"For a long time before the appointed time has come, the election becomes the important and, so to speak, the all-engrossing topic of discussion. Factional ardor is redoubled, and all the artificial passions which the imagination can create in a happy and peaceful land are agitated and brought to light. . . . It is true that as soon as the choice is determined, this ardor is dispelled, calm returns, and the river, which had nearly broken its banks, sinks to its usual level; but who can refrain from astonishment that such a storm should have arisen?"

ALEXIS DE TOCQUEVILLE
Democracy in America

ELECTIONS IN AMERICA

CONTROL AND INFLUENCE IN DEMOCRATIC POLITICS

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Rutgers · The State University

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TO MARC, DAVID, AND MILES

in the hope that voters and politicians
will redeem their pledge
"to save succeeding generations
from the scourge of war"

CHAPTER 2

THE BALLOT IN POLITICAL THEORY

THE SIGNIFICANCE of elections is our general problem. Before examining the impact of popular decisions in specific cases, we must establish our criteria. We must know what we expect before we know whether elections meet our expectations. In contemporary times, as we have seen, voting is both praised and damned. Much of the discussion today centers on the alleged "traditional theory of democracy," and our criteria for judging elections are derived implicitly from the works of political philosophy. From Plato to John Stuart Mill, philosophers have considered, approved, and condemned elections. To clarify our assumptions, therefore, we will examine in this chapter some major works of premodern European and American political thought.

The authors surveyed for this purpose are Plato, Aristotle, Machiavelli, Locke, Rousseau, Madison, Hamilton, Calhoun, and Mill, as well as disputants in the federal Constitutional Convention of 1787, the state conventions to ratify the Constitution, and the Congress on the Seventeenth Amendment, providing for the direct election of Senators.[1] This list includes both reputed friends and critics of democratic government. While other authors obviously could be added, this grouping seems a fair representation of premodern beliefs. An exhaustive examination of the specified writers, or of their entire theories, is not necessary here. We will also ignore the chronological evolution of ideas. Our emphasis is on the thoughts, of whatever historical period, relevant to an understanding and evaluation of the role of elections in government.

Political theorists of all eras have considered the functions of elections both in the choice of leadership and the determination of governmental action. They have differed, however, in their relative stress on the direct or indirect effects of the vote. Some writers have seen popular control as including both the choice of rulers and the precise delineation of policy. Others have seen the effects of elections as less obvious but still important. They have emphasized indirect impacts such as the stability and power of government, the development of personality and, especially, the protection of voter interests.

The theorists have also evaluated elections quite differently, expressing both enthusiastic support and fervent disdain for the ballot. Significantly, the criticism of elections usually has been expressed by writers who have expected direct popular control, whereas praise of elections has been more common among those who stressed indirect effects. The argument over elections, as we shall see, has been a dispute in which the opposing sides have not used the same criteria.

[1] The last debates are included because the Seventeenth Amendment appears to be the only important structural change in the original Constitution dealing with elections, and therefore the only occasion after 1789 for extended official debate on the issues involved. The only other amendment that might be considered is the two-term limit on the Presidency, but this change was not widely debated and its consideration centered on other issues. Amendments dealing with woman suffrage, the District of Columbia, and the poll tax have affected the size of the electorate, but not its functions.

DIRECT CONTROL: THE DANGERS OF ELECTIONS

Few philosophers have seen wise public action as the direct result of the electoral process. Machiavelli was an exception, believing the electorate competent to choose able leaders. Comparing popular and despotic governments, he held "that the people are more prudent and stable and have better judgment than a prince; and it is not without good reason that it is said, 'The voice of the people is the voice of God'. . . . We also see that in the election of their magistrates they make far better choices than princes; and no people will ever be persuaded to elect a man of inferior character and corrupt habits to any post of dignity, to which a prince is easily influenced in a thousand different ways."[2]

Rousseau was even more optimistic and emphasized policy decisions. Under suitable conditions, he wrote, "The general will is always right and tends to the public advantage."[3] While Rousseau's model community was a small, direct democracy, his beliefs were later extended to the American continental republic—first by the Jacksonians, and most extensively by the Progressives. Through elections, argued Oregon Senator Brown in 1911, "the accountability is always to the composite citizen—individual unknown—always permanent, never changing, the necessitated result being that the public servant must serve the composite citizen who represents general welfare."[4]

Most theorists who emphasize direct effects of elections are hostile to the ballot. They stress the need for skilled leaders in government and for wise policy decisions. Elections are judged on their ability to meet such goals and are found inadequate. Those who concentrate on these direct effects, therefore, become opponents of elections and fearful of their results.

[2] Niccolò Machiavelli, *Discourses on the First Ten Books of Titus Livius*, Modern Library ed. (New York: Random House, 1940), pp. 263–64.

[3] Jean Jacques Rousseau, *The Social Contract*, Everyman ed. (New York: Dutton, 1950), p. 27.

[4] *Congressional Record*, Vol. 46, 61st Cong., 3d sess. (1911), pp. 2595–96.

