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Republican Authority:

Institutions and Manners of Early Modern Legitimacy

A dissertation submitted in partial satisfaction of the
requirements for the degree Doctor of Philosophy
in Political Science

by

Cody Trojan

2019

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ABSTRACT OF THE DISSERTATION

Republican Authority:
Institutions and Manners of Early Modern Legitimacy

by

Cody Trojan

Doctor of Philosophy in Political Science

University of California, Los Angeles, 2019

Professor Anthony R. Pagden, Chair

This dissertation explores republican thought in the early modern period in order to rethink how we regard authority in contemporary political life. The study challenges the neo-republican derivation of legitimacy from individual freedom in order to retrieve the emphasis on constitutional design and mores that energized early modern republicanism. I turn to early modern writers such as James Harrington (1611–1677), the third Earl of Shaftesbury (1671–1713), Montesquieu (1689–1755), and Jean-Jacques Rousseau (1712–1778) to consider how political institutions and persons ought to embody authority. The retrieval of authority as a central concern for early modern republicans changes our understanding of the republican problematic both then and now. When neo-republicans prioritize freedom as the linchpin of republican government, they introduce a tension between government that secures individuals against domination and government controlled by the people. A constitutive tension runs through early modern republican vocabularies, but it is not that between liberty and democracy. Rather, liberty and democracy constitute a coextensive preserve

placed in productive tension with the principle of authority. The dilemma organizing republican theory in the early modern period is the classical one between democratic and aristocratic institutions and manners. The desideratum of the mixed constitution is republican legitimacy, not individual freedom. From the early moderns we learn that republican legitimacy requires the simultaneous affirmation of popular power and aristocratic judgment, of liberty and authority.

The dissertation of Cody Trojan is approved:

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2019

For Mia and Tess

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INTRODUCTION

History is the process by which we come to terms with what we have lost. Over the past two decades, scholars have turned to early modern republican writers to see whether reviving this past political vocabulary can remedy dissatisfaction with our present politics. For Quentin Skinner and Philip Pettit, those most responsible for the recent revival of republican thought, the object of dissatisfaction goes by the name of “liberalism.”¹ The liberalism at issue for neo-republicans such as Skinner and Pettit is neither the possessive individualism² assailed by socialist critics in the post-war period, nor the deontological liberalism³ that worried communitarian critics of the 1980s. When neo-republicans express concern over the hegemony of liberal theory, they focus narrowly on its concept of freedom: liberty as non-interference.⁴ They plumb the political discourse of our past—in particular, early modern Anglophone critics of arbitrary power—to arrive at a distinct republican concept of freedom: liberty as non-domination.

Motivating this revival is the concern that ordering our institutions in accordance with an ideal of non-interference may not adequately engender the kind of collective existence to which we aspire. Freedom as non-domination goes beyond freedom as non-interference by conceiving of

¹ Quentin Skinner, *Liberty Before Liberalism* (New York: Cambridge University Press, 1998); Philip Pettit, *Republicanism: A Theory of Freedom* (New York: Oxford University Press, 1997), *On the People's Terms* (New York: Cambridge University Press, 2012).

² C. B. Macpherson, *The Political Theory of Possessive Individualism* (New York: Oxford University Press, 1962).

³ Michael Sandel, *Liberalism and the Limits of Justice* (New York: Cambridge University Press, 1982). The target of the communitarian critique is John Rawls's *A Theory of Justice* (Cambridge: Harvard University Press, 1971).

⁴ Skinner describes the “hegemony” exercised by liberalism in *Liberty Before Liberalism*, 113.

freedom as a status that confers security. Whereas the liberal asserts that I am free as long as my will is not expressly obstructed, the republican insists that living under the arbitrary power of another makes my condition unfree. The fact of enjoying non-interference owing to the kindness or wise forbearance of the ruler is insufficient. It is not enough that a dominating agent refrain from exercising its will, because its subjects' behavior would still be shaped by the threat of interference. Non-domination means the abolition of arbitrary power, not just its explicit manifestation but also its operation as a background condition that structures social relations.

Skinner understands the retrieval of republican liberty as an act of bringing to consciousness something we once knew and have now forgotten.⁵ Our European forebears bequeathed to us two traditions of individual freedom, but we only acknowledge one of them.⁶ As a historian, Skinner views his limited charge as one of restitution—returning to us the portion of our inheritance that we have lost to time. He tells us little of what to do with the returned property. He restricts himself to cautious observations on public policy, suggesting, for example, how differently we might view questions of data collection and surveillance by private corporations and governments if we viewed the potential unfreedom from a perspective wary of domination rather than interference.⁷

Pettit's more ambitious aim is "to build a contemporary political philosophy with ideas

⁵ I use "freedom" and "liberty" interchangeably, as do early modern republicans and contemporary neo-republicans.

⁶ I employ Skinner's tropes of inheritance and his possessive pronouns—our European heritage—as I view them as essential to understand the poetics and meaning of his historiography as distinct from Pettit's normative philosophy. For the language of "our inheritance," see *Liberty Before Liberalism*, 109, 117, 119. The specification of our heritage as European is made explicit in the edited volume *Republicanism: A Shared European Heritage*, eds. Martin van Gelderen and Quentin Skinner (New York: Cambridge University Press, 2002).

⁷ Quentin Skinner, "Civil Liberty and Fundamental Rights: A Neo-Roman Approach," *Workshop in Law, Philosophy, and Political Theory*, April 5, 2019, <https://www.law.berkeley.edu/wp-content/uploads/2019/02/Civil-liberty-and-fundamental-rights-a-Neo-Roman-approach.pdf>.

drawn from the Italian-Atlantic⁸ [republican] tradition.”⁹ By “political philosophy,” Pettit means a systematic doctrine capable of answering questions of social justice, political legitimacy, and international right. Pettit wagers that insightful answers to each of these big questions of private, public, and international relations can be made by grounding their theorization upon the republican concept of freedom.¹⁰ Pettit’s *On the People’s Terms* (2012) goes beyond a mere restatement of his thesis in *Republicanism* (1997), because it privileges the dilemma between liberty and democracy. Pettit responds to critics who question the neo-republican priority of liberty over democracy by elaborating his commitment to the mixed constitution and a contestatory model of civic life.¹¹ His critics contend that democracy promises more than the right to contest government action; it

⁸ Pettit originates a distinction between so-called “Italian-Atlantic” and “Continental” republicanism (*People’s Terms*, 12). It is not clear what “Continental” is meant to evoke if taken by itself, but earlier iterations of the dichotomy offer clarification. A few years earlier he posited a division between “Italian-Atlantic” and “Franco-German” republicanism, where the latter indicated Rousseau and Kant. The initial formulation described a division between a “neo-Roman” tradition that stretches from “Machiavelli to Madison” and a “neo-Athenian” tradition that Pettit associated with Hannah Arendt and Michael Sandel. The various dichotomies function to cordon off expressions of republicanism that Pettit believes veer toward positive notions of liberty, and thus depart from his wish to elevate a negative conception of freedom as non-domination as the defining criterion of republicanism. For Pettit’s discussion of “Franco-German” and “neo-Athenian” traditions, see, respectively, “Two Republican Traditions,” in *Republican Democracy: Liberty, Law and Politics*, eds. Andreas Niederberger and Philipp Schink (Edinburgh: Edinburgh University Press, 2013), 169–204 and Philip Pettit, “Reworking Sandel’s Republicanism,” *The Journal of Philosophy* 95, no. 2 (1998): 73–96, 82–83.

⁹ Pettit, *People’s Terms*, 18.

¹⁰ Pettit admits that the international arena is the aspect of neo-republican theory neglected in his major works, see *People’s Terms*, 19. For a series of articles on how neo-republicanism informs debates over global justice, see the special issue, “Global Justice and Republicanism,” ed. Duncan Bell, *European Journal of Political Theory* 9, no. 1 (2010): 9–128.

¹¹ The “mixed constitution” and “contestatory citizenry” constitute the latter two of the “three core ideas” that make up the neo-republican program. Notwithstanding the description of all three ideas as core, the mixed constitution and contestatory citizenry are valued instrumentally insofar as they make freedom from domination possible. See *People’s Terms*, 5–8.

promises to make citizens authors of their laws.¹² Moreover, the neo-republican postulation of non-domination as the supreme political ideal troubles those who affirm democracy's intrinsic value. Democracy cannot only be valued to the extent that it furthers freedom. The good of democracy, they argue, cannot be reduced to its instrumental value in securing a life free from private and public domination.

This dissertation reorients republicanism's relationship to democracy to show that the neo-republican revival has still not adequately recuperated the web of concepts central to early modern republicans. My project is not the presentist one of evaluating how freedom as non-domination stands vis-à-vis liberalism and the unique forms oppression prevalent in twenty-first-century society.¹³ Rather, the dissertation argues that the neo-republicans' signal emphasis on liberty diverts us from correctly apprehending the republican polity's distinct claim to legitimacy. A just appreciation of early modern republicanism—and any attempt to harvest it for present-minded purposes—must contemplate liberty's relationship to authority and the broader claim of republican legitimacy.

I. Signifying Authority

The lack of consensus among political theorists concerning the fundamental concepts of

¹² Nadia Urbinati, "Competing for Liberty: The Republican Critique of Democracy," *American Political Science Review* 106, no. 3 (2012): 607–621; Patchen Markell, "The Insufficiency of Non-Domination," *Political Theory* 36, no. 1 (2008): 9–36; John McCormick, "Republicanism and Democracy," in *Republican Democracy*, eds. Andreas Niederberger and Philipp Schink (Edinburgh: Edinburgh University Press, 2013), 89–127.

¹³ Sharon Krause is skeptical of whether neo-republicanism has anything useful to say about our paramount sources of freedom today: racism and economic inequality, see "Beyond Non-Domination: Agency, Inequality, and the Meaning of Freedom," *Philosophy and Social Criticism* 39, no. 2 (2013): 187–208. Michael J. Thompson discusses the social structures and social systems specific to modernity that neo-republicanism fails to see as domination, see "Reconstructing Republican Freedom: A Critique of the Neo-Republican Concept of Freedom as Non-Domination," *Philosophy and Social Criticism* 39, no. 3 (2013): 277–298.

their field might seem an embarrassment to outsiders. Surely, the dignity of political theory rests on its ability to state definitively the meaning of paramount concepts such as “authority.” Scholars agree that our everyday usage suggests a twofold distinction. First, we speak of authority in both descriptive and normative senses. We sometimes catalog different varieties of empirical authority, as in the case of Weber’s typology, while other times distinguish whether a *de facto* authority ought to be considered a *de jure* authority.¹⁴ Second, our usage suggests distinct senses of authority: the difference between *having* authority and *being* an authority.¹⁵ Whether President Obama has the authority to change immigration policy without congressional authorization is one kind of question, whether we regard him as being an authority on the sport of bowling is quite another.¹⁶ The first sense (“having authority”) denotes authority qua authorization. A person has authority to undertake a certain action because it is “done by Commission, or Licence from him whose right it is.”¹⁷ The second sense (“being an authority”) refers to an individual’s set of competencies that elicit deference from others.

The meaning of this key term depends on one’s epistemological orientation. One style of philosophizing arrives at answers by authoring private sets of definitions that vie for universality. In an effort to clarify the problem of authority, Robert Wolff, for example, defines authority as the

¹⁴ Max Weber, “The Profession and Vocation of Politics,” in *Political Writings* (New York: Cambridge University Press, 1994), 311–312.

¹⁵ The same distinction is often also glossed as the difference between being *in* authority and being *an* authority, see, for example, R. B. Friedman, “On the Concept of Authority in Political Philosophy,” in *Authority*, ed. Joseph Raz (New York: NYU Press, 1990), 56–91.

¹⁶ I speak of two scandals that dogged the Obama presidency, the first, Obama’s invocation of prosecutorial discretion to disregard the enforcement of immigration law for a class of persons, the second, summarized aptly by the paper of record: “Is it even possible for a grown man to bowl a 37?” Don van Natta, “They Got Game. It May Just Be the Wrong Game,” *The New York Times*, April 6, 2008.

¹⁷ Hobbes, *Leviathan* (New York: Cambridge University Press, 1996), 112.

“right to command, and correlatively, the right to be obeyed.”¹⁸ Wolff’s definition reveals a disturbing implication: every claim to authority requires the obedient individual to “forfeit his autonomy.”¹⁹ Philosophers sharing Wolff’s orientation have produced their own rival sets of definitions. Perhaps the most influential is that of Joseph Raz, for whom the invocation of authority does not preclude rational justification.²⁰ For Raz, authority supplements and mediates existing reasons for action. In addition to offering a first-order reason in its own right, Raz regards authority as comprising second-order reasons to exclude certain first-order reasons from consideration.

Hannah Arendt’s influential essay on authority eschews the nominalist approach to political concepts.²¹ The ability to stipulate the definitions of words irrespective of their history “proceeds on the assumption that everything can eventually be called anything else, and that distinctions are meaningful only to the extent that each of us has the right ‘to define his terms.’” For Arendt, the effort to isolate the problem of authority independent of our shared historical experience exemplifies how far we are from appreciating what the concept of authority *was*. Ironically, authority—and its partner concepts of “tradition” and “religion”—operated as the crucial conduits

¹⁸ Robert Wolff, *In Defense of Anarchism* (Berkeley: University of California Press, 1970), 4. For a similar view, see Richard Tuck, “Why Is Authority Such a Problem?” in *Philosophy, Politics, Society*, eds. Peter Laslett, W. G. Runciman, and Quentin Skinner (New York: Oxford University Press, 1972), 194–207.

¹⁹ Wolff, *Defense of Anarchism*, 14. Such a framing of authority remains within the task outlined by John Stuart Mill, namely, that of finding a just accommodation amid “the struggle between Liberty and Authority.” *On Liberty and Other Writings* (New York: Cambridge University Press, 1989), 5.

²⁰ Joseph Raz, *The Authority of Law* (Oxford: Clarendon Press, 1979), 3–27. For a helpful restatement and modification of Raz’s account, see Larry Alexander, “Law and Exclusionary Reasons,” *Philosophical Topics* 18, no. 1 (1990): 5–22.

²¹ Arendt published three iterations of her essay: “Authority in the Twentieth Century,” *The Review of Politics* 18, no. 4 (1956): 403–417; “What *Was* Authority?” *NOMOS* 1 (1958): 81–112; “What Is Authority?” in *Between Past and Future* (New York: Viking Press, 1961), 91–142.

that once tied us back (*re-ligare*) to a shared political world that was transmitted (or traduced) across generations.²²

Arendt's account of what the concept of authority means for "the tradition of Western politics" oscillates between the history of an idea and the treatment of a general problematic.²³ The history has three movements: Greek, Roman, and Christian, or, what we might label, pre-*auctoritas*, *auctoritas*, and post-*auctoritas*. The definitive moment is the Roman one, where authority indicates a respect for the ancestors and the political institutions they founded. "Those endowed with authority," Arendt writes, "were the elders, the Senate or the *patres*, who had obtained it by descent or transmission (tradition) from those who had laid the foundations for all things to come, the ancestors whom the Romans therefore called *maiores*."²⁴ In Arendt's proleptic Greek moment,²⁵ Plato's bid to anchor politics in reason fails to anticipate the concept of *auctoritas*.²⁶ The Christian moment transmutes the Roman deference to ancestral foundation into a deference to divine command, re-anchoring authority in divine transcendence. All three moments attempt to make the

²² As is sometimes the case, Arendt's confidence in her philological claims is not always warranted. The *Oxford English Dictionary* entry on "religion" suggests a lack of consensus. It notes that before Christian writers emphasized tying (*religare*), Cicero connected religion to the idea of re-reading or reading over again (*relegere*).

²³ Arendt, "What Is Authority?" 107.

²⁴ Arendt, "What Is Authority?" 122.

²⁵ I refer to Quentin Skinner's criticism of the "mythology of prolepsis," in which "the episode has to await the future to learn its meaning." See his *Visions of Politics I: Regarding Method* (New York: Cambridge University Press, 2002), 74.

²⁶ Arendt, "What Is Authority?" 104–120. To a lesser extent, Arendt includes a discussion of Aristotle's failed anticipation of *auctoritas* in her Greek moment. If Plato sought to analogize authority with the pre-political model of *techne* (e.g., the authority of a doctor in relation to his patient), Aristotle sought an analogy with the pre-political model of *paideia*, the educational relation between the old and the young.

political realm durable, to give it a sense of permanence. Perhaps the best metaphor Arendt offers comes from Plutarch's "Life of Lycurgus" where authority acts as "a central weight, like a ballast in a ship, which always keeps things in a just equilibrium."²⁷ The pre- and post-versions of authority in the Western tradition sought this ballast through an extra-political source in reason or an extra-mundane source in God.

Carl Friedrich, Arendt's contemporary, shares her approach of correcting contemporary theorizations of authority by returning to the concept's Roman provenance.²⁸ Friedrich, however, departs subtly and consequentially from Arendt's account. For Arendt, authority merits categorical distinction from persuasion and violence—the currency of the public and private realms, respectively. Friedrich understands the deference entailed in relations of authority to be less categorical. Rather than a principle of political order to be distinguished from *logos*, Friedrich understands authority as a particular manifestation of reasoned speech. The opinions of authorities may not be "demonstrated through rational discourse, but they possess the *potentiality of reasoned elaboration*—they are worthy of acceptance."²⁹ The grounding in reasoned elaboration is crucial because it makes it possible to distinguish between true and pretended authority by examining the speaker's warrant. Arendt makes sense of authority's derivation from *augere*, the verb to augment, by suggesting that what "those in authority constantly augment is the foundation."³⁰ Friedrich,

²⁷ Arendt, "What Is Authority?" 123.

²⁸ Carl Friedrich edits the inaugural volume of *NOMOS*, the annual publication of the American Society of Political and Legal Philosophy, where the second iteration of Arendt's essay on authority appears. His account of authority can be found earlier in the same volume: "Authority, Reason, Discretion," *NOMOS* 1 (1958), 29–48. For his expanded treatment of the question, see *Tradition and Authority* (New York: Pall Mall Press, 1972).

²⁹ Friedrich, "Authority, Reason, Discretion," 35, Friedrich's emphasis.

³⁰ Arendt, "What Is Authority?" 122.

however, understands the augmentation as a supplement to governmental power: “*Auctoritas* thus supplements a mere act of the will by adding reasons to it. Such augmentation and confirmation are the results of deliberation by the ‘old ones,’ the *patrum auctoritas*.”³¹

Whether Arendt or Friedrich justly encapsulates the Western tradition is outside the scope of this dissertation. This project shares their historical sensibility but proceeds more modestly. Rather than make a claim concerning the “tradition of Western civilization,”³² I focus narrowly on retrieving how authority functioned in early modern republican vocabularies. Arendt and Friedrich helpfully note the association between the Roman senate and the concept of *auctoritas*, but understanding how the force of this association manifested itself in early modern republican discourse requires greater elaboration.³³

II. The Mixed Constitution

The mixed constitution—the variegated fusion of democracy, aristocracy, and monarchy into a single regime—supplies the essential frame for the depictions of political authority offered by theorists of early modern republicanism such as James Harrington (1611–1677), the third Earl of Shaftesbury (1671–1713), and Jean-Jacques Rousseau (1712–1778). The modern republicanism advanced by such thinkers and their fellow travelers is inextricable from the “ancient republicanism”

³¹ Friedrich, “Authority, Reason, Discretion,” 30.

³² Arendt, “What Is Authority?” 128.

³³ Friedrich’s account of the implicit appeal to reasoned justification at the heart of authority coincides nicely with Harrington’s own usage. Friedrich makes no citation of Harrington but makes the identical distinction between power and authority: “Nero exercised power without authority, while the Senate of his time possessed authority yet little or no power.” Cf. James Harrington, *Commonwealth of Oceana and A System of Politics* (New York: Cambridge University Press, 1992), 11; and see below, Chapter 1, Section II.

on which they modeled their designs.³⁴ We can explain the durability of the mixed constitution as a central trope for theorists and statesmen not only by its historical success, but also by its inherent ambiguity.³⁵ I describe the mixed constitution as a trope, because it serves as the vehicle for a host of political ideas. In its original Greco-Roman context, two presuppositions are essential. First, the mixed constitution presumes a typology of pure (i.e., unmixed) regimes. Aristotle offers the most enduring formulation in a two-by-three matrix that asks the quantitative question of who rules and the qualitative question of whether the ruler(s) governs in the public interest or to serve his or their private or sectional interests.³⁶ Rule by one (kingship/tyranny), rule by few (aristocracy/oligarchy), and rule by many (polity/democracy) have normative and perverse variants. Second, the mixed constitution presupposes that political communities, like all forms of life, are mortal, characterized by birth, life, and death.³⁷ Given the ineluctable mortality facing any regime, the chief problem for the political theorist is how to prolong the life of the *polis* or *civitas*, that is, how to preserve its bloom

³⁴ I place these words within quotation marks because the historian of the ancients may find ancient republicanism to be a dubious historiographical object. As Wilfried Nippel observes, “the city-state consisting of a self-governing citizen-body was considered the only legitimate form of political organization” by the ancients. In this view, ancient republicanism only becomes a meaningful concept when modern writers elevate ancient paradigms as rivals to modern theories of government. In the words of James Harrington, “ancient prudence” supplies the crucial resource by which to displace the hegemonic doctrines and practices of “modern prudence.” Wilfried Nippel, “Ancient and Modern Republicanism: ‘Mixed Constitution’ and ‘Ephors,’” in *The Invention of the Modern Republic*, ed. Biancamaria Fontana (New York: Cambridge University Press, 1994), 6; Harrington, *Commonwealth of Oceana*, 8. See Chapter 1, Section II below.

³⁵ On the relationship between ambiguity and longevity in the history of political thought, see Conal Condren, *The Status and Appraisal of Classic Texts* (Princeton: Princeton University Press, 1985).

³⁶ Aristotle, *The Politics and The Constitution of Athens* (New York: Cambridge University Press, 1996), 3.7 (1279a30).

³⁷ Plato explicitly analogizes political regimes with the life of a man, both in terms of character (e.g., man of honor/timocratic regime) and their inevitable corruption and death. See *The Republic* (Indianapolis: Hackett, 1974), Book VIII.

against the eventual decay of time.³⁸

The productive ambiguity at the heart of the mixed constitution concerns its dual articulation. On the one hand, the mixed constitution refers to a sociological composite. It reflects a political compromise between popular and noble classes. In the case of Rome, the institutions of the mixed constitution indicate a power-sharing arrangement between plebian and patrician classes expressed in the motto *Senatus Populusque Romanus* (“Senate and People of Rome”). On the other hand, the mixed constitution speaks to the combination of political principles, not just sociological groupings. In Cicero’s formulation, pure regimes possess specific virtues that produce a euphonious harmony when played as a chord. In *De Re Publica*, Cicero’s *porte-parole* Scipio remarks that “kings captivate us by their affection, aristocrats by their judgment, and the people by its liberty.”³⁹ The mixed constitution goes beyond reconciling competing social classes by integrating multiple guiding principles. For Cicero it means the threefold affirmation of affection (*caritas*), judgment (*consilium*), and liberty (*libertas*).

Aristotle’s remarks on the benefits of mixing different types of regimes expresses a similar dual articulation. Aristotle emphasizes the need to find an accommodation between the wealthy and

³⁸ My general synopsis abstracts from an important divergence between the Aristotelian and Platonic accounts of political regimes and their decay. Plato’s *Republic* imagines a gradual degeneration in stages. The beautiful city (*kallipolis*) ruled in accordance with philosophy degenerates into timocracy, which becomes further corrupted until it reaches oligarchy, which becomes still more sour in the form of democracy, before finally arriving at tyranny. Aristotle, however, departs from this story of sequential stages. He usually privileges how a healthy regime degenerates into its perverse antipode (e.g., aristocracy into oligarchy). Eric Nelson and Wilfried Nippel helpfully note, *pace* Pocock, that Plato (rather than Aristotle) is the crucial touchstone for the often cited account of the “cycle of constitutions” given by Polybius. Eric Nelson, *The Greek Republican Tradition* (New York: Cambridge University Press, 2006), 4n12; Nippel, “Ancient and Modern Republicanism: ‘Mixed Constitution’ and ‘Ephors,’” 7–9.

³⁹ Cicero, *De Re Publica*, 1.55. The translation is by James Zetzel, *On the Commonwealth and On the Laws* by Cicero (New York: Cambridge University Press, 1999).

the poor by blending oligarchic and democratic procedures.⁴⁰ He complements his concern for moderating class strife with a simultaneous affirmation of the distinct claims of justice that aristocracies and democracies present.⁴¹ Democracy stands for absolute equality (“arithmetic equality”), the principle that any honor or good ought to be distributed equally. The Athenian practices of distributing offices by lot accords with this democratic principle. Aristocracy stands for proportional equality, the principle that considers merit when bestowing honors. The practice of election derives from this aristocratic principle, emphasizing the inequality of virtues and competences that make some individuals more deserving than others. On this account, the mixed constitution recognizes both kinds of equality and adjusts its practices to accommodate democratic and aristocratic claims to justice. The mixed regime constitutes more than a *modus vivendi* between competing class interests. Its concern for political stability stands alongside its desire to reconcile competing images of justice.

Understanding how authority is rooted in the senatorial aspect of the mixed regime helps to appreciate the tension constitutive of every claim to authority. We prize authority because we acknowledge that expertise, judgment, and virtue are necessary features of legitimate government. We are suspicious of authority because of its tendency to be employed as subterfuge for oligarchic control. The mixed constitution supplied the crucial trope by which early modern republicans

⁴⁰ The mixture that Aristotle recommends takes on a different form from the Polybian model. Polybius emphasized multiple political bodies that corresponded to sociological groups, whereas Aristotle thinks of the mixed constitution in terms of criteria for citizenship and ruling. Aristotle discusses a spectrum of practices ranging from democratic to oligarchic, such as whether to install officers by lot or election, or the property qualifications requisite for citizenship. See Nippel, “Ancient and Modern Republicanism,” 7–10; Ryan Balot, “The ‘Mixed Regime’ in Aristotle’s *Politics*,” in *Aristotle’s Politics: A Critical Guide*, eds. Thornton Lockwood and Thanassis Samaras, (New York: Cambridge University Press, 2015), 103–122.

⁴¹ Aristotle, *Politics*, 3.12, (1282b15–40), 5.1 (1301b30–1302a15).

imagined how principles of authority and democracy might be mutually vindicated in a uniquely republican form of political legitimacy.

III. Argument and Outline

The neo-republican prioritization of freedom as the linchpin of republican government introduces a tension between government that secures individuals against domination and government controlled by the people. The task of neo-republican political theory is to reconcile these competing commitments to liberty and democracy. The signal emphasis on non-domination means that the paramount question for this literature is how to modulate, constrain, and reimagine democracy so that republican freedom can thrive. In short, neo-republicans ask, how can democracy make room for republican freedom? For serious democrats, making democracy safe for republican liberty means a deflated democracy. Majority will and citizen participation recede in order to foreground the fundamental concern of securing individuals against domination.

The chapters that follow redirect the attention of historians interested in early modern republicanism and contemporary political theorists looking to retrieve its insights. A constitutive dilemma did indeed run through early modern republican vocabularies. The tension thematized by these writers, however, was not between liberty and democracy. Rather, liberty and democracy constituted a coextensive preserve placed in productive tension with the principle of authority. Early modern republicans staked the legitimacy of the republic on its ability to marry the twin demands of popular power and aristocratic authority.

The dissertation's first chapter on the English republican James Harrington lays the groundwork for the reorientation of republican thought that I am advancing. The chapter examines *The Commonwealth of Oceana* (1656), Harrington's influential contribution to the debate over how England's post-monarchic regime might achieve republican legitimacy following the English Civil War. Neo-republicans observe correctly that the freedom Harrington champions bears little

resemblance to the liberty as non-interference theorized by his contemporary Thomas Hobbes. For Harrington, recognition as a “freeman” indicates that the individual is free from the arbitrary subjection that characterizes the life of a servant or mercenary. A republic is the only free state, because it is only in a republic that the multitude holds the preponderance of the nation’s wealth. The freedom that property confers no longer constitutes the treasure of a small elite. It belongs to the people and is what makes them citizens. The democratic aspects of republican life amount to an expression of the individual’s freedom as freeholder. There is no tension between liberty and democracy, as they refer to the same experience of freeholder independence. The key question of constitutional design is how to integrate judgment and reason within this free state without undermining the liberty of the citizenry. Harrington steers past the Scylla of oligarchic capture and the Charybdis of popular tyranny by a carefully choreographed institutional scheme that assigns deliberative functions to an elective, rotating senate and legislative enactment to an assembly of popular representatives. Harrington theorizes republican legitimacy as the confluence of popular liberty and aristocratic authority.

The second chapter mines the collected works of the third Earl of Shaftesbury for an account of how the political participant attains the status of authority. Harrington’s sophisticated constitutional design theorizes republican authority in structural terms but leaves its subjective performance undertheorized. Even if we grant Harrington’s assumption that nature distributes moral and intellectual virtue unequally, and that the people can recognize and honor those who evince these characteristics through election, this still tells us little about the characteristics that mark an individual as an authority. The chapter argues that Shaftesbury’s *Characteristicks of Men, Manners, Opinions, Times* (1711) takes advantage of the climate of liberty following the Glorious Revolution to develop a notion of rhetorical authority by way of negating its opposite: imposture. When twenty-first-century political theorists underline the role of authority in politics, they usually reference the

contribution by experts in drafting and executing laws. Shaftesbury, on the contrary, contends that strictly methodical, insular, and technical vocabularies are often the tells of imposture, the feigned authority that finds its paradigmatic expression in the sophistry of “schoolmen” or the revelations of prophets. Shaftesbury’s critique of imposture reveals a notion of authority that stands in relation to the statesman and the public as the critic stands in relation to the artist and his art. Authority is generated through a dialogic engagement with public life, growing on account of its ability to withstand the raillery and polite ribbing of public discourse.

The third chapter considers the question of authority in terms of the two post-feudal ideals that preoccupied eighteenth-century political reflection. Montesquieu’s *The Spirit of the Laws* (1748) describes two paths away from despotism. One path looks to the example of the ancient republics and the self-denying devotion to the public good that sustained them. Another takes inspiration from the development of moderate monarchies that disperse power through intermediary bodies. The competing visions of backward-looking republican austerity and forward-looking monarchic honor each gain their critical purchase by reference to politeness, the dynamic that encapsulated the promise and pestilence of modern society. The key question concerns whether moderate monarchy, with its independent nobility and strong intermediary bodies animated by the pursuit of vanity, can offer modernity a path away from despotism, or, whether it is precisely this reality of aristocratic inequality, united by a polite culture of flattery and insincerity, that constitutes despotism in its modern guise. Jean-Jacques Rousseau’s attack on politeness is a critique of the Montesquieuvian image of authority, that of an elite motivated by honor as the ballast that secures the polity from the waves of despotism. I argue that Rousseau both inherits and polemicizes within Montesquieu’s conceptual architecture with the goal of vindicating republicanism as the only path to political legitimacy.

The fourth chapter argues that Rousseau’s *The Social Contract* (1762) complements the

critique of politeness with a constructive account of how a republic may incorporate authority while retaining its commitment to popular sovereignty and virtue. Neo-republicans believe Rousseau's overcommitment to democracy imperils republican freedom. For Pettit, Rousseau's investment in popular sovereignty and alleged repudiation of the mixed regime vindicate its opposite: liberty's priority over democracy. Other revisionist scholarship indicts Rousseau from the other direction by claiming that Rousseau's emphasis on popular sovereignty disguises his real oligarchic predilection. The chapter challenges these readings and shows how they forgo an opportunity to appraise Rousseau's novel theory of republican legitimacy. Rousseau's ambivalence toward participatory democracy—his emphatic desire for popular sovereignty and his steadfast aversion to popular government—supplies the constitutive dilemma of the republican project. The ostensibly contradictory elements of Rousseau's institutional scheme affirm seemingly irreconcilable republican demands. First, the individual's freedom as citizen depends on the right of the citizenry to rule absolutely; second, the individual's freedom as subject depends on the absence of absolute rule. Rousseau's political theory teaches that republican political legitimacy depends on the ability to satisfy these two contradictory demands: the freedom of the citizen and the freedom of the subject.

The chronological order of the chapters is only one path through this dissertation's examination of early modern articulations of authority and the broader republican vocabularies through which they need to be understood. Chapters 1 and 4 focus on institutions of authority. These essays explore republican constitutional design in relation to the mixed constitution, both as a trope that harmonizes competing interests and principles, and as the historical practice of past republics such as those of Sparta, Rome, and Venice. I engage most explicitly with the neo-republican literature in these first and last chapters. Chapters 2 and 3 focus on the manners of authority. These essays privilege the rhetorical and affective life of the citizen that animates republican institutions.

CHAPTER 1
Republican *Auctoritas*:

Harrington's Dual Theory of Political Legitimacy

Since the 1975 publication of J. G. A. Pocock's *The Machiavellian Moment*, it has become difficult to speak of English republicanism without referring to James Harrington (1611–1677), the movement's most influential and innovative theorist. Pocock argues that Harrington's work inaugurated a specific republican vocabulary used by Anglophone commonwealthmen throughout the long eighteenth century.⁴² Quentin Skinner and Philip Pettit, the leading figures of the second wave of the republican revival (“neo-republicanism”), propose an alternative object of emphasis.⁴³ Whereas Pocock asks us to conceive of English republicanism as a political language,⁴⁴ Skinner and Pettit shift our attention to a particular concept of freedom.⁴⁵ Harrington remains a pivotal figure in this latter narrative, but we are now asked to understand his writings as a key statement concerning what it would mean to realize a republican concept of liberty: freedom as non-domination.

⁴² The thesis concerning the “neo-Harringtonian” vocabulary of republicanism was first articulated in J. G. A. Pocock, “Machiavelli, Harrington and English Political Ideologies in the Eighteenth Century,” *The Historical Journal* 22, no 4 (1965): 549–583.

⁴³ Quentin Skinner, *Liberty Before Liberalism*, (New York: Cambridge University Press, 1998); Philip Pettit, *Republicanism: A Theory of Freedom* (New York: Oxford University Press, 1997), *On the People's Terms* (New York: Cambridge University Press, 2012).

⁴⁴ On political languages, see Anthony Pagden, *The Languages of Political Theory* (New York: Cambridge University Press, 1987) and J. G. A. Pocock, *Political Thought and History: Essays on Theory and Method* (New York: Cambridge University Press, 2009).

⁴⁵ For an analytic elucidation of the neo-republican concept of freedom, see Frank Lovett, *A General Theory of Domination & Justice* (New York: Oxford University Press, 2010).

Harrington, on the neo-republican account, stands tall among a long line of early modern writers who articulate the fundamental maxim that “it is only possible to be free in a free state.”⁴⁶ These writers regard a state as free when its legislation tracks the interests and ideas of the people and when its government lacks the power to arbitrarily intrude upon citizens and their property.⁴⁷ Unique to the republican tradition, the latter criterion is crucial. It is not enough that a benevolent king refrain from exercising his will, because his subjects would still live under threat of his interference, which could shape their behavior. Non-domination means the ruler cannot exercise a capricious will in the first place. Skinner and Pettit rely on Machiavelli’s formulation that in a free state you are “able to enjoy your own possessions freely and without any fear,”⁴⁸ and on Harrington’s formulation that in a free state citizens are “able to live of themselves.”⁴⁹ The neo-republican hypothesis emphasizes the connection between public liberty and private liberty. Living in a political system that secures non-domination and tracks popular interests is the only means of securing propriety, i.e., the confidence that one’s person, property, and actions are truly one’s own.⁵⁰

⁴⁶ Skinner, *Liberty Before Liberalism*, 60.

⁴⁷ Pettit, *Republicanism*, 11, 39; Skinner, *Liberty Before Liberalism*, 23.

⁴⁸ Machiavelli quoted in Pettit, *Republicanism*, 71 and Skinner, *Liberty Before Liberalism*, 66.

⁴⁹ Harrington quoted in Pettit, *Republicanism*, 28–29, *People’s Terms*, 17.

⁵⁰ That glory serves as the other (and certainly for Machiavelli the greatest) benefit of republican life is both acknowledged and muted (Skinner, *Liberty Before Liberalism*, 61–64; Pettit, *Republicanism*, 238–239). Revealingly, the word glory never appears in Pettit’s recent 300+ page restatement of the neo-republican project, *On the People’s Terms*.

Neo-republicans wager that the historical recovery of the concept of freedom as non-domination will provide the basis for a new public philosophy,⁵¹ one that has the potential of dislodging the hegemony exercised by liberalism with its concept of freedom as non-interference.⁵² Just as neo-republicans position Harrington as a progenitor of the republican concept of freedom as non-domination, they offer a complementary genealogy that positions Thomas Hobbes as the progenitor of the liberal concept of freedom as non-interference. Given that neo-republicans ground their arguments in a foundational opposition between Harrington and Hobbes, it is noteworthy that a growing number of scholars seek to align their projects (Fukuda, 1997; Parkin, 2007: 177–185; Rahe, 2008: 321–247; Scott, 1993).⁵³ We are told that Harrington shares with Hobbes the same goal (political stability), the same metaphysical presuppositions (materialism), and the same skepticism of civic virtue. The following problem presents itself: how can Harrington be among the leading republican writers who give us a bold alternative to Hobbesian liberty and at the same time remain within the Hobbesian paradigm of political thinking?

This chapter begins by contextualizing the political thought of Harrington and Hobbes in order to discern whether the intellectual genealogy traced in the neo-republican account does in fact

⁵¹ For a different attempt at a republican inflected public philosophy specific to the American experience, see Michael Sandel, *Democracy's Discontents: America in Search of a Public Philosophy* (Cambridge: Harvard University Press, 1996).

⁵² Many self-identified advocates of philosophical liberalism, of course, refuse the idea that liberty as non-interference counts as liberalism's defining ideal, or that Hobbes ought to be identified as the intellectual founder of the so-called tradition. See Charles Larmore, "A Critique of Philip Pettit's Republicanism," *Philosophical Issues* 11 (2001): 229–243.

⁵³ Arihiro Fukuda, *Sovereignty and the Sword* (New York: Oxford University Press, 1997); Jon Parkin, *Taming the Leviathan* (New York: Cambridge University Press, 2007), 177–185; Paul Rahe, *Against Throne and Altar* (New York: Cambridge University Press, 2008), 321–347; Jonathan Scott, "The Rapture of Motion: James Harrington's Republicanism," in *Political Discourse in Early Modern Britain*, eds. Nicholas Phillipson and Quentin Skinner (New York: Cambridge University Press), 139–163.

help us to stylize two distinct political visions. Treating this first problem will give us leverage on the important question concerning whether neo-republicans are correct to accord paramount status to liberty in Harrington's political philosophy. I argue that the depiction of his political thought as the deduction of a just order from the first principle of freedom as non-domination occludes the core dynamic that constitutes Harrington's republicanism: the entwining of popular power and aristocratic authority. Misapprehending liberty as the ordering principle grounding Harrington's republicanism forgoes an opportunity to engage his novel theory of political legitimacy, a resource that can help us appraise the normativity of our own political order.

Grasping the specific nature of Harrington's intervention and contrasting it with Hobbes's requires that we return to a key debate following the Civil War: whether the governments of the Interregnum possessed a legitimate right to rule. In what follows, I show how Harrington's dual theory of legitimacy only takes on its proper significance when understood as a rebuttal to the account of political obligation advanced by Hobbes and his fellow *de facto* theorists. Hobbes's decision to reduce authority to a notion of authorization starkly differentiates his account of legitimacy from Harrington's. After having established the stakes of the dispute over the Commonwealth's claim to legitimacy, I offer a close reading of the first section of his treatise *The Commonwealth of Oceana* (1656) where Harrington articulates the conceptual architecture of an imagined England. In so doing, I demonstrate how republican legitimacy flows from the confluence of two springs: popular power and aristocratic authority.

