

*Majority Tyranny
and the Extended Republic Theory
of James Madison*

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THE AMERICAN EXPERIENCE with self-government has long been the object of admiration by foreign observers. Principally for this reason students have poured over the records, debates, and pronouncements of our founding period with an eye to discovering the principles, theories, and beliefs which undergird the system and seem to have contributed to its success. Their interest has been more than academic. A belief, still widely held and for good reason, is that certain principles embodied in our constitutional framework are exportable, that underdeveloped nations or nations embarking on the enterprise of deliberately creating governments could benefit from our experience by incorporating certain of our principles into their political design.

But the results of these searches into our underlying principles have been less than encouraging. Rather than coming to substantial agreement, scholars seem hopelessly divided concerning even the most basic and important features of the American system. Were our institutions designed to allow for popular control of government or were they the product of men who actually feared republican government? Was the system really designed to provide for a unitary form wherein authority would be centralized in the national government or was it intended to provide for an effective and meaningful

division of powers between the states and national government? Was the President intended to be a prime mover among our branches of government or was this to be the function of Congress? These are only a few of the fundamental matters over which there has been lively dispute. The predictable result is great uncertainty concerning precisely what our basic principles are. Most certainly, it seems impossible to construct any coherent political theory which must have guided our founding fathers.

The situation is such that the contention advanced by John Roche seems warranted.¹ He writes that the Framers are best understood "as extremely talented democratic politicians" and that the emergent Constitution was not "a triumph of architectonic genius" but rather "a patch-work sewn together under the pressure of both time and events. . . ." From this point of view, the search for coherent theory is necessarily doomed to failure or, if not that, the underlying theoretical principles will at best be hazy, less than well developed, often employed with an eye to their acceptability and workability given the political and social circumstances of the time. Moreover, we should not expect consistency in their application given the practical bent of the Framers.

But, for all of this, there was one overriding question of enormous theoretical import which the Framers and presumably a majority of the American people answered affirmatively and unambiguously with the adoption of the Constitution; namely, they believed a republican and nontyrannical government over an extended territory possible. Certainly, in back of, or overarching their democratic caucusing, as Roche would have it, there must have been a prior and fairly wide consensus as to the feasibility of their undertaking. Admittedly not all shared this conviction—not, at any rate to the degree and extent of the Constitution's more ardent proponents—and in many respects it can be viewed as one of the most, if not the most, basic issue(s), that divided the political leadership during the period of ratification. The issue, to be sure, may not have been put precisely in these terms on every occasion but key debates over the role of the national government *vis à vis* the states, how secure the liberties of the people would be in the hands of the national government, the role and accountability of representatives in the national government, and popular recourse to abuses of power by the national government can be directly related to and subsumed under the more general question of the feasibility of a nontyrannical republic over an extended territory.

Our purpose here is a limited but important one. We will examine with some care Federalist 10, an essay in which Madison sets forth what is generally conceded to be the strongest argument for the workability of a stable, nontyrannical, and republican form of government over an extended territory. We will do so with certain critical questions in mind: What novel features or departures from traditional teachings does Madison advance? What possible presumption must Madison have held in advancing his thesis? What changes in our social and political environment seem to bear upon critical elements of his argument? What conceivable developments might destroy or undermine the validity of

his arguments? An examination of these and similar questions will hopefully provide some clues as to what the future holds for our Republic.

I

FEDERALIST 10 presents us with a number of novel theses. In this respect, the main thrust of the essay which stresses not only the workability but desirability of an extensive republic is noteworthy. At the time Madison wrote, the traditional and widely accepted teaching held that a republican government, a government based upon the democratic principles of majority rule and political equality but one in which elected representatives would meet to conduct the business of the whole community, would be short lived and marked by turbulence unless it operated upon a relatively small and homogeneous population within a relatively confined territorial expanse. Madison, however, advanced precisely the opposite proposition. In direct or "pure" democracies, where the entire people would meet to conduct the business of the community, and in small republics as well, the majority will more easily and readily feel "a common passion or interest," "a communication and concert result from the form of government itself; and there is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual."² Thus, he reasoned, pure democracies and small republics were inherently ill-suited to control the effect of majority factions, that is, a majority "united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community." (p. 54) But a large and extensive republic, he maintained, held out every prospect for controlling the effects of majority factions. Why so? Precisely because of the conditions necessitated by and associated with extensiveness. Extensiveness would require representation of some kind and that would serve, in his judgment, "to refine and enlarge the public

views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations." (p. 59) More: extensiveness would of necessity involve the inclusion of a greater number of parties and interests which would hamper the formation of factious majorities. In his words,

