

Chapter 14 The General Objects of Enterprise Governance

§ 1. Internal and External Business Objects

All industrial conglomerates are two things at one and the same time. For their members, they are work Societies whose associations are motivated by that most basic of economic motives, the necessity to acquire wealth assets sufficient to satisfy consumption demands of the members and their families. Relationships are thereby set up between the industrial conglomerate Society and the familial parts of its members' personal societies.

But to all the non-members of an industrial conglomerate, people belonging to a larger Society in which it is embedded, an industrial conglomerate is a distinctive mini-Society which these non-members usually, but do not necessarily, regard as part of their larger general Society. Those conglomerates which are regarded as part of the general Society are described using labels such as "a legitimate business." Those which are not are often described using labels such as "the underworld," or "the criminal element" in their Society.

Straddling a psychologically fine line, we also find two more cases. The first is an industrial conglomerate regarded in most circumstances as a mini-Society within and belonging to the parent Society but which perpetrates some action by which it is said to have "crossed the line" between legitimate *vs.* criminal or immoral enterprise. The second is the industrial conglomerate which is regarded as belonging to some other nation but which conducts business operations within the nation of the general Society. Such an industrial conglomerate is said to be "in" but not "of" the parent Society. Simultaneously, geographically local business outlets whose members are citizens of the parent Society are usually regarded as both "in" and "of" the parent Society. These are seen as mini-mini-Societies logically distinctive from the "foreign" industrial conglomerate. For example, Volkswagen is a foreign corporation but your local Volkswagen dealership is a mini-mini-Society "in but not of" the Volkswagen mini-Society while "in and of" U.S. Society.

A consequence of this dual social nature of industrial conglomerates is that its management and governance is simultaneously challenged to realize business objects of two different kinds: internal objects unique to itself; and external objects peculiar to its embedding Society.

All commercial Enterprises exist because their entrepreneurs are striving for income revenues of wealth assets *and* because they think their opportunity to succeed is improved by cooperation between and among their individual enterprises. A non-employer proprietor-capitalist likewise is seeking to obtain an income revenue but, unlike the entrepreneurs in an Enterprise-of-enterprises Community, he does not think his economic well-being is served by cooperation with fellow entrepreneurs. It may be that as his commercial enterprise prospers and serves more customers, he might change his mind and seek the help of fellow entrepreneurs; but in this case he ceases to be a non-employer proprietor-capitalist. In some cases an entrepreneur will seek to join an industrial conglomerate for the purpose of obtaining an income revenue sufficient to provide him with base capital in excess of his consumption requirements so that he might himself become a proprietor-capitalist. For most young people just starting their independency this is often the only route by which they can first obtain capital assets to invest in their own business ventures¹. It is also not

¹ It is worth repeating here that debt is not capital. It is not infrequent for people to use debt financing to initially start their commercial enterprises if they think that they will achieve sufficient revenue to pay off the debt after a short time and so free themselves of *obligatione externa* to the lender. I used a form of this myself when I started my first commercial enterprise as a young boy buying newspapers on consignment and reselling them. The risk attending debt financing to start a commercial enterprise is that one might not achieve an income revenue sufficient to continue in the enterprise without periodic debt refinancing. Many farmers, for example, find themselves trapped in this sort of precarious situation.

infrequent that an entrepreneur might continue his employment as a means of providing himself with a consumption revenue while he is growing his independent capitalist enterprise. I used this tactic myself. Defined-contribution retirement plans, IRAs, and Roth-IRAs introduced after the late 1970s provide specially restricted forms of this for entrepreneurs to obtain retirement income.

In all cases, though, income revenue derives from profit revenue achieved by the enterprise or Enterprise in which individual entrepreneurs are engaged. For this reason, profit is a prime object for every commercial enterprise, and rightly so. It is the *sine qua non* for being able to continue to engage in one's commercial enterprise. But profit is never the *sole* object of any enterprise. However an individual entrepreneur chooses to seek his income revenue, his entrepreneurial activities are always carried out within some parent Society, and that Society brings about effects, mediate as well as immediate, which affect the profit making success of any commercial enterprise. It can even prohibit particular kinds of enterprises and particular kinds of commerce altogether. Many such prohibitions are rooted in particular terms and conditions of the parent Society's social contract and include those which are matters concerning the parent Society's mores.

Broadly speaking, one can partition these societal effects on businesses into two broad classes: those which pertain to the parent Society's legal code and those which pertain to expectations of civil rights. I think no discussion of the first class is necessary in this treatise; commitment to obey the just laws of one's Society is one of the terms in all social contracts. The alienations of natural liberties pertaining to this are obvious enough to need no discussion here.

A **civil right** is any object defined by a civil convention that is regarded under that convention as in intangible property possessed by every member of the civil Community as an expected benefit of citizenship in that Community. Because most Societies – including the United States, its individual states, and its local communities – are established under civil conventions which are in large part informal and arise from customs, its *expectations* of civil rights held by its divers citizens are often vague enough to produce conflicts within Enterprises that can be serious enough to granulate its Community and bring about its breakdown and disintegration. These expectations are effectively expectations of intangible property rights in the broadest scope of that term, and this is why they are of such fundamental importance in the management and governance of a civil Enterprise. It follows that management and governance of a civil Enterprise in a system of civic free enterprise is charged with an expectation of authority pertaining to general objects which derive from the social contract of the Enterprise's parent Society.

To recap, management and governance of any commercial Enterprise is expected to attend to the satisfaction of two classes of objects of governance. The first class is comprised of internal objects. Profit is the most universal of these but not necessarily the only one. Inasmuch as it is in the personal interests of all its members that their Enterprise survive and thrive in a competitive business environment, the object of civil Union becomes a *de facto* object of the Enterprise. If the environment of civil Community in the Enterprise is lost, with a subsequent formation of one or more internal proletariats, not only do voluntary cooperations needed for business success come under threatening challenges, but, indeed, the capability of the Enterprise to continue becomes problematic. Failure to maintain a civil Union is perhaps Taylorism's most pernicious failure. It is but a short step from becoming a Taylorite manager to becoming an outlaw parasite endangering the very Enterprise you have been entrusted with a fiduciary responsibility to manage.

The second class is composed of external objects originating from the social contract of the general Society in which the Enterprise is embedded as a mini-Society. Even if a commercial Enterprise is internally a civil Community, if its members, or any minority of them, behave in the course of their business activities as outlaws or criminals in their relationships with the parent Society, *ipso facto* the survival of the Enterprise is placed under threat by their lack of civic Community with non-members of their parent Society. Perhaps the most obvious factor tending

to promote uncivic relationships between a commercial Enterprise and others is found in business competition, and this factor makes all the more necessary distinctions between civic and uncivic competitive practices. A *right to compete* is a civil right in any system of free enterprise, but a *right to prevail over competitors* is *not* a civil right in any system of civic free enterprise. Nor does a right to compete bestow a right to exercise unrestricted natural liberties in competition.

In every civil Society, its prevailing social contract proscribes some particular exercises of liberty and makes their alienation a requirement of citizenship. Those not so proscribed make up a body of *civil* liberties of action. But these civil liberties of business practices are subordinate to the broader civil rights of citizenship in the general parent Society, and when the two are found to be in conflict it is the particular civil liberty of a business practice that must give way to the broader civil right. As a mini-Society a business is subject to and answerable to its parent Society.

The general external objects of Enterprise management and governance are derived from this basis. They can properly be called *objects of corporate citizenship* because they pertain to Duties of citizenship that every member of the Enterprise commits himself to observe as part of the price of his admission to citizenship in the *parent* Society. Enterprise management and governance are therefore charged with an expectation of authority for actualizing these general objects.

The internal objects of Enterprise management and governance are special to circumstances peculiar to the specific commercial Enterprise (with the obvious exceptions of profit and Union). The external objects, on the other hand, are general within a parent Society and justly derive from its social contract. Here, though, a difficulty is soon encountered. It is the historical character of social contracts to be comprised largely and informally of community "understandings" and the customary mores and folkways of the particular Society. I suspect that if the National Endowment for the Humanities were to sponsor a competition to define the American social contract in detail, scholars would find themselves hard-pressed to rise to the challenge.

Even so, the challenge is a good deal less overawing for the American social contract than for any other democratic republic on earth and is certainly so in regard to those false "republics" that are actually monarchies/oligarchies in disguise and ruled by dictators or juntas, whose self-styling as a republic is nothing more than propaganda. The reason it is less overawing is because we have detailed records of how the United States came to have its independence, its Constitution, and its Republic. As historian and scholar Albert Bushnell Hart keenly observed,

The real source of the Constitution is the experience of Americans. They had established and developed admirable little commonwealths in the colonies; since the beginning of the Revolution they had had experience of State governments organized on a different basis from the colonial; and, finally, they had carried on two successive national governments, with which they had been profoundly discontented². The general outline of the new Constitution seems to be English; it was really colonial. [Hart (1897), pg. 124]

We have even been bequeathed with succinct statements of general objects of governance in a Republic. They are found in the Declaration of Independence, the Articles of Confederation, and the Preamble of the Constitution of the United States of America. Not surprisingly, these are all expressed in contexts of political government. The questions for us here are: do they change in contexts of free enterprise? and how do they pertain to governance of commercial Enterprises?

§ 2. The General Objects of Republican Governance

The political objects of government set out by America's Founding Fathers are political only because their context of 'government' was political. That context provided a *specifying concept*

² the Continental Congress and Congress under the Articles of Confederation.

which narrowed the scope of application for these objects to fit within the scope of the concept of political government. The question at issue here is how the scopes of these political objects expand, if they do, when the scope of the concept of 'government' is expanded to include business Societies and when in this expanded scope the concept of management of a business is included.

There are six general objects of all Republican political government. They are stated in one of the most famous declarations in Western history:

We, the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America. [Preamble to the Constitution]

The rest of the Constitution is a plan for how the general government of the U.S. was to be instituted. But the six objects specified between the phrase 'in order to' and the phrase 'do ordain' *are* the general objects of *all* governments at every level of governance in the U.S. I put it to you that they are general objects of governances of every kind in every Republic in every context.

The statement I have just made is not without controversy even among theorists of political government. It is even more controversial among business theorists and, especially, proponents of uncivic free enterprise. It is true that these objects *do not necessarily apply* to monarchy/oligarchy governance or to non-consensus democracy because both of these systems govern by rulership; under them the objects of governance are whatever the rulers say they are. Justice, general Welfare, and civil liberty are especially prone to *not* being objects for these forms of governance. The *common* defense is likewise prone to omission as an object of governance under these systems because rulers tend to care for the defense of their own persons and possessions but not necessarily for defense of the ruled or their possessions. Even under non-political Republican governance, the common defense object requires special examination because the authors of the U.S. Constitution specifically had *military* defense in mind when they referred to the common defense. However, *to defend* means *to prevent from being injured or destroyed* and so military defense is only one species of defense. A non-military example of defense would be a system of safety measures and devices designed and installed to prevent or reduce the potential for injury accidents in the workplace. A second is defense of an Enterprise from effects of competition.

Therefore, the stipulation of an American Republic is an essential part of the proposal I make that the six general objects listed above are objects of *all* Republican systems of governance. A system of management is nothing more than a system of mechanisms for governance, and so the six objects are likewise objects of management under Republican governance. The proposal does not extend beyond the context of Republican governance and management, and this restriction answers commonly stated objections to the proposal raised in contexts of uncivic free enterprise.

However, in undertaking debates and speculative discussions over the proposal, a caution must always be borne in mind; namely, that many so-called republics are not actual republics. The label is applied to "democratic republics," which, despite the labeling, are non-consensus democracies and not republics, much less American Republics^{3, 4}. This does not mean democratic *mechanisms* for selection of agents of government are incompatible with Republican governance. However, these mechanisms are vulnerable to usurpation by factions unless they are protected by adequate mechanisms in the system of checks and balances. Without this crucial element of

³ refer to the glossary for the real-explanations of 'republic' and 'Republic'.

⁴ The *mechanisms* of selection of legislators established by the U.S. Constitution were designed to attempt to prevent rulership by factions. However, the safeguards for this democratic element were later defeated by the institution of national political parties. It was at this crucial point in history, in the 1820s, that the U.S. became a democratic republic rather than the Republic intended by the Framers of the Constitution.

checks and balances, the system is vulnerable whenever, as Madison put it,

a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans and claim for their government the honorable title of republic. [Hamilton *et al.* (1787-8), no. 39, pg. 210]

Installation of such necessary mechanisms of checks and balances serves not only the object of perfecting the Union but also the object of establishing justice for all.

At this point, it is well worth asking: why these six objects? What was the basis for identifying these particular six as the general objects of Republican governance? To understand this, let us start by going all the way back to the year 1690 and the words of John Locke:

If man in the state of nature be so free, as has been said; if he be absolute lord of his own person and possessions, equal to the greatest and subject to nobody, why will he part with his freedom? why will he give up this empire and subject himself to the dominion and control of any other power? To which it is obvious to answer, that though in the state of nature he hath such a right, yet the enjoyment of it is very uncertain and constantly exposed to the invasion of others: for all being kings as much as he, every man his equal, and the greater part no strict observers of equity and justice, the enjoyment of the property he has in this state is very unsafe, very insecure. This makes him willing to quit a condition which, however free, is full of fears and continual dangers; and it is not without reason that he seeks out, and is willing to join in society with others, who are already united or have a mind to unite, for the mutual *preservation* of their lives, liberties and estates, which I call by the general name, *property*. [Locke (1690), pp. 65-66]

Here we have the social-natural ground for the formations of Societies of every kind, including commercial Societies. It is the foundation of Social Contract theory, predating Rousseau by over seven decades. Will you seriously deny that the principal, and often the only, reason a person seeks and accepts employment in an industrial conglomerate is to preserve and, as much as possible, increase his personal wealth assets ('preserve his estate')? Or that an industrial conglomerate is a peculiar species of Society? Or that by so doing he subjects *himself* "to the dominion and control" (up to some limit) of "another power"? Locke's statement sets no limitation to the kind of Society the individual is willing to join. In any such association where he is not forcibly subjugated by threat to his life there is an expectation of some sort of social compact present.

It is beyond reasonable doubt that the Founding Fathers were acquainted with Locke's thesis. As early as 1776, during the initial tumults of the Revolutionary War, Adams wrote,

A man must be indifferent to the sneers of modern Englishmen, to mention in their company the names of Sidney, Harrington, Locke, Milton, Nedham, Neville, Burnet, and Hoadly. No small fortitude is necessary to confess that one has read them. The wretched conditions of this country, however, for ten or fifteen years past has frequently reminded me of their principles and reasonings. They will convince any candid mind that there is no good government but what is republican. [Adams (1776), pp. 234-235]

Direct reference to "lives and liberties" and an indirect one to "estates" appears also in the United States' Declaration of Independence:

We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed [The Declaration of Independence (July 4, 1776)].

The reference here to "deriving their just powers from the consent of the governed" presumes in the phrase "just powers" the idea of a social contract because the word "justice" has no real meaning in a state of nature. This idea presumes, in turn, both a fundamental condition and a fundamental term for social contracting. Rousseau expressed these in the following words:

"The problem is to find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before." This is the fundamental problem of which the *Social Contract* provides the solution.

The clauses of this contract are so determined to the nature of the act that the slightest modification would make them vain and ineffective; so that, although they perhaps have never been formally set forth, they are everywhere the same and everywhere tacitly admitted and recognized until, on the violation of the social compact, each regains his original rights and resumes his natural liberty while losing the conventional liberty in favor of which he renounced it. . . .

If then we discard from the social compact what is not of its essence, we shall find that it reduces itself to the following terms:

"Each of us puts his person and all his power in common under the supreme direction of the general will, and, in our corporate capacity, we receive each member as an indivisible part of the whole."

At once, in place of the individual personality of each contracting party, this act of association creates a moral and collective body . . . and receiving from this act its unity, its common identity, its life, and its will. The public person so formed by the union of all other persons . . . takes [the name] of *Republic* or *body politic* [Rousseau (1762), pp. 13-14].

A state of uncivic free enterprise is recognizable where there is failure "to defend and protect with the whole common force the person and goods of each associate" or when members of the association refuse to put "his person and all his power in common under the supreme direction of the general will" or refuse to "receive each member as an indivisible part of the whole." This does, however, bring with it particular questions and difficulties. One is what the relationship is between "the general will" and "the consent of the governed."⁵ Another is what limitations, if any, there might be to the extent of the defense and protection of "the person and goods of each associate" expected from association in a commercial Enterprise.

These and other important questions and issues are, at root, *empirical* because they are conditioned by the circumstances of particular human associations. A defect all-too-frequently seen exhibited by reformers is an attempt to find a single Platonic principle or universal ideal purporting to provide a "one size fits all" *formal* answer for issues that *are* at root empirical and conditioned by *material* circumstances. Inclination to seek for some ideal answer or definition is widely habitual; indeed, the incubation of the habit can be observed in children at around the ages of 11 to 12 years [Piaget (1928), pp. 73-74; Piaget (1932), pp. 47-50]. Idealism and a propensity to seek in vain to find Hegelian absolute Truths are constantly being exhibited by human beings.

But, as Kant pointed out,

If truth subsists in the congruence of a cognition with its object, then this object must thereby be distinguished from others; for a cognition is false whenever it is not congruent with the object to which it is related even if it contains something that could well be valid

⁵ Indeed, what is meant by the phrase "the general will" is historically the most contentious issue in the history of social contract theory. The social-natural resolution of this issue was given in Wells (2012), chap. 13, pg. 490, where the Critical real-explanation of "the general will" is deduced and presented.

of other objects. Now a general criterion of truth would be that which was valid of all cognitions without distinction among their objects. But it is clear that since with such a criterion one abstracts from all content of cognition (reference to its Object), yet truth concerns precisely this content, it would be completely impossible and absurd to ask for a mark of truth of this content of cognition, and thus that a sufficient and yet at the same time general sign of truth cannot possibly be provided. Since above we have called the content of a cognition its matter, one must therefore say that no general sign of the truth of the matter of cognition can be demanded because it is self-contradictory. [Kant (1787), B: 83]

As compelling as the allure of seeking some Hegelian absolute Truth might be, when one has to consider different species of Societies – such as political vs. commercial Societies – one cannot neglect those material conditions and circumstances which distinguish them and seek for specious "universal answers." As elsewhere in other sciences, we must build our empirical principles and real-explanations by taking proper account of the contingent in the empirical along with the logical and mathematical in the rational.

So it is, then, with the objects of government stated in the Constitution's Preamble. It must be asked: (i) why were these particular principles and no others singled out? and (ii) in what ways, if any, are they changed in going from the context of political governance to that of Enterprise governance?

The Preamble was neither debated nor discussed during the 1787 Constitutional Convention. The delegates had not gathered in Philadelphia to discuss the rights of man or a general theory of government *per se*. They gathered to try to solve very particular and well-known-to-them problems that were challenging the survival of the United States. These men were all well known personalities in their home states, all had been active Patriots, and all already had personal experience with political government and the unifying ideas of the Revolution. As Hart put it,

By May, 1787, delegates to the proposed convention had been chosen in all the States except New Hampshire and Rhode Island. Many of the ablest and most experienced public men were included. . . . The convention was the most distinguished body which had ever assembled in America; if its work could not command public confidence, there was no hope for the Union. [Hart (1897), pp. 121-122]

Some delegates, notably Edmund Randolph and John Rutledge, were of the opinion it was unnecessary and even undesirable for the Preamble to contain any statement of specific objects of government. Randolph and Rutledge were members of the Committee of Detail, which was tasked with accurately recording all the details of the Constitution passed by the Convention. They wrote, on behalf of the Committee of Detail, the following:

A preamble seems proper not for the purpose of designating the ends of government and human politics – This display of theory, howsoever proper in the first formations of state governments, *is* unfit here; since we are not working on the natural rights of men not yet gathered into society, but upon those rights, modified by society and interwoven with what we call the rights of states – Nor yet is it proper for the purpose of mutually pledging the faith of the parties for the observance of the articles – This may be done more solemnly at the close of the draught, as in the confederation⁶ – But the object of our preamble ought to be briefly to declare that the present federal government is insufficient to the general happiness; that the conviction of this fact gave birth to this convention; and that the only effectual mode which they can devise for curing this insufficiency is the establishment of a supreme legislative, executive and judiciary – Let it be next declared that the following are the constitution and fundamentals of government for the United States [Farrand (1911),

⁶ the Articles of Confederation

vol. 2, pp. 137-138].