I. The *de facto* Defense of the Commonwealth

James Harrington's *Oceana* functions simultaneously as a work of political philosophy and a *pièce d'occasion* that responds to the political crisis of mid-seventeenth-century England.⁵⁴ Harrington speaks to the great authors who preceded him—Aristotle, Livy, Cicero, and Machiavelli—and the men of letters who constituted his discursive community. With respect to the latter, one productive path is to understand *Oceana* as belonging to the set of polemics seeking to undermine Oliver Cromwell's Protectorate. Given that Harrington publishes *Oceana* in the fall of 1656 and casually remarks of its writing that he had “not been yet two years about it”⁵⁵ this would date the conception of *Oceana* to the period following Cromwell's ascension as Lord Protector in December of 1653.⁵⁶ Blair Worden asks us to understand *Oceana* as an “anti-Cromwellian document” and Harrington's dedication of the work to “His Highness, The Lord Protector” as an “anti-dedication.”⁵⁷ Worden claims that Harrington depicts Lord Archon—the undisguised fictional analogue of Cromwell in *Oceana*—as unimpeachably virtuous in order to conjure an inverse image of the actual Cromwell, a comparison that makes the latter's deficiencies all the more glaring. Jonathan Scott, on the other

⁵⁴ James Cotton, *James Harrington's Political Thought and Its Context* (New York: Garland Publishing, 1991).

⁵⁵ James Harrington, *The Commonwealth of Oceana and A System of Politics*, edited by J.G.A. Pocock (New York: Cambridge University Press, 1992), 2.

⁵⁶ There is, however, evidence that dates the authorship of *Oceana* earlier. Historical references in the text suggest that portions of it were likely written as early as 1651. See J. G. A. Pocock, Introduction, *Commonwealth of Oceana*, xv and Blair Worden, “Harrington's ‘Oceana’: Origins and Aftermath,” in *Republicanism, Liberty, and Commercial Society, 1649–1776*, ed. David Wootton, (Stanford: Stanford University Press, 1994), 113–115. Moreover, John Toland claims that Harrington began researching and writing what was to become *Oceana* soon “after the King's Death,” see “The Life of James Harrington,” introduction to *The Oceana of James Harrington, and His Other Works*, by James Harrington (London, 1700), xvii.

⁵⁷ Worden, “Harrington's ‘Oceana’: Origins and Aftermath,” 121.

hand, understands the illocutionary force of *Oceana* as a sincere proposal for settlement, one that he hoped Cromwell would adopt in order to reconcile the country's competing factions.⁵⁸ Neither interpretation forecloses the other insofar as we recognize that Harrington likely addressed *Oceana* to multiple audiences. Nevertheless, I take the characterization of Lord Archon to be motivated more by a generous rather than sarcastic spirit. Clearly Harrington disapproves of Cromwell's government, but Lord Archon offers a counterfactual Cromwell, one that shows what would be possible if England possessed a legislator who embraced the occasion of republican founding.

It is also possible to contextualize *Oceana* as a response to the broader crisis of legitimacy that extended beyond the Protectorate and to the underlying causes of the Civil War. Pocock takes this path, positing Harrington's *Oceana* as a pivotal contribution to a debate that was framed by the terms of *His Majesty's Answer to the Nineteen Propositions of Parliament* (1642).⁵⁹ The latter text blends the republican trope of the mixed constitution with the English trope of the ancient constitution, such that a "regulated monarchy" exists when "the Balance hangs even between three Estates."⁶⁰ Harrington takes aim at this "Gothic balance," juxtaposing the image of "mixed monarchy" with a properly republican government.⁶¹ Arguments concerning how a regime earned the right to rule reached what Pocock refers to as "a climax of articulation" in the Engagement controversy of 1649-

⁵⁸ Jonathan Scott, "James Harrington's Prescription for Healing and Settling," in *The Experience of Revolution in Stuart Britain and Ireland*, eds. Michael Braddick and Daniel Smith (New York: Cambridge University Press, 2011), 190–209.

⁵⁹ Historical Introduction. *The Political Works of James Harrington*, by James Harrington, (New York: Cambridge University Press, 1977), 1–154.

⁶⁰ Charles I, "XIX Propositions Made by Both Houses of Parliament, to the Kings Most Excellent Majestic: With His Majestic's Answer Thereunto" in *The Struggle for Sovereignty*, ed. Joyce Lee Malcolm (Indianapolis: Liberty Fund, 1999), 167.

⁶¹ Harrington, *Commonwealth of Oceana*, 12, 47.

1651, and it is this discursive environment that I foreground in the analysis of *Oceana* that follows.⁶² Privileging this context will enable us to focus on the broad question of political legitimacy and appreciate the distinction between *de facto* and *de jure* government that Harrington inherits and deploys. Moreover, it will help us evaluate Harrington's intervention with respect to the most noteworthy contributor to the Engagement controversy, Thomas Hobbes.

The pressing political question facing the former subjects of Charles I following the regicide concerned the legitimacy of the new government. The Civil War may have begun as a campaign to restore the balance of privileges and prerogatives of the ancient constitution; the result, however, was a revolution that had dissolved the ancient constitution by decapitating the king and eliminating the House of Lords. Not only had members of the House of Commons arrogated to themselves the powers traditionally belonging to the king and nobility, but—as a consequence of Pride's Purge of December 1648—they had gone so far as to deny entry into Parliament to the members who still sought conciliation with Charles I.⁶³ On what basis could the unpurged portion of parliament, the Rump, be regarded as the legitimate ruler of England rather than the beneficiary of illegitimate usurpation?

The question of political legitimacy became a political crisis facing individuals upon the Rump's passage of *An Act for Subscribing the Engagement* (1998 [1650]: 136) that demanded “all men whatsoever within the Commonwealth of England, of the age of eighteen years and upwards” formally commit themselves to the preservation of the present government.⁶⁴ Crucially, the law did

⁶² Pocock, “Historical Introduction,” 25.

⁶³ D. E. Underdown, *Pride's Purge: Politics in the Puritan Revolution* (New York: Oxford University Press, 1971); Blair Worden, *The Rump Parliament* (New York: Cambridge University Press, 1974).

⁶⁴ “An Act for Subscribing the Engagement,” in *The English Renaissance: An Anthology of Sources and Documents*, ed. Kate Aughterson (New York: Routledge, 1998), 136–137.

not ask Englishmen to attest to the legitimacy of the Rump's accession. Rather than demand subscription to the legality of the regime change, the Rump only asks that "those which receive benefit and protection from this present government may give assurance of their living quietly and peaceably under the same."⁶⁵ Notice how the Rump Parliament does not justify the *de jure* nature of the present government, but only recommends acceptance on the basis of the regime's ability to protect and secure peace.

A series of writers—the *de facto* theorists—bolster the new government's case by pursuing this deflationary strategy of political legitimation.⁶⁶ These defenders of the regime believe that consolidating support for the Commonwealth requires narrowing the gap between government by fact and government by right. Anthony Ascham's *The Bounds & Bonds of Publique Obedience* (1649) is a case in point.⁶⁷ Ascham urges loyalty to the Commonwealth by attempting to dispense with questions concerning its legitimacy. What matters in deciding questions of obedience, Ascham tells us, is not the righteousness of the commander but the righteousness of what he commands. Ascham rhetorically lands this blow by asking the "Demeurers" whether they can "conscientiously tell us, that the lawfulness of the civill power commanding can make our obedience necessary to an

⁶⁵ "Act for Subscribing," 136.

⁶⁶ On the Engagement controversy and the *de facto* theorists, see John Wallace, "The Engagement Controversy: An Annotated List of Pamphlets," in *Bulletin of the New York Public Library*, (New York: New York Public Library, 1964), 383–405; Quentin Skinner, "Conquest and Consent: Thomas Hobbes and the Engagement Controversy," in *Interregnum: The Quest for Settlement, 1646-1660*, ed. G. E. Aylmer, (London: Archon, 1972), 79–98; Kinch Hoekstra, "The *de facto* Turn in Hobbes's Political Philosophy," in *Leviathan After 350 Years*, eds. Tom Sorell and Luc Foisneau, (New York: Oxford University Press, 2004), 33–74; and Noel Malcolm's excellent general introduction to *Leviathan* (New York: Oxford University Press, 2012), 65–82.

⁶⁷ I follow Wallace ("Engagement Controversy") in ascribing authorship to Ascham.

unlawful thing commanded?”⁶⁸ Surely, our willingness to obey depends on the content of the prescription rather than how the prescriber came to occupy his office. Since the details of the magistrate’s ascension are of no consequence in determining our obedience to the law he prescribes, “the peoples question thereof is not *how* the change was made, but an sit it be so changed or noe.”⁶⁹ Backward-looking questions as to whether the regime change was legitimate are simply not relevant in deciding one’s course of action.

Marchamont Nedham—the official propagandist of the new regime—offers different routes to the same destination. Whereas Ascham argues that the method by which a magistrate came to occupy his office is immaterial to the question of whether his just ordinances deserve obedience, Nedham is happy to offer sundry justifications for diverse audiences. In Nedham’s *The Case of the Commonwealth of England, Stated* (1650), he says that the type of man he identifies as a “worldling” ought to obey the Commonwealth because accepting the present order will maximize his private interest and deliver the best overall benefit to the polity.⁷⁰ For the utilitarian worldling, Nedham argues that each dissatisfied party seeking an alternative to the present regime (viz., the Royalists, the Presbyterians, and the Levellers) would both produce a worse outcome and be unlikely to prevail, prolonging the civil strife that had already devastated the country.

Nedham offers a different justification for those unmoved by utilitarian motives. He admits that that in addition to the “worldling” there is the “conscientious man” for whom questions of how

⁶⁸ Anthony Ascham, *The Bounds & Bonds of Publique Obedience* (London, 1649), 23.

⁶⁹ Ascham, *Bounds & Bonds*, 11.

⁷⁰ Marchamont Nedham, *The Case of the Commonwealth of England, Stated* (Charlottesville: University of Virginia Press, 1969), 4.

one accedes to civil power are indeed pertinent.⁷¹ Nedham prevails upon these conscientious men by deploying arguments concerning the right of the conqueror that he attributes to Hugo Grotius. It is hard not to read a modicum of condescension in Nedham's remark that "it cannot in reason be imagined (when the controversy is decided by the sword) that the conquerors should, as to the manner of settlement, submit to the will of the conquered party."⁷² Surely, at the conclusion of a war it is the victor, and not the vanquished, who gets to determine the new terms of settlement. Against those who allege, as Harrington will, that he has merely described a state of subjugation and not a *de jure* government, Nedham asks them to compare the current situation with the vast history of monarchy in which "most princes came into the seat of authority not only without a call but absolutely against the wills of the people."⁷³ The history of the English monarchy, in particular, offers no exception to this general rule:

Particularly here in England most of our own kings reigned without any call, but made way by their swords; there being of those twenty-five princes that have kinged it among us, not above half a dozen that came to the crown in an orderly succession either by lineal or collateral title.⁷⁴

Since the revolutionary government came to power in the same manner as the preponderance of English monarchs, it is equally as legitimate as all those governments that acquired the throne by conquest. By this logic, the establishment of the Commonwealth by sword is "as valid, *de jure*, as if it had the people's consent."⁷⁵ Unlike Harrington who, as we shall see, imagines England's republican

⁷¹ Nedham, *Case of the Commonwealth*, 4.

⁷² Nedham, *Case of the Commonwealth*, 34.

⁷³ Nedham, *Case of the Commonwealth*, 37.

⁷⁴ Nedham, *Case of the Commonwealth*, 38.

⁷⁵ Nedham, *Case of the Commonwealth*, 39.

future as a radical break from the “Gothic” era that preceded it, Nedham insists on the continuity of justification.

Harrington worries that the various justifications of the Commonwealth’s legitimacy in the *de facto* terms offered by the likes of Ascham and Nedham veer from the substantive project of republicanism. The prospect becomes even more alarming when we consider Thomas Hobbes’s contributions to the Engagement controversy. Hobbes’s contempt for those who took up arms against the Stuart Monarchy was no secret. Nonetheless, the same science of politics that prescribed strict obedience to Charles I offers equal support for the new regime responsible for the regicide. Rather than claim that the *jus gentium* that determines the rules of war between nations applies to civil war within a single nation, Hobbes dissolves the moral distinction between conquest and consent. For Hobbes, sovereignty acquired by force is as legitimate as sovereignty instituted by the multitude through covenant. Both situations engender the same play of passions, deliberation, and will. The only difference between a commonwealth by institution and a commonwealth by acquisition is the following:

That men who choose their Sovereign, do it for fear of one another, and not of him whom they Institute: But in this case [of commonwealth by acquisition], they subject themselves, to him they are afraid of. In both cases they do it for fear: which is to be noted by them, that hold all such Covenants, as proceed from fear of death, or violence, voyd: which if it were true, no man, in any kind of Commonwealth, could be obliged to Obedience.⁷⁶

Those who refuse obedience to a new sovereign fail to realize that the tie that binds them to the usurper is no different than that which bound them to the sovereign they themselves constituted upon exiting the state of nature. The passion that motivates consent is fear in both cases. The only thing that changes is the object feared. Whereas it had been the (horizontal) fear of one’s fellows that motivated the original authorization of the sovereign, it is now the (vertical) fear of the new

⁷⁶ Thomas Hobbes, *Leviathan* (New York: Cambridge University Press), 138.

sovereign's capacity for violence that incites obedience. For Hobbes, those who oppose *de jure* to *de facto* government simply fail to appreciate that fear is constitutive of consent.

All three of these writers might be described as nominal commonwealthmen in a very delimited sense: they all offer accounts of political legitimacy that buttress the Commonwealth of the interregnum years. For Harrington, however, the merely *de facto* theory falls short of what true republican legitimacy requires. These accounts of political obedience are mercenary in character; the reasons offered indiscriminately serve any constituted government. Worse, each of the arguments derives its critical energy from softening the contrast between a government by fact and a government by right. In vindicating the nominal republic, Harrington's interlocutors unmoor it from the normative foundations of the classical *res publica*. For Harrington, the dissolution of the monarchy affords an opportunity to return to the classical principles of political right.

II. Power and *de jure* Government

Prior to the neo-republican emphasis on liberty, scholars had long regarded Harrington's materialist explanation of political power as the most important aspect of his thought. Harrington's thesis that the distribution of wealth structures the dynamics of political power has been a favorite among socialist critics of liberalism.⁷⁷ Indeed, it is this thesis that supplies Harrington with his explanation of the structural cause of England's Civil War: a more egalitarian shift in landed wealth. Given the attention to wealth and the agrarian law, it makes sense for Eric Nelson to align

⁷⁷ Christopher Hill, "The English Civil War Interpreted by Marx and Engels," *Science & Society* 12, no. 1 (1948): 130–156; C. B. Macpherson, *The Political Theory of Possessive Individualism* (New York: Oxford University Press, 1962), 160–193; J. G. A. Pocock, *Virtue, Commerce, History* (New York: Cambridge University Press, 1985), 51–72; Judith Shklar, "Ideology Hunting: The Case of James Harrington," *American Political Science Review* 53, no. 3 (1959): 662–692.

Harrington with what he calls the “Greek Republican Tradition.”⁷⁸ Dominion is Harrington’s shorthand for his axiom that wealth translates into political power:

If one man be sole landlord of a territory, or overbalance the people...his empire is absolute monarchy. If the few or a nobility...be landlords...it makes the Gothic balance...and the empire is mixed monarchy... And if the whole people be landlords, or hold the lands so divided among them, that no one man, or number of men, within the compass of the few or aristocracy, overbalance them, the empire (without the interposition of force) is a commonwealth.⁷⁹

Given the determinative relation between dominion and regime type, Harrington explains that the English Civil War was in some sense inevitable: the monarch acted in an absolutist fashion when he did not possess absolute dominion. A mismatch between government and dominion developed as a consequence of the redistribution of land in favor of the people under the Tudors.⁸⁰ As Pocock highlights, dispersed holding of land (i.e., popular dominion) produces a class of independent freeholders, an armed populace no longer dependent on their former Gothic lords and now able to realize the *vivere civile*.⁸¹

The importance of these scholarly contributions notwithstanding, foregrounding power’s source in dominion occludes the pivotal role that authority as *auctoritas* plays in Harrington’s ideal republic. The exclusive emphasis on the distribution of dominion makes Harrington’s dual theory of legitimacy difficult to perceive. At the level of foundation, *de jure* government requires the dispersion of power achieved by an agrarian law that ensures the preponderance of land is owned by the

⁷⁸ For Nelson, the praise or blame attached to the presence of the *lex agraria* constitutes the division between “Greek” and “Roman” republican traditions, see *The Greek Tradition in Republican Thought* (New York: Cambridge University Press, 2004). For his discussion of Harrington, see pages 87–126.

⁷⁹ Harrington, *Commonwealth of Oceana*, 11–12.

⁸⁰ Harrington cites land transfers to the yeomanry under Henry VII and the dissolution of the monasteries under Henry VIII as chiefly responsible for transformations in dominion, see *Commonwealth of Oceana*, 54–56.

⁸¹ Pocock, “Historical Introduction,” 41–76.

preponderance of citizens. At the level of political institutions, *de jure* government requires the elevation of virtue and reason made possible by the integration of a Roman conception of authority as *auctoritas*.

The bulk of the pages of *Oceana* detail the institutional design of republican government on the municipal and national level. Harrington supplies the philosophical backbone that determines the ends of his painstaking institutional elaboration in the section titled “The Preliminaries, Showing the Principles of Government.” The principles that underlie the government institutions take the form of four carefully wrought pairs of concepts. This first half of the “Preliminaries” proceeds synchronically, analytically elucidating how each concept earns its signification in contradistinction with its supplementary pair. The second half proceeds diachronically, recounting the historical development of the (medieval) Gothic as opposed to the (classical) republican tradition. The philosophical and historical spadework Harrington undertakes in the “Preliminaries” grounds the latter divisions of the work: the ten paragraphs that constitute the second part on the method of the lawgiver, the material on constitutional design in the third part, and the “Corollary” that imagines the important political pageantry to follow the establishment of a Commonwealth in the fourth part.

In the section’s first sentence of “The Preliminaries” Harrington unveils his broad distinction between *ancient prudence* and *modern prudence*. Ancient prudence and modern prudence function simultaneously as historico-mythic paradigms and politico-philosophical paradigms. They periodize the history of Europe, positing the fall of the Roman Republic as the inflection point that reaches completion with the dissolution of the Empire. Harrington describes the sieges of the “Huns, Goths, Vandals, Lombards, [and] Saxons” as “inundations,” perhaps calling to mind the flood in Genesis.⁸² In this deluge of modern prudence, Venice serves as the Noachian ark that

⁸² Harrington, *Commonwealth of Oceana*, 8.

“escapes the hands of the barbarians” and preserves the republican wisdom of the ancients for modern renewal.⁸³ In addition to offering a pre- and post-lapsarian historical mythos, ancient and modern prudence serve as Harrington’s philosophical shorthand for contrasting (yet potentially complementary) sets of concepts. Modern prudence defines government in terms of *de facto* legitimacy secured through brute *power* obtained through the accumulation of *the goods of fortune*. Ancient prudence, however, draws a distinction between government held by the sword alone (*de facto* government) and a government that rests on “common right” (*de jure* government). Determining whether any sovereign regime (a government by fact) is also a legitimate regime (a government by right) hinges on whether it successfully supplements power with *authority*, that is, whether it marshals not just the goods of fortune but also *the goods of the mind*. What so disturbs Harrington is when defenders of the Commonwealth legitimize it by only referring to the restricted vocabulary of modern prudence. For Harrington, the defense of republican government on the basis of power alone forfeits the normative purchase of republicanism.⁸⁴

The *de facto/de jure* distinction was familiar to pamphlet readers and writers of the Interregnum. As we have learned, the Engagement controversy concerned how and whether to differentiate between *de jure* and *de facto* government. Harrington deploys these terms as a way of speaking to his contemporaries in their own language with the aim of widening the distinction they sought to narrow. Recall that the *de facto* theorists either bracket the question of legitimate government (Ascham), or soften the salience of the distinction by understanding *de jure* sovereignty as a right earned by conquest (Nedham) or as a right conferred by a consenting and fearful subject

⁸³ Harrington, *Commonwealth of Oceana*, 8.

⁸⁴ We may even go as far as to say that Harrington’s argument implies what Eric Nelson calls “republican exclusivism,” that is, “the claim that republics are the only legitimate regimes.” See *The Hebrew Republic* (Cambridge: Harvard University Press, 2010), 23.

(Hobbes). The defense of the Commonwealth as a *de facto* government may succeed in consolidating power, but only at the price of a robust form of political obligation. According to Harrington:

government (to define it *de jure* or according to ancient prudence) is instituted and preserved upon the foundation of common right or interest or (to follow Aristotle and Livy) it is the empire of laws and not of men. And government (to define it *de facto* or according unto modern prudence) is an art whereby some man, or some few men, subject a city or a nation, and rule it according unto his or their private interest; which, because the laws in such cases are made according to the interest of a man or of some few families, may be said to be the empire of men and not of laws.⁸⁵

Harrington reinscribes the normative contrast the *de facto* theorists sought to efface. When a single person or group subdues the multitude to secure their private ends, we may speak of government merely in a perverted or *de facto* sense. In placing public versus private interest as the point of demarcation, Harrington revives Aristotle's influential distinction between healthy and perverted regimes on the basis of whether the ruling party governs in its own interest or that of the governed.⁸⁶ Harrington's renewal of the classical distinction takes on the more pointed sense of rebuke when we remember that Hobbes had taken special aim at this distinction in chapter 19 of *Leviathan* when he wrote that the so-called perverted regimes "are not the names of other Formes of Government, but of the same Formes misliked."⁸⁷ While it is true, Hobbes writes, that those who "are discontented under *Monarchy*, call it *Tyranny*" and that those who "are displeased with *Aristocracy*, called it *Oligarchy*,"⁸⁸ the aim of Hobbes's science of politics is to eliminate such faulty definitions that lead to

⁸⁵ Harrington, *Commonwealth of Oceana*, 8–9.

⁸⁶ Aristotle, *The Politics and the Constitution of Athens* (New York: Cambridge University Press, 1996), 1279a30. On the debt Harrington owes to Aristotle, see James Cotton, "James Harrington as Aristotelian," *Political Theory* 7, no. 3 (1979): 371–389.

⁸⁷ Hobbes, *Leviathan*, 130.

⁸⁸ Hobbes, *Leviathan*, 130.

the death of the artificial person of the state.⁸⁹ In reviving the two-level categorization of government in normative terms, Harrington upends the consolidation of modern prudence that *Leviathan* epitomizes.

Harrington's slogan for ancient prudence—"an empire of laws and not of men"⁹⁰—rearticulates the republican principle that "the laws are in charge of the magistrates" such that "a magistrate is a law that speaks."⁹¹ Harrington vindicates this republican surety against Hobbes by first reproducing the following quotation from chapter 46 of *Leviathan*:

another error of Aristotle's *Politics*, that in a well-ordered commonwealth, not men should govern but the laws. What man that hath his natural senses, though he can neither write nor read, does not find himself governed by them he fears, and believes can kill or hurt him when he obeyth not? Or who believes that the law can hurt him, which is but words and paper without the hands and swords of men?⁹²

Harrington appreciates the force of the maxim "*magistratus est lex armata*." The magistrate surely gives life to the words of law through armed enforcement.⁹³ His point is simply that it makes no sense to imagine that "a whole army is afraid of one man."⁹⁴ The magistrate's ability to realize his will depends on his stock of power, the material resources necessary to raise and feed an army. This fact had been displayed in vibrant terms in recent English history when it was revealed that Charles I, his status of king notwithstanding, lacked the requisite dominion to effectuate his will. Harrington's

⁸⁹ Terrence Ball, "Hobbes' Linguistic Turn," *Polity* 17, no. 4 (1985): 739–760; Philip Pettit, *Made with Words: Hobbes on Language, Mind, and Politics* (Princeton: Princeton University Press, 2009); Sheldon Wolin, *Politics and Vision* (Princeton: Princeton University Press, 1974), 230–235.

⁹⁰ Harrington, *Commonwealth of Oceana*, 8.

⁹¹ Cicero, *De Legibus*, 3.2. All Cicero translations given are taken from James Zetzel, *The Commonwealth and The Laws* (New York: Cambridge University Press, 1999).

⁹² Harrington, *Commonwealth of Oceana*, 9.

⁹³ Harrington, *Commonwealth of Oceana*, 9.

⁹⁴ Harrington, *Commonwealth of Oceana*, 9.

point is not to contest the utility and necessity of power for government. Rather, Harrington corrects (1) the misunderstanding as to the source of power (dominion not authorization) and (2) the insufficiency of establishing a government's legitimacy on the basis of power alone.

Republican government ought to function and legitimize itself through what he calls *authority* and *power*. Harrington elevates these words to terms of art that refer to two qualitatively distinct stocks of goods: "internal, or the goods of the mind, and external, or the goods of fortune."⁹⁵ Harrington reprises the hierarchy of goods from classical ethics, mobilizing it to construct the foundation of normatively robust government. Aristotle notes that perhaps the chief force working against virtue is the mistaken presumption that the pursuit of consumables and wealth (i.e., "external goods") amounts to the good life. Aristotle's "external goods" and what Harrington speaks of as "goods of fortune" are, of course, necessary for the good life. Their value, however, is only instrumental. They are useful insofar as they make possible the achievement of *eudaimonia*: the happiness or fulfillment that comes from the cultivation and exhibition of the political and contemplative virtues.⁹⁶

Aristotle and the Peripatetic school insist on the inextricability of ethics and politics. Harrington's innovation is the sublimation of this ethical distinction between external goods and goods of the soul into a theory of political dynamics. Harrington states that "to the goods of the mind, answers authority; to the goods of fortune, power or empire."⁹⁷ He clarifies the political stakes of the power/authority distinction when he states that "a learned writer may have authority, though he have no power; and a foolish magistrate may have power, though he have otherwise no esteem or

⁹⁵ Harrington, *Commonwealth of Oceana*, 10.

⁹⁶ Aristotle, *Politics*, 1323b20.

⁹⁷ Harrington, *Commonwealth of Oceana*, 11.

authority.”⁹⁸ The force that comes from the goods of fortune is juxtaposed with the unforced force constituting the authority of the man of judgment who has cultivated the goods of the mind.⁹⁹ There are thus two kinds of influence exerted in a republic. The influence over my fellows that I enjoy as a consequence of my “natural or acquired virtues, [such] as wisdom, prudence, courage, etc.” amounts to my authority; the property under my control as a freeholder amounts to my power.¹⁰⁰ Legitimacy depends on the cohabitation of authority (influence owing to virtue) and popular power (the broad distribution of wealth). Dominion must be distributed such that each citizen has a freehold that confers independence to his civic action. The independent standing enjoyed by the citizen as a consequence of his accumulated goods of fortune—or, put negatively, the fact that he is not economically dependent on a *dominus*—is the liberty characterizing what Harrington calls a freeman. For Harrington, “the man that cannot live upon his own must be a servant; but he that can live upon his own may be a freeman.”¹⁰¹ It is this sense of liberty that Pettit mines to extract freedom as non-domination.¹⁰² Harrington grounds his notion of the citizen or freeman (he uses the words interchangeably) in a status distinction between master and servant. The citizen’s “freedom as non-domination” is not a political accomplishment; it is a presupposition of a republican order. A plurality of citizens—a great number of non-servants rather than only the king or a small elite—constitutes the people’s power, the republic’s power.

⁹⁸ Harrington, *Commonwealth of Oceana*, 11.

⁹⁹ I employ Habermas’s formulation advisedly. For the “unforced force of the better argument,” see Jürgen Habermas, *Between Facts and Norms* (Cambridge: MIT Press, 1996), 306.

¹⁰⁰ Harrington, *Commonwealth of Oceana*, 10.

¹⁰¹ Harrington, *The Political Works of James Harrington*, 824. See also, *Commonwealth of Oceana*, 75.

¹⁰² Pettit, *Republicanism*, 28–29; *People’s Terms*, 17.

The fact that citizens are not servants—that they enjoy non-domination—is central to understanding how power operates and legitimates the republic. What I wish to emphasize is that this robust notion of citizenship (and non-citizenship) is necessary but insufficient to realize *de jure* government. Harrington’s republicanism means not only popular power owned and exercised by citizens. Legitimate government requires institutionalized deference to those who have cultivated the intellectual and political virtues, the integration of *auctoritas* into the political constitution.

III. Authority and *de jure* Government

The centrality of *auctoritas* (authority) to Harrington’s republicanism has yet to be fully appreciated by scholars.¹⁰³ While it is usually maintained that the Roman concept and practice of *auctoritas* has no Greek equivalent,¹⁰⁴ Harrington’s use of Greek and Roman examples suggests that

¹⁰³ Pettit and Skinner make no mention of the role authority plays in securing liberty, the concept they privilege as central to Harrington’s work. In Pocock’s extensive engagement with Harrington as the crucial conduit that transmits “civic humanism” from Florence to the Anglophone scene in *The Machiavellian Moment*, he not only does not highlight the importance of the power/authority distinction in his discussion of Harrington, but casually uses the word authority in explicating Harrington to mean a host of different things (including sovereignty, the right to rule, or a generic idea of government agency). Pocock does acknowledge the distinction in his introduction to *The Political Works of James Harrington*, but he assimilates it to the Machiavellian dyad of *fortuna* and *virtù*, rather than *potestas* and *auctoritas*. Frank Lovett (“Harrington’s Empire of Law,” *Political Studies* 60, no. 1 [2012]: 59–75) cites the exact passage in which Harrington defines authority but fails to appreciate the distinction, characterizing its exposition as a “confusing web of analogies” (69). The non-acknowledgement of the importance of authority to Harrington leads Lovett to conclude that Harrington “underestimates” the “senate’s power to control the agenda” (72). What Lovett misses is that charging the more virtuous portion of the commonwealth with the task of legislative proposal (i.e., agenda setting) is not an oversight—it’s the whole point. An exception to the inattention to authority can be found in Alan Cromartie, “Harringtonian Virtue: Harrington, Machiavelli, and the Method of the Moment,” *The Historical Journal* 41, no. 4 (1998): 987–1009.

¹⁰⁴ On the distinctly Roman nature of *auctoritas*, see Fritz Schulz, *Principles of Roman Law* (London: Oxford University Press, 1936) 164–188; Hannah Arendt, “What Is Authority?” in *Between Past and Future* (New York: Viking Press, 1961), 91–142; Malcolm Schofield, “Liberty, Equality, and Authority: A Political Discourse in the Later Roman Republic,” in *A Companion to Greek Democracy and the Roman Republic*, ed. Dean Hammer, (Malden: Wiley Blackwell, 2015), 124–125. For a more ambivalent view, see Vincent Farenga, “Liberty, Equality, and Authority: A Political Discourse in

he understands *auctoritas* as a constitutive aspect of “ancient prudence” practiced across Hellenic and Roman worlds.¹⁰⁵ Still, Harrington generally relies on Roman references when elucidating the political dynamic of authority. Harrington defines the influence of those who have cultivated the goods of the mind as “*auctoritas patrum*, the authority of the fathers.”¹⁰⁶ As in Rome, he identifies the senate as the political body that houses these men and institutionalizes their authority. Harrington describes the senate’s role as that of proposing to the people—“*ferre ad populum*”—in the form of written decrees that he identifies as “*senatusconsulta*.”¹⁰⁷

Harrington approvingly quotes the Roman Republic’s motto “*senatus populusque Romanus*” to elaborate the senate’s role.¹⁰⁸ This phrase, imprinted on the currency and military standards of the Republic by way of its acronym S.P.Q.R, expresses the harmonious combination of people and senate that Harrington envisages for England. It communicates the republican ideal of the mixed regime that arrests the “political circle” or “cycle of constitutions” in which all simple regimes degenerate into their perverse antipodes.¹⁰⁹ On Cicero’s account, the genius of the “fourth type of commonwealth . . . that is blended and mixed from these first three types” lies in its ability to

Greek Participatory Communities,” in *A Companion to Greek Democracy and the Roman Republic* (2015), 101–112.

¹⁰⁵ Harrington, *Commonwealth of Oceana*, 23.

¹⁰⁶ Harrington, *Commonwealth of Oceana*, 23.

¹⁰⁷ Harrington, *Commonwealth of Oceana*, 23. Though he does not offer a citation, it appears that Harrington draws the phrase *ferre ad populum* from Livy. See, for example, Livy 5.11.9. Harrington emphasizes *senatus consulta* again in *The Prerogative of Popular Government*, the 1658 sequel to *Oceana* that responds to critics, see *The Political Works of James Harrington*, 419–420.

¹⁰⁸ Harrington, *Commonwealth of Oceana*, 10.

¹⁰⁹ Polybius, *The Histories* (New York: Oxford University Press, 2010), 6.3–6.10.

harness both liberty and judgment.¹¹⁰ A commonwealth, Harrington insists, will achieve *de jure* government to the extent that it entwines popular power with aristocratic authority.

Harrington institutionalizes concepts of power and authority by following Cicero's maxim concerning the correct understanding of the Roman constitution: "while power resides in the people, authority rests with the Senate."¹¹¹ Harrington proposes that the commonwealth of Oceana have two legislative councils: one consisting in the "*auctoritas patrum*" and the other, a popular assembly that speaks for the citizenry as a whole.¹¹² Harrington justifies the bicameral legislature on the basis of historical inference and Stoic philosophy. In the series of republics Harrington takes as instructive models—Athens, Sparta, Carthage, Rome, Venice, and Israel—the fundamental undoing of the republic comes from the disequilibrium introduced by either the people or the optimates.¹¹³ Athens and Rome eventually succumbed to democratic excess since they allowed the people to partake in the deliberative aspect of legislating ("debating"), while Carthage and Venice suffered from the obverse pathology of aristocratic excess in light of the tendency for its elites to not only deliberate and initiate legislation ("debate" and "propose") but also to enact legislation ("resolve") without popular consent.¹¹⁴ Only Sparta achieved the perfectly balanced constitution that "consisted of the senate proposing, of the church or congregation [read: *ekklesia* or assembly] of the people

¹¹⁰ *De Re Publica*, 1.45. Harrington directly cites Cicero frequently, see *Commonwealth of Oceana*, 9, 14, 16, 33, 40, 41, 65, 74, 149, 170, 197, 221, 226, 227, 245.

¹¹¹ Cicero, *De Legibus*, 3.28.

¹¹² Harrington, *Commonwealth of Oceana*, 23.

¹¹³ The commonwealth of Israel may seem an odd historical exemplar but, as Eric Nelson demonstrates, Harrington's use of the Pentateuch to intervene in seventeenth-century political debates was anything but idiosyncratic, see *Hebrew Republic*.

¹¹⁴ Harrington, *Commonwealth of Oceana*, 24.

resolving only, and never debating—which was the long life of it—and of the two kings, the court of the ephors, with divers other magistrates, executing.”¹¹⁵

Harrington overdetermines his vindication of the mixed regime, as he not only induces his proper republican constitution from historical examples, but also deduces this balanced regime from the principles of Stoic philosophy. Harrington takes the kernel of Stoic practice to be that of overcoming the “bondage of his passions” through reason.¹¹⁶ Translating this ethical imperative into a criterion of constitutional design means asking how institutions might ensure that reason, rather than passion or factional interest, guides legislation. In other words, Harrington seeks a situation in which positive legislation approximates the “law of nature” rather than mere “private reason” or “reason of state”?¹¹⁷ The solution, he argues, lies in the separation of political function. The Montesquieuvian notion of the separation of powers is present in Harrington’s thought, in that the magistrates who enforce the law do not also author it. Harrington places emphatic weight, however, not on the separation of executive power from legislative power, but on the separation of legislative function into two key moments: deliberation and decision. Harrington’s pivotal claim concerning legitimate government is that aristocratic authority and popular power both be present without squelching the other. Toward this end, the deliberative function of “debating” and “proposing” is reserved for the senate, while the decisive function of “resolving” rests with the people.

¹¹⁵ Harrington, *Commonwealth of Oceana*, 29. The strict separation Harrington suggests between the magistrates who execute and the senators who propose is a stylized version of actual Roman practice. For a discussion of the complex relationship between the consuls and the senate on the question of legislative initiative and the more general dynamic of governance, see Andrew Lintott, *The Constitution of the Roman Republic* (New York: Oxford University Press, 1999), 77.

¹¹⁶ Harrington, *Commonwealth of Oceana*, 19.

¹¹⁷ Harrington, *Commonwealth of Oceana*, 21. On the importance of natural law in anchoring the constitutionalism of republican Rome, see the first book of Cicero’s *De Legibus* and Benjamin Straumann, *Crisis and Constitutionalism* (New York: Oxford University Press, 2016), 44–47.

Harrington imagines the senate populated by a “natural aristocracy,” a felicitous assumption based on anthropological observation rather than family lineage or divine selection. Given any group of twenty men,

there will be such difference in them that about a third will be wiser, or at least less foolish, than all the rest...for while the six, discoursing and arguing one with another, show the eminence of their parts, the fourteen discover things they never thought on.¹¹⁸

The obvious preeminence of men of virtue leads the people to remark upon their worthiness and elect them to the senatorial class. The senators of Harrington’s republic achieve their station “not by hereditary right, nor in regards to the greatness of their estates only . . . but by election for their excellent parts, which tendeth unto the advancement of the influence of their virtue or authority that leads the people.”¹¹⁹ It may prove tempting to assign the entire legislative power to the senate owing to its greater degree of virtue; however, the ineluctable tendency toward corruption—to put its private interests ahead of the common interest—requires that the decision to enact a law be lodged in a separate body from the one that proposes it. Whenever the legislative power rests solely with the senators or solely with the people, Harrington argues that “one [class] must eat out the other,” and the regime will either face oligarchic dissolution (as in Carthage) or democratic dissolution (as in Athens).¹²⁰ His theoretical wager is that the productive confluence of power and authority can go beyond a mere *modus vivendi* between competing social classes. The key difficulty we face in appreciating the signification of Harrington’s republican theory of legitimacy lies in the semantic shift that has effaced the meaning of authority as *auctoritas*.¹²¹ The word derives from the verb *augere*

¹¹⁸ Harrington, *Commonwealth of Oceana*, 23.

¹¹⁹ Harrington, *Commonwealth of Oceana*, 23.

¹²⁰ Harrington, *Commonwealth of Oceana*, 12.

¹²¹ Terrence Ball, “Authority and Conceptual Change,” *NOMOS* 29 (1986): 39–58.

meaning “to grow” or “augment.”¹²² Augmentation in this sense refers to a form of confirmation and endorsement, as when augurs—augur shares *augere* as its etymological root—take the auspices in order to confirm a public decision. Harrington follows the Romans in fashioning the senate as an institution whose *auctoritas* augments and endorses the actions of magistrates and popular assemblies. In Karl Galinsky’s account, “the *auctoritas* of the senate . . . is not binding legislation but the sort of approval that precedes it.”¹²³

Pinning down the particular force that achieves this augmentation is a more delicate undertaking. While acknowledging that *auctoritas* is a term “which evades any strict definition,” Theodor Mommsen offers the following memorable formulation: “*auctoritas* is more advice than command but it is advice that one cannot properly avoid.”¹²⁴ *Auctoritas* should not be confused with the kind of coercive control associated with the *imperium* of a proconsul. Still, *auctoritas* cannot be reduced to a consultation that magistrates or citizens feel licensed to ignore. Fritz Schulz and Hannah Arendt follow Mommsen in understanding the *auctoritas* exercised by the Roman senate in the public domain by analogy with the associations of *auctoritas* in private law.¹²⁵ In this analogy, the relation of the senate to the people follows the model of *auctoritas tutoris*, such that the citizenry

¹²² Nearly all commentators trace *auctoritas* to *augere* and the idea of augmentation, e.g., Wilfried Nippel, “The Roman Concept of Authority,” in *The Concept of Authority: A Multidisciplinary Approach*, eds. Pasquale Pasquino and Pamela Harris, (Rome: Fondazione Adriano Olivetti, 2007), 15. Émile Benveniste, however, claims “to increase” is only a “secondary and weaker meaning of *augeo*” and that it originally referred to a divine act of creation. See *Le vocabulaire des institutions indo-européennes II: Pouvoir, droit, religion* (Paris: Éditions des Minuit, 1969), 143–151.