Extend the sphere and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other. Besides other impediments, it may be remarked that, where there is a consciousness of unjust or dishonorable purposes, communication is always checked by distrust in proportion to the number whose concurrence is necessary. (p. 61)

Summing this whole matter up in the later portion of Federalist 51, which is recognizably a reiteration of argument presented in Federalist 10, Madison writes "among the great variety of interests, parties, and sects which it embraces, a coalition of a majority of the whole society could seldom take place on any other principles than those of justice and the general good. . ." (p. 353)

Now, in setting forth his theory relative to the extended republic, Madison is ever mindful of the basic requirements of republicanism; namely, in the last analysis, a truly republican government "derives all its power directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior." What is "essential to such a government," he takes pains to emphasize, is "that it be derived from the great body of society, not from an incon-

siderable proportion, or a favored class of it. . ." (Federalist 39, p. 251) His avowed strategic purpose in Federalist 10 is to convince the reader that in the extended republic the effects of majority faction can be controlled without violence to these republican principles. So much he makes clear at the outset of this essay and in the final paragraph he writes with seeming confidence in his analysis, "we behold a republican remedy for the disease most incident to republican government." (p. 65)

His republican remedy for a republican disease is, alike with his inversion of the traditional large versus small republic theories, highly original but also enigmatic. As we shall see later, its enigmatic character derives from the obvious assumption that the attributes of extensiveness, representation and multiplicity of interests, will serve to thwart majority factions without doing violence to the republican principle. But we are entitled to ask, since republicanism involves control by the "great body of the people," presumably at least a majority, how do the attributes of extensiveness serve to control this majority when it should be controlled, that is, when its ends are factious? Will such majorities somehow be "forced" to restrain themselves? But, if so, how can this be accomplished without recourse to some process or institution independent of the "great body of society" which would represent a significant departure from the republican principle?

One approach that leads to the heart of the enigma is to focus on solutions to the problem of majority factions which Madison expressly rejects. In doing this, we can best see what intellectual baggage Madison explicitly discarded or left by the wayside in the development of his theory. The results of such an undertaking are quite revealing in their own right largely because they stand in direct opposition to most of our contemporary interpretations of how the American system was "designed" to handle the problem of unjust and overpowering majorities.

One method which Madison rejects out-

right can be termed the traditionalist approach. It is the one which most readily comes to mind and finds its contemporary expression in the faith some individuals place in certain of our institutions, most notably the Supreme Court. Quite simply this approach involves placing a veto power over actions of a majority in the hands of a select group. In Madison's time, for instance, theories of "mixed government" which would lodge such powers in the hands of the major social classes were prevalent and obviously could have been adapted to the American environment to provide a ready framework for such a solution. Yet, it must be emphasized that aside from the principle of representation that would perforce require a legislative body, Madison at no point in Federalist 10 speaks of constitutional institutions as barriers to factious majorities. The means by which their effects will be controlled relate only to the noninstitutional factors associated with extensiveness that we have already noted. This fact, often overlooked by contemporary scholars, provides very strong, albeit indirect, evidence that Madison was aware that such institutions would rest upon non-republican foundations and would, moreover, at best be a precarious check on factious majorities. We need not reply upon inferences, however. At other points he explicitly rejects any such approach. He writes that we cannot count on "enlightened statesmen" to control factions because they "will not always be at the helm" besides which, even if they were, they would be of little use since "indirect and remote considerations . . . rarely prevail over the immediate interest which one party may find in disregarding the rights of another or the good of the whole." (Federalist 10, p. 60) He flatly rejects "creating a will in the community independent of the majority—that is, of the society itself." This he notes is the method which "prevails in all governments possessing an hereditary or self-appointed authority." "This, at best," he warns, "is but a precarious security; because a power inde-

pendent of the society may as well espouse the unjust views of the major, as the rightful interests of the minor party, and may possibly be turned against both parties." (Federalist 51, p. 351)

Another approach to the problem of majority factions, one at least that seems to fascinate behavioralists concerned with the development and formation of the norms, attitudes and values upon which political behavior is predicated, would be this: to produce and inculcate in the general population democratic values and norms with the end in mind of creating such a consensus that divisive issues (*e.g.*, issues involving the truth or wisdom of basic values or ways of life of the society) would simply not arise in the political arena. Or, to put this into a more respectable framework, we know that every viable society rests upon some commonality of belief or, quite simply, it no longer remains a viable society. This commonality of belief—if, of course, it conforms with the known and tested standards of virtue—would serve to limit the boundaries of political discourse, particularly the introduction of factious proposals. In this connection, we cannot help but note that one of the critical functions of public education, at least as it was originally conceived, was to reinforce and bolster in each successive generation the fundamental ethics of this commonality.

