Chapter One
Civil Rights and the New Property

There is nothing wrong with poor people having power.
—Darnell Ridgley, Baltimore community organizer

EVER SINCE the New Deal, declared Charles Reich in his 1964 article "The New Property," the wealth of more and more U.S. citizens has come to depend not on their ownership of private property, but rather on their relationship to government and their receipt of "government largess," such as social security, public insurance and compensation, licenses, franchises, benefits, subsidies, use of public resources, and government contracts. Reich argued that when such government largess determined safety and status, it should be held as of right and granted the same protections from government interference enjoyed by private wealth. Thus, government largess would become the New Property.[1] For me, "New Property" has a broader connotation, evoking the "public interest," regulatory approach of the Democratic party from the New Deal to the Viet Nam War, including the full range of civil rights protections and programs developed during that time. Yet the public interest—in pursuance of which government regulation takes place—is often difficult to define. This problem has become increasingly important as the public becomes less and less a community and more and more a mass of alienated individuals, unable to effectively assert their "interest."

My reason for studying Baltimore is to examine the themes of participatory democracy and community empowerment illustrated by self-help efforts in the city's vernacular black community, and to consider how participatory democracy and community empowerment might help to better define the public interest, as well as furnish social approaches that are useful, and often necessary, complements to public interest regulation. The struggles of the black community of

West Baltimore through succeeding stages of American social and political history reveal a tension between the institutions of community and the institutions of government that has significance for the American citizenry as a whole. That significance is thrown into sharp relief by the particularly intense stresses and strains the black population has experienced in dealing with both sets of institutions.

The Conflict Between Rights and Community

The legislative and litigation-oriented agenda of the modern civil rights movement, like the liberal Democratic agenda with which it is allied, has neglected the need for community. While achieving great rewards for individual African-Americans, the modern civil rights movement has undermined not only a sense of community among black people but also some of our strongest institutions, particularly those rooted in the vernacular. In this respect the civil rights movement reflects U.S. constitutional and legal traditions as a whole, in which "democracy" has traditionally meant representative, pluralistic government, secured by national election, by which the sovereign people delegate to representatives their primary right to govern, giving up civic activity and civic responsibility in the bargain.[2] This view, rooted in the liberal democratic traditions of the Federalists, sought to restrict the involvement of the people in governance and to secure democracy through "representation, privacy, individualism, and rights."[3] The Federalists were apprehensive about widespread popular participation in government after the Revolution, seeing in it the danger of factionalized dispute and the possibility that a popular majority might vote to repudiate debts, interfere with property rights, or otherwise trample upon liberal values.[4] They sought to protect these values from majority factions by devices such as representation, separation of powers, and judicial review.[5] Thomas Jefferson's Anti-Federalist, "civic republican" approach of direct democracy was thus tempered to the "realities of governing in a large-scale nation-state," entailing an enormous reduction in participation and active citizenship.[6] In the federalist tradition, the engagement with community associated with the civic republican approach is sacrificed for "rights," which create power only when they disempower someone else.

John Locke hypothesized a "political society," that would be "intermediate between an anarchic state of nature and the emergence of

formal, specialized government.[7] Political society is constituted when men agree to "join and unite into a community for their comfortable, safe, and peaceable living one amongst another, in a secure enjoyment of their properties and a greater security against any that are not of it."[8] Alexis deTocqueville, in his travels in the United States, observed such phenomena as well: "If a stoppage occurs in a thoroughfare and the circulation of vehicles is hindered, the neighbors immediately form themselves into a deliberative body; and this extemporaneous assembly gives rise to an executive power which remedies the inconvenience before anybody has thought of recurring to a preexisting authority superior to that of the persons immediately concerned."[9] Political society is also observable in barn raisings and the rotating cooperative harvesting of fields in rural areas.

Locke observed that political society, the diffused capacity of the people to organize their own affairs, continues to exist as a backup for government itself. It reemerges when the effectiveness of government is suspended, when "government visibly ceases and the people become a confused multitude, without order or connection."[10] Political society is to be distinguished from government, which has a monopoly on the legitimate use of force and which undergirds the positive law that organizes what I will call "governmental" society.[11]

Political society should be distinguished not only from social life organized by government, but also from social life organized by "paragovernmental" bodies such as special interest and public interest groups, trade associations, community-based organizations, and social movements, "whose functions and structures may be analogous to those of the larger political system but whose powers and responsibilities are narrower in scope."[12] In this "paragovernmental" society, citizens in voluntary association seek either to affect the way government operates or to assume some of its functions, in neither event receiving any increment of the government's monopoly on the legitimate use of force. Paragovernmental activity has two distinct dimensions. One is the politics of intervention, which encompasses the activity of special interest groups, protest movements, and public interest organizations, attempting to affect government policy and its implementation. The other is the politics of parallelism, in which self-help organizations pull themselves together to fill vacuums created by the inability or unwillingness of government to provide or create the essential conditions of social life—housing, employment, education,

public safety, civic guidance. As our society's representative government has become alienated and distant, and proven less able to organize production, manage conflict, or rationalize social life, both intervention and parallelism have increased.