¹²³ Karl Galinsky, *Augustan Culture* (Princeton: Princeton University Press, 1998), 13.

¹²⁴ Mommsen quoted in Nippel, “Roman Concept,” 18.

¹²⁵ Schulz, *Principles*, 164–168; Arendt, “What Is Authority?” 91–141.

constitutes a ward whose minority status necessitates approval from a legal guardian before acting.¹²⁶ The overreliance on the usages of *auctoritas* in private law leads Schulz and Arendt to misleadingly insist that *auctoritas* shuns persuasion or the giving of reasons.¹²⁷ In fact, the *auctoritas* associated with the Roman senate denotes a form of moral leadership that relies on the giving of reasons, especially those grounded in tradition.¹²⁸

Harrington's appreciation of the authority exercised by those wise patricians who devote their virtuous characteristics to forming the deliberative center of the republic closely parallels Cicero's contention that the senate enjoys a preeminent role in Rome's constitution. Cicero frequently gives voice to the role of deliberation and judgment (i.e., *consilium*) as the normative source of the senate's authority.¹²⁹ In *De Re Publica*, Cicero's *porte-parole* Scipio evaluates the unalloyed forms of government by isolating their signature excellence: "And so kings captivate us by their affection [*caritate...reges*], aristocrats by their judgment [*consilio optimates*], and the people by its liberty [*libertate populi*]."¹³⁰ Whereas the paternal love that characterizes kingship marks its signal virtue, and

¹²⁶ Nippel, "Roman Concept," 15–17.

¹²⁷ Schulz, *Principles*, 322; Arendt, "What Is Authority?" 93. For criticism of the derivation of senatorial *auctoritas* from private law, see Peter Brunt, *The Fall of the Roman Republic* (New York: Oxford University Press, 1988), 322 and Nippel, "Roman Concept," 17.

¹²⁸ Carl Friedrich, *Tradition and Authority* (New York: Pall Mall Press, 1972); Galinsky, *Augustan Culture*, 10–20; Michele Lowrie, *Writing, Performance, and Authority in Augustan Rome* (New York: Oxford University Press, 2009), 279–294.

¹²⁹ On the necessity of speaking of *consilium* and *auctoritas* in tandem, see J. P. V. D. Baldson, "Auctoritas, Dignitas, Otium." *The Classical Quarterly* 10, no 1 (1960): 43–50; Andrew Lintott, *Constitution*, 86.

¹³⁰ Cicero, *De Re Publica*, 1.55. I have accompanied Zetzel's translation with the key Latin phrases in brackets taken from the Loeb edition. Harrington would not have had access to the large portion of *De Re Publica* now in print, as it was not discovered until 1819, see James Zetzel, introduction to *On the Commonwealth and On the Laws*, by Cicero (New York: Cambridge University Press, 1999), xiv.

the equal liberty enjoyed by each citizen gives democracy its particular luster, the quality of deliberative judgment sets aristocracies apart. There is even evidence to suggest that Cicero grants *consilium* a certain pride of place in his constitutional theory. Immediately after defining the *res publica* as the *res populi*, Cicero states that “every republic (which is, as I said, the property of the people) needs to be ruled by some sort of deliberation [*consilium*] in order to be long lived.”¹³¹ He goes on to suggest that the assignment of deliberative judgment constitutes the principal criterion for discriminating between regime types, such that kingship arises when *consilium* is assigned to one person, an aristocracy when it is assigned to a selected group of leading citizens, or a democracy when it is assigned to the entire citizenry.¹³² Cicero anticipates the beneficence of the mixed constitution by diagnosing the chief defect of kingship as the insufficient “access to shared justice or to deliberative responsibility,” the chief defect of aristocracy as the fact that “the people have hardly any share in liberty, since they lack any role in common deliberation and power,” and the chief defect of democracy as the brutal equality that erases all distinctions owing to merit and virtue.¹³³ The mixed constitution equilibrates these competing tensions by disambiguating power, judgment, and liberty and institutionalizing them at different levels. An “equitable balance” is achieved when “there is enough power [*potestatis*] in the hands of the magistrates and enough authority [*auctoritas*] in the judgment [*consilio*] of the aristocrats and enough freedom [*libertatis*] in the people.”¹³⁴ Harrington follows the Ciceronian political model by placing signal emphasis on the deliberative judgment institutionalized in the senate.

¹³¹ Cicero, *De Re Publica*, 1.41.

¹³² Cicero, *De Re Publica*, 1.41–42.

¹³³ Cicero, *De Re Publica*, 1.43.

¹³⁴ Cicero, *De Re Publica*, 2.58.

The importance of an aristocratic body of senators possessing *auctoritas* might appear to confirm the charge that Harrington’s republicanism is irremediably elitist.¹³⁵ Rachel Hammersley and Martin Dzelzainis complicate such accusations, however, by persuasively detailing how Harrington occupied the anti-oligarchic wing in the debate among republicans of the Interregnum.¹³⁶ John Milton, like Harrington, proposes “a general council of the ablest men”; however, unlike Harrington, he sees no need for rotating officeholders, an agrarian law, a system of orders, or balancing the aristocratic body with a more democratic assembly.¹³⁷ In Harrington’s view, a unicameral legislature with life tenure—or, as Milton calls it, a senate “that should sit perpetually”—can only result in “oligarchy.”¹³⁸

Harrington’s rejection of Milton’s perpetual senate and his embrace of institutionalism has led some scholars to conclude that Harrington’s commonwealth dispenses with virtue by way of self-interest. On this view, the constitutional features of Harrington’s commonwealth engineer “the appearance of virtue out of the self-interested behavior of individual citizens.”¹³⁹ Jonathan Scott goes as far as to say that Harrington’s faith in institutional mechanisms affirms not only Hobbes’s

¹³⁵ For Harrington’s “ochlophobic constitutional prescriptions” and his “fear of incompetent citizens” see John McCormick, *Machiavellian Democracy* (New York: Cambridge University Press, 2011), 6 and Nadia Urbinati, “Competing for Liberty: The Republican Critique of Democracy,” *American Political Science Review* 106, no. 3 (2012): 607–621, 612, respectively.

¹³⁶ Rachel Hammersley, “Rethinking the Political Thought of James Harrington: Royalism, Republicanism and Democracy,” *History of European Ideas* 39, no. 3 (2013): 354–370; Martin Dzelzainis, “Harrington and the Oligarchs: Milton, Vane, and Stubbe,” in *Perspectives on English Revolutionary Republicanism*, eds. Dirk Wiemann and Gaby Mahlberg, (Surey: Ashgate, 2014), 14–34.

¹³⁷ John Milton, *Areopagitica and Other Political Writings of John Milton* (Indianapolis: Liberty Fund, 1999), 427.

¹³⁸ Harrington, *Commonwealth of Oceana*, 66; Milton, *Areopagitica and Other Political Writings*, 433.

¹³⁹ Hammersley, “Rethinking,” 369.

metaphysics of materialism, but also Hobbes's modern substitution of civil peace for *vivere civile* as the goal of politics.¹⁴⁰ Underlining the role of political structure in Harrington's thought is important, but it is wrong to infer that Harrington's institutionalism amounts to a rejection of virtue.

Harrington's constitutional structure needs to be understood as a means of preserving virtue from its corruption. He acknowledges Machiavelli's admonition regarding the perennial threat of corruption and accepts that the challenge of the lawgiver is to design political institutions that militate against this tendency.¹⁴¹

The differentiation in legislative function into deliberation and resolution prevents the authority entrusted to the senate from becoming an arbitrary prerogative exercised by a privileged class. The people's trust in the greater intellectual and moral virtue present in the senatorial class means that they withdraw from the activity of debate and proposal. The enactment of the advice offered by the senate, however, requires the affirmative assent of the citizenry through their deputies. This is the meaning of Harrington's fable of the two girls, one of whom cuts a cake in half, the other of whom chooses which piece she wants. The child cutting the cake will not cut unequal

¹⁴⁰ Jonathan Scott believes Harrington's division of the commonwealth into military orders marks his break from ancient republicanism and makes clear his debt to Hobbes: controlling the populace through mechanisms that reduce politics to automation. It does not seem to me that the textual evidence lends much support to this thesis. Rather, it seems reasonable to conclude that the very models Harrington cites as inspiration for his orders—Israel, Sparta, and Rome—are indeed the models that inspire the orders of Oceana, see *Commonwealth of Oceana*, 72–76. The Roman model of the comitia centuriata after the Servian reforms appears to be the most important inspiration. See Scott, “The Rapture of Motion.”

¹⁴¹ On corruption in Machiavelli, see Niccolò Machiavelli, *Discourses on Livy* (Chicago: University of Chicago Press, 1996), I.17; J. G. A. Pocock, *Machiavellian Moment*, 75–80; Amanda Maher, “What Skinner Misses about Machiavelli's Freedom: Inequality, Corruption, and the Institutional Origins of Civic Virtue,” *The Journal of Politics* 78, no. 4 (2016): 1003–1015. James Cotton rightly observes that while Harrington inherits Machiavelli's conceptualization of corruption as the threat to the republic, he departs from Machiavelli in his belief that a commonwealth can be made immortal by fixing the balance in its foundation and superstructure, see *James Harrington's Political Thought*, 221–222.

slices (even though she would prefer a greater share) because the freedom to choose belongs to the alternate party.¹⁴² Similarly, the natural aristocracy of the senate will not abuse the faith placed in its hands by proposing a law that treats the citizenry unjustly, because the latter would simply refuse to enact the legislation. Harrington's institutionalism is thus not a concession to Hobbes's modern prudence.¹⁴³ Rather, it endorses ancient prudence and the role of the lawgiver to design a constitution that sustains virtue against corruption.

The careful disambiguation of power and authority at the core of Harrington's republican theory corrects the homogenization of political concepts—and the neutering of republican politics—at work in Hobbes's political philosophy. Rather than define authority in contrast with the power of a *dominus* as Harrington does, Hobbes defines authority precisely by analogizing it with the ability of the *dominus* to dispose of his goods:

Of Persons Artificiall, some have their words and actions *Owned* by those whom they represent. And then the Person is the *Actor*; and he that owneth his words and actions, is the *AUTHOR*: In which case the Actor acteth by Authority. For that which in speaking of goods and possessions, is called an *Owner*, and in latine *Dominus*, in Greeke *kurios*, speaking of Actions, is called an Author. And as the Right of possession, is called Dominion; so the Right of doing any Action, is called *AUTHORITY* and sometimes *warrant*. So that by Authority, is alwayes understood a Right of doing any act: and done by Authority, done by Commission, or Licence from him whose right it is.¹⁴⁴

Hobbes considers authority to be the analogue to dominion, pertinent to the domain of action rather than property. Just as the master (or *dominus*) has the right to dispose of his property, so too does the author have the authority to dispose of his actions. The idea of natural persons as authors

¹⁴² Harrington, *Commonwealth of Oceana*, 22; cf. Genesis 13:9.

¹⁴³ On Hobbes and classical virtue, see Gianni Paganini, "Thomas Hobbes against the Aristotelian Account of the Virtues and his Renaissance Source Lorenzo Valla," in *Early Modern Philosophers and the Renaissance Legacy*, eds. Gianni Paganini and Cecilia Muratori, (Switzerland: Springer, 2016), 221–238.

¹⁴⁴ Hobbes, *Leviathan*, 112.

with the authority to authorize an artificial person (viz., the sovereign) to act on their behalf is, of course, the heart of the covenant between natural persons that creates the state in Hobbes's theory. If a subject should, for example, attempt to depose the sovereign, "he may be punished by his own authority," since he is not only the subject of the sovereign, but also the author who authorized the sovereign's actions.¹⁴⁵ For Hobbes, legitimacy hinges on this question of authorization. As we saw earlier, it is the possibility of implied authorization that makes it possible for Hobbes to so radically narrow the distinction between *de facto* and *de jure* government. The importance of authorization to Hobbes's social contract theory is well known.¹⁴⁶ What is less often noted is how couching this theory in the language of authority erases the cornerstone republican distinction between power and authority.¹⁴⁷ *Pace* Hobbes, authority does not mean "having a narrow sphere of action in which your word [is] law, but having initiative to think and to deliberate and speak about policy."¹⁴⁸ As Michael Oakeshott observes, "to have *auctoritas* was precisely not to have *potestas*; and to have *potestas* carried with it no *auctoritas*."¹⁴⁹ Harrington retrieves the classical idea of *de jure* government, a political community that combines the broad distribution of wealth with an institutionalized deference to men of authority.

¹⁴⁵ Hobbes, *Leviathan*, 122.

¹⁴⁶ Hanna Pitkin, "Hobbes's Concept of Representation," *American Political Science Review* 58, no. 2 (1964): 328–340; Quentin Skinner, "Hobbes and the Purely Artificial Person of the State," *The Journal of Political Philosophy* 7, no. 1 (1999): 1–29.

¹⁴⁷ I do not mean to suggest that Hobbes's political theory is without Roman provenance. See Daniel Lee, "Hobbes and the Civil Law," in *Hobbes and the Law*, eds. David Dyzenhaus and Thomas Poole, 210–235 (New York: Cambridge University Press, 2012).

¹⁴⁸ Michael Oakeshott, *Lectures in the History of Political Thought* (Charlottesville: Imprint Academic, 2006), 196.

¹⁴⁹ Oakeshott, *Lectures*, 196.

IV. Conclusion

Harrington insists that true republican government makes a distinct claim to the allegiance of its citizens, one superior and more robust than that offered by the Stuart Monarchy and its predecessors. The theoretical elucidation of republican legitimacy is important to Harrington because of his political interest in encouraging the nominal commonwealth led by Cromwell into becoming a true commonwealth, one in accordance with ancient prudence. Those who read Harrington's project as continuous with that of Hobbes's miss the essence of his intervention. Establishing legitimacy through the combination of power and authority diverges strongly from Hobbes's account of legitimacy as prior authorization motivated by fear. For Harrington, legitimacy is not a story of authorization. Rather than a contractual record that locates the explicit or implicit moment when the people transferred their sovereign right to some group agent, legitimacy requires broadly distributed dominion and the institutionalization of *auctoritas* that together guide the state toward the public interest.

Liberty is important for Harrington's republicanism because of its implication for the dynamic of political power. The citizenry must be composed of those who have attained the status of freemen—not servants but those who “can live of themselves” owing to their status as freeholders.¹⁵⁰ A collection of citizen freeholders constitutes a free people because the preponderance of the nation's wealth is held in the people's hands. The important corollary is that both the capital necessary for martial pursuits and the soldiers needed to employ them are both the citizenry's property and persons. The dispersal of dominion across the citizenry not only confers liberty to its owners, but also contributes to the legitimacy of the polity through the realization of

¹⁵⁰ Harrington, *Commonwealth of Oceana*, 75.

popular power. Moreover, it is necessary that this popular power has an institutional forum, a legislative body in which the people's representatives ensure the law tracks the people's interests.

Neo-republicans are right to contrast the political visions of Hobbes and Harrington. It is the univocal emphasis given to liberty that stands in need of qualification. Does Harrington's account of liberty go beyond the liberal notion of freedom as non-interference? Certainly so. Does liberty operate as the "supreme moral value" that organizes Harrington's republicanism?¹⁵¹ Or, can we extract Harrington's concept of liberty and use it as the vehicle to arrive at a post-liberal set of political institutions? We should be cautious with regard to these latter propositions, because in Harrington's scheme individual liberty refers only to the economic independence requisite for citizenship. The agrarian law of Oceana that broadens citizenship by dispersing land constitutes only the first element of Harrington's dual theory of political legitimacy. When neo-republicans extract freedom as non-domination and use it as the lodestar guiding the critique and reconstruction of political institutions and civic culture, they abandon the other essential source of republican legitimacy—authority as *auctoritas*. The liberal account of political legitimacy that follows Hobbes locates it in a notion of authorization. Harrington theorizes the republican alternative, an account of political legitimacy that entwines popular power with a Roman notion of authority as *auctoritas*.

A close examination of Harrington's republicanism shows us not merely that the neo-republican synthesis bears a rather inexact likeness to one of the principal historical antecedents it claims; more importantly, it shows us that the very question motivating the republican project has changed. Neo-republicanism asks the state to justify its laws in terms of their ability to secure the individual from uncontrolled interference. Harrington's republicanism asks the political order to justify its laws in terms of their ability to secure flourishing to the community as a whole.

¹⁵¹ Skinner, *Liberty Before Liberalism*, 59.

Democratically distributed dominion is crucial to secure this order, but it alone is insufficient without an aristocratic principle of authority. As we have seen, Harrington relies on the image of the well-ordered Stoic self as metonym for a free state guided by its own will, a democratic will made autonomous through the elevation of reason and virtue. What elements of the Stoic-informed account of reasoned judgment ought to be preserved or excised is an important question for a republican critique of our politics. What I hope to have demonstrated is how Harrington's thought can help us clarify the core problematic animating republicanism's unique claim to political legitimacy: how might we create and sustain a political order that marries popular power with aristocratic authority?

CHAPTER 2

Shaftesbury and the Problem of Imposture

It is tempting to view the writings of the third Earl of Shaftesbury, Anthony Ashley Cooper, (1671–1713), as irredeemably aristocratic. For Robert Markley, Shaftesbury stands as “a tireless defender of aristocratic privilege” whose “conservative bias” leads him to entrench “old-line aristocratic values.”¹⁵² Shaftesbury’s self-edited, three-volume collection of his works entitled *Characteristicks of Men, Manners, Opinions, Times* (1711) “attempt[s] without apology to inscribe an aristocratic system of values—based on the equation of birth and worth—in the ‘natural’ order of the universe.”¹⁵³ In a similar if less strident vein, Lawrence Klein describes a Shaftesbury who “advocated the gentleman and gentlemanliness in society.”¹⁵⁴ Shaftesbury’s project, in short, must be understood as a “reassertion of the aristocratic principle in English society and culture.”¹⁵⁵

Shaftesbury’s interest in the formation of an intellectual, moral, and political elite is beyond question. Klein, however, is surely right to underline the novelty and reformist ambition of Shaftesbury’s work. Markley understands Shaftesbury’s project as a “reification of moral values”: the sublimation of specific sociological and cultural characteristics of a particular historical class into an

¹⁵² Robert Markley, “Sentimentality as Performance: Shaftesbury, Sterne, and the Theatrics of Virtue,” in *The New Eighteenth Century*, eds. Felicity Nussbaum and Laura Brown (New York: Methuen, 1987), 212, 213, and 215.

¹⁵³ Markley, “Sentimentality,” 214.

¹⁵⁴ Lawrence Klein, *Shaftesbury and the Culture of Politeness: Moral Discourse and Cultural Politics in Early Eighteenth-Century England* (New York: Cambridge University Press, 1994), 20.

¹⁵⁵ Klein, *Shaftesbury*, 20.

ahistorical ideal of morality.¹⁵⁶ This chapter understands Shaftesbury's *Characteristicks* as engendering a new elite based on new values, rather than as a piece of ideology that articulates the values of an existing social class. His goal is not the entrenchment of aristocracy, but its dissolution and reconstitution. Shaftesbury views the Glorious Revolution of 1688 as an opening to establish new forms—or, in Shaftesbury's parlance, new *manners*—of political authority.¹⁵⁷ The locus of elite formation was shifting from the court and church to the forum.¹⁵⁸ Shaftesbury welcomed and catalyzed this transformation through his unique program of literary publicity.¹⁵⁹ Shaftesbury imagined the world of letters to be both the site of political legitimation and the environment of elite formation.

The pages that follow read Shaftesbury's project as a meditation on the nature of authority in a free state. Like James Harrington, Shaftesbury is interested in how men of virtue can form the intellectual and moral ballast of a society free from domination by the court and church. Harrington focuses on the proper ordering of institutions, whereas Shaftesbury focuses on how manners energize these institutions. In the context of this dissertation, the two theorists may be conceived as

¹⁵⁶ Robert Markley, "Style as Philosophical Structure: The Contexts of Shaftesbury's *Characteristicks*," in *The Philosopher as Writer*, ed. Robert Ginsberg, (Selinsgrove: Susquehanna University Press, 1987), 143.

¹⁵⁷ I follow Susan Griffin in using the word "authority" to describe the normative qualities of the man of letters and of public affairs that Shaftesbury's work aims to theorize and produce, see Susan Griffin, "Shaftesbury's *Soliloquy*: The Development of Rhetorical Authority," *Rhetoric Review* 9, no. 1 (1990): 94–106.

¹⁵⁸ Iain Hampsher-Monk, "From Virtue to Politeness," in *Republicanism: A Shared European Heritage II: The Values of Republicanism in Early Modern Europe*, ed. Martin van Gelderen and Quentin Skinner (New York: Cambridge University Press, 2002), 91–92; Jürgen Habermas, *The Structural Transformation of the Public Sphere* (Cambridge: MIT Press, 1989), 51–67.

¹⁵⁹ Lawrence Klein, "Coffeehouse Civility, 1660–1714: An Aspect of Post-Courtly Culture in England," *Huntington Library Quarterly* 59, no. 1 (1996): 30–51.

complementary. Harrington's reflections on constitutional design theorize the necessity and place of authority, while leaving the substantive character of what makes certain utterances and actions authoritative indeterminate. Shaftesbury, on the other hand, leaves aside questions of constitutional design. Instead, he focuses on the what and how of manners: what characteristics of individuals and their publics convey authority and how do certain psychological and social practices deepen or undermine such virtues.

The key to understanding Shaftesbury's account of authority in politics and the arts lies in its perverse twin: imposture. The figure of imposture is replete across the six main works that make up the *Characteristicks*—and the word “imposture” itself appears no less than twenty-two times across these texts. My elevation of imposture to the status of keyword departs subtly from extant Shaftesbury scholarship.¹⁶⁰ The first wave of rigorous Shaftesbury scholarship concerned his deism, underlining Shaftesbury's critique of priestcraft, an important moment within what I consider to be Shaftesbury's larger engagement with imposture.¹⁶¹ The more recent wave of scholarship on

¹⁶⁰ I emphasize these two waves of scholarship because they take Shaftesbury's project seriously in its own right, rather than as an origin or conduit for the idea of the “moral sense” that he is said to anticipate. Shaftesbury's principal notoriety has come from this latter story in which historians of moral philosophy position him vis-à-vis Mandeville. Shaftesbury is credited as the “founder of a distinctive school of ethical thought, the moral sense, or sentimentalist, school,” that becomes rigorously expostulated by Francis Hutcheson a generation later (J. B. Schneewind, *Moral Philosophy from Montaigne to Kant* [New York: Cambridge University Press, 2003], 483). Treating Shaftesbury's contribution to moral philosophy in this fashion has its roots in the eighteenth century. Immanuel Kant taught ethics by dividing moral philosophy between those who ground morality on a “physical feeling” (e.g., Helvétius and Mandeville) and those who ground it on a “moral feeling” (e.g., Shaftesbury and Hutcheson), see Immanuel Kant, *Lectures on Ethics*, eds. Peter Heath and J. B. Schneewind (New York: Cambridge University Press, 1997), 48–49, 240–243. Notable examples of this narrative include the following: Terry Eagleton, *The Ideology of the Aesthetic* (Malden: Blackwell, 1990), 31–69; Michael Frazer, *The Enlightenment of Sympathy* (New York: Oxford University Press, 2010), 15–39; Isabel Rivers, *Reason, Grace, and Sentiment II: A Study of the Language of Religion and Ethics in England 1660–1780* (New York: Cambridge University Press, 2000).

¹⁶¹ Alfred Owen Aldridge, “Shaftesbury and the Deist Manifesto,” *Transactions of the American Philosophical Society* 14, no. 2 (1951): 297–382; Roger Emerson, “Latitudinarianism and the English

Shaftesbury details how he exemplifies a wider complex of values associated with “politeness.”¹⁶² Politeness is one means of describing the telos of Shaftesbury’s project: a normative term that characterizes individuals and society that have undergone Shaftesburian *polishing*. A man once thoroughly polished and rendered polite achieves what I am calling authority. A political society grounded on a post-courtly ideal of politeness as publicity constitutes the Shaftesburian iteration of republican authority.

The way a gentleman achieves authority is through a negation of imposture. Shaftesbury’s originality lies not in the fact that he joins the chorus of Enlightenment writers, such as his fellow commonwealthmen John Toland and Robert Molesworth, who spurn imposture; it lies in the way he expands this critique by revealing and diagnosing imposture’s hitherto unacknowledged guises.¹⁶³ The first avatar of imposture is a familiar one for Shaftesbury and his fellow deists. It refers to priestcraft, the central object of deist critique that finds perhaps its easiest case—at least, for an English, Protestant audience—in that of “Romish idolatry.”¹⁶⁴ The first few sections of this chapter

Deists,” in *Deism, Masonry, and Enlightenment*, ed. J. A. Leo Lemay (Newark: University of Delaware Press, 1987), 19–48.

¹⁶² J. G. A. Pocock, “The Varieties of Whiggism,” in *Virtue, Commerce, History* (New York: Cambridge University Press, 1985); Lawrence Klein, *The Rise of Politeness in England*, doctoral dissertation (Johns Hopkins University, 1983); Klein, *Shaftesbury*; Alice Walters, “Conversation Pieces: Science and Politeness in Eighteenth-Century England,” *History of Science* 35, no. 2 (1997): 121–154; Philippe Raynaud, *La politesse des Lumières* (Paris: Gallimard, 2013).

¹⁶³ On late seventeenth- and early eighteenth-century commonwealthmen and the critique of imposture, see Justin Champion, *Republican Learning: John Toland and the Crisis of Christian Learning 1696–1722* (New York: Manchester University Press, 2003).

¹⁶⁴ Anthony Ashley Cooper, third Earl of Shaftesbury, “A Letter Concerning Enthusiasm to My Lord *****,” in *Characteristicks of Men, Manners, Opinions, Times*, ed. Lawrence Klein (New York: Cambridge University Press, 2000), 15. I cite this modern edition of Shaftesbury’s *Characteristicks* because it is the most universally accessible across university libraries. It also includes an erudite editorial introduction and helpful notes throughout. My preferred contemporary edition, however, is that published by the Liberty Fund (Anthony Ashley Cooper, Third Earl of Shaftesbury, *Characteristicks of Men, Manners, Opinions, Times* [Indianapolis: Liberty Fund, 2001]). If the Cambridge

draw primarily from the first piece in Shaftesbury's *Characteristicks*. The piece, "A Letter Concerning Enthusiasm to My Lord *****," ostensibly centers on Huguenot clerics who pretend divine inspiration. Though refugees of Catholic persecution, English Protestants saw their ecstatic convulsions and superstitions as evincing Romish tendencies.

I say that Shaftesbury's "Letter" ostensibly concerns the French Prophets because what begins as a humorous harangue of a few quaking clerics from abroad morphs into an interrogation of the traditional hierarchies and forms of justification accepted in mainstream, and especially Tory, society. Shaftesbury draws an equivalence between imposture of those would-be persecuted clerics and the imposture of those who aim to persecute them. In so doing, Shaftesbury introduces the larger dialectic of imposture diagnosed, treated, and dramatized by the *Characteristicks*: the oscillation between an imposture born of introversion (enthusiasm) and an imposture born of extroversion (unreflective sociability).

I. Incontinent Imaginations and "A Letter Concerning Enthusiasm"

Written a generation after John Locke's *Letter on Toleration* (1689) and a generation before Voltaire's *Letters on England* (1733), Shaftesbury's anonymously published *Letter Concerning Enthusiasm to My Lord ****** (1708)¹⁶⁵ is regarded as a central document undergirding religious toleration in

edition is a domesticizing translation, the Liberty Fund edition is a foreignizing translation. The latter preserves the eighteenth-century typographical style and spellings. It also comes in the form of the three separate volumes that characterized all eighteenth-century editions, tangibly communicating the triptych that Shaftesbury deliberately designed. Finally, the Liberty Fund edition preserves the extensive index to the work that Shaftesbury prepared, a great resource unfortunately excised from the Cambridge edition.

¹⁶⁵ I italicize the title with its date of publication to indicate that Shaftesbury's *Letter* was originally published independently. I cite the version contained in the *Characteristicks* throughout.

Western culture.¹⁶⁶ The arrival of Huguenot refugees in London initially elicited sympathy among Englishmen. It was not long, however, before the warm reception of these Protestant refugees, who shared England's antipathy toward the aspiring universal monarchy of France, grew cold. The threat was one of enthusiastic contagion. The group swelled to more than four hundred people by the end of 1708, two-thirds of whom were English converts.¹⁶⁷ Indeed, the twenty-two English prophets outpaced the fifteen Huguenot prophets. To complement their profession of performing miracles, they would "quake, groan, laugh, belch, sigh, sing, shriek hideously; and at last, stretching their Mouths open, in a yawning, distorted, dreadful manner, in a doleful Tone, and as loud as they were able, would utter their Prophecie."¹⁶⁸ Shaftesbury witnessed the ecstatic convulsions of the English prophet and publicist John Lacy firsthand when he observed him prophesize "in a pompous Latin style, of which, out of his ecstasy, it seems, he is wholly incapable."¹⁶⁹ Hillel Schwartz correctly observes how Shaftesbury's "Letter" reiterates the larger concern of social contagion—the "insensible Transpiration" of that "subtile effluvium."¹⁷⁰ Alfred Aldridge rightly notes much of

¹⁶⁶ Martin Fitzpatrick, "Toleration and the Enlightenment Movement," in *Toleration in Enlightenment Europe*, eds. Ole Peter Grell and Roy Porter (New York: Cambridge University Press, 2000), 23–68; Michael Heyd, *Be Sober and Reasonable: The Critique of Enthusiasm in the Seventeenth and Eighteenth Centuries* (New York: E. J. Brill, 1995), 211–240.

¹⁶⁷ Hillel Schwartz, *Knaves, Fools, Madmen, and that Subtle Effluvium* (Gainesville: University Presses of Florida, 1978), 24–25.

¹⁶⁸ [Richard Kingston,] *Enthusiastick Imopstors no Divinely Inspir'd Prophets* (London, 1707), 2 quoted in Alfred Aldridge, "Shaftesbury and the Deist Manifesto," *Transactions of the American Philosophical Society*, 42 (1951): 297–382, 315.

¹⁶⁹ "Letter Concerning Enthusiasm," in *Characteristicks*, 24. Hillel Schwartz dates Shaftesbury's witnessing of Lacy's possession to July 5, 1707, *The French Prophets: The History of a Millenarian Group in Eighteenth-Century England* (Berkeley: University of California Press, 1980).

¹⁷⁰ Schwartz, *Knaves*, 52–54.

Shaftesbury's diagnosis of enthusiasm derives from Henry Moore's *Enthusiasmus Triumphatus*.¹⁷¹ What has not been fully appreciated, however, is the way Shaftesbury's "Letter" treats enthusiasm as a larger problem of what it means to claim authority in the realm of public affairs.

Shaftesbury takes the episode of the French Prophets and its concomitant problematization as enthusiasm to reflect on the broader dynamic of rhetoric and political debate newly relevant given the liberalization of England's political order. Enthusiasm is a product of men's natural "faculty of deceiving themselves."¹⁷² False inspiration exemplifies the more general human predicament in which even a "small foundation of any passion" may overwhelm a person's rational faculties. Shaftesbury gives the humorous example of how "a boy of fifteen" and "a grave man of fifty" are equally liable to "grow a very natural coxcomb" (i.e., show signs of sexual arousal) "with the help of a romance or novel."¹⁷³ Similarly, even a pious and devoted Christian may "extend his faith so largely as to comprehend in it not only all scriptural and traditional miracles, but a solid system of old wives stories."¹⁷⁴ Shaftesbury avoids exoticizing the French Prophets because he wants to show how they exemplify the broader political problem of incontinent imagination. Shaftesbury uses the topicality of the French Prophets to investigate how the popular demand for imaginative zeal finds its supply in those pretended authorities practicing imposture.

Imposture takes advantage of the human propensity to experience passionate transport. The concern over imposture does not originate with Shaftesbury but reflects a broader preoccupation

¹⁷¹ Aldridge, "Shaftesbury and the Deist Manifesto," 317; Henry Moore, *Enthusiasmus Triumphatus, or a Discourse of the Nature, Causes, Kinds, and Cure, of Enthusiasme* (London, 1656), written under the pseudonym Philophilus Parresiastes.

¹⁷² Shaftesbury, "Letter," 5.

¹⁷³ Shaftesbury, "Letter," 5.

¹⁷⁴ Shaftesbury, "Letter," 5.

among early modern writers.¹⁷⁵ Michel de Montaigne—perhaps the best modern precursor for Shaftesbury’s philosophical style and humanist techniques of the self—made the domination of men by their own imaginations a principal theme of his *Essais*.¹⁷⁶ Like Shaftesbury, Montaigne explained religious enthusiasm by way of imagination:

It is probable that the principal credit of miracles, visions, enchantments, and such extraordinary occurrences comes from the power of imagination, acting principally upon the minds of the common people, which are softer. Their belief has been so strongly seized that they think they see what they do not see.¹⁷⁷

The communication of ideas made possible by imagination is responsible not just for supernatural religious occurrences, but also for prosaic ones. Like Shaftesbury, Montaigne identifies the severity of the problem posed by human fancy by reference to virility. He tells of a man whom he can “answer for” as if it were himself—a man “on whom there could fall no suspicion whatever of impotence and just as little of being enchanted”—who was so horror-struck by listening to the story of his friend’s failed performance that he contracted the same psychosomatic malady from an involuntary act of sympathy.¹⁷⁸ The human imagination does not only have this power to “tyrannize” men; it also has the power to cure them.¹⁷⁹ Montaigne’s associate cured himself by “admitting this

¹⁷⁵ George Williamson, “The Restoration Revolt Against Enthusiasm,” *Studies in Philology* 30 (1933): 571–603. Susan James, *Passion and Action: The Emotions in Seventeenth-Century Philosophy* (New York: Oxford University Press, 1997).

¹⁷⁶ Pocock refers to Shaftesbury as the “Whig Montaigne,” see J. G. A. Pocock, *Virtue, Commerce, History*, 219.

¹⁷⁷ Montaigne, *Les Essais*, eds. Jean Balsamo et al. (Paris: Gallimard, 2007), 101 (“De la force de l’imagination”) [Frame: 84]. Unless indicated otherwise I have followed Donald Frame’s translation, see Montaigne, Michel de, *The Complete Works: Essays, Travel Journal, Letters* (New York: Everyman’s Library, 2003).

¹⁷⁸ Montaigne, *Les Essais*, 101 (“De la force de l’imagination”) [Frame: 84].

¹⁷⁹ Montaigne, *Les Essais*, 101 (“De la force de l’imagination”) [Frame: 84].

weakness and speaking about it in advance,” thereby relieving the anxiety.¹⁸⁰ The curing of illness through appearance rather than reality is one way Montaigne speaks of imposture. “Why do the doctors work on the credulity of their patient beforehand with so many false promises of a cure,” Montaigne asks, “if not so that the effect of the imagination might do what the imposture of their pretended remedy never could?”¹⁸¹ By imposture then, we must understand not only the “gross impostures of religions . . . which have inebriated so many great nations and persons” but also the ways in which agents of diverse objectives obtain their ends indirectly by taking advantage of their patient’s imagination.¹⁸² Anyone claiming authority who instead “comes and tricks us with assurances of an extraordinary faculty that is beyond our ken” should be punished for the “temerity of their imposture.”¹⁸³

One source of Shaftesbury’s concern over the faculty of imagination and its susceptibility to abuse thus derives from the humanist authors he studied such as Montaigne. Another source was the revolution in learning epitomized by Francis Bacon. Bacon diagnoses three specific species of scholarly error, three “distempers” that retard the advancement of learning.¹⁸⁴ He objects first to “delicate learning” that suffers from “vaine affectations,” in which philologists and grammarians become so consumed by the study of *belles lettres* that they lose sight of the substantive claims

¹⁸⁰ Montaigne, *Les Essais*, 101 (“De la force de l’imagination”) [Frame, 84].

¹⁸¹ Montaigne, *Les Essais*, 106 (“De la force de l’imagination”) [Frame: 89], my translation.

¹⁸² Montaigne, *Les Essais*, 114 (“De la coustume, et de ne changer aisement une loy receue”) [Frame: 95], my translation.

¹⁸³ Montaigne, *Les Essais*, 215 (“Des Cannibales”) [Frame: 188].

¹⁸⁴ Francis Bacon, *The Oxford Francis Bacon IV: The Advancement of Learning*, ed. Michael Kiernan (New York: Oxford University Press, 2000), 21.

advanced in the tongues of their ancient masters.¹⁸⁵ The humanist grammarians are led by their vain affections to neglect the “matter” for sake of admiring beauteous “words.” The “Schoole-men,” however, make a more serious error.¹⁸⁶ The schoolmen fixate not just on vain words but on vain matter. Their “wits being shut up in the Cels of a few Authors (chiefly *Aristotle* their Dictator) as their persons were shut up in the Cells of Monasteries and Colledges” spinning out “laborious webs of learning.”¹⁸⁷

Most egregious of all—and most pertinent to Shaftesbury’s engagement with imposture—is the third distemper of learning, that of “fantastical learning” that suffers from “vaine Imaginations.”¹⁸⁸ The fantastical distemper of learning “is of all the rest the fowlest” because it engages in “deceit or untruth” so as to “destroy the essential fourme of knowledge.”¹⁸⁹ An economy of imposture and credulity constitute this perverse form of knowledge. Bacon speaks of imposture as “delight in deceiving” and of credulity as “aptness to be deceived.”¹⁹⁰ The human tendency toward imaginative fancy leads to the “facility of credite, and accepting or admitting of things weakly authorised or warranted.”¹⁹¹ Bacon speaks of miracles proclaimed by those with special access to the Deity as the first example of the meeting of imposture and credulity. It is not such historical

¹⁸⁵ On the attack and defense of erudition, see J. G. A. Pocock, *Barbarism and Religion I: The Enlightenment of Edward Gibbon, 1737-1764* (New York: Cambridge University Press, 2004), 137–260.

¹⁸⁶ Bacon, *Advancement*, 23.

¹⁸⁷ Bacon, *Advancement*, 24.

¹⁸⁸ Bacon, *Advancement*, 21.

¹⁸⁹ Bacon, *Advancement*, 25.

¹⁹⁰ Bacon, *Advancement*, 26.

¹⁹¹ Bacon, *Advancement*, 26.

questions or “matters of fact” that fall prey to this distemper, but also questions of “art or opinion.” As for this second category, Bacon speaks of the various pseudosciences (“Astrologie, Naturall Magicke, and Alcumy”) that prey on one’s imagination rather than soliciting their reason.¹⁹²

Hobbes, writing fifty years later, extends the relevance of Bacon’s observations concerning imposture into the political domain. A psychology that emphasizes the unreliability of human imagination underpins Hobbes’s account of politics and religion.¹⁹³ In his *Leviathan*, Hobbes uses the word “imposture” to describe the practice of feigning inspiration from God.¹⁹⁴ Like Bacon, he speaks of both the agents of deception and the credulous nature of man:

Even if they be perfectly awake, if they be timorous, and superstitious, possessed with fearfull tales and alone in the dark, are subject to like fancies; and believe they see spirits and dead mens Ghosts walking in Church-yards; whereas it is either their Fancy onely, or els the knavery of such persons, as make use of such superstitious fear.¹⁹⁵

The delicate nature of men’s fancies makes them liable to manipulation. The impressionability of the human mind goes beyond threatening the advancement of learning, as it did for Bacon. Hobbes underlines the paramount importance of challenging imposture for the sake of the political order:

If this superstitious fear of Spirits were taken away, and with it, Prognostiques from Dreams, false Prophecies, and many other things depending thereon, by which, crafty ambitious persons abuse the simple people, men would be much more fitted than they are for civill Obedience.¹⁹⁶

The unruly nature of the imagination makes imposture, and its damaging political consequences, an ever-present possibility. Hobbes emphasizes how public disorder arises when human sociability

¹⁹² Bacon, *Advancement*, 27.

¹⁹³ Pacchi, Arrigo, “Hobbes and the Passions,” *Topoi* 6, no. 3 (1987): 111–119.