In the end, the Preamble did not conform to this opinion after it was re-drafted in final form by another committee, the Committee of Style [*ibid.*, vol. 2, pg. 590]. Principal authorship of the final draft is usually credited to delegate Gouverneur Morris of Pennsylvania.

What was to eventually become the Preamble went through several drafts before its final form was approved without debate by the delegates on August 7, 1787 [*ibid.*, vol. 2, pg. 193]. The lack of debate over it is understandable if one keeps in mind that the Preamble is not aimed specifically at the constituting of a general government or the mechanisms of government it operates by, but, rather, is a statement of what it is that government in accord with the principles of the Revolution is to achieve within constituted limitations of its authority. Along the way from the first draft to the last, objects of government were included as statements of intent until its penultimate draft by the Committee of Detail. The objects were reinserted in the final draft by the Committee of Style.

The first draft proposal for the Constitution was the Virginia Plan, the draft of which is in the main credited to Madison and was introduced at the Convention as a resolution by Randolph:

Resolved: that the articles of Confederation ought to be so corrected and enlarged as to accomplish the objects proposed by their institution; namely, "common defense, security of liberty and general welfare." [*ibid.*, vol. I, pg. 20]

The reference made here to the Articles of Confederation refers to its Article Three, the text of which was well known to every delegate:

The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatsoever. [Articles of Confederation and Perpetual Union, Article Three]

From these documents we have four of the six general objects: forming a more perfect Union; providing for the common defense; securing personal liberty; and promoting the general Welfare. This leaves only establishing justice and promoting domestic tranquility. Where did these two come from?

Every delegate at the Convention would have been aware of outbreaks of violent separatism that had been occurring throughout the post-war United States. Today the most famous of these was Shays' Rebellion in Massachusetts in the fall of 1786, but this was not the only incident. Hart tells us,

The Revolutionary War had left behind it an eddy of lawlessness and disregard of human life. The support of the government was a heavy load upon the people. The States were physically weak, and the State legislatures were habitually timid. In several States there were organized efforts to set off outlying portions as independent governments. Vermont had set the example by withdrawing from New York in 1777 and throughout the Confederation remained without representation either in the New York legislature or in Congress. In 1782 the western counties of Pennsylvania and Virginia threatened to break off and form a new State. From 1785 to 1786 the so-called State of "Franklin," within the territory of what is now eastern Tennessee, had a constitution and legislature and governor, and carried on a mild border warfare with the government of North Carolina, to which its people owed allegiance. The people of Kentucky and of Maine held conventions looking toward separation. The year 1786 was marked by great uneasiness in what had been supposed to be the steadiest States in the Union. In New Hampshire the opposition was directed against the

legislature; but General Sullivan⁷, by his courage, succeeded in quelling the threatened insurrection without bloodshed. In Massachusetts in the fall of 1786 concerted violence prevented the courts from sitting; and the organized force of insurgents under Captain Shays threatened to destroy the State government. As a speaker in the Massachusetts convention of 1788 said, "People took up arms; and then if you went to speak to them you had the musket of death presented to your breast. They would rob you of your property, threaten to burn your houses; obliged you to be on your guard night and day." . . . The arsenal at Springfield was attacked. The State forces were met in the open field by armed insurgents. Had they been successful, the Union was not worth one of its own repudiated notes. The Massachusetts authorities were barely able to restore order, and Congress went beyond its constitutional power in an effort to assist. [Hart (1897), pp. 112-113]

These grim incidents of violence, insurrection, and lawlessness more than amply explain why domestic tranquility and establishing justice weighed on the minds of the delegates.

The Founding Fathers accomplished something between the end of the war in 1782 and the ratification of the Constitution on September 13, 1788 that is rare in history. They prevented a nation from disintegrating completely and becoming a failed state after the overthrow of its antecedent government. The American Revolution was not followed by an interregnum of anarchy such as we have seen in recent years in, *e.g.*, Somalia and elsewhere in Africa, in Libya following the overthrow of Kaddafi, or Lebanon in 1975. Order and unification were not restored by a totalitarian dictator, such as in Germany in 1933 or in Russia after 1917. I think most Americans today likely do not understand the magnitude of their accomplishment or how seldom anything like it ever happens. Despite a post-1960s tendency of revisionist historians and "new left" scholastics to criticize the Founding Fathers for being human beings, they really do merit the veneration they long received in American culture.

How much weight, however, should these *political* accomplishments be given in the context of governance of commercial businesses? Are the general objects pertinent to Enterprise governance. If so, why and how? These are the next questions to explore.

§ 3. Relevance of the General Objects to Enterprise Governance

The history of American business is not without its parallels to the domestic disorders of the 1780s recalled above. The most visible sign of this is in the history of trade unions in the U.S. beginning around 1825 [Morrison & Commager (1930), pp. 390-398]. I have previously given a summary historical account of U.S. labor movements [Wells (2013), chaps. 8, 10] and so I do not repeat that accounting here. Unions are, as I just said, the most visible sign of untranquility within the membership of an industrial conglomerate but they not the only one. Taylor provided other symptomatic observations, although he overgeneralized them with many unproved assertions:

The great majority of workmen still believe that if they were to work at their best speed they would be doing a great injustice to the whole trade by throwing a lot of men out of work, and yet the history of the development of each trade shows that each improvement, whether it be in the invention of a new machine or the introduction of a better method, which results in increasing the productive capacity of the men in the trade and cheapening the costs, instead of throwing men out of work make in the end more work for more of them. . . .

The workmen in almost every trade have before them an object lesson of this kind, and yet, because they are ignorant of the history of their own trade even, they still firmly believe, as their fathers did before them, that it is against their best interests for each man to

⁷ John Sullivan (*b.* 1740, *d.* 1795) of New Hampshire was a general in the Revolutionary War, a delegate to the Continental Congress, served as governor of New Hampshire and as a U.S. federal judge.

turn out each day as much work as possible.

Under this fallacious idea a large proportion of workmen of both countries⁸ each day deliberately work slowly so as to curtail the output. Almost every labor union has made, or is contemplating making, rules which have for their object curtailing the output of their members, and those men who have the greatest influence with the working people, the labor leaders as well as many people with philanthropic feelings who are helping them, are daily spreading this fallacy and at the same time telling them that they are overworked. [Taylor (1911), pp. 4-5]

More work for more of *them*? The "history of the development of each trade" does *not* prove this. It does show some instances of skilled craftsmen being replaced by larger numbers of less skilled laborers at lower wages. What Taylor says is fallacy through overgeneralization, although there were particular instances where what he says is true. But even in cases where he is accurately describing a particular body of workmen, what he describes is symptomatic of commercial Toynbee proletariats "in" but not "of" the industrial conglomerate in which these workmen are employed. These mini-Societies have become antibonded or unbonded with the parent commercial Society in which they are employed, and there is a reason this has happened. Taylor laid the blame exclusively on the workmen and an external Toynbee proletariat made up of outsiders "who are helping them," but this is one-sided propaganda. Those situations bespeak of *provoked* social untranquility, and this *only* arises out of *reciprocal* relationships.

There is some truth in what Taylor wrote, but there is also much in it that is untrue. His remarks are typical of a one-sided and hostile viewpoint from which Taylorite managers regard employees. It is a viewpoint still not-infrequent, and its stigmatism of workmen is nothing but Theory X propaganda. It is true that antibonding relationships between proprietors and managers, on the one side, and non-managerial employees, on the other, have significantly contributed to many socio-economic developments that spill over into the political arena. Political socialism, to take one example, is the child of such hostile relationships. It is certainly true that propaganda blasts exchanged by communists and so-called "captains of industry" in 19th and 20th century Europe and America left, like so many shell holes in a battlefield, widespread misconceptions that *Marx's* "capitalism" and "labor" are natural enemies destined to war upon each other. But this is hogwash and there is no *inherent* antagonism between true capitalism and wage laboring⁹. The historical incidents of antagonisms are products of *uncivic* free enterprise *practiced by both sides*.

The rise of capitalism in medieval England freed the overwhelming majority of Englishmen from an economic slavery of serfdom. Presuppositions and prejudices natural in a culture that was accustomed for centuries to monarchy/oligarchy rule *produced* uncivic free enterprise. Conflicts between special interest mini-Societies was one social-natural outcome. That these conflicts could turn violent is no mystery. In 1776 Adam Smith wrote,

What are the common wages of labor depends everywhere upon the contract usually made between these two parties, whose interests are by no means the same. The workmen desire to get as much, the masters to give as little as possible. The former are disposed to combine in order to raise, the latter in order to lower, the wages of labor.

It is not, however, difficult to foresee which of the two parties must, upon all ordinary occasions, have the advantage in the dispute, and force the other into a compliance with their terms. The masters, being fewer in number, can combine much more easily; and the law, besides, authorizes, or at least does not prohibit their combinations, while it prohibits

⁸ By "both countries" Taylor means "England and America."

⁹ I am a capitalist and have been all my life. I make no apology for it. I am also a retired member of a labor union (the American Federation of Teachers), and I make no apology for that, either. I have never found the least contradiction between *real* capitalism and "labor." Taylorism, on the other hand, creates conflicts.

those of the workmen. We have no acts of parliament against combining to lower the price of work, but many against combining to raise it. In all such disputes the masters can hold out much longer. A landlord, a farmer, a master manufacturer, a merchant, though they did not employ a single workman, could generally live a year or two upon the stocks which they have already acquired. Many workmen could not subsist a week, few could subsist for a month, and scarce any a year without employment. In the long run the workman may be as necessary to his master as his master is to him but the necessity is not so immediate.

We rarely hear, it has been said, of the combinations of masters, though frequently of those of the workmen. But whoever imagines upon this account that masters rarely combine is as ignorant of the world as of the subject. Masters are always and everywhere in a sort of tacit but constant and uniform combination not to raise the wages of labor above their actual rate. . . . We seldom, indeed, hear of this combination because it is the usual, and one may say the natural state of things, which nobody ever hears about. Masters, too, sometimes enter into particular combinations to sink the wages of labor even below this rate. These are always conducted with the utmost silence and secrecy, till the moment of execution, and when the workmen yield, as they sometimes do, without resistance, though severely felt by them, they are never heard of by other people. Such combinations, however, are frequently resisted by a contrary defensive combination of the workmen; who sometimes, too, without any provocation of this kind, combine of their own accord to raise the price of their labor. . . . But whether their combinations be offensive or defensive, they are always abundantly heard of. In order to bring the point to a speedy decision, they have always recourse to the loudest clamor, and sometimes to the most shocking violence and outrage. They are desperate, and act with the folly and extravagance of desperate men, who must either starve or frighten their masters into an immediate compliance with their demands. The masters upon these occasions are just as clamorous upon the other side, and never cease to call aloud for the assistance of the civil magistrate and the rigorous execution of those laws which have been enacted with so much severity against the combinations of servants, laborers, and journeymen. [Smith (1776), pp. 58-59]

What Smith describes here is a proactive factor in determining wages of labor. There is also a passive factor that depends on demand for particular craft skills in relationship to the availability of skilled craftsmen. For example, when the chronic undersupply of skilled craftsmen in colonial Philadelphia became a chronic oversupply in the mid-18th century, it resulted in such devastating loss of income revenue and high job turnover rate for the city's wage laborers that a large fraction of the city's population could not be located or traced by its civil government. These people vanished into an obscure anonymity of forgotten citizens. Salinger wrote,

When artisans became employers and journeymen supplanted [indentured] servants and slaves, the time each worker remained in a shop decreased. Slaves were bound for life and servants' terms were fixed at four or five years, but free workers passed through fleetingly, collected their meager wages, gathered up their tools, and moved on in search of the next job. . . . By the dawn of the [19th] century, this dizzying movement of workers characterized the artisan work place. Such turnover not only precluded stable work relationships but helped define labor as a commodity to be hired and fired as consumer demand dictated.

Short employment periods contributed to a high rate of geographic mobility among journeymen. Sparse records make it difficult to draw reliable conclusions, but the evidence suggests that workers shifted from shop to shop because they were forced to find new work. Admittedly, movement itself does not imply that job possibilities were scarce – workers conceivably followed opportunity. However, other indicators reveal that the frenetic movement of workers in late-eighteenth-century Philadelphia resulted from the lack of opportunity. . . . The ultimate obscurity of free workers suggests that, like freed servants, they could not be located because they lacked economic substance. [Salinger (1987), pg. 157]

Widespread discontent, both with conditions that developed in the workplace and the state of general Welfare, provoked a pushback in the form of socialist and communist reform movements. It was at this time that propaganda twisted people's understanding of the word "capitalism" into the Marxist misconnotations the word still evokes today, and falsely cast it as something at odds with liberty and justice for all people. But neither the socialist movement nor the communist party could ever deliver on the promises made by their proponents. Despite the labels, both are asocial, both are anti-Community, and both contradict the human nature of social contracting.

The only difference instituting a so-called "socialist" system produces is that it is not classical monarchy/oligarchy rulers who have the advantage. Instead, rulers emerge out of basic defects in non-consensus democracy¹⁰. The most famous 20th century example is provided by the Soviet Union. "Soviet" is the Russian word for "council." The initial idea for communist government in Russia, credited to Pavel Axelrod in 1905, was government by a system of councils ("soviets") whose members were democratically elected by constituencies of Communist Party members [Muravchik (2002), pg. 131]. But even before the Bolshevik revolution, mechanisms of non-consensus democracy made it possible for designing men (first Lenin, then Stalin) to usurp and corrupt the soviet system until it became a system for rulership of the majority by a minority – which is the eventual outcome in *all* non-consensus democracies. It cannot even be said that this was an astounding turn of events because Mill had pointed out this fatal defect in non-consensus democracy in 1861 [Mill (1861), pp. 75-77]. A "democratic republic" is *not* a Republic.

In the commercial sphere, there are very few cases of economic conglomerates started or reorganized as socialist Communities, and there are none to my knowledge that were successful. Perhaps the most famous attempt was Robert Owen's "New Harmony" village-industry in Pennsylvania from 1825 to 1827 [Muravchik (2002), pp. 41-51]. Owen, who coined the term "socialism," intended New Harmony to be "a new empire of peace and good will to men founded on other principles and leading to other practices than those of the past or present." The experiment speedily foundered upon splits and divisions. New Harmony's governance quickly ceased to be "democratic," and it soon disintegrated of its own accord. For much more practical reasons than Owen had, a similar experiment was tried at Plymouth Colony in 1620-21, but this first American experiment with communism had to be abandoned as a practical failure by 1624 [Thwaites (1910), pp. 120-121]. To save itself, Plymouth replaced communism with capitalism.

Wages are not the only issue over which conflicts within an industrial conglomerate arise. The number of hours of work per day or week required; provision or lack thereof of medical benefits in the event of casualties due to illness, disability or injury; intrusions into the private liberties of conglomerate members; one-sided employment contracts; dismissals; layoffs; and a number of other things of this sort are also sources of internecine conflicts within industrial conglomerates.

Chronic conflict manifests a breakdown of Community in industrial conglomerates. It marks *social* forces and challenges threatening them with failure and disintegration. One cannot draw logical divisions between economics, politics, and sociology by fiat and expect these divisions to hold up in the real world because *none* of these topics have any *actual* social-natural divisions making them independent of one another. The sort of empirical science needed to deal objectively with these splintering challenges is a *social-natural* science of sociology – which, to the disadvantage of all of us, humankind has not yet achieved. However, it is now possible to develop this science. Indeed, this treatise is in part an essay in this still-nascent craft. Let us briefly reexamine the concept of "sociology" and some Critical implications for it.

The word "sociology" had not yet been coined in the 18th century. It was coined by Comte in

¹⁰ It is worth knowing that communism made little headway in Europe until it grew out of socialist political coalitions in Germany and Sweden known as 'social democrats'. It was through social democrat parties that Engels was able to most effectively advance the ideas in *The Communist Manifesto* [Muravchik (2002)].

1824, who made the first serious effort to found an empirical science of that name. Sociologists today use the term to mean "the analysis of the structure of social relationships as constituted by social interaction." However they quickly add the remark that "no definition [of sociology] is entirely satisfactory because of the diversity of perspectives which is characteristic of the modern discipline" [Abercrombie *et al.* (2006)]. This admission tells us Comte's approach (known as "positivism") was flawed and a Critical reorientation is required.

The concepts of business management and proprietorship are concepts of an empirical science of *social-natural* sociology in the context of "sociology" as defined by Abercrombie *et al.* However, management was not regarded as a system of government because businesses were not recognized to be mini-Societies. For that reason it is unsurprising that Enlightenment principles of government were stated in the narrow *political* contexts that they were.

The word "society" as a *legal* term dates to the 16th century. *Black's Law Dictionary* has two definitions for it pertinent to this treatise: (1) a community of people, as of a state, nation, or locality, with common cultures, traditions, and interests; (2) an association or company of persons united by mutual consent to deliberate, determine, and act jointly for a common purpose [Garner (2011)]. These usages have the virtue of at least recognizing that human interests are essential in determining if an aggregate of people is or is not a "society." The academic discipline called "sociology," however, removes human interest as a determining factor. As a result, it is left with a term that is not assigned the sort of practically-based technical meaning an empirical *science* must require. The present usage academic sociology makes of the term "society" is described as

society The concept is a commonsense category in which 'society' is equivalent to the boundaries of nation states. While sociologists in practice often operate with this everyday terminology, it is not adequate because societies do not always correspond to political boundaries [Abercrombie, *et al.* (2006)].¹¹

A shortcoming in both dictionary definitions is lack of an epistemological foundation. In contrast, the Critical terms *society* and *Society* used in this treatise have real-explanations, provided in the technical glossary at the end of this treatise, which are deduced from human nature and include epistemological foundations. Among other things, from these real-explanations *objectively valid* concepts of mini-Society and mini-Community can be derived and *causative* relationships between them and their methods of governance can be deduced from empirical evidence.

One consequence of the Critical real-explanation of 'Society' is that it provides an objectively valid basis for a broader interpretation of the *legal* term "society" to permit recognition of mini-Societies and mini-Communities embedded within larger Societies. It also validates removal of a traditional bias by which it is assumed that each person is a member of only one Society at a time. In actuality, every person is simultaneously a member of multiple mini-Societies (excepting hermits and similar fringe cases). All by itself, this phenomenon invalidates the basis of the one man, one vote principle of non-consensus democracy because that principle cannot but help to force individuals into having to choose between alternatives which each contain or produce conflicts of interests in regard to his personal society. In effect, it forces individuals into having to choose between the mini-Societies they belong to – a situation which is a sort of non-consensus democracy version of an armed robber forcing you to choose between "your money or your life." Forcing people into these kinds of situations provokes social disunity.

¹¹ Toynbee's description of 'society' differs from the sociologists' "definition" but also suffers from the shortcoming of being vague. He defined 'society' as "a system of relationships between human beings" that arises from "the coincidences of their individual fields of action. This coincidence combines the individual fields into a common ground, and this common ground is what we call a society. . . . Society is a 'field of action' but the *source* of all action is in the individuals composing it." [Toynbee (1946), pg. 211]

The granulating effects of the phenomenon of antibonding between mini-Societies within a parent Society have serious consequences for governance that every Society must concern itself with. This is just as true for an industrial mini-Society as for a political Society in which it is embedded. Social-chemistry granulation within any Society leads to manifold possibilities for conflicts of interests that are serious enough to provoke moral secession by its dissatisfied members. The general objects of governance are made objects of governance because: the first explicitly makes Order and Progress for the Society *as a Union* an express expectation for its governance; and the other five pertain to causative effects on this Union. It does not make the least difference if the Society in question is a nation or an industrial conglomerate.

