

Political Sortition for an Evolving World

by

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Abstract

Our Western political systems are straining to prove their legitimacy partly because the internet generation demands both open information and a role in the decision making. Yet, electoral democracy may be incapable of evolving to meet those requirements. This paper looks at sortition, or the selection of decision makers by lottery, to supplement or to replace current representative democracy. Empowering a cross-section of society to make policy decisions would more directly address the interests and concerns of the populace, and would result in an egalitarian and inclusive body, more transparent and resistant to corruption than are current policy makers. Furthermore, diverse assemblies possess greater ability in solving difficult problems and in making accurate forecasts than do the more homogenous groups that currently comprise governing parties. Consensus building increases this innovative potential. With the proper application of sortition and deliberation, therefore, advancement in the common good can be accelerated.

Keywords: Sortition; consensus building; deliberative democracy; open source software; activism

To Chanel

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Executive Summary

Our Western political systems are under great strain to maintain their legitimacy. Voter turnout trends downwards, and public protest occurs against governments accused of serving the interests of narrow, powerful sectors of society. Furthermore, the participatory and open nature of the internet instils in many the expectation that they should be permitted to play a part in decision-making and have access to relevant information. The solution might not be “better” elected representatives, for the limits of electoral democracy may have been reached.

This paper looks at the ancient practice of sortition, or the selection of decision makers by lottery, and explores the potential for its employment in modern politics. The discussion includes sortition’s actual implementation in citizens’ assemblies and other deliberative forums, as well as the more radical proposals for randomly chosen legislators. Dialogue among the members of sortition’s mini-publics naturally would comprise a wide range of views and interests. That diverse groups of individuals can outperform more homogeneous ones in solving difficult problems and in making accurate forecasts is discussed as is the innovative potential of consensus-building. Some thoughts on how the common good could be advanced follow.

Furthermore, it is argued, that sortition contains a means for its own correction. Policy-making mini-publics free to make decisions on how decisions ought to be made, would cause systems of governance to adapt to the evolving needs of the social body. For this to happen, however, we would have to give up our fetish for procedure and administration and instead create environments where experimentation and development can occur.

Introduction

Society develops through a series of human inventions that arise in a manner falling along a spectrum from the systematic at one extreme to the less procedural at the other. With the former, a great degree of planning occurs, and familiar technique is applied towards a known goal. But with the latter, informal organizing happens, concurrent to the creation, and the endpoint may be loosely defined if it exists at all. Systematic method squarely defines all roles and aggregates the results of those actions. However, the informal way adapts to the environment and produces outcomes less easily represented as sums of the component activities. While the tendency in modern times has been towards systematic ordering, I believe now, for the first time in centuries, the trend favours the less procedural.

The consequences are profound for human affairs and relationships because the systematic approach benefits those elites who understand the techniques and who are proficient designers and managers of the systems. Spontaneous creation, on the other hand, emerges from the many and can be inclusionary. Technique requires a division of labour and a hierarchy of position. But the less procedural favours self-organizing networks. The procedural processes show efficiency at designing away deviation, yet the looser methods thrive best with diversity. The first is top down; the second may occur in a flatter structure.

The computer and the internet have enabled all kinds of individual and cooperative behaviours that have diluted the authoritativeness of expert voices. In some cases the layperson adopts a different relationship with the expert as when individuals approach their doctors and attorneys informed by the internet on matters of health and law. In other instances, the public breaks off the relationship with specialists altogether. For example, many now purchase real estate and airfares without agents, or they have bypassed professional newspaper journalists in favour of interacting with internet articles and blogs. But in yet other cases, very real conflict occurs. Film producers, television

programmers, record labels, and publishers of books clash with the technically savvy amateur intent on copying, altering, producing, and sharing content at will. Actors in state positions scramble to prevent their secret documents from leaking into the public domain. Governments are even overthrown by spontaneous protest or internet-organized activism. While the toppling of dictators in Egypt and Libya currently sits fresh in our memories, the very first head of state to fall to an internet-enabled *ad hoc* protest was Joseph Estrada of the Philippines in 2001 (Rheingold, 157).

It seems unlikely to me that the western “democracies” will be forever untouched by these trends away from the elites’ designs and procedures and towards greater public participation. Elective parliamentary systems have been carefully crafted, and—whether by design or not—work well to promote a privileged class and their interests and ensure that the public exists mainly as spectators. Increasingly, however, many want a greater voice with their representatives and call for reform. Others have instead broken off their relationship with the political process as can be witnessed through declining voter turnout and party membership. But yet others have engaged in more militant action against their governments, as has been evident in Greece, Spain, Quebec and other places recently. Moreover, I believe, at some point, the movements will not be content to merely topple particular governments or to overturn specific policies but will target the very institutions and their procedures, demanding actual change to the systems (something more substantive than the nebulous Obama-style change). At some point those wishing for more participation may see parliaments and their corporate backers as unmovable obstacles to their own personal and collective growth. Indeed, we may already be there.

In Part Two, I will look at the ancient exercise of *sortition* or *the selection of decision makers by lottery*, a practice that survives today in our jury selection. While it is all too easy to dismiss its implementation in the political sphere as hare-brained or irrational, through an exploration of some of the features of a decision-making body formed by lot, I hope to give some cause to believe that an injection of this practice into modern governance could ensure a more harmonious relationship between those who govern and those who are governed, could produce innovative solutions to societal problems, and could remove some of the obstacles to human progress. Furthermore, I believe governance through the lot contains a means for its own self-correction, an

ability to adjust to the ever-changing times. Not hare-brained at all, I see that sortition could appeal to those across a great spectrum of thought. Sortition offers something for the risk-adverse policy-maker looking to engage the public, for the reformer aiming for more just governmental procedures and arrangements, and for anyone with more radical desires and a belief that we need to move beyond our current institutions. In this essay, I want to make a case for some experimentation with sortition. But first, in Part One, I wish to make clearer what I mean by the systematic versus the less procedural and make some critique of our current political arrangements.

Part 1.

On the Nature of Things

Chapter 1.

Manufacturing versus Growing

A century and a half ago social evolutionists contemplated the question whether society is a growth or a manufacture. In other words, does society spring from wholly natural causes, or is it built artificially? Herbert Spencer, for example, argues in his essay *The Social Organism* that every societal development, including in the areas of commerce, industry, and governance, evolves naturally in much the same way as do biological organisms. Spencer lived in exciting times when industrialization, commerce, science, and engineering were reaching ever greater heights, and a dizzying number of new inventions were yearly entering production: the telegraph, the typewriter, the sewing machine, the light bulb, the bicycle, and photographic devices to name a few. With Darwin's writings on natural selection fresh in his mind, Spencer's world-view must have been one of unorchestrated growth, whereby the fittest activities and ideas survive.

Spencer likens society to an organism, because both augment in mass, grow with continually increasing complexity of structure, develop a high degree of mutual dependence between parts, and continue as wholes while individual units appear, reproduce and die. He even goes so far as to discuss the "evolution of governmental structures" where he argues that even when parliaments, monarchs, or despots devise a law or issue a command that the people must follow, these laws or commands do not artificially shape society, for the rulers must ultimately conform to the will of the people. Furthermore, these powerful figures or institutions are themselves natural emergent entities. I can appreciate Spencer's characterization of society as an organism since greater society does grow and very often with mutually dependent pieces into a more complex structure. Millions of individuals making thousands of decisions daily endow society with a degree of unpredictability that cannot be captured by any blueprint or design. However, I wish to argue—and especially in the next chapter—that governments and legislation are purposeful creations, or manufactures in Spencer's terms, by agents following prescribed techniques and primarily looking out for their own interests. The election cycles are a part of this method, so voting into office a different party has little consequence. Even the old notion of a vanguard party admits to

cementing into place a new order, a new design, fixed dogmas. At this point, I want to consider more what this implies when we arrive at our governments, and at subsequent legislation and policy, through systematic means. Are there some core traits of manufactures that we should consider?

Manufactured units are produced with an end in mind, say, according to a pre-conceived design or blueprint, and once the final nail is driven or the last coat of paint applied, they are done and ready for their prescribed place in the pre-modelled environment. In contrast, natural growths have no design or designers and are never, even for the briefest moment, completed. Advance in their form from the less functional to the more functional happens through an interactive evolution with their environment. Small changes, or random mutations, in the organism affect its interaction with the ever-shifting natural world, a trial-and-error mechanism which propagates the beneficial alterations to future generations. Furthermore, manufactures typically decrease in robustness when their complexity increases (more on the potential for self-healing machines shortly) while natural growths may become more resilient as interdependency grows with complexity. A solitary plant rooted in a plain patch of soil would be destroyed easily by insufficient rain, a strong wind, or a few insects; but a diverse forest of countless plants and other organisms can often survive wide conditions such as an early frost, a late rain, or a fire. As a consequence, manufactured systems of large complexity often need managing by specialized experts in order to maintain stability. Complex natural systems, on the other hand, may self-order based on the conditions of the moment and need no artificial manipulation in order to thrive. A forest may flourish best without human meddling. A solitary plant, like the one on the corner of my desk, needs constant tending.

Related to the self-organization of complex systems is *emergence*, the phenomenon of a system exhibiting traits or behaviours not explained by an understanding of the component pieces or individual interactions. For instance, ant colonies exhibit behaviour far more sophisticated than the cognitive ability of any of the individual insects. The colony constantly adjusts the number of members engaged in various tasks, such as patrolling, cleaning, and foraging, and has the ability to perform optimization, such as minimizing the distance to a food source when devising a route and maximizing the distance from all colony entrances when discarding the dead. In the

words of Deborah Gordon, Stanford zoologist and author of *Ants at Work*: “Ants aren’t smart. Ant colonies are.” (qtd. in Miller, 6)

Wikipedia defines two categories of emergence, weak and strong, both as instances where the whole is quite different from the sum of its parts. With the weak variety the emergent property is “reducible to its individual constituents”. But strong emergence appears to be magical, for behaviours that are completely unexplainable from a thorough understanding of the constituent pieces. The question whether strong emergence actually does exist or whether the phenomena are, in principle, reducible but not with the limitations of human analysis, does not need to be answered here. It is enough to recognize that some complex systems will exhibit surprising characteristics that are difficult to predict—and perhaps impossible for a very long time until human knowledge allows—from an examination of the constituent pieces.

Widely occurring in biology, emergence can also happen in complex engineered systems. Consider the most complex constructions engineered by man and woman: software. To give some perspective, an automobile has approximately thirty thousand parts (Toyota Motor Corporation) while a modern computer operating system is built from tens of millions of lines of code, each line itself containing one or a few elements. The operating system may then interact with many other applications running on many machines in the network. An interesting article by Mogul of HP Laboratories discusses emergence in complex software systems, and he writes, “[i]n some cases, an emergent misbehavior might... be impossible to diagnose” (14). Furthermore, he states: “Even when emergent behavior is not inherently bad, it is... unpredictable, and unpredictability is bad in many computer system contexts...” (2). Mogul does not say that emergence could be good; at best it is something to avoid for its unpredictability. This assessment probably generalizes to all engineering and for good reason. When fabrications deviate from the narrowly defined specifications or requirements, the consequences could range from company financial losses to user injury or death. Therefore, emergence in manufactures will be characterized typically as *misbehaviours*.

Now, this may not be the case forever more. The researchers at IBM have declared a manifesto, a “call... to drive exploratory work in autonomic computing” (International Business Machines 34). Autonomic computing, as IBM has coined it, has

its analogy in the autonomic nervous system that tells our bodies how fast to beat our hearts, how much to sweat, and how often to breathe, and regulates many other bodily functions that occur without our deliberate thought. Kephart and Chess of the IBM Thomas J. Watson Research Center envision a future where autonomic computer systems will be self-managing according to four aspects: they will be self-configuring, self-optimizing, self-healing, and self-protecting. “Ultimately, these aspects will be emergent properties of a general architecture, and distinctions will blur into a more general notion of self-maintenance” (Kephart and Chess 42). Their paper, however, offers no explanation how the phenomenon of blurring into a general notion will be engineered. Furthermore, Mogul acts as a critic here and suggests that the extra complexity required of autonomic computing might create yet more emergent misbehaviours beyond the autonomic system’s self-correcting ability to remedy.

In manufacturing, the roles of ownership, producer of some item, and end user are usually clearly defined and separated. Within the ranks of producers or workers a clear hierarchy usually exists comprising at least some of: executives and managers; a further professional group consisting of engineers, accountants, marketers, etc.; skilled non-professionals such as technicians, trades people and book keepers; and semi-skilled or unskilled labourers. Even public enterprises or the communist state-owned companies operate through strong hierarchies where those closest to the top are privy to the most important information that they use to make decisions affecting the direction of the organization and their subordinates. In the capitalist model, most companies have private owners who may or may not be involved in the operations of the firm. And while, in principle, any employee can own shares of a publicly-traded company, including one for which they might work, usually very few will possess enough shares to influence proceedings at shareholder meetings as the more privileged have. Lastly, manufactured items typically get transferred from the owners of production to the end users as commodities on the market; the workers too must adopt the role of customer in order to purchase the items they produce.

If something is owned—that is, secured and guarded—and perhaps commodified, can it interact freely with its ever-evolving environment? Can it be a participant in emergence and evolution? Interestingly, the researchers of IBM did not

think so when they issued their manifesto for research into “self-evolving systems” (33) and stated:

While independent in its ability to manage itself, an autonomic computing system must function in a heterogeneous world and implement open standards—in other words, an autonomic computing system cannot, by definition, be a proprietary solution. In nature, all sorts of organisms must coexist and depend upon one another for survival (and such biodiversity actually helps stabilize the ecosystem). In today’s rapidly evolving computing environment, an analogous coexistence and interdependence is unavoidable (27).

The IBM view may not be an absolute truth. The internet, for example, has rapidly evolved while most of the computers that make it up have owners. However, looking deeper, many of the applications on which the internet depends, as well as almost all of the technical standards and communication protocols are open to everyone, and the internet’s growth would have been hindered greatly had they not been.

There is one last trait that I want to consider applicable to manufactured entities. It appears to me that very often manufactures are produced in order to serve a narrow purpose, and, as a consequence, may be harmful to the greater natural surroundings. Commercial household cleaners and detergents work well for their intended function, but cause stress on the environment. Industrial fertilizers aid in crop growth but seep into waterways where fish and other organisms die of oxygen depletion. Automobiles wonderfully transport people but emit greenhouse gases with their associated problems on weather patterns. The damage from the things we produce may be a result of accidents, such as a chemical spill, but very often the dangers are a result of narrow design parameters or business interests: maybe the producers of fertilizers did not consider the effects of seepage into streams, and perhaps the development of environmentally friendly detergents is eschewed due to considerations of the bottom line. Economists use the term “externality” to describe a harm that was not priced into a business transaction. So, air pollution and climate change, caused by the use of automobiles, is not factored into the sale of the vehicles. The vehicles, as simple items of transportation, are merely produced for the car market; the greater natural world is external to that market and of no relevance even though it suffers. I do not advocate turning back the clock on all technological progress; chemical fertilizers serve a purpose.

And I recognize that nature can be destructive too (although there is little we can do about tornadoes and volcanic eruptions). However, I wish to make the point that we may need to be mindful of manufactured creations, that they do not cause harmful disturbances in the greater natural realm due to the narrow considerations of the producers or designers.

Now that I have explored some of the traits that distinguish the manufactured from the grown, an example of each might be useful. Butchart Gardens is one of the premiere tourist attractions in Victoria, astonishing the visitor with its remarkable beauty. The twenty-two hectare site dazzles the eyes with infinitude of color: the yellow hues of the trollius flower, the blues of the poppies, azalea's pinks. Indeed, hundreds of thousands of flowering bulbs, shrubs, and trees grow and thrive here, presenting the sightseer many wonders of nature. Butchart Gardens illustrates a fine example of a manufactured entity.

On first glance, Butchart Gardens appears as an intricate display of nature's grandeur, surely something growing. But this is not so. Once we look at a scale greater than the individual plant (which, admittedly, is a natural marvel) the gardens exhibit very little complexity. Each plant sits in its designated location, and performs its designated role of presenting a particular colour and shape to the onlookers. Nothing unexpected, spontaneous, or random can be allowed to happen. No plant is permitted to interact with its neighbours in any non-prescribed way. No weed can suddenly spurt; no beehive or ant nest can form. No algae can develop in the water displays. Interdependence of parts cannot happen since particular bulbs must be interchangeable, as a dead sparkplug in our car can be swapped for another. Emergence cannot occur within these carefully crafted arrangements; evolution surely does not happen. In fact, if a visitor were to pay a second visit to these gardens some years after an initial one, she would certainly note the unchanging character of the site, much as the water lily pond of the Monet Gardens in France is laboriously maintained to closely resemble the artist's paintings from over a century ago.

From the tourist attraction's website, we can read that the gardens sit in an abandoned quarry. More than a hundred years ago an "unprecedented plan for refurbishing the bleak pit" was put together, that saw the designers cart in topsoil from

nearby farmland. At present, fifty gardeners toil in their planting, digging, and pruning in order to ensure good profitability for this family business. And, as is often the case for manufactured objects, the gardens exist out of harmony with the greater environment. For example, an Integrated Pest Management Program eradicates unwanted insects. Butchart Gardens is a highly planned, fabricated, and managed object with definite owners. In one sense, the fact that plant life, carbon-based components, constitutes the raw material of this manufactured entity does not necessarily make it natural. Indeed, at the scale of the whole, Butchart Gardens does not even accord with one definition of “organic” as given by Google dictionary: “Characterized by continuous or natural development.”

In contrast, consider the computer operating system Linux. To most people, Linux is an incomprehensible collection of bytes, just one more software program engineered by experts in the field. But, no, Linux is something very different. In 1991, Linus Torvald, Linux’s progenitor, issued the following statement to an online discussion group:

Hello everybody out there... I’m doing a (free) operating system (just a hobby, won’t be big and professional like gnu (sic))... This has been brewing since april, (sic) and is starting to get ready. I’d like any feedback on things people like/dislike... (Wikipedia: History of Linux).

And something remarkable happened. Conventional wisdom prior to Linux instructed that a software project as technically complex as an operating system (OS) needs careful design and building under tight control by an expert few. Torvald, himself, agreed with this position. As he says in his statement above, GNU, a project being worked on by a select few, was widely acknowledged as the proper, professional, free, Unix-based OS. However, eight years into development GNU showed little signs of being near completion. Consequently, Torvald released his mere ten thousand lines of code, the product of one man’s hobby, and, to the computing world’s astonishment, an incredible accident happened.¹ A number of people began contributing to the project, a few at first, but then in greater numbers. Individuals pulled chunks of code from other

¹ Torvald’s story on Linux is chronicled in his book *Just for Fun: The Story of an Accidental Revolutionary*.

projects, including GNU, and pasted the lines into Linux. Most were working independently; no one knew what the others were doing. Torvald, himself, had no idea whether submissions would come, how many would come and from where, and what the nature of the submissions would be. No one had any idea where this operating system was headed. None could imagine that it would occupy the position that it does today where it powers most of the world's supercomputers, the majority of web servers, and Google's Android smart phones that outsell the lauded Apple iPhone.

Work continues to this day, so now some fourteen million lines of code make up the operating system's complete kernel. But Linux is not a success just because programmers submit code. Users report bugs, administrators manage servers and websites, writers put together documents, and graphic artists create user controls. Strictly speaking no professionalism can be found in Linux development. College credentials signify nothing; meaningful contributions can occur from almost anyone. Initially contributors were all volunteers. Today corporate contributions happen; however, all source code must be open: that is, none can be proprietary and guarded. Because of this openness, anyone with basic programming knowledge can splinter off their own operating system with the result that there are now hundreds of variants, or distributions, of Linux. Typically, each one has an identical kernel, some basic shared DNA, yet mutations of every conceivable nature outside of this kernel happen. Useful variants survive while others have but a short existence. I will discuss Linux more in Chapter Three along with other phenomena that the internet enables.

With these two examples, Butchart Gardens and Linux, we see that scale is important in determining whether something is a manufacture or a natural growth. A flower is organic but the gardens, when examined at the system scale, are a manufacture, a deliberate manipulation of forms. Computer bytes are not a product of the natural world, but Linux and the organization of people who work on it have emerged through more natural means, where members may have a common vision, but no participant is tied to instructions in alignment with a master plan.

I believe the traits that broadly apply to the manufactured as discussed here can be considered when reflecting on almost any societal characteristic, such as some social practice, pattern of living, relationship among people, activity among associates, or the

formation and ongoing existence of some institution. For example, Spencer saw the industrial organization of England in the middle of the nineteenth century as something that “spontaneously evolved” and as evidence of his position of society as an organism.

By steps so small, that year after year the industrial arrangements have seemed just what they were before—by changes as insensible as those through which a seed passes into a tree; society has become the complex body of mutually-dependent workers we now see (Spencer).

However, it seems unlikely to me that this industrial arrangement was a natural development into a body of mutually-dependent workers. Richard Robbins discusses the construction of the working class in his book *Global Problems and the Culture of Capitalism*, stating that people are made to be mobile; are segmented by race, gender, and age; and are disciplined and controlled (46-65). This was done through deliberate means by those, such as merchants, industrialists, and capital controllers, who, with the aid of governments, wanted to direct labour. Certain industrial configurations were pushed on the public bodies of nation after nation and caused great discontent among the populace and resulted in much instability and disharmony including peasant riots, violence against immigrants, strikes and strike-busting actions, worker alienation, and a class war. This led to the rise of organized labour, an emergent misbehaviour in the eyes of the early industrialists, as their reaction to it was very hostile.

