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The Undermining of Madison's Competing Factions Principle

One of James Madison's most powerful and persuasive arguments in support of a new Constitution was the idea that competing interests would limit the opportunities for this or that group to abuse the rights of others. In *The Federalist No. 10* and his "Vices of the Political System", Madison delineates this argument clearly. "The Society becomes broken into a greater variety of interests, of pursuits, of passions, which check each other..." And further, "The great desideratum in Government is such a modification of the Sovereignty as will render it sufficiently neutral between the different interests and factions, to *controul* one part of the Society from invading the rights of another, and at the same time sufficiently *controuled* itself from setting up an interest adverse to that of the whole Society."

Madison, who was extremely well read in history, was unquestionably on the right track with his notion of competing factions and his recognition of the need for government to prevent the rise of favored groups who would trample on the rights of others. He was confident that when a faction consists of less than a majority, "relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote..."

Unfortunately, as we have seen in this country and in Pennsylvania, governments have not adhered to Madison's neutrality principle, but rather have gone so far as to create or to allow to be created powerful interests that have been granted special privileges and protections. Many, if not all, of these protected "factions" are inimical to the interests of the public as a whole and cannot be countervailed by other interests owing to their privileged and protected, government-granted status. Over time the protected interests have been able to achieve effective control of legislatures relative to any actions concerning them through the election of legislators who are bound to do their bidding.

Mr. Madison could not possibly have envisioned the growth in size and scope of the Federal, as well as state and local governments, that has occurred or the development of the socialist ideology that swept through the 19th and 20th centuries. Mr. Madison would surely be appalled at the "progressivism" that has produced unfortunate re-interpretations of the Constitution by the Supreme Court. Nor was Madison likely to have anticipated the development of the theory of public choice that offers an explanation of how minority interests can exercise outsized influence over government policy. But whatever the

reasons, governments in the U.S have abandoned Madisonian neutrality and once abandoned it will prove very hard to restore.

While there are many examples of abandoned neutrality that could be cited, for Pennsylvania the most detrimental and abusive of citizens and taxpayers are public sector unions and their right to strike. And in the cases where there is no right to strike, Act 111 gives public safety employees the power to run roughshod over taxpayers.

The most dreadful example is the right to strike by teachers and transit drivers. In these cases, the disruption and hardship created by strikes create a bargaining power that inevitably leads to mediocre public service at extremely high cost while at the same time ensuring that employees are virtually impossible to fire except for criminal activity. And even then arbitration appeals can drag on for years.

These are clearly situations in which the government has abandoned any semblance of neutrality and even worse has set up an interest (giving teachers unions and transit drivers overwhelming bargaining leverage) that is detrimental to the public's general welfare. In Pennsylvania the taxpayers who must fund the teacher contracts have no meaningful way of pushing back other than to move. Voting for a school board that will control teacher contracts has almost no chance of working because of their unwillingness to take a strike and the ability of teachers and their supporters to determine who gets elected to the board. Moreover, the teachers' unions are extremely powerful in Harrisburg and are able to exert enormous influence over the legislature as well as having disproportionate ability to affect electoral outcomes.

All of this has come about because the government chose to move from a neutral position defending the general interests of the people to siding with a fairly small group of citizens. Indeed, as we have discussed in earlier *Briefs*, the unionized public sector work force in PA represents only 6 percent of the total employment in the state, yet because the government has granted key unions such overwhelming bargaining leverage, the taxpayers' interests are poorly served and there is no recourse.

The fact that the legislature is cowed by public sector unions reflects two things. First, the public employee unions have unwavering support from private sector unions even though the high costs and inefficiencies they create drive the taxes all working people must pay substantially higher than they should be for the quality and quantity of service they are getting. Obviously, it does not matter to them that high taxes and a poor labor climate have led to massive outflows of Pennsylvanians who must seek opportunity elsewhere, mostly in states that are not saddled with unbridled union control of public policy. Nor do they appreciate the irony of the perverse outcomes for themselves stemming from their unquestioning support of public sector unions.

Moreover, research shows that heavy unionization of public sector employees leads to bigger government, less efficient delivery of public services and, worse still, is generally associated with poor economic performance and slow to non-existent private sector job growth. This is not surprising in view of the union-favoring contracts that provide top tier

benefits and efficiency stifling work rules while generally reducing management's flexibility to manage resources in the most effective manner on behalf of taxpayers.

Second, unionized public sector employees wrap themselves in the mantle of heroic, unassailable status and a sizable fraction of the citizenry uncritically accepts it as truth. In Right-to-Work states with little public sector unionization, people who work for the government earn their pay the same as non-governmental employees and no special aura needs to be attached. We all need to remember that our troops in harm's way are real heroes. How much do they earn? Not nearly as much as most unionized civilian government workers. If heroic status were the basis of determining pay, corporals in Iraq would receive far more than bus drivers in Pittsburgh, but they don't.

Mr. Madison would be aghast to see the government actually taking the side of government employees against the interests and desires of citizens and taxpayers. It makes a mockery of the ideas undergirding the democratic republic he worked so hard to bring about.

Jake Haulk, Ph.D. President

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<p>Allegheny Institute for Public Policy 305 Mt. Lebanon Blvd.* Suite 208* Pittsburgh PA 15234 Phone (412) 440-0079 * Fax (412) 440-0085 E-mail: aipp@alleghenyinstitute.org</p>
