

HEARTS, MINDS, AND SELF-GOVERNANCE: COOPERATION AND
COERCION IN THE EVOLUTION OF THE POLISH-LITHUANIAN
COMMONWEALTH

by

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DEDICATION

To my husband Łukasz, without whom none of this would matter.

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ABSTRACT

HEARTS, MINDS, AND SELF-GOVERNANCE: COOPERATION AND COERCION IN THE EVOLUTION OF THE POLISH-LITHUANIAN COMMONWEALTH

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The 1569 union between the Kingdom of Poland and the Grand Duchy of Lithuania established the Polish-Lithuanian Commonwealth - the most populous and largest state in 16th century Europe. Two hundred years later neither Lithuania nor Poland were to be found on the maps. In this project I examine the collapse of the Polish-Lithuanian Commonwealth through two alternative analytical frameworks and compare their ability to render the collapse intelligible. One framework is the comparative statics of equilibrium states; the other framework is the emergent dynamics of evolutionary processes. With respect to comparative statics, the collapse of the Polish-Lithuanian Commonwealth is explained as the outcome of territorial competition in which the Russian Empire, Kingdom of Prussia, and the Hapsburg Austria proved to be more successful than the Commonwealth. With respect to emergent dynamics,

explanation lies in the transformation of the nexus of relationships accompanied by regime drift.

This dissertation argues that comparative statics is inadequate for explaining the evolution and disintegration of the Polish-Lithuanian Commonwealth. In order to understand how societies evolve over time, it is necessary to adopt the inside-out perspective that emergent dynamics offers. This dissertation illustrates this alternative conceptual orientation with reference to the Polish-Lithuanian Commonwealth.

ESSAY 1: THE ECONOMICS OF CONSTITUTIONAL MAINTENANCE

Conflict is an inescapable feature of social life, and yet its omnipresence is insufficient to push us into solitude. Instead, the benefit of living in society requires some limit on freedom of action. What freedoms are foregone depends on the nature of conflict resolution adapted in a society. Wagner (2012) argues that governance of human societies takes on one of two general forms: either liberalism or collectivism. He analogizes the difference between them to the difference between orders and organizations, though there can be numerous particular differences within each of those forms. Within orders, individuals select their own plans and are free to follow them as long as they engage others through cooperation. In organizations the goals of the collective take priority over the plans of the individual, which gives society hierarchical structure and generates coercive relationships. Without a doubt the historical experience, empirical studies, and economic theory all point to the superiority of liberal arrangements. Yet we still remain helpless in the face of the collective threat. I argue that our helplessness results from a poor understanding of social life. Dominant analytical frameworks force us into the role of an outside observer, taking away the advantage of our natural familiarity with the material. While a great variety of social phenomena can be successfully analyzed with tools

borrowed from physics or biology, the constitutional maintenance and the conversations it involves are too specific to humanity to be understood through frameworks borrowed from natural sciences.

In the following pages I turn to the early modern history of Eastern Europe, specifically the Polish-Lithuanian Commonwealth, to examine the decay of its liberal systems. In the 16th century Polish nobles enjoyed decentralization, democracy, and religious tolerance. Political life was organized on the principles of consensus, which fostered great political engagement of the nobles. Moreover, the territory was considered a safe haven for fugitives fleeing the violence of the Reformation and Counter-Reformation wars, which fostered intellectual diversity and introduced the spirit of Renaissance.

The Polish-Lithuanian Commonwealth disappeared in the late 18th century, after Prussia, Russia and the Habsburg Empire divided it in a three-stage partition. The system of nobles' democracy waned long before that. The formal rules of policy through consensus remained in place up until the partitions, but their interpretation changed. While in the 16th century disagreements spurred negotiations and policy reformulations, in the second half of the 17th century a disagreement from a single deputy became enough to terminate an entire parliamentary session and invalidate all its work, effectively precluding collective action. *Liberum veto* allowed foreign powers a strong influence over the state's politics: foreign diplomats bribed deputies who then used the *liberum veto* to

prevent any reform or any military build-up in the Commonwealth, rendering it an easy prey for the encroaching neighbors.

While the early modern history of Eastern Europe may seem of little importance to Western readers, I believe that some universal lessons emerge from this project. The decay of nobles' democracy constitutes a fascinating case for anyone interested in the robustness of liberal societies. In the following essays, I document constitutional erosion - a problem of no small significance in the United States, especially in the face of the rise in arbitrary policies meant to solve the financial crisis and get us out of the Great Recession. While this trend is alarming, what is more concerning is the attitude of Americans who appear to believe that correctly elected leaders will be able to fix the economy. But as observed by Tocqueville more than two centuries ago, when people stop to practicing active and responsible agency, regulation becomes the only response to the problems created by regulation; power ceding leads to the emergence of democratic despotism, one that "degrades men without tormenting them." It was this sickness of the people; their complacency in the face of the encroaching government that brought down the Polish-Lithuanian Commonwealth. Let us hope that we can find a useful lesson in this sad collapse.

Economics of Change

Many philosophers devoted their entire careers to the ideas of protecting the liberal constitutions. Such matters occupied the thinkers of Scottish Enlightenment and greatly influenced the Founding Fathers of the United States.

But even though nowadays dominant, the analytical framework of neo-Walrasian economics can be traced back to Adam Smith, it has little to offer in regards to the governance of human societies or institutional change for that matter. The neoclassical analysis takes place in the world where institutional problems are already solved and conflict always leads to voluntary exchange (Podemska-Mikluch and Wagner 2012).

Constitutional maintenance, or lack thereof, is tested by the passage of time and cannot be properly understood through a framework that stands outside of time. To understand why liberalism may fail we need to adopt a framework that ties institutions to the interactions that generate them. Yet, over decades the neo-Walrasian program became a dominant orthodoxy and its framework was applied not only to the principles that are independent of time but also to the process of institutional evolution.

Beginning with Samuelson's (1941; 1942) adaption of the correspondence principle from physics into economics, economists employed comparative statics to describe change. Such analysis constitutes of comparison between two states: before and after a change in some underlying exogenous parameter. The analysis results in statements about change that take on the form of "if A, then t_1 turns into t_2 ," with A being an exogenous event. But, as noted by O'Driscoll and Rizzo (1985), the correspondence principle operates in the Newtonian time and not in real time. Given this observation, Wagner (2010b) correctly argues that the framework fails to describe the process by which t_1 becomes t_2 .

In his revolutionary paper, Alchian (1950) challenges the determinacy of the general equilibrium theory. He begins by recognizing that businessmen are not omniscient and face not only risk but also uncertainty, effectively retiring the assumptions of perfect knowledge. According to Alchian, the *ex ante* idea of profit maximization is only workable in a world of perfect information but becomes meaningless in a world of uncertainty. Instead, Alchian proposes that success be defined by the conditions of the environment, which are unknown at the time of decision-making. In effect, the method of decision-making is irrelevant; given uncertainty it is impossible to know which decisions are correct and which are incorrect and only *ex post* the environment determines if the choice was feasible. In Alchian's account human agency is meaningless; he shows that even if agents make their decisions randomly, the efficient firms win. Instead of "given A, then t_1 turns into t_2 " we now have "given A, then t_1 turns into $p(t_2)$." Alchian made a radical turn from physics to biology in his comparison of market competition to the process of natural selection: just like in the case of natural selection, the outcomes can be explained afterwards but not predicted ahead of time.¹ Subsequently, the tools of evolutionary biology became a popular alternative to physics and were later adapted by a wide range of economists who used them to explore, among others, the relationship between routine and particular action (Winter 1964), social development (Dunn 1971), business behavior and how

¹ Following Langlois (1989) it is worth mentioning that Alchian did not mean to do away with rationality but wanted to degrade its role in the hierarchy of assumptions. He urged to start with the world of uncertainty and then add conscious adapting, instead of the conventional method of starting with the agents optimizing in the world of full and relevant knowledge and then trying to modify it for the possibility of uncertainty.

firms and industries change overtime (Nelson and Winter 1982), and conflict (Hirshleifer 2001).

Institutional thinkers also adapted the tools of evolutionary biology and combined them with the tools of game theory in order to illustrate how institutions are created and change over time. Schotter (1981) pioneered this approach by arguing that all economic problems require institutional solutions and those solutions evolve and grow complex as they are inherited by succeeding generations. Similarly, employing the tools of evolutionary game theory Young (2001) investigated how adaptive learning leads to complex equilibrium patterns of behavior, Greif (2006) explored the emergence of trade in the Middle Ages, and Dixit (2007) examined the theory of private institutions which replaces or supplements weak governance. Aoki (2007) tied this evolutionary approach to the earlier work by North (1990) who used the idea of path dependence to show that cumulative effects may prevent societies from establishing effective governments, and Williamson (1979; 2000) who examined institutions as a solution to transaction cost problems. For simplicity, Aoki refers to the evolutionary approach as endogenous and to the transaction cost approach as exogenous. He asserts that the difference between them is smaller than it may appear and reconciles them by arguing that while institutions are generated endogenously, they appear as exogenous constraints to individual agents due to bounded rationality. This reconciliation allows economists to retain North's definition of institutions as so called rules of the game and for treating them as a

form of budget constraint (North 1990). Within this definition, Aoki specifies a conceptualization of institutions that solves the problem of infinite regression with respect to enforcement:

“An institution is self-sustaining, salient patterns of social interactions, as represented by meaningful rules that every agent knows and incorporated as agents’ shared beliefs about the ways how the game is to be played.”

Aoki ties this conceptualization to the spontaneous order formulation presented by Hayek in *Law, Legislation and Liberty* (1973). However, as Aoki admits, his definition of institutions as summarizing shared behavioral beliefs is based on the assumption that there exist particular equilibrium paths allowing for endogenous formation of common knowledge. This idea of institutions as common knowledge at equilibrium places new constitutional economists closer with the neo-Walrasian program than with the neo-Mengerian framework. Hayek was very reluctant towards the notion of equilibrium, denouncing it completely by the end of his life (Hayek 1981; Caldwell 2003). Even in his most favorable definition of equilibrium he describes it as a compatibility of plans in a world in which knowledge is dispersed and perceptions are subjective (Hayek 1941). And this subjectivity of perceptions is what sets new institutionalists apart from the neo-Mengerian program. True subjectivists deny the existence of common knowledge; we do not know whether our perception of common knowledge is the same as what others may think. Instead, we constantly test the compatibility of our ideas in the process of societal interactions. Just as prices are meaningless

without the market process that generates them, institutions cannot be separated from societal interactions. Hayek (1945) writes:

“There is something fundamentally wrong with an approach which habitually disregards an essential part of the phenomena with which we have to deal: the unavoidable imperfection of man's knowledge and the consequent need for a process by which knowledge is constantly communicated and acquired.”

The development of new institutional economics contributed a great deal to the literature by expanding the sphere of interest. But even though illuminating, new institutional economics does not help us to understand the process of constitutional maintenance and constitutional decay because it separates institutions from human interactions. By treating time in the same manner as neoclassical economics, institutionalists are unable to capture processes that unfold over time.

Overall, while it may appear that the new institutional economics is dramatically different from the neoclassical approach, their shared similarities run deep.² New institutional thinkers operate with optimizing agents and retain the equilibrium framework. In effect they operate in Newtonian time as they use comparative statics to describe historical events. One example is a collection of papers by renowned economic historians published under the title of *Analytic Narratives*. The title gives a name to a research method in which rational choice

² Similar assessment can be found in Boettke and Storr (2002) and Boettke (2012).

and game theory are to be used for deriving general hypotheses from particular historical cases (Bates et al. 1998).

As pointed out by Wagner (Wagner 2010b) in his assessment of the neo-Walrasian research program, the equilibrium framework constitutes of a circular system of reasoning well-fitted for the analysis of principles that are independent of time but unsuitable for the analysis of generative process. Moreover, there is no genuine uncertainty in the path dependence stories and institutional learning of new institutional economists, which means that there is no space for imagination, discovery, or creativity. *Homo economicus* simply picks one of the listed options. Such understanding of choice is very different from, for example, Shackle's (1972) theory of choice in which the choices need to be created by the chooser, granting great role to imagination and cognition. Shackle's insights speak well to a world where agents only know some components of the future but are irrelevant in a framework that does not pay attention to uncertainty and subjectivism.

Economics of Cognition

In his discussion of the challenges faced by good governance, Wagner (2002) argues that cognition is a crucial aspect of transforming preference ordering into desired collective outcomes. Since collective outcomes are not objects of choice, valuation is insufficient. Instead we need to understand the process by which we can achieve what is needed:

“We may likewise recognize that people prefer to see their children grow up in prosperous, free, and peaceful environments, and not be plagued by poverty, enslavement, or war. Mere recognition of these preferences, however, does nothing to satisfy them. Mother Nature may give us islands of peace and periods of prosperity, but to move beyond her offerings and limitations requires more than wishful thinking. It requires the application of intelligence concerning the social equivalents of the principles of soil chemistry and plant genetics, so as to allow the flowers and vegetables to flourish while restraining the weeds and bugs.”

In regards to constitutional maintenance, a key distinction between the neo-Walrasian and the neo-Mengerian programs lies in their approach to human decision-making. In the neo-Walrasian framework, decision-making is reflexive; choices are dictated by the rules of utility or profit maximization and are an automatic response to environmental opportunities, even learning seems not much different than a knee-jerk reaction or breathing. Faced with the same options, an individual is always thought to make the same selection, creativity and curiosity do not characterize the economic man (McCloskey 2009; Magee 2005). In contrast, utility maximization does not enter into the neo-Mengerian framework; instead, individuals are thought to simply seek ends while economizing on means. This more relaxed approach to decision-making allows for portraying individuals not only as reacting to change but also as being involved in deliberation (Schütz 1967). In the neo-Mengerian approach choice is

not limited to valuation; it also involves creativity, imagination and, cognition (Storr 2010).

McCloskey (2011) criticizes economists for ignoring persuasion and treating talk simply as a way of conveying information: economists tend to assume that the non-informative talk is cheap - everyone does it rendering it pointless. By ignoring talk economists disregard about thirty percent of national income, according to McCloskey's estimates. While the estimates can be disputed, few would challenge the neo-Walrasian ignorance of persuasion. In contrast, the neo-Mengerian approach escapes this criticism. Since knowledge is dispersed and subjective, individuals must talk to align their ideas. Conversations are a way of reconciling the perceptions. We all interpret the world differently; information cannot be successfully conveyed if it has different meaning to each of us. It is through conversations that we discover the meaning of information. Even what we already know may take on a different meaning in result of persuasion. As pointedly noticed by McCloskey: A creative conversation, whether in an economy or a seminar room or a jazz performance, has to be unpredictable.

