

Chapter 13 Heterarchical Organization and Management

§ 1. Hierarchies and Leavitt's Principles

The hierarchical organization found almost universally among business entities is at least as old as civilization itself and grew out of ancient political organizations dating at least as far back as the city-states of ancient Mesopotamia. Hierarchies are generally pyramidal in structure with higher officials placed over lower ones on down to a base population. In more modern times there has been some tinkering with a few organizational details, the most typical example of which is the so-called "matrix management" structure introduced in the days of the U.S. Space Program and later adopted by a number of large industrial conglomerates [Shannon (1972; 1980)]. However, matrix management is not the radical reformation of the traditional systems of pyramidal management structure some claim it to be. It retains the basic principle of monarchy/oligarchy governance prevalent in almost all industrial conglomerates, and it retains the basic form of a managerial pyramid while partially formalizing a slight degree of heterarchy at the lower levels of the basic pyramid. Many people who have tried the matrix management approach are very critical of its shortcomings in comparison to simpler traditional pyramids. Some others regard it as an improved system of management, particularly in regard to situations such as large government contract work in which numerous subcontractors (independent conglomerates) must have their work coordinated. This latter case can be regarded as a circumstance in which multiple free-standing pyramids must have "bridges" built between them to coordinate their efforts.

From the petty kings of ancient Ur (c. 3500 B.C.) to today's management of General Motors, humanity has had much experience with pyramidal hierarchies, their monarchs and oligarchs, and their gentries and commoners. Psychologists in both managerial and industrial psychology have studied the nature of pyramidal organizations for many decades now and, if they have not found solutions for the many problems these organizations regularly exhibit, they have at least been able to identify a number of the most typical problems which arise in them because of their systems' basic incompatibilities with human entrepreneurial nature. One could say psychologists have done a thorough job of admiring the problem. Harold Leavitt, a widely respected managerial psychologist at Stanford, provided a list of empirical principles deduced from the tall stacks of journal and conference papers amassed by industrial and managerial psychology research [Leavitt (1972); Wells (2014), chap. 3, §3]. Leavitt's principles of pyramidal/hierarchical organization can be summarized as follows:

1. Organizations are volatile and everything triggers everything else;
2. The complexity of the communication network within an organization increases as the population of the association increases;
3. Taylorism is a failed management method;
4. An organization's people are satisficing problem solvers;
5. Organizations are communities but are not necessarily civic Communities;
6. A pyramidal/hierarchical organization tends to provoke uncivic competitions for personal advancement among its people and between its internal mini-Societies;
7. Pyramidal management structure places most individuals in positions and situations of dependency, towards which they feel ambivalence:
 - a. power tends to follow the pyramid in a pyramidal structure;
 - b. serious psychological trauma accompanies the dependency/ambivalence effects produced by pyramidal management structures;
 - c. the idea that crisply delineated responsibilities can be established is a myth;

8. Large groups of people exhibit behaviors that differ in kind from small groups.

Psychologists have proposed a number of hypotheses ("mini-theories") attempting to explain some or all of these empirically observed phenomena which are invariably found in pyramidal hierarchies. However, no well known mini-theory has looked at the problem from the perspective of entrepreneurs' interests, which, as I discussed in the previous two chapters, are where causative roots of these phenomena subsist. Consequently, these mini-theories are behavioral theories but they are not *causative* behavioral theories. This amply accounts for the less-than-successful track record of these mini-theories in actualizing real social, economic, or commercial improvements by means of their proposals for the institution of commercial firms and government agencies.

The hand of traditional presupposition lies heavy on the shoulders of these theories. Leavitt, in the pages of his 1972 book, never asked if it is possible to institute conglomerates in any way other than pyramid/hierarchy structures. Neither did McGregor in his 1960 book. From time to time, amateur sociologists have taken their stabs at proposing analyses and prescriptions; well known representatives of this genre of literature include, *e.g.*, Peter & Hull (1969), Peter (1972), Peter (1975), and so-called "self help" books on managing too numerous to list¹. Yet here we are, almost a half century later, and no significant improvements whatsoever have come from these often-well-meaning amateur efforts. None of them have impressed or stimulated change in business or economic theory, or in what is taught by business schools. None of them have moderated or ameliorated any of the socio-economic ills of uncivic free enterprise. None of them have provided relief for the psychological traumas and internecine competitions prevalent within uncivic industrial conglomerates. None of them have prevented or remedied acts of injustice which regularly occur within uncivic industrial conglomerates or those these conglomerates have perpetrated from time to time on members of the general bodies politic of their Societies.

Leavitt's principles can be regarded as empirical characterizations of the nature of pyramidal hierarchies in divers Societies. They provide still another perspective for viewing social, political, and economic challenges that directly or indirectly confront us all. At first glance, however, most people likely will not recognize a quite insidious consequence they have on people's associations. Here I use the word "insidious" in its dictionary connotation of "operating in a slow and not easily apparent manner; more dangerous than seems evident." People for many years now have had a lot of experience with having to deal with the many psychological effects of hierarchies stated or implied by Leavitt's principles. Many people, especially those who have to face the challenges of managing on a daily basis, adopt something of an attitude of bravado toward the traumas of hierarchies: "Everybody's got problems. Things are tough all over. Just man up and deal with it."

One might ask how well this prescription really works in practice. After all, hierarchies, with their pyramidal structures and the practices of monarchy/oligarchy governance that invariably go with them, have been with us for thousands of years. Are their roles in uncivic free enterprise – not to mention political government – really as insidious and threatening as I claim they are? This is a reasonable question to ask. Rather than repeating myself by reminding you once again that most Societies that have ever existed have fallen and vanished, and that the same is true of most industrial conglomerates that have ever existed,² let us take a look at how our economic welfare is

¹ Lawrence J. Peter was an educator. Raymond Hull was a minister and playwright. Neither of them was a trained psychologist nor a trained sociologist.

² Most nations that have ever existed survived for a long time, often measured in centuries. However, and as Toynbee pointed out, the mere fact that currently existing nations are still here today does not mean they will still be here tomorrow, or next year, or in a hundred years. One cannot dismiss the possibility that they merely haven't had enough time to fall yet from insidious social factors granulating them from within. A new phrase has recently entered our political terminology: the failed state. Somalia is one current example. The upheavals of "Arab Spring" in the Middle East likewise threatened nations there.

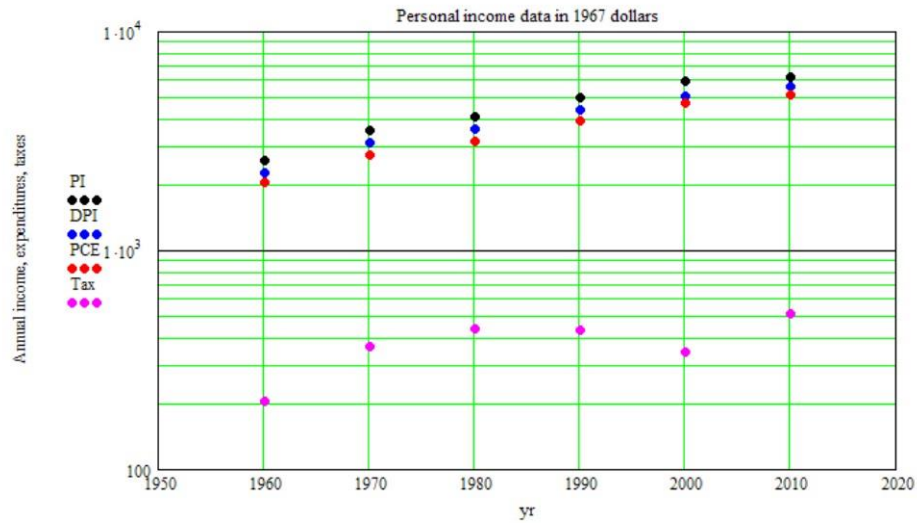


Figure 1: Decennial per capita personal income (PI), disposable personal income (DPI), personal consumption expenditures (PCE), and taxes (PI minus DPI) in constant 1967 dollars from 1960 to 2010. Source: Bureau of the Census (2011) table 679. PI covers all individuals including social security and public assistance recipients. It excludes capital gains and losses [*ibid.*, pg. 432].

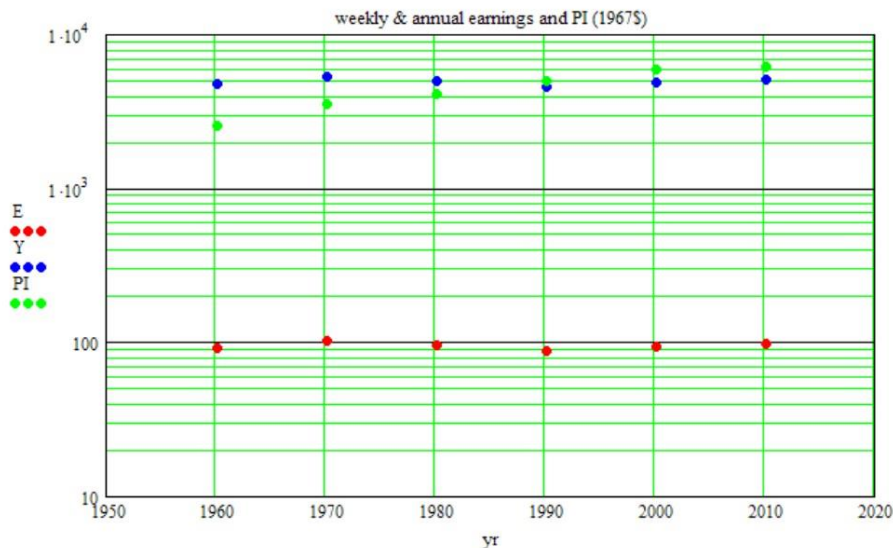


Figure 2: Weekly earnings of nonsupervisory wage earners (E), $E \times 52$ (Y), and per capita personal income (PI) in constant 1967 dollars from 1960 to 2010. Sources: Bureau of the Census (2011) table 630; Statistical Abstracts for 1977 (table no. 668), 1982-'83 (table no. 665), and 1993-'94 (table no. 660). Y is an upper bound on annual earnings. E and Y do not cover the same population as PI so Y does not estimate PI.

doing in the United States.

§ 2. Economic General Welfare of the Postwar United States

Nations exist for the benefit of their people, and economic indicators of this include average per capita personal income of its people, disposable personal income, personal consumption expenditures, and taxes. Figure 1 presents decennial U.S. Census Bureau data for these from 1960 to 2010 after factoring out inflation. Amounts are represented in constant 1967 dollars.

The per capita personal income graph (PI) in figure 1 shows monotonic unsteady growth over the entire period from 1960 to 2000, and even shows continuing (albeit anemic) growth during the first decade of the 21st century. Disposable personal income (DPI) closely tracks PI and personal consumption expenditures (PCE) closely track DPI. By definition, PI minus DPI equals personal taxes paid. The tax data shows that personal taxes rose steadily from 1960 to 1980, leveled off during the decade of the 1980s, fell over the decade of the 1990s, and then rose sharply again during the decade of the 2000s. Note that the tax data covers *all* taxes, not merely federal income tax alone. The close tracking between DPI and PCE demonstrates low levels of personal savings across the entire period and thus lack of capitalist enterprise by most Americans.

Taken at first glance, figure 1 seems to indicate rising national affluence from 1960 to 2000 along with a stagnation of affluence during the decade of the 2000s. However, interpreting the figure this way is misleading if one presumes that rising PI and DPI imply a matching rise in wage earnings. *They do not.* Figure 2 presents Census Bureau data for average weekly non-agricultural and non-supervisor wage earnings (E), a crude upper bound on annual wage earnings ($Y = \text{weekly earnings times 52 weeks per year}$), and also plots PI on the same graph for comparison. The earnings data tell a different story, one of wage earnings stagnation across the entire period. The data means that after inflation is factored out, wage laborer entrepreneurs on the average *have made no Progress in wage income over the past half-century*. The people these data points represent make up the great majority of Americans in the U.S. labor force. The rise in PI must therefore be due to other income sources, *e.g.* retirement income and public assistance.

Averages data such as these are also potentially misleading because the U.S. labor force has a pronounced stratification, both by population distribution and earnings, according to divers labor groups classified by the Census Bureau. Wells (2013), chapters 10-12, presents and discusses this more detailed data. To summarize briefly, the data presented there confirms a picture of generally stagnant or even declining contribution to individuals' wealth assets from wage-laborer earnings for the great majority of Americans.

