

THE POLITICS OF VIRTUES, THE GOVERNMENT OF KNAVES

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Laws politic, ordained for external order and regiment among men, are never framed as they should be, unless presuming the will of man to be inwardly obstinate, rebellious, and averse from all obedience unto the sacred laws of his nature; in a word, unless presuming man to be in regard of his depraved mind little better than a wild beast, they do accordingly provide notwithstanding so to frame his outward actions, that they be no hindrance unto the common good for which societies are instituted: unless they do this, they are not perfect. It resteth therefore that we consider how nature findeth out such laws of government as serve to direct even nature depraved to a right end. -- Richard Hooker

It is, therefore, a just political maxim that every man must be supposed a knave, though at the same time it appears somewhat strange that a maxim should be true in politics which is false in fact. -- David Hume

The First Lady has been described in *The New York Times Magazine* as a proponent of the "politics of virtue." Compassion is the virtue the author means, and while in ordinary life it means that A gives of his own to help B, in Mrs. Clinton's style of activism it means that A takes from C to make B dependent. Apparently, what the "politics of virtue" means to the author is a high-tax welfare state.

Political theory uses an almost identical expression, the "politics of virtues," for something quite different: an approach to statecraft which gives first place to considerations of excellence of character. To be sure, the proponent *cares* about the other things, but he begins by thinking of the virtues. Before all else, he wants to know how wise, how just, how temperate, and how courageous the citizens are, and whether they are becoming better people or worse. The principal reason is simple. As de Maistre put it, every country gets the government it deserves. One cannot expect liberty, justice, or concern for the common good where knaves rule a rabble. So much we should have learned by now.

Here's the rub: We are a broken race in a fallen world. For denying the Atonement a man may be faithless, but for denying its need he is insane. We are all caught in the wreck; even the saints are sinners. Hence the single greatest problem of politics is simply this: How can we make government promote the common good when there is so little virtue to be found?

To various special problems, there are various partial solutions. For instance, we can sometimes offset the temptation to graft by raising the salaries of public officials. To the *general* problem, however, Western thought records just seven solutions.

Deterrence:

Acts of vice must be inhibited by the threat of legal punishment.

Filtration:

Officeholders must be recruited disproportionately from among the most virtuous.

Compensation:

Citizens must be organized in such a way that excess and deficiency correct each other, and all the scattered chips of insight come together in a whole.

Balance:

Selfish groups must be set against each other so that vice is checked and virtue given leverage.

Channeling:

Non-virtuous motives must be shaped and directed so that they give rise to the same behavior that virtue would.

Inculcation:

Through law, education, and the distribution of esteem and disesteem, government must teach virtue directly.

Subsidiarity:

Government must honor virtue and protect its teachers without attempting to take their place.

By reason of our many follies, we may at last have reached that point in history where these solutions can be judged.

I

Deterrence: Acts of vice must be inhibited by the threat of legal punishment. Even this simplest and most straightforward of the seven solutions is sometimes misunderstood, so let us

begin by making sure just what it does and does not propose. In the first place, its target is not vice proper, but only the acts of vice. For the very good reason that vice is an invisible disposition of the heart that cannot be detected by the authorities, we do not punish folly, injustice, or intemperance as such, but the foolish act of selling liquor to a six-year-old, the unjust act of taking a bribe, and the intemperate act of having a drunken orgy in a public place. In the second place, because the purpose of law is the *common* rather than the personal good, not even every act of vice is a fitting concern of law; to make it so there must be significant injury to the rest of the public. In practice this is less a limit than it seems, for once we consider indirect harms, like the harm of bad example or the harm of reducing one's ability to fulfill one's duties, we realize that there may be no such thing as an act of vice that does *no* public injury. Nevertheless it is a limit, for not all injury is significant injury.

Now: How effective is this solution? Not very. In the first place, deterrence, supposedly our answer to depravity, is crippled by depravity itself; it works well only when depravity is incomplete. For as lawbreakers in and out of government know full well, only a fraction of crimes are punished. True, the fraction may be enlarged by such means as putting more policemen on the streets and auditors in the Treasury. Beyond a certain point, however, the cost of enlarging it becomes too high, and the more reprobate the population, the sooner this point is reached. *Thus law achieves most of its deterrent effect not by exploiting fear, but by exploiting guilt.* It presupposes not the total absence of moral qualities among the citizens, but only their imperfection. It shores up a faltering conscience, but this presupposes conscience. Further, punishments must be in keeping with the stage of development that conscience has already reached. To be sure, Thomas Aquinas held that punishments can instruct the conscience as well as employ it -- a thesis we will consider later. But even he conceded that they can neither instruct *nor* deter if they get too far ahead of the point that conscience has reached already. As the debacle of Prohibition confirms, the attempt to suppress those acts of vice which the citizens still love and find blameless merely makes them "break out into yet greater evils."