The Critical *Realerklärung* of Society also has deducible implications for the possibility of practical *consensus* democracy *within* a mini-Society. Any person can be motivated by passion for distinction to withhold his consent to some action. It is usual to presume a voting mechanism in a democracy must offer each voter only two choices, viz. "yes" or "no" ("aye" or "nay"). But this presupposition is false because the Quality of a choice is actually threefold: the action is agreed to; the action is rejected; or, the action is *not-unacceptable*. The second of these is a *veto*: "I will-not go along with this." The third is *disagreement without rejection*: "I don't like it, but I will go along with it." ***The spirit of consensus requires only the first or third decisions.*** Consensus implies nothing more than that no voter *veto*es the decision. Indeed, it is this Quality of consensus that underlies the ancient Latin maxim *qui tacit consentire videtur* ("silence implies consent").

The ancient Roman Republic instituted a mechanism of this kind for measures passed by the Roman Senate. The tribunes of the plebs did not vote on measures proposed in the Senate but they did have the power of the tribune's veto. Any tribune could stop a measure passed by the senators by casting a tribune's veto [Durant (1944), pg. 27]. In the U.S. government, a similar function is provided by the court's power of judicial review. Judicial review does not grant the court the power to legislate; it grants it the power to invalidate any act of legislation that contradicts the American social contract as the justices understand this contract. Particularly, judicial review has the proper function of protecting special interests, expressed through civil liberties, that do not contradict the common interests of the Republic or violate its civil rights. It serves to nullify *unjust* laws but leaves it to the legislators to re-craft *just* versions of laws.

The power of veto, however, carries with it its own potential for abuse. An agent of governance might, out of motivation by his own passions for distinction or in service of his own private special interests, choose to exercise his power of veto for reasons not justified by interests of the mini-Community he has accepted an Obligation to serve. Not only is this possible, but, based on empirical evidences, it must be anticipated that some agents *will* commit such malfeasances of office from time to time. This has legal consequences for mechanisms of checks and balances in regard to that time honored clause of "good conduct in office." An abuser of veto power makes himself, by this abuse, an *outlaw*. If he deliberately violates his *oath of office* (which is a species of pledging), he makes himself a deontological *criminal*.¹²

No social contract requires the citizens of any Republic to tolerate the presence of outlaws or criminals in their midst, much less tolerate one holding an office of authority. The natural liberty to be an outlaw is one of the natural liberties a social contract requires all persons to alienate in exchange for their citizenship, their civil liberties, and the protection of civil rights. So it is that mechanisms for counteracting and redressing outlaw or criminal abuses of the power of veto are necessary in every institution of Republican governance of any Society.

¹² These two cases must be distinguished from the case where no abuse is intended and the veto action is an abuse because of a mistake. There are two kinds of deontological moral transgressions. An unintentional transgression is a *fault*; an intentional transgression is a deontological *crime* [Kant (1797), 6: 223-224].

The general objects of Republican governance exist in order to counteract natural social forces which tend to provoke granulation of not only special mini-Communities but also the parent Society in which those mini-Communities are embedded. Without them, these social-natural forces lead to provocations and perpetuations of injustices which, if un-redressed by institution of the systems of governance and management, can and eventually will bring about the fall of the Society that tolerates them. This is why they are pertinent and necessary for governance and management of commercial Enterprises in a system of civic free enterprise.

§ 4. The General Objects in Contexts of Enterprise Management and Governance

The governance of an industrial conglomerate is governance of a special interest mini-Society, and its management system is a system of mechanisms in the service of this governance. There are obvious differences between governance of a nation, state, or city and that of a business. It follows, therefore, that there are differences in context for the general objects of governance.

§ 4.1 To Form a More Perfect Union

A Union is a Society in which the people form a civil association under a social contract with a system of self-governance. In a commercial Enterprise-of-enterprises, the object of forming a more perfect Union is analytically divided into two forms of Relation. Internal Relation pertains to perfecting the Union of its members in regard to their internal relationships and interactions. External Relation pertains to perfecting relationships and interactions between the parent political Society in which it is embedded and the Enterprise as a mini-Society within it.

Perfection, as an Object, is the idea of the entire completeness of or in something. However, human beings have no concept of any ideal that can positively define or determine when something is in a state of *entire* completeness. Human beings can only be cognizant of a *lack* of completeness. *Consciousness* of such a lack arises from disturbances to equilibrium, *i.e.*, from a feeling of *Unlust* denoting a dissatisfaction of some kind. *Cognizance* of a lack of perfection is brought about through involvement of the processes of determining judgment and imagination during cycles of judgmentation as a person gropes to reestablish mental equilibrium. The process brings attention to bear on some object judged to be the source of the disturbance.

Acting to perfect something means: (i) becoming aware of a lack or deficiency; and then (ii) acting to redress that lack by modifying whatever is judged to be lacking or deficient. Perfection *per se* always implies an unattainable ideal (because we can only judge lack of perfection with objective validity) and so perfection *as* acting to perfect is a *process*, never a *destination* one expects to actually reach. The object is therefore a *more perfect* Union, not a perfect Union.

The object of forming a more perfect Union therefore implicates two general requirements. In the first place, it implicates the institution of processes for recognizing and identifying when there is something lacking in the institution of the Enterprise such that: one or more of the purposes of the Enterprise are hindered or thwarted; Order is threatened; or Progress is hindered. In the second place, it implicates institution of ways and means for taking corrective actions aimed at redressing whatever the Enterprise is judged to be lacking, and for doing so without violation of any aspect of either its social contract or that of its parent Society. As the object co-involves the legislative, executive, and judicial functions, all three of these branches must include in their institutions appropriate processes and mechanisms for their roles in acting to perfect the Union.

I think you will find it obvious after only a brief reflection that this object is central to and aimed at something discussed earlier in this treatise, namely, the 2LAR of perfectibility of Enlightened Enterprise. For convenience, this 2LAR is repeated in figure 1. In the interest of brevity in this treatise, I refer you to chapter 9 for review of this structure and its functions.

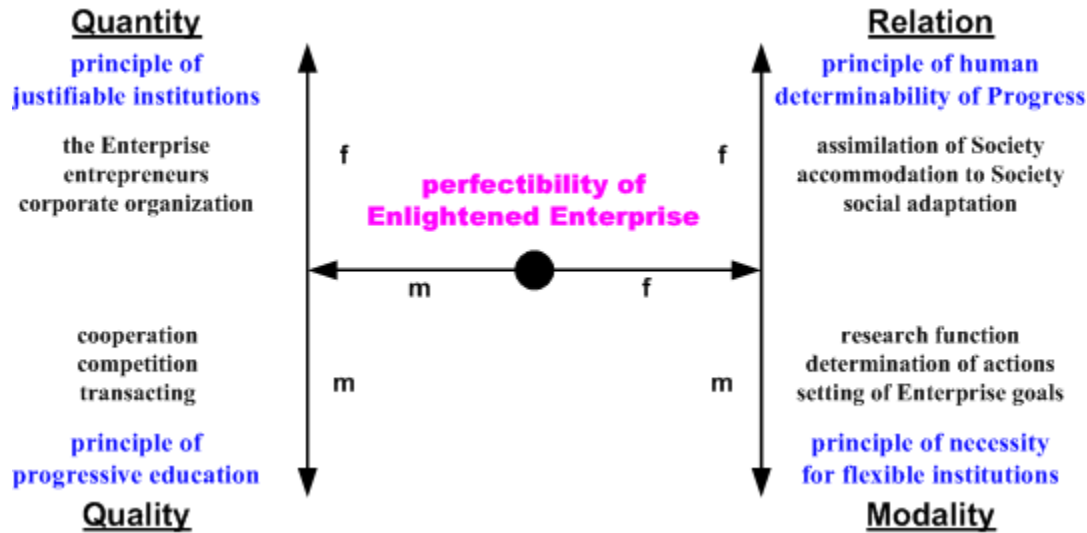


Figure 1: 2LAR structure of the perfectibility of Enlightened Enterprise (refer to chapter 9).

§ 4.2 To Establish Justice

Justice is the negating of anything that breaches or contradicts the conditions of a social contract, *i.e.*, negating anything that is unjust. The principal condition of a social contract is that the association will defend and protect with its whole common force the person and goods of each associate in such a way that each associate can unite himself with all the other associates while still obeying himself alone. Specific civil mini-Communities can and often do add more specific additional conditions to their social contracts. When they do then any breach or contradiction of any of these additional conditions is also unjust.

Now, even if every citizen of an association always acted only with the best of intentions and is faultless in performing his civic Duties, there will still be unjust actions perpetrated from time to time. A person might be unaware of pertinent facts; miscommunications will occur; people will misconstrue other people's meanings or intentions; formal and informal agreements will fail to take into account circumstances that were unanticipated when the agreements were made. Above all, every person's self-constructed *practical* moral code differs in some particulars from those of every other person, and for this reason no two people ever agree *in every particular* on what is right *vs.* wrong or good *vs.* evil. The members of a Society will generally agree on such things more often than not at some level of conceptual abstraction; if they did not then no civil Society capable of enduring would ever be possible at all. But even where at some abstract level there is a general agreement, at deeper levels of *detail* particular disagreements will always be found. There is a profoundly great deal of truth in the idiom, "the devil is in the details." Satisficing decision making and satisficing problem solving compound the situation.

As an illustration, the legal systems in every nation make distinctions of homicide (the killing of one person by another) in terms of *criminal* homicide (homicide prohibited and punishable by law) and *excusable* homicide (homicide resulting from a person's lawful act, committed without intention to harm another) [Garner (2011)]. The distinction is made necessary because of details distinguishing one situation from another *and in the context of a particular Society's mores*. For example, under the Code of Hammurabi in ancient Babylon, if you were a house-builder and a house that you built collapsed and killed the son of the owner, then the law stipulated that *your* son had to be put to death ("an eye for an eye and a tooth for a tooth"). By contrast, in ancient Israel, "The fathers shall not be put to death for the children, nor shall the children be put to death for the fathers; every man shall be put to death for his own sin" [Deuteronomy 24: 16].

It is generally agreed that industrial conglomerates are not allowed to put their employees to death for any reason. The closest thing to capital punishment found in an industrial conglomerate is commercial exile, *i.e.*, an employee can be fired. But even here, U.S. law makes distinctions between dismissal-for-cause and wrongful-discharge. To try to put all this in proper perspective, the Code of Hammurabi is an example of instituted *moral realism*; all that mattered was that a house collapsed, the owner's son was killed, and you built the house. Intentions did not matter; you need not have "sinned" (offended the gods); all that mattered were objective circumstances. In ancient Israel, there had to be a "sin" of some kind involved. But what makes one thing a "sin" and another thing "not-a-sin"? Who judges "sinfulness" vs. "blamelessness"? What makes *this* person a legitimate judge and *that* person not-a-legitimate-judge? Coming down to the present, what is a malfeasance or dereliction constituting a legitimate cause for dismissal and what is not? Who may exercise the legitimate power to dismiss an employee and who may not? and what legitimately gives the power to dismiss an employee to *this* person but not to *that* person? The devil is in the details and no pat "universal" answers can be given to cover every case in every instance. This is why an Enterprise of enterprises *is required to institute a justice system*. It is to this that the object *to establish justice* pertains.

Unjust actions will be perpetrated by some people from time to time. That fact of *perpetration* is not the central problem for the Enterprise; there is nothing anyone can do to about that. What does matter is that unjust actions (injustices) not be *perpetuated*. An injustice is perpetuated if no redress of the harm that was done is forthcoming. Injustices are *institutionalized* if the workings of the justice system tolerate perpetuations of injustices. A legal system is not the same thing as a justice system. The latter pertains *immediately* to the social contract; the former is merely a provision of divers rules, processes, and mechanisms aimed at realizing the latter. A *just* legal system never stands closer to the social contract than in a *mediate* relationship. Both are capable of being made more perfect, but if the Enterprise's social contract is well constituted and understood by the membership, it can be reasonably anticipated that its legal system will be discovered to be more imperfect than its justice system because laws involve more details than mores do.

A deontological *transgression* is any deed contrary to duty. Transgressions are analytically divided into: (i) deontological *faults* (unintentional transgressions); and (ii) deontological *crimes* (intentional transgressions). Faults may generally be expected to occur more frequently than crimes if in fact the Enterprise is not granulating into antibonded mini-Communities. A fault does require redress of whatever unjust effects resulted from it, but generally does not call for punitive action against the transgressor beyond whatever might be required of him to redress the injustice.

A crime also requires redress, but in this case punitive action against the transgressor *is* called for. A crime is not merely an injustice perpetrated on a particular victim but, rather, must be regarded as having been perpetrated *on the general civil Community* of the Enterprise. This is because a criminal action demonstrates willingness on the part of the perpetrator to violate the social contract and thereby demonstrates lack of true allegiance to the Community. The action is *antisocial*. If no penalty is applied, this lack of consequences for a criminal action poses a direct threat to the confidence citizens can have that the protections and securities promised by their Community can be relied upon. It thereby weakens their allegiance to it because all *social* Duties are *grounded* in Duties-to-Self. It is for this reason that a crime perpetrated against *one* citizen must be regarded as a crime perpetrated against *all* citizens. If you wish to summarize this in a proverb, I can think of no better one than "as you did it to one of the least of these my brethren, you did it to me" [Matthew 25: 40]. A member of an Enterprise cannot *justly* be penalized for perpetrating a fault; he *must* be penalized for perpetrating a crime. Indeed, this is why people speak of a criminal's punishment as "paying his debt *to society*."

One shouldn't think this simple summary is simple to reduce to practice. For example, suppose a particular entrepreneur, admitted to the Enterprise to provide whatever service his enterprise

involves, demonstrates an incompetent practice of his craft? His job does carry an expectation of authority, namely that he can provide the economic service for which he was admitted to the Enterprise's civil Community. Competent execution of his craft is, therefore, an implied Duty he consents to by his acceptance of employment. But under what conditions is a particular instance demonstrating a lack of skill to be judged a *crime* rather than a *fault*? If the new box boy at your grocery store puts too many things in your grocery bag and it rips open as you are carrying it to your car, should the box boy be fired immediately? If you put down \$20 for airport parking on a business trip when the actual amount was \$17.89, should you be fired for filing a false expense report? If you are a project manager and you turn in an estimate that the project will take two years to complete and cost \$2 million to do, should you be fired if it isn't done after 2 years and four months, or if it is done in two years but cost \$2.9 million? And should you be held personally liable for that extra \$0.9 million cost overrun? If you are an attorney with Dewey, Cheatum, and Howe and you lose a big case, should you also lose your job? The devil is in the details. By the way: if you answered either "yes" or "no" to any of these questions, you have a great deal to learn about *justice* and the need to distinguish it from moral realism.

Some argue that imposition of a deontological justice system hinders the liberty of managers to downsize the company, outsource jobs, impose layoffs, effect mergers, spin off divisions, or take other actions frequently effected by Taylorite managers. Yes, it does. Managers are not owners of the company; they are hired help. Actions such as these are *natural* liberties, not *civil* liberties. Under monarchy/oligarchy rulership, there is no social contract in effect between a corps of Taylorite managers and the rest of the company's wage laborers; the company is not an Enterprise or even a civil Community; it is an ongoing perpetration of uncivic free enterprise. *Tolerance* of it in a Republic is uncivic and undermines the parent Republic in which it operates. Counterarguments against institution of a deontological justice system are at the same time arguments against the institution of civic free enterprise, and they are Un-American arguments.

To establish justice in an Enterprise of enterprises is not an easy thing to do. There is no one-size-fits-all formula for a justice system because circumstances differ so widely in Enterprises.

§ 4.3 To Insure Domestic Tranquility

In Oxford on the evening of February 10th, 1355, a few students drinking in a local pub began complaining about the quality of the wine and throwing bottles and glasses at the landlord. His friends jumped in and soon an armed mob of townspeople attacked the university. This turned into a three day riot, during which at least one student was murdered, others were scalped, and the scholars of Oxford were driven out of the town [Pedersen (1997), pg. 186]. Clearly it seems there must have been some pre-existing friction between "town" and "gown" simmering in Oxford prior to February 10th in order to turn simple hooliganism in a pub into a deadly general riot.

In 1877 the railroads operating the four great trunk lines in the eastern U.S. announced a ten percent wage cut for their employees. Without union organization, the railroad employees went on strike. They were supported by a huge mob of unemployed, hungry, and desperate people and the strike turned into a rebellion of sorts that produced turmoil in every large industrial center from the Atlantic to the Pacific. Full scale pitched battles were fought in Baltimore, Pittsburgh, Martinsburg, Chicago, Buffalo, and San Francisco. Scores of people were killed and millions of dollars in property damage resulted [Morison & Commager (1930), pg. 708].

These incidents plus innumerable others erupted seemingly from out of nowhere. What they all have in common is that they were violent demonstrations of lack of domestic tranquility.

What is 'tranquility' and what is 'domestic tranquility'? Critical real-explanations of both terms were previously presented in Wells (2010), chap. 6. *Tranquility* is a *state of mind that results*

from being sufficiently satisfied in relationship to one's general state of life and desiring nothing more or different in this relationship. Tranquility *per se* is therefore a state pertaining to individual persons.

Domestic tranquility is collective tranquility in the members of a Society insofar as this tranquility pertains to the social Molecule within the Society's body politic. It can be called a mood of the general membership of a body politic that results from its membership-at-large being satisfied enough in their relationships to the general state of life in their Society that they desire nothing more or different in this relationship. It is a mathematical term denoting affective tendencies within the population or a subpopulation of a Society. An individual is aware when his own state of mind is tranquil or not, but the concept of domestic tranquility is of such a nature that it is known only by its *lack* being made evident by actions of individuals and groups of individuals that are of a restive nature.

Lack of domestic tranquility, whether it is manifested in people's behaviors or not, is always a threat to Order in the Society or mini-Society in which it is present. Breakdown of Order renders a commercial mini-Society unable to serve the goals of its members and, as the examples noted above clearly show, such a breakdown often has a tendency to spread to other mini-Societies because of the connections and transactions that exist among different mini-Societies. A lack of domestic tranquility is a situation immediately affecting the leadership dynamic of any group and, for this reason, to insure domestic tranquility must always be an object for all agents of governance and management in any industrial conglomerate.

When such a lack manifests itself as a breakdown in Order, this manifestation is almost always the product of situations and circumstances that existed before the breakdown erupted. During this preparatory period, the state of untranquility can be and often is invisible or nearly so because its warning signs are typically not themselves actual breakdowns of Order. In addition, there is a strong human inclination to ignore and deny signs that any such breakdown is building up. The railroad managers whose wage cut decision provoked the breakdown of 1877 appear to have been quite unaware that their decision was going to provoke the reaction that it did. It is not possible to realize of object of insuring domestic tranquility when the agents of management and governance do not know about, or ignore, developing untranquility in the body politic. Within an industrial conglomerate, signs of untranquility include such things as work slowdowns, drops in the quality of its goods or services, absenteeism, increases in petty theft (*e.g.*, of office supplies), rising expense account cheating, and declining creativity or initiative in the workforce.

It follows from this that to insure domestic tranquility requires institution of a system for on-going monitoring and assessment of the moods of the Society's body politic. Furthermore, recognizing and assessing signs of untranquility is not enough to realize the object. There must in addition be mechanisms instituted by which agents of management and governance are compelled by the Duty of their offices to redress whatever legitimate grievances people have that produce a lack of domestic tranquility. Thoreau put it this way:

How can a man be satisfied to entertain an opinion merely and enjoy it? Is there any enjoyment in it if his opinion is that he is aggrieved? If you are cheated out of a single dollar by your neighbor, you do not rest satisfied with knowing that you are cheated, or with saying that you are cheated, or even with petitioning him to pay you your due; but you take effectual steps at once to obtain the full amount, and see that you are never cheated again. Action from principle – the perception and performance of right – changes things and relations; it is essentially revolutionary and does not consist wholly with any thing which was. It not only divides states and churches; it divides families; aye, it divides the *individual*, separating the diabolical in him from the divine. [Thoreau (1849), pg. 7]

It is important to always bear in mind that grievances serious enough to contribute to a trend

towards breakdown of Order are grievances that are grounded in people's Duties-to-themselves and have a connection to their individual moral codes. This is why on some occasions lack of domestic tranquility is manifested by violence and commissions of enormities.