¹⁹⁴ Hobbes, *Leviathan* (New York: Cambridge University Press, 1996), 291–292, 297, 304–305, 381.

¹⁹⁵ Hobbes, *Leviathan*, 18.

¹⁹⁶ Hobbes, *Leviathan*, 19.

magnifies and exacerbates the already frail and credulous psyches of man. Political conflict develops when men freely converse and strike upon their inevitable disagreement about grave subjects of morality and religion.¹⁹⁷ Disorder ignites when unsociable creatures driven by creative fancy give competing names to items of common concern.¹⁹⁸ The challenge for Hobbes is how the political subject's self-understanding of his own interests might be transformed through a re-theorization of what it means for a subject to authorize and consent to sovereign power.

Shaftesbury follows Hobbes in extending the problem of imposture beyond Montaigne's interest in the frailty of the human psyche and Bacon's interest in the progress of learning. Both *Leviathan* and *Characteristicks* stage the threat to politics posed by imposture. Shaftesbury, however, inverts Hobbes's framing of the problem and consequently its solution. The free communication of sociability that Hobbes decries supplies Shaftesbury's remedy. Shaftesbury does not understand bouts of enthusiasm as the result of an excess of intersubjective traffic; rather, the cause lies in insufficient sociability. The solution to imposture rests not with repressing social intercourse, but in encouraging free conversation. Shaftesbury's ideal for social life, as Lawrence Klein has demonstrated, is that of politeness.¹⁹⁹ Importantly, politeness does not denote the various curtsies and courtesies of court life, the ritualized affectation of the courtier known for his insincerity. Rather, Shaftesbury employs the etymological sense of the word. A polite man is a polished man. Through the commerce of satirical letters, "we polish one another and rub off our corners and

¹⁹⁷ Arash Abizadeh, "Hobbes on the Causes of War: A Disagreement Theory," *American Political Science Review* 105, no. 2 (2011): 298–315. On the importance of inspiration and wonder in Hobbes's political theory, see Kye Barker, "Of Wonder: Thomas Hobbes's Political Appropriation of Thaumazein," *Political Theory* 45, no. 3 (2017): 362–384.

¹⁹⁸ See Chapter 1, Section II above for my discussion of Hobbes's antipathy toward the regime typology of classical political theory.

¹⁹⁹ Klein, *Shaftesbury*.

rough sides by a sort of amicable collision.”²⁰⁰ The word collision must be underlined. The meaning of “politeness” is transformed to comprehend satire, raillery, and even mockery, so long as it is in “good humour.”

Shaftesbury exemplifies his transformed virtue of politeness by offering an alternative to the response to the French prophets advocated by his High Anglican opponents. Where they favor state repression, he favors what he calls the “Bartholomew Fair method.”²⁰¹ Shaftesbury makes reference to the annual bazaar held outside the walls of London in West Smithfield on or around St. Bartholomew’s Day (August 24th) featuring a market of goods as well as a series of carnival entertainments. Shaftesbury celebrates how the French Prophets “are at this time subject of a choice droll or puppet-show at Bartholomew Fair.”²⁰² Shaftesbury, having witnessed firsthand the convulsions and ecstasies exhibited by self-professed prophets,²⁰³ thinks mimicry by puppets to be an apt means of exposing their imposture:

For the bodies of the prophets in their state of prophecy, being not in their own power but (as they say themselves) mere passive organs, actuated by an exterior force, having nothing natural or resembling real life in any of their sounds or motions, so that how awkwardly soever a puppet-show may imitate other actions, it must needs represent this passion to the life.²⁰⁴

It is hard to imagine a more sacrilegious and dispiriting rebuke for those who claim divine inspiration and those who follow them than to have their bodily transports mocked by puppet

²⁰⁰ Shaftesbury, “Sensus Communis, an Essay on the Freedom of Wit and Humour,” in *Characteristicks*, 31.

²⁰¹ Shaftesbury, “Letter,” 16.

²⁰² Shaftesbury, “Letter,” 15.

²⁰³ Shaftesbury, “Letter,” 24; Schwartz, *Knaves*, 54.

²⁰⁴ Shaftesbury, “Letter,” 15–16.

imitation. For Shaftesbury, this is precisely the point. State repression is a medicine both too strong and too weak to deal with enthusiasm. Shaftesburian toleration means following the ancients who “let people be fools as much as they pleased and never to punish seriously what deserved only to be laughed at and was, after all, best cured by that innocent remedy.”²⁰⁵ Moreover, not only is the gaiety of polite mockery the best remedy for grave enthusiasts, but treating gravity with more gravity only aggravates the condition. Shaftesbury concludes that “for that imposture should dare sustain the encounter of a grave enemy is no wonder. A solemn attack, she knows, is not of such danger to her. There is nothing she abhors or dreads like pleasantness and good humour.”²⁰⁶

²⁰⁵ Shaftesbury, “Letter,” 9.

²⁰⁶ Shaftesbury, “Letter,” 17.

II. The Gravity of Imposture

Scholarly attention to Shaftesbury's "Letter Concerning Enthusiasm" has grown in recent years as a consequence of renewed interest in the thought of Mary Astell, whose final publication, *Bart'lemy Fair*, rebuked the Whig politics and "Bartholomew Fair method" espoused by Shaftesbury's "Letter."²⁰⁷ Recent revisionists champion Astell as a critical theorist *avant la lettre* whose critique of Shaftesbury remains important for interrogating economic and political liberalism. For Van Hartmann, Astell is a theorist of dehumanization and commodification, one who condemns "a world in which human identity and human community have been commodified into interchangeable and discardable parts."²⁰⁸ The "central premise of Shaftesbury's 'Letter,'" Hartmann claims, is that "ideas, principles, and beliefs are themselves consumable commodities that should stand the test, or the bidding, if you will, of the intellectual auction house."²⁰⁹ Astell, on the other hand, "vindicates the intangible definitions of personal worth" made vendible by "Shaftesbury's bourgeois liberalism" and Lucretian materialism.²¹⁰

²⁰⁷ Mary Astell, *Bart'lemy Fair: Or, an Inquiry after Wit; In which due Respect is had to a Letter Concerning Enthusiasm, To my Lord **** (London, 1709). Astell writes under the pseudonym, "Mr. Wotton." For the "Bartholomew Fair method" see Shaftesbury, "Letter," 16.

²⁰⁸ Van C. Hartmann, "Tory Feminism in Mary Astell's *Bart'lemy Fair*," *The Journal of Narrative Technique* 28, no. 3 (1998): 243–265, 261, 262.

²⁰⁹ Hartmann, "Tory Feminism," 256.

²¹⁰ Hartmann, "Tory Feminism," 254, 244. None of these claims have any basis in Shaftesbury's "Letter." His single use of a commercial trope is, like Hartmann's, pejorative in nature, see "Letter," 16. He also aligns himself with Stoicism and against the Lucretian Epicureanism. See Shaftesbury, "Miscellaneous Reflections," in *Characteristicks*, 348, 392, and 424, as well as Shaftesbury's letter to Pierre Coste of October 1, 1706 in *The Life, Unpublished Letters, and Philosophical Regimen of Anthony, Earl of Shaftesbury*, ed. Benjamin Rand (New York: Macmillan, 1900), 355–366, especially 359.

Distinct from but complementary to this image of the “bourgeois” Shaftesbury is the image of the “anti-rational” Shaftesbury offered by David Alvarez and Joanne Myers.²¹¹ Whereas the bourgeois Shaftesbury exchanges human dignity for commerce, the anti-rational Shaftesbury demotes reason to mere opinion. This second interpretive line, while less bombastic, is more cutting because it is aware of the role generally accorded to Shaftesbury as theorist of the public sphere.²¹² Swapping rationality for risibility as the regulator of public discourse would appear to undermine Shaftesbury’s association with public reason. In short, “Astell accurately points to Shaftesbury’s role in inaugurating the disciplinary discourses of sentimentality and aesthetics, and she cogently contends that despite his statements in support of communicative rationality, he bases his politics on the management of the passions.”²¹³ Not only does Shaftesbury undermine the role of reason in public life, but we are told that he polices what kinds of affect are permissible in the public sphere by imposing his own sentimental norms as universal.

Astell’s pamphlet contains various jibes against the luxury and debauchery of the Whig party she opposes, most of which are confined to the ironic dedication “to the most illustrious society of the Kit-Cats” that precedes the text proper. The purpose of Astell’s paratextual mock dedication to the prominent Whig club is to smear the author of the “Letter,” whom she assumes to be an associate of the club. Notwithstanding one reference to the “Kitlings” and their taste for “profit,” the attack on the moral character of her Whig countrymen is not primarily for their association with

²¹¹ David Alvarez, “Reason and Religious Tolerance: Mary Astell’s Critique of Shaftesbury,” *Eighteenth-Century Studies* 44, no. 4 (2011): 475–494; Joanne Myers, “Supernatural Charity?: Astell, Shaftesbury and the Problem of Enthusiasm,” *Journal for Eighteenth-Century Studies* 37, no. 3 (2014): 299–314.

²¹² Lawrence Klein, “Sociability, Solitude, Enthusiasm,” *Huntington Library Quarterly* 60, no. 1/2 (1997): 153–177, 157; Terry Eagleton, *Ideology of the Aesthetic*, 35.

²¹³ Alvarez, “Reason and Religious Tolerance,” 481.

commerce, but for the unchristian vices evinced by their haunts, namely, “The Bath, the Wells, and every Fair, each Chocolate, Gaming House and Tavern.”²¹⁴ In the beginning of the text proper, Astell counsels suspicion at the elevation of wit proposed by Shaftesbury’s text. She takes the valuation of wit to be an admission of foppery, a preference for rhetorical ornament over discursive substance. As much as commentators would have us believe that Astell makes a case for reason over sentiment in public life, her pamphlet in fact aims at safeguarding the traditional social order that places religion and social rank beyond the bounds of rational scrutiny.

Astell’s pamphlet is instructive because she so deftly realizes the radical nature of Shaftesbury’s “Letter” with respect to the traditional political, social, and religious life of the realm. No stranger to rhetorical intensity, Astell is struck by how anyone could physically endure writing or reading the “Letter,” a text of such unquestionable moral repugnance. Having judged the “making use of stew’d Prunes, taking Physick, and letting Blood” insufficient to endure such a letter, she asks whether “swallow[ing] Opium” could suffice as a palliative.²¹⁵ Shaftesbury’s proposal that matters of religion be open to reasoned debate without proscription horrifies Astell. Subjects of religion, she states, “are *really too Grave*, to suffer a Man of Sense to divert himself with their foolish, as well as Prophane and Impious way of treating them.”²¹⁶ It is not for us to inquire into and debate the morality that God prescribes. Put simply, there can be no mutual understanding “between Finite and Infinite.”²¹⁷ Astell analogizes the impropriety with which “Men of Wit talk of GOD” to that of a man born south of the equator who, having never left the company of his own countrymen, decides

²¹⁴ Astell, *Bart’lemy Fair*, 11, 12, and 16.

²¹⁵ Astell, *Bart’lemy Fair*, 28.

²¹⁶ Astell, *Bart’lemy Fair*, 33.

²¹⁷ Astell, *Bart’lemy Fair*, 34.

to “discourse of the Snows and Frosts in Greenland.”²¹⁸ God is an unknown country that we have no right to judge.

Shaftesbury understands Astell’s concern that encouraging witty examination of weighty and longstanding religious tenets implies a lack of reverence. He appreciates Astell’s belief that respecting morality and God requires treating these holy objects with care. Shaftesbury, however, contends that forbidding playful scrutiny runs the even worse risk of falling prey to imposture.

Shaftesbury anticipates Astell’s concern that religious matters are too grave in the following fashion:

“Oh,” say we, “the subjects are too grave.” Perhaps so, but let us see first whether they are really grave or no, for, in the manner we may conceive them they may peradventure be very grave and weighty in our imagination, but very ridiculous and impertinent in their own nature. Gravity is of the very essence of imposture. It does not only make us mistake other things, but is apt perpetually almost to mistake itself.²¹⁹

The very means by which we accord respect to persons and doctrines—clothing them in gravity—simultaneously shields them from verification and falsification. Unreflective credulity makes way for imposture. Indeed, it is the gravity surrounding the French Prophets that immunizes them from criticism. Shaftesbury generalizes from the example of the French Prophets that the “tragical,” “cloudy,” and indeed “grave” temper breeds enthusiasm.²²⁰

Astell’s criticism is at its most revealing when she takes aim at Shaftesbury’s paradiastolic transformation of what constitutes “Good Manners.”²²¹ As Astell explains, “*Good Manners* has always been thought to imply Respect and Reverence, with a due regard to the Quality of the Person we

²¹⁸ Astell, *Bart’lemy Fair*, 33.

²¹⁹ Shaftesbury, “Letter,” 8.

²²⁰ Shaftesbury, “Letter,” 16.

²²¹ On paradiastole and early modern political theory, see Quentin Skinner, *Visions of Politics, Volume I* (New York: Cambridge University Press, 2002), 175–187.

treat with, and our own Condition, especially when we approach our Betters.”²²² Shaftesbury’s “Letter” complements its advocacy of toleration and open religious discussion with its effort to transform what kinds of behavior denote a polite man of good breeding. His insistence on “wit” and “good humour” signal not an alternative to reason, but a specific manner of reasoning. He emphasizes that reason’s successful operation depends on a proper affective constitution. For, “it is not in every disposition that we are capacitated to judge of things.”²²³ The restrained and deferential disposition that accompanies religious discussion threatens the quality and spirit of religious observance.

In this passage, we see how Shaftesbury expands the critique of imposture. Imposture does not only describe the conceits of zealots, whether Popish or Protestant. Imposture now encompasses those established churchmen and magistrates who prevent the light of reason from touching grave matters of religious doctrine and custom. Shaftesbury reveals how imposture pervades the attitudes of not only the French Prophets but also of their opponents. The very effort to grant due respect to our Maker—by classifying subjects concerning him as “too grave”—has the perverse effect of preventing us from ascertaining what God truly requires of us. Religiosity is threatened because the kinds of serious and languid dispositions that accord respect and register the importance of religious subjects also suppress their proper investigation.

Deference to gravity, Shaftesbury argues, constitutes the lifeblood of imposture. If we defer to inherited judgments that certain doctrines and persons are beyond discursive ribbing, we lack surety as to whether these opinions and persons operate as rightful authorities. Shaftesbury’s ambition lies in the “impartial use of reason” for the sake of ascertaining the true duties of

²²² Astell, *Bart’lemy Fair*, 34.

²²³ Shaftesbury, “Letter,” 8.

Christians.²²⁴ His concern is that the traditional notion of good manners, while correctly indicating the importance of moral action, makes it more difficult to correctly ascertain our moral duties. Permitting the right to question whether certain religious observances might be ridiculous is the only means of guaranteeing that our conduct is truly moral.

III. The Manners of Authority

In his critical essay on Voltaire, Thomas Carlyle remarked upon an aphorism often attributed to Shaftesbury, namely, “that *ridicule is the test of truth*.” Carlyle notes that the aphorism has been “vulgarly imputed to Shaftesbury, which, however, we can find nowhere in his works.”²²⁵ Alfred Aldridge labors extensively to show that Shaftesbury meant no such thing.²²⁶ How are we then to understand what Shaftesbury refers to as his “commendation of raillery?”²²⁷ Aldridge defends Shaftesbury by sequestering raillery from truth, confining the former to a question of demeanor. He advances the claim that “wit and good humor are prerequisite to free debate, and it is the free debate which is the test of truth, not the good humor.”²²⁸ According to Aldridge’s line, raillery and good humor serve as a jurisdictional question of standing: “Ridicule decides whether a doctrine deserves a sober hearing rather than whether the doctrine is true.”²²⁹ Are we to believe that the recurrent

²²⁴ Shaftesbury, “Letter,” 19.

²²⁵ Thomas Carlyle, *Critical and Miscellaneous Essays* (New York: Lovell, Coryell & Co., 1869), 406.

²²⁶ Alfred Aldridge, “Shaftesbury and the Test of Truth,” *PMLA* 60, no. 1 (1945): 129–156.

²²⁷ Shaftesbury, “Sensus Communis,” 29.

²²⁸ Aldridge, “Shaftesbury and the Test of Truth,” 132.

²²⁹ Aldridge, “Shaftesbury and the Test of Truth,” 131–132.

touchstone across Shaftesbury's works ought to be separated from the merits of the questions he treats?

We have already testified to the partial truth of Aldridge's interpretation in the prior discussion of gravity. Raillery challenges the solemnness of manners that preempts free debate. Still, the strong form/content distinction Aldridge draws obscures Shaftesbury's broader reconstruction of what constitutes discursive authority. Raillery and good humor do describe a form of writing and conversation. Shaftesbury, however, considers formal questions to be intimately connected to substantive ones. Arguably the paramount antinomy that frequents Shaftesbury's *Characteristicks* is a distinction of form, what Shaftesbury refers to as the "manner" or "style" of written works. Shaftesbury polemicizes against "the learned, the formal or methodic" style of those "projectors" or "formalists of the age."²³⁰ In place of the "systematical" and "didactic" Shaftesbury recommends "the simple style" of polite conversation.²³¹ This "free and familiar style" of the ancients "give[s] us the representation of real discourse and converse by treating their subjects in the way of dialogue and free debate."²³² It is not only the grave authorial comportment that plagues the formal treatise,

²³⁰ Shaftesbury, *Characteristicks*, 9, 71, 348.

²³¹ Shaftesbury, *Characteristicks*, 348 and 458. Pace Markley ("Style as Philosophical Structure," 143), Shaftesbury's use of the adjective "simple" cannot be rendered as "straightforward and unambiguous" as in a "Lockean conception of language as a transparent, utilitarian medium." Rather, it is in the Horatian style that is polite, sociable, and gay—completely distinct from the anti-rhetorical position that Bender and Wellberry take as the central preoccupation and innovation of Enlightenment poetics. See John Bender and David Wellberry, "Rhetoricity: On the Modernist Return of Rhetoric," in *The Ends of Rhetoric: History, Theory, Practice*, eds. John Bender and David Wellberry (Stanford: Stanford University Press, 1990), 3–39.

²³² Shaftesbury, "Sensus Communis," 35.

but also its distance from the pragmatics of actual conversation.²³³ The apparent rigor of the methodical, tight-buttoned treatise is only possible because of its monologic commitments. Unlike the efficient, organized, and directed monologue of the treatise, the free and easy style is based in dialogue. Aldridge's strict separation of style from content ultimately undermines Shaftesbury's claim. Rather than a juridical analogue of standing, raillery is better analogized by the idea of a particular environment. Free debate can appear in different styles, but it thrives in the familiar and dialogic environment. The polite piece of writing in the simple style is not only more enjoyable than the pedantic treatise, it is ultimately more persuasive and argumentatively sound because of its dialogic nature.

Examining the genres Shaftesbury employs in the various pieces that make up his *Characteristicks* helps to ascertain the rhetorical choices he commends. The first volume comprises what are described as a letter (on enthusiasm), an essay (on wit and good humour), and an advice piece (for authors); the second comprises a formal and methodical inquiry into moral philosophy and a dialogue on the same topic; the third comprises five miscellanies that comment on the preceding volumes from an external, third-person perspective. The apparent diversity of generic forms invites attention to the differences between them. The black sheep of Shaftesbury's self-collected works is clearly "An Inquiry Concerning Virtue and Merit"; it is also the work most frequently anthologized.²³⁴ The irony, of course, is that this earliest work of those assembled in the

²³³ On the intersections between Shaftesbury's commendation of dialogic conversation and the Habermasian program of communicative rationality, see Lawrence Jaffro, *Éthique de la communication et art d'écrire: Shaftesbury et les Lumières anglaises* (Paris: Presses Universitaires de France, 1998).

²³⁴ L. A. Selby-Bigge, *British Moralists* (Oxford: Clarendon Press, 1897); D. D. Raphael, *British Moralists: 1650-1800* (New York: Oxford University Press, 1969); J. B. Schneewind, *Moral Philosophy*.

Characteristicks is most out of step with the rhetoric of morals it prescribes.²³⁵ The “Inquiry” exemplifies the rigorously methodical and didactic nature of the formal treatise that every other piece within the *Characteristicks* rails against. Shaftesbury is well aware of this discordance. He acknowledges the “dry philosophy and rigid manner” of this earliest piece that is “without help from the comic or tragic muse or from the flowers of poetry or rhetoric.”²³⁶ Indeed, in his third volume composed of miscellanies in which he criticizes the foregoing, he accuses the “Inquiry’s” author of revealing “himself openly as a plain dogmatist, a formalist and man of method, with his hypothesis tacked to him and his opinions so close sticking as would force one to call to mind the figure of some precise and strait-laced professor in a university.”²³⁷

Notwithstanding the diverse formal appellations of the different constituent pieces of the *Characteristicks*—letter, essay (in a letter), advice, formal treatise, dialogue, miscellany—there is far more that unites them than divides them. If we leave aside the “Inquiry,” all may be said to partake in the kind of moral philosophy that, as David Hume observes, “make[s] us *feel* the difference between vice and virtue.”²³⁸ Hume’s division of the different “manners” or “species” of philosophy—the one “easy and obvious,” the other “accurate and abstruse”—is helpful in grasping how eighteenth-century readers likely classified and appreciated Shaftesbury’s writings, and helps to

²³⁵ I borrow the phrase “rhetoric of morals” from Klein, *Shaftesbury*, 21.

²³⁶ Shaftesbury, “Miscellany IV,” 420. *The Inquiry Concerning Virtue, or Merit* (1699) appears subsequent to *The Letter Concerning Enthusiasm* (1708) in Shaftesbury’s self-curated *Characteristicks*, even though the *Inquiry* was written nearly a decade earlier.

²³⁷ Shaftesbury, “Miscellany III,” 396.

²³⁸ David Hume, *An Enquiry Concerning Human Understanding*, (New York: Oxford University Press, 1999), 87.

explain why the “Inquiry” has always been the most often read.²³⁹ Shaftesbury, however, understood his rhetorical interventions as attempts to revive ancient manners. (There is a reason why the portrait of Shaftesbury that opens the *Characteristicks* portrays him wearing a toga and surrounded by classical architecture).²⁴⁰ Shaftesbury takes the Roman satirists as his foremost model. Excepting the “Inquiry,”—and arguably Shaftesbury’s dialogue “Philosophical Rhapsody”—we might broadly characterize the whole of the *Characteristicks* as various attempts to recreate Roman satire for an eighteenth-century public. In speaking of the “genre” of Roman satire I have perhaps gone too far. As Kirk Freudenburg observes, perhaps the intrinsic trait that constitutes Roman satire is its resistance to genericization.²⁴¹ One option is to follow the etymology and consider satire along with the oft-cited metaphor of the *lanx satura* (“heaped plate”). On this account, “satire is less a thing in itself than it is a momentary, willed coherence of discrete materials cobbled together, this and that, messily contained.”²⁴² What English word better captures the cobbled-together and messy quality of certain kinds of writing than that of the miscellany? Shaftesbury identifies himself as a member of “the celebrated wits of the miscellanarian race, [that encompasses] the essay writers, casual discoursers, reflection coiners, meditation founders and others of the irregular kind of writers.”²⁴³ As a writer of this sort, Shaftesbury takes it upon himself “to vary often from my proposed subject and

²³⁹ Hume, *Enquiry*, 87.

²⁴⁰ The first edition of 1711 does not include the portrait. The 1713 edition that Shaftesbury saw published included it.

²⁴¹ Kirk Freudenburg, *Satires of Rome* (New York: Cambridge University Press, 2001), 1.

²⁴² Kirk Freudenburg, “Introduction: Roman Satire,” in *The Cambridge Companion to Roman Satire* (New York: Cambridge University Press, 2012), 14.

²⁴³ Shaftesbury, “Miscellany II,” in *Characteristicks*, 379.

make what deviations or excursions I shall think fit, as I proceed in my random essays.”²⁴⁴ The cobbled-together quality characterizes not only the miscellanies of the third volume, but also—as any reader confronted with the *Characteristicks* will readily attest—the macro-organization of the three volumes and the micro-organization of the individual pieces excepting the “Inquiry.” The letter, the essay, the advice piece, and the dialogue are forms all chosen for their propensity toward digression, levity, and conversational ease. Whatever rhetorical differences result from the constraint of a private letter versus a dialogue, Shaftesbury’s broader ambition is to reappropriate questions of moral philosophy into the dialogic manner of easy conversation.

Another complementary option in signifying Roman satire is to gesture toward its founder, Lucilius. When Roman authors labeled their work as *saturnae*, they announced, “I’m writing satire now. You know, the kind of thing that Lucilius wrote.”²⁴⁵ In so doing, Roman satirists enacted their own bricolage in reference to the authorial comportment of Lucilius. Lucilian satire encapsulated “the performance of the poet’s free-speaking, rugged, and utterly Roman self.”²⁴⁶ The independence of the satirist is essential. For Shaftesbury, satire becomes a historical possibility with the decentering of court life. As the next section details, Shaftesbury considers the Glorious Revolution as a historical rupture that makes possible the practice of republican citizenship and its literary performance in the form of satire.

²⁴⁴ Shaftesbury, “Miscellany I,” in 342. He also claims the freedom to “agreeably surprise his reader by sudden changes and transports from one extreme to another” (“Miscellany II,” 379).

²⁴⁵ Freudenburg, “Introduction: Roman Satire,” 14.

²⁴⁶ Freudenburg, “Introduction: Roman Satire,” 5.

Shaftesbury praises many ancient writers, but the Roman satirists—especially Horace—stand out for their frequency of citation.²⁴⁷ A distinct quotation from Horace precedes and sets the stage for five of the six pieces that make up the *Characteristicks*: “A Letter Concerning Enthusiasm;” “Sensus Communis: An Essay on the Freedom of Wit and Humour;” “An Inquiry Concerning Virtue;” “The Moralists, A Philosophical Rhapsody;” and “Miscellaneous Reflections on the Preceding Treatises, Etc.” A quotation from Perseus precedes the remaining piece, “Soliloquy: Or Advice to an Author.”

The title page announcing the “Letter Concerning Enthusiasm” that begins the *Characteristicks* quotes from Horace’s first satire: “What’s there to forbid one who is laughing from telling the truth?”²⁴⁸ The epigraph justly encapsulates the critique of imposture and the endorsement of raillery that follows. The statement placed at the beginning of Horace’s satires foretells what is to come: the discussion of important subjects in a light-hearted manner. In the sentence following that which Shaftesbury quotes, Horace goes on to explain that “loving teachers sometimes hand out sweets to their pupils so that they’ll want to learn their ABCs.” Useful moral instruction need not take a didactic, hectoring form. Horace grounds satire in the same maxim that organizes his approach to poetry: *dulce et utile*. There is no reason that moral reflection cannot be both instructive and enjoyable—or, if one prefers the Arnoldian idiom, both sweet and light.

²⁴⁷ Richard Wolf is among the few scholars who underline the importance of Horace to Shaftesbury’s project. For his attempt to distinguish Shaftesbury’s Stoic project from that of Augustan journalists, see “Shaftesbury’s Just Measure of Irony,” *Studies in English Literature 1500-1900*, 33, no. 3 (1993): 565–585. For an alternative view as to Shaftesbury’s relation to the Augustan journalists, see Lawrence Klein, “Coffeehouse Civility, 1660–1714: An Aspect of Post-Courtly Culture in England.”

²⁴⁸ Horace, *Satires*, 1.1.24–25: *Ridentem dicere Verum Quid vetat*. I have used Sidney Alexander’s translation: *The Complete Odes and Satires of Horace* (Princeton: Princeton University Press, 1999).

The good humor Shaftesbury employs and commends does not limit itself to entertainment. Shaftesbury contends that satiric postures and techniques of raillery do real philosophical work. In the “Letter Concerning Enthusiasm,” Shaftesbury offers the image of the puppets in Bartholomew’s Fair as a piece of just drollery that best reveals the imposture of the French Prophets. In the essay “Sensus Communis,” Shaftesbury goes further by exemplifying the authorial habits he commends. The essay makes clear that Shaftesbury considers Thomas Hobbes to be among the grave and methodical formalists included in his critique of imposture. If the French prophets were zealots, Hobbes counts among the “anti-zealots.”²⁴⁹ Hobbes “in the zeal of such a cool philosophy . . . assures us that we were the most mistaken men in the world to imagine there was any such thing as natural faith or justice? For that it was only force and power which constituted right. That there was no such thing in reality as virtue.”²⁵⁰ Shaftesbury accuses Hobbes’s response to enthusiasm or zealotry as itself embodying enthusiasm or zeal. Rather than offer a monological treatise that proves Hobbes’s error, Shaftesbury criticizes in good humor.

Shaftesbury defangs Hobbes’s cool philosophy of modern Epicureanism by playfully poking at its motivation.²⁵¹ In response to the gift of *Leviathan* that delivers us from both “religion” and

²⁴⁹ Shaftesbury, “Sensus Communis,” 43.

²⁵⁰ Shaftesbury, “Sensus Communis,” 43–44.

²⁵¹ Many scholars rightly frame Shaftesbury’s work by underlining his opposition to the stream of modern Epicureanism, see Rowan Boyson, “Poetical Stoical Shaftesbury,” in *The Poetic Enlightenment: Poetry and Human Science, 1650-1820*, eds. Tom Jones and Rowan Boyson (New York: Routledge, 2016), 89–104; Christopher Brooke, *Philosophic Pride: Stoicism and Political Thought from Lipsius to Rousseau* (Princeton: Princeton University Press, 2012), 111–126; Daniel Carey Locke, *Shaftesbury, Hutcheson: Contesting Diversity in the Enlightenment and Beyond* (Cambridge: Cambridge University Press, 2005), 109; Klein, *Shaftesbury*, 60–69; Anthony Pagden, *The Enlightenment and Why It Still Matters* (New York: Random House, 2013), 53–78; Schneewind, *The Invention of Autonomy* (New York: Cambridge University Press, 2014), 308–309.

“liberty” and sets us aright on the principle of self-interest, Shaftesbury offers the following statement of gratitude:

Sir! The philosophy you have condescended to reveal to us is most extraordinary. We are beholden to you for your instruction. But, pray, whence is this zeal in our behalf? What are we to you? Are you our father? Or, if you were, why this concern for us? Is there then such a thing as natural affection? If not, why all these pains, why all this danger on our account? Why not keep this secret to yourself? Of what advantage is it to you to deliver us from the cheat? The more are taken in it, the better. It is directly against your interest to undeceive us and let us know that only private interest governs you ... It is not fit we should know that by nature we are all wolves. Is it possible that one who has really discovered himself such should take pains to communicate such a discovery?²⁵²

The act of authoring *Leviathan* contradicts the anthropology that underwrites it. Hobbes denies the human drive to care for one’s fellows—the very thing that motivates his project. It is this concern for the commonweal that Shaftesbury calls “natural affection” that leads Hobbes to remedy the conflicts of religious belief and political power that have consumed his country. Shaftesbury challenges whether the egoistic motives that *Leviathan* claims drive all human behavior can account for the conduct of its author in writing it. In short, a performative contradiction ensnares Hobbes’s political theory.²⁵³

The productive, persuasive force of good humor and wit that is part and parcel of free debate—rather than a precursor to it *pace* Aldridge—can be witnessed in Shaftesbury’s response to the deepest doubts of moral skepticism. He has Hobbes firmly in mind, but also just as much his intellectual father and governor John Locke.²⁵⁴ The diversity of moral systems evidenced by the

²⁵² Shaftesbury, “Sensus Communis,” 43–44.

²⁵³ Jaffro, *Éthique de la communication*, 11; Jürgen Habermas, *The Philosophical Discourse of Modernity* (Cambridge: MIT Press, 1987), 185.

²⁵⁴ The first Earl of Shaftesbury commissioned John Locke to oversee the third Earl’s educational program. I say oversee, because Shaftesbury’s foundational education in Greek and Latin came from

encounter with the New World confirmed Locke's skepticism. Shaftesbury, however, diagnoses skepticism as a problem of manner as much as philosophical irresolution. He counters the skeptic's misanthropy with his *sensus communis*:

Should one who had the countenance of a gentleman ask me why I would avoid being nasty when nobody was present, in the first place I should be fully satisfied that he himself was a very nasty gentleman who could ask this question, and that it would be a hard matter for me to make him ever conceive what true cleanliness was. However, I might, notwithstanding this, be contented to give him a slight answer and say, "It was because I had a nose."

Should he trouble me further and ask again, "What if I had a cold or what if naturally I had no such nice smell?" I might answer perhaps that "I cared as little to see myself nasty as that others should see me in that condition."

"But what if it were in the dark?"

"Why, even then, though I had neither nose nor eyes, my sense of the matter would still be the same: my nature would rise at the thought of what was sordid or, if it did not, I should have a wretched nature indeed and hate myself for a beast. Honour myself I never could while I had no better a sense of what *in reality* I owed myself, and what became me as a human creature."

Much in the same manner have I heard it asked, "Why should a man be honest in the dark?"

What a man must be to ask this question I will not say. But for those who have no better a reason for being honest than the fear of a gibbet or a jail, I should not, I confess, much covet their company or acquaintance.

The mock dialogue reveals something spurious in the skeptic's interrogation. In no sense does Shaftesbury's polite man of common sense prove the skeptic wrong. Indeed, the skeptic's challenges reveal the way the polite moralist can only respond by begging the question. On one level, the moralist's retort ("because I had a nose") seems to confirm the skeptic's suspicion: at bottom, the moralist's conviction lies not in any external grounding but in a decision.²⁵⁵ Still, the decisionism that

the governess Locke hired, Elizabeth Birch. See Robert Voitle, *The Third Earl of Shaftesbury* (Baton Rouge: Louisiana State University Press, 1984), 7–12.

²⁵⁵ If we follow the traditional formalists of our age who divide rational justification between reason and sentiment, we would note that Shaftesbury grounds his retort ("because I had a nose") in sentimentalist rather than rationalist justification. See Michael Gill, "Shaftesbury on Politeness, Honesty, and the Reason to be Moral," in *New Ages, New Opinions: Shaftesbury in his World and Today*, ed. Patrick Muller (New York: Peter Lang, 2014), 167–184.

subtends the moralist's conviction—his zealotry in the cause of morality—simultaneously reveals the arbitrariness of the skeptic's own anti-zealot zealotry dedicated to affirming the absence of virtue. The fact that we *choose* to cultivate our own virtue and expect our fellows to choose similarly does not make virtue or morality “unnatural.”

The dialogue helps to reveal that it is not only Locke's answer to the problem of moral skepticism that is wanting, but also his framing of that question. Since Locke disproves the scholastic claim of innate morality, he believes that morality must hinge on behavioral insincerity. Either virtue is an intrinsic feature of the human from birth, or it is a way of characterizing the calculations rational agents make after weighing extrinsic options. Shaftesbury refuses this dilemma. He insists that virtue can be both intrinsically motivated and extrinsically cultivated. Shaftesbury acknowledges that “use, practice, and culture must precede the understanding and wit” necessary for moral and aesthetic discernment. The ability to discern what is good and what is beautiful depends on habituation, education, and conscious development. Thus, “a legitimate and just taste can never be begotten, made, conceived, or produced without the antecedent labor and pains of criticism.”²⁵⁶ Locke and Hobbes consider this to be a concession to a thesis that reduces morality to mere convention. For Shaftesbury, the fact that moral action and judgment require self-conscious cultivation contributes to, rather than detracts from, their claim to moral authority.

IV. Imposture and the Republican Critique of Flattery

Shaftesbury sits in the company of Robert Molesworth (1656–1725), John Trenchard (1662–1723), Walter Moyle (1672–1721), John Toland (1670–1722), and Thomas Gordon (1691–1750), as among the “Real Whigs” or “Old Whigs” that constitute the first of the three generations of

²⁵⁶ “Miscellany III,” in *Characteristicks*, 408.

commonwealthmen that Caroline Robbins charts in her seminal work on the English republican tradition.²⁵⁷ Robbins maintains that “Shaftesbury is the best known [of the Real Whigs] and yet most difficult to analyze.”²⁵⁸ She notes that notwithstanding “many studies of his life and work . . . his politics have escaped definition.”²⁵⁹ Enter Lawrence Klein, whose career has been dedicated to defining Shaftesbury’s political place in England following the Restoration.

Klein underscores Shaftesbury’s historiographical importance in effecting the transition between two competing paradigms of discourse in the late seventeenth and early eighteenth centuries: the “civic tradition” (i.e., the republican tradition) and the “language of politeness.”²⁶⁰ In so doing, Klein emplots Shaftesbury into J. G. A. Pocock’s prescribed scheme for making sense of eighteenth-century political thought in terms of different political languages of virtues, rights, and manners.²⁶¹ The fact that Shaftesbury is difficult to subsume under the neo-Harringtonian vocabulary of virtue of the likes of Algernon Sydney and Walter Moyle and yet resists complete fraternity with those theorists of manners who emphasize the power of *doux commerce* might give caution to advancing Pocock’s framework. Klein, however, turns the lack of fit into any single paradigm into an opportunity. Shaftesbury, according to Klein, “conjoined [these] two discursive

²⁵⁷ Caroline Robbins, *The Eighteenth-Century Commonwealthman* (Cambridge: Harvard University Press, 1961), 5–6, 88–133.

²⁵⁸ Robbins, *Eighteenth-Century*, 128.

²⁵⁹ Robbins, *Eighteenth-Century*, 128.

²⁶⁰ Klein, *Shaftesbury*, 34, 126.

²⁶¹ J. G. A. Pocock, “Virtues, Rights, and Manners: A Model for Historians of Political Thought,” *Political Theory* 9, no. 3 (1981): 353–368.

phenomena [of virtue and manners].”²⁶² Shaftesbury is important precisely because he is a missing link. Shaftesbury is the “one who propagated the civic tradition at the same time that he shifted its grounds, making it serviceable as Whig ideology.”²⁶³ His lack of easy fit in either discursive species makes him all the more important so as to understand the effacement of the republican vocabulary and the rise of the commercial.

The common philosophy of history constitutes the most important link between Shaftesbury’s *Characteristicks* and the political language of republicanism that originates with Harrington. Shaftesbury’s intervention in English manners presumes that his country is now beginning afresh on the upward trajectory of a new cycle. Recall that Harrington understood his *Oceana* as an intervention into a pivotal moment in English history. The movement of history had reached full circle with the death of the Stuart Monarchy and the birth of the English commonwealth. The tide that brought in the Roman Empire and its dissolution by the barbarians had now receded as the conditions were once again ripe for liberty.

Shaftesbury, like Harrington, feels that he is at the crucial moment of liberty’s long-awaited rebirth in the cycle of history. Liberty, however, functions distinctly in Shaftesbury’s philosophy of history given its alignment with the arts and letters. He speaks of the decline of the Roman republic and how “with their liberty, they lost not only their force of eloquence but even their style and language itself.”²⁶⁴ The growth or decay of liberty always foreshadows the growth and decay of the

²⁶² Lawrence Klein, “Liberty, Manners, and Politeness in Early Eighteenth-Century England,” *The Historical Journal* 32, no. 3 (1989): 585–605.

²⁶³ Klein, “Liberty, Manners, and Politeness,” 587.

²⁶⁴ Shaftesbury, “Soliloquy,” 99.

arts and sciences. In whatever country, “the specious machine of arbitrary and universal power” leads to “decay in liberty and letters.”²⁶⁵

The gradual diminution of imposture—religious, aesthetic, and political—Shaftesbury celebrates and works to bring about is only possible due to the dramatic curtailment of monarchic prerogative achieved in recent British history. Shaftesbury, writing in 1710, notes that “it is scarce a quarter of an age since such a happy balance of power was settled between our prince and people . . . our free government and national constitution.”²⁶⁶ In the space of this short time Shaftesbury claims that “we are now in an age when liberty is once again in its ascendant.”²⁶⁷ He draws a parallel between the English and “the Roman people in those early days when they wanted only repose from arms to apply themselves to the improvement of arts and studies.”²⁶⁸ The difficult work of achieving a free state finds its reward in the development of arts, letters, and sciences. Politeness is the fruit of liberty.