With this we come to one of the most interesting and perplexing aspects of Madison's thought; to wit, his rejection for both normative and empirical reasons of what we have termed the modern approach. For one thing, Madison seems adamant in rejecting methods which would serve to *eliminate* the causes of faction. "The latent causes of factions," he writes in Federalist 10, "are sown in the nature of man." And even if "no substantial occasion presents itself [such as attachment to different political leaders, or matters concerning "government" or "religion"] the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions and excite their most violent conflicts."

(pp. 58-59) It would be "impracticable" [at other points he suggests impossible] to give "to every citizen the same passions and the same interests" which, if it could be done, would surely serve to eliminate the causes of faction. (p. 58) Nor is he about to destroy liberty, the other means he perceives for eliminating the causes of faction. This would be analogous to "the annihilation of air, which is essential to animal life, because it imparts to fire its destructive agency." From Madison's vantage point, there is little that can or should be done to eliminate factions. They will always be with us.

As long as the reason of man continues fallible, and he is at liberty to exercise it, different options will be formed. As long as the connection subsists between his reason and his self-love, his opinions and his passions will have a reciprocal influence on each other; and the former will be objects to which the latter will attach themselves. (p. 58)

And, as we might expect, he placed little reliance on appeals to a higher morality or religion in staying the hands of a majority faction. "They are not found to be such on the injustice and violence of individuals, and lose their efficacy in proportion to the number combined together, that is, in proportion as their efficacy becomes needful." (Federalist 10, p. 61) By the same token, he placed little faith in the sufficiency of written limitations to block factions. At other points in *The Federalist* (e.g., Federalist 48) and consonant with the general approach set forth in Federalist 10, he is somewhat disdainful of "parchment barricades" controlling the effects of factious groups. And even after his change of heart concerning the need for a Bill of Rights, it is apparent from his own language that he holds out limited and guarded prospects regarding their efficacy in curbing majority factions:

It may be thought that all paper barriers against the power of the commu-

nity are too weak to be worthy of attention. I am sensible they are not so strong as to satisfy gentlemen of every description who have seen and examined thoroughly the texture of such a defence; yet, as they have a tendency to impress some degree of respect for them, to establish the public opinion in their favor and rouse the attention of the whole community, it may be one means to control the majority from those acts to which they might be otherwise inclined.³

The perplexing aspect of Madison's theory in this respect can be put as follows: Unlike many of his contemporary critics, Madison was an objectivist in the sense that he attached meaning to such terms as "justice," "permanent and aggregate interests of the community," and the "rights of other citizens." In his very definition of factions, for example, he uses this terminology to set such groups apart in a class by themselves on the rather obvious assumption that by reference to such objective standards as "rights" and "permanent and aggregate interest" they could be operationally identified. For instance, justice, probably his highest end, is not to be equated with what any majority or "the great body of the people" may regard it at any given point in time; it embodies known and objective characteristics which are the measure of whether a group is factious or not. In sum, Madison was not a relativist.

In light of this and his depiction of majority factions, his assertion that a majority will "seldom" coalesce "on any other principles than those of justice and the general good" is startling. What kind of faith can we place in any such prediction? Why are we to assume majorities will almost always act in a manner consistent with the public good? Factions, after all, are inevitable; they constitute "the disease most incident to republican government." Factious majorities, and this seems to be another of their inherent characteristics, will seldom, if ever, be dissuaded or show forbearance;

they will press ahead with their demands no matter how unjust their cause, totally unaffected by appeals to a higher morality, justice, or the common good; debate, deliberation, reason, the characteristics of decent and orderly government will be of no avail in modifying or thwarting their ambitions. They will introduce "instability, injustice and confusion" into our highest councils and when the opportunity presents itself, once, that is, they are the "superior force," they will rule without regard for the "rules of justice and the rights of the minor party." (Federalist 10, p. 57)

Madison's answer centers on the extensiveness of the republic. And, as we have seen, he sees no need to depart from the republican principle which, of course, leaves majorities virtually unlimited. But given the very formidable threat posed by majority factions to the existence of the republic, we are entitled to ask whether extensiveness alone is sufficient. To answer this, we must examine more thoroughly the arguments which he advances.

II

THE TWO ATTRIBUTES of extensiveness, already noted, which serve to control the effects of faction are representation and interest multiplicity and diversity. We shall discuss these in greater detail with an eye to determining how it is they might operate to accomplish this end consonant with the republican principles.