Furthermore, even this is not the whole picture because it does not take into account the factor of per capita debt. Figure 3 presents U.S. per capita personal income and non-mortgage debt figures in constant 1967 dollars from 1930 to 2010. Figure 4 presents the data for non-farm mort-

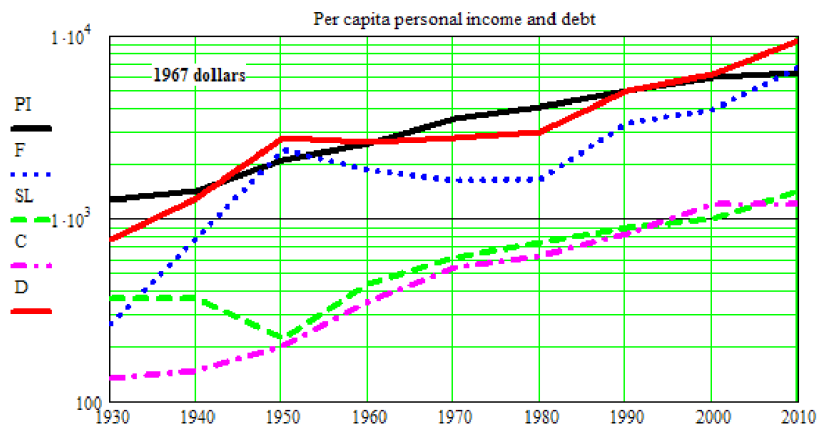


Figure 3: Decennial per capita personal income and debt from 1930 to 2010 in constant 1967 dollars. Sources: Bureau of the Census (1965) Series 369; Bureau of the Census (1976) Series F 262, Y 680, F 387; Bureau of the Census (2011) Tables 679, 470, 439, 1190; Federal Reserve Bulletin on consumer credit reported in the *New York Times Almanac* (2008), pg. 334. Key: PI = per capita personal income; F = federal debt; SL = state & local public debt; C = consumer credit outstanding; D = total of F, SL, and C.

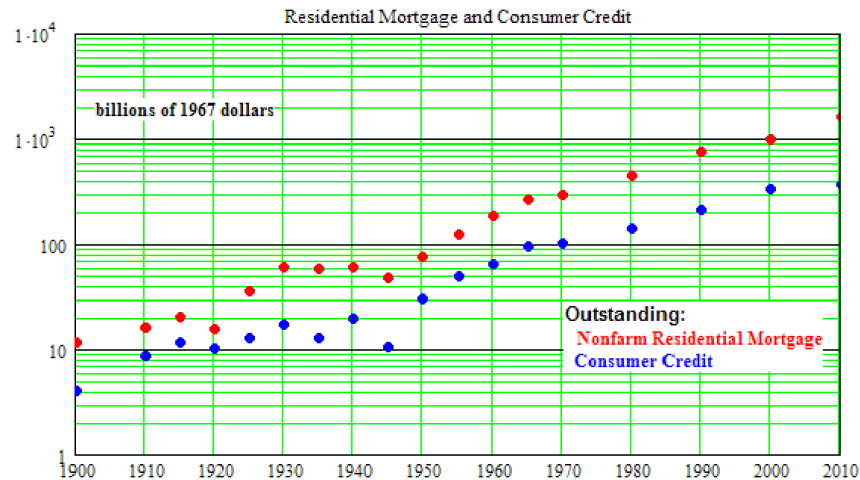


Figure 4: Residential non-farm mortgage debt outstanding compared to outstanding consumer credit in billions of 1967 dollars from 1900 to 2010. Source of the mortgage data: (1) from 1900 to 1970, Bureau of the Census (1976) Series N 262-3, pp 647-8; (2) from 1980 to 1990, Bureau of the Census (1998) Table 816, pg 521; (3) from 2000 to 2010, Bureau of the Census (2011) Table 1192, pg 742.

gage debt on residences from 1900 to 2010. Mortgage debt has historically followed more or less the same trends as consumer credit debt but at a roughly 3.77 times higher level. Figure 1 indicates savings levels of Americans are low; mortgage and consumer credit debt wipe out even this small potential for capitalist entrepreneurship for most Americans. Put another way, the great majority of Americans in the workforce have only income from wage-laborer wages because their debt burdens preclude them from capitalist enterprise. Let me be blunt: Uncivic free enterprise is destroying capitalism in the U.S. and, with it, civil liberty for the great majority of Americans.

Why does per capita personal income not match average wage earnings in figure 2? The answer is that PI statistics measure a different group of people than earnings statistics do. PI data covers wage earners, proprietor-entrepreneurs, recipients of Social Security or public assistance, and also includes a fictitious income factor based on estimated net rental value of the homes of homeowner-occupants. It excludes capital gains and losses. It is not possible to extract from the published Census Bureau figures data sufficient to explain the discrepancies between Y and PI in figure 2, but exclusion of the millions of non-employer proprietors and proprietors of small businesses that employ wage-laborer entrepreneurs from Y and E, and inclusion of social security and public assistance recipients in PI, can account for some of the discrepancy. Social security recipients are not employed as wage-laborers and the social security incomes they receive would tend to depress the PI statistic in comparison with Y in figure 2 in the years prior to 1990. Individual retirement accounts (IRAs), Roth IRAs, and other defined-contribution retirement plans became available to people beginning in the late 1970s and income from them is included in PI statistics. This accounts for some of the rise in PI in 1990 and beyond.

Popular statistics such as Gross National Product (GNP) and Gross Domestic Product (GDP) are often cited as proof that the "economic engine" of the U.S. is strong, healthy, and has always been so throughout the 20th century postwar period. However, it is an error to presume these or similar statistics reflect the state of economic welfare of most Americans. Under the pervasive umbrella of Taylorism and pyramidal hierarchy organization of industrial conglomerates – and the uncivic free enterprise they produce – the real (inflation adjusted) average income revenue picture tells a different story – a story of arrested Progress in the welfare of the majority of Americans. Debt levels further exacerbate the situation. As figure 3 shows, in the year 2010 the

per capita debt burden borne by Americans is greater than per capita income by a staggering 50%. Irresponsible mismanagement of the nation's fiscal affairs by political parties has combined with pervasive Taylorism in managing government agencies to further aggravate the state of the general welfare of the United States and place it under threat by a major Toynbee challenge. Such is the rancid fruit from the garden of uncivic free enterprise, political parties, and Taylorism in business and government management.

Economic welfare stagnation for the majority of people in a nation should be a cause for concern from all its citizens. Apart from the BaMbuti Pygmies and a few other hunter-gatherer Societies, the survival record of economically arrested Societies historically has not been good. It isn't a question of traditional moral teachings that one *ought* to be concerned about it; it's an issue of survival of the nation. That is what makes a half century of arrested economic Progress a serious Toynbee challenge for America today, and one out of which many other ills spring.

Progress in any sphere requires intangible qualities of individual *Personfähigkeit* that wither and disappear in a climate of hierarchy, Taylorism, and uncivic free enterprise. Among these intangibles are: innovation, the creative factor in wealth asset invention; personal daring, which needs the psychological security of knowing there are others around you who will pick you up and tend to your injuries in the event of failure; cooperation, which depends on bonds of reciprocal Duty; mutual trust, which requires reasonable surety that others will uphold their Obligations and pledges as well as the civil rights pledged by and part of every social contract. Without these qualities, the vigor and energy drains out of a Society and its granulation into unbonded and antibonded mini-Societies begins. This isn't speculation; it's a warning.

What I regard as one of the best historical examples of a climate of Progress was reported by Tocqueville in his famous *Democracy in America* where he wrote about what he called "the spirit of the township of New England" in the 1830s. Permit me to quote him at length:

In America not only do municipal bodies exist, but they are kept alive and supported by town spirit. The township of New England possesses two advantages which strongly excite the interest of mankind: namely, independence and authority. Its sphere is limited, indeed; but within that sphere its action is unrestrained. This independence alone gives it a real importance, which its extent and population would not ensure.

It is to be remembered, too, that the affections of men generally turn towards power. Patriotism is not durable in a conquered nation. The New Englander is attached to his township not so much because he was born in it, but because it is a free and strong community, of which he is a member, and which deserves the care spent in managing it. In Europe the absence of local public spirit is a frequent subject of regret to those who are in power; everyone agrees that there is no surer guarantee of order and tranquility, and yet nothing is more difficult to create. If the municipal bodies were made powerful and independent, it is feared that they would become too strong and expose the state to anarchy. Yet without power and independence a town may contain good subjects but it can have no active citizens. Another important fact is that the township of New England is so constituted as to excite the warmest of human affections without arousing the ambitious passions of the heart of man. The officers of the county are not elected, and their authority is very limited. . . . But the township, at the center of the ordinary relations of life, serves as a field for the desire of public esteem, the want of exciting interest, and the taste for authority and popularity; and the passions that embroil society change their character when they find a vent so near the domestic hearth and the family circle. [Tocqueville (1836), pp. 66-67]

Replace "township" with "workgroup" and Tocqueville could have been speaking of industrial conglomerates and commercial Societies. His "spirit of the township" and "spirit of a work team" are exact analogues of each other. In America today hierarchy in government and politics has

crushed the spirit of township in most places; hierarchy in industrial conglomerates does the same to the spirit of commercial mini-Societies and partially accounts for corporations' mediocrity.

Taylorism often accompanies hierarchy or seeps into it as one generation of managers passes into another. The seepage sometimes occurs rapidly – in which case it is devastating to the welfare and culture of the organization it infects – as was the case in the breakdown and fall of the Hewlett-Packard Company; but more often it is an insidious process and it can take quite some time before the effects of arrest and breakdown in the infected Society become apparent. One case of current interest where this appears to be happening is provided by Boys Town, NB.

Boys Town has been for many years one of the most admired organizations in America for the help it provides to orphaned, homeless, and economically disadvantaged young people. It was founded in 1917 by Father Edward J. Flanagan as a home for delinquent and homeless boys who at the time were plentiful in nearby Omaha, NB [Lonnborg (1992)]. In 1935 Boys Town became an official municipality with its own post office, a power plant, a laundry, a tailor shop, other facilities and its own municipal government. In August of 1936 it became an incorporated village with a population of 275 people – almost all of them young boys. What was unique about the government of Boys Town was that *it was entirely made up of boys elected by the boys* of Boys Town. Father Flanagan himself was *not* a member of this government, although he did have a role that might be described as that of a Chief Justice and Civil Advisor. The boys governed Boys Town. Oursler & Oursler tell us,

The day the post office opened – in the gymnasium, with Pat Norton³ as postmaster – was a historic moment in the story of the Town. In December 1934 came official recognition by the government of the United States that the place called Boys Town had become an actual municipality with a postal identity of its own. . . .

With the opening of the post office in 1934, Father Flanagan decided to take another try at boy self-government. In September of 1935 an amendment was made to the Articles of Incorporation naming Boys Town as the place of business of the home – an incorporated village with a population of two hundred and seventy-five. This time there was no make-believe; Boys Town was official, had its own postmark, and the United States Government recognized it as a town. When you have a real town you have to have a real government. They would need a mayor, a city clerk, a commissioner of police, and a commissioner of sanitation, and others. . . .

Violations of town ordinances and laws were punished by the mayor, with his commissioners and councilmen as advisors at the court sessions. Except for rare trouble, so serious it had to be handled by Father Flanagan and his staff personally, all rule-breaking and disturbances around the home were brought before the boys' own court. . . .

Today's system [1949] has changed little from early times; it is a representative form of elective government patterned after the city government of Omaha. Elected for six-month terms are seventeen commissioners and four councilmen. The mayor is chosen by the boys from the four councilmen, who constitute a board of "elder statesmen." . . .

There is a commissioner for each apartment house in Boys Town, and each commissioner is responsible for order in his territory and for the "orientation" of new boys . . . Under the mayor and councilmen, commissioners direct the activities of the boys, seeing that each performs his special chore, his "charge" in the apartment and in maintaining general order.

These commissioners live with their fellow citizens in the same apartment. They soon know which lads are prone to be "breakers of the peace." Because they are elected by the boys themselves, the commissioners are respected and obeyed. . . .

It is a weird flow of troubles which these juvenile officials – many of whom were in

³ Pat Norton (b. 1898, d. 1980) was Father Flanagan's nephew.

desperate trouble themselves only a brief time before – must hearken to and solve. For the mayor and his advisors and the defendants brought in, the courts are classrooms of another kind. Each boy is learning to live in a community which is, so far as possible, a self-controlled democratic world. [Oursler & Oursler (1949), pp. 247-252]

This boy government was one of the unique features of Boys Town that attracted wide public attention. It was, as Oursler & Oursler took pains to point out, an actual government with actual authority and power. Today, according to the Boys Town official website⁴, the day to day operations of Boys Town are "overseen" by an "executive team" made up entirely of adults. The youth government there today is described as "a student council" which acts to "ensure that kids' opinions are articulated." According to Amanda Brandt, a World-Herald staff writer, the mayor of Boys Town today is "similar to a class president."