Criticism of the ballot is founded on an elitist premise. The theorists of this camp hold that certain discoverable abilities are needed to participate in government, that only a severely limited number of persons have these skills, and that all others should be excluded from politics. Specialists are necessary not only for the technical positions of a civil service; they are regarded as exclusively able to conduct all affairs of government. Hamilton argued this position gently, for he needed to court popular favor. "It is an unquestionable truth, that the body of the people, in every country, desire sincerely its prosperity; but it is equally unquestionable, that they do not possess the discernment and stability necessary for systematic government."[5]

Plato, unrestricted by political necessities, frankly expressed the elite theory and remains its most persuasive proponent. In perhaps his most celebrated paragraph, he wrote:

> Unless either philosophers become kings in their countries or those who are now called kings and rulers come to be sufficiently inspired with a genuine desire for wisdom; unless, that is to say, political power and philosophy meet together, while the many natures who now go their several ways in the one or the other direction are forcibly debarred from doing so, there can be no rest from troubles, my dear Glaucon, for states, nor yet, as I believe, for all mankind.[6]

The crucial problem in government is bringing the true elite to power. Governmental structure is of minor importance. "That can be the only true form of government in which the governors are really found to possess science, and are not mere pretenders, whether they rule according to law or without law, over willing or unwilling subjects, are rich or poor themselves—none of these things can with any propriety be included in the notion

[5] In the New York ratifying convention, in Jonathan Elliot, ed., *Debates on the Adoption of the Federal Constitution*, 2nd ed. (1888) (New York: Burt Franklin Research and Source Series 109), Vol. II, p. 132.

[6] *The Republic*, Book V, 473.

of the ruler."[7] Since specialists are required to run government, an elitist must have a way of discovering the experts.

Popular favorites are unlikely to have the required abilities. Indeed, elections have been held harmful because they actually promote the unqualified. The pursuit of office in elective systems is contrasted to the pursuit of wisdom characteristic of the most qualified rulers. "It is not in the natural course of things for the pilot to beg the crew to take his orders."[8] Elections deny society the benefit of its best leaders and advance the deficient. As Mill remarked, "The natural tendency of representative government, as of modern civilization, is toward collective mediocrity; and this tendency is increased by all reductions and extensions of the franchise, their effect being to place the principal power in the hands of classes more and more below the highest level of instruction in the community."[9] Deficient public policy will inevitably follow.

This concern was reiterated by Elihu Root, arguing against direct election of senators. "This change," he warned, "would prevent the Senate from having the benefit of . . . men who by lives of experience and effort have attained the respect of their fellow citizens and who are willing to undertake the burdens of public office, but are unwilling to seek it; men who will accept the burden as a patriotic duty . . . but who never would subject themselves to the disagreeable incidents, the labor, the strife, the personalities of a political campaign."[10]

Although elitists attack direct election of rulers, they find it more difficult to suggest alternative ways of selecting governors. In *The Republic*, for example, Plato provided only for the perpetuation of the philosophers' rule, through the control of public opinion and training of the guardians. He was unable

[7] Plato, *Statesman*, trans. B. Jowett, in *The Dialogues of Plato* (New York: Random House, 1937), 293.

[8] Plato, *The Republic*, Book VI, 489.

[9] John Stuart Mill, *Considerations on Representative Government* (New York: Liberal Arts Press, 1958), p. 114.

[10] *Congressional Record*, Vol. 46, 61st Cong., 3d sess. (1911), p. 2244.

to suggest a means of initiating the rule of the wise. Similar difficulties inhere in any plan for elite government.

To establish good government, and as an alternative to his ideal plan, Plato later suggested an elaborate system of laws and elections for a new commonwealth. Direct popular control was severely curbed. On the principle of specialization, the electorate was severely restricted. Only leisured citizens were admitted, "for he who is to secure and preserve the public order of the state has an art which requires much study and many kinds of knowledge, and does not admit of being a secondary occupation."[11] Even within this restricted group, some had greater influence than others. Most offices required special qualifications of age, property, or character, and long terms were common, with the principal rulers serving up to 20 years. Plato also divided the voters into classes on the basis of limited differences in wealth, with the richer classes having greater political influence.[12]

The elaborate system of elections was meant to serve as a second-best substitute for the ideal rule of the philosopher-king. The ideal still remained, however, and Plato returned to it. At the end of the *Laws*, he provided for a Nocturnal Council of the elderly wise men of the community, to whom is entrusted the education of new rulers and revision of the laws. Plato put his final trust in the creation of such a body. His ultimate proposal failed to guarantee wisdom, but it is the logical one for a firm believer in the need for specialized rulers. Elections may be carefully constructed and controlled, but they are a poor substitute for the rule of the wise. There is always the suspicion or conviction that the winners of elections need not necessarily be perceptive philosophers.

The voters are even less qualified to make policy decisions, according to the elitists. Since government is a specialized skill, it is madness to entrust it to the general public. Democratic

[11] Plato, *Laws*, trans. Benjamin Jowett, Book VIII, 846.