The republican vocabulary Shaftesbury uses to tie free debate with the decline of arbitrary power is unmistakable. A public—an intersubjective exchange between equals who speak without the shadow of domination—is finally possible in England because “we Englishmen . . . are masters in our own country.”²⁶⁹ “Us Britons” are singular:

We have the notion of a public and a constitution, how a legislative and how an executive is modelled. We understand weight and measure in this kind and can reason justly on the balance of power and property. The maxims we draw from hence are as evident as those in mathematics. Our increasing knowledge shows us every day, more and more, what common

²⁶⁵ Shaftesbury, “Soliloquy,” 99.

²⁶⁶ Shaftesbury, “Soliloquy,” 97.

²⁶⁷ Shaftesbury, “Soliloquy,” 100.

²⁶⁸ Shaftesbury, “Soliloquy,” 100.

²⁶⁹ Shaftesbury, “Letter,” 15.

sense is in politics, and this must of necessity lead us to understand a like sense in morals, which is the foundation.²⁷⁰

The passage reveals the presupposition of Shaftesbury's project. Harrington dwells on these questions of the political constitution—what Shaftesbury follows Harrington in referring to as the “model” for politics—that Shaftesbury regards as settled. As the last sentence of the quotation makes clear, the present work is complementing the achievement in political form (or “model”) with an appropriate achievement in mores. The English constitution now embodies both liberty and authority (in the Harringtonian senses) on a structural level. What remains is to refashion the manners of citizenship and authority in the public realm.

Shaftesbury suggests an intimate relationship between constitutional power and public reason. For Shaftesbury, “where absolute power is, there is no public.”²⁷¹ In absolutist countries such as France and Spain—as well as the “Eastern countries and many barbarous nations” that always play an outsized role in the republican imaginary—domination preempts free discourse. Under conditions of arbitrary power there can be no citizens, only subjects: it is “difficult to apprehend what community subsist[s] among courtiers or what public between an absolute prince and his slave-subjects.”²⁷² Republican tropes do important work throughout Shaftesbury's *Characteristicks*. Republicanism's bête noir of slavish dependency and its various iterations through associate concepts of flattery (and the courtier), effeminacy, and softness permeate the *Characteristicks*.²⁷³

²⁷⁰ Shaftesbury, “Sensus Communis,” 50–51.

²⁷¹ Shaftesbury, “Sensus Communis,” 50.

²⁷² Shaftesbury, “Sensus Communis,” 49.

²⁷³ Across the *Characteristicks*, Shaftesbury invokes the trope of slavery at least twenty-four times (pages 35, 36, 49, 64, 98, 99, 103, 187, 222, 269, 314, 321, 334, 361, 372, 392n129, 402, 411, 412, 444, 467, 468, 469, 470), tropes of effeminacy at least sixteen times (pages 108, 140, 141, 151, 172,

Shaftesbury's attack on imposture is particularly impressive because of the way he interlaces republican and deist vocabularies. His republican critique of court flattery shifts attention from the agent of imposture to its patient. Shaftesbury analogizes the patient of imposture who advances credit to the courtier who flatters reigning potentates. A particularly striking example of Shaftesbury's hybridization of deist and republican tropes occurs in his recourse to the Book of Job in order to buttress his advocacy of the free use of wit and reason in matters of religion. Most of Shaftesbury's readers would no doubt have found the deployment of this specific artifact of Christianity perplexing. The Book of Job had not traditionally been read as vindicating wit, reason, or liberty. Rather, the Book of Job was thought to teach unquestioned submission to God's will. One contemporaneous commentator on Job describes the story's essential teaching:

[The Book of Job] present[s] his Works throughout the World to be so wonderful and unaccountable, that it is fit for us to acknowledge our ignorance, but never accuse his Providence . . . Instead of murmuring and complaining, in such a case, this Book effectually teaches us to resign our selves absolutely to Him.²⁷⁴

Job teaches us not to expect God's will to conform to what we can know. We ought to patiently endure suffering even when it seems inexplicable and without justice. Jean Calvin underlines the point even more strongly. For him, the story of Job teaches us "that it is our duty to submit ourselves unto him with all humbleness and obedience . . . God hath suche a soveraigntie over his creatures as he may dispose of them at his pleasure."²⁷⁵

186, 222, 225, 233, 235, 296, 348, 409, 409, 417, 454), and dichotomizes "womanish" or "manly" at least nine times (pages 20, 56, 124, 237, 260, 281, 296, 334, 392).

²⁷⁴ Symon Patrick, *The Book of Job Paraphras'd* (London, 1679), Preface.

²⁷⁵ Jean Calvin, *The Sermons of Maister John Calvin upon the Booke of Job*, trans. Arthur Golding (London, 1584), 1.

Shaftesbury may have been drawn to the Book of Job because of its outsized role in Hobbes's political philosophy of slavish obedience before sovereign power. The power of Job to inspire resigned obedience was not lost on Hobbes, who relied on the Biblical citation at key moments throughout his political writings. Hobbes uses the two signature images from Job as title and frontispiece of two of his works, namely, *Leviathan* and *Behemoth*.²⁷⁶ Moreover, above the head of the artificial person of the state reads the following inscription from Job 41:24: *Non Est potestas Super Terram quae Comparetur ei*. Hobbes engraves this quote and image from Job on his frontispiece because they so perfectly encapsulate *Leviathan's* teaching. Like Job who submits to God's will as a consequence of his irresistible power, the political subject must submit to the sovereign's (i.e., the mortal god's) will owing to his irresistible power. In *On the Citizen*, Hobbes explains the importance of the comparison:

And how bitterly Job protested to God that, though he had been just, he was also afflicted by calamities. In Job's case God himself solved this difficulty with his own living voice, and justified his right with arguments drawn not from Job's sin but from his own power. So in the dispute between Job and his friends, the friends inferred his guilt from his punishment, while he rebutted their accusation by arguments from his own innocence. But God, when he had heard both parties, rejects his protest, not by convicting him of any injustice or sin, but by exhibiting his own power. *Where were you, he says, when I laid the foundations of the earth?*²⁷⁷

The Book of Job dramatically stages the question of injustice—why the sinful flourish and the good suffer—between Job and his earthly interlocutors. Rather than answer the question, God simply refuses it by citing the inferior status of the petitioner. I say status, but Hobbes reduces the difference between Job and God to a question of physical power. God's speech seeks only to establish his omnipotence, from which Hobbes concludes that “it is evident that men incur the

²⁷⁶ On the relationship between Hobbes's philosophy, these images, and the Book of Job, see Patricia Springborg, “Hobbes's Biblical Beasts,” *Political Theory* 23, no. 2 (1995): 353–375.

²⁷⁷ Thomas Hobbes, *On the Citizen* (New York: Cambridge University Press, 1997), 174.

obligation to obey him because of their weakness.”²⁷⁸ We are obliged to God because we have “no hope of being able to resist.”²⁷⁹ The story of Job is important to Hobbes because he wishes to import its model of authority into the temporal domain. Fear—what Hobbes defines as “the awareness of one’s weakness”—compels Job to obey his Creator.²⁸⁰ And it is fear of the mortal god, the leviathan, that compels the subject’s obedience to his sovereign.

Shaftesbury also takes Job’s relationship to God as a model for political authority. He acknowledges Job’s reputation for patience, but places special emphasis on the way Job remonstrates with his Creator: “as patient as Job is said to be, it cannot be denied that he makes bold enough with God, and takes his Providence roundly to task.”²⁸¹ Job serves as a model for republican manners because he speaks frankly and boldly without dissimulation or obsequiousness. Job’s conduct contrasts strongly with those of his friends—Elihu, Zophar, and Bildad—who “use all arguments, right or wrong, to patch up objections . . . at the very stretch of their reason, and sometimes quite beyond it.”²⁸² Shaftesbury’s criticism of Job’s friends differs crucially from that of his contemporaries. It is not the presumptuousness of Job’s friends to imagine God’s reasoning to which Shaftesbury objects. At stake is the way they demean and contort their reason for the sake of pleasing their master. Shaftesbury quotes Job chastising them for “flattering God,” “accepting of God’s person,” and even “mocking him.”²⁸³ Job’s friends behave as courtiers before an absolute

²⁷⁸ Hobbes, *On the Citizen*, 174.

²⁷⁹ Hobbes, *On the Citizen*, 175.

²⁸⁰ Hobbes, *On the Citizen*, 175.

²⁸¹ Shaftesbury, “Letter,” 18.

²⁸² Shaftesbury, “Letter,” 18.

²⁸³ Shaftesbury, “Letter,” 18.

monarch. They fear God's arbitrary sway and use deceit, insincerity, and spurious ratiocination to maintain themselves in his good graces. Worse, Job's friends not only demean themselves by allowing their reason to serve mercenary ends, but they demean God himself by assuming him to be a vain, earthly master in need of their approbation. Their unctuous servility mocks God's true power that is without need of a tyrant's machinations.

V. Publicity and Self-Authorization

We can see the way author and public interact to generate authority at the very start of the *Characteristicks* with Shaftesbury's "Letter." Shaftesbury begins his letter by underlining the pagan origin of enthusiasm. He refers to the practice of poets who rely on inspiration from the muses to fashion their poetic productions. The fact that the poet invokes the muses publicly, before his audience, indicates the role of divinities in augmenting the authority of the poet. The poet's claim to divine possession justifies his authority. Shaftesbury opens his letter by implicitly remarking on the absence of such a guarantee for his own letter. Revelation, the correlative option for enthusiastic augmentation available for Christians, provides the ostensible subject of his letter: prophets who establish their credibility through pretended inspiration from God. However, as the opening paragraphs make clear, the larger problem that interests Shaftesbury is how an author establishes the authority of his own words in a world where divine inspiration is incredible.

Shaftesbury's answer to the implicit challenge of his own authority as author rests with the dialogic forms of writing he chooses.²⁸⁴ The full title of Shaftesbury's piece is "A Letter Concerning

²⁸⁴ My emphasis on the way Shaftesbury theorizes and performs rhetorical authority as the fruit of an interchange between an author and his reader stands against that of Robert Markley. Curiously, Markley puts forward a Shaftesbury who "aspires to what Mikhail Bakhtin terms a monologic, single-voiced language." We must understand Markley's deployment of Bakhtin's theoretical term loosely. Markley surely does not mean that Shaftesbury failed to anticipate Dostoevsky's invention of the polyphonous novel (see Mikhail Bakhtin, *Problems of Dostoevsky's Poetics* [Minneapolis: University of Minnesota Press, 1984], 6). Rather, Markley feels that Shaftesbury attempts to occupy a

Enthusiasm to My Lord ****.” There are two related ways in which the genre of epistle generates authority. The first is what Shaftesbury makes explicit in the text when he says that in lieu of the muses of the ancients he will seek inspiration from the anonymized Lord whom he addresses. Shaftesbury states that “in default of a Muse, [I] must inquire out some great man of a more than ordinary genius, whose imagined presence may inspire me with more than what I feel at ordinary hours.”²⁸⁵ In so doing, he claims to follow “modern wits” who “are more or less raised by the opinion they have of their company, and the idea they form to themselves of the person to whom they make their addresses.” It is the condition of publicity itself—the coming into being of a public that the literary text solicits—that elevates the addressor. Shaftesbury analogizes the author to “a common actor of the stage” whose performance tends to match the quality of the men for whom he performs.²⁸⁶ Secondly, the conceit of a real letter lends authenticity. Indeed, the epistolary novel of the eighteenth century gained its currency because its exhibitor claimed to be reproducing an epistolary exchange between real persons rather than producing a fiction of his own fancy.²⁸⁷ Shaftesbury’s “Letter” does not represent a species of this genre as we only have one letter and not a

God-like position, one where he “restricts the dialogic nature of language to an authoritative voicing of absolute principles.” It is striking to see Markley’s claim that “Shaftesbury champions rather than resists the fictions of univocal authority” because it is precisely this posture of the rigid formalists that he subverts. See Robert Markley, “Sentimentality as Performance,” 215–216.

²⁸⁵ Shaftesbury, “Letter,” 7.

²⁸⁶ Shaftesbury, “Letter,” 7.

²⁸⁷ Peter Conroy, “Real Fictions: Authenticity and the French Epistolary Novel,” *Romantic Review* 72, no. 4 (1981): 409–424.

plot based upon an exchange of letters; nonetheless, it similarly relies on the intimacy of a private literary exchange as the guarantee of its authenticity.²⁸⁸

The subsequent text in the first volume of the *Characteristicks*, “Sensus Communis, an Essay on the Freedom of Wit and Humour in a Letter to a Friend,” extends the literary conversation of the “Letter.” While the essay does not begin with an epistolary salutation like the “Letter,” it appears to have as its conceit the resumption of the former conversation with Lord ***** after some period of intermission. The beginning of the essay (“I have been considering, my friend, what your fancy was to express such a surprise as you did the other day”) may lead us to believe that the “you” addressed throughout the essay is the same interlocutor as the “Letter.” Whatever the conceit, the “friend” stands in for the series of critical public responses, such as that of Astell’s, that Shaftesbury’s “Letter” occasioned.²⁸⁹ The fact that Shaftesbury does not simply address his defense and elaboration of his position on raillery advanced in the “Letter” as a reply to these published rebuttals suggests a certain reticence to jettison the classical ideal of the intimate salon among friends with the impersonal literary public sphere.²⁹⁰

It is the third text of the first volume, “Soliloquy, or Advice to an Author” that most directly theorizes the formal innovations at work in Shaftesbury’s thought. What the work contains is not a style guide for writers, but a reflective account as to how an author generates authority. An author,

²⁸⁸ David Marshall, *The Figure of the Theater: Shaftesbury, Defoe, Adam Smith, and George Elliot* (New York: Columbia University Press, 1986) 20–24.

²⁸⁹ Replies, in addition to that by Astell, include Bishop Edward Fowler, *Reflections upon a Letter Concerning Enthusiasm, To my Lord XXX. In another Letter to a Lord* (London, 1709) and the anonymously authored *Remarks upon the Letter Concerning Enthusiasm. In a Letter to a Gentleman* (London, 1708).

²⁹⁰ I reference the *literarische Öffentlichkeit* theorized by Jürgen Habermas in *The Structural Transformation of the Public Sphere*.

for Shaftesbury, is no mere pamphleteer, but someone who is pretending authority. According to Shaftesbury, “All authors at large are, in a manner, professed masters of understanding to the age.”²⁹¹ The author is the citizen who takes it upon himself to instruct the public in moral and political matters. His conception of the author is not altogether distant from Kant’s later formulation of the “scholar” (*Gelehrter*) or public intellectual who uses his public reason “before the entire public of the reading world”²⁹² Kant demurs from offering an account as to how one is anointed—or how one anoints oneself—the status of author at large. As we have seen, however, Shaftesbury’s task in the first volume of the *Characteristicks* is how to discern imposture in others, and—as “Soliloquy” makes explicit—in oneself.

The “Letter” and “Sensus Communis” focus on the intersubjective means of generating authority. The authority of utterances and the person who utters them is equal to his ability to withstand public raillery. As we saw, public criticism functions as invigilator and improver. The fact that the question “Is it not ridiculous?” can be posed to reigning opinions no matter how grave the topic enables the public to detect imposture. In addition to assaying credibility, discursive raillery improves the author it targets. The activity of criticism goes beyond exposing imposture to build political authority by polishing the wits of authors and readers.

The problem with relying on intersubjective accreditation of authors by way of public raillery is that it leaves authors with no means of self-formation. Shaftesbury analogizes advising the public, the charge of the political and moral author, with surgery:

It is practice, we all allow, which makes a hand.

“But who, on this occasion, will be practiced on? Who will willingly be the first to try

²⁹¹ Shaftesbury, “Soliloquy,” 70.

²⁹² Immanuel Kant, “An Answer to the Question: What Is Enlightenment?” In *What Is Enlightenment? Eighteenth-Century Answers and Twentieth-Century Questions*, ed. James Schmidt (Berkeley: University of California Press, 1996), 60.

our hand and afford us the requisite experience?

Here lies the difficulty. For supposing we had hospitals for this sort of surgery and there were always in readiness certain meek patients who would bear any incisions and be probed or tented at our pleasure, the advantage no doubt would be considerable in this way of practice . . .

“[But] we can nowhere find such a meek patient, with whom we can in reality make bold and for whom nevertheless we are sure to preserve the greatest tenderness and regard,” I assert the contrary and say, for instance, that “we have each of us ourselves to practice on.”²⁹³

Shaftesbury counsels would-be authors to pre-socialize themselves through a procedure of self-polishing that he calls “soliloquy.” Any person seeking to become an authority must practice this “inward rhetoric” by doing as the actor does and “come alone upon the stage, look about him to see if anybody be near, then take himself to task without sparing himself in the least.”²⁹⁴ Shaftesbury creatively translates Horace’s dictum *sapere aude*—the same quotation deployed three generations later by Kant’s “What Is Enlightenment” article—to read “Divide yourself!” By soliloquizing we divide ourselves in two and “personate ourselves” in order to achieve “a kind of vocal looking-glass.”²⁹⁵

Delineating soliloquy is difficult because Shaftesbury intentionally overdetermines the concept to the point where it serves as a metonym encapsulating the whole of his project. On the most basic level, Shaftesbury thinks of soliloquy as the use of reason to discipline appetites. He speaks of the opinion of the ancients that “we have each of us a daemon, genius, angel or guardian-spirit” with whom we must wrestle to arrive at principled moral action.²⁹⁶ Shaftesbury gives us a colorful rendering of Stoic ethics in the “story of an amour” in which a young man learns that he

²⁹³ Shaftesbury, “Soliloquy,” 71–72.

²⁹⁴ Shaftesbury, “Soliloquy,” 72.

²⁹⁵ Shaftesbury, “Soliloquy,” 78.

²⁹⁶ Shaftesbury, “Soliloquy,” 76.

has within him “two distinct separate souls” after falling prey to the seduction of the beauty and affection of a woman whom it was his duty to protect for his prince.²⁹⁷ The notion of soliloquy goes beyond this Stoic goal of apathy, the self-governance that comes from having mastered one’s passions rather than being mastered by them. Many scholars draw our attention to the discursive techniques of the self he adopted in his private writings as epitomizing the practice of soliloquy.²⁹⁸ These scholars believe Shaftesbury’s self-titled “ΑΣΚΗΜΑΤΑ” or “exercises” that he undertook on himself give us privileged access to the types of self-fashioning Shaftesbury has in mind by what he terms soliloquy.²⁹⁹

Shaftesbury’s notion of soliloquy also finds expression in the genre of philosophical dialogue. The dialogues of Xenophon, Plato, and Cicero dramatize polite social intercourse by employing characters who give voice to competing desires and rival justifications.³⁰⁰ “Soliloquy” includes a short dialogue of this type in which the moral sincerity of an action is scrutinized by two opposing personations of the self.³⁰¹ The persons of this self-dialogue are not impersonating

²⁹⁷ Shaftesbury, “Soliloquy,” 80–83.

²⁹⁸ These exercises are collected in English under the title *The Life, Unpublished Letters, and Philosophical Regimen of Anthony, Earl of Shaftesbury* edited by Benjamin Rand and have appeared in French translated and introduced by Lawrence Jaffro as *Exercices* (Paris: Aubier, 1993).

²⁹⁹ There has been a clear tendency in Shaftesbury scholarship to find the truth of the surface in terms of what is hidden beneath it, that is, explaining the meaning of Shaftesbury’s published writings by way of his private exercises and correspondence. Klein simply defines soliloquy as “the inner discourse developed and practiced in his notebooks” and Jaffro describes “Soliloquy” as the “published theory of the private exercises.” See Klein, *Shaftesbury*, 104; Jaffro, “Présentation” in *Exercices* by Shaftesbury, 24; Brooke, *Philosophic Pride*, 111–126; Lori Branch, *Rituals of Spontaneity* (Waco: Baylor University Press, 2006), 96–134; Rivers, *Reason, Grace, Sentiment*, 94.

³⁰⁰ This understanding is adopted by Susan Griffin (“Shaftesbury’s *Soliloquy*: The Development of Rhetorical Authority”) in her suggestion that soliloquy should be incorporated into university pedagogy.

³⁰¹ Shaftesbury, “Soliloquy,” 78–79.

passions and reason, respectively. Rather, one assumes the visard of the moral ego and the other that of the self-interested moral skeptic.

The final iteration of what soliloquizing entails brings me to the least studied region of Shaftesbury's thought, the "Miscellaneous Reflections on the Preceding Treatises and Other Critical Subjects" that makes up the third volume of the *Characteristicks*. The five miscellanies that constitute the "Miscellaneous Reflections" correspond to the preceding five works of the *Characteristicks* of the first two volumes. Unlike the texts that preceded it, however, the voice of the "Miscellaneous Reflections" is not that of Shaftesbury; or, at least that is the conceit. In these miscellanies Shaftesbury adopts the position of the critic—he "play[s] the critic thoroughly upon himself."³⁰² Whereas nearly all commentators attend to Part I of the "Soliloquy," of which I have hitherto been quoting, the outsized portion of the "Soliloquy" concerns the role of the critic in a polished republic given in Part II.

It is in this second part that Shaftesbury gives a sociological division of his normative society that comprises three ranks. One either belongs to "the grandees and men in power, the critics and men of art, or the people themselves, the common audience and mere vulgar."³⁰³ It is here that he describes the specific purpose of "Soliloquy," namely, "an apology for authors and a defence of the literate tribe."³⁰⁴ Shaftesbury develops the idea of the critic by way of his relationship to the fine arts. He speaks of Aristotle as the "grand critic" or "prince of critics" in reference to the *Poetics*.³⁰⁵ Shaftesbury considers the common view of his time—not unlike that of today—that critics operate

³⁰² Shaftesbury, "Soliloquy," 76.

³⁰³ Shaftesbury, "Soliloquy," 104.

³⁰⁴ Shaftesbury, "Soliloquy," 95.

³⁰⁵ Shaftesbury, "Soliloquy," 109.

parasitically with respect to the arts. He notes the “prevailing custom of inveighing against critics as the common enemies, the pests and incendiaries of the commonwealth of wit and letters.” Against these “critic-haters” Shaftesbury asserts that critics “are the props and pillars of this building [the commonwealth of wit and letters] and that, without the encouragement and propagation of this race, we should remain as Gothic architects as ever.”³⁰⁶ Shaftesbury avers that the artist—musician, painter, poet—needs the critic because “accuracy of workmanship requires a critic’s eye. It is lost upon a vulgar judgment.”³⁰⁷

Just as artists need a public—an intended audience for whom the intricacy of their artistic expression can be understood, appraised, and valued—so too do those political artists and polite writers who operate in the public realm. The critics constitute the portion of society equipped with the republican virtue to check the development of imposture, whether in government, church, or letters. Men of power regard critics, “this merciless examining race,” with fear precisely owing to their independence:

For what can be more cruel than to be forced to submit to the rigorous laws of wit, and write under such severe judges as are deaf to all courtship and can be wrought upon by no insinuation or flattery to pass by faults and pardon any transgression of art?

Shaftesbury performs the reflexivity required of a man of authority by adopting the standpoint of the critic against himself in the “Miscellaneous Reflections.” The commentary on the preceding texts found in the miscellanies is always conducted in the third person, as if coming from an entirely different self.³⁰⁸ The miscellanies both amplify on the topics of the texts they comment upon in a

³⁰⁶ Shaftesbury, “Soliloquy,” 106.

³⁰⁷ Shaftesbury, “Soliloquy,” 105.

³⁰⁸ Habermas credits Shaftesbury with the shift in the meaning of the critic, from describing the humanist practicing philological commentary on source material to the man of taste equipped with

discursive and meandering manner, and at times rail against them. “Miscellany I” chastises the author of the “Letter” for “refusing to take notice of the smart writings published against him.”³⁰⁹ Moreover, it raises the possibility that the “Letter” itself may have been a formal conceit and really intended for the public at large all along. Later, in “Miscellany III,” the “self” of the “Miscellaneous Reflections” concludes that “notwithstanding the high airs of skepticism which our author assumes in his first piece, I cannot, after all, but imagine that even there he proves himself at the bottom a real dogmatist and shows plainly that he has his private opinion, believe or faith, as strong as any devotee or religionist of them all.” When Shaftesbury qua miscellanarian comments on the “Inquiry,” he accuses its author to be a “plain dogmatist, a formalist and man of method.” The practice of soliloquy, whatever its form, internalizes the raillery and criticism of the commonwealth of letters, erecting a mini-public within the author’s own mind. Soliloquy is a technique the author uses on himself to counter his own imposture, generating the authority that will be further polished in the “amicable collision” of public reception.³¹⁰

VI. Conclusion

In this chapter I have argued that a positive theory of political authority lies beneath Shaftesbury’s critique of imposture. Inverting the stratagems of imposture generates true discursive and moral authority. Publicity—the sociable qualities of writing and speaking that invite the interlocutor’s assent and criticism—functions as the lodestar guiding the author (or political actor) toward authority. The distemper of gravity preempts discursive scrutiny. Illegitimate authority

the ability to render aesthetic judgments. As the “Miscellaneous Reflections” demonstrates, Shaftesbury conceives of the critic in both senses. See Habermas, *Structural Transformation*, 90n5.

³⁰⁹ Shaftesbury, “Miscellany I,” 346.

³¹⁰ Shaftesbury, “Sensus Communis,” 31.

depends on a prohibition of polite ribbing; it rules the Shaftesburian question “is it not ridiculous?” out of bounds.³¹¹ The success of imposture entails muting its public—eliminating the qualities of publicity that make it public. A strict method accompanies the air of seriousness. The methodist seeks to displace the public’s role in criticizing public affairs by recourse to the transcendent authority of the syllogism, thereby denying the inherent rhetoricality of political utterances. Finally, the republican quality of true authority is crucial: “Where absolute power is, there is no public.”³¹² An inegalitarian public that comprises auditors who must flatter, rather than fellow speakers who may counter-speak without fear, is no public at all. The elimination of monarchic absolutism is a political condition of true authority; the overcoming of arbitrary (discursive) power is the lifeblood of every public.

³¹¹ Shaftesbury, “Sensus Communis,” 30.

³¹² Shaftesbury, “Sensus Communis,” 50.

CHAPTER 3

Polemicizing Politeness:

Rousseau's Appropriation of Montesquieu's Conceptual Vocabulary

The intellectual rigor and playful prose characteristic of the various treatises, novels, and letters of Montesquieu and Rousseau are not the only reasons why scholars frequently single out these authors for interpretive scrutiny. Montesquieu and Rousseau have become central to the way we narrate the eighteenth century and, consequently, the way we determine its import for twenty-first-century political life. The works of these two authors encapsulate the “two explicitly post-feudal ideals” that constituted the imaginative horizon of what modernity might mean.³¹³ Rousseau offers a backward-looking Laconophillia, in which the pernicious social inequality that characterizes France under the Sun King and his successor can only be remedied by a radical return to the civic virtue of the Spartan polis.³¹⁴ For Montesquieu, while we may learn from ancients and admire their austerity and public spirit, it is a resolutely forward-looking commercial modernity that France, and the rest of Europe, should strive to realize.³¹⁵ In one of J. G. A. Pocock's more grandiose formulations, Montesquieu stands tall among a cadre of thinkers who show us how Europe might compensate for

³¹³ J. G. A. Pocock, *Virtue, Commerce, and History* (New York: Cambridge University Press, 1985), 109.

³¹⁴ Judith Shklar, *Men and Citizens: Rousseau's Social Theory* (New York: Cambridge University Press, 1969); Varad Mehta, “Sparta, Modernity, Enlightenment,” in *On Civic Republicanism*, eds. Geoffrey Kellow and Neven Leddy (Toronto: University of Toronto Press, 2016).

³¹⁵ Céline Spector, *Montesquieu et l'émergence de l'économie politique* (Paris, 2006); Robert Sparling, “Montesquieu on Corruption,” in *On Civic Republicanism*, eds. Geoffrey Kellow and Neven Leddy, 157–184; Hans Blom, “The Republican Mirror: The Dutch Idea of Europe,” in *The Idea of Europe*, ed. Anthony Pagden (New York: Cambridge University Press, 2002), 93.

the loss of “civic humanism” as a practicable ideal with a turn to “commercial humanism.”³¹⁶ The question ceases to be one of denying our unsociable passions for the sake of our virtuous attachment to the *patria*, and instead becomes one of civilizing and softening our passions through the dynamics of *doux commerce*.³¹⁷ Whether told in a vindictory or mournful mood, the narrative of eighteenth-century political thought is one in which the ancient language of republicanism and its emphasis on virtue sees its gradual effacement by a language of politeness with its emphasis on manners.³¹⁸

Given the importance of Montesquieu and Rousseau in framing competing visions of political modernity, it is surprising that the relation between their texts has not garnered more attention. On the level of Rousseau’s own biography, the relation between Jean-Jacques Rousseau and Charles-Louis de Secondat, Baron de la Brède et de Montesquieu is well known. In the years immediately preceding the publication of the *Discourse on the Arts and Sciences* (1750), Rousseau compiled copious notes on Montesquieu’s *The Spirit of the Laws* (1748) in his capacity as secretary to Louise-Marie-Madeleine Dupin, who was writing a refutation of Montesquieu’s masterwork with her husband, Claude Dupin.³¹⁹ Rousseau’s frequent invocations of the “illustrious philosopher”

³¹⁶ *Virtue, Commerce, and History*, 50, 114–115, 204, 220. See also Céline Spector, “L’Esprit des lois de Montesquieu: entre libéralisme et humanisme civique,” *Revue Montesquieu* 8 (1998), 139–160.

³¹⁷ Albert Hirschman, *The Passions and the Interests: Political Arguments for Capitalism Before Its Triumph* (Princeton: Princeton University Press, 1977); Helena Rosenblatt, *Rousseau and Geneva* (New York: Cambridge University Press, 1997), 52–60.

³¹⁸ Iain Hampsher-Monk, “From Virtue to Politeness,” in *Republicanism: A Shared European Heritage, Vol. II: The Values of Republicanism in Early Modern Europe*, eds. Martin van Gelderen and Quentin Skinner, (New York: Cambridge University Press, 2002), 85–105; J. G. A. Pocock, “Virtues, Rights, Manners: A Model for Historians of Political Thought,” *Political Theory* 9, no. 3 (1981): 353–368.

³¹⁹ Maurice Cranston, *Jean-Jacques: The Early Life and Work of Jean-Jacques Rousseau, 1712-1754* (New York: Penguin, 1983), 213–215.

whenever he wishes to lean upon the authority of a great sage evinces the importance of his debt to Montesquieu.³²⁰ Given Rousseau's praise of Montesquieu, some scholars have sought to isolate certain commonalities between their texts. Rousseau's sensitivity to designing political institutions that match the particular character of a given people—not just cultural and historical contingencies but also geographical and climatological factors—is perhaps the most prominent and inarguable case in point.³²¹ More arguable is whether the general will, the signature concept of the *Social Contract*, is derived from the same phrase used by Montesquieu.³²²

While there are certainly correlative notions in Rousseau and Montesquieu, I want to suggest that there may be much more to say in elucidating a broader relationship between their two corpuses. Rather than isolate particular items in the thought of each and test whether any convergences can be found, I am interested in investigating what relationship may exist between the novel vocabulary Montesquieu introduces to describe the diversity of public practices and

³²⁰ I cite Jean-Jacques Rousseau, *Œuvres Complètes de Jean-Jacques Rousseau*, eds. Bernard Gagnebin and Marcel Raymond (Paris: Gallimard, 1959–1995). The main translations that I have borrowed liberally from in my own translations throughout this piece are those of Victor Gourevitch found in *The Discourses and Other Early Political Writings* (New York: Cambridge University Press, 1997) and *The Social Contract and Other Later Political Writings* (New York: Cambridge University Press, 1997), as well as those of Allan Bloom found in *Politics and the Arts: Letter to d'Alembert on the Theatre* (Ithaca: Cornell University Press, 1960) and *Emile* (New York: Basic Books, 1979). For references to Montesquieu as the “illustrious philosopher” or the “illustrious Montesquieu” see the *Discourse on Inequality* and *The Social Contract*, in *Œuvres Complètes* III, 136, 414; *Emile* in *Œuvres Complètes* IV, 856; and *The Confessions*, in *Œuvres Complètes* I, 497.

³²¹ David Lay Williams, “Political Ontology and Institutional Design in Montesquieu and Rousseau,” *American Journal of Political Science*, 54 (2010), 525–542; Roger Masters, *The Political Philosophy of Rousseau* (Princeton: Princeton University Press, 1976), 373–380; Keegan Callanan, “Liberal Constitutionalism and Political Particularism in Montesquieu's *The Spirit of the Laws*,” *Political Research Quarterly* 67, no. 3 (2014): 589–602.

³²² Patrick Riley first advances this claim in “The General Will Before Rousseau,” *Political Theory* 6, no. 4 (1978): 485–516. For a persuasive rebuttal, see Sharon Krause, “Freedom, Sovereignty, and the General Will in Montesquieu,” in *The General Will: The Evolution of a Concept*, eds. James Farr and David Lay Williams (New York: Cambridge University Press, 2015): 147–172.

Rousseau's own normative interventions. What if we attempted to read Rousseau's political theory as a normative intervention within the more descriptive conceptual matrix found in *The Spirit of the Laws*? This chapter hazards this method of interpreting the relation between their two projects, testing the hypothesis that Rousseau can be understood as polemicizing within a vocabulary largely inherited from Montesquieu.

Surely no one would dispute that Rousseau shares Montesquieu's hostility toward the regime of despotism and the political slavery that permeates it. While the question of republicanism is undoubtedly a much more delicate issue, everyone should accept that Rousseau and Montesquieu both regard it as categorically distinct from despotism. Montesquieu, of course, abstains from Rousseau's habit of lavishing unqualified adoration upon life in the ancient republics. Nonetheless, it is objectively the case that he regards these ancient republics as non-despotic given the very tripartite framework that architectonically structures *The Spirit of the Laws*. The key difficulty in establishing communicative continuity between Rousseau's philosophy of political right and Montesquieu's study of various factors that give rise to diverse political practices lies with the latter's third and most difficult category of monarchic rule. This chapter bridges this gulf by showing how Rousseau's criticism of eighteenth-century French mores needs to be read as a bid to delegitimize monarchic honor. Rousseau polemicizes against honor not only by emphasizing its moral deficiency relative to virtue, but also by conflating the honor that moves monarchy with the slavish fear that moves despotism. It is only after having been convinced of the moral insupportability of polite monarchy that Rousseau's readers would consider countenancing his radical call to reprise the republican politics of civic virtue. In what follows, I evidence how Rousseau undermines moderate monarchy by discussing the dominant sentiment that secures its social harmony (*viz.*, the principle of honor), the culture in which the regime habituates its subjects and informs their character (*viz.*, education in politeness), and the juridical structure that establishes the specific relations between ruled and ruler

(viz., sovereignty and its exercise). Understanding how Rousseau polemicizes within the conceptual matrix offered by *The Spirit of the Laws*, however, requires that we first appreciate the different theoretical dispositions that threads each of these three layers.

I. Theoretical Dispositions

To engage in a scholarly treatment of Montesquieu at the current time means finding oneself in a partisan brawl. One must choose: either Montesquieu's *The Spirit of the Laws* advocates a "liberal republicanism" to its readers on the idealized model of the English constitution, or, alternatively, the text sets itself the task of vindicating a "liberal monarchism" such as that of mid-eighteenth-century France as the "superior form of government."³²³ Perhaps more interesting than this scholarly quarrel are the background assumptions that unite the two camps. The loud din of the disagreement conceals the shared assumption that we are best equipped to weather our journey to eighteenth-

³²³ The quoted material is taken from Annelien de Dijn's recent article that encapsulates the tenor of the quarrel among Montesquieu scholars ("Was Montesquieu a Liberal Republican?" *The Review of Politics* 76, no. 1 [2014], 21–41). For the thesis that Montesquieu's overriding ambition is the prescription of liberal republicanism, see Thomas Pangle, *Montesquieu's Philosophy of Liberalism: A Commentary on the Spirit of the Laws* (Chicago: University of Chicago Press, 1973) and his more recent book, *The Theological Basis of Liberal Modernity in Montesquieu's "Spirit of the Laws"* (Chicago: University of Chicago Press, 2010), as well as Paul Rahe, *Montesquieu and the Logic of Liberty* (New Haven: Yale University Press, 2009) and *Soft Despotism, Democracy's Drift* (New Haven: Yale University Press, 2009). For the view that Montesquieu advocates moderate monarchy as his preferred regime, see, in addition to Dijn's aforementioned article, Michael Mosher's two pieces: "Monarchy's Paradox," in *Montesquieu's Science of Politics* eds. David Carrithers, Michael Mosher, and Paul Rahe (Lanham: Rowman & Littlefield, 2001), 159–231, and "What Montesquieu Taught: 'Perfection Does Not Concern Men or Things Universally,'" in *Montesquieu and His Legacy*, ed. Rebecca Kingston (Albany: State University of New York Press, 2009), 7–30; Robin Douglass, "Montesquieu and Modern Republicanism," *Political Studies* 60 (2012), 703–719; and the aforementioned piece by Sharon Krause, "Freedom, Sovereignty, and the General Will in Montesquieu." For a critical assessment of Montesquieu's partiality toward aristocratic mores, see Louis Althusser, *Politics and History: Montesquieu, Rousseau, Hegel and Marx* (New York: Verso, 2007) and Franklin Ford, *Robe and Sword* (Cambridge: Harvard University Press, 1953).

century political thought if we bring our anachronistic language of “liberalism” with us.³²⁴ The fact that the ideological epithet of “liberal” never once occurs in Montesquieu’s masterwork rarely gives pause to his interpreters.³²⁵ Perhaps equally revealing is that the preponderance of scholars seem to agree that any assessment of *The Spirit of the Laws* must have at its center a claim concerning the grand prescriptive program that undergirds the work. The reading protocols of the scholar of political theory (insofar as scholars of Montesquieu can be considered representative) appear to presuppose that all classic texts of political thought—irrespective of how they explicitly posture themselves—are in fact claims about the best form of government.³²⁶ The student who began with the secondary literature before perusing Montesquieu’s *The Spirit of the Laws* would no doubt be confused when she later confronts the actual text in which none of its thirty-one books assumes the task of recommending *the* best form of government, or, more abstractly, that of elucidating *the* principles of political right.

I highlight a dominant debate within Montesquieu studies because of what it assumes concerning Montesquieu’s orientation toward political theorizing. In the introductory paragraphs above, I made brief reference to Montesquieu’s more descriptive ambition of elucidating the

³²⁴ Duncan Bell demonstrates that what we designate as liberal says more about our own historical situation than it does about the texts we study, see “What Is Liberalism?” *Political Theory* 42, no. 6 (2014), 682–715.

³²⁵ Montesquieu does, however, make use of the word *libéralités*—that is to say, “generosities”—at various moments. For example, see his description of the overspending of Roman emperors and the trouble it caused, *The Spirit of the Laws*, XXII.13. I cite *The Spirit of the Laws* (New York: Cambridge University Press, 1989) by book and chapter and the translations are unchanged from the Cambridge translation unless otherwise noted. When I quote Montesquieu in French, I do so from the *Œuvres Complètes de Montesquieu*, ed. André Masson (Paris: Nagel, 1950).

³²⁶ For scholarship on Montesquieu that forgoes fixation on *the* prescriptive claim anchoring his work, see Rebecca Kingston, *Montesquieu and the Parlement of Bordeaux* (Geneva: Librairie Droz, 1996), and in relation to Montesquieu’s departure from the philosophical ambition of elucidating the ideal political community, see, in particular, 169–172.

determinants and consequences of various public practices relative to Rousseau's more normative interventions. In my characterization of *The Spirit of the Laws* as principally descriptive relative to Rousseau's more normative political writings, I follow Rousseau's own evaluation. Rousseau writes:

The only modern fit to create this grand and unuseful science was the illustrious Montesquieu. But he was careful not to treat the principles of political right; he contents himself with treating the positive law of established governments, and nothing in the world is more different than these two studies.³²⁷

Rousseau, in his typical fashion, dramatically overstates the case. *The Spirit of the Laws* offers its readers a series of normatively rich categories—in particular, those of liberty and moderation—that equip the legislator and citizen with an image of just rule. Indeed, Montesquieu's horrifying account of despotic rule serves as its normative anchor: a gravitational center that helps to order, compare, and evaluate the diversity of non-despotic customs and practices. Nonetheless, Rousseau's statement conveys a certain truth regarding the different octaves in which their respective projects are pitched. Seeing their different theoretical ambitions through Rousseau's eyes also helps us to reconstruct how he conceives of his divergence from his illustrious predecessor.