All of this sounds very much like the youth government of Boys Town has been turned into a make-believe government. In other words, the juvenile residents of Boys Town no longer govern themselves and have been subjugated to rule by the much-more-numerous-than-before adults who now live in Boys Town. The website barely mentions the youth government at all and mentions *no* details concerning what the youths are actually allowed to govern. It appears that Boys Town has devolved from heterarchy to monarchy/oligarchy government organized in a traditional hierarchy. The very casualness with which the adult governors of Boys Town highlight the town's so-called "leadership" is a trumpet blast of Theory X – in particular a presupposition that the juveniles of Boys Town are incapable of managing the town's affairs. Judging from the topics one finds featured on the website, the adult rulers of Boys Town seem rather more interested in expanding Boys Town as a franchise than in keeping it a real town for boys and girls. That's just my opinion, of course, and time will tell how good or ill this devolution into Taylorism and paternalism will turn out for the welfare of the *youths* of Boys Town. Personally, I doubt it will turn out well. History tells us it rarely does. Our own government social agencies attest to it. The fact that Boys Town is a "private sector" venture makes no difference to this at all. Rulership is rulership, monarchy/oligarchy is monarchy/oligarchy, and Taylorism is Taylorism *wherever and however* you find it. The institutional *system*, not the individuals trapped in it, is the disease.

Attempts to answer the challenge of arrest and stagnation in the general welfare by tinkering with the ancient institution of pyramidal hierarchy are foolish. The institutional form *itself* is what brings on the challenge, and tinkering with this structure is nothing but a satisficing groping by mimesis for solutions that will not be found by these means. The challenge is itself a *radical* challenge and only a radical re-institution can meet it. The proposition I offer in this treatise is that this re-institution – in order to be congruent with the social contract of an American Republic, place capitalist enterprise within the practical reach of *all* citizens, revive Progress in the economic general welfare, and restore our eroding civil liberty – calls for heterarchical structure in the management and governance of civic Enterprises. But what is a heterarchy?

§ 3. Heterarchy Structure

Heterarchy is neither unknown nor untried. The word itself literally means "multiple rule" and heterarchical elements are often found in law and accountancy firms, strategic alliances among divers business firms, and even to some degree in the Roman Republic. Heterarchical elements permeated the first governments of the United States, both under the Articles of Confederation and the Constitution of the United States. The mere fact that an organization is organized as a heterarchy is not sufficient to insure it succeeds; like everything else, there are wrong ways to do things that produce defects and failures. But heterarchy, unlike hierarchical monarchy/oligarchy,

⁴ www.boystown.org/about/leadership

is *not* inherently contradictory to human nature in a civil Society. There is much truth in saying heterarchy structure is a kind of coordinated *Gemeinschaft* governance and that a Republic can be viewed in this context, *i.e.*, as a Community of coordinated and cooperating mini-Communities.

It is important to be clear about the terminology used to describe various management and organizational structures. The three most commonly used terms – hierarchy, heterarchy, and holarchy – are employed in vague ways without general agreement among the users as to what they mean precisely. The real-explanations used in this treatise are as follows. A **hierarchy** is an *arrangement of persons or things in order of rank, grade, class, function*, etc. A typical management hierarchy *makes* ideas of *rulership* be integral parts of the arrangement. The term *holarchy* is so ill-defined that no *Realerklärung* for it seems either possible or needed. Contexts for its use in the common literature include the notion of "holistic thinking" and holarchy is sometimes used to express the notion of a hierarchy that somehow isn't a hierarchy. Although one sometimes sees this term appearing in reputable journal articles, *e.g.* Clegg (2007), the term itself was born out of the 1960s mysticism of the so-called New Age Movement⁵ and expresses little more than a Platonic wish dressed up in Spinoza-like notions of unreal entities called "holons." It is not a term with any useful application in any social-natural science.

A **heterarchy** is an *organization of governance which coordinates divers interests of various groups such that common interests are satisfied without special interests being contradicted*. The idea goes beyond traditionally narrow scopes of the idea of management to explicitly emphasize a system of governance structure, recognizing that any industrial conglomerate is always and also, at the same time, a peculiar mini-Society nucleated around commercial interests of its members.

These ideas have been around in management and organization theory for about a half-century now. Some of them were developed by managerial or industrial psychologists and are presented in summary form in college psychology courses. Others have been put forth by retired business executives, often men who have been CEOs of large corporations and who chose to share the managerial craftsmanship they learned from their experiences. Most of these theories were fairly widely known by managers, industrial psychologists, and social commentators from the 1960s until the mid 1970s. These include McMurray's theory (1950), McGregor's 'Theory X' and 'Theory Y' (1960), Tannenbaum's theory (1961), Stogdill's theory (1959), Bass' theory (1960), the Michigan Theory of Likert (1959), Fiedler's theory (1964), and the 'Managerial Grid' theory of Blake and Mouton (1964). These theories focused on the leadership dimension of organization and all more or less took the traditional hierarchal pyramid structure of management for granted. Matrix management theory emerged in the 1970s from practices that had been developed during the U.S. space program in the 1960s, as I mentioned previously.

A closely related qualitative doctrine is Fairtlough's thesis of organization and management. Fairtlough's thesis is that there are three ways to structure an organization: hierarchy, heterarchy, and what he calls 'responsible autonomy' [Fairtlough (2007)]. Fairtlough, who is a former CEO of Shell Chemicals UK and of Celltech, primarily argues that pyramidal hierarchy organization is too deeply engrained in management and organization theory, that no pure hierarchies actually exist in medium-to-large corporations, and that practical management and organization actually makes use of a mixture of three 'ideal types' of organization. He calls his doctrine 'triarchy theory' and, empirically, when one studies the actual structures of organizations in detail the empirical facts support his thesis. As in other ontology-centered theories, Fairtlough imposes a transcendent

⁵ The label 'New Age' in the New Age Movement refers to the so-called 'Age of Aquarius' when, because of the influence of the stars, a 'new age' of peace and harmony is supposed to magically settle over the world. There has possibly been no better example of egregious hogwash and pseudo-philosophical trash literature taking hold over such a large number of people since the Neo-Platonism movement in ancient Greece just prior to incontrovertible visibility of the European Dark Age shrouding the corpse of classical civilization.

deity to try to explain why organizations are organized the way they are. In his case, the god-of-causation is genetics-mysticism⁶. Fortunately, his doctrine in no way depends on this religion. It is enough that empirical observations support the objective validity of his triarchy theory.

Fairtlough is correct to say some hierarchy-like organizational features are going to occur in every practical organization of an industrial conglomerate. This is as true for a civic Enterprise as it is for any other business establishment that employs wage-laborers, and it is no less true for heterarchy organizations. Note from the two real-explanations given above that there is no built-in conflict between heterarchy *as an organization of governance* and hierarchy *as an arrangement* of some kind. Conflicts emerge only as a result of *what kinds* of things are arranged in a hierarchical structure. Ultimately what matters here are factors pertaining to *branches of governance*, i.e., the executive branch, the legislative branch, and the judicial branch. An industrial conglomerate is a mini-Society and Societies of every kind have some kind of institution of government charged with maintaining social Order and promoting social Progress.

There are a number of very different forms of government institution, some very familiar to you and some which are likely to seem totally alien to your experience. One that might strike you at first as totally alien is the institution by which BaMbuti Pygmy Society in the forests of the Congo is governed. In BaMbuti Society governance is almost invisible even to an experienced anthropologist like Turnbull:

There were no chiefs, no formal councils. In each aspect of Pygmy life there might be one or two men or women who were more prominent than others, but usually for good practical reasons. This showed up most of all in the settling of disputes. There was no judge, no jury, no court. The Negro tribes all around had their tribunals, but not the Pygmies. Each dispute was settled as it arose according to its nature. [Turnbull (1961), pg. 110]

The idea that there can be government without officials, without offices, and without a rigidly defined hierarchical structure seems alien to we who live in Western civilizations, and this can mislead some, like Turnbull, into thinking the BaMbuti have no government at all. In fact they have a very rare form of government; it is called **consensus democracy**. The BaMbuti way of resolving disagreements and making social decisions is simply that they argue and debate the points of contention until a consensus is reached *that everyone accepts*. There is no voting, there is no majority rule convention. *Everyone agrees to or at least accepts every decision or nothing is done*. This governance is possible only because BaMbuti bands are very small and intimate, and every adult in it takes part directly and immediately in the consensus building process. You might find this astounding and be skeptical that any such form of governance institution could last for very long. If so, I remind you that we have records mentioning BaMbuti Society dating back to the time of the Egyptian Pharaohs c. 2500 BC, and that BaMbuti Society is very likely the oldest Society still extant. Although this governance requires very special conditions – primarily that BaMbuti bands are small and that survival in the forest requires the cooperation of everyone – it must nonetheless be said that they have made governance by consensus democracy work for more than four and a half thousand years. By another name, this is called *Gemeinschaft* governance.

The traditional pyramidal hierarchy structure of industrial conglomerates is also of ancient

⁶ In recent years it has become a too-commonplace practice in the health care professions to label almost any kind of disease or health problem for which medical doctors do not actually know the cause as a "genetics disorder" or "genetics disease." In a few cases there are health conditions that have been traced back to some peculiarity in the patient's genes but it is unscientific – bordering on hogwash – to extend the idea of a "genetics disorder" as broadly and indiscriminately as medical professionals now do. It is the same kind of mysticism that led pre-19th century vitalism in medicine to dismiss anything they could not actually explain as being caused by "life" – a practice finally struck down by the work of Claude Bernard (1865).

vintage in regard to governance. It follows a structure in which the functions of the executive, the legislator, and the judge are combined in one person, possibly with some delegation of authority to selected subordinates. For example, the judges of ancient Israel, chronicled in the Old Testament *Book of Judges*, were military heroes who were then entrusted with powers of government during their lifetimes. They interpreted religious commandments, decreed punishments meted out to violators, and led the army. The stories depicted in the *Book of Judges*, currently thought to have been written around 625 BC, are from a much earlier period dating from c. 1397 BC to c. 1025 BC (when Saul became the first king of Israel and Judah). According to *Black's Law Dictionary*, it was not until the 14th century AD that our modern definition of a judge as "a public official appointed or elected to hear and decide legal matters in court" was established. Ancient Israeli judges were non-hereditary rulers of the loose confederacy of tribes who made up ancient Israel.

Delegations of powers to subordinate authorities under a supreme ruler, an institution which fits the structure of governance in most medium to large commercial companies, is also of ancient vintage. It is found in ancient Egypt as well as in the government of the Persian Empire c. 555 BC [Durant (1935), pp. 113-115]. Indeed, there are compelling reasons to think this structure is likely to have arisen with the first armies of prehistory. More formalized branches of government appeared in ancient Greece and the Roman Republic but vanished again in the West when Hellenic civilization fell. In the time of Charlemagne, AD 768-814, the older structure, in which there is no formal division into branches of government, reappeared in the European political landscape [Durant (1950), pp. 462-468]. This became the prototype for hierarchy governance of industrial conglomerates and dominates U.S. companies today.

When the American colonies declared independence and succeeded in throwing off the rule of Great Britain in the United States, it was only *political* governance that was overthrown. The root causes of the American Revolution subsisted in economic challenges, but Americans viewed it in terms of Britain's political interferences with American commerce. One can correctly say that the American Revolution did away with monarchy/oligarchy in political government but retained it in the governance of industrial conglomerates. The latter was as much a British institution as was the colonial political institution. But economics as an empirical science began in 1776, had not yet reached America, and, in any case, the idea of government as anything other than *political* government simply did not occur to the authors of the European Enlightenment. Indeed, even today most people do not think of how companies are managed as being a system of *governance*, nor is it even particularly widespread to regard industrial conglomerates as mini-Societies⁷. The authors of the Enlightenment spoke of ideas of civil liberty, civil rights, and justice for all, but did so only in limited contexts of the spheres of church and state. Given all this, I think it is not surprising that America threw off monarchy/oligarchy in political government but kept it in commercial governance.