How is talk relevant to constitutional maintenance? For those familiar with the work of Vincent Ostrom, the connection is immediate. Ostrom (1997) argues that language and ideas are crucial for self-governing societies to flourish. At the same time language and ideas are the source of vulnerability for democracies.

The necessarily subjective interpretation of empirical data creates the need for persuasion, but it also offers opportunities for deceit:

“Public discourse can take on the character of double-talk, with glittering generalities being offered for public consumption while confidential decisions are made by members of winning coalitions.”

Ostrom points out that constitutional decay is accompanied by the separation of ideas from deeds. Ideas and deeds remain close when all concerned are actively involved in the conversation, but when disengagement occurs it is easy for deeds and ideas to go their separate ways.

By allowing for cognition, persuasion, and ideas to play a significant role in human decision-making, the neo-Mengerian framework illuminates aspects of constitutional maintenance invisible through the neo-Walrasian window. For illustration let's compare two hypothetical points on some historical timeline: t_1 and t_2 . At t_1 property rights are well defined, there is freedom of contract, and government activity is limited to the protection of private property rights and contract enforcement. At point t_2 there exists a mix of collective and private property, the labor market is highly regulated, and the government is now involved not only in the protection of private property rights but also in health care, schooling, and transportation.

How is the change from t_1 to t_2 explained in the neo-Walrasian framework? The world of t_1 continues until some exogenous change alters the transaction costs. Given the path dependence stories, there is no reason to worry about

change in taste, as once on the liberal path there is nothing within the system that could threaten its existence. As long as all involved have the same expectations and are found in the institutional belief equilibrium (Aoki 2007), the system remains stable; all that can change it is the exogenous shock. In the neo-Walrasian framework you do the right thing because of expectations; for example, you attend the town hall meeting because of what others think of you. And since you never experiment, you will never know if people would turn their backs on you if you stopped visiting. People around you see how you behave and do the same thing. Good institutions result in good behavior that over time produces more good behavior. In other words, as long as the incentives are set properly, there are no threats within the system.

The neo-Mengerian framework is not focused on snapshots, but on the process that unfolds between them. It is oriented not on the structure of relationships at a point in time but on how the relationships evolve through time. It is focused on the nature of interactions between individuals and how they manage to complete their conflicting plans while avoiding conflict. The system at point t_1 is a system of cooperative interactions. The government is limited not because the incentives are set properly but because individuals actively take care of their various affairs and do not call on the power of the government to solve the problems. Such an arrangement is not easily maintained. It requires that individuals remain actively involved in their self-governance and that they stand up for their principles. In the neo-Mengerian framework there is no

assurance of good behavior. Just because you play by the rules and conform to the expectations does not mean others will. Sometimes there need to be deeds of courage, as in the Yeager's (1976) argument for the nongovernmental, decentralized enforcement of informal principles.

The Road Ahead

The above discussion clarifies the task for any economist convinced of the liberal supremacy: it is necessary that we restore the cognition of liberal constitution. It is not up to us to decide the form of social order, but it is our task to reveal the relationship between means and ends of collective action. To do so we first need our own cognition to be repaired; we need an analytical framework that allows for decision-making that is not reduced to valuation.

If we in fact wish to understand the process of institutional change and the vulnerability of liberalism, the analytical focus needs to shift from institutional incentives to the process of institutional emergence; the aforementioned functional definition of institutions as rules must give way to a definition that is oriented on the origination of institutions and does not separate them from the generative process which renders them meaningful. Institutions do not exist independently from human interaction, just like prices cannot be separated from the market process. The definition we need was already coined more than two centuries ago by Ferguson who, along with other thinkers of the Scottish enlightenment, argued that institutions are the outcome of human action but not of human design (Ferguson 1782). Further developed in Hayek (1960), this

definition portrays institutions as flow variables; they evolve as long as humans act.

In the ensuing essays I argue that the tools used by the majority of economists hide more than illuminate in regards to institutional evolution, societal decay, and constitutional maintenance. I focus on the history of the Polish-Lithuanian Commonwealth to show that to understand how societies evolve over time it is necessary to adopt the perspective from within. There is nothing wrong with using our insider advantage as it allows us to understand reality, not simply describe it in tautological terms.

In the first essay I analyze the economic approach to institutional robustness. Economists working in the neo-Walrasian tradition address questions of institutional robustness in terms of allocative efficiency: states fail when they are not maximizing revenue. From this top-down perspective institutional collapse is a matter of policy choices: faulty policies cause inefficiencies and lead to a decline. But when societies are considered in terms of individuals pursuing plans, the collapse is associated with the transformation of the nexus of relationships. The two frameworks offer very different perspectives on robustness and collapse. While in the first window the collapse is a matter of mistaken policies, in the second case the collapse is the story of the decay from within. Accordingly, after first providing a short historical summary, I analyze the collapse of the Polish-Lithuanian Commonwealth through the two analytical windows and compare results.

In the second essay I look at the popular economic accounts of franchise extension and compare their insights to those illuminated by the emergent framework. I focus on how the analysis of institutional process through the perspective of class conflict may lead to misleading results regarding the human ability of turning conflict into opportunities for cooperation.

In the third essay I turn the attention to the specific forms of collective decision-making. Beginning in the second half of the 17th century any single deputy was able to terminate a session of the Polish-Lithuanian parliament simply by voicing his disagreement. This political device, known as *liberum veto*, remains controversial. Most historians blame it for the decline and subsequent collapse of the Polish-Lithuanian Commonwealth. On the other hand, many defend it arguing that unanimity is an optimal rule of collective decision-making and a standard for a free society. I argue that voting rules cannot be evaluated outside of the institutional context in which they function. Unanimity is conducive to free society only when it encourages consensus seeking. *Liberum veto* did not fulfill this condition.

ESSAY 2: THE CRUMPLED CONSTITUTION OF THE COMPOUND REPUBLIC

The 16th century operates in the imagination of Poles as the highlight of their national history. At that time Poland was considered an equal among European powerhouses in terms of military strength as well as the cultural and intellectual achievements (e.g. Zamoyski 1993; Stone 2001). 16th century was the age of peace and prosperity: there were no wars apart from sporadic conflicts along the sparsely populated eastern borders and population growth in Western Europe spurred demand for agricultural exports (Mączak 1995). But what should make Poles most proud about the 16th century is the legacy of civil society (Kamiński 2000). The nobles, who at the time constituted about eight to ten percent of society launched a political offensive against the king and the magnates (Davies 2005). Their fight for individual liberty generated the system of nobles' democracy,³ turning the 16th century into the Age of Golden Liberty.

In 1569 the Union of Lublin established the Polish-Lithuanian Commonwealth - the largest and most populous state in Europe. Its territory spread over 380,000 square miles and its population was about 11 million (e.g.

³ Nobles (*szlachta*) designates a formalized, hereditary, social group who is obliged to military service (*levée en masse*) in exchange for political rights.

Davies 2005; Stone 2001; Zamoyski 1993).⁴ The impressive size of the Commonwealth can be seen on the map of Europe in 1600 (Figure 1). However, just two hundred years later Polish-Lithuanian Commonwealth disappears from the map of Europe in 1800 (Figure 2). One could also look in vain for either Lithuania or Poland.

How is it possible that the Polish-Lithuanian Commonwealth went from being the most populous and largest state of 16th century Europe to a complete dissolution two hundred years later? While in the 16th century Poland was an equal among European powerhouses, the 17th century brought a decline. The territory became subjected to continuous warfare, which lasted from 1648 to 1722, with the most devastating events falling between 1655 and 1660. These conflicts were different from those of the previous centuries. They were no longer limited to the peripheries and borders, now the devastation was felt in the core of Poland. Over time, succeeding Tsars of the Russian Empire asserted control over the Commonwealth, actively influencing its politics. By 1768 the Polish-Lithuanian Commonwealth became a protectorate of the Russian Empire. Last-ditch attempts at internal political reform failed, and three successive partitions,

⁴ The Kingdom of Poland and the Grand Duchy of Lithuania were close allies for most of their medieval history. In 1385 they were brought together by the personal union, which established the rule of the Jagiellonian dynasty over the vast territory of East and Central Europe. Over the next few decades they remained close political allies; they maintained independent institutions but continued to be ruled by a common monarch. Lithuanian nobility was very attracted to the privileges available to the Polish nobles as their own institutions still resembled the patrimonial system and favored the powerful oligarchs while marginalizing the nobles. In result, Lithuanian nobility for decades advocated the unification of the two countries so that they could benefit from the Polish privileges. Finally, Lithuania's conflict with Muscovy in the 1560s created political environment conducive to the union.

staged in 1772, 1793 and 1795 brought the end to the existence of the Commonwealth, its territories divided up between the Russian Empire, the Kingdom of Prussia, and Hapsburg Austria. It would take another 123 years for Poland and Lithuania to show up again on the maps.⁵



Figure 1: Map of Europe in 1600⁶

⁵ Both states regained their independence in 1918, in the aftermath of the First World War.

⁶ Source: <http://www.euratlas.net/history/europe/1600/index.html>



Figure 2: Map of Europe in 1800⁷

Two major ways of conceptualizing a society dominate in economics and they correspond to two alternative research programs: within the neo-Walrasian framework society is portrayed as a monocentric organization while within the neo-Mengerian framework it is seen as an emergent order (see Hayek 1973 and Wagner 2010a for a detailed description and analysis of the two frameworks). Economists working within the neo-Walrasian tradition address questions of

⁷ Source: <http://www.euratlas.net/history/europe/1800/index.html>

institutional robustness in terms of allocative efficiency: just like unprofitable companies are driven out of the market, states fail when they are not maximizing revenue. From this perspective the collapse of the Polish-Lithuanian Commonwealth is explained as the outcome of territorial competition in which Russian Empire, Kingdom of Prussia, and the Hapsburg Austria proved to be more successful than the Commonwealth.

The approach of allocative efficiency is consistent with historical narratives that blame the collapse on the liberal political system and its susceptibility to coercion. In those accounts, policy through consensus, the main characteristic of nobles' democracy, is believed to have weakened the state and rendered it ineffective against the absolutist neighbors. According to historians, the weak system of the nobles' democracy was transformed into the magnates' oligarchy when, in the late 16th century, the rise in demand for grain exports created a group of oligarchs so wealthy that they were able to maintain their own military units and lead independent foreign policy. Overtime, the oligarchs changed their national allegiance and begun to represent the interest of the foreign powers. They abused the rule of policy through consensus to block political reforms and any military spending rendering the Commonwealth an easy pray for the adjacent states (for the summery of this argument see e.g.: Bocheński 1984; Davies 2005; Wyczański 1982; Zamoyski 1993).

The collapse of the Commonwealth is explained differently if approached through the neo-Mengerian program. The analysis is oriented on the nature of

interactions between individuals and on the principles of conduct generated through interactions. Collective outcomes are not only a matter of choice but they also involve cognition. As argued by Wagner (2002), cognition is a crucial aspect of transforming preference ordering into desired collective outcomes. It is necessary that individuals understand the relationship between means and ends; between individual actions and collective outcomes. The system of self-governance is maintained only as long as people believe themselves responsible for it. When that sense of responsibility is lost; when individuals start to delegate the control over collective outcomes to the government, liberal constitution disappears. When the collapse of the Commonwealth is approached through the neo-Mengerian perspective, the rise of magnates' oligarchy is not explained by the rise in demand for grain exports, but by the political disengagements and the ceding of power. It appears that the nobles of the Polish-Lithuanian Commonwealth lost their understanding of the relationship between individual involvement in political life and good governance. They started to disengage from politics as if they believed that the government might ensure the desired collective outcomes. Their weakened participation allowed for the emergence of oligarchy and later led to the collapse.

The Democracy of Nobles

Nobles' democracy refers to the political system of the Kingdom of Poland and later the Polish-Lithuanian Commonwealth. At the time when most European countries were headed toward absolutism, in Poland the final decisions on

taxation, budget, foreign affairs, and titles of nobility belonged to the National Parliament, known as the *Sejm*,⁸ which was elected among the nobility. The system emerged from a series of trades between the nobles and the king in which nobles secured extensive privileges in exchange for participation in king's military undertakings.

The roots of the nobles' democracy can be found in the long tradition of *veche* – a popular gathering during which elders seek approval from the community members for the proposed policies. *Veche* gave way to the *Sejmik* – a regional legislative assembly where local nobles gathered to deliberate on the matters of highest importance for their lands (Bardach, Leśnodorski, and Pietrzak 2009). Crucial for the development of the *Sejmik* was the 1454 privilege of *Nieszawa*, which recognized them as standing organizations and promised that their consent would be requested before the call to arms or before changes in taxation.⁹ The decision-making rules were a customary matter and varied across the different regions but it was a common belief that votes should be weighted and not counted (Zamoyski 1993). In result, decisions were made through

⁸ The words *sejm* (national assembly, pronounced say-m) and *sejmik* (regional assembly, pronounced say-meek) come from the old Slavic word meaning "gathering" which corresponds to the conventual roots of the American constitution as presented in Ostrom (1987).

⁹ The activity of local assemblies laid the foundations for the emergence of independent legislative. The first national assembly gathered in 1468 when the Provincial *Sejms* of Greater and Lesser Poland met at the joint session (Jędruch 1982). Up until 1493 the Parliament was unicameral and consisted of elected regional deputies and appointed members of the King's council. In 1493 the Chamber of Deputies separated from the original organization of the King's council and the parliament became bicameral: from now on it constituted of the elective Chamber of Deputies and the appointive Senate.

consensus: there could be no active opposition in order for the law to pass. This implied that in the presence of a dissenting opinion, the policy would either be reformulated or remained unimplemented.

Feudal relationships never fully matured in Poland (Davies 2005; Zamoyski 1993). In result, there was no relationship between lords and vassals as was typical in the west, instead all nobles were considered equal in law and enjoyed the same status and relationship with the king (Gella 1989). Though equal in law, nobles differed in terms of wealth. In the middle of the 16th century four main income groups could be distinguished: the richest were the magnates - the wealthiest class, owners of vast lands including private towns and fifteen to twenty villages. Second in terms of wealth were the middle nobility - owners of five to ten villages. Third were the poor nobility - owners of one to five villages. And last were “barefoot” nobles who owned less than one village and worked the land themselves (Stone 2001). Given the obvious differences in wealth, there is no reason to believe that the nobles were unified by a common economic interest, to the contrary, they were diverse in their plans and methods they used to pursue them. Thus, the popular explanations of the collapse in terms of class struggle (Brenner 1989; Wallerstein 1974) are unsubstantiated.

