

The Constitution, The Uniqueness Puzzle, and The Economic Conditions of Democracy

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I.

There is a theory of politics — or of history — or perhaps it should be classified as a sober fable — that might be called the Theory of Democratic Prosperity, for it holds that democratic stability is possible only in the presence of general economic prosperity. The Theory is an old one — the works of the post-Enlightenment thinkers and some of their predecessors are full of it — but it is repeatedly rediscovered, probably because it speaks with such clarity. The less the wealth enjoyed by the people of a nation, the greater the difficulties they will encounter in establishing counterweights to governmental power. If a nation's people are impoverished compared to the people who live elsewhere on the globe, then democracy will lead to impossible demands for wealth and what wealth buys: consumer products, real property, access, class. An authoritarian government might ignore the pleas of its impoverished masses, but in an age when a burgeoning technology of rapid mass communication has made the world a village, the people of any new democracy will lay claim to their "fair share" of goods and resources as a

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means of keeping up with the Joneses, who, although they may live half a world away and speak another tongue, remain electronic neighbors.

The Theory of Democratic Prosperity makes no claim that general prosperity is a sufficient condition for the development of a democracy, but the Theory does insist that democratic government in the absence of prosperity is inherently unstable. The prosperity must be general, according to the Theory, because if it is not, then the democracy becomes a battle in which the have-nots demand what the haves will not grant. Thus democracy is rooted in a large middle class, a class defined less by its income or property holdings than by its subjective understanding that its own stake is in the status quo, a class that will serve as a conservative bulwark against demands for change so drastic that the ruling elite is bound to resist them. The significant datum is not whether prosperity really is general or not, but whether this middle class *believes* that it is. When this middle class, or gradualist class, exists, change is likely to come slowly; when it does not, the likely result of a popular or representative democracy on the Western model is a hardening of positions at the extremes, the destruction of what center there might be, and either chaos or authoritarianism. Gradual change does not, on this view, create or require a permanent underclass. On the contrary, the less radical the government's interventions, so the Theory teaches, the greater the potential for sustained economic growth, growth with potential to improve the material conditions of all members of the society. The cycle is a neat one: Prosperity requires gradualism; gradualism requires patience; patience requires prosperity. In this sense, the prosperity that is the end of political society must also be present at its beginning.

The Theory also requires prosperity for another reason: Societies with strong, expanding, diverse economies provide more than one route to prestige, influence, and the accumulation of wealth. Societies with economies that are relatively weak often provide only one — government. As Seymour Martin Lipset has put the matter:

If there is enough wealth in the country so that it does not make too much difference whether some redistribution takes place, it is easier to accept the idea that it does not matter greatly which side is in power. But if loss of office means serious losses for major power groups, they will seek to retain or secure office by any means available.¹

If running the government for the benefit of one's self and one's cronies is the only way to get ahead, a rational governor will be reluctant to yield office, and will, while there, pervert public trust for

1. S. LIPSET, *POLITICAL MAN: THE SOCIAL BASES OF POLITICS* 51 (rev. ed. 1981).

private gain. Many a state of emergency and suspension of the forms of democratic process, the Theory teaches, has been imposed because there is no path to power once out of government. This Theory of Democratic Prosperity, propounded in one form or another by theorists as diverse as Lipset, Joseph Schumpeter, Milton Friedman, Charles Lindblom, Friedrich Hayek, and even (arguably) Karl Marx, uses the term "democracy" consistently with the image it conjures for most of the Western world: Pluralistic politics in which interest groups and parties compete with one another, electoral representation with a relatively widespread suffrage, free and open criticism of the policies of the governing party, and — what is too often taken for granted in the West — governors who leave office when their terms expire. The Theory specifically excludes the possibility that democracy itself might be measured by (rather than enabled by) the breadth of the distribution of resources or the standard of living.