Not only must law achieve most of its deterrent effect not by exploiting fear but by exploiting the residue of virtue; the guardians themselves must have an even purer heart than those they guard. This is a hard demand, even harder in the marble corridors than on the streets; it is one thing asking policemen not to murder or take bribes, quite another asking lawmakers to abstain from partiality. The reason: as Hume observed, men act less virtuously in their public capacities than in their private. Several explanations can be offered for this. One is that few virtuous men have the stomach to campaign; another, that great temptations bring out hidden faults; still another, that personal responsibility is easier to evade when individuals act in concert. Hume's own explanation is more subtle. What steers most men toward the common good is merely the desire for honor, which is not a craving for goodness as such but for the good opinion of others. Unfortunately, whereas in private life a man may crave the good opinion of everyone, in politics he craves it only of his confederates; hence the common good becomes, for him, the good that is common to party. True, some few do keep their hearts pure even in the flame of faction. But because the policy of a group is determined by its majority, these few count for nothing. Groups are not kind to exceptions.

We see then that deterrence is not a true solution to the problem of the scarcity of virtue, for the scarcer the virtue, the weaker the deterrent. At best, deterrence is a kind of Hamburger Helper. It helps government go a little further toward the common good with what little virtue we have; it cannot enable it to do without.

II

Filtration: Officeholders must be recruited disproportionately from among the most virtuous. In this solution to The Problem, the Hamburger Helper idea becomes explicit. No pretense is made that we can do without virtue; filtration is an open strategy for stretching the little bit there is.

The way the strategy is supposed to work is to get that little bit into the government. By contrast with what is found in dairies, in politics cream does not automatically rise to the top. Do what we may, however, *something* rises to the top, and it would be prudent to get as much cream into it as we can. This is especially imperative in light of David Hume's warning that conditions at the top are most unfavorable to cream. If power waters all the seeds of vice, all the more important that those in power are not too seedy at the outset. Thus James Madison held that the first aim of every constitution "is, or ought to be, first to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society."

What strategies of filtration have actually been attempted? Political history reveals just four.

Filtration method 1: Ascription. Candidates must have particular characteristics which are correlated with merit but cannot be attained by any voluntary action. The ascriptive characteristic of lineage was the basis on which Aristotle distinguished virtuous aristocracy from its perversion, oligarchy. Both, of course, made rule the affair of an elite, but whereas in aristocracy the Few are set apart by noble breeding, in oligarchy they are merely filthy rich. Several ascriptive filters are also specified by the American Constitution; for instance, the president must be a natural-born citizen, and senators must be at least thirty years of age. Birth and breeding, of course, are examples of *insuperable* ascriptive characteristics in that they are permanent and unalterable. Youth, for instance, is superable. Although it disqualifies a twenty-year-old from serving as a senator, if he waits long enough he will grow out of it.

Filtration method 2: Achievement. Candidates must distinguish themselves by their accomplishments. Not only did every senator in Republican Rome come from a magisterial lineage, which by itself is merely an ascriptive requirement, but each had also personally ascended the *cursus honorum*, holding in turn every one of the prescribed magisterial offices from lowest to highest. Although the analogy is perhaps not to be pressed too strongly, some Americans view the system of Presidential primaries in a similar light: not, to be sure, as a ladder of honors, but as a gamut of obstacles. Several weak achievement filters are also prescribed by the Constitution itself, for instance that senators and representatives be naturalized citizens.

Filtration method 3: Examination. Candidates must perform well on a formal test of knowledge or belief. Mandarin China offers the paradigm case of the examination filter; the vast imperial bureaucracy was filled by men who could demonstrate erudition in the works of the sages. In the United States, certain types of examination filter are actually forbidden; for instance, Article VI of the United States Constitution prohibits subjecting candidates to religious tests. Civil service examinations, however, are not only allowed by the Constitution but required by law. Probably the motive in the American and Mandarin cases is also different. Whereas the Chinese civil service examination may have been viewed as an ideal filter for virtue, the American civil service examination is viewed merely as an improvement upon patronage.

Filtration method 4: Approbation. Candidates must demonstrate their merit to those deemed qualified to judge it. Thanks to Plato, in whose self-perpetuating meritocracy new Guardians were selected by old, the very mention of approbative filters conjures up the bogey of "elitism." However, there are all sorts of approbative filters, some of which are at the center of what we moderns are pleased to call democracy. Madison understood representation itself as an approbative filter; citizens vote according to their estimates of the virtues of the candidates. The key assumption here is as old as Plato: That when undistracted by bribes, ordinary people are both able to identify and willing to defer to persons of greater virtue than themselves. Of course, Madison does not assume that every kind of merit can be judged by inexperienced people. But for the kinds that cannot, he simply adds more layers of approbation. Judges, for instance, are sifted through a four-ply filter: (1) state voters choose both presidential electors and state legislators; (2) the electors choose the president, while the state legislators choose senators; (3) the president nominates judges; and (4) the senators confirm his nominees.

How good is filtration as a solution to The Problem? We understand, of course, that neither ascription, achievement, examination, nor approbation has perfect efficiency: the nobility may not all be noble, accomplishments may be largely due to luck, knowledge may be small part of wisdom, and judges may misjudge. Nevertheless, so long as we are better off with a filter than without, its inefficiency is not likely to distress us.

Unfortunately, we may be worse off rather than better. Any filter can backfire so that it aids the cause of vice instead of virtue. Let's consider some of the ways in which this can happen.

Incitement to envy. The whole point of a filter is to magnify some difference between ruled and rulers. But any difference between the ranks may whet the tooth of envy. This is especially true with differences in virtue. When they are shammed, the high are put to scorn; when they are real, the low are put to shame. Either way, the vice of envy is awakened. A filter that operates like this is like a winnowing basket that separates the chaff by destroying the grain.