And yet these two are different aspects of the same thing. The Founding Fathers attending the 1787 Constitutional Convention brought with them much experiential and theoretical knowledge of political government and Enlightenment thought [Farrand (1911)], but no notion that these ideas pertained in any way to governance of commercial entities seems to have occurred to any of them. The crisis the United States faced in 1787 was a political crisis despite the fact that much of the Toynbee challenge confronting Americans arose out of a major financial crisis of currency deflation, economic inflation, and debts accrued during the war [Skrabec (2015), pp. 26-31]. The problems, as the Founding Fathers saw it, were the looming threat of disintegration of the United

⁷ Some capitalist-entrepreneurs – not all, but some – even seem to glorify state-of-nature antisocial environments in industrial conglomerates. Frequently these antisocial individuals can be identified by their use of the terminology and ideas of social Darwinism. They are atavistic throwbacks to Vicar Joseph Townsend.

States and civil war between the states. The U.S. government under the Articles of Confederation was proving to be incapable of meeting this crisis [Hamilton *et al.* (1787-8)].

The principles of political governance developed by the Founding Fathers were principles born of a keen empirical understanding of human nature and social-natural political science. Is it far-fetched, then, to look to these same principles for guidance on matters of business governance in a Republic? One of these principles, originally advocated by John Adams, restored the idea of divided branches of government with a regulating system of checks and balances to control their rivalries. In 1776, when the rebelling states were all facing the problems of setting up new state governments and new state constitutions while at the same time fighting a war with the world's greatest military superpower of the day, Adams wrote:

The first necessary step . . . is to depute power from the many to a few of the most wise and good. . . . The principal difficulty lies, and the greatest care should be employed, in constituting this representative assembly. It should be in miniature an exact portrait of the people at large. It should think, feel, reason, and act like them. That it may be the interest of this assembly to do strict justice at all times . . . equal interests among the people should have equal interests in it. Great care should be taken to effect this, and to prevent unfair, partial, and corrupt elections. . . .

[A] question arises whether all powers of government, legislative, executive, and judicial, shall be left in this [representative] body. I think a people cannot be long free, nor ever happy, whose government is in one assembly. My reasons for this opinion are as follows –

1. A single assembly is liable to all the vices, follies, and frailties of an individual; subject to fits of humor, starts of passion, flights of enthusiasm, partialities, or prejudice; and consequently productive of hasty results and absurd judgments. And all these errors ought to be corrected and defects supplied by some controlling power.
2. A single assembly is apt to be avaricious, and in time will not scruple to exempt itself from burdens which it will lay without compunction on its constituents.
3. A single assembly is apt to grow ambitious, and after a time will not hesitate to vote itself perpetual. . . .
4. A representative assembly, although extremely well qualified and absolutely essential as a branch of the legislative, is unfit to exercise the executive power for want of two essential properties, secrecy and despatch.
5. A representative assembly is still less qualified for the judicial power because it is too numerous, too slow, and too little skilled in the laws.
6. Because a single assembly, possessed of all the powers of government, would make arbitrary laws for their own interest, execute all laws arbitrarily for their own interest, and adjudge all controversies in their own favor.

But shall the whole power of legislation rest in one assembly? Most of the foregoing reasons apply equally to prove that the legislative power ought to be more complex; to which we may add that if the legislative power is wholly in one assembly and the executive in another, or in a single person, these two powers will oppose and encroach upon each other until the contest shall end in war and the whole power, legislative and executive, be usurped by the strongest. . . . And this shows the necessity, too, of giving the executive power a negative upon the legislative, otherwise this will be continually encroaching upon that. . . .

The dignity and stability of government in all its branches, the morals of the people, and every blessing of society depend so much upon an upright and skillful administration of justice that the judicial power ought to be distinct from both the legislative and executive, and independent of both, that so it may be a check upon both, as both should be checks

upon that. The judges, therefore, should be always men of learning and experience in the laws, of exemplary morals, great patience, calmness, coolness, and attention. Their minds should not be distracted with jarring interests; they should not be dependent upon any man or body of men. To these ends . . . their commissions should be during good behavior and their salaries ascertained and established by law. For misbehavior, the [legislative branch] should impeach them before [the executive branch], where they should have time and opportunity to make their defense; but if convicted should be removed from their offices . . . [Adams (1776), pp. 235-239]

In these remarks are contained the basic principles of heterarchy governance: representation of the *interests* of all the members of the Society; distribution of the powers of governance – *i.e.*, **decentralization** of power and authority; a constituted justice system administered by a corps of independent judges not subordinated to either the legislative or executive authorities.

Adams also made a number of more specific recommendations about how all this might be achieved. These recommendations, however, are secondary opinions and no state followed all of them in setting up its state constitution. The Constitutional Convention of 1787 incorporated all the basic principles in the Constitution of the general government of the United States but, again, not all of Adams' specific prescriptions. This is not to say either the state constitutions or the Constitution of the general government were made free of what later turned out to be errors or loopholes in implementing Republican government. Mistakes prejudicial to the social contract were made and it could not be reasonably expected that it should have been otherwise because all institutions can only be designed in the light of the empirical experiences of the designers. Some of the specific errors and shortcomings in implementing the general government of the United States have been presented and discussed in a previous treatise [Wells (2010a)]. The mere fact that mistakes and errors will occur in no way contradicts the principles of heterarchy. They merely necessitate that mechanisms of amendment be included in the design of the institution. As Madison wrote,

But what is government itself but the greatest of all reflections on human nature? . . . 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. [Hamilton *et al.* (1787-8), no. 50, pg. 288]

One of the keystones of heterarchy governance, decentralization of power and authority, is antithetical to the very roots of Taylorism. In Taylorite governance *centralization* of authority and power is a fundamental tenet. Whenever in any organization you see this centralization occurring you can immediately conclude that organization is either already governed by Taylorism or that this noxious form of despotism will soon take it over.

But, as essential as decentralization is to Republican governance of any Society as soon as that Society is populous enough render *Gemeinschaft* governance (consensus democracy) untenable, institution of decentralization can never be robustly made by some mere mathematical fiat. The foundation of practical decentralization is by *divisions of mini-Community interests*, *i.e.*, interests held in common by the members of a particular mini-Community but not so by members of the larger Society in which the mini-Community is embedded. For all their great acumen as social-natural political scientists, the Founding Fathers – and, indeed, the Enlightenment Era thinkers generally – failed to adequately appreciate the ubiquitous phenomenon of mini-Community. They recognized that *factions* spring up within a Society and even recognized that special interests are the roots of factions. But they tended to regard factions as problems to be, if not eliminated, then at least controlled.

America's Founding Fathers had a tendency to view mini-Communities (factions) in an almost entirely negative perspective. This comes through again and again in the pages of *The Federalist*

and in the pages of Farrand's *Records of the Federal Convention of 1787*. They, as well as Montesquieu, Rousseau, Locke, and other European Enlightenment Era thinkers, also failed to appreciate the most fundamental characteristic of mini-Communities; namely, the fact that *every person is simultaneously a member of multiple mini-Communities*. Granulations of a Society begin when people are confronted by contradictions of interests between divers mini-Communities to which they belong and they feel compelled to have to *choose* between them, withdrawing their allegiances to some in favor of others. It is this basic empirical character of mini-Communities that dooms *all* governance by non-consensus democracy to devolve into a state of tyranny sooner or later and inevitably results not in majority rule but, as Mill pointed out [Mill (1861), pp. 75-77], the rule of the majority by a minority. When things come to that state then conditions Toynbee discovered for the fall of a civilization are met:

We have seen, in fact, that when, in the history of any society, a creative minority degenerates into a dominant minority which attempts to retain by force a position that it has ceased to merit, this change in the character of the ruling element provokes, on the other side, the secession of a proletariat which no longer admires and imitates its rulers and revolts against its servitude. . . . On this showing, the nature of the breakdown of civilizations can be summed up in three points: a failure of creative power in the minority, an answering withdrawal of mimesis on the part of the majority and a consequent loss of social unity in the society as a whole. [Toynbee (1946), pg. 246]

From this it follows that sustainable institution of heterarchy governance must not only take into account the phenomenon of mini-Community but, furthermore, must seek ways by which the presence of mini-Communities *can be turned to the advantage of their parent Society overall*. For mini-Communities are not only the root of faction; they are also the root of what Toynbee called the creative power of a creative minority. And it is only through beneficially creative power that any Society forms, grows, and becomes capable not only of Order but of Progress as well.

Almost all theoretical work on social-natural governance has been carried out in the context of a political Society. But political Societies are only particular species of Societies in general. The equally important species of commercial Societies has been altogether left out of previous theory. The fundamental principles of heterarchy governance for commercial Societies (Enterprises) are not altered by this mere change of *context*, but specific *mechanisms* of heterarchy governance are affected by this change. To understand how these mechanisms are altered, two things must be examined. First, one must understand the grounds of why divers mini-Communities choose to or decline to bond with one another in a social contract. Second, one must examine the equivalences between commercial institution and political institution in regard to the idea of separate branches of governance and their mechanisms of checks and balances.

The first issue goes to the core of whether an industrial conglomerate composed of divers mini-Communities actually coalesces to form a unified Company. A factor here is what limitations in the growth of a Company will arise. The gigantic commercial firms formed by acquisitions and mergers through the actions of Taylorite managers and their tame Boards of Directors *are not Companies, i.e.*, industrial conglomerates constituted as mini-Communities and instituted as Republics (even though they are companies in the context defined by *Black's Law Dictionary* as merely legal entities). The so-called "divisions" of a conglomerate such as Pearson Education are only bound to the ruling entity by fiats of corporate law and can be traded to other entities at the whim of the managers of the ruling entity. They can be likened to conquered territories held by a military empire, to be used or discarded as the rulers see fit. Most acquired companies become subjugated commercial associations within a financial empire. No social contract binds them to one another and their actions are grounded in their people's maxims of prudence in a state-of-nature environment rather than by maxims of mutual Obligation and reciprocal Duty. Isadore Barmash, who was a respected financial writer for *The New York Times*

from 1965 to 1991, concluded there are seven "shenanigans" that frequently happen during mergers. He characterized these as follows:

1. The desire for personal gain by executives of a company that may be sold develops into a conflict of interest.
2. Shareholders get secondary consideration. Management gives its own interests priority.
3. Theft of trade secrets, manipulations, embezzlement and even sabotage emerge like a foul wind from insecurity and unfulfilled expectations in mergers and acquisitions.
4. Takeovers with deferred payment or contingency arrangements to the seller sometimes lead to ethical problems.
5. "Looking for a raider on the Q.T." has become a devious game played by such a varied coterie as unhappy shareholders, ambitious company executives, greedy company finders and financial people with thyroid problems.
6. The role of stockholders and officers of large financial institutions can be an over-aggressive one, disrupting a company from its chosen course and inviting acquisition-minded suitors.
7. Finally, the winner's and loser's complex that underlies every merger or acquisition is probably the overriding reason for personal misbehavior in company takeovers. [Barmash (1971), pp. 90-93]

Even allowing for personal opinion and bias, Barmash's "shenanigans" bespeak of state-of-nature circumstances and actions that contribute to putting the adjective "uncivic" in uncivic free enterprise. If civic free enterprise is ever to be established, the issue of mini-Community coalescence in a larger Company must be understood and *institutionally* solved.

The second issue goes to formal structuring of a governance system. Here it must be understood that any division of governance into *branches* is a mathematical division established by conventions. The divisions are *functional*, by which I mean they are established as a *means* for a system of governance to accomplish those *ends* which justify its purpose and are the basis for all expectations of authority vested in it. Republican governance functionally divides the governing function into separate and functional legislative, executive, and judicial branches. This *logical* division has consequences for instituting the management system. I discuss the functional aspects of these divisions below. It must, however, be borne in mind that *functional separation* does not imply *operational independence*. It must also be remembered there is no one-size-fits-all formula.

§ 4. Mini-Communities, Social Contracting, and Social Accretion

Institution of an Enterprise of enterprises is institution of a commercial civil Community. The very smallest of these can be and sometimes are instituted with *Gemeinschaft* governance and a very informal social contract constituting an "understanding" shared by its entrepreneurs. If it is small enough, it might even be a commercial Community without mini-Communities within it.

However, an industrial conglomerate does not have to get very big before mini-Communities form within it. As soon as mini-Communities begin to form, the association faces the challenge of uniting these divers mini-Communities in a single overall civil Community. The challenge arises from fundamental human nature and can be successfully met only by means both congruent with human nature and adequate to gain *commitment* by all the members to a common social contract. No one can impose a commitment on another person. The choice to commit or not commit to a social contract, with its reciprocal Obligations and Duties, is an inalienable part of every human

being's *natural liberty*. Real commitment requires each member to consent to alienation of particular *natural* liberties in exchange for compensating *civil* liberties and what I call *interest-benefits*.

