

The Problem of Constitutional Choice

The Science of the Governance of Human Relationships

Fundamentally associated with the design of institutional arrangements for the governance of any group is a theory of constitutional choice. Implicitly or explicitly when individuals consider the design of their relationships with others, they choose from a set of possible arrangements which pertain to the management of human affairs. Even when individuals have not dredged to the surface of their consciousnesses the reasons for the structuring of relationships which they have chosen, if we reject a world of predetermined activities, choices based on some belief about consequences have been made. At any single point in time choice for a particular individual or group of individuals may be severely limited by such circumstances as the institutional structures or patterns of socialization which impinge upon them. That the immediate level of consciousness associated with their selection may not be high and that temporally bound empirical observation shows the selection of relationships to be limited does not diminish the relevance of questions of constitutional choice. Indeed, if we are to understand why the range of choice is great for some and constricted for others, a theory of constitutional choice, an understanding of the rules governing relationships based on a logic relating means to ends, is imperative.

If we agree that individuals are in fact capable of designing their relationships with others, a self conscious study of the selection of institutional arrangements to govern human affairs seems in order. Conscious designs appear preferable to nonrandom yet seemingly "unconscious" designs. Since it is entirely possible that even conscious designs may lead to undesired ends, we must attempt to relate means to ends with some precision. Skepticism regarding the basic ability to construct

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connections between such means and ends indicates a fundamental rejection of the possibility of a science concerned with the governance of human affairs. Possibilities for intervening in human activities to improve the quality of human existence then become dismally low.

If, on the other hand, we accept as a postulate the possibility of a political science, we are directed to link the activities of individuals with their consequences and to design institutions which direct individuals into activities which lead to some desired set of consequences--desired in the sense that individuals feel they are made better off by the choice of some strategy. Implicit in the belief that such intervention is possible is the notion of a set of assumptions about individuals. Additionally, assumptions about the environment of individuals are indicated. That individuals can make choices and would know the difference between being better off and being worse off assumes standards of values or beliefs and learning capabilities of individuals. Using such assumptions we may connect individuals to varying designs of institutional arrangements to posit logical statements regarding the behavior of people given particular conditions. We may arrive at logical conclusions relating the allocation of decision making capabilities --political power and authority-- to human action. Additionally, on the basis of these assumptions, we may understand the essential problem of constitutional choice.

The Human Artificer

To understand the set of relationships individuals are likely to construct and sustain among themselves, Hobbes explained it is necessary to understand people, both the artificers and substance of governments.¹ We may enumerate a set of minimally restrictive assumptions about individuals as follows:

- (1) Individuals are self interested and act to maximize their own good.

- (2) Individuals exhibit diverse preferences for goods (the consequences of some action).
- (3) Individuals are able to rank their preferences.
- (4) Individuals behave rationally.
- (5) Individuals are capable of learning.

Self Interest

An assumption of self interest may appear to lie at variance with perspectives which consider the mature person as a creature capable of benevolent, self-sacrificing, other-directed behavior. Such is not necessarily the case, however. Self interest does not necessarily imply selfish behavior, nor is altruism precluded. Hobbes indicates the foundation for such an assumption in his discussion of the individual in the state of nature.² The state of nature is characterized by Hobbes as one of relative scarcity, resources are finite, with each individual having an equal right to all goods. In such a state, Hobbes contends that people are essentially equal.

Nature has made men so equal in the faculties of the body and mind as that, though there be found one man sometimes manifestly stronger in body or of quicker mind than another, yet, when all is reckoned together, the differences between man and man is not so considerable as that one man can thereupon claim to himself any benefit to which another may not pretend as well as he. For as to the strength of body, the weakest has strength enough to kill the strongest either by secret machination or by confederacy with others that are in the same danger with himself.³

From this equality of ability, Hobbes suggests will arise an equality of hope in attaining one's desired ends. This is not to say that all people desire the same things or that everyone desires a single good with equal intensity. Rather, Hobbes is suggesting that when a desired event is salient to an individual, she or he will hope as intensely for the preferred outcome as any other individual would hope for an equally salient event. It may be argued that self interested

become ill

action will often lead to minimal good for others and that people, being basically good, will not pursue socially irresponsible strategies. Importantly, the assumption has not been made that individuals seek to maximize their own good in order to minimize the good of others; no essential evilness concerning human nature has been postulated. Additionally, self interested behavior need not lead to zero sum outcomes in which one individual gains all and another loses all. There is no reason to assume that the maximization of one's good is necessarily carried out to the exclusion of the good of others. Depending upon the relationships designed, self interested behavior may be entirely compatible with the joint pursuits of interests congruent with some community or social good. In fact, it is just this condition of self interest which makes collective action possible.⁴ As will be demonstrated, however, to eliminate an assumption of self interest and assume that socio-centered individuals in a state of equality with equally strong hopes and desires will be able to recognize and pursue socially advantageous strategies engenders a logical fallacy of great magnitude.

Diverse Preferences and an Ability to Rank Preferences

The first of these assumptions merely suggests that individuals do not all desire the same goods. Additionally, what is desirable to one may be undesirable to others. Important consequences for the design of human orders follow when the event desired by one affects another who finds the event harmful or beneficial, but has no control over these effects (i.e., when externalities exist).

The second assumption in this set concerns the ability of individuals to know what they want. It may be argued that individuals do not know what they "really" want; individuals lack enough information to make decisions in line with their self interest or, because of socialization a "false" consciousness prevails, and individuals want

the "wrong" things. Both these considerations are important. Neither must lie in contradiction to this basic assumption, however.

Individuals do function in the face of uncertainty. In such situations people may rank their preferences so that, from that round of decision making, they have not received the benefits which they expect. Individuals may make mistakes. Additionally, people may rank their preferences in terms of what could be perceived from another frame of reference as short term desires, contrary to their long term good. Limited information and socialization may interact, so that, again from another frame of reference, people act in ways opposed to their "best" interest.

To work with such ideas however, we have had to introduce the conception of another frame of reference, one which lies outside the individual. Additionally, we must assume an irreversibility of decisions and a world in which people have only one chance to choose, that there are no chances for learning, no chances for breaking through socialized consciousness and applying new information. Although we could arrange social relationships in such a fashion, and indeed, some argue that we have and some argue that such arrangements are necessary, we need not assume these arrangements as "given."

Hobbes suggests that some standards such as those which appear to be being used in this other frame of reference do in fact exist. Such standards are the Laws of Nature and, most importantly, a natural law of justice.⁵ Tocqueville, too, assumed a spiritual basis or set of beliefs which guide social relationships.⁶ Importantly, these standards of value do not lie eternally outside the individual. Through reasoning

individuals are capable of informing their actions by these natural laws and the systems of belief which they generate. If the beliefs of individuals are in opposition to a natural law of the just treatment of others, in the absence of institutional constraints which foreclose such options, individuals are capable of perceiving their "false" consciousnesses and moving to another level of understanding. The natural law cannot lie in opposition to reason.⁷ Thus if individual's err in their judgements and perceive such errors, they will attempt to correct their judgements by reason and move toward what they perceive to be in line with their reasoned preferences.

Rationality

An assumption of rationality is closely related to what has been said concerning the ability to rank preferences. We are assuming that when individuals rank their preferences they are motivated to choose that good which is most preferred. On the average, after due deliberation, individuals are assumed to choose options which they believe leave them better off rather than worse off. Not unlike the assumption of an ability to rank preferences, an assumption of rational behavior has been challenged on the basis of uncertainty in human affairs. Additionally, questions have been raised to the effect that rational behavior cannot be born of so-called irrational motivations. Rather than meeting such challenges, several authors who support the credibility of this assumption avoid such issues.

For example, Olson appears to mean by "rational" behavior that an individual, with the information available, makes some implicit or explicit calculation of what course(s) of action could give her or him greatest utility and chooses that course.⁸ This characterization of Olson's meaning of rational appears to follow from what has been said of motivating factors in an individual's behavior, i.e., "selective

incentives." Selective incentives need not be monetary or social gains or sanctions to be relevant to the rational individual. In addition "there are also erotic incentives, moral incentives and so on."⁹ The important point which Olson makes is that it is not the agent (i.e., the moral, social, psychological or economic entity) which is critical. Rather, it is the agent in its capacity as incentive which matters. It may be that any of these agents could act as incentives at one point and be unimportant in the rational individual's calculation at another time. It is not the individual's rationality which changes to make agents important or unimportant, however. The context of the decision situations differ, causing the relevance of incentives to vary.

It would appear that such a definition is all that is necessary to explain rational behavior, regardless of the particular motivating factor. When he reaches groups which form for non economic purposes, however, Olson abandons this logic. He fears that a definition of rationality which would explain behavior in philanthropic or religious groups or other groups which form around some non economic "cause" would be so broad as to make such an assumption tautological.¹⁰

In the case of non-economic groups, Olson seems to define rationality on the basis of the behavioral stimuli. If the individual has responded to an irrational stimulus the behavior is judged irrational; if the stimulus is rational the behavior is assumed so also. Whether the stimulus is rational or not appears to be judged from something other than the individual's point of view. Implicit in this portion of Olson's argument is a tendency to equate rational behavior with responses given only or primarily to economic agents.¹¹ Motivating agents which may work by more complicated mechanisms than the one's supposed to

characterize economic activity (e.g., religion or ideology) are to be deposited in the hands of psychologists for explanation by such concepts as "mass movements." Such complications cannot be excised so easily, however. Indeed, construing such terms as self interest and rational behavior in the fairly narrow sense of responses to economic or near-economic stimuli lies at the basis of misunderstandings concerning the importance of the individual's identification with the community.

Hobbes suggests that individuals experience passions such as desire, love, hope, fear and love. He explains that concerning the objects of such passions, individuals may have several of these feelings simultaneously. Before acting in response to passions, however Hobbes suggests that individuals deliberate.

When in the mind of man appetites and aversions, hopes and fears concerning one and the same thing arise alternately, and divers good and evil consequences of the doing or omitting the thing propounded come successively into our thoughts, so that sometimes we have an appetite to it, sometimes an aversion from it, sometimes hope to be able to do it, sometimes despair or fear to attempt it--the whole sum of desires, aversions, hopes, and fears continued till the thing be either done or thought impossible is that we call deliberation.¹²

It is in response to passions guided by reasoned deliberation that individuals are able to pursue their self interest in a rational manner which takes account of the interests of others.

The passions that incline men to peace are fear of death desire of such things as are necessary to commodious living and a hope by their industry to obtain them. And reason suggests convenient articles of peace, upon which men may be drawn to agreement. These articles are they which otherwise are called the Laws of Nature. . . .¹³

Tocqueville, too, considers rational behavior in broad terms of self interest rightly understood, reasoned judgements based on a belief in the just treatment of all individuals.¹⁴ In the formation of some types of communities, such a notion as self interest rightly understood is possible primarily because a set of beliefs based on

such passions as benevolence, religion and virtue. Hobbes and Tocqueville are not trying to bring in conceptions of social welfare surreptitiously through their considerations of the passionate and spiritual basis of tempered self interest. This foundation of values and passions often appears to be related to motivating factors such as ideology and religion. That such factors may be irrational from positions outside the individual, says nothing of the rationality of the responses of individuals to such motivations.