Fire in the belly. This is a particular danger of achievement filters. The wise, said Plato, must be forced to rule. What does this say about those who want to? American parties model their presidential nominating procedures on marathon dancing: the winner is the last one on his feet. Survivor Walter Mondale has said that to run the gantlet, one must have "fire in the belly."

Did he mean persistence, endurance, and adaptability? Or did he mean the love of power and the lust of domination?

Wise fools. Another of Plato's concessions about philosophers is that most of those with this sort of learning are either useless or dangerous. Examination filters rest on the opposite assumption: that learning, which can be measured, is correlated with wisdom, which cannot. The assumption is not wholly unreasonable, for moral discernment without any propositional knowledge at all is clearly impossible. However, we should not push the assumption too far. For in modern, relativistic education, the more one learns the less discerning he becomes.

The race of technique. What the engineers of politics overlook is that every advance in the technique of filtration calls forth a corresponding advance in the technique of evasion. Consider the approbative filter of putting congressional candidates to a vote. *Leak:* Voters can be bribed. *Patch:* As Madison suggested, congressional districts are made large. The greater the number of voters who have to be bought all at once, the more expensive it is "for unworthy candidates to practice with success the vicious arts by which elections are too often carried." *New leak:* Unable to finance their vicious arts themselves, candidates seek the assistance of large-scale political organizations -- first parties, later interest groups. *New patch:* Bribery and corruption are exposed to the voters by an aggressive press. *New leak:* The judgments of the voters is molded by the prejudices of the journalistic class.

Vesting of interests. Who wishes to quarrel with the "professionalism" of the civil service? Who wishes to return to the "corruption" of the patronage system? But the steps we have taken to keep government workers from being *hired* for partisan reasons make it hard for Congress and the President to control them, and the steps we have taken to keep them from being *fired* for partisan reasons make it hard to dismiss them for incompetence. Indeed, a permanent, nonpartisan civil service, protected by law, able to evolve its own norms of behavior and even largely unionized, naturally develops its own political interests, reinterpreting the virtues of professionalism in terms of survival, growth, and expansion of mission.

The risk of backfire inherent in every kind of filter helps to understand the merry-go-round quality of some of our reforms. Consider the Progressive Era replacement of partisan caucuses by partisan primaries. This merely reflects a preference for the approbation of followers over the approbation of bosses. In view of the swelling lunacy of electronic politics, the old smoke-filled room is looking better and better. Perhaps in the next turn of the merry-go-round we will undo what we did in the last.

III

Compensation: Citizens must be organized in such a way that excess and deficiency correct each other, and all the scattered chips of insight come together in a whole. Wherever there are differences, there must be coordination. To be sure, not all difference in temperament is due to vice, nor all difference in insight to folly. Indeed, in a world of perfect wisdom and virtue people would differ even more than now, for as goodness becomes more perfect it becomes more

various: we hear more difference in melody than in noise, see more difference in stained glass than in mud, and behold more difference in saints than in thugs. But each sort of difference requires its own sort of coordination. Francis and Benedict must be coordinated because they *develop* virtue in different ways; Laurel and Hardy because they *bungle* it in different ways. Whereas gifts must be arranged to unfold each other, flaws must be arranged to offset each other.

Now suppose we follow Aristotle and St. Thomas in distinguishing these three things: rectitude of *judgment*, rectitude of *passion*, and rectitude of *will*. Considering only the cardinal virtues, the first is the work of wisdom, the second is the work of courage and moderation, and the third is the work of justice. From each we can deviate in opposite directions. A man can deviate from rectitude of judgment through blindness to either one side of the picture or the other. He can deviate from rectitude of passion through either rashness or timidity. He can deviate from rectitude of will through partiality to either the Greens or the Blues. We might then surmise that there would be three different methods of compensation, one to cure defects of judgment, one to cure defects of passion, and one to cure defects of will. This is almost true, but not quite. By definition, defects of will are *deliberate*; therefore, they requires a somewhat different medicine than the others. That method is *balance*. In this section we consider only compensation.

The compensation for defects of judgment is *composing insights*. At a certain point in Aristotle's *Politics*, he sets aristocrats and commoners in an imaginary conversation about who has the best claim to rule. The Few claim rule on grounds of superior wisdom, for they have both erudition and experience. Today the answer would probably be "Sez who?", "So what?", or "I'm as good as you," but Aristotle's commoners have a more interesting reply; they concede inferiority at the level of the individual, but deny it at the level of the group. Man to man the aristocrat takes the laurels, but in the Assembly the difference disappears. The reason? The Assembly collects perspectives as well as people; through taking counsel, fragmentary insights are composed into a rounded picture of the whole.

Was it true? In ancient assemblies, were the Many really just as wise as the Few? We might better say that they were just as foolish. Assemblies were often hard to tell from mobs. And today? Representative legislatures are much less turbulent, but no more given to deliberation. In studying them, political scientists hardly even notice such a process. They find that more is explained by the "aggregation of preferences" than the composition of insights. In fact, on most issues most congressmen do not consult even their preferences, because they are too hyperspecialized to have any. Instead they "take cues" from colleagues whose hyperspecialties are different. That would be all right if wisdom could be entirely reduced to technical expertise, but as we have known since Socrates pointed it out in the *Protagoras*, it cannot.