[12] *Ibid.*, Book VI, 753–68.

decision-making through elections is comparable to navigating a ship on which "the sailors are quarrelling over the control of the helm; each thinks he ought to be steering the vessel, though he has never learnt navigation and cannot point to any teacher under whom he has served his apprenticeship; what is more, they assert that navigation is a thing that cannot be taught at all, and are ready to tear to pieces anyone who says it can."[13] Elections are seen as involving policy decisions, and these decisions must inevitably be deficient.

Critical theorists have also attempted to specify the unwise policies they expect in elective governments. The recurrent fear is the asserted disregard of minority demands and the imposition of majority tyranny, the consequence of which is destruction of the state. "The instability, injustice, and confusion introduced into the public councils have, in truth been the mortal diseases under which popular governments have everywhere perished," wrote Madison in the most important exegesis on the Constitution. "Measures are too often decided not according to the rules of justice and the rights of the minor party, but by the superior force of an interested and overbearing majority." As a result, "democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths."[14]

Those who have feared elections have seen them as the means by which selfish men advance their interests at the cost, even of the ruin, of others. To John Calhoun, every man "is ready to sacrifice the interests of others to his own. And hence, the tendency to a universal state of conflict, between individual and individual; accompanied by the connected passions of suspicion, jealousy, anger and revenge."[15] Elections provide no control

[13] Plato, *The Republic*, Book VI, 488.
[14] James Madison, *The Federalist*, No. 10.
[15] John C. Calhoun, *A Disquisition on Government*, in *Works*, Vol. I (New York: Appleton, 1854), p. 4.

over these tendencies. Rather, in a society of inevitable group conflict, elections contribute to the destruction of the rights of the minority. "There must, of necessity, be a governing and governed,—a ruling and a subject portion. The one implies the other; and in all, the two bear the same relation to each other; —and have, on the part of the governing portion, the same tendency to oppression and abuse of power. Where the majority is that portion, ... the minority, for the time, will be as much the governed or subject portion, as are the people in an aristocracy, or the subjects in a monarchy."[16]

Those fearful of elections tend to bolster their arguments by reference to a presumed "general welfare." "It does not follow that the public decisions are equitable," admitted Rousseau. On occasion, "the people is seduced by private interests, which the credit or eloquence of clever persons substitutes for those of the State; in which case the general will will be one thing, and the result of the public deliberation another."[17] Commonly, the general welfare is identified with interests and rights of particular minorities. To Madison, the protection of property interests from the attacks of "factions" is vital:

> 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. . . . The most common and durable source of factions has been the various and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society. . . . The regulation of these various and interfering interests forms the principal task of modern legislation.[18]

[16] *Ibid.*, p. 23.
[17] Jean Jacques Rousseau, *A Discourse on Political Economy*, Everyman ed. (New York: Dutton, 1950), p. 291.
[18] *The Federalist*, No. 10.

Elections provide no protection against these dangers; indeed they only strengthen the position of the majority. Ideally, wrote Mill, the voter should consider the public interest, not his private welfare. "His vote is not a thing in which he has an option; it has no more to do with his personal wishes than the verdict of a juryman."[19]

Mill and others feared, however, that interests identified with the public welfare would be jeopardized by elections. To prevent this outcome, they created a variety of devices. Mill favored proportional representation, plural voting by educated citizens, disenfranchisement of paupers, and open ballots. Madison relied on social and institutional checks. He believed there would be a plurality of interests in a country as large as the United States. It was unlikely that any one interest would become a majority or would be sufficiently cohesive to be oppressive. Further insurance would be provided by the mechanisms of government: the filtration of popular views through representatives, separate means for the selection of each branch of government, and a variety of national checks and federal-state balances.

After the country's sixty years of experience under the Constitution, Calhoun was dissatisfied with Madison's solutions, but he carried his distrust of majority policy to an extreme. Calhoun recognized only two interests—free states and slave states. The Constitution had provided for the protection of slavery, he argued, by requiring a "concurrent majority" to pass legislation —not only a majority of population, but a majority of states as well. Unfortunately, the popular majority had become dominant. To provide for southern interests, new checks were needed, such as the equality of sectional representation in the Senate or the election of a second President with full veto power; otherwise, either the southern minority or the government must be destroyed.[20]

[19] *Considerations on Representative Government,* p. 155.
[20] *A Discourse on the Constitution and Government of the United States,* in *Works,* Vol. I, esp. pp. 381–96.

The policy decisions of the elective governments, then, are held to be unjust and destructive of vital interests. Ultimately, it is claimed, unchecked elections are dangerous to all, leading to instability and the destruction of the state. The principal cause of instability is the inability of the majority to restrain itself. Eventually, it infringes on some basic rights and intense beliefs of the minority, or one faction of the majority turns on another. "Cunning, falsehood, deception, slander, fraud and gross appeals to the appetites of the lowest portions of the community would take the place of sound reasoning and wise debate."[21] The ultimate result is the end of all liberty, as repression by tyrannical rulers is substituted for popular rule. "That freedom which knew no bounds must now put on the livery of the most harsh and bitter servitude, where the slave has become the master."[22] The ultimate danger of direct control is the elimination of all control.