In general a **benefit** is a *satisfaction resulting from some action*. Because the satisfaction is an outcome that would not have occurred if the person did not take the action, benefits are connected with an interest of the person. A **disbenefit** is a *dissatisfaction resulting from some action*. These terms are genera under which various species of benefits and disbenefits stand.

A **social benefit** is a *state of affairs in which both a leader and a follower are satisfied by the outcome of their joint cooperative actions*. An **antisocial benefit** is a *state of affairs in which one of either a leader or a follower is not satisfied by the outcome of their cooperative actions*. An antisocial benefit can be regarded as an *unintended* disbenefit to the person who is not satisfied with the outcome of a cooperative action. Social benefits and antisocial benefits both affect the continuation of relationships of cooperation between individuals.

An **interest-benefit** is an *anticipated or actual social benefit pertaining to peoples' interests which motivate their commitments to association by social contracting*. A person will not voluntarily commit himself to association with others unless he thinks that by doing so he will realize some interest-benefit *and* that the benefit outweighs all disbenefits that will come out of his commitment to the association. Association with others in social contracting relationships always comes at the price of disbenefits to the parties involved. Chief among these is alienation of particular natural liberties, in return for which the contracting persons acquire civil liberties plus satisfaction of particular interest-benefits. These interest-benefits must always outweigh the disbenefits of making the association or else the association will never be formed in the first place or, if it was already formed, it will not hold together. Benefit from association by social contracting also is a two-way process. Not only must the committing individual benefit by joining the association, but the other members of the association must, likewise, anticipate that interest-benefits of their own will be furthered by admitting the new person into their association or by allowing him to continue as part of their association.

Human beings are the social atoms of *all* social phenomena. Formations of mini-Communities

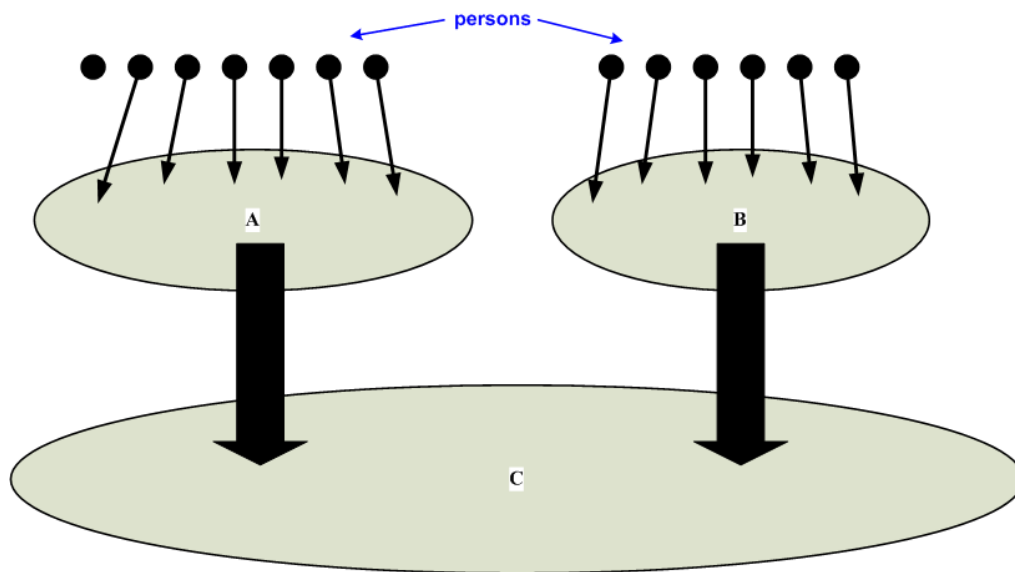


Figure 5: Schematic illustration of Community formation as a process of social accretion. A and B represent Communities that associate as mini-Communities in a larger association, C. The topology of this arrangement is called an **inverted pyramid**.

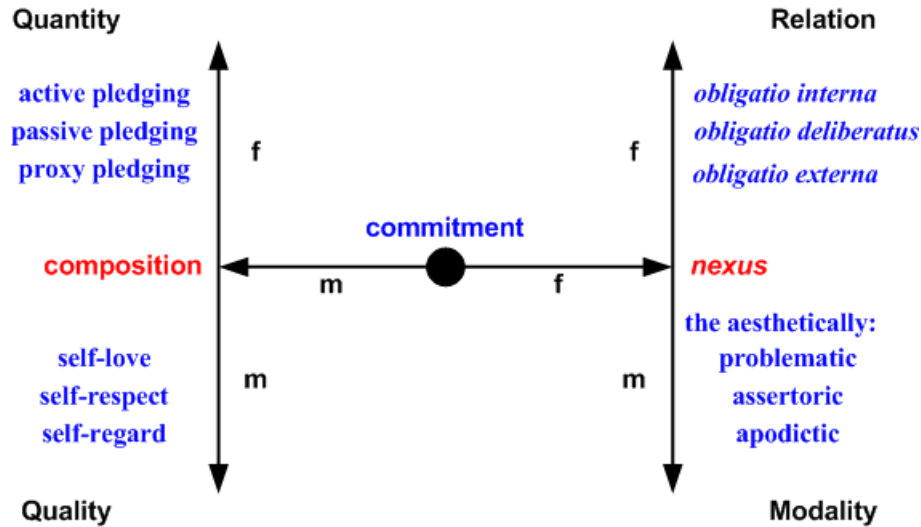


Figure 6: 2LAR structure of commitment [Wells (2012), chap. 10, pp. 336-353].

and Communities can be understood by a social-chemistry analogy to a phenomenon in physics, viz. the physical process of growth by accretion. Figure 5 is a schematic representation of social accretion processes. In physical accretion processes there is always some binding force holding the matter being accumulated together. In social accretion the analogue of this binding force is *commitment* to the association by its members. In this context, *to commit* is *to bring together concepts of acting understood by a concept of Obligation*. **Commitment** is the phenomenon of determining to commit oneself to some action. The mental act of commitment is structured in 2LAR form as shown in figure 6 [Wells (2012), chap. 10, pp. 336-353]. Deduction of the 2LAR and its twelve *momenta* requires a lengthy technical discussion. This is provided in the citation just given, and so I refer you to this source for its explanation. For immediate purposes here, commitment involves an individual's act of Obligation-by-pledging and establishes reciprocal social binding of a *deontologically moral* nature.

Commitment can be a very fragile thing. Commitment to any Community brings with it the particular pledges of *obligatio* made by the committing person which contractually bind him to fulfill specific Duties to the Community. In exchange, the Community, as a body politic, also pledges itself to reciprocally fulfill Duties to the individual. The guarantee and upholding of particular civil rights is an example of the latter. The Duty to obey and uphold the just laws of the Community and to oppose unjust ones are examples of the former. If either the individual or the general Community fails to keep his or their pledges, this dissolves the ground for commitment and provokes its withdrawal. In this case, the relationship between the individual and his former Community becomes a mutually outlaw relationship. An **outlaw** is a person having relationships of interactions between himself and others he regards as members of a Society, but who regards all of these relationships as without any reciprocal commitments or obligations and who judges his interactions with that society only in contexts of Duties-to-himself with respect to his own situation. The outlaw relationship is reciprocal: the Society regards this individual as outlaw with respect to itself, and he regards the Society as outlaw with respect to himself.

Almost all social contracts are *informal* contracts, their provisions unwritten and most of them often reflected only in the mores of the Society. Social forces that bring about changes of mores are at the same time challenges to a Society's social contract and for that reason bring on crises that threaten the social Union itself. This is as true for the culture of an Enterprise as it is for a nation. Mores are part of the comforting blanket of presuppositions individuals use in making their routine decisions and undertaking their routine actions. No people ever think their Society's

mores will change over time *until they do*. When they do, the change provokes many disturbances to individuals' equilibriums, which these individuals then grope to reestablish. There is a spectrum of ways people react to them (figure 7). These range from one extreme – the reactionary – to its polar opposite – the reconstructionary [Wells (2013), chap. 13, pp. 482-485]. Outlaws come out of both extremes, and in such a time of challenge it is part of the Duty expected of all agents of governance and management to guide the general leadership dynamic to the Union-preserving middle of the spectrum – the moderative. As soon as an agent of governance or of management adopts either reactionary or reconstructionary reequilibration responses, **he is no longer fit to govern or to manage** because he makes himself an agent of social breakdown and the disintegration of the Community. He becomes, as it were, a public enemy.

All Progress requires at least some modification of the social contract at its periphery. To make Progress is to make changes to what people do and how they do it. But all changes of this sort bring with them challenges to individuals' commitments to the Community. These changes generally begin with only a few individuals – those Toynbee referred to as a creative minority. Toynbee's thesis harbors a number of misconceptions – the most serious of which is Toynbee's mistaken supposition that creativity is a gift possessed only by an elite few – and he tends to often express his creative minority descriptions with the most dreary mysticism, but he was not mistaken in concluding that Progress begins with a creative minority and spreads as others recognize interest-benefits they can satisfy by adopting the changes. But the price of Progress is social contract evolution, and it is therefore a Duty of agents of governance and management to carefully *guide* the course of this evolution through the leadership dynamic of the Community. Failure in this endeavor brings with it the threat of arrested Society and even the breakdown and disintegration of the Society. Unfortunately, almost no agent of governance or management is ever taught this basic social-natural fact and almost none of them ever discover it on their own until it is too late. On this point Thomas Jefferson made a very important comment:

I am certainly not an advocate for frequent and untried changes in laws and constitutions. I think moderate imperfections had better be borne with; because, when once known, we accommodate ourselves to them and find practical means of correcting their ill effects. But I know also that laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths disclosed, and manners and opinions change with the change of circumstances, institutions must advance also and keep pace with the times. We might as well require a man to wear the same coat which fitted him when a boy, as civilized society to remain ever under the regimen of their barbarous ancestors. [Jefferson (1816), pg. 559]

Referring to figure 5, social accretion to form a civil Community with social contracting begins when individual people associate with each other in social-chemistry binding relationships established by individuals' commitments. The Community is typically quite small, *i.e.* it has a small population of members, but it can grow over time by addition of new members. Figure 5 shows the formation of two such Communities labeled A and B. The act of commitment made by

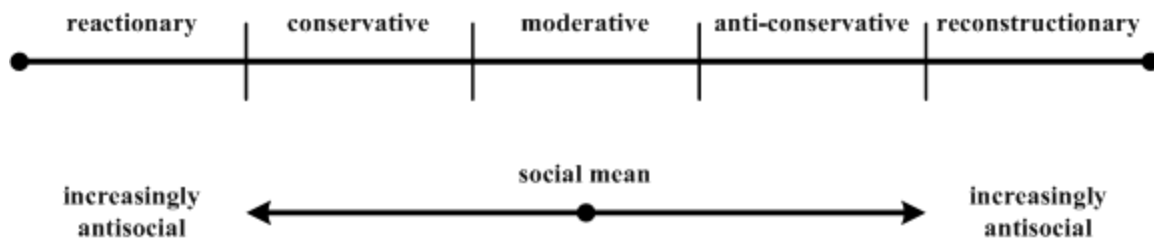


Figure 7: Socio-political spectrum of reequilibration responses to change and reform.

each individual member is grounded in anticipation of interest-benefits that are to be satisfied by the act of civil association. Not all members of the Community will have identical interests they seek to satisfy, nor is it necessary that they do in order for the process to begin. It is sufficient if their interests are congruent, *i.e.*, satisfaction of an interest by one member does not necessarily thwart satisfaction of another person's interest. Because individual interests vary, so also the benefits being sought vary from person to person.

The key to mutual association in a civil Community is *actual* commitment by each member. It is commitment that distinguishes a Community from a mere community aggregation. Residents of an apartment complex, for example, can aggregate as a community without any individuals in that community making any kind of binding commitment to any other person living there. Perhaps, like me, you have at one time or another lived in such a rental community. The Cypress Point Apartment complex in Mountain View, CA, where I lived in my early twenties, was a community but not a Community. I barely even knew any of my neighbors. It is likewise possible for members of an industrial conglomerate to associate as a workplace community without mutual commitments to one another. Such a conglomerate is not an Enterprise and the actions of its members are determined through individual maxims of prudence. Because of their lack of mutual commitments to one another, the social relationships within the conglomerate are outlaw relationships. In such a conglomerate the concept of *justice* has no *real* meaning. Often such a conglomerate is governed by monarchy/oligarchy and the employees can properly be called *subjects* but cannot be called deontological *citizens* of the conglomerate. In contrast, the Hewlett-Packard Company in the years that I worked there was a civil Community with what Fairtlough would call triarchy governance, I regarded myself and my co-workers as deontological citizens of the HP Community, and the Company had an effectively operating justice system.