"Booker T. and W. E. B."

The conflict between liberals and conservatives *within* the African-American community over the nomination of Judge Clarence Thomas to the Supreme Court signaled a growing diversity of opinion among African-Americans as to how to proceed into the future. Specifically, should (conservative) strategies of parallelism or (liberal) strategies of intervention predominate? This debate goes back at least as far as the historic conflict waged at the turn of the century between the conservative Booker T. Washington, an advocate of the strength of vernacular institutions (parallelism), and the liberal W. E. B. DuBois, a proponent of "rights-based" protest (intervention). Washington was concerned with the role of mediating institutions, those social units of lesser scope and coercive power than the state which have a strong hand in shaping social life and which are deeply rooted in the vernacular community: family, church, university, small business, fraternal association, civic association, and the like.[13] DuBois, younger and a radical, claimed that Washington's emphasis was misdirected and that social and political strategy should focus on confrontation with the racist state, on protest and agitation for reform. These two distinct lines of thought—concerning the creation of parallel, "mediating" institutions in the black community (Washington) and the mounting of vigorous protest and critique of objectionable state actions and omissions (DuBois)—evolved separately. Washington's approach has surfaced not only among modern black conservatives like Thomas Sowell and Glen Loury, but also among black nationalists, beginning with Marcus Garvey and continuing through Elijah Muhammad, Malcolm X, and Louis Farrakhan. Especially in its "nationalist" incarnation, Washingtonianism has been a expressed in large measure in the black vernacular, and is thus a philosophy particularly attractive to the black working and lower classes, who remain steeped in that tradition. DuBois' approach is seen most directly in the National Association for the Advancement of Colored People (NAACP), which he helped to found. It focused on the upwardly mobile, middle-class, elite, the "talented tenth" of the community, and particularly the

northern black intellectuals, who later became more and more estranged from the vernacular community.

The protest politics of W. E. B. DuBois or the communitarian economics and civic self-help of Booker T. Washington? Or some combination of the two? It is a consistent question among African-Americans, evoked in poetry in 1968 by Dudley Randall, a DuBoisian:[14]

Booker T. and W. E. B.

"It seems to me," said Booker T.,
"It shows a mighty lot of cheek
To study chemistry and Greek
When Mister Charlie needs a hand
To hoe the cotton on his land,
And when Miss Ann looks for a cook,
Why stick your nose inside a book?"

"I don't agree," said W.E.B.
"If I should have the drive to seek
Knowledge of chemistry or Greek,
I'll do it. Charles and Miss can look
Another place for hand or cook.
Some men rejoice in skill of hand,
And some in cultivating land,
But there are others who maintain
The right to cultivate the brain."

"It seems to me," said Booker T.,
"That all you folks have missed the boat
Who shout about the right to vote,
And spend vain days and sleepless nights
In uproar over civil rights.
Just keep your mouths shut, do not grouse,
But work, and save, and buy a house."

"I don't agree," said W. E. B.,
"For what can property avail
If dignity and justice fail?
Unless you help to make the laws,
They'll steal your house with trumped-up clause.

A rope's as tight, a fire as hot,
No matter how much cash you've got.

Speak soft, and try your little plan,
But as for me, I'll be a man."

"It seems to me," said Booker T.—

"I don't agree,"
Said W. E. B.

As we today ponder the question "Booker T. or W. E. B.?" we must frame our answers in terms of how much we should, or need to, rely on formally constituted political institutions to organize our community life. What functions can be carried on by other sorts of institutions, such as churches, civic groups, and economic associations, particularly those rooted in the vernacular?[15] Which functions can be handled by social cooperation, and which require institutional management?

Matthew Crenson in his book *Neighborhood Politics* notes the occasional reemergence of elementary political society in Baltimore neighborhoods where the atrophy of municipal functions had left a vacuum. Crenson sees the neighborhood as a miniature "public," society's "near-compulsory voluntary association."[16] For him the neighborhood is a "polity. . . . neither a government nor a private group but something in between, [deriving] its political status both from the functions it performs and from the public nature of the constituency it serves."[17] In this exploration of black Baltimore, however, we shall not focus on neighborhoods as polities. This book is concerned instead with voluntary organizations operating at the neighborhood level, and with the powerful dialectic such organizations have created between parallelism and intervention. Working through the citywide BUILD coalition, for example, parallel organizations in black Baltimore neighborhoods have achieved a much more decisive interventionary power than could any organization that operates by intervention alone.

The New Deal and the New Property

Parallelism and intervention both have a long history in Baltimore. Between the Great Depression and the Viet Nam War, parallelism lost ground steadily. Under the New Deal, government began to displace many traditional, vernacular techniques of caring for elders and children, feeding the hungry, sheltering the poor, and organizing civic life—not only in the black community, but in communities all