Since equal in law, all nobles had the right to attend the *Sejmiki*. There were no property requirements; poor material status did not prevent a noble from engaging in political life. Instead, the right to participate in the convents belonged to all those who were subject to army obligations. The right to vote was not tied

geographically: traveling nobles could vote at other regional assemblies. The share of the nobility in the total population was much higher than in the Western societies, at about ten percent compared to only two or three percent in the contemporary England or France (Davies 2005). Thus, even though peasants and townsfolk were banned from the official institutions, the politically active group was rather sizeable. Which in turn makes it an interesting experiment in the use of the unanimity rule.

Three charters best summarize the constitution of nobles' democracy: *nec bona recipiantur*, *neminem captivabimus*, and *nihil novi* (Jędruch 1982). In *nec bona recipiantur* of 1422 the king promised not to confiscate any property of nobles without a court sentence as well as to refrain from placing judgeships in the hands of administrative officials of the crown. This privilege guaranteed nobles the right to private property, and only allowed its confiscation for offenses such as a refusal to answer the call to arms in a *levée en masse* during a national emergency. *Neminem captivabimus* was introduced in 1430 and meant that no noble could be imprisoned or punished without a court sentence. It granted the nobility a guarantee against arbitrary arrest. The king could no longer either punish or imprison any noble at his whim. *Nihil novi* was the last of the three and its creation in 1505 marks the beginning of the First Republic of Poland. Its full name reads *Nihil Novi Nisi Commune Consensus*, which from Latin means "nothing new without the common consent." This last privilege effectively transferred legislative power from the king's council to the parliament.

Institutional Robustness in the neo-Walrasian Framework

In many cases what we think is what we see: Wagner (2010a) makes a strong argument for the significance of theoretical frameworks. He distinguishes between simple and complex objects of scientific inquiry and argues that while the first can be approached directly, the latter require a theoretical framework. What all simple objects have in common is that those who examine them all agree to be examining the same thing even if they are trying to answer different questions. This is not the case for complex objects, which require the prior creation of some conceptual framework. Since different analytical frameworks illuminate different aspects of the same complex objects, the selection of the analytical framework has tremendous consequences for the subsequent results:

“Any topic of examination must confront the two-sided character of any analytical model: on the one hand it allows us to explore more fully our object of interest; on the other hand it deflects our vision away from the insights that an alternative model might offer. In other words, there is a bi-directional relationship between method and substance. From one direction, what we see in the world is assisted by the methods we use. But from the other direction, the methods we use influence what we see and don’t see.”

The robustness of a society falls into the category of complex objects since we do not apprehend societies directly. As was already mentioned, two major ways of conceptualizing a society dominate in economics and they correspond to two alternative research programs: within the neo-Walrasian framework the state is portrayed as a monocentric organization while within the

neo-Mengerian framework it is seen as an emergent order (for a detailed description and analysis of the two frameworks see Wagner 2010a). In the first case, societal orderliness is implicit and the possibility of conflict or societal turbulence does not factor into the analysis. The society takes the form of a simple republic; it has one center of control. The foreground of the analysis is occupied by questions of how the organizational structure reacts to exogenous change. In the second case, the source of orderliness and the mechanism of conflict resolution are at the very core of investigation; the analysis is centered on how individuals coordinate their conflicting plans. There is no presumed center of control here; instead the society is thought to be an emergent, polycentric order.

To illuminate the difference between organizations and orders Wagner (2010a) uses the example of parades and crowds. While both are orderly, the source of orderliness differs. Organizations and parades are hierarchical; their orderliness is thought to come from some central decision-maker. Contrarily, orders and crowds are polycentric; their orderliness emerges through interactions among the individuals “each of whom pursues an individually-chosen path or objective while also engaging in continual readjustment in response to the similar efforts of other spectators.”

The treatment of societies as organizations results in a variety of analogies between governments and firms. For example, both firms and governments can be structured in a variety of manners. Among business entities there are sole proprietorships, corporations, partnerships, and cooperatives.

There can be even more variety when we consider specific management structures employed to solve principal-agent problems. Similarly, in the case of governments there can be aristocracies, democracies, tyrannies and a multiplicity of endless combinations. While it may be intuitive and easy to place tyrannies and aristocracies in the framework of a simple republic, doing so for democracies requires an analytical trick: use of the median voter model. The median voter model portrays government as maximizing the utility of the median voter due to electoral competition (for the in-depth exploration of the concept see Mueller 2003). The approach of the median voter model allows the simple republic to maintain its solitary center of control: even the collapse or decline of complex democratic structures is not a matter of interactions or any form of a bottom-up process. Instead, it is explained by faulty policies chosen by ignorant, or, systematically biased voters (Caplan 2007).

The performance of a firm depends on how effectively its management reacts to market conditions. It is the quality of decision-making in the light of exogenous changes that determines the performance. Due to the hierarchical structure, while evaluating an organization there is no need to distinguish the performance of managers from the performance of the company as a whole. In the same way, the robustness of a society is equivalent to the robustness of its government. When a society is portrayed as a simple republic, its collapse is a function of policy mistakes; poor planning, inadequate foresight and similar are blamed for the disappointing outcome. This approach holds no space for

unintended consequences. Its shortcomings were well captured by Diamond (2004), who argues that such approach presents past peoples as if they were ignorant bad managers or all-knowing conscious environmentalists, the perspective depending on whether their society collapsed or survived. Such bipolar homogeneity poorly corresponds to the complexity of institutional evolution.

The monocentric vision dominates economic literature. But how suitable is it to think of a society as if it were an organization? The median voter model, and the approach of simple republics in general, offer analytical neatness but at a cost of substantial simplifications. No models are meant to describe reality, only to simplify it enough that it can be rendered intelligible. However, when the robustness of social institutions is viewed through the perspective of simple republics, the simplifications seem to hide more than they illuminate. For example, the median voter model mutes any possibility of societal conflict, and it casts a shadow on unintended consequences (Wagner 2012a).

The suitability of the monocentric vision is further challenged by the fact that the Soviet Union, even in the most successful years of the centrally commanded economy, did not resemble the workings of an organization (Wagner 2005). To the contrary, it was a polycentric order, with some nodes surrounded by a denser network of interdependencies than others. In his study of the Marxist theory and Soviet economy, Roberts (1971) builds upon Polanyi's (1951) idea of polycentrism and argues that all social configurations take on the

polycentric shape, even if there are hierarchical elements within their structure. Boettke (1993) also documents the shortcomings of the simple republic approach in his work on Perestroika. He argues that the collapse of the Soviet Union cannot be explained by the incompetence of the planners, and rather resulted from the decline in rents, which were the fuel of the rent-seeking society. Boettke's explanation is inarticulate within the simple republics and takes on significance only within the complex framework of a compound republic.

Polish-Lithuanian Commonwealth as a Simple Republic

When the collapse of the Polish-Lithuanian Commonwealth is analyzed in terms of allocative efficiency, it appears to be the outcome of territorial competition in which the Russian Empire, the Kingdom of Prussia, and Hapsburg Austria proved to be more successful than the Commonwealth. Such answers are consistent with historical narratives; historians believe that the economic changes of the late 16th century transformed the system of nobles' democracy into the oligarchy of magnates, and that the oligarchs were later bribed by the neighboring states to represent their interest. The oligarchs blocked reforms that had a potential of strengthening the Commonwealth, rendering it easy for the neighboring states to eventually seize the control.

The stylized story takes on the following form: Magnates were the elite group among nobles, had the same legal standing as the rest of the noble class but had more land, controlled political offices, and fraternized with the king. In the Middle Ages and throughout the 15th century magnates dominated the political

life. To counter their influence, kings tended to make concession towards the rest of the nobles in exchange for military service or tax payments. Yet, with the accumulation of privileges nobles gained strong political momentum and their active engagement laid the foundations under the system of nobles' democracy. When the system solidified in the 16th century, magnates came under close scrutiny. Their tax obligations were examined and they were forced to return control over the royal lands as it was considered illegitimate in the public eye. At the same time, the rise of nobles' democracy turned king from the ally into the enemy of the nobles, his power greatly restricted in the process. To rebuild his influence, king reunited with the magnates and used his ability to nominate officers for the administration of royal lands to win their sympathy. Land giveaways intensified after the union with Lithuania in 1569 when vast expanses of land in what is now Ukraine came under the control of the king. The giveaways further deepened the wealth inequality between magnates and nobles and sparked the rise of oligarchy.

The accumulation of land in the hands of the magnates collided with the rise of demand for agricultural exports caused by population growth in the Netherlands and England (Jezierski and Leszczyńska 2003; Mączak 1995). And even though only about four or five percent of the grain imported into the Western Europe came from Poland and Lithuania export opportunities had tremendous effects on the economy of the Commonwealth (Stone 2001). As

shown in Figure 3 the exports of grain at the end of the 16th century were five times as high as those at the beginning of the century.

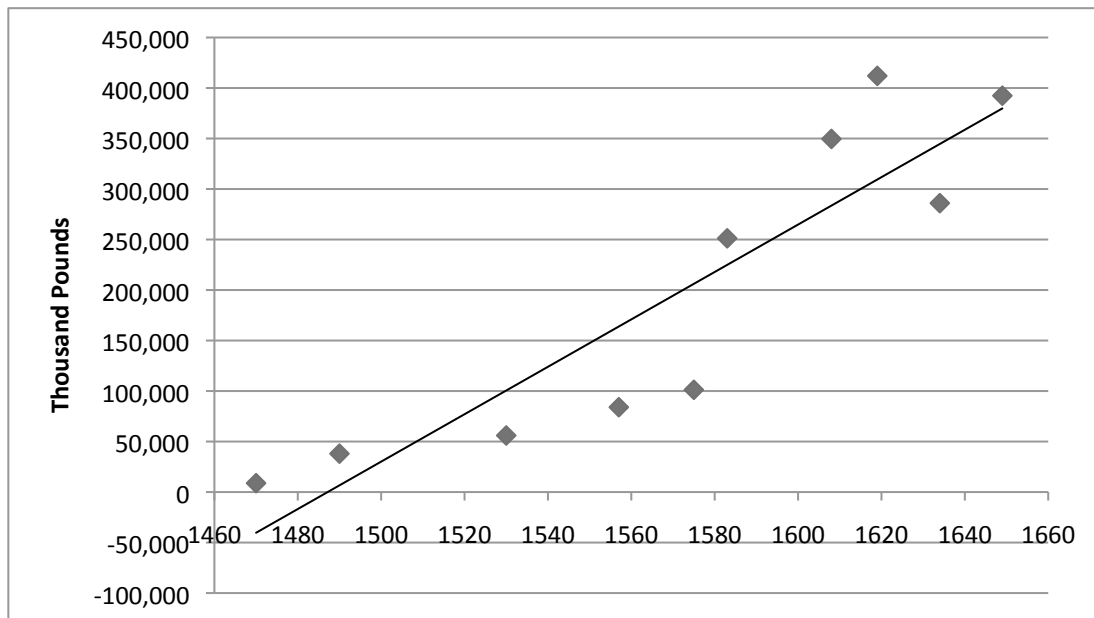


Figure 3: Cereal Exports through Danzig 1470-1649¹⁰

Economies of scale favored production by large-estate owners: they had storage facilities that allowed them to hold out for higher cereal prices and could organize their transportation to the port in Danzig at a lower cost (Kochanowicz 1989). Additionally, magnates were able to seize the land of lesser nobles who were ruined by bad crops, poor market condition, and subsequent debts. These takeovers further deepened the economic divide between magnates and nobles.

¹⁰ Data Source: Jezierski, Andrzej, and Cecylia Leszczyńska. *Historia Gospodarcza Polski*. Warszawa: Wydawn. Key Text, 2003.

Figure 4 shows the change in the distribution of property. Kochanowicz (1989) argues “Financial operations, especially loans to the lesser nobility, were also a way to amass wealth. Land was taken over when a loan was not repaid.”

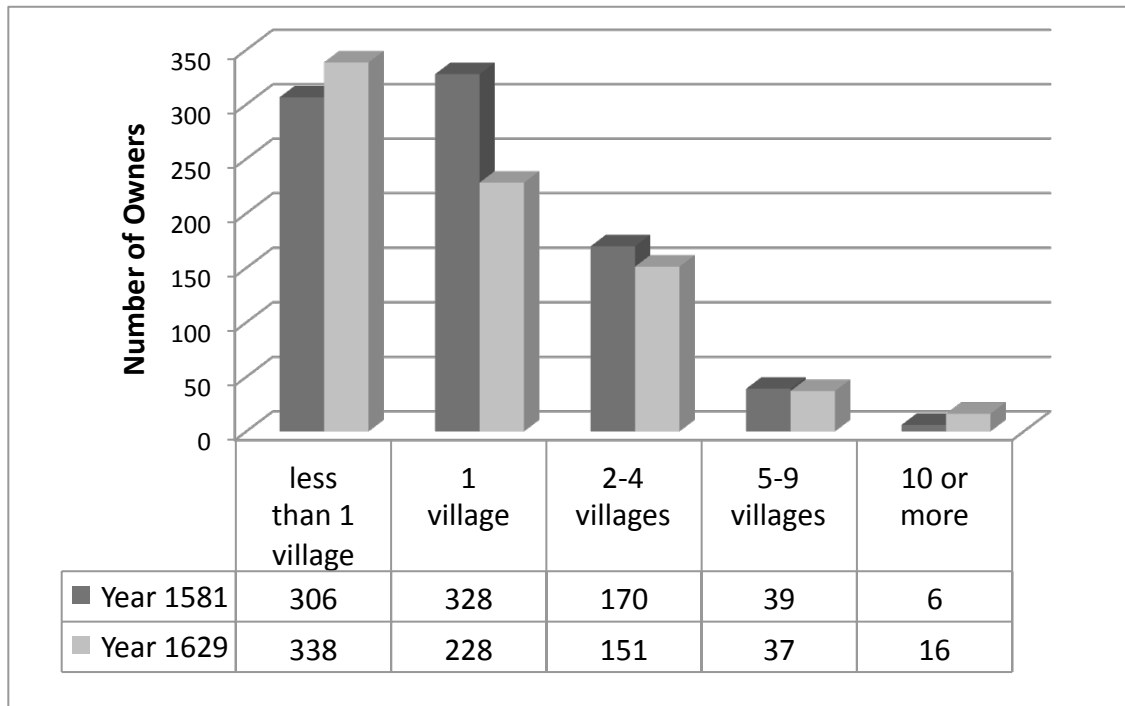


Figure 4: Changes in Land Distribution¹¹

In the last decades of the 16th century a small number of magnates accumulated immense fortunes. Maćzak (1995) describes those careers in the following words:

¹¹ Data Source: Maćzak, Antoni. *Money, Prices, and Power in Poland, 16-17th Centuries: a Comparative Approach*. Aldershot, Hampshire, Great Britain: Variorum, 1995.