Civil mini-Communities also bind to each other through accretion. Once again this accretion requires commitment to the larger Community on the part of all the members. However, in most cases the number of *common* interests shared in its body politic are fewer than those found in the accreting mini-Communities. This has fundamental consequences for leadership dynamics and their management in regard to cooperations between mini-Communities. One of the most vital of these is this: *the expectations for authority vested in management of the larger Community are restricted in scope to management and governance based on common interests only and in such a way that mini-Community special interests are not gainsaid by the exercise of this authority.* The *scope* of the exercise of managerial and governing authority by offices tasked with management and governance of a mini-Community is greater than at the Community level *in the context* that actions by the agents holding these offices affect more interests. But the individual *power* of these agents is more *restricted* by the smaller size of the mini-Communities. An Enterprise's systems of management and governance *must* actively promote satisfaction of common interest-benefits, *must not* gainsay the special interest-benefits of the mini-Communities, and *must* work to actively create, promote, and then maintain *new* common interest-benefits necessary for Progress to be achieved by the Enterprise. It must also undertake to *educate* the members in regard to the interest-benefits of the overall civil Community and its mini-Communities. This is the polar opposite of doctrines of Taylorism and traditional pyramidal hierarchy management.

This *arrangement* of greater scope of *exercise* of authority accompanied by more restricted scope of its *power* can be called a hierarchy of governance, but it is a different hierarchy structure than the traditional one found in most organizations. It can be described as an *inverted pyramid* structure in the sense that the greatest scope of governing and managerial *power* is at the level of the smallest mini-Communities (A and B in figure 5). Authority vested in the offices at the overall Community level of this pyramid (C in figure 5) affects the most people by its exercise, but what actions it is authorized to exercise is the most restricted. This concept explains the real essence of Thoreau's famous remark, "That government is best which governs least" [Thoreau

(1849), pg. 1]. At the mini-Community level exercise of authority affects the least number of people; at the overall Community level, exercise of authority is the most restricted in its scope.

America's Founding Fathers at the 1787 Constitutional Convention were groping to find a way to achieve a government structure like this. Delegates would speak of Montesquieu's idea of a 'confederate republic':

If a republic be small, it is destroyed by a foreign force; if it be large, it is ruined by an internal imperfection.

To this twofold inconvenience democracies and aristocracies are equally liable whether they be good or bad. The evil is in the very thing itself, and no form can redress it.

It is, therefore, very probable 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 all the external force of a monarchical, government. I mean a confederate republic.

This form of government is a convention by which several petty states agree to become members of a larger one, which they intend to establish. It is a kind of assemblage of societies, that constitutes a new one, capable of increasing by means of further associations till they arrive at such a degree of power as to be able to provide for the security of the whole body. . . . A republic of this kind, able to withstand an external force, may support itself without any internal corruption; the form of this society prevents all manner of inconveniences. . . . As this government is composed of petty republics, it enjoys the internal happiness of each; and with regard to its external situation, by means of the association, it possesses all the advantages of large monarchies. [Montesquieu (1748), Bk I, pp. 126-127]

Montesquieu's idea was brought up by James Wilson at the 1787 Convention [Farrand (1911), vol. I, pg. 71]. Alexander Hamilton extolled the idea in *The Federalist*, no. 9, as he explained to Americans what it was the Convention had tried to do. Their solution was republican governance (figure 8) organized as a heterarchy – which tries to blend the entire social hemisphere of figure 8

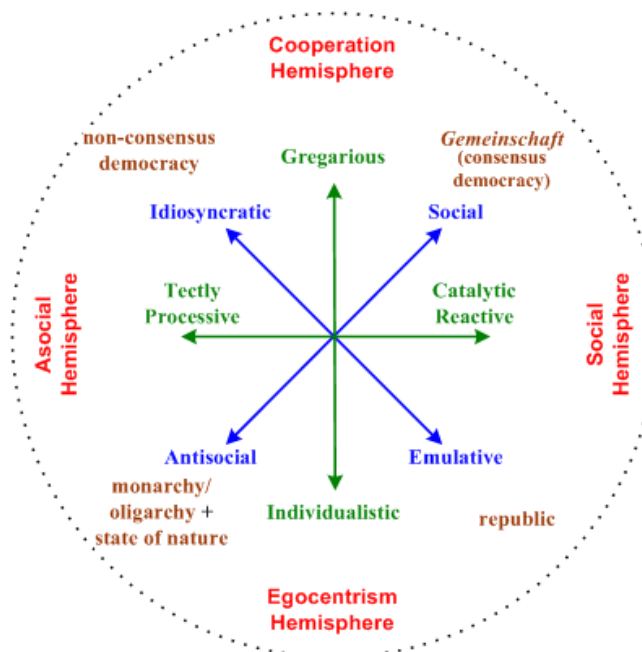


Figure 8: Circumplex model of the most frequent forms of governance.

in such a way as to produce a durable overall social Union. Washington used the occasion of his Farewell Address to the nation to remind Americans of the importance of Union to the interest-benefits of every American citizen:

The Unity of Government which constitutes you one people is also now dear to you. It is justly so; for it is a main Pillar in the Edifice of your real independence; the support of your tranquility at home; your peace abroad; of your safety; of your prosperity; of that very Liberty which you so highly prize. But as it is easy to foresee, that from different causes and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of that truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your national Union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourself to think and speak of it as of the Palladium of your of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can in any event be abandoned, and indignantly frowning upon the first dawning of every attempt to alienate any portion of our Country from the rest, or to enfeeble the sacred ties which now link together those disparate parts. [Washington (1796), pp. 964-965]

Unfortunately, in the decades afterwards Washington's warning was forgotten and Americans lost their Republic through the machinations of national political parties and political devolution into the asocial and perpetuated injustices of non-consensus democracy.

One essential condition for governance of a confederate republic is that the interests of mini-Communities at one level are protected at the next level (which coordinates them) by a requirement of *consensus* among the governing or managing body of officers at that coordinating level. When members' or mini-Communities' interest-benefits are gainsaid by the actions of officers of management and governance, the effect on the association can seriously compromise the Enterprise Community by producing injustices that provoke **moral secession** of its members or even of whole member mini-Communities. Moral secession is the withdrawal of a citizen from a Community *without* thereby committing a deontological moral transgression. His withdrawal is justified by a perpetuation of injustice committed by the body politic through violation of the condition of their social contract. The secessionist *withdraws his commitment* to his Community or mini-Community and reverts to the outlaw relationship between himself and his former associates. Again by analogy with physics, moral secession can be regarded as a *social evaporation* phenomenon. Just as atoms of paint covering a chair will from time to time evaporate into the surrounding air and be lost, so too the social atoms can evaporate by becoming non-bonded to the Community. Most often the secessionists do not declare their secession to others.

All systems of governance and management are tasked with the responsibility of counteracting social evaporation and strengthening accretion bonding throughout the organization. Governance "down the layers" of an inverted pyramid is instituted by making the offices of governance and management *representative bodies* whose officers are representatives *from* the mini-Communities being coordinated. Requiring these bodies to act through *consensus* is how the governance of a confederate republic is effected and interest-benefits are safeguarded *by the system of organization*. In a manner of speaking more literal than figurative, the idea of a confederate republic is the idea of achieving a system of **layered** *Gemeinschaft* governance (consensus democracy) **within** the overall structure of a Republic.

I think you likely appreciate how complex and complicated this achievement becomes as the size of the civil Community grows. Nuances pile upon nuances and considerations become all the more detailed. It is to combat this growth in complexity and difficulty that *branches* of govern-

ment are established according to the size and needs of the Community. Each branch has its specific *functions* to perform but, at the same time, no branch is fully independent of the others because governance *overall* has the Duty to attend to *all* the objects of governance. Functional specificity leads to divisions of expectations of authority, interdependence to a necessity for a system of checks and balances.

§ 5. The Legislative Function of a Civil Enterprise

Every industrial conglomerate has some aggregated body of rules and procedures governing the expected conduct and behavior of its members, means of transacting its business operations internally and externally, and relationships with non-members with whom its members interact. The collection of rules and procedures constitute a *de facto* body of laws of the conglomerate in the general connotation of the term **law**, i.e., *a necessary or necessitated relationship arising from the nature of things* [Montesquieu (1748), Bk. I, pg. 1]. In general this body of laws is made up of laws of necessitated relationships, by which I mean the relationship is *made* necessary by the governing power and fiat of duly established lawgivers. These rules and procedures are *enforced* by agents whose peculiar functions within the conglomerate include an expectation of executive authority in the governance of the conglomerate, i.e. agents of the *executive* branch.

There are also two special functions that justly belong principally, but not exclusively, to the authority of the legislative function because they require decisions to be rendered that are primary aliments of an organization's social contract. These are the budget determination function and the work hours determination function. Both functions, however, are conjoint with the judicial and executive functions because both are easily abused if complete authority for their administration is left in the hands of a single body. Indeed, this is Adams' sixth point in his list quoted earlier and, to some degree, his second point as well. In traditionally organized industrial conglomerates, both functions are assigned in a distributed fashion to managers in a management hierarchy. However, wage/salary allocations and work hours requirements are the two biggest provocations of labor discontent, strikes, and work stoppages in uncivic free enterprise, and have provoked some of the greatest enormities in its history. Just resolution of these contentious issues is essential if a *civic* free enterprise system is ever to be practical. Therefore, these issues must receive specifically separated partial treatments because their just resolutions co-involve all three of the functions of governance of an Enterprise.

In typical discourse people rarely have any difficulty understanding terms like law, legislation, legislature, and so on. These words all denote ideas that have been around for a very long time and are frequently used. I have been told the oldest written laws that we know about were decreed by King Urukagina of Lagash in ancient Sumeria sometime around 2375 BC, although Durant dated him much earlier (2903 BC) [Durant (1935), pp. 113, 120]. Give or take half a millennium, laws and lawgivers are a big part of our ancient heritage. Given the fact many people would argue we're still trying to get it right after all this time, prudence suggests the legislative function not be taken for granted despite its historical longevity and common familiarity.

When one comes to consider the finer details of governance then it becomes necessary to use more crisply defined understandings of these terms in particular special contexts. A **legislated law** is a law arising from the actions of one or more lawgivers and for which the relationships it defines are necessitated by the governing authorities of a Society. **Positive law** is a system of legislated laws promulgated and implemented within a community and distinct from moral law or natural law. A **moral law** is a law constituted by the moral code of a person. A **natural law** is an empirical law regarded as a necessary relationship between and among objects of Nature. An **empirical law** is a pure, formal, and contingent rule of Reason. A **statute** is a law passed by a legislative body. **Statutory law** is the body of law derived from statutes rather than from

*constitutions or judicial decisions. A **lawgiver** is one who makes a law. To **legislate** is to make or enact laws. **Legal legislation** is the process of making or enacting a positive law in written form, according to some type of formal procedure, by a branch of government constituted to perform this process. A **legislature** is a branch of government responsible for making statutory laws. A **legislator** is a lawgiver who makes laws within a given jurisdiction as an agent of a legislature. **Jurisdiction** is a government's general power to exercise authority over all persons and things within a prescribed territory or scope of authority.*

Through long-practiced habits, we are accustomed to using the terms legislation, statute, legislature, and legislator strictly within contexts of political government and the legal system. However, because all industrial conglomerates have some form of governance and some aggregated body of written and/or unwritten laws, this means part of the constituting of any industrial conglomerate is made up of a **legislative function**. By this term I mean *that part of governance assigned the expectation of authority to make statutory law*. More specifically, this term is defined by some specific functions carried out by particular members whose activities include acting as a lawgiver. Examples include but are not limited to establishment of work hours and workdays, definition of offices of authority, and policies of profit distributions.