Arriving at what Rousseau means when he claims that *The Spirit of the Laws* does not concern itself with setting out the principles of political right entails first attending to how the usage of the term by Montesquieu and Rousseau is at once proximate and distant. In the first book of *The Spirit of the Laws*, Montesquieu divides the arena of law into three separable domains: the right of nations (*le droit des gens*), political right (*droit politique*), and civil right (*droit civil*). Unlike the ties between states that constitute the right of nations and the ties between individuals within a state that constitute civil right, political right concerns the legal framework that binds the sovereign to his subjects. The principles of political right thus refer to the relations between the governors and the governed that

³²⁷ *Emile*, in *Œuvres Complètes*, IV, 836.

constitute the state itself. Rousseau calls this fundamental law that binds sovereign to people the social contract. In his work *Du contrat social; ou, Principes du droit politique*, he makes clear that the theory of political right and the theory of the social contract are the same enterprise. Moreover, his own philosophical practice suggests that it is possible (and perhaps even necessary) to separate the normative task of deducing principles of political right from questions concerning the right of nations and civil right.³²⁸

It is hard to overstate Rousseau's dramatic divergence from Montesquieu on this point. Immediately after delineating the distinctions between the right of nations, political right, and civil right, Montesquieu dispenses with them for the purpose of his study, stating: "I have made no attempt to separate *political* laws from *civil*; as I do not treat laws, but the spirit of the laws."³²⁹ As Rousseau perspicaciously notes, Montesquieu's treatise departs altogether from Rousseau's self-professed task of offering "the true principles of political right," and instead charges itself with the discovery of the determinants of positive laws across diverse times and peoples.³³⁰ The book's subtitle makes clear that the determinants responsible for the diversity of positive law include "the constitution of each government, mores, climate, religion, and commerce, etc." The different theoretical registers at which Rousseau and Montesquieu operate make possible the former's polemical appropriation of the latter. Montesquieu's delineation of the *how* of monarchic governance becomes the basis for Rousseau's effort to expose the normative impermissibility of its foundations.

³²⁸ Rousseau apologizes for his silence on questions outside the strict confines of political right in the final chapter of *Social Contract* (IV.9).

³²⁹ Montesquieu, *The Spirit of the Laws*, I.3.

³³⁰ Rousseau, *Social Contract* (IV.9), in *Œuvres Complètes*, III, 470.

II. The Ambiguity of Honor

Montesquieu grounds his comparative typology of governments in the principles that animate each regime. Montesquieu's claim is that one cannot understand republican, monarchic, or despotic rule if one does not attend to their lifeblood. Virtue serves as the spring, the fountain of affect that sustains all republics in both their democratic and aristocratic variants. Montesquieu derives his understanding of political virtue from the Greeks and the Romans: "the *amour pour la patrie*, desire for true glory, self-renunciation, sacrifices of one's dearest interests, and all those heroic virtues we find in the ancients and know only by hearsay."³³¹ The intensity with which political virtue inspires the individual to renounce his own private advantage and forsake his own propriety for the public good makes virtue both the most and least human passion. Virtue is, in a certain sense, most human because it is most artificial—the farthest distance that our sensibility can travel from our original egocentric instincts and their vicissitudes. Despots arrest all human development by reducing their subjects to a condition of perpetual fear. The people, in a republic, require their fellows to fundamentally transform themselves and live for the *civitas*. Indeed, Montesquieu makes clear that virtue is the most difficult sentiment to cultivate, requiring elaborate and intensive state-directed educational programs, wholly opposed to the nature of despotic rule where subjects must only learn to cower before "the prince's ever-raised arm."³³² At the same time, the wholesale transformation of our character required by the life of political virtue would seem to make a republican life of virtue more fit for gods than men.³³³ Sharon Krause states the case strongly when

³³¹ Montesquieu, *The Spirit of the Laws*, III.5.

³³² Montesquieu, *The Spirit of the Laws*, III.3.

³³³ I take Rousseau's comment on democracy (i.e., a democratic republic) to be his own way of acknowledging this point: "S'il y avoit un peuple de Dieux, il se gouverneroit Démocratiquement.

she observes that “republican virtue denatures us by denying forms of sociability that are constitutive of who we are at the deepest level.”³³⁴ The realization of republican life would appear conditioned upon the abnegation of something intrinsic to our anthropology. Given such an exacting transformation of original sentiment required by republican politics, we can see why Montesquieu says that we know of true men of virtue only by hearsay because none of us moderns have ever met a man capable of such radical sublimation of his self-preference. Indeed, Montesquieu observes that in the ancient republics “things were done in those governments that we no longer see and that astonish our small souls.”³³⁵ The closest example we moderns have of such radical self-denial, according to Montesquieu, are the practices exhibited in monastic life.³³⁶

Montesquieu regards the overriding passion of monarchy with a deliberate ambiguity—an ambiguity that Rousseau exploits and transmutes into something wholly negative. Montesquieu insists on the many benefits that accrue when a desire for honor lubricates all social intercourse. Few would dispute that this jealous regard for one’s own position and one’s own privileges is a vastly superior motive for social action than the bestial dynamics of fear that motivate all social life in despotic regimes. In monarchy, man is no longer reduced to the state of brute animality: a mere “creature that obeys a creature that wants.”³³⁷ Monarchy imbues aristocratic persons with dignity by making honor the motivation for all social action. With honor as their spring, “each person works

Un Gouvernement si parfait ne convient pas à des hommes.” *Social Contract* (III.4), in *Œuvres Complètes*, III, 406.

³³⁴ Sharon Krause, “Freedom, Sovereignty, and the General Will in Montesquieu,” 154.

³³⁵ Montesquieu, *The Spirit of the Laws*, IV.4.

³³⁶ Montesquieu, *The Spirit of the Laws*, V.2.

³³⁷ Montesquieu, *The Spirit of the Laws*, III.10.

for the common good, believing he works for his individual interests.”³³⁸ Montesquieu, true to his ambition of dispassionate analysis, judges honor for what it is and what it isn’t.

What it isn’t is virtue—that overflowing commitment to my fellow citizens as my equals that leads me to revel not in my own individual success but in our collective glory. Monarchy (like despotism) discharges its subject of intrinsically motivated civic obligation.³³⁹ The absolute dedication to the public thing demanded by republican life is substituted, not by fear of violence but by an assertive self-regard. The “overcommitment to public things” that sustains republican equality finds its obverse in the “undercommitment to public things” that is both the cause and consequence of monarchic inequality.³⁴⁰ Insofar as there exists concern for anything public in monarchic regimes, it is only arrived at indirectly through self-regard, that is, “the prejudice of each person and each condition.”³⁴¹ Honor is the means by which monarchy compensates for its deficiency of civic virtue without resorting to coercive force.

Contrary to the celebratory vindications of the moderate regime by some of his interpreters, Montesquieu refuses to euphemize the truth concerning the *bonnête homme*, the characteristic personage of monarchy. He explicitly states that in a monarchy “one will rarely find someone who is a good man; for, in order to be a good man, one must have the intention of being one and love the

³³⁸ Montesquieu, *The Spirit of the Laws*, III.7. For the Mandevillian origins of this logic, see Céline Spector, “Vices privés, vertus publiques?: de la *Fable des abeilles* à *L’Esprit des lois*,” in *Montesquieu and the Spirit of Modernity*, eds. David Carrithers and Patrick Coleman, 127–157 (New York: Oxford University Press, 2002).

³³⁹ Montesquieu, *The Spirit of the Laws*, III.5: “Les lois y tiennent la place de toutes ces vertus, dont on n’a aucun besoin; l’État vous en depense: une action qui se fait sans bruit, y est en quelque façon sans consequence.”

³⁴⁰ Michael Mosher, “What Montesquieu Taught,” 8.

³⁴¹ Montesquieu, *The Spirit of the Laws*, III.6.

state less for oneself than for itself.”³⁴² Despite the absence of any rigorous moral commitment to morality or one’s fellow citizens, the *bonnête homme* will nonetheless “approach the manners of a good citizen” not out of any intention to serve the *civitas*, but indirectly by pursuing his own reputation. In order to avoid any confusion, Montesquieu clarifies that the “honor” he speaks of as the principle of monarchic government is, in all truth, a “false honor.”³⁴³ Honor is not pursued for the intrinsic good associated with honorableness as such, as in the Ciceronian notion of *honestas*.³⁴⁴ Rather, the false honor at work among the privileged classes in monarchic regimes is the ambition to be appraised as someone whose comportment befits a gentleman, someone worthy of respect and deference.

Rousseau’s normative political theory in no way disputes Montesquieu’s observations concerning the manners and mores prevalent in mid-eighteenth-century France. Just as he affirms Montesquieu’s characterization of despotic government as political slavery and just as he affirms Montesquieu’s characterization of republican regimes as extreme zeal for the public thing, Rousseau also affirms Montesquieu’s portrait of the form of life captured by polite monarchy. Significantly, however, Rousseau’s writings shift the register of discourse from that of dispassionate categorization to impassioned polemic.

³⁴² Montesquieu, *The Spirit of the Laws*, III.6. This passage makes clear that one can only be a truly good man if one is a citizen of a republic: he who loves the political community for its own sake and not for the goods it brings him. The passage should give pause to those who claim that Montesquieu rendered a resolutely negative verdict upon republican life. For example, Krause claims that “Montesquieu’s depiction of ancient republics is by no means an unambiguous endorsement, and it does not represent his normative view of good governance in general. In describing these regimes, he is by no means recommending them to us, much less presenting their ruling norms as universally authoritative. Their way of life is not something that modern subjects should aspire to. . . because the sovereign rule of a general will poses an intrinsic threat to moderation and freedom.” Sharon Krause, “Freedom Sovereignty, and the General Will in Montesquieu,” 149–150.

³⁴³ Montesquieu, *The Spirit of the Laws*, III.7.

³⁴⁴ Cicero, *On Duties* (New York: Cambridge University Press, 1991).

We can see this on full display as early as 1750 with the arrival of the prize-winning piece that catapulted Rousseau from watchmaker's son to international celebrity. In the *Discourse on the Arts and Sciences*, Rousseau successfully entwines moral dissolution, luxury, commerce, political slavery, and the corruption of taste with advancement in the arts and sciences. Rousseau's florid prose leaves the direction of historical causation rather underspecified. Whether the advancement of the arts and sciences leads to luxury or whether luxury spurs man to devote himself to technical arts and speculative knowledge, Rousseau's stirring oratory only answers in the affirmative to both questions.³⁴⁵ Irrespective of the historical cause and effect, the prevailing disposition in society that motivates commitment to the arts and sciences could not be clearer. Rousseau says that "Every Artist wants to be applauded. The praises of his contemporaries are the most precious portion of his reward."³⁴⁶ It is the desire for reputation, what Montesquieu in his description of monarchic honor calls "the desire to distinguish oneself," that motivates accomplishment in arts and sciences.³⁴⁷ In other words, the question of the baleful or benevolent effects of the arts and sciences is, on a certain level, not actually the chief concern of Rousseau's text. Rousseau's fundamental interest is in undermining honor, that desire for reputation that motivates men of polite monarchic society to flourish in the arts and sciences.

³⁴⁵ Montesquieu, on the other hand, states the chain of causation clearly: "The effect of commerce is wealth; the consequence of wealth, luxury; that of luxury, the perfection of the arts," *The Spirit of the Laws*, XXI.6.

³⁴⁶ Rousseau, *Discourse on the Arts and Sciences*, in *Œuvres Complètes*, III, 21.

³⁴⁷ Montesquieu, *The Spirit of the Laws*, IV.2. See also Montesquieu's explicit emphasis on vanity as the source for the arts and politeness in XIX.9: "Vanity is as good a spring for a government as arrogance is a dangerous one. To show this, one has only to imagine to oneself, on the one hand, the innumerable goods resulting from vanity: luxury, industry, the arts, fashions, politeness, and taste, and, on the other hand, the infinite evils born of the arrogance of certain nations: laziness, poverty, the abandonment of everything, and the destruction of the nations that chance has let fall into their hands as well as their own nation. Laziness is the effect of arrogance; work follows from vanity . . ."

Rousseau exploits Montesquieu's admission that "speaking philosophically, it is true that the honor that guides all parts of the [monarchic] state is a false honor."³⁴⁸ Rousseau assays the true character of this pretended honor by focusing on the insincerity of its performance, its failure to live up to the ethic that Jean Starobinski calls "transparency" and what Ruth Grant calls "integrity."³⁴⁹ In this sense, monarchic honor is false because it values only the façade of rectitude. The monarchic world deems the *bonnête homme* honorable because it makes no demands upon the interior of his character. The non-correspondence between internal disposition and external performance makes clear that "honor" functions euphemistically, since certain manners are exhibited exclusively in order to satisfy the "rage for distinction" and never for their own sake.³⁵⁰

In marking the distance between what is truly honorable and the vainglorious showmanship that characterizes the polite society of monarchy, Rousseau states the following:

People no longer ask about a man whether he has probity, but whether he has talents; nor about a Book whether it is useful, but whether it is well written. Rewards are lavished upon wits, and virtue remains without honors. There are a thousand prizes for fine discourses, none for fine deeds.³⁵¹

The insincerity of the man who seeks only superficiality and finds his rewards only in the regard of others (and never in his own self-regard) evacuates honor of anything truly honorable. These sentiments are not much different from Montesquieu's own when he steadfastly avers that "there

³⁴⁸ Montesquieu, *The Spirit of the Laws*, IV.2.

³⁴⁹ Jean Starobinski, *Jean-Jacques Rousseau: Transparency and Obstruction* (Chicago: Chicago University Press, 1998); Ruth Grant, "Integrity and Politics: An Alternative Reading of Rousseau," *Political Theory* 22, no. 2 (1994): 414–443.

³⁵⁰ Rousseau, *Discourse on the Arts and Sciences*, in *Œuvres Complètes*, III, 19: "O fureur de se distinguer, que ne pouvez-vous point?"

³⁵¹ Rousseau, *Discourse on the Arts and Sciences*, in *Œuvres Complètes*, III, 25.

need not be much probity” to sustain a monarchic government³⁵² In lieu of the probity required for civic duty, monarchy valorizes a certain aristocratic refinement. Compare Rousseau’s reflections above with how Montesquieu describes the slide from virtue to honor: “One judges men’s actions here [in monarchies] not as good but as beautiful, not as just but grand; not as reasonable but extraordinary.”³⁵³ The replacement of republican virtue by monarchic honor means that what was once undertaken for its own sake is now undertaken only for its appearance, i.e., for the esteem it might bring me. It is no longer virtuous deeds that are celebrated but beautiful performances. No longer the morality of one’s conduct but only its perfumed gravitas.

Rousseau extends his critique of honor in his *Discourse on the Origin and Foundations of Inequality Among Men*, a conjectural history of humanity that isolates amour-propre as the key explanatory variable responsible for mankind’s fall from felicity.³⁵⁴ When the Academy of Dijon asks whether “inequality is authorized by natural law,” Rousseau understands the question to be whether “the different Privileges which some enjoy to the prejudice of the others, such as to be more wealthy, more honored, more Powerful than they” can be understood as consistent with natural law.³⁵⁵ Inequality of rank and honor supply the social condition of monarchy in Montesquieu’s typology, a key criterion that differentiates monarchy from equality between citizens in a republic and the

³⁵² Montesquieu, *The Spirit of the Laws*, III.3.

³⁵³ Montesquieu, *The Spirit of the Laws*, IV.2.

³⁵⁴ For recent commentaries that emphasize the centrality of amour-propre in Rousseau’s political philosophy, see Niko Kolodny, “The Explanation of Amour Propre,” *Philosophical Review* 119 (2010): 165–200, and two works by Frederick Neuhouser: *Rousseau’s Theodicy of Self Love* (New York: Oxford University Press, 2008) and *Rousseau’s Critique of Inequality* (New York: Cambridge University Press, 2014).

³⁵⁵ Rousseau, *The Discourse on the Origins and Foundations of Inequality Among Men*, in *Œuvres Complètes*, III, 131.

equality between political slaves under despotism. The *Discourse on Inequality* traces this condition back to the fundamental passion of amour-propre, arguing that “inequality of prestige and authority becomes inevitable among Private Individuals as soon as, united in one society, they are forced to compare themselves one with the other.”³⁵⁶ This learned need to measure oneself against others and pursue distinction, or amour-propre, is the seed of the monarchic principle of honor. For Rousseau, amour-propre “inclines every individual to set greater store by himself than by anyone else, inspires men with all the evils they do one another, and *is the true source of honor.*”³⁵⁷ Rousseau’s *Discourse on Inequality* isolates amour-propre as the nascent form of the monarchic principle in order to establish that honor is fundamentally incompatible with natural right. The valorization of honor cannot achieve a broader culture of morality, but only politeness—what Rousseau defines as “the appearances of all the virtues and the having of none of them.”³⁵⁸

III. Politeness: An Education in Dependence

Rousseau polemicizes against monarchic honor not only by reiterating that it lacks the intrinsic moral fiber characteristic of republican virtue, but also by rhetorically confounding the paradigmatic personages of monarchic and despotic governments and the educational regime that forms their character. Establishing an identity between the *bonnête homme* of moderate monarchy and the political slave of despotism is no small task given Montesquieu’s sharp demarcation of their respective types. The paradigmatic despotic subject is stripped of the self-esteem so prized by the *bonnête homme*. Obedience to the absolute power of the despot precludes the forms of dignity and

³⁵⁶ Rousseau, *Discourse on Inequality*, in *Œuvres Complètes*, III, 189.

³⁵⁷ Rousseau, *Discourse on Inequality*, in *Œuvres Complètes*, III, 219, my emphasis.

³⁵⁸ Rousseau, *Discourse on the Arts and Sciences*, in *Œuvres Complètes*, III, 7.

pride that are essential to men of honor as “people capable of esteeming themselves would be in a position to cause revolutions.”³⁵⁹ While the strength and stability of monarchy depends on the nobility’s deference to the sovereignty of the prince, the moderation of monarchy depends on the nobility’s willingness to refuse the sovereign’s most extreme displays of his absolute power.³⁶⁰ In both cases, the motivation is honor. The *bonnête homme* relies on the prince’s court and the fashions set therein to provide the venue to satisfy his rage for distinction. Similarly, in the rare instances in which the nobleman checks the monarch’s authority, whether by virtue of his status as military commander (*noblesse d’épée*) or by virtue of his participation within a parlement (*noblesse de robe*), the drive to do so stems from the conviction that “the prince should never prescribe an action that dishonors us [the nobility] because it would make us incapable of serving him.”³⁶¹ The ability of men of honor to speak against the sovereign contrasts sharply with the political subject of despotism who is deprived of discussion. The monarch allows for such entreaties, whereas the despot condemns his dependents to silence. Only “instinct, obedience, and chastisement” are available to those who, like domesticated animals, are compelled to endure the general condition of despotic fear.

Rousseau’s polemical bid to conflate the characterological types of monarchy and despotism relies on the paramount role of pleasure in the experiences of both political subjects. Rousseau’s focus on pleasure is incisive because Montesquieu’s political slave is bound by his subservience to

³⁵⁹ Montesquieu, *The Spirit of the Laws*, III.9.

³⁶⁰ With respect to the former, there are instances when carrying out certain military orders would bring dishonor to the nobility. Montesquieu offers the example of when Crillon disobeys the order to assassinate the Duke of Guise and when Viscount Orte refuses Charles IV’s order to massacre the Huguenots after Saint Bartholomew’s Day (*The Spirit of the Laws*, IV.2). For a concrete account of how parlements moderated absolute monarchy by acting as a depository of law, see Michael Mosher, “Monarchy’s Paradox,” 187–192.

³⁶¹ Montesquieu, *The Spirit of the Laws*, IV.2.

the pleasure of another desiring being—the slave under despotism being no more than “a creature that obeys a creature that desires.”³⁶² It is difficult to deny that a being who lives only to please another desiring creature is slavish. What gives Rousseau pause is the possibility that this brutish play of pleasure and dependence seems not altogether distinct from the ethos of the polite regime of monarchy. The very promise of commerce, Rousseau tells us, is that of “rendering men more sociable by inspiring in them the desire to please one another with works worthy of their mutual approbation.”³⁶³ Given this eagerness to please others, Rousseau asks us to consider whether there are any conceptual criteria by which we could truly distinguish the *bonnête homme* from the political slave, and, by extension, separate the political regimes with which they are associated. The key distinction between the slave and the courtier—which Rousseau must categorically repress in order to achieve his conflation—is that the desire for pleasure that motivates the monarchic society of polite flatterers is reciprocal, unlike the unidirectional pleasure of the desiring despot. Given this distinction, it is no doubt significant that complacency (*complaisance*) is the watchword of Molière’s *Misanthrope* and Rousseau’s critique of it. It is the very insistence on the shared togetherness of the pleasure, the *com* of the complacency, that demarcates the *bonnête homme* from the slave. Rousseau suppresses this distinction in order to assert an equivalence between the courtier and the slave.

The theater epitomizes the ethos of a polite and commercial society founded upon reciprocal pleasing, uniquely embodying monarchy’s educational imperative: politeness. Rousseau’s *Letter to D’Alembert on the Theater* challenges the broader project of eighteenth-century reform of the French *philosophes*. The article of the *Encyclopédie* on Geneva that occasions Rousseau’s letter amounts to a report card on the enlightened progress of Geneva. In Geneva, commerce flourishes, offensive wars

³⁶² Montesquieu, *The Spirit of the Laws*, III.10, my translation.

³⁶³ Rousseau, *Discourse on the Arts and Sciences*, in *Œuvres Complètes*, III, 6.

are avoided, Christianity has become moderated, vaccination is embraced—in short, everything that Voltaire’s *Letters on England* admires in the polite and commercial nation of England has been promulgated save one.³⁶⁴ Absent from Geneva is the theater, a place that refines the sentiments and manners of the populace. The *Encyclopédie* insists on the capacity of the theater to polish its audience: “to remove what is rough and unattractive, and give it all the luster and evenness . . . in short, to finish and perfect it.”³⁶⁵ When, in *Rameau’s Nephew*, the philosopher is challenged by his interlocutor to articulate the utility of the theater, the former answers, channeling Horace, “amusement and instruction.”³⁶⁶ When Rameau’s nephew presses further as to the substance of this instruction, the philosopher answers “Knowledge of one’s duties, love of virtue, hatred of vice.”³⁶⁷ The polite play of manners found on stage gently transforms uncouth mores into virtuous ones. The theater serves as the crucial site that vouchsafes the ultimate moral utility of politeness, and its concomitant political regime of monarchy, insofar as it offers the path of polite sociability that leads to virtuous conduct.³⁶⁸

³⁶⁴ For Voltaire’s discussion of commerce, offensive wars, moderate religion, and vaccination, see Letters X, VIII, I-VII, and XI, respectively, of *Letters on England* (New York: Penguin, 1995).

³⁶⁵ “Politeness,” *The Encyclopedia of Diderot & d’Alembert Collaborative Translation Project* (Ann Arbor: Michigan Publishing, University of Michigan Library, 2010) <http://hdl.handle.net/2027/spo.did2222.0001.078>.

³⁶⁶ Denis Diderot, *Œuvres Complètes*, XII, eds. Henri Coulet et al. (Paris: Hermann, 1989), 137.

³⁶⁷ Diderot, *Œuvres Complètes*, XII, 137.

³⁶⁸ “Politesse.” *The Encyclopedia of Diderot & d’Alembert*: “It is not for me to decide, but I cannot help thinking that politeness has its origin in virtue, and by enclosing itself in the use that it is natural to it, it remains virtuous; but that when it serves vice, it suffers the fate of the best things whose use is corrupted by wicked men. . . . All the abuses deriving from politeness do not stop its being essentially something good . . .”

It is tempting to misunderstand Rousseau's *Letter to d'Alembert* as a philosophical diatribe against poetry and the theater *tout court*, a modern reaffirmation of the decision by Socrates to banish the poets from the polis. While clearly interested in reviving certain forms of Spartan and Stoic wisdom, Rousseau's *Letter* is not terribly concerned with making philosophical claims about poetry and man as such. Rousseau follows in Montesquieu's footsteps by theorizing politically about the appropriateness of the theater for particular kinds of men, namely, citizens of a republic. Rousseau begins with the premise of *The Spirit of the Laws*: the object of inquiry is not man in abstraction, "But man modified by religions, governments, laws, customs, prejudices, and climates."³⁶⁹ Specifically, Rousseau objects to the theater for Genevans because they are already a free people who govern a republican city. The republican orientation of his calumny against the theater leads him to accuse d'Alembert of being "the first philosopher who ever encouraged a free people, a small city, and a poor state to burden itself with a public theater."³⁷⁰ The introduction of a theater threatens a specifically republican polity that is presently devoid of the corruption associated with luxury, a large territory, and political slavery. Indeed, the theater poses no danger for already corrupt peoples.

Rousseau's *Letter to d'Alembert* critiques the theater's claim to moral instruction by demonstrating the irreconcilability of the twin demands of Horace's maxim that poetry both please and instruct. For the *philosophes*, the spectator's pleasurable enjoyment of the actors on stage facilitates instruction in virtue since, as a mimetic art, the theater represents vicious and virtuous action. Notwithstanding the conceptual beauty of Horace's formulation, Rousseau contends that sweetening didactic medicine renders all hope of moral instruction impossible. Pleasing an audience necessarily entails flattering its sentiments and reinforcing its opinions. Indeed, should the

³⁶⁹ Rousseau, *Letter to d'Alembert on the Theatre*, in *Œuvres Complètes*, V, 16.

³⁷⁰ Rousseau, *Letter to d'Alembert*, in *Œuvres Complètes*, V, 14.

playwright decide to act as an impudent challenger of his audience's prejudices, instead of their sycophantic flatterer, then all hopes of instruction are doomed. "If an author shocks these maxims," Rousseau writes, "he will write a very fine play to which no one will go."³⁷¹ The theater flourished in the polite court of Louis XIV's remarkable regime not because it boldly challenged the prevailing "empire of opinion," but because it so perfectly corresponded to the spirit of flattery, servility, and mutual pleasing mandated by the monarchic regime's principle of (false) honor.³⁷²

Rousseau's argument is at its most persuasive when he demonstrates the effects of Molière's juxtaposition of the virtuous man with the polite man of the world. The protagonist of Molière's *Misanthrope*, Alceste, "is a righteous man, sincere, worthy, truly a good man."³⁷³ Ironically, the audience regards Alceste as misanthropic "precisely because he loves his fellow creatures, hates in them the evils they do to one another and the vices which these evils are the product."³⁷⁴ How does the audience react when they see the characterological paradigm of virtue represented before them? They regard him as a figure of the highest comedy. Alceste's sincerity, his insistence on regarding each of his fellows as an equal deserving his honesty and true judgment, means that his conduct is woefully impolitic. Alceste is regarded as misanthropic because he tells the truth; he refuses to demean himself and his companions by flattering them and saying only what would please them.

Counterpoised against him is his friend Philinte, who consistently counsels Alceste to abandon his virtue and sincerity and to instead join the realm of politeness, in which false honor is the principle of all action. To say that Philinte is a man of the world is to say that he has been

³⁷¹ Rousseau, *Letter to d'Alembert*, in *Œuvres Complètes*, V, 20.

³⁷² Rousseau, *Letter to d'Alembert*, in *Œuvres Complètes*, V, 21.

³⁷³ Rousseau, *Letter to d'Alembert*, in *Œuvres Complètes*, V, 34.

³⁷⁴ Rousseau, *Letter to d'Alembert*, in *Œuvres Complètes*, V, 34.

educated to swim in the monarchic waters of honor. Montesquieu observes that “In monarchies [unlike in republics] the principal education is not in the public institutions where children are instructed; in a way, education begins when one enters the world. The world is the school of what is called *honor*, the universal master that should everywhere guide us.”³⁷⁵ The education Philinte receives from the joint spectacles of theatrical performance and aristocratic pomp and gallantry is hardly a rigorous formation in upright morality. Indeed, Montesquieu suggests explicitly the opposite: “Today [in monarchy] we receive three different or opposing educations: that of our fathers, that of our schoolmasters, and that of the world. What we are told by the last upsets all the ideas of the first two. This comes partly from the opposition there is for us between the ties of religion and those of the world, a thing unknown among the ancients.”³⁷⁶ The distance from the virtue and goodness instilled by our family and church, and the polite ways of the world inculcated by monarchic society, underline the falsity of monarchic honor.

To those who might suggest that in the hands of another playwright it would be Philinte (the polite man of the monarchic world) who would be the joke and true misanthrope rather than Alceste, Rousseau answers that he sees “only one difficulty for this new play, which is that it could not succeed.”³⁷⁷ Even when written by the finest of modern playwrights, the drama that displeases and pronounces discordantly upon the values of its audience can never achieve instruction as “whatever one may say, in things that dishonor, no one laughs with good grace at his own expense.”³⁷⁸ Improving the character of men through the theater presupposes the audience possess

³⁷⁵ Montesquieu, *The Spirit of the Laws*, IV.2.

³⁷⁶ Montesquieu, *The Spirit of the Laws*, IV.4.

³⁷⁷ Rousseau, *Letter to d’Alembert*, in *Œuvres Complètes*, V, 39.

³⁷⁸ Rousseau, *Letter to d’Alembert*, in *Œuvres Complètes*, V, 39.

the self-denying and public-oriented principle of virtue—the very passion that a society held together by amour-propre lacks.

When Judith Shklar and Sharon Krause observe that Montesquieu does not “resent the divided self” that is produced by monarchic education in politeness, their comment seems neither accurate nor inaccurate.³⁷⁹ Unlike Rousseau, Montesquieu is willing to acknowledge the powerful checks on absolutist power that a schooling in politeness makes possible. Nonetheless, the fact that Montesquieu holds the monarchic education in politeness as responsible for “the dregs and corruption of modern times” seems at least to suggest that he is not a cheerleader of monarchic honor, but a careful student of the good and ill its cultivation engenders.³⁸⁰ Rousseau’s polemicization makes clear that he, like Alceste, resents the duplicity of the polite monarchic subject. The upshot of Rousseau’s profile of the *honnête homme*, the man who lives only for the false honor of recognition, is that he is fundamentally dependent. The motivating principle of monarchy requires the *honnête homme*, like the slave, to live outside himself because the regime to which he submits compels his actions. For Rousseau, the subject of monarchy, like the subject of despotism, cannot act autonomously. Both monarchy and despotism call upon their subjects to flatter an external power who is the sole arbiter of their worth. In his *Letter to d’Alembert*, Rousseau already gives us, in the figure of the misanthrope Alceste, a characterological image of what a republican refusal of slavish flattery might look like. In the *Social Contract*, Rousseau paints the man of virtue writ-large, scaling up from a republican to a republic.

³⁷⁹ Judith Shklar, *Montesquieu* (New York: Oxford University Press, 1987), 76; Sharon Krause, *Liberalism with Honor* (Cambridge: Harvard University Press, 2002), 60.

³⁸⁰ Montesquieu, *The Spirit of the Laws*, IV.6.

IV. Republic as Norm

A republic is not a form of government. This thesis is perhaps the most essential teaching of Rousseau's *Social Contract*. In chapter 6 of Book II, Rousseau gives us the following pithy formulation: "I therefore call Republic any State ruled by laws, whatever may be the form of administration: for then the public interest alone governs, and the public thing counts for something. Every legitimate Government is republican." Rousseau sharply partitions questions of sovereignty and government. The metaphysical activity of sovereign willing is kept categorically distinct from the physical activity of enforcing that will. Rousseau's partition shares a certain structural similarity with distinctions made by both Bodin and Montesquieu. For Bodin, categorizing a regime requires a two-step process in which one first determines how many people hold sovereignty (if one person holds sovereignty then the state is a monarchy, if a particular minority holds sovereignty then the state is an aristocracy, etc.). The second step of the process concerns the "*règle de police*," that is, how the sovereign decides to distribute offices and honors.³⁸¹ In this sense, a monarchic state could have a popular (rather than aristocratic) government if the absolute sovereign distributed offices and honors to all classes in society (rather than just to a select nobility). Montesquieu reworks Bodin's distinction. Indeed, for the world of difference that in his mind separates monarchy from despotism, what they share in common is the (apparent) all-important fact

³⁸¹ Jean Bodin, *Six Livres de la république* (Paris: Fayard, 1993), II.2: "Différence de l'état et du Gouvernement. Car il y a bien différence de l'état et du gouvernement : qui est une règle de police qui n'a point été touchée de personne ; car l'état peut être en Monarchie, et néanmoins il sera gouverné populairement si le Prince fait part des états, Magistrats, offices, et loyers également à tous sans avoir égard à la noblesse, ni aux richesses, ni à la vertu." For further discussion of Bodin's innovation, see Bernard Manin, *The Principles of Representative Government* (New York: Cambridge University Press, 1997), 45; Philip Pettit, "Two Republican Traditions," in *Republican Democracy*, eds. Andreas Niederberger and Philipp Schink (Edinburgh: Edinburgh University Press, 2013), 179–184; Richard Tuck, *The Sleeping Sovereign* (New York: Cambridge University Press, 2016), 1–62.

that “the prince is the source of all political and civil power.”³⁸² The crucial difference lies in what Montesquieu at one point in the text calls “the communication of power.”³⁸³ When the despot deputizes his agent “power passes entirely into the hands of the one to whom it is entrusted. The vizir is the despot himself, and each individual officer is the vizir.”³⁸⁴ By contrast, in monarchy law mediates authority, tempering its exercise and confining its domain of application. Whereas in the case of Bodin, governmental variations depend on the number and kind of persons authorized to enforce the sovereign will, in Montesquieu emphasis is placed on the immediacy or mediacy of power’s communication.

Rousseau, on the other hand, reserves the traditional regime appellations (monarchy, aristocracy, democracy) exclusively for the governmental type, while the constitution is binary: republican (legitimate) or despotic (illegitimate). The first step of Bodin and Montesquieu’s classification procedure presupposes the possibility that either a portion of the population or a single individual possess sovereignty; Rousseau flatly denies this as a possibility for a legitimate political community. The first two books of the *Social Contract* establish that the only true sovereign is the people. Rousseau describes the state of affairs contrary to political right in which the *de facto* sovereign is an individual or group as despotism, i.e., the state of usurpation in which an individual or group has arrogated to itself the ultimate authority from the *de jure* sovereign of the people. Unlike in Montesquieu where a singular absolute sovereign might adjoin moderation (monarchy) or immoderation (despotism), for Rousseau, the presence or absence of the people as sovereign

³⁸² Michael Mosher’s discussion of monarchic absolutism and Montesquieu’s inheritance of Bodinian sovereignty is compelling. After reading his account, I, too, am convinced that we should “assume that the words mean what they say.” See “Monarchy’s Paradox,” 172–183.

³⁸³ Montesquieu, *The Spirit of the Laws*, V.16.

³⁸⁴ Montesquieu, *The Spirit of the Laws*, V.16.

becomes normatively dispositive. By refusing to allow for the possibility of a non-popular sovereign as morally justifiable, Rousseau reduces monarchy to despotism, dispensing with the careful differentiations that Montesquieu used to theorize polite monarchy as a distinct category.

With Rousseau, the adjective “republican” now serves a chiefly normative function. Since republicanism no longer has any direct bearing on the question of government, it is now used to describe a state that upholds the principles of political right pertaining to (1) the identity of the only legitimate sovereign of any state and (2) the proper relation between that sovereign and the government he employs. The only legitimate sovereign, that is, the sovereign of every republican state, is the people: the moral person engendered when individuals agree to a social pact in which each alienates himself entirely to the whole community.³⁸⁵ The proper relation of the sovereign—the singular impersonation that does not represent but *is* the people—to the government is both figuratively and literally that of the human will and its bodily fulfillment. Rousseau explains that “When I walk toward an object, it is necessary, in the first place, that I will to go to it; in the second place, that my feet carry me to it.”³⁸⁶ Willing constitutes sovereignty and is the power Rousseau describes as legislative; force constitutes government and is the power Rousseau describes as executive. We can thus re-describe a republican state as one in which the people constitute the sovereign soul of the artificial person they have created, and the government supplies the body of this artificial person that carries out the will of its soul. Government is the embodiment of sovereignty and, as such, ought to be completely determined by the legislation of its soul.

The parallel descriptions of a polity animated by virtue in Montesquieu and Rousseau bolster my argument that Rousseau’s transformation of the semantic relations of political theory can be

³⁸⁵ Rousseau, *Social Contract* (I.6), in *Œuvres Complètes*, III, 360-2.

³⁸⁶ Rousseau, *Social Contract* (III.1), in *Œuvres Complètes*, III, 395.

couched as a polemical intervention within Montesquieu's vocabulary. In the chapter of Book III that he devotes to theorizing democracy, Rousseau makes explicit his debt to Montesquieu concerning the requirements of a democratic republic and the probability of its instantiation. Rousseau paraphrases Montesquieu's theorization of the necessary conditions for a republic by synthesizing it into the four requirements of size, simplicity of mores, equality, and luxury:

Firstly, [a democracy must be] a very small state where the people is easily assembled, and where every citizen can easily know all of his fellows; second, great simplicity of mores to preclude excessive business and thorny discussions; next, much equality of ranks and fortunes, without which equality of rights and authority could not long subsist: Finally, little or no luxury; for luxury is either the effect of riches, or makes them necessary; it corrupts rich and poor alike, the one by possession, the other by covetousness; it sells the fatherland in exchange for softness, for vanity; it deprives the State of all its Citizens by enslaving one to the other, and making them all slaves to opinion.³⁸⁷

Following Montesquieu, Rousseau contends that the subsistence of a republic governed democratically depends upon its small size, its ability to resist the polite development of morals, its refusal to establish a nobility of rank or class, and, finally, its permanent aversion to the accumulation of riches and luxury. Notice also how Rousseau continues the efforts of the *Discourses* and the *Letter to d'Alembert* by conflating the subject of monarchy who pursues reputation with the slavish nature of the despotic subject. Rousseau again obliterates Montesquieu's careful distinction between the man of vanity who secures the regime of monarchy through his pursuit of external recognition, and the slave for whom fear serves as the sole motivation. He who acts out of dependence on a despot and he who acts out of dependence on the empire of opinion are equally slaves in Rousseau's eyes.

³⁸⁷ Rousseau, *Social Contract* (III.4), in *Œuvres Complètes*, III, 405.

Immediately following the previously cited passage, Rousseau makes explicit his radical transformation of Montesquieu's web of concepts. In light of these four requirements Rousseau concludes the following:

That is why a celebrated Author [Montesquieu] gave virtue as the principle of the Republic; because all these conditions could not subsist without virtue: but for want of drawing the necessary distinctions, this noble genius often lacked justness [*justesse*], sometimes clarity, and he failed to see that since Sovereign authority is everywhere the same, the same principle must be in place in every well-constituted State, more or less, it is true, according to the form of the Government.³⁸⁸

Rousseau's claim that the people must be sovereign means that the only legitimate regime in Montesquieu's typology is what the latter called the democratic republic. As a consequence, irrespective of how the popular will is realized through the arrangement of offices (i.e., issues pertaining to government), Montesquieu's principle of virtue must serve as the spring for all legitimate government in Rousseau's eyes. While Montesquieu judged moderate monarchy distinct from despotism because of his dependence on intermediary bodies such as the nobility and the clergy, Rousseau quips that this difference only introduces complications to the question of government while depriving the people of their moral will, their sovereignty.

