Controlling the Mischief of Factions: Before and After Madison

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Introduction
The threat of factions to republican government has been recognised since at least 370 B.C.E., when Plato recorded the dialogues which comprise his Republic.¹ That threat was given extensive consideration in the debate over the ratification of the constitution of the United States of America. Federalist 10, authored by James Madison,² is the most widely recognised contribution to that debate. There are numerous other offerings, from both the Federalist and Anti-Federalist³ camps, that the proposed constitution would either reduce or increase the threat of faction. Now that the American experiment has run for well over 200 years, we are well positioned to judge the success of their constitutional plan. Given that the United States was ravaged by violent faction during the Civil War, clearly the plan has not been an unqualified success. Special interest politics may be considered a more benign form of factional discord, and more contemporary political theorists, including F. A. Hayek, and, more recently, Gordon Tullock, James Buchanan and Roger Congleton have proposed innovations to prevent democratic institutions from being employed to advance the interests of one faction of the society over those of the remainder. This paper traces the history of thought regarding how democratic republics might be protected from what Madison called ‘the mischief of factions’, from ancient to contemporary times. It suggests that the institutional framework that emerged from America’s constitutional convention was less resistant to factional discord than Madison’s own “Virginia Plan,” and that some ancient and modern constitutional procedures could further reduce the problems of competing factions within a republic.

From Madison to Plato and Back
My point of departure for this exploration of faction will be James Madison’s Federalist 10. In placing Madison’s writings in their historical context, however, we should be attentive to differing usages of the term faction. David Hume put forth a taxonomy of faction which we can apply to this end⁴. Hume distinguishes between personal, based on personal friendship or animosity, and real factions. Real factions can be further subdivided into factions of
affection, principle and interest. Real factions of affection refer to attachment to persons or families, and may be violent. Real factions of principle are also likely to result in violent conflict. These factions are the basis of all religious wars. When Adam Smith writes of faction, this form is his primary concern. Madison was certainly familiar with sectarian conflict, having exploited mutual distrust amongst churches in Virginia to defeat a tax proposed by Patrick Henry to support teachers of the Christian religion. Hume regards real faction based on interest as the most reasonable and acceptable, and a necessary consequence of the self-interested nature of human beings. The contemporary terminology for a real faction of interest would be a special interest group.

The most important distinction is between factions of interest, which are non-violent, and operate within political institutions, and all other forms of faction, which may become violent, and result in the replacement of existing political institutions. Most early writers are primarily concerned with violent factions. Although special interest groups (factions of interest) are the most benign form of faction, they may still be a legitimate cause for concern. The pursuit of their interest is likely to come at the expense of those outside the group, and the total benefits received by interest group members may be significantly smaller than the total associated costs imposed on others. These rent-seeking efforts, and the corresponding counter-measures by those attempting to defend themselves, or capture the disputed benefits for themselves, can constitute a significant social waste of resources. The aggregate amount expended by all contestants to win a valuable legally restricted privilege may be equal to, or even exceed the value of the privilege. The resources expended in such contests over existing pieces of the economic “pie” are resources that could have otherwise been used to create new wealth, and expand the pie. The problem of rent-seeking factions is not that they use the political system to pursue their goals, but that the process is likely to result in net social loss rather than net social gain.

Madison himself defines factions in a manner consistent with both violent factions and rent-seeking interest groups.

By a faction I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.

In Federalist 10, Madison goes on to observe;
There are two methods of curing the mischiefs [sic] of faction: the one, by removing its causes; the other, by controlling its effects.

There are again two methods of removing the causes of faction: the one by destroying the liberty which is essential to its existence; the other, by giving every citizen the same opinions, the same passions, and the same interests.¹⁶

In his *Republic*, Plato recognises the threat of a faction forming among the guardian class, on whom the citizenry would depend for defense.¹⁷ His proposed solution is to remove the cause of the faction, by a combination of the two methods described by Madison. To prevent the development of interests opposed to the common good, the guardians are to be prohibited from having private property of any kind. In fact, even their women and children are to be held in common, so that personal attachments may not form that might compete with the needs of the republic for the guardians’ loyalty. At least in this instance, Madison’s opinion seems correct, that removing the cause of faction through the destruction of liberty is worse than the disease, and that the attempt to dictate the opinions, passions and interests of citizens is as impractical as the destruction of liberty is unwise.¹⁸

**Montesquieu the Anti-Federalist vs. Montesquieu the Federalist**

Montesquieu saw inequality as leading to factional discord in a democratic republic. He has a prescription to pursue equality, and an associated commonality of opinions, passions and interests.