The reason counsel is so rarely taken is that it is so demanding. In order for people to compose their scattered and one-sided insights, they must have many weighty qualities like firmness, fairness, coolness, discretion, and restraint. Most of all they must crave truth more than victory. If their greater craving is to win, then their defects are not so much in judgment as in will.

The compensation for defects of passion is *interlacing*. Plato offers us the classical account in his dialogue *Statesman*, where the true man of state is portrayed as a weaver of opposite civic temperaments. The rash and the timid become the warp and woof of an intricate pattern in the fabric of the community. Plato is not speaking of composing fragmentary insights, but of tempering extremes of passion. Fear tempers fire, and fire, fear.

Interlacing is even more demanding than taking counsel. If you mix salty with bland, you get mulligatawny. If you mix hawks with doves, you get mayhem. Now and then you may get a dove-hawk hybrid, but that is not much better, for though the mean and the midpoint are the same in arithmetic, they are different in morals and statecraft. Depending on circumstances, we should sometimes act and sometimes wait, sometimes spend and sometimes save, fight and sometimes flee. To know *just how* to interlace the different civic temperaments, one would have to know what one were trying to achieve. It seems, then, that in order to interlace successfully, the statesman himself must have virtue entire. Who should have this charge, and who should have that? Who should be sent, and who recalled? Who needs reproof, and who exhortation? To answer such questions he must be wise, just, moderate, and courageous himself.

In the end we see yet another application of the Hamburger Helper principle. Compensation does not replace virtue; it only extends its range. The taking of counsel composes insights only among those who have some virtue already. Interlacing may demand less virtue from the ruled, but demands even more from the rulers.

IV

Balance: Selfish groups must be set against each other so that vice is checked and virtue given leverage. This response to The Problem is even more complex than filtration. The achievement of constitutional balance between opposing groups has generally been thought to involve three different tasks.

First Task: Equalizing Advantages. The first task is to make the constitutional advantages of each group as nearly equal as possible. This is a tricky business; if groups are grossly unequal in society yet absolutely equal in the constitution, the constitution will merely be subverted by the socially superior group. On the other hand, all sorts of devices are available to modify social advantages. For instance, one can take advantage of distinctions that cut across a main cleavage. In medieval England, one main cleavage was between the nobility and the commoners. But the royal effort to preserve the autonomy of the Crown resulted in a Parliamentary arrangement whereby the knights of the shires -- the lowest rank of the nobility -- were placed not with the barons, but with the burgesses, who were commoners. This cut *across* the main cleavage between nobility and commoners.

Second Task: Securing the Middle. The second task generally thought necessary to the achievement of constitutional balance is somewhat different: Straddling every important cleavage, a *middle* or third force should be made as secure as possible; where it does not already exist, it must be established. The classical example of a middle group comes from Aristotle: it is a

middle *class*. In recent history the destruction of the middle class has often been the prelude to tyranny. However, the third force need not be a class at all. In contemporary Poland, for example, the role of balancing agent is played by the Roman Catholic Church. Any group may serve as balancer provided that it satisfies certain criteria: for example that it be strong enough to be sought by both sides as an ally, but not strong enough to rule on its own.

Third Task: Encouraging Courtship. The second task, securing the middle, points to the third: Constitutional *incentives* for opposing groups to court the middle must be protected where they already exist, and devised where they do not. Various ways of doing this have been developed. In the contemporary United States, one of the incentives to court the middle is the rule that allots a single representative to each electoral district. No party can win except by achieving a broader electoral coalition than any other, and this is possible only through compromise.

The strategy of balance, then, can be reformulated as follows: *Place every pair of opposing groups in counterpoise, balanced by a third for whose support they must compete. This will ensure justice and good order even if there is a deficit of virtue.*

Compiling examples takes no great ingenuity. Consider again, for example, the epic clash between the Few and the Many. The great writers whose names have filled the annals of political theory have held that these two might be balanced in any of the following ways. *By a middle class:* This was Aristotle's theory. *By a monarch* who stands above party: This was the "literary" theory of England, championed in the eighteenth century by William Blackstone and ridiculed in the nineteenth by Walter Bagehot. *By an elected chief magistrate*, or "President," who similarly stands above party: This was John Adam's prescription for the early American republic. *By a college of magistrates* who similarly stand above party: This was the "literary" theory of the late Roman republic, which originated in constitutional practices that were widespread in the states of the Mediterranean basin, and was championed in Rome by Polybios and Cicero.

But there are many other rivals besides the Many and the Few. *Two branches of government* might be balanced by the third. *Two opposing parties* might be balanced by voters who identify with neither. *Two opposing coalitions* of parties might be balanced by parties that identify with neither. Where parties are weak, *a legislative body and a Cabinet chosen by its majority* might be balanced by those members of the majority who are willing to break party discipline. In a legislature riven into a multiplicity of selfish groups, *any two parliamentary factions that oppose each other* might be balanced by all of the others together. Finally, *any two factions among the clientele of a government agency* might be balanced by high-ranking civil servants.