It would be a mistake, however, to think of the Theory as something of recent origin. The post-Enlightenment philosophers of eighteenth century Europe pressed the point that economic growth and perceived economic fairness were necessary for good government.² On this view, a dynamic economy might create between the weak and the powerful a commonality of interest adequate to dampen rivalries that would otherwise arise.³ Nor was this position limited to the democratic philosophers. As C.B. Macpherson has noted, even Thomas Hobbes, obviously no democrat, urged upon the sovereign policies that would promote the prosperity of the broad mass of individuals.⁴

Concluding that general prosperity is necessary for good government is of course not the same as concluding that it is necessary for democratic government, but the jump is not a very long one, and in the twentieth century observers have taken it. The modern theorists, moreover, have a view as well on the *source* of the prosperity so necessary to democracy: the market. Thus two of the most prominent exponents of the Theory of Democratic Prosperity, Milton Friedman and Friedrich Hayek, agree, in Friedman's words, "that capitalism is a necessary condition for political freedom."⁵ Charles Lindblom, although more observer than advocate, has made the same point: "The liberal notion of freedom was freedom from government's many interventions, and for that kind of freedom markets are indeed indispensable."⁶ Moreover, says Lindblom, polyarchy — rule by the many — would be unimaginable in the absence of a

2. See A. HIRSCHMAN, *THE PASSIONS AND THE INTERESTS: POLITICAL ARGUMENTS FOR CAPITALISM BEFORE ITS TRIUMPH* (1977).

3. See *id.* at 52 ("Thus it was expected that expansion of domestic trade would create more cohesive communities while foreign trade would help avoid wars between them").

4. See C.B. Macpherson, *Hobbes's Political Economy*, in *THE RISE AND FALL OF ECONOMIC JUSTICE AND OTHER ESSAYS* 133 (1987).

5. M. FRIEDMAN, *CAPITALISM AND FREEDOM* 10 (1982); see also F. HAYEK, *THE ROAD TO SERFDOM* 69-70 (1944).

6. C. LINDBLOM, *POLITICS AND MARKETS: THE WORLD'S POLITICAL-ECONOMIC SYSTEMS* 164 (1977).

market.⁷

Trades in a free market tend to increase net societal wealth, and Friedman, at least, argues that people free to choose their economic system will prefer the market, because the market, he says, will bring about an "enormous increase in the well-being of the masses," as it did in nineteenth century Europe.⁸ He does not argue explicitly that governments whose people are happy are more likely to survive, but that point should go as given. The burden of his view is that an improvement in the condition of the masses is a good thing and lends stability to the government, points difficult to deny, and that governments restrictive of economic freedom tend to have less economic growth, and conditions for the masses that are therefore worse. If the conditions of the masses are worse, the masses (who, free to choose, would want free markets) will seek a change. The government is then required for its own survival to place more restrictions on the freedom of its people, lest they advocate — or create — situations that would lead to the system's destruction.⁹

Joseph Schumpeter ended up in nearly the same place but traveled quite a different road to get there. Schumpeter, making his case for the inevitable failure of capitalism, conceded that the argument on behalf of socialism could never be made in purely economic terms — at least not in the United States — because "short of atrocious mismanagement, the huge mass of available commodities and services . . . promises a level of satisfaction of economic needs even of the poorest members of society . . . that would eliminate anything that could possibly be described as suffering or want."¹⁰ On this point, Lipset has noted that widely shared prosperity "means that there is relatively little difference between the standards of living of adjacent social classes," and that classes somewhat further apart might also register "nearly similar consumption patterns."¹¹ Thus, "the wealthier a country, the less is status inferiority experienced as a major source of deprivation."¹² Whether in Schumpeter's formulation or Lipset's, this is precisely the result that the Theory of Democratic Prosperity requires: If powerful elites are to respect the democracy, the less powerful must see the economy as working for their benefit.

That this vision of the preconditions of democracy has weaknesses should be evident. As a positive theory of government, for example, the Theory has explanatory power only when many other assump-

7. See *id.* at 165.

8. M. FRIEDMAN, *supra* note 5, at 10.

9. See *id.* at 15-19.

10. J. SCHUMPETER, *CAPITALISM, SOCIALISM, AND DEMOCRACY* 384 (3d ed. 1950).

11. S. LIPSET, *supra* note 1, at 50.

12. *Id.*

tions are added to the model. The success of democracy in, say, Botswana and Costa Rica, and its flourishing amid the post-war devastation of Japan and West Germany, cannot be linked to the widespread prosperity and sustained growth that the Theory requires. Further difficulties arise when the Theory is put to prescriptive use, especially when taken as the major premise of a syllogism concluding that the United States suffers from a chauvinistic myopia in thinking that it can force changes in the systems by which most nations are ruled, without first strengthening their economies. Despite these problems, the Theory yields interesting results when the United States rather than another nation is taken as its subject. The Theory, in fact, may be quite useful in trying to solve the Uniqueness Puzzle — the puzzle, that is, of why the American experiment in constitutional government has succeeded so well for so long, when so many other efforts at establishing democratic republics have failed so miserably.