I believe a more tenable characterization of society than Spencer’s claim that it is all part of a living organism is, instead, to see it as comprised of elements, traits or phenomena some of which may appear as natural growths, happening less procedurally, perhaps through emergence, and some that originate more akin to how deliberate manufactures do. Granted, the essence of the social body is organic, inclined to grow and evolve in unimaginable ways; however, I believe that manufactures need special attention, for they can be constructed by an interested few, perhaps at cross-purposes with the many, and could be poorly endowed to adapt to a changing environment, to evolve into something new. And when the objects of creation are public institutions, then they may be placing restraints on society’s progress. In the next chapter I will specifically look at governance leading to some thoughts in Part Two on how to alter government so as to give it a more natural arrangement with fewer limits on its development.

Chapter 2.

Governments, Their Owners, and Systems Managers

On February 15, 2003 one to two million people shook the city of London, aiming to halt their country's impending invasion of Iraq with the biggest anti-war rally in that city's history (British Broadcasting Corporation). That same day more than half a million also marched in different Australian cities for the same purpose, as did hundreds of thousands in the U.S. including a quarter of a million the following day in San Francisco. Nonetheless, their governments ignored this simple call for peace and invaded just a month later supported by the "Coalition of the Willing [Governments]" including Spain, where two million had protested in Madrid and Barcelona; and Italy, where organizers had estimated a crowd in Rome at an incredible three million.

In June of 2010 in Canada, the G20 summit of world leaders met with vociferous protest. Clashes between the crowd and police ensued following a pattern of events that has become very much the norm for world summits since Seattle's in 1999. Yet, despite the hostility, never are the meetings opened up to the public, and never does the agenda align with the concerns of these demonstrating groups. Worse, rarely does a serious analysis of the events occur in the mainstream press. For example, one year after the summit, the Canadian Broadcasting Corporation appeared more intent to focus on police conduct and legal issues (Canadian Broadcasting Corporation) while ignoring the most serious question: why do people in Canada and the other "democracies" protest their governments in the thousands year on year? While the CBC was ignoring this question, protests in Greece against the austerity measures being forced on them reached a new level of desperation. Despite some 70-80% of Greeks opposing the increased taxes and reduced services (British Broadcasting Corporation), the parliament would not consider holding back their punishing legislation.

Protests against bank bailouts and economic policies in the U.S., Ireland, England, Spain, Iceland, and many other countries; rallies against high tuition in the UK, Canada, and South Korea; demonstrations against nuclear power in Japan, France and Germany; protests against climate change in Denmark and Mexico; demonstrations against corruption in Brazil, India and Taiwan; anti-globalization marches in Quebec, Genoa, and Prague; and most remarkably the international Occupy Wall Street movement: the list of mass public dissatisfaction with formally democratic governments or with their collusion with big business could be as long as you wish to make it. Across the globe people are in conflict with their administrations. Spencer writes: “We all know that the enactments of representative governments ultimately depend on the national will: they may for a time be out of harmony with it, but eventually they must conform to it” (Spencer) as if our present governments are but one stage in a process of natural evolution.

But Spencer is wrong, for it is not a given that representative governments must ultimately conform to the will of the people. Perhaps more likely, especially in regards to the vast multitude of relatively minor legislation, the people must conform to the will of representative government. Obey the law: end of story. The public cannot mobilize in mass demonstration over every bill and policy that offends some significant number of the populace. People are simply too busy with their lives and the amount of legislation is too great and too complex for citizens to oppose all disagreeable enactments. Furthermore, individuals may be disillusioned into believing that they cannot effect change anyway, or they may have a sense that governing parties, even when they win less than half of the popular vote, are legitimate, so their enactments must be binding. All kinds of law and national policy are implemented without consultation with the people and quite possibly against their will, but the policies are enacted so quickly that the occasion to oppose them may be short—even when the government decisions have long-lasting effects. For instance, protests occurring for the purpose of stopping highway construction through an environmentally sensitive area had better be successful almost immediately. If the government refuses to allow public debate, ignores the pleas to halt the project, and builds the highway anyway, the activists will realize no benefit in continuing the fight further. Newly paved roadways will not be torn up. Moreover, future

generations may not understand that this was ever an issue and may not think to raise it again should further development proceed in that area.

Second, the people can be induced to conform voluntarily, can be made to agree with government positions. And this can happen very often without the people even knowing. Edward Bernays has been called the “the father of public relations”; however, the title of his seminal work, *Propaganda* (1928), more tellingly characterizes him as a propagandist—before the word acquired today’s negative connotation. Heavily influenced by his uncle Sigmund Freud’s theories of the subconscious, Bernays was able to create marketing techniques that generated desires in people that they would not normally possess. In doing so, for the purpose of promoting bacon, Americans were made to believe that bacon and eggs constituted the all-American breakfast. Women in the U.S. were taught to consider cigarette smoking as a feminist cause; they should light up their “Torches of Freedom”. And Ivory soap was successfully marketed as medically superior to the competing brands.

Bernays’ methods met great success in the political realm too. He writes:

The conscious and intelligent manipulation of the organized habits and opinions of the masses is an important element in democratic society. Those who manipulate this unseen mechanism of society constitute an invisible government which is the true ruling power of our country. ...We are governed, our minds are molded, our tastes formed, our ideas suggested, largely by men we have never heard of. ... In almost every act of our daily lives, whether in the sphere of politics or business, in our social conduct or our ethical thinking, we are dominated by the relatively small number of persons... who understand the mental processes and social patterns of the masses. It is they who pull the wires which control the public mind (Bernays, *Propaganda* 37).

According to journalist Larry Tye, in his book on Bernays entitled *The Father of Spin*, Nazi propagandist, Goebbels, had Bernays’ work in his library and employed techniques “nearly identical to those used by Bernays” in order to create the hate campaign against Jews (111). Later, in 1954, Bernays’ propaganda actions aided the CIA’s overthrow of the elected government of Guatemala (176).

Political spin has really reached its greatest level of sophistication in the western democracies of today where—and perhaps largely due to the fact that—people have

great individual rights. When people have the rights to free assembly and speech, rights that cannot be easily usurped, then their thoughts must be crafted and their attentions directed to prevent them behaving “improperly”. So Bernays writes: “The engineering of consent is the very essence of the democratic process, the freedom to persuade and suggest” (Bernays, *The Engineering of Consent* 114). Of course the freedom to persuade is not symmetrical, is not itself democratic, but rather is top-down from the “intelligent few” (Bernays qtd. in Robbins 130) with their propaganda campaigns directed at the masses.

In 1924 Bernays crafted a warm, jovial, extraverted persona for the drab U.S. presidential candidate “Silent Cal” Coolidge by associating him with famous celebrities at a pancake breakfast hosted at the White House (The Museum of Public Relations). Coolidge had only become president the year before when President Harding suddenly died; however, media headlines such as “Actor Eats Cake with the Coolidges” and “Guests Crack Dignified Jokes, Sing Song and Pledge To Support Coolidge” helped deliver him the presidency that election. But more importantly, the age of political PR had begun, as these methods changed electioneering forever. Henceforth specialists in the craft of spin would market political candidates using the same techniques—such as employing third-party (celebrity) endorsements—that they employ successfully to peddle soap and cigarettes. As a consequence, some eighty four years later Obama’s presidential campaign took the Marketer of the Year award, comfortably beating out runners up Apple computers and Nike sports shoes (*Advertising Age*).

It hardly seems plausible to accept that our governments, and hence their enactments, develop in some kind of natural way with the greater society given how determined the public relations industry is at manufacturing consent. Rather than our political systems being a part of the natural whole, they come across as artificial constructions that aim to mould society’s political consciousness. Manufactures have designers, owners, and principal beneficiaries. In the Anglo sphere, the configuration of governments follows a general design set several centuries ago when the English parliament became the supreme locus of power in the country: representation through a lower and (usually) an upper house, elections with limited suffrage initially, and a small number of prominent parties. Up until the 1600’s the governor and guardian of all the people was, in principle, the king as a direct representative of God caring for all His

children. However, more than three hundred years ago, the equation flipped when the privileged members of parliament substantially pushed aside the monarchy in England leaving them with great power to influence rule of the public. These few advantaged men even picked their own sovereigns, William and Mary, and eventually the monarchy diminished to near irrelevance, a figurehead role, as it survives today, leaving these privileged parliamentarians in power as they were meant to be. In the U.S., the flip happened more abruptly and more completely; wealthy landowners in the colonies simply decided to govern their societies themselves and made it so with their revolution.

And, yet, as the vote was gradually extended from white propertied men to all citizens, the privileged were able to maintain substantial influence over governments through PR and various other means such as campaign financing and control of capital investment in the country. As an example of the latter, in the early 1980's France's president Mitterrand saw his introduction of social and economic reforms countered with a national "investment strike" which caused a painful level of unemployment. Ultimately, Mitterrand was forced to back down, adopt an economic program acceptable to the business community; and he "never again challenged the designs of the capitalist class" (McNally 358). Likewise, the essence of free trade agreements is the unencumbered movement of capital to wherever on earth the investment climate most favours profit generation. Governments have no choice but to comply with the economic masters or else see funds exit the nation with disastrous results for the ordinary people of that country or jurisdiction.

As a consequence, now in the U.S. an incredible 86% of those polled by CNN believe that elected officials in Washington are "mostly influenced by the pressure they receive on issues from major campaign contributors," while just 12% believe that the officials act on the best interests of their country (CNN). Nobel-Prize-winning economist Joseph Stiglitz tells us one reason why the U.S. public is justified in feeling so: "The Supreme Court, in its recent Citizens United case, has enshrined the right of corporations to buy government, by removing limitations on campaign spending", (Stiglitz) a fact that many in the current Occupy Wall Street movement must surely understand. Indeed, University of Massachusetts professor of political science, Thomas Ferguson, describes his Investment Theory of Politics arguing that blocs of business elites, not voters, take the lead in advancing candidates who represent their financial

interests (27). For example, competing blocs may divide along labour-intensive and capital-intensive businesses or among firms that are more protectionist and those that are more in favour of international trade. The blocs compete with one another at election time, but party competition does not occur on the issues that are of vital and common interest to those blocs (28). Moreover, in jurisdictions where a social democratic party has risen to prominence, the investors put aside their differences and support one oppositional party (qtd. in Shockley, 2010).

Interestingly, consider how often the New Democratic Party (NDP) has won the election in Canada at the provincial and federal levels. This party, which is mildly critical of business, has had some success in the economically smaller provinces of Manitoba and Saskatchewan; has won just three times since 1933 in British Columbia and never in Alberta or Quebec, Canada's fourth, third and second biggest provincial economies respectively. The party has had but one victory in Ontario, the engine room of Canada, and none at the federal level. Furthermore, the NDP in Ottawa voluntarily reduced union influence and ended organized labour's 25% vote at party leadership conventions. Apparently, the more powerful the political office and the more important to big business are the decisions made by that office, the less likely will there exist strong candidates to challenge the prevalent economic doctrines. So at the highest level in western "democracy", the federal politics of the U.S., where decisions affect global commerce, an NDP-like party does not—perhaps, could not—exist, and we simply see the Democrats and Republicans as "two factions of the business party" (Chomsky).

Whereas at one time the church controlled monarchs, endowing kings and queens with divine legitimacy, now secular privilege largely owns the parliaments and congresses making their members' positions legitimate through sponsored elections. The principle of separation of church and state was devised to ensure that the church could no longer muscle in on the action. And just as monarchs in times past needed to obey directives from the church, now government heads must obey their instructions from moneyed people or their market forces.

In his bestseller book, *Voltaire's Bastards: The Dictatorship of Reason in the West*, John Ralston Saul describes his view of Western society's elite administrators or technocrats, and, in doing so, gives further insight into why corporate-influenced

governments should be so at odds with the social body. Some of the earliest technocrats were the administrators of the Catholic inquisitions of several centuries ago, men using rational arguments and uncompromising methodology in the service of the church. But, today, many technocrats study programs nearly identical to each other at schools of business and public affairs and then become servants to the modern power structures, corporations and governments, where they ply their profession of systems managers. Often the systems they produce are divorced from reality, common sense, and morality, but the managers implement their sophisticated methods with an ideological certainty that the amateurish real world can be manipulated to accept their beliefs and conform to their models. Their unshakeable confidence then imparts in them an extreme hostility towards any criticism. They parry counter-analyses by framing all discussion in their own terms, by defining the language of the debate, by employing the self-justifying logic of their systems, and by permanently assigning experts and budgets to the formation of arguments meant to either oppose unfavourable critiques or to confuse the issues thereby nullifying an attack.

In *The Principles of Representative Government*, professor of politics, Bernard Manin, states that from the initial creation of parliamentarianism in England, the United States and France until today, “there has been no significant change in the institutions regulating the selection of representatives” and no evolution in the relationship between the representatives and those they represent (236). In reading Saul, we might also form some notion that spontaneous natural growth or evolution is not possible in the large corporate and governmental organizations, for their managers are uncreative and secretive. Even though these systems managers work hard and with great precision, their method of dealing with problems is to apply prefabricated solutions that satisfy the narrow objectives of the system that they serve. They exhibit a profound lack of imagination and creativity because new ideas or unconventional actions disturb their structures. Even the entry exams to their management schools are nothing beyond a “highly sophisticated game of intellectual painting by numbers” (129). Saul writes that these individuals possess a narrow form of intelligence. Obsessed with providing answers, rather than encouraging understanding, they mistake method for content and supplant reflection with efficiency. Yet they do not comprehend that their administration techniques are at odds with acts of decision-making since the former are linear,

structured, and uncreative while the latter are organic, and reflective (262). The former aim for speedy delivery but act on the people; the latter are done for the people by aiming to waste time usefully in order to achieve consensus. Moreover, the systems managers guard knowledge and maintain secrets to an extreme that has no precedent in history. We now live in a world where all information is secret until purposefully released, and where governments and corporations unite to attack Wikileaks, the online whistle-blowing outlet. We live in a world where the manipulators of the “unseen mechanism of society” constitute “the true ruling power”, to re-quote Bernays.

As discussed in the previous chapter, evolution and emergence are greatly hindered when knowledge is owned and guarded, when interactions among components are restricted. Furthermore, manufactured entities become much less robust as their complexity grows, so it should be no surprise that these systems administrators must necessarily structure their systems for stability and efficiency and not for vitality and spontaneity. The risk of unexpected development or emergence must be minimized, as these are unmanageable. Saul writes that the proper way to deal with confusion may be to increase the confusion through uncomfortable query until the source of the troubles is revealed (535). So in 2011, while the confused Greek drama routinely brought tens of thousands of protestors into the streets, perhaps raising doubts about Greece’s position in a financially integrated eurozone and about the nature of Greek democracy, economist Lucas Papademos ascended to power as Prime Minister. Several days later, a man with a similar curriculum vitae, Mario Monti, was appointed to head Italy’s government. Not elected, but supported by the International Monetary Fund and the governments of creditor nations, their mandate appeared to be to apply particular rational methods in order to support the normal eurozone order of business and calm the bond markets. “Greece and Italy Seek a Solution From Technocrats”, proclaimed the New York Times, in regards to the two men who were under “pressure from the European Union backed by the whip of the financial markets” (New York Times).

The schools of business management or public administration present themselves as rational and scientific in their approach; however, this now generalizes across a great number of fields. The engineering of computer systems becomes computer “science”. The study of political questions is labelled political “science”. Throughout many of the humanities, from anthropology to literary criticism, theories are

formulated and far-reaching conclusions drawn as if the concepts being studied are analogous to the physicist's relativity or particle-wave duality of light. As a consequence of this formulation of theory, specialized language emerges that is incomprehensible to anyone from another field let alone the person in the street. While the complicated vocabulary adds prestige to the fields of study, Saul goes farther and writes, "One of the specialist's most successful discoveries was that he could easily defend his territory by the simple development of a specialized language incomprehensible to non-experts" (475). Everyone from outside these specialized fields is locked out of the discussion, a point of little consequence in, say, palaeontology but of grave importance in the realms of political thought, economics, business, education and many other areas that have a direct bearing on our well-being. Specialized language was not always normal, as can be understood from any reading of Socrates, Locke, or Voltaire.

The natural scientists employ reductionism, or the practice of trying to understand a complex idea or phenomenon by analyzing the constituent pieces. The scientific method works best where experimenters can vary one parameter in known ways while keeping all other parameters fixed in order to see how some measurable outcome is affected. The scientist then isolates a different parameter to vary, and takes further measurements on the resulting behaviour. This continues until every known contribution to the result is understood, and the overall phenomenon can be explained. This reductionist method requires rigor and precision but is straightforward to apply. So, Nobel-Prize-winning particle physicist, Richard Feynman, remarked on nature: "It is not complicated. There's just a lot of it" (Feynman). However, even in Feynman's own field, the reductionist approach has a limitation when trying to understand a higher scale from the fundamental knowledge of a smaller one. Physicist P.W. Anderson wrote an interesting article for the journal *Science* in 1972 entitled "More Is Different". In it he describes how at each level of complexity, new properties appear that are not explicable from the known elementary laws of the smaller scale. For example, the fundamental knowledge in the field of particle physics has some relevance in explaining the phenomena at the next higher scale, solid-state physics. But additional fundamental laws of solid-state physics need exploring quite separate from the knowledge of particle physics. This progression to higher scales, necessitating new fundamental knowledge, continues upwards to chemistry, molecular biology, cell biology, etc., and, as a

consequence, the knowledge from scales at lower levels becomes decreasingly important. Thus, most of science sees little of relevance in the gluons and Z bosons of Feynman's field.

When the scale is quite large, the reductionist method of inquiry becomes very challenging to apply. Take two examples of the study of the human body. According to Dr. Pankaj Gupta, "Early in medical school we are taught that human biology is unpredictable. So $2 + 2$ in medicine is not necessarily 4: many times it could be [less than three or five or greater than five]" (Gupta). Nutritional science has a similarly difficult time and seems forever locked into a cycle of issuing inconsistent advice. Butter, margarine, whole milk, skim milk, eggs, cheese, nuts, avocados, coffee, alcohol, yeast, chocolate, peanut butter, and dried fruits: all have been categorized as unhealthy and healthful at different times. With the scientists' current techniques the effects on the entire human constitution are often unpredictable from a study of specific biological processes and particular units of foods and nutrients.

In the realm of economics and politics, the difficult task of relating these grand scales to the level just below—people and their social and cultural groups—is dealt with in a simple way: it usually isn't attempted. Economist Schumacher writes in *Small Is Beautiful: Economics as if People Mattered* that economics exists as abstract thought about GNP, growth rates, capital output ratios, capital accumulation, etc. while ignoring human realities of poverty, anxiety, desolation, crime and spiritual death, to name just some (80). In the realm of political thought, such concepts as rational choice institutionalism and cooperative federalism among many others, abstract out of existence actual humans.

This is not to say that those in economics and political thought never consider people, but often when they do, the direction of inquiry is backwards. The economists, in an attempt to use scientific methods, reduce the economy down to individual businesses and may consider their effect on employees, labour mobility, or unemployment. The political scientists may consider society's organization in terms of various institutions such as parliament or parties and then examine the results on Election Day in order to see how the smaller elements, the people, responded. In nature, particles make up elements that constitute compounds, that comprise cells and

biological processes that influence the behaviours of man and woman to form social groups. But at this point, abruptly the direction of construction reverses. The social groups then do not naturally form their economic or political units. Instead, a small number of people build their manufactures, their governments, laws, corporations, business councils, chambers of commerce, and other institutions, and impose them downwards on society.

Saul describes the technocratic managers as building their systems backwards from an assumption of correctness. They then defend their designs by using reason, not as a means to discuss and explore, but as a method to convince others of their special truths. Assumptions of correctness are everywhere. As an example of particular relevance to the chapters of Part Two, consider the reaction of pundits to declining voter turnout. The unassailable assumption is that democracy ought to be reduced to a collection of individuals marking a ballot in private. So, solutions are put forward to deal with the problem such as reducing the voting age, enabling online voting, giving weight to the votes in some different manner, or making voting a requirement by law. Even though people are turning their backs on this prescription, all answers to the problem come from a more concerted application of the same. In Chapter Four, however, I would like to discuss a system of governance that has been called arational by some: sortition. But first, I want to look at the open-source software movement since I believe it can teach us helpful lessons in human organization that can be applied outside its special sphere and particularly in the political domain.

Chapter 3.

The Emergence of Openness

In the 1960's young engineering students at MIT, Stanford, and other premium universities hungrily studied and programmed some of the early computers. Influenced by the tradition of academic openness, this early community of programmers revelled in an environment where novel solutions to difficult problems could be shared with peers, where the elegance of a fellow programmer's code could be admired, and where the enthusiasm for using computers in new ways was contagious. But this freedom began eroding in the 1970's with the appearance of commercial software. Users were now restricted to using programs purchased by the university, programs where the underlying code was proprietary and therefore closed for study or modification. The liberty to cleverly hack a program to do something new and then share the result with a fellow computer aficionado had disappeared. In some cases the software contained "time bombs" that shut down their operation after an expiration period. Moreover, many of the engineers were lured away to commercial firms to be inculcated with the new value system where software is a commodity and copying it a crime. In 1976, "An Open Letter to Hobbyists" by Bill Gates of Micro-Soft insisted: "As the majority of hobbyists must be aware, most of you steal your software."

Nonetheless, some of these early programmers continued to write program code to share with their peers. Soon they recognized that a free and open operating system was needed as a platform for future development. Computers work best when an operating system, or OS, takes care of basic tasks such as managing memory, accepting input from keyboards, and sending output to monitors. Those who were struggling to keep alive the open-code camaraderie envisioned a fully functional OS that they could distribute along with the source code free of charge. Chapter One briefly describes how Linux emerged from these sentiments to reach its current prominence in the realms of supercomputers, web servers, and smart phones. But that is just part of

the story, for Linus Torvald had unwittingly pioneered a new approach to software development, a practice that has resulted in the creation of a vast number of applications including Wordpress, the world's most successful blogging software; Apache, the dominant web server; Firefox, one of the most popular web browsers; and Open Office, a free suite of office applications. It is worth looking a little deeper into the open source software phenomenon, as it is now called. If a large computer program, an entity that we normally consider a manufacture, can grow in some natural sense, and if this is a good thing, then perhaps fabricated political institutions can be induced to have an element of natural growth also with beneficial consequences.