How good is balance as a solution to The Problem? The commonest criticism of constitutional balance is that it makes a virtue of "gridlock," institutionalizing a bias in favor of the status quo; that although it might be good at preventing new injustices, it is worthless for the correction of old ones. This charge is both theoretically flawed and historically uninformed. What it overlooks is the role of the middle. True, in the absence of a third force the mutual veto of the other two may be absolute. But when a third force does exist, that extreme which is

momentarily in the right may overcome the opposition of its foe by appealing to the principled judgment of the middle. As the English Reform Acts demonstrated, competition between the extremes in the presence of a middle can even supply a motive to make the middle bigger -- to enfranchise portions of the population that have previously been excluded from full political rights. It follows that when government really does suffer gridlock, the explanation is usually to be found, not in balance as such, but in its imperfection. We should also remember that not every charge of gridlock is justified by the facts. This battle cry will naturally go up from any group impatient with the constraints of competition and compromise.

Although the "gridlock" argument is groundless, other charges against the strategy of constitutional balance are harder to dismiss. Let's gallop through a summary.

The Few, the Few, and Everyone Else. The classical version of the strategy of balance told a story of the Many, the Few, and the Middle. But even when political struggle does have a class character, it more often takes place between different factions of the few, variously allied with the middle and variously mediated by the sullenness or compliance of the many. The lower orders do have some protection, but less than the classical strategy supposes.

Endless Regress. Those who devise schemes to balance opposing groups are apt to be involved in the conflict themselves. Therefore, Balance is unlikely to be *achieved* by the constitution unless it has *conditioned the development* of the constitution, and that, wherever we find it, must be an astonishing stroke of luck.

Two-Edgedness. Every balancing device is a two-edged sword. For example, the manipulation of cross-cutting cleavages can be used not only to weaken the strong and strengthen the weak, as the theory of balance prescribes, but also to strengthen the strong and weaken the weak.

Buffering. Any group might serve as a "third," a balancing agent, provided that certain conditions are met. But if the social positions of the groups to be balanced are grossly unequal, this would-be balancer will probably never have the chance and may even be exploited by the Few as a buffer *against* the Many.

Depressed Accountability. Even if, by some miracle, perfect balance is achieved and preserved, balanced government is complicated government. The more complicated the government, the more difficult to fix responsibility for error, to know who to blame when something goes wrong.

Entropy. No matter how successfully a constitution may have balanced the groups that were in opposition at the time of its development, group behavior is likely to change over time so that they fall out of balance again. For instance, the legislature may be factious, wild, and impulsive at first, but settle down in time; in the meantime, judges, at first modest and steady, may become increasingly arrogant and capricious.

Aggravation. Writes C.S. Lewis in *Pilgrim's Regress*, "Opposite evils, far from balancing, aggravate each other.... Nature, outraged by one extreme, avenges herself by flying to the other." Lewis was speaking of the soul, but in culture war the City is the soul writ large. Revolution and reaction not only oppose each other, they *provoke* each other, and this is no less true for being a truism.

Collusion of the Extremes. Successful balancing requires not only that the middle stay in the middle, but also that the extremes remain in opposition. However, coalitions of the extremes *against* the middle do occasionally occur. For instance, in the late Roman republic the senatorial elite was sometimes able to gain the support of the urban rabble for laws that hurt the middle class. Likewise, in the contemporary United States officeholders of opposite parties find common cause against challengers in devising arrangements that increase the advantages of incumbency.

Unbalanceable Groups. A balanced constitution is a compromise among opposing groups. But although there may be no groups that cannot be taken into the constitutional scheme of balances, there are some groups that *should* not be taken into it. The Church, for instance, ought not to be made a "second estate," because it was founded as a colony of heaven, not a province of the world.

Uncompromisable Issues. Remember that balancing groups and compromising the issues that divide them is a strategy for achieving not merely *peace* in a dearth of virtue, but also *justice*. But just as, for the sake of justice, there are some groups that should not be taken into the constitutional scheme of balance, so, for the sake of justice, there are some issues that should not be resolved by compromise. Concerning abortion, for instance, the middle *cannot* be right because either the killing of the child is murder, or it is not. In this case, justice is necessarily immoderate.

Rotation of Cleavages. Whatever device we use to balance one conflict is likely to generate a new axis of opposition that is itself in need of balancing. For instance, suppose we cut across the main cleavage between rulers and ruled by dividing up the rulers themselves. The result is likely to be that *horizontal* alliances among the rulers themselves become less important than *vertical* alliances between particular groups of rulers and particular groups of the ruled. In the United States this phenomenon is called "capture." Each interest group has its own little chunks of the civil service and the legislature.

Constitutional Sleepers. Certain policies unexpectedly disturb the constitutional balance even though they contradict no constitutional rule. The classical example of a constitutional sleeper is the Roman policy of imperialism, which indirectly made free farming unprofitable on the Italian peninsula and thereby destroyed the landed middle class. For future historians, the classical example of a constitutional sleeper might be the welfare state. As governmental services expand, the many-headed legislature becomes unequal to the management of the budget and the reconciliation of perpetually ramifying laws and regulations, so that the President and an increasingly swollen executive bureaucracy seize the initiative in finance and the coordination of policy.

Sheer Obscurity. In order to achieve true balance, we need to know where the real divisions lie and how powerful are the groups on each side. But this is often obscure. For instance, we tend to think it "elitist" for an agricultural community to limit the franchise to those who own land. On the contrary, the landed elite may like nothing better than to make the franchise universal, for tenants will probably accept direction from those on whom they are dependent. Where this is true the real loser is the middle class.