> [F]or the preservation of this equality it is absolutely necessary that there should be some regulation in respect to women’s dowries, donations, successions, testamentary settlements, and all other forms of contracting. For were it once allowed to dispose of our property to whom and how we pleased, the will of each individual would disturb the order of the fundamental law.¹⁹

Madison also sees a link between property, the inherent heterogeneity of individual abilities, and the diversion of interests, but he draws a very different lesson from it.

> The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results; and from the influence of these on the sentiments and views of the respective proprietors ensues a division of the society into different interests and parties.²⁰

Madison rejects the prospect of removing the causes of factions, leaving only one option; “The inference to which we are brought is that the *causes* of faction cannot be removed and
that relief is only to be sought in the means of controlling its effects." The proposed constitutional plan incorporates two features that advance this purpose. The first is that the union is to be a republic rather than a pure democracy. The elected representatives are presumed to have greater wisdom that the average individual, and their patriotism and love of justice are anticipated to temper temporary or partial considerations. The second feature is that the greater size of the union, as opposed to the member states, is sure to incorporate a much broader array of interests, which, to some degree, can be expected to hold each other in check. In any case, the greater diversity of interests in the more expansive state should provide an obstacle to the coalescence of a single majority, which would impose its will on the remaining minority. Madison here is appealing to a transaction costs argument as impeding the formation of a dominant coalition.

The only remedy is to enlarge the sphere, & thereby divide the community into so great a number of interests and parties, that in the 1st. place a majority will not be likely at the same moment to have a common interest separate from that of the whole or of the minority; and in the 2nd place, that in case they shd [sic] have such an interest, they may not be apt to unite in the pursuit of it.

In this, Madison follows Hume, who noted that although it would be more difficult for a republic to form over a large rather than a small geographic region, once formed, it should be more stable because, “the parts are so distant and remote, that it is very difficult, either by intrigue, prejudice, or passion, to hurry them into any measures against the public interest.” A larger republic should also prevent what Hume termed personal factions, since it is only in a small republic that “[e]very domestic quarrel … becomes an affair of state.”

Madison advances a second reason to believe that a larger republic is less likely than a smaller one to succumb to the mischief of factions. In addition to the transactions costs of forming a majority coalition of diverse interests, Madison has an argument based on the size of the sample from which representatives are drawn. There is an optimum size of a legislative body, based on the dynamics of deliberation. As the size of the polity increases, the proportion of the citizenry included in the legislature falls. The assumption is that the representatives are drawn from the virtuous tail of the distribution. As Madison writes in *Federalist 10*, “as each representative will be chosen by a greater number of citizens in the large than the small republic” the electoral process “will be more likely to centre in men who possess the most attractive merit and the most diffusive and established characters.” This may
raise questions as to the robustness of the constitutional plan, which Madison has addressed elsewhere, and I will revisit below.

Whereas Madison appeals to the larger size of the union (as opposed to the states) as a bar to factions, the Anti-Federalists argued that the opposite result should be expected. Factions should be less of a threat at the state level because the smaller size of the states, relative to the union, would lead to a greater commonality of interests among the citizens. What is a common interest to the citizens of one state, however, may be contrary to the interests of other states, or the nation as a whole. Madison was well aware of the propensity of the states, under the Articles of Confederation, to pass legislation harmful to each other. To his thinking, the likelihood of common interest within a state is a potential source of faction, not a solution to it.

In the debate on whether the larger size of the union, as opposed to the states, prevents or promotes factional intrigue, Montesquieu is pressed into service on both sides of the issue. The Anti-Federalists frequently quote the following passage.

> It is natural to a republic to have only a small territory; otherwise it cannot long subsist. In a large republic there are men of large fortunes, and consequently of less moderation; there are too great depositories to intrust [sic] into the hands of a single subject; interests are divided; an ambitious person soon becomes sensible that he may be happy, great, and glorious, by oppressing his fellow citizens; and that he might raise himself to grandeur on the ruins of his country.

> In a large republic the public good is sacrificed to a thousand views; it is subordinate to exceptions; and depends on accidents. In a small one, the interest of the public is easier perceived, better understood, and more within the reach of every citizen; abuses have a lesser extent, and of course are less protected.

Montesquieu saw the size of a state as dictating the proper form of government, so that it is “...the natural property of small states to be governed as a republic, of middling ones to be subject to a monarch, and of large empires to be swayed by a despotic prince...” He did, however, hold out hope that an institutional innovation would permit the geographic extension of the republican ideal. The following passage, especially relevant to the ongoing constitutional debate, gave the Federalists an answer to the Anti-Federalist argument given above.