While a narrowly construed definition of self interest and rationality may be necessary for understanding some forms of collective action, the works of Tocqueville and Hobbes suggest that sufficient conditions for the constitution of community may be understood by considering these so called irrational motivating factors. If we understand the participation of individuals in political orders to potentially lead citizens to something more than the gratification of commonly held desires, if, we believe as Tocqueville suggests, that a necessary condition of the pursuit of joint interests is an ability of individuals to place themselves in a situation of sympathetic understanding with others, then it is to the constitution of community as something more than a consumption or production unit of only or primarily an economic order that we must turn. The Olson view of rationality must be taken back to its original definition in terms of reasoned decisions to pursue what is considered the greater good according to the individual, regardless of beliefs from outside the individual concerning the rationality or irrationality of the motivating stimuli.

Such a definition need not be tautological. Hobbes suggests that justice cannot oppose reason. Nor may law go against reason.¹⁵ We may infer from such a statement that when ideological, religious and other beliefs which inform civil laws are found at variance with

a natural rule of justice, such beliefs and the laws and behavior based on them tend to irrationality. Such irrationality may only be considered from the standpoint of individuals involved, however. As we shall demonstrate, if we assume learning capabilities on the part of individuals, we need not look beyond the individual to judge the rationality or irrationality of behavior.

Learning

The assumptions we have considered so far all are contingent on an assumption that the fallible individual can learn. Hobbes explains that speech is the human invention which makes ^(possible) the kind of learning necessary for establishing political order. ¹⁶

The general use of speech is to transfer our mental discourse into verbal, or the train of our thoughts into a train of words. . . . So that the first use of names is to serve for marks or notes of remembrance. Another is when many use the same words to signify, by their connection and order, one to another, what they conceive or think of each matter, and also what they desire, fear, or have any special passion for. And for this use they are called signs. Special uses of speech are these: First, to register what by cogitation we find to be the cause of anything, present or past, and what we find things present or past may produce or effect--which, in sum, is acquiring of arts. Secondly, to show to others that knowledge which we have attained--which is to counsel and teach one another. Thirdly, to make known to others our wills and purposes, that we may have the mutual help of one another. Fourthly, to please and delight ourselves and others by playing with our words, for pleasure or ornament, innocently. ¹⁷

Through speech and learning, reasoning is possible.

For reason, in this sense, is nothing but reckoning--that is adding and subtracting--of the consequences of general names agreed upon for the marking and signifying of our thoughts; . . . The use and end of reason is not the finding of the sum and truth of one or a few consequences remote from the first definition and settled significations of names, but to begin at these and proceed from one consequence to another. For there can be no certainty of the last conclusion without a certainty of all those affirmations and negations on which it was grounded and inferred. ¹⁸

Thus the deliberations which all animals go through regarding the

objects of their passions, may be used, when they are informed by reason, to inform oneself and one's peers (i.e., to learn and to teach) so that individuals may seek community based on common beliefs in a natural rule of justice. Hobbes' description of the human animal suggests that through learning this theory of justice is available to all members of the community. He suggests the passions which individuals experience are similar enough and, in the natural state, the faculties of people are similar enough that if one could know justice, so also could other members of the collectivity.¹⁹

Tocqueville considers the necessity of creating situations in which individuals can learn through political participation. He suggests that individuals may come to know a rule of the just treatment of others through placing themselves in a position which allows them to understand others and proceed to positions of mutual benefit.²⁰ Madison and Hamilton, too, predicate their designs for dealing with such problems as limited information on a assumption that individuals are capable of learning.²¹ Through experimentation, individuals may learn the tools by which to govern themselves. Through forums in which they interact with their peers, they may raise the consciousnesses of others.

Although their language is somewhat different, Buchanan and Tullock also consider the necessity for assuming that individuals have learning capabilities and may, through reason, inform their actions. They explain that uncertainties arise because in many decisions there is no one-to-one correspondence between individual choice and final action. This limitation is reduced in importance "when it is recognized that collective choice is a continuous process,

with each unique decision representing only one link in a long-time chain of social action."²²

Thus when multiple rounds of the decision making game are introduced, individuals may exercise their learning capabilities and make various uncertainties which would otherwise bound their actions less significant. Additionally, by introducing an assumption of learning capabilities, we make possible the design of institutional arrangements which enable individuals to break through "false" consciousness by testing and experimentation which leads to a transcendence of narrowly construed self interest to the integration of self and community. The sum of such a set of assumptions, thus, suggests that individuals may, through reason have access to a theory of justice manifested neither in self abnegation nor hedonism. Rather, such a theory may be manifested in a set of constitutional relationships designed to increase the probability that individuals may jointly pursue a collective good through interrelationships that enhance their mutual capabilities and bring them to sympathetic understandings of the societal roles of others. Before considering the designs of such constitutional interrelationships, we may consider the ends to which such assumptions as these lead under other designs.

The Artifact of Government: The Problem of Constitutional Choice

From these assumptions about the characteristics of individuals follow consequences indicative of the problematic considerations of constituting collectivities so that people may pursue their joint interests. Several authors have considered the various facets of the problem of organizing for collective action. The essence of the problem may be most easily understood through Hobbes' treatment of the logical development of commonwealths.

Based on the assumptions we have considered, Hobbes concludes

that interactions between individuals in the state of nature where each has equal right to everything, result in a miserable state of war. Each individual finds her/himself pitted against all other individuals.

The reasons for such consequences, though, logical may not be intuitively obvious. All of nature has been defined as common property. Individuals in nature live as equal and separate units, pursuing their individual good. Each has natural power or right to make claim on the commons and to the produce derived from it. Hobbes has explained that individuals are equally able to act in terms of this natural right through force derived from physical strength, cunning or wit or through the unstable confederations one might make with others. Thus when individuals of similar passions desire the same good which is held in common but may nevertheless not be possessed by several individuals simultaneously, there is no way to decide by right who should possess the good; we may only decide by force. Individuals must attempt to destroy or subdue one another to procure such goods.²³

Importantly, Hobbes does not derive such a conclusion from an assumption of the inherent "badness" of individuals. Such a conclusion follows from the nature of property relationships (no property other than designated only common ownership) decision rules (the any one decision rule, equal rights and capabilities of use for all) and some fairly unrestrictive assumptions about people (rational self interested behavior). He argues that some benefits must accrue to individuals using the commons. If nothing else, Hobbes notes that the satisfaction of such passions as hunger and thirst are derived from the commons. Since individuals may use the resource free of charge, there are no

incentives to use the commons in a way that protects its long term use. In fact, there are incentives to take as much as one can as fast as one can, before it is too late. Any individual would be a fool to think of the future under such conditions. A person who attempted to save for the future would make her/himself vulnerable to seizure from others who had equal right to the product of her/his labor. The person who attempted to manage resources wisely, taking only what s/he could use at one time might find others had behaved differently and left nothing behind. Individuals thus find themselves in competition with each other in their exploitation and overuse of the free good.

Besides competition, Hobbes notes two other causes of quarrel between individuals in the state of nature. Because individuals find themselves in a perpetual state of fear, their paranoia turns to diffidence which leads them to prevent others from using their rightful power by subduing such powers before they become dangerous. Glory also is considered a cause of quarrel in the state of nature. Individuals attempt to subdue one another in order to gain a greater valuation of themselves from others. ²⁴ Such glory appears necessary as there seems little else but forcefulness to make one individual feel distinguished from another.

Thus we have the paradox that in seeking their own good, individuals, because of the institutional arrangements characterizing the commons, have found despair and war. The lives they are able to lead are described by Hobbes as solitary, poor, nasty, brutish and short. ²⁵ Hobbes suggests that humans are passionate animals and their passions incline them to seek a different sort of arrangement. Individuals are motivated by the interaction of their passions and reason to seek peace. Through

reasoned passions, individuals may discover the Laws of Nature which will instruct their establishment of institutions designed to maintain peace. The first and second laws indicate how individuals might reason through such a problem.

And consequently it is a precept or general rule of reason that every man ought to endeavor peace, as far as he has hope of obtaining it; and when he cannot obtain it, that he may seek and use all helps and advantages of war. The first branch of which rule contains the first and fundamental law of nature, which is to seek peace and follow it. The second, the sum of the right of nature, which is, by all means we can to defend ourselves.

From this fundamental law of nature, by which men are commanded to endeavor peace, is derived this second law: that a man be willing, when others are so too, as far forth as for peace and defense of himself he shall think it necessary, to lay down this right to all things, and be contented with so much liberty against other men as he would allow other men against himself.²⁶

The laws serve to put individuals in touch with with the desire for peace they share with others; the second law particularly suggests that they must abstract from themselves to gain an understanding of others. The covenants necessary to end the state of war cannot be secured from the laws of nature alone, however. Such covenants as individuals might make with one another are but mere words, lacking the power of enforcement.²⁷ In fact, without means to arbitrate disputed claims and enforce the decision of the arbitrator, we have not left the situation of the commons.

Just as the consumption of goods in common lead to a state of war, we may expect the production of a common good, peace, to encounter similar problems. Individuals may be motivated to band together to protect themselves from a common foe, or the severe conditions of nature. In the commons of a state of nature, without contracts and beliefs to bind them, we would not expect such relationships to be stable, however. Additionally, a state of war might persist since any particular small

group could attempt to conquer another.

According to Hobbes, even a large group which is not unified by a single head could not be considered joined as in a commonwealth. Such a group would separate into many particular interests, would be distracted by internal wars and intergroup conflict and could not band together effectively to defend themselves. In such cases, a band of only a few who agreed strongly with each other could subvert the multitude who cannot agree among themselves.²⁸

For if we could suppose a great multitude of men to consent in the observation of justice and other laws of nature without a common power to keep them all in awe, we might as well suppose all mankind to do the same; and then there neither would be, nor need to be, any civil government or commonwealth at all, because there would be peace without subjection.²⁸

Individuals would not be persuaded to keep bargains with others after a good which was to be used in common had been provided. Instead individuals would have incentives to default on their part of the bargain to produce a good such as common defense and hope that everyone else would produce the good which they could enjoy free. Individuals would have no recourse to any rule of justice to convince "free-riders" to carry their share of the burden, since Hobbes explains the concepts of justice and injustice do not exist in the state of nature. Where there is no law, no property rights and all rights are held in common, there can be no injustice.

Justice and injustice are none of the faculties neither of the body nor the mind. . . They are qualities that relate to men in society, not in solitude.²⁹

It becomes necessary, therefore, to change the structure of relationships which assign to all equal capabilities of use and production of the collective good. Perhaps counterintuitively we have seen

that equal capabilities do not enable individuals to realize their joint capabilities. Particularly, in the case of the production of the collective good peace, we must assign to some entity capabilities of enforcement. Logically, Hobbes suggests the authority to enforce the rules of the collective may be vested in only one entity.

For the enforcer to have effective capabilities, Hobbes argues this entity must be sovereign. The thought of an arbitrator who will judge the actions of the enforcer and then enforce sanctions upon the enforcer is an absurdity which generates an infinite regression of enforcers on enforcers. A central question becomes how to constitute this enforcement power.³⁰

Hobbes explains that the collectivity may not be reified as an animated whole of individuals. Instead the collectivity is an inanimate entity in need of a caretaker. It is the caretaker which personates the collectivity, and is author of its actions, including enforcement of collective decisions. In forming the collective, each individual in her/his capacity as subject confers "all (her/his) power and strength upon (the caretaker) that may reduce all their wills, by plurality of voices into one will."³¹ Thus the caretaker bears the person of the subjects and the subjects must each "own and acknowledge (him/herself) to be author of whatsoever (the caretaker) that so bears their person shall act or cause to be acted in those things which concern the common peace and safety, and therein to submit their will every one to (the caretaker's) will and their judgement to (the caretaker's) judgement."³² If individuals have not laid down their equal rights and submitted their wills to the personated collective will, we have

not left the state of war.