INDIRECT EFFECTS: THE BENEFITS OF ELECTIONS

Many philosophers have seen considerable benefit in the indirect influence of elections. The advantages of the ballot have been found largely apart from the personal abilities of the elected rulers or the content of public decisions. Rather, the favorable aspects have been found in the effects of popular intervention on the processes and functioning of government. Elections would improve the workings of government, even if they could not insure the wisdom of rulers or policies.

A principal procedural benefit has been the achievement of legitimate and stable government. The legitimacy of elective government has been grounded on a moral premise. "The liberty of man in society is to be under no other legislative power but that established by consent in the commonwealth," declared Locke, "nor under the dominion of any will, or restraint of any

[21] Calhoun, *Disquisition,* p. 42.
[22] Plato, *The Republic,* Book VIII, p. 569.

law, but what the legislature shall enact according to the trust put in it."[23] Madison later noted, but found it unnecessary to defend, "the fundamental principle that men cannot be justly bound by laws in making of which they have no part."[24]

While consent has been defended as morally necessary, political theorists have also tried to show that legitimacy is the empirical result of popular elections. In popular government, wrote Aristotle, the voters "have the power of electing the magistrates and calling them to account; their ambition, if they have any, is thus satisfied."[25] By contrast, argued eighteenth-century Americans, the denial of electoral power would stigmatize most persons as "suspicious characters, and unworthy to be trusted with the common rights of their fellow citizens" and "would create division among the people and make enemies of all those who would be excluded."[26]

To the framers of the Constitution, elections were unavoidable. Given the English tradition, no government could be considered legitimate unless popularly chosen. While many delegates to the Philadelphia convention were distrustful of popular wisdom, they also saw the practical necessity of popular elections. The franchise brought consent even if not ideal policies. As George Mason reminded the delegates, "Notwithstanding the oppressions and injustices experienced among us from democracy; the genius of the people is in favor of it, and the genius of the people must be consulted."[27]

Elections also have been held to increase the power of government, without determining the specific actions of that

[23] John Locke, *Of Civil Government*, Everyman ed. (New York: Dutton, 1943), Book II, p. 127.
[24] Max Farrand, ed., *The Records of the Federal Convention of 1787* (New Haven: Yale University Press, 1911), Vol. II, p. 204n. All unspecified references are to Madison's *Journal*. For a critique of the consent theory, see Hanna Pitkin, "Obligation and Consent—I," *American Political Science Review*, Vol. LIX (December, 1965), pp. 990–99.
[25] Aristotle, *Politics*, Modern Library ed. (New York: Random House, 1943), Book VI, 1318b.
[26] George Mason and John Rutledge in Farrand, ed., Vol. II, pp. 203–5.
[27] *Ibid.*, Vol. I, p. 101.

government. This empirical proposition was widely accepted at the Constitutional convention. Generally, those who wished a particular government body to be powerful favored popular election; those who wanted to restrict its power argued against popular election. James Wilson was "for raising the federal pyramid to a considerable altitude, and for that reason wished to give it as broad a base as possible," through direct election.[28] By contrast, Roger Sherman, a states-righter, opposed popular election of the Congress, while Mason, a believer in legislative supremacy, opposed the direct election of the President. Mason favored election of Congress but, when it came to the choice of an executive whose power he feared, "he conceived it would be as unnatural to refer the choice of a proper character for chief Magistrate to the people, as it would, to refer a trial of colors to a blind man."[29] The defense of elections was an expedient principle, supported on the basis of an empirical theory that elections conferred and increased government power.

Another general advantage claimed for elections is more intangible. Participation in government, of which voting is the most common means, is said to contribute to the personal development of the electors. Although often presented in value-free terms, this statement is a moral position based on certain tenets concerning the human personality. To Locke, self-determination is held essential to man generally, and consent is essential to political man. "He who would get me into his power without my consent would use me as he pleased when he had got me there, and destroy me too when he had a fancy to it." Furthermore, "this freedom from absolute, arbitrary power is so necessary to, and closely joined with, a man's preservation, that he cannot part with it but by what forfeits his preservation and life together."[30]

Mill shares the same moral premise, but his view of human character is more dynamic. A man's personality is not only

[28] *Ibid.*, Vol. I, p. 49.
[29] *Ibid.*, Vol. II, p. 31.
[30] *Of Civil Government*, pp. 125, 128.

recognized through participation in government; it is also developed. "The maximum of the invigorating effect of freedom upon character is only obtained when the person acted on either is, or is looking forward to becoming, a citizen as fully privileged as any other." Moreover, public responsibility stimulates him to widen his perspectives. "He is called upon, when so engaged, to weigh interests not his own; to be guided in cases of conflicting claims, by another rule than his private partialities. . . . He is made to feel himself one of the public, and whatever is for their benefit to be for his benefit."[31]

The most important virtue credited to elections is protection, or a check on power. Legitimate and strong government or moral development are important ends, but their benefit to individuals and groups is difficult to ascertain. To particular persons, the vote provides a vital means of defending their immediate interests and permits an indirect influence on government. The ballot is necessary not to guide the details of official action, but to make citizens secure. "Men, as well as women" summarized Mill, *"do not need political rights in order that they may govern, but in order that they not be misgoverned."*[32]