Even in this swift summary we have uncovered an even dozen crippling flaws of the strategy of balance. To be sure, "crippling" does not mean "fatal." True, under certain special circumstances like the presence of uncompromisable issues the strategy of constitutional balance may actually do more harm than good. True too, under other circumstances it may not work at all. But most of the strategy's flaws merely prevent it from working well. In some cases we might still be able to get a *little* better than the government we deserve; we just can't get justice and good order in the complete absence of virtue.

The most penetrating theorists of balance have understood this. Recall that filtration was James Madison's strategy for achieving the *first* aim of every constitution: "to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society." Balance, however, was his strategy for achieving the second: "to take the most effectual precautions for keeping them virtuous whilst they continue to hold their public trust." In other words Madison saw balance not as taking the place of virtue, but as stretching it.

Similarly, Aristotle seemed to conceive the opposition of selfish groups not so much in terms of checking vice, as in terms of giving *leverage* to an otherwise voiceless group cast in the role of balancer. A group well-cast in this role either has virtue, or imitates it. Ideally it has it. All of the swing votes belong to a "few good men and true," and we have the situation described by Walter Lippmann: "When the ponderable forces are in balance ... the imponderable means of reason become efficacious." In the second-best case, in which the balancer does not have virtue but imitates it, all of the swing votes are held by the middle class. Though its members are far from being saints, they have none of the usual motives for injustice, being neither so rich that they can exploit their neighbors nor so poor that they have nothing to lose by revolution.

We have reached three conclusions. First, balance is rarely achievable and easily lost. Second, even where it is achieved it does not always promote the common good. Third, even where it does promote the common good it merely repeats the Hamburger Helper pattern we have seen three times before. It helps government go a little further toward the common good with what little virtue we have; it cannot enable government to do without.

V

Channeling: Non-virtuous motives must be shaped and directed so that they give rise to the same behavior that virtue would. As Junius put it, "If individuals have no virtues, their vices may be of use to us." Without noticing, we have considered an instance of channelling already.

Remember that according to Aristotle, the middle class is well-cast to balance the Few against the Many not because it truly has virtue, but because it imitates it: its middling position shapes its desire for security in just such fashion that it avoids both extremes of injustice.

For Aristotle, channelling is part of a broader strategy of balance. However, channelling can also work by itself. Desire for independence, for example, is no more a virtue than desire for security, but it can imitate one well enough to have fooled both Thomas Jefferson and Alexander Hamilton. Hence Hamilton, who found the desire in business, pinned his political hopes on the leadership of gentlemen, while Jefferson, who found it in farming, pinned his on the sons of earth. From either point to policy is but a single step: to Jefferson commerce is anathema, while to Hamilton it is a republican necessity.

In principle almost any motive might be the object of channeling. In our century, disastrous attempts have been made to put even envy, fear, and hatred into harness for the good. Republics, however, exploit a different set of motives. Our keenest republican theories of channeling are due to Augustine, Adam Smith, and Alexis de Tocqueville. Reflecting on the history of Rome, Augustine explained how the love of glory could prompt seemingly public-spirited deeds by keeping yet worse motives in check. Smith and Tocqueville developed similar analyses of the love of wealth. What makes these thinkers so acute is their recognition that successful channeling has both *institutional* and *moral* requirements. For the Augustinian strategy, the institutional requirements include, first, a society of fixed statuses, for only a nobility is interested in glory; second, an arena for competition, for otherwise the glory motive would be given no direction. Smith and Tocqueville require a society *without* fixed statuses, for only under a regime of insecurity are people sufficiently interested in gain. On the other hand, they too require an arena for competition, otherwise the gain motive would be similarly undirected.

The moral requirements are more interesting because they show that channeling is yet another Hamburger Helper strategy, like deterrence, filtration, compensation, and balance. Rather than offering a substitute for virtue, it seems, by a Faustian bargain, to make a little bit go further. Augustinian nobles must have not only a desire for glory but a sense of what truly merits it; Smithian entrepreneurs, not only a desire for gain but a sense of restraint; and Tocquevillian citizens, not only self-interest but "self-interest rightly understood." Otherwise, nobles are just as apt to seek fame by fraudulent means as by fair, following Machiavelli's advice that if they cannot be entirely good, they should be entirely evil. Otherwise, businessmen are just as apt to collude as to compete, following mercantilist advice to seek privileges, tariffs, and monopolies. Otherwise, citizens are just as apt to seek license as liberty, following demagogic advice to step on the faces of their fellows in order to rise.

Only Augustine, however, perceived the paradox that channeling entails. Channeling doesn't just manipulate the subvirtuous motives with which it deals; it *accommodates* them. This is like promising an alcoholic a drink for staying sober. For a while, then -- a few centuries in the most successful cases -- channeling seems to work. But in the long run it undermines that little bit of virtue that it seems to stretch; it saws off the limb that it is sitting on. Hence between the channeling of gain and glory and the channeling of fear and envy there may be less difference than

we thought. Sallust and Cicero, who do not know the difference between a virtue and its imitation, are at a loss to understand why *gloria* was supplanted by *cupiditas* and *ambitio* in Rome. Not Augustine; he knows. Do we?