While the division of the commons into different and unequal capabilities has solved the general problem of the state of war, we are left with another serious problem: How to distribute these differential capabilities within the collectivity. Entering the collectivity, we divide the commons into two classes of individuals, those who enforce the rules and those who do not. To make the enforcer a viable entity its power must be absolute. The official is differentiated from the subject by awesome powers over which the subject has no control. The problem of constitutional choice is thus apparent: How to design institutional arrangements which give force and effect to rules while simultaneously preventing that entity with the peculiar capabilities of enforcement from tyrannizing those who lack such capabilities. We must decide who or what will personate the commonwealth as caretaker.

The Generalization of the Problem of Constitutional Choice

We may generalize from the work of Hobbes a theory which considers the problem of the commons in cases other than the collective union which he calls the commonwealth or state. Even after the commonwealth has been established, the potential exists for various types of commons to exist within it. If we take seriously the logic of Hobbes, such commons as may remain engender the potential for a state of war to exist among relevant parties. Olson and Tullock and Buchanan have provided us with a theory for understanding collective action which aids in the generalization of the Hobbseian picture to these remaining commons.

With a set of assumptions similar to Hobbes' characterization of humans, Olson considers the rational individual's calculus of collective action. Olson considers the satisfaction of a group's

common interests as equivalent to the provision of a public or common good.³³ The general characteristic of the public good is the extreme difficulty or impossibility of excluding any individuals from the use of such a good once it has been provided. We can distinguish between these goods along two dimensions, excludibility and subtractability. First we may distinguish between goods from which people cannot feasibly be excluded, under normal circumstances, and goods whose nature makes exclusion by technical, physical, economic or other means possible. Secondly, we may distinguish between goods, the use of which by one individual subtracts from the total available for the use of the next person and goods which may be used (in theory) infinitely without any noticeable loss from the total supply.

Characterizing goods in this way yields a typology of four kinds of goods: the private good, characterized by potentially high levels of both exclusion and subtraction; the public good, characterized by potentially low levels of exclusion and subtraction; the common pool resource characterized by potentially low levels of exclusion but high levels of subtraction and the toll good characterized by high levels of exclusion but low levels of subtraction. That the characteristics of these goods or events of some action differ so profoundly suggests we need to consider the possibility that different institutional designs are necessary to insure the production and consumption of such goods at a level which is Pareto optimal.³⁴

The general commons involved in the state of nature which Hobbes describes might be called a commons of decision making capabilities. Such a commons falls into the general category of common pool resources. Because of the institutional arrangements of the state of nature, it

was impossible to exclude individuals for making decisions, but some decisions did foreclose others. Such a situation necessitated a change in these institutional arrangements to exclude some individuals from some of their capabilities of use. Solving the general problem by redistributing decision making capabilities unequally may not change the arrangements concerning the production and consumption of specific goods within the commonwealth, however. For example, the general redistribution may not yield the solution to the problems involved with the governance of remaining commons such as the use of air or water or the provision of various public accommodations. The way we have handed out the original decision making capabilities in constituting the state will potentially be the greatest factor in determining how individuals will behave when faced with such problems within the context of the state, however. Working backwards from a proposition that goods differ and institutional designs which affect the consumption and production of such goods also need to differ, we may suggest that constituting the commonwealth in a way which ignores these differences will probably be unsatisfactory. Such a proposition may be generalized from the constitution of the state to the constitution of any collectivity likely to be producing and/or consuming a number of different goods.

In order to consider what institutional designs facilitate an individual's ability to join with others to pursue their collective interests we must consider in greater detail the individual's response to various types of situations involving the provision of some sort of collective good. Olson's analysis for the general case is similar to Hobbes'.

On the production side of the equation, when a group is trying to provide a public good, Olson maintains that the rational individual has no incentive to contribute to the good's provision. Instead she or he could be expected to hold out, wait until some one else provides the good for the group and use the good free. The possibility of becoming a free rider will deter any rational individual from participating in the collective activity.

Stating the theory this way for the general case, Olson proceeds to add more information concerning the differences between groups which form to provide themselves with common pool resources and those forming around public goods. Olson distinguishes between "exclusive " and "inclusive" groups on the basis of the objectives they pursue. Exclusive groups are defined as those who pursue collective goods in a market situation. In this context, Olson explains, there is a fixed and therefore limited amount of benefit to be derived from the collective good. Since members of the group in the market context are in competition, they should be expected to attempt to limit the size of their group. Since an incentive is present in this situation to limit entry to the group, Olson calls the goods involved "exclusive collective goods."³⁵ While it is infeasible to exclude members from the use of such goods, the goods are of finite supply and therefore the use of one unit of the good makes less available for everyone else. Conversely, Olson explains, the supply of collective goods in a nonmarket situation "automatically expands when the group expands."³⁶ The sort of good involved in this situation is called an "inclusive collective good" since individuals would have an incentive to encourage entry to the group to gain greater support for obtaining more of the good.

The choice of language and examples used here are unfortunate. It is not that individuals have entered into the market system to deal with the good which leads to the existence of exclusive goods. Rather it is the characteristic of the good or the legal arrangements for providing the good which define it as subtractable and of low levels of exclusion. In other words it is the characterization of the good as a common pool resource that creates incentives for limiting the use of the resource and the members of the group controlling it. Thus unless we define markets broadly so as to encompass exchanges other than those which are strictly economic, Olsons division of goods as market/non market provides us with less information than a characterization of subtractability/ non subtractability. With the latter characterization we can consider resources which are not involved in market transactions but are nevertheless finite and of low excludibility. What Olson has provided is some indication of the different incentives facing groups which form around the provision of a common pool resource and those which form around a more "pure" public good. We might carry the logic further and consider the case of toll goods. In this case we have a good from which people can be excluded, but once the good is provided its use is characterized by low subtractability. Thus possibilities for charging for its use exist. We would therefore expect those using it to desire more people to use it to lower the cost per person. For the people providing the toll good the incentives are unclear. If a profit is to be made, there are incentives to limit the number of individuals sharing in the profits. If the action is non profit, incentives may exist for including more individuals in the provision.

We may also array the types of groups which form for collective action along two characteristics, size and salience or importance attached to having the good. Here again the Olson argument needs clarification, but we may work from his basic presentation. ^{36p} Categorizing size as small and large

groups and dividing salience according to groups in which one or a few individuals desire the good enough to provide it even at the cost of free riders and those groups in which each individual feels the benefits to her/him would not outweigh such costs, we obtain a typology of four possible groups.

Olson has reduced these groups to a taxonomy of three: "privileged" groups, "intermediate" groups and "latent" groups.³⁷ The privileged group is one such that each or a large portion of its members has an incentive to see that the collective good is provided, even if she or he must bear the full burden of provision alone. In such a group where the desire for any individual member for the good is so high, the presumption is that the collective good will be obtained at some level, whether group organization and coordination exist or not. Olson does not distinguish between large and small privileged groups; one infers from his discussion that all such groups are small. However, the large group may also be importantly different since the feasibility of one individual providing a large collective good may differ. Additionally, if heterogeneity increases with the change in size, bargaining may differ, as well.

We may distinguish between small groups which are privileged and small groups which are not. Olson calls groups in which "no single member gets a share of the benefits sufficient to give him an incentive to provide the good himself, but which does not have so many members that no one member will notice whether any other member is or is not helping to provide the collective good" intermediate groups.³⁸ In such groups the possibility of either providing or not providing the good are equal. Since no single individual will be expected to provide the good alone, yet everyone will know who does and who does not contribute to group action, the situation is indeterminant. Face-to-face pressure is a

possible means of insuring participation, but bargaining, coordination and interaction among members will also be necessary. As heterogeneity of preferences for the good's provision increases, so also will the need for bargaining possibilities.

The third group which Olson considers is the large group which has no person desiring the good enough to provide it for the entire group. Olson calls such a case a latent group. The latent group's distinguishing characteristic is the insignificant effect any one member has on the ability of the group to provide the good: If one member neither helps nor hinders the provision of the collective good, no one in the group will notice if a member does or does not contribute. Thus incentives exist not to participate, but to become a free rider.

From Hobbes we notice that the potential is great for individuals comprising a latent group not to perceive themselves as a group. That is, the consciousness that a particular individual's problem or desire for a good is shared by other members of the community is potentially very small. Olson considers this problem to some extent when he discusses Marxist class analysis. He explains that economic classes would not be expected to perceive themselves as a collectivity. Even if they did recognize themselves as a class, no individual would have an incentive to do anything but be a free rider. Such a critique is valid where no forums exist where individuals could participate in a manner which enabled them to recognize their similar interests. However, it is possible to contemplate such institutional arrangements which may produce such changes in consciousness. After the group has recognized itself as such, we may use Olson's logic to consider what problems would exist for organizing to pursue collective interests.

The free rider problem remains even after the latent group recognizes itself as a group. Olson considers two methods of overcoming this difficulty. Since the problem is fundamentally related to the lack of incentives to join if one could ride free, Olson turns to the creation of positive and negative incentives. Olson explains that when groups form they manage to provide themselves with public goods by using "selective incentives" to force members to participate and pay for their share of the collective goods. These incentives are selective in that they differentiate between those who support collective action and those who do not. Selective incentives may be sanctions or coercive devices or may be economic or social rewards.³⁹

Olson finds that some groups do not seem to be able to provide these kinds of selective incentives. Olson wonders, for example how large lobbying groups are able to persuade potential members to join. It is unlikely that a law would be passed making membership in a lobbying group mandatory, but a theory of collective action based on an assumption of rational behavior suggests that some incentive other than the benefit of obtaining collective goods must exist. Olson finds that other benefits are provided. Such groups often organize for the purpose of providing some private good, making the pursual of a public good a by-product function. Such an arrangement appears to be an important special case of the selective incentive argument.⁴⁰

When individuals recognize themselves as a collectivity and move from Hobbes' state of nature to a collective association a change in decision rules has taken place from the anyone rule to a rule of unanimity. It is only by their consent that individuals take this first step to see themselves collectively involved in a collective endeavor. Because

this act is voluntary, Buchanan and Tullock argue it is by unanimous decision that individuals come together to make the set of rules which will govern their collective action.

This analysis of the various decision rules under which collective action could take place extends the Olson analysis, particularly on the questions of size and heterogeneity of the group. The analysis focuses on a cost approach to determining the boundary and decision rules for collective organization. Two kinds of costs exist to be minimized in the individual's calculus of what institutional arrangement would best secure desired resources, external costs and decision making costs. The external costs concern the "costs that the individual expects to endure as a result of the action of others over which he has no direct control".⁴¹ Thus the individual engaging in collective action must fear the actions of others in the group which may impinge upon her/him and over which s/he has no control.