> If a republic is small, it is destroyed by a foreign force, if it be large, it is ruined by an internal imperfection.
This twofold inconveniency is equally contagious to democracies and aristocracies, whether good or bad. The evil is in the very thing itself; and no form can address it.

Very probable it is therefore that mankind would have been at length obliged to live constantly under the government of a single person, had they not contrived a kind of constitution that has all the internal advantages of a republican, together with the external force of a monarchical, government. I mean a confederate republic.34

Long before Montesquieu’s contribution on the dangers of concentrations of wealth to republics, Aristotle had considered the issue. Aristotle saw economic inequality as both an unavoidable characteristic of the human condition, and a source of faction. He has a regard for those in the middle of the income distribution that we will see revisited by the Anti-Federalists.

Now in all states there are three elements: one class is very rich, another very poor, and a third in a mean. It is admitted that moderation and the mean are best, and therefore it will clearly be best to possess the gifts of fortune in moderation; for in that condition of life men are most ready to follow rational principle.35

Thus it is manifest that the best political community is formed by the citizens of the middle class, and those states are likely to be well-administered, in which the middle class is large, and stronger if possible than both the other classes, or at any rate than either singly; for the addition of the middle class turns back the scale, and prevents either of the extremes from being dominant.36

The mean condition of states is clearly best, for no other is free from faction; and where the middle class is large, there are least likely to be factions and dissensions. For a similar reason large states are less liable to faction than small ones, because in them the middle class is large; whereas in small states it is easy to divide all the citizens into two classes who are either rich or poor, and to leave nothing in the middle.37

In a large state, a higher proportion of the population may be comprised of the middle class. In a republic, however, it is a sample, and not the population as a whole, which rules. In the next section, I will examine both Federalist and Anti-Federalist concerns with drawing a legislative sample from the relevant population.

The Robustness of the Plan and the Median Yeoman

Rousseau had an outlook regarding the nature of man, and its implication for government. “Were there a people of gods, their government would be democratic. So a perfect
government is not for men.” Madison also recognised the problem, but is less fatalistic about it.

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.

The challenge then is to devise governing institutions that are robust against the inherent weaknesses of mankind. Representative government offers a solution to this problem, through the device of selecting the proper sample of the population to form the legislative body. There are serious problems here, however. To the degree that citizens are good and wise, we want the sample to accurately reflect the population. But when the population is bad and unwise, we want our sample to be biased toward the virtuous. Furthermore, public preferences may not be exogenous. Various forces may contribute to shaping the public will, including the deliberative process by which democracy operates. Rousseau sees the rise of factions as the primary impediment to the aggregation of individual preferences into a statistically robust reflection of the inherently virtuous general will. His insight merits quoting at length.

It follows from what has gone before that the general will is always right and tends to the public advantage; but it does not follow that the deliberations of the people are always equally correct. Our will is always for our own good, but we do not always see what that is; the people is never corrupted [sic], but it is often deceived, and on such occasions only does it seem to will what is bad.

There is often a great deal of difference between the will of all and the general will; the latter considers only the common interest, while the former takes private interest into account, and is no more than a sum of particular wills; but take away from these same wills the pluses and minuses that cancel one another, and the general will remains as the sum of the differences.

If, when the people, being furnished with adequate information, held its deliberations, the citizens had no communication one with another, the grand total of the small differences would always be the general will, and the decision would always be good. But when factions arise, and partial associations are formed at the expense of the great association, the will of each of these associations becomes general in relation to its members, while it remains particular in relation to the state: it may then be said that there are no longer as many votes as there are men, but only as many as there are associations. The differences become less numerous and give a less general result. Lastly, when one of these associations is so great as to prevail there is no longer a general will, and the opinion which prevails is purely particular.
Using Rousseau’s terms, we see that the *will of all* can be shaped contrary to the *general will*. Adam Smith regards the self-interested preaching of the clergy as a threat in this regard. Aristotle saw demagogues railing against the rich as the primary threat.

As we have seen, the size of the polity was a critical issue in the Federalist/Anti-Federalist debate. Arguments were made on both sides regarding how the size of states either aids or hinders beneficial selection of representatives. Madison argues that increasing the size of the polity will increase the quality of the legislature. He believes that political institutions can be designed to lead to the selection of the best and the brightest - individuals who place the general good before sectarian interests. He is not sanguine on this point, noting, as he does in *Federalist 10*, “Enlightened statesmen will not always be at the helm.” He does, however, argue in “Vices of the Political System of the United States:”

> An auxiliary desideratum for the melioration of the Republican form is such a process of elections as will most certainly extract from the mass of the society the purest and most noble characters which it contains; such as will at once feel most strongly the proper motives to pursue the end of their appointment, and be most capable to devise the proper means of attaining it.