All industrial conglomerates have some sort of legislative function as part of their system of governance, but few of them contemplate any design of this function. Rather, their agents of governance simply adopt by mimesis what other organizations similar to theirs have done. In the great majority of cases what is copied is a monarchy/oligarchy form of governance and many of their *de facto* laws are taken directly from customs and traditions. Others, pertaining to their own special circumstances, are legislated in an *ad hoc* fashion by fiat of their monarch or one of his *hirdmen* in the pyramidal hierarchy of the conglomerate. This practice dates back continuously to before the end of feudalism in England and the English people's re-invention of capitalism in the 14th century. A great many of the practices of uncivic free enterprise arise out of this lack of attention to and concern for the legislative function. Bringing about a system of civic free enterprise requires a great deal more effort be expended upon understanding institutions of the legislative function for heterarchical civic Enterprises. The institution design of the legislative function has for its object the constituting of a legislative branch of Enterprise governance.

It is not the case that every Enterprise will institute the same specific legislative function. Each Enterprise operates in some peculiar business environment with its own peculiar circumstances. In businesses with a very small number of members where *Gemeinschaft* governance (consensus democracy) is practically feasible, the legislative function might very well be of a loose and more or less informal character. After all, for over four thousand years the BaMbuti Pygmies have used a legislative function so loose and informal that one has to study a BaMbuti band very closely to even discern the fact that they have one at all. *Ad hoc* law is the norm for a BaMbuti band.

As the membership of an Enterprise grows beyond the point where *Gemeinschaft* governance is practical, the form of governance needed for civic free enterprise shifts to the Republican form. However, within this form many possible variations are practically feasible depending on the size of the Enterprise membership. It is not necessary that some sort of analogue to Congress or a state legislature be formally set up. Indeed, this would usually turn out to be a bad tactic and would certainly be one if institution designers succumbed to the satisficing temptation to employ mimesis and simply try to *copy* how a state government or a general government is set up. The simple fact is that these Institutes are not designed around the interests principle and fail to take into account the phenomenon of mini-Community – both of which are mistakes that make the institution vulnerable to devolution into non-civic and even uncivic forms of governance under either monarchy/oligarchy or non-consensus democracy. The heterarchy principle instead offers a different idea of a *distributed* legislative function which takes advantage of the fact that mini-Communities are going to form within the Enterprise just as soon as its population becomes too

large for *Gemeinschaft* governance to be successful. Its guiding design principle is to exploit the formation of mini-Communities by establishing a network of interdependent and cooperating legislators. A schema for how this might be accomplished in one special case – public education in a Republic – was presented in Wells (2014).

§ 6. The Executive Function of a Civil Enterprise

The executive function is even older than the legislative function. It vanishes into prehistory but it seems highly likely that it arose with the first kings and the armies they commanded. In the Critical terminology, an **executive** is *anyone whose Duty is the day-to-day governance of leadership dynamics in one or more Enterprise mini-Communities in such a way that the Enterprise as a whole successfully executes the activities needed to realize the common purposes of the Enterprise*. An industrial conglomerate that is not an Enterprise does not have deontological executives; it has *bosses* – a word that comes from the Dutch word *baas*, meaning 'master', and akin to the Frisian word *baes*, which also means 'master'. The principal Duty of an executive is to guide and manage the leadership dynamic of the group by causing appropriate leaders to emerge from the group at appropriate times and who express appropriate leader's actions to stimulate group behaviors leading to successful accomplishment of the aims of their Enterprise organization.

Executive function is that part of governance assigned the expectation of authority to manage the operations of governance. This is distinct from legislative function (which is assigned the expectation of authority to legislate statutory laws for the organization) and from judicial function (which is that part of governance assigned the expectation of authority to ensure liberty with justice for all are upheld according to the Society's social contract). An executive might or might not also perform some non-managerial tasks characteristics of the group in which he is an executive. For example, in a group of design engineers, he might or might not have specific design activities he carries out personally. In the majority of cases, an executive works full time at managerial tasks. A **productive laborer** is a person whose labor adds to the commercial value of the object upon which it is bestowed in relationship to the capital expended for the labor. An **unproductive laborer** is a person whose labor does not add to the commercial value of the object upon which it is bestowed in relationship to the capital expended for or the consumption stock consumed by purchasing the labor. Most executives are unproductive laborers.

This doesn't mean they don't do anything. It means that what they do does not immediately contribute to value added to whatever the *produce* of his labor group is. The terms productive and unproductive labor are economic terms and were introduced by Adam Smith [Smith (1776), pp. 294-296]. Smith was a bit off when he placed "menial servants" in the class of unproductive laborers, but this is because he did not regard English butlers or cleaning maids employed by the wealthier householders of his day as entrepreneurs. The real relationship is one of customer/consumer (the householder) to entrepreneur (the butler, etc.). In this relationship Smith's "menial servants" *are* productive laborers because the transaction oversteps the customer-consumer / commercial-entrepreneur dividing line. In some economic transactions this dividing line can be vague. When a baker sweeps the floor he is acting as an unproductive laborer because the service he is hired to provide is baking the bakery goods. It is possible for a person to be a productive laborer in some tasks and an unproductive one in others he performs.

Much earlier in this treatise I pointed out that capitalist proprietors, *as proprietors*, are not part of the *labor* force of an Enterprise and their revenue from investment of capital is properly taken into account as capitalist's equity (chapter 5). If a capitalist-proprietor *also* performs a role as an executive, in this role he is a wage laborer and the wages he receives for this work are properly accounted in the same manner as are those of his fellow wage laborers. He "wears two hats" and these two must *justly* be regarded as separate, though vital, *unproductive* roles. Saying so might

not be flattering to his passions for distinction, but it is a sound *business* distinction. Keeping it in mind can be made useful for combating ego-enhancing but capital-wasting "featherbedding" that occurs when a chief executive surrounds himself with a corps of assistants-to whose labor contributions provide a questionable return on capital investment. I can find no commercial justification for the phenomenon of a CEO inclined to set up an expensive "king's court" whose main job appears to be little else than to flatter the CEO's passions for distinction. The greater the percentage of revenue spent on nonproductive labor in relationship to that spent on productive labor, the less profitable the Enterprise will be and the more capital its operations will waste.

Like the legislative function, the executive function is a distributed function. It is distributed according to the number of viable mini-Communities extant within the Enterprise, the amount of specialization of manager-craftsmanship needed to *competently* stimulate and guide leadership dynamics within specific mini-Communities, and the number of common-interests-determined layers needed to cover the inverse pyramid heterarchy within the Enterprise. Bill Oncken was fond of saying, "The practice of management can be professional to the same degree as the practice of law, engineering or medicine, but not in the same sense" [Oncken (1984), pg. 75]. There is a great deal of truth in this statement, but it obviously raises questions like "in what sense does management-craft differ from other kinds of crafts? And are there divisions within it, *i.e.*, does management-craft differ at different layers of an inverted pyramid heterarchy or require different specific skills in different mini-Communities?" After all, a very competent captain of a tugboat or a Gloucester fishing boat wouldn't necessarily make a good captain of an aircraft carrier. Answering questions like these requires a Critical examination of the specifics of the executive function. However, it is true that competent executive management does require the executive to be technically knowledgeable about the operations he manages. The myth, "Any manager can (competently) manage any thing," is hogwash and a prescription for mediocrity (or worse).

§ 7. The Judicial Function of a Civil Enterprise

Judicial function is that part of governance assigned the expectation of authority to ensure liberty with justice for all are upheld according to the Society's social contract. Although most people only associate the ideas of judges and a judiciary with a legal system, the judiciary function in a heterarchy extends beyond than this and includes some other functions not included in a legal system. One of these is an education function [Mill (1861), pp. 18-22]. Others include reviews of entrepreneur labor performance and reviews of wage and bonus administration. These are functions traditionally associated with the executive function but, as I discussed in Wells (2014), these are not properly part of an executive's function in a civil heterarchy. Judicial review of legislative and executive functions are part of a system of checks and balances essential for Republican governance.

The concept of an independent judiciary branch was a new, and at the time radical, innovation when the American colonies issued the Declaration of Independence and broke away from Great Britain. Even though America, like Great Britain, had an abundance of courts dating back to the early colonial period, these were generally regarded as a part of the legislative function and were subordinate to the legislature. As Friedman tells us,

In 1639, Massachusetts Bay had a full system of courts, organized in a way that would not strike a modern lawyer as unduly exotic. The general court, acting both as legislature and as the highest court, stood at the apex of the system. As a court, it confined itself mostly to appeals, though its exact jurisdiction was a bit vague. . . .

As in Massachusetts, the highest court in Virginia was more than a court. The governor and the council (and the house of burgesses) decided cases and also made rules. [Friedman (2005), pp. 9, 11]

Even by the time of the American Revolution, "government" to most colonists meant the legislature, the governor, and, often enough, a council of some kind. Courts were viewed by most as a necessary auxiliary function of government rather than as a full branch of it. The concept of the judiciary as a separate branch of government was proposed by John Adams in 1776, and his concept was made part of the Virginia Plan presented to the delegates of the 1787 Constitutional Convention in Philadelphia by Edmund Randolph on May 29, 1787:

Resolved: that a National Judiciary be established to consist of one or more supreme tribunals, and of inferior tribunals to be chosen by the National Legislature, to hold their offices during good behavior; and to receive punctually at stated times fixed compensation for their services . . . [Farrand (1911), vol. I, pp. 21-22]

So radical was this notion of a *court system* being constituted as a *branch* of government, separate from the legislature, that Madison felt it necessary to argue for it in *The Federalist*:

No man is allowed to be a judge in his own case because his interest would certainly bias his judgment and, not improbably, corrupt his integrity. With equal, nay, with greater reason, a body of men are unfit to be both judges and parties at the same time; yet what are many of the most important acts of legislation but so many judicial determinations, not indeed concerning the rights of single persons, but concerning the rights of large bodies of citizens? and what are the different classes of legislators but advocates and parties to the causes which they determine? [Hamilton *et al.* (1787-8), no. 10, pg. 54]

Even with this Enlightened understanding, delegates at the 1787 Convention were nonetheless leery of making the judicial branch strong enough to be a check on the powers of Congress. The habit of supposing that the power to *legislate* was the power to *rule* still had a strong grip on the delegates' thinking. The first session of Congress, which was charged with establishing the structure of the judicial branch, gave it so little due in the Judiciary Act of 1789 that

Prior to the ascension of John Marshall, the Supreme Court was an impoverished institution, lacking prestige or significant authority. We can see this in a number of dimensions. First, while it was supposed to hold two sessions per year . . . several were cancelled. . . . And even when it met, it had very little business to conduct. Between 1791 and 1792, it heard no cases. . . . Another indication is that presidents had a difficult time convincing their favored nominees to accept positions and then to remain on the Court. . . . Even the nation's first two confirmed chief justices, John Jay and Oliver Ellsworth, were relatively apathetic about their Court duties. [Walker & Epstein (1993), pg. 15]

It was not until 1803, when the case of *Marbury v. Madison* gave federal courts the power of judicial review, that the Supreme Court became in fact rather than merely in name a significant branch of the general government of the United States. Since that time most Americans under most circumstances correctly look to the courts as the principal defenders of their liberties and as the bastion of justice. Many special interest groups – including legislatures – heatedly attack the court when it strikes down one of their more cherished efforts to impose the tyranny of the majority on some minority group or to overthrow some inconvenient-to-their-cause civil right of Americans. Both political parties constantly seek to politicize and corrupt the court system.

Both dominant U.S. political parties are guilty of trying, and continue to try, to weaken or subvert the court's ability to block their unjust attempts to rule the country for the benefit of their favored factions. A strong argument can be raised that without a strong and independent judicial branch of government, America would long ago have been subjugated to despotism. In many corporations rulership and injustice are the norm. It is as Madison wrote:

Justice is the end⁸ of government. It is the end of civil society. It has ever been and will ever be pursued until it is obtained or until liberty be lost in the pursuit. In a society, under the form of which the stronger faction can readily unite and oppress the weaker, anarchy may truly be said to reign, as in a state of nature, where the weaker individual is not secured against the violence of the stronger; and as, in the latter state, even the stronger individuals are prompted by uncertainty of their condition to submit to a government which may protect the weak as well as themselves, so, in the former state will the more powerful factions or parties be gradually induced, by a like motive, to wish for a government that will protect all parties, the weaker as well as the more powerful. [Hamilton *et al.* (1787-8), no. 51, pg. 291]

It is heresy to say so in America today, but a voice praising non-consensus democracy is a voice raised in praise of tolerance for injustice and despotism. It is heresy to say within the councils of uncivic free enterprise that a voice praising monarchy/oligarchy governance of industrial conglomerates is a voice raised in praise of tolerance for injustice and the serfdom of a modern feudalism. That saying so is modern heresy reduces the importance of these truths not in the least.