The Theory of Democratic Prosperity explains the success of constitutional government in the United States by pointing to the growth over time of the economy, the generally improving standard of living, the existence of independent economic power as a counterweight to government, and the continued flourishing of the middle class. The Theory's gentle irony is that it is capable of extolling precisely those aspects of the American Constitution that Charles Beard once wrote to condemn.¹³ The anti-majoritarian protections of property, for example, become not the safeguards of the propertied classes, but rather the preservatives of democracy itself; by limiting the scope of societal changes that the masses can demand, the Constitution lessens the likelihood that those with the greatest private power will dismantle the democratic institutions. The Theory is also able to justify the exclusion of slaves and, to a large extent, the poor from suffrage for the first century of the nation's existence. Before the massive economic expansion of the past century, there simply was not enough wealth to share with all these potential voters.

The First Amendment fits neatly into the Theory of Democratic Prosperity. The Theory describes democracy as including freedom of advocacy, but the Theory also acknowledges what courts hearing First Amendment cases too often seem to ignore: Expressing one's views costs money. The Theory's dismissal of the possibility of democracy under socialism, in fact, rests importantly on this point. Thus Milton Friedman has argued that the difficulty of amassing private capital in a socialist economy — to say nothing of the problem of finding a place to spend it if the government owns the printing presses — suggests that under socialism, the government could not effectively guarantee the freedom of advocacy so central to Western-style pluralist democracy.¹⁴ This argument, in turn, can help ex-

13. See C. BEARD, AN ECONOMIC INTERPRETATION OF THE CONSTITUTION OF THE UNITED STATES (2d ed. 1935).

14. M. FRIEDMAN, *supra* note 5, at 16-18.

plain a line of Supreme Court decisions that some have criticized as granting freedom of speech in proportion to wealth.¹⁵ It is after all the ability to raise funds that will lead to the creation of stable counterweights to governmental action.

Constitutional restrictions on the ability of the majority to strip the powerful of their resources (including speech resources) are hardly evidence that the document is undemocratic. Plainly they are evidence, were any needed, that the original Constitution has nothing to do with direct democracy, in which every member of the *demos* has an equal say on every issue that arises. Representation, not direct voice, is the Constitution's critical feature, and representation is by its nature a relatively inefficient means for aggregating voter preferences. The Constitution prescribes republican government, a representative democracy in which the electoral process is complex and the legislative process is cumbersome. That this combination works to slow change is axiomatic; but this systemic inertia appears to some to be anachronistic, not well-suited to solving the problems of a modern industrial power.

The inability of the legislature to promulgate swift and radical changes in society, however, has not evidently led to a collapse of the American system, nor yet the disintegration of the nation's leading position in the world. Possibly the contrary is true: Perhaps the system has survived so well precisely because the Constitution makes legislative victories relatively expensive to achieve. Public choice theorists are fond of pointing to the disproportionate influence that well-organized interests can bring to bear on legislative processes, but the Theory of Democratic Prosperity might count this a benefit rather than a cost of representative government. Were these "special interests" less well represented, they might challenge the forms of democracy in ways more threatening to the democratic ideal.

Of course, setting out to make the legislative process a cumbersome one in order to protect the democracy against radical legislative initiatives might amount to constitutional overkill. The Theory of Democratic Prosperity predicts restrictions on what changes can be worked by popular will, but the prediction is independent of legal barriers. According to the Theory, the democracy will remain stable only if the middle class forms a stable democratic center, re-

15. See, e.g., *Buckley v. Valeo*, 424 U.S. 1 (1976) (restricting the ability of government to limit "independent" expenditures in political campaigns); *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978) (restricting the ability of government to limit corporate speech).