“Among that group Sebastian and Stanisław Lubomirski increased their estates between 1581 and 1629 in the palatinate of Cracow alone from four to ninety-one villages (alongside twenty-three royal ones). Whoever was shrewd enough to strike roots in the Ukraine could be sure of multiplying his estates and revenues thanks to the rapid colonization of the vast region. The extreme case Prince was Jeremi Wiśniowiecki who in 1630 according to inventories of his property owned six hundred hearths on the left bank of Dniepr, which by 1647 had risen to the incredible figure of 38,460 (or around 230,000 souls).”

The consequent emergence of great landed estates known as *latifundia* marginalized the national parliament and the royal power giving magnates complete authority over their lands. The marginalization of parliamentary policy, turned the local *Sejmiki* into the final power centers. But since the nobles were now much more dependent on the magnates economically, the consensus was no longer needed. Instead, the magnates had the final say. Over time the most successful magnates turned their *latifundia* into de-facto states. The agricultural wealth allowed them to maintain their own military units and lead independent foreign policy. In result, the political system was progressively destabilized, with foreign influence exploiting internal problems to gain significant strength in the Commonwealth's internal politics.

The emergence of *latifundia*, the rise of the oligarchy of magnates and the subsequent collapse of the PLC seem to fit well with Friedman's (1977) explanation of changes in the size and shape of nations. Friedman argues that

nations take on the shape that maximizes their joint potential revenue, net of collection costs. The benefit of controlling a new territory is the increase in tax collections from three potential sources: land, trade, and labor.



Figure 5: Great Landed Estates¹²

According to Friedman, since there are economies of scale in revenue from taxes on trade but not on land, small nations emerge where taxes are paid

¹² Source: http://pl.wikipedia.org/w/index.php?title=Plik:Posiadlosci_magnaterii_w_XVI-XVII_w.svg&filetimestamp=20120517190227

from rents on land and large nations emerge where trade is the major source of tax revenue. If labor constitutes the major source of taxes then revenue maximization requires restriction on labor mobility. This implies either large homogenous nations or serfdom. Friedman then demonstrates that his model explains the transformation of Western European states over the last millennium. For example, he argues that the emergence of nation-states in the 18th and 19th century in Western Europe was the consequence of the bubonic plague of 1348. By reducing the population by 40 percent, bubonic plague caused a drastic decline in rents and an increase in wages. Great landed estates can be considered independent tax units within the model because they decided their tax policy independently from the central office. Emergence of *latifundia* suggests that land became the major source of revenue. Thus, in Friedman's framework the transformation of nobles' democracy into the magnates' oligarchy resulted from the increase in the potential land revenue.

However, according to Domar (1970) it was actually labor that was the main source of revenue and caused the emergence of *latifundia* and reemergence of serfdom in Eastern Europe. If Domar is right and in fact labor was the main source of revenue, then in the late 16th century, both the East and West of Europe shared the same conditions in terms of potential tax revenue. But despite this apparent similarity, the two regions followed divergent paths of development. Friedman's model accommodates both outcomes: scarcity of labor necessitates either nation states as happened in Western Europe or serfdom as

happened in the East. What it does not explain is why in one region high wages and low rents lead to the emergence of nation-states whereas in the other region the same conditions result in serfdom. In both cases we are presented with two points on historical timeline. While the economic structure at the initial points is the same in the two cases, the outcomes differ. Why? The neo-Walrasian perspective of looking from the outside-in may not be sufficient to answer this question.

Alesina (2003) also addresses the question of the size of nations but in his model there are two counteracting forces that determine the outcome. On one hand there are the potential benefits of the size: lower cost of per capita goods,¹³ as well as the strength in the face of foreign aggression, greater market size, and internalization of externalities. On the other hand, the increase in territory also increases heterogeneity of preferences, which leads to conflicts and dissatisfaction with the central government.

The 1559 union between Poland and Lithuania fits well into Alesina's model: the need to protect from the threat of Muscovy brought the two countries together. Alesina's explanation also rings true with historical accounts, which blame the decay of the Polish-Lithuanian Commonwealth on the unmanageable size of the state. In their view, the reason of the decay is found in the institutional,

¹³ Spolaore and Alesina (2003) compare the government expenditure across nations and conclude that, *ceteris paribus*, the expenditure per person falls as the size of the country expands. However, authors only consider federal, and not state, expenditure. Once local government expenditure is added to the federal expenditure, the inverse relationship between size and expenditure no longer holds. Summing the federal and state expenditure, Shelton (2007) shows that that preference heterogeneity leads to decentralization rather than outright decreases in expenditures.

ethnic, and religious diversity of the territories: the three main ethnic groups of Poles, Lithuanians, and Ruthenian's were too different to peacefully coexist. The resistance against Polish dominance started Cossacks uprising in the Ukraine in 1648, which gave way to the first in the series of devastating conflicts.

However, viewed *ex ante* ethnic diversity did not necessitate the partitions. Instead, countless alternative institutional arrangements had the potential of alleviating the problem. For example, instead of being partitioned, the Commonwealth could be turned into three independent states along the ethnic lines or into a confederation that would allow institutional diversity while preserving the union. However, in Alesina's analysis it is impossible for diverse groups to turn the situation of conflict into opportunities for cooperation. There are no prospects for an open-ended human action or entrepreneurship. And even though we know that fractionalization might be problematic (Easterly and Levine 1997), we also know that cooperation among heterogenous groups is commonly observed. For example, Leeson (2006) argues that the amount of conflict among diverse individuals is dramatically overstated in the institutional literature, whereas the possibility of peaceful interaction has been dramatically understated. Similarly, Leeson, Coyne, and Boettke (2006) examine the ability of focal points to transform situations of conflict into cooperation. On the empirical front, E. Ostrom (2005) offers a framework that sheds light on how actual societies solve problems of collective action.

Such processes are unintelligible in the equilibrium models of Friedman and Alesina. By having societies react automatically to change, there is no space left for endogenous solution. As well, there is no space for a creative outcome being generated by the interaction among individuals. Novelty may only come from outside. Alesina and Friedman approach states from the perspective of simple republics; they treat nations as organizations or as sentient creatures, individuals are aggregated into a collective, which renders their interactions irrelevant. In this framework the collective outcomes are thought to be the outcome of rational choice but the link between an individual's decision and collective outcome is not explained. The authors adopt the organic vision of the state: "it has an existence, a value pattern, and a motivation independent of those of the individual human beings claiming membership" (Buchanan and Tullock 1962).

Institutional Robustness in the neo-Mengerian Framework

The robustness of institutions is tested by the passage of time. And, as pointed out by Wagner (2010b), while the neo-Walrasian framework is well fitted for the analysis of principles that are independent of time, it is unsuitable for the analysis of a generative process. A collapse of a self-governing society can only be understood through a framework that connects institutions to the interactions that generate them. In that way, the neo-Mengerian framework allows for approaching the collapse as a matter of erosion of existing social configurations;

the transformation of the nexus of relationships accompanied by a regime drift (Wagner 2006).

The maps of Europe in 1600 and 1800 are at the center of analysis in the neo-Walrasian framework. They are believed to summarize institutional structure at equilibrium points and the analytical challenge is to explain the causes of change. As was previously discussed, Friedman argues that the relative size of a given state provides information about the source of tax revenue and Alesina uses maps to deduce information about the provision of public goods and the extent of societal heterogeneity. The authors operate with a presumption that these aggregate variables act upon each other. But the relationship between them is assumed and not explained (Wagner 2012b). Wagner (2010) offers a challenging critique of this type of analysis by comparing it to taking pictures of a running horse. One who analyzes a horse's movement only on the basis of the pictures taken could come to a conclusion that a horse can fly or hover. Another conclusion, such as the shape or the color of the horse, could be derived from the picture correctly but the conclusion about the movement would necessarily be wrong. This approach compares institutional structure at different points in time but fails to account for process that transformed one social configuration into another. The maps allow us to make statements about the efficiency of territorial arrangements, but tell us nothing about underlying social configurations. While the maps may remain unchanged for centuries, the same is highly unlikely for social configurations. The neo-Mengerian framework allows for the decay to

result from within the system, and not necessarily by a factor of exogenous change.

The concept of equilibrium is irrelevant in the framework that proceeds from the idea of individuals generating social configurations while attempting to complete their conflicting plans. Seen through the neo-Mengerian window, the two maps are just snapshots, meaningless without the process that generated them. The process is at the very core of the neo-Mengerian approach. In this framework, institutions are thought to be the outcomes of human action, not of human design. Since it is human interactions that generate institutions, as long as humans act, institutions change. Institutions are flow variables and to have a say about flow variables, we need to observe them over a period of time, not at an instant. Social configurations captured by the maps, do not tell us much about the process that generated them.

In his paper on the robustness of the political economy, Wagner (2006) points out:

“the portrayal in terms of aggregate growth might show no change in robustness nonetheless, the systemic character of human relationships might have changed dramatically; as a regime characterized by equality, mutuality, and respect gave way to one characterized by domination, status, and acquiescence.”

The portrayal of robustness in terms of aggregate growth is not much different from the portrayal in terms of state borders. Both tell us very little about the robustness of society and its governance. As an alternative, Wagner

examines robustness of political economy from within the emergent perspective with robustness defined as a quality of the nexus of relationship and postulates that:

“Robustness is facilitated through polycentric organizational arrangements that entail high degeneracy, while fragility and the emergence of decadence is facilitated in relatively hierarchical arrangements that possess low degeneracy.”

In the presence of degeneracy individuals do not need to work through some specific node of the network in order to complete their plans. Instead, many different enterprises facilitate their needs. In the case of low degeneracy associated with hierarchical structures, there exist evident centers of dominance within the society. Those centers have the subordinating power. In the case of high degeneracy, power is dispersed and limited: even though centers of authority may exist, they are kept in check through rival interests. For example, in Fairfax County we enjoy degeneracy in regards to mail service or waste management but not when it comes to building inspections. Only upon receiving a permit from county government one may proceed with construction. There is no other node in the network that individuals may address in order to complete their building plans.

The concept of degeneracy offers an interesting way of distinguishing between spurious and genuine federalism, where the first refers to competition and the second refers to decentralization (distinction made with great clarity by Eusepi and Wagner 2010). Degeneracy is irrelevant in the Tiebout (1956)

formulation because, despite the postulate of competition among different tax localities, the model describes a set of local monopolies. In the building permit example, the sorting model suggests that individuals dissatisfied with the inspection process move into a more flexible jurisdiction. But there as well one needs to deal with single governmental entity. In each case there is only one specific node in the network that allows for the completion of the plan. In contrast, in the society organized on the principles of genuine federalism one could select among a variety of outlets.

Competition between political enterprises is a defining characteristic of a compound republic, a special case of a polycentric order characterized by the lack of sovereign. According to V. Ostrom (1987) in the compound republic coercion is eradicated through multiplication. Paradoxically, greater number of political enterprises decreases the extent of coercion (Wagner 2005).

Polish-Lithuanian Commonwealth as a Compound Republic

As can be recalled, in the neo-Walrasian framework the change from nobles' democracy to oligarchy of magnates was portrayed as resulting from the rise in grain exports followed by the accumulation of wealth among the small group of wealthy magnates. Different conclusions are drawn when the collapse is analyzed through the neo-Mengerian approach. While the Neo-Walrasian analysis proceeds from outside the model, the neo-Mengerian analysis begins from within and allows human experience to matter in the analysis (Wagner 2010a). In that sense, Neo-Mengerian framework allows the social scientists to

use the insider advantage, not available to those working in natural sciences. In the interview given to Paul Aligica on the accomplishments of the Bloomington School, Vincent Ostrom refers to the outside-in perspective as distancing from reality and contrasts it with the attempts to penetrate the reality from the inside-out (Aligica and Boettke 2009). The analytical approach of Friedman (1977) and Alesina (2003), along with countless similar formulations of the neo-Walrasian tradition, falls into the first category as it does not consider human experience in the analysis. In Friedman's model the only way in which an individual is affected by a change in state borders is through the change in tax collector. But how congruent is such formulation with human experience? It seems plausible that if Fairfax were annexed by Mexico, we would experience more than the change in the recipient address on the tax payment. It appears that the monocentric understanding of governance, though dominant in the literature, is not congruent with reality. Humans do not face the single entity of the government, instead, we experience a multitude of political enterprises whose actions often contradict or overlap (Wagner 2005). The human experience of governance hardly resembles the analytical cleanliness of simple republics.

Polish-Lithuanian Commonwealth in the 16th century was characterized by high level of degeneracy. The coercive power of magnates was nullified through their competition for the support of nobility. Kings needed the nobles to further their military aspirations. Magnates desired their support to extend their influence in senatorial offices. Leaders of the nobility received land and political offices

from the king, while magnates allowed them to advance in the local society. One of the perks of being close with the local magnate was ability to participate in the cultural life of the manor: magnate's residency was a center of cultural and social life. The manors competed against each other because the relationships built through parties and other social events were crucial for the political life.

Wyczański (1982) describes the competition for the support of nobility in the following way:

“The Polish Nobility was by the fifteenth century something of a microcosm of a society in that it included both very wealthy and very poor elements. In it were the great lords, holders of the highest position in the state, powers of substantial landed estates, possessors of considerable wealth. Because of their proximity to the king and their access to the offices, which he dispensed, such magnates proved to be very influential in the government and regarded political power as something due their exalted position. At the other end of the spectrum were the poor gentry, descendants of medieval knights, warriors or courtiers, entitled to noble rank and privileges but frequently possessing little to no land, and increasingly dependent on those above them in the hierarchy for social survival (...). It was the existence of this gap which allowed the Polish monarchy in the fifteenth and sixteenth century to resist the magnates by drawing on the lower gentry for man power and support, and it did this by systematically extending privileges to the nobles as a whole, thereby checking the independent power of the magnates, and demonstrating to the gentry that they had more to gain by their adherence to the monarchy than by any allegiance to the magnates.”

But by the 17th century the political competition for the support on the nobility lost its intensity. As it turns out, the political power of the king was so weak; he was no longer able to compete against the magnates. In the previous decades, both nobles and magnates struggled to limit the power of the central office. Yet, the success affected the two groups very differently. Weak monarch meant that magnates now could enjoy the monopoly over their territories. Nobles, though, were on the losing end of this process, as they no longer could posit the power of the king against that of the magnates. In result, nobles grew dependent on the magnates, slowly withdrawing from the active political life.

The rise of great landed estates is the dominant explanation behind the emergence of this dependency and behind the rise of magnates' oligarchy. However, there is no immediate connection between the two. The rise of income among the elites on its own should have no effect on the shape of social configurations and the nature of individual interactions. What else could explain the decrease in the level of degeneracy?

Wagner (2005) argues:

“The practice of self-governance requires a proper mental orientation among the participants. Subsequent practice may reinforce that orientation, but it may also weaken it.”