Anyone who spends more than a trivial amount of time as a manager becomes familiar with employee grievances in divers situations. They occur from time to time in every organization of every size. How do most organizations deal with them? The most typical case is the one in which the organization relies entirely on indefinable "people skills" its managers are supposed to have and use in dealing with employee discontent. If he succeeds, he 'has people skills'; if he doesn't, he 'lacks people skills'. The organization does not institute mechanisms to insure grievances get a hearing with redress for legitimate grievances. In Taylorite organizations the closest thing there is to any such system is usually higher-placed managers in the pyramid threatening lower-placed ones with sanctions if the latter manager "cannot handle the problem." This is more or less tantamount, if you were working for me, to me making a stupid decision and then blaming you for it being a stupid decision. How dare you lack the skill to make the stupid not-stupid? One also often finds an attitude of contempt for grievances; managers speak of "stroking" employees, "spinning" bad news, or "making attitude adjustments." The rank-and-file often react with cynical expressions of gallows humor, *e.g.*, "The firings will continue until morale improves"; "If you want it bad, you get it bad, and the worse you want it the worse you get it."

I have never known of any Taylorite CEO accepting any blame whatever for any grievances that have been systematically produced by his management of the company. The self-defensive phrase one often hears used is "misplaced confidence in a subordinate" – a phrase that implicates a satisficing shifting of any blame for any employee discontent onto the shoulders of underlings in the hierarchy. I know of one CEO of what was at the time a Fortune 500 company who, just a few years ago, was angered by an employee opinion poll that came back saying the corporation's employees were not happy working there. He responded by threatening to fire the "malcontents" rather than with any effort whatsoever to find out why employees felt this way. The only word I have to describe this CEO as a manager is "putz." Unfortunately, he is typical of Taylorites.

In a minority of cases, grievances arise from interpersonal disputes between individuals. In the majority of cases, though, there are systematic conditions in the industrial conglomerate and its organization that provoke grievances. Lack of an effective justice system produces further discord by perpetuating these conditions. Institutionalized sources of grievances are the most important ones Enterprise governance and management must be designed to be able to deal with. The very fact that the grievances arise from the way the system operates is what makes it necessary to have specific mechanisms designed to not only identify and redress particular grievances but also to identify and redress whatever is systematically producing them. These are judicial functions of Enterprise governance and so belong to its judicial branch. These mechanisms must be designed so that a number of factors are competently dealt with. Among these are:

- insuring the removal of financial and educational barriers that impede or suppress civil petitioning for redress of grievances;
- removal of prejudicial or customary barriers to evaluation and judgment of grievances by judicial agents of government;
- insuring a just resolution of legitimate grievances according to the ultimate standard of the Enterprise's and parent Society's social contracts¹³;
- distinguishing between clear and present issues of health or safety, which require

¹³ It must be recognized that not every grievance a member or even a mini-Community might voice is necessarily a legitimate grievance when viewed in relationship to the social contract.

immediate actions, and those pertaining to the general objects of governance, which will more often require time for reflection and the refinement of ideas before a just redress is possible;

- distinguishing and treating between those grievances that arise from private interests, which are not necessarily pertinent to the common interests even when they are just, and those which, despite initial appearances, are matters affecting the common interests of the Enterprise and/or its parent Society;
- insuring that redress pertinent to any one of the six general objects of governance is not carried out in a manner contrary in any way to any of the remaining objects, and that governance and management are at all times faithful stewards of *all six* of the general objects; the *objects* do not conflict, but *mechanisms* for managing and governing might inadvertently conflict because of the design of the system;
- distinguishing between matters of legal ethics vs. matters of civil ethics¹⁴;
- insuring domestic tranquility within a civil Community made up of many sub-Communities, especially when these sub-Communities have potentially opposing special interests.

To these factors it must also be noted that the most serious matters concerning the insurance of domestic tranquility will often be precisely those arousing the greatest passions and conflicts between people's opinions. This is because these matters bear relationships to people's private moral codes and in this way have bearings upon different people's Obligations-to-Self.

Ceteris paribus, different specific mechanisms can be equally well instituted for meeting the object of insuring domestic tranquility; but all is not equal when comparing a small business to a large corporation. What suits a large Enterprise can be very unsuitable for a small one. What suits one Community's culture does not necessarily suit another's. The judicial mechanism design must take these practical factors into account. However, it is important to constantly bear in mind that a mechanism of *non-consensus* democracy can never be an ultimately just mechanism, although a mechanism of *consensus* democracy can within small and specific mini-Communities. More generally, once the Enterprise becomes too populous for *Gemeinschaft* governance to work, only Republican methods can be made suitable. Non-consensus democracy is too fatally idiosyncratic to accomplish the object. Something Emerson wrote is pertinent in this context:

In dealing with the State, we ought to remember that its institutions are not aboriginal, though they existed before we were born; that they are not superior to the citizen; that every one of them was once the act of a single man; every law and usage was a man's expedient to meet a particular case; that they are all imitable, all alterable; we may make as good: we may make better. Society is an illusion to the young citizen. It lies before him in rigid repose, with certain names, men, and institutions rooted like oak-trees in the center, round which all arrange themselves as best they can. But the old statesman knows that society is fluid; there are no such roots and centers; but any particle may suddenly become the center of the movement and compel the system to gyrate round it . . . But politics rest on necessary foundations and cannot be treated with levity. Republics abound in young civilians who believe that the laws make the city; that grave modifications of the policy and modes of living, and employments of the population; that commerce, education, and religion, may be voted in or out; and that any measure, though it were absurd, may be imposed on a people if only you can get sufficient votes to make it a law. But the wise know that foolish legislation is a rope of sand which perishes in the twisting; that the State

¹⁴ For example, obedience of a just law is a duty freely assumed by the citizen and is a matter of legal ethics; civil disobedience of an unjust law is likewise a citizen's duty, but a duty pertaining to civil ethics.

must follow, and not lead the character and progress of the citizen; the strongest usurper is quickly got rid of; and they only who build on Ideas build for eternity; and that the form of government which prevails is the expression of what cultivation exists in the population which permits it. The law is only a memorandum. [Emerson (1844), pp. 175-176]

Though the specific mechanisms for realizing the object may vary from one Enterprise to another, and even within the same Enterprise at different times in its *Existenz*, all mechanisms must require two fundamental functions necessary for the possibility of success. First, there must be a function by which the individual can express his grievance and petition for redress. Second, there must be a function for compelling management and governance to take steps appropriate and expeditious to carry out the judicial ruling. Taken together, these functions institute as their prime objective ***mechanisms for constant surveillance, assessment, and updating of the effects of existing policies and laws, and for assessing and understanding evolving needs for new policies and laws.*** Good management and governance systems must be made capable of self-improvement, which is to say they must satisfy the Enlightenment principle of flexible institution.

The first mechanism I call ***a process for the Petition of Right.*** This term, "Petition of Right," is borrowed from English law, under which a subject cannot sue the Crown but can petition for redress of a grievance. The order issued in grant of the petition by the English government contains in it a significant phrase: *let right be done*. Not 'law'; not 'custom'; *right*. It is not enough that governance or management be obliged to control itself; the civil corporation *en masse* must also learn to control *itself*, to counter the emergence and also the over-long continuation of folkways that have become injurious to the social compact.

A Petition of Right is useless unless there is a qualified body to receive it and to judge of its merits in relationship to the social contract. This leads to two further mechanisms. The first of these is ***an established system of Boards of Right to receive and judge the legitimacy and merit of Petitions of Right, and to insure such boards are empowered to render the best independent judgments of legitimacy and merit.*** Note carefully that the phrase is Boards of Right, not Boards of Rights. The judgment required of these Boards is a judgment of what is *right* under the social contract, not a judgment of this or that *civil* right. What is *right* depends on what is necessitated in order to satisfy the common interests of a mini-Community or of the Enterprise overall.

The independency of a Board of Right creates an important requirement that must be met as a qualification for each of its board members, and this requirement in turn necessitates the second mechanism for the institution. It is: ***insuring that agents appointed to serve on Boards of Right are qualified, capable, and committed to act as civically moral judges of petitions.*** Here the ideas and arguments concerning the makeup of Boards of Right are similar to those discussed earlier in regard to members of the judiciary. If board members give favoritism to special interests over common interests, if they are not sober in the exercise of their judgments, or if they are beholden to any other group within the Enterprise for the satisfaction of their own private interest benefits, then the system will be soon corrupted and become a rubber stamp for despotism instead of a guardian of justice. This implies that board members are selected, not elected, and that the selection should be made by a special tribunal whose sole function is to identify people of merit in whose hands the judicial function of a Board of Right can be entrusted.

Finally, no system of Boards of Right can be effective for insuring domestic tranquility if its rulings are impotent. At the same time, it is ill-advised to vest the power to enforce rulings in the same body holding the power to make rulings. This is for precisely the same reason that the judiciary of the general government was not granted enforcement power to accompany its judicial function. Matters of right are, in the most important cases, not matters of constitutionality but, rather, matters of either *deficiency* of law, *excess* of law, or *imbalance* of law. This is because the institution of statements of specific civic duties in the particular is, when all is said and done,

what any legal system is intended and purposed to accomplish. Cicero wrote,

True law is right reason in agreement with nature; it is of universal application, unchanging and everlasting; it summons to duty by its commands, and averts from wrongdoing by its prohibitions. And it does not lay its commands or prohibitions upon good men in vain, though neither have any effect on the wicked. [Cicero (c. 54-51 BC), Bk III, pp. 210, 211]

The nature Cicero's 'right reason' agrees with is human nature. His 'true law' is "universal and unchanging and everlasting" if and only if and only to the degree in which the law's authors have correctly judged and understood human nature. This, then, is an Ideal and a direction in which the judiciary, the legislator, and the executive must all strive to aim. This means that actual management and actual governance must try and fail and try again, perfecting their systems as they go.

A judgment of legitimacy of grievance necessarily implies a clarification of civil liberty and civic duty in producing a redress of the grievance. However, this redress of grievance cannot be merely particular because the issue involved is one of social compact. Thus, while the system of Boards of Right by its judgment *demand*s redressing action be taken (a writ of mandamus¹⁵), the responsibility and duty of *legislating* the redress must fall to the legislative branch of government, and the duty of enforcement must fall to the executive branch. This necessitates one last mechanism of implementation: ***a process of mandamus whereby judgments of right are made actual in civil law by legislative action and enforced by executive action.***

At the same time, however, to insure action it must remain within the purview of the judiciary to insure that the legislative and executive branches do not fail to carry out their duty under the general object of insuring domestic tranquility. The judiciary must not be allowed to legislate or to enforce, but it must be allowed to mandate legislative or executive action in an effective and *timely* manner else this entire mechanism becomes toothless. The intent of the institution is not to weaken governance or management but to energize their self-improvement as a mirror of the Community they govern and manage. Thoreau wrote,

Unjust laws exist: shall we be content to obey them, or shall we endeavor to amend them, and obey them until we have succeeded, or shall we transgress them at once? Men generally, under such a government as this, think that they ought to wait until they have persuaded the majority to alter them. They think that, if they should resist, the remedy would be worse than the evil. But it is the fault of the government itself that the remedy is worse than the evil. *It* makes it worse. Why is it not more apt to anticipate and provide for reform? Why does it not cherish its wise minority? Why does it cry and resist before it is hurt? Why does it not encourage its citizens to be on the alert to point out its faults, and *do* better than it would have them? [Thoreau (1849), pg. 7]

This mechanism must be available to every citizen without barrier of any kind.

§ 4.4 To Provide for the Common Defense

If the concept of common defense pertained solely to military defense then this could not be an object of Enterprise management and governance. Private citizens alienate the liberty to engage in military defense actions to the control and governance of the political institution while at the same time accepting a Duty to serve in the armed forces of the nation when called upon to do so. All able bodied male U.S. citizens between the ages of 17 and 45 years who are not serving members of the armed forces of the U.S. or the National Guard are members of the unorganized

¹⁵ A *writ of mandamus* is a writ issued by a judge in the name of the Sovereign of the Republic or other competent legal authority commanding a public agent to do his duty either by doing or refraining from doing some specific action.

militia of the United States (U.S. Code Title 10 §311). It is beyond reasonable doubt that the Framers of the U.S. Constitution had the common *military* defense in mind when this object was placed in the Preamble.

Generally however, *to defend* means *to prevent from being injured or destroyed*. There are a number of things that potentially threaten any industrial conglomerate and the people who work there with injury or destruction. Hazardous or unsafe working conditions threaten physical injury to individuals who work there. Illegal actions such as arson not only threaten the physical safety of people but injures their economic welfare as well. Physical violence in the workplace threatens the people who work there with injury or even death. Theft of physical, monetary, or intellectual property items injures an Enterprise and the welfare of its members economically. ***Business competition*** is the most obvious and foremost threat of injury to the economic welfare of every member of the Enterprise. The object *to provide for the common defense* therefore is pertinent to management and governance of an Enterprise when the concept of 'common defense' is viewed in this more general perspective.

The threats just noted, and others as well, are all recognized in varying degrees in the United States today, but it has not always been so in the history of uncivic free enterprise. Indeed, defense of *all* the citizen-members of an industrial conglomerate from injuries to their general economic welfare is one area where the U.S. and individual states' legal codes still lack adequate recognition. Instead, the laws of the United States and the individual states are still structured around the old notions of monarchy/oligarchy ownership that characterized the aftermath of the Economy Revolution in the U.S. from 1750 to 1800 [Wells (2013), chap. 5]. The U.S. Economy Revolution began before the American Revolution against British rule and before the birth of the American Republic, so it is not too especially surprising that the traditions and suppositions that went into U.S. acts of legislation after the Revolutionary War should have favored antisocial traits of monarchy/oligarchy ownership and their attending prejudices which act to the disbenefit of wage laborers. Salinger was correct when she said the Economy Revolution resulted in the collapse of a "moral economy" that had prevailed in the American colonies prior to the Economy Revolution [Salinger (1987), pg. 162-163].

To cite a specific example, there is no law in the U.S. that prohibits the management of a corporation from relocating its plants and facilities somewhere else in order to lower the wages of labor. Such moves are usually accompanied by terminating the employment of most of its wage laborers¹⁶ at the original locality. No law places any responsibility *on the corporation* for the economic welfare of those who are laid off. Indeed, since the 1930s laws concerning things like temporary unemployment benefits have been made the responsibility of the general government – which is to say that laws of uncivic free enterprise adroitly reward the personal special interests of corporate officers by shifting the entire cost of unemployment resulting from their decisions to the general taxpayer. How does it sit with you knowing that *you personally* (through your taxes) are made to pay for disbenefits to the general Welfare resulting from plant relocation decisions of corporate managers? Will you choose to call this *justice*? I remind you that the fundamental condition of any social contract requires the Republic to *defend and protect with its whole common force the person and goods of each citizen*. This means you cannot just say, "Well, the problem would go away if we just got rid of unemployment benefits. The people who were laid off will just have to make it on their own." That is the attitude of an *outlaw*, not a *citizen*. In an American Republic electing this action is tantamount to deliberate dereliction of a citizen's Duty and is therefore a deontological *crime*. It is not contrary to Duty to require that those who cause an injury compensate those who are injured.

¹⁶ Typically the CEO and other "top" managers in a corporation exempt themselves from layoffs and wage cuts. Their state-of-nature character of monarchy/oligarchy corporate governance could not be more clear.

To cite another example, an act of Congress establishing an Occupational Safety and Health Administration (OSHA) was signed into law by President Nixon on December 29, 1970. OSHA was established because a great many monarchy/oligarchy rulers of industrial conglomerates refused to protect the health and safety of the conglomerates' wage laborers. The purpose of OSHA is "to assure safe and healthful working conditions for working men and women by setting and enforcing standards and by providing training, outreach, education, and assistance." I can remember loud, aggrieved howls of protest from the so-called "business community" and from reactionary politicians at OSHA's creation. Many industrial conglomerates, grudgingly or not, did conform with OSHA standards; but many did not and many quietly relaxed or dropped their compliances later. The U.S. Congress aids and abets this lack of compliance by understaffing and underfunding the agency. In 2012, OSHA had approximately 2,400 inspectors responsible for inspection and enforcement at 8 million workplaces employing about 130 million people. OSHA's enforcement powers are limited to citations and fines, and the maximum fine for egregious repeat offenses is \$70,000 – a drop-in-the-bucket expense for large corporations. In point of fact, OSHA is a toothless agency, rendered so by the same uncivic attitudes of monarchy/oligarchy ownership responsible for manifold injustices perpetuated under uncivic free enterprise.

People who point to the staggering costs that would have to be incurred to give OSHA legal teeth are correct: the cost would be huge and the effectiveness of a centralized agency, with the typical Taylorite management that almost always goes with it, is dubious. Lack of criminal penalties for the *individuals* whose decisions produce or tolerate unsafe or unhealthy workplaces also thwarts the intent of the OSHA legislation. All this is because, ultimately, management and governance of an industrial conglomerate has no real incentive to make the common defense of employee safety and health an object of their management or governance. This is another of the perpetuated injustices born of the U.S. Economy Revolution and the habits and traditions that developed out of it. The situation is analogous to the previous example and I could ask you an analogous question: How does this sit with you knowing . . . ? Would it not be just to expect and require Republican governance and management of an Enterprise to be legally and morally responsible (deontologically) for defense against safety and health threats its own institution of its practices raises? to require this object as part of the constitution of a Republican Enterprise-of-enterprises under a system of civic free enterprise? to make this an expectation of authority for every officer of the Enterprise? and for the parent Society to hold the office holders *personally* responsible for making good-faith efforts to meet this object? Such an establishment of *justice* in a system of civic free enterprise establishes *distributed* inspection and enforcement of the function compatibly with an organization of non-Taylorite *heterarchy*. Is OSHA's "mission" important? Yes. Is a centralized agency like OSHA a practical means of accomplishing this mission? No. The concept of OSHA suffers from the same habits of thinking that prop up and perpetuate monarchy/oligarchy rulership in uncivic free enterprise and fails for the same reason.

The most obvious – and, for a commercial Enterprise, foremost – threat of injury to an Enterprise and its members is business competition. Business competition is the social dynamic of interacting commercial activities carried out by business competitors. The concept of business competitors is the concept of two or more sellers attempting to sell to the same buyer in circumstances such that only one of the sellers is able to actually conclude a commercial transaction with the buyer. Engagement in business competition is a civil liberty of entrepreneurs and their associations, but there is no civil right granted to them guaranteeing success or shielding them from consequences of the exercise of this liberty. To choose to engage in business competition is also and at the same time to choose to risk injury to one's own economic welfare. This is why any prudent businessman prefers to be a monopoly supplier of the goods and services his business offers to consumers. Lack of competitors implies lack of competition risk.

Every capitalist entrepreneur and every *competent* manager-entrepreneur knows defending the

business against injury from business competition is an object of management. If more of them also thought about managing a business in terms of governing an Enterprise, I think it likely they would also see defense against injury from business competition as an object of *governance*. Defending one's business from injury by competition is not a controversial issue and any manager who neglects it is correctly judged to be incompetent. The subtle point, and one around which *civic* free enterprise revolves, comes from regarding the object in terms of *common* defense – defense of the economic welfare of *all* the members and not just an elite few who comprise a ruling class. Furthermore, *the common defense of an Enterprise from injury due to business competition is a civic Duty of all its entrepreneurs*. Just as it is a Duty of every American citizen to answer a call to defend the nation militarily, so too it is a Duty of citizenship in an Enterprise to answer its call to defend it against business competitors. The economic welfare of the entire membership depends on economically defending the Enterprise successfully.

Industrial conglomerates undergoing internecine antibonding granulation into so-called 'labor' and 'management' factions are conglomerates undergoing disintegration. In them the object to provide for the *common* defense against business competition is abandoned. Dereliction of this *civic* Duty leads to each developing faction defending its own membership and abandoning that of other factions. At that point, the conglomerate is dead as a civil Community, and as a Society it faces an imminent threat of becoming a fallen Society. To *compete* in business is a civil liberty of every citizen of a Republic, but there is no civil right to *succeed* in business granted under a Republican social contract. Citizens *individually* have a civil right to expect the political Republic to protect and defend their persons and goods, *but a business entity is not a political citizen and has no claim to this civil right*. If I set myself up in business as a plumber but I turn out to be an incompetent plumber – and I am – I have no legitimate grievance if competent plumbers out-compete me by means of deontologically ethical practices and I am forced to go out of business.