The criticism tends toward the polemical. See, e.g., Wright, *Money and the Pollution of Politics: Is the First Amendment an Obstacle to Political Equality?*, 82 COLUM. L. REV. 609 (1982); Carter, *Technology, Democracy, and the Manipulation of Consent*, 93 YALE L.J. 581 (1984).

sistant to demands from the political extremes. Without this middle class, popular revolution or elite reaction can eventually sweep away the forms of democracy. Thus the success of the American constitutional experiment, in this vision, rests less on particular legal restrictions on majority action than it does on a sustained and broad-based economic growth which teaches the middle class that radical change is not in its interest.

II.

The provisions of the 1787 Constitution, together with the Bill of Rights, suggest a government designed (whether consciously or not) to put into practice the Theory of Democratic Prosperity. This perspective might be useful in framing a small corner of the debate over the proper scope of judicial review. One of the trickier tasks for scholars who are enamored of the Supreme Court's transparent efforts to use the Constitution to protect those privacy and associational rights that a majority of its members consider morally imperative is to distinguish the interpretive method of such decisions as *Griswold v. Connecticut*¹⁶ and *Roe v. Wade*¹⁷ from that of *Lochner v. New York*.¹⁸ One possible distinction is of course the too-easy dodge that the Justices who decided *Lochner*, in rejecting a legislative effort to regulate the hours that bakery employees could be required to work, simply employed the wrong moral theory, whereas the right to personal privacy protected in *Griswold* and *Roe* employed the right one. An aesthetically more appealing approach is to seek to harmonize the cases rather than to distinguish them — to try, for example, to use changes in social mores to justify shifts in judicial sentiment. Perhaps the *Lochner* Court sensed something important about the first part of the twentieth century, just as the *Griswold* and *Roe* Courts might have sensed something about the last.¹⁹

The Theory of Democratic Prosperity does little to help those seeking to justify the method of *Griswold* and *Roe*, but it does supply a name to what the *Lochner* Court might have sought and missed, and what today's Supreme Court would easily find: prosperity. One could perhaps build a theory of judicial review on a search for the economic conditions of democracy, concluding that the more they are present, the greater the leeway the majority should have in restricting the owners of private capital. If the economic conditions demanded by the Theory exist, then the gradualist middle class will prevent restrictions so severe that they would likely lead to anti-democratic reaction. Consequently, any particular legislative initiative is unlikely to lead to an anti-capitalist onslaught. When the middle class is smaller, the economy weaker, the Justices have greater reason for vigilance, because there is no popular bulwark

16. 381 U.S. 479 (1965).

17. 410 U.S. 113 (1973).

18. 198 U.S. 45 (1905).

19. Cf. Ackerman, *The Storrs Lectures: Discovering the Constitution*, 93 YALE L.J. 1013 (1984) (explaining how *Lochner* could be right then and wrong now).

against democratic excess of the kind that could end the constitutional experiment.

What would matter, then, in a discussion over whether *Lochner* was rightly decided would be a partly empirical, partly instinctual determination on whether, at the time the case was decided, the economic conditions of democracy were sufficiently present to protect the democracy even if a popular majority were permitted in a particular case to impose its will on private capital owned by a minority. The Supreme Court in 1905 might rationally have concluded that the nation was sufficiently poor that democracy would survive only if the owners of private capital were protected, just as the Court could have concluded three decades later (and might conclude today) that prosperity is sufficiently widespread and entrenched that democracy would survive restrictions on the economically powerful.