It appears that it was not the rise of income of the magnates that destroyed the compound republic, but the fact that nobles slowly started to disengage from the political life. This disengagement is aligns with the intellectual

transformation that transformed Renaissance into Baroque. One way that summarizes the ideological change from Renaissance to Baroque is provided by (Zamoyski 1993):

“When the tower of Kraków’s Town hall had been rebuilt in 1556 a copy of Erasmus’ New Testament was immured in the brickwork. When the same tower was repaired in 1611 the book was replaced by a Catholic new testament, along with a picture and relic of the first Polish Jesuit to be canonized, St. Stanisław Kostka.”

In the Kingdom of Poland, early members of the national assembly - the leaders of the nobility, used to say that “*Nie rządem Polska stoi, ale wolnościami swoich obywateli*” which means that “*Poland is strong not because of its government but because of the liberties of its citizens.*” This statement reflected their strong beliefs in the power of policy through consensus, self-governance, and federalism. By the 17th century this phrase underwent a dramatic transformation, its old form was forgotten and replaced with: “*It is by the unruly that Poland stands.*” These words constitute a first line of a poem written in the 17th century. They were not used to convey pride but an expression of lament. The poet is lamenting the institutions of the Commonwealth. He argues that the anarchy is destroying the country.¹⁴

¹⁴ Readers may have encountered Dalibor Roháč’s (Roháč 2008a; Roháč 2008b) translation of the phrase as “It Is by the Unruly That Poland Stands.” It appears that Polish language tricked the author and here is why: over time the original phrase “*Nie rządem Polska stoi, ale wolnościami swoich obywateli*” morphed into “*Nierządem Polska Stoi.*” The key difference lies in the space between “*nie*” and “*rządem*” which is present in the original phrase but disappears in the latter version. Despite the obvious similarity, the two have completely different meanings: the first

In the 16th century the political thought was dominated by the ideas of liberty, peace, religious tolerance, and political consensus. To this day, 16th century remains known as the Age of Golden Liberty. In the 17th century, ideas of *Sarmatism* started to dominate political discourse and brought on religiosity, mysticism, and nationalism. The thinkers of Golden Liberty believed that social change could only be achieved through persuasion and mutual agreement. In contrast, the thinkers of *Sarmatism* believed the Polish-Lithuanian Commonwealth to have a crucial role in fighting infidels and spreading Christianity.

The Rise and Fall of Compound Republics

James Madison (Hamilton et al. 2009) proclaimed:

“In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself.”

But American experience demonstrates that dividing power among distinct governments is insufficient for the maintenance of liberal constitutions. The compound republic of America as imagined by the founding fathers is now long gone (Niskanen 1978). The formal rules remain in place, yet their interpretation is

means “not because of government” while the second means “anarchy” and sometimes might be used to mean either prostitution or immoral behavior.

dramatically different. It appears that it is not enough to institute the system of checks and balances. Wagner (2005) points out “Good government is not a destination or final resting point. It is a continual, never ending process.” V. Ostrom (1987) voices a similar thought:

“Furthermore, constitutional choice is not something that is done once and exists for all time. Constitutional rules, like any rules of law, depend upon the intelligent exercise of judgment in their enforcement.”

Compound republic is maintained not by some specific institutional arrangement but through the competition between political enterprises. While the social configurations evolve over time, compound republic continues as long as degeneracy characterizes the political order. The existence of compound republic relies on high levels of political engagement. The more successful are bottom-up efforts at solving the problems of the commons, the smaller is the space for the governmental involvement. Degeneracy requires bottom-up political entrepreneurship countervailing the powers of government. Grassroots organizations, political movements, and all sorts of other political associations are the very nature of the compound republic.

But high levels of political engagement are not easily maintained. In general, people tend to withdraw from politics when they are content, and then come back when they find political process unsatisfactory. The involvement goes in waves, as in the saying: when the going gets tough, the tough gets

going. Michels, cited in V. Ostrom (1987), describes the cyclical process in the following words:

“The democratic currents of history resemble successive waves. They break ever on the same shoal. They are ever renewed. This enduring spectacle is simultaneously encouraging and depressing. When democracies have gained a certain stage of development, they undergo a gradual transformation, adopting the aristocratic spirit, and in many cases also the aristocratic forms, against which at the outset they struggled so fiercely. Now new accusers arise to denounce the traitors; after an era of glorious combats and of inglorious power, they end by fusing with the old dominant class; whereupon once more they are in their turn attached by fresh opponents who appeal to the name of democracy. It is probable that this cruel game will continue without end.”

When people disengage from the political process it is not that their desires for the collective outcomes changed. To the contrary, the preference for peace and prosperity appear to be rather stable. Yet, good results allow us to forget about the hard work that was needed to achieve them. According to Tocqueville, the sickness of the people will lead to democratic despotism. Along with the tyranny of the majority, emphasized by Madison, the sickness of the people constitutes the biggest threat to democracy. The system of self-governance is maintained only as long as people believe themselves responsible for it:

"It is the common fate of the indolent to see their rights become a prey to the active. The condition upon which God hath given liberty to man is eternal vigilance; which condition if he break, servitude is at once the consequence of his crime and the punishment of his guilt." -- John Philpot Curran: Speech upon the Right of Election, 1790

The importance of cognition in the constitutional maintenance is lost in the analytical framework that analyzes polycentric orders through the analytical lens of monocentric organization. Wagner (2010a) correctly points out that concepts such as conductor skills, marching abilities of the participants, or their years of training would be of little help to someone interested in the coordinating abilities of the crowd of spectators leaving a sports stadium. As an alternative, the researcher could concentrate on the rules that individuals follow: walk on the left, ladies first, exiting before entering. Shared beliefs, customs, and traditions inform individuals about what behaviors are socially welcomed or accepted in the same way as prices aggregate information about the behavior of other participants in market exchanges (Hayek 1945).

Similarly, when the societal collapse is thought in terms of a firm exiting a market, the analysis is limited to the performance of its leaders; it is a matter of choices made by the state. In the analytical approach that portrays society as a monocentric organization, there is no space for considerations of endogenous change or novelty. Socially generated phenomena remain unintelligible in the

closed models. Only the analysis from inside out allows for the considerations of the phenomena that are socially dependent.

ESSAY 3: SUCCESSION, ELECTIONS, AND SELF-GOVERNANCE

In the aftermath of the childless death of the last king of the Jagiellonian dynasty, the Polish-Lithuanian Commonwealth became an elective monarchy. From now on all members of the hereditary noble class, about ten percent of the society, were king-makers. The first king was elected in 1573. This first election was a spectacular event: it gathered about forty or fifty thousand voters and lasted four days. All of the voters were on horseback and armed, yet the event proceeded peacefully. The elective monarchy lasted until the dissolution of the state in 1795. Altogether, there were thirteen elections in the two hundred years of state existence (e.g.. Davies, Jędruch, Stone, Zamoyski).

Most historians treat the emergence of elective monarchy as yet another victory of the nobility in its quest for self-governance. In historical accounts the ability to elect the king is usually listed as one of the main characteristics of this unique system, considered equally important as the privileges that guaranteed the right to private property, protection from arbitrary arrest, and shelter from capricious taxes. While the specific assessments vary, most historians treat the royal elections as consistent with the ideas of nobles' democracy and with the nobles' desires for self-governance. Overall, royal elections are thought as a

great success of the broad noble class over the elites and a factor that perpetuated the regime.

This depiction is consistent with economic models in which democracy is considered to result from a conflict between a poor majority and a rich minority. Many economists believe that different social groups prefer different institutional arrangements and the political outcomes are determined through conflict between the groups. For example, Acemoglu and Robinson (2005) argue that democracies emerge when keeping the poor out of the political process becomes too costly for the elite. North, Wallis, and Weingast (2009) offer a similar story in their framework designed for interpreting institutional evolution. The authors argue that a society moves from limited to open access when specific doorstep conditions make the move consistent with the self-interest of the minority.

As was discussed in the previous essay, two major ways of conceptualizing a society dominate in economics and they correspond to two alternative research programs: within the neo-Walrasian framework society is portrayed as a monocentric organization while within the neo-Mengerian framework it is seen as an emergent order (see Hayek 1973 and Wagner 2010 for a detailed description and analysis of the two frameworks). In a similar manner, the first approach can be defined as the study in the efficient allocation of scarce resources and the second approach can be understood as oriented on understanding exchange relationships and institutions that either support or stifle cooperation (Coyne 2010) . In the first case governance is organized on the rules

of simple republics; the framework assumes that the state has a hierarchical structure. The specific institutional arrangement may take on a variety of forms but there is always one final center of control. On the other hand, the neo-Mengerian framework does not assume hierarchical structure, instead it postulates a polycentric order: a compound republic. In the compound republic there is no final sovereign, instead different power centers compete against each other for dominance within the network.

In the neo-Mengerian framework democracy is understood in its original meaning of rule by the people, a system of self-governance where individuals actively create and participate in their own governance. Since the neo-Mengerian framework is oriented on the patterns generated by human interaction, it distinguishes democracy from other forms of governance by the extent of liberty enjoyed by individuals, as is indicated by the level of degeneracy (Wagner 2005?). Those working in the neo-Walrasian approach do not negate this definition; instead they believe it equivalent to treating democracy and elections as tantamount. By reducing democracy to elections the Neo-Walrasian framework offers analytical neatness and tractability. Ockham's Razor would dictate this approach superior to the Neo-Mengerian framework should nothing else be lost. But before committing to this reduction of democracy to elections, the relationship between them must be fully explored. The simplicity of the neo-Walrasian program is useful only if elections truly ensure the rule of the people.

However, the history of the Commonwealth points in the direction of a dichotomy between elections and democracy, effectively rendering the neo-Walrasian approach unsuitable. In the subsequent pages I will argue that the common perception among historians, of royal elections perpetuating the regime of nobles' democracy, is mistaken. The inception of elective monarchy marked the beginning of the end of the Commonwealth. Elected kings were much weaker than the hereditary monarchs, which reduced the number of competing political enterprises, lowering degeneracy and increasing the power of remaining players. It appears that elections are superficial phenomena, a tip of an institutional iceberg. Elections are easily tracked and quantified but they provide little to no information about the nature of governance, individual interactions, and regime stability. It is what exists beneath the surface that determines whether the regime is perpetuated, but that remains hidden in the neo-Walrasian approach.

Elections in Simple and Compound Republics

Most historians portray the royal elections with great sentiment and present it as a prominent achievement of the nobility and a sign of its triumph over the powerful elites. Zamoyski (1993) emphasizes the uniqueness of royal elections:

“The szlachta (nobles) were very fond of these elections. It was a great gathering of the clan, and any down –at-heel gentleman could meet the greatest dignitaries of the Commonwealth. The representatives of the various candidates set up “hospitality tents” in which they plied the voters with food, drink

and even money in the hope of gaining their vote. Rich magnates fraternized with the poorest members of the szlachta in order to gain their support for a favored candidate. Most important, the szlachta could exercise the right to choose who would reign over them – a choice unthinkable in most European countries, and therefore a matter of tremendous pride to the man who could freely exercise it. “

The enthusiastic portrayals, in which the royal elections are thought to mark the win of a broad class of nobles over the magnate elite, are in sync with the economic models that presume franchise expansion tantamount to emergence of democracy, which is usually portrayed as an outcome of conflict between different interest groups. For example, Acemoglu and Robinson (2005) in their now popular *The Origins of Democracy and Dictatorship* argue that institutional change occurs when keeping the poor out of the political process becomes too costly for the rich. They portray the emergence of democracy as an outcome of a strategic face-off between the rich minority and the poor majority. The ruling elites make concessions to democracy when the disenfranchised can form a coalition and threaten the ruling power of the elite. But such concessions are subject to commitment problems. On one hand, the rich prefer to avoid democracy because of the redistributive threat. On the other, revolution presents an even worse threat as it may destroy the elite altogether. Only a permanent institutional change towards democracy, and not a temporary policy modification, assures the poor that they will remain in charge and will permanently benefit from

redistribution. In this model the relationship between the groups changes in response to changes in transaction costs.

Similarly, North, Wallis, and Weingast (2009) argue that a society moves from limited to open access when doorstep conditions make the move consistent with the self-interest of the minority. In a limited access order, the political system is used to restrict economic entry and create rents. Within the elites, individuals respect each other and protect their privileges by restricting entry only to the members of the ruling coalition. The rents are used to stabilize the system and limit violence. The transition from limited access to open order happens when the elites recognize it to be in their interest to allow others onto the political scene. Only when the ruling class perceives it as beneficial to transform the unique and personal privileges into impersonal rights shared equally by all, the open access may emerge.

In the neo-Walrasian research program all forms of governance are portrayed as a simple republic. The presumption of a single center of control is not too controversial when applied to dictatorships or monarchies, but it may raise an eyebrow when applied to democracies. This problem is solved in the Neo-Walrasian program with the use of the median voter model (for the in-depth examination of the rich literature see Mueller 2003). The elected officials are thought to reflect the views of the median voter who communicates the policy decisions in elections. The median voter model portrays governments as

maximizing the utility of the median voter due to electoral competition (Wittman 1997).

And yet, many challenge the idea that democracies or even tyrannies or monarchies have a single center of control. For example, Wagner (2005) points out that the Soviet Union, even in the most successful years of the centrally commanded economy, did not resemble the workings of the organization. To the contrary, it was a polycentric order, with some nodes surrounded by denser network of interdependencies than others. In his study of Marxist theory and the Soviet economy, Roberts (1971) builds upon Polanyi's (1951) idea of polycentric orders and argues that all social configurations take on a polycentric shape, even if there are hierarchical elements within the structure. Boettke (1993) also documents the shortcomings of the simple republic approach in his work on Perestroika. He argues that the collapse of the Soviet Union cannot be explained by the incompetence of the planners, and rather resulted from the decline in rents, which were the fuel of the rent-seeking society. Boettke's explanation is inarticulate within the simple republics and takes on significance only within the complex framework of a compound republic.

Despite its apparent shortcomings, the median voter model and the approach of simple republics in general remain extremely popular. And, since the models are not meant to describe reality but to help us understand certain aspects of it, the neo-Walrasian framework cannot be abandoned simply because of its departure from reality. Instead, it needs to be judged by its ability

to render the phenomena intelligible, in this case the role of elections in the governance of human societies.

It just so happens that elections are of the utmost importance in the neo-Walrasian framework. With the state being an agent and the median voter being a principal, elections allow for communication and enforcement of policies selected by the median voter. More importantly, it is the elections that distinguish democracy from other forms of government. In the neo-Walrasian framework all forms of government are thought to have a hierarchical structure, but only in democracies the median voter is at the top. Thus, the ability to participate in elections distinguishes democracies from other forms of government and places elections at the foreground of the analysis in the neo-Walrasian framework.