At least one claim advanced by Madison on behalf of a system of representation in the context of a large republic seems self-evident. He observes that there must be an upward limit to the size of a representative assembly. The reasons for this are twofold: the assembly cannot be so large as to constitute a tumultuous mob incapable of conducting its assigned business in an orderly fashion, nor, by the canons implicit in republicanism, should it be so large that strict oligarchic internal rule is needed. Quite obviously, the larger the republic in terms of population, the more fit characters

there will be to choose among for the limited number of positions in the legislature. (Federalist 10, pp. 62-63) To put this point in a familiar context, we can be reasonably certain, all things being equal, that a high school with 5000 students will be able to field a better football team than one with but 500 students.

The greater number of fit characters means that the opportunities for selection of worthy representatives are increased. Extensiveness also provides other opportunities which are not so obvious. The larger the constituency, the less susceptible is the election to the "intrigues of the ambitious, or the bribes of the rich." (Federalist 57, p. 388) In other words, the possibilities of one man or a small group of men manipulating the electoral outcome are drastically diminished. The campaigns promise to be open contests wherein the voters will more likely be freed from the pernicious influences which all too frequently afflict small electoral districts.

And Madison seems to suggest something beyond this when in Federalist 10 he maintains that in large republics "it will be more difficult for unworthy candidates to practice with success the vicious arts, by which elections are too often carried." (p. 63) Here, because he is contrasting the conditions of democracy with those of republicanism, we can without injustice take him to mean that extensiveness will diminish the opportunities for the election of demagogues. This rests on two assumptions which seem warranted in light of his general theory: first, the worthy candidates will be able to counteract the effects of the demagogue; and second, extensiveness will require a candidate to expose himself repeatedly to a variety of audiences which means at a minimum that he could not secure election by one passionate appeal in a setting where all the voters are present. Each candidate, in sum, would be forced to state his case repeatedly before different groups with sufficient opportunities for rebuttal by opposing candidates. This would

serve to give the electorate sufficient opportunity to reason and deliberate.

These are forceful, though far less than compelling, arguments, to the effect that the electorate would have a greater opportunity to select representatives "whose patriotism and love of justice will be least likely to sacrifice" the common good "to temporary or partial considerations." But Madison is less than convincing in telling us why the attention of the people will focus on men of the most attractive merit. The opportunity may be there but the motive may be lacking. To recur to our football team analogy, the coach of the high school with 5000 students may by design, ignorance, or stupidity select the worst, not the best, available talent for the team. Conversely the coach of the school with 500 students may be knowledgeable and conscientious and field a far better team.

Madison's clear assumption, stated in Federalist 57, is that the people will choose those "whose merit may best recommend" them "to the esteem and confidence of his country."

. . . as they will have been distinguished by the preference of their fellow-citizens, we are to presume that in general they will be somewhat distinguished also by those qualities which entitle them to it, and which promise a sincere and scrupulous regard to the nature of their engagements. (p. 385)

Bearing this in mind, let us look at the end which Madison felt would be attained through representation to see how this relates to the majority faction problem. The representative assembly, for one thing, will constitute a "chosen body of citizens" which will "refine and enlarge the public view" and "whose wisdom may best discern the true interest of the country." Moreover, the representatives' "patriotism" and "love of justice," as we have mentioned, will presumably operate to prevent the sacrifice of the true interest to "temporary and partial considerations." And of this, Madison goes on to write, "it may well happen that the

public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose." (Federalist 10, p. 62)

We can ask, apart from the fact that representatives are more capable and virtuous than the average constituent, why should the representative assembly possess this clearer conception of the common good? One obvious answer is that the representative assembly is constituted such that its members collectively, through their deliberations and debates, will provide a picture of the whole so that, unlike an ordinary constituent, the representative can weigh and measure with greater knowledge and certainty the impact of particular policies upon the whole country, not just one section or district. They are, in other words, strategically placed for this purpose. Contrasting the domains of the states and national government, for example, Madison writes:

The great theatre of the United States presents a very different scene. The laws are so far from being uniform, that they vary in every State; whilst the public affairs of the Union are spread throughout a very extensive region, and are extremely diversified by the local affairs connected with them, and can with difficulty be correctly learnt in any other place than in the central councils, to which a knowledge of them will be brought by the representative of every part of the empire. (Federalist 51, p. 350)

Thus a policy which might have only a marginal benefit for a given geographical section of the country might have factious effects for another and eventually the whole nation. Or, it could be, a policy when viewed in the context of the whole might be seen as counterproductive. At least this much a representative will be in a better position to determine than constituents who, we must presume, will have more partial views.

