the decision rule itself makes them so), for the qualitative aspects of a particular numerical minority may overwhelm the force of preponderant numbers.

Further, since sovereignty expresses a will among disparate groups to function as a single unit, all disagreements among sub-units cannot be viewed as questions of group survival. The disputatious have already agreed to settle their differences without disbanding. Their method of settling conflict, therefore, cannot appeal for its justification solely to the need for group maintenance. Any decision rule would have to prove consonant with the prior consensus, but the particular choice of the majority decision rule must rest on its superiority or equivalence to other possible mechanisms that also preserve unity. The will for the state, that is, indeed may be involved in all decisions, but only minimally. What MacIver called the will for the constitution (e.g. for a democracy and not an aristocracy) plays a separate and more immediate role. Might-makes-right arguments overlook these distinctions.

One last plea for the intrinsic merits of the majority decision rule needs brief mention, if only because it crops up so often. It stems from those philosophies that employ a pragmatic yardstick to measure the good. On the basis of experience, the claim goes, one can judge whether majoritarianism works. And a fair reading of the history

of majority-rule systems requires an affirmative answer to the question of the moral reliability of majorities. On the whole, some would argue,[35] majorities have behaved well. Partly this is a matter of their origins in compromise: in order to form and prevail they have had to be moderate and judicious. Partly it is a matter of majority forbearance: they have not, at least over the long run, tyrannized. Some minorities in some countries might dispute this assessment (blacks in the United States? women everywhere?). No strong possibility of reaching an objective judgment exists, for insoluble disputes will inevitably arise over such questions as: how long is "the long run"? What constitutes active oppression? does neglect equal persecution? The data of experience is certainly insufficiently conclusive to allow this case for majority rule too much credence. Yet, the record of majority rule countries like Great Britain in sensitive fields such as civil liberties does displaysuch a marked tendency to protect minority rights and political opposition rather than brutally to subject dissenters to majority will, that one cannot altogether dismiss these experiences of democratic nations as theoretically irrelevant.

In sum, the only strong and perhaps incontrovertible case for the intrinsic merit of majority rule remains that of Aristotle and his followers. But even his careful connections between political virtue and majoritarianism rest

on prudential estimates of probable human behavior in common run-of-the-mill situations and not on the necessary effects of the decision rule under any conditions. Ultimately, only a leap of faith bridges the gap between conclusive good results and probable decent eventuality. Aristotle himself never made the crucial leap and, of course, personally preferred the probability ratios of mixed governments to those of polities. Those who also doubt the ultimate capabilities of majorities may find other possible defenses of majority rule more interesting.

II

Majority Rule As An Instrumental Good

The arguments surveyed so far agree that majority determination has intrinsic merit. Some writers who believe in the value of majority rule, however, do not state their case in terms of a good inherent in majoritarianism itself, but rather view the majority decision rule as an instrument necessary for the achievement of some other value, presumably one of an ultimate nature. Thomas Jefferson provides a ready example. All people, he asserts, have a natural right, given to them by God, to govern themselves. The first principle of a self-governing group of equals is "lex majoris partis . . . to consider the will of the society enounced by the majority

of a single vote as sacred as if unanimous. . ."[36] The alternative to majoritarianism, says Jefferson, is force, and the use of force leads to despotism. The majority may be wrong; it does not necessarily incorporate a high ranking good. But, "He would do his country the most good he can, must go quietly with the prejudices of the majority till he can lead them into reason."[37] Jefferson never fully explains why majority rule is the indispensable instrument of self-government although his remarks on participation and equality suggest possible reasons. Self-government, in his view, entails wide participation, the active use of judgment by many. This would rule out government based on lotteries or outside arbitration. Similarly, his understanding of political equality rules out minority determination. Force or majority rule, he may have reasoned, remain the only viable alternatives. Since force inevitably leads to the destruction of self-government, acquiescence to majority will becomes the duty of every citizen of a democracy. Or, Jefferson may simply have believed, on grounds of reasonableness, that in self-governing communities of equals, majority rule is both natural and just. In any case, his claim for majorities always derives from the natural right of self-government and is never presented as a good in and of itself.

But why among allegedly natural rights should Jefferson single out self-government as the primary or crucial right?

The list of man's natural rights has always been a matter in dispute, and arrangement of a hierarchy among the items on the list has entailed even less agreement. Surely, granting the amount of prejudice rampant throughout a general populace that Jefferson himself acknowledges, it is easy to imagine a conflict between self-government and other natural rights -- e.g. equality, and life, liberty, or the pursuit of happiness. Why should self-government take precedence over other so-called natural rights? Couldn't one object to self-government (and hence majoritarianism) on the ground that in a particular situation it may well stand in the way of those other rights? Jefferson needs either to plead for the superiority of self-government over other values, or to demonstrate that it cannot conflict with other equally ultimate values.

However, even if self-government could be defended as the touchstone of justice, majority rule still might be rejected. Consider, for example, the practice of unanimity in the Society of Friends. Self-government there means that no person may ever be coerced legitimately. Precisely because literal self-government is their highest priority, Quakers willingly postpone group action until the consent of each has been obtained. The inconveniences of stalemate, the advantages of rapid decision, the burdens of the status quo, and the difficulty of foregoing cherished goals all pale beside the horror of attacking a single inviolable

soul, of imposing one person's will upon another's equally free and worthy being. Quaker religious ideals, because they place so high a value on self-government, involve rejection of majority rule. Obviously, for a people who have not joined hands primarily for the purpose of political action, or who have not accepted the value of political representation, majority rule -- though not self-government -- may be inappropriate.

Jefferson did not see these and other problems. His argument, so attractive in its neat logical connections between political equality, democracy and majority rule, thus cannot bear the weight he put on it.

Other writers advocating the instrumental merits of majority rule on other grounds have been somewhat more successful. Hans Kelsen, for example, also holds to an instrumentalist conception of majority legitimacy. He derives the majority principle from the idea of freedom. Natural freedom, the absence of any bond, is transformed by the organization of society into political liberty. Political liberty means subjection only to the bond that one helps to determine. Within states this means in practice not the unanimity that creates states, but an arrangement that allows for restrictions on self-determination. The mechanism that least restricts self-determination is best, for it leaves intact the largest degree of liberty. Requiring the consent of a majority accomplishes precisely

what Kelsen seeks. "Since political freedom means agreement between the individual will and the collective will expressed in the social order, it is the principle of simple majority which secures the highest degree of political freedom that is possible within society."[38] The freedom of minorities, Kelsen believes, at least, their political freedom (most important, the right to opposition), would be safeguarded because the idea of a majority logically connotes the idea of minorities and, therefore, the scope of majority power is limited by the necessity of providing for minority existence.

The validity of the majority principle in this conception hinges primarily on the adequacy of giving liberty so superior a place and identifying unanimity with the ideal of freedom. Kelsen himself explores the tension between equality and liberty in only a cursory fashion, and he looks, ultimately, to the effects of that compromise of community will which majority rule facilitates, because compromise in the real world is as near to the unanimity demanded by freedom that society can get.

Kelsen's argument is undoubtedly persuasive in making consent to majority determination an imperfect, yet the best available, moral dictum. But it is important to note Kelsen's individualistic conception of majorities. A majority, for him, is an aggregate of individual wills, presumably formed apart from group life. Opinion is not

seen as a function of or a response to group membership, nor are majorities taken to be more than chance aggregations. Such conceptions obviously do not reflect an understanding of the real world. So too with Kelsen's treatment of minorities. The deficiencies of his belief that they are protected by the logic of majoritarianism has been explored and sufficiently described earlier.[39] As soon as one asks who decides when minority existence is threatened, the slightness of Kelsen's hope that minorities cannot be squelched appears. No logical rule prevents a majority from tyrannizing minorities. Minority rights can be abrogated. But if they were, if a majority did not forbear, would the results of majority despotism be the most moral possible rule? Kelsen does not answer this question because he never admits that a majority could act so as to silence an opposition. If Kelsen had faced this possibility and yet replied affirmatively, he would have had to demonstrate empirically that, on the historical record, majority tyranny has better provided for liberty than has other despotisms. The problematic results of such an historical inquiry would be unlikely to provide sufficient support for his theory.

Working from the centrality of equality rather than liberty as a guiding ultimate value, Richard Wollheim makes an argument not unlike Kelsen's.[40] He sees the maintenance of equal individual rights (understood as

proportionate, not quantitative equality) as the essential ingredient of a moral social policy. When rights conflict (i.e., all have the same right but not all can exercise it), Wollheim asks: what mechanism best determines whose rights shall be frustrated without danger to the rights of all? A decision rule ought to resolve competition in a manner that safeguards equal rights. Democracy, by which Wollheim means at least majority rule, fulfills the fundamental requirements. Some other decision rule might do as well, and in particular cases -- when, for example, the permanence of a minority makes the equal right to a chance to win appear problematic -- some rule other than majoritarianism might serve better (e.g., drawing lots). The principle to be furthered is that of equal rights and insofar as majority rule serves that purpose, it becomes a justifiable mechanism.

The result produced by a decision rule (or "the democratic machine," as Wollheim calls it) may not itself elicit moral approval (or commitment); indeed, it may win explicit disapprobation. Yet, a committed democrat can, without inconsistency, both assert moral condemnation for a policy (e.g., vote against it) and simultaneously affirm that the policy, if it accumulates a majority vote, ought to be enacted. He does not contradict himself, says Wollheim,[41] because it is possible to believe that in particular cases the most just position can be attained

by overriding one's own moral judgment. For example; to secure the optimal fulfillment of justice, all involved in an instrumental position about majority rule can say: it is necessary (usually necessary if one is an act utilitarian, always necessary if one is a rule utilitarian) to have an agreed upon social decision mechanism. A correct individual moral commitment may yield to the incorrect outcome of the social decision mechanism because, in a specific case, that better fulfills moral purposes.[42] Although the commitment to majoritarianism here seems tactical, it is also as moral as any fullfledged commitment to some morally desirable policy. For the sake of social cooperation, or good will, or community peace, some decision rule must come into play. Majority determination serves this necessary function and is, therefore, valuable as a means to the good.

This sort of justification of majority rule emphasizes the social nature of individual decisions. A single decision may rest upon multiple motives. Registering discrete preferences represents only partially what an individual does with his vote. That same vote may also contain an estimate of the social situation in which that preference lives, and, consequently, a ranking of that atomistic preference in terms of social needs and wants. Voting (and sometimes even non-voting) may express simultaneously commitment to the group, determination

to reach a viable group decision, strategic maneuvering among group members, as well as assertion of an individual opinion. Because all this is so, the instrumental role of a decision rule becomes a crucial component of substantive social justice.

With great analytical skill Wollheim joins procedural and substantive decisions, successfully demonstrating how a decision rule becomes a part of the substance of justice, an element in each policy choice. In this respect his defense of majoritarianism as necessary to the achievement of equal rights (with equal rights understood as an indispensable aspect of a moral politics) is unexceptional. His argument succeeds especially because it turns on the social nature of individual opinions. However, Wollheim's suggestion that another decision rule might, in certain circumstances, do as well for moral life as majority determination opens a crack in his position that may be indefensible.

If the majority decision rule can be abrogated whenever an unequal chance to win occurs then it may be no rule at all, for who decides when that state of affairs obtains? Are there objective criteria denoting the permanence of minority status? What would such criteria include? How, in a democratic system, could they be brought into play? The frustrations of the moment might make any minority feel that it lacks an equal chance to

prevail. No majority would have the incentive ever to acknowledge willingly that it held an unfair advantage. Who would adjudicate the dispute and interpret and apply the standard? The absence of any crucial place for discussion in Wollheim's analysis makes it hard for him to cope with these difficulties. It also makes it possible for him to consider choice by lot. Recognition of the role of discussion in majoritarianism, on the other hand, might lead to several fruitful modifications in Wollheim's formulation. His problem, however, may be unreal. He needs to consider whether the nature of politics itself doesn't exclude the possibility of a permanent minority.[43] If it does, as already suggested in this study, then perhaps Wollheim could tighten his defense of the majority's right to determine policy and eliminate exceptions to the majority's legitimate sway.

III

Majority Rule As The Lesser Of Evils

Instrumental justification of majoritarianism, however, can lead in two directions. Decision rules, as instruments, can produce good or evil results. They fulfill indispensable social purposes, but social purposes, like individual purposes, can be monstrous as well as salutary. They may protect and enlarge both liberty and equality and still be noxious and immoral by benefitting many (the

whites?) at the expense of a few (the blacks? the Indians?). A more wary view of the beneficence of community life leads to a less positive attitude toward group decision mechanisms, even one like majority rule which allegedly incorporates the best protections for individual freedom and equal rights. A number of writers, therefore, have argued for majority rule while taking a rather jaundiced view of its conformity to moral precepts.

Surprisingly, John Locke provides an early example of a writer mindful of the mischief possible under majority power. He concedes that those with a "busy head or turbulent spirit," or those with "pride" and "ambition" may stir popular passions and cause disorder;[44] but, he claims, if they need to get as many as a majority behind them, discontent must first be rather widespread before they could prevail. Further, those who say "the people being ignorant and always discontented to lay the foundation of government in the unsteady opinion and uncertain humor of the people is to expose it to certain ruin,"[45] have forgotten that most people are so conventional and habit-ridden that "they are hardly to be prevailed with to amend the acknowledged faults in the frame they have been accustomed to." People characteristically "are more disposed to suffer than to right themselves."[46] Inertia safeguards majority rule. Tyranny takes energy, initiative, daring, and a willingness to disrupt the status quo. Majorities, Locke

suggests, have seldom had such features and are usually marked by quite contrary dispositions. Majority predominence, therefore, promises tranquility ("Prudence, indéed will dictate that Government long established should not be changed for light and transient reasons") and only those sorts of community actions that involve little trouble (For mankind are more disposed to suffer while evils are sufferable").

Locke's observations of human behavior obviously have merit. Many others have characterized the masses as apathetic and disinterested in politics. Democracies have often been criticized for moving slowly, lacking deciveness, adjusting their conflicts without clear direction or purpose, compromising endlessly (and aimlessly) in order to avoid disruption. Michael Oakshbtt has claimed that even revolutionary masses can, no matter what they will, do little more than make minor changes in the ongoing traditions. To be sure, there have been exceptions or near exceptions, some of horrendous proportions. Even near majorities (e.g., the Nazis) must cause considerable discomfort to those who place too much hope in Locke's reading of political life. And surely no one can deny that Ulster Protestants have occasionally used their majority status to tyrannize actively over the minority of Catholics; or that whites in the American South energetically and effectively persecuted blacks. If the state

were a joint stock company Locke's observations would have greater merit. But modern sovereignty involves human relations of a more volatile sort. However, the more one moves away from Locke and a conception of majorities and minorities as related parts of an integrated whole, the more one conceives of a majority as a collection of unconnected individuals each pursuing his private interests, the more one has to deal with the problem of irreconcilable conflict.