Torvalds talks about “communal computing” being a process of evolution where numerous people who have little knowledge of what others are programming, and, in fact, who do not even understand what they themselves are doing all the time, contribute incremental improvements to the project and assimilate small progresses from others (Torvalds). Both the community and the software evolve into something that no one ever foresaw, that no one planned. According to Torvalds, this process can be contrasted with commercial software that often will be designed and implemented efficiently to reach certain goals—but very often the wrong goals, dead-end branches on the evolutionary tree. Here, Torvalds is echoing Saul where systems designers place emphasis on efficiency, not innovation or flexibility, and produce results that are often out of step with the real world.

In a popular paper entitled “The Cathedral and the Bazaar” computing enthusiast Eric Raymond looks closely at Torvald's methodology since it initially puzzled him how this “coherent and stable system could seemingly emerge only by a succession of miracles”. Raymond had believed that an operating system could not develop through, what he called, “evolutionary programming” techniques due to its essential complexity. Instead, he believed it must need crafting as he imagined cathedrals are, by wise people in isolation, and then only put into widespread use after perfection reached. Yet the Linux OS was seemingly tossed together by a multitude of people receiving little direction, as an exotic bazaar might be.

In his analysis, Raymond concluded that the bazaar style produced better quality software; however, the reasons were not due merely to technological innovation but

rather to human motivations and behaviours. Early contributors to Linux were entirely volunteers, each one simply “scratching... a personal itch”. That is, they were working on problems of particular interest to themselves perhaps for intellectual reasons or because they had a specific need. Furthermore, because they were donating their time, had Torvald adopted an authoritative approach, many simply would have left the project perhaps taking a copy of the source code with them. As a consequence, quite flat peer structures are normal in open source software development, and very admirable democratic behaviours have emerged from Linux development and other open projects in order to maintain contented communities. I will discuss this some more shortly.

Other benefits of the flat peer structure are realized. Because information is not hoarded by a few at the top, everyone can understand the state of the software at any given moment and present relevant and innovative ideas to the community. None fear losing their job for attempting something unconventional without the consent of the hierarchy above them. Instead, new thoughts are put to the test by the group, and, if warranted, nourished. Frequently, ideas are pushed farther than the originator’s initial conception. Very often too, insights arrive, not to present novel solutions to a problem, but to reveal that the very concept of the problem is incorrect. Raymond commented on the remarkable innovation of Linux-style development quite contrary to the large commercial software firms that use cathedral-building practices and acquire their most significant innovation typically through the purchase of small pioneering companies or through the acquisition of the rights to university research. But not all the work on Linux was state of the art and especially stimulating. Of some note, the onerous work was also worked on, as, for example, many pitched in to produce user manuals and guides.

Raymond also gave some insights as to how Linux and other open source programs receive their genesis and evolve. In his view, the Linux method could never originate a new application. One founder had to begin it with some minimally functioning program, or a partial solution, and, very importantly, with a believable promise of future success in order to stimulate contributions from others. From there, work does not proceed in direct lines because, very frequently, programmers do not fully comprehend the problem they are attempting to solve until after they have implemented a solution badly at least once and thrown out that work. This experience of only fully understanding a problem after it is tackled surely happens with commercial software

production too; however, I wonder just how many “good enough” software products are produced commercially due to business constraints against optimization or perhaps due to a tendency to substitute marketing for quality. For example, in the realm of supercomputers, where performance is paramount, nearly all machines run Linux and almost none Microsoft Windows. Meanwhile marketing and business tactics have ensured that the PC consumer typically runs Windows. Of great significance too, a new Linux build is released to the user community with great frequency: in the early days sometimes more than once per day with small modifications. Conceptually, it is as if a new Linux offspring, with only slight mutations from its parent, enters its natural user environment and receives immediate feedback on the changes from that environment. The system evolves to meet the requirements of the environment rather than the environment, the user community, being moulded to meet the requirements of the system.

In order to understand the architecture and performance of the software, Raymond suggested that we consider Conway’s Law which is often stated as: “organizations which design systems... are constrained to produce designs which are copies of the communication structures of these organizations” (Conway). In other words, the interfaces between components of the system will mimic the communication links between the different teams in the designing organization. I am not certain to what degree this “law” holds; however, some intriguing parallels between Linux and its development community do exist. The Linux (or Unix) philosophy is sometimes summarized by the phrase “small is beautiful” because Linux is best understood as numerous small, simple programs working well together.² Moreover, much of the communication between the individual programs during runtime happens through files of human-readable alphabetical characters and not streams of incomprehensible numerical data. Therefore, as we see a geographically scattered Linux community collaborating effectively through transparent communication, so we see a multitude of small program

² Wikipedia states that Linux has a monolithic kernel, but this statement refers to the organization of the highest-level sub-systems and does not mean that Linux is not modular (i.e. not comprised of many small programs.) I confirmed this with several knowledgeable people at linuxquestions.org. One person used the analogy of containers on a cargo ship that can be stacked together in a multitude of different ways. Should you need only, say, an email server, you only use the email server shipping containers (programs or services.)

units interacting in clear ways. In contrast, Microsoft tends to produce large multifunctional programs, a reflection perhaps of their physical organization where software developers congregate at central locations such as Redmond, Washington. Furthermore, the Linux community inherits considerable robustness from the fact that the OS comprises a collection of small programs. Each program is simple enough to be understood by a single human mind, so the departure from the project of any individual cannot overly disrupt development; others can readily take over his or her work. And this robustness of the human system translates into robustness of the operating system. Even Microsoft acknowledged the reliability of Linux and other open source software (OSS) in the famously leaked Halloween Documents written by Microsoft management and readily available online: “Linux and other OSS advocates are making a progressively more credible argument that OSS software is at least as robust—if not more—than commercial alternatives.” As an aside, I cannot help wonder if the autonomic computing systems mentioned in Chapter One might yet evolve from the OSS world, perhaps with no one noticing until the developments are already beyond the nascent stage.

The decision-making in OSS projects typically does not proceed along corporate lines with instructions flowing down from the top. Open source developer and author, Karl Fogel, claims that many OSS projects have a governing organizational structure that falls along a spectrum from benevolent dictatorship to consensus-based democracy, and as projects mature, they move towards the “evolutionary stable” consensus-based democratic model. Furthermore, in those projects with a benevolent dictator, the leader acts more like a “community-approved arbitrator” than an authoritarian because the danger of developers leaving, perhaps taking the source code with them to form their own project, is ever-present (Fogel Ch. 4). I will discuss consensus decision-making more in Chapter Five. For now, it is worth noting that the experienced OSS developers typically prefer consensus-building over voting for at least two reasons. First, voting can leave some people very unhappy and possibly inclined to disengage, while consensus building at its best delivers outcomes satisfying to all, or less fruitfully requires compromise from many, spreading the disappointment thinly yet providing each a sense that they got a little of what they wanted. Second, a vote terminates discussion and creative thinking. Frequently, a lively, if sometimes protracted, debate causes the

emergence of new ways of thinking about the problem often leading to a new solution agreeable to everyone. As such, voting is usually treated as a very last resort, and experienced members often compromise greatly to avoid its occurrence. When voting must happen, however, it is common for the community to use the approval voting system where voters can select more than one preference. In addition, range voting may be employed, so, for example, the Apache project employs a voting range of -1 to +1.

The minimal hierarchy of OSS projects results in honest communication between all community members; therefore, little tendency exists to tell superiors satisfying lies. As a consequence, rarely is there disconnect between decision makers and the real world. Minimal hierarchy also leads to great transparency in OSS projects since no one holds a position of privilege over guarded information. Consequently, all discussions that affect others occur in an open forum. Many discussions happen online, so permanent records exist. And the results of polls, votes, and consensus decisions are archived for future reference by all. When voting does happen, rarely does it involve a secret ballot since coercion is not a problem. Moreover, projects may publish a mission statement, guidelines, frequently asked questions, etc. The barriers for entry into an OSS project typically are purposefully minimized. New participants are encouraged, and the great amount of available information means newcomers can quickly learn the traditions and procedures of the community as well as the technical details of the software under development. As the community develops to a large number of users, and with effective communication mechanisms in place, many problems with the software itself are quickly discovered and reported leading to Raymond's statement which he dubs Linus' Law: "Given enough eyeballs, all bugs are shallow." That is, every technical problem with the software becomes obvious to someone.

Bugs, however, are not discussed as being introduced by a particular individual, but instead are described as if they have no human agent. But when the person who has introduced defective code needs to be identified because, say, he or she will be the one to fix it, the project team members try to separate the product from the individual. Work should not be labelled as sloppy since this is a trait of the individual. Instead, the community points out particular deficiencies in the code (Fogel Ch. 8). These practices appear to generalize across all software development, whether open source or closed,

since programmers recognize that each is fallible. Looking some more at the mind of the coder, we might wonder why so many volunteers work on OSS projects. Some do get paid by companies that need the applications, while others simply find it intellectually stimulating. Some may enjoy being part of a community, and yet others may be looking to hone their programming skills. However, there is one protocol that OSS projects never violate in order to guard against reducing incentive. Every time the project incorporates an improvement, the originator's name becomes permanently recorded in the change log. Years later, when that person's changes may be no longer recognizable in the program code, the records will still show that he or she made an update. This eternal and public recognition garners such respect among the community that the term *ego-boosting* (or *egoboo*) has been coined to describe it, and to delete a person's name from the change log is the gravest violation of protocol.

Ironically, even though the builders of open source software are technologically minded, these architects, developers, and testers hardly fit Saul's description of technocrats at all. Although they may take pride when their software applications dominate various domains, power does not motivate them since they are not in competition for profit or political influence. Instead their egoboo, along with the satisfaction of working on something intellectually stimulating and useful, appears to be just about enough. Indeed, the chance to work on challenging problems, to innovate, and to learn set them quite apart from the technocrat's desire for managing, administering, and accounting. And all this happens in an arena of equality, inclusion, and open dialogue.

Communities of like-minded people freely associating are producing quality software, but this is only the first chapter in the story since the software is almost always available without charge for anyone with an internet connection to use. Communities of people are using free-of-charge software to surf the internet, read and send emails, create websites, write blogs, connect socially, share photos, produce and mix music, or make and edit video. Wherever a common interest exists among a few or more people, communities of hobbyists spring up to share their thoughts: urban gardeners, sewing circles, world travelers. Some groups explicitly cite the open software model as an influence, and so we see open source cinema, open science, open music. Grassroots organizations are empowered by open software as well as an open internet. Numerous

civic organizations rise and fall, and an emerging realm of citizen journalists report on them. All these social phenomena exist due to a do-it-yourself culture but also one that simultaneously values sharing, a culture that open source software is a part of and, in some cases, directly enables. A case in point is the application Blender that allows hobbyist and freelance artists to create 3D graphics, models and video without paying thousands for commercial packages—without paying anything, in fact.

These online activities must have contributed to the sense, especially among the younger internet generation, that having an opinion is not enough. People want their opinion heard and in many cases want to be active participants in the discussions and implementations. “Unconferences” first emerged among the computer techies but are now making appearances in other areas such as corporate retreats, community summit meetings, and political gatherings. The spirit of these events conforms to the values and practices of the web but acted out in the real world. Participant-driven unconferences often commence with no agenda and with no designated expert speakers. They may then self-organize, perhaps into birds-of-a-feather groupings. Or they adopt methods of interaction that give great fluidity to dialogue, such as the open fishbowl arrangement (a type of musical chairs of speaking), or the random selection of speakers.

I witnessed something akin to unconferences during my visits to Occupy Vancouver, one site of the global Occupy Wall Street movement. There I saw a great dynamism in human interaction and organization. Tents and other structures emerged through collaboration and co-management to house a kitchen, a library, a medical station, a tea house, a music stage, media relations and much more. People would come and go, and speak in pairs, in small groups, or in the General Assembly. On occasion decisions were made to improve the processes or to act within greater society. Certainly the participants’ activities could be criticized from many angles, but I could not help thinking that evolution takes longer than the few weeks that Occupy Vancouver existed at its downtown site.

In a political area as large as a country or even a province, it is not possible for every person—whether through conventional means or through general assemblies or through unconferences— to participate in making the decisions that would affect the policies of that area. Suppose, however, that we take one unconference technique,

random selection, or sortition, and implement that in our political sphere. A deliberative body resembling a cross-sectional sampling of society might produce processes and results similar to those now common on the internet. Sortition also brings with it a sense of fairness since every individual meeting the eligibility requirements for the lottery would have an equal chance of being selected.

Part 2.

The Re-emergence of an Ancient Idea

Chapter 4.

Sortition and a Representative House

These days the primary defining trait of a democracy is the presence of free and fair elections, but this firm connection between democracy and the vote was only established in quite recent times. Aristotle in *Politics* describes that “the appointment of magistrates by lot is thought to be democratical, and the election of them oligarchical” (IV.9). In other words, rule by the people, the demos, derives from a lottery, while an election gives rule by a few. In Aristotle’s Athens both friends and enemies of democracy alike were almost unanimous that magistrates will be selected by lot in democratic states (Headlam 12). As recently as two and a half centuries ago, Rousseau too was agreeing in *Social Contract* that the lottery is democratic (IV. 3). This is not to say that either Aristotle or Rousseau was passionately advocating for democracy. Aristotle believed in a mix of both oligarchy and democracy while Rousseau claimed that democracy is an ideal that can be attained only if everyone possesses talents and morals in equal supply. But they were in agreement that the lottery can give democracy. A quarter of a century after Rousseau, the delegates to the Philadelphia Convention of 1787, in formulating a now familiar constitution for the non-democratic governance of the United States, held the view that the election was “aristocratic not in relation to lot, but in and of itself” (Manin 4, 133). Nonetheless, our public schooling does not teach us about the lot, and, furthermore, the awareness of the aristocratic features of elections has nearly disappeared from memory, those participants in the 1787 debates being the last formulators of public policy to refer to the inevitable “natural aristocracy” resulting from the free vote. (Manin 113, 132). Instead we learn that ballot marking and democracy are synonyms, part of a package deal with freedom of speech, rule by law, civil liberties, and other values. The implication here is that to abandon elections would be to lose our democracy and hence our security.

In this chapter I would like to imagine a system of governance that, instead of being bereft of common sense, amoral, and rational as Saul would describe our present arrangement, is rich in common sense, moral, and perhaps arational. At the outset, I will take for granted that, since we live in municipal, provincial, and federal groupings of

millions of citizens, we must send representatives to each of these levels. But, as the software engineer has to be prepared to throw out the first implementation of a solution once the problem is better understood, I will now discard any consideration of elections as the method of arriving at representatives in the modern nation state. In its place, I will favour random selection. In the present chapter, I merely wish to give life to some ideas, building on previous chapters, but without committing myself to any formulation for governance, leading to Chapter Five where I will argue that such a system would not only preserve our hard-fought civil rights but would, in fact, expand them.

Some thoughts on where we might go from our current state, and which less radical incremental changes we might aim for, are reserved for Chapter Six where I present some of the recent proposals for sortition's implementation and give some of the examples of its historical and current employment. The final chapter addresses many of the arguments against this practice and gives some thoughts on how it resembles and differs from populist movements.

Suppose we reject the general election and instead use sortition or random selection. Here, I use the term *random* as we understand a lottery, where events have an equal probability of occurring, and avoid the connotation of something being sloppy or irregular. We impose few or no eligibility criteria for the draw beyond a minimum age, citizenship, and not being institutionalized. Everyone's name simply goes into a giant lottery, and the winners take their places in parliament as legislators and policy makers for a number of years. Upon completion of their term, a new lottery is held for new legislators, and the previous batch returns to their communities. Immediately, the rationally constructed system as we know it consisting of party organizations and elections would disappear. There would be no party nominations, no election campaigns, no party emblems or colors, no fundraising, no campaign managers, no strategists, no need for perpetual polling, no analyses of voting patterns with respect to demographics or geography, and, indeed, no professional politicians. There would be no giddy pundits commenting on all of these or reporting on the intrigues behind the scenes. Various theories of voting with the corresponding vocabulary would fall out of usage: tactical voting, voter apathy, voter fatigue, voter turnout, spoiled votes. All notions of best candidate, best party, best tactic, best leader, best campaign, and best voting system would disappear. It is a wonder, really, that advanced societies put up

with election campaigns at all—as if governments ought to be formed based, to a great degree, on which side runs the finest campaign, or ought to be formed based largely on which party most effectively raises money, curries favour with the media, employs PR, and out-jockeys their opponents. Furthermore, with a randomly chosen parliament, there would be no automatic governing party, no oppositional parties, and no immediate head of government, appointed ministers, or cabinet. No party lines would need to be followed. No factions would automatically exist. There would be no particular reason why these new legislators should sit in a rectangular room divided into two adversarial camps squaring off against each other. How this group might organize in order to perform the function of creating law and policy will be discussed later in this chapter.

There are two meanings of the word *represent* I would like to consider at this point: *to act on behalf of* and also *to serve as an example specimen of*. Under the current government configurations, representatives ostensibly meet the first definition. They claim to act in the interests of the public, as the public's delegates. But no one will maintain that they meet the second definition; they are not an accurate example specimen of the people. That is, the body of elective representatives is not *descriptively representative* of the body of electors. Rarely do women comprise half of the representatives. Disproportionately few come from blue collar backgrounds or, say, from indigenous heritage in countries like Canada and Australia. Even assuming that the elected hold the noblest intention to act in the public interest, we may wonder how well the current representatives could possibly meet the first definition if they do not meet the second. To what degree do the delegates act on behalf of the common good if the members themselves do not come from a cross-sampling of the populace? To what degree would they be unaware of the consequences of their actions on people who are quite unlike themselves? Would these men and women possess a natural bias for policies that benefit others with demographics similar to theirs such as cultural or professional backgrounds, incomes, or educational levels? The delegates do seem to have deficiencies. Voter apathy grows, and voter turnout declines. Young people, those with less formal education, and indigenous peoples vote in smaller numbers than the older, the more educated, and the settler races. Moreover, some vocally lobby for changes that bring more parity to the genders in parliament. These might be clues that the young, the less formally educated, native peoples, and women feel less represented

than older, educated, white males. I wish to explore whether sortition might provide the means to form policy and law more aligned with the needs of those who are under-represented. Indeed, I wish to explore whether sortition might give outcomes more in line with the overall common good.

Sortition would, to a close approximation, give a reliable means of arriving at a representative group that meets the second definition. As an example, if the members of the legislative assembly in British Columbia were chosen randomly, keeping the same number of eighty-five, we might expect the assembly to comprise about forty-two men and forty-three women; and among minorities, three or four indigenous people, about eight ethnic Chinese and four Indo-Canadians. Approximately half would be older than forty-seven and half eighteen to forty-six (assuming eighteen is the eligibility age). About forty would have university or some college education. Somewhere around ten would be from the skilled trades. Individuals would come from a wide range of occupations and sectors. For instance, approximately half a dozen would come from employment in retail, four or five from manufacturing, three from finance or insurance, two or three from public administration, one or two from teaching jobs, and perhaps one from backgrounds in agriculture, in mining, as a nurse, as an engineer, and as a bartender. Maybe a quarter would come from households with incomes over \$90,000 and a similar proportion with income less than \$30,000 as well as a few unemployed.

This is not to say that the assembly would always have these attributes. Although we could never be certain that, by pure coincidence, we would not randomly select eighty-five female Maltese-Canadian botanists, the odds would be extraordinarily against it, and we would not expect huge deviations from the typical public distribution. Some years, some demographics would be slightly over represented, and other years the same demographics would be under sampled, yet in the long run, the representation would even out. To within some mathematical probability this representative body would be a sampling of the population; the assembly would “be in miniature an exact portrait of the people at large” thinking, feeling and reasoning like them (Adams). The interests of the people would not be alien to the lawmakers. The full breadth of society’s sentiment would be represented in the assembly on each issue coming before them. Put in the terms of Ernest Callenbach and Michael Phillips in *Citizen Legislature*, the randomly selected parliament would not be a House of Representatives but rather a

Representative House. The members would not be delegates representing constituents within a particular geography, but “by the very statistics of their selection, they inevitably do represent their segment of the populace” (Callenbach and Phillips 41). In other words, the members of parliament would represent constituencies of age, gender, class, occupation, religion, race, etc. And their engagement with each other would resemble a discourse amongst the entire public if it were not too numerous to assemble at one place.

With this mini-public in place, immediately the manner in which the public’s preferences would translate into policy would change. Much can be said on the limitations of elected representatives to convert the public’s preferences into policy, and here I will just briefly address a few points. First, voters may not know their preferences on the full range of issues that affect their lives because they may possess insufficient knowledge or time to conduct the analyses. Second, preferences are conditional. While someone would prefer A to B, they might reject A in favour of B with C. Third, not all alternatives will be on the table for a given issue. Fourth, preferences will change. There is no particular reason why a person’s views on Election Day will hold constant for the next number of years. But even supposing a voter knows his preferences well enough, and will not change them over time, and has a choice from the full range of alternatives with conditionals on all issues that concern him, there are still going to be problems in getting his interests represented in parliament. There would need to be one candidate on the ballot in his district who encapsulates all his preferences, who wins the election, and who belongs to the victorious party that then forms government. Assuming all this, the representative would ideally take up a position in the Cabinet, the most powerful decision-making body, and finally she and her party would have to keep their campaign promises, something they may be disinclined to carry out due to considerations of political strategy or due to the influence of their political contributors. But, if all these possibilities could work out in favour of our hypothetical voter, there would still be the problem of converting voter preferences into policy on issues that come up later that were never discussed during the electioneering.