Madison argues in *Federalist 10* that enlarging the sphere from which representatives are drawn will increase the quality of representatives. As he says, “as each representative will be chosen by a greater number of citizens in the large than in the small republic, it will be more difficult for unworthy candidates to practice with success vicious arts by which elections are too often carried.” The Anti-Federalists came to the opposite conclusion, since in a large republic constituents would be less likely to know candidates personally:

> To provide for the people’s wandering throughout the state for a representative, may sometimes enable them to elect a more brilliant or an abler man, than by confining them to districts, but generally this latitude will be used to pernicious purposes, especially connected with the choice by plurality; when a man in the remote part of the state, perhaps obnoxious at home, but ambitious and intriguing, may be chosen to represent the people in another part of the state far distant, and by a small part of them, or by a faction, or by a combination of some particular description of men among them.

Rather than fix their hopes on a fortuitous selection from a large sample, the Anti-Federalists looked to keeping republican states small. This increases the likelihood that legislators would not only represent their constituencies in the political sense, but be representative of them as well, rather than being drawn from some elite subset. The Anti-Federalists apparently subscribed to a *median yeoman* model of democracy. Sydney, writing to the citizens of the...
State of New York, notes there is general agreement that, “the rights and liberties of a country were ever in danger from the rich and poor, and their safety in the middle sort or yeomanry of the country…” The general interest would be best served by protecting the interest of this median yeoman, rather than giving sway to the interests in the tails of the social distribution. And the best way to see that the interests of the yeoman were represented was to allow him to be a representative. This is more likely when the political sample, from which legislators are drawn, is smaller.

The Federalists believed the constitutional plan would be sufficient to secure the nation against the mischief of factions. Although the historical record was littered with instances where the liberties of the people were lost to factional discord, the science of political economy had advanced since earlier times. Lessons had been learned to good effect. Hamilton observes;

The efficacy of various principles is now well understood, which were either not known at all, or imperfectly known to the ancients. The regular distribution of power into distinct departments; the introduction of legislative balances and checks; the institution of courts composed of judges holding their offices during good behavior; the representation of the people in the legislature by deputies of their own election: these are wholly new discoveries, or have made their principle progress towards perfection in modern times.

**Madison’s Vision versus the Constitution**

Although Madison had a profound influence on the development of the United States Constitution, the final form of that constitution differed significantly from the ideal that Madison envisioned. Madison’s blueprint was detailed in the Virginia Plan that Madison brought with him to the constitutional convention. The Virginia Plan provided that both houses of Congress would be apportioned by population, with the members of the second house elected by the members of the first. The national government would also have veto power over the acts of the various state legislators. Madison was concerned about the tyranny of the majority at the state level, expressed through their legislatures. As he wrote to Jefferson, explaining why he favored a national veto over state law, “The mutability of the laws of the States is found to be a serious evil. The injustice of them has been so frequent and flagrant as to alarm the most stedfast friends of Republicanism.” In was in the interests of the various states against each other, or the nation as a whole, that Madison saw the threat of factional discord. He believed that under a government organised as outlined in the Virginia Plan, competition between factions would check the harm that factions could do.
When key provisions of his plan were rejected by the Constitutional Convention, Madison feared the new nation would be unable to withstand the factional discord that concerned him. The factional competition he looked to in *Federalist 10* to control competing interests was no longer sufficient, given the enlarged influence of the various states in selecting Senators, and the lack of a national veto of state laws. The checks and balances discussed in *Federalist 51* would now be required to defend against factional discord. In arguing for provisions of the Virginia Plan at the Constitutional Convention, Madison voiced concerns that the constitution as drafted by the convention might not be adequate to restrain conflict between Northern and Southern interests. Madison’s continued support of the Constitution, writing as Publius, likely reflects not unqualified support, but recognition that the proposed constitution, for all its shortcomings, was the best realistically achievable improvement over the clearly unsatisfactory Articles of Confederation. Madison’s concerns that the Constitution, as adopted, might be inadequate to constrain factional violence proved well founded, given that the divergence between the interests of the Northern and Southern states resulted in open warfare less than a century later. We can only speculate, however, whether Madison’s plan, had it been implemented as he proposed it, would have been able to prevent that tragedy.