Such a position regarding representation is easily reconciled with republicanism by assuming that if the constituents possessed the same knowledge as their representatives, they, too, would see matters in the same light as their representatives and abandon their temporary or partial interests. For such a process to occur would require a fairly high degree of "communion" between the representatives and their constituents because the representatives would be obliged, in this variant of republicanism, to make as accurate a calculation as possible concerning what factors or values derived from a comprehension of the whole, if known to the constituents, would cause a shift in their thinking. Madison perceived this need for communion,⁴ as we have termed it, but it presented him with serious problems. Critics of the proposed Constitution contended that the electoral districts under the new form of government would be so large that communion between constituents and the representatives would be virtually nonexistent. Madison was able to counter that the districts would be no larger than those found in certain of the existing states. Yet, on Madison's own showing this was hardly a satisfactory rejoinder. If, as he conceded, the population of the nation would grow and if, as he also conceded, there must be an upward limit to the size of the representative assembly, the bonds of communion could not help but be severely weakened, if not entirely broken. Madison's general comment reflecting on this problem is noteworthy because it touches upon a theme which recurs throughout *The Federalist*.

By enlarging too much the number of electors, you render the representative too little acquainted with all their local circumstances and lesser interests; as by reducing it too much, you render him unduly attached to these, and too little fit to comprehend and pursue great and national objects. The federal Constitution form a happy combination in this respect; the great and aggregate interests

being referred to the national, the local and particular to the State legislatures. (Federalist 10, p. 63)

But, in suggesting the need for a division of authority between the states and national governments, Madison theoretically evades one problem only to introduce another which even to this day defies solution.

If representation itself provides at best only a very partial solution to controlling the effects of faction, what can be said of the other characteristics of an extended republic, namely, multiplicity and diversity of interest? The clearest statement of the desired effect of multiple interests is found in Federalist 51.

Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests and classes of citizens, that the rights of individuals, or of the minority, will be in a little danger from interested combinations of the majority. In a free government the security for civil rights must be the same as that for religious rights. It consists in the one case in the multiplicity of interests, and in the other in the multiplicity of sects. The degree of security in both cases will depend on the number of interests and sects; and this may be presumed to depend on the extent of country and number of people comprehended under the same government. (pp. 351-2)

By recurring to Federalist 10, we find specific reasons which we have mentioned in another context as to why this state of affairs will obtain. Here, again, we find the conditions of the small and large republic contrasted. In the small republic there will be fewer "distinct parties and interests" which increases the likelihood that interests composing a majority will possess a common motive to oppress or otherwise abuse a minority. Beyond this the opportunities for discovering and acting upon such a common motive are more abundant because of the "small compass" within which the

interests operate. The opposite is true of the large republic which he envisions. The interests and parties will be so numerous that it will be difficult for them to discover a common motive for oppressive action. And even if such a motive did exist—and here Madison seems to feel geographical factors come into play—"it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other." In this view of things, each interest is a small stone in a large mosaic.

In addition to all the difficulties attendant upon majority formation with such a diversity of interests, Madison cites another impediment: "where there is a consciousness of unjust or dishonorable purposes, communication is always checked by distrust in proportion to the number whose concurrence is necessary." (Federalist 10, p. 64) This, of course, presumes that there are recognized social norms regarding what constitutes an unjust or dishonorable purpose, even to the extent that factious leaders sense they are doing something wrong. To what extent this would really operate as an impediment, given Madison's characterization of factions, is somewhat questionable. However, and more important in light of his general theory, is the "distrust" which is bound to occur among the diverse interests. Given the picture painted by Madison, the degree of mutual suspicion might well be sufficient to preclude unified action. To this we might also add that organization for unified action would probably have to take on conspiratorial overtones because secrecy might well be required in plotting action contrary to the common morality. Thus, all the factors of extensiveness operate to render a successful conspiracy most unlikely.

Yet there are obvious problems with Madison's theory. Why will the extensiveness operate to thwart only factious majorities? Why, this is, won't the hurdles of interest diversity operate to prevent the formation of virtuous or nonfactious majorities? Still another and more crucial problem can be put as follows: Madison

clearly didn't want an inert government, one incapable of making necessary decisions. And the fact is that the system he designed does make far reaching decisions. Given this, how are we to tell whether factious majorities have been able in practice to overcome the hurdles of extensiveness? To answer these and like questions we must probe Madison's theory a bit further.

III

A FRUITFUL APPROACH to the central problems posed by Madison's interest theory is to set forth and examine the currently fashionable interpretation of the American political process which is presumably a logical outgrowth of the Madisonian system. In the course of this we will also have need to cast Madison's remarks on representation in a somewhat new light, one that links them more closely to his interest theory.

A standard, but by no means universally accepted theory of American politics, derived from Madison's extensive republic theory comes to this: There are, indeed, varied and numerous interests vying with each other; and, as Madison put it, the chief object of government is to regulate "these various and interfering interests."⁵ Our political processes, both between and during elections, are best viewed as shifting alliances or coalitions of these various groups and interests. The processes of decision making are slow but through compromises, log rolling, and other give and take practices, a general consensus emerges on policy matters. Certain interest alliances, if strong enough, may block action but, whether consensus is reached or not, the process is best understood as an interplay between the varied and numerous interests which comprise the republic.