On the other hand, in the neo-Mengerian framework elections are in the background. They are considered a superficial phenomenon that provides little information about the conditions of living together in a given society. The neo-Mengerian framework conceptualizes society as a polycentric order; a network where individuals are nodes and interactions between them are network connections. In this framework the level of degeneracy allows for distinguishing between different forms of governance. In the presence of degeneracy individuals do not need to work through some specific node of the network in order to complete their plan. Instead many different enterprises facilitate their needs. In the case of low degeneracy associated with hierarchical structures, there exist evident centers of dominance within the society. Those centers have

some subordinating power but they are not free from competition. In the case of high degeneracy, power is dispersed and limited: even though centers of authority may exist, they are kept in check through rival interests.

Horizontal versus Vertical Polarity

As stated before, the Neo-Walrasian approach offers analytical neatness and tractability not found in the neo-Mengerian approach. Yet, its simplicity cannot excuse the misguided conclusions about the governance produced by the framework. The neo-Walrasian approach presumes that society has a hierarchical structure. In the simple republic society is slashed horizontally into layers; individuals are divided into groups according to their order in the social hierarchy, usually ranked by income or status. There are usually two groups, for example: the elites and the citizens, the poor and the rich, the majority and the minority, the lords and the peasants, or the magnates and the nobles as is the case of the Commonwealth. The horizontal slashing presupposes that the conflict takes place at the line of the postulated social divide, ignoring the possibility that conflict might emerge on a different margin. Moreover, it assumes that before the emergence of democracy only the elites participated in governance and that there is only one governing structure in each society. Such a presumption hides the possibility of institutional diversity. Moreover there is a consistency problem. On one hand only the elites participate in governance, while on the other the poor are able to challenge the status quo. How is it possible that the destitute are

able to successfully challenge the elite and participate in the new regime if they have no institutional experience?

By slashing the society horizontally the framework presupposes that the conflict takes place at the line of the postulated social divide, ignoring the possibility that conflict might emerge on a different margin. Conflict is assumed but not explained. If it were to explain the history of the Commonwealth it would tell a story of conflict between magnates and nobles – a two-player game. But in fact in there were many magnates and even more nobles. The exchanges took place not only at the magnate/noble front but also in countless combinations of those actors. Only if the connections between every magnate and every landlord were identical, such aggregation would be justified.

The conflict that emerged after the death of the last Jagiellonian king cannot be successfully described as a conflict between magnates and nobles because the interest of the involved individuals cannot be aggregated under just two titles. In fact, the king's death opened a multidimensional conflict: apart from the divergence in political interests between the nobility and the magnates there was also the conflict between Catholics and Protestants, and the ethnic conflict between the three major ethnicities of Poles, Lithuanians, and Ruthenians.

Those differences were well reflected by the conflict over where the election should take place. Geographic regions differed in their ratio of nobility to magnates, ratio of Catholics to Protestants, and the ratios of different ethnicities. Given the costs of attending the elections, activists realized that the regional

differences might determine the outcome of the election. Finally, the representatives of the Catholic Church won the conflict over the locations of elections. They selected a small village right outside of Warsaw, as the region (Mazovia) was home to great masses of poorly educated and impoverished nobles unfamiliar with the revolutionary ideas of Reformation. To prevent the influence of the religious masses, the Executionists, a political movement penetrated by the ideas of Renaissance, insisted on voting by voivodeships.

In his review of *The Origins of Democracy and Dictatorship* by Acemoglu and Robinson, Boettke (2007) points out that the proposed model does not ring true with historical evidence: The destitute do not challenge the elites, instead it is the conflict within the elites that threatens the status quo. It appears, that the horizontal slashing of society, so popular in economics (e.g. Meltzer and Richard 1981), does not provide much in a way of explaining the reality. And, as pointed out by Elster (2000) and cited by Boettke, elegant narrative may substitute for facts in a novel but not in scholarship.

Boettke's apt observation challenges not only the model of Acemoglu and Robinson but also the entire framework of the simple republic. The hierarchical structure presumed by the framework segregates individuals into distinct groups and presumes peaceful coexistence within the groups. While there are differences between the groups, within the groups all individuals are treated as copies of one another. This treatment allows the authors to treat each group as a large version of an individual, which Wagner (2010a) compares to treating traffic

as if it were a giant car. Within each group there is no account of differences in knowledge or preferences. There is also no account of the interactions among the group members - since all are the same, the actions of a group express the actions of each individual.

Historians exploring the early modern period in Eastern Europe also tend to portray institutional evolution of the Polish-Lithuanian Commonwealth in terms of conflict between nobles and oligarchs. Just like Acemoglu and Robinson portray the emergence of democracy as the outcome of the strategic face-off between the elites and the rest, historians of the Commonwealth postulate that the democracy of nobles emerged from the conflict between the broad group of nobles and the magnate elite. The stylized story, as it was presented in the previous essay, can be summarized in the following way: magnates were the elite group among nobles, but had the same legal standing as the rest of the noble class. Magnates had more land than the nobles; they controlled political offices, and fraternized with the king. In the Middle Ages and throughout the 15th century magnates dominated the political life, especially at the national level. To counter their influence, kings tended to make concession towards the rest of the nobles in exchange for military service or tax payments. Yet, with the accumulation of privileges nobles gained strong political momentum and their active engagement laid the foundations under the democracy of nobles.

In 1505 the nobles obtained the *Nihil Novi* privilege, which guaranteed that no new laws could be implemented without the parliamentary approval,

effectively transferring legislative power from king's council to the elective parliament (Jędruch 1982). From now on the Parliament was believed to represent the interest of the nobles and the Senate, established from king's council is thought to protect the magnates. The leaders of the nobility organized the Executionist Movement within the parliament. The Executionist Movement was a political faction that demanded that the existing laws are obeyed and implemented. Its pronounced goal was to increase the rights of middle and lesser nobility and to curb the power of the magnates. The movement also appeared interested in limiting the power of the Catholic Church. Its major achievement was the revision and return of royal lands leased by magnates at the *Sejm* of 1562.

In those historical accounts, the executionist movement is presented as an organized response to the power of magnates. Yet, is the conflict between magnates and nobles the driving force of the institutional evolution? The leaders of the nobility that made it into the parliament appear to be more alike the magnates than the common nobles who elected them. Political career required wealth, and wealth did not characterize the disenfranchised. Even though initially the leaders of the Executionist Movement were not as wealthy as magnates who occupied Senate seats, they soon started to match their wealth as the king rewarded the leadership of the Executionist Movement with titles, offices and land for their service to the Commonwealth.

The concessions made by the kings towards the rest of the nobles in the 15th and early 16th century created new opportunities for the political entrepreneurs. Before this increase in the relevance of nobles, the only way to rise in the political ranks was by siding with the king. Those loyal to the monarch quickly climbed the political ladder. But with the accumulation of privileges by nobles, it now became possible to make a political career as a representative of nobles' interests. The leaders of nobility who employed the rhetoric curbing the power of the magnates and at the same time promoted religious tolerance, could expect to be elected as deputies to the national parliament.

Instead of dividing the society horizontally it is more appropriate to think of vertical division and conflict taking place among different factions within the elites, with the rest of the society on either side of the barricade. While that formulation is also simplistic, it goes beyond the rigid bounds of the us-vs.-them framework. Leaders of every successful political movement either already are, or become, a part of the elite. It was so in the case of the French Revolution, the Eastern European transition, and the Polish-Lithuanian Commonwealth, as I will soon explore.

Institutional Vacuum or Institutional Diversity

There is no space for the Executionist Movement in the simple republic. By assuming single center of control, the approach ignores a possibility of institutional diversity. The disenfranchised are believed to have no form of social organization before they challenged the elites. They are believed to interact

within the intuitions created by the elites, but not to create much in the way of their own structure. The framework assumes that before the emergence of democracy, only the elites participated in governance and that there is only one governing structure in each society. Such presumption hides the possibility of institutional diversity. But there is an obvious contradiction: on one hand only the elites participate in governance; on the other the poor are able to challenge the status quo. How is it possible that the destitute are able to successfully challenge the elite and participate in the new regime if they have no institutional experience? This is contradicted by historical evidence and by work of such prominent social scientists as Elinor Ostrom (e.g. 2005)

When applied to the history of the Polish-Lithuanian Commonwealth the neo-Walrasian approach focuses on the comparison between before and after nobility gained their right to elect the king in 1573. However, it was not the first time the succession was decided by the nobles. To the contrary, the royal election of 1573 was preceded by a long tradition of nobles' involvement in selection and confirmation of the king. The nobles had a long political experience, and as mentioned in the previous section they had political leadership that already belonged or aspired to join the magnates. Here I take a quick look at this long process.

The Kingdom of Poland dates back to 966, a year in which Mieszko, a duke of Piast dynasty, converted to Christianity. Subsequently, the Piast dynasty ruled over the Kingdom of Poland until 1370. However, for the significant part of

this period, the kingdom was divided into provinces. The fragmentation of the realm (1138-1314) started after king Bolesław Krzywousty divided the country among his sons into five provinces, a common practice in the patrimonial monarchy. The specific rules of succession were shaped by the political conditions in individual provinces. Nevertheless, anytime there was no clear heir, the succession was decided by a *wiecz*, a popular gathering of nobility. It was the activity of the local *wiecz* that led to the coronation of king Władysław Łokietek in 1320 and effectively put an end to fragmentation. Łokietek turned out to be the penultimate king of the Piast dynasty. Łokietek's son, Casimir III the Great, had no sons and was the last Piast on the Polish throne.

In order to solve the problem of succession Casimir negotiated with the nobles. He offered the first privilege that applied to all nobles in exchange for which they promised to pass the throne to Casimir's nephew, Louis I of Hungary. The privilege was given in Buda in 1355: Casimir decreed that the nobility would no longer be subject to arbitrary taxes, or required to use their own funds for military expeditions abroad. However, nobles remained responsible for defending the domestic territory and to answer the call to arms. The king also promised that during travels of the royal court, the king and the court would pay for all expenses, instead of using facilities of local nobility.

The nomination of King Louis I of Hungary for the Polish throne established personal union between Poland and Hungary but did not solve the problem of succession: King Louis also had no sons. In order to guarantee the

Polish throne for one of his daughters, he offered the privilege of Koszyce (1374) in which he decreed that the king will no longer set arbitrary taxes and instead will replace all taxes with a fixed amount (Matuszewski 1983). The privilege forbade the king from granting official posts and major Polish castles to foreign knights and also to pay indemnities to nobles injured or taken captive during a war outside Polish borders. The nobility would be required to fight without pay only within the borders of the country. Any service outside the borders would be remunerated at a specific rate.

After the death of Louis of Hungary, his wife selected their youngest daughter for the Polish throne. The girl was nine years old at the time and her name was Jadwiga. Polish lords lobbied heavily for Jadwiga to marry Jogaila, the Lithuanian duke. The marriage established the personal union between Poland and Lithuania. Jogaila was elected Polish king in 1386 in Lublin at the popular gathering of all nobility. It was the first time that middle nobility attended the national gathering of the high-ranking nobles and officials. The election of Jogaila gave way to the rule of Jagiellonian dynasty over the vast territory of East, Central Europe. However, it was the election of the person and not of the dynasty. In result each new king was required to obtain the explicit consent of the nobility before being sworn-in. From now on the succession was decided in the following way: first the king's council selected the candidate , and then presented him for the acceptance of *Sejmiki* - regional assemblies of nobles.

Despite this semi-hereditary nature of succession, the crown never left the Jagellonian dynasty, which allowed for the maintenance of the personal union with Lithuania. In result, the Jagiellons ruled over Poland and Lithuania for the next two hundred years. This historical period is usually recognized as the hereditary monarchy with elective legislature (Jędruch 1982). Only after the death of the last member of the Jagiellonian dynasty in 1572, the Polish-Lithuanian Commonwealth became a true elective monarchy. Throughout those years, nobility was highly engaged in the political process.

Elections: the Tip of the Iceberg

It appears that elections provide little information about the processes that generate them. In the neo-Walrasian framework elections are thought to ensure the rule of the people. Neo-Mengerian framework pays little attention to the elections, and is instead oriented on the nature of interactions between individuals. What is important to know is whether the two frameworks point in different direction. To answer this question we need to know what happened to degeneracy at the time of elections. In the 16th century, at the time of the Executionist Movement the Polish-Lithuanian Commonwealth was characterized by high level of degeneracy. There were no dominant nodes in the network that nobles needed to face in order to complete their plans. Instead competition among political enterprises was ensured through their overlapping competencies.

After the rule of succession changed, the king was too weak to form a successive alliance with the nobles. Royal elections played a major role in

restraining the power of the monarch and effectively prevented the rise of absolute monarchy in the Commonwealth. However, while many believed that the elections would promote nobles' democracy and protect individual liberty, in practice the royal elections contributed to the rise of influence among the elites.

Nobles and magnates were all members of the same social group; they shared similar values and the same status in front of the law. They all praised individual liberty and the values of nobles' democracy. They spoke of limited monarchy and self-governing nobility. The privileges nobles negotiated from the king in the 15th and 16th century curbed the power of the royal office. But, while both nobles and magnates struggled to limit the power of the central office, this success affected the two groups very differently. It gave way to political careers that could be built in the free space. Weak monarch meant that the elites could now enjoy the monopoly over their territories. Nobles though, were on the losing end of this process, as they no longer could posit the power of the king against that of the magnates. In result, nobles grow dependent on the magnates, slowly withdrawing from the political life. Kochanowicz (1989) describes the difference in impact of constrained executive on magnates and nobles in the following words:

“Magnates, who, contrary to many countries in Western Europe, never formed a legally separate group, profited from the success of the entire class of nobles in curbing royal power. Special privileges for the nobility began in the fourteenth century, but were of particular importance in the period after 1572, when the last king

of the Jagellonian dynasty dies and kings came to be elected by the nobility.”

After the rule of succession changed, the king was too weak to form a successive alliance with the nobles. Royal elections played a major role in restraining the power of the monarch and effectively prevented the rise of absolute monarchy in the Commonwealth. However, while many believed that the elections would promote nobles’ democracy and protect individual liberty, in practice the royal elections contributed to the rise of magnates’ influence. The elections weakened the power of the king rendering him ineffective in the competition against the magnates. In the times of dynastic succession, the nobles were able to position the power of magnates against that of the king. But the elective monarchy was too weak to counterbalance the magnates. This outcome was not a choice of nobles when they were fighting to constrain the power of the monarch.