Pollsters understand what the public thinks on some issue, not by asking everyone but by soliciting the views of a much smaller, randomized sample of the public. An assembly of randomly selected people would similarly guarantee that the public’s

views would be present in the assembly in roughly the same proportions that those views exist in society. Currently, arguments against representatives being mandated to follow their constituents' interests arise from the sense that the public is too uninformed on the issues or that the public does not typically take the broad view. A similar argument is used against making referenda binding. But now, this mini-public would be perfectly at liberty to educate itself on the issues of the day through all sorts of means, such as hearing expert testimony on technical issues, and each member could readily weigh all alternatives with conditionals against his or her interests or even the greater good. Furthermore, all members could deliberate among themselves, giving a fair hearing to minority views and to those who might be unduly impacted by certain policies or legislation. As a consequence, the collective opinions of such an assembly would be similar to the fortuitous scenario where the pollsters query a sampling of citizens and those citizens just happen to be well-informed on the issues, have been engaged in relevant conversation with others from all walks of life on those issues, and have no particular strategic reasons for misrepresenting their views. James Fishkin of Stanford University has developed a model of polling called the Deliberative Poll along these lines where a randomly selected group of the public hears from experts and then deliberates towards final decisions. He asserts in a *Time Magazine* interview:

The public is very smart if you give it a chance. If people think their voice actually matters, they'll do the hard work, really study their briefing books, ask the experts smart questions and then make tough decisions. When they hear the experts disagreeing, they're forced to think for themselves (Time).

I will discuss deliberation more in this and the next chapter. But at this point, note that with an assembly formed through sortition, the conversion of well-informed preferences into policy would be dependent on the functioning of this assembly and not on election results, not on the mechanisms of party politics where decisions are often made only after a careful consideration of political strategy, and not on pressures from campaign contributors or necessarily from lobbyist groups.

With such a varied collection of people in the assembly, a knowledgeable opinion on an issue of the day would often surface. As examples, a matter of highway safety could be addressed by a bus driver or trucker in the group, occupations that are rarely

present in the parliament today. And the issues of homelessness and poverty might find a passionate speaker who has experience with these in some form, and who has some thoughts on how to ameliorate these chronic problems. With a large, assorted set of participants, all bugs are shallow, Raymond would say. It is also worth pointing out the innate fairness of the lottery. The obstacles to participation would be none beyond the luck of the draw. Each would be everyone's peer, each bringing to the assembly life experiences, views, knowledge, talents and common sense unique to himself or herself. I believe this fairness adds moral strength to the argument in favour of sortition, but, furthermore, the randomly formed assembly, itself, might serve with a greater moral force. Should the assembly succeed in both adopting deliberation techniques and in eliminating secrecy, information and knowledge could be widely diffused thereby enabling each person to form their own moral positions. Moreover, individuals could independently give voice to their values and moral convictions without feeling pressured into a prescribed position for the purpose of some party tactic or in order to show "party solidarity". Certainly, the facilitation of proceedings should occur in order to guarantee that no one feels intimidated against speaking, but this is not an insurmountable problem.

Benjamin Barber in *Strong Democracy: Participatory Politics for a New Age* describes two fallacies: the fallacy of aggregation, and the fallacy of organicism. The former presumes that a community embodies only the traits of its constituent parts. This fallacy ripens in liberal democratic thought where individual liberty means keeping people apart only to have them cast a ballot in secrecy on Election Day. As signees to the social contract, any semblance of public character is traded in for a "multilateral bargaining society" (231) involving special interest groups. But the "more is different" counter-concept from Chapter Two agrees with Barber that this is a fallacy; we would expect the community to be different from the sum of the pieces. The second fallacy that Barber notes addresses the other extreme and presupposes that the community embodies none of the traits of the elemental pieces, for the whole is hegemonic and the individual barter away autonomy in favour of a public spirit. Barber advocates a sort of middle ground, however, one where all members of a group make the transformation from individuals to autonomous *citizens*—that is, to a group of individuals engaged with

one another towards a common vision. He also believes that sortition together with deliberation can play a role in effecting this transformation.

Not all advocates of sortition support deliberation, however. For example, Keith Sutherland in *A People's Parliament* believes that the members of a randomly formed group should essentially act as informed participants in referenda. They would hear all arguments for and against well-defined proposals; would not converse with one another; and, after solitary reflection, would mark the ballot. I find Sutherland's conception unsatisfying, however, for it favours the aggregation of informed preferences of autonomous *non-citizens*, people who do not form a shared vision. Instead, I find Barber's position more agreeable; the goal should be the creation of citizens, men and women for whom a consideration of the overall common good is of paramount importance—whether or not this can always be attained. And for this to have a chance of occurring, people from all backgrounds need to rub elbows with one another as could happen in a randomly chosen parliament.

I believe great potential for innovation exists when combining sortition with deliberation in part because I see no particular reason to think that the mini-public would automatically choose voting over consensus decision making. In the preceding chapter I explained that participants in open source software projects often bend over backwards in order to make consensus work, and greater innovation may occur as a fortuitous consequence of this because, in an effort to satisfy everyone, new avenues may be explored that would have been missed with a premature vote. While the search for common ground opens routes towards innovation, the very fact that sortition adds diversity to the group furthers this potential. The ultimate strength of the *sortive* assembly would arise out of the diverse opinion from people of all walks of life discussing together, adding to the collective knowledge, and deriving unique solutions that could not have occurred to any one of them alone or to a set of individuals of a more homogenous background. Zoologist Matt Ridley, in his TED (Technology, Entertainment and Design) presentation online, uses the analogy of ideas having sex. Biologically, when genomes from a diverse set of people mix through sexual relations, our species evolves and remains strong and viable. Similarly, the ideas of two (or more) people may merge and then spawn a new idea, a progression from the original ideas, an evolution. And similar to how the health of our species depends on a good intermixing of sexual

partners with unrelated genomes, so do the strength of our ideas and the vigour of our cultures depend on the courtship between parent ideas of great variety. Of lesser consideration are assessments of intelligence of the individuals in conversation (Ridley). Scott E. Page, Professor of Complex Systems, Political Science, and Economics at the University of Michigan suggests that intelligence should be measured in many dimensions and not along one IQ scale, and could include knowledge, skills, abilities, heuristics, interpretations, and perspectives (115). Ultimately, a diversity of these tools among many people will allow for the solving of challenging problems and the making of accurate predictions (296). Page does warn, however, that the group must learn to get along, something I will touch on in the next chapter.

Assuming that conditions could be created within the assembly for respectful and inclusive discussion, and assuming that workable consensus models could be implemented, I cannot help wonder what new notions would sprout forth from this diverse body of citizens randomly selected from the populace. What novel ideas would the scuba instructor realize through interaction with her colleagues, the taxi-cab driver and the university administrator? What thoughts on the issues of the day would the Buddhist carpenter and the immigrant nurse stumble upon together over lunch with their new associates, the entrepreneur and the retired pipe fitter? What insights on crime, education, health, and the environment would the combined deliberations of a dairy farmer, a First Nations vintner, a social worker and a medical doctor reveal? Indeed, what solutions to the problems that plague society would bubble to the surface from such a diverse assortment of men and women? While Saul describes the systems managers as being largely uncreative and possessing a narrow intelligence and an artificial view of society, we might expect this group of non-elites to have a potential for creativity comparable to greater society's, to possess a broad communal intelligence, and to be grounded in the real world. Although their solutions to societal problems might seem unconventional to the professionals and the administrators, their resolutions, conceivably, would generally fit with the public's judgment of common sense.

We might be optimistic that unconventional but better solutions to the issues of the day, not to mention to society's chronic ailments, might emerge from this congress. Groupthink, that interbreeding of like ideas, might still set in if we were not careful; however, this appears to be much less of a danger with our random legislative assembly

than it would among members from similar backgrounds vetted for certain views during their ascendancy through a party structure and paying allegiance to a dominating leader. Instead, it seems to me, that an assembly formed through sortition has a great potential to be reflective and to seek understanding instead of immediately jumping to answers and implementations of formulaic solutions. Without any inherent hierarchy, there would be a real opportunity to put in place modes of dialogue that are egalitarian, transparent, and inclusive, even if protracted deliberation were to come at the expense of efficiency. And if the workings of this legislative body were to be inefficient, surely there is something to be said for hearty dialogue and debate among equals, for a promiscuous exchange of ideas, for giving the minority views fair soundings, for the potential to arrive at innovative solutions that are satisfactory to everyone instead of accepting direct resolutions from senior members of the governing party or from the civil service. Surely there is something to be said for content over method, for reason as a means of exploration and not of convincing.

Saul advocates less administration and more consensual decision making in our democracies and writes: "The proper debating of policy is not smooth. Words are not air. Talk is not a waste of time. Arguing is useful.... The political class would have to get rid of the fear of verbal disorder..." (262) But while the appearance of our mini-public's deliberations and decision making might not appear smooth, I have to wonder whether outcomes would, in fact, be realized inefficiently. If the goal is to make, not merely laws and policies, but *quality* laws and policies, then a multitude of opinions might take us along that course. Political scientist and advocate of sortition, Gil Delannoi, credits Tocqueville with observing that a group of people can make as many errors as an individual does, but the group will self-correct more quickly (Delannoi 16). Therefore I have to wonder whether a mini-public will be able to self-correct faster than a sole leader, or quicker than a leader with a cabinet of like-minded individuals, and especially when the ultimate judge of the laws' and policies' quality is the public, itself, whose interests are closely reflected in that very mini-public. And further on the topic of efficiency: campaigning, an activity that does not strictly end when a politician gains office, is eliminated with sortition thereby removing from the political process a great deal of unnecessary effort and expenditure.

Elected figures dread saying in public something off the top of their head or something too far from the conventional, some expression that a combative opponent or sensationalist reporter can hold them to later. This partially explains why today's cabinet discussions happen in secret and why decisions on public policy emerge from these high level meetings, as if rising out of the fire, already fully formed. The cabinet presents its fully constructed policies or bills to parliament where it reflexively receives the support of its own party backbenchers and often just as automatically receives criticism from the opposition. Debate is deceiving in the current legislative assemblies, for the oppositional parties usually possess little influence over policies that the government is set on. Moreover, the governing party cannot possibly admit that the opposition has ideas to contribute, cannot own up to flaws in its own designs, and cannot admit fallibility. For members of the government to change their minds publicly would be to invite a characterization as weak flip-floppers. Compare these dynamics and attitudes to those of the more successful open source software projects where solutions develop through discussion, where grand designs by elite cathedral builders are not the norm, where high-potential ideas are nurtured no matter who originated them, and where everyone admits their own fallibility and do not typically experience the derision of opponents when making mistakes or altering their views.

We might be sceptical whether the best practices of software engineers are transferable to the non-virtual world where heated arguments on matters of personal and moral concern happen: health care for elderly parents, school funding for children, unemployment, homelessness, same sex marriage, abortion. This is certainly a fair concern; however, on open source projects that have a passionate set of contributors, conflicting views about the direction of the software can certainly cause spirited debate. The great majority of the times, the conflicts find a resolution. Yes, on rare occasions, the disagreements become so fundamental that a software program forks into two, but this is not normal. Moreover, when a system like our Westminster form of governance is deliberately structured for power relations, for adversarial behaviours, for minimal innovative potential, for secrecy, we can never be sure just what is possible if we were to abandon that system for one that does not especially embody these traits. Furthermore, even if, in a randomly formed assembly, factions were to develop over a particular issue, there is little reason to believe that the divisions would cement across all concerns that

face the congress. It seems unlikely that a sub-group of individuals would feel at odds with the whole group on absolutely every issue thereby causing them to form a permanent clique. Put another way, a sortive assembly, when operating only at its very worst, could degrade to the level of our present legislative assembly and become adversarial, but then only for a subset of the many issues before parliament.

As a first impression, sortition may seem irrational due to its randomness. However, we might consider, as Oliver Dowlen does in *The Political Potential of Sortition*, that the lottery, itself, is arational since decision making through a lottery uses no human faculties: not, as examples, the rational faculty of reason, nor the irrational ones of passion, instinct, and emotion (12). For Dowlen, the question then takes the form of determining when this arational process is appropriate. Alternatively, we might take the broader view that decision making from a randomly selected body is, indeed, rational when we have a very good reason for using it. Jon Elster in *Solomonic Judgements* writes, in reference to the lottery as a means of decision making: “the abdication of reason can be a most rational procedure” (73). While the point to keep clear is that the decision making, itself, is not random, but rather the selection of the decision makers is, I suspect sortition challenges the sensibilities of some because it abandons the practice of designing the means that will construct governments and laws. Instead sortition—at least as I favour it—allows the setting up of conditions for the purpose of initiating unmanaged creation towards an unknown future. Whether we call this arational or rational probably matters little.

In 1999, the Royal Commission for the Reform of the House of Lords in the UK read and heard a proposal advocating sortition from Anthony Barnett and Peter Carty. A key point in their proposal was that democracy would benefit from a period of experimentation in the Upper House, to which one Commission member, Professor King, replied: “I suppose I feel, and I imagine most of my colleagues feel, that we should be trying to get it broadly right the first time” (Barnett and Carty 99). However, I believe that Barnett’s response to King shows much greater insight. First, he gave the example where the public “forced the entire political class to turn on its head” on the policies around genetically modified foods (100), followed by the comments:

...with all respect to your great wisdom and ability, I don't think that you are able to draw up a Constitution now which settles matters for the next 30, 40 or 50 years.... So I think that an element of flexibility into the way the new Upper Chamber should grow is something that you could certainly argue for (100).

The possibility of using sortition just in an upper chamber will be addressed in Chapter Six. But, for now, I would like to express agreement with Barnett's views that, first, the public do wish to be politically engaged and are capable of making informed and sensible decisions that may be in opposition to the political elite. Second, we ought not to place so much faith in the "wisdom and ability" of individual cathedral builders, especially if they intend to put into place fixed solutions that cannot grow with the changing times. As Barber writes: "the application of independently grounded principles to a changing world runs greater risks of institutionalizing error" than does "the creation of a vision that can respond to and change with the changing world" (258).

To assume that a coherent product requires a master plan is a kind of creationist fallacy. Experimentation does not need to be feared. Evolution can only happen when the system has a degree of trial-and-error and when it is able to morph as needed and in response to the environment. The system can achieve stability when the surroundings are stable but then transform instinctively as conditions change, transform too without the permission of any controllers. Putting our confidence in wise architects, means change will happen only when these people have an interest and the licence to make it happen and only in the direction that they allow. Such top down alteration may be very satisfying to systems managers and power structures with strong interests in seeing the system maintain certain traits, but may preserve in the public a sense of alienation from the political process and from the decision making that affects people's lives.

Policies and laws emerging from the sortive assembly potentially could be more in harmony with the social body because they would come from a microcosm of the social body. I am reminded of Conway's Law from the preceding chapter: "organizations which design systems... are constrained to produce designs which are copies of the communication structures of these organizations". Today new government laws and policies often appear quite simple and one-dimensional in their design. For example, a decision to close down an institution that improves the well-being of the mentally ill might

be made on the basis of budgetary concerns. However, this action may result in an increase in the homeless population, thereby taxing the resources of hospitals, the police, and other social service agencies. Indeed, the overall affect on public spending may be in the opposite direction from the intention. Conceivably, those in government who make such decisions do not include representatives from the other agencies as equals in the communication and decision making structure. I do wonder, however, if the products of the sortive assembly, the policies and laws, might very well show a likeness to the assembled concerns of that mini-public in accordance with Conway. With a great number of diverse opinions and insights present in the assembly, and with an inclusive communication structure permitting everyone to talk to everyone, a new policy aimed at providing some benefit to one part of society could potentially have minimal adverse impact on other segments. So if the goal of shutting down a facility is to save taxpayer money, perhaps this could be done in a way to minimize the impact on the patients who need the service, on the hospital system, on the police forces, and on the social services in the example above. As an additional example, a policy aimed at furthering projects in the mining or forestry sectors might make extra allowance for environmental, agricultural, or indigenous people's concerns because people in the assembly with all these various interests would be talking to each other. Consensus decision-making would especially increase the opportunity for the spectrum of serious concerns to be addressed. In fact, consensus demands a good deal of inclusivity from the communication structure.

Additionally, with our new assembly being detached from hierarchical organization wedded to secrecy, perhaps the new laws and policies would not drop on the public as dictates to be obeyed but would fuse with the social body in a more natural manner. This should have a greater chance of happening if the new assembly truly could succeed in doing away with secrecy allowing the public to witness all deliberation and the evolution of ideas in their randomly selected parliament. With little hierarchy, with no adversarial parties guarding information from each other, with an acceptance that everyone is fallible (and frankly this fallibility provides perhaps the greatest argument for a sortive assembly in the first place) the necessity for secrets greatly diminishes. All deliberation could be televised or internet-streamed and all meeting transcripts published online. There would be little need for decisions behind closed

doors and subsequent freedom of information requests. Indeed, the ancient Athenians viewed with suspicion any political discourse occurring outside of the General Assembly since factional scheming was assumed to run counter to democracy. So, perhaps the days of designed and owned governments secretly manufacturing laws that fit disharmoniously in the social body would dissolve into the past. A different wording of Conway's theorem says that "process becomes product", so if we are ever going to get laws and policies that align better with natural society, the process of creating those products needs to change.

Another way that process might become product has a parallel with the crafting of open source Linux where sub-programs are made small and easily understandable. The special language is only a requirement of the computing machine; the programmers go out of their way to make the code human-readable. At present, attorneys write our laws using specialized language and formats that can only be understood by other attorneys. Layer upon layer of specialized jargon is applied in order to cover every possible case and as a barrier against other attorneys looking for technical loopholes they can exploit on behalf of their clients. Although written over a century ago, *Election by Lot at Athens* by James Wycliffe Headlam still remains one of the most thorough examinations of sortition in that city state. His description of justice in Athens hundreds of years before Christ paints an intriguing contrast with the professional law of his day. Modern law is meant to be interpreted by professional lawyers and judges using their specially trained minds and memories, and this interpretation supersedes the quality of the law itself. Inconsistencies and obscure phrasing can be addressed by the professionals and precedents set (152). However, in ancient times, although the complexity of issues was substantial, the laws remained "short, simple and straightforward" with "little attempt at scientific arrangement" (151). The magistrates were inexperienced and so depended on consistent and succinct statements of broad principle. While the execution of modern law can diverge from the wishes of the representative assembly through interpretation and due to technicalities, the amateur magistrates of Athens demanded a very high standard of clarity and consistency in the laws originating in the General Assembly. Any statute that could not be understood by laymen of reasonable intelligence—that is, any law that needed undue interpretation—was sent back to the assembly for re-work. Headlam went as far as to say that today's

"complex system of law and the great influence of lawyers go together; one cannot exist without the other, and both are clearly opposed to the influence of Democracy" (145) while "election by lot was so essential to the democracy" (153). Here we might recall Saul's explanation of systems people moulding the real world to precisely fit their defined systems and defending their domain with specialized language against amateurs. As a consequence, lawyers ensure their own job security, and, unfairly, the justice system favours those who are able to hire attorneys.

We can imagine that an assembly of random amateurs might create laws that are more concise and more broadly considered than the crop of elected members are inclined to do. We may doubt, for instance, that they would write a 506-word sentence as was written into the U.S. Internal Revenue Code, or that they could pass 200 bills in one afternoon with no discussion as the U.S. Congress did one day in 1983 (Callenbach and Phillips 42-3). Instead, we might expect that the mini-public parliament would craft concise laws that can be understood by other random amateurs, such as jurists, and understood by the public in general. Several consequences might arise from this. First, court cases being tried against laws crafted by a sortive assembly might be best adjudicated by juries and not sole judges since the laws would be expressions of general principles and therefore best assessed by a joint common sense. Second, trial lawyers might find less employment since any literate and articulate person could represent a client in court. Ironically, one of the arguments against trial by jury derives from the high expense of trials: eliminate juries and let the attorneys and judges get on with it. But, given the hourly rate of lawyers, surely another solution to the exorbitant costs would be to reduce the attorneys' role. Third, laws might frequently return from the courtroom to the parliament for clarification. This last point simply means that juries would demand from the legislators that they know the consequences of their enactments rather than, as is often done today, leaving the interpretation to attorneys who might be detached from the influence of popular will.

As an interesting aside here, notice that jurors today are instructed to judge the facts of the case against the letter of the law. Never are they told that they have the right to put the law itself on trial, that they may judge a law as unjust and alter their verdict of the defendant accordingly. In fact, any prospective juror, who suggests during the vetting stage that they disagree with the particular laws relevant to the case, would be

rejected for duty. Attorneys and judges find it critically necessary to hide the right of *nullification of the law* from the jurors, so important is the efficient running of their system. That a law might sit inharmoniously in the minds of a cross sampling of the people is of little significance to them. I can imagine that laws crafted by a sortive congress might lessen the need for this collusion. The body of legislators would resemble the juries, both being a random sampling of the people. The collective values, common sense, and experiences of each body would be more closely in step with the other than it is today, perhaps meaning that juries would disagree with the laws less often. And with legislation worded as succinct statements of broad principle, the jurors would have more leeway to judge the case based on their conscience, less bound to a narrow letter of the law that they might disagree with given the particulars of the case.