There remains a more telling objection to Locke's reliance on majority reluctance to rock the boat. Locke's position seems to presume an initial condition of equality and justice. The moral acceptability of preserving a status quo depends, at least in part, on the content of that status quo. Peace, tranquility, habit, tradition, and love of what is known do not embrace all moral concerns. What society has even been so just as not to be worth a fight to improve it? What order has ever been so fair that those who partake of it do or ought to accept their shares with equanimity? A conservative temper makes its strongest moral appeal in an already moral society; it loses strength in proportion to the number of pernicious elements present among things-as-they-are.

It is possible, however, to support majority rule with an attitude toward majority power far less sanguine than Locke's. Exemplifying the noted virtues of his Scot

ancestors, Robert MacIver makes his case for majority rule in terms of hard realism and a strong practical bent. The common will underlying democratic government, MacIver recognizes, is rarely spontaneous and often inchoate or inert.[47] It needs (and gets) organization to function. Those who rouse it do so in a fashion conducive to their own special interests. The quality of the popular will consequently is not notoriously good. In fact, majorities sometimes do terrible things, even commit suicide, and the sway of ". . . majority rule may hold in the most intolerant and anti-democratic systems of government."[48] Nevertheless, prudent men go along with the will of the people for sound reasons. First, all share in the general will for the state and willingly sacrifice individual preferences in order to maintain (or enrich) the community. Now those who share a sense of community know that, however agreed they unanimously or almost unanimously are about overall purposes, division among them on "subsidiary interests" or "on the means by which . . . ends shall be fulfilled" inevitably arises. "So long as men differ in knowledge, in experience, they must differ in opinion."[49] Yet, in order to act as a group, some one direction must be chosen. There must be some method for reaching a decision. It is a matter of "social necessity."[50] Looking at this "social necessity," practical men quickly see that they cannot substitute

for majority determination. What alternative is there? MacIver asks. Seeking unanimity will postpone action till the Greek Kalends. A universal will for policy, even policy direction is impossible, and efforts to find or create such common opinion always lead to minority rule as they enable a single dissenter to frustrate the will of all the rest. Therefore, MacIver concludes, "Decision by majority is in matters of policy a practical necessity."[51]

As decision rules go, some goods can emanate from majority control. The majority can expect to rule without coercion, to represent as well as produce consent, because, in hopes of someday becoming a majority, minorities will acquiesce. "It is no hard and fast majority that sits as sovereign on the political throne, it varies infinitely, so that surely every citizen is at some time in regard to some question a member of a determining majority."[52] Secondly, majorities write laws, and the generality of law means universal benefits and burdens, an effort to attain a good for the whole general enough to make universal claim on obedience. And, as laws develop over time they become part of the fundamental system underlying government and thus partake of the support for the state itself. But certainly all the majority's rules do not sustain the general will. MacIver grants the danger and acknowledges the possibility of tyranny. If he has any real hope at all that his "practical necessity" will yield moral results, that

hope rests on his belief in the possibility of enlightenment, in social education, in the inculcation of social responsibility. In a system where the majority controls education, that, however, must be a very slim hope indeed. The only solid virtue retained by the majority principle, in MacIver's thought, is its superiority to all other alternatives.

Willmoore Kendall, one of the few close students of the majority process, takes an even dimmer view of majority domination and yet, he too manages to come down in favor of it. Kendall works from a tragic conception of man's predicament. In terms of the historical record, he finds it Utopian (i.e., not impossible, just grossly improbable) to hope that human beings will conduct their affairs without force and violence.[53] War, civil or international, full scale or limited, is freely willed by the generality of men as a necessary or superior way of settling differences. They freely will force because of certain innate human characteristics that cannot be easily transformed. Some of the determining characteristics point to the proverbial evil in man: ". . .the best-laid schema for perpetual peace will, soon or late, smash themselves against the stone wall of innate and ineradicable human viciousness." No one, in the foreseeable future, can expect to eliminate the role in human affairs of "envy, of cupidity, of predatoriness, of, at the margins just plain thirst for blood,

just plan lust for lording it over others, just plain orneriness . . ." But some of the trouble stems not from the worst that is in people but, "paradoxical as that may seem, the best that is in them." It comes out of man's "noblest aspirations -- the aspiration to understand, the aspiration to penetrate the meaning of the universe in which he lives, the aspiration to distinguish between the good and the bad, the true and the false, the beautiful and the ugly, the aspiration, finally, to sacrifice himself."[54] Because people hold diametrically opposed views about these matters they have rallied and always will rally to different standards. Opposing world views can only be arbitrated by force because the contestants have no common vocabulary and no common will with which to settle their disputes in any other way.

The discussion process and voting substitute for force in only limited circumstances. Government purely by discussion, Kendall claims, "depends for its smooth functioning upon deeply ingrained political habits, upon a stern discipline, upon elaborate arrangements for confining discussion, for the most part, to that minimal percentage of the population that is capable of discussing to begin with, upon, above all, the kind of trust and confidence, and I am tempted to say affection, back and forth among the citizens that dispose them to accept, beforehand, the verdict of the future vote."[55] Perfectly "smooth

functioning," needless to say, seldom occurs and arbitrary will enters the scene. Still, as a substitute for force, discussion and voting rank high. Even in their usual impure form they have a greater claim to moral virtue than the completely arbitrary, than sheer force. And the majority decision rule is morally superior to other possible rules only because "a state of affairs where two human beings are subordinated to the arbitrary will of a third is twice as bad as a state of affairs where only one is so subordinated."[56] The claim is connected to a high valuation of freedom and is, in some respects, similar to the argument of Hans Kelsen. Voting is better than pure force, popular majorities better than minorities, because so long as people are going to exploit one another (whether for noble or ignoble purposes), it is better to have the larger number of people free and happy and the smaller number in chains, than the other way around. The emphasis is not so much on the positive furtherance of freedom (as in Kelsen) as on holding down the number of those persecuted. Majority rule doesn't contribute to the amount of good in the world; it just lessens the amount of evil.

Pessimism about the human race always seems warranted and MacIver and Kendall present persuasive arguments. One can quibble with this or that feature of each of their positions, but perhaps the only difficulty worthy of mention is that common to both of them. Both tend to make statements in far too general a form. The majority, they

claim, will make a choice justifiable only because choices made in other ways are likely to be worse. But, as already demonstrated, there is no simple majority and no simple choice. The world contains majorities of many descriptions whose rule has multiple facets.

The behavior patterns MacIver and Kendall note do not occur on all occasions regardless of the qualitative character of the majorities concerned or of the type or stage of ruling involved. The general assessments of these writers may be incontestable, but what they fail to tell us -- i.e. which particular sorts of majorities are most likely to behave in the melancholy ways they describe, and at what points in the process called ruling such behavior will be manifested -- is what we most need to know. When, for example, do the polarized majorities and minorities Kendall envisioned arise? On all questions? Among any possible aggregations? At all stages of decision making? Kendall agrees that discussion interjects a moral quality between sheer will and arbitrary force, but he roots its efficacy in trust and confidence. Yet by acknowledging that discussion elevates the task of decision-making, and by recognizing the moral worth of mutual confidence between decision-makers, Kendall himself demonstrates how we might discriminate among groups, noting the greater benefits of the majority decision rule among

some groups as opposed to others. On his own showing, when groups reflect settled traditions animated by shared concerns, discussion may yield accommodation whereas amid uprooted people tossed together in meaningless amalgamations discussion may not produce worthwhile results.

With MacIver, too, the gross judgment he makes about inevitable majority misconduct may be correct. But consider how he focuses his analysis upon the command part of ruling where "social necessity" demands a single decision between two alternatives, and how he neglects those aspects of governing that do not make similar demands. Surely social necessity does not function quite so decisively in consultative procedures or at initiatory proceedings as it does at the moment of final choice. Because, in MacIver's formulations, complexities within the term majority rule remain undifferentiated, he cannot make the more specific and more particularized judgments that finer discriminations about the nature of decisions and the composition of majorities permit.

Overwhelmingly pessimistic, yet pro-majority rule: Kendall and MacIver, surely, make the minimal case for the morality of majority determination. Beyond their positions hostility to majority rule prevails over acceptance. It is to that array of formidable arguments in the opposing camp that this study turns next.

FOOTNOTES -- Chapter VIII

1. Aristotle, Politics, ed. and trans. Ernest Barker (Oxford: Oxford University Press, 1946), especially Book III, Chapters 11 and 12, Cf. also the Platonic dialogue Protagoras where Protagoras claims that all men possess "political virtue" and all are capable of being "counsellors" on political matters, Plato, op. cit., I, 94.

2. Aristotle, Politics, p. 123.

3. Ibid.

4. Aristotle excludes those cases in which the multitude is peculiarly depraved (Ibid., p. 124). Cf. J.S. Mill, On Liberty.

5. See his note in Aritotle's Politics, p. 26, and his Reflections on Government.

6. Barker, Reflections, pp. 67-68.

7. Ibid., p. 69.

8. See above, Chapter V.

9. Berg, op. cit., p. 48.

10. Cf. Berg on Harold Laski and substantive prior consensus, Ibid., Chapter II. See also Aristotle, op. cit., Book V, on the importance of obtaining general consent and avoiding sheer coercion. On the procedural aspect of the nature of modern states see Oakshott, On Human Conflict (London: Oxford University Press, 1975).

11. Aristotle, op. cit., Book V.

12. Ibid., p. 119.

13. Unlike Oakeshott, who seems to believe that procedure does not itself embody a common purpose, Aristotle recognizes that procedural rules allocate power and therefore affect the character of constitutions.

14. Aristotle, op. cit., especially pp. 216-217.

15. See William H. Riker and Peter C. Ordeshook, An Introduction to Positive Political Theory (Englewood Cliffs, New Jersey: Prentice Hall, 1973), pp. 100, 109, for an analysis of what preferences must be like if a coherent majority is to be formed. See also Downs, op. cit. pp. 55 ff. on coalitions of minorities against a majority.

16. See Nathan Rotenstreich, "Rule by Majority or by Principles," Social Research (June 1955), pp. 411-427 and Neal Riemer, "The Case for Bare Majority Rule," Ethics (October 1951), pp. 16-32.

17. Rotenstreich, op. cit., p. 413.

18. Ibid., p. 414.

19. John Locke, The Second Treatise of Civil Government, ed. J.W. Gough, (Oxford: Basil Blackwell, 1946).

20. Ibid., par. 99, p. 49.

21. Ibid.

22. E.g., William J. Wainright, "Natural Rights," in Life, Liberty and Property, ed. Gordon Schochet (Belmont, California: Wadsworth Publishing Company, Inc., 1971). See also Schochet in the same work, p. 11.

23. E.g., George Sabine, A History of Political Theory (New York: Henry Holt and Company, 1950), p. 524.

24. C.B. Macpherson, The Political Theory of Possessive Individualism (London: Oxford University Press, 1964), pp. 194-262, especially pp. 252-255.

25. Peter Laslett, Introduction to John Locke's Two Treatises of Government (Cambridge: Cambridge University Press, 1960).

26. Ibid., p. 109.

27. Willmoore Kendall, John Locke and the Doctrine of Majority Rule (Urbana: University of Illinois Press, 1959), especially Chapter X.

28. Ibid., p. 133.

29. Cf. Macpherson's interpretation which gains strength from the lurking image in Locke of stolid, sober, slow-moving, prudent, even cautious burghers who cannot be imagined using their right to appeal to heaven except in extraordinary circumstances, under conditions of extreme oppression. The historical argument about what Locke really meant, however, need not concern us here for just as a literary critic may point to elements in a work which the author never intended, so a political theorist may deal with parts of an argument considered as an abstract not an historical problem.

30. Locke, Second Treatise, Laslett edition, p. 350.

31. E.g., F.J.C. Hearnshaw, Democracy and the British Empire, "The faith of a democrat requires him to believe that in the long run the majority of the people finds its way to the truth, . . ." or Max Lerner, It Is Later Than You Think, "My own conviction (is) that the majority in a state represents a good bet in the long pull of history." Both quoted in Kendall, John Locke and the Doctrine of Majority Rule, p. 136.

32. Cf. Kendall, John Locke. . ., pp. 116-117 and note his contention that unequal intensities of conviction and unequal participation in politics vitiate the force of this argument. See also Riemer, op. cit., pp. 18-19 and Thomas Jefferson's famous words: "Every man, and everybody of men on earth, possesses the right of self-government. They receive it with their being from the hand of Nature. Individuals exercise it by their single will-collections of men by that of their majority; for the law of the majority is the natural law of every society of men." The Political Writings of Thomas Jefferson, ed. Edward Dumbould (New York: Liberal Arts Press, 1955), p. 83.

33. George Simmel, "The Phenomenon of Outvoting," in The Sociology of Georg Simmel, Kurt H. Wolff ed. and translator (Glencoe, Illinois: The Free Press, 1950), pp. 239-249.

34. Ibid., p. 242. "The significance, therefore, of voting -- of voting to the result of which the minority too, agrees to yield -- is the idea that the unity of the whole must, under all circumstances, remain master over the antagonism of convictions and interests. In its seeming simplicity, voting is one of the most outstanding means by which the conflict among individuals is eventually transformed into a uniform result" (pp. 239-240).

35. E.g., Riemer, Commager, Hartz.

36. Jefferson, op. cit., letter to Alexander Humboldt, 1817, pp. 83-84.

37. Thomas Jefferson on Democracy, ed. Saul K. Padover (New York: Mentor Books, 1946), p. 161.

38. Hans Kelsen, General Theory of Law and State, trans. Anders Wedberg (Cambridge: Harvard University Press, 1949), p. 286.

39. See above, Chapter V.

40. Richard Wollheim, "Equality and Equal Rights," in Justice and Social Policy, ed. Frederick A. Olafson (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1961), pp. 111-127.

41. Richard Wollheim, "A Paradox in the Theory of Democracy," in Philosophy, Politics and Society, second series, ed. Peter Laslett and W.G. Runciman (Oxford: Basil Blackwell, 1962), pp. 71-87.

42. See Donald D. Weiss, "Wollheim's Paradox: Survey and Solution," Political Theory (May 1973), pp. 154-170).

43. See above, Chapter III.

44. Locke, Gough edition, p. 113.

45. Ibid.

46. Ibid., p. 109.

47. R.M. MacIver, The Modern State (London: Oxford University Press, 1926), p. 198.

48. R.M. MacIver, Leviathan and the People (Louisiana: Louisiana State University Press, 1939), p. 153.

49. R.M. MacIver, Community (London: MacMillan and Company, Ltd., 1928), p. 140.

50. Ibid., p. 142.

51. Ibid., also in Leviathan and the People, p. 153.

52. Ibid., p. 141.

53. Willmoore Kendall "Is Violence a Human Necessity?" in Willmoore Kendall Contra Mundam, ed. Nellie O. Kendall (New Rochelle, New York: Arlington House, 1971), pp. 588-593.

54. Ibid., pp. 592-593.

55. Ibid., p. 591.

56. Austin Ranney and Willmoore Kendall, Democracy and the American Party System (New York: Harcourt Brace & Company, 1956), p. 32.

Chapter IX

CRITICISMS

Opposition to majoritarianism falls into two major categories, namely, those arguments compatible with democracy and those that reject popular sovereignty and political equality.