Similarly, suppose I am admitted to membership in an Enterprise as a wage-laborer entrepreneur whose personal enterprise is to, say, keep the company's books. If I turn out to be an incompetent bookkeeper who does not deliver the economic service I was hired to provide, then I have no legitimate grievance if I am subsequently exiled from the Community (*i.e.*, if I am fired). *Deontological citizenship is never an entitlement*; it always is purchased by fulfillment of civic Duties – competent bookkeeping in this example. A civil Enterprise-of-enterprises is under no Obligation to weaken its common defense against business competition by harboring individuals who cannot or do not competently provide the economic service they *pledge* to provide *by the act of accepting employment in specific jobs*. Just as there is such a thing as unjust termination of employment, there is also such a thing as unjust continuation of employment.

Providing for the common defense against business competition sometimes justifies the hiring of short term employees to augment the labor force the Enterprise's long term employee members provide. However, employment of short term employees raises a number of issues concerning the next object of Enterprise management and governance. The general objects cannot be allowed by the management or governance of an Enterprise to come into conflict with each other, and it is the Duty of the Enterprise's agents of management and governance to satisfy *all* of them at *all* times. With this in mind, let us turn to the next general object.

§ 4.5 To Promote the General Welfare

The term "welfare" means the state of being or doing well in life. The condition of being or doing well, however, can only be negatively judged and this judgment is in terms of feelings of *Unlust*. There is no *real* object corresponding to a concept of a highest state of welfare; a human being does not perceive his own state of welfare. He affectively perceives *lack* of it and this perception is disturbing to his state of equilibrium. In groping for reequilibration he is able to

become cognizant of *connections* between his state of not-welfare and objects he judges to be causing hindrances to satisfaction of his welfare self interests. He will take actions on the basis of this cognizance in order to try to negate these hindering speculated-causes.

Because an Enterprise is a mathematical object, it is incorrect to say the Enterprise *per se* has a state of welfare. However, an Enterprise is composed of its members, each of whom does. Like domestic tranquility, one can conceptualize an overall mathematical state of welfare for an Enterprise as an Object understood in terms of the welfares of its members. This Object is called its Welfare, *i.e.*, that which is said to be in or possess welfare. **Promoting the general Welfare** means *managing and governing to promote a state of being or doing well as the condition of health, prosperity, and happiness for each citizen in the Enterprise Community*.

The citizenry of every industrial conglomerate always has one or more capitalist entrepreneurs in its membership (as proprietors, non-proprietors, or both), and it also has wage-laborer entrepreneurs in its membership (or it would not be a conglomerate). Furthermore, any member at any time might "wear two hats" – one as a capitalist entrepreneur, the other as a wage-laborer entrepreneur. When a person is regarded *in the role* of capitalist entrepreneur, the measure of his *economic* welfare stake is the capitalist's equity in the firm. When a person is regarded *in the role* of wage-laborer entrepreneur, the measure of his *economic* welfare is his wages. (The concept of "wages" includes the concept of a "salary" paid for a labor service provided). In the role of capitalist entrepreneur, a person *is not* said to be "employed" by the firm. In the role of wage-laborer entrepreneur, the person *is* said to be "employed" by the firm. The roles primarily are distinguished by the concept of "employment" and so it is important to properly understand this term and others intimately related to it.

Employment is the state or condition of laboring in exchange for wages. An **employee** is an entrepreneur who contracts with an employer to provide labor services in exchange for wages. An **employer** is a person or corporate person who contracts with an entrepreneur for the performance of labor service *as an inner part of the operation of a business* in exchange for payment of wages. If you are an employee in an industrial conglomerate that has no proprietor capitalist (for example, General Motors), your employer is an artificial person ("General Motors") and there is no *real* person who is your employer. A proprietor who is also an employee is *self-employed*.

If you are an employee in an industrial conglomerate that does have a proprietor capitalist, then the proprietor capitalist – a real person – is your employer. This is because, as a proprietor, that person *possesses rightfully* the power to decide who can and who can not have access to and utilize those wealth assets of the business that he possesses rightfully. An example of this is Wells Heating and Air Conditioning LLC, a privately held company in Iowa. Its proprietor is a man named Brent Wells. Mr. Wells is the employer of all the employees working in this business.

This does not mean your employer necessarily holds monarchical authority, and in a civic Enterprise-of-enterprises *he does not*. In a civil Enterprise the contract you and *the Enterprise* enter into jointly *must* specify a social compact as well as wage-service compact. Wages are paid from the wealth assets *of the business*, and this means your wages do not come from *the employer's* wealth assets¹⁷ (see chapter 2 to review the deontological concepts of possession, property, and ownership). Contrariwise, if the business is governed by monarchy/oligarchy then your wages do come from the employer's wealth assets, he (or it) is the "master" of the business as well as your employer, and he (or it) is personally subject to particular legal liabilities.

If you contract with a private individual to perform some labor service – let us say you

¹⁷ In a civil Enterprise that is also a proprietorship under Republican governance, deontological justice requires that the proprietors be legally granted limited liability, such as is enjoyed in limited liability corporations, in exchange for their alienation of certain powers and liberties of control and rulership.

contract with me to mow my lawn – then you *have an employment* but I am not your employer and you are not my employee; I am your *customer* because having my lawn mowed is not a *business* operation for me even if mowing lawns is part of the operation of *your* business. I do not, and do not intend, to make any profit from having my lawn mowed. You are my *supplier* of a labor service. The wealth assets I spend on having my lawn mowed come out of my *consumption revenue*. Such are the subtleties in the concepts of employment, employer, and employee.

A deontologically important logical division is contained under the concept of employee. This is the logical division between a long term employee and a short term employee. A **long term employee** is an employee whose labor service contract has no definite duration in terms of either calendar duration or task-specific duration preset at the time of the original contracting for his labor services. A **short term employee** is an employee whose labor service contract has a specific duration in terms of either calendar duration or task-specific duration preset at the time of the original contracting for his labor services. A short term employee is not the same thing as a part time employee. The latter term refers only to the amount of time per day or week an employee spends performing his labor services in comparison to a full time employee (whose working time meets a convention for "full time" work, currently 40 hours per week). A long term employee can also be a part time employee; a short term employee can also be a full time employee.

An employer who employs short term employees is called a **hire-and-fire employer**. The logical division between long term and short term employees marks an important distinction involving relationships with concepts of corporate citizen status and civil rights in a commercial Enterprise-of-enterprises. At the same time, it also pertains to realization of the general welfare of the Enterprise and it has implications and consequences for the objects of insuring domestic tranquility within the Enterprise, its common defense, and its establishing of justice.

Employment of short term employees can be justified under particular circumstances by the objects of providing for the common defense against business competition or of promoting the general Welfare of the Enterprise (or both). However, as soon as short term employees are admitted to an Enterprise, its civil management and governance is confronted by challenges that go to the core of its agents' abilities to maintain the Enterprise as a *civil* Community. Challenges are presented that pertain to the internal civility of the Enterprise as well as to its external civility as a corporate citizen of the parent Society. For this reason, every decision to employ short term employees is a decision of the most serious sort and a wise manager will never make it lightly or fail to consider its effects on the corporate culture of the Enterprise.

Issues pertaining to promoting the general Welfare are never simple, but those pertaining to capitalist entrepreneurs and long term employees are slightly less vexing than those pertaining to short term employees. Accordingly, I begin with these.

§ 4.5.1: Capitalist Entrepreneurs. With a few exceptions (usually limited to non-employer small business enterprises), businesses depend on capitalization (investment of capital) for their establishment and, not infrequently, for their early growth. Therefore capitalist entrepreneurs are always numbered among the members of a commercial Enterprise (table 1).

The capitalist entrepreneurs are real individuals, and in the majority of business establishments these individuals frequently become the company's proprietor capitalists and deontological owners of particular assets of the business (*i.e.*, its land, building, initial furnishings, initial tools and machines, etc.) without which the business would not be able to operate. These individuals are also usually the employers of the business's initial wage-laborer entrepreneurs. There might be more than one of them, as is the case in many partnership establishments. In a minority of cases – especially those where the business requires extensive capitalization – the capitalist entrepreneurs might be represented by another business establishment, *e.g.* a venture capital firm. Here

Table 1
Stakeholders in an industrial conglomerate

stakeholder mini-Society	member of the association?
proprietor capitalists (if any)	YES
non-proprietor shareholder capitalist entrepreneurs (if any)	YES
entrepreneurs in its Labor group	YES
creditors and lessors (includes retirees)	NO
suppliers	NO
customers	NO
government(s) of parent Society or Societies	NO

we have a case of non-owner/non-proprietor capitalism because no artificial or corporate person can be a deontological owner (chapter 2). The artificial or corporate person regarded as a supplier of capital legally represents real individuals who are its own capitalist entrepreneurs. These real individuals are stakeholders in the shareholder connotation of capitalist entrepreneurs but, like the artificial or corporate person representing their interests, they are non-proprietors.

Regardless of whether the invested capital comes from real individuals or another company, a business's capitalist entrepreneurs possess rightfully specific property rights, the foremost of which is the right to be paid a pro rata **dividend** from profits generated from the Enterprise's operations. *Black's Law Dictionary* defines a dividend as "a portion of a company's earnings or profits distributed pro rata to its shareholders, usually in the form of cash or additional shares" [Garner (2011)]; but, more generally, the concept of a dividend deontologically extends beyond the concept of *shareholder* to take in all the capitalist *stakeholders* in table 1. This is because not all commercial Enterprises use the mechanism of stock shares in defining property rights. The Enterprise's wealth assets possessed rightfully by its capitalist entrepreneurs are accounted for by the Enterprise's capitalist's equity in its balance sheet of financial asset and liability accounts (*e.g.* chapter 5, table 5.3, reproduced as table 2 below).

In discussing general welfare interests of an Enterprise's capitalist entrepreneurs pertaining to the distribution of dividend wealth assets, it is useful to make abstraction of distinctions between the Enterprise's real capitalist entrepreneurs and any artificial or corporate person *representing* capitalist stakeholders. The only complications raised by doing so are ones that are external to the Enterprise, and these complications are properly dealt with separately as matters internal to the artificial or corporate person representing non-proprietor capitalist entrepreneurs. It must also be borne in mind that borrowing and leasing do not raise *capital* for the Enterprise; they raise *debt* and put in place an *obligatione externa* for each debt transaction. Creditors and lessors are not members of the Enterprise although they are stakeholders in it and receive interest payments.

Dividends are to the capitalist entrepreneur what wages are to the wage-laborer entrepreneur: a

Table 2
Typical Financial Assets and Liabilities Accounts

Assets Accounts	Liabilities Accounts
cash	notes payable
petty cash	accounts payable
temporary investments	salaries payable
accounts receivable	wages payable
inventory	interest payable
supplies	other accrued expenses payable
prepaid insurance	taxes payable
land	customer deposits
land improvements	warranty liability
buildings	lawsuits payable
equipment	bonds payable
bond issue costs	unearned revenues
goodwill	
contra assets	
capitalist's equity = total assets minus total liabilities	

realization of income revenue from his personal enterprise. Traditional accounting for assets and liabilities tend to not account in a deontologically correct manner for dividend payment. This is rooted in the non-Republican traditions and customs by which "ownership" is viewed. In the usual case, capitalist's equity is labeled as "owner's equity" or "shareholder's equity" and the profits of the company, less retained earnings, are funneled into this asset account. In a stock corporation the board of directors then "declares" whatever dividends are to be paid out of this equity account. In a non-stock company, its capitalist-entrepreneur members are traditionally assumed to "own" this equity and receive their entire income revenue from it without distinction being made between a part of this revenue due to capital investment and a part due to their own labor enterprise, if any, employed by the company.

However, a deontologically correct accounting must treat "dividends payable" in the same manner as "salaries payable" and "wages payable" are accounted, *viz.*, as liability accounts. If this is not done an improper deontological distinction is made between dividends and wages that is not congruent with abolition of rulership in the governance of the Company. No industrial conglomerate can be a civil and Republican Enterprise if its normal governing structure is based in any way on rulership¹⁸.

The Enterprise's internal procedures and laws governing wage and dividend payouts must not be destructive to the common objects of governance. In particular, they must take into account the perfecting of Union and establishing of justice, and must not contradict promotion of the general Welfare of the Enterprise Community. Successful implementation of civic free enterprise within the Company requires a few changes to the way in which dividends and wages are contractually treated and regarded. Because of the deontological equivalence of dividend revenue and wage

¹⁸ The single exception to this is the one I brought up in chapter 12. It occurs during emergency situations during which an explicitly identified agent of management is *temporarily* granted a limited power of rulership authority for a specified duration of time or until a resolution of the emergency situation is reached.

revenue, I treat this reformation of revenue payout in section 4.5.2 below.

Both capitalist and non-capitalist entrepreneurs are at civil liberty to voluntarily withdraw from the civil Community of a commercial Enterprise provided this withdrawal is done in such a way that any *obligatione externa* existing between the withdrawing person and the Enterprise as a corporate person is discharged. This civil liberty has always been recognized in America. It was not in England from 1662 until the Act of Settlement of 1662 was partially repealed. The Act of 1662 bound people to their parishes, much like serfs had been bound to their landlords' land in feudal England. Its partial repeal in 1795 made it legal for workers to relocate and seek employment in other parishes, abolishing "parish serfdom" [Polanyi (1944), pp. 90-93].

In colonial America the Act of 1662 was never enforced and most Americans were at liberty to become proprietor capitalists if they so chose (slaves being the obvious exception). There were some hindrances to this the colonial governments tried to impose through laws that attempted to regulate acquisition and purchase of land, but these were frequently and successfully ignored by nomadic pioneer farmers, the so-called "squatters" [Nettles (1938), pp. 313-316; 521-530]. There was no grand plan, no economic or political philosophy, guiding this colonial development. It can not even be truthfully said that the civil liberty was formally articulated. Yet it was presumed and taken for granted. Jefferson explicitly invoked it in a 1782 letter he wrote to James Monroe defending Jefferson's decision to retire from public service:

If reason and inclination unite in justifying my retirement, the laws of my country are equally in favor of it. Whether the state may command the political services of all its members to an indefinite extent, or if these be among the rights never wholly ceded to public power, is a question which I do not find explicitly decided in England. . . . In this country however since the present government has been established the point has been settled by uniform, pointed, and multiplied precedents. Offices of every kind and given by every power have been daily and hourly declined and resigned from the declaration of independence to this moment. . . . If we are made in some degree for others, yet in a greater [degree] are we made for ourselves. It were contrary to feeling and indeed ridiculous to suppose that a man had less right in himself than one of his neighbors or all of them put together. This would be slavery and not that liberty which the [Virginia] bill of rights has made inviolable and for the preservation of which our government has been changed. Nothing could so completely divest us of that liberty as the establishment of the opinion that the state has a *perpetual* right to the services of all its members. [Jefferson (1782), pp. 364-365]

What is true for the state (political Union) is no less true for governance of a commercial Society.

But liberty to withdraw from a commercial Enterprise is a *civil* liberty, not an unalienated *natural* liberty. The distinction is important. As a *civil* liberty, it is bound to a reciprocal Duty to uphold the civil *rights* of other citizens. This reciprocally mutual binding of civil liberty to civil right is the *quid pro quo* essential in all social contracts, and without this binding what we have is not civil liberty but rather outlaw licentiousness. A person is always at *natural* liberty to withdraw himself from a civil Community, but he does not have an *unrestricted* civil liberty to do so.

I discuss the pertinent circumstances in this regard for wage-laborer entrepreneurs in the next section. Here I discuss the circumstances pertaining to capitalist entrepreneurs in an Enterprise. At the root are issues raised by deontological ownership, *i.e.*, property rights possessed rightfully by an Enterprise's proprietor capitalists (if its membership includes any such person). This issue does not touch or pertain to an Enterprise's non-proprietor capitalists because these people do not possess rightfully any ownership of the physical or intellectual wealth-assets of the Company. The property rights of non-proprietor capitalists are limited to a right to receive dividend payments, exercise a limited franchise in electing a board of directors, and voting to approve or dis-

approve particular policies and laws which affect the welfare of shareholders. They also include the right of shareholders to exercise the civil liberty to *sell* these property rights – which in their case is equivalent to withdrawing from the Enterprise Community. Non-proprietor capitalists are not deontological owners of the *Company*; they are owners of particular property rights.

It is different in the case of proprietor capitalists because in their case they hold property rights to physical and intellectual wealth-assets of the *Company*. A proprietor capitalist might possess rightfully the building in which the business is operated or the land this building sits on. He might possess rightfully some of the machinery and other goods essential to operating the business. His withdrawal from the Enterprise Community, whether it is because of retirement or some other personal reason, does not alienate his property rights to these assets. For this reason, his withdrawal from the *Company* always has the potential to produce effects that are disastrous to the general Welfare of the Community's other members.

Deontological considerations involving *civic* withdrawal of proprietor capitalists are logically divided into two sets of circumstances. The first pertains to cases of moral secession from the Community. ***Moral secession*** is *withdrawal without transgression of a citizen from a Community or Society that is justified by a perpetuation of injustice committed by the body politic through violation of the condition of their social contract*. A moral secessionist reverts to outlaw status in a state of nature relationship to his former association and does not thereby become a criminal. He freely alienates all his civil rights and civil liberties and regains all his formerly alienated natural liberties. All the remaining members of the association who acquiesced in perpetuation of the injustice are morally culpable for his act of secession and have committed a deontological moral transgression by failing to carry out their Duty to commit their persons and powers to maintenance of the civil Community. The second pertains to cases of moral retirement from the business Enterprise. ***Moral retirement*** is *the exercise of one's civil liberty to cease to participate in further personal enterprise activities in an Enterprise*. The adjective 'moral' in this term means that nothing in the retiree's actions of withdrawal violates the terms and conditions of the social contract of the business association and that these actions are not contrary to the retiree's pledge to uphold the civil rights of all other members of that Community.

As I explain in section 4.5.2 below, it is possible for a proprietor capitalist to suffer injustice perpetrated on his personal welfare by actions – either inadvertent or intentional – of agents who are tasked with determining how wages and dividends are set. An unintentional perpetration is not in itself a just cause for moral secession because the proprietor capitalist has recourse to a petition for redress of the injustice via the mechanism of Boards of Right and their power to issue writs of mandamus. It is only when the injustice is *perpetuated* by the responsible agents that the condition for moral secession is met and grounds for civil lawsuits adjudicated by the judicial authority of the *parent Society* are established. The ultimate adjudication of such a dispute always falls under the expectation of authority vested in the justice system of the parent Republic. As Madison said, "No man is allowed to be a judge in his own cause" [Hamilton *et al.* (1787-8), no. 10, pg. 54]. The justice system of the parent Republic is the protector of proprietor capitalists and wage-laborer entrepreneurs alike.

The recovery of his natural liberty to dispose of his property (within the limitations of his civil liberty in the *parent Society*) gives a proprietor capitalist a powerful commercial force he can exert on the Enterprise. He can evict it from his building and land; he can deprive it of machinery he possesses rightfully; he can compel it to surrender to him all wealth-assets that he possesses rightfully. In short, when a capitalist proprietor acts as a moral secessionist, he has the economic power to potentially *and justly* put the entire Enterprise out of business. This is a powerful force at his disposal that he can use to counteract injustices that might be perpetrated by agents of the internal governance of the Enterprise. It provides a powerful incentive for all of its citizen-members to uphold the civil rights their social contract guarantees to proprietor capitalists.

Circumstances are different in cases of moral retirement. There are numerous ways by which civil liberties of the Enterprise's citizenry can justly determine fair limitations on how a retiree can dispose of his rightful items of property without hindrance or harm to their civil Community. One way involves terms and conditions covering who is to be allowed to come into possession of the capitalist proprietor's rightful items of property. The Community might give its approval to passing these on to the proprietor capitalist's sons or daughters – a frequent occurrence in many small businesses – or some other trusted member of the Enterprise (another frequent occurrence). For example, I earlier mentioned Brent Wells, the proprietor capitalist of Wells Heating and Air Conditioning. Mr. Wells had his proprietorship passed to him by his father, who in turn acquired it from his father in law when the business was known as Gibson & Wells Plumbing and Heating. Mr. Gibson originally founded the business as a non-employer proprietorship.