To understand how the role of the king was reduced we can look at the first royal election. One of the key candidates for the throne was Ernest Habsburg, the son of Maximilian II. The Habsburgs spent years ahead of the death of the last Jagiellon securing the support of the magnates. It was their great ambition to extend the Austrian Empire into the East. Thus, the magnates were well prepared to support the Hapsburgs in the election. The nobles were not so well organized in terms of a potential candidate. They had no strong or obvious candidate that would be a clear fit for their interests. However, one thing

was clear: the Habsburgs were not an option for the nobles: their absolutist tendencies and Catholic devotion rendered them extremely unpopular among the nobles. Faced with the lack of appropriate candidate the leaders of nobility decided to rely on Henry of Valois, the brother of the French king even though they realized that his only encouraging characteristic was not being a Habsburg.

Given that the nobles were promoting the candidate they did not fully trust, they were strongly interested in minimizing his influence and constraining his power. Thus, the elect was sworn-in based on the two-sided contract. The contract had two parts: The first part, designed to remain unchanged over time, described the political regime of the Commonwealth as well as the rights and responsibilities of the king. The second part, specific to each new elect, summarized the specific tasks of the new king.

The first part became known as Henrican articles (from the name of the first elected king). It guaranteed free election, obedience of Warsaw confederation, and the promise to call *Sejm* every two years for six weeks. It also established a council of sixteen residential senators working along the king in groups of four. The foreign policy was to be under the control not only of the senators-residents but also of the *Sejm*. Henrican articles also predicted that should the king fail to obey by the contract, he could be released of his duties, which gave the nobles the right to a legal rebellion if the king broke his promises. Moreover, the elected king had to swear an oath of loyalty to the nobles and to the constitution.

Revealing the Unseen

In the economic models, such as the median voter theorem, elections of political leaders are tantamount to the choice of policy. In that manner, the choice of policy is not different from shopping at the supermarket (Wagner 2010a). Most people who defend democracy argue that it is the elections that render it efficient and superior to other systems (Wittman 1997). Yet, the history of the Commonwealth shows otherwise. Vincent Ostrom, in the opening paragraph of his seminal “The Meaning of Democracy and the Vulnerability of Democracies” argues:

“One person, one vote, majority rule” is an inadequate and superficial formulation for constituting and maintaining the viability of democratic societies. It is possible to have elections, political parties, and governing coalitions that, under some conditions, tear societies apart and, under other conditions, contribute to the breakdown and collapse of essential institutions.”

The inception of royal monarchy marked the beginning of the end of the Commonwealth. Elected kings were much weaker than the hereditary monarchs, which reduced the number of competing political enterprises, lowering degeneracy and increasing the power of remaining players. Just as it can be argued that in the United States the compound republic was ended by the rise in power of the federal government relative to the power of state governments, the same can be said about the Commonwealth, with the only difference being that in the Commonwealth it was the regional powers that rose. Moreover, the royal

elections spurred waste which is in sync with Tullock's argument (1980) that an increase in the number of candidates for a rent-rich job multiplies rent-seeking activities and leads to intensified lobbying, civil wars, and assassinations.

The dominant analytical framework of neo-Walrasian economics provides misguided conclusions regarding the role of elections. When the state is considered a simple republic, elections are thought to express the views of the median voter. By focusing only on what is easily visible, this approach fails to achieve the key task of economics, to reveal the unseen. It breaks the Bastiat's rule so well updated and developed by Hazlitt (1988). An alternative understanding of governance is rendered within the neo-Mengerian analytical framework, which treats governance as if it were a polycentric order. In this approach elections are not a key description of democracy, rather, they are a superficial phenomena that provides very little information about the political process. In the neo-Mengerian framework democracy is thought to be a system of self-governance. Individuals are not ruled by some sovereign; instead they actively create and participate in their own governance. For democracy to survive it is necessary that it is viewed through the neo-Mengerian perspective. Otherwise we are left with a false conclusion that showing up at the voting booth is enough.

ESSAY 4: THE LOST CONSENSUS

Liberum veto emerged in the parliament of the Polish-Lithuanian Commonwealth in the second half of the 17th century. It was a political device allowing any single deputy to end a parliamentary session by shouting: I do not allow. The parliament, known as *Sejm*, gathered every two years for a six-week-long session and all its legislations were considered a unified entity. Given these constraints *liberum veto* was of no small importance: By voicing his disagreement, a deputy was effectively nullifying all legislation that already passed at a session and delaying the possibility of a new legislation for another two years. Most historians blame *liberum veto* for the collapse of the Polish-Lithuanian Commonwealth. They argue that it allowed foreign powers a strong influence over the state's politics: foreign diplomats bribed deputies who then used the *liberum veto* to prevent any reform or any military build-up in the Commonwealth. In result, succeeding tsars of the Russian Empire asserted complete control over the Commonwealth's parliament. When the final attempts at the internal political reform failed, three successive partitions, staged in 1772, 1793 and 1795, brought down the Commonwealth, its territories divided up between the Russian Empire, the Kingdom of Prussia, and Hapsburg Austria. It will take another 123 years for Poland and Lithuania to show up again on the maps.

Despite this historic account, those familiar with the ideas of Knut Wicksell (for summary and evaluation see Wagner 1988) later elaborated by (J. M. Buchanan and Tullock 1962) may resist the idea that unanimity rule could have such disastrous effects. Buchanan and Tullock assign a central role to the unanimity rule and demonstrate that it produces optimal collective outcomes. Just as markets produce gains from trade when all participation is voluntary, so does collective action when it is consensual. In order to reach consensus, individuals involve in the search for mutually beneficial exchanges, which are achieved through side compensation. Unanimity is the only rule of collective decision-making that ensures Pareto-improvements.

Buchanan and Tullock argued for the unanimity rule because they believed it was conducive to consensus seeking: If the only way to move forward is through an agreement, voters necessarily come to some common understanding. And when an agreement is accomplished through negotiations, those not fully satisfied are compensated for their compliance through side payments. However, the unanimity rule is pointless if there are no opportunities to reformulate a policy. As I will argue throughout the paper, *liberum veto* was not conducive to consensus seeking because once the deputy voiced his disagreement there were no more negotiations or policy reformulations.

In the Kingdom of Poland, the principle of policy through consensus dates back to the Early Middle Ages, however *liberum veto* was unheard of until 1652. It did not exist during the Golden Age of Liberty - the 16th century. Thus, it is a

mistake to associate *liberum veto* with the liberal system of nobles' democracy (as is done by Calhoun 1992; Roháč 2008a; Roháč 2008b). By the time the *liberum veto* was used for the first time, nobles' democracy was already replaced by the oligarchy of magnates. While formal rules did not change, their interpretation was very different between the 16th and 17th centuries. Both in the 16th and 17th century the agreement of all deputies was necessary in order to enact a policy. But in the 16th century disagreements spurred negotiations; bargaining and policy reformulations were used to reach a consensus. Only when negotiations failed, the parliamentary session was terminated. In the second half of the 17th century a disagreement from a single deputy was enough to terminate a parliamentary session and invalidate all its work. A veto from a single person was enough to preclude a collective action. This interpretation of unanimity is very different from the original formulation in Wicksell (1958) and its elaborated version in Buchanan and Tullock (1962). The unanimity rule as envisioned by the three authors was allowed a tool of consensus seeking. The disagreeing individual could be excluded from the obligations imposed by a policy, but could not block the collective efforts of the rest of the participants.

To illustrate the difference in interpretations of unanimity we may compare the specifics of two different sporting events. In the first case you and five of your friends sign-up to compete in a volleyball tournament. However, one of your teammates resigns at the last moment. Since volleyball teams constitute of six players, you are no longer able to participate in the tournament. Effectively, your

teammate's decision to withdraw prevents your entire team from the participation. In volleyball, each of the teammates has the power equal to that of *liberum veto*; his resignation prevents the rest from reaching the goal. Situation is very different if you decide to participate in a marathon. You may challenge your friends to do so with you, but if they resign at any point in time, their decision will have no influence on your ability to partake in the marathon with other consenting participants. In such way *liberum veto* can be understood as the case of anti-commons: multiple owners are each endowed with the right to exclude others from a scarce resource, and in effect no one has an effective privilege of use (Heller 1988).

Self-Governance, Voting, and the Rule of Law

Nowadays, voting is considered the key characteristic of a democratic system; news media tell us to celebrate when people in the developing countries are able to cast votes for the very first time and to pity the countries where women and minorities are unable to express themselves at a voting booth. We tend to believe that democracy and voting are nothing else but different sides of the same coin. And not only those favorably predisposed towards democracy associate it with voting. For example, while Wittman (1997) argues that competition for votes, funding, and offices renders political outcomes equally efficient to those of the market process, Caplan (2007) finds the irrationality of a median voter to be the reason for the inferiority of a democratic system.

In more than two hundred-year-long history of the United States, there was little variation in the way US citizens elected their representatives, apart maybe from the franchise extension. For instance, the only change that occurred in the last three decades was Uniformed and Overseas Citizens Absentee Voting Act of 1986, which allowed Americans residing abroad to vote in federal elections by absentee ballot. If voting in fact defines democracy, this endurance of voting rules should imply great robustness of the American system. At the same time, the financial crisis of 2008 and the subsequent economic slowdown propelled the US government to employ some significant changes in American economy. In result, government spending increased from 35 percent of GDP in 2007 to 42 percent in 2009 and was accompanied by the expansion of regulation in wide range of sectors. One of the industries most affected by the changes was financial sector. According to Koppl (2011), it is here that we have witnessed a tremendous rise of arbitrary regulation.

But how do we reconcile the rise of arbitrary regulations with the fact that American democracy seems so robust? Democracy in its original meaning of rule by the people has no space for arbitrary policies. By definition, there can be no sovereign in the self-governing system. And without the sovereign, there is no source of arbitrary policies. The point of democracy is that it is supposed to protect individuals from the arbitrary power of the government. Democracies employ the rule of law to avoid the rule by those in power (Boettke and Oprea

2004). However, the rise of the arbitrary financial regulations suggests that the ability to elect representatives might be insufficient to maintain the rule of law.

Rule of law promotes cooperation and encourages personal responsibility. In the presence of the rule of law, individuals are unable to complete plans for which others do not agree. Corruption and rent seeking are of no use in the presence of the rule of law. By ensuring long-term stability, rule of law supports investment and promotes economic development. But there are always those who seek to coerce others into submission; their plans cannot be completed in the presence of the rule of law. Given this great coercive temptation, how do we maintain the rule of law? Boettke and Oprea (2004) argue that constitutional theory, i.e. public choice, is a study of mechanisms used to maintain the rule of law. From this perspective, elections and the separation of power are mechanisms used to prevent the abuse of power and supposed to offer an alternative to rebellion.

But just like voting, division of power has been in place for centuries in the United States and its existence did not prevent the escalation of arbitrary regulations. Similarly, in the case of the Polish-Lithuanian Commonwealth, the formal rules were insufficient to maintain the rule of law. In both cases, those entrusted with coercive power were able to use it in a discretionary way. The formal rules appear not to be sufficient for the maintenance of the rule of law. By reducing democracy to voting we focus on the formal rules and ignore their

informal interpretation. Vincent Ostrom, in the opening paragraph of his seminal *The Meaning of Democracy and the Vulnerability of Democracies* argues:

“One person, one vote, majority rule” is an inadequate and superficial formulation for constituting and maintaining the viability of democratic societies. It is possible to have elections, political parties, and governing coalitions that, under some conditions, tear societies apart and, under other conditions, contribute to the breakdown and collapse of essential institutions.”

Wagner offers an alternative way of thinking about the robustness of social configurations. He argues that robustness of political economy depends on the level of degeneracy: rule of law endures when polycentric arrangements allow individuals choice between political enterprises. It is not some specific institutional arrangement that protect the rule of law but the competition between different nodes of the social network. If in fact degeneracy is conducive to the maintenance of the rule of law, only high levels of political engagement protect the rule of law.

As will be discussed in the subsequent sections, high political activism characterized the Commonwealth in the 16th century, but it was no longer the case at the time of *liberum veto*. In the 16th century unanimity rule promoted negotiations, vetoes were answered through policy reformulations and through bargaining. In the 17th century single veto was enough to invalidate the parliamentary session. While formal rules were untouched, their interpretation changed completely. By disengaging from the political process, nobles allowed

the unanimity rule to become a tool of discretionary politics. The history of the Commonwealth demonstrates that in order to maintain the rule of law, it is not enough that the formal rules remain in place. Moreover, it is impossible to separate the rule of law from the Wicksellian grammar within which it operates. Wagner (2005) argues:

“The practice of self-governance requires a proper mental orientation among the participants. Subsequent practice may reinforce that orientation, but it may also weaken it.”

A single case of ceding the political power may soon turn into the slippery slope and develop into democratic despotism, elucidated by Tocqueville.

Seeking Consensus

Liberum veto came into use in the second half of the 17th century but the unanimity rule was used in the Kingdom of Poland long before that. In fact unanimity rule was not specific to Poland or Lithuania, similar conventions existed initially in nearly every parliamentary body in Europe (Zamoyski 1993). In the environment where those deciding on the policy and those enforcing it are one and the same, unanimity is a natural way of deciding collective matters. Otherwise, the enforcement would be impossible; in such environment it would be pointless to try and implement policy that was against a will of some dissenting minority. Instead, the policy process was oriented on deliberation: it involved persuasive speeches, long negotiations, lobbying, and all sorts of exchanges. At that time it was a common belief that votes should be weighted

and not counted (Zamoyski 1993; Wyczański 1982). Davies (2005) offers the following reflection:

“The *Sejm*, the dietines, and the Royal elections were all governed by the principle of unanimity. It seems incredible to the modern observer that such an ideal should have been taken seriously. But it was, and it formed the basis of all their proceedings. No proposal could become law, and no decision was binding, unless it received the full assent of those persons who were competent to consider it.”

Dietinies, also known as *Sejmiki* (local legislative assemblies), constituted the basic unit of the political life in the Kingdom of Poland and later in the Polish-Lithuanian Commonwealth (Jędruch 1982; Davies 2005). They emerged from the tradition of *veche* (*wiec*) – a popular gathering during which elders seek approval from the community members for the proposed policies. Crucial for the development of *Sejmiki* was the 1454 privilege of Nieszawa, in which king recognized them as a standing organization and promised that their consent would be requested before the call for arms or before changes in taxation. All the decisions at the *Sejmiki* were made consensus. Mączak (1995) offers a following description of the role of the *Sejmiki* within the federal structure:

“The most characteristic form of political activity for the gentry masses were the *Sejmiki*, regional assemblies of the nobility which by the end of the sixteenth century decided about the internal affair of their own districts or provinces. They were summoned by the king, the wojewoda (provincial governor), or the starosta (royal

official), and among their functions was the election of deputies to the *Sejm* to whom the *Sejmiki* gave specific instructions and from whom they received reports of the *Sejm*'s deliberations. After 1578, the *Sejmiki* also elected representative to the Tribunal, the final court of appeal in most cases. *Sejmiki* also recommended to the king candidates for provincial offices (...). It was also at the *Sejmiki* that disputes were first aired, either between the magnates and the gentry or between the magnates themselves.”