Decision making costs are the "costs which the individual expects to incur as a result of his own participation in an organized activity. . . (They) include only the estimate costs of participating in decisions when two or more individuals are required to reach agreement".⁴² The sum of these two costs is the cost of social interdependence. It is to the advantage of individuals to minimize their social interdependence costs or maximize their benefits from such interdependent relationships.⁴³

Buchanan and Tullock find the minimization of social interdependence costs is somewhat problematic for the individual. To minimize external costs, the individual must seek methods of increasing her/his control over the actions of others and/or decreasing their control over her/him. The

external costs of others' actions imposed on the individual with respect to a single activity will be a function of the number of individuals whose agreement is required prior to action. As more people are required to agree, the less likely it is that an individual will have external costs imposed upon her/him by the action of others. In the case where unanimous agreement is necessary for action, the individual is in the situation to prevent most effectively the imposition of external costs on her/himself. Over a range of decision making rules (proportion of people required to make the decision) external costs are represented as a decreasing function of the proportion of people involved.^{43b}

This is not true with decision making costs, however. As the number of individuals required to make decisions increases, unless preferences are homogeneous, bargaining costs between individuals will increase, causing decision making costs to increase. The simultaneous minimization of the two cost curves is not possible.⁴⁴

The two curves must be added together and the minimum of the total costs from social interaction will fall at the optimal proportion of individuals who will take decisions. This minimum will be located at the intersection of the two fundamental cost curves. Tullock and Buchanan are able to make several observations from this model.

First, because decision making costs will often be prohibitive, we would not expect to observe the rule of unanimity in many collective actions (except at the rule setting level, the decision to enter into the group). Likewise, we would not expect the designated person rule to be chosen as optimal, given the high external costs which would occur (unless we assume homogeneous preferences). Additionally, Tullock and Buchanan observe that individuals in more homogeneous groups will face both lower decision making costs and a lower probability of the imposition

of external costs. Conversely, individuals in groups which are characterized by diverse preferences will face higher decision making costs, but will want to maintain their voting positions because the external costs could be high as well.⁴⁵ Thus although individuals in Olson's inclusive groups may have incentives to bring more people into the group, various costs may prevent them from desiring to expand the group to a very large size.

We may draw inferences regarding the optimum size of the governmental unit from Tullock and Buchanan's logic. Although their exposition is somewhat unclear on this point, in general we would expect smaller groups to have lower decision making costs, other variables held constant, and lower external costs if heterogeneity is decreased. It would seem from Olson's and Tullock and Buchanan's arguments that what is necessary for collective action is the small privileged group or a small, homogeneous group. The ability of the group to reach a decision rule satisfactory to all is not the only variable involved in determining the boundaries of the group, however. It is necessary for the relevant group to form itself around the scope of the particular collective good. Otherwise positive or negative externalities will be created for those outside the group who are nevertheless affected by the collective action. We must balance the benefits of small size against the need to incorporate externalities generated by collective action.

From considering these models we find there are various complications involved with organizing a group for collective action. Particularly in latent groups some form of coercion must exist to force individuals to keep their contracts with one another. Once they have been coerced into joining the group they must bear certain costs of participating in the collective action depending on what decision rules they choose to govern their subsequent behavior. These costs may be translated into potential

tyrannies of majority or minority.

A tyranny of majority is possible when the decision rule is such that agreement is necessary only among the major portion of the collective and the dissenting individual finds her/himself consistently in a minority with no alternative possibilities for obtaining desired results» The costs involved are those which are borne when one is bound by contract to submit to a decision contrary to one's desires.

If a tyranny of a minority is possible when the decision rule is such that one individual or a few individuals are able to hold out and veto the desired action of the majority. Such a, *tyranny* may exist with the unanimity rule when each person has veto power. Conversely, the designated person rule also engenders this potential *tyranny*.

The logic which makes both sorts of tyrannies possible is exactly that of Hobbes. However the collectivity is constituted to make decisions, the capabilities of decision making and enforcement are sovereign. If there is only one forum available for individuals to display their preferences and take action, we may expect any decision rule to be plagued by one of these tyrannies.

Some costs of social interdependency exist no matter what decision rule is chosen in the range between the extremes of the unanimity and designated person rules. The causes of these costs may be summarised under the general finding that individuals have a tendency to hide their preferences in their consideration of any social action. 'When bargaining' the individual will suggest to other individuals that the benefits (costs) she or he will derive from collective action are lower (higher) than the actually are. The effect of such a bargaining strategy will be to restrict the range of possible decision rules which would be suitable

to the individual to bring the bargaining positions closer to the individual's actual optimum point. Through such bargaining, the individuals reach an n-dimensional contract plan, in which everyone is presumably better off, or at least no- one is worse off. We *may* take Tullock and Buchanan's proposition that individuals have incentives to reduce their social costs (i.e., foot to work together) to suggest that opportunities must be available for learning which will enable individuals to uncover hidden preferences and realise positive benefit/cost ratios from collective activity.

The model appears to be sufficiently general to allow considerations of various organizations of human activity. The problem of creating constitutional arrangements has been clearly stated. What remains to be considered are the proposed solutions to the dilemma.

Solutions Derived from the Hobbesian Method of Ending the Problem of Constitutional Choice

Hobbe's solution to the problem of enforcing the contract the members of the collective have with each other relies on creating a sovereign Leviathan in which each citizen gives his or her will. Hobbes considers various entities which might personate the Leviathan including one individual (monarchy), part of the whole (aristocracy) and rule by an assembly of all who have covenanted with each other in forming the collective. Importantly in each of these solutions power, the capabilities to give force and effect to words, are centralised in whatever entity personates the collective. From the logic of Hobbes argument this solution makes sense.

Hobbes¹ primary concern was to keep the powers of force and justice together in one entity. Dividing these powers or giving t© two entities.

equal sets of sovereign powers would lead to the dissolution of the collective, if we assume that individuals' will seek their own gain. We may expect much conflict, indecisiveness *and* inconsistency between two heads of state, unless, as we shall see, we assume the same underlying belief system.

It was necessary to harness the heterogeneous preferences of the subjects under the homogeneous preference; of the sovereign in Hobbes' Leviathan working from Hobbes' -assumptions- Most importantly- it was necessary to have all members of the collective functioning under the same theory of justice. Hobbes had no assurance without making further potentially invalid assumptions about the consciousness of each member of the collective. This is not to say that Hobbes felt that a theory of justice was unavailable to some. Indeed, all that Hobbes has written in the Leviathan suggests that each individual is potentially able to know how to treat others justly. Hobbes could not assume that each or even most persons entering this unanimous contract with her or his fellows would share a common set of beliefs.

Thus Hobbes was at a loss to design a system which could maintain the state of peace^o and provide forums for subjects t^o participate in processing influential relationships to just resolutions. He could not contemplate the design of forums which would allow the necessary exchange of ideas and resolution of conflict without believing that the community involved shared a theory ^of how conflict would be processed and resolved In the absence of such shared beliefs. Hobbes took the only available rows of using a single entity with a homogeneous set of values to process conflict. This investment of both force and justice in the -person of a single sovereign seemed the only way to

maintain the *consensus*, of beliefs necessary for the basis of certainty.

Hobbes was discontent with stick a solution f but saw little possibility for creating *my* other set of institutional arrangements, lacking this consensus on beliefs from the members of the collective. Hobbes realized that other assumptions needed to be *made* if the collective were to realise peace as the joint interest of its constituents. He was forced to assume that the sovereign authority of the Leviathan would be benevolent omniscient and omnipotent. Such assumptions were unsatisfactory.

I am at the point of believing this my labor as useless as the commonwealth of Plato. For he also is of the opinion that *It* is impossible for the disorders of state and change of government by civil war ever to be taken away till sovereigns be philosophers.

Recognising such assumptions as untenable, Hobbes was aware that he had done little about preventing the eventual dissolution of the commonwealth from the internal corruption or errors in judgment committed by the sovereign. Hobbes understood that the fallibility of the sovereign engendered, -the potential for revolutionary uprisings. Relaxing any of these assumptions (*and* there is little reason to, believe that a sovereign would not make such assumptions according to Hobbes' logic) leads the entire system of the Leviathan away *from* equilibrium at a rate which accelerates at *end* invalidation of $\&B$ assumption.

For example we may easily relax the assumption that a sovereign will usually recognise the policy which is in the interest of the collectivity. Some decisions require technical information and it is unlikely that sovereigns would be able to function without obtaining counsel from the ethnical experts We would expect such individuals to be self interested and therefore motivated to increase their prosperity and advance their careers. Since they *may not* be directly responsible

for the decisions being taken, a sort of common goods problem may exist with incentives to take as much from the system while contributing as little as possible. We might expect to observe fairly typical bureaucratic dysfunctions such as something unpleasant, information or information which challenges the sovereign's perspective. Under safe arrangements, if the sovereign does not know, chances are that such an entity cannot know.

Additionally we should recognize that by relying on *experts* the sovereign body, has divested itself of some power and is at the *mercy* of those with information. By so doing, the sovereign has extended the *sovereign* power to include experts in & ruling class. The class separation evolving from the distribution of authority relationships forms the fundamental division of the society. Such counselors are likely to be flatters, Hobbes cautions. We may have created an ideal situation for the sovereign authority to be adopted by its technical aids.

Moreover, the necessity for expertise suggests, the need for the generation of knowledge and learning to take place in the collective. The *free forum* of ideas necessary for generating information is anathema to the Leviathan, however. Such forums engender the potential conflicts which the lack of a common idea of justice prevents from being resolved. Hobbes has provided us with a model to understand this movement of the Leviathan away from equilibrium. He may expect cycles of (1) socialisation conflicting with (2) the need for experts and, therefore, (3) learning which may lead to (3) aberrations of awareness within the disadvantaged class which may cause (5) demands on the system leading to (6) further repression or (6) bankruptcy of the collective as it attempts to respond to.

all demands and, finally, (7) revolution. Interestingly, we have had to say nothing about *my* particular set of economic institutions to generate such a model. We have *only* had to posit a-sovereign, centralized Leviathan. Additionally, the model suggests that learning, or a breakthrough in the socialization and dogmatism necessary to the maintenance of the leviathan is a prime factor in generating the cycle. This consideration suggests that each cycle may move the collective to a new level of consciousness while it could make possible the conception of alternatives to the Leviathan. Hobbes still argued against revolutionary tactics, however. A revolution would change little, he argued, except the faces of the sovereign power. No change would take place in the set of fundamental authority relationships binding the state.

Lenin faced a problem in practice which was much the same as Hobbes theoretical predicament. Although Lenin appeared to understand the nature of the relationship between oppressive centralized control of the state and the failure to move individuals to a new level of consciousness, his writings suggest that conditions in Russia in 1917 prevented this knowledge from making a difference in the way the revolution was carried out*

In his discussion of consciousness, Lenin demonstrates that the problems facing Russia were more than a matter of economic inequalities. He does not expect measures which address these inequalities without addressing other types of oppression to and the class division in Russia. In fact, such measures as trade unionism were expected only to divert attention from the broader issues by coopting the proletariat or separating the working class into camps with varying self interests as *some* are more able to take advantage of trade unions than others.