This in brief outline is probably the most widely shared view of how the American political system operates at the national level with regard to those features with which we are concerned. It is also considered, as we have mentioned, to be the logical outgrowth of the Madisonian theory

which we have set forth in some detail. What we see at once, however, is that this accounting of the process does not deal with the key normative elements of Madison's theory. Put otherwise, our processes are viewed in terms of a collision of interests where it is assumed that the outcome of the collision accords with the common good largely because of the degree of consensus behind it. Absent from this depiction are such considerations as "the true interest" of the country, "the permanent and aggregate interests of the community," or the "general good." More to the point, while the foregoing account may be accurate portrayal of the American system in its relevant dimensions, there is little reason to presume that we have a republican government free from the control of factions.

This matter can be put another way. Madison's theory, no matter how one chooses to read it, does not support the notion that the true interests of the country emerge through the resolution of interest conflict. For example, two or more factions might be the participants in any such conflict and one would be hard pressed to say that the ensuing result is likely to conform with the general or common good. Far from it: the presumption would have to be precisely the opposite. But Madison tells us this will seldom happen and we are led to ask: What does the Madisonian theory require which is overlooked or ignored in our contemporary theory? If we were, in fact, following the Madisonian model what would our political processes look like? How would it vary from what we have today as described by most observers?

The major difference, as we see it, is the emphasis which the Madisonian theory places on the cultivation and existence of a predominant independent force in our highest decision making councils. What precisely do we mean by an independent force? In essence this: a group of decision makers sufficiently detached from the immediate interests of a given controversy which would serve more or less as a jury to judge the relative merits of the argu-

ments and proposals advanced by the interested and contending parties. The members of the independent force would necessarily change from issue to issue as different interests become embroiled in controversy. Yet, the point is that on any given issue the force would be of sufficient size to hold the balance between contending interests.

The whole thrust of Madison's theoretical discourse leads us to this conclusion. To see this, we need only transpose Madison's thought a bit: Suppose we do not, as Madison did, focus our attention on how the large republic will serve to control the effects of faction, but rather on how the large republic and the conditions associated with it will serve to produce an independent force of the kind described above. In other words, if we look to Madison's theory as an explanation of why it will come to pass that no interest group will become "a judge of its own cause," we are in a better position to understand how Madison's extended republic will control the effects of faction. Indeed, Madison so much as invites us to look at the matter this way when he laments the character of the decision making process which has led to the undoing of republics.

No man is allowed to be a judge of his own cause because his interest would certainly bias his judgement, and not improbably, corrupt his integrity. With equal, nay with greater reason, a body of men are unfit to be both judges and parties at the same time; yet what are many of the most important acts of legislation, but so many judicial determinations, not indeed concerning the rights of single persons, but concerning the rights of large bodies of citizens? And what are the different classes of the legislators but advocates and parties to the causes which they determine? (Federalist 10, p. 59)

If we transpose Madison's theory, we can readily see how the conditions which he identifies in the large republic will enhance the probabilities of an independent force. Let us detail some of these:

(a) Multiplicity and diversity of interests certainly does reduce the possibilities of union of interest through common motives. Thus it is on any given issue normally only a small proportion of the entire population is likely to be aroused or involved. The result is quite clearly that there is likely to be a large independent force which can perform a "jury" function. In these terms the contrast between the small and large republic are striking: In the small republic where the interests are fewer and the ties between individuals are such that most individuals are forced to take sides one way or the other, the possibilities of an independent and decisive force in the decision making councils are considerably reduced.

(b) The independent force, freed from the interest bias which clouds and distorts judgment, is more likely to resort to the accepted norms of the community in making its decision. Certainly it will have no need to deviate markedly from the accepted norms; it has no axe to grind nor does it seek favors which might impinge on the rights of others. In sum, there is every reason to suppose it would represent a stable and calm force during stress and conflict.

(c) Representation, aside from placing a third force at a critical juncture in the decision making process, is bound to temper deliberations. Interest advocates possessed of a greater knowledge of the whole would be forced to some degree to weigh the contentions of opposing interests. The outgrowth of this would, of course, be a debate, but a debate in which passions are minimized in large part because the contending parties must come to grips with the issues, long term effects, the merits and shortcomings of any given proposal with an eye to persuading the independent force.

(d) When issues arise where the prospects of an effective independent force seem unlikely, that is issues which "mobilize" the entire community sentiment one way or another, Madison seems to presume one of two processes occurring. Where a common motive prevails there is likelihood of factious behavior because all interests

alike will perceive a common stake in the outcome. Such, for example, would normally be the case with respect to a foreign attack or intrigue. Where, as in the case of competing religious sects, a partial end is sought to the detriment of other sects, the fragmentation of interests will preclude any action.