Without endorsing a judicial review based on the Theory of Democratic Prosperity, it is a matter of more than passing interest to try to work out what its method might entail. A constitutional court working from the Theory would have to test legislative initiatives not against abstract rules drawn from the Constitution's text, or at least not against those rules alone, but also against its reading of the concrete economic conditions prevailing in the United States. The greater the concentration of private wealth, and the greater the perception of a desperate, unfair poverty, the more vigilant the court would be against government moves that might spark a battle that could end democracy. So for example a court before the Civil War would be sensitive to anything approaching a move toward freeing the slaves. Of course the Congress could not cause Dred Scott to be set free from his master;²⁰ if these people could escape and later become of all things potential voters, think of the violence that would result as the South, and perhaps the North as well, resisted their demands. Even the violence that in fact *did* result from the struggle over the slave system might not have changed this perception. Such seemingly odious decisions as *The Civil Rights Cases*²¹ and *Plessy v. Ferguson*²² could be explained, at least in part, as judicial resistance to demands for the kind of equality that would, in the very explicit fears of some, bring to a crashing end what fragile forms of democracy existed in the post-war South.²³

A court that viewed its mission this way would be engaged in a pragmatic enterprise, one in which the highest value is the preserva-

20. See *Dred Scott v. Sandford*, 60 U.S. (19 How.) 393 (1857).

21. 100 U.S. 3 (1883).

22. 163 U.S. 537 (1896).

23. Cf. G. FREDERICKSON, *THE BLACK IMAGE IN THE WHITE MIND* (1971) (discussing link between Southern fears about former slaves and Southern views on racial inferiority); C.V. WOODWARD, *THE STRANGE CAREER OF JIM CROW* (3d rev. ed. 1974) (explaining fears that led to widespread implementation of segregation in the post-war South).

tion of the institutions of constitutional government. True, the Constitution — primarily through its amendments — protects individual rights against that same government, but the Theory of Democratic Prosperity is concerned with the basics, and the basics were mostly settled in 1787. Thus the judge who approved the widespread oppression of black people, whether before the Civil War or after it, could explain herself not as subjugating her personal preferences to her reading of the constitutional document, but as subjugating both to the overarching need to protect the democratic enterprise itself against majoritarian demands that could destroy it.²⁴

Richard Posner, in *The Economics of Justice*,²⁵ has proposed something very close to this, although perhaps without realizing it. In his vision, judges ought to be guided by a morality based on choosing the course most likely to maximize societal wealth. The sensible next step in his theory — a step that he apparently did not consider — would be the corollary that changing economic conditions might dictate shifting emphases. The rule that maximizes wealth might be very different in the antebellum South than in the post-industrial North, and very different in the era of *Lochner* than in the era of activist administrative government.

Accepting that corollary would, in a sense, read the Theory of Democratic Prosperity into the Constitution, but it would also do something else: It would constitute explicit acknowledgment of what Karl Marx insisted was always true — that law is simply a part of the superstructure, determined by the material conditions of work, that is, by the relationship between the laborer and the means of production. In a system in which the means of production are privately owned, the law will in the end reflect the interests of the owners. This is the world that Marx claimed would lead to revolution. It is also, apparently, the world of the Theory of Democratic Prosperity, and the world that Professor — now Judge — Posner would prefer to inhabit. His preference is based, of course, on the faith that Marx was wrong about the implications of his own determinism, the faith that legal protection of the interests of the owners of capital will lead not to oppression but to prosperity, and the faith that general prosperity, in turn, will reinforce, not weaken, the democracy. One may at once concede the sincerity of that faith while wondering at the chain of assumptions masked by its logical cast.

III.

The Theory of Democratic Prosperity is a theory about necessary conditions, not sufficient ones. The Theory permits prosperous countries that are not Western-style democracies; the self-styled

24. For a scathing and closely reasoned critique of the tendency of anti-slavery judges to subjugate their personal preferences to purportedly higher political values in the escaped slave cases, see R. COVER, *JUSTICE ACCUSED: ANTI-SLAVERY AND THE JUDICIAL PROCESS* (1975).

25. R. POSNER, *THE ECONOMICS OF JUSTICE* (1981).

“democracy” in prosperous South Korea is a prominent example. What the Theory denies is the possibility that democracy on the Western model might flourish in a country that is poor.