Many anti-democratic positions are grounded in the supposed incompetence of the general public, their alleged ignorance, inability to reason, propensity to follow a leader, lack of self-discipline, subjection to the passions or disinterest in politics. This low opinion of the multitude often combines with a high or higher opinion of the quality of some other strata or group -- technological experts, traditional classes, natural aristocracies of talent, an educated clerisy, or even a genre of superman. What is objected to is the notion that it is right to rely on the will of the people as the basis of politics; only derivatively does the attack turn on the majority decision rule as the expression of that will.

In some writers the anti-democratic case rests not on the undesirability of popular rule but on its impossibility, its necessary subservience to alleged imperatives of history, or social organization, or economic relations, or biology, that make the will *of* all unrealizeable. Or, if the objections do not attack majority

competence (on grounds of either quality or inoperability), they may point to the incongruence between majority will and people's objectively understood requirements as revealed by right reason, natural law, or science.

In all its guises anti-democratic thought has been thoroughly analyzed and discussed elsewhere and need not be repeated here.[1] What does need further exploration are those arguments hostile to majority determination that remain within the ambit of commitment to at least minimal conceptions of democracy.

I

Limited Government

One of the oldest schools of democratic anti-majoritarian thought attempts to solve problems of power by limiting its scope. Writers of this persuasion share a conviction that divisive issues can be sorted into categories, some legitimately requiring majority action and others lying beyond the proper arena of majority determination. The grounds for inclusion and exclusion sometimes apply to all governments and all uses of power -- i.e., the case may be made in terms of inalienable rights (granted by God, reason, etc.), but other times turn specifically on the requirements of a politics harnessed to the consent of all. The categories at any rate, come about in a number of different ways.

a) Logical Limitations. In the view of certain writers, logic determines which policies fall within and without majority jurisdiction. In order to create a majority, or even just to measure and see if one has been formed, requires a certain degree of freedom. People have to be consulted, permitted to construct alternatives, given the opportunity to choose sides, allowed to register choices. To say majority rule is thus to say a great deal about such civil rights as free speech, free assembly, and free association. Further, the word majority means major part and so connotes the presence of other parts, of one or several minorities. To say majority is to say that minorities must be allowed to exist.

The concept of logical limitation has sometimes been stated somewhat differently. Many who accept unanimity as an ideal, think of majority rule as an approximation of the ideal, the closest we can get to it at present. But there can be no assurance that it is the right approximation and, therefore, fairness demands that a margin for error be allowed. The existence of minorities constitute that margin; they are the practical manifestations of the room for alternatives. This same sort of stricture also applies if majorities are thought of as a compromise, for the absence of certainty that a particular accommodation is a just one again requires an allowance

for error, namely, the presence of those unsatisfied by or unable to agree to the final decision. Further, if consent forms the basis of authority, as it surely does in the above version of right, then any infringement on the right of self-determination would also constitute a denial of logic, and would be a compelling reason for majorities to permit the operation of other groups. Freedom and independence, combined with equality, form the grounds of majoritarian legitimacy, it is alleged, and these very grounds limit majorities in major ways, forcing a conjunction between majoritarianism and certain moral principles.

In these various ways, it is claimed, the idea of majority rule logically includes limits on what ruling majorities can do. They must leave certain rights intact in order to perform their function.

But precisely how much of which rights must be tolerated? Presumably, the logical requirements of limited majority rule could be satisfied with provision for some small amount of freedom, e.g., opposition within a narrow range. Suppose there must be freedom to form groups and to reach for majority status. Must all possible groups be given the same right, even, say, groups committed to majority rule solely for the purpose of eliminating it once in power? The question may call for an affirmative answer, but not, surely, on grounds of a logical imperative. At best, majority rule may be said

to imply the right of some division within a society and some ability to ascertain the extent of that division, but any attempt to stretch that logic to include all the traditional civil liberties, or to protect minorities from all persecution, quickly reveals the minimal nature of the logical requirements of majority voting.

Herbert McClosky has made a cogent and sustained argument for logically limited government, but nothing in his well-known article, "The Fallacy of Absolute Majority Rule,"[1] can provide answers to the crucial questions that determine how his logical claims ought to be made operable. For example: Is the Smith Act, (which made it unlawful to conspire to overthrow the government by force) a violation of the free speech demanded by the logical prerequisites of majority formation? Who, if not the majority, decides? Does a one dollar poll tax violate the necessary freedom of choice? Can a society withdraw voting rights from criminals and still have a legitimate majority rule system? Few critical issues about the morality of majority determinations can be settled by an appeal to the logic of majority formation or aggregation. Extreme violations such as the banning of all opposition or the total suppression of criticism may result in disintegration of the idea of a majority. The tougher questions, however, do not so obviously destroy the goal of eliciting and building a majority opinion.

b) Substantive and Procedural Prior Consensus. Instead of appealing to laws of rationality, some writers in the limited government camp have suggested that certain limitations stem from those agreements about fundamental matters extant in society prior to acceptance of majority decision-making. Some hold the fundamentals to be of a substantive nature (e.g., Harold Laski's argument that agreement about "the foundations of the economic system" is necessary if the state is to hold together). Others claim that a prior consensus about proper procedures is sufficient to enable a group to act politically (e.g., Carl Friedrich, who points to the success of societies with deep cleavages on matters of religion, severe national-cultural differences, and sharp socio-economic disagreements but that have operated on the basis of "steadfast adherence to commonly established and traditional modes of conduct" and without a consensus about "fundamentals in a national or philosophic sense."[3])

The foregoing arguments sometimes appear as part of the public versus private controversy. The essential notion here is that man is only partly a social animal and his life in community carries with it only certain claims and obligations and not all possible claims and obligations. The majority, therefore, has only limited authority; it can bind all only on those issues over which society has legitimate jurisdiction. Important parts

of life remain outside the purview of state power and thus outside majority control. In this version of limited government, too, there are obvious boundary problems, but something might be said for the effort to draw a line since a decided difference exists between societies that attempt a demarcation (however inconsistently) and those that fail to recognize any distinction whatsoever between the private and the public.[4]

As pointed out in the discussion of sovereignty, claims for limited government tend to confuse those things that make individuals willing partners in a joint enterprise called a state, and the decision rule employed in a state already formed. Majority rule does not, we need to remember, reflect mere individual preferences. It also expresses the will <u>for</u> the state and the will peaceably to reach a decision <u>within</u> the state. As a decision rule, however, it cannot bear the weight of the standard of legitimacy which operates in a particular community.

This way of thinking, of course, while relieving the political mechanism of the moral burden, merely pushes the moral issues back one rung onto the prior ethical system from which politics derives. How are ethical disputes resolved and expressed in human communities? In some, by various theocratic promulgations; in others, by the adoption of a civil religion. Can resolution other

than by force occur in secular states which do not, or on the liberal grounds of John Stuart Mill, do not wish to enthrone a particular ethical doctrine?

At this juncture the problem of justifying majority-rule becomes part of that central problem of justifying any politics which forms the heart of all the great political teachings in the Western tradition. Whether a perfectionist doctrine (either Socratic or Biblical) is inescapable, or whether Machiavelli and Hobbes successfully broke out of the classical bind, are questions too wide ranging and fundamental to be taken up here. While any serious theory of politics must come to terms with this level of concern, the understanding of sovereignty suggested here enables one to shift that concern to the ethical realm and to provide within the realm of politics for a moral acceptance of majority determination within whatever scope of activities community life exists to fulfill; and, further, to leave to majority decision as well the determination of when that range of authority has been transgressed or when it needs to be changed. What any individual ought to do when participation in his state under these conditions no longer seems (in his view) conducive to the ultimate purposes of life remains open. The perfectly moral man renders obedience only to the perfectly moral state. How congruent with moral dictates any state is, and how much

obligation is therefore owed to it, cannot be settled by a political process.

But if it is true that a political process cannot decide what is owed to the political community, a further step on the road to answering the broad question of political obligation may have been taken: the statement strongly suggests a basic individual autonomy. The individual's judgment may incorporate a sense of social justice, a sense of what he owes to society, but the conception is in some irreducible way an individual one. Even if to be a man means to be a social creature, man and not society provides the measure of morality.

John Rawls, of course, has made a strong argument for the notion that the good can be derived from the right, that procedure -- a just contract -- yields a superior ethic. But the difficulty of this position never becomes more clear than when he faces the issues of civil disobedience. There, he is forced to admit two things:[5]

> 1. There is a possibility that a common sense of justice will not exist in some particular place and time, and, therefore, in that case the decision to disobey may not be civil but anarchic -- and rightly so. As he puts it: "...each citizen is responsible for his interpretation of the principles of justice and for his conduct in the light of them. There

> can be no legal or socially approved rendering of these principles that we are always morally bound to accept...."
>
> 2. There is no need for a sovereign decision maker where there is "sufficient working agreement in citizen's conceptions of justice." Rather, he claims, "Equals accepting and applying reasonable principles need have no established superior. To the question who is to decide? The answer is: All are to decide, everyone taking counsel with himself, and with reasonableness, comity, and good fortune, it often works out well enough."

Surely, this represents a soft spot in Rawl's theory, for if we could depend on luck and comity and reasonableness to settle conflicts as in the community of scholars (the group to whose operating modus vivendi Rawls appeals) we would not need government or legal procedures at all. Upon what then should we rely? Must Rawls admit intuition at this juncture? It seems safe to conclude that a correct philosophical approach to political obligation at the farthest reaches of political life will lead away from consensual politics, perhaps towards some version of natural right.

c) Constitutionalism. Constitutionalists share many of the attitudes (and problems) of believers in logically or substantively or procedurally limited government. Generally, a constitutionalist insists that the possible evil to minorities under majority rule (and often other abuses of power as well) make it impossible for others to agree to be concluded by a majority unless majority dominance is first circumscribed by a constitution which provides protections against the abuse of power. Specific provisions of such a constitution will vary according to the needs of different societies functioning under heterogeneous circumstances. Typically they will include a bill of rights, guaranteeing to minorities their right to exist, maintain their integrity, criticize, try to become larger, and so on. Majorities receive, in short, a grant of power over all questions except those forbidden to them in a constitution. What they can do is thus limited.

Some constitutionalists (e.g., Carl Friedrich[6]) think that a number of important issues (especially but not exclusively those involving change in the constitution) ought to obtain qualified majorities to be legitimate. This, they correctly point out, does not turn government over to a minority. Minorities under qualified majority rule provisions cannot initiate policy; they can only veto measures, which constitutes a more limited exercise of

power. Friedrich defends such minority power, or the recourse on certain issues to qualified majorities, on the ground that the moral precariousness of majority predominance cannot hope to withstand intense or widespread opposition. A number of democratic theorists, on the other hand, including Henry Steel Commager,[7] Max Lerner,[8] Edward Mims, Jr.,[9] and Neal Riemer[10] dispute the necessity for anything more than bare majorities. Veto power, like minority rule, they claim, unequally weights votes. The few can prevent the many from taking action and thus hold up reforms. Qualified majorities, by blocking change, protect the status quo and prevent society from adjusting to new conditions (a greater cause of instability than abridgement of minority rights, some claim).

Although they disagree about the merits of qualified majorities and about the size of such majorities, and when they ought to prevail, all constitutionalists agree that certain issues need special handling. They argue that an agreement to abide by specified rules provides a bulwark against misrule. Certainly it is easier to enact what Aristotle called "spoilation laws" when there are no agreed upon limits to what those in power can do. Then the mere passage of a law is sufficient to command obedience. But a constitution that prohibits such a law challenges those who favor it to change the constitution

itself, and this is a far more difficult a matter. For to change the constitution is to attack the underlying agreements of the community. Such an effort involves great passion and greater resistance. Given a measure of vigilance, a constitution, thus provides an obstacle to wanton depradation.

It nevertheless remains true that over a period of time determined majorities can, and throughout history have had their way and run roughshod over others in spite of constitutional barriers. The despotism of whites over blacks in the American South occurred long after the incorporation into the American Constitution of guarantees for Negroes. Persecution of political or relgious dissenters goes on periodically in the United States in spite of constitutional agreements about freedom of speech and religion.

Why this should be so is not hard to understand. Law may constitute a shield against arbitrary power, but it can never substitute for power. Laws, we need to remember, do not apply themselves.[11] In many situations (and always in the crunch) a sovereign decision maker must intervene. Without a sovereign a legal system ceases to be able to function. Constitutions need to be changed: who amends? Constitutions need explication: who interprets? Constitutions need execution: who enforces?[12]

The belief that constitutions can provide ultimate safeguards against tyranny is an illusion. On prudential grounds, however, their usefulness may be conceded. Societies are better off with basic agreements than without for constitutions may minimize conflict or deflect it, or engender compromises that otherwise would not come about. But limitations of majority power by means of constitutions merely removes one only a step from all the problems faced by other limitations. Eventually these same problems come to apply to constitutionalism and they require the same answers.

II

Majority Tyranny: The Social Dimension

Like the attack on majoritarianism made in the name of limited government, the reservations about majority rule expressed in the idea of majority tyranny have a long history, and have taken a variety of forms. Yet, however disparate those ideas about majority tyranny have been in content and context, they have come together in their common emphasis on society's control by interests too narrow to justify their total sway. Tyranny, in this tradition, incorporates two features: a criticism of existing society as repressive and the advocacy of liberty understood in contradistinction to ongoing patterns. Majorities, then, allegedly dominate

society so as to suppress true human freedom.

Alexis de Tocqueville's analysis of the United States written in the 1830's typified this approach.[13] Tocqueville characterizes Americans as a people increasingly without "independence of mind," unaccustomed to "real freedom of discussion."[14] The cause of this disease, he thought, lay in the tendency for the politically absolute power of the greater number to slip irresistably, for lack of any obstacles, into a morally absolute power. "There is nothing in democratic states that is capable of resisting it," no organized force capable of prevailing against it in any area of life.[15] Everything, therefore, being subject to majority control, people come to think that the majority combines not only more power but also more wisdom than any other force or group, "that the interests of the many are to be preferred to those of the few."[16] Quantity is confused with quality, and those who oppose majority opinion expose themselves to "continued obloquy and persecution."[17] Coerced by the power of public opinion, most people yield to it, accept the dominant ideas as legitimately universal ideas, debase their characters like lackeys, and conform.

John Stuart Mill picked up this argument and used it to launch his study of the special place of liberty in democracy.[18] James Bryce, while appearing to reject Tocqueville's formulations, in actuality gave it a slightly

different twist, contending that "the fatalism of the masses" was what caused most people to succumb to majority power rather than their conviction that the majority embodied a moral superiority.[19] The concern of both Mill and Bryce, however, coincides with Tocqueville's: that the "political omnipotence of the majority... augments the influence that public opinion would obtain -- over the minds of each member of the community" and that this "intellectual dominion of the greater number" confines "the action of private judgment within narrower limits than are suited to either the greatness or happiness of the human race.[20] The sovereign dominion of the majority substitutes for the bondage previously imposed by kings and priests and noblemen. And, says Tocqueville, "when I feel the hand of power lie heavy on my brow, I care but little to know who oppresses me, and I am not the more disposed to pass beneath the yoke because it is held out to me by the arms of a million men."[21]

Tocqueville acknowledges that the absolute power of the majority yields a species of oppression more "regular," "mild," "moderate," "quiet" and "gentle" than previous despotisms. But he also finds the new tyranny so pervasive that it spares its subjects "all the care of thinking and all the trouble of living" and so "enervates, extinguishes, and stupifies a people"

that "each nation is reduced to nothing better than a flock of timid and industrious animals, of which the government is the shepherd."[22]

To contrast with his portrait of democratic societies, Tocqueville paints a picture of aristocratic Europe, full of many troubles, yet superior to America in that "unity and uniformity were nowhere to be met," "great men" exercised enormous private power; men possessed "energy of character" and "had scope for ambition and performance"; "brilliant trophies" abounded, pleasures were "refined" and manners "highly polished"; there were men of great learning, more genuises, and more perfection.[23] Tocqueville may not have been an enemy of democracy, but clearly he would have preferred the virtues (though not, of course, the faults) of a privileged aristocracy, if only the world were not so obviously moving in a different direction, and if it were possible to have them.