In evaluating Madison’s vision we might consider if it should be regarded as consistent with Public Choice philosophy. The Public Choice perspective simply extends the assumptions that economists have long used in the analysis of markets to the analysis of political institutions. That is, persons are assumed to be self-interested, and to attempt to achieve their objectives at minimum personal cost. The idea that self-interest threatens political institutions’ ability to promote the common good is pervasive in Madison’s writing. His concern about the threat of factions is just one example of his awareness of the problem. It is important to note, however, that Madison’s political vision is based on more than just pessimistic concerns about self-interested agents in the political sphere. He also envisions a system in which “the purest and noblest characters… as will at once feel most strongly the proper motives to pursue the end of their appointment” will “be most capable to devise the proper means of attaining it.” Madison envisioned a system that would grant to those who acted in the public interest the power to achieve their ends, while simultaneously thwarting those would pursue individual or factional interest. Madison would certainly not feel at home with those Public Choice theorists whose analysis is based solely on narrow self-interest. However, he might well feel comfortable with those who regard institutions designed to constrain self-interest as essential complements to virtue in the political realm.
Modern Innovations: Hayek, Tullock, Buchanan and Congleton

Hamilton, writing in *Federalist 9*, indicated that the constitutional plan should be expected to succeed, where previous republics had failed, because of the more advanced state of the science of politics. That science has advanced further yet, since the Constitution was ratified, and political theorists are still making proposals to address the concerns which animated the debate over the constitution.

The susceptibility to special interest factions is an inherent deficiency of democracy. The political apparatus is exploited to discriminate against one subset of the populace for the benefit of another. Political theorists have sought to rectify this failure by constraining the ability of democratic institutions to discriminate. Buchanan and Tullock have argued that total social costs (decision making costs and the costs imposed by majorities on minorities) can be minimised by the proper selection of a supermajority requirement on any cost-imposing legislation. Clearly, if unanimous agreement were required, minority interests would be completely secure from special interest factions, or coalitions thereof. As the voting rule approaches unanimity, however, strategic voting (holding out for a larger share of the potential gains) becomes problematic, and the costs of reaching a decision rise sharply.

An alternative solution may be found in the principle of Generality. Friedrich A. Hayek has proposed a reorganization of bicameral legislatures to achieve this end. The lower house would have responsibility for the administration of the government, while the upper house would have exclusive control over generation of the enforceable rules of just conduct. The conduct of the affairs of government, assigned to the lower house, necessarily affects some parties differently than others, as when a contract is awarded to one bidder as opposed to another. Those activities, however, must not violate the general rules laid out by the upper house, which must always be constructed such that, at the time of passage, it cannot be determined how any individual would be affected. The arrangement seems a plausible impediment to special interest factions. Given the potential gains from special interest legislation at the national level, however, it seems premature to assume the innovation would politically achievable.
A less detailed program for generality in democracy is proposed by James Buchanan and Roger Congleton. Their argument is for a simple constitutional constraint requiring all legislation to apply to all citizens equally. They point out that this would effectively block most special interest redistribution, while permitting properly constructed public initiatives. The idea can be illustrated through their proposal for nondiscriminatory income maintenance. Rather than the traditional redistribution from high income to low income individuals, or discriminatory graduated taxations, similar outcomes could be achieved by a combination of flat taxes and demogrants. All citizens would have their incomes taxed at the same rate, regardless of income, and each citizen would receive a grant from the government, also regardless of income. The result would be an effective redistribution from high-income citizens to those with low income, but every citizen would be treated identically as a matter of law.

**An Ancient Innovation: The Lot**

Choice by lot has been known at least since the time of Homer. Plato, Isocrates, Demosthenes, Xenophon and Aristotle refer to the use of lots in democracies. In Athens, in the fifth and fourth centuries B.C., virtually all administrative positions (excluding a few requiring specialised abilities, such as military leaders) were filled by lot. Positions chosen by lot also included Priests, Priestesses and jurors. The use of the lot was considered, in part to reflect the will of the gods. The democratic nature of election by lot was more important than its religious implications, however. Aristotle goes so far as to say, “[T]he appointments of magistrates by lot is thought to be democratical, and the election of them oligarchical.” The Athenians considered selection by lot as essential to democracy. Any other known method of election would be inherently susceptible to manipulation by organised interest, and prevent rule by the demos. Greek critics of the lot (including Socrates) were also critics of democracy, generally, and criticised the lot because it was regarded as democratic. As Headlam notes,

> On this point there can be no doubt: election by lot was regarded by those who had experience of it as essentially democratic: if this is the case we may add, it was democratic. It would require some very strong proofs to justify us in putting aside the almost unanimous verdict of the Greeks themselves on a point on which they had complete experience and of which we have no knowledge except what we gain from them.