So far I have given few hints at how the new citizen legislature might go about its business in reaching decisions and ultimately enacting laws and policies. I suggested, since there would be no innate hierarchy, it could be a deliberative body perhaps employing consensus in order to realize the benefits of innovation and a more accurate representation of the public's interests. Beyond those qualities, we might wonder how pressing matters from the ministries would get communicated to this citizen government, who the leader would be, how dialogue would actually occur, what role expert advisors would play, or whether committees would be useful. In a sense, none of these sorts of questions matter very much. Of paramount importance, the group would need encouragement and facilitation in the direction of deliberation, and then it would have a real chance of self-organizing as agreeable to each, and would have a real chance of recognizing its own shortcomings and applying the required tonics. Gutmann and Thompson in *Democracy and Disagreement* make a compelling argument for deliberation and write that it does not provide just a means to an end "but also a means for deciding what means are morally required to pursue our common ends" (43).

I can imagine, with a sizeable group of engaged participants, not only would individuals exist who are particularly driven to address societal issues, but some men and women would probably emerge whose personal itch to scratch would be the very organization of the parliament and its proceedings. Consequently, this parliamentary system might be able to achieve the criteria laid out by IBM for autonomous computing systems, namely the abilities to self-configure, self-optimize, self-heal, and self-protect

as an active entity in its environment. I discuss self-protection below since a sortive assembly such as I have been discussing might accumulate enemies, but I believe it to be quite plausible that the assembly could realize the traits of self-configuring, self-optimizing, and self-healing. The group would initially need some training on techniques of deliberation and some members would receive instruction on the facilitation of meetings. The assembly might also receive education on different consensus models and receive instruction on the basics of the civil service and the justice system as preconditions of its meeting in parliament. Care would have to be taken that these people not become overly influenced by the methods and values of the established institutions, that they do not “go native” lest the group’s ability to innovate be dampened. The individuals could be encouraged to spend plenty of time outside their new place of work in order to feed their minds with new information and experience from the world outside, thereby helping the legislative body avoid a harmful groupthink scenario.

So with some basic training in place prior to adoption of their new roles, the randomly selected legislators could function as a deliberative and inclusive body, and the group would be capable of making decisions in regards to its own function, configuring, optimizing, and healing itself as needed. The mini-public could make decisions on all matters relevant to its operation, such as its schedule, venue, techniques of deliberation, means of informing itself, channels of communication to the public, and methods of consultation with ministries, public corporations, and other government agencies. The sortive congress, for example, would be at liberty to elicit the opinions of experts from all sides of a matter or to form committees in order to investigate an issue more thoroughly. The collected group could decide how it wants to represent itself to other jurisdictions and arrange for the selection of a head of government or an ambassador. (I cannot see much of a need for a prime minister, president, premier etc. beyond the role of being a spokesperson to other jurisdictions.) The position might be filled through any number of ways, might be filled by more than one person, or might be rotated. Similarly, the group would need a means to receive the concerns of the civil service and to deal with budget matters, and might, therefore, appoint ministers including a minister of the treasury.

The random assembly would be the supreme body in government, however, and so while it might create offices and delegate those responsibilities to others, it seems

unlikely that it would construct a hierarchy that leaves it subordinate to any bureau—that would put its autonomy in jeopardy. These individuals tasked with being the representative to other jurisdictions or with being the ministers would have the authority vested by the randomly formed assembly and would be accountable to the assembly. In effect, this would turn parliament upside down. While today, the head of government appoints the cabinet ministers, and the remainder of parliament mainly responds to their activities, in this new scheme the randomly selected parliament would deem which rights and responsibilities the ministers and ambassadors should have and who should hold those positions. The assembly might, say, deem it sensible to give indigenous people the Aboriginal Relations portfolio and appoint conservationists to the role of Minister of the Environment.

The parliament might realize self-organization in the short term with a particular batch of representatives determining and performing their roles during particular sessions. But more broadly, the parliament's configuration and function could change over the years as the legislative assembly finds it necessary to adapt to the changing needs of society. Since this random congress would be a facsimile of the population, when the public decides that the assembly's configuration, composition, or operation should be altered in some way, these same attitudes would be reflected in the random body itself. (This correcting property might also expand across the governance apparatus in general, across the ministries, the public service, and even the judiciary, as the people might demand of their parliament certain adjustments in those areas.) So, we might expect a symbiosis between government and society. Laws and policies would be more kindly received by the people, but should the government be short-sighted in some area and begin to falter in this task as a result of some insufficient ability to optimally reflect the public's wishes, the public's perception of the assembly's inadequacies and the public's desire to address them would cause reform of the parliament itself—perhaps after a subsequent lottery intake. For instance, the public might decide that a greater or smaller number of representatives are needed, that the term of service should be longer or shorter, that lotteries should replace only a fraction of the Representative House each time in order to give some continuity to proceedings, that some technology should be employed, that the members should meet and discuss in some new manner, that they are missing some important mode of informing

themselves, or that the representatives ought to interact with the public in some different way. In other words, if a particular sortive assembly were to miss the forest for the trees, the next lottery intake—with no such blindness—would be well-positioned to apply the remedy.

At this point it is worth giving some more thought on what the public's relationship to the randomly formed government might be. Of considerable interest, the ancient Athenians favoured sortition for, among other traits, its ability to guard against corruption. These Greeks recognized that sortition broke up factions, diluted power, and gave positions to such a large number of disparate people that they would all keep an eye on each other making collusion fairly rare. Furthermore, power did not go to the rich or, for that matter, necessarily to those who wanted it and had schemed for it. Headlam explains that the Athenian Council, some five hundred randomly chosen administrators, would make occasional mistakes such as levying taxes that were too high. Additionally, now and then, some in the council would improperly make small quantities of money from their civic positions. However, "systematic oppression and organized fraud were impossible" (77). Today, organized fraud is much less of a problem than it was, say, a century ago; however, as Saul writes, the structures of the state have "simply amended themselves in order to legalize, formalize and indeed structure all the old forms of public corruption right into their normal procedures", as, for example, politicians share the business class's interests to such a degree that they often pick up consultancy contracts and company directorships after their tenure in office (264).

While political corruption can come in the form of organized fraud or the norms of the institutions, I also believe it can be understood as a general degeneration of behaviours into actions that appear distasteful and unseemly. Currently, the corruption begins at the early stages of the politician's career. According to an interview of sixty-five exiting Canadian Members of Parliament, running for the nomination of a large party can be, at its worst, "an opaque, manipulative and even cruel game" where citizens are "often simply corralled for the event and asked only to sign up for a party membership, show up and vote for their candidate" (Samara). The candidates themselves often viscerally recoil from these required proceedings. Subsequent to winning the nomination, during the election campaign, candidates then become marketed commodities in much the same way as laundry detergent is. The party brand and

message take precedent over their own ideas, for speeches and talking points are carefully crafted; no words can be left to chance. The candidates shake the hands of people whose perceptions are being moulded by party spin, who may be receiving false hope from hollow election promises, who are being told that the alternative candidates are inept or misguided. Vicious attack ads today increasingly take the mud-slinging to greater levels of indecency.

The adversarial nature of campaigning does not cease after Election Day. Elected members, attached to a party as they are, strive to make their party's opinions the dominant ones across the land, strive unendingly to give expression to the doctrines of their particular cadre, and endeavour to convince the public that their special party interests are, in fact, public interests. "Speech in adversary systems is a form of aggression, simply one more form of power" (Barber 175). And neither the Government nor the Opposition act with much restraint in their exercise of this aggression against one another and against the public too. Manin writes that parties today appear to impose social cleavages on society, cleavages that some observers condemn as artificial, (193) that the politicians then exploit for their own gain. The merit of any party action is judged by strategists on its expected advantage to the party. The modern politician preoccupies himself or herself with favourably representing (re-presenting) his party to the public and not representing the public to the party. False debates happen in parliament, false because the votes of the attending politicians will not be swayed one degree from their prescribed party course. Instead, the theatrics are merely a chance for all participants to compete in scoring points that will carry the moment on the six o'clock news. All of this impresses on us a sense of great artificiality: the marketing of candidates, forced smiles, malleable promises, pointless debates, and posturing. These traits of the "audience democracy", to use Manin's phrase (218), along with the mandatory conflict and the purposeful creation of divisions, make behaviours that would not be tolerated in natural social relations normal and acceptable.

Pure randomness might put into parliament some real incorrigible scoundrels, and this could be cause for implementing a mechanism for firing those who behave improperly or for vetting them in the first place. I have to wonder, however, in the case that someone with moderate criminal tendencies is placed into a legislature of peers and given the chance to prove himself to a watchful nation or province, whether this person

would see reason to regard his civic duties with some gravity and reform his ways. The ego-boosting potential of being a parliamentarian must certainly be greater than the egoboo garnered by the open source engineers. And, besides, no one wants to be seen publicly as unprincipled, eccentric, or stupid. Barbara Goodwin flexes her imagination in her book *Justice by Lottery* and depicts a future society where almost every position is filled through the lottery including spots in the police forces. She describes how the fortuitous placement of a criminal in the Lotpolice resulted in the smashing of a baby pornography syndicate due to the criminal's special insider knowledge (7). We might imagine some similar benefit to the placement of reformed criminals in the legislative assembly.

I believe it credible that a parliament bearing some likeness to the general public, as criminal juries do, would garner more respect than one formed from parties of politicians since public confidence in this aspect of the justice system is quite high, as discussed briefly in Chapter Seven. Furthermore, jurists typically take their responsibilities very seriously, and I do not see any reason to suppose that the randomly selected legislators would take their duties any less so. Headlam explains that “the Athenians felt no distrust of the lot, but regarded it as the most natural and the simplest way of appointment” (96). Corruption would be greatly reduced, and while the public would still be an audience to the proceedings in parliament, today's party politics and the manipulation of the citizen-voter would disappear. Whereas today progress in civil rights occurs through social struggle, through fighting, we might hope that in the future it could happen through consensual discussion and transparent deliberation as discussed in the next chapter.

Business-sponsored PR, however, might attack a sortive assembly looking to undermine its legitimacy and put into question its efficacy. I wrote in previous chapters about the virtual ownership of governments by business interests through, among other means, their financing and endorsement of election campaigns. Furthermore, in another example of Conway's Law, business expects a governmental hierarchy similar to its own for the purposes of opening communication channels that allow business influence on that government. When wishing to influence public policy, the executives of large firms, the leaders of business councils, or the heads of international financial organizations such as the World Bank or the International Monetary Fund have no interest in appealing

to the public or in addressing parliaments. Much more convenient for them is to have private conversations with presidents, prime ministers, governors, premiers, and ministers. Even on a smaller scale, a major property developer can readily access the mayor's office. The legislative assembly we are looking at here would not be configured to readily receive direction from business structures. First, there would be no election campaigns to finance, so none of the legislators would enter parliament owing favours to contributors or supporters. Second, all ministers would be subordinate to the assembly, so, in effect, all information would flow up to the assembled facsimile of the people. A large commercial interest or some other lobbyist organization could not expect to have secret negotiations with the offices of a few dominant members of the government in order to affect policy. Third, the diverse makeup of the congress might mean that the combined values of this body would be less aligned with the dominant economic interests than we see today with elected parliaments consisting of comparably affluent members.

As a consequence, business-sponsored PR could be particularly hostile to the random assembly in order to attempt to turn the public against it. The new parliament body would only be autonomous if it could protect itself from these attacks. How this might happen is not totally clear; however, I believe the sortive assembly would have a degree of integrity comparable to juries as a less partisan body of individuals. This integrity would give the assembly some public esteem as a guard against attacks. Moreover, the assembly would have a great opportunity to prove itself through transparent function in a manner that cannot possibly happen in party politics. Next, I have argued that it would have a balanced approach in crafting legislation and policy, disaffecting as few as possible. Furthermore, if government is currently viewed in some quarters as a sort of alien entity, detached from the public, and worthy of disparagement, then this view could be tempered as legislators from all walks of life, upon completion of their term, return to their former workplaces and communities hopefully with feelings of fondness and respect for their democracy and its premier institution. These ex-lawmakers might have positive experiences to recount to their social peers, or they might explain the difficulties resulting from misleading PR. Lastly, the sortive parliament would have the power to pass legislation countering the PR industry. Care would be

needed not to contravene freedom of speech rights, but the public relations industry might still be regulated to a high standard of honesty.

In summary, I find it quite plausible that the employment of sortition, as compared to today's use of elections, would produce a government institution better able to adapt to the evolving needs of the social body and more capable of self-correcting and optimizing according to public demands. The legislatures formed from the lottery would more readily consider a wider range of public interests and could craft innovative legislation better aligned with the common good and better understood by the person in the street. Such a parliament would have the potential to be more transparent and less susceptible to corruption, and, conceivably, could reduce the sense of separation between government and the governed and garner a particular respect among the public. I will further add that sortition could increase the rate of human progress, a subject for my next chapter.

Chapter 5.

Sortition and Human Progress

In this chapter I would like to consider human progress and activism and reflect on how their genesis might change with a sortition-selected government. I would also like to consider both deliberation and collective intelligence or why diverse groups can often outperform the best individuals.

When we view the history of the last two centuries, we see that a great deal of improvement in the well-being of man and woman occurred as a direct consequence of popular movements. Even when the mainstream narrative tells us that great men (usually men) passed ground-breaking legislation in order to, say, free the slaves, give women and other minorities equal rights, introduce greater workplace safety, provide public healthcare, or protect the environment in some manner, it is often easy to see that forceful nudges from social organizations compelled them to take the decisive action. Historian Howard Zinn chronicles some of the more historic movements in the U.S. in his well-known book, *A People's History of the United States*.

This process has essentially three components: First, activists educate the populace about some issue of concern. Second, and in parallel, a large number of people are mobilized into actively supporting the cause. And, lastly, the political leaders are prodded to take the demanded action of embedding the new rights into legislation or of changing some policy. As examples, in Canada same-sex marriage and the medical use of cannabis are now legal. To be sure, no political leader bounded out of bed one morning and, out of the blue, decided to press for such legislation. Powerful numbers of citizens needed to push the leaders with their demands—an action that is not so easy at the best of times and very difficult on those occasions when the governmental members, or their financial backers, have vested interests in opposition to the activists, as I discussed in previous chapters. I can imagine, however, a more “natural” democracy

where the second and third components above would be much less necessary. That is, people would feel less compelled to mobilize in large numbers for the purpose of forcing their views on political leaders because their concerns would simply manifest themselves in the political process naturally without the need for protests, marches, petitions, or rallies—let alone more militant actions, such as road and port blockades, economic sabotage, and hunger strikes. Some may argue that the very fact that the authorities allow dissenting action that incurs mild or no prosecution, bestows democratic credentials on our governments. However, I am inclined to separate the two. Free speech and assembly are valuable civil rights, to be certain. But acts of public dissidence indicate a democratic deficit, as some segment of society is quite fed up with having a weak voice within the normal political channels.

If the Western “democracies” were not of an unfortunate electoral form, but were rather of a kind that more directly brings the diverse views of the public, including dissident opinion, directly into the parliament, perhaps much activism would not be necessary. The activists’ ideas could simply spread throughout society via normal social relations, including through the use of social media, and when the public’s attitudes on various matters change sufficiently, these views would then materialize as public law or policy. One consequence might be that progress in the direction of social and economic justice would occur more rapidly, as the great efforts to actually organize, campaign, lobby, and protest would be less necessary.

A quicker rate of social and economic progress seems crucial to me for a number of reasons. First, the time span of a human life is only so much, and this affects an individual’s calculation of how politically active to become. Is there any point expending great amounts of time and energy for some change that might happen decades from now? As a consequence, if change could be faster, more of it would be initiated. Secondly, some issues are so severe that change probably needs accelerating. With the potentially dire consequences of climate change, nuclear weapons proliferation, and pandemics of potentially drug-resistant diseases, the entire world could be in imminent peril, and we would be wise to push for an immediate curtailment in the emission of gases that cause global warming, committed action to reduce nuclear stockpiles and towards world peace, and a global strategy for improving the health of the world’s people. Lastly, net progress can only be achieved if the rate of movement forward

exceeds the rate that reactionary forces shift society in the opposite direction. In the developed world, the last thirty years have seen a lessening in the repression of homosexuals and other minorities, laws against animal cruelty, and expanded legislation for the protection of the environment. But meanwhile, the ability of labour to organize erodes, wages stagnate, job insecurity rises, and many social services see reduced funding. Globally, human-induced climate change continues, world economies ail, the powerful nations such as the US and UK still initiate wars, terrorist activities persist, and biodiversity rapidly declines. We may sense that we are going backwards.

Our democratic constructions today force activists to expend an extreme amount of effort to accomplish their aims. The political systems have also forced certain limiting forms and characteristics on social organizations. Today, politics demands that professional politicians adopt well-defined party identities and roles. The effectiveness of the party is, in part, dependent on each member behaving with great discipline in accordance with the needs of that structure: deference to authority, adoption of a party line, willingness to be adversarial with the opposition, secrecy, etc. Activists mimic these political parties and adopt many of the same traits because the activists' organizations need to engage in a play for power in that same political arena. So, meetings are executed in secrecy perhaps among a select core, new members are recruited who will take their positions below their recruiters in the hierarchy, the group is primed for confrontation, and everyone adopts the group's identity. As a politician sees himself as a Liberal, Conservative, or NDP member, so does an activist see herself as an environmentalist, a civil rights campaigner, or a promoter of some other cause. Similarly, organized labour receives encouragement to identify with the union or the local. Sometimes, when the organizations become strong enough through their ability to recruit, they then formally support or form a party, as was the case when unions backed certain parties or when conservationists worldwide formed the Green parties.

This identity formation places checks on the growth and effectiveness of the organization and of the members by creating boundaries with others. An article by activist and Research Assistant at the University of Essex, Jamie Heckert, entitled "Maintaining the Borders: identity and politics" can be found online and describes the author's views on how identity politics puts people in boxes with worrying consequences. Identity separates and isolates members of the group from those in other groups and

from those who have no particular activist identity. It imposes conformity and encourages purity in accordance with a set of defined interests. Identity creates opposition to those who do not share those interests, but ultimately, identity politics “freezes the fluid” as social organizations and the individuals in them fix their characteristics, their processes, their interests. Of anonymous authorship, the article “Give Up Activism” caused quite a splash in activist circles when published more than a decade ago. One of the author’s claims, that activists “would probably resist [revolutionary] change if it came because it would disrupt the easy certainties of their role and the nice little niche they’ve carved out for themselves” (Anonymous), is similarly voiced by Heckert when he writes that activism based on identity “is a very good strategy if you don’t want to change things very much”. It fits in well with the liberal state, representative democracy, and capitalism. Identity and role go together to form a mode of dissent that is acceptable to the greater political system. But, as Heckert argues, these consequences of identity politics, these borders, ultimately discourage participation. Participation often occurs despite identity politics and not because of it.

Things may be changing. As I see it, the Occupy Wall Street, OWS, movement that began in 2011 offers something quite different. While there is still an “us” and “them” mentality, the “us” is presented as a full ninety-nine percent of the public—not so isolationist. And at the Vancouver manifestation of the movement, I heard some critical words against identity politics. Diversity was embraced. Hierarchies, boundaries between people, and leadership roles were discouraged. Transparency was encouraged. Even the inclination by some to form well-defined demands was resisted by others, as they did not want to be shoehorned into conventional politics. At times, the scene bordered on the humorous as city authorities requested meetings with non-existent leaders, and news crews wandered around with cameras in search of the definitive sound bite that would summarize the phenomenon.

In my view, movements of this kind can be very valuable in bringing people together from disparate backgrounds to create a forum for public discussion, for shining the spotlight on certain injustices, for speaking out that the emperor has no clothes, and as incubators of ideas. However, even supposing that participation in the “occupation” could grow to large numbers, the problem would still remain how to convert the expressed interests into public policy. The difficulty perhaps would not exist, say, in a

small township that conceivably could have an OWS-style general assembly with nearly everyone in attendance for the purpose of addressing the town's issues. Yet in a large jurisdiction of millions, some other means is needed. The people participating in the OWS assemblies are not—despite their best wishes—representative of the ninety-nine percent.

A government formed through sortition, as I described in the previous chapter, may be a solution. Greater society could shape and spread critical views against the dominant political, civic, and economic paradigms via normal social relations, using internet-enabling technology, through OWS-style gatherings, via public institutions and civic organizations, or by any other means, and the randomness of sortition would directly place those opinions into parliament. Conceivably, there would be less need for the formation of activist organizations for the purpose of pressuring political leaders into action. Similar to how sortition could potentially reduce the adversarial nature of the legislative assembly, this random selection of decision makers could also diminish the need for activists to confront in a combative manner the government of the day. The role of the activist could change significantly.

Lyn Carson, of the University of Western Sydney, discusses social activist Bill Moyer's four roles of activism: citizen, reformer, change agent, and rebel. She then adds a fifth of her own: inquirer. In brief, as a means to oppose a power-holder's policies, the activist researches and stimulates debate (inquirer), promotes positive values (citizen), lobbies (reformer), educates and forms mass organizations (change agent), and protests (rebel) (Carson, *Innovative Consultation Processes and the Changing Role of Activism*). I can see an ongoing need for the inquirer and citizen roles as well as for the educational component of the change agent role. Protests might still be useful to the degree that they can be used to promote positive values and educate. However, I do wonder whether, with a randomly selected government, mass organizations would be needed in order to lobby and petition the government or in order to force the government into some action through large-scale acts of protest or civil disobedience. Instead, good ideas could spread as memes, the cultural equivalent of genes, replicating and mutating as they propagate from one person to the next, while weaker memes, ideas of little influence, would fail to thrive in the cultural ecosystem. These propagating memes could have their inception with the activist in his or her role

as the inquiring citizen educator or, indeed, with anyone. Any person participating in the replication of memes by passing along ideas, or anyone propagating their own variation on a meme, would essentially be engaging in activism.