V. Conclusion

Rousseau's ambition of reprising the republican mores of the ancients appears radically incongruent with Montesquieu's descriptive elucidation of the various factors responsible for the diversity of governments among nations. What I have sought to show is that beneath the discordance between Rousseau's true principles of political legitimacy and Montesquieu's description of the determinants responsible for diverse political practices lies a shared conceptual architecture. Rousseau is not rejecting Montesquieu's political science but polemicizing within it. One might go as

³⁸⁸ Rousseau, *Social Contract* (III.4), in *Œuvres Complètes*, III, 405.

far as to say that Rousseau shows what one can do when one uses rhetorical tropes of hyperbole and paradiastole to exaggerate and recharacterize explanatory descriptions into ideological accusations. Irrespective of whether one finds Rousseau's polemical appropriation of Montesquieu's political vocabulary compelling, one must be impressed by how he manages to transmute Montesquieu's normatively cautious lexicon into a full-throated, prescriptive politics. It is rare that contemporary scholars lean on Montesquieu in order to advocate an ancient republican politics of virtue, that is, to offer us a polarized choice between republican virtue or despotic slavery as does Rousseau. Nonetheless, I fear that the tendency to distill *The Spirit of the Laws* into a prescriptive program of liberalism represents a novel effort to polemicize within his conceptual matrix, if only to further a rather different set of ideological ambitions.

Appreciating how Rousseau's and Montesquieu's two post-feudal ideals flow from the same conceptual fountain gives us broad insight into our own narratives of eighteenth-century political thought. The competing visions of backward-looking republican austerity and forward-looking monarchic honor each gain their critical purchase by reference to politeness, the dynamic that encapsulated the promise and pestilence of modern society. Perhaps then the appropriate object for scholars seeking to divine the fissures of eighteenth-century political reflection is not the presence or absence of precursors to so-called liberal democracy. In fact, what is at stake in mid-eighteenth-century intellectual debate is how to avoid the *summum malum* of despotism. The key question concerns whether a moderate monarchy with its independent nobility and strong intermediary bodies animated by the pursuit of vanity can offer modernity a path away from despotism, or, whether it is precisely this reality of aristocratic inequality, united by a polite culture of flattery and insincerity, that constitutes despotism in its modern guise.

CHAPTER 4

Republican Ambivalence:

Rousseau's Citizens, Pettit's Subjects, and the Problem of Popular Rule

The proper noun “Rousseau” carries the suggestion of democracy at its limit. In Lord Acton’s formulation, Rousseau’s political philosophy of “pure democracy” expresses his extreme commitment to popular sovereignty: the simultaneous insistence that “the people, because it has no master and no judge, decides in the last instance” and that “the people, necessarily sincere, and true, and incorrupt, cannot go wrong.”³⁸⁹ For democratic theorists such as Carole Pateman, Rousseau’s ideal of the people as sovereign underwrites his commitment to participatory democracy. Pateman nominates Rousseau as “the theorist *par excellence* of participation” given that his “entire political theory hinges on the individual participation of each citizen in political decision making.”³⁹⁰ Philip Pettit ejects Rousseau from the neo-republican canon due to the participatory zeal prized by Pateman. The decision to enthrone the citizenry may be motivated by a desire to preserve freedom, but Pettit believes elevating the citizenry to the role of sovereign constitutes a new form of domination.

Acton, Pateman, and Pettit disagree over the desirability of the participatory assembly of sovereign citizens that they find in Rousseau, but they agree on the democratic intensity of Rousseau’s ideal political institutions. Rousseau scholars of late have questioned Rousseau’s democratic commitments. They highlight anti-democratic practices at the heart of Rousseau’s political theory. First, there is the broad question as to whether Rousseau’s bedrock distinction between sovereignty and government serves to center or decenter the people. Some maintain that

³⁸⁹ Lord Acton, *Lectures on the French Revolution* (London: Macmillan, 1910), 15–16.

³⁹⁰ Carol Pateman, *Participation and Democratic Theory* (New York: Cambridge University Press, 1970), 22.

the outsized role of the citizenry as sovereign conceals the fact that Rousseau's ideal sovereign consigns most of politics to a small minority of prominent men, the body of magistrates that compose the government. For Judith Shklar, the pomp surrounding popular sovereignty is belied by the neglected fact that "the sovereign *does* very little."³⁹¹ Richard Tuck renews this interpretive line by claiming that Rousseau is the true founder of modern constitutionalism, the practice where the titular sovereign of the people is a mere "sleeping sovereign."³⁹² Second, there is the question of the specific procedures Rousseau recommends for ideal republican political institutions. One debate focuses on agenda setting: whether Rousseau intends the legislative agenda for the participatory sovereign assembly to be predetermined by government experts.³⁹³ Another debate concerns whether the voting procedures within the sovereign assembly are designed to favor oligarchic capture.³⁹⁴

I argue that confusion over the democratic nature of Rousseau's thought stems from the competing demands essential to any republican project. In the first chapter, we saw how Harrington's republican theory of political legitimacy incorporates distinct demands of popular control and aristocratic virtue. The Commonwealth of Oceana secures popular power by an agrarian law that distributes wealth broadly and by reserving the power to enact legislation to the citizen's

³⁹¹ Judith Shklar, *Men and Citizens* (New York: Cambridge University Press, 1969), 181, Shklar's emphasis.

³⁹² Richard Tuck, *The Sleeping Sovereign* (New York: Cambridge University Press, 2015).

³⁹³ Ethan Putterman, "Rousseau on Agenda-Setting and Majority Rule," *American Political Science Review* 97 (2003), 459–469; John Scott, "Rousseau's Anti-Agenda-Setting Agenda and Contemporary Democratic Theory," *American Political Science Review* 99, no. 1 (2005), 137–144; Ethan Putterman, "Rousseau on the People as Legislative Gatekeepers, Not Framers," *American Political Science Review* 99, no. 1 (2005), 145–151; Dorina Verli, "Reforming Democracy: Constitutional Crisis and Rousseau's Advice to Geneva," *The Review of Politics* 80, no. 3 (2018), 415–438.

³⁹⁴ John McCormick, "Rousseau's Rome and the Repudiation of Populist Republicanism," *Critical Review of International Social and Political Philosophy* 10 (2007), 3–27; Valentina Arena, "The Roman Republic of Jean-Jacques Rousseau," *History of Political Thought* 37 (2016), 8–31; Chiara Destri, "Rousseau's (Not So) Oligarchic Republicanism: Reflections on McCormick's Rousseau's Rome and the Repudiation of Populist Republicanism," *Critical Review of International Social and Political Philosophy* 19 (2016), 206–216.

delegates. Harrington contends that citizen ownership and direction of the commonwealth is necessary but insufficient. A *de jure* government requires elevating moral and intellectual virtues by institutionalizing authority as *auctoritas* in a senate.

Rousseau's ambivalence toward participatory democracy, his emphatic desire for popular sovereignty, and his steadfast aversion to a popular government repeat Harrington's twin demands for republican legitimacy in a different register. The ostensibly contradictory elements of Rousseau's institutional design—his populist and aristocratic tendencies—acknowledge the need to affirm seemingly irreconcilable republican demands. First, the dignity of the citizenry depends on its right to rule absolutely; second, the dignity of the subject depends on the absence of absolute rule. Critics who fault Rousseau for democratic excess focus on the first of these twin demands by targeting his avowal of popular sovereignty. Critics who fault Rousseau for democratic insufficiency focus on the second of these demands by targeting the outsized influence of government magistrates. Neither group of critics appreciates the difficulty of republican legitimacy: the reconciliation of citizen control over the most important matters of politics with freedom from subjection to arbitrary government power.

Part 1 of this chapter develops Rousseau's dual affirmation of democratic sovereignty and aristocratic government. It elucidates Rousseau's commitment to popular sovereignty against Pettit's encapsulation of Rousseau's political theory as excessively democratic. Part 2 of this chapter considers those who fault Rousseau for his democratic deficiencies rather excesses. It attends to the role he accords government magistrates in legislative proposal, arguing that Rousseau's insistence on popular ratification, rather than deliberation, offers a neglected option for how republican legitimacy might be conceived.

Part 1: Democratic Excess

Pettit's neo-republicanism reframes the debate over political freedom through a procedure of triangulation. Isaiah Berlin casts the modern dilemma of freedom in binary terms.³⁹⁵ Either we stick with conceptual clarity and intuitive certainty of negative liberty (i.e., the absence of interference), or risk asserting a positive notion of what it means to realize freedom. It may be tempting to install a determinate conception of freedom. Still, Berlin warns, the determinate content that entices us may ensnare us in freedom's opposite. Pettit's genius lies in his creative escape from the binary terms proposed by Berlin. He maneuvers around Berlin's ultimatum not by sublating the oppositional poles constituting the dilemma, but by conjuring a third way between freedom from interference and freedom to realize one's will.³⁹⁶ Pettit wagers that our dissatisfaction with negative liberty can be remedied by exchanging the *summum malum* that freedom delivers us from rather than by positing a substantive notion of a free life. Berlin posited interference as that which one seeks freedom from; Pettit substitutes domination.

Pettit only briefly mentions Rousseau in his initial formulation of the neo-republican paradigm.³⁹⁷ He credits Rousseau with giving a "populist twist" to the traditional republican demand against dependency and aligns him with Berlin's positive pole, but Rousseau's appearance in his earlier work is of little consequence. Rousseau, however, becomes of paramount importance in

³⁹⁵ Isaiah Berlin, *Four Essays on Liberty* (New York: Oxford University Press, 1969), 118–172.

³⁹⁶ Just as Isaiah Berlin's essay seems inseparable from its Cold War context, so too does Philip Pettit's *Republicanism* feel moored to its post-Cold War context. The year of *Republicanism's* publication (1997) saw the general election victory of Tony Blair's New Labor and the second inauguration of Bill Clinton, the consolidation of the New Democrats. On Isaiah Berlin and Cold War liberalism, see Jan-Werner Müller, "Fear and Freedom: On 'Cold War Liberalism,'" *European Journal of Political Theory* 7 (2008), 45–64.

³⁹⁷ Philip Pettit, *Republicanism: A Theory of Freedom* (New York: Oxford University Press, 1997), 18, 19, 30, 253.

Pettit's recent rearticulation of neo-republicanism. Rousseau is no longer someone who wandered astray from the well-trod republican path. Pettit now accuses Rousseau of a "betrayal" of the republican tradition, consigning his writings to the status of "apocrypha" with respect to the republican canon.³⁹⁸ The increased interest in Rousseau suggests an attempt to come to grips with the charge that Pettit's earlier work neglected democracy as a consequence of its focus on freedom.³⁹⁹

Pettit redeploys his signature triangulation in theorizing what kind of democracy is appropriate for a neo-republican order.⁴⁰⁰ Just as he had done with theories of freedom, Pettit takes two positions that he regards as extreme and finds a third way between them. Pettit posits Joseph Schumpeter's account of democracy as supplying the dominant image among political scientists.⁴⁰¹ On Pettit's reading, Schumpeter holds that a regime becomes legitimately democratic if the people influence the government by selecting between competing parties during periodic elections.⁴⁰² For Schumpeter, the virtue of this system is that the people can weigh in on the management of the state

³⁹⁸ Philip Pettit, "Two Republican Traditions," in *Republican Democracy: Liberty, Law and Politics*, eds. Andreas Niederberger and Philipp Schink, (Edinburgh: Edinburgh University Press, 2013), 187: "He [Rousseau] totally betrayed the earlier tradition in espousing the idea of popular sovereignty." Pettit repeats the betrayal language in *On the People's Terms* (New York: Oxford University Press, 2012), 14. For the *Social Contract* as apocrypha, see "The Domination Complaint," *NOMOS* 46 (2005): 87–115, 104, 187.

³⁹⁹ Patchen Markell, "The Insufficiency of Non-Domination," *Political Theory* 36 (2008), 9–36; Nadia Urbinati, "Competing for Liberty: The Republican Critique of Democracy," *American Political Science Review* 106 (2012), 607–621; John McCormick, *Machiavellian Democracy* (New York: Cambridge University Press, 2011), 141–169.

⁴⁰⁰ Pettit, *People's Terms*, 187–247.

⁴⁰¹ In addition to the treatment in *People's Terms*, see Philip Pettit, "Democracy Before, In, and After Schumpeter," *Critical Review* 29 (2017), 492–504; and "Three Conceptions of Democratic Control," *Constellations* 15 (2008), 46–55.

⁴⁰² For recent revisionism concerning Schumpeter's intentions, see Natasha Piano, "Schumpeterianism Revised: The Critique of Elites in *Capitalism, Socialism, and Democracy*," *Critical Review* 29 (2017), 505–529.

without imposing any self-formed agenda. For Pettit, the limitation of popular influence to periodic elections is the vice rather than the virtue of Schumpeter's approach.

If Schumpeter's democratic polity gives the popular will insufficient expression, Rousseau's republic gives it excessive expression. Rather than rest content with influencing government officials, Rousseau insists that the people act as the sovereign who directs them. Pettit worries that Rousseau's overcommitment to democratic direction means the popular sovereign will become an agent of domination. Pettit triangulates Schumpeter's position of popular influence and Rousseau's position of popular sovereignty to arrive at his own account of democracy. Neo-republican democracy comprehends two dominant features: a mixed constitution and a contestatory citizenry.

I. Rousseau's Alleged Athenian Rejection of the Mixed Constitution

Pettit offers his readers a mutually exclusive choice: one may choose either a mixed constitution or a unitary sovereign. The former represents the Pettitian path ("Italian-Atlantic republicanism") and the latter, the Rousseauvian path ("Continental republicanism").⁴⁰³ Given this exclusive choice, a polity with a mixed regime and a unitary sovereign constitutes a contradiction in terms. As we shall see, the failure of this straightforward deduction reveals Pettit's misreading of Rousseau and the lacuna within his theory of political legitimacy.

Pettit's discussion of the mixed constitution is perhaps the most intense manifestation of Pettit's ambivalence toward the history of republican thought. On the one hand, Pettit claims the authority of this tradition to vindicate core features of the neo-republican order such as the mixed constitution. On the other hand, Pettit prefers to restyle and redefine these concepts rather than draw upon what they meant to the writers who used them.

⁴⁰³ Pettit, *People's Terms*, 12.

In *On the People's Terms*, Pettit expresses awareness of the original meaning of the mixed constitution, but reduces its elucidation to a dependent clause.⁴⁰⁴ Pettit states the following: “While traditional defenders of the mixed constitution present it in received terms as a mixture of the three pure constitutional types, monarchy, aristocracy and democracy, this rhetorical trope serves to encode straightforward institutional constraints.”⁴⁰⁵ The original exponent Pettit likely has in mind is Polybius who, like Cicero, thought of the mixed regime as an alloy that combined the distinctive qualities of democratic, aristocratic, and monarchic regimes. *Pace* Pettit, the idea of a mixture of pure regime types goes beyond mere rhetorical trope. As we saw in our discussion of the mixed regime in Chapter 1, Polybius praised the mixture of the three unalloyed regime types because of its ability to secure the stability of the *civitas*, that is, its ability to resist the “cycle of constitutions.”⁴⁰⁶

Alternatively, at stake in Cicero’s *De Re Publica* is the blending of different signature virtues—paternal affection (*caritas*), judgment (*consilium*), and liberty (*libertas*). We might underline the diversity of ancient views further by noting that Aristotle’s earlier formulation considered the mixed regime as a compound that included only democratic and oligarchic constitutions. The “middle way” (*to meson*) refuses to simply elevate either poor or wealthy portions of the citizenry. Instead, it strikes an

⁴⁰⁴ The “mixed constitution” does not make an appearance in the index of *Republicanism: A Theory of Freedom*, but it appears twice in the work. I say twice, but the term first appears as “mixed constitution” and second appears as “mixed government.” Pettit uses the terms interchangeably notwithstanding the paramount distinction Rousseau draws between mixed sovereignty and mixed government. First, the “mixed constitution” is glossed as “different powers serv[ing] to check and balance each other” (20). The second appearance defines the “ancient ideal of the mixed government” as a “dispersion of power . . . in which different sectors are represented and power is given in part to this representative assembly—perhaps this house of representatives—and in part to that [sic]” (179).

⁴⁰⁵ Pettit, *People's Terms*, 221.

⁴⁰⁶ Polybius, 6.3–10.

accommodation between democratic and oligarchic practices.⁴⁰⁷ Mixed constitutions strike this balance by, for example, employing both democratic procedures (lot) and aristocratic procedures (election) to select office holders, or, for example, lowering—but not eliminating—property qualification for participation in civic assemblies.

Pettit reimagines the republican trope of the mixed constitution so that it communicates his two priorities, namely, the rule of law and the dispersion of political power. His unique formulation attaches the word “constitution” to the former priority and the word “mixed” to the latter.

According to Pettit, “the mixed constitution was meant to guarantee a rule of law—a constitutional order—under which each citizen would be equal with others and a separation and sharing of powers—a mixed order—that would deny control over the law to any one individual or body.”⁴⁰⁸

Pettit’s deployment of the past tense invites us to understand that he is distilling these ideas from an array of classical and early modern republican writers. He does not cite any such forebears in this passage. Elsewhere, however, he cites Cicero’s dictum of “law as a silent magistrate” and Harrington’s concept of an “empire of law” as a correlative notion to his idea of constitutional order, and Montesquieu’s idea of the separation of powers as a correlative notion to his idea of a mixed order.⁴⁰⁹ Pettit’s reverence for law as the antidote to arbitrary power is certainly of republican provenance, though Pettit’s faux-philological association of the term “constitution” is of his own invention.⁴¹⁰ It is curious that Pettit glosses the ostensibly republican characteristic of what it means

⁴⁰⁷ Ryan Balot, “The ‘Mixed Regime’ in Aristotle’s *Politics*,” in *Aristotle’s Politics: A Critical Guide*, eds. Thornton Lockwood and Thanassis Samaras (New York: Cambridge University Press, 2015), 103–122.

⁴⁰⁸ Pettit, *People’s Terms*, 5; Pettit, “Two Republican Traditions,” 171.

⁴⁰⁹ Pettit, *People’s Terms*, 221.

⁴¹⁰ It appears that Pettit wishes to associate the values of modern “constitutionalism” with the ancient idea of the “mixed constitution” by way of the word “constitution.” When Polybius and Aristotle speak of a constitution (*politeia*) that is mixed they are using the generic word for regime

to be “mixed” by way of Montesquieu. Montesquieu theorizes the functional separation of powers and the dispersion of power across different institutional bodies as the important aspects of moderate government as such (and not a specific feature of republican rule).⁴¹¹

Pettit prizes the mixed constitution because of the counter-majoritarian tendencies it contributes to neo-republican politics. The mixed constitution inoculates the neo-republican regime from the threat of too much popular control, the alleged problem of Rousseau’s political thought. Pettit regards Rousseau’s political theory as embodying the “Athenian model,” that is, “the plenary assembly model of democracy.”⁴¹² Rousseau’s requirement that “only a unanimously endorsed committee-of-the-whole could serve in the sovereign role” threatens aspects of the mixed constitution. The majoritarian lawmaking of the Athenian model endangers individuals who stand against the will of the majority. As the familiar liberal argument goes, a majoritarian will without

(*politeia*) and not delimiting it by only those regimes that incorporate rule by law. Indeed, as the variety of mixed regimes Aristotle discusses indicates, they need not have anything that approximates this principle. See Morgens Herman Hansen, “The Mixed Constitution Versus the Separation of Powers: Monarchic and Aristocratic Aspects of Modern Democracy,” *History of Political Thought* 31 (2010), 509–531. On *politeia* in Polybius, see Ryan Balot, “Polybius’ Advice to the Imperial Republic,” *Political Theory* 38, no. 4 (2010): 483–509, 487.

⁴¹¹ As the previous chapter made clear, Montesquieu’s praise for the way intermediary powers moderate a regime by dispersing power marked the defining feature of monarchies, not republics. The famed elaboration of competing political institutions in which “*le pouvoir arrête le pouvoir*” occurs in his description of the eighteenth-century British monarchy, rather than in his extensive discussion of ancient and modern republics. Given that Charles I’s lawyers originally grafted the idea of the mixed constitution upon the English estates in the King’s *Answer to the Nineteen Propositions*, it is not unreasonable to suspect that Montesquieu had this in mind, as he cribs from Country Party ideologists in fashioning his theoretical restatement of political liberty in Britain. Nonetheless, Montesquieu nowhere mentions the idea of the mixed constitution and, consequently, nowhere states that his description of the British monarchy is meant to be a description of the mixed constitution. In the same Book 11, however, Montesquieu does have a lengthy historical description of the Roman republic, which could indicate that he might have an implicit notion of the mixed constitution in mind.

⁴¹² Pettit, *People’s Terms*, 188–189.

institutional safeguards endangers those who dissent. Pettit highlights a formal concern in addition to these substantive concerns over the oppressive content of particular laws enacted by the majority. Majoritarian, unicameral lawmaking generates a “discursive dilemma” in which the combination of even judgmentally consistent individual legislators may produce an inconsistent patchwork of laws.⁴¹³ The coordination between a bicameral legislature and a constitutional court—the institutions that he associates with the mixed constitution—ensures consistency in lawmaking and realizes the rule of law.

Pettit’s mischaracterization of Rousseau’s republican ideal as Athenian is the first hurdle to understand their divergent approaches to republican legitimacy. Athens indeed proves an instructive example: one of illegitimate rule that confounds the general act of lawmaking with the particular act of adjudication. In the *Social Contract*, Rousseau offers the example of Athens in his chapter detailing how the sovereign power can exceed its proper limits:

When the people of Athens, for example, named or cashiered their leaders, conferred honors to one, imposed penalties on another, and by a multitude of particular decrees exercised indistinctly all the acts of Government, the people thus no longer have a general will properly speaking; it no longer acts as Sovereign but as magistrate.⁴¹⁴

The popular government of Athens offends Rousseau’s republican sensibilities because it prescribes to the citizenry the task of judging particular violations of the law. The Athenians failed to

⁴¹³ Pettit, *People’s Terms*, 191–195.

⁴¹⁴ Jean-Jacques Rousseau, *Social Contract*, II.4.6. I cite Jean-Jacques Rousseau, *Œuvres Complètes de Jean-Jacques Rousseau*, eds. Bernard Gagnebin and Marcel Raymond (Paris: 1959–1995). For the *Social Contract*, I cite the book, chapter, and paragraph to ease reference across editions. The translations of Rousseau throughout are my own fashioned in consultation with those by Maurice Cranston found in *The Social Contract* (New York: Penguin, 1969) and Victor Gourevitch found in *The Discourses and Other Early Political Writings* (New York: Cambridge University Press, 1997) and *The Social Contract and Other Later Political Writings* (New York: Cambridge University Press, 1997).

distinguish the general question of what constitutes a just law made in the general interest from the particular question of determining what the law requires in a specific case.⁴¹⁵

The sovereign people, for Rousseau, hold the “will” but not the “force.” The citizens can only materialize their moral will through a government body. Rousseau installs an ontological chasm that separates the moral will from its physical execution by analogizing the sovereign/government dynamic to that between soul and body.⁴¹⁶ Whether we analogize the sovereign/government composite as a “paralytic” (a sovereign with no government) or an “agile man” without will (a government with no sovereign), Rousseau says that both are incapable of movement. The paralytic possesses the “moral cause” of action but lacks the “physical cause.” Conversely, the agile man is able to undertake physical activity but lacks the moral will.⁴¹⁷ Kant’s epistemological repetition of Rousseau’s political formula is revealing: “thoughts without content are empty, intuitions without concepts are blind.”⁴¹⁸ The comic futility of grasping the world without concepts and the scholastic imbecility of philosophizing absent real objects speak to the dilemma. Judgments require the unity of concept and intuition. Similarly, Rousseau’s psychology presupposes two distinct aspects of the

⁴¹⁵ Rousseau’s emphasis on this distinction as the cornerstone of his constitutional theory has not succeeded in preventing misapprehension. Pateman, for example, counts Rousseau as an exponent of participatory democracy because “participation for Rousseau is participation in the making of decisions.” Pateman does not discriminate between the making of general laws and the making of particular decisions; she does not observe that Rousseau limits his participatory ideal to acts of sovereignty rather than acts of government. Indeed, her endorsement of the extension of Rousseau’s participatory theory to industrial societies through D. H. Cole’s vision of guild socialism suggests that she imagines participation at all levels of decision making. See *Participation and Democratic Theory*, 24, 35–44.

⁴¹⁶ Rousseau, *Social Contract*, III.1.2

⁴¹⁷ Rousseau, *Social Contract*, III.1.2

⁴¹⁸ Immanuel Kant, *The Critique of Pure Reason* (New York: Cambridge University Press, 1998), 193–194 (A 51/B 75).

human personality: metaphysical (with the associations of *morale, volonté, puissance législative*) and physical (with the parallel associations of *physique, force, puissance exécutive*). At stake for Rousseau is not the epistemological person that concerns Kant, but the moral person that constitutes the state.⁴¹⁹

II. State as Moral Person

Rousseau's insistence upon treating the state as a moral person roots the divergence between his republicanism and Pettit's neo-republicanism. Pettit's dialogue with Rousseau falters because Pettit never takes stock of the fact that he and Rousseau mean something entirely different by "the state." Pettit speaks in the current vernacular of treating the state and the government as interchangeable terms. Beginning with the very first sentence of his recent treatise, Pettit assumes that "every philosophy of the good society starts with an account of the canonical complaint that the state should help to put right: the evil that the society should drive out by means of political organization and initiative."⁴²⁰ Pettit accepts the Benthamite understanding of the state as identical to its operationalization: the policing, protecting, and regulating undertaken by government agencies.⁴²¹ The central question of neo-republican theory repeats, in the idiom of domination, the familiar setup

⁴¹⁹ The moral/will/legislative power vs. physical/force/executive power contrast is taken from the *Social Contract*, III.1.2. I take the distinction between "metaphysical" man and "physical" man from paragraph 14 of the *Second Discourse's* First Part (*Œuvres Complètes* III, 141). In this passage in the *Second Discourse*, Rousseau uses the same logic that distinguishes between a paralytic and agile man to make a distinction between humans and animals. Rousseau juxtaposes the moral will that belongs to humans exclusively with the instinct that operates for animals. Rousseau understands instinct as "the Rule prescribed to" animals, whereas humans possess "freedom": the capacity of a free agent to deviate from the instinctual rule.

⁴²⁰ Pettit, *People's Terms*, 1.

⁴²¹ The lexical substitution may appear harmless enough, but, as Quentin Skinner documents, the conceptual elision marks the dramatic division between early modern theories of the state and various post-Bentham, late modern iterations. Quentin Skinner, *From Humanism to Hobbes* (New York: Cambridge University Press, 2018), 341–383, and on the important role of Bentham in Skinner's genealogy, see 374–375.

from liberal theory: how can the state qua government maximally protect me against private domination while posing minimal risk of itself becoming a purveyor of domination?⁴²²

The undifferentiated apprehension of public power that Pettit brings to his interpretation of Rousseau's political theory results in a faux disagreement that forecloses the possibility of a rich communicative encounter. Pettit understands Rousseau to be endorsing an aggrandized state that dominates the individual. According to Pettit,

the constituted people—in his [Rousseau's] story, the popular assembly—has absolute power over the individual citizens, considered as a plurality. Each citizen may be independent of others in the Rousseauvian theory, but they are all required to be 'excessively dependent on the City,' where the City is just the people in assembly, the people qua incorporated.⁴²³

Pettit takes this excessive dependence to mean that each citizen is “dependent on the protective, sovereign assembly, and only on that assembly, for protection against others.”⁴²⁴ The cruel irony, for Pettit, is that Rousseau's guarantee of “mutual independence is attainable only at the cost of a form of submission.”⁴²⁵

Pettit errs because he confounds Rousseau's tripartite distinction between City, sovereign, and government. Rousseau uses the term *Cité*—translated often as “City”—to refer to the “public person,” the political community in its grandest and most abstract sense.⁴²⁶ *Cité* references the

⁴²² Pettit often formulates the threat posed to the individuals by non-government actors as *dominium* and the threat posed by government actors as *imperium*. The neo-republican paradigm thus does not take leave of the liberal paradigm but offers a new central criterion to determine the correct calibration between these two threats to the individual. See *Republicanism*, 13, 36, and throughout.

⁴²³ Pettit, *Republicanism*, 290. Pettit makes this claim repeatedly, each time using the same clause taken from II.12.3 of the *Social Contract*. See Pettit, “Two Republican Traditions,” 187; *People's Terms*, 28.

⁴²⁴ Pettit, “Rousseau's Dilemma,” 182.

⁴²⁵ Pettit, *People's Terms*, 14; “Republican Dilemma,” 187.

⁴²⁶ Gourevitch and Cranston introduce confusion in their translations of *Cité*. Cranston varies the translation by context (e.g., “City” or “entire nation”) while Gourevitch consistently translates it as

Roman *civitas*, the true meaning of which we moderns have lost. When Rousseau says that houses are enough to compose a city but only citizens can form a *Cité* (“*les maisons font la ville mais que les Cityoens font la Cité*”), he draws on the mutually constitutive relationship between *cive* and *civitas*.⁴²⁷ Rousseau says the public person is “now known as the *republic* or *body politic*.”⁴²⁸

The sovereign designates a capacity of the public person, its moral will. The sovereign exists only in the present tense. It comes into being when the body of citizens assemble for the purpose of ascertaining the general will. Rousseau says that the “members [of the Republic] call it State when it is passive, Sovereign when it is active.”⁴²⁹ I take this cryptic sentence to mean that when citizens refer to their body politic in the third person—*as if* it existed independently of them and of its own accord—they refer to it as the state. When citizens refer to the state in the first person—in recognition that its will is their will—they refer to it as the sovereign. The same dynamic is displayed in oral arguments before the United States Supreme Court. The justices and lawyers before them repeatedly make reference to the past actions and decisions of “this Court” in order to influence the decision the Court will make in the present case.⁴³⁰ When the justices assemble in conference (as

“City.” Gourevitch’s English rendering becomes especially confusing as he decides to translate *ville* also as city with results such as the following: “most take a city for a City, and a bourgeois for a Citizen. They do not know that houses make the city but Citizens make the City.”

⁴²⁷ *Social Contract*, I.6.10. Rousseau underlines the relationship between citizen and City in the following sentence: “I have never read that the title of *Cives* have ever been given to the subjects of any Prince.” On the mutually constitutive relationship between *cive* and *civitas*, see Émile Benveniste, “Deux models linguistique de la cité,” in *Problèmes de linguistique générale* 2 (Paris: Gallimard, 1974), 272–280.

⁴²⁸ Rousseau, *Social Contract*, I.6.10

⁴²⁹ Rousseau, *Social Contract*, I.6.10.

⁴³⁰ The first-person plural pronoun “We” often serves as the tenuous identification of the person of the Supreme Court with its sovereign in these oral arguments.

citizens) to arrive at the (general) will of the Court in the present case, the past actions of the public person influence them in determining what it presently resolves. Nonetheless, the moral person of the Supreme Court is a fiction, one that precedes the tenure of the current justices and that must necessarily succeed them.

Finally, the government is neither the public person, nor the sovereign capacity that commands it. In the international arena, for example, the sovereign commissions the government to negotiate the treaty. The treaty, however, is not between two governments, but two states. The distinction between the government and the state is consequential; if treaties were made between governments, then they would be null whenever the government changed. Treaties and relations of debt require the quasi-permanent entity of the state, a moral person that precedes and exceeds any collection of citizens that momentarily make up its sovereign and any number of magistrates that momentarily make up its government.

The metonymic dynamic that ties the government-sovereign-state knot is responsible for Pettit's misconception that the individual is under the absolute power of the state in Rousseau's theory. The "state" is, strictly speaking, a fiction. It is the object of reference for the sovereign, the government, and foreign powers. It only speaks and manifests itself by way of its moral and physical causes, the sovereign and government bodies, respectively. *Pace* Pettit, the state does not exercise power over individuals; that is the exclusive domain of the government. Rousseau's statement that citizens are "excessively dependent on the City" is not that citizens are excessively dependent on the government, as the City is not the government. Pettit's concern that the majoritarian assembly of citizens is structurally disposed to violate the rights and interests of individuals is also unfounded, as the sovereign is not the government. As Rousseau made clear in his criticism of Athens, the reason why he does not recommend a democratic government—a majoritarian plenary assembly of citizens set up to execute the laws—is precisely because he shares Pettit's concerns.

III. Mixed Government

Pettit's worry over the threat posed to individuals by government motivates his embrace of the mixed constitution and his alarm at Rousseau's "populist" political theory.⁴³¹ We have already examined two of the three planks of Pettit's case against Rousseau. First, Pettit misunderstands Rousseau's endorsement of an assembly of citizens as sovereign lawmaker as a rejection of the republican notion of the mixed constitution. Pettit's accusation that Rousseau prescribes popular government on the Athenian model stems from an inattention to the distinction between sovereignty and government. Second, we have seen how Pettit's concern that the people are "excessively dependent on the City" mistakes the close affinity citizens share with the public person they engender (a horizontal relation) for a servile subordination of individuals before government (a vertical relation). If the first teaches us the difference between the sovereign legislator and the government, the second teaches us the difference between the public person (state) and the government.

The final piece of Pettit's attack on Rousseau's republicanism pertains to what Pettit understands to be Rousseau's explicit repudiation of the mixed constitution. The frequency and manner of Pettit's direct quotation of this passage, often at length, suggests that he considers it the death blow against any who would allege Rousseau's fidelity to the mixed constitution.⁴³² The passage reads as follows:

But our *politiques* who cannot divide sovereignty in its principle instead divide it in its object; they divide it into force and will, into legislative power and executive power, into rights of taxation, justice, and war, into domestic administration and the power to make treaties abroad: sometimes they confound all these parts and sometimes they separate them; they make of the Sovereign a fantastic being formed of recollected pieces [*formé de pieces rapportées*];

⁴³¹ Pettit, *Republicanism*, 7–11.

⁴³² Pettit cites the passage in *People's Terms*, 13, 190, 224; "Two Republican Traditions," 185; "Rousseau's Dilemma," 178.

it's as if they constructed a man with parts from several bodies, taking just the eyes from one, from another just the arms, from another just the feet. The Japanese charlatans divide it into power and will, divide it, that is, into executive and legislative.⁴³³

The first sentence clearly specifies sovereignty—rather than the government or the public person of the state—as the object which cannot be divided. Moreover, the organizational context is decisive. Rousseau divides the *Social Contract* into four books that each have a distinct focus. The first examines the passage from the state of nature to political society, the second examines questions of legislation (i.e., sovereignty), the third examines government as a general and conceptual manner, and the fourth examines specific government institutions and policies that will preserve the republic from decay.⁴³⁴ The passage in question occurs in the second chapter of the second book on the question of sovereignty. The title (“*Que la souveraineté est indivisible*”) makes clear that the whole chapter inveighs against those who claim that sovereignty can be divided, as does the first sentence of the passage.

Pettit considers the mere citation of the above passage to be all that is necessary to prove Rousseau's rejection of the mixed constitution. Nowhere does Pettit offer proof as to why a mixed constitution presumes divided sovereignty and precludes an undivided sovereign. Still, I believe we can construct an argument based on Pettit's core intuition that the mixed constitution is

⁴³³ Rousseau, *Social Contract*, II.2.2.

⁴³⁴ The topics of the first, second, and third books are clear and often inferred from their constituent chapters. It is remarkable that the standard edition of Rousseau's complete works excises the table of contents that accompanies Rousseau's original 1762 version of *Du contrat social* published in Amsterdam. (All extant English translations of Rousseau's works follow this custom of excising Rousseau's table of contents.) In the table of contents, he not only previews the titles of the upcoming chapters, but also gives a one-sentence gloss on what he understands as the purpose of each of the four books. Book I: “*Où l'on examine comment l'homme passe de l'état de nature à l'état civil, & quelles sont les conditions essentielles du pacte*”; Book II: “*Où il est traité de la Législation*”; Book III: “*Où il est traité des loix politiques, c'est-à-dire, de la forme du Gouvernement*”; Book IV: “*Où continuant de traiter des loix politiques on expose les moyens d'affermir la constitution de l'Etat.*”

fundamentally about “coordination between different, mutually checking centres of power.”⁴³⁵ Pettit implies that such a dynamic of competing centers of power only makes sense in the context of divided sovereignty or non-sovereignty. A loyal rendering of the mixed constitution—that Pettit takes from Montesquieu—requires the separation of powers, and, most importantly, an arrangement in which “*le pouvoir arrête le pouvoir*.” Since Rousseau adopts the formula from Bodin and Hobbes that the state requires an absolute sovereign, Pettit understands the Rousseauvian republic as having only one center of power. The democratic nature of the sovereign is, on this reading, beside the point. It is not the democratic nature of the lawgiver but the presence of “mutually constraining . . . centres of power”⁴³⁶ that secures citizens against the threat of domination.

Did Rousseau understand himself to be rejecting Montesquieu’s account of moderate government by his adoption of an undivided sovereign?⁴³⁷ The answer is no, in the first instance, because Montesquieu himself believes a unitary sovereign is perfectly compatible with a moderate government complete with multiple sites of power that check one another. Unlike Bodin and Hobbes, sovereignty is not the paramount conceptual category in Montesquieu’s political theory.⁴³⁸ He believes there to be three permutations: either a king, an assembly of aristocrats, or the people in

⁴³⁵ Pettit, *People’s Terms*, 13.

⁴³⁶ Pettit, “Rousseau’s Dilemma,” 169.

⁴³⁷ The passage is sometimes taken as a rebuke of Montesquieu’s praise for the separation of powers and checks and balances that together constitute the “liberty in relation to the constitution” that characterizes his portrait of the English constitution. The theorists targeted here, however, are Pufendorf and Burlamaqui, rather than Montesquieu. See Robert Derathé, *Jean-Jacques Rousseau et la science politique de son temps*, (Paris: Librairie Philosophique J. Vrin, 1970), 280–294.

⁴³⁸ Unlike Rousseau, exercises of sovereignty, for Montesquieu, are not confined to acts of legislation. See, for example, *Spirit of the Laws*, II.3.1.

their entirety possess the sovereign power.⁴³⁹ All three permutations may give life to a moderate regime that avoids despotism. The important issue for Montesquieu is not who holds sovereign power, but the manner in which power is exercised. Indeed, despotism and monarchy share the feature of a unitary sovereign. The chasm that separates the moderate regime of monarchy from the immoderate regime of despotism depends upon the “communication of power.”⁴⁴⁰ In despotic regimes nothing distinguishes the despot from his ministers: “The vizir is the despot himself; and each particular officer is the vizir.”⁴⁴¹ With monarchy, however, “power is applied less immediately; the monarch, in giving it, tempers it.”⁴⁴² The capricious and momentary voice of the sovereign is not law, as in despotic regimes. The monarch, as sovereign, remains the source of all power, but that power is mediated by its conferment through established law and its application through intermediary bodies. It is not only the fact that there are intermediary social ranks of nobility and clergy— “intermediate, subordinate, and dependent powers”— that sets monarchy apart from despotism.⁴⁴³ A monarchy requires a “depository of laws,” such as the various parlements inhabited by the *noblesse de robe* in the case of the French monarchy, “which announce the laws when they are made and recall them when they are forgotten.”⁴⁴⁴

⁴³⁹ Montesquieu, *Spirit of the Laws*, II.2.

⁴⁴⁰ Montesquieu, *Spirit of the Laws*, V.16.

⁴⁴¹ Montesquieu, *Spirit of the Laws*, V.16.1.

⁴⁴² Montesquieu, *Spirit of the Laws*, V.16.1.

⁴⁴³ Montesquieu, *Spirit of the Laws*, II.4.1.

⁴⁴⁴ Montesquieu, *Spirit of the Laws*, II.4.10. On the role of the *noblesse de robe* as guardians of the depository of laws, see XX.22.5.

Rousseau's rejection of divided sovereignty cannot constitute an *ipso facto* rejection of a moderate regime with multiple sites of power. Indeed, rather than conceive of Rousseau's ideal republic as some radical other of either dystopian or utopian imagination, it ought to be regarded as an attempt to achieve two simultaneous demands of political legitimacy: popular sovereignty and non-arbitrary rule. The distribution of political labor between a popular body charged with sovereign acts of lawmaking and an aristocratic body charged with government acts of law enforcement threads this needle. It satisfies the first demand that every act of public power receive its authorizing force from the people. The people legislate not in some indirect or figurative manner, but through each citizen's actual presence in the sovereign assembly. It satisfies the second demand by denying the same sovereign body the right to act arbitrarily in relation to individuals and particular cases. It prevents arbitrary decisions by the citizenry *en masse* by delegating enforcement and adjudication of the law to an aristocratic *intermediary* body.