An indictment of American character and behavior along similar lines and with something of the same spirit has also appeared in contemporary literature in the work of Herbert Marcuse.[24] Marcuse draws a much bleaker picture than Tocqueville. Echoing classical themes connecting liberty with political virtue, he calls attention to people's unrealized natures. Individuals do not want what they could and should want. The things they do want represent spurious, not spontaneous or real desires; for

what they want is a consequence of manipulation, indoctrination, socialization or conditioning. In existing societies, all persons want the same range of things, all think within the same confines, and the social processes and institutions that constitute their practices are one-dimensional. Compared with what could be -- a society in which there is a true development of innate capacities -- we have instead repression, alienation, and poverty, all produced by the one-dimensional system, the technology and its concomitants. It is not a matter of distinguishing majorities from minorities or leaders from followers, for both -- those at the top as well as those at the bottom -- are caught up in the values, institutions, ideas, and life styles demanded by advanced industrial civilization.

Technological rationality gains added support from the individual's psychic economy where the Freudian performance priciple plays a similarly repressive role, delaying and restricting psychological gratification so that men can adapt more efficiently to the reality of scarcity and competition. People submit inwardly as well as outwardly. In this sense, they are not and cannot be free. They perceive only "false" needs and remain alienated from their "true" needs.[25] The majority partaking of the universal (or almost universal) "false consciousness," fulfills the requirements of the system just like everyone

else, and the majority decision rule becomes but another way of sustaining a way of life inimical to true freedom and inappropriate to a people's "objective" situation.

Whereas in Tocqueville the "singular facilities for the establishment of despotism"[26] in America arise from the requirements of egalitarianism which includes the majority decision rule, in Marcuse it is not majorities that instigate deadening conformity; they along with liberty and affluence merely form a part of the total system of domination. The fault is not in majoritarianism, but only in majoritarianism as it operates in the context of current society. In the contemporary situation, therefore, what is required is the transcendence of the established order, and that must come not from "the conservative popular base" but from "the substratum of the outcasts and outsiders, the exploited and persecuted of other races and other colors, the unemployed and unemployable. They live outside the democratic process . . . their opposition hits the system from without and is therefore not deflected by the system . . ."[27] (In later works Marcuse has added the students to his list of those so situated as to enable them to escape limited consciousness and successfully to resist that to which all others succumb, while in his earlier works he looked to the proletariat). But until the advent (unlikely in Marcuse's eyes) of a new era, the

masses can only articulate spurious ideas. The mechanisms of their expression are, like tolerance, oppressive.[28] Majority rule means only "the tyranny of the tyrannized majority. (Their) controlled and/or corrupted wills cannot create obligation."[29]

Use of the same terminology -- the tyranny of the majority -- by both Marcuse and Tocqueville reflects certain shared orientations. Consider, for example, the similar nature of their projects. Both present a general critique of the quality of the societies they observe in terms of a different or higher standard of social organization. To this end they abstract "tendencies."[30] Their descriptions, therefore, perhaps ought not be be taken literally. They may be meant only to highlight what is wrong and to draw attention to liberation.

Mark, also, the close resemblance between what disturbs them namely, the negation of liberty (or as Marcuse sometimes labels it, authenticity). This is not surprising because tyranny, as a classification of governments, has always been linked to some particular conception of freedom.[31] But neither Tocqueville's nor Marcuse's particular conception is ever described in any detail.[32] Both tend to define liberty as an aesthetic ideal, with the creative arts providing many key metaphors. A search in their work for examples of what embodies the proper qualities yields disappointing results.

Tocqueville admires the alleged glory of past aristocrats, although the creative excellence of that class might be heartily disputed. Marcuse points to the alleged future excellence of men freed from all contingency and all conflict, although both the moral worth and theoretical possibility of such a future are also a matter of controversy.

The failure of these writers to argue systematically for the value of their protest ideal accentuates the elitist cast of their criticisms. To call the will of the majority tyrannical is to assert that they, or some other, possess a knowledge superior to the considered opinion of that majority. The holder of superior political acumen is always hard pressed to explain why his correct views should not prevail over the wrong-headed notions of others. One need not go as far as Hans Kelsen and claim that of all epistemologies only relativism sleeps comfortably with democracy,[33] to recognize that a tendency toward elitism of some sort easily accompanies perfectionist thought. There are many possible reasons why knowledge of the good need not carry with it an obligation to impose that good on others, ranging from pacifism to cynicism. Tocqueville, however, does not reason his way out of the problem on a philosophical level. He simply uses aristocratic values to compare and contrast with egalitarianism. Because he finds that the majority

is not the repository of excellence or honor or genius, some way of protecting those who possess these virtues or of encouraging the virtues themselves needs to be provided. Aristocracies allegedly supply the good, if only because the multiplicity of classes allows for the development of different excellences; but if democracy is the order of the day some elements within democratic societies can and must be turned to that purpose. Perhaps it can be done as J.S. Mill thought by arranging a special status for liberty, especially liberty of expression, or, as Tocqueville himself suggests in a number of places, by modifying majority power (e.g., instituting private rights, strengthening courts of law, delegating authority to private or semi-public boards and commissions) and giving it moral competition from religion, the legal profession, a free press, and voluntary associations. The standard, however, draws largely (not wholly, as Tocqueville admits) upon the spirit, talents, and accomplishments already demonstrated by European aristocracies. Perhaps this is why when examples of the excellence created by true liberty are needed, Tocqueville either lapses into generalizations about "great men" or talks of refinements of manners and arts. The brilliance of French courts and drawing rooms dazzles and their beams are mistaken for virtue.

Marcuse's elitism is even more pronounced. He himself, and apparently a few chosen others, as a result

of their peculiar place in society or because of a special dispensation from on high, have trancended the dominant culture that suppresses even the manipulators. Eligibility for membership in this elite can be obtained only by proving the possession, or at least the capability, of equal transcendence, equal consciousness of the state of consciousness, i.e., by agreeing with Marcuse about the nature of truth and its corruption in the industrialized world. Marcuse acknowledges some fear of an elite tribunal of educators forcing men to be free, but he concludes that "... terrible risk which it involves may not be more terrible than the risk which the great liberal as well as authoritarian societies are taking now, nor may the cost be much higher."[34] Insofar as he is correct and justice depends upon liberation by a group politically unequal to others, Marcuse's theory moves beyond the boundaries of democratic thought, and hence of this study.[35]

In their concern for the state of the general culture in majority rule systems, however, both Tocqueville and Marcuse remain inside the sphere of relevance to democracy. They project all too apparent tendencies toward an interlocking homogeneity. Unfortunately, their conclusions do not flow from their observations but from the necessary implication of, in Marcuse's case, the historically relevant technological requirements of the relations of production as they interact with psychic energies, and in

Tocqueville's, the egalitarian character of society of which public institutions form a prominent part. In this sense, their observations are non-falsifiable by any counter empirical evidence.

Suppose for the sake of argument, however, that a people's expressed wants or, perhaps more accurately, their sense of justice, which majority rule systems measure, consists of ideas and attitudes inculcated by their culture. "True" spontaneity does not exist. This is the Skinnerian world view: all behavior results from conditioning; the concept of mind is an illusion; men don't think, they respond.[36] Neither Marcuse nor Tocqueville would accept this extravagant estimate of men's consciousness. Suppose, then, this extreme determinist position is rejected, but the "behaving" qualities of man are granted as major components of his nature. What follows? Leaving aside again the question of who programs the programmers, we still face a world peopled with individuals with at least some differential experiences. Differences modify consequences. Tendencies within cultures then, especially cultures as marked by diversity (of economic interests, life styles, schools of thought and so on) as those of advanced industrial society abide side by side with counter-tendencies. If we reject absolute determinism the real question becomes, how significantly do the pressures for conformity compromise the integrity

of persons and minimize the respect and obligations owed them? The counter-empirical record (which Tocqueville inspected and Marcuse acknowledged) enters at this point in critical fashion. A would-be defender of majority rule could argue that the evidence at hand, however much it documents homogeneity, does not warrant suspension of equal political treatment because the amount of free response to the world possessed by each person justifies his entitlement to a judgment for which no one else can substitute any other allegely superior judgment.[37] This doesn't do away with concern for the forces of conformity or even spurious diversity, but it qualifies the conclusions that might be drawn. Reforms to counteract false consciousness, for example, may be undertaken, but elimination of the right to judgment on grounds of false consciousness is denied. Tocqueville, it could be argued, accepts this conclusion -- perhaps because he so scrupulously examined counter forces -- while Marcuse apparently denies it.

Marcuse assumes that the emergence of majorities in majority rule systems is a natural aspect of opinion crystallization. Tocqueville seems to assume that their emergence relates to established interests which voting measures. Neither, I think has satisfactorily understood what majority formation entails.

First, as the empirical studies of behavioralists (see, e.g., Robert Dahl, Preface to Democratic Theory)

have demonstrated, majority opinion does not come into being on every issue. The bulk of the people may not care one way or the other about a great many things. All the opinions in the field on some matters represent the views of minorities. Secondly, any system which grants power to majorities guarantees that some people will find it worthwhile to try to create majorities, weld together a group of sufficient size to capture power. Political parties exist expressly for that purpose. Politicians make speeches because they believe persuasion counts. Parties buy television time because they think exposure to their cause or candidate matters. Bosses do favors, legislatures strike bargains, journalists write columns, all because they recognize that a majority doesn't arise from spontaneous combustion but has to be generated. If the politics of a society call for majorities, the political scene must include competitive mechanisms devoted to producing them.[38] That competition, itself, including Marcuse's books and speeches, and articles, builds a bulwark against one-dimensionality.

Finally, once it is recognized that majorities emanate in large part from competing conscious efforts, it can also be seen that majorities are shifting groups depending on the issues or candidates.[39] The majority is a figment of the imagination. Given the range of policy questions covered by government action today, or the number of

officials elected at different levels, no sub-grouping of a diverse nation is likely to constitute a permanent minority. Every sub-group is itself divisible. Where race unifies, economics sometimes divides. Where income problems draw people together, religion may rend them asunder. Ethnicity counts; geography counts; family size counts; so does history, age, occupation, friendships, intelligence, and sex. This is dramatically illustrated by the fact that even among black peoples in the United States, where jobs and income and education and history all appear so mutually re-enforcing nothing, not even the defences demanded by outside assault, keeps this minority monolithic either in consciousness or action. Busing to achieve racial balance in schools splits the black community between black power advocates and integrationists. Low-income housing in the suburbs pits home-owning blacks against slum dwellers. Anti-Semitic stances affecting both domestic and foreign politics divides those who have experienced Jews as the best friends blacks had in their struggle for equal rights from those who have experienced Jews as exploiters of the ghetto. And yet race, along with language and religion, probably forms the basis of the most intractable of groupings. In short, few, if any, <u>always</u> lose. No one <u>always</u> wins. So long as there is a possibility of creating wedges in a natural or temporarily set interest, someone will work

at grabbing the opportunities presented. The pressing need to manufacture majorities guarantees the competitive exploitation of every conceivable resource. Under conditions of diversity no dearth of such resources can be reasonably expected.

Even if Marcuse and the Marxists are right and all the divisions in society mentioned above can be explained satisfactorily only by historically grounded class analysis, what social decision rule would better further their revolutionary ends? While waiting for the realization of historical necessities people still need to live and resolve conflicts. How should they do this if not by majority rule? Is the decision rule as now employed inconsequential, of no real importance simply because it produces answers to the wrong questions? Marcuse seeks to deny the obligatory nature of majority rule without seriously evaluating the problems that position raises.

Bleak pictures of social uniformity stemming from the nature of the preconceptions brought to them rather than from verifiable observations, probably obscure more than they illuminate. What they can do, however, is alert us to those elements of moral and political coerciveness that always occupy a place in all societies. Marcuse is correct when he says that economic factors influence culture in important ways. Control of the mass media of communications plays a role in determining the

content of a culture, especially where technology makes nationwide impact possible. Information monopolies crucially affect the discussion process. Marcuse is right when he claims that education systems always socialize, even unintentially, and, because they can never treat all questions equally openly, tend to produce men and women capable of adjusting to things-as-they-are. There is ample evidence for these statements. Yet, to take but one example, Americans reject the cost savings and efficiency (especially ideological manipulative efficiency) of centrally controlled education and make expensive allowance for private schools, encourage religious educational institutions, and maintain individual local school districts in bewildering numbers. In spite of the traditional role of education as a socializing mechanism, its results need not, and in fact do not simply because of that role yield monochromatic results. It is possible to intervene deliberately to prevent homogenizing processes from going too far. The empirical record which documents pressures to conform also contains many instances of resistance to pressure or of counter pressures. The temptation to impose one's own will on the ground that someone's will is in any case being imposed -- hence it is better that one's "right" will prevail over another's wrong and evil will -- needs a stronger empirical grounding than Marcuse can supply.

On the other hand, any tendency to ignore the problem of conditioning, also on the empirical record,

cannot be sustained. Trusting to the constant presence of pluralism perhaps ought not to substitute for specific provisions for alternative programs, alternative methods, and alternative perspectives. The general drift of society's total complex of institutions and practices ought to be examined and evaluated, even if those who find a critical vantage point from which to look at the state of human liberty are never likely to agree about what they see.

In sum, in regulating his affairs, man can encourage independence and awareness of his vulnerability to conditioning and to the general spirit of his times. He can make allowance for them. He can never eliminate the contingency of his nature, nor can anyone or any group rightfully claim immunity to cultural dominance. Therefore, a political system built on individual or group integrity need not be dismantled simply because human nature is recognized as in some sense, a social product not yet fully developed. After all, the allegedly stifled potential to be realized also comes, in part, from social forces. For all these reasons, the observations of Tocqueville and Marcuse, however insightful and provocative they may be, do not convincingly destroy the legitimacy of majority predominance.