In the 1980s, this is a distinction that matters, for the 1980s have been the era of the Reagan Doctrine in foreign affairs. The Reagan Doctrine has two principal components: first, a commitment by the United States to support anti-communist insurgencies in nations on the fringe of the Soviet Empire, and second, an undertaking to seek out and support democratic, centrist “third forces” in nations in which right-wing, pro-United States dictatorships are resisted by insurgent forces believed to lean toward the Soviet Union. Both components are justified by the Reagan Administration as involving the promotion of democracy abroad. The deeply divisive anti-communist aspect of the Reagan Doctrine has involved material support for violent resistance movements in four countries: Afghanistan, Angola, Mozambique, and Nicaragua. In none of the four nations is there a serious pretense that the resistance movement can overthrow the constituted government; but in each case, the Administration expresses the hope that its policy will harass the government into agreeing to democratic reforms. The less controversial third-force aspect has been showcased in Haiti, which at this writing still awaits its democratic moment, and the Philippines, where the moment has come but the democracy remains shaky. The morality of the Reagan Doctrine is simple. Its political science is only slightly more complex.

The moral understanding underlying the Doctrine holds that Western-style electoral democracy is the best available approximation of rule by the people, which is morally better than governance in its other common forms — rule by the privileged, rule by the powerful, rule by the party. Pluralist electoral democracy is said to free the human potential and transform the human spirit, whereas systems of government antithetical to Western democratic values are said to be inherently oppressive of both. The better human condition is freedom, but the usual human condition is bondage. Freedom, on this theory, is a fragile flower, blooming only for this brief season of history, and only over the minor part of the globe. If the flower is to live, if it is to blossom elsewhere, it will be only because of the concrete efforts of dedicated people; unless the United States, the most powerful nation in the free world, acts to nurture democracy wherever it might spring up, the fragile flower will finally die, and humanity will revert to its usual condition of bondage.

The political science of the Reagan Doctrine sees the United States and the Soviet Union as superpower rivals, nations that would compete for world dominance no matter what their respective political and economic systems. It is on this view an accident of history

that one superpower is capitalist and democratic, the other socialist and totalitarian, but it is an accident with important implications for American foreign policy. The reason to support truly democratic movements abroad — violent and non-violent movements alike — is that it happens to be the case that democratic governments tend to be allies of the United States, whereas non-democratic governments tend toward anti-Americanism. Communist governments tend to ally with the other superpower, and once in place are not easily nudged toward a Western-style democracy that might better suit American interests. Anti-communism is simply the promotion of national interest. Thus the moral status of democracy is not in issue; its political status, or more properly, its geopolitical status, is what matters.

The Reagan Doctrine is as hotly debated as foreign policies ever are, but it may simply be old wine in a new bottle. For decades, the United States has been urging the rest of the world to imitate its successful democracy, and much of the world has tried, often without lasting success, especially in countries that are poor.²⁶ The United States has also tried to bring democracy to other countries directly, through negotiation, through diplomatic pressure, through covert paramilitary activities, and through direct military intervention. Curiously, direct military intervention — everyone's last choice — has had the most notable record of successes, in Japan and Germany certainly, long ago (briefly) in Guatemala, and more recently, so some say, in Grenada. Elsewhere, the efforts have generally failed. The Theory of Democratic Prosperity would predict this failure, and would suggest that rather than writing fancy constitutional documents emulating the American model, nations desiring to develop Western-style democracy should first open up their economies.

This seems a perfectly reasonable conclusion as a matter of political economy, but it ought to be a little bit shocking and a little bit tragic to those who believe in the rule of law, or rather, those who believe in the possibility that law can rule. It should be shattering only to the few remaining scholars who insist that law is a discipline characterized by a spectacular neutrality entirely autonomous from normal political, social, and economic discourse.

Paul Brest wrote of the legal community a few years ago that “[m]uch of our commitment to *the* rule of law really seems a commitment to the rule of *our* law.”²⁷ No doubt he intended this as a scathing indictment, but it isn't really, not to the exponent of the Theory of Democratic Prosperity. For under that Theory, it is not in the end the rule of law (in the sense of the act that the law com-

26. The Reagan Doctrine may also be seen as a return to the status quo — promotion by the United States of the forms of democracy abroad — if the Carter Administration's emphasis on human rights in the sense of personal integrity is considered a historical aberration. See J. MURAVCHIK, *THE UNCERTAIN CRUSADE: JIMMY CARTER AND THE DILEMMAS OF HUMAN RIGHTS POLICY* (1986). My use of the word “aberration” does not imply any value judgment.