While government is necessary, protection is also essential. Machiavelli and Madison share this basic premise. One "must start with assuming that all men are bad and ever ready to display their vicious nature, whenever they may find occasion for it."[33] Those who provide a role for elections do so because of a certain pessimism or realism about the possible misdeeds of men. Unlike Calhoun, however, who distrusted all men, advocates of elections are particularly suspicious of governors and more trustful of the governed. Madison wrote, "If angels were to govern men, neither external nor internal controls on government would be necessary," but in their absence, it becomes necessary to restrain government, and "a dependence on the people is, no doubt, the primary control."[34]

[31] *Considerations on Representative Government*, pp. 53–54. Cf. p. 130.
[32] *Ibid.*, p. 144. Italics added.
[33] Machiavelli, *Discourses*, p. 117.
[34] *The Federalist*, No. 51.

To be effective, Mill wrote, control must be exercised directly by those needing protection. Given the character of governors, their good intentions are an uncertain reliance. Possession of the vote, however, makes the expression of popular demands effective, because the government is obliged to attend to them.

> The rights and interests of every or any person are only secure from being disregarded when the person interested is himself able, and habitually disposed to stand up for them. . . . Rulers and ruling classes are under a necessity of considering the interests of those who have the suffrage; but of those who are excluded, it is in their option whether they will do so or not, and however honestly disposed, they are in general too fully occupied with things which they *must* attend to, to have much room in their thoughts for anything which they can with impunity disregard.[35]

Theorists who emphasize the protective aspects of elections reject the elitists' premises discussed earlier. The primary qualification of rulers is not considered their wisdom or talent, but their readiness to defend the rights of the voters. The electorate, in turn, is not judged by its ability to choose philosophers, but by its ability to choose politicians—men who seek power, not truth.[36] The virtue of elections is seen as bringing politicians to safeguard popular interests in order to promote their own quest for office. Protection, therefore, does not depend on the morality of rulers. As Patrick Henry scornfully declared, "Are we to go so far as to concede everything to the virtue of Congress? . . . I disdain to hold anything of any man. We ought to cherish that disdain."[37]

Popular protection is achieved in two distinctive but related ways. As summarized by Madison: "As it is essential that the

[35] Mill, *Considerations*, pp. 43, 131.
[36] The classic discussion of the character of the politician is Max Weber, "Politics as a Vocation," in H. H. Gerth and C. Wright Mills, *From Max Weber* (New York: Galaxy Books, 1958), IV.
[37] In the Virginia ratifying convention, in Elliot, ed., Vol. III, p. 167.

government in general should have a common interest with the people, so it is particularly essential that the [representatives] should have an immediate dependence on, and intimate sympathy with, the people. Frequent elections are unquestionably the only policy by which the dependence and sympathy can be effectually secured."[38]

"Dependence" means political restraint by the voters, who are aware of their interests, alert to their representatives' actions, and prepared to punish any misdeeds. "Do the members of Congress, says he, displease us, we call them home, and they obey. . . . Let these members know their dependence on the people and I say it will be a check on them, even if they were not good men."[39] Moreover, the representatives, knowing that they must face a new election shortly, will take care not to harm the voters. Whatever their personal character, officials will "have some hesitation before they abuse their powers."[40] Political necessity, not morality, provides protection.

Elections also serve as a check on power because of the "sympathy" between representatives and their constituents. This quality does not refer to the personal feelings of the legislator, but to the similarity between his social position and that of the voters. A representative would sympathize with his constituents because he would be of the same geographic area and status. The ideal legislature, in modern terms, would be a "random sample" of the voting population. For this reason, Aristotle characterized the choice of representatives by lot as the most democratic method.[41] The principle survives today in the ethnically "balanced ticket" or the militant Negro demand for "black power."

A properly constituted legislature was believed by Locke to be adequate for protection in almost all cases. Thus, while he

[38] *The Federalist,* No. 52.
[39] General Thompson, in the Massachusetts ratifying convention, in Elliot, ed., Vol II, p. 16.
[40] Machiavelli, *Discourses,* p. 224.
[41] *Politics,* Book IV, 1300a–b.

argues that "the supreme power cannot take from any man any part of his property without his own consent," this consent is equated with that "of the majority, giving it either by themselves or their representatives chosen by them."[42] No distinction is made between the voters and the representatives. With adequate elections, the actions of the legislature are equivalent to those of the voters themselves. The major political problem seen is the possible conflict between government and society, and the major function served by elections is to prevent oppression by government. Since the community is a united body, its common interest will be reflected in a properly constituted legislature.[43]

Protection is more complex when society is seen as comprising many different and divergent interests. The representative no longer can be the embodiment of a homogeneous community, but is likely to be more aware of some interests than others. Elections now provide a means of defending and advancing the specialized goals of groups. "In all elective offices each individual has a special interest, which it is presumed he has, under our general system of suffrage, a right to represent at the ballot box."[44] Government becomes not only a threat, but also a means of achieving specialized demands.