VI

Inculcation: Through law, education, and the distribution of esteem and disesteem, government must teach virtue directly. We have come to a pretty pass. All of our substitutes for virtue have turned out to be merely ways to extend its range -- unreliable ways, at that. Where will we get the virtue they are supposed to extend? From government? Shall we use law in the broadest sense -- not only its essential acts, commanding, permitting, and prohibiting, but also their modalities, such honoring and dishonoring, encouraging and discouraging, protecting and attacking, helping and hindering, declaring and denying, giving and taking, educating and administering -- to make men good? A certain kind of liberal views using law to make men good as an invitation to tyranny, on grounds that the state ought to be neutral on the question of what good is. A certain kind of conservative views *refusal* to use law to make men good as an invitation to tyranny, on grounds that only a virtuous people is capable of liberty. Both views are mistaken.

The first view errs in the same way as the statement "Squares ought to be circular." There is no such thing as neutrality. Everything a government does is founded on some understanding of what is good for someone, whether good for the rulers, good for the party, or good for the country. Moreover, no law that has effect at all can fail to have effect on character. Who may sue whom for what, who owes whom alimony, who may go on the dole, who must pay what in taxes -- all such things affect our views of work, blame, personal responsibility, commitment to spouse, and many other things. If law affects character whether we will or nill, it is better to have control over what it is doing to us.

The second view errs in a different way. Granted that the law must take an interest in men becoming better, it does not follow that it must *make* men better. Perhaps it cannot make them better, and whatever goodness they have must come from other teachers. Another possibility is it can make them better after all, but that the other teachers do much better, and the state only hinders them when it tries to do their job. In either case, a fitter set of maxims is "Protect the true teachers of virtue; get out of their way; and above all, don't make men *worse*."

In fact, there are other teachers: church and family. They do teach better, and the state does hinder them when it tries to do their job. Just why the state does so much worse in moral development may be explained in either of two ways: the nature of the state, and the nature of moral development. We will glance at both.

The nature of the state. The government is the worst of inculcators, and this for the most basic of reasons: though it exists for the common good, it is the target of partisan interests. Capture by these interests is just as easy when it tries to teach as when it tries to tax. Consider, for example, the present struggle over whether sodomy is to be legitimized as a way of life. As both

armies understand, this war concerns the distribution not only of privileges but of esteem: rules concerning adoption, employment, housing, and health are just as "educational" as rules concerning what is to be taught in the public schools.

Now despite the risk of partisan capture, the government *must* do certain things: no other institution can defend the borders, preserve the peace, and enforce the administration of justice. For the state to defer to the people principally concerned in a lawsuit is to mock them by denying their plea for judgment. By contrast, the government does *not* have to make men good: others do raise children and minister to souls. For the state to defer to the people principally concerned in childrearing and salvation is merely to mind its own business instead of theirs. One reason its business is not theirs is that its qualities are utterly different from theirs. Normal parents love their children as no politician can. Nor do they stand for election or curry appointment; hence they need not respond to strangers in making decisions for their children's good. The family is not subject to partisan capture at all. True, the visible church *is* subject to capture, but unlike the government it is purely voluntary. With their children, parents can leave any congregation and seek in another for the body of Christ.

The nature of moral development. We often speak of moral development as though it were a relatively simple process of adding good qualities and subtracting bad ones, so that the greater the sum, the better we get, and we can get just as good as we please. This picture is utterly false to human experience.

Real moral development labors under three paradoxes with which law is not equipped to deal. The first is the Paradox of Treacherous Good: *Bad qualities always depend on imperfectly good ones for their vigor; the more a man imitates virtue, the more harm he can do with his remaining vices.* We all know that patience and caution are good qualities. But unless we are speaking of that perfected patience which awaits only good and of that perfected caution which fears only evil, then these qualities may serve knaves as well as honest men. One might respond by saying: "That just shows the more that law must make men good." No, it shows the opposite. He who spreads his field with fertilizer will find that both the wheat and the weeds grow faster. If a man with a little wisdom uses it to do a little rationalizing, giving him a little more is hardly likely to make him stop. His rationalizations may just become more convincing. Our danger waxes, swells, and multiplies right up to the point of its disappearance, and that is why, through law alone, the point cannot be reached. A man must be not only taught and trained, but *turned around*. That phrase is a literal translation of the Greek word for repentance.

The second twist in the maze is the Paradox of Elevation: *Because we imitate virtue by channeling vices, temporary improvement in single moral dimension can mask the fact that in the long run one is getting worse in all of them.* We said a moment ago that a man must be turned around. But if he must be turned around, then in what direction should he turn? On a mountain of irregular topography one can imagine a climber who turns, but the wrong way, straight up the face of one of the lesser promontories but away from the central pinnacle. The difficulty is that because he can see only that part of the mountain that he is on, he does not recognize his delusion. "After all," he says, "the ground is rising in this direction, so how can I go wrong?" Consider

pride -- the disposition whereby we make our Selves, collectively or individually, the measure of all things. Though pride is a deadly sin, in the form that we call nobility it represses those other vices that it deems beneath its feet. Nobility may demand obsequies -- but at least it never offers them. It may step on unrelated inferiors -- but it is generous to its dependents. It may make evil vows -- but, whatever its vows, it keeps them. It knows nothing of love, and as it grows stronger, it ultimately seeks to set even justice beneath itself; thus, persisted in, it poisons the springs of all the virtues. But, most glorious of banes, on its tainted way it achieves some mighty splendors. The ground is rising in this direction, so how can we go wrong? Human law is a map made by just such deluded climbers, and so preserves their delusions. Only divine law can set our feet right.