The Greeks recognised decision by lot as a defense against faction; “In democratic states legislation ought to provide for appointment by lot to the less important and the majority of
the offices (for thus faction will be avoided)…”79 Of Athenian democracy, utilizing the lot,
Headlam notes,

So far as we can see the administration of the state was more regular, more
honest, more successful in every way than that of any other city in the ancient
world, and (though where the work is so different, the comparison is hardly fair)
than that of most states in modern time.80

During the Renaissance, both Florence and Venice employed the lot in the selection of public
officials. The Venetian system of government was so highly regarded that it gave rise to what
has become known as the “Myth of Venice.”81 Liberty, stability, peace and justice were
regarded as the characteristics of the city-state. Venetian politics were considered free of self-
interest, ambition, intrigue, corruption or faction.82 The claims are clearly exaggerated,83 but
relative to other municipalities, Venice performed well from its founding in 421 until
Napoleon compelled the ruling council to dissolve itself in 1797.

During that period, Venice experienced no violent changes of power. It had a stable
constitution for roughly 1000 years, beginning about 800.84 Its electoral procedures were
acknowledged to be designed to curtail factional discord.85 Hume cites the example of Venice
when making proposals to constrain factional discord.86 In addition to complex election
procedures incorporating lotteries,87 the conduct of politics as we would recognise it was
forbidden. Citizens could not ask to be elected as a nominator, or have another ask on their
behalf. Virtually all social gatherings where political alliances might be advanced were
regulated or prohibited, including large dinners, weddings and baptisms.88 The theory behind
these prohibitions may be consistent with that expressed by Rousseau, discussed earlier in
this paper. Political discourse amongst inherently self-interested individuals would tend to
bias the collective decision process in a manner that would lead it away from the general will.

Enforcement of the Venetian system was not without its problems. That these laws were
often violated is seen in the numerous revisions to increase penalties, or to prohibit
innovations designed to evade them. In addition, outright cheating in the lottery process was
fairly common. The process involved drawing gold or silver balls from an urn. Patricians
were known to bring balls with them, and pretend to draw them at random, or to make more
than one pass by the urn if they were dissatisfied with their draw.89 In addition to procedural
irregularities in the process of drawing lots, the prohibitions on political discourse were often
circumvented. Whether it was in spite of these violations, or because of them,90 Venice was
relatively free of factional violence. As an anonymous eighteenth century observer noted, “Here they fight not with blood but with ballots.”

Florence employed lotteries more broadly than Venice and, as a result, was regarded as more democratic. Election by lot was considered coincident with liberty and equality. After the deaths of two oppressive leaders (Castruccio Castracani and Charles of Calabria) in 1328, selection of public officials by lot was adopted in Florence. These deaths provided the Florentines with an opportunity to “take counsel and deliberate on how they might provide the city with leadership and a government in way that would gain general approval and eliminate the factions among citizens.” With some modifications and brief interruptions, the electoral scheme developed, with elective offices filled through lottery. It lasted for the next 150 years. The lottery process was abandoned in 1478, in conjunction with the Pazzi conspiracy, ending the golden age of Florentine republicanism.

Rousseau had argued that, in the absence of factions, the general will would be the mean of the distribution of the individual wills. That is, “take away from these same wills the pluses and minuses that cancel one another, and the general will remains as the sum of the differences.” As Levy observes, “When voting on a single dimension issue, single-peaked voting preferences of any sort generate stable majority rule.” Under those circumstances, the preferences of the median voter will correspond to the general will, and be selected under a majority voting rule. As we have seen, however, Rousseau believed factions can cause the distribution of preferences to clump into as many peaks as there are factions. Levy notes the significance of this as an explanation why the use of the lot might impede violent faction.

The nice properties of the sample median, in particular its convergence to the general will with the expenditure of labor resources, depend upon factions not being terribly strong. With factionalism, the actual results will swing wildly. This large influence of a single vote is a remarkably promising method of explaining political violence.

Since the outcome of a close election can be altered by the removal of a few critical voters, the incentive to do so may be enormous, depending on what is at stake. Levy goes on to point out that Madison’s intuition regarding the number of factions is correct. The marginal benefit of eliminating a voter falls as we move from two large factions to many small factions. Thus
the diversity of interests in a large state may deter factional violence, so long as small factions cannot overcome the transactions costs of forming large coalitions.