27. Brest, *Interpretation and Interest*, 34 *STAN. L. REV.* 765, 772 (1982).

mands or forbids) that matters. Laws are there, and they are followed or broken, but the output of the legal system is a consequence of the economic organization of the society. If "the law" is "our law," the reason must be that "we" are the elite without whose consent no one could govern. If the law tends toward injustice for the great mass of people, then it must be because "we" are imposing it on "them," a result that the forms of democracy make unlikely. The Theory of Democratic Prosperity holds it more likely that "we," if "we" didn't like what "they" were doing, would eliminate the forms of democracy altogether. But if on the other hand the law tends toward justice for the great mass of people, then the great mass of people must perceive themselves to be within the ruling elite — precisely what the Theory would predict, and what the first three words of the Constitution of the United States insist.

That perception, however, is the distinctive characteristic of the American *demos*, and does not obtain in most of the nations now struggling toward or against Western-style pluralist democracy. Anyone can write a constitution beginning "We, the People," but the Uniqueness Puzzle asks why the American Constitution is the most successful effort. The Theory of Democratic Prosperity teaches that only a nation in which the people are already economically autonomous and individually prosperous can place any force behind the words. Thus the United States can no more export its Constitution than it can export the summer sky of the New England shore — or than the Sandinistas can export revolution. According to the Theory, democracy — and presumably revolution as well — can take root only in soil already nurtured by specific material economic conditions.²⁸ In this sense, the critics have a point: The Reagan Doctrine *is* myopic and it *is* naive, as are all American policies intended to promote pluralist democracy in nations that are poor. The Theory of Democratic Prosperity says that it is not the Constitution that is foundational, but the material conditions within which the government is called upon to make it work. Thus it is the American economy, not the American Constitution, that nations struggling toward democracy should be encouraged to emulate. This conclusion, however, runs afoul of a troubling possibility: Very likely, American economic history is impossible to emulate.

Still, for those who consider democracy morally superior to the other possibilities, and for those who consider it the American mis-

28. The conclusion that democracy or revolution can take root only in properly nurtured soil does not suggest that the effort to plant either one in unfertile ground is without political significance. Thus whatever degree of illogic may attend the insistence that the Nicaraguan resistance — the "contras" — be supported notwithstanding the unlikelihood of internal rebellion also attaches to the frequent effort to defend the popular Latin American leftist slogan "Revolution without Borders" on the ground that revolution only takes place in concrete material conditions.

sion, whether for reasons of transcendent morality or for reasons of political expediency, to bring democracy to the world, there is a slender reed of hope in this materialist deluge. Perhaps the Theory of Democratic Prosperity is false. There are counter-examples to its teachings. There are logical holes. There is circularity.

The conclusion that the Theory is false, however, leads the argument into fresh and troubling turnings. If the Theory is false, for example, then Charles Beard's thesis might be the true one; perhaps the Constitution *was* written by a self-interested clique to protect its own wealth, in which case it is not clear what principle of justice gives it binding force. If the Theory is false, moreover, the solution to the Uniqueness Puzzle must lie in another direction. Perhaps Protestant sectarianism, for example, or the historical existence of the frontier might be cited to explain the success of American democracy. But religion is declining as a force in the lives of most Americans, and the frontier has disappeared, so these explanations for the Uniqueness Puzzle might also suggest that democracy is near to running its course.

So if the Theory is true, democracy is often limited by the degree of its depredations upon the owners of private capital, and in the economic world of the late twentieth century, may never take firm root where it does not already exist. And if the Theory is false, democracy under the American Constitution may be an idea whose time is passing. Both are depressing conclusions, and uncomfortable ones on which to reflect. A brighter world might be one in which values could be divorced from material conditions, because in that world one might venture that the spirit of the American *demos* is itself unique in ways specially conducive to the survival of democratic institutions. In this brighter world, the democratic spirit might even be exported, or discovered elsewhere, because the values making democracy possible and successful might prove not linked to economic conditions; they might instead bear some more profound relationship to a transcendent and non-materialistic human condition. A pleasant fantasy, that one, but a hypothesis which is finally testable not in the laboratory of logic but in the chapel of faith.