A consequence of the lack of an independent judicial function in 1782 Virginia was pointed out by Thomas Jefferson in his "Notes on the State of Virginia" and was later quoted by Madison in *The Federalist*, no. 48:

All the powers of government [in Virginia], legislative, executive, and judiciary, result to the legislative body. The concentrating [of] these in the same hands is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands and not by a single one. One hundred and seventy-three despots would surely be as oppressive as one. [Jefferson (1782), pg. 164]

This is the very same latent threat – often made actual in many industrial conglomerates – that subsists in any governance of an Enterprise in which the administration of justice is left entirely in the hands of managers in a pyramidal hierarchy.

At the same time, the judicial function cannot be allowed to become all-powerful. It, too, must be subject to checks and balances to ward off the threat that agents of the judicial branch might seek to usurp the powers of the other two branches and thereby menace the very things for which the judicial function is intended to be the champion and chief civil guardian. Hamilton explained how the Constitution was designed to try to thwart such ambitions:

Whoever attentively considers the different departments of power must perceive that, in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the constitution because it will be least in the capacity to annoy or injure them. The executive not only dispenses the honors but holds the sword of the community; the legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated; the judiciary, on the contrary, has no influence over either the sword or the purse; no direction of either the strength or the wealth of the society; and can take no active resolution whatsoever. It may truly be said to have neither FORCE nor WILL, but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments.

This simple view of the matter suggests several important consequences. It proves incontestably that the judiciary is beyond comparison the weakest of the three departments of power, that it can never attack with success either of the other two; and that all possible care is requisite to enable it to defend itself against their attacks. . . . For I agree that "there

⁸ By "end" Madison means "purpose."

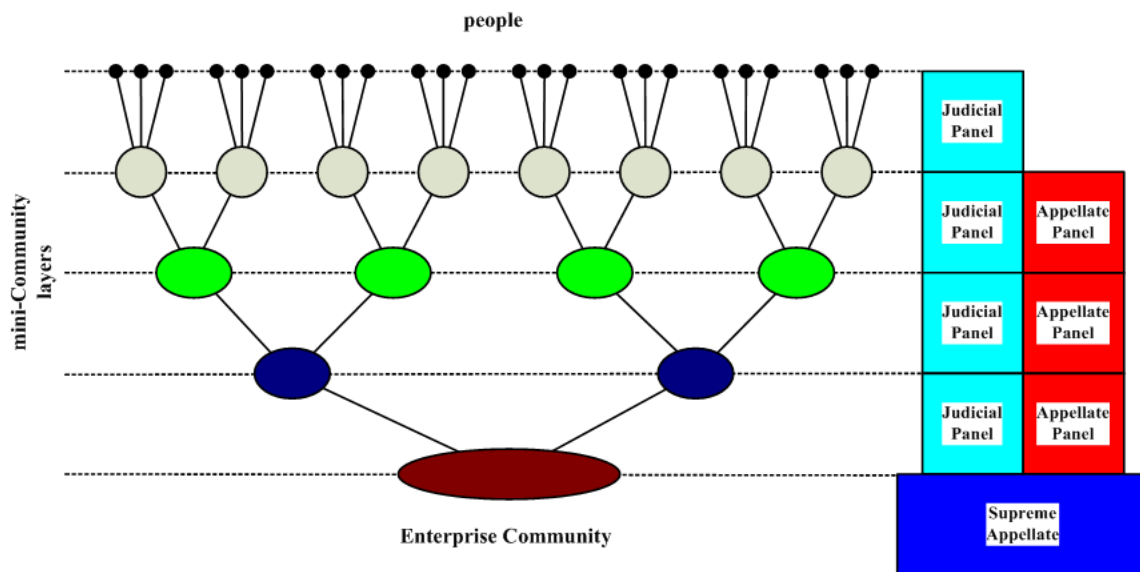
is no liberty if the power of judging be not separate from the legislative and executive powers." And it proves, in the last place, that as liberty can have nothing to fear from the judiciary alone, but would have everything to fear from its union with either of the other departments . . . and that nothing can contribute so much to its firmness and independence as permanency in office, this quality may therefore be justly regarded as an indispensable ingredient in its constitution [Hamilton *et al.* (1787-8), no. 78, pp. 428-429].

None of this means or even recommends that the judicial function of an Enterprise be instituted by mimesis of a political judiciary. Nor does any of this mean it must be precisely the same in every Enterprise. Between large and small Companies, between this sector of industry and that, between one place and another, there are important practical differences in the economics of commerce, in the education and temperament of people, and in the contexts of their mini-Communities. These all argue for making the institution fit the interest-benefits native to the local circumstances, not trying to make the interest-benefits fit the institution. Figure 9 presents one schema of organization [Wells (2014), chapter 8], but this schema is only one possible idea and every institution is a particular instantiation.

§ 8. The Objects and General Objects of Republican Governance

One last thing about heterarchy must be discussed generally. This is the concept that all institutions of Republican governance aim to realize general objects of governance. The management system of an Enterprise exists to keep all its various enterprises and entrepreneurs focused on and attentive to the realization of these objects. Seen in this way, the relationship between the management of an Enterprise and governance of an Enterprise is analogous to the relationship between a legal system and a justice system. In both cases, the former is intended to *serve* the latter as its mechanism, and the servant is not the master.

Specific objects of governance – *i.e.*, special objects pertaining to the specific business of an Enterprise – will always be dependent upon the specific circumstances in which the Enterprise operates and the interests of the people who are its members. These special objects are the objects specifically addressed in an Enterprise's company principles function of Relation (chapter 9, pp.



Note: The number of mini-Communities in any layer is not fixed, and people can be members of more than one mini-Community at the same time. The number of layers is not necessarily fixed. This requires flexible institution of the heterarchy structure.

Figure 9: One possible schema for the organization of the judicial function in an Enterprise.

268-269). As previously discussed, the company principles function of Relation is the function dealing with the internal mores of the Enterprise and determines its civic culture.

Over the past three decades, it has become a sort of popular mimicry in large corporations and many government Institutes to produce so-called "vision and values" statements. They allege to use these in guiding management decisions, but my observations lead me to conclude that these "vision and values" statements are rarely taken seriously by the managers of the company or Institute. Because they are not, the other people in the conglomerate tend to dismiss them as "Mom and apple pie" statements. About the only time these "vision and values" statements have any teeth is when the organization's management decides to use them punitively to take a bite out of employees who have done something the managers regard as miscreant in some way. That was never the intention of those well-meaning theorists who popularized "vision and values" statements however, and, as I discuss in a minute, there is in fact a significant degree of importance subsisting in "beliefs" and "values" that guide an organization's people *as a culture*.

Most corporations and Institutes that set up formal "vision and values" statements do so in a *pro forma* way and without actually bothering to make sure everyone understands and accepts not only *what* they are trying to do with these statements but also *why* they are doing it. In Taylorite organizations, upper management often does not really "value" their own "vision and values" statements and uses them mainly for their propaganda benefits. In two organizations where I have worked, the "vision and values" statements were changed every two or three years. After a flurry of committee meetings and long sessions spent nitpicking over words, the new statement would be produced, loudly publicized, and then be promptly forgotten again until the next round of "vision and values" setting began. They had nothing to do with the corporate culture.

This is not true everywhere or of every large corporation. Furthermore, corporations who do understand their cultural principles or "business beliefs" and make them a central part of the way they govern themselves do reap significant benefits from it. Peters & Waterman found,

Every excellent company we studied is clear on what it stands for, and takes the process of value shaping seriously. In fact, we wonder whether it is possible to be an excellent company without clarity on values and without having the right sorts of values.

Led by our colleague, Alan Kennedy, we did an analysis of [basic beliefs and overriding values] about three years ago. . . . The study preceded the excellent companies survey, but the result was consistent with what we subsequently observed. Virtually all of the better-performing companies we looked at in the first study had a well-defined set of guiding beliefs. The less well performing institutions, on the other hand, were marked by one of two characteristics. Many had no set of coherent beliefs. The others had distinctive and widely discussed objectives, but the only ones that they got animated about were the ones that could be quantified – the financial objectives, such as earnings per share or growth measures. Ironically, the companies that seemed the most focused – those with the most quantified statements of mission, with the most precise financial targets – had done *less* well financially than those with broader, less precise, more qualitative statements of corporate purpose. (The companies without values fared less well too.)

So it appears that not only the articulation of values but also the content of those values (and probably the way they are said) makes the difference. Our guess is that those companies with overriding financial objectives may do a pretty good job of motivating the top fifteen – even fifty [people]. But those objectives seldom add much zest to life down the line, to the tens of thousands (or more) who make, sell, and service the product. [Peters & Waterman (1982), pp. 280-281]

The "well-defined set of guiding beliefs" characteristic of the excellent companies identified by Peters & Waterman could not have had real beneficial effects if they were merely Platonic

window dressing. Nor could their causal efficacy be due merely to the fact that they were "broader, less precise, more qualitative" statements of corporate purpose. Peters & Waterman do not mean anyone should equate "broader, less precise, more qualitative" with "Mom and apple pie" statements. "Mom and apple pie" statements sound nice and proper and they make for good propaganda, but they don't guide people's actual decisions or behaviors. "We want to provide our students the best education possible" – one of the "vision and values" statements at a University where I used to work – is one of those "well, duh; of course we do" kinds of Mom & apple pie. So what? What does this statement *mean*? Does an engineering school offer engineering students "the best education possible" by rigidly prescribing the social sciences and humanities courses their students are made or allowed to take? Does it provide "the best education possible" by encouraging them to become narrow specialists within a field that is already a specialists' field – thereby limiting their acquired skills to technicalities that have "market value" *now* but could become as obsolete as buggy wheel design and manufacture in five years? It doesn't seem so to me and wouldn't seem so to most people, but the school with the "vision and values" statement I quoted above seems to think so *in practice*. They preach liberality and practice Taylorism.

The "well-defined set of guiding beliefs" to which Peters & Waterman refer are statements with *practical* import. To put this another way, they are accurately descriptive of a corporate culture. A *culture* is the entirety of habits, attitudes, moral customs, folkways, and social presuppositions that are typically expressed in the actions of the members of a Society and cultivated by its socialization processes. They are not something to preach; they are descriptions of norms for how the corporate body politic individually and collectively behaves. They describe "the Ways" of the organization. Just as *Bushido* ("the Way of the warrior") was a code of mores for Japan's medieval samurai, the culture of an Enterprise is comprised of a code of social mores for its members.

Company principles, the special objects of governance for an Enterprise, are principles of internal Relation. All industrial conglomerates – and, therefore, all Enterprises – are also mini-Societies embedded in a parent socio-political Society. For that reason, they coexist with others in that Society and their behavior is expected to conform with norms of social mores characteristic of *all* citizens' behaviors within that broader social environment. These mores can be said to comprise a "non-governmental governance" of that Society. Montesquieu briefly described what this idea of distinguishing non-governmental governance from governmental governance means:

We have said that the laws were particular and precise institutions of a legislator, and manners and customs the institutions of nations in general. Hence it follows that when these manners and customs are to be changed, it ought not to be done by laws; this would have too much the air of tyranny; it would be better to change them by introducing other manners and customs. . . .

Manners and customs are those habits which are not established by legislators, either because they were not able or were not willing to establish them.

There is this difference between laws and manners, that the laws are most adapted to regulate the actions of the subject, and manners to regulate the actions of man. There is this difference between manners and customs, that the former principally relate to the interior conduct, the latter to the exterior. [Montesquieu (1748), vol. I, pp. 298, 300]

I wish to lay stress on the use of the word "habit" here. The behaviors described as customary or mannerly are *habitual* behaviors – and this means the behaviors have been codified by the members of a Society in their individual manifolds of rules. The process by which people in a Society come to incorporate these prevailing rules of behavior into their own private moral codes in their individual manifolds of rules is what we call *socialization*.

For any mini-Society embedded in a larger parent Society to coexist with others in their common Society without conflicts arising that challenge the continued *Existenz* of that Society, it *must* conform with that Society's governing mores or, what is the same thing, it must make the objects of that Society's non-governmental governance objects of its own governance. Indeed, these *general objects of governance* comprise key elements of the Society's social contract. It is precisely at this juncture where the question raised in the first chapter is germane: *when does intervention in a competitive environment by the government of a Republic constitute an 'interference' and when does it not?* This question can now be answered: *Intervention by government is not an 'interference' when it pertains to compliance with prevailing mores of the general Society.* Institution of civic free enterprise in the Society of an American Republic therefore demands that these general objects of governance be closely examined and described *before* embarking upon principles of design *téchne* for institution of a civil Enterprise. This topic is therefore the subject of the next chapter.

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