Instead of addressing the issues as only economic, Lenin maintains a political consciousness must be attained by individuals. It is clear from

Lenin's writings that he realized individuals could be equalised economically and still remain divided by disparate political opportunities and could remain unliberated. The political consciousness which he desired to develop would consider the oppression in various spheres, vocational, religious, familial, et cetera as it exists under autocratic regimes.^{51b}

Lenin fashions a recursive relationship between the variables economic disparity and political consciousness* While he would not expect a change in economic condition alone to change social conditions in Russia, a change in political consciousness is more easily accomplished when a general level of economic well being exists. To prevent gross economic divisions from reappearing, a level of political consciousness is necessary for each individual, the propositions of Lenin explain. Thus, Lenin cannot contemplate the evolution toward Communism taking place in the complete absence of a popular understanding of the issues involved or a popular political consciousness*⁵²

These conditions were precisely what were missing in Russia at the time of Lenin's writings*. It was apparent to Lenin that the revolution could not possibly be undertaken as a movement from a popular political consciousness. It was necessary, Lenin asserted to consider designs which would allow a dialectical development between the revolution and popular consciousness. The institutional arrangement which Lenin considered to supply this dialectic was the party of professional revolutionaries who were to act as the vanguard of the revolution. Importantly, Lenin did not see this arrangement as the most preferred state of the revolution. The party was necessary because individuals were not in a position to protect themselves from the groups who would lead them from their revolutionary course into acts which would not be in their interest. ^

The party was not to represent an elite, paternalistic movement which would leave workers in ignorance to be oppressed by another autocracy. Lenin felt the party must supply the necessary conditions of learning and a forum for testing ideas which would not be available in a "spontaneous" revolution. Lenin also understood that participation and the habits acquired under political liberty were the only means of attaining a just society. Perhaps if inexperience and ignorance of a science of politics had been the only deficiencies which the general population experienced in Russia at this time, Lenin might have been able to contemplate the design of a party organization which could perform the dialectical function *km* saw as necessary. In the absence of political liberty however, *Lenin was forced to form* a party whose structure was in opposition to such a function.

On the other hand Lenin was looking for an institutional design which would encourage dialogue and the creation of interrelationships between opposing groups. The party could *not* provide such a forum for discussion, however. The social situation in Russia was such that trained revolutionaries required protection. Given the situation in absolutis Russia, Lenin could not contemplate the design of an open, broadly based party organization. Instead secrecy and complete adherence to a party line by those involved was necessary.

Although Lenin understood the necessity of forming a community of politically conscious individuals, it is not clear that he understood the manner in which secrecy and consolidation of administrative power would functionally preclude the necessary dialogue between professional revolutionaries and workers implicit in the idea of a dialectic. While Lenin understood the importance of designing interrelationships among various groups to efface their differences at one level, he was forced for the sake of political

expediency to ignore the same logic at other levels of social interaction. Thus *he* is able to conclude with a logic which suggests a rather *large* gap between means and ends theory and praxis. Using the logic of Hobbes, Lenin arrives at the necessity for a uniformed centralized, sovereign power. We may observe the genesis of the future authoritarian regime in the theoretical foundation of such an analysis.

Neither the democracy nor dictatorship of the proletariat appears to be the *next* evolutionary stage. Rather enforced comradeship among party members which gives no sign that it will leave progeny of liberty, equality or justice at the *end* of party reign is the description of the coming regime.

It would be a great mistake to believe that the impossibility of establishing real "democratic" control renders the members of the revolutionary organisation be in control altogether. They have not the time to think about the forms of democratism. . . but they have a lively sense of their responsibilities, knowing as *they* do from experience that an organisation of real revolutionaries will stop at nothing to rid itself of an unworthy member.

The possibility for the party to become an organization which controls its membership, is responsible to *no* one but its members and obtains a monopoly OR political power (if not capital) is engendered in the design. This is the organization which Lenin *has* designed to carry out the necessary dialectic. Lenin argues on the eve of the revolution that such a regime merely marks a stage of development which will eventually arrive at "withering away of the state."⁵⁷ Even if we view this condition of the withering away of the state as only the *end* of the dysfunctional bureaucratic relationships, authoritarian regimes *and* hierarchical monocentric government which exists and not as the end of political relationships altogether such a view is antithetical to the revolutionary process which Lenin has designed. By the even of the revolution, gone was any equivocation regarding the severing of a means from ends.

We Maintain that, to achieve this aim, temporary use must be made of the instruments, means, and methods of the state power against the exploiters, just as the dictatorship of the oppressed class is temporarily necessary for the annihilation of classes.⁵⁸

The logical link between the dictatorship of the majority and the end of dictatorship is unclear. If we consider the logic of Hobbes, we would predict no such end.

For Lenin, the principal which bridges this gap is the economic one against which he fought in his earlier writing. Viewing the primary division between classes as an economic one, Lenin is able to argue that when economically deprived classes come to power, recognize each other and smash the formerly ruling economic elite, economic classes will cease to exist and the majority will speak for all classes (i.e., only one class will exist).⁵⁹

Hobbes has aptly demonstrated, however, that class divisions are derived from the distribution of political privilege, an inherent feature of the organisation of rule ordered societies. Additionally the analysis of the commons suggests that groups will form around particular interests with or without such economically based class distinctions. Lenin, in his formulation, has done nothing to preclude the abuse of special prerogatives by officials qua enforcers, be these officials a majority or a monarch. Lenin has created a Leviathan in which the logical conclusion of dictatorship by the majority would be tyranny by a majority. This sort of tyranny is most clearly expressed by Stalin.

The achievement and maintenance of the dictatorship of the Proletariate is impossible without a party which is strong by reason of solidarity and iron discipline... Iron discipline does not preclude but presupposes conscious and voluntary submission, for only conscious discipline can be truly iron discipline. But after a contest of opinion has been closed, after criticism has been exhausted and a decision has been arrived at, necessary condition . . . But from this it follows that the existence of factions is incompatible with the Party's unity or with its iron discipline.⁶⁰

The analysis and practice of Lenin, thus, appear no different from that of Hobbes. We may predict from theory the ends of the revolution which Lenin designed. The party bureaucracy will *not* wither away. Instead it will become more insulated, less able to take account of new information less able to change, more complicated *and* secretive in its workings. The possibility of anyone rule which *Lenin* describes in the dictatorship of the proletariat is absurd in such a context. Rather than "withering away" the state becomes strong and more oppressive to factions within it. Because the system is built on the assumption of forced unity, homogeneity *and* a common ideology, socialization, not education is vital. New information is suppressed. The means for reconciling grievances do not exist. Purges are a necessity. If a break in the socialisation of fear and oppression occurs, the system moves from equilibrium to revolution. These are the predictions which can be made by logical extension of Hobbes' model.

Djilas has documented the state monopoly of authority, property, ideology and capital in many communist countries. Under such regimes, he explains, dissatisfaction *and* demands cannot be met by the state.

Though history has no record of *my* other system so successful *in checking its* opposition as the Communist dictatorship, none *ever* has provoked such profound and far reaching discontent. It seems that the *more* the conscience is crushed and the less opportunities for establishing an organization exists, the greater the discontent. Communist totalitarianism leads to total discontent, in which all differences of opinion are gradually lost, except despair and hatred. Spontaneous resistance—the dissatisfaction of millions with the everyday details of life— is the form of resistance that the Communists *have not been able to smother.*⁶¹

Djilas further explains that he finds the Communist system now in decline. No longer revolutionary, the communist nations are now run by "a so-called collective leadership or a group of Oligarchs."⁶²

The potential for change

within such a system appears limited, as the logic of Hobbes indicates. Djilas does not call for revolution, however; studying the situation he concludes that revolutionary means *and* the use of force would lead individuals no closer to Communist humanism in the end. Instead Djilas suggests reformist *and* nonviolent means which must arise as a function of self-consciousness of individuals within the society. Djilas recognises that a consequence of the lack of democratic traditions are stifled minds, personalities, desires and means. Further he contends that means may not be separated from ends; that a moral state will not spring forth from amoral conceptions or amoral acts. An elite movement of revolutionaries which-consolidates its power, remains secret and does not engage in open deliberation and inquiry with the other members of the society about the revolution will be wholly insufficient in bringing a movement beyond a new autocracy.

Djilas is not naive in his contention that reform, not revolution is necessary.

This does not mean that Communism will collapse of its own accord, and still less that the Communist potentates are waiting, impatiently, to hand over their power to someone else, even if that someone was a heretical, democratic blood brother hatched in the same brood. Everything that lives, everything that is human, falls not because it is rotten, but because it has been pushed by some newborn, new-tried force. There seems to be no reason why Communism should be the exception.

Djilas perceives the promise of change arising from nation communism.

In Yugoslavia, Djilas considered the need for administrative reorganization which would provide forums in which the self-consciousness of individuals could be raised through democratic participation. He explains, "no method of administration is in itself capable of starting a major influence on social and property relationships unless it goes right to the heart of those relationships." To this end Djilas conceived the

development of a workers self-management program. Such a program would decentralize authority by giving workers control over **production** and distribution through free associations.⁶⁶ This program was **implanted** into a system of entrenched **bureaucracy** and **centralized** administrative power however. Surrounding the workers self-management program Djilas observed **the** start of new **doctrinal** formulation and myth makings as if the staff of **the human race** or at least of the Communists, depended on these.¹¹ ⁶⁶ Djilas thus does not seem to be in a position **much** better than that of Lenin prior to the revolution. Tocqueville's empirical investigation of the French **Revolution** suggests the consequences of **administrative** decentralization within a system of concentrated administrative power.

Tocqueville analysed the situation in France before **the Revolution** and is able to construct a model similar to Hobbes' which may be summarized as follows. The **propensity** of **government** to harness all **the** powers and **attributes** of the state in a few hands lead to centralization in the absence of institutional *arrangements* which could permit **Competition** between central administrative powers and alternative governmental regimes or private (voluntary) arrangements. His demands **for the** goods which permitted the maintenance of the state and the well being of its citizens increased, the propensity of their being referred to the central administration increased. Although the authority of the central **administration** may have increased, its power or ability to implement programs which were demanded lagged behind. Knowledge and **money** were scarce resources in relation to authority. Such scarcities notwithstanding, lower levels of **government** had come to depend on the central administration. Some devolution of authority in the **form of administrative** decentralisation. **Importantly** however, this devolution meant only that more individuals were acting in the name of the sovereign centralized **body**.

of regimes to which an individual may articulate demands or bring grievances had not been increased. The situation was potentially worse for such an individual. Not only were there not multiple forms for the expression of grievances, citizens no longer had access to the sovereign, either. Instead the citizen faced a ruling class which need not be accountable for responsive to the ruled.

As the central administration was forced to turn to the municipalities with increased financial burdens the downward spiral of interdependencies and oppression continued. The central administration sought ways to raise revenues which often increased the burden placed on them by municipalities or divided the community into alienated and estranged factions. Many such policies which eventually became the foci of the revolution were so misunderstood that the sovereign had no recognition of the revolution at his doorstep, & financial expedients which suppressed political freedom and created barriers between the classes were able to crystallise into institutions in an environment where public opinion could not operate to control the actions of the sovereign.⁶ Toqueville concluded that two circumstances, the centralization of decision making capabilities in Paris and the abolition of provincial independence provide the foundation for the revolution which followed.

The situation of the French sounds similar to that of Prussia before the revolution. Fichte adds an interesting new insight from the French case, however. Toqueville maintains that if the society of France had been entirely oppressed the character of the revolution would have been very different. Indeed there might have been no revolution at that point. Instead at least one institution appeared to exist which symbolized the freedom which individuals were then able to recognize they lacked—the courts of law.