With this before us we are able to perceive why non-factionous groups are in a far better position to achieve their ends through the system and why it is that factions face almost insurmountable obstacles. To the extent that proposals do not impair the accepted rights of others, there is every presumption that the independent force will side with them if the proposals are otherwise meritorious. In any event, members of the independent force will be able to do those things a good and virtuous representative should do: act in the true interest of the country. Stated otherwise, when there is no independent force, the possibilities of factious control are greatly increased.

If this view is substantially correct, it would seem to follow that the Madisonian theory presupposes what can be termed a low key or relatively passive government. If it were otherwise, the problems of controlling the effects of faction would go well beyond those canvassed by Madison. A positive government would, more likely than not, serve to arouse the people and to the extent that it became the mechanism through which interests, factious or not, could achieve differential and favored treatment, it would increasingly become the object of capture or domination. Scarcely any interest could avoid being drawn into this political vortex. Soon "horse trading" and coalitional politics, all with the end of securing needed majorities, would become common practice. With this the prospects of an independent force would be greatly diminished. Moreover, as the government would be obliged to embark upon long range programs which would necessarily favor one set of interests over another, the society would become increasingly polar-

ized. To a lesser and lesser extent would issues be decided on the basis of the common good or the true interests of the nation. Rather such decisions would be made with an eye on how to maintain and enlarge a winning coalition. In sum, an active government involves a form of bribery in which only a few can afford to remain neutral. And, on Madison's own showing, once this process begins there is little, if any, hope that considerations of long term national interest will arrest the tide.⁹

Active or positive government thus poses very critical problems for Madison's extended republic theory. Once a government has shifted gears from a more or less passive instrumentality which operates within a relatively narrow sphere to an instrumentality for the advancement of interests and purposes which are of enormously broad scope, the best one can hope for consistent with the Madisonian theory is that the true interests of the country reside somewhere within the depths of the forces which propel the dominant interest coalitions or that, at the very least, these forces do not contain strategically placed factions. But, in light of Madison's assumptions, these hopes are at best very dim.

IV

WITH THE FOREGOING in mind, we have at least some idea of where to look to determine whether Madison's solution to the problem of factions is any longer applicable to the American system as it presently operates. We shall briefly examine some of the characteristics of our present system with reference to Madison's basic assumptions and propositions.

In one respect, the continued growth of the United States, the conditions essential for a nontyrannical republic seem to have been immensely strengthened. Whether the effects of this growth have been offset by advanced systems of communication and travel is obviously a judgmental matter. However, because of our industrial and technological development, interest pro-

liferation has been increasing at an enormous rate. Today there is virtually no sector of American life where interest organizations do not abound and many of these are highly organized for political action. Thus, one is safe in saying that one of the basic props of the Madisonian theory, multiplicity and diversity of interest, is quite sound.

Developments of another sort, however, present a very basic and serious threat to a republic free from the control of faction. We have already commented on the effects of positive government with reference to Madison's theory. In this regard, we have already witnessed a dramatic shift in our thinking about the legitimate role of government in our society. We can say that since at least the advent of the New Deal, Madison's basic presumption regarding the role of government has been rendered inoperative. Since this point in time, the dominant political forces have seen their main task as one of achieving "social democracy" which, when distilled, comes down to greater economic and social equality. The extent of the shift over four decades can hardly be exaggerated. What were formerly regarded as dispensations by government are now looked upon as vested rights. We now have entrenched interests in the bureaucracy whose very livelihood depends upon identifying social "wrongs" and developing long range plans to ameliorate them. The quest for equality in all spheres of social life seemingly knows no bounds short of repealing the laws of nature. In this process the government has massively intervened in precisely those areas involving patterns of economic and social life where it is abundantly clear the opportunities for factious influence abound. It has done so, moreover, where the independent forces by the very nature of the situation are either weak or nonexistent.

Equally important in the disintegration of independent forces produced by positive government is the ideology which has justified and propelled positive government, namely, secular liberalism. The characteris-

tics of this ideology hardly need recounting here. Yet we must not ignore two of its features that do bear upon our analysis. First, the push for social and economic equality moves us in a direction clearly fraught with danger. In an important sense, such movements, when carried to the extreme, embody the essence of what Madison seemed to regard as factionalism: namely, the attempt to reduce men as far as possible to the condition of sameness. A second and related feature worthy of note is a perverse form of relativism that exalts equality or, better said, transforms equality into the common good or the true interest of society, but simultaneously and dogmatically holds that it is meaningless to speak of national interest or the common good as something apart from and "above" the clash of particular interests. In this, the contemporary and prevalent ideology is poles apart from Madison's theoretical presumptions which were plainly not relativist.