That representatives would promote particular interests has been widely accepted. Most of the controversies over suffrage in American history have been based on the tacit or explicit recognition that representatives would advance the relatively narrow goals of their constituency. The ballot has been sought by, and withheld from, the propertyless, Negroes, and women, because of the belief that their interests would be served—perhaps too well—if they could vote. Even if these groups did not make specific policy demands, it was expected that government

[42] *Of Civil Government,* pp. 187–89.
[43] The "right of revolution" is therefore severely restricted; see Locke, pp. 192–93.
[44] Senator Mitchell of Oregon, in *Congressional Record,* Vol. 21, 51st Cong., 1st sess. (1890), p. 3658.

would be responsive to their needs and thereby provide an indirect influence for the enfranchised.

While the empirical connection between interests and representation was widely accepted, the moral evaluation of this effect varied. According to one school, the advancement of particular interests will redound to the general advantage. "They who are already in place will be attentive to the rights of the people. . . . They who are out of office will watch them that are in, with a most critical eye, in order to discover and expose their malconduct if guilty of any, that so they may step into their places."[45]

The advancement of particular interests, however, could also be dangerous. Representatives are no longer a "random sample" of the population. They are likely to promote the goals of some groups while neglecting those of others. Some groups may be forgotten. Melancton Smith warned of an oligarchy: "A substantial yeoman, of sense and discernment, will hardly ever be chosen. From these remarks, it appears that the government will fall into the hands of the few and the great. This will be a government of oppression."[46] If the representative is no longer identified with the community, "sympathy" becomes less of a control, which now must come largely from his "dependence" on the voters. Unless the electorate is vigilant in defense of its interests, it may find these interests neglected. Protection is an important indirect effect of elections, but it demands attention on the part of the voters.

THE DEBATE OVER THE BALLOT

Theorists generally have evaluated elections unfavorably when they have focused on elections as direct choices of wise men or wise policies. In contrast, they have been well-disposed to the democratic process when they have considered the in-

[45] Samuel Stillman of Massachusetts, in Elliot, ed., Vol. II, p. 167.
[46] In the New York ratifying convention, in Elliot, ed., Vol. II, pp. 246–47. Cf. Hamilton in *The Federalist,* No. 35 and Patrick Henry in the Virginia convention, Elliot, Vol. III, p. 322.

direct effects of popular choice. The writers' different perspectives have led them to different conclusions. The debate over the ballot has therefore not been a true matching of ideas, for the two positions have employed different criteria.

The argument over elections, like that over democracy itself, begins with different premises of the nature of man. To the democrat, man is inherently good. He is of unique moral worth, and his individual personality is sacred and deserves protection. He has an inherent right to protect himself and the ability to make decisions for himself. Government is legitimate only when based on his consent. The right to vote follows from these premises. It is the means by which individuals protect themselves and express their consent. The individual's moral right to freedom becomes a political right of participation.

The opponent of elections and democracy is more pessimistic. Men are seen as basically selfish and ignorant. Not individuals, but the general welfare must be protected against such men. Participation in government is reserved for those who demonstrate knowledge and fitness of character. The inherent evil in all men justifies restriction of their political activities. Upon these different premises, political theorists have established contrasting criteria for the evaluation of elections.

The argument against elections has been focused on the ends of government, the achievement of wise decisions, and the content of policy. The fundamental premise is that there is a basic public good and that this good can be ascertained and achieved by wise rulers. Given this emphasis, broad popular participation is acceptable only if the voters have the competence to discern the public good. It is only the most optimistic theorists who have believed that the general electorate was wise enough to achieve the ideal. Rousseau is striking in his assertion: "When in the popular assembly a law is proposed, what the people is asked is not exactly whether it approves or rejects the proposal, but whether it is in conformity with the general will, which is their will. Each man, in giving his vote, states his

opinion on that point; and the general will is found by counting votes."[47] The general will, however, is but an ideal which is often corrupted by special interests and by representation itself.

More commonly, an emphasis on the content of government policy leads to disparagement of elections. Wise policy cannot be achieved through popular control, for the voters lack capacity. The inevitable results are wrong decisions, disregard of public welfare, and depradations of the minority. "A government which is exposed to the hasty action of a people is the worst and not the best government on earth," according to a common argument.[48]

The argument favoring elections has been grounded on different premises. In this theory, liberal in tradition, the basic goal of political institutions is to prevent oppression and thereby to allow individual development. Elections are highly evaluated because they are effective means of providing protection for society and control over government. Decisions might be better or worse in content, but this consideration is not central. Elections, and democracy, are "no more than well-tried and, in the presence of a widespread traditional distrust of tyranny, reasonably effective institutional safeguards against tyranny."[49] Loyalty, stability, and governmental strength follow from the protection of citizens.

The argument over elections therefore has not been a true debate, for each side has begun on different premises and pursued different points. Opponents have seen the principal aim of politics to be the realization of wisdom, and have feared elections as giving power to the inexpert. Proponents have seen the primary purpose as protection and control of government and have praised elections for their contributions to these ends.

[47] *The Social Contract,* p. 106.