Thus the courts were largely responsible for the action that every matter of public or private interest was subject to debate and every decision could be appealed from; as also for the opinion that such affairs should be conducted in public and certain formalities observed.⁶⁸

If injustices existed, citizens had a means of becoming conscious of them through the courts. While no means for resolving conflict appeared to exist in the centralized state, Hobbes' logic indicates that conflict was bound to arise as the sovereign gave up a portion of his power to an institution which could perform an educational function not totally under the control of socialization. By participating in a forum which allowed some discussion and debate, *individuals* might begin to change the level of their consciousness regarding the state. Consonant with the logical extension of Hobbes' argument, Tocqueville finds that once the "false consciousness" was cracked, the better material circumstances became in France, the *mere* oppressed individuals became aware of their misery and the *more* they demanded change.

We may abstract from Tocqueville's evidence to consider Djilas' proposal of a workers self-management program. This program which is instituted as a forum for individuals to consider their differences is potentially analogous in its role to the courts in France prior to the revolution. If workers self management merely raises conflict but cannot process and resolve conflict, propositions derived from Tocqueville's analysis suggest that the change in consciousness and dissatisfaction which result will not be contained by minor reforms. From Djilas' writings we *may* infer that the possibility is small for workers participation to provide a forum which can resolve conflict by not perpetuating a *myth* of control within the context of centralized administration.

Although such conditions suggest that it *may* be difficult to stem the course of some sort of revolution once *reforms* are instituted,

which will change the consciousness of workers, the writings of Toequeville suggest that Djilas is correct in believing revolution will do little to move society toward communist humanism.

Since no free institutions and, as a result, no experienced and organised political parties existed any longer in France, and since in the absence of any political groups of this sort the guidance of public opinion, when its first stirring made themselves felt, came entirely into the hands of the philosophers, that is to say the intellectuals, it was only to be expected that the directives of the Revolution should take the form of abstract principles, highly generalized theories and that political realities would be largely overlooked. Thus, instead of attacking only such laws as seemed objectionable, the idea developed that all laws indiscriminately must be abolished and a wholly new system of government, sponsored by these writers, should replace the ancient French constitution.

The French revolution was fought on abstract principles rather than an understanding of institutional designs having to do with a theory of constitutional choice. A new more highly centralized government was built from the ruins of the ONE which preceded it. The proposal of Djilas to institute a new form for participation will place us in a position different from Lenin's on the eve of the revolution only if such an institution can be fairly autonomous in its functioning as an alternative to the Party bureaucracy. That is only if control is no longer centralized can we expect any real change from the revolutionary cycle of Hobbes.

From the writings of Lenin, Djilas and Tocqueville, we may begin to understand the necessary and sufficient conditions for breaking this revolutionary cycle. The primary requisite appears to be an assumption that individuals are capable of learning and acquiring a constitutional theory and agreeing upon the rules of justice. We may abstract from Tocqueville the proposition that if the people exist in a social setting in which they cannot have recourse to the rules of justice, the sovereign cannot be assumed to have such a potential either. Thus, an environment

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must be created where such capabilities may be realized. Individuals must be able to participate in the activities of self government. ^X Institutions such as the judicial system must exist to provide forums for the discussion of controversial issues, for reasoned reflection and for the process of weighing and measuring evidence against the system of values which may be commonly agreed upon and commonly reconsidered and altered as new information is acquired. Significantly, such forums will not be sufficient, however. From the evidence presented by Tocqueville, the existence of such forums in the absence of the sufficient conditions for resolving conflict, in fact, simply perpetuates the revolutionary cycle. The processing of conflict in a mono-centric, authoritarian regime will do little to resolve conflict in a *manner* not intimately associated with violent revolution. What Tocqueville's evidence suggests, then, is the necessity *SOT* alternative, concurrent decision structures and ways of resolving conflicts, processing demands and producing the goods of government in a manner most congruent with the peculiar characteristics of particular goods.

low Environment, New Possibilities

The design problem of creating the balance between ruler and ruled was also faced by Madison and Hamilton in their theoretical writings of the design of the American constitutional system. The writings of Tocqueville suggest that the contribution which they make to a theory of constitutional choice is possible because the community for which their governmental system is designed is fundamentally different from that of a Hobbesian Leviathan, Tocqueville indicates that much of this difference resulted from the cultural environment and the physical environment of these communities. Only from understanding the environment and origins of the individuals participating in American democracy, asserts Tocqueville, may we understand the forms into which this experiment is constitutional

choice evolved.⁷⁰

The physical environment in which democratic government was established determined much of the process of designing institutional arrangements in America. Where conditions were harsh, individuals had incentives to maintain functioning collectivities with survival as a joint-pursuit. The rules which individuals established to govern themselves were means to preserve the community. The physical environment also made specific types of institutional arrangements possible, such as the establishment of a set of inheritance laws meant to prevent the consolidation of control over lands in the hands of a few persons. It was possible to institute inheritance laws which divide property equally among heirs and cause a resolution in property every generation. Such a system, Tocqueville maintained would disperse both property and power among the constituents of the community. Importantly, however, there was little fear during the nineteenth century of dividing finite parcels of land into minute holdings which could not be worked at even a subsistence level. The physical environment, characterised by its vastness, allowed the institutionalized revolution in property to function without the negative externalities of diminished productivity or growth of a poor, landless class, unable to sustain themselves and survive on the land or otherwise.⁷¹ Moreover, so long as the physical environment was such that community was necessary for collective survival, reckless, individualistic, uncoordinated development of property was a likely outcome of the division of land.

The characteristics of the settlers who established themselves in this environment were also very important. These settlers were of the independent classes. They were educated and had had some experience

with participating in **government**. In addition **to** being educated individuals **from** the middle class, the settlers of **America had**, above **all**, recourse to a theory of justice *and* a common agreement on a moral code. The establishment of this common view of morality is fundamental **to** the **necessary** environmental and psychological conditions of citizens participating in a **democratic** system.

It is natural that they should **hasten** to invoke the assistance of religion, for they must **know that** liberty cannot be established without morality nor morality without **faith**.⁷³

It is not so **much** that religion as such formed **the** basis for **community**, **however** (Although Toqueville considers religion and even **the** specific type of religion, . Puritanism, of primary importance, it may certainly be argued that many other religions and ideologies correspond **in** their teachings to democratic and republican theories). Important was the consensus of the **community** on a doctrine of the just treatment of others.

What occurred **then**, was the establishment of rather homogeneous communities in which each individual understood a **set** of moral dicta which were informed by some **conception** of the **just** treatment **of-persons**. **Additionally**, the institutional environment was such that these communities enjoyed a great degree of internal freedom and **political** independence to develop such conceptions of justice. Thus, the laws regulating the activities of individuals in the community were those which members of the community agreed to apply to themselves.⁷⁴

Toequeville notes that the rules of order were often **fantastic** and oppressive, **but** in understanding the essence of this system of rules **the** primacy of two points Must be maintained. **First**, the rules of the **community** were informed by a **commonly** held moral code which was **in** turn based on an understanding of a rule of justice much **the** same

as Hobbes' most fundamental **law of nature**. Thus we have a system of civil law which is potentially **encompassed** in a system of natural laws. Secondly, to the extent that the **civil** law might fall outside the law of nature, i.e., be unjust to some, individuals might appeal to other **members of the community** to take account of the civil law and re-adjust it to fit more precisely with the **commonly** held moral code. In like manner, should members of the **community** learn that **their** understanding of the moral code falls short of the laws of nature, the possibility existed for appeals to the **community** for conceptual changes in the moral code. Clearly *such* appeals depended on institutional arrangements which forced **individuals** to confront each other with their **differences**, inform each other of injustices and allow reasoned reflection and sympathetic understanding of their opposing viewpoints. Where such arrangements and consensus on the most basic belief treating others **Justly** were lacking we would expect community to collapse to **the** tyranny engendered in **the Leviathan**.

While the potential to exercise a community appeal was a **function** of **the institutional arrangements**, i.e., the rule ordered relationships which the community had designed, the conceptual basis for such appeals, i.e., the theory of justice which each individual held, was, in a sense, prior. Tocqueville **has** recognized an extremely important component of the experience of community when he states that faith is a requisite to moral **and**, therefore, **civil** order in an **environment** of civil liberty. That is, individuals must have **access** to SOME transcendent understanding of justice, transcendent in the sense that it reaches beyond observed events to comprehend possible relationships between **individuals**.

Although the basis for this metaphysical experience is religions in the community Tocqueville describes, the faith or spiritual enlightenment need not necessarily be a function of religion (as the word is commonly understood). Instead the situation which Tocqueville describes may be said to be both the substance and the evolution of community. It is in this sense that this spiritual experience or experience of knowing a natural law of justice is both prior to and a function of community. The reason for the confusion in language is derived from the very fact that individuals are *both* the artificers and the substance of such artifacts as government, as Hobbes explains. Individuals must bring to the locus of artifact design a conception of the artifact; simultaneously, the design of artifacts makes the conception of artifacts possible. The artifact of community which Tocqueville describes is thus both a tool enabling certain configurations of individual relationships and the experience of the conceptual possibilities of the relationships. Deducing these relationships from the observations of Tocqueville, it appears that the necessary and sufficient condition of a common understanding of the set of values which are informed by rules of justice was available for the designers of institutional arrangements in the American case. The task which Madison and Hamilton faced involved the construction of a system of rule ordered relationships with prerogatives of enforcement intrusted to representative individuals who are themselves accountable to the larger community or body politic. To obtain a balance consonant with a goal of maintaining the inalienable rights of citizens, however, the rule must be a sovereign constitution of which the individuals of the community are the fundamental artisans. Moreover, the final prerogatives of enforcement must rest with the members of the community as the personators of government through the system of constitutional decision

rules. The construction of a general constitutional architecture is necessary to secure a set of decision rules which provide for the conduct of government with limitations on the prerogatives of officials through the recognition of citizens as the building materials of their sovereign government.

The solution at which Hamilton and Madison arrive is necessarily a general one. A flexible system of government could adapt policy making to the nature of goods being pursued by the community.⁷⁵ Flexibility must be balanced against a need for stability, however. Such a balance is to be maintained through the design of a system of incentives contingent upon the maintenance of responsive and accountable relationships among sets of officials in various governmental regimes and between these officials and the citizens they represent. Such relationships are to be maintained through the institution of multiple concurrent regimes of government. Thus the constitutional solution of Madison and Hamilton leads to a conclusion of the necessary separation of administrative, legislative and judicial powers. This distribution of governmental prerogatives at the national level of government places each body of government under the limitation of prerogatives given to all other units functioning at the same level of authority.⁷⁶

Hamilton and Madison suggest this application of theory in the form of checks and balances may be extended to subordinate governments, as well. Thus, Hamilton and Madison have created a system of government which will make bargaining and compromise between rival interests of similar authority a means for insuring the consideration of a multitude of preferences in the decision making process. Officials will have incentives to control the actions of other officials as a by-product of maintaining their own prerogatives.⁷⁷

The mechanism for enforcing such power is an ability of one governmental body to exercise a veto over some actions of other regimes. A system of checks

may work much as a system of rules for modifying the premises of decision making. One outcome of such modifications of behavior according to the knowledge of a system of checks often is the elimination of some *types* of uncertainty (or at least a decrease in the importance of imperfect information through the creation of multiple rounds and forums of decision making) and a movement toward positions of dynamic equilibria among governmental units. In the case of the governmental units specified by Hamilton and Madison functioning under this system of implicit and explicit checks and balances, a further result is the extraction of the poles of government authorities to positions less dependent on the personalities of the individuals in them. The positions in the institutional setting as it is defined by such checks may be used to override the personal desires of individuals holding them.