III

Majority Tyranny: The Legal Dimension

In contrast to those who focus on the tyranny of the majority as a problem in social conformity, some ventilate a concern for the tyranny of majorities imposed through government and law. A majority might earn the name of tyrant by manipulating the political system in its own interests and "not according to the rules of justice and the rights of the minor party." Such propensity to behave tyrannically, it has been claimed, is "sown in the nature of man." The chance to realize that potential, however, is uniquely provided by the form of popular government. What enables the majority "to sacrifice to its ruling passion or interest both the public good and the rights of other citizens" is the coincidence under a majority decision rule of their impulse and their opportunity "to concert and carry into effect schemes of oppression." Accordingly, those who would oppose popular despotism must look to control of occasions favorable to its exercise.[40]

James Madison is the preeminent spokesman for this point of view. The first thing to note about his position is that it is not inherently elitist. Madison looked for a republican remedy for republican difficulties not only in the Federalist papers, but in his other writings as well.[41] Those who denounce majority governments, he

said, must maintain that "minority governments would feel less of the bias of interest or the seductions of power."[42] Supporting evidence for such belief, he went on, is lacking. On the contrary it is "the abuses of all other governments (that) have led to the preference of republican government as the best of all governments."[43] Those who find "majority government as such, be the worst of governments ... cannot be within the pale of the republican faith. They must either join the avowed disciples of aristocracy, oligarchy or monarchy, or look for a Utopia exhibiting a perfect homogenousness of interests, opinions and feelings nowhere yet found in civilized communities."[44]

Tyranny occurs, Madison believed, because the usual disparity of interests in society makes any one policy unfair to some. "The necessity of any Government is a misfortune," he says. Laws fall differentially on different shoulders, creating uneven benefits and burdens. But if we accept the need for government, and we accept the reflection "that no government of human device and human administration can be perfect" (then) that which is the least imperfect is therefore the best governed."[45] Majority rule systems, he concludes, constitute the best available mode of governing.

Because abuse of power cannot be eliminated, however, does not mean it cannot be mitigated. Madison goes on

to proffer a list of proposals which, he feels certain, will, without sacrificing majority rule, deflect (imperfectly) injustice. He defends, for example, representative government as opposed to direct democracy in order to escape contagious passions, seductive eloquence, and too great a facility to form majorities too quickly. He proposes large constituencies so as to embrace a large number of competing interests. He praises federalism as a way of preserving sufficient unity against external dangers while at the same time partitioning and distributing power. He supports checks and balances to make a clash of ambitions serve as a rein on absolutism. He urges separation of powers, bicameralism, and staggered elections as obstacles to overly facile majority formation and as increases in access routes to power. None of these components of formal pluralism insures conclusively against the persecution of minorities, but as insurance policies go, they have seemed a good buy to many.

Neal Riemer typifies those who oppose restraining majorities as a precaution against tyranny. Balkanization of power, he fears, erodes a sense of responsibility.[46] Who can be held accountable for oppression when power is so fragmented? Who can take full credit or blame? "Passing the buck," he claims, "hinders the majority from acting as if its action were final and from desiring to de-

fend and justify such action." Further ". . .democracy has more to fear from weakness and inaction than from strength. . . ." The strength of bare majorities, he concludes, necessitate taking a calculated risk that tyranny will not occur, but that risk (in his view) makes more sense than taking on the difficulties entailed by Madison's division of powers.

Riemer's caveats, of course, have some merit. But they dismiss too cavalierly the ample past record of majority tyranny. On historical grounds, tyranny by those in power appears more certain than his "calculated risk" suggests. Nor can one take too seriously the alleged weakness of modern democratic states who have successfully mobilized themselves to fight major wars and who daily execute policies that have tremendous impact on individual lives.

If Madison's fragmentation of power is accepted as prudentially superior to unchecked, centralized authority, then his argument soundly demonstrates the possibility of recognizing the danger of majority tyranny without opposing majority determination. It also suggests a reasonable way to curb majority power without opting for minority control. Under the terms of Madison's plans, except for a temporary period in those cases which call for extraordinary majorities (e.g., constitutional amendments), no minority (and certainly no particular minority) substitutes

for the majority's will and no minority can prevail ultimately against a determined and long lasting majority. At most, a minority can, by veto, delay the majority's power and force a protracted discussion, a hearing for the minority viewpoint, and time to effect reconciliation. But Madison's institutional curbs do not allow a minority to rule in anything like the sense in which a majority rules.[47]

Madison not only meets the difficulty of overweaning minority power, but contributes positively to possible justification of majority predominance. First he calls attention to the qualitative make-up of majorities. The rule of the artificially constructed voluntary coalition he visualized can be justified more easily than that of natural, inflexible interests. Second, majority rule may be held to promote the public good more easily if (as in his proposals) the common context shared by majorities and minorities is taken into account. Finally, his suggestions, by increasing reliance on discussion in order to produce action, elevate that feature of majoritarianism most directly connected to political virtue itself, at least in the Aristotelian conception.

The only remaining issues in this Madisonian argument turn on prudential calculation of the efficacy of this or that particular limiting arrangement. Those who agree with the wisdom of impeding majorities often disagree about methods.

Some uphold Madison's bias in favor of institutional restraints. Others think constitutional restrictions on power sufficient. Still others, with an eye on Great Britain, claim that traditions provide the surest limitations, a kind of protection against tyranny more reliable than written constitutional provisions or the imperatives flowing from organizational arrangements. Thorough discussions of these disagreements appear in a number of other studies and need no repetition here.[48] Insofar as these discussions turn on prudential arguments, they all accept the attack on majorities that operate without impediments. They all accept the notion that power tends to corrupt those who are less than angels, including majorities as a persuasive example. They all agree with Madison's conclusion: majority rule demands special precautions against majority tyranny.

IV

Majority Tyranny: A New Dimension

The attack on majority rule in the name of majority tyranny has yet another varient. It comes from concern about the nature of majorities, not about the nature of rule. It involves fear that a special feature of current majorities -- namely, their wealth -- may vitally effect the validity of their power.

In one respect the charge echoes Marcuse: certain majorities, not any or all majorities, consist of those most

undeserving of power. The manipulated, for example, cannot claim the same rights as liberated souls. Those dominated by a false consciousness cannot be treated with the same respect as those with true understanding. The basic structure of this kind of analysis finds support in the works of Bachrach and Schattschneider:[49] modern majorities, because peculiarly flawed, cannot command the acquiescence normally due to groups of their size. This general formulation has already been discussed in this study.

An interesting change in the foregoing theme, however, has been composed by the sociologist, Herbert Gans.[50] The affluent society, says Gans, has not eliminated poverty, but it has reduced the poor to about one-third of the population.[51] This feat turns many traditional attitudes upside down. The majority no longer consists of the downtrodden, unencumbered by primary goods or privileges; it consists of the rich, laden with wealth and status. The exploited, the unlucky, the handicapped, those without property or education or important skills now constitute a minority, a minority of underprivileged outnumbered by those who happily have made it in the Great Society. Among people who have thought of majority rule as a shorthand expression for the emancipation of the poor Gans' observation has revolutionary impact.

Gans himself shares the consternation. Democracy, one suspects, has been for him something to be judged very largely by the results it produces. If today's affluent

(and/or white) majorities in the West regularly supported the proposals of the poor (and/or black) minority, Gans would have no quarrel with majority rule. They do not, of course, oblige. The reasons why they don't -- the relation between principles of policy selection and the make up of the majority -- forms the interesting part of Gans' thesis about the troubles of majority rule systems.

Gans assumes that the least advantaged members of society no longer have the strength of superior numbers. Nor have they acquired the resources of former minorities, e.g., wealth and education. They labor, therefore, under unique difficulties. Always outvoted, and without non-political leverage, their interests never receive due attention. They become, permanently, subjects of callous majority tyranny.[52]

Insofar as this assault on the alleged tyranny of the majority does not differ <u>in principle</u> from the earlier versions considered here, it is vulnerable to the same criticisms, not least the failure to face forthrightly the inconvenient allegation that a suitable alternative to the majority decision rule is lacking. Where Gans' attack differs is in <u>the object tyrannized</u>, that is, the social or economic class held to be oppressed. More than this, since that class is the underprivileged, victims of poverty and racial discrimination, he asks whether the majority

decision rule itself is not responsible for their subordination. An affirmative answer -- which he insists is unavoidable -- raises certain questions involving canons of justice.[53] Thus, Gans' argument which initially may seem easy to handle, is actually fairly intricate, and less susceptible to rebuttal.

Consider, first, those who would reply by casting doubt on the validity of the empirical evidence underlying Gans' ideas. They might proceed in one of two ways. They could claim that income statistics cannot easily or non-arbitrarily measure relative wealth. The majority in America may be affluent by comparison with other peoples of the world, but not necessarily well off in terms of American standards, or some American standards. What conditions can properly be labeled poverty may be a matter of dispute. This is not a very satisfactory approach because agreement is not ruled out in principle, and, if accord on the definition of poverty could be reached, Gans' picture of current reality might be left standing. An alternative approach might be to look for non-economic manifestations or counter manifestations of the alleged condition. Why, for example, do political parties continue to harp on the problems of the poor if the poor, as a minority, can be safely ignored? What minority is never wooed by those seriously seeking office? Or, to the contrary, why have the blacks felt the need to resort to disruptive

violence to win consideration of their problems?

Substantive policies themselves (i.e., who benefits) cannot tell the tale because after all, to pick one random illustration, the British Parliament that voted for Catholic emancipation contained no Catholics. Who makes up the political majority, it can be argued, has nothing to do with what groups constitute religious or economic or linguistic or any other kinds of majorities. But again, suppose a dominant socio-economic group did act together politically. If it is a possibility, why not face the possible consequences?

The discussion might then be shifted away from investigating the actual empirical validity of Gans' assertion, and toward analyzing the likelihood of realizing his conception of the permanent political impoverishment of minorities. Would the constant shifting of majorities from issue to isse or candidate to candidate noted by so many observers of majority rule systems modify minority helplessness? MacIver, among others, certainly believed it would. The need to construct majorities rather than just to assume their existence as natural entities entails competition and coalition arrangements which eventuate in different majorities at different times and places. Most groups would derive some benefit from cooperation with other groups. Yet, it could be argued, the blacks in America

could all too easily be isolated from the concerns of other groups and, with the loss of strategic location as great cities decline in importance and they remain isolated in ghettoes, might find that they had little to offer any coalition (leaving aside, for a moment, the moral urgency of their cause). One need not subscribe to a strict mirror-image concept of representation to see how they might conceivably lose out pretty regularly. Shifting majorities, that is, do not eliminate the possibility of habitual losers. Their prevalence makes it less likely that any group would always end up opposed to the winning team, but not impossible.

The strategy of Madison arrives at a similar fate. A variety of access points limits the chance of finding all doors closed. But the objection remains: one could lose locally, statewide and nationally; in the House of Representatives, in the Senate, in the Executive, and before the Supreme Court; in the political parties, in the mass media, and before the bar of public opinion. The total exclusion of some one group remains open.

Barker might suggest, at this point, that the discussion process itself would provide adequate attention to all viewpoints and, in a sense, the elimination of being ignored does entail the elimination of majority tyranny. The point of discussion, however, is resolution, and discussions, unfortunately, do not always have happy endings. Suppose

the point at issue in a discussion is the very point that divides a minority from all others (as Tocqueville warned). Modification, compromise, and even understanding might not then be feasible. Only the costs of continued recalcitrance -- the risks of disobedience and disruption -- would matter. That "only," however, might carry considerable weight, for social peace always places high in the hierarchy of political values. The Barker "solution" gains further credence because it brings the outer limits of coexistence into the picture. If discussion does not prove satisfactory, the minority obviously must decide whether continued membership in the group is worthwhile. The life of the outlaw might be preferable, or that of the rebel or exile, or, in some circumstance, that of the traitor. If, on the other hand, the minority opts for continued membership in the community, then at least some of the force of the accusation of tyranny dissipates, because within community one agrees to take one's chances and tyranny can hardly be the handmaiden of Lady Luck.

Or can she? Pushing to the outer reaches of political allegiance may have brought to the fore precisely the moral virtue from which Gans draws sympathy for his portrait of modern majorities and minorities. Western civilization has always recognized special obligations owed to those especially disadvantaged by fortune: the blind, the sick, the orphaned. The moral man, in the traditional

teachings, has a duty to protect and look out for those unable to care for themselves through no fault of their own. He even has special duties to those brought low through their own misdeeds. Charity and compassion are expected, not indifference, perhaps as an acknowledgment that there, but for the Grace of God, go I. If luck should so distribute her favors as invariably to frustrate some group in the political process, would not those who fared better have special obligations to the unfortunate? Doesn't the intuitive feeling that Gans has indeed described an unjust situation derive from a belief in the majority's unusual obligation to assist such unlucky minorities?

The extent of the sympathy Gans wins may itself be testimony to an alternate resolution of the difficulty he perceives. Perhaps the Judaic-Christian consensus does come into play at this juncture and make it possible for the excluded minority to remain within the community, trusting to the special claim on good will it can make in its not-to-be-expected-in-the-ordinary-course-of-things position. The unusualness of the outcome would place the situation beyond normal political morality and bring very special moral injunctions into play. This result might not occur in all societies, but, presumably, could be expected in any Western country in the Twentieth Century.

The foregoing rather non-political solution to the problem of majority tyranny arises because the conditions Gans describes are so unlikely. In a pluralist nation, where competitive coalitions seek to represent a people's sense of justice through inclusive political parties that try to cut across all socio-economic divisions, it would be rare, indeed, to find a group so regularly on the short end that continued participation in the community consigns them to permanent disability. A freakish operation of the laws of chance cannot be logically eliminated, but a normal expectation that tyranny wears a more temporary and sporadic aspect seems warranted even when majorities consist of privileged classes.

V

The Mask of the Minority

While many worry about the enormous power majorities wield and, consequently, the possible tyrannical abuse of authority, others believe that these fears are bred by a misperception of political life. Far from holding too much power, majorities in reality have too little. What appears as a concentration of decision making authority turns out, upon closer examination, to be a dispersal of functions among non-majoritarian entities. Majority rule is an illusion. The attacks of this school aim to dispel the mirage.

What counts, said T.V. Smith, are individuals, and "so more of them count for more than do less of them." A majority is good because "there are more people in than out of it."[54] From this point of view, majorities are aggregations of individuals. In the world as we know it, however, intervening between individuals and their sum are groups. What counts, said Arthur Bentley in direct contradistinction to Smith, are groups of individuals. The raw material of politics, Bentley claimed, "is never found in one man by himself, it cannot even be stated by adding man to man."[55] Politics is an activity, an activity performed by social units relating to each other in particular ways. Political groups are specialized combinations who "in origins, structure, and operation . . ./share/ their essential features with non-political patterns of social interactions." The ". . . group experiences and affiliations of an individual are the primary, though not the exclusive, means by which the individual knows, interprets, and reacts to the society in which he exists."[56] Interaction on the basis of shared characteristics create mosaics of groups, who become politically relevant when they make claims upon each other. The full consequences of this kind of group analysis for moral presuppositions about politics cannot be explored here,[57] but a few of the salient practical problems raised for democracies need mentioning.[58]

The mediation of human activity through groups means that the ease of articulation of interests will vary with the ease of organization. All interests are not equally organizable. Some categories of people, in spite of the common concerns that bring them together, may lack mobility or leadership or a mutual language and therefore may never interact with each other so as to become a social force. This allegedly describes the case of farm workers or the aged in the United States. Other categories of people, although able to organize, may have to overcome difficult obstacles which do not impede other segments of the population. Thus, it is claimed, landlords can organize more easily than tenants, doctors more easily than patients, manufacturers more easily than consumers. Further, organizing skills themselves influence both the likelihood of a group's formation and its eventual effectiveness, a key factor accounting for the plethora of middle class organizations and the dearth of groups among those in the lowest socio-economic brackets. Insofar as majority rule systems operate through groups, some writers have felt, the above contingencies make individuals radically unequal in vital political ways. Participation in the majority process (at, for example, the level of initiation or discussion) becomes unequal, the response of government officials oriented toward group claims, heightens the inequality, and the ability to hold

government accountable varies with these same inequalities. In addition, to the extent that groups preempt official recognition, those not yet articulated may experience resistance and discouragement. All these alleged tendencies within the politics of pluralism become further reinforced, it is claimed, by the conservative role of ideology which creates the sorts of spurious consensus outlined by Marcuse. The upshot of this total situation, or so many have alleged, is that behind the facade of formal majority rule requirements, a minority made up of predominantly middle and upper class business groups, prevails.