Another possible way is for the body politic of the Enterprise to purchase the moral retiree's property rights – thus turning the Enterprise into what is often (though sometimes misleadingly) labeled an "employee owned company." By this action, a proprietorship is converted into a civic corporation (regardless of whether or not it is a stock corporation or a publicly traded partnership). These wealth-assets are thereby made communal, by which I mean no individual owns the property rights to these assets but any subsequent revenue obtained by their sale can be distributed on a pro rata basis among those who were citizens of the Enterprise at the time these items were purchased from the moral retiree.

A third possibility is for the moral retiree to sell his property rights to other proprietor capitalist members of the Enterprise – which is likewise a frequent occurrence. In all these cases the moral retiree disposes of his items of property with the *advice and consent* of the Enterprise's body politic. This civic prearrangement precludes the proprietor capitalist from selling his property rights to a "Larry the Liquidator" predator capitalist, and it precludes merger-takeovers of the Company without the consent of its citizen-members¹⁹. These preclusions are contrary to feudal practices not-uncommon in uncivic free enterprise and so are reform elements within an institution of civic free enterprise.

None of the above is actually a deeply radical reform. What is different in this system of civic free enterprise is the explicit recognition of social contract commitments and institution of a deontological justice system in the management and governance of an Enterprise of enterprises. The items and issues discussed above are not without precedent in the current U.S. legal system. Heterarchical organization of the management and governance of an Enterprise facilitates this kind of reform without compromising the object of promoting its general Welfare. The standard for judgment in all of this, and in the next section as well, is that disposal of items of property cannot be allowed to either violate the common civil rights of the membership or cause injury to their general Welfare. *Just* disposal of property items is disposal satisfying these constraints.

§ 4.5.2: Long Term Employees. In this section the discussion turns to the general Welfare considerations pertaining to long term employee members of the civic Enterprise in their non-capitalist roles as wage laborers. Part of these considerations involve just determination of how the Company's wage and dividend wealth-assets are to be distributed among the membership. Some of them can be regarded as radical inasmuch as they implicate reforms to Enterprise governance and management which effect an end to long traditions and monarchy/oligarchy pre-

¹⁹ Although corporate mergers sometimes work out to the benefit of employee-entrepreneurs, more often they are tactics of Taylorite managements (and tend to foster management incompetence) or else are of benefit only a subpopulation of capitalist entrepreneurs. They rarely benefit customer-consumers. Mergers of Republican Enterprises can be civically effected, in much the same way as admission of new states to the United States are, but the justness or unjustness of a merger *is* a legitimate common interest matter for the general Welfare of the parent Republic and so is *always* a matter for its justice system to adjudicate.

suppositions inherited from Great Britain and left in place after political monarchy was expelled from America.

Historically the two most contentious welfare issues in the U.S. from the late 18th century to the present have been wages paid for labor services and the required number of work hours per unit period (*e.g.* per day, per week, or per month). After the first third of the 20th century, issues of retirement pension benefits, workplace safety, and health insurance benefits were added to this list of "top" welfare concerns. Following these is the contentious issue of government-mandated minimum wages. There are additional issues that also come up frequently enough to merit mention, including those popularly known as layoffs, outsourcing, and downsizing.

Before entering into discussions of these it is important to remind ourselves of a fundamental principle of what governance and management of a Republican Enterprise-of-enterprises is expected to accomplish in a system of civic free enterprise. Every Enterprise is a mini-Society embedded in a parent Society. Its longevity of operation and its success in business both depend fundamentally on the civic cooperations of those who provide it with its labor services and on the pertinence of those services to the profit-making performance of the Enterprise. Watson of IBM put it this way:

I believe the real difference between success and failure in a corporation can very often be traced to the question of how well the organization brings out the great energies and talents of its people. What does it do to help these people find common ground with each other? How does it keep them pointed in the right direction despite the many rivalries and differences which may exist among them? And how can it sustain this common cause and sense of direction through the many changes which take place from one generation to the next? [Watson (1963), pg. 4]

Ultimately all these things have their causative basis in *homo noumenal* human nature and root behaviors of individuals seeking to fulfill their personal Duties-to-themselves by means of uniting themselves with others. However, the population size of an Enterprise's membership does not have to become very large before mini-Communities begin to form. Mini-Communities always are potential sources of non-bonding and antibonding granulations within the Enterprise Society. These granulations promote internecine internal competitions and the violation of the most basic condition of every social contract, namely, *that the association will defend and protect with its whole common force the persons and goods of each associate in such a way that each associate can unite himself with all other associates while still obeying himself alone*. This can only be achieved through the sustained fulfillment of reciprocal Duties that bind and hold together their mini-Society in the face of divers passions for distinction that promote personal aggrandizement, stratifications in the workplace, and inclinations to place special interests above the common interests of their commercial Community. *All* maxims of reciprocal Duties are grounded in obligations- and Duties-to-Self. These are constructed individually by human beings in their manifolds of practical rules (in practical Reason) and manifolds of concepts (in determining judgment) and they can never be *imposed* from the outside on any person. The systems of governance and management must attract ("seduce") the members into forming and constructing for themselves reciprocal mutual obligations and concepts of social Duties *out of* Duties-to-Self.

Almost everything about traditional monarchy/oligarchy governance and Taylorite management of an industrial conglomerate works in contradiction to this. It sets up what is in effect a commercial feudal Society in which an oligarchy of managers bears a very close resemblance of simile to feudal England's system of nobles and gentry. Like the feudal Society of medieval England, this fosters placing self-interests above common interests and is forced to rely on coercion to hold the Society together. To be sure, such a despotic system can endure over successive generations of the caste of "top" rulers for many years if the ruling caste has sufficient

acumen and ruthlessness. Successive generations of rulers are challenged to maintain their caste-Society in the face of state-of-nature relationships with the subjugated caste – whose behaviors are moderated *only* by social contract with their common parent Society. Every time a CEO is fired or a company is captured in a hostile takeover, this marks failure of the manager caste to meet this challenge. Perennially mediocre profit performance, illustrated in figure 2, of America's large corporations (almost all of whom are ruled by Taylorism) is ample evidence of this. Ratio of profits to receipts is a basic indicator of how well capital is being used by the managers of a business. Corporations consistently far underperform in this in comparison to proprietorships. Figure 2 supports contentions made by some economists, *e.g.* Herbert Simon, that hired managers aim at satisficing rather than at maximizing profit performance [Mansfield (1970), pg. 145].

As Rousseau said,

As long as a people is compelled to obey, and obeys, it does well; as soon as it can shake off the yoke, and shakes it off, it does still better. [Rousseau (1762), pg. 2]

Bear in mind, though, that Rousseau also said,

The strongest is never strong enough to be always the master unless he transforms strength into right and obedience into duty. Hence the right of the strongest . . . is really laid down as a fundamental principle. But are we never to have an explanation of this phrase? Force is a physical power, and I fail to see what moral effect it can have. To yield to force is an act of necessity, not of will – at most, an act of prudence. In what sense can it be a duty? . . . As soon as it is possible to disobey with impunity, disobedience is legitimate . . . what kind of right is that which perishes when force fails? If we must obey perforce, there is no need to obey because we ought; and if we are not forced to obey, we are under no obligation to do so. Clearly the word "*right*" adds nothing to force; in this connection it means absolutely nothing. [*ibid.*, pg. 5]

Furthermore, the antisocial attitudes and maxims that rulership provokes in the ruled cannot be confined to the mini-Society of the industrial conglomerate. Every employee is also and at the same time a member of other mini-Societies outside the boundary of the conglomerate and will therefore *carry* his learned antisocial maxims out into the general parent Society like an infection. It should surprise no one when that greater Society – which far overmatches any conglomerate in the ability to exert force – forcibly intervenes and compels the manager caste to obey laws and regulations of its own making. Does the political government have a "right" to "interfere" with the management of a business? *It has precisely the same "right" to "interfere" and rule as the caste of rulers within the conglomerate does.* Monarchy/oligarchy rule of an industrial conglomerate can and does provoke formation of what Toynbee called an "external proletariat" along with the internal proletariat it provokes inside the conglomerate itself. As Watson of IBM put it,

What we must always remember is that countries and systems exist for the benefit of their people. If a system does not measure up to the growing expectations of those people, they will move to modify or change it. To keep faith with our business system and to help build our country, the best thing we can do is to make our system work so that everyone shares fairly in it. We won't build good citizenship and we won't build a strong country by holding people back. We will build it by helping people to enlarge their goals and to achieve them. [Watson (1963), pg. 94]

The reforms proposed in this treatise are radical but they are radical only in the sense that what they propose are fundamental changes to many of the traditional practices that were put in place long ago when uncivic rulership of industrial conglomerates set America on the road of uncivic free enterprise.

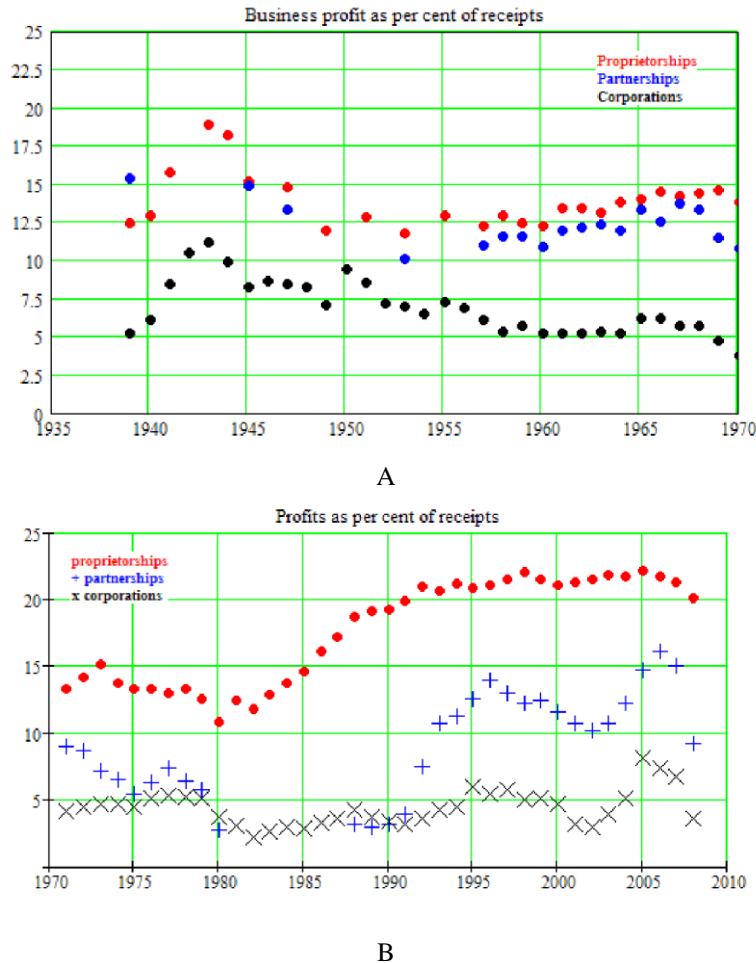


Figure 2: Profits as per cent of business receipts for U.S. proprietorships, partnerships, and corporations from 1939 to 2008. A: 1939 to 1970; B: 1971 to 2008. [Wells (2013), chaps. 11, 12]

4.5.2A. Wages and Dividends

Wages must be viewed from two contextual perspectives; namely, that of the wage-laborer entrepreneur and that of the commercial Enterprise Community. This is because the interest-benefits involved in receipt of wages and those involved in the payment of wages are not the same when viewed from these two perspectives. For an entrepreneur receiving wages, wages are a recompense paid to the entrepreneur in exchange for labor *services* he provides *and* that part of his stock-of-time he must expend in order to provide that service. For the person or Community paying wages, wages are a recompense paid by that person or Community in exchange for the *produce* of the labor service provided by the employed wage-laborer entrepreneur.

A similar duality of perspectives exists for dividends. For a capitalist entrepreneur dividends are a recompense paid to him in exchange for investing, and risking the loss of, the capital he provides. For a person or Community receiving this capital, dividends are a recompense paid by that person or Community in exchange for the *use* of that capital. The difference between capital *investment* and capital *loan* is this. When capital is invested, the investor acquires no warrant to *compel* the return of his capital to him, does acquire a property right to receive dividend payments from the profits of the business, and the person or persons who receive this capital incur no *obligatione externa* to return it to the investor but can *unilaterally* decide to return it or any part of it to him (this is called a "return of capital"). When capital is loaned the capitalist entrepreneur

making the loan (the creditor) acquires a warrant to compel the return of his capital ("repayment of principal") and possesses rightfully a property right to receive interest payments on that capital. The person or persons who receive the loaned capital incur an *obligatione externa* to both repay the principal according to a prearranged agreement and to periodically make interest payments to the creditor. This *obligatione externa* places constraints on their civil liberty of action.

These understandings of terms and conditions of recompense are of ancient origins long pre-dating the 15th century legal definition of recompense²⁰. We find documented examples of them from ancient Israeli (e.g., Leviticus 19:13, 25: 25-37). Even older sources (e.g. the Code of Hammurabi²¹) establish beyond reasonable doubt that they go much further back in time than this. Their origins are so ancient that Adam Smith seems to have taken them for granted when he wrote *Wealth of Nations*. If he did take them for granted, this would plausibly explain the curiously somewhat-one-sided perspective of Smith's writings on the wages of labor [Smith (1776), pp. 56-78] because as soon as an author presumes that "everybody understands the premises," he is inclined to *not* belabor any of their distinctions of perspective.

In the present case, because there are such distinctions regarding wages and dividends, later theorists over the course of time tended to evolve Smith's theory into a similarly one-sided view of *commodity labor* supply and demand. Polanyi criticized this view:

It is with the help of the commodity concept that the mechanism of the market is geared to the various elements of industrial life. Commodities here are empirically defined as objects produced for sale on the market; markets, again, are empirically defined as the actual contracts between buyers and sellers. Accordingly, every element of industry is regarded as having been produced for sale, as then and then only will it be subject to the supply and demand mechanism interacting with price. In practice this means that there must be markets for every element of industry; that in these markets each of these elements is organized into a supply and demand group; and that each element has a price which interacts with supply and demand. . . .

The crucial point is this: labor, land, and money are essential elements of industry; they must also be organized in markets; in fact, these markets form an absolutely vital part of the economic system. But labor, land, and money are obviously *not* commodities; the postulate that anything that is bought and sold must have been produced for sale is emphatically untrue in regard to them. In other words, according to the empirical definition of a commodity they are not commodities. Labor is only another name for a human activity which goes with life itself, which in its turn is not produced for sale but for entirely different reasons, nor can that activity be detached from the rest of life, be stored or mobilized . . .

Nevertheless, it is with the help of this fiction that the actual markets for labor, land, and money are organized; these are actually being bought and sold on the market; their demand and supply are real magnitudes; and any measures or policies that would inhibit the formation of such markets would *ipso facto* endanger the self-regulation of the system. The commodity fiction, therefore, supplies a vital organizing principle in regard to the whole of society affecting almost all its institutions in the most varied way, namely, the principle according to which no arrangement or behavior should be allowed to exist that might prevent the actual functioning of the market mechanism on the lines of the commodity fiction.

Now, in regard to labor, land, and money such a postulate cannot be upheld. To allow the market mechanism to be sole director of the fate of human beings and their natural environment indeed, even of the amount and use of purchasing power, would result in the

²⁰ "repayment, compensation, or retribution for something, especially an injury or loss" [Garner (2011)].

²¹ avalon.law.yale.edu/ancient/hamframe.asp

demolition of society. For the alleged commodity "labor power" cannot be shoved about, used indiscriminately, or even left unused, without affecting the human individual who happens to be the bearer of this peculiar commodity. [Polanyi (1944), pp. 75-76]

Polanyi's principal point in all this is that *laissez faire* "market" policies in regard to labor, land, and money are destructive to Society. There is truth in this assertion, just as there is truth in the fact that labor services are sold and bought and that such transactions are made contractually. It is also true that all these social-natural phenomena are empirically grounded in human understanding; but empirical objects admit to no Critical definition²²; they can only be demonstrated or explained, and human understanding of empirical objects is always a contingent understanding.

What neither Polanyi nor proponents of *laissez faire* "free market" policies understand is that they are theorizing from premises of *ontology*-centered metaphysics and, for that reason, their disagreements over policies are ultimately differences of opinion grounded in judgments of taste (which are always subjective judgments). Polanyi does recognize that mathematical economics theory improperly divorces the phenomena from the social atoms (actual human beings) but he does not draw conclusions from this recognition that are entirely correct deontologically – and for a science of commercial transactions *deontological* correctness is necessary because influences of judgments of taste dominate and determine actual commercial transactions.

To obtain such a deontologically correct understanding necessitates making a synthesis of the two different contextual viewpoints explained at the beginning of this subsection. This synthesis can start with Smith's empirical discussion of factors underlying this phenomenon: different types of labor services are differently recompensed in terms of wages. Smith's metaphysical pre-suppositions were no less ontology-centered than Polanyi's but his theories did not attempt to cut out considerations of the social atoms (the people interested in and party to wage determinations) like later economics theory habitually does. That economics theory tends to emphasize "what employers can likely get away with" *mathematically* in regard to wages offered. This is a built-in one-sidedness the synthesis will remove. Indeed, Smith's arguments seem to implicitly insist that factors of human nature be accounted for even if his accounting falls short of sufficiency.

Smith held that there are five principal empirical circumstances involved in wage difference determinations. These are: (i) the agreeableness or disagreeableness of the employments themselves; this pertains to how hard or easy the job is, the cleanliness or dirtiness of the work, how dangerous the work is, and whether the work is honored or scorned by the parent Society (which pertains to passions for distinction); (ii) how difficult or easy and expensive or inexpensive it is to acquire the needed job skills; (iii) how constant or inconstant the employment is (*e.g.* regular year-round work *vs.* seasonal work); (iv) the degree of trust that must be reposed in those who perform the work; and (v) the probability or improbability of being able to do the work successfully [Smith (1776), pp. 88-98].

The first three circumstances pertain to tradeoffs between individuals' willingness or ability to provide the labor service and the recompense for their labors that they require in exchange for it. *Ceteris paribus*, the more disagreeable the employment is, the more scorned the occupation is, the more expensive and time consuming it is to acquire the skills, and the more inconstant the employment is, the more recompense an individual requires in order to be willing to undertake the occupation. This is counteracted by how dire an individual's personal circumstances might be. For example, if unemployment is high and his family is starving, a man is more willing to accept

²² A Critical definition is a sufficiently distinct and precisely delimited concept. Empirical objects cannot be precisely delimited because any limitation placed on them can later be gainsaid by new experiences. Only mathematical objects can be precisely delimited and made distinct, hence only mathematical objects can be defined. They are what Kant called "made objects." In contrast, empirical objects are called "given objects."

an employment that he would never consider when jobs are plentiful and his family's situation is not dire. Smith points out that the age of the individual is often a factor in his subjective judgment of the attractiveness or repulsiveness of these circumstances as well as in his probable ability or inability to perform the labor service. For example, many youths are more adventurous and more prone to physical risk-taking than older people and so how dangerous is an occupation might, for them, be less of a deterrent and might even be an attraction. Similarly, most teenagers have not yet had enough time and experience to undertake professions requiring greater technical skills and therefore must settle for occupations involving greater manual labor (which their youth often makes easier for them to perform than is the case for an older person).

These first three circumstances are principal, but not the exclusive, determining factors for the **labor supply** for particular occupations, *i.e.*, *the number of people available at a given time who are both willing and able to provide a particular labor service in exchange for a particular wage*. Labor supply is typically described in economics theory by what is called a supply curve. Many economists tend to speak and write about labor supply curves as if the curve is a sort of natural phenomenon in itself. However, this is a misleading way to look at this *mathematical* object because many matters of government policies, the numbers and types of businesses operating in a Society, and other circumstances affect circumstances (i) through (iii). To put it another way, how a Society is politically governed, its physical resources, the extent of its population, the quality and availability of its education resources, *etc.* combine to determine these circumstances and so mathematical labor supply curves reflect an integrated net effect of a very complicated socio-economic environment. Economics textbooks tend to suggest that, for example, a labor supply curve for automobile mechanics is independent of a labor supply curve for public school teachers; but this is not true. In any large Society, diverse labor supply curves interact and co-determine each other via many indirect and mediate factors. Economists actually do know this, but their track record of communicating this to non-economists leaves much to be desired.