Rousseau conceives of government as a Montesquieuvian intermediary body. Pettit's overarching complaint is the immediacy with which the sovereign people can impose its will on individuals. Rousseau, however, points out that he too agrees that this immediacy that he also associates with the Athenian case violates republican principles. The "action of the entire [political] body acting on itself" requires "intermediate terms," namely, institutions of government.⁴⁴⁵ "What, thus, is Government?" Rousseau asks and answers: "An intermediate body established between subjects and Sovereign for their mutual correspondence."⁴⁴⁶ As I sought to make clear in the previous chapter, Rousseau inherits Montesquieu's conceptual vocabulary. He draws his *corps*

⁴⁴⁵ Rousseau, *Social Contract*, II.12.1. Cf. III.1.8: "It is in the government that is found intermediate forces, whose relations compose those of all with all or of Sovereign with State."

⁴⁴⁶ Rousseau, *Social Contract*, III.1.5.

intermédiaire from Montesquieu's *pouvoirs intermédiaires*. Communication and delegation of governance to intermediary bodies provide the all-important difference separating monarchy from despotism in Montesquieu's theory. Similarly, in Rousseau's theory, mediation by intermediary bodies prevents a democratic sovereign from becoming a democratic despot. The government "serves as the means of communication between the State and the Sovereign."⁴⁴⁷ If the sovereign were to communicate directly and rule without government, Rousseau warns that "the dissolved State thus falls into despotism."⁴⁴⁸ Some might be concerned that Rousseau tends to describe government as a single intermediate body as opposed to the plural intermediate bodies praised by Montesquieu. Book III, however, already countenances the possibility of "mixed government," the idea that government could be divided between multiple bodies that together mediate the citizens' reflexive relationship between their different moments as law-makers and law-takers. Moreover, Book IV discusses the Roman tribunate and censors as historical examples of divided government worthy of consideration.⁴⁴⁹

Pettit misreads Rousseau's concept of mixed government as the sovereign/government distinction. According to Pettit, "What he [Rousseau] espouses is a 'mixed government,' as he calls it, in which the sovereign is the people and the administration is delegated to appointed magistrates."⁴⁵⁰ What Pettit mischaracterizes as "mixed government" is actually Rousseau's formula for a republican state: the combination of popular sovereignty and delegated government. Indeed, Rousseau's favored option is that of a democratic sovereign and an aristocratic government. In the

⁴⁴⁷ Rousseau, *Social Contract*, III.1.4.

⁴⁴⁸ Rousseau, *Social Contract*, III.1.9.

⁴⁴⁹ Rousseau, *Social Contract*, IV.5, IV.7.

⁴⁵⁰ Pettit, "Two Republican Traditions," 184; "Rousseau's Dilemma," 177.

Social Contract, Rousseau states that “every legitimate Government is republican,” that is, receives its laws from the popular sovereign; and, that the “best of all Governments” is an elective aristocracy.⁴⁵¹ Elsewhere, Rousseau summarizes this essential holding in the following manner: “the principles established in the work [of the *Social Contract*] are reduced to two principles: the first, that legitimate sovereignty always belongs to the people; the second, that aristocratic government is the best of all.”⁴⁵² The question of mixed government (somewhat unsurprisingly) does not speak to the question of sovereignty or the nature of the public person of the state, but only to the question of government. Rather than adopt a pure government (democratic, aristocratic, or monarchic), a state may institute a mixture of these elements. Rousseau even speaks of mixed government approvingly. On the one hand, Rousseau admits that “simple Government is best, just because it is simple.” The clarity and efficiency of a unitary body that executes the sovereign will would no doubt make it the best in the best of times.⁴⁵³ Still, insofar as government tends toward usurping sovereign prerogative, introducing the complexity of multiple intermediary bodies may have the helpful effect of tempering such abuses.⁴⁵⁴

IV. Rousseau’s Citizens and Pettit’s Subjects

My discussion of Pettit’s rejection of Rousseau’s republicanism ends with Pettit’s ideal of a “contestatory citizenry.”⁴⁵⁵ Together with the mixed constitution, it is this image of “civic vigilance”

⁴⁵¹ Rousseau, *Social Contract*, II.6.9, III.5.4.

⁴⁵² Rousseau, “Lettre à Monsieur Marcet de Mézières” in *Correspondence Générale de Jean-Jacques Rousseau, Tome VIII*, ed. Theophile Dufour (Paris: Librairie Armand Colin, 1927), 35–39, 37.

⁴⁵³ Rousseau, *Social Contract*, III.7.4

⁴⁵⁴ Rousseau, *Social Contract*, III.7.5.

⁴⁵⁵ Pettit, *People’s Terms*, 225–229.

that helps Pettit triangulate his position between insufficient and excessive democracy.⁴⁵⁶ Neo-republican political norms insist on an agonistic associational life that leads to robust popular influence. Schumpeter's democratic minimalism limits civic life to periodically electing rulers.⁴⁵⁷ Pettit insists that influence via periodic elections is essential but insufficient. Popular influence must go beyond elections to include the various actors of Dahlian pluralism (e.g., the American Civil Liberties Union, the National Association for the Advancement of Colored People, and the National Rifle Association).⁴⁵⁸ Additionally, Pettit indicates that activism and social movements also play a vital role in democratic citizenship.

Pettit's contestatory citizenry is not only more robust than Schumpeterian minimalism but self-consciously less robust than Rousseauvian maximalism. Pettit's Goldilocks image of civic life "rejects the . . . romantic idea of a participatory, Rousseauvian engagement."⁴⁵⁹ The contestatory image Pettit champions "is utterly at odds with the Rousseauvian image of a lawmaking assembly that speaks with the voice of a uniquely authorized spokesperson of the people."⁴⁶⁰ Pettit takes pride in rejecting Rousseau's ideal of citizenship because he believes it comes at too great a price:

If the law-making assembly is the spokesperson that speaks with unique authority for the public or the people, as is the image that Rousseau inherited from Hobbes, then individuals cannot be allowed in their private capacity as subjects to contest that voice. Were they given

⁴⁵⁶ Pettit, *People's Terms*, 226.

⁴⁵⁷ Pettit describes the democratic minimalism he associates with Schumpeter in *People's Terms*, 240–243.

⁴⁵⁸ Interestingly, Robert Dahl stops short of calling an electoral political system with a rich associational life a "democracy," see *Polyarchy: Participation and Opposition* (New Haven: Yale University Press, 1971).

⁴⁵⁹ Pettit, *People's Terms*, 227.

⁴⁶⁰ Pettit, *People's Terms*, 228.

rights to question the dictates of the sovereign assembly, then that assembly could not speak with the requisite authority.⁴⁶¹

Pettit believes that participation in lawmaking entails a gag-agreement. Once the citizens have legislated the law—or, in Pettit’s unwarranted rhetorical flourish, given their “dictates”—they must never use their individual voice to raise concerns about the republic’s laws. There is no evidence to suggest that Rousseau imagines, let alone prescribes, anything of the sort. The only evidence Pettit offers is the quotation from the first book of the *Social Contract* when Rousseau discusses leaving the state of nature to join civil society. Pettit quotes Rousseau that “if individuals were left some rights . . . there would be no common power who might adjudicate between them and the public.” Here, Rousseau refers to individuals retaining the right of sovereignty they possessed in the state of nature: the right to be the sole judge of justice and to use whatever means (e.g., violence) to dispense that justice upon its object. The fact that Rousseau requires individuals to transfer to the sovereign the right to legislate and the right of reprisal for wrongdoing to the government in no way implies that individuals as subjects cannot voice and maintain their own views about what the laws ought to be or how the government ought to be enforcing them. Surely, we are not to believe citizens remain their own sovereign and justly possesses the right to take their neighbor’s life and property in Pettit’s neo-republican regime. It is not sovereignty that Pettit wants individuals to retain, but their voice. In particular, Pettit values the individual’s liberty to bring attention to laws deemed unjust.

How does Pettit so profoundly misread Rousseau on this point? As was the case with the mixed constitution, it seems to follow from a propensity to lump together ideas Rousseau sought to separate. Just as the State encompasses but is not reducible to the sovereign or the government, Pettit similarly fails to understand the two roles individuals have in a republic. When an individual

⁴⁶¹ Pettit, *People’s Terms*, 228–229.

assumes the role of law-making member of the sovereign, he is a citizen; when an individual assumes the role of law-taking, private person before the government, he is a subject.⁴⁶² Indeed, the citizen-subject dyad is the very essence of Rousseau's social pact. The individual's claim to freedom does not lie in a liberty to do *immediately* as he pleases. He "obey[s] only himself" because he (as citizen) authors the laws he obeys (as subject).⁴⁶³ The two important qualifications to the individual's autonomy are (1) that he legislate not unilaterally but in association with his fellows and (2) that he (i.e., they) delegate the enforcement of his (i.e., their) will to an intermediary body. It is the metonymy that makes possible the elision of citizen and sovereign that constitutes the immense strength and potential weakness of Rousseau's thought. On the one hand, Rousseau's citizenry controls the government (insofar as it prescribes its purposes and circumscribes its objects as sovereign) and thus satisfies the demand for autonomy. On the other hand, Rousseau's citizenry does not control the government (insofar as it delegates it to an intermediary body) and thus satisfies the demand for freedom from arbitrary power.

Perhaps Pettit would prefer if Rousseau had dedicated a principal part of his treatise to describing how subjects may voice disagreements with the government. Rousseau, nonetheless, performs the very contestatory model of civic engagement that Pettit supposes he decries. Such political criticism occurs across Rousseau's writings, but *The Letters Written from the Mountain* constitutes the most obvious case in point. Indeed, the entire purpose of the *Letters* is to contest the corrupt government practices of Geneva. Whatever warnings about the threat from factions if the

⁴⁶² Rousseau, *Social Contract*, I.6.10: "With respect to the associates they take collectively the name people, and call themselves in particular *Citizens* as participants in the sovereign authority, and *Subjects* as submitting to the laws of the State."

⁴⁶³ Rousseau, *Social Contract*, I.6.4.

sovereign assembly devolves into rhetorical spectacle, nowhere is there a prohibition on subjects voicing complaints on government conduct.⁴⁶⁴

Individuals in the Rousseauvian republic have a dual role as both citizens and subjects. The idea of contestation is so prized by Pettit because his neo-republican individuals can only ever be subjects. Individuals in a neo-republican regime have no right of legislation, no claim to the autonomy that comes from authoring the laws. Insofar as one strips individuals of their status as citizens—the right to be a constituent member of a lawmaking assembly—then the focus turns to what means they have as subjects to petition, protest, and otherwise make their non-civic status as law-takers more bearable. The Rousseauvian challenge is not to imagine a society without dissent. Rousseau challenges us to reimagine political agency once individuals are no longer limited to reactive challenges as subjects before a government, but actively direct that government as citizens.

⁴⁶⁴ Jürgen Habermas claims that “Rousseau projected the unbourgeois idea of an intrusively political society in which the autonomous private sphere, that is, civil society emancipated from the state, had no place,” *The Structural Transformation of the Public Sphere* (Boston: MIT Press), 97.

Part 2: Democratic Insufficiency

A rigorous examination of Rousseau's political theory fails to sustain the thesis that it suffers from democratic excess. Indeed, a growing cadre of commentators flip the critique. They claim that the Rousseauvian republic suffers from a democratic deficit. The problem is not that the sovereign assembly is all-pervasive and omnipresent; it is that it transfers too much of its power to government officers. Government direction by sovereign legislation becomes a cover for a politically disengaged populace. In what follows, I examine one strand of this critique concerning the role played by government officers in lawmaking. In answering this question, my aim is to get beyond polemics of Rousseau as extreme democrat or extreme oligarch. At stake is understanding what makes politics legitimate. The understanding of how popular power contributes toward legitimacy of Part 1 finds its complement in Part 2, which examines how an aristocratic principle of authority contributes to republican legitimacy.

V. Magistrates and Legislation

There are numerous instances where Rousseau makes clear that he believes magistrates ought to play an important role in lawmaking. The clearest attestation to this effect occurs in the "Dedication" that prefaces Rousseau's *Discourse on Inequality*. Rousseau prescribes that "not everyone [should] have the power to propose new Laws according to his fancy; that this right belong to the Magistrates alone."⁴⁶⁵ Rousseau justifies reserving legislative initiative to magistrates by citing the historical example of Athens. Again, *pave* Pettit, Athens provides an example of what *not* to do. Charging the magistrates with the task of legislative initiative is necessary "in order to check the self-interested and ill-conceived agendas [*arrêter les projets intéressés et mal conçus*] and the dangerous

⁴⁶⁵ Rousseau, *Œuvres Complète* III, 114.

innovations which finally ruined the Athenians.” Rousseau thus appears to jeopardize the sacrosanct boundary between sovereignty and government by giving government officers a role in legislation precisely in order to steer clear from the democratic excesses of Athens.

The apparent contradiction in which government involvement in legislation is simultaneously proscribed and prescribed has led to a lively scholarly debate. Commentators generally decide to read the “Dedication” as either a sincere expression of his sentiments or as an insincere performance that uses irony to simultaneously flatter and deride the Genevan magistrates it praises. If we read the sentiments sincerely, then we can bite the bullet and conclude that Rousseau, to some greater or lesser degree, holds serious anti-democratic sentiments that compromise his endorsement of democratic lawmaking.⁴⁶⁶ If we read the sentiments ironically, we can disregard them in favor of Rousseau’s overriding commitment to popular sovereignty.⁴⁶⁷ One branch of the ironic interpretation recommends a hermeneutics of esotericism. “Internal discrepancies” amount to an “invitation not simply to read closely, but also to *decipher* the text.”⁴⁶⁸ The interpreter tasked with breaking the code must understand that Rousseau “chose to disguise his love for freedom” and his

⁴⁶⁶ Richard Fraylin, *Rousseau and Representation: A Study of the Development of His Concept of Political Institutions* (New York: Columbia University Press, 1978); D. E. Cullen, *Freedom in Rousseau’s Political Philosophy* (Ithaca: Cornell University Press, 1976). For a paranoid reading (in the Sedgwickian sense), see Steven Johnston, who argues that the role Rousseau accords to magistrates reveals that “while will masquerades as a property of the sovereign realm, government assumes responsibility for its actual formation and maintenance. Government, that is, produces the artifact of will sovereignty draws upon.” As a consequence, the “subject-citizen is disclosed as the contrivance of power—an artifice to be constructed more than an essence to be realized,” Steven Johnston, *Encountering Tragedy: Rousseau and the Project of Democratic Order* (Ithaca: Cornell University Press, 1999), 87.

⁴⁶⁷ Scott, “Rousseau’s Anti-Agenda-Setting.”

⁴⁶⁸ James Miller, *Rousseau: Dreamer of Democracy* (New Haven: Yale University Press, 1984), 68. For another example dismissal of the face value of the dedication to Geneva that prefaces the *Discourse on Inequality* by way of esotericism see Michael Davis, *Autobiography of Philosophy* (New York: Rowan and Littlefield, 1999), 89–112.

“preference for democracy.”⁴⁶⁹ On this account, Rousseau’s decision to grant a legislative role to government magistrates and his preference for aristocratic government need to be regarded as an attempt to flatter reigning powers so as to avoid persecution and censorship.⁴⁷⁰

We can appreciate the way the “Dedication” appeals to multiple audiences, however, without having to deny its expressed content.⁴⁷¹ The poetic formulation of Rousseau’s statements about Geneva make clear that he neither praises actually existing Geneva nor lampoons it. Each paragraph begins by employing the past conditional tense that evinces the counterfactual register of Rousseau’s remarks. The end of the first paragraph begins this mode when Rousseau says that “even if I had not been born within your walls, I would have believed myself unable to keep from offering this tableau of human society.” This first iteration of Rousseau’s serial use of the conditional perfect indicates that he is offering a counterfactual tableau, a painting of Genevan republican society as it ought to be. Rousseau underscores this counterfactual depiction by using this conditional perfect formulation in each of the first thirteen paragraphs of the dedication. In the second paragraph he begins that “if I had had to choose my place of birth, I would have chosen” Geneva, by which he means the counterfactual image of a perfectly republican Geneva. The conditional refrain makes it possible for Rousseau to discuss the Geneva of his imagination in a manner that abstains from praising, mocking, or in any way characterizing contemporary Genevan society. The careful use of the conditional mood affords Genevan political actors the interpretation of their liking, while

⁴⁶⁹ Miller, *Rousseau: Dreamer of Democracy*, 68.

⁴⁷⁰ On interpretive methods that rely on the exoteric/esoteric distinction in deciphering authorial intent and textual meaning, see Leo Strauss, *Persecution and the Art of Writing* (New York: Free Press, 1952).

⁴⁷¹ I am not the first to put forward such a possibility. Helena Rosenblatt understands the dedication as a “hypothetical construct” in *Rousseau and Geneva* (New York: Cambridge University Press, 1997), 159–163.

accomplishing the praise and elucidation of the republican ideal to Rousseau's wider (and no doubt principal) audience in France and broader Europe.

Understanding the depiction of Geneva as a counterfactual description of an ideal republic is essential to account for the continuity between the "Dedication" and the *Social Contract*. Readers who posit esotericism or insincerity must do so capriciously, given that the bulk of the text affirms Rousseau's account of political right. The imagined republic of "The Dedication" avers that "the People and the Sovereign are the same person" and that "the right of legislation [is] common to all Citizens." Moreover, the hierarchy of the sovereign people over their government officers is perspicuous when one attends to the text's dual interlocutors and dual interpellations. Rousseau bookends the "Dedication" by thrice addressing the citizenry as "MAGNIFICENT, VERY HONORED AND SOUVEREIGN LORDS."⁴⁷² Rousseau toggles interlocutors (from citizenry to magistrates) by calling on those "MAGNIFICENT AND VERY HONORED LORDS." The shift in honorific is both subtle and dramatic. He addresses the people as "sovereign" while omitting "sovereign" from the honorifics describing the magistracy. Rousseau's interpellation of the citizenry as the republic's sovereign, and his interpellation of the magistrates as non-sovereign, underscores the commitment to popular sovereignty that redounds in the *Social Contract* and *Letters Written from the Mountain*.

It is not only Rousseau's commitment to popular power (i.e., democratic sovereignty) that is consistent from the "Dedication" to the *Social Contract*, but also the prominent role accorded to the magistrates (i.e., aristocratic government). In the *Social Contract*, Rousseau insists on the sovereignty of the citizenry, while giving powerful control over the legislative agenda to government officers. Rousseau declares that "the simple right to vote in all sovereign acts; a right that can never be

⁴⁷² Rousseau, *Œuvres Complète* III, 111, 115, 121.

stripped from the Citizens; and on that of opining, of proposing, of dividing, of discussing, that the Government has always the greatest care of only letting its members exercise.” Again, there is a tendency among wishful scholars to dismiss this remark as “surely” insincere, or what must be a “sarcastic conclusion.”⁴⁷³ Still, it strains credulity to claim that Rousseau shifts from sincerity to insincerity within the same sentence. Surely, the first clause affirming the absolute right of the people to ratify or reject all laws is sincere. Absent any evidence in the passage under consideration, the only option is to refer to the overarching admonition of the work—the perennial danger of government usurpation of the people’s sovereign will—as reason enough to strike down the offending clause.⁴⁷⁴

I suggest an alternative interpretive strategy to that of capriciously deeming passages ironic that ill-fit the intentions assumed to govern Rousseau’s text. I am not suggesting that we jettison our understanding of Rousseau as champion of popular sovereignty, but that we understand the ambivalence of Rousseau’s project. By ambivalence I do not mean an indecisiveness that flits between poles or settles on some ill-fitted compromise. I mean ambivalence in the sense of responding to the twin demands of legitimate government: freedom to legislate and freedom from arbitrary rule. What we might call the antinomy of republican legitimacy requires both the possession (non-alienation) of the citizen’s moral will—the right, in the final instance, to be the author of morality—and simultaneously the freedom from receiving a capricious dispensation of justice. If the first requirement demands the freedom of the *citizen*, the second requirement demands the freedom of the *subject*.

⁴⁷³ Scott, “Anti-Agenda-Setting Agenda,” 140.

⁴⁷⁴ Christopher Kelly, *Rousseau as Author: Consecrating One’s Life to Truth* (Chicago: University of Chicago Press, 2003), 125–126.

VI. Authority and Aristocratic Government

Recent scholarship notes the pragmatic flexibility of Rousseau's institutional design that contrasts with his radical image as uncompromising utopian.⁴⁷⁵ Every legitimate polity must be republican, that is, identify the people with the sovereign. The legitimate (popular) sovereign may commission a monarchy, aristocracy, or democracy as it deems fit. Rousseau is careful to note that each type of government might be desirable depending on the size of the population. Rousseau's prudential, rather than principled, concern is that larger populations require more decisive and energetic action, and that government by committee risks indecision.⁴⁷⁶ Rousseau's distinction between monarchy, aristocracy, and democracy refers to the quantity of persons that occupy its principal office (the "Prince"), rather than the quantity of persons in their employ.⁴⁷⁷

Rousseau complements his pragmatic suggestions for energetic government with a principled case for the best government.⁴⁷⁸ In the *Social Contract*, and elsewhere in his writings,

⁴⁷⁵ David Lay Williams, "Political Ontology and Institutional Design in Montesquieu and Rousseau," *American Journal of Political Science* 54, 525–542; Davis Siroky and Hans-Jörg Sigwart, "Principle and Prudence: Rousseau on Private Property and Inequality," *Polity* 46, no. 3 (2014): 381–406.

⁴⁷⁶ Rousseau, *Social Contract*, III.2.11–12: "It is sure that business proceeds slower and less expeditiously when more people are in charge of it, that in giving too much to careful consideration [*donnant trop à la prudence*] we do not give enough to fortune [*la fortune*], that we let the occasion [*l'occasion*] escape, and that in forcing deliberation we lose the fruits of deliberation." Note well the Machiavellian resonance of *fortuna* and *occasione*. Rousseau continues, "I have just proven that the Government loses energy [*le Gouvernement se relache*] to the degree that the magistrates are multiplied, and I just proved above that the more numerous the people, the more repressive force should increase."

⁴⁷⁷ Rousseau, *Social Contract*, III.3.1–4.

⁴⁷⁸ Rousseau describes the pragmatic/principled distinction I have offered as one between a "maxim of politics" and a "rule of right." See *Social Contract*, III.18.3.

Rousseau describes an elective aristocracy as the best of all governments.⁴⁷⁹ Rousseau is not as explicit as Harrington in identifying Roman *auctoritas* as the principal source of this judgment, but there are numerous moments that suggest it. Rousseau’s chapter on aristocracy gives a genealogy of this form of government that doubles as a genealogy of authority—with the Roman and Venetian cases foremost in mind. Rousseau declares that “the first societies governed themselves aristocratically,” by which he means that “young people readily yielded to the authority of experience [*l’autorité de l’expérience*].” The descent of man from his primitive state marked by the “institution of inequality” carried with it a semantic shift. The names of “Priests, elders, senate and gerontes [*de Prêtres, d’anciens, de sénat, de Gérontes*]” that originally betokened the authority of age became associated with a so-called authority based in riches and power.⁴⁸⁰ Aristocracy then takes on a hereditary form as patrician families develop and “twenty-year-old Senators” don the robes formerly reserved for those distinguished in age and wisdom.

Rousseau thus posits three kinds of aristocracy that imply three bases of authority: natural, elective, and hereditary. According to Rousseau, “the “first [natural] is suited only to primitive peoples [*des peuples simples*]; the third [hereditary] is the worst of all Governments. The second is the best: it is Aristocracy properly speaking.”⁴⁸¹ The only legitimate kind of authority is elective authority. The deference and respect accorded to elected persons, however, does not follow from having a popular mandate—the virtue proper to electoral procedures that twenty-first-century moderns take as given. Popular will, for Rousseau, expresses itself through sovereign direction, not

⁴⁷⁹ Rousseau, *Social Contract*, III.5.4; “Lettre à Monsieur Marcet de Mézières,” in *Correspondence Générale de Jean-Jacques Rousseau* 8, ed. Theophile Dufour (Paris: Librairie Armand Colin, 1927), 35–39, 37.

⁴⁸⁰ Rousseau italicized the nouns but not the prepositions, *Œuvres Complètes* III, 406.

⁴⁸¹ Rousseau, *Social Contract*, III.5.4. Inexplicably, Gourevitch’s translation changes Rousseau’s colon to a semicolon and Cranston’s translation changes it to a comma.

elections. Elections track a person's authority because people elect members of an aristocratic body owing to their recognized intellectual and moral virtues. In the aristocracy that Rousseau commends, the process of election affords the "means by which the probity, enlightenment [*les lumieres*], experience, and all the other reasons of public preferment and esteem" become the criteria for magisterial selection.⁴⁸²

Rousseau does not base his principled case for aristocratic government on any demographic variables, as was the case for his pragmatic considerations. Aristocratic government is optimal because of its procedure and criteria for selection. Again, Rousseau follows Montesquieu: "Suffrage by lot [*le sort*] is of the nature of democracy; suffrage by election [*choix*] is that of aristocracy."⁴⁸³ Selecting magistrates by lot is democratic. Montesquieu explains that "lot is a way of electing that offends no one; it leaves to each citizen a reasonable hope of serving his country."⁴⁸⁴ In democracy, the principle of equality prevails. If I am not selected to join the government, I take no offense because of the random nature of the selection procedure. Election, or suffrage by choice, is aristocratic because it confers the honor of government service unequally, discriminating on the basis of virtue and competence.⁴⁸⁵ The necessary correlate is that government service also constitutes a burden, and that democratic equality requires imposing the burden (or the probability of being

⁴⁸² Rousseau, *Social Contract*, III.5.5.

⁴⁸³ Montesquieu, *Spirit of the Laws*, II.2.18. Rousseau cites this passage from Montesquieu explicitly in *Social Contract*, IV.3.2.

⁴⁸⁴ Montesquieu, *Spirit of the Laws*, II.2.

⁴⁸⁵ Montesquieu explains that "just as most citizens, who have competence [*de suffisance*] enough to elect, are not competent enough to be elected, so the people, who are capable of holding others accountable for their management, are not suited to manage by themselves." The popular self-awareness of this maxim is the reason that "in Rome, though the people had given themselves the right to elevate plebeians to posts, they could not bring themselves to elect them." See *Spirit of the Laws*, II.2.11–12.

called upon) equally. Insofar as elections function in this way, and are not merely a cover for oligarchy as Rousseau notes is the Venetian case, aristocracy is clearly the best form of government.⁴⁸⁶ Why, Rousseau asks, “should twenty thousand men be employed to do what a hundred choice men can do even better?”⁴⁸⁷

The tendency toward the diminution of authority in monarchy leads Rousseau to counsel against monarchy whenever possible. Notwithstanding the logical possibility of combining a popular sovereign with a government commanded by one man, its procedures for selecting government personnel undermine its hope for legitimacy. Unlike an aristocratic republic that

almost never elevates to the highest places any but enlightened and capable men who occupy them with honor . . . those who succeed in monarchies are most often nothing but petty bunglers, petty knaves, petty men of intrigue, whose petty talents formed in the Courts help them reach grand places, only serve to show the public their ineptitude just as soon as they have reached them. The people is much less often mistaken in this choice than the Prince, and a man of true merit in a ministry is almost as rare as a fool at the head of a republican government.⁴⁸⁸

⁴⁸⁶ In Rousseau’s genealogy of aristocracy in the previous paragraph, the aristocracy of elders gives way to the aristocracy of wealth through the corruption of elections that reward the powerful rather than the virtuous. As a consequence, Rousseau says, “It is clear that the word *Optimates* belonging to the ancients does not mean the best, but, the most powerful,” *Social Contract*, III.5.2.

⁴⁸⁷ Rousseau, *Social Contract*, III.5.7. Rousseau’s praise of government by men of virtue is not in ignorance of the possibility of oligarchic drift, *pace* McCormick. Maintenance of a legitimate aristocratic government requires specific virtues, namely “moderation among the rich and contentment among the poor” (*Social Contract*, III.5.9). Indeed, the very piece of evidence McCormick (“Rousseau’s Rome,” 8) cites as confirmation of Rousseau’s oligarchic prejudice might be interpreted otherwise. Rousseau says that poor people should be occasionally elected to the magistracy to “teach the people that men’s merit offers more important reasons for preference than do riches.” McCormick takes the statement to be a ploy to fool the people in order to maintain oligarchic control. On the contrary, Rousseau explicitly takes issue with the view that “the rich always be preferred” as magistrates, a view he associates with Aristotle. Rousseau’s admission that wealthier citizens will usually have the greater moral and intellectual character that the people reward with election appears to be a concession to reality and to the economic preconditions of a proper education, rather than an admission of class prejudice.

⁴⁸⁸ Rousseau, *Social Contract*, III.5.8. This passage poses a difficulty for Rousseau interpreters because this is one of two places where he abandons the specific terminological definition of “republic” that he introduces in II.6.9. As I mentioned in the previous chapter, Rousseau redefines republican as a normative descriptor that says nothing of government and its institutional arrangement. In the

Monarchic government promotes those lacking in intelligence, virtue, and competence. The pragmatic benefits of decisive action when governing a large, populous territory are one thing; the likelihood of those in government contributing authority to the state through their own character is quite another. In short, Rousseau quips, “while there is more cunning at Court, there is more wisdom in a Senate.”⁴⁸⁹

VII. Conclusion

What if we were to understand Rousseau’s distinction between sovereignty and government as a repetition—with crucial differences—of Harrington’s dual theory of republican legitimacy? Rousseau repeats Harrington’s conception of the public person of the state as composed of dual bodies, one popular and one aristocratic. Like Rousseau, Harrington insists that the deliberative and technical work of legislative proposal rests with the aristocratic body. Like Rousseau, Harrington insists that all matters of legislative decision rest with the popular body. Like Rousseau, appointment to the aristocratic body is made by way of election and not through hereditary right or wealth. Finally, like Rousseau, Harrington believes republican legitimacy relies on the co-presence of popular will and aristocratic judgment with the division of political labor closely observed.

The first glaring difference concerns representation. Harrington countenanced electing representatives to fill the popular body charged with voting up or down all legislation rather than

passage from Book III that I just quoted, however, Rousseau reverts to the more common opposition between republics and monarchies that, for example, is the organizing distinction in Machiavelli’s *The Prince* (Chicago: University of Chicago Press, 1985). Rousseau does not specify that he is speaking only of aristocratic republics in this passage, but his description of choosing magistrates by election rather than lot, especially given the context of the previous chapter, makes it clear that this is what he has in mind.

⁴⁸⁹ Rousseau, *Social Contract*, III.6.13.

requiring a plenary gathering of the citizenry. It is tempting to regard Harrington's sympathy for representation as a pragmatic concession that Rousseau's utopianism would not allow him to make.⁴⁹⁰ The detailed sketch of orders and the minute questions of demography, procedures, and organization suggest that Harrington imagined *Oceana* to be a contribution to the pressing exigencies of constitutional design facing the Commonwealth and later the Protectorate.

A divergence in theoretical emphasis, however, offers a more compelling explanation of the question of representation than that of a pragmatic concession to the existing states of affairs. On the pivotal question of citizenship, Rousseau places emphatic weight on the will. The citizen's freedom hinges on self-legislation. The individual legislates internally (with respect to his moral conduct) and externally: his physical presence and participation in the plenary sovereign assembly. Harrington, however, places the emphatic weight on the question of propertied independence. Alienating the power of legislative decision to a representative does not mark the loss of citizen status for Harrington as it does for Rousseau. For Harrington, one's status as a freeman means independence from a feudal lord. The freeman possesses the landed wealth necessary to provide for himself and is no longer a servant dependent on a master. A free state, for Harrington, means that the people are not dependent on a minority of families who own the nation's wealth. Laws and government respond to the citizenry, the collection of freeholders who each own a portion of the nation's wealth.

An excursus on the importance of legislative representation in the history of early modern republican thought, on this reading, misses the point. Representation becomes a paramount issue for Rousseau because the moral will constitutes the essence of civic personality. For Harrington, civic

⁴⁹⁰ For the non-utopian view of Rousseau's political institutions, see David Lay Williams, "Political Ontology and Institutional Design in Montesquieu and Rousseau," *American Journal of Political Science* 54, 525–542.

personality hinges on the agrarian law, the regulation of tenure that distributes wealth across the citizenry. Civic personality corresponds to the aspect of republican legitimacy that flows from the spring of popular power. Rousseau and Harrington agree on the requirement of popular power, that the citizens “own” the public thing in the Ciceronian formulation.⁴⁹¹ They disagree on whether popular control over the public thing hinges on legislative participation or ownership of the nation’s wealth.

⁴⁹¹ Malcolm Schofield, “Cicero’s Definition of *Res Publica*,” in *Cicero the Philosopher*, ed. J. G. F. Powell (New York: Oxford University Press, 1995), 63–83.

CONCLUSION

Pettit's initial formulation of the neo-republican project began with an illuminating account of why normative political philosophy matters for the politics of any historical moment.⁴⁹² He notes that, whatever interests and power relations underlie political objectives, politics proceeds through, and is structured by, rival political languages. Employing the metaphor of languages to describe public rhetoric is helpful because it suggests how the grammar and vocabulary of such languages discipline, without determining, what may be said. Pettit offers the example of a free-market language that prizes efficiency and that maximizes consumer choice and preference satisfaction through the absence of government intervention. Another example is the language of universal rights that demands political institutions respect and guarantee such rights. In the United States, the intractability of the question of health care access, for example, might be described as a failure of translation between these two languages.

The retrieval of a lost concept of liberty is politically salient because our various languages make use of an "idiom of freedom."⁴⁹³ The history of political thought becomes useful because of its ability to recall a lost republican language—in particular, a lost concept of freedom alleged to be the linchpin of that language. The neo-republican project constitutes a provocation: it challenges us to consider what happens when we substitute domination rather than interference as freedom's antonym. For example, do we judge government involvement in health care provisioning differently if we consider domination, rather than interference, as the principal agent of unfreedom?

⁴⁹² Pettit, *Republicanism*, 1–7.

⁴⁹³ Pettit, *Republicanism*, 2.

This dissertation augments the contribution early modern republicanism might make to our present politics by demonstrating how its vision exceeds a narrow focus on individual freedom. The dissertation offers the historical observation that the depiction of early modern republicanism as a politics organized around the freestanding value of liberty as non-domination is likely not a distillation that authors using this political vocabulary would recognize. Early modern republicanism consisted of a broader constellation of values that answered the question of political legitimacy. It included a concern for individual liberty but did not measure itself on this criterion alone.

Early modern republican writers understood freedom in broad terms that could only be realized at the level of the state's constitution. Individual freedom is inextricable from living in a "free state," that is, a republic or commonwealth. Ascertaining the degree of liberty in a state means inquiring into the democratic aspect of its constitution. The vindication of a state's claim to liberty depends on its degree of popular (as opposed to elite) control. Harrington anchors the republic in popular power through an agrarian law that ensures the preponderance of the nation's citizenry holds the preponderance of the nation's wealth. An individual in a Harringtonian commonwealth is free because he is a freeholder. A commonwealth is free because the citizenry, and not an oligarchic elite, owns the nation's wealth. The foundation of popular power in landed wealth finds its political expression in a legislative assembly where citizens send representatives to enact laws in accordance with their interests and sentiments. Rousseau shifts the emphasis from citizen as freeholder to citizen as legislator. Popular liberty, for Rousseau, refers to the right to author the law through participation in the sovereign assembly of citizens. In both cases, freedom takes a decidedly structural focus on democratic control. Harrington and Rousseau diverge on whether the democratic aspect of the republican constitution that frees citizens from arbitrary power rests predominantly on dominion or on an unmediated right to legislate.

The necessary cohesion between popular liberty and popular power in early modern republican thought is missing from neo-republicanism. The neo-republican prioritization of liberty entails constraining democracy so that it furthers and does not endanger liberty. Absent the nexus of liberty and power, the neo-republican concept of democracy contributes to the legitimacy of the state instrumentally, insofar as it functions to achieve the overriding goal of politics: freedom as non-domination. Political legitimacy for early modern republicans hinges on the marriage of popular power with aristocratic authority. When early modern republicans caution their readers against certain democratic procedures, they do so because of the risk to authority, not liberty.

Early modern republicans vindicate the distinct legitimacy of republican politics by complementing the institutionalization of liberty with the institutionalization of authority. Harrington reprises the Roman notion of the senate as the institution where the Roman principle of *auctoritas* finds expression. The people elect senators on the basis of their contemplative and political virtues and charge them with the task of legislative deliberation and proposal. The republic unites aristocratic authority with democratic power by requiring popular ratification of the senate's legislative proposals. Notwithstanding the neo-republican effort to contrast so-called "Italian-Atlantic" republicanism on the model of Harrington with "Continental" republicanism on the model of Rousseau, both Harrington and Rousseau simultaneously affirm popular liberty and aristocratic judgment. Rousseau's citizen/subject distinction underlines that this commitment to democratic liberty may satisfy the individual in his capacity as citizen, while leave him wanting in his capacity as subject. An individual qua citizen can have his demand to be a law-giver satisfied while still experiencing arbitrary power in his role as a law-taker, an individual qua subject. Rousseau's acknowledgment of the need for republican legitimacy from the standpoint of the subject leads him to his theorization of government: an intermediate body or assemblage of bodies tasked, just as Harrington's senate, with legislative proposal and wise administration of laws.

Early modern theories of republican manners evince the same blend of recovery and innovation that characterizes their treatment of political institutions. Whether witting or unwitting, Rousseau's articulation of republican liberty in terms of popular sovereignty must be regarded as a modern revision. His treatment of republican manners, on the other hand, aims at the unmodified re-creation of ancient political life. Rousseau's insistence on reviving the civic virtue of Sparta and Rome appeared as otherworldly to his contemporaries as it does to us today. Rousseau, however, earns his nostalgia from his sustained critique of honor and politeness, the very forms of eighteenth-century sociability that Montesquieu's moderate monarchy relies on to avert despotism. Insofar as we regard aristocracy pejoratively, we are reacting to the unequal social ranks that honor and politeness presuppose.

The rebirth of republican manners that Shaftesbury theorizes and performs in his *Characteristicks* straddles the gap between recovery and innovation, freeing it from Rousseau's nostalgia. On the one hand, the models of political authority he recommends—not just philosophical models such as Socrates, but also satiric-poetic models such as Horace—look backwards toward our pagan betters. On the other hand, the novelty of Shaftesbury's approach inheres in the concreteness and detail with which he describes authority generated through public discourse. Rather than retroject his contemporaries into the Roman *civitas*, Shaftesbury anchors his account in his own society. He demonstrates that many of those in early eighteenth-century Britain who pretend authority actually exemplify its opposite, imposture. Imposture, or false authority, demands credulity through an air of gravity and the cultivation of reverence. Authority establishes its credibility through an air of gaiety and the cultivation of raillery. An aristocracy that invites sycophancy on the basis of either divine revelation or inherited privilege has no place in republican life.

This study's return to early modern republicanism enlarges the possibility of the republican critique of our politics. For better or worse, neo-republicans remain within the liberal problematic. They continue to ask how best to secure individual liberty against possible agents of unfreedom. The government remains a preeminent site of unfreedom irrespective of its democratic content. The purchase of the neo-republican intervention lies in its substitution of interference with domination as freedom's antonym. Productive consequences ensue from such a reformulation of the liberal dilemma, as forms of domination that function without explicit interference are made newly visible. Early modern republicans, however, did not seek out the amalgam of liberal democracy—democratic institutions and mores constrained by the prioritization of individual rights. The dilemma that organized republican theory in the early modern period was the classical one between democratic and aristocratic institutions and manners. The desideratum of the mixed constitution was republican legitimacy, not individual freedom. From the early moderns we learn that republican legitimacy requires the simultaneous affirmation of popular power and aristocratic judgment, of liberty and authority.

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