Political activity of local assemblies laid the foundations for the emergence of independent national legislative: as the *Sejmiki* grew powerful they started electing deputies for the provincial meetings. These meetings were no longer assemblies of all interested nobles but instead took on the form of a modern representative system where deputies were charged with responsibility to decide political matters. The first national assembly met in 1468 when the Provincial *Sejms* of Greater and Lesser Poland got together at the joint session. Up until 1493 the Parliament was unicameral and consisted of elected regional deputies and appointed members of the King's council. In 1493 the Chamber of Deputies separated from the original organization of the King's council and the parliament became bicameral (Jędruch 1982).

The deputies of the national *Sejm* had very little flexibility in which policies they supported. Local assemblies gathered before each session of the national assembly and nobles deliberated on how the deputy should vote. In effect, the deputies were tightly constrained by their local assemblies. They had to follow written instructions, which specified how to vote in different scenarios. If the

deputy failed to follow the instructions, he needed to expect political repercussions upon returning home. However, it seems plausible that a politically skilled deputy had some room for exercising his will.

National assembly in many ways remained subordinate to local assemblies. For example, *Sejm* depended on the dietines for the execution of its decisions (Davies 2005). It was not enough that the deputies were constrained in their voting at the *Sejm*, the laws made by the national assembly needed to be ratified by *Sejmiki*. So not only there needed to be consensus at the *Sejm*, there also needed to be consensus among the *Sejmiki*. Each individual had a right to reject the legislation or refuse to implement it in its own territory.

The number of nobles who gathered at the *Sejmiki* was usually anywhere between one hundred to two hundred. And the number of deputies who gathered at the *Sejm* was usually between one hundred and one hundred and fifty. Yet, despite the high number of participants, both *Sejmiki* and *Sejm* functioned effectively until the mid 17th century. It might be hard to comprehend that groups this size were able to find consensus and that the high decision-making costs did not prevent the unanimity rule from facilitating the search for mutually beneficial exchanges. It appears that variety of informal rules facilitated its operations. Being especially unruly could be very costly, especially in the local setting. The disruptive noble was likely to suffer exclusion from the community in order to defend his atypical political convictions. Instead, it would usually make more sense to remain silent in the face of overwhelming majority.

From Consensus-Seeking to *Liberum veto*

By mid 17th century the well-established, centuries-old principle of policy through consensus evolved into *liberum veto*, a rule that allowed a single deputy to annul the entire parliamentary session by shouting: I do not allow. Such words were spoken many times previously in the parliament. However, they were never enough to end the parliamentary session. Instead, *Sejm*'s Marshall called for a break and inquire about the objections. The length of the break depended on the seriousness of the conflict. It also happened that the *Sejm*, and the deputies would return home, even though they failed to agree on anything. However, never before 1652 one voice sufficed to end the negotiations.

The *Sejm* of 1652 met at a time of great distress. It was the fourth year of Cossacks' rebellion in the Ukraine and the beginning of the Swedish Deluge. There was great need for new taxes but there was little agreement on who should pay them. Despite the six weeks of deliberation, no consensus was reached. When, at the end of the session, the Marshall called for the extension, deputy from Northern Lithuania responded with the veto meant to block the extension. Some nobles were already leaving, unaware that Marshall called for the extension, and equally unaware of the veto. The deputy used that confusion to promptly officially register the veto and then immediately took-off.

Historians argue that the *Sejm*'s Marshall approved the first veto because he did not see how ignoring it would be conducive with the ideas of liberty. Even the nobility, and not only the powerful magnates, supported the idea of *liberum*

veto, as a way of protecting liberty. This single veto did not immediately give way to the new practice, old habits are hardly changed. But seventeen years later, in 1666, the *liberum veto* was invoked in the middle of the session effectively ending and nullifying all passed agreement. In 1668 the veto was used on the opening day, before the debates even started.

Under the reign of John II Casimir Vasa (1648-1668) seven out of twenty sessions were broken by the *liberum veto*. Under the reign of Michał Korybut (1669-1673) there were six *Sejms* and four ended with a *liberum veto*. Under the reign of John III Sobieski (1674-1696) out of twelve *Sejms*, six ended with no agreement. The processes accelerated in the Saxon times. Under the reign of Augustus II the Strong (1697-1733) eleven out of twenty sessions were broken. Finally under the reign of Augustus III the Saxon (1733-63), only one *Sejm* was able to pass a legislation out of sixteen that took place. Overall, the *liberum veto* was used at forty-three different occasions in the span of one hundred years. Given that the *Sejm* gathered only every two years, it is not hard to see that the practice of *liberum veto* paralyzed national legislature. *Liberalum veto* marginalized the national legislature, effectively shifting the political power back to dietinies.

Liberalum veto allowed foreign powers a strong influence over the state's politics: foreign diplomats bribed the deputies who then used the *liberum veto* to prevent any reform or military build-up in the Commonwealth. Finally, in 1732 Prussia, Austria, and Russia signed a secret agreement to maintain the status quo: ensure that the Commonwealth laws would not change. And even though

the first partition would not take place for another forty years, it is impossible to speak of the independent Commonwealth in the time after the treaty.

“The republics enemies rejoiced. Each of the Powers retained magnates who could break the *Sejm* at the drop of a ducat. All were intent than none of their rivals should steal a march. The Russians, in particular, were well satisfied. From 1717 onwards they enjoyed a virtual protectorate over the Republic and guarded their western frontier at the cost of a few magnatial pensions. By posing as the champions, they ‘protected the *Sejm* from outside interference.’ By threatening their opponents with arrest and sequestration if they dared to protest, and by obstructing all measures for constitutional reform, they kept the charade in motion for the rest of the century.”

By now, it should become apparent that *liberum veto* was not conducive to consensus seeking. Instead, it was an institutional perversion that emerged in the 17th century from the true unanimity, which characterized political life in the 16th century. What most indicates that the rule of law no longer existed at the time of *liberum veto* is the historical evidence that not all vetoes were treated in the same way. For example, in 1658 *Sejm* passed the law expelling the Arian Sect from Poland despite the veto of deputy by the name of Wiszowaty (Jędruch 1988). It is reasonable to suspect that those vetoes voiced by deputies backed by powerful magnates were treated seriously, whereas vetoes voiced by lesser nobility were ignored.

The Rule of Law in Decline

The formal rules of unanimity did not change with the emergence of *liberum veto*. Both in the 16th and 17th century the key condition for the enactment of a policy was that there is no dissenting opinion. However, in the 16th century disagreements spurred negotiations; bargaining and policy reformulation were used to reach consensus. Dissenting opinions were answered. Only when negotiations yield no agreement by the end of the *ex ante* established time frame, the parliamentary session was terminated. In the 17th century the disagreement from a single deputy was enough to cease the parliamentary session and annul all its work. From being the source of deliberation, the deputy's disagreement became enough to block the collective action.

In the first case there is great political activism, nobles are vigorously involved in the policy-making. In the second, nobles do not fight when powerful magnate dominates the political process. How do we make sense of this change? One possibility is to look at the economic changes of the 16th century (explored the first dissertation chapter). Alternatively, we can also look for the explanation in the changing patterns of social interactions. Tocqueville explains the process of the decrease in political activism in a chapter in the second volume of *Democracy in America* entitled *What Sort of Despotism Democratic Nations Have to Fear*. Tocqueville argues that when people grow complacent and content with the government, they gave way to democratic despotism, one

that “degrades men without tormenting them.” When, out of convenience, people lose the sense of responsibility and stop exercising their agency, the rule of law is replaced by arbitrary policies.

Does Tocqueville’s explanation apply to the case of the Polish-Lithuanian Commonwealth? Preventing magnates from dominating the political process required eternal vigilance. It is the price of liberty that all self-governing societies have to pay. As pointed out by Wagner (2005): “Good government is not a destination or final resting point. It is a continual, never ending process.” It appears that nobles were willing to pay for the liberty they enjoyed throughout the 16th century. One of the examples of their great activism was the Executionist movement, a political group of lesser and middle nobility which sought to curb the power of the magnates at the *Sejm* and to strengthen the power of the crown. In 1562 at the *Sejm* in Piotrków the movement was able to force the magnates to return many leased crown lands to the king, and the king to create a standing army instead of relying on the magnates. The Executionist movement succeeded in curbing the power of the magnates and prevented them from dominating the political process for the most of the 16th century. However, by the early 17th century its momentum was over, with most of its leaders transformed into magnates through the rewards, in the form of land give aways and administrative titles, they received from the king for their activism.

Discussing the constitution of the United States, Wagner (2005) argues that if “Federal forum allows people to challenge state actions, state forum must

allow them to challenge federal actions.” Following the same line of reasoning, (Niskanen 1978) pointed out that American system of federalism contained a constitutional asymmetry that threatened to eliminate democratic over federal principle and that asymmetry contributed to the demise of the American compound republic. As we know, in the United States, it is no longer the case that the state forum allows people to challenge the federal action. This is contrary to Switzerland that Switzerland has procedures that allow cantons to challenge federal actions.

Similarly, one way in which degeneracy presented itself in the Polish-Lithuanian Commonwealth was the existence of the two levels of government. However, here the decline manifested itself in the reversed asymmetry. It was the national forum that declined and gave way to the dominance of the local *Sejmiki* under the control of the local magnate. Initially, the coercive power of magnates was nullified through the competition for the support of nobility. Kings needed nobility to further their military aspirations. Magnates desired the support to extend their influence in senatorial offices. Leaders of the nobility received land and political offices from the king, while magnates allowed them to advance in the local society. One of the perks of being close with the local magnate was a participation in the cultural life of the manor.

However, by the 17th century the political competition lost its intensity. While the nobility and the magnates were a diverse social group, they were unified in their rhetoric and efforts to limit the power of the king. As it turns out,

they were very effective in that effort. The political power of the king became so weak, he was no longer able to compete against the magnates for the support of nobility. In the previous decades, both nobles and magnates struggled to limit the power of the central office. The success affected the two groups very differently. Weak monarch meant that magnates now could enjoy the monopoly over their territories. Nobles though were on the losing end of this process, as they no longer could posit the power of the king against that of the magnates. In result, nobles grew dependent on the magnates, slowly withdrawing from the political life.

The more ineffective was the policy-making of the parliamentary assembly, the more powerful became the local *Sejmiki*. But the local *Sejmiki* also came to differ from those that laid the foundations under the policy by consensus. The policy is not determined through consensus but instead it is left up to the magnates (Bardach, Leśnodorski, and Pietrzak 2009). In summary, it is hard to disagree with Jędruch (1982) who argues that "in its essence, the right to require the unanimity of Deputies was tantamount to the transfer of sovereignty from the chamber as a whole to the individual members of the *Sejm*." In effect, the nobles had no place to turn in order to challenge the behavior of the dietines.

It is not easy to pin point the reasons for the nobles' disengagement from the politics. One of the relevant events seems to be Zebrzydowski rebellion of 1606. It was a response to the foreign policy of Zygmunt III Waza. King's political ambition was to regain the Swedish crown and according to many historians he

viewed the Polish crown as a tool of doing so. The constraints imposed by the nobles' democracy were great obstacles to his plans. He continuously tried to reinforce his royal power and united himself with Habsburgs and Counter-Reformation forces. He also strengthened the position of Jesuits, which put other religions at a disadvantage and constituted the basis for future regional conflicts.

The *Sejm* had little control over Zygmunt's foreign affairs and over his ambitious plans but could put them to a halt by refusal of funds and troops at any stage. However, once the King's actions provoked foreign invasion, the Commonwealth had no choice but to defend itself. The nobles had come to rescue in the popular mobilization of armed forces but the King's repetitive abuse of this mechanism led nobles to mutiny. In 1606 nobles called for dethronement of the king.

Surprisingly, the affair ended relatively peacefully, the king remained in power and no nobles were punished. The importance of the mutiny lies in the fact that it demonstrated that the power did not belong to the king or to the nobles. Instead it was the few magnates who commanded the royal troops that decided the outcome of the affair. They decided to leave the rebellion and stand by the king. In the result of the mutiny the laws were altered so that to make the dethronement easier in the future and the *Sejm* was obliged to closely monitor the King's behavior. This affair signaled the weakness of the king in the light of magnates' power. It was one in many ways in which the century long conquest for curbing the royal power was paying-off. But the nobles were only slowly

realizing that the lower number of politically relevant enterprises did not necessarily entitle greater liberty. To the contrary, with the weak king, there was little they could do about the powerful nobles.

The Zebrzydowski rebellion marks a dramatic shift in the patterns of political engagement of the nobles. The values of Renaissance and the philosophy of Golden Liberty are slowly replaced by Baroque with its mysticism and also the search for a peaceful life, away from the political tumult. The rebellion was a discovery process to all participants. It generated the winners that were not a side in the conflict when it started.

By focusing solely on the formal aspects of democracy we fail to recognize its decline. The modern democracies are commonly associated with majority voting as if electing political representatives was enough to prevent the government from usurping the coercive power and implementing discretionary policies. In the case of the Polish-Lithuanian Commonwealth unanimity rule is taken as an equivalent of the principles of the free society. Yet, the fact that the way in which Americans elect their representatives remains relatively constant does not mean that American democracy is safe. Similarly, in the Commonwealth, the unanimity rule produced very different outcomes in different institutional contexts.

In his paper on the lessons from Lin Ostrom on regulating the commons, Boettke (2010) argues that self-regulation is the only form of reasonable regulation. The study of unanimity rule in the Commonwealth tempts me to

paraphrase Beottke by saying that township democracy is the only form of reasonable democracy. What I mean here is not that democracy works well when people vote in direct elections. To the contrary, before the emergence of *liberum veto* unanimity rule produced consensus policies both at the local and national level. Instead, democracy works well when people are actively engaged in the political process, when they feel responsible for the political outcomes and resist the urge of ceding the power to the government. Only political engagement protects the rule of law.

Formal rules are like colors, they depend on the environment in which they exist; the same color looks differently in different spaces. The appearance of wall color changes with the amount of light, with the size of the room and even with the color and placement of furniture. This context dependency is crucial for understanding the difficulty of maintaining the rule of law. Without any formal changes, from being the source of deliberation, the deputy's disagreement became enough to nullify the parliamentary session. *Liberum veto* marked the decline in the rule of law and contributed to the death of nobles' democracy in the Polish-Lithuanian Commonwealth. Its history indicates that it is not enough that the formal rules remain unaltered. Rule of law perishes when the habits of liberty and responsibility, give way to dependency and entitlement.

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