In Chapter Seven I will discuss the scenarios where pernicious memes might replicate, but for now I want to make the point that a randomly formed parliament would have a percentage of its members aware of, and either sympathetic to or resistant to, some new idea in roughly the same proportions as in the general public. In the case of an idea that has some progressive merit, as public awareness of the problem and its potential solution grow, so too would the percentage of legislators willing to debate in favour of this change. The traditional activist lobbying would, in effect, be embedded within the mini-public congress as there would exist people engaging in open discussion with peers in the parliamentary forum.

I might wonder if the apathy towards and distaste for political discussion that can currently be found among many, bred from the sense that the individual can change little, might wane too. As the populace becomes aware that their government will not keep off the agenda or oppose any new idea for policy or law that a significant proportion of the public favours, but will at least deliberate on the topic, people may become more inclined to debate and discuss issues with their acquaintances in their daily lives. Furthermore, everyone would understand that their name may come up in the next lottery; this in itself would motivate some to engage politically. Political discourse might just become a common topic for water-cooler chit-chat as are sports and television currently.

Heckert makes another point about identity politics, that it simplifies personal identity, since the individual must focus on one aspect of his or her complex life. Activism based on organization around a particular identity consumes a great deal of the participants' time, time when they are expected to fit their personalities into the characterization of the organization. Sortition does not demand this of anyone, however. Someone chosen by the lottery would be free to enter government as her complex self, with all her views on society and its institutions, the economy, the environment, social justice, etc. without being pigeon-holed as right-wing or left-wing, as a single-issue proponent, as a union member, or as a party devotee toeing some party line. Similarly,

each person in the social body would be at liberty to remain their complex self, with no need to enter into activist organizations engaged in one-dimensional identity politics, and yet they would still act as vectors for a multitude of memes spreading various values and interests.

It may not be a stretch to argue that the most significant development in humankind's modern arrangement is the division of labour or the specialization of role. To be certain, we want specialists performing medical surgery and piloting aircraft; however, trouble arises when "narrow bands of knowledge", to use a term from Saul (110), are called upon to act beyond their natural scope. As an example, Albert Einstein remarked that only a small percentage of scientists possess a sense of social responsibility, and, therefore, they are not the best people to determine the direction of research (Nathan and Norden 456). However, I have to wonder if our drift towards knowledge specialization really equips *any* expert to shape society's activities. If Schumacher is correct that the "greatest danger invariably arises from the ruthless application, on a vast scale, of partial knowledge" (37), then the suggestions of experts, with their deep but narrow knowledge, ought to be implemented only after consideration by a much broader knowledge pool, as sortition would provide. No specialists—not political theorists, professional economists, business masters, senior civil servants, or, indeed, formal activists, those specialists in social critique—should have a final say or undue influence on public policy. I can imagine a sortive assembly asking the experts among them, and calling forth further specialists as needed, to give testimony on issues of the day but only as a starting point for the group's deliberations towards policy and law.

A full consideration of deliberation is beyond the scope of this discussion; however, some words on the subject would be useful. The term *deliberative democracy* has been coined to refer to a form of lawmaking where deliberation takes preference over voting as the means of decision-making. Similar to the operation of many open-source software projects, consensus becomes the goal, but a vote may happen if consensus is not forthcoming. The advocates of deliberative democracy frequently stress that the participants should be representative of their community, and they often promote random selection in order to meet this requirement. The combination of representativeness and deliberation is thought to bestow on the process a large degree

of legitimacy as compared to, say, an advisory committee that is not representative or an opinion poll that may be representative but will be an over-simplification of a complex issue since it tends to be an aggregation of snap judgments.

Many participatory approaches have been tried and go by various names such as citizens' juries, deliberative polls, consensus conferences, and 21st century town hall meetings. For example, Lyn Carson and Phillip Hart enumerated thirty-five deliberative, inclusive processes (DIPs) prior to 2005 in Australia. The bulk of these occurred in Western Australia in the years 2001-2004 largely due to the efforts of two people: process champion Janette Hartz-Karp, and Minister for Planning and Infrastructure Alannah MacTiernan (Carson and Hart).

Hartz-Karp, Professor of Sustainability at Curtin University, describes the *Dialogue with the City*, an initiative to “harness the creativity of the community” in order to determine the future development model for Perth (Hartz-Karp). One thousand one hundred people took part in this exercise, according to Hartz-Karp the biggest deliberative forum the southern hemisphere has seen. Approximately one third of the participants came from government, industry, and environmental and social interest groups. Another third were respondents to advertisements in the media. The remaining one third replied to invitations sent to a random sample of the population. On the day of the exercise, participants with diverse views and backgrounds were purposely seated together, ten per table, and under the guidance of a skilled facilitator, worked towards common ground. Each group's opinions, including minority views, were entered into a computer that was networked to a “theme team” who analyzed and organized the data in real time and broadcast it back to all tables. The groups were provided with expert technical descriptions of the social, economic and environmental differences between different development models (network, multi-centred, compact, and dispersed) and were supplied with maps of the city, various geographic information data, and chips of different sizes and colors for placement on the maps representing industry, commercial, and housing requirements projected for 2030. Some 250 volunteers, with a day's training beforehand, performed scribing, facilitating, and other support roles.

Consensus was reached on a network model for their city, and an Implementation Team and a number of working groups were formed from the

participants in order to ultimately author *Network City: A Community Planning Strategy for Perth and Peel*, a report that was accepted by Western Australia's Cabinet. The participants, themselves, expressed positive feelings about the deliberative process and some conveyed surprise at the goodwill of the other participants to enter into positive dialogue. Forty-two percent had changed their minds due to the deliberation, and all but a few (99.5%) indicated that the deliberations went OK or great with 97% stating that they would like to participate in similar events again. "From the overwhelming feedback from participants, this was a wonderfully organized, democratic, hopeful, exciting and ground-breaking initiative, that could become regular government practice." (Hartz-Karp)

It appears that a major factor in motivating the participants to work together for the common good was the assurance that they were not just involved in a "talkfest" but that the outcomes of the process would see action. This is echoed by Carson and Hart who discuss that, along with representativeness and deliberation, the third ideal of DIPs is influence. The participants have to know that their activities will count for something, that the results of their deliberations will influence the policy makers.

The Dialogue with the City did have critics who stated that the influence of experts was not great enough, that the process was too slow, and that the exercise was a political instrument for the advantage of some of the sitting politicians. It is interesting to note that a political system based on sortition as outlined in the previous chapter would go a long way to addressing these criticisms. On the role of experts, I have already mentioned that their opinions are valuable as starting points for deliberation. While experts may shed some light on certain technicalities, they are not especially equipped to determine how the information is used. So, if a particular public policy comes with an element of risk or has some implications for justice, this is a matter to be decided by the society's facsimile in parliament. Indeed, experts often will disagree with one another, and this disagreement supports the argument that deliberation among the mini-public, using its collective intelligence and broad knowledge, should be used to settle the matter. Moreover, an interesting by-product might be that the experts, themselves, would widen their horizons and become more rounded citizens as they reply to questions posed from the mini-public. Next, while I have argued for more deliberation and reflection, perhaps at the expense of efficiency, if the representative deliberators

were full-time members of the legislative assembly, the process would be much quicker than the Perth exercise, for the overhead of choosing the participants and setting up the venue (parliament and its offices) could happen once every few years and not once per policy issue. Furthermore, in a sortive assembly, the members would deliberate many issues over their term and would learn to quicken their process. Lastly, having the deliberators and the policy makers one and the same people—the sitting citizen legislators—removes the political gamesmanship present with a party system. No one could champion deliberation in order to score political points, as was the accusation in Australia, any more than someone today can champion the norm that is the general election for the same point-scoring purpose.

Another criticism of deliberation that has been around since at least ancient Athens is that those skilled in rhetoric can sway the decision in their preferred direction. However, I want to argue, the fact that certain individuals lack the confidence or the skill to give voice to their ideas presents a concern no matter what the political arrangement, and the solution is to find ways to empower these people. Perhaps courses in public speaking could be offered to members of the assembly or their voice could find an outlet through the written word or via a sympathetic and articulate colleague. I also believe that rhetoric might be more of an issue in an assembly that makes final decisions through minimal deliberation and voting than in a congregation that attempts consensus decision-making because consensus typically places a higher bar on acceptance. Consensus may require near unanimity on a decision while voting often just requires fifty percent plus one in order to pass. A skilled orator would have a more difficult time in a consensus model.

In previous chapters, I advocated consensus because innovative solutions to problems, or alternative ways of framing the problems, can emerge when deadlocks need to be overcome to the satisfaction of all. In discussing the Perth exercise, Hartz-Karp characterizes effective deliberation as maximizing strategies for providing “opportunities for open dialogue, respect, access to information, space to understand and reframe issues, and movement towards consensus” (Hartz-Karp). While I can accept that unanimity will not always be achievable, I regard it as the best goal for those engaged in deliberation. Consensus is extremely common in day-to-day living as, for example, when family members plan a vacation destination, or friends choose a

restaurant in which to dine. The governments of the Northwest Territories and Nunavut in Canada work on consensus to a large degree, for they have no party representation in the legislature. And criminal juries in Canada and the United States must reach unanimity on their verdicts. Therefore it seems natural that consensus should be the starting goal for deliberation.

The consensus decision-making process will not always achieve unanimity; however, those in disagreement need not be disaffected. If the consensus process is seen by all as employing means to accommodate dissenting views, if it spurs a great deal of deliberation, if it is inclusive and transparent, if it is respectful of everyone and builds trust, if it allows amendments to proposals in order to ameliorate the concerns of some, then a final vote with some supermajority threshold could be employed, and the losers may simply accept the outcome as fair. I saw a supermajority threshold of 90% at Occupy Vancouver; however, other thresholds could be used such as two-thirds or three-quarters. Gutmann and Thompson write that deliberative democracy accepts that parties may disagree but affirms for those parties that they can decide their “common destiny on mutually acceptable terms” (361). Unity is not unanimity.

During the Perth exercise, the word "consensus" was avoided in favour of "the search for common ground" in order to avoid the disparate perceptions of the former term. Indeed, if a group reaches consensus too easily on difficult issues, and especially if it is a diverse assembly to begin with, this could be indicative of a dysfunctional deliberative group where a hierarchy has set in and either some people are disengaged or groupthink has occurred. Trained facilitators should be on the lookout for such dysfunction. For instance, commonly men speak more than women in deliberative settings as do those from backgrounds of higher status, and able facilitators will understand these dynamics and encourage all to have a voice.

Another option when common ground is not easily attainable would be to adopt the range voting of some of the open source software projects. Indeed, if the creativity of deliberation can succeed in putting several competing proposals on the table, I can imagine each person having some number of ballot points to allocate to each proposal. For example, if each individual gets two points to divide among proposals A, B, C and D, and can only give a maximum of one point to any proposal, someone might choose to

give, say, 1.0 point to proposal A, zero to B, 0.8 to C, and 0.2 to D. After the points are tallied up, the proposal with the most points wins the day. Range voting like this avoids the us-and-them outcome of a straight vote among two possible scenarios. With a diverse mix of people present in parliament as their complex selves, it appears quite sensible to extend this complexity into the allowance of their opinions and into the exercise of their vote. People will be enthused by some possible outcomes, very unsupportive of some, and just moderately in favour of still others. Here I have simply proposed one possible voting mechanism for those instances where an issue is divisive. Certainly, new innovations in employing the vote after deliberation could be discovered.

Recognizing the complexity of individuals, Scott E. Page, researcher into complex systems, in *The Difference: How the Power of Diversity Creates Better Groups, Firms, Schools, and Societies*, emphasizes the importance of cognitive diversity in the form of perspectives, interpretations (i.e. categorizations), heuristics (e.g. rules of thumb, or algorithms) and predictive models. He discusses how diversity in cognitive function is crucial among a group attempting to solve especially hard problems, as it will bring together a great collection of skills and knowledge—what he calls tools—that can be used to solve those problems and make predictions. For example, suppose someone has brought very relevant tools, A to D, to bear on a difficult problem but finds herself stumped anyway. A second person tries to help, but if he comes from a similar background, he may possess some or all of A to D but no other tools that aid their mutual progress. Together they are stuck. A third person, however, might be much less equipped to solve the issue alone, but she may have tool Z that, when combined with A to D, gives the required breakthrough. Furthermore, for very difficult problems we cannot always identify beforehand all the relevant tools. We might not know about tool Z and its importance. For instance, suppose policy is needed to preserve coastal shellfish populations. The first two individuals are scientists with the Department of Fisheries and possess all manner of specialized knowledge. However, a third member of the team is an underwater welder, someone with one particular insight unknown to the others that proves critical in arriving at the best policy.

It seems to me that, in our discussion of governance through sortition, a reverse scenario would be more likely, however. When public policy is being formed, when issues of justice and morality are being deliberated, when there are no right or wrong

answers but only publicly acceptable resolutions, an individual with little relevant specialized knowledge may have tools A to D, or a sortive assembly collectively could have tools A to Y, but an expert with fewer overall tools may have one very specialized ability, Z, crucial to the resolution of the issue. Either way, Page's theorem that *diversity trumps ability* has merit (162). One scientist and one welder may have the breakthrough that two scientists would not. One randomly selected assembly could potentially perform better at crafting effective policy than would a more homogenous one. In order for the potential to be met, however, Page reminds us that the diverse group needs some managing in order to overcome the problems of communication, preference diversity, and possibly poor group dynamics. Page uses an analogy of children running and cycling. Some children are asked to run as far as they can in a given period of time, and others are asked to pedal a bicycle as far as possible in the same duration. A number of the cyclists cover distances far greater than any of the sprinters do, but others fall off their bikes in the first metre and skin their knees, and the average distance traversed by both groups is the same. However, the poor riders could train for improvement, and their group's average will then far exceed the runners' average (315). In this illustration, each runner represents a homogenous group of problem solvers while each cyclist represents a diverse set, liable to fail horribly or succeed brilliantly. Diversity has the potential to solve difficult problems or make forecasts with greater accuracy, but only under the appropriate conditions such as having skilled facilitators. Without such conditions, the group would be in danger of collapsing in the first moment.

Today, governments seldom start with ideas separate from political considerations in order to form policy. Policies are usually formulated on the basis of the interests of established power, and ideas are then introduced by-the-by, and often with a great deal of spin, in order to justify those policies. So, we frequently see governmental policy maintain its course even after the justifying rationale, or the spin, has been undermined by critics. However, with a deliberative assembly, ideas themselves become the very foundation of the policy. Certainly, some political-style bargaining can occur among the deliberators, but the essence of the process is fundamentally different. Instead of setting a policy to which various publicly appealing ideas are attached, policy could be indeterminate until all the ideas have worked themselves out. The assumption here is that the group allows all ideas to emerge and get a fair hearing which would be a

key responsibility of facilitators—and especially if the group shows bias. In his popular book, *The Wisdom of Crowds*, journalist James Surowiecki references the work of Berkeley political scientist, Chandra Nemeth, who showed through mock juries that a minority viewpoint—even an ill-conceived one—adds nuance and rigour to the group’s overall decision-making (183). A minority view, in itself, may or may not have value, but just its voicing causes those with the prevailing perspective to think through their ideas more as they defend their position. Not only would the policy solutions in a sortive assembly be wide open until the ideas had properly been thought through, but another benefit from hearing from everyone could be an open agenda. Items would not be left off the agenda, say, because they conflict with the interests of vested power.

In this chapter I wanted to suggest that, while the vote is a right, it is not the supreme right from which all other civic rights flow. Indeed, I do not believe that electoral representative “democracy” is optimal at expanding the rights and freedoms of people and promoting society’s progress. In fact, I can see how the professional politician is a barrier keeping innovation out of policy making, a gatekeeper preventing certain items from appearing on the agenda, and generally speaking an obstacle to progress as citizens who look to influence the political process have little choice but to engage in the often ineffectual identity politics of parties and activist organizations. Liberal democracy today appears ill-equipped to pursue a common good but, instead, operates to mediate between various competing interests where the interests that win out are those backed by either incensed voices or deep pockets. From where I stand, sortition has good potential to overcome the shortcomings of identity and party politics and to move society along a progressive course more quickly and more aligned with the common good. Groups of diverse people have the potential to outperform more homogenous ones in solving difficult problems or in forecasting the future impact of policy.

As an interesting historical side note, the two most significant implementations of sortition in western politics have both coincided in place and time with great innovation in art, philosophy, science, architecture and other fields. Oliver Dowlen in *The Political Potential of Sortition*, gives a good introduction to the lottery’s political use in democratic Ancient Athens for over two hundred years and in republican Florence for nearly three centuries during the late Middle Ages and Renaissance period. Of course, it would be a

giant leap to credit sortition for bringing about these ages of intellectual blooming; however, it does make one wonder whether these are truly coincidences or whether dynamic political arrangements can loosen the restraints on the creative expression of those being governed.

I have resisted the temptation so far to fully commit myself to a system employing sortition, for it would be hypocritical of me to do so. I cannot back diverse group intelligence over the smarts of individuals or of bodies of similar individuals and yet simultaneously declare that I alone have hit on the winning formula. However, in the next chapter I will discuss some of the ideas that others have advocated using random selection. In Chapter Seven, I will also discuss some objections to it.

Chapter 6.

Is the Age of Sortition upon Us?

Electoral representative democracy is ensconced in our minds as a supreme achievement of societal organization and even as the end-point in human political progress. Long ago divine kings ruled us. Later, parliaments of politicians were conceived. Now we're done. But, naturally, we are not at the end of history, and so we might wonder if sortition will someday have an important role to play. Increasingly, sortition's potential is being studied as we see from Antoine Vergne's survey of the literature. He found that since 1956, when the first post-war text on sortition was published, there have been at least 199 texts up to 2008 that give active mention to the subject in five main European languages, and more than 350 writings when counting reprints, translations, etc. Furthermore, of the 199, some forty percent were published in the last ten years (Vergne 84). From these numbers, it is not difficult to see how Vergne settled on the subtitle of his review: "Is the Age of Sortition upon us?"

We know that the use of randomness to make decisions is old. Sortition in Athens probably had its origin as a religious function allowing outcomes to be decided by the gods centuries before its formal political use. Today, familiar techniques of allowing chance to decide results include drawing straws, picking names out of a hat, flipping coins, and rolling dice. These means are employed when we have no rational reason for choosing one option over the other. For example, the lottery is employed for military conscription, and in 2000 a coin toss was used to determine the outcome of a council election in England when the two candidates polled the same number (BBC News World Edition). Furthermore, Conall Boyle in *Lotteries for Education* gives thirty-three examples where the lottery has been used to place students in such institutes of learning as English primary schools, American public schools, secondary schools in New Zealand, a Californian nursing college, and even schools of medicine in the Netherlands. In Boyle's examples, the authorities turned to the lottery when there were a greater

number of qualified applicants for school positions than seats available. In some of these instances, the critics inveigh against the lot on the basis of degree of qualification: someone who is denied entry is, in their eyes, more qualified than someone awarded admission. But the defenders of the random practice are more inclined to view the attainment of entrance exam scores beyond some high mark as not adding to a person's degree of qualification.

In Chapter Four, I aimed to make the case that there may be rational reasons to turn to the lottery, as, for instance, the diversity and fairness resulting from chance may be desired. These factors may be at play in the awarding of American green cards too. And, interestingly, as another example where turning to the lottery may be a rational action, researchers at the University of Catania in Italy demonstrated mathematically that hierarchical organizations would be more efficient if they awarded promotions randomly. Their model illustrates a remedy to the Peter Principle that states that employees tend to rise to their level of incompetence (Pluchino, Rapisarda and Garofalo).

In recent years, a number of popular books have explored group decision making and self-organization and have as a target audience, at least in part, the business management community. Surowiecki's *The Wisdom of Crowds*, Shirky's *Here Comes Everybody: The Power of Organizing Without Organizations*, and *Wikinomics: How Mass Collaboration Changes Everything* by Tapscott and Williams are three. Another such book, *The Starfish and the Spider: The Unstoppable Power of Leaderless Organizations* by Braffman and Beckstrom, contrasts starfish and spiders in a similar way that open source software proponent, Raymond, contrasts bazaars and cathedrals. The starfish is biologically a more decentralized and durable organism, even able to regenerate severed limbs, while the spider has a central nervous system and is less robust as it cannot sustain damage to the head nor restore lost body parts. These books all present a societal trend, as well as some slight movement in business organizations, away from traditional processes of top-down organizing, decision-making, and problem solving to fluid arrangements that allow innovation and contribution from the many.

Some business executives value *knowledge management* principles to such a degree that various corporations now have a Chief Knowledge Officer, or CKO. Unlike information management, which places much attention on technologies, knowledge

management aims for the creation of collaborative, open, and trusting cultures within the firm, where employees share across group boundaries in a network configuration instead of moving information up and down a chain of command. Ultimately, this culture is meant, not only to transfer knowledge between individuals but, to generate new knowledge or to innovate in ways useful to the firm. Indeed, one of the core principles of this fairly recent field seems to be the admission that innovation cannot exactly be managed, but can only happen if the “managers” have nurtured the correct knowledge-creating ecosystem. Contrary to the views of the risk-adverse systems managers with their Scientific Management who we typically find in large organizations, and contrary to their natural preferences for planned organization and stability, knowledge managers may speak of ambiguity being “a source of alternate meaning, a fresh way to think about things”, of new knowledge originating in chaos, and of companies constantly recreating themselves “in a nonstop process of... organizational self-renewal” (Nonaka 97-103).

I doubt it is a coincidence that knowledge management rose as a dedicated discipline only in the nineties with the emergence of the internet and its powerful decentralized problem-solving. Today most software engineering firms, influenced by open source techniques, favour *agile software development* methodologies over the traditional *waterfall* method that demands an initial great planning phase. With agile, people and their interactions take emphasis over formal process, adaptive planning accommodates frequent change to the organization or to the application being developed, software evolves in very small increments (that is, the programmers release code to the rest of the team or to the customer often), and a large degree of self-organization occurs where face-to-face daily communication is the norm. This is not to say that agile development proceeds in an undisciplined way, but that the rules in place are adaptive.