Scrutiny of the internal affairs of groups according to this argument, lays bare an even bleaker picture. The sheer size of many large groups and the organizational tendencies towards oligarchy described by Michels have combined to produce leaders who do not reasonably represent the positions of the led. Apathy and lack of internal democracy have deterred widescale participation, and accountability processes too often function poorly, if at all. Criticism of the leadership is frequently stifled and leadership replacement procedures discourage all but the most determined opponents. Even where opposition occurs and where internal procedures conform to an ideal majority rule model, the best that can result is a leadership representative of the majority. The minority or minorities

within the organization have no officially recognized spokesman, and their voices are unheard outside the group's confines. When groups marked by these characteristics work actively on behalf of this or that policy, therefore, they do so in the name of a mass membership that may or may not actually support the positions taken. The majoritarian character of their stance appears doubtful.

Further, each pressure group, Dahl claims,[59] tends to be the dominant force within the specific subject-area of its concern. Other groups and the general public apparently accept their dominance, the former in exchange for a like free hand for themselves, and the latter presumably because they regard these groups as the experts in the field. Minorities rule, says Dahl, and majorities not only don't tyrannize, they do not even arise or play a role in public policy formation. On matters of broad concern, those involving more than one group, the leaders bargain with each other and sometimes form coaltions. Neither the bargains nor the coalition partners chosen can be much influenced by the mass membership the "elites" allegedly represent. The leaders speak for the group and their voices are unchallengeable -- and irresponsible.

In addition, so the argument continues, many questions of public import are decided within the various interest groups themselves either because certain subjects have been left to private jurisdiction (plant location by

corporations is a favoriate example of anti-pluralists) or because power has been delegated to these organizations by the government (e.g., the licensing of professionals by their own professional associations). Crucial aspects of "rule" thus take place outside the arenas where majoritarianism supposedly occurs.

Where the general public does appear to act, to elect officials or to register some popular opinions, its pronouncements lack majoritarian legitimacy because non-voting and non-participation are so widespread. Just as mass interest groups create an illusion of representation of all or most, so elections suggest majority rule but actually record the will of a minority or minorities -- again, the educated middle and upper classes whose pre-occupations dominate the agenda and persuade others that the political game is not worth their time or attention.

In sum, the nature and role of organized interest groups generates an elite coterie of leaders who, behind the facade of elections and representative institutions, actually wield the real power in so-called democratic societies. Majority rule masks minority rule.

The general position outlined above has won many adherents in the last decade or so. Undoubtedly it is an analysis which highlights difficulties in majority rule systems and suggests areas of malpractice. It shows compassion for the least able in society, it reduces the

stature of many prominent policy makers, and it encapsules an explanation of why such problems as poverty and prejudice have been so persistent in affluent, literate nations.

Although successful rhetorically and perhaps successful in capturing the imagination of the young, neither the pluralist nor the anti-pluralist argument proves altogether satisfactory upon careful analysis. Perhaps it will suffice for purposes of this study to point to a few major weaknesses in the positions, and thus to suggest that the persuasiveness of this attack as it applies to majority rule is not quite as overwhelming as so much current literature seems to imply.

Concerned to elucidate a general point of view, neither group theorists nor the anti-pluralists have produced verifying empirical studies.[60] Their data from existing materials leave open the possibility of too many counter examples for comfort. If the chorus of organizations "sings with a strong upper class accent,"[61] what do we make of the power of labor unions or, to take an often overlooked example of an influential group made up of lower status people, the American Legion? If tenants are all that difficult to organize, how do we account for the effectiveness of so many rent strikes or, to take an interest that embodies almost all the characteristics of unorganizability, the recent political success of women's groups? If Michels is right and organization itself

means oligarchy why are some groups run so much more democratically than others -- e.g., the printing unions as opposed to the teamsters?[62] If each interest runs its own bailiwick, how do we explain the competition in New York City educational affairs between unions and parent groups, or in agriculture between the Grange and the Farm Bureau and the National Farmers Union? If leaders regularly and necessarily operate without checks on their behavior, what produces strike votes that repudiate the leader's agreements, or referenda among psychiatrists on the status of homosexuality as a disease?

In strict logic a single exception disproves the rule. This may not hold in politics where an abundance of illustrations may seem sufficiently persuasive. Yet, whenever there are deviant cases some modification of the predictive rule by the inclusion of additional variables seems in order.

A prevalence of counter examples leads or ought to lead to a search for alternate possible explanations of group functioning. Does the freedom to dissent and form a rival group make the monolithically irresponsible nature of groups more apparent than real? Does the possibility of leadership fights guide behavior even in non-contested elections? Are those allegedly difficult to form into coherent conglomerates really impossible to organize or is their coherence a function of circumstances (why

a powerful Townsend movement of the aged in the 1930's and no such equally prominent association of the elderly today?) The empirical picture of important inequalities in group politics needs retouching; in its present form it leaves too many questions too open.

A second possible weakness in the whole group approach arises from the short shrift it (the critics as well as Bentley and his followers) gives to the place of political parties.[63] In Dahl's study of New Haven, parties appear only as another interest group, one that specialized in making nominations for office. The role of parties in cutting across all other affiliations recedes from view. The significance of party efforts to form coalitions or create consensus goes unrecognized. The part played by parties in government never appears onstage. The uniqueness of political parties and their often alleged indispensableness in democracies ought not to be dismissed without more thought and more evidence.[64]

A third possible defect in the positions of both pluralists and their critics is that both tend to minimize the importance of governmental power and to overstate the scope of private power. The fact that governments set the rules within which groups, including corporations, operate ought not to be too quickly dismissed. The impossiblity of explaining decisions about, say, American policy in Viet Nam solely in terms of interest group conflicts

cannot be passed over. The theory that majority opinion does not exist or does so only in the form of a mysteriously generated underlying consensus needs further exploration: to conclude that there is no public interest seems premature.[65] If the majorities which select governments or make policies within governments have little important work to do, if the things that matter are decided outside of government, or, if within government, only as a reflection of the decisions already reached by external interests, if government has ceased to matter (or never did matter all that much) then majority power is indeed an empty shell and a defense of majoritarianism simply misses the crucial points about power. But the case for this position does not yet seem to be solidly built.

Partly, the sort of reasoning found above stems from an apparent conviction on the part of many disciples in both pluralist and anti-pluralist camps that economic arrangements are always antecedent to political organization, that political systems do little more than reflect the more fundamental economic relationships in a society. The opposing view, that politics gives shape to society, and production and distribution mechanisms conform to the possibilities provided for them, is seldom explored in contemporary literature on government.[66] Few seem to feel the need to meet this contention. Yet the classical

writers certainly believed that politics, not economics, is the archetectonic science and at least some modern thinkers not under the spell of Marxism continue to promulgate that view.[67] The question of the relationship between politics and economics ranges too far afield to be handled here, but just to raise the problem suggests a sizeable segment of the anti-pluralist argument that remains in an unsatisfactory state.

A similar dispute about the relative importance of formal and informal mechanisms in society accounts for another aspect of the tendency to discount government. Majority rule is a formal rule. It is important only insofar as formal rules and institutions have significance. If structure and procedure do not count in politics, majority rule certainly doesn't count and, like all procedures and institutions and constitutions, serves only to hide the true reality below the surface. Again the basic contention leads too far afield to be discussed here, but again also, to raise the dispute is to point to another element in the above critique that cannot be accepted as closed and clearly decided.

Neither those who defend a group analysis of politics nor those who attack the adequacy of a politics so understood have come to grips with a number of major questions. Illusion and reality, for the moment, remain confused. The influence of the mask is as marked as the influence of the

subsurface it covers. Nothing conclusive has yet been said about their interplay.

VI

Nonutilitarian Majorities

Whatever moral difficulties majority domination may pose, surely, it would seem, majoritarianism at least satisfies the majority. Surprisingly, that assumption, too, has met with challenge. The majority decision rule, it has been claimed, fails to provide majorities with all they could or should get. Further, the costs of majority rule in terms of long range goals and other important (perhaps non-political) values runs high. These attacks represent new and novel development in the literature about majority rule.

Suspicions about the effectiveness of the majority decision rule in fulfilling majority demands stem, in part, from a consideration of the intensity of preferences.[69] "One characteristic which our preferences have is that of strength or intensity," says Hardy Lee Wieting, Jr. This means that "one individual's preference can vary in intensity" (he prefers A and B but feels more strongly about A than B) and/or that "two individuals' preferences can differ in intensity" (both people prefer A and B but one feels strongly only about A and the other only about B).[70] This factor creates a fear that small gains

to some will produce majorities for proposals that involve large losses for others. Such an outcome, it is contended, endangers the stability of society and the majority would then, inefficiently, have voted itself into a predicament. "Society as a whole is worse off." Even if it wouldn't be, it would seem desirable to try to take different strengths of preference into account in the voting procedure for our society. . . for moral reasons."[71] Unfairness comes about because if we summed the amount of satisfaction achieved rather than the number of votes for or against, the result would be different. Those who criticize majority rule for failing to count intensity argue, in effect, that the strength of a preference is too important a part of the preference to be ignored or, at least, that there is no justification for ignoring this aspect of preferences.

Preferences, however, have other dimensions besides intensity. Some choices appear rational or wise, others as irrational or foolish; some altruistic, others self-serving; some feasible or Utopian, tough or sentimental, expensive or cheap. Why, after all, should we pick out one aspect of preferences, the intensity with which they are held, and attempt to reward that feature alone? Does intensity have any special claims? If it does, no one has clearly explicated them and they do not spring readily to mind.

Nevertheless, if intensities should prove special and in need of a special consideration in decision making not granted to any other factors, then it can clearly be argued that, in theory, majority rule can result in a situation in which society ends up with more units of dissatisfaction than satisfaction. Hence, a decision rule that does not measure intensities might lack utility for majorities (conceived as entities possessing the non-measured characteristics). Technically, no one can quarrel with the conclusion. To defend majoritarianism against such an attack requires, instead, either a refutation of the relevance of intensity, or an explication of how (insofar as it is relevant) the majority decision rule copes with it. The problems of considering preference intensities has been explored above.[72] On the basis of that examination it seems safe to conclude that the claim to special treatment made on behalf of intensely held convictions cannot be justified. Nor can it be squared easily with commitment to equality, for inclusion of an intensity dimension dilutes the worth of some votes and supplements the weight of others. The majority decision rule, on the other hand, encourages estimations of intensity preferences, in order to obtain cooperation and does so without endangering political equality.

The charge that majorities produce a non-utilitarian result, sometimes arises from consideration of aggregation

techniques. The various methods of counting votes, it has been suggested, like the alleged failure to measure intensity, do not maximize the amount of satisfaction extant among the citizenry. This can happen in a variety of ways.

The rules may permit final choice among more than two candidates or issues and, therefore, a plurality may be sufficient to win. Pluralities, it has been claimed, do not have the same properties as majorities and cannot be justified on majoritarian grounds.[73] But a possible way to explain pluralities within a majority rule framework has been suggested above,[74] where it was argued that they can substitute for majorities if they are considered part of the process of deliberation that always attends majority decisions. At worst, plurality elections shift legitimacy questions from the decision making to the nominating processes so that the justice of their acceptance hinges on the fairness of nomination procedures.

Aggregation techniques produce other questionable results from the point of view of maximizing majority satisfaction. In single member districts in a winner take all system, for example, the distribution of preferences may skew the results in an unrepresentative way.[75] In some cases the vote may divide 50/50 which leads to the absence of a decision and the persistence of the status quo, a non-neutral result perhaps desired by no one or by

less than a majority.[76] Or, intriguingly, rules for voting may permit the emergence of the voter's paradox, a sequence of choices in which the majority logically contradicts itself.[77]

Some who assault majority determination have proposed alternate decision rules which, they claim, would better suit a society desiring to maximize satisfaction. Buchanon and Tullock suggest log-rolling, a system of vote trading whose flexibility allows for expression of preference intensities and avoids difficulties of intransitivity. But trading as we have already seen, has its own problems.[78] It can increase relative well being, but, confronted with an inequality of trading materials, can do little about absolute improvements. Or, trades can force violations of intensity preferences in certain situations (e.g., where trading possibilities and partners are severely restricted) and then, too, some people object to trading per se.[79]

When Kenneth Arrow, explored conceivable theoretical alternatives to decisions by majority vote, he discovered that all social decision-procedures include illogical possibilities and, therefore, no constant social ordering can produce "collective rationality."[80] Does politics really entail irrationality or does some other explanation lurk behind Arrow's discovery?

One possible explanation of collective irrationality may revolve around the fact that all alleged aggregation problems depend upon a particular understanding of what a vote measures, and all the proposed readings of what voting is about suffer from a similar defect. They posit an individual decision maker, with discrete preferences, unaffected by his social setting. But voting was not invented to enable hermits to express themselves. Hermits, in fact, have often been excluded from voting rolls. Their votes do not have the same meaning as the votes of social creatures. The hermit can tell only what he desires. Social man, with his vote, describes not only what substantive preference he has, but also his willingness to participate in a joint enterprise with others, his valuation of reaching a common course of action, his estimates of what others want and, therefore, calculations of the strategy necessary to produce an outcome compatible with mutual agreement and with action, as well as with substantive desires.[81]

A social decision has properties radically different from those of individual decisions. To conceive of social decisions as a problem in the aggregation of individual decisions is to make a serious error. Politics only partly concerns individual preferences. It also concerns commitments to group life, to group welfare, and to discussion among group members. Ignoring those commitments, those

aspects of the meaning of voting, leads to paradoxes and disutilities advanced by critics of majoritarian efficiency. A polity which allows plurality situations to develop must be understood to be making a strategic decision; it could avoid pluralities if it wanted to. A society which permits voting in pairs so as to produce the voter's paradox must be understood as a group which has canvassed the possibilities in discussion and has decided to risk the paradoxical eventuality. Every child who has played games knows the dangers of stalemates and knows that if the rules of the game allow for it to happen, then choices during the game must be made, in part, on the basis of a desire to avoid (or induce) stalemate. Even the intensity problem arises because of the unstated assumption that voters do not converse with one another and have no way of encompassing intensity differences. In actuality, of course, most votes express, in part, an estimation of intensity differences and a decision about how to treat them. In short, those who have misgivings about majority rule because of its inability always to maximize satisfaction, have usually misunderstood the nature of satisfaction in group life. They have not distinguished the welfare of the hermit and the welfare of the group member. Worse, they have treated group members as if they were hermits. A radical misinterpretation of the nature of man lies beneath their criticism.