Secular liberalism would pose no dangers in terms of Madison's extended republic theory save for its pervasiveness. Its simplicity and moral gloss make it the standard to which academics, the priests of the mass media and, perhaps because of this, our political leaders repair. It is the source of "respectable" opinion; and those who operate most effectively within its confines are our "statesmen." Yet, its acceptance at the highest levels further diminishes the possibilities of an independent force in our decision making assemblies. The ideology, being the measure of what is best for the country, serves to exclude from consideration measures, policies and proposals at variance with its principles, no matter how prudential, worthy, or effective they might be. Even in the field of foreign policy where we would expect to find a vast independent force at the national level, the effects of ideology on our policies is pronounced.⁷ More than this, it threatens to incapacitate the national government from performing its requisite and primary functions such as securing the common defense and providing domestic tranquillity.

Finally, secular liberalism's attachment to pure democracy, as far as that is attainable in the United States, promises to reduce even further the possibilities of an independent force. The reforms of political parties and Congress, all designed in the name of greater democracy, have this effect. Not only would they create a decision making structure which would *force* a division of the whole society along majority-minority lines, they would also assure that this cleavage was reflected in our decision making bodies, thereby eliminating the possibilities of an independent force. Thus the benefits of diversity, one of the fundamental pillars of Madison's theory, would be lost in this rigid and constrictive framework.

A number of reasons can be adduced as to why we have not as yet evidenced the full effect of factions. The basic reason, as we see it, is to be found in the relative affluence of the American society. This is to say that interests caught up in the politics of positive government have to date experienced little hardship. Quite the contrary: To this point in time most of the interests have benefited. In addition, the potential independent forces have been, so to speak, bought off. Thus positive government has generated an interest of its own which all but forecloses significant number from showing forbearance. For any substantial group to try to arrest the process now in full operation would be considered an act of betrayal and bad faith which could only result in severe deprivations for the "guilty."

Yet the day of reckoning is inevitable. Hard and painful choices will have to be made as resources become scarcer. Circumstances not of human design or volition will force forbearance. The severity of withdrawal on the republic will depend in large measure on the sacrifices demanded of interests and this, in turn, depends on the extent to which government is forced to curtail its activities. But as the tide of secular liberalism has not ebbed, we have every reason to believe the reactions will

be severe. And the severity of the reaction will be compounded by the fact that the major interests, because of their strategic positions in society, can resort to forms of blackmail to gain favored status or to hold at least whatever gains they have made. Those, for instance, performing essential services can always hold out the threat of a general strike. But whatever configuration politics does assume at this juncture, there is little prospect that the effects of faction can be controlled without resort to coercion. Whether coercive powers will be exercised moderately or in a relatively benevolent manner would seem to depend on whether the middle class would be able to act as a viable independent force.

One thing does emerge from this analysis. Madison's reliance on the extended republic to prevent the abuses of faction, alike with such devices formulated by the

traditionalists, is far from fool proof. This can be seen in our increasing popular reliance on the feeblest of the traditional devices, a body presumably removed from the purely political arena (the Supreme Court) empowered to enforce written limitations (a Bill of Rights). Not only is this indicative of the misdirection and sad state of our thinking about the problem of nature of factions, it constitutes a remarkable regression in our thinking about democratic government.

Certainly Madison cannot be faulted for not having seen the true dimensions of the problems associated with factions. Perhaps more clearly than other theorists who preceded him, he saw its root causes. Yet, he can be faulted for not having urged upon his audience the observance of that morality necessary for the perpetuation of the regime he envisioned.

¹"The Founding Fathers: A Reform Caucus in Action," *American Political Science Review* (March, 1962), p. 814.

²*The Federalist* (New York: Modern Library, n.d.), p. 58. All subsequent page citations in the text are to this edition of *The Federalist*.

³Charles S. Hyneman and George W. Carey (eds.), *A Second Federalist* (Columbia: South Carolina University Press, 1970), p. 269.

⁴See especially Federalists 52 and 57 on this point.

⁵Most students readily acknowledge their indebtedness to Madison for an understanding of

the general workings of the American system. See, for example, David Truman's classic, *The Governmental Process*.

⁶John C. Calhoun, one of the first major critics of the extensive republic theory, lays out a scenario very similar to this in his *Disquisition*. It would seem that because Calhoun was on the Southern side in the slavery controversy we have seen fit to ignore his warning.

⁷This Henry Regnery thoroughly documents in his "The Age of Liberalism," *Modern Age* (Spring, 1975).