Sortition and random promotions will not be widely implemented in the workplace anytime soon. Indeed, the knowledge management discipline has legions of critics and does not appear on the syllabus of many business schools. However, I cannot help wonder if the time is ripe for sortition’s introduction into the political realm. In 2012, the Rasmussen polling organization asked one thousand likely U.S. voters the following question: “Would a group of people selected at random from the phone book do a better job addressing the nation’s problems than the current Congress?” A remarkable 43%

answered yes to that question, and only 38% disagreed with 19% being unsure (Rasmussen Reports 2012). Another poll two years earlier showed that 76% of voters generally trust the American people, the “wisdom of the crowd,” on important national issues more than they trust political leaders (Rasmussen Reports 2010). I would like to briefly look at some of the proposals for and historical examples of sortition, and make a proposal myself that gives weight to sortition proportional to the public’s disaffection with the vote.

First, there are mechanisms that employ voting and the random ballot in a two-step process to arrive at a body of government. Akhil Reed Amar of Yale Law School presents a “thought experiment” for what he calls *lottery voting* (Amar). In this scheme, elections occur as usual in various districts; however, the votes are only counted for the purpose of throwing out those ballots where the candidates’ parties do not meet an exclusion threshold of, say, five percent of the total vote across all districts. The remaining ticked ballots for each district are then gathered together and tossed into figurative twirling drums. One ballot gets pulled out of each drum, and the winner in each locality is declared from those slips. This method bears similarity to the *scrutiny* of the fourteenth and fifteenth centuries in Florence where nominations and voting together created a pool of candidates from different sectors of the city. These individuals then had their names deposited into a leather sack, and a lottery draw placed a number of them into magistracy positions. The scrutiny was employed for over a century beginning in 1328 and was gradually opened up to minor guilds, reaching the greatest level of renaissance citizen participation in 1378-82 before eligibility was tightened again. The Florentines, as was usual during these republican centuries, employed the lottery as part of a never-ending search for the correct balance of incorruptible power.

The scrutiny differs from Amar’s proposal in that Amar preserves the weighting from the round of voting into the draw. He makes the case that in his system, while individual districts might occasionally draw a candidate who polled very poorly, the overall legislature, formed from victorious lottery candidates across all districts, would accurately reflect the proportional wishes of the total electorate. He also argues that his system would foil the modern form of corruption known as gerrymandering where district boundaries are redrawn in such a way as to favour one party over others. Furthermore, his thought experiment lowers the barriers for small parties and offers greater fairness to

minorities. I have some sympathy for Amar's proposal for the same reasons that I see the various proportional representation systems currently in use around the world as improvements on the winner-take-all or first-past-the-post systems in Canada, the UK, and the US. However, I see no clear advantage of a twirling drum over an actual count of the votes and subsequent allocation of seats based on the party proportions.

Another proposal has the random selection applied to the voters before the election and not to the victors after it. Candidates still run for election, but suffrage only extends to a random cross-sample of the populace (López-Guerra). This much smaller group would become well-informed on the issues of the day and could thoroughly question the candidates face-to-face before finally casting their votes. Although an argument can be made that this mechanism would give superior results to the present system where uninformed citizens can vote, it is difficult to imagine that the public would accept such a scaling back of suffrage. This sequence of sortition followed by voting was commonly used in the Italian cities of the thirteenth century and in Venice for centuries up until the late seventeenth hundreds. Known as the *brevia*, men were chosen randomly; they swore an oath that they had not been bribed in any way, and then they elected members of the council. Voter and candidate eligibility probably included property owners, councillors, guild members, and perhaps, at times, artisans. Dowlen gives short descriptions of the *brevia* and the scrutiny in *The Political Potential of Sortition*.

An unlimited number of permutations involving voting, sortition, and nomination can be considered. For instance, the most complex of the historical procedures was probably the selection of the Doge of Venice. There, a committee would form through an application of one of these three means (voting, sortition, and nomination) for the purpose of creating yet another committee using another of the three methods, and this would continue numerous times until the final committee would select the city's leader.

Yet another scheme would be to select randomly the candidates for election as was Thomas Paine's proposal for the President of the thirteen colonies in *Common Sense*: "let a colony be taken from the whole thirteen colonies by lot, after which, let the whole Congress choose (by ballot) a president from out of the delegates of that province" (36). In this proposal, the eligible candidates for the lottery, the delegates,

would already have been elected, so this first electoral stage followed by the lot is a variation of Amar's lottery voting. It would certainly be a curious affair if any modern political party were to choose its electoral candidates by lot from among its members. I do wonder if this could be an antidote to falling party membership. For instance, in the UK just over one percent of the population holds party membership, fewer than belong to the Royal Society for the Protection of Birds (BBC News UK Politics).

The preceding discussion presents some of the proposals or historical examples that employ sortition and an election in a two or more step process, but sortition without the vote has been proposed numerous times too. Similar to the legislative assembly that I presented in Chapter Four, the notion of populating one entire house of the legislature through the lottery is advocated by Callenbach and Phillips in *A Citizen Legislature*. They emphasize how this scheme, when employed for the US federal Congress, would ensure fair representation for the people and their interests, an elimination of many realpolitik behaviours, and a reduction in the influence of money and associated corruption, all leading to better legislation. It was this recognition that office holders can unfairly realize financial benefit from their positions that caused mayors to be chosen randomly in parts of Switzerland from 1640 to 1837 (Carson and Martin 33). Today, the *Partido Azar* (Random Party) in Spain aims to address some of these same issues. Their website argues for the removal of professional politicians in favour of randomly chosen regular people, a mechanism that, they surmise, would result in reduced corruption. Of interest, this party also advocates that the randomly selected legislators should then elect the Executive. In other words, they support random enfranchisement for voting the Executive into office.

In the proposal by Callenbach and Phillips, nothing would change in relation to the filling of the Senate positions, so their model describes a lower Representative House working with an elected senate. Barnett and Carty, in *The Athenian Option*, proposed a flipped configuration when suggesting that the United Kingdom's House of Lords be filled through sortition. They recommend that these citizens form a new House of Scrutiny in order to review the bills devised in the House of Commons and not, themselves, be legislators. Intriguingly, this proposal for the reform for the House of Lords does seem to sit agreeably with some of the British public as evidenced by

comments to an online *Guardian* article on Lords reform. Even though the article did not mention sortition, one individual going by the name “wotever” argues for it and writes,

“Each person would be selected at random in the same way as a jury.... This would provide the second chamber with a true cross section of the British public - who are not in hock to the lobbyists. Age, gender, sexual orientation, colour, religious belief and political allegiance would be automatically represented with this system” (Guardian).

At least half a dozen people, going by such creative names as “myfellowprisoners” and “notwavingbutdrowning” added their agreement to this position. I suspect that some or all of these individuals have never heard of Barnett and Carty, but the meme has made its way to them all the same.

When considering the two different strains of thought, whether the randomly chosen members should be legislators or merely scrutinizers of bills and policy, we may find it useful to contemplate the role and history of juries. The Anglo-American jury hears two sides of a case argued articulately and skillfully by professional attorneys, and after some deliberation, passes judgment. Therefore, the analogy could be that the government and opposition, professional politicians, could continue in their adversarial ways similar to the jousting of two trial lawyers in a criminal court, and subsequent to all argument, the House of Scrutiny, or we might say a People’s Senate, would retire for deliberation. The proposed policies and bills would only be enacted if the senate agreed. I view this proposal favourably but still feel strongly for at least two reasons that such an upper house should be permitted to introduce legislation, as is currently the case in the elected or appointed upper houses of the US, the UK and Canada. Being scrutinizers is not enough. First, without the right to form legislation, control of the agenda would continue to rest with the elected members, and public concerns not shared by the elected would receive little attention. Upon extending to the sortive upper house the right to introduce legislation, the lower chamber might still reject bills introduced by the upper chamber, but those elected legislators could only go so far in snubbing the People’s Senate before invoking public ire. Second, a more passive upper house, a so-called chamber of sober second thought, would have fixed qualities. Evolution of that body could not happen since there would be little incentive for the lower house to develop the senate’s abilities. Instead, I would like to argue that a sortive

upper house, as the most accurate representation of the public, should be empowered to alter its own configuration and adjust to the needs of the times, or, in other words, should have the liberty to self-correct. Therefore, the randomly populated upper chamber must be allowed to pass legislation on its own makeup and role in order to accomplish these.

Another implementation of the lot that places individuals directly into parliament has received some attention in recent years. We are asked to imagine a fraction of the legislative house filled by the lottery supplementing the other fraction, the elected body. Jack and David Mitchell floated this idea in Toronto's *National Post* newspaper seven years ago, and it forms the core of Keith Sutherland's proposal in *A People's Parliament*. While watching the Canadian House of Commons in session, the Mitchells were struck by the fact that many of the proceedings were both disgraceful and irrelevant to Canadians. As Jack Mitchell was, at the time, a PhD candidate in Classics at Stanford, it should come as no surprise that he advocated sortition for their "Neo-Athenian Parliament". In this proposal, 200 MPs would be elected as normal, but an additional 100 would derive from the lot and possess all the same rights and responsibilities. Their presence would add relevance to parliament because "the government's legislation would have to be backed by solid speeches and clear arguments, or else face the ire of independent and intelligent Canadians". Moreover, the House would benefit from increased respectability brought by these lottery legislators, for average Canadians are less tolerant of "juvenile bickering". Ultimately, their Neo-Athenian Parliament would inject into the lower house democracy, itself, with all its "diversity, eloquence, drama, civic spirit, stability, and responsibility" (Mitchell and Mitchell). Keith Sutherland envisions a House of Commons for Britain as comprising some elected and some random members. The former would advocate particular interests, whether their own or their constituents, and the latter, representing the public in their aggregate, would vote on policy and law but without mutual deliberation.

The Italian researchers, led by Alessandro Pluchino, who put forward the idea of random workplace promotions, also modeled a legislative parliament of two parties (or coalitions) supplemented by some randomly selected legislators, or "Accidental Politicians". Each parliamentarian was modelled along two dimensions: as possessing an interest in personal gain and an interest in social gain. While the accidental politicians possessed a random distribution of these two interests, the representatives of

the two parties formed two respective clusters. Furthermore, every legislator could propose and vote on legislation, but the party members voted in party blocs while the random individuals independently voted. The simulation's outcome showed that the introduction of random politicians had the effect of boosting the efficiency of the passage of legislation, where efficiency was defined as the product of the percentage of bills passed and the average social welfare resulting from those bills (Pluchino, Alessandro, et al.). The researchers also allow the simulator to calculate the optimum number of random legislators, what they call the Efficiency Golden Rule (EGR). Running the simulations online through a browser applet, with 200 total legislators, I discovered the following. When the strongest party holds a slim majority, the optimal number of random independents is small. For a 51% elected majority, there need be just four random legislators. In other words, the strongest party would have 100 members, the weaker party 96, and four would be accidental politicians. However, the EGR number increases rapidly as the governing party increases its majority. With a 55% majority, the EGR is 30. With 60% majority, it grows to 54. And at 76% majority the EGR gives 100. That is, when one party realizes 76 elected members and the other party just 24, then one hundred random independents are needed for optimal efficiency in passing bills. This result was independent of the extent to which the majority party aimed for social gain.

Of course, the model simplifies individuals into just two dimensions, and cannot account for the phenomena that I discussed in the preceding two chapters such as the transformation of individuals into citizens, into people for whom a common good takes on greater meaning, or the great innovative potential of a diverse group, the concept that diversity trumps ability. I also have a hard time accepting that there could be so many "stupid" legislators, those who simultaneously act towards a negative personal and a negative social gain. However, the simulation certainly adds an intriguing element into our discussion of sortition, and more so when contemplating the authors' statement that the result "is in line with the positive role which random noise plays often in nature and in particular in physical systems". So, as the selection of legislators moves from pure elections to sortition, some behaviours of the natural world are being introduced. Even in a simple model with just two dimensions, and no consideration for transformative and evolutionary developments, a significant gain can occur from a little of nature's randomness.

One last observation I would like to make derives, not from the model itself, but from noticing the researchers' backgrounds. Of the five, two are physicists, two come from the economics department, and one has a sociology background. This intriguing and original simulation has appeared due to ideas crossing the boundaries separating disciplines. While individual political scientists, economists, or sociologists can get to the core of narrow truths such as Arrow's Impossibility Theorem that concludes there is no perfect voting system, or Duverger's Law that states that a single-winner voting system will tend towards a two-horse race, a more diverse group is needed to form a model of voting together with sortition—or perhaps to originate the idea in the first place.

These proposals to have a mixed parliament of legislators from both the electoral ballot and the random ballot could give rise to an interesting dynamic under certain conditions. At present, voter turnout gives us a sense of the public's assessment of the quality of the choices on offer. In effect, every election is, at least to a degree, a referendum on the value of the election itself. This important information is lost in places such as Australia with mandatory voting. I can imagine, should we introduce a sizeable contingent of lottery members, and should the public view them favourably, voter turnout might drop still more, as the public would notice that no legislation can pass without the approval of the mini-public thereby making the elected body's composition less relevant.

This phenomenon could be made more explicit by tying the elected-lottery ratio directly to the voter turnout percentage. Conceptually, we take every absentee voter as disapproving of all on the ballot and instead electing to put their fate in sortition. For instance, with 75% voter turnout, a number of legislators would be randomly selected to make 25% of the overall total. With a small voter turnout of, say, 40%, then a lottery would be invoked for choosing six out of every ten legislators. This public feedback mechanism would ensure that, if the people form a dislike for sortition, they would flock to the polls in order to drive down the number to be randomly chosen, but should the citizens develop a fondness for sortition over voting, they would not feel drawn to the polling booths. Every election would simultaneously be a referendum on electoral and lottery representation. The candidates for election and their parties would realize a very real motivation to connect with the elector, not only to win more seats than the competing parties, but to create the proper atmosphere for inspiring the public to vote. They would have to think twice before turning off the voter with attack ads and other acts

of distasteful politics. And yet, if voter turnout were to drop to insignificant numbers, we would have clear indication that the age of sortition is truly upon us.

Before addressing some arguments against sortition, I want to mention its widest current use in the political sphere today and perhaps its greatest chance for success. In the last chapter I discussed the Dialogue with the City, a deliberative, “democratic, hopeful, exciting and ground-breaking initiative” involving a contingent of quasi-random individuals for the purpose of arriving at an appropriate development model for Perth. And in Chapter Four, I mentioned Stanford professor James Fishkin’s Deliberative Poll, a technique that he has employed dozens of times in order to find how the people would poll had they first received all the relevant information and deliberated on a particular issue: “the nation in one room”, in the case of national issues (Fishkin). Fishkin observes that traditional polling assesses “little more than the public’s impression of sound bites and headlines”, impressions that are the result of “manipulation or manufacture” by a “persuasion industry”. He also discusses three limitations of polling. The first he calls “rationale ignorance”; an individual’s vote carries such minor weight that he or she realizes little advantage from deeply analyzing the issues. The second he calls “non-attitudes”: people dislike admitting ignorance and so pick any choice offered by pollsters. Third is the people’s tendency to listen to or converse with like-minded people. James Fishkin’s deliberative poll effectively eliminates these three limitations.

Another example of consulting a body of ordinary people is the “Citizens Jury” of Minnesota that inventor Ned Crosby has employed for over thirty-five years in The Jefferson Center. Crosby originated the idea almost simultaneously with, and independently from, deliberative democracy pioneer Peter Dienel of Germany, a method that Dienel named Planungzelle (planning cell). While Fishkin’s national deliberative polls assemble several hundred people for a weekend, Crosby’s jury procedure brings together no more than two dozen for five days, and the planning cells might convene multiple times over several months.

These public consultation exercises may be gaining some momentum. Fishkin has run his deliberative polls in the United States, Britain, Australia, Canada, China, Denmark and other countries. For example, citizens in Texas advanced a power utility policy that included a combination of natural gas, renewable generation, and

conservation, even agreeing to pay slightly higher taxes for the latter two. Due in large part to this deliberative exercise, Texas now generates more power from wind turbines than any other state except California. In another case, citizens in Wenling City, 300 km south of Shanghai, were consulted on their preferences for infrastructure projects and, out of a list of thirty projects, settled on sewage treatment and environmental conservation (Fishkin). In Denmark, the Board of Technology conducts various participatory processes, including Consensus Conferences, using lay people in order “to enrich and expand the scope of traditional debate between experts, politicians and interested parties by communicating citizens’ views and attitudes on potentially controversial technologies” (The Danish Board of Technology). In 2007, the French presidency candidate, Ségolène Royal, advocated citizens’ juries; however, she was defeated in that election and thus denied the opportunity to implement them. In that same year, moreover, UK Prime Minister Gordon Brown launched a number of citizens’ juries to give feedback into government policy. As might be expected, however, in the adversarial atmosphere of the Westminster parliamentary system, critics suggested this initiative was nothing more than an old focus-group idea, some kind of photo opportunity, or a potential farce (BBC News). In Australia are the deliberative inclusive processes I discussed in the preceding chapter as well as the work by Lyn Carson at the Centre for Citizenship & Public Policy at the University of Western Sydney.

In 2004, the Citizen’s Assembly on Electoral Reform, comprised of randomly invited men and women, convened in British Columbia in order to investigate possible changes to the province’s electoral system. Their final recommendation for the Single Transferrable Vote (STV) as a replacement for the existing First-Past-The-Post (FPTP) system went to a referendum the next year, and fell three percentage points short of the required 60% in order to pass. Four years later, voters rejected more soundly the proposed change as only 39% voted in its favour. A similar assembly in Ontario advised that the Mixed Member Proportional (MMP) electoral system ought to replace FPTP, but this recommendation also failed to pass a general referendum. These participatory processes illustrate the great potential for deliberative democracy but also highlight a challenge for sortition generally. Sociologist Amy Lang monitored the BC proceedings closely and remarked that “the Citizens’ Assembly members engaged in a process of creative deliberation by finding *new* grounds for making their decision” and concluded

that the assembly “offers an innovative and promising model for empowered participatory governance” (Lang). Political scientist Lawrence LeDuc categorizes the Ontario version as “a successful Citizens’ Assembly [but] a failed referendum debate”, and observed that “voters largely missed the irony of rejecting out of hand a proposal so carefully crafted by citizens ‘just like them’” (LeDuc, Bastedo and Baquero).

One challenge to sortition comes to mind from the fact that any congregation that closely fits the ideal of a mini-public, that of being descriptively representative, will see its views diverge from the average opinion of the entire public the moment its members meet and deliberate. The British Columbian Citizens’ Assembly was almost unanimous that STV is an improvement on FPTP, but just 57% of the general public voted to support the change in the first referendum. I believe a greater public understanding of the deliberative process as practiced among a representative body would do much to close this gap. This could be achieved through education as well as through making the deliberative process transparent. After the first close referendum loss, many STV advocates believed that educating the public on the STV would sway a few percent more in order to give a referendum victory, but they were horribly wrong. Perhaps a better strategy would have been to educate the public on the Citizens’ Assembly instead. When the Centre for the Study of Democratic Institutions looked for causes why the second referendum defeated the STV so soundly, the “faded luster” of the Citizens’ Assembly was one of the two big reasons. (A change in the attitudes of the supporters of the party in power, who had forgotten their previous defeats, was the other reason.) In 2005, individuals who were informed on the assembly and its deliberations were much more likely to vote in favour of the STV. But by 2009, the Assembly’s influence had largely evaporated (The Tyee).

These policy juries, such as deliberative polls, citizens’ juries, planning cells, consensus conferences, and citizens’ assemblies, probably provide the best way forward for sortition because they allow the entrenched power structures to remain untouched while giving the political leaders a vehicle to demonstrate their ideals of democracy and citizen participation. Moreover, contentious issues or political hot potatoes that governments would rather avoid can be handed to citizens’ assemblies for resolution, thereby allowing the governments to adopt neutral positions.

Chapter 7.

Arguments against Sortition

So deep-rooted is resistance to anything other than the status quo that many governing politicians would surely come under fire for initiating participatory exercises. Their critics would label them as opportunists or as shirking their responsibilities. But should any public figure show support for any of the more radical sortition formulations proposed by Amar, Callenbach and Phillips, Barnett and Carty, Mitchell and Mitchell, Sutherland, Pluchino et al., or *Partido Azar*, a veritable barrage of criticism would rain down on their proposals. Perhaps the argument against sortition that would most readily come to people's minds says that randomness will give power to those unskilled or unqualified to possess it, a criticism Socrates purportedly used by stating the obvious folly of choosing ships' pilots, architects, or flute players this way (Manin 10). Socrates was very likely playing with a little sophistry, for in his day, positions requiring particular experience, such as army generals and treasurers, were elected by the vote with no limits on the number of times they could be elected. Nonetheless, the criticism needs addressing because the notion that elected officials are in superior possession of reason, "mature judgement", and "enlightened conscience" goes back to the early discourses on parliamentary governance (Burke). A more contemporary phrasing of this attitude could be that, due to the complexity of modern society, governing positions must be held by qualified managers or legislators.