Coterminous with instrumentalities which permit the control of other units must be the means of coordination among governmental units. Such coordination may be achieved by creating a system of interdependent relationships among units. A separation of powers with some jurisdictional overlap and interdependent means of power prevents the divisive warring among powers which Hobbes feared and permits the collective pursuits of joint interests in an environment of incentives which in theory militate against the consolidation or dimution of any of the powers of government. As *each* official will find it in her or his interest to protect her or his. authority domain, a system of incentives exists to make implicit in the decision making process a consideration of the effects of actions in one domain on the functioning of other domains. The possibility for such incentives as these to exist is derived from the elimination of authority held in common though the division of authority into domains which nevertheless remain somewhat contingent upon one another.

From the perspective of citizen-official relationships, **Madison** and Hamilton posit the need for incentive systems which will make officials accountable and responsive to citizens. Such considerations as size of representative bodies, scope of jurisdictional control between (horizontal boundaries) and within (vertical boundaries) various branches of **government** and a specification of decision-rules **for the** governmental bodies and for citizens as electors **become** the focus of this portion of the theory.

The practical and theoretical design considerations **for** creating systems to maintain responsive, accountable representatives lay the foundation for a discussion of boundary rules, decision rules and relations between **electorate** and officials at levels of **government** other than **the national** regime, as **well**. *For example*, if the potential for **accountability** and responsiveness increases with the visibility and dependence on the **electorate** of the **officials** as Hamilton and Madison appear to suggest, the proposition could be stated, other variables held constant: If officials **at** the local **level** of government **could** be considered more visible and if institutions were designed such that officials were highly dependent upon the electorate, we might expect greater accountability and responsiveness to citizens preferences by local officials than officials less intimately associated with local preferences. Given the diverse preferences Madison explains arises from differences in property holdings, it would appear such responsiveness to local interests would provide diversity in the distribution of goods, a potentially highly valued characteristic of the **political** system.

Madison and Hamilton force us to analyse the potential costs of such a system so simply devised, however. They are acutely aware of the potential for tyrannies of faction at local and state levels of government. It is to prohibit **such** tyrannies that the method of electing the President

and members of the Senate by the state representatives was instituted. Such arrangements represent an attempt to strike a **balance** between conflicting interests. Recognizing the potential for a **community** of interests to evolve within the jurisdiction of institutions governing a broader **community** of interests, Hamilton and Madison consider methods of addressing minority interests in a manner which does not allow the control of government by tyrannical factions. These opposing possibilities **may** be balanced through the imitation of a compound republic. In a system of **polycentric decision-making** where individuals have recourse to a series of concurrent arrangements of or obtaining desired goods, but higher levels of government exist to secure the rights of the larger **community** on questions of **that** magnitude, potential tyrannies of majority and tyrannies by minority factions are held in equilibrium.

The theories of **Madison** and Hamilton are somewhat incomplete at this level, however. The analysis of factions at any level of government is intimately associated with a theory of externalities. When individuals collectively or singly take actions which create side-effects destructive to the well being of others a negative externality is created which must be controlled if a just settlement is to be obtained between individuals. **This** failure leads to some potential inconsistencies in the application of theory with some institutional arrangements adhering more closely to the theory than others.

Such externalities as might exist for individual citizens resulting from their inability to directly elect members of the more powerful representative branch of the government, the Senate, and to elect the President are scarcely considered. Hamilton and Madison do not give credence to the argument **that** individuals could suffer from the use of decision-rules which include them only indirectly because citizens

are considered in this context in their collective capacity as states rather than individuals.⁷⁸ This application **tot** theory jars with the assumptions concerning individuals as the **unit** of **analysis** on which **the theory** is based.

Additionally, in designing this particular set of institutional **arrangements**-, Hamilton and Madison also fail to consider fully the implications of the existence of diverse preferences. Hamilton **and Madison** maintain that in most cases, such preferences can be represented by the division of states into a few districts which will elect representatives who will know the preferences of their constituency. *is* such representatives will be visible and directly accountable to their electors, Madison and Hamilton do **not** expect their interests to **conflict**. In the spirit of the federalist experiment, such a notion is worthy of an an empirical test. Where **institutional arrangements sum over** such **preferences**, however, **articulation** of preferences is possible only in the aggregate and empirical testing of this **proposition** is impossible.

Moreover, Hamilton and Madison have demonstrated a relationship between control of officials through incentives to remain **accountable** and responsive and **the** direct dependency of he official on **the electorate**. we would not expect officials to be responsive or accountable to citizens on whom their careers and fortunes depended only indirectly, however. If **individuals*** diverse preferences cannot be articulated **effectively** or if officials are not accountable **or responsive**, a serious external cost may be incurred by the individuals. Such a cost must **be** calculated against the potential benefits to be derived **front** creating institutions which are professed to prevent the control of government by local **cabals**.

The designs of the court system in the United States, on the other hand, represents a consistent fit of application to theory.

Here citizens are considered fully in their capacity as individuals and the relationship between the citizen and the institutional arrangements of the legal system are made explicit. The several kinds of courts are designed to allow citizens to proceed through a rational system of instrumentalities to resolve conflicts. Additionally, as the interpreters of the Constitution, the courts are to act as a buffer between the citizen and governmental officials, making possible a government of law. Moreover, it is in the design of the court system that Hamilton and Madison adhere most closely to their maxim for the necessity of flexibility in institutional designs. Particularly in his discussion of rules to govern the appropriateness of trial by jury, Hamilton makes clear the necessity of a general design to accommodate the exceptional as well as the universal case.⁷⁹

We may abstract from the discussion so far a number of conditions necessary to the maintenance of a federal republic. A prerequisite for the formulation of any type of government is the existence of a community of interests and the recognition that some goods may be pursued collectively to each individual's mutual benefit. As we could see from the analysis presented by Hobbes, however, the collective pursuit of goods through government is not sufficient to insure the protection of the inalienable rights of individuals who join the collectivity. Necessary to this end is a system of institutional arrangements in which citizens are viewed in their capacities as individuals who are capable of personating the government through the design of a sovereign set of constitutional rules.

The efficacy of citizens as masters of government and the prevention of the usurpation by officials of the inalienable rights of citizens in turn depend on another set of interdependent conditions. Citizens must be able to reason and reflect on a set of constitutional decision rules.

They must have some understanding of a theory of constitutional choice. At the minimum they must understand their role as citizen in the constitutional system. Additionally, the theories of constitutional choice available to citizens must be sufficiently general in order to overlap each other to make consensus on the fundamental constitutional decision rules possible. Citizens must also be in a position to learn and make adjustments in their theories of constitutional choice based on additional information. These conditions imply several corollary conditions.

First, citizens must be in a position to participate in government in a manner which allows learning to take place. Such institutional arrangements which make participation by voting, sitting on committees, acting as a juror or demonstrating against acts of government which could abridge one's freedom are fundamental to the idea that citizens must reflect, learn and apply their adjusted constitutional theory in new situations. Secondly, the necessity of a theory of constitutional choice for individuals implies the need for information. Individuals must have access to information on which to make decisions which initiate this learning process. The condition of easily accessible information implies the necessity of an open system of government with unhampered flows of information between citizens and officials. The necessary condition of a free market of ideas and forums for the exchange of ideas is implied, as well.

In addition to these specifications for the institutional environment of the individual, several requirements for the citizen also exist. Citizens must take an active part in the ruling of the state. For this to be a possibility, citizens must seek out information in order to make informed decisions. Citizens must act on the basis of the constitutional theory they have in their heads to demand responsiveness and accountability

on the part of government officials. Citizens must also protest vigorously against the usurpation of their rights through rulings of officials inconsistent with the constitution creating a government controlled by its citizens.

Clearly the environment of citizens and her or his potential for participation interact with each other. We would not expect citizens to participate effectively in situations where information was repressed, arrangements were complex, officials insulated and expectations of citizen participation low. Thus we may consider additional variables such as the scale and scope of institutional arrangements and the potential access points for participation by citizens.

From the works of Buchanan and Tullock and Olson it seems likely that smaller units of government afford greater possibilities for participation than large scale consolidated units of power. The optimal size of a governmental unit cannot be discerned on the basis of participation considerations, alone, however. We must also consider the imposition of externalities on individuals outside the decision-making group who are, nevertheless, influenced by the group's decision. In order to get at both participation and externality incorporation, a polycentric form of government appears to be required. We might expect the polycentric distribution of governmental prerogatives may yield more means of gaining access to decision-making situations, opportunities to participate and learn and possibilities for applying one's reflections to an adjusted theory of constitutional choice. The possibility for experimentation in forms of institutional arrangements must exist if citizens are to be able to decide on optimal arrangements for procuring specific goods under particular conditions.

It may be argued that the necessary assumptions regarding the role

of citizen are absurd expectations in light of studies of the American citizen qua American voter. Olson's theoretical perspective on collective action helps explain the propensity of citizens to fail to act in volutary collective actions. Tocqueville's analysis of potential tragedies of commons in the American case are equally insightful.

Interestingly, Tocqueville explains that the principle of equality in democracy may lead to a situation in which majority opinion is accepted without considered rasoning and reflection on the part of individuals.

As individuals move toward equal levels and similar conditions socially,

Tocqueville finds they

Have no faith in one another, by reason of their common resemblance; but this very resemblance gives them almost unbounded confidence in the judgement of the public; for it would seem probable that as they are all endowed with equal means of judging, the greater truth would go with the greater number.⁸⁰

A tendency for a type of intellectual activity which lies in opposition to the necessary conditions for liberty in democratic regimes exists. Instead of individuals acting on the basis of reasoning and learning through experimentation, a possibility exists for the suppression of both. The design of a democracy, if left at this level of completion, inconveniently engenders the means of its own dissolution. The problem of democracy qua equality is one of designing means to mitigate the development of a philosophical method whose principle characteristic is among others, "to tend to results without being bound to means" the effects of such a philosophy, we have seen, is grave, indeed.

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Among the potential difficulties which Tocqueville expected in the American case of a love of equality with less consideration of liberty are a tendency toward: mediocracy in education; quantity instead of quality in the arts and literature; practicality rather than imaginativeness in science; individualism at the expense of community welfare; increased desirs for public solutions to what Tocqueville considers private problems; centralization in government administration; and, finally,

despotism.

Perhaps the most problematic possibility is the development of an individualistic philosophy. From such a philosophy, other ills follow. Tocqueville describes the people participating in a regime characterized by equality.

They owe nothing to any man, they expect nothing from any man; they acquire the habit of always considering themselves as standing alone, and they are apt to imagine that their whole destiny is in their own hands.⁸²

Individualism is an admixture of goods and bads for both the individual and the social system. The psychological environment created by individualism is one of independence, self control, self possession, et cetera, on the one hand; on the other hand exist feelings of anomia, detachment and self abnegation. The political effects include disinterest in the problems of the community with sanguine feelings that other individuals should help themselves. As we have seen from the foregoing discussion, a necessary condition for the functioning of a democracy is the possibility for individuals to have sympathetic connections with other members of the community. The event of feeling sympathy appears to lie in opposition to democracy qua equality, however. In fact Tocqueville draws the connection ~~between~~ equality and despotism.