Levy explains how the use of the lot might deter violent factions. Gordon Tullock, on the other hand, examines rent-seeking factions. He shows how a randomisation of democratic selection processes can address the factional aspects of special interest groups. In his seminal article, “Efficient rent-seeking,” he develops a model for evaluating the dissipation of rents in a rent-seeking contest, and the level of effort that can be expected by the various interests (factions) engaged in the contest. Tullock’s model is probabilistic, in that increases in efforts to win the prize (rent) increase the likelihood of success. What is relevant to the discussion here is that in Tullock’s model, rent-seeking activities can be reduced by erecting institutions which exhibit decreasing returns to those activities. Gradstein and Konrad, writing on the implication of Tullock’s model spell it out for us. “Our results indicate that the optimal contest structure hinges on how discriminatory the contest is – that is, on the relative importance of contestants’ efforts to win the prize versus random factors.” That is, introducing an element of randomness into democratic processes, by the use of the lot, for instance, will reduce the rent-seeking efforts of special interest groups.

**Conclusion**

Men are not angels, nor are they ruled by angels. In a democracy, they rule themselves. The Federalists constructed a constitutional plan that was robust to a particular kind of sampling problem, the selection of public officials. A variety of checks and balances were erected by which the self-interests of public officials were brought into alignment with the public interest. In jealously guarding their own prerogatives, they were guided to check the ambitions of agents in the other branches of government. It was not necessary to hope that only the most virtuous and public-spirited citizens would seek public office. The institutions could withstand some of the kind of adverse selection we should expect when political power is made available to those who seek it.

Democracies face another danger, and more intractable - the threat of majority factions. This is not a sampling problem. The median yeoman, in the population as a whole, may well be a member of a faction or coalition that is willing to advance its interests at the expense of the rights of the minority. In seeking institutions that will protect minority interests against the
tyranny of the majority,103 we are pursuing a different kind of robustness. The challenge is to construct constitutional restraints that, in a sense, protect the population from their own will, as revealed through the democratic process. Madison believed that the breadth of the union would make it unlikely for majority coalitions of diverse interests to form; the transaction costs would be too high.

Some 220 years ago, a constitutional moment presented itself to the American confederation. The founders did the best they could, given the state of political science at the time. Although the United States Constitution is in many ways an extraordinarily successful document, it was not a complete success in restraining factional discord, as was revealed in the United States Civil War. Perhaps a political process that incorporated an element of randomness, as was used in ancient Athens and renaissance Florence and Venice might have prevented that outcome. It is unlikely that contemporary democracies, even in the 18th century would have accepted selection of representatives by lottery, however. It is also possible that a constitutional constraint that would restrict legislatures to passing general legislation would have prevented factions from threatening each other’s interests through the political process. That claim must remain speculative at best, however. More likely, Madison’s vision of a strong national government with the ability to withstand and subdue regional interests would have been the best hope for genuinely resisting the “mischief of factions.”

Notes

3 The Federalists favored ratification of the constitution. The Anti-Federalists opposed it, fearing a concentration of political power at the national level at the expense of the member states.
7 Plato and Montesquieu (cited below), for instance. For Madison’s views on violent faction, see Madison, James, ‘Federalist 19’, and ‘Federalist 43’ (esp. item 6) in Madison, James, et al, The Federalist Papers, (pp. 176-81 & 309-17) and Letter to Thomas Jefferson, Decr. 29, 1978, in Rakove, Jack N., ed. Madison: Writings,
Controlling the Mischief of Factions – Alan Lockard


8 This is certainly true with regard to protective tariffs, and agricultural price supports.


14 Olson goes so far as to cite entrenched rent-seeking interest groups as the primary cause of the decline of nations. See Olson, Mancur, The Rise and Decline of Nations: Economic Growth, Stagflation, and Social Rigidities, New Haven: Yale University Press, 1982.


16 Madison, ‘Federalist 10’, p. 130.

17 Plato, The Republic, Book V.


22 Madison, ‘Federalist 10’.


26 Hume, ‘Of Parties in General,” p.56.

27 Madison, ‘Federalist 10’.


A demogrant is a fixed payment awarded to all citizens regardless of need. There is currently a movement in the United States to establish a demogrant system to address poverty, referred to as the Basic Income Guarantee. Hamilton makes this point in ‘Federalist 9’. He also notes that many of the existing states are already larger than what was contemplated by Montesquieu as appropriate for republican government.


Aristotle, ‘Politics’, 1296a, 6-12.