Circumstances (iv) and (v) have more immediate bearing on employer's circumstances, and an only mediate bearing on employee-entrepreneur circumstances. Some occupations, by the nature of their circumstances, tend to force consumers and employers to *trust* the persons who provide the services more than other occupations do. Most people, for example, have to entrust their health to their doctors and will not submit to treatment by people they do not trust to be good and competent doctors. Companies who employ lawyers have to trust that those they hire have the legal competence to safeguard the company's legal interests. A consulting company who employs civil engineers must trust the latter's professional and technical competence as designers of whatever buildings, bridges, sewage systems, *etc.* the company is retained by its customers to design. As Smith put it,

We trust our health to the physician; our fortune and sometimes our life and reputation to the lawyer and attorney. Such confidence could not safely be reposed in people of a very mean or low condition. Their reward must be such, therefore, as may give them that rank in society which so important a trust requires. The long time and great expense which must be laid out in their education, when combined with this circumstance, necessarily enhance still further the price of their labor. [Smith (1776), pg. 93]

Circumstance (v) pertains directly to the investments an entrepreneur has made *in himself*, by means of education and apprenticeship, in order to gain the corporal, intellectual, and tangible skills needed to successfully provide the labor services he offers. Furthermore, what credentials he is able to present as a consequence of his education, training, and experience has a direct bearing on the willingness of an employer or a customer to trust him with the performance of his particular trade service. As Smith put it,

The probability that any particular person shall ever be qualified for the employment to

which he is educated is very different in different occupations. In the greater part of the mechanic trades, success is almost certain; but very uncertain in the liberal professions. Put your son apprentice to a shoemaker, there is little doubt of his learning to make a pair of shoes; but send him to study the law, it is at least twenty to one if ever he makes such proficiency as will enable him to live by the business. [*ibid.*, pg. 94]

Thus, circumstances (iv) and (v) are principal, but not the exclusive, determining factors for the **labor demand** for different occupations, i.e., *the number of employment opportunities being offered to entrepreneurs who are able and willing to provide a particular labor service in exchange for a particular wage*. That these circumstances are not the only ones immediately pertinent to labor demand is, I think, likely obvious to you. Before there can be any demand for a particular occupation, that occupation must be such that it is able and likely to contribute to the profitability of the capital investment from which its wages are drawn. Capital investment always is attended with risk-taking because it can never be known with certainty that the investment will in fact return a profit. As Smith remarked,

In all the different employments of stock, the ordinary rate of profit varies more or less with the certainty or uncertainty of the returns. . . . The ordinary rate of profit always rises more or less with risk. It does not, however, seem to rise in proportion to it, or so as to compensate it completely. Bankruptcies are the most frequent in the most hazardous trades. . . . To compensate [higher risk] completely, the common returns ought, over and above the ordinary profits of stock, not only to make up for all occasional losses but to afford a surplus profit to the adventurers of the same nature with the profit of insurers. [*ibid.*, pg. 99]

Remarks analogous to those I made above in regard to the labor supply curve pertain to the labor demand curve.

One important point to take away from these economic considerations is this: it is contrary to human nature to expect or require all occupational trades to share equally in wages exchanged for their labor services. From time to time there have been, and continue to be, groups of people who are of the opinion that the commonwealth of a Society implies common equality of wealth. This is more or less the core opinion associated with socialism. There are in fact a few Societies in which this socio-economic egalitarianism is closely approached. BaMbuti Pygmy Society is an example. However, the egalitarianism characteristic of a BaMbuti band is a special circumstantial accident of their environment, an accident that contributes to rather than results from their system of *Gemeinschaft* governance.

But in the great majority of all Societies, this social egalitarianism is impossible to achieve in actual practice. How many individuals do you suppose there would be who were willing to undertake the investment of their capital and put in the long years of study and apprenticeship required to become a competent physician if they could expect to receive the same recompense for their practice of medicine as would be received by a hospital orderly for the practice of his profession? I think it likely there would be *none* and that your personal surgeon might very well also provide haircuts and beard trims when he is not removing your appendix or bleeding you to get rid of the "bad humors" he thinks are making you ill. In a free Society in which individuals enjoy the civil liberty to determine their own occupations, the division of labor is a voluntary division and inequality of recompense is a human-natural consequence of this volunteerism. In a BaMbuti band there is for all practical purposes *no* economic division of labor. The ideal of socialism yearns for an object for which its actual *Existenz* would be in contradiction to human nature, i.e., an *unnatural* object. No matter how heartfelt the yearning might be for an egalitarian Society, socialism attempts to achieve the impossible and, for that reason, will always fail. With its failure it also brings down the very Society its supporters most ardently wished to save and benefit.

An analogous argument pertains to capitalist entrepreneurs. As I said earlier, capital investment is essential for being able to establish any industrial conglomerate. But who would choose to risk his capital if the best return (dividend) he could expect from his investment provides him with precisely the same recompense as is received by persons who do not undertake uncertainties and risks which always attend every capital investment? I think it likely that only aged or infirm individuals would do so. But in order to do so, they must have capital to invest; the most frequent source of such capital is savings set aside from wage revenue; to get wage revenue there must be sources of employment; and without capital investment there are no such sources. It is a vicious circle that can only be broken by the imposition of a coercive rulership incompatible with civil liberty and justice in a Republic. It is accurate enough to say all Republics historically have been born out of the violent and bloody overthrow of rulership tyrannies as Mankind's civilizations grew up out of our Neolithic past. This is why idealistic socialism and communism have and will always fail. England during the period of the Speenhamland Law from 1795 to 1834 is an outstanding example of a failure of good-intentioned socialism [Polanyi (1944), pp. 81-89].

Simpleminded egalitarianism being untenable, what then is the recourse to just distribution of wages and dividends in a Republican Enterprise? This is a matter for the governance of the Enterprise but – and you might find this surprising – *not for its managers*. Management is the system principally and fundamentally concerned with guiding and stimulating the leadership dynamic of the Enterprise. How wages and dividends are to be distributed from the profits that are achieved by the Enterprise is principally concerned not with day to day operations but, rather, with how to best use the *fruit* of these operations. The functions of management are primarily directed at executive functions of governance, but determining how wealth-assets garnered from all the divers enterprise activities within the Enterprise are distributed is primarily a *legislative* function (with necessary checks and balances provided by its *judicial* function). To hearken back to an earlier quote from Alexander Hamilton, the legislature controls the purse strings. But to the judiciary belongs adjudication of justice when social contract issues arise. As Madison put it,

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. 51, pg. 288]

"Obliging the government to control itself" is a primary object of the judicial function.

The idea I am introducing here is the radical element of Republican reform for distribution of wage and dividend payments out of the limited wealth-asset resources of the Enterprise. I hope it is clear from my remarks above about socialism and communism that this reform does not lie with "workers committees" in the manner of 19th century European socialism. Neither does it lie with the tyranny of democratic majority rule. It does lie with *enlightened* governance of civic free enterprise in the civil Community of an Enterprise-of-enterprises.

4.5.2B. Work Time

Everything a person does requires an investment of time, and every investment of time is properly regarded as being drawn from an intangible good he possesses that I earlier have called his "stock-of-time" [Wells (2012), chap. 12, pp. 419-429]. *Stock-of-time* is that part of a person's intangible wealth-assets that subsists in the use he can make of the time he has for his *Existenz* as a living human being but which can never be exchange in kind or obtained from any other person. As a wealth-asset, it is an intangible good having the peculiarity that it can be *spent* but it can never be *obtained*. One spends his stock-of-time as "leisure time," "eating time," "work time," "sleep time," etc., and how one chooses to expend his stock-of-time is an inalienable natural liberty. Another peculiarity about a person's stock-of-time is that it can never be known how

much of it a person has. It is only measurable *ex post facto* in terms of the calendar duration of a now-deceased person's life.

How a person chooses to expend his stock-of-time is determined by a combination of habits of inclination, judgments of taste, maxims of prudence, and maxims of Obligation and Duties. The great majority of a person's expenditures occur without the person giving it conscious reflection. A stranger stops you on the street and asks you what the time is. You glance at your watch, tell him, "Two o' clock," and move on without giving a thought to the fact that the stranger requested of you a few seconds from your personal stock-of-time and you gave it to him. You will never get those few seconds back.²³ You will never be able to spend them differently.

A person constantly encounters requests and demands for how he spends his stock-of-time but only a relatively small fraction of these are such that he gives focused attention to his spending decision. One of these decisions is how much of his stock-of-time he chooses to expend doing wage labor. How much he consents to spend *vs.* how much an employer requests or demands that he expend is historically one of the most contentious issues in free enterprise as well as one that historically is frequently decided on the basis of maxims of prudence in the face of coercion. There have been labor strikes over contract issues of how many hours of work per day and how many working days per week an employee is to be required to expend as an *obligatione externa* and condition of employment. In most 19th century American factories the established norm was a twelve hour workday and a six day workweek. The 1938 Fair Labor Standards Act (FLSA) established a 40-hour workweek for some particular kinds of employment and employing firms. After 1940 the American norm evolved slowly and irregularly into the 8-hour day, 5-days per week schedule most Americans are now so familiar with. Even now, however, this schedule is not universal, the FLSA has many exceptions and exemptions built into it, and in many kinds of jobs – proprietor, engineer, manager, &etc. – it is not at all uncommon for people to spend significantly more than 40 hours per week on the job. In my hometown when I was growing up, most working people worked an 8-hour day for 6 days per week without overtime pay for the 8 hours beyond the 40-hour week.

In some occupations work time is not the measure but, rather, the amount of produce resulting from a person's labor service is the actual measure of what is demanded. This goes by names such as "piece work" when the amount of wage paid is based on the amount of produce the person's labor produces. In other occupations a person's workday is over "when the job is done." A major league umpire, for instance, provides his umpiring service until the game ends. His workday duration depends on how long it takes one of the baseball teams to win the game. This is a case in which stock-of-time expenditure is governed by maxims of *obligatione externa* and, usually, maxims of Duty (*i.e.*, the duty of an umpire to not deliberately miscall a play to end the game).

There is no one single universal standard for what constitutes a just commitment of stock-of-time spent practicing one's laboring enterprise. Some types of businesses by necessitation need a particular standard if the business is to succeed, others require different ones. Even within the same industrial conglomerate, stock-of-time expenditure necessities vary by different types of jobs. In a Republican Enterprise, determinations of divers standards for expected or required expenditures of people's stocks-of-time can only be contingent determinations and the expectation of authority for setting requirements for stock-of-time expenditures properly comes under the function of the *legislative* branch of governance. This branch, rather than the executive or judicial

²³ Some people will argue that additional stock-of-time can be obtained. For instance, if you go see a doctor and by doing so receive some treatment that cures you of a deadly disease, you might argue spending that relatively small amount of time with the doctor purchased a few extra years of life for you. Maybe. Maybe not. It wouldn't do so if you are run over by truck a few minutes after leaving the doctor's office. My point here is that while the future can frequently be *anticipated*, it can never be *known* before the fact.

branches, is the one which is appropriate because these determinations have an immediate effect on what social contract theory calls the *Volks*-society of the Enterprise [Wells (2012), chap. 12]. *Volks*-society develops as a "happening" by the co-determinations of its people and their mutual interactions. These co-determinations determine whether the Society cultivates relationships that are merely experiential and material, grounded in unanimities of meanings, or are based on shared ideals [Santayana (1905), pg. 146]. Such cultivations require stock-of-time investments by each member of the Enterprise.

4.5.2C. Civil Liberty to Withdraw

A wage-laborer entrepreneur is at civil liberty to withdraw from continuing participation in a civil Enterprise. This civil liberty effects a peculiar form of moral retirement and is always accompanied by a civil right of its other members to require that the exercise of this liberty be done in such a way that the withdrawing person satisfies any terms of *obligatione externa* for which he is liable to the Enterprise. For example, the captain of a ferry is at liberty to quit his job and cease to provide any further labor services but he is not at liberty to do this in the middle of transporting passengers across a river. He must complete the voyage first or else hand over his responsibilities to a person fully qualified to replace him. A product design engineer is at liberty to quit his employment but he usually has an *obligatione externa* prohibiting him from revealing or using trade secrets of the Enterprise. A teacher might quit his teaching post but generally cannot do so until the end of the current school term without incurring some civil liability for any damage or injury a midterm withdrawal causes.

Most often conditions for *civic* exercise of the liberty to withdraw are tacitly understood by the mores or folkways of the parent Society. For example, it is customary for a person who has decided to withdraw his labor services to give the Company a prior notice of his intention to withdraw so that the remaining members can adequately prepare for it. Standards for how much time customarily constitutes adequate notification varies from circumstance to circumstance, but "two weeks notice" is a fairly common convention. However, if the withdrawal is occasioned by moral secession then this customary practice is voided by whatever injustices give grounds for moral secession.

There are two main cases of civic withdrawal. The first is upon the occasion of a person's moral retirement from participation after satisfying particular terms and conditions by which he acquires particular property rights as recompense for his term of service. This case is what is popularly meant by the term "retirement." In this case there are usually defined retirement benefits owed by the Enterprise to the retiree for past labor services which have met specifiable conditions (usually based on age-plus-time-of-service). The retiree remains a stakeholder in the Enterprise but no longer a member of it (unless the Enterprise confers upon him some sort of honorary membership). He is a deontological *creditor* whose investment is the stock-of-time he expended in past service – a standing present U.S. laws unjustly fail to adequately recognize.

The second case, which is also a case of moral retirement, happens when the withdrawing person withdraws without obtaining property rights to wealth-assets of the Enterprise owed to him because of his past service. This is the case popularly meant when a person is said to "terminate his employment" without "retiring." It is usually what happens when a person quits his employment with one company in order to begin employment with another or in a commercial enterprise of his own proprietorship. In this case there are often some number of particular contract matters he and the company are under legal liability to attend to. For example, if he has participated in an employee retirement plan, there are usually issues involving a transfer or conveyance of earned benefits from that plan as well as relief from responsibility by the company for any further liabilities that might be associated with it. If the withdrawing person holds

unexercised stock options granted to him previously, he is usually under obligation to forfeit these options because they were given as an incentive to remain employed with the company.

In general, then, the occasion of withdrawal from an Enterprise by moral retirement almost always involves some number of matters of liability that must be satisfied as part of a *process* of withdrawal. Exercise of *civil* liberty of withdrawal is therefore accompanied by protection of divers civil rights of the remaining members to be protected by means of the withdrawal process.

4.5.2D. Other Wage-Laborer Welfare Issues

On the practical level, promoting the general Welfare of an Enterprise means its governance establishes for it its internal laws, norms, and policies in congruence with its corporate culture and its corporate mores. These laws, norms, and policies are those which promote the smooth and effective functioning of the Enterprise's leadership dynamics operating in and among its divers internal mini-Communities. As any company grows and the size of its workforce increases, mini-Communities will always begin to form within it. For companies and nations alike, the mini-Community phenomenon always poses the greatest risk to its general prosperity and even to its survival as a Society. But mini-Community formation is a challenge to be addressed, not an evil to be suppressed. You can't prevent their formations, and acting to try to suppress them always fails and usually brings about the non-bonding and antibonding granulations that poison leadership dynamics and bring on mediocrity and failure in terms of both Order and Progress. What any good system of management and governance must do is turn the mini-Community phenomenon into an advantage.

General Welfare issues are at the core of whether mini-Communities help or hinder the overall corporate Society. Retirement and pension benefits, workplace safety, health insurance benefits (however healthcare is insured), and security of employment (which is rendered insecure when management resorts to layoffs and so-called 'downsizing') all factor in to people's affective perceptions of the states of their personal Welfare. The corporate general Welfare is never anything but the collective brew of individuals' personal Welfares. Because every person is simultaneously a member of more than one mini-Community and these mini-Communities extend beyond the Enterprise into its parent Society, corporate general Welfare issues and challenges do not remain confined to within a company. If its governance and management systems ignore the organization's general Welfare, in time this negligence will bring on externally mandated laws and regulations meant to force management to deal with them *for the sake of the general Welfare of the parent Society*. That is what happened when the Fair Labor Standards Act mandated the establishment of minimum wages and put into law other mandates for labor related practices.

The problem and greatest weakness with national or state mandates of this kind is that they are necessarily based on a stereotype models of the issues and problems by people (agents of government and special interest groups) who are not themselves immediately involved with the leadership dynamics of companies, and who are not and cannot be sufficiently knowledgeable about the special circumstances and needs of any one particular company. Let me be blunt about this: when the governance and management of a company ignores or neglects the general Welfare of its members, the issues and problems that arise are, in effect, *outsourced* to management by external agencies who can never deal with the intimate subtleties and special interests of individual companies. If companies' corps of managers were dealing competently and adequately with their internal welfares, there would be no government-mandated regulations aimed at *coercing* them into dealing with these situations and circumstances. As IBM's Watson said,

Because they feel so vulnerable in the highly organized economic activity of today, most Americans insist that free enterprise so operate as to guarantee their right to such things as a job, a fair wage, humane working conditions, and old-age security. And when they feel

that free enterprise comes into conflict with these wants, they line up solidly in defense of them. But this does not mean they have lost their faith in free enterprise. It simply means that free enterprise must operate in a way that is reasonably compatible with these requirements. . . .

Self-reliance cannot always provide an answer to every need, especially in a society as big as ours where people can get caught up in forces over which they have little personal control. Thrift is a necessary virtue, but there are times when even thrift does not make it possible for the ordinary family to cope with extraordinary problems.

Programs which assist Americans by reducing the hazards of a free market system without damaging the system itself are necessary, I believe, to its survival. If large numbers of people are made to feel that they're entirely at the mercy of that system or that they will be abandoned every time it undergoes one of its periodic adjustments, they can be expected to have less enthusiasm for the system than it deserves. . . .

To be sure, the rights and guarantees that the average man believes in and insists upon may interfere, to some degree, with our ability to manage our enterprises with complete freedom of action. As a result, there are businessmen who either ignore or deny these claims. They then justify their views by contending that if we were to recognize or grant them, the whole system of free enterprise would be endangered.

This, it would seem to me, amounts to an open invitation to exactly the kind of government intervention that businessmen are seeking to avoid. For if we businessmen insist that free enterprise permits us to be indifferent to those things on which people put high value, then the people will quite naturally assume that free enterprise has too much freedom. And since the people have voting power, they will move against free enterprise to curtail it in their own interests. They do this, however, not because they are opposed to free enterprise, but to obtain and, in some cases, to protect the rights they believe themselves entitled to under a free enterprise system.

Historically, I think we can show that restraints on business have not come into being simply because someone wanted to make life harder for us businessmen. In almost every instance they came about because businessmen had put such emphasis on self-interest that their actions were regarded as objectionable and intolerable by the people and their elected representatives. [Watson (1963), pp. 87-91]

Nothing in what Watson says implies that "programs which assist Americans by reducing the hazards of a free market system" must *necessarily* come from *outside* individual companies. That way of thinking is a way of thinking biased and prejudiced by presuppositions of hierarchical and monarchy/oligarchy rulership. *Heterarchical* institution of civic free enterprise carries with it an implicit commitment to *distributed leadership*, and this distribution begins within individual Enterprises and radiates outward into the parent Society, its powers and prerogatives delimited by the scopes of *common* interests at every layer of an inverted pyramid heterarchy.

Within an Enterprise, its local laws and policies properly belong to its internal legislative branch of governance for their creation; to its executive branch for their execution; and to its judicial branch for judgments of their effectiveness and congruence with the social contract of the Enterprise Society in regard to justice for all, Order, and Progress in the Enterprise.

§ 4.5.3: Short Term Employees. There are many practical circumstances and reasons why an Enterprise may, with justice, decide to turn to the employment of short term employees (STEs) in order to meet its business needs and preserve its social contract. For example, during a period of rapid growth in its business activities, a typical satisficing decision for how to meet the extraordinary needs rapid growth always brings with it is to rapidly expand its labor force membership. This is a simple, easy-to-reach, and very shortsighted tactic. Companies use it and then, when the bubble bursts, many companies (or operating divisions within a larger industrial

conglomerate) discover that the workforce population was overextended and cannot be supported by profits from its operation. The usual remedy hierarchical management rulership then resorts to is equally simpleminded: the managers lay off (fire) large numbers of people. Almost nothing is more destructive to the Union of a company than doing this. Those who survive the layoffs will, quite prudently, begin to ask whether or not *they themselves* will be the victims the next time it happens. If you want to destroy the civil Union of your company, you can hardly go about doing it more effectively than by means of layoffs and irrationally exuberant hiring cycles.