[48] Massachusetts Senator Hoar, in the classic defense of indirect Senate elections, *Congressional Record*, Vol. 25, 53rd Cong., special sess. (1893), p. 103.

[49] Karl R. Popper, "Plato as Enemy of the Open Society," in Thomas L. Thorsen, ed., *Plato: Totalitarian or Democrat?* (Englewood Cliffs: Prentice-Hall, 1963), p. 71.

To be sure, the debate has sometimes been directly joined. Democratic theorists have occasionally argued that competence is more likely to be achieved through the election of rulers, rather than through some ascriptive method such as hereditary succession. They have also argued that the promotion of each individual's self-interest would also result in greater development and substantively better policy, for only the individuals affected could truly know the consequences of public policy. Elitists have also claimed that the real interests of a society would be better guarded by a talented aristocracy than by mass intervention. Nevertheless, the thrust of each argument is in a different direction. Opponents do not necessarily favor the oppression of individuals, just as supporters do not endorse unwise government; the disagreement is over their relative order and importance. Those skeptical of elections place truth and capacity at the head of the priority list of values and hope protection will follow. The supporters of elections place more emphasis on self-protection and equality and expect better government to result.

Plato himself wryly recognized the difference, while indicating his elite preferences. In a democracy, he observed: "You are not obliged to be in authority however competent you may be, or to submit to authority, if you do not like it. . . . Democracy [is] an agreeable form of anarchy with plenty of variety and equality of a peculiar kind for equals and unequals alike."[50] In a more favorable manner, Winston Churchill said, "No one pretends that democracy is perfect or all-wise. Indeed, it has been said that democracy is the worst form of government except all those other forms that have been tried from time to time."[51]

Some theorists have tried to combine the values of competence and protection. Madison and Mill provide various means to permit the achievement of the public interest while not derogating the power of the electorate. Inevitably, the two

[50] *The Republic*, Book VIII, 557–58.

[51] 444 *House of Commons Debates*, 5th series (November 11, 1947), pp. 206–7.

values come into conflict. The promotion of equality threatens esteemed minority interests, while providing special protections for the minority violates the principle of equality.[52] Two different values are involved in the argument over elections. They must be distinguished logically and, in a practical situation, one must often be preferred over the other.

Many of the specific arguments about elections are derived from this primary conflict of values. The belief in the need for wisdom to achieve the overarching common interest leads to a demand for restrictions and qualifying tests for the electorate. The debate was conducted in the Constitutional convention, on the issue of direct election of the House. Sherman asserted that "the people want information and are constantly liable to be misled." Eldridge Gerry found direct election disadvantageous, for the people "are daily misled into the most baneful measures and opinions by the false reports circulated by designing men." In rebuttal, Mason rejected the necessity for wisdom in the electorate. Government "ought to know and sympathize with every part of the community. . . . We ought to attend to the rights of every class of the people."[53]

The threat of majority tyranny has been based on the same difference in premises and is indeed not a real issue in many ways. Majority tyranny can only be a threat if the majority in elections makes policy, the fearful assumption of those who regard elections as dangerous. De Tocqueville probably expressed this fear most graphically: "When an individual or a party is wronged in the United States, to whom can he apply for redress? If to public opinion, public opinion constitutes the majority; if to the legislature, it represents the majority and implicitly obeys it; if to the executive power, it is appointed by the majority and serves as a passive tool in its hands. . . . However iniquitous or absurd the measure of which you complain, you must submit to it as well as you can."[54]

[52] Robert Dahl brilliantly analyzes the logic and illogic of Madison's position in *A Preface to Democratic Theory* (Chicago: University of Chicago Press, Phoenix Books, 1963), chap. 1.
[53] Farrand, ed., Vol. I. pp. 48–49.

The support of elections, however, is rarely based on the policies which will result from the direct action of the majority. Rousseau and the American Progressives are distinctive in this regard. "Every law the people have not ratified in person is null and void—is, in fact, not a law," declared Rousseau. "The people of England regards itself as free; but it is grossly mistaken; it is free only during the election of members of Parliament. As soon as they are elected, slavery overtakes it, and it is nothing."[55] Putting this principle into practice, the Progressives favored the direct election of senators and judges, the direct primary, and the initiative and referendum.

Most supporters of elections have not spoken of majorities as having definable policy preferences. They have been concerned with the protection of the community as a whole, as was Locke, or with the protection of distinct interests within it, as Mill. Like any political device, popular elections will tend to protect some interests more than others. The effect of elections is to require government to pay greater attention to unorganized mass groups and comparatively less to elite groups of smaller numbers.

Protection is desired by both supporters and opponents of elections, but the more democratic position is concerned with the protection of broad social groups, and the opposition with smaller groups and their pursuit of "property, status, power or the opportunity to save mankind."[56] Each argument assumes some interests should be advanced, and some retarded by government; the dispute is over which interests deserve more attention—a value question answered differently by different persons.

[54] Alexis de Tocqueville, *Democracy in America*, ed. Phillips Bradley (New York: Vintage Books, 1954), Vol. I, p. 271.
[55] *The Social Contract*, pp. 94–95.
[56] Dahl, p. 31.