I find this a very curious argument because, unless the elected member acquires a cabinet position, it is not so evident exactly what he or she must do when in parliament, let alone how he or she may possess the correct qualifications for it. Alison Loat and the Samara organization conducted exit interviews with sixty-five of Ottawa's Members of Parliament, and in a *Globe and Mail* article entitled, "What's an MP's job? They dunno", she writes that the interviews "revealed a lack of clear and common sense of purpose, and deep contradictions in what the MPs believed they were hired to do"

(Loat). She goes on to explain that few described their job as holding government to account on spending, a task that political scientists identify as one of the more crucial parliamentary functions. As Loat explains, many of these MPs looked back on their time in parliament as one of “confusion, conflict, and a relentless focus on short term goals, particularly on the next election”. These views appears damning enough, but, even supposing MPs could clearly define their job description in terms of, say, holding government to account, forming balanced policy, facilitating committee meetings, etc., they would be hard pressed to show how their one obvious skill, namely preparing for and executing election campaigns, selects those with special talents in those job areas. Instead, it appears that politicians are good at being politicians, first and foremost fulfilling the needs of their party. Indeed, on rare occasions when an MP disagrees with the party line, or with his or her party leader, the incident makes headline political news, so out of the ordinary is this.

Modern society is indeed complex; however, those we send to parliament do not necessarily understand the nuances of genetically modified food, airport noise control, child development, or park management any more than the next guy. They do not formulate family or juvenile law because they possess in greater abundance than the rest of us a sense of justice. They do not set policy or statutes on euthanasia, reproductive medicine, or warfare because of moral insight special to them. Thomas Jefferson saw that ordinary persons hold as good a moral sense as can be found in anyone and perhaps occasionally a degree more than in the highly educated. "State a moral case to a ploughman and a professor. The former will decide it as well, and often better than the latter, because he has not been led astray by artificial rules." In addition, I argued in Chapter Four that the legislation and policy arising from our current parliaments are often overly simple since they are reflections of the communication links in the originating organization.

Frankly, supposing a unique individual with a great many gifts in these areas of issue comprehension, justice, and morality was to run for office, our electoral system is poorly suited to selecting such people or to allowing them the freedom to act on their talents once in. John Burnheim, former professor at the University of Sydney, discusses the professionalization of politics and writes, in his influential book *Is Democracy Possible?*, that leaders and power brokers narrow the debates to all-or-nothing choices

thereby preventing the emergence of alternatives. Furthermore, powerful people with weak ideas can succeed where weak people with good ideas cannot. And party organizations exercise as much control over their members as possible (100-102). Moreover, Burnheim writes that issues become subordinated to tactics, a phenomenon that is all too evident during election campaigning. Seasoned campaign manager, Tom Brook, writes in *Getting Elected in Canada* that “candidates do their best to stay away from any real issues” since issues can be controversial. Instead, candidates talk in generalities about non-contentious concerns, such as jobs or health (101). The voter really cannot have a clear idea for whom he or she is voting.

With sortition, weak people with good ideas, unencumbered by party organizations and without being restricted to narrow choice, may bloom. The argument that the people cannot govern themselves, a position that is sometimes also taken against deliberative democracy, easily becomes a self-fulfilling prophecy when the general public is excluded from decision-making or kept ignorant of crucial information. Just to reiterate an argument from earlier, I will quote Scott Page again: “The belief that the best group consists of the best individual people rests on faulty logic. Instead the best collections contain people who are both diverse and capable” (352). In a highly educated society like ours, sortition would put into office people with much knowledge and many skills from a wide assortment of fields. The officials that we currently elect are not more intelligent than us, are not better problem solvers than us, do not possess a greater comprehension of morality or justice than we have, and do not forecast outcomes with greater accuracy than we do, for we are diverse, and they, less so.

Those who would see sortition as just another variant of undesirable populism might do so based on this concern that competent specialists with mature judgment need to be in charge. It is worth considering populism a little more in order to be clear how sortition relates to it and perhaps thereby relieving sortition of criticism that it might not deserve. Reflecting the biases of the academics and the mood of the day, scholars viewed populism as proto-fascist in the post-war years but gave it a dignified aura in the climate of grassroots movements of the sixties and seventies, (Canovan, 47-9). Indeed, populism must be one of the more slippery concepts in political science since nowhere can we find a definitive manifesto or a clear ideology that summarizes the various movements that have been labelled thus.

Margaret Canovan, in her book *Populism*, creates a populist topography that covers such diverse phenomena as the People's Party in 1890's America, Argentina's Peronism, Swiss participatory democracy, and Jimmy Carter's rise to president and others. Yet at the end of her exploration, she concludes that only two elements are uniquely present in all forms of populism: first anti-elitism, and second a kind of exaltation of and appeal to the people (294-5). Political scientist David Laycock contends that almost all populisms embody hostility towards the state due to the perception that the state maintains inequitable social relations (and presumably in favour of the privileged) (12). So, to the degree that we see populism as the reaction of non-elites to perceived injustices performed by and on behalf of elites and as a response to secretive decision-making, I can accept that a movement in support of sortition would be a candidate to fit into Canovan's topography.

Populist movements, however, typically follow leaders who claim to *truly* represent the people, a dynamic that would be very different with sortition as I described in, say, Chapter Four since leaders, representation and the concept of the people are all changed with sortition. First, while leaders may be needed in order to advance sortition, should it actually be established, there would be little point in charismatic figures appealing to the public for political gain. I do imagine that some members of the mini-public would rise to greater prominence than others, yet facilitators would ensure that this influence is only due to some special contributions of knowledge or action, is not entrenched dominance, and is the will of the assembled. Second, populism often can be quite vague in its definition of "the people". While sometimes "the people" refers to everyone, often the grouping is limited to a subset, such as farmers or producers, or simply all non-elites. My preference for the employment of sortition would be to open up the lottery to all who meet the requirements of citizenship, minimal age, and not being institutionalized. No reason presents itself why a lottery should exclude elites and their voice (or why these people should be over-sampled). A deliberative forum for all would ensure the greatest benefits from diversity and would produce legitimate policy receiving the widest support. Quite possibly, if members of the political elite had not been purposely omitted from British Columbia's Citizen's Assembly, the STV might have received greater support from political pundits, and the referendum could have passed.

Lastly, the nature of representation would change under sortition for the reasons I have already given.

Furthermore, I do not wish to unduly exalt the common person. Suppose we could clearly define who is an elite and who is not, and suppose there are such things as good ideas and bad ideas. Should I feel compelled to accept that individual elites, not individual common people, have the highest ratio of good ideas to bad ones, I would still continue to maintain sortition as a superior means of selecting representatives. The elites, due to their more homogenous nature, will share a good number of the same ideas, whether good or bad, yet a large enough diverse group, as a collection, will have more good ideas, more bad ideas, and a greater ability to identify each as such.

Peter Wiles points out other traits of populism, some of them being that it places stress on a moral outlook and not a definite program, favours cooperation, is anti-intellectual, and contains hostility towards science (qtd. in Canovan 290-1). The first two are a part of my characterization of sortition, but the latter two, not entirely. I view unfavourably the intellectual mind that formulates fixed political systems based on some concept of scientific arrangement and grounded on the intellectuals' biases of which traits the systems ought to embody. But, when expert understanding is needed in the crafting of public policy, I see no reason to hold that a sortive assembly would eschew the knowledge of specialists such as criminologists, natural scientists, educators, economists, etc. Put differently, a mini-public might place experts "on tap and not on top".

Other attributes that we might associate with populism would be present in a cross-sampling of the people too, but so would the counter-features. Some individuals would be anti-establishment, would want small government or folksy-style government, would resent big business or financiers, or would be skeptical of the notion of progress or of urban values. Plenty others would have confidence in established institutions, and large organizations such as unions or businesses, and would have a belief in professionalism, advancement and development. Sortition does not require anyone to follow the precepts set by a party or by an individual such as Peron or Carter. From Canovan's typology, the "prime case of populist democracy", Switzerland, with its referendums, initiatives and assemblies, appears to have the most qualities in common

with sortition since it takes steps to put the agenda and decision-making into the public domain. However, the limitations of referendums that I have discussed already need to be kept in mind when reflecting on Swiss direct democracy.

A related argument in opposition to sortition has to do with accountability. It is thought that the electoral system forces our governments to be accountable to the people since they will have to face the public in a future election. Of course, elected politicians—as long as they do not egregiously violate the law—typically benefit from armour-plated job security in between elections, and, furthermore, we can understand their love for accountability by noticing their secrecy while in office and their dislike for recall initiatives. Nonetheless, some truth resides in the notion that elections can hold elected officials responsible, especially on account of their membership in a party that the public views unfavourably. However, given the low and declining voter turnout, I have to wonder if a large portion of the citizenry has ceased holding governing parties accountable. Accountability does not necessarily mean that those performing poorly must set things right, but rather that their employment must be terminated to make way for others who may be not much better. In the instances where all major parties refuse to address certain concerns or all parties agree on various issues, accountability becomes an impotent instrument for the voter. Burnheim makes the observation about sortition that if a set of people, who are statistically representative of the greater social body, make poor decisions, then those making the decisions are affected at least as badly as everyone else (167). The same cannot be said of an elective assembly. This fact alone gives some sense that a sortive body will be motivated to perform well.

In terms of keeping individuals accountable, I would like to say again that individuals do not wish to appear ridiculous or high-handed in public or in front of their friends and family; therefore, the members of a sortive body would feel public and peer pressure towards proper behaviour. This should be more so since sortition allows for proceedings with a greater degree of openness than can be currently found. We have seen that sortition was employed in ancient times and in the Italian city states for the purpose of diminishing corruption, so a systematic bias towards improper conduct is reduced with sortition. I described in the third chapter, in relation to software production, how the normal practice is to give people the benefit of the doubt by first constructively criticizing actions or the quality of the work and not the individual. Nonetheless, if all

else fails, nothing inherent to sortition disallows the barring of some member who obviously is intent on sabotaging outcomes or acting in some immoral way.

Quite possibly, these challenges to our ideas of competence and accountability present the biggest hurdles to our acceptance of sortition. But there are other criticisms. Elections provide legitimacy to government is one claim; anything other than an election would be less legitimate. However, if the public agrees to use sortition, then, in my view, this agreement would provide all the legitimacy needed in the same way that juries today are legitimate. The role and effectiveness of juries have been greatly studied; however, curiously, little research has been done on the public's attitude towards them. Roberts and Hough of King's College London reviewed the literature of the last 40 years in England, Wales, Northern Ireland, America, Canada, Australia, New Zealand, and other jurisdictions for the Ministry of Justice and produced several consistent findings. The public holds great confidence and trust in juries (and, incidentally, in the police). These views persist even when trust in other components of the justice system, such as judges, magistrates, barristers, and government ministers, is less. Furthermore, the public expresses high support for jury trial as a legal right and is hugely opposed to restricting or abolishing this right. Additionally, individuals would prefer by a large margin trial by jury for themselves instead of trial by a judge and magistrates. One public opinion survey in the US asked whether judges or juries were best able to achieve various important outcomes. Of particular interest to our consideration of sortition and decision-making through diversity, respondents believed that juries are at least as thorough as judges (50% favoured juries, and 46% favoured judges), and are more accurate in their verdicts (66% to 31% in juries' favour). In terms of "least amount of bias" and "representative of minorities", the public gave juries the advantage 65% to 33% for least biased, and 91% to 8% for representative of minorities. Indeed, Roberts and Hough ended their review with a hypothesis for further research that "verdicts reached by juries are viewed as being more legitimate than verdicts reached by judges or magistrates". While none of this says anything directly about sortition in the political realm, the review does give reason to consider that sortition could achieve a large degree of legitimacy due to its representativeness and its effectiveness at making accurate and less biased decisions.

Another assertion is that the elections, themselves, provide the circumstance for the public to become interested in political debate; however, as Brook pointed out, candidates avoid issues during the campaigns. Debate is necessarily quite shallow. Furthermore, I can conceive that political debate would increase with sortition for the reasons I gave in Chapter Five.

Critics might see sortition as giving a lack of continuity compared to elections since elections return to office a good number of the same people, and the protocols around parliamentary process are fixed and understood by party organizations. Or critics may argue that sortition does not build on knowledge. Callenbach and Phillips address these concerns in their proposal and suggest that the randomly selected legislators ought to serve for three years with a third of them being replaced annually for the very purpose of giving some continuity to the proceedings and for building on previous lessons learned. Alternatively, knowledge and lessons learned could be written down to pass on to future sortive parliaments, or terms could overlap so incoming members receive mentorship from outgoing members. Lastly, I would add that the benefit of the current system's continuity should not be overstated, as it demonstrates an inability to evolve in order to meet the changing public needs.

Some may sense that sortition would jeopardize the stability of our institutions and generally just cause mayhem. I can agree that abrupt changes to institutions and traditions, especially when spearheaded by a particular faction such as a vanguard party, can cause disorder and turmoil. But a sudden change in course does not have to happen. We may increase the use of deliberative polls and consensus juries, form a sortive upper house of parliament, or add some random legislators to the lower house while leaving all the institutions and many of the normal proceedings intact. The special nature of sortition, by virtue of it capturing the full breadth of the public's sentiment in its random sampling, means power is diluted. A vanguard faction, with intent to manoeuvre into power and cause disruption, will naturally find opposition in a sortive group. Dowlen observes that nearly all the constitutions that employed sortition were rationally and highly organized, so "the idea that lot-based regimes are highly chaotic must therefore be challenged" (219). Indeed, without some allowance for experimentation, people may become continually more disaffected and perhaps eventually quite hostile to the existing order. If this happens, history has all too often proved that the opportunity for non-

violent change may pass us by. Lastly, we would do well to notice that if our institutions are viewed increasingly as poorly serving the people, the cause may be—not that they are ineffectual but—that they are effectively serving a narrow sector of society. In other words, power resides less in our governments and more with private concentrations of wealth. Sortition could help shift the locus of power into the people’s institution, parliament, giving some degree of satisfaction that legislation and policies aim for the improvement of the common good.

Next, we might wonder if sortition is in opposition to free will. This reasoning might find sympathy with the Christian ethos: individuals in the polling booth alone with their conscience and God, their ultimate judge. But similar to the counter-argument to the criticism that says sortition removes legitimacy, the populace can simply will the lottery’s employment. Should the public will the use of sortition and decide on its legitimacy, then the matter is settled. Furthermore, the public can show a weakness to manipulation by the public relations industry, a problem that might decrease if sortition was used without the PR-aided political campaigns that come with elections.

Critics of sortition could say that some randomly selected people will need coercing to participate or that unmotivated individuals will occupy parliament. While allowing people to opt out, and replacing them with others, will have the effect of skewing the randomness, I hold the opinion that no one should be coerced into participating. Civic campaigns aimed at encouraging participation can be launched however. Although I would shy away from such a harsh position, some ancient Greeks had a stern view of those who eschewed their public duty. According to Thucydides: “[W]e do not say that a man who takes no interest in politics is a man who minds his own business; we say he has no business here at all” (qtd. in Dowlen, 37). Certainly a good number of people today dodge jury duty, but I believe political sortition could more successfully motivate people to take part. While jurors receive no direct benefit from serving and often suffer financial hardships for their efforts, citizen legislators would have opportunities to contribute to the formulation of law and policy on issues that they hold dear, those personal itches that they want to scratch for the benefit of themselves and for their families and friends. Additionally, citizen legislators should receive remuneration considerably greater than the average person’s income, as legislators do today. I am sympathetic to Barber’s position in *Strong Democracy* that people are

“apathetic because they are powerless” and not the other way round, and we have “no evidence to suggest that once empowered, a people will refuse to participate” (272).

Removing or lowering the barriers to the public’s participation may concern some of us due to the number of ideas that would enter public debate and what that might mean. Previously, I discussed good memes, progressive ideas that advance human development, and suggested that they might propagate more readily with sortition. I would like to consider now whether sortition would increase the danger from memes that are harmful to the greater good or memes that we would see as regressive. Certainly if sortition was put into practice as described in Chapter Four, some randomly chosen people would enter parliament with minority and regressive views. For example, strongly religious people might wish for the abolition of birth control or the abandonment of sex education in the classrooms. But I see one key difference between progressive viewpoints and regressive ones that should assuage our concerns that the latter could revive with sortition.

Very often, a progressive perspective does not have widespread acceptance because it has not yet entered our consciousness. Not long ago we tossed out recyclable waste without a second thought, we saw nothing unusual with seating small children on a parent’s lap in moving automobiles, and we laughed at homophobic jokes on the television. But once ideas on alternative behaviours and the good reasons for them spread, we eventually started recycling, began properly restraining children in vehicles, and took steps to curtail bigotry. But, on the other hand, regressive ideas do not suffer from the public’s ignorance of them. Instead, the ideas have quite simply been rejected. We know there once was a time before contraception or a time when the state or church meddled in the bedroom of the nation, and we do not wish to return to those days. Therefore, should an individual in a sortive assembly take the floor for a few moments in order to argue for reactionary values or for the reining in of certain progressive legislation, it is doubtful that he or she would realize any success.

To me, it appears that reactionary memes can make the jump into government policy more readily under our present electoral systems than would be the case in a more open and deliberative one. Our current liberal representative democracy suits lobbyists and special interest groups—whether progressive or reactionary—because,

should these factions successfully influence or help elect political figures, they are rewarded with law or policy that suits them with no need for further public consultation. Currently many Canadian women's groups vocally oppose the federal Conservatives because of funding cuts to organizations such as the Status of Women Canada, the Canadian Women's Health Network, and the Native Women's Association of Canada. The social conservatives who support these measures do not have to defend their case in a deliberative consensus-building forum. Indeed, they may see these types of women's organizations as, themselves, artefacts of lobbyist groups, and they may be right. Yet, some of these women's groups now worry whether the government might go after the pro-choice legislation in regards to abortion.

The Tea Party movement in the United States frightens some who would consider themselves moderates or liberals. So, for example, social and political critic, Noam Chomsky, hears in the Tea Party Movement "echoes of fascism", quoting from Matthew Rothschild's interview in the *Progressive*. Chomsky, however, explains that the Tea Party surge is perfectly understandable. Wages have stagnated for several decades, and unemployment in the manufacturing sector sits at Great Depression levels. People naturally look for answers, and the only people speaking to these fed-up citizens are fanatics on talk radio and television, and those of Sarah Palin's manner (Rothschild). Quite simply, the activist left has failed to address the immediate needs of many working adults who are struggling day to day and are repeatedly subjected to the narrative that liberals, socialists, homosexuals, immigrants, Muslims, atheists, and others are ruining the country and contributing to their problems. The wrong course of action for Americans unsympathetic to the Tea Party message would be to snicker at those crazies on the right. Not much better would be a strategy that solely relies on successfully opposing them in the political arena, for, in this risky gamble, the wrong side might win. As Chomsky reminds us, in 1928 the Nazis had two percent support, but a few years later Hitler was in power with millions behind him. And much of the Nazi ascendancy came through the electoral process. If Tea Party supporters predominately get their information from a small clique of reactionary voices, the best hope for turning them around is engagement and dialogue, something that should have happened years ago before economic realities even caused the Tea Party to form.

Anyone who worries that sortition, or deliberative democracy more generally, would threaten freedoms or would give rise to a dangerous variant of populism could consider, as Carson and Martin have, the interesting observation that many on both the left and the right are alarmed by participatory methods because one side fears the assembled people will be too conservative while the other fears they will be too radical (44). In practice, healthy deliberation seeks common ground while electoral politics has baked right into its fibre the fostering of and exploitation of social cleavages.

Conclusion

Bernard Manin characterizes our current scheme of representative government as “a system devised by English aristocrats, American landowners, and French lawyers” in “explicit opposition to democracy” (234, 236). In this essay, I wanted to encourage the reader to imagine an alternative to electoral representation, one that does not need devising into some rigid design, one that is fully inclusive by its very nature, and one that throughout history has been regarded as democratic: political sortition.

Proponents of sortition have pointed out some of its numerous strengths. Forming a decision-making body through random selection is inherently egalitarian and fair, is less corruptible and is more effective at representing the interests of the people. However, I believe that sortition’s potential far exceeds these usual arguments. A reduction in adversarial politics allows for a decrease in secrecy and hierarchy, and the implementation of deliberative and consensus-building modes of decision-making. When these are combined with the concept that diversity can give rise to optimal performance in problem-solving, decision-making, and forecasting, sortition suggests that great innovation in addressing societal problems and a greater rate of advancement in the common good are possible.

With diversity and minimal hierarchy comes the challenge of coordination. Some advocates of sortition neutralize this issue by proposing a restricted role for the sortive body, say, as a mere collection of scrutinizers of legislation and policy, or as a mini-voting public. For some, it is not easy to move beyond the liberal democratic paradigm of keeping people safely apart rather than bringing them together fruitfully (Barber 4). I believe, however, that there are such numerous examples of successful deliberation that we need not forgo its benefits for the purpose of expediency. Open source software projects and deliberative inclusive processes of a varied manner illustrate this. Some proponents of sortition also come across as essentially systems designers. Their proposals may be original, but they, nonetheless, advocate new prescriptive models that

are meant to coordinate the behaviours of legislative actors in order to solve the problems that they, the designers, have identified. These individuals miss the irony that while they voice a degree of faith in a cross-sampling of the public, they believe that they possess a unique understanding of the systematic problems and the necessary fixes.

Instead, I consider one of sortition's great advantages, if employed in a way that allows it to effect legislation and, as a consequence, affect its own implementation, would be its ability to change with society and to pull the public institutions with it. The creation of an empowered mini-public could remove the "middle men", the politicians and their financial backers, and allow the representative sampling of the public to enact reforms to the systems of governance without having to petition and press established power structures. I believe what we need is a change of philosophy from one dominated by political engineering (mistakenly called political science) to one where the aim is to develop a healthy environment where the full breadth of society's expression can blossom, from one of building to one of growing. Instead of designing our systems for maximum manageability and consistency, we can bring together the diverse knowledge, skills, abilities, experiences, perspectives, and interests of society and accept that unexpected emergent behaviour will occur. The result could be a political system that can self-configure, optimize, heal and protect, a system that evolves to suit the changing times.

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