Growth is an example of a circumstance when employing STEs is a just action in managing a Company. There are others as well. Particular sorts of contract jobs, *e.g.*, a lucrative government contract, provide additional examples. However, the introduction of short term employees into a Company's workforce immediately raises a number of difficult challenges to the ability of Company governance and management to meet the requirements of its social contract.

At the core of these challenges is the question: Is an STE to be regarded as a deontological *citizen* of the Enterprise during his employment period? This is not a simple yes-or-no question nor is it one that can be adequately addressed by any ontology-centered moral theory. A population of STEs might or might not constitute itself into a mini-Community within the Enterprise depending on whether these people frequently interact with each other (either inside *or* outside the workplace). If they do, then they will have mini-Community special interests. Governance of the Enterprise must take these into account or else it risks provoking loss of domestic tranquility within its labor force. It must also be remembered that STEs will likely interact with long term employees, and, therefore, risking a loss of domestic tranquility among STEs also risks propagating this loss out into the general long term membership.

If STEs are not regarded as citizens of the Enterprise during their employment period then the governance of the Enterprise deliberately introduces a Toynbee proletariat into its own internal business environment. This is always a dangerous and foolish thing to do because Toynbee proletariats are *always* a potential threat to preserving Order in any Society in which they are present. If STEs are not *citizens* of the Enterprise then they are *outlaws* embedded within it. Being denied the protections and civil rights of the Enterprise's social contract, they likewise incur no deontological commitment to civic Duties under it. This, in turn, more or less forces management to resort to coercive methods of rulership over them, and that is the slippery slope leading to the introduction of *habits* of rulership over the *general* membership. Once that happens, breakdown of the Enterprise's Republican Community can follow very swiftly. It is always difficult enough for agents of governance and management to sustain relationships of civic Community. It is foolish to voluntarily make this difficult task even more difficult.

Sometimes it is possible for Enterprise governance to avoid all the potential problems that come with employment of STEs by contracting with independent outside Enterprises to supply the desired economic goods or services rather than by using STEs to supply them. This is possible when appropriate supplier businesses are available. It is a method many businesses utilize. It can even seed the economic development of the local political community by providing opportunities for local entrepreneurs to establish enterprises or Enterprises of their own – an act of *corporate* citizenship in regard to its political Society environment. Speaking for myself, this is my personal preference as a manager. However, it is not always an option for an Enterprise to do this. The desired supplier might not exist. The cost might be prohibitive compared to employment of STEs. For these and other practical reasons, Enterprise agents must still be trained to know how to govern and manage when there is an STE population in its labor force.

Given these considerations, the conclusion is more or less obvious. STEs *must* be regarded as citizens of the Enterprise during their period of employment. However, this 'during the period of their employment' clause raises more issues because the clause marks an important difference

between short term and long term employees. The first follow-on question becomes: Are STEs to be somehow regarded as "second class" citizens? This question is easy to answer. If governance of the Enterprise admits a second class of citizens, unequal to the class of long term employees, then it introduces a caste system contrary to the very idea of a Republic. It invites injustices from people's diverse passions for distinction because it *makes* a distinction of class/caste. This again compounds the difficulties the agents of management and governance must deal with. The answer therefore seems very obvious: STEs must *not* be relegated to second class citizen status. They must be accorded just representation in the Enterprise's legislative branch functions, receive equal protection from its judicial branch, and, where appropriate, have executive branch representation.

However, this too is accompanied by some obvious challenges. An STE knows his membership is temporary. How, then, does management and governance deal with what is popularly known as "short timer" behavior many people tend to exhibit as their term of employment draws towards its end? How can management and governance stimulate an STE's genuine commitment to the Union of the Enterprise when he knows the day will come when he is no longer part of it?

It is in this connection where attention must be drawn to another long-standing antisocial habit of business practice that has been a norm in America since the time of the Economy Revolution. This is the habit of regarding what an STE does after the completion of his employment as "none of the business of" the company's management. In fact what an STE is going to do after the end of his temporary employment is "the business" of Enterprise management *because it affects what the STE does during his period of employment*.

Earlier in this chapter I cited Salinger's finding regarding the short term nature of employment for journeymen in colonial Philadelphia in the years after 1750. This practice was widespread and is one of the characteristics of the American Economy Revolution and its institution of uncivic free enterprise in this country. It is a marker of *uncivic* "hire and fire" company management. One question that can obviously be asked is: Are there no other examples of "hire and fire" practices upon which *civic* tactics and policies might be based? The answer is 'yes' and it is found in what might at first glance seem to be an unexpected place: civic practices of indentured servitude in the early colonial period.

A large fraction of America's early immigrants from Great Britain and northern Europe came to America as indentured servants. It was a means by which poorer people could procure passage by ship from Europe to America. In exchange for a definite period of a few years in which the immigrant agreed "to serve well and faithfully" as an indentured servant, his ship passage was paid for and he received food, clothing and shelter from his "master." But very few people would have accepted this contract if, at the end of his indenture, the servant was simply turned out into the wilderness to survive or starve on his own. As part of the contract, the indentured servant also received a "stake" in the form of a small amount of capital, either in land or money or both, for him to use to set himself up as an independent proprietor-capitalist. If he did not "serve well and faithfully," he put this stake at risk. America's earliest townships and cities were *founded* on this practice and, more than any other factor, this made America "the land of opportunity."

There were incentives in this system for the employer, too. Jernegan tells us:

Land, to the amount of from 50 to 150 acres, was granted as a free gift to anyone who would import a laborer into a southern colony, or to anyone who migrated at his own charge. If the immigrant was unable to pay the cost of his transportation, he might sign an indenture or contract, with a ship-owner, a planter, or his agent. That is, in return for his transportation, food, clothing, and shelter, he promised to work for the planter four or five years and in some cases seven or more. Many emigrants were willing to make such agreements because at the end of their term of service they became free men. They also generally received a tract of 50 acres of land free, as provided by the laws of the southern

colonies. With the cost of transporting a laborer around £8, land would cost from two shillings per acre up. This was the only method of securing either laborers or land in large quantities except through the purchase of negro slaves. Perhaps around 1500 servants a year came to Virginia alone during the seventeenth century. [Jernegan (1929), pp. 85-86]

What can we take as a lesson for our times from this history?

Circumstances under which hiring of short term employees is justifiable under the terms and conditions of an Enterprise's social contract usually tend to be of the sort where STEs have some particular sets of skills in providing particular types of economic services. There is a great diversity in the types of skills sought, which can range from primarily manual labor skills to skills acquired through in-depth specialized studies such as engineering or science. There are two broad categories of entrepreneurs typically represented in an STE labor force. The first category is comprised of entrepreneurs whose practice of their skills is professional. By this I mean that the entrepreneur will offer to provide the same sort of economic services in subsequent employments and his occupation as an STE is not intended as a phase or "stepping stone" to some different kind of enterprise later. His principal interest-benefit is current income revenue. The discussion here pertains to people in this category. Let us refer to them as *regular* short term employees.

The second category consists of entrepreneurs for whom STE employment is undertaken as an intermediate step in the person's work career. Examples of this category include young people whose interest-benefit lies in raising capital to finance their further education, interns whose interest-benefit lies in gaining experience during their formal education to prepare for a subsequent career after graduation, and entrepreneurs whose interest-benefit lies in raising initial investment capital to finance some future capitalist-entrepreneur enterprise of their own²⁴. Let us refer to people in this category as *irregular* short term employees. Their relationship with the Enterprise is properly regarded as a strictly commercial exchange because they are not seeking to join the Enterprise membership. Rather, their interests are those of a *supplier* (table 1). In social terms, their presence within the Enterprise Society is analogous to a foreigner who enters a country on a temporary visa and consents to *obligatione externa* peculiar to that situation.

The principal challenge employment of regular short term employees always presents is the challenge of establishing commitments to a citizenship relationship. This challenge is present to a lesser degree with newly hired long term employees also because commitment to citizenship by a newly hired employee is not automatic. Some people do in fact accept employment without any intention to actually bind themselves to a social contract with the members of an Enterprise. Such individuals are, deontologically, social outlaws. Others do make a personal pledge of citizenship commitment but are at the same time suspicious of the veracity of the Enterprise Community's reciprocal commitment. Their trust and allegiance must first be won over before a firm bonding relationship between themselves and the Enterprise Community is actually established. If their expectations are not met, such people easily revoke their own commitment and become outlaws within the Enterprise Society. For this reason, an Enterprise is justified in putting into practice a period of probationary employment. Such a probationary period is analogous to the naturalization process when an immigrant enters a country with the intent to seek citizenship.

The challenge of establishing a citizenship relationship is greater for regular short term employees because their term of employment has a defined and limited duration. Unless some common interest in maintaining a social-chemistry bonding relationship between the STE and the long term membership can be established, establishing a citizenship relationship during the term

²⁴ This last category sometimes also includes long term employees who intend to both maintain their enterprises within the Enterprise and also finance an independent capitalist-entrepreneur business such as an investment business that can be operated concurrently with their membership in the Enterprise. However, this entrepreneur does not require a separate treatment because he is a long term employee.

of employment is problematic. Given the individuality of every person, the challenge of establishing such a common interest presents a great difficulty, and this is one principal reason I have a personal preference for dealing with circumstances justifying the employment of STEs by instead dealing with those circumstances by means of external suppliers when they are available. It is easier to establish cordial and mutually beneficial long term relationships of commerce with supplier companies because there is a buyer-seller common interest in making not only present but future commercial transactions. Networks of contractor-subcontractor companies are based on such a common interest shared among independent businesses.

Herein can be found a concept that is fecund for meeting the challenge that arises in relationships with regular STEs. It is this. The forms of circumstances that justify employment of STEs tend to recur with more or less minute differences in their material circumstances. For example, a farmer who hires seasonal workers at planting or harvest time usually encounters the same need for short term labor services year after year. Indeed, a labor shortage can pose a serious threat to his business. Similarly, a defense contractor usually finds that similar STE crafts are needed to fulfill these contracts from one to the next. An Enterprise facing an explosive but sustainable growth in the demand for its products typically will wish to convert its STE labor force into a part of its long term labor force membership eventually.

The recurring theme in these circumstances is *future employment*. Membership growth by means of sustainable customer market growth is a more or less obvious case. Other cases are less obvious. However, if an Enterprise anticipates it will experience recurrent situations that would justify future STE employments, it can *also* anticipate developing a Community common interest in seeing *supplier Enterprises* established who it can call upon at need to take advantage of commercial opportunities. Innovative Enterprises – Enterprises whose business strategy is based on coming up with new products and services – especially tend to benefit from readily available supplier Enterprises because of the uncertainties and risks that attend new product introductions.

The common object of interest in these circumstances can properly be called an interest in *future joint ventures* with partnering Enterprises and enterprises. Such commercial partners can properly be called *utility industries* from the point of view of the Enterprise. The Enterprise can satisfy its own recurring economic wants and needs by effecting or helping to effect the creation of such utility industries. The immediate object of this strategy is effecting a civil Union within the Enterprise itself in regard to its STEs. The mediate object is to stimulate development of a robust and stable utility industry network. The strategy is one of ***capitalism breeding capitalists***.

Looked at in this way, one tactic the Enterprise can adopt is to negotiate agreements with STEs or associations of STEs *to capitalize their establishment of their own Enterprises*. What I mean by this is that the Enterprise agrees to make a *non-proprietor* capital investment in the start up of new Enterprises or enterprises by its STEs in return for negotiated dividend payments from the capitalist's equity of these new businesses. The dividends would be part of the income revenue of the original Enterprise – and, therefore, part of the revenue stream from which it pays wages and dividends to its own members. For the new Enterprises, profit in excess of these dividend payments becomes part of the capitalist's equity of the new Enterprise, whereas the wealth-assets it pays out as dividends is part of the usual liability accounts in the new Company's balance sheet. Furthermore, part of the negotiated capitalization agreement could include a clause by which, over time, the new Enterprise is granted an option to gradually purchase the property right to dividend – in other words, they could possess rightfully the option to buy their capital stock back from the original investing Enterprise. Over time this could lead to the new Enterprise becoming wholly owned by its own long term employee-members.

This strategy is one aimed at long term institution of a ***heterarchy of capitalism*** and abolition of uncivic caste divisions of "capitalism vs. labor" (as it is popularly called) that evolved out of

the original institution of uncivic free enterprise in the days of the Economy Revolution. Central to this goal of instituting a heterarchy of capitalism is that this institution make it possible for every citizen of the parent Society to acquire capital necessary to become a capitalist himself. It is a goal that affects the posterity of all citizens, and especially of our young people, who in the majority of cases must begin their adult independency without initial capital of their own.

I have no doubt that other kinds of tactics capable of leading to the same end are possible, and I do not doubt that over time, as more people develop *capital skill* (instead of mere 'job skill'), such other tactics will be discovered and invented. The central Ideas I wish to emphasize in this treatise are the Idea of such a heterarchy of capitalism and the Idea of capitalism breeding capitalists. In the history of Western civilization, capitalism is, and has been since its inception, the one pathway by which people have been able to effect more perfect states of personal civil liberty and general Welfare in their Societies. The American colonies began as a Society founded on capitalism, and this was the elixir of our liberty and the seedpod of liberty *with justice for all*. Karl Marx and Friedrich Engels never did more harm to more people than they did when they succeeded in corrupting the meaning of capitalism in the minds of so many people and hijacked the word for their own propaganda purposes.

§ 4.6 To Secure the Blessings of Civil Liberty

To secure the blessings of civil liberty means to make it the Duty of the Enterprise association to insure that the *civil* liberties of each of its members remain unhindered by the governance and management of the Enterprise. The general object is aimed at preserving the social contract of the Enterprise association and insuring that any amendments to it that may become necessary from time to time are enacted only with the consent of *every* citizen of the Enterprise. Civil liberty and rulership are incompatible even when rulership is effected through non-consensus democracy. At the same time, a system of heterarchy governance and management is governance and management of cooperating mini-Communities and this imposes an important element of non-uniformity recognizing that just *differences* in civil liberties can exist among divers mini-Communities.

To use an example from U.S. politics, it is legal in the state of Oregon to possess marijuana and it is illegal to do so in the neighboring state of Idaho. The citizens of Oregon therefore are at civil liberty to engage in an action that the citizens of Idaho are not at civil liberty to engage in. This is not unjust. Civil liberty is not licentiousness. Every person seeking admission as a citizen to a civil Community is required to alienate particular *natural* liberties in exchange for receiving the benefits and protections of association in the civil Community. Licentiousness is disregard of legal or moral constraints. In regard to moral constraints, every human being constructs for himself his own private and peculiar moral code in his manifold of rules. A *social* moral code subsists in a set of customs, habits, and conventions observed by the members of a civil Society or mini-Society and which are not-incongruent with the personal moral codes of all the citizens of that Society or mini-Society. Its citizens *consent* to abide by the Society's or mini-Society's moral conventions. This does not mean each individual *agrees* in all particulars with the behaviors that are permitted by or prohibited by that convention. Consent doesn't mean *agreement*; it means *non-opposition*. It doesn't mean, "I think this is right"; it only means, "I'll go along with this."

Civil liberties are actions that are in non-opposition to a civil Community's legal and socially-moral conventions. Its legal conventions, when the laws are *just*, are merely codifications of technical details providing clarifications and distinctions of the civil Community's socially-moral conventions. During America's colonial period and the first half-century of U.S. independency, Americans did not question or challenge the practical necessity for citizens to consent and adhere to a social system of socially-moral conventions and just laws. Tocqueville noted,

I have already observed that the principle of the sovereignty of the people governs the

whole political system of the Anglo-Americans. . . . In the nations by which the sovereignty of the people is recognized, every individual has an equal share of power and participates equally in the government of the state. Why, then, does he obey society, and what are the natural limits of this obedience? Every individual is always supposed to be as well informed, as virtuous, and as strong as any of his fellow citizens. He obeys society, not because he is inferior to those who conduct it or because he is less capable than any other of governing himself, but because he acknowledges the utility of an association with his fellow men and he knows that no such association can exist without a regulating force. He is subject to all that concerns the duties of citizens to each other; he is free . . . for all that concerns himself. Hence arises the maxim, that everyone is the best and sole judge of his own private interest, and that society has no right to control a man's actions unless they are prejudicial to the common weal or unless the common weal demands his help. [Tocqueville (1836), pp. 64-65]

This governing condition – that *just* requirements for alienation of natural liberties have their basis in judgment from the relationship between those liberties and the common well-being of the civil Community or mini-Community – is essential for Republican governance. This condition places constraints on the official actions of every agent of the legislative, executive, and judicial branches of governance whether the Society in question is a political Society or a commercial Society. Tocqueville further noted,

The Revolution of the United States was the result of a mature and reflecting preference for freedom, not of a vague or ill-defined craving for independence. It contracted no allegiance with the turbulent passions of anarchy, but its course was marked, on the contrary, by a love of law and order.

It was never assumed in the United States that the citizen of a free country has a right to do whatever he pleases; on the contrary, more social obligations were there imposed upon him than anywhere else. No idea was ever entertained of attacking the principle or contesting the rights of society; but the exercise of its authority was divided, in order that the office might be powerful and the officer insignificant, and that the community should be at once regulated and free. In no country in the world does the law hold so absolute a language as in America; and in no country is the right of applying it vested in so many hands. The administration of power in the United States presents nothing either centralized or hierarchical in its constitution; this accounts for it passing unperceived. The power exists, but its representative is nowhere to be seen. [*ibid.*, pp. 70-71]

I especially call your attention to Tocqueville's remark that governance (the administration of power) in the American Republic "presents nothing either centralized or hierarchical." If it is neither centralized nor hierarchical then it is *heterarchical*. This applies equally whether we are talking about political or commercial entities. When an Enterprise is composed of divers mini-Communities its *layered* structure of management and governance in an inverted pyramid arrangement is instituted in order to coordinate the activities of and insure cooperation among these mini-Communities. The powers of management and governance in each layer are restricted to those powers and expectations of authority necessary for common interests in well-being found to be shared by these mini-Communities at that layer of organization.

This extends to socially-moral conventions as much as to any other object of authority. It permits *and requires* autonomy of the mini-Communities over all matters that affect the mini-Community alone; and it likewise requires *submission* of each of these mini-Communities to legal and socially-moral conventions that affect the well-being of multiple mini-Communities. When the autonomy of a civil mini-Community concerning its internal matters is overruled by agents of management and governance at a more general layer in its heterarchy, this is tyranny of rulership. When a mini-Community attempts to dictate rules to another mini-Community

concerning *that mini-Community's* internal matters not pertaining to the *common* well-being of their greater Society, this is uncivic aggression and a betrayal of the social contract.

Furthermore, it must always be borne in mind that an established and civil mini-Community never alienates its liberty to choose who it will and who it will not admit into its civil association as a deontological citizen. Citizenship is not an entitlement. Institution of heterarchical management and governance implies and requires a civil association to embrace non-uniformity of civil liberties among mini-Communities. It is certainly within the prerogative of management and governance to try to persuade the divers mini-Communities to effect changes in their individual institutions; indeed, this is often essential for Progress in a Society. But this must always be done through education and persuasion, never by external dictate or fiat. Without this constraint, civil liberty for *each* citizen cannot be secured or insured.

§ 5. A Final Remark on the Objects of Governance

Perhaps the foregoing discussions of the objects of Enterprise governance help to make it clear that just governance is never a simple thing to effect. The general objects of governance imply many Duties agents of governance and management must consent to perform as a condition of their offices. They also guide and constrain acts of legislation in every layer of the heterarchy, acts of judgment in every judicial proceeding, and every action by which executive power is effected in the Enterprise. The general objects stand as grounding conditions for enlightened institution of the legislative, executive, and judicial branches of Enterprise governance.

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