The third twist in the maze is the Paradox of Countervailing Vice: *Again because we imitate virtue by channeling vices, the cure of a channeled vice may only open the door to others that are even worse.* We have seen the Hoover Dams of channeling already, in Roman glory, Smithian possessiveness, and Tocquevillian self-interest. But vice dons virtue in smaller ways as well. Jealousy of a competitor may make a man more considerate to a woman than he would ever have been from affection alone. The need to condescend or the urge to atone may make another a patron of the weak and misused. Fear may keep a third, apathy a fourth, from persecuting those who do not believe as they do. Even something as trivial as vanity may be enough to restrain an avaricious man from cheating at business; it would be inconsistent with the image of himself over which he so fondly coos. We said before that he who spreads his field with fertilizer will find that both the wheat and the weeds grow faster. Now we see that if weeds and wheat are matted together, a yank on one may uproot the other. Chide glory, and the nobility grow slothful. Curb materialism, and the merchants grow indolent. Cure condescension and displacement of guilt, and the compassionators grow indifferent. As Christian saw in the house of the Interpreter, this problem cannot be solved by Law alone: not by human -- *and not even by Divine.* Law is the broom that sends the dust flying; though we choke, the room is still dirty. Grace is the sprinkling of water that settles the dust and cleanses it. We need the touch of God Himself, and that is found not in the legislature, but in the body of Christ.

Our conclusion is simple: Although law may help to prevent the decay of those good qualities that we already have, it cannot give them to us. Though we desperately need virtue, official inculcation will not supply it for us.

VII

Subsidiarity: Government must honor virtue and protect its teachers without attempting to take their place. In escaping inculcation we have tumbled into subsidiarity; the same arguments that push us out of the one have pulled us into the other. But we must be careful not to misunderstand where we have gotten. In the first place, the fact that subsidiarity is opposed to inculcation in no way makes it neutral. A state that defers to parents and church has not thereby suspended judgment; it has agreed with them that their jobs are not its own. A state that forgoes inculcation has not thereby denied its own influence on character; it has agreed that it ought not put this influence in competition with theirs. A state that lays down its pretension to make men good

has not thereby abandoned concern for their goodness; it has merely removed the chief cause of its making them worse. Subsidiarity means confirming the good qualities taught by others -- instead of, for instance, tearing them up and replacing them with supposed others.

The second point we must be careful not to misunderstand is what it means to "protect" the family and the church; what it means for the state to be a *subsidium*. Concerning the family, G.K. Chesterton put the problem well in *The Well and the Shadows*. What he disliked most, he said,

is not the Communist attacking the family or the Capitalist betraying the family; it is the vast and very astonishing vision of the Hitlerite betraying the family. Hitler's way of defending the independence of the family is to make every family dependent on him and his semi-Socialist State; and to preserve the authority of parents by authoritatively telling all the parents what to do. ... In other words he appears to interfere with family life more even than the Bolshevists do; and to do it in the name of the sacredness of the family.

But this sort of thing does not require death camps or wars of conquest; it gets along better without them. All it needs is the quiet crushing kindness of the welfare state. Government first taxes away the family income, then "helps" the families thereby enfeebled by giving back part of it in the form of "benefits" and regulations which further reduce their independence and vitality. Schools, for instance, are "free," but parents cannot choose their children's teachers or control what their children will be taught. "When they come through that door," said an educational despot in the District of Columbia, "they're mine."

The point we are making concerns the church as well. Not only does the modern state interfere with family in the name of family, it interferes with faith in the name of faith. Whenever it is not scolding the church in fear of her challenge, it is whispering to her in hopes of making her pregnant with its purposes. So intent on seducing the Bride of Christ is the current President that during his candidacy he tried to imitate her Husband's voice. Identifying himself with the Redeemer, he called his program the New Covenant, then misquoted scripture to support it. "No eye has seen, no ear has heard, no mind has imagined *what we can build*," he prophesied at his convention. The way this runs in the Bible itself is "No eye has seen, no ear has heard, no mind has conceived *what God has prepared for those who love him*." (I Corinthians 2:9, NIV, quoting Isaiah 64:4.) The Biblical passage gives sovereignty to God. Although the modified language still *sounds* Biblical, it gives sovereignty to Man.

Subsidiarity, then, does not mean that the state flatters, seduces, or absorbs the true teachers of virtue. It means getting out of their way, and keeping other things from getting in their way. One gets out of the way not by raising taxes and putting all mothers on the dole, but by reducing taxes so that they do not have to work; not by making sex a compulsory subject in the schools, but by letting families choose their own schools; not by keeping children from ever hearing a public prayer, but by keeping them from ever hearing a public obscenity; not by calling for a "politics of meaning," but by honoring that Meaning which no politics made, that Glory which even the heavens, though soulless, declare.

Is this, then, a solution to The Problem? No. But until the world is remade, we can probably do no better.