A despot easily forgives his subjects for not loving him, provided they do not love one another. . . He stigmatizes as turbulent and unruly spirits those who would combine their exertions to promote the prosperity of the community; and perverting the natural meaning of words, he applauds as good citizens those who have no sympathy for any but themselves . . . (T)he vices which despotism produces are precisely those which equality fosters. These two things perniciously complete and assist each other. Equality places men side by side, unconnected by any common tie; despotism raises barriers to keep them asunder; the former predisposes them not to consider their fellow creatures, the latter makes general indifference a sort of public virtue.⁸³

It appears that regimes based on a philosophy of equality have the most to worry from despotism. . . . If despotism takes hold in systems

where everyone is entirely individualistic (i.e., thinks she or he is the only one suffering, internalizes all events as personal failures, is disinterested and unsympathetic to the welfare of others, cannot imagine how she or he individually could OF has the right or duty to make demands on the state) there will be little reason to expect collective action to change the regime. There is even less reason to expect such a people to have a theory of constitutional choice which would lead to any sort of real change in relationships between individuals. For any sort of social revolution, individuals must be able to contemplate the necessity of collective action and must raise the consciousness of all other individuals to a level where community is possible.

While the logical inquiry presented here indicates that institutional arrangements must be available to permit individuals to attend to the affairs of the community, extending their perspective to include the views of fellow citizens, Toqueville's logic suggests the use of such institutions does not necessarily follow. He provides the foundations for a logic of collective action which suggests that individuals will avoid public life to the greatest extent possible (ie, they reason through the costs of decision-making and try to remain free riders until the external costs of not being a decision maker are greater or they are prevented from being free riders). At the same time, Toqueville explains, the democratic citizen's love of well-being and stability, lead to a desire for public tranquillity. An easy solution to the desire to procure tranquillity as a non-participant, is to give more power to the central authority. Toqueville explains this phenomenon again as a function of the commons which results from an individualistic approach to equality.

Everyone is at ones independent and powerless. . . His independence fills him with self-reliance and pride among his equals; his inability makes him feel from time to time the want of some outward assistance, which he cannot expect from any of them, because they are all impotent and unsympathizing, In his predicament he naturally turns his eyes to that imposing power which alone rises above the level of universal.

Thus Tocqueville maintains there is a propensity for individuals to look for easy solutions, to be spared the care of trouble of living and to give to government the responsibility for their happiness. Coincidentally there is the willingness of individuals in government to desire to extend their services and to be the sole arbiters of this happiness.⁸⁶ Tocqueville also suggests that technological changes which lead to specialized information separates individuals on the basis of expert versus layperson. Once such a split occurs, Tocqueville expects experts to form a new aristocracy (he expects this aristocracy to arise primarily in business) with an ever widening gap between those who learn from the total system and those whose work provides them with little knowledge beyond what may be learned from creating the heads of pins. Additionally, those who were to regulate the manufacturers become aligned with the interests of those they watch.⁸⁷

It may be argued convincingly that the tendency of democracies toward centralization has become manifest in the American case. We may observe the support of ~~an aristocracy of manufactures~~ ^{by government policies} in the form of corporations, the removal from municipalities various functions which provided forums for participation, the tendency to deal with neighborhood problems in Washington and the tendency to attempt to meet demands for increased services without focusing on the development of skills of organization and participation. Indeed, once such centralization is implanted as a trend in the system, forums for participation close to those who have not managed to concentrate the now requisite power to use such forums effectively. The argument that ^(the) care for individual happiness has been turned over to government begins to sound biased in its descriptive capabilities toward the situation of the middle class. Others have little happiness to give away. A negatively reinforcing system is created in which individuals born into dependence on government are given few tools to make effective demands, consequently demands which are inconvenient for the agents of the current

regime are ignored. At such a point the basis for a **community** founded on trust and justice is no longer apparent. The factors which may have given rise to the **community** (environmental spiritual, ideological, economic, **etc.**) are modified by the existence of the **community** and its inhabitants. A crisis is engendered in such a loss of consensus which moves the constitutional solution back to that of Hobbes.

Public policies which will **reverse** this trend will be those which balance the need for **immediate** provisions of fundamental **services** while concentrating on the development of organisational skills and **the** preservation of a number of alternative means of providing auxiliary services. Such policies must foster an understanding of the systemic relationships between the necessary and **sufficient** conditions for participation and community oriented self reliance. In the context of forums for resolving conflict, movements in the private sector toward worker's self management and public policies which *make* the conception of neighborhood collectives, alternatives to stereotypical sex roles and isolated nuclear families and **the** formation of **communities** around collective lifestyles appear to be generally oriented toward diverting trends in centralization from their Hobbesian conclusion.

Footnotes

- 1) Thomas Hobbes, Leviathan (New York: Bobbs Merrill, 1958; orig. pub. 1651)
p. 23.
- 2) Ibid. pp. 104-109.
- 3) Ibid. pp. 104-105.
- 4) James M. Buchanan and Gordon Tullock, The Calculus of Consent
(Ann Arbor: The University of Michigan Press, 1962) pp. 27-28.
- 5) Hobbes, op.cit., pp. 109-132.
- 6) Alexis de Tocqueville, Democracy in America v. II (New York:
Vintage, 1945; orig. pub. 1835).
- 7) Hobbes, op.cit. p. 212.
- 8) Mancur Olson, The Logic of Collective Action (Cambridge: Harvard
U. Press, 1965) p. 51.
- 9) Ibid. p. 61.
- 10) Ibid. p. 160, fn. 91.
- 11) Ibid.
- 12) Hobbes, op.cit. p. 58.
- 13) Ibid. p. 109.
- 14) Tocqueville, op.cit. pp. 130-131.
- 15) Hobbes, op.cit. p. 212.
- 16) Ibid. p. 37.
- 17) Ibid. p. 38.
- 18) Ibid. pp. 46-47.
- 19) Ibid. pp. 24, 120-123.
- 20) Alexis de Tocqueville, The Old Regime and the French Revolution
(New York: Doubleday, 1955; orig. pub. 1856) p. 117.
- 21) Alexander Hamilton, The Federalist Number 36, (New York: Modern
Library, orig. pub. 1787) p. 224.

James Madison, The Federalist Number 38 (New York: Modern Library, 1954, part 1787) p. 235.

22) Buchanan and Tullock, op cit p. 37

23) Hobbes, op cit p. 106.

24) Ibid.

25) Ibid. p. 107.

26) Ibid. p. 110.

27) Ibid p. 139.

28) Ibid. p. 140.

29) Ibid p. 108.

30) Ibid. p. 142.

31) Ibid.

32) Ibid.

33) Olson, op cit p. 14.

34) Pareto optimal refers to the provision of a good at a level chosen from which would make some individual worse off. Movement toward a Pareto optimal position indicates that the change makes at least one individual better off and no one worse off.

35) Olson, op cit, p. 38.

36) Ibid.

37) For example, Olson states such propositions as the larger the group, the smaller the individual's fraction of the total benefits and thus, the less ~~likely~~ adequate the reward for group-oriented action. Therefore the larger the group, the greater our expectation that it will fall short of providing an optimal supply of the collective good. The logical source is somewhat confusing since Olson is considering individual groups

at the 3 point, i.e., he is assuming the expansion of collective goals and, therefore, benefits with each new member.

37) Olson, op. cit., pp. 48-52.

38) Ibid. p 60.

39) Ibid. p 61.

40) Ibid. pp. 132-135.

41) Buchanan and Tullock, op. cit. p 45.

42) Ibid. pp. 45-46.

43) Ibid. pp. 63-73.

43b) Ibid. pp. 109-112.

44) Ibid.

45) Ibid.

46) Ibid. pp. 104-105.

47) Hobbes, op. cit. pp. 135; 150.

48) Ibid. p. 214.

49) Ibid. p. 287.

50) Ibid. p. 155.

51a) V.I. Lenin, What is To Be Done? (New York: International Publishers, 1969; orig. pub. 1905) p. 48.

51b) Ibid. p. 57.

52) Ibid.

53) Ibid. p. 61.

54) Ibid. pp. 73-74.

55) V.I. Lenin, State and Revolution (New York: International Publishers, 1932; orig. pub. 1917) p. 77

56) Lenin, What is To Be Done? p. 135.

- 57) Lenin, State and Revolution p 42.
- 58) Ibid. p 52.
- 59) Ibid. p 57.
- 60) Joseph Stalin, Foundations of Leninism (New York: International Publishers, 1939, orig. pub. 1924) pp 114-120.
- 61) M. Iovan Djilas, The New Class, (New York: Praeger, 1957) p 99.
- 62) Ibid. pp 52-53.
- 63) M. Iovan Djilas, The Unhappy Society, (New York: Harcourt Brace & World, 1969) p 241
- 64) Ibid. p 217.
- 65) Ibid. p 221.
- 66) Ibid.
- 65a) Touqueville, The Old Regime and the French Revolution, 61.
- 66a) Ibid. p 145.
- 67) Ibid. p 137.
- 68) Ibid. p 117.
- 69) Ibid. p 215.
- 70) Touqueville, Democracy in America V.I, pp 8, 18.
- 71) Ibid. pp 50-51.
- 72) Ibid. p 33.
- 73) Ibid. p 12.
- 74) Ibid. p 38
- 75) Alexander Hamilton, The Federalist Number 84, p 554.
- 76) Hamilton or Madison The Federalist Number 81, p 337.
- 77) Ibid.
- 78) Hamilton or Madison The Federalist Number 63, p. 413.

79) Hamilton, The Federalist Number 83, pp 545-555.

80) Tocqueville, Democracy in America V. II, p. 11.

81) Ibid. p. 3.

82) Ibid. p. 105.

83) Ibid. p. 109.

84) Ibid. p. 370.

85) Ibid. p. 311.

86) Ibid. p. 334.

87) Ibid. p. 168-170.

Bibliography

- Buchanan, James M. and Gordon Tullock. The Calculus of Consent. Ann Arbor: U. Michigan Press, 1962.
- Djilas, Milovan. The New Class. New York: Praeger, 1957.
- _____ The Unperfect Society. New York: Garcourt Brace & World, 1969.
- Hamilton, Alexander, John Hay and James Madison. The Federalist. New York: Modern Library, 1787.
- Hobbes, Thomas. Leviathan. New York: Bobbs Merrill, 1958 (1651).
- Lenin, V.I. State and Revolution. new York: International Pub., 1932 (1917).
- *_____ What is to Be Done? New York: International Pub., 1969 (1905).
- Olson, Mancur. The Logic of Collective Action. Cambridge: Harvard U. Press, 1965.
- Ostrom, Vincent. The Political Theory of the Compound Republic. Blacksburg, Va: Public Choice, 1971.
- Stalin, Joseph, Foundations of Leninism. New York: International Pub., 1939 (1924).
- Tocqueville, Alexis de. Democracy in America Vols. I and II. new York: Vintage, 1945 (1835).
- _____ The Old Regime and the French Revolution. New York: Doubleday, 1955 (1856).