All that a justification of majoritarianism can demand of aggregation techniques is that the method of

counting employed not distort the results more than alternative methods. All methods will distort somewhat because perfect congruence between the individual qua individual and qua community member does not exist and his vote expresses both aspects of his being. But none of the more usual methods of addition are purely irrational (as some have supposed) and none stands out clearly as more accurate than others.

Criticism of majority determination in the name of the needs of the majority itself occasionally rises from an entirely different perspective. The view is ubiquitous. It can be found in anarchist writings on mutuality[82] and in the lives and lines of Christian humanists.[83] (Christ's Sermon on the Mount is its inspiration.) It resides in the unity of Rousseau's community. In comtemporary times it forms an integral part of the attachment to non-violence as a way of life. Emphasis falls on matters of spirit rather than on details of practice. The idea goes something like this:

In the ideal (attainable) life of man on earth, a sense of friendship and brotherhood pervades relationships. Mutual need involves people in communal projects where all recognize that enlightened self-interest requires the practice of giving to others. Private property is abolished; everything is shared, and there is sufficiency, if not abundance. Charity permeates all intercourse.

Human fellowship of this sort means recognition of each man's dignity and thus each man's freedom. No one, in a true community, would ever dream of coercing anyone else. Every approach to another must allow for his refusal to go along and entail respect for such refusal. Mere imposition, on this showing, can never contribute to the ultimate good.

Agreement does not exist about how to achieve this vision of community, but there is a shared conviction among many who believe in it or strive for it that, enroute, violations of the key virtues of Utopia must not occur.[84] Violence cannot teach the love of peace. Coercion cannot produce either free subjects or truly charitable teachers. The spirit of the ideal must be used to liberate the justice current laws stifle, the goodness that modern legalism and institutions imprison.

To those who believe that "the true prince is the ruler whose piety leads him to govern through charity,"[85] the majority is no true sovereign. The majority decision rule is an obstacle. It allegedly forces adherence without obtaining conviction (although note, in this connection, the different evaluation by Ernest Barker); it violates freedom by the use of force; it disrupts the sense of community by encouraging the achievement of competitive advantage; it destroys unity by facilitating division. Majority rule belongs to a combat theory of politics.

It is a kind of contest between opposing forces, and the outcome is a victory for one side and a defeat for the other. On the road to the good society, therefore, it is an inappropriate technique which ought to be supplanted by such other methods of conflict resolution as the Quaker "sense of the meeting" or the Gandhian practice of Satyagraha. Whatever their weaknesses, these alternate methods creatively involve participants in constructive engagements with others; they involve genuine communication and the opening of possibilities for all concerned.

As in all religions, the essential demand in this criticism of majority determination asks of the skeptic precisely what he cannot give -- faith. Without faith in the possibility of universal friendship the non-believers cannot treat everyone as a friend. He sometimes feels hard pressed to co-exists with his own family; he strains to maintain civility with his neighbor, and vis-a-vis Hitler he loses all charity and compassion and desire to "get under the weight" of his adversary's doubts. The failure of even Quakers to respect the "inner light" of all -- i.e., the expulsions of dissenters from their communities -- dominates his view. Between the faithful and the agnostic lies an uncrossable chasm. A mutual politics is barred except, perhaps, insofar as toleration motivates either or both sides. The majority decision rule on one side of the abyss promotes certain obtainable goods

in a world doomed to perpetual injustice, disunity and clashing wills. On the other side, majority rule contributes to that corruption of the spirit which prevents realization of a world of harmony, perfect justice, and fellowship. Opposing eschatologies yield opposing evaluations. The condemnation of majority rule as a non-utilitarian means for the achievement of man's end rests on a view of that end which reason alone cannot persuade all to accept. One must either take the leap of faith or reject the criticism.

The attacks on majority rule surveyed here fall into two broad categories. In one, the decision rule allegedly places too much power in the hands of a ruling majority thereby raising the obvious question of how that power may be controlled. Some argue for restraints on the scope of rule, the bridling to come from logical, consensual, or constitutional limitations. Others look to institutional rearrangements within the polity, the encouragement of non-governmental social forces, or the restructuring of the economic order. In the second approach the actuality of majority predominance is denied; in reality, it is agreed, either an elite minority rules, or the methods employed in computing voting decisions are so irrational as to fail to reflect what the majority really wants.

Both arguments contain insightful criticisms of majority rule, but neither is altogether convincing. In certain crucial respects they misunderstand both the nature of majorities and the nature of rule, as well as contingent concepts such as representation. Similar weaknesses, as pointed out in the previous chapter, plague the defense of majority rule. The traditional grounds of justification tend to misread and over generalize both the composition of majorities and the idea of rule. Whether the majority ought to rule is a question that deserves a better answer than any of those that have customarily been given. But can such a superior response be constructed?

FOOTNOTES -- Chapter IX

1. See especially David Spitz, Patterns of Anti-Democratic Thought, rev. ed. (New York: The Free Press, 1965).

2. See Chapter V above for a fuller discussion of McClosky's position and the general problem of limited sovereignty.

3. Friedrich is quoted in Berg, op. cit., p. 61, and Laski on p. 12.

4. Cf. David Spitz, "Freedom and Individuality: Mill's Liberty in Retrospect," in Liberty, Nomos IV, ed. C.J. Friedrich (New York: Atherton Press, 1962).

5. John Rawls, A Theory of Justice (Cambridge, Mass: Harvard University Press, 1971), pp. 388-390.

6. Carl Friedrich, Constitutional Government and Democracy (rev. ed., Boston: Atheneum Press, 1950). See also J. Roland Pennock, "Responsiveness, Responsibility, and Majority Rule," American Political Science Review, XLVI (1952), 807.

7. Henry Steele Commager, Majority Rule and Minority Rights (New York: Oxford University Press, 1943).

8. Max Lerner, It Is Later Than You Think (New York: Viking Press, 1943.

9. Edward Mims, Jr., The Majority of the People (New York: Modern Age Books, 1941).

10. Neal Riemer, "The Case for Bare Majority Rule," Ethics, LXII (1951), 16-32.

11. See above, Chapter V.

12. In India today a constitution ostensibly democratic and majoritarian has been subverted by Mrs. Gandhi for despotic purposes precisely by legal manipulation of these weaknesses: her majority has passed a constitutional amendment giving the President the right to make future amendments at will; the courts have been stripped of their independent power to interpret and rule on the legitimacy of certain denials of rights; and constitutional Emergency Power, especially

of arrest without habeas corpus, is enforced capriciously so as to maximize terror.

13. Alexis de Tocqueville, Democracy in America, Reeve text, rev. Bowen and ed. Bradley (New York: Vintage Books, 1954). My concern here and in the entire discussion of majority tyranny is only with specific arguments that happen to have been stated most effectively by particular theorists, e.g., Marcuse and Tocqueville: there is no attempt to characterize their total political philosophies.

14. Ibid., I, 273.

15. Ibid., p. 264.

16. Ibid., pp. 265-266.

17. Cf. C.K. Allen, Democracy and the Individual (London: Oxford University Press, 1943) p. 47: "To think with the majority is the line of least resistance, and to dissent from it requires not only independence of mind, but courage, above the average."

18. John Stuart Mill, "Tocqueville on Democracy in America (Volume I)" in Essays on Politics and Culture, ed. G. Himmelfarb (Garden City, New York: Doubleday & Co., 1962), pp. 187-229.

19. James Bryce, The American Commonwealth, ed. Louis M. Hacker (New York: G.P. Putnam's Sons; Capricorn Books, 1959), II, Chapter 7.

20. Tocqueville, op. cit., II, 12.

21. Ibid., p. 13.

22. Ibid., pp. 335-337.

23. Ibid., pp. 346-350.

24. See especially Herbert Marcuse, One-Dimensional Man (Boston: Beacon Press, 1968).

25. For a discussion of the way Marcuse builds on Freud see David Kettler, "Herbert Marcuse: Alienation and Negativity," in Contemporary Political Philosophers, Anthony de Crespigny and Kenneth Minoque, eds. (New York: Dodd, Mead and Company, 1975), especially pp. 13-18.

26. Tocqueville, op. cit., II, 334.

27. Marcuse, op. cit., p. 256.

28. Herbert Marcuse, "Repressive Tolerance," in A Critique of Pure Tolerance (Boston: Beacon Press, 1969), p. 82.

29. Kettler, op. cit., p. 36.

30. Marcuse, One-Dimensional Man, Introduction, especially p. xvii and Tocqueville, op. cit., p. 276.

31. Melvin Richter, "Despotism", Dictionary of the History of Ideas, (New York: Charles Scribner's Sons, 1973), II, 1.

32. No one better illustrates the danger of leaving one's touchstone in nebulous form than Marcuse himself. What he is willing to support in the name of authentic freedom reaches Orwellian proportions as revealed in the following excerpt from the account of one of his sympathetic students: "Soviet political life, as Marcuse described it (Soviet Marxism) is marked by political despotism in its most direct sense, by moral preachings which almost parody the repressive, morality of Western civilization, but also by the elimination of private property. Marcuse seems to conclude that the underlying spirit of communism as liberating alternative is nevertheless somehow there, manifested above all in the failure of the people to internalize the repressive norms (as witnessed by the reliance on violent techniques of rule and blatant interminable propagandizing); that there remains the live possibility that the people will rise against their ruling institutions, once these institutions have performed their historically necessary task of building production beyond the constraints of scarcity; and that since the internal masters are not in command, such an attack on external governors would yield liberation.... His position does... imply a preference for the Soviets in a struggle with the Americans because their gains would be less likely to secure despotism in its most important sense." Kettler, op. cit., pp. 22-23.

33. Hans Kelson, General Theory of Law and State, trans. Anders Wedberg (Cambridge: Harvard University Press, 1949).

34. Marcuse, One-Dimensional Man, pp. 40-41.

35. For the claim that exclusion of the proletariat from the elite also puts Marcuse beyond the pale of Marxist theory, see Paul Mattick, Critique of Marcuse (New York: Herder and Herder, 1972).

36. For a thorough discussion of the issues raised by this theory of human nature, see David Spitz, "The Higher Reaches of the Lower Orders," Dissent, Spring,1973, pp. 243-269.

37. Cf. Elisio Vivas, Contra Marcuse (New York: Dell Publishing Company, 1971), p. 111: "I am not interested in what man can become in the future if... my future involves the denial of my humanity at this moment in this place. But that is what placing man's essence in the future entails. . . ."

38. A more complete discussion of majority generation appears above, Chapter III.

39. Cf. the quotation from G.D. Ruggiero, The History of European Liberalism (London: 1927) p. 283, cited in F.A. Hermens, "The Tyranny of the Majority," Social Research, Spring 1957, pp. 51-52: "Thus, because... disagreement between the people and the people is generated not by disparity of hereditary interests, but by disparity of changing opinions,... no one so completely belongs to one party that he might not often pass over to the opposite...."

40. The argument and the quotations of this paragraph are from Madison, The Federalist, No. 10, pp. 53-58.

41. James Madison, The Writings of James Madison, Gaillard Hunt, ed. (New York: G.P. Putnam's Sons, 1910). For a contrary interpretation of Madison's ideas see J. Allen Smith, The Spirit of American Government (New York: MacMillan, 1915), which is apparently based on selected remarks made at the Philadelphia Convention. The full evidence, however, suggests that pluralism for Madison meant not only rich and poor, but more concretely (and more often refered to) divisions of interest within all classes: debtors vs. lenders, landholders vs. manufacturers, importers vs. exporters, dry regions vs. river valleys, consumers vs. growers, etc...

42. Madison, op. cit., p. 523.

43. Ibid., p. 528.

44. Ibid., p. 526.

45. Ibid., p. 528.

46. Riemer, op. cit., especially p. 27 and pp. 20-21.

47. Cf. Pennock, "Responsiveness..." op. cit.

48. These questions are discussed in the already cited works of Commager, Eliot, Friedrich, Lerner, McIlwain, Mims, and J.A. Smith.

49. See above, Chapter I for further discussion of these ideas.

50. Another extended discussion of the Gans' thesis appears above Chapter II.

51. Herbert Gans, More Equality (New York: Pantheon Books, 1968), p. 138.

52. Ibid., especially pp. 135-136.

53. See the title of his New York Times Magazine article: "We Won't End The Urban Crisis Until We End Majority Rule."

54. T.V. Smith and Edward C. Lindeman, The Democratic Way of Life (New York: New American Library, 1951), p. 12.

55. Arthur F. Bentley, The Process of Government (Bloomington, Indiana: The Principia Press, Inc., 1949, 1st printed 1908), p. 176.

56. David Truman, The Governmental Process (New York: Alfred Knopf, 1951), p. 21.

57. For an analysis of some basic contentions see Samuel Krislov's "What Is An Interest? The Rival Answers of Bentley, Pound, and MacIver," Western Political Quarterly, XVI (1963), 830-843.

58. Most of the anti-pluralist ideas adumbrated below can be found in such works as William Connolly, The Bias of Pluralism (New York: Atherton Press, 1969), Henry Kariel, The Decline of American Pluralism (Stanford, California: Stanford University Press, 1961), and Robert Paul Wolff, The Poverty of Liberalism (Boston: Beacon Press, 1968).

59. A fuller discussion of Dahl's political views can be found above, Chapter III.

60. There are, of course, studies of regulatory agencies, or price fixing within an industry, or the passage of a particular bill in Congress. But, as Kenneth Prewitt and Alan Stone have pointed out there is a difficulty in generalizing about all or even a major part of the American political process on the basis of empirical research: "The number of specific policy decisions made in America each day is enormous.... The methods of decision-making may vary.... may change with time or with each new administration." The justification for broad interpretations based on the city of New Haven (Dahl) or a single piece of legislation (Latham), or even a handful of examples (Truman) cannot be sustained. The Ruling Elites (New York: Harper and Row, 1973), p. 120.

61. Schattschneider, op. cit., p. 35.

62. See the discussion of this point in Seymour Martin Lipset, Martin Trow, and James Coleman, Union Democracy (Glencoe, Illinois: The Free Press, 1956). Note especially the methodological problem summarized on p. 418.

63. R.M. MacIver, "Interests and Social Pressures," in his Politics and Society, ed. David Spitz (New York: Atherton Press, 1969), p. 269.

64. See above, Chapter III.

65. As in Dahl, op. cit., Preface.

66. Harold J. Laski, for example, wrote that democracy is "...a facade behind which the great corporations prepare a social order...", Trade Unions in the New Society, quoted in Herbert Deane, The Political Ideas of Harold Laski (New York: Columbia University Press, 1955), p. 295.