Thus the Venetian restrictions on political discourse, discussed below.


Hamilton, Alexander, ‘Federalist 9’. Hamilton goes on to add a new innovation, the “enlargement of the orbit” of the state. He is speaking there of the benefits of the larger union as opposed to the smaller states, which was discussed above.


Robertson, David Brian, “Constituting a National Interest: Madison against States’ Autonomy.”


See for example, Buchanan and Tullock, *The Calculus of Consent*, pp. 303-6.

Hamilton, Alexander, ‘Federalist 9’.


A demogrant is a fixed payment awarded to all citizens regardless of need. There is currently a movement in the United States to establish a demogrant system to address poverty, referred to as the Basic Income Guarantee. See Clark, Charles M. A., *The Basic Income Guarantee: Insuring Progress and Prosperity in the 21st Century*,

Homer describes the gods dividing the world by lots. In this passage he is quoting Poseidon, “All was divided among us three ways, each given his domain. I when the lots were shaken drew the grey sea to live in forever; Hades drew the lot of the mists and the darkness, and Zeus was allotted the wide sky, in the cloud and the bright air.” Homer, The Iliad of Homer, trans. by Richard Lattimore, Chicago: University of Chicago Press, 1961 (ca. 500 B.C.E.), 15:190.


Aristotle, Politics, 1294b, 5-10.

Headland, Election by Lot in Athens, p. 177.

Headland, Election by Lot in Athens, throughout, but see especially, pp.12-32.

Headland, Election by Lot in Athens, pp.13-14. For criticisms of election by lot, see Xenophon, Memorabilia, 1.2.9, Aristotle, Rhetoric, 1393b, 4-8, and Isocrates, Areopagiticus, 20-22.

Headland, Election by Lot in Athens, pp. 15-16.

Headland, Election by Lot in Athens, p. 38.

Rhetoric to Alexander, 1424a13-16. Although the attribution of this piece to Aristotle is accepted as spurious, as Levy notes, “If Aristotle did not write this, someone as competent did…” Levy, David. The Economic Ideas of Ordinary People, New York: Routledge, 1991, p. 294 n6. See also Aristotle, Politics, 1303a, 15-20.

Headland, Election by Lot in Athens, p. 173.


Finlay, Politics in Renaissance Venice, p. 29., Queller, The Venetian Patriciate: Reality versus Myth, p. 4, 8.

Queller, in The Venetian Patriciate: Reality versus Myth, debunks the myth at length.


Finlay, Politics in Renaissance Venice, p. 31, 38. Queller, The Venetian Patriciate: Reality versus Myth, p. 6


Queller, The Venetian Patriciate: Reality versus Myth, pp. 77-8. Headlams observation, in Election by Lot in Athens (p. 34), that Antiphon was able to overturn the democracy by joining various clubs and using them to coordinate political action there may to some merit to the prohibition.

Queller, The Venetian Patriciate: Reality versus Myth.

For an argument that a subdued level of political discourse contributed the relative peace there, see Finlay, Politics in Renaissance Venice, p. 219.

Finlay, Politics in Renaissance Venice, p. 61.


Controlling the Mischief of Factions – Alan Lockard

97 Levy, The Economic Ideas of Ordinary People, p. 150. A preference ordering is single peaked if there is one optimal point, and the desirability of options monotonically declines as options become further removed from the optimum. For example, assume that there is an ideal level of public expenditure. Budget increases beyond that point become less and less desirable because that level of taxation is increasingly onerous. Budget decreases below that point become less and desirable because more public services must be forgone (assuming the budget remains balanced). Preference orderings with more than one local maxima are multi-peaked. An example could be made with regard to the American involvement in the Vietnam War. It can be argued that they should have either committed no resources (stayed out), or committed enough resources to win decisively. That ordering has two peaks, one at zero expenditure, and another at a high level of expenditures. On the importance of single-peakedness in collective decision-making, see Black, Duncan, ‘On the Rationale of Group Decision-making’, The Journal of Political Economy, vol. 56 no. 1, 1948, pp. 23-34.
98 On any one dimensional issue, the median voter is centrally located relative to other voters. On a question of level of expenditure in support of provision of a public good, for example, one half of the voters will prefer as great, or greater expenditures than the median voter, and one half will prefer as little, or less. The preferences of the median voter (assuming single-peaked preferences) cannot be defeated by any alternative in a pair-wise majority vote.
99 Levy, The Economic Ideas of Ordinary People, especially ch. 9.
100 Levy, The Economic Ideas of Ordinary People, pp. 146-7.