These value differences—the relative importance of competence and protection, and the preference for different interests, are the core of the argument over elections. In terms of empirical descriptions, there have not been great differences. Both sides agree that elections promote the interests of the voters, although this effect is evaluated differently. There is agreement as well that governments based on elections command mass loyalty and possess great strength, with opponents fearing this very strength as a prelude to tyranny.

The expectations of the theorists have provided material for our examinations of the significance of elections. To provide criteria for evaluating the ballot, we have focused on elements of the "traditional theory of democracy." Our analysis suggests that this theory has been misunderstood and, consequently, that many modern criticisms of elections are misplaced. Most of the critics, as cited in chapter I, implicitly assume that traditional theories of democracy provided for direct control by voters. Contemporary studies, however, have discovered a citizenry which is demonstrably inattentive to public affairs, uncertain of the principles of democracy, and unsophisticated in its attitudes toward parties, politicians, and policies. In the light of these findings, many commentators abandon or revise the "traditional" democratic theory.[57]

These writers may be missing the point. The advantages of elections have been seen in their indirect effects, particularly the protection of the voters, not in the wisdom of their decisions. To test the worth of elections, we should focus on these reputed benefits. A contrary emphasis on the failures of direct control would be based upon a false view of the theory of democracy, at least insofar as it relates to the theory of elections, described above. The assumption of these modern writers is that voters

[57] See Eugene Burdick, "Political Theory and the Voting Studies," in Burdick and Arthur Brodbeck, *American Voting Behavior* (New York: The Free Press, 1959), pp. 138–48. Bernard Berelson attempts to develop a new democratic theory in *Voting* (Chicago: University of Chicago Press, 1954), chap. 14.

are expected to make policy in elections. Since the evidence strongly indicates that voters do not make policy, the modern writers attack either the voters or the evidence. Yet, in accepting this assumption, they are also accepting the premises and criteria of the very persons who opposed elections. It was those who feared elections and democracy who considered wise policy and the competence of the citizenry the tests of good government. In judging modern voters by these standards, we accept the basis of their argument. It was Plato after all, not Mill, who measured the quality of a government by the wisdom of its rulers and the absolute truth of its decisions.

The agonizing reappraisal of democratic theory, then, is possibly unnecessary. We tend to apply the tests of the antidemocrats to democratic practice. After granting the premise that the proper test of an electoral system is the competence of the electors, it becomes difficult to remain a democrat. Admittedly, modern democracy has yielded neither philosopher-kings nor a utopian society. To this extent, the critics of elective government have been vindicated.

Those who supported elections, however, rarely expected these results. Even when the democratic voter was given a policy role, "these writers never claimed to be describing existing reality, for they were elaborating, at least in part, a set of ideals for a democratic society, which were also meant to be operative ideals for their own time."[58] In practice, elections would normally not meet these ideals, but would still serve important functions. To the democratic theorist, the voter need not know what is wise, but only what is personally satisfactory or obnoxious.

If we are to appraise the effects of elections in the light of modern experience it may be more appropriate to judge by the criteria of those who regarded elections as beneficial. These theorists have seen elections as a means of dealing with a

[58] Graeme Duncan and Steven Lukes, "The New Democracy," *Political Studies*, Vol. II (June, 1963), p. 161.

problem of high priority to them—controlling the government as the governed wish it to be controlled. Elections would give the voters a means of protection, a method of intervention in politics when their vital interests were being threatened. By their very existence, they would act as a restraint on government and tend to bring representatives to further the needs and wants of their constituents. Have elections provided protection for society and control over government? These seem the most appropriate questions to ask.

To provide protection and control, appropriate governmental institutions are necessary. We will examine the structure of American politics in the next chapter. Whatever the structure, however, the burden of his protection falls on the voter himself. What does he know and how does he act? Is there justification for universal suffrage? These questions will be considered in chapter IV. In the remainder of this study, we will attempt to determine the empirical character of elections.

CHAPTER 3

THE STRUCTURE OF AMERICAN ELECTIONS

OPTIMISTIC FAITH in the ballot has been particularly prevalent in the United States. Elections are the great public ceremonies of American life. We vote not only to choose public officials from President to coroner, but also to decide complex questions of fluoridation and constitutional revision, and to select college editors, All-Star teams, and beauty queens. Our pervasive faith is exemplified by the kindergarten student who brought a rabbit to school. One of his classmates asked if the animal were a boy or girl. How could one answer this vital question? Another youngster, familiar with American ways, quickly suggested: "Let's vote on it."

Adults, although presumably more aware of basic biology, also rely on the political process. Popular control through elections has been a dominant theme in American history. As early as the Jacksonian era, De Tocqueville found, "The people reign in the American political world as the Deity does in the universe. They are the cause and the aim of all things; everything comes from them; and everything is absorbed in them."[1] The practical manifestation of this belief was the rapid expan-

[1] Alexis de Tocqueville, *Democracy in America*, ed. Phillips Bradley (New York: Vintage, 1954), Vol. I, chap. 14, p. 260.