67. See, for example, Joseph Cropsey, "On the Relation of Political Science and Economics", American Political Science Review, March 1960, 3-14. See also Avery Leiserson on the importance of formal, political institutions, "The Place of Political Parties in the Study of Politics," Munger and Price, eds., op. cit., p. 17.

68. An examination of current textbooks in American Government highlights the controversy. Some deal prominantly with public opinion, interest groups, issues, issue outcomes with only scant space devoted to government structures and procedures, while others focus on the Constitution, Congress, The Presidency, and the Courts and give only minor attention to "inputs" and "outputs."

69. See the cited works of Berg, Dahl, Pennock, Ward, and Wieting.

70. Wieting, op. cit., p. 87.

71. Ibid.

72. See Chapter I.

73. E.g., A gets 20% of the vote, B, 45%, and C, 35%. B wins even if all those who voted for C would have preferred A to B.

74. See Chapter I.

75. E.g., a division into three districts of equal size in which the vote goes 95 for Party A to 5 for Party B in one district and 51 for Party B to 49 for Party A in the other two. Party B wins two representatives to Party A's one, although more voters voted for Party A than for Party B.

76. See Chapter I.

77. Ibid.

78. Ibid.

79. Wieting, op. cit.

80. Arrow, op. cit.

81. Robin Farquaharson, Theory of Voting (New Haven: Yale University Press, 1969), attempts to correct Arrow along some but not all of these lines.

82. E.g., Peter Kropotkin, Mutual Aid (New York: Doubleday, Page and Co., 1909).

83. E.g., More and Erasmus. See Martin Fleisher, Radical Reform and Political Persuasion in the Life and Writings of Thomas More (Geneva: Librairie Droz, 1973).

84. Joan Bondurant, Conquest of Violence (Berkeley: University of California Press, 1965), especially Chapter VI.

85. Fleisher, op. cit., p. 117.

Chapter X

EVALUATIONS

Often, in political analysis, the utility of a study turns not on new answers to perennial questions, but on revision of the questions themselves. This may well be the case with majoritarianism, for surely it must now be apparent that to ask Should The Majority Rule? is to pose a misleading problem. That formulation of the question disguises the actual complexity of majority rule. The Majority appears to refer to some immutable fixed object, while in reality majorities are shifting alliances whose configurations depend upon suffrage laws, constituency lines, social forces, and the particular unifying efforts of political brokers. Rule in the traditional query appears to mean command, whereas closer analysis reveals that rule involves a variety of crucial activities prior to the issuing of an order; even a final choice needs to be understood less narrowly than in the Austinian view of sovereign power. To evaluate majority rule properly, therefore, necessitates judgments about an intricate network of phenomena. A fair consideration of each and every part of the majority rule labyrinth, however, would require a new treatise. Thus, instead of striving for comprehensiveness, it may be more useful to pick up a few themes of some interest

and to comment on controversies about majority domination in light of them.

I

The Social Context

The social texture of a majority too often has escaped notice. Frequently, citizens emerge from the literature as discrete individuals and majorities as arbitrary congeries. According to conventional wisdom, amassing a majority simply requires announcing a contest of wills and adding up individual preferences. In this perspective, each person exerts his will against all the others and, if fifty percent plus one of the discordant opinions light on the same object or end, that random collectivity, labeled a majority, prevails. Everyone acquiesces to this chance group, perhaps out of fear of might, or belief that the winners somehow constitute a worthy elite. Occasionally, minorities rebel, asserting the rectitude of their cause, denouncing the injustice of their opponents, or claiming the equal right of their desires to be satisfied. These minorities always seem thoughtful and spirited. In contrast, the winners look like conformists, those so pliable that they succumb to the dictates of the general culture and reflect all its biases. Undeservingly strong, they crush justice and all else in their path.

Methodological individualism here yields a familiar but distorted image. Winners and losers, after all, belong to a single group, one in which they voluntarily (in some senses) participate in order to fulfill joint purposes. Their decision rule merely reflects a wish to settle conflicts peaceably so that they can act as a unit without disruption. Disputes are not altercations between enemies, but family squabbles demanding resolution for the sake of the continued productivity of family life.

Division among this group of related people comes about as the result of a process. It is not an event. It occurs after protracted discussion. It involves diverse interests as well as diverse desires. It embraces efforts to explain attitudes and to influence the thought of others. It comprehends myriad agreements and understandings among sub-units. It reflects, at the moment of decisive choices, a response to the group. The goal sought is social accommodation. The simple sorts of probabilistic reasoning cannot predict the outcome because individual views are changed by the course of discussion.[1] Nothing is summed; something is created. The newborn agreement lives, however, but for a short finite moment; the underlying process that generated a decision continues, surfacing periodically as a fresh choice.

In contrast to the individualistic portrait of majorities, the above description eliminates both rebels and conformists. Everyone pursues the same object -- justice. No one's voice is either arbitrary or solo, but part of a more or less rational conversation. Consciousness of the process may be objectively false, but it is the only consciousness people have with which to work. The range of the discourse is not unlimited: it cannot go beyond the purposes of the group, although the line of legitimate demarcation will recede and advance with the possibilities for winning consent and cooperation. Since the value of operating as a social unit is always questionable, current conditions are always important. The grounds for refusal to go along are constricted: either one dislikes the extant sense of justice and opts out of the group, or one claims joint action not worth the trouble. The correctness of the decision cannot provide a basis for disobedience because one's judgment is not at issue, only one's actions and they are pledged to maintenance of the community. Nor can there be any question of individual rights -- rights are claims against the group either recognized by the operative sense of justice or else submitted to social decision along with all other conflicts.

Thus, in terms of purpose, structure, and mode of procedure, majority decision making is distinctively a

group activity. It furthers social not singular ends; it functions primarily through an interplay of sub-groups rather than through individual interactions; and it operates via group discussion not solitary contemplation.

II

Majority Generation

If the above description is accurate, then majorities are not natural but conventional phenomena. Usually, they come into being through deliberate contrivance, not statistical accident. Organizing majority sized coalitions requires special effort. It is work that can be done well or badly. Some coalitions will be more stable than others. One majority may incorporate multiple interests and another a narrow range of concerns. Moderation may characterize a particular majority while extreme tyranny marks a different majority. The quality of any specific aggregation depends on who has garnered which social (and individual) units. Whatever its composition, the majority of today will surely not last, for, by nature, majorities tend to be shifting amalgamations. Impermanent membership results partly from diverse human conditions, and partly from free competition among would-be coordinators. Changes occur from decision to decision, and at different levels of government.

Only in extraordinary circumstances would the same people always recur in each minority and fail to have all their important preferences enacted. The responsibility for preventing abnormal configurations as well as for arranging workable and morally decent conglomerates has belonged in western democracies to political parties. Whether they perform their dynamic role in an adequate way deserves more careful attention than it has received so far.

III

Sovereignty

Many who might accept majorities conceived as loose confederations imposing upon each other in some ways but not all ways nevertheless strongly resist the notion that those majorities, no matter how understood, can or should wield sovereign power. A great deal of effort has gone into denying the existence of sovereignty or the people's right to have absolute sway. This effort may have been largely wasted. Modern states involve ultimate power lodged somewhere, and necessitate a recognized decision maker who has the last say whenever conflict is not otherwise resolved or crisis avoided. It is useless to disavow at least the possibility that such power exists, and it is counterproductive to repudiate the right of the people to rule in this sense: if the facts of modern political life call for sovereign

power, no one has a better claim to it than the majority. And, indeed, in majority rule systems, as we have seen, no obstacles to a determined majority can last for long. Railing against sovereignty merely deflects attention from prudential courses to which acceptance might lead. The energy consumed in attempting to refute (or defend) absolute majorities might better be spent in trying to explore methods of tempering majority power and coaxing it into just directions. Those who fear absolutism should take cheer from Tocqueville's estimate of the general mildness of democratic despotism. Then, perhaps, they can concentrate on building up those forces that encourage majority moderation rather than on destroying or shackling a majority's right to rule.

Acceptance of majority sovereignty should be easier once it is recognized that "having the last say" is not all there is to ruling. Minorities, forced to submit to the final choice made at the end of a decision making sequence, nevertheless have been very much a part of the earlier stages of rule making. In the participatory or consultative aspects of ruling only minorities are engaged initially; majorities have to be generated out of material set in motion by smaller sized groups. The literature on ruling has conspicuously failed to distinguish different stages of deciding policy. Yet the

appropriate role of preponderant numbers varies within the order of events that runs from making a suggestion to enacting a specific rule. Majority monopoly of the ultimate power to issue an order can be defended, while majority monopoly of the right to frame questions for the public agenda cannot. The justice of majoritarianism (including its absolutist form) depends upon where in the complex process of rule it is employed.[2]

Breaking apart the concept of rule reveals the crucial place of discussion. Exchange is extensive in a number of senses. It goes on between diverse groups, between groups and government, and within the ruling regime. It occurs at various levels of policy making and in a variety of forms; e.g., school board meetings, county zoning board hearings, state wide referendums, lobbying efforts in Washington, appeals to administrators, and court cases. It is carried on in newspapers and magazines of every description, as well as on radio and television. It becomes focused when a candidate for public office claims to best represent what people want and asks for support. Minorities are conspicuously present in all these activities and interchange among them leads to considerable shuffling of ideas and positions. Such discussion, however, demands some mutual familiarity and trust. It requires belief that the benefits of discussion and majority determination outweigh those of

of lotteries, or minority rule or inaction. It is not furthered by arbitrary constituency designs. Perhaps this explains why the notion of world-wide majorities is intuitively less appealing than that of municipal majorities.

IV

Applications

Understanding majorities with all the above emphases has consequences for both specific issues and general problems connected with the majority decision rule. Consider, for example, the influential one man, one vote decision of the United States Supreme Court. Chief Justice Earl Warren, in declaring total numbers the only relevant criterion of constituency formation, directed his attention to atomistic individuals and treated majorities as random accumulations. The inadequacy of that rendering of political life should now be apparent. Adding up discrete units flaunts the reality of community, of diverse interests, of the mediation of discussion. The ramifications of the court's error currently plague American society, and the Court has already had to face requests from the original plaintiff groups to add to mere numbers additional criteria of representation. The analysis of majorities in this study suggests what some of those criteria might be: common institutions (churches, schools, factories,)

shared media of communication, common turf, a shared range of experiences. The traditional popularity of geographic as opposed to numerical or corporate constituencies obviously deserves serious consideration of its merits.[3]

Some new light should also fall on the controversy over "permanent minorities." The inventor of that phrase must have had in mind set statistical entities, not the reality of shifting alliances cajoled into existence. Politically there aren't any minorities or majorities until an issue (or group of issues) galvanizes people into action, or, at least, someone convinces them that agreement on, at minimum, a particular candidate for office is worth their while. Different issues obviously arouse different interests and even single group interests are seldom monolithic. The likelihood of any substantial group constituting a minority on all questions, at all stages of decision making, and on all levels of government appears remote.

If something as improbable as a permanent or semi-permanent minority occurred, then as we have seen earlier, either one of two things would be likely to follow: charity would replace justice as the appropriate virtue, or else civil war would ensue. Responsibility for this state of affairs would rest squarely on political parties whose brokerage performance would be up for judgment.

The oversimplified command theory of rule contributes further to an overemphasis on majority versus minority conflict. The consensual framework and the purposes inseparable from sovereignty recede from view and authority looks indistinguishable from brute force. But, in actuality, policy formation goes on among a people bound together and related in a particular way. Acceptance of majority backed rules and the acceptance of unassailable rights equally depend upon the nature of the bond that a historically specific sovereignty symbolizes. Irreconcilable differences may be impossible between those involved in a sovereign state; they may arise only when the utility of submission to a common central authority no longer persists, or has not yet developed or been recognized. Conflict among sovereign partners may bear a more temporary and limited importance than has been imagined.[4]

Consider, for example, a situation where decisive decision occurs among competing opinions but where majority/minority terminology seems inappropriate. Envision a sandlot ballgame among a group of youngsters. It might erupt in an argument in which one could discern clear factions only one of which has its way. Yet, to describe the children involved as part of the majority or the minority sounds esoteric, even if technically correct. They were all too clearly equal participants in a common

endeavor to make a majority/minority designation plausible. Their division was momentary and, in terms of the overiding unanimous desire to play a game together, trivial. A description of their behavior in majority-minority terms would be recognized as a perhaps humorous overstatement of what happened. Although obviously more appropriate when applied to political divisions among adults, the majority versus minority rights analysis may remain an overstatement, often, if not always, a little out of place, especially when accompanied by such qualifiers as permanent or semi-permanent. Sometimes division is equivalent to a declaration of war, or a bid for anarchy, or a call to dissolve a sovereign relationship but, surely, not all divisions of opinion bear such a character. As Thomas Jefferson once urged his countrymen to remember: "...every difference of opinion is not a difference of principle." Usually it is subordinate in importance to the common endeavor of both sides.

V

Conclusion

As a process which stimulates exchange of information and encourages formulation of responsible opinion majority rule can probably be connected directly to political virtue. As a method of obtaining action and resolving

conflict in plural societies based on will (without breaking the constraints of political equality and popular sovereignty) the decision rule has much to recommend it. As a device capable of reducing exploitation by making despotism dependent upon the repeated, public, competitive corraling of assent from a large number of people, majoritarianism deserves commendation. If tyranny is inevitable in human affairs, at least under majority rule the number of slaves is smaller than the number of masters. All these points, however much they reveal the moral strength of majorities and their right to demand that others yield before them, nevertheless remain on too general a level. A sound ethical evaluation of majority rule, it should now be clear, requires distinctions; standards need to be applied to each particular aspect of the majority rule process.

Any future moral elucidation of majority rule should begin where this work leaves off. The fracture of the decision rule into its component parts, and the review of traditional justifications and attacks in light of that fragmentation provided in this study should prove to be the first steps in a reconstruction of majority rule as a paramount ethical principle.

FOOTNOTES -- Chapter X

1. Compare Rawls, op. cit., p. 359: ". . .the decision reached is not a compromise, a bargain struck between opposing parties trying to advance their ends. . .discussion must be conceived not as a contest between interests, but as an attempt to find the best policy as defined by the principles of justice."

2. Cf. Sir George Cornwall Lewis, who sees majority rule as part of the deliberative aspect of rule and claims that "In order to pass upon the ethics of a majority decision, the question must be raised and answered as to how the majority came to its decision." Quoted in John Gilbert Heinberg, "Theories of Majority Rule," American Political Science Review, June 1932, p. 469.

3. But various criteria for constituency formation are possible. In fact, maximizing the number and types of constituencies may be best. In this sense, federalism, decentralized local government, staggered elections, and bicameralism increase representation, and rather than impede rule by a majority actually further it.

4. Apathy, rather than conflict, may be a more intractable problem. A failure on the part of large numbers to attend to political arrangements at all may constitute a serious indictment of a society. Although non-participation stems from a wide range of causes, and may be a passing phenomenon, the absence of whole categories of people either belies the centrality of political life or raises questions of systemic discouragement. Apathy may be a harbinger of the dissolution of sovereign nations and the emergence of some new form of political association. Political passivity is too recent to allow for any firm judgments.

5. Jefferson, "First Inaugural Address," op. cit., p. 42.

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