THE LIBERTY DEBATE:
RICHARD PRICE AND HIS CRITICS ON CIVIL LIBERTY,
FREE GOVERNMENT, AND DEMOCRATIC PARTICIPATION

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ABSTRACT

In 1776, public opinion in Britain was stirred by the publication of a bestselling and controversial defense of the American Revolution, *Observations on the Nature of Civil Liberty*, written by the Dissenting minister, moral philosopher, and political economist Richard Price. In subsequent years, dozens of works had been published in reply to Price’s *Observations*, many of them criticizing the democratic theory of liberty and government that he employed in defense of the American revolutionaries. The dissertation reconstructs and studies the exchange between Price and his critics on the relation between liberty and democratic participation. It pays particular attention to the constitutional Whig or neo-Roman language of civil liberty and free government, and argues that the rise of democratic ideas had spurred a reconsideration of this conceptual framework. Chapter 1 provides essential context for the debate by introducing the *Observations*, discussing its impact, and situating it in relation to Price’s life and work. Chapter 2 surveys and analyzes the debate, interpreting it as a reexamination of the neoclassical conceptions of civil liberty and free government, and examining the relation of these ideas to democratic participation. Chapter 3 discusses the work of one of the participants in the debate, the historian and philosopher Adam Ferguson, arguing that his work successfully combined a commitment to reviving the spirit of classical republicanism with a defense of limited participation and elitist government in commercial society. Chapter 4 discusses the work of the philosopher and jurist Jeremy Bentham, arguing that his negative definition of liberty was an interpretation of Price’s idea of self-government, which was intended to demonstrate its absurdity when divorced from Bentham’s own framework of utility and security. Chapter 5 discusses Price’s democratic reinterpretation of the neoclassical tradition, suggesting that one of his original contributions lay in insisting that the right of every individual to participate in politics is valuable, not only as an instrumental safeguard against arbitrary power, but also because the ability to exercise one’s freedom in the public sphere is part of the concept of human dignity.
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INTRODUCTION

This dissertation is a study in the history of political ideas, which has taken as its subject matter a philosophical debate that was stirring public opinion in Britain while the American Revolution was raging across the Atlantic. The debate was provoked by the work of the Dissenting minister Richard Price (1723-1791), and particularly by his bestselling defense of the American revolutionaries, *Observations on the Nature of Civil Liberty, the Principles of Government, and the Justice and Policy of the War with America*.

Though largely forgotten today, Price’s *Observations* was an immensely popular and controversial work at the time of its publication. Shortly after it was published, in February 1776, it became an international bestseller. In the British Isles, it attracted considerably greater attention than Thomas Paine’s *Common Sense*, which was published a month earlier. Dozens of works were written in reply to the *Observations*, almost all of them critical of Price’s arguments, some commissioned by the government. The debate it created was the most extensive exchange of British pamphlets related to the American controversy provoked by any single work in the years 1764-1783.¹

The extraordinary response to the *Observations* could be attributed to the critical juncture at which it was published, shortly after the outbreak of the war between Britain and the colonies and before the Declaration of Independence, as well as to Price’s growing reputation as a respected authority on public finance. But the reaction can also

be understood in light of the challenge that the *Observations* posed to widely shared notions about liberty and government. Price applied to civil liberty the principle of self-government, declared that in free states every man is his own legislator, and insisted that all free agents must be able to continually exercise controlling power over the government. His bold attempt to redefine the principles of civil liberty and free government, coming in the context of a politically charged polemic on the justice and prudence of the British war against the American rebels, produced an outpour of responses from critics eager to defend the social and political order and its ideological underpinnings.

Despite his many achievements as a moral philosopher, mathematician, actuary, political economist, demographer, reformer, and political pamphleteer, Price is remembered today, if he is remembered at all, not for his part in this important debate, but as the minister whose sermon on the French Revolution was “the red rag that drew Burke into the arena.” Speaking in November 1789 before a society of Dissenters for commemorating the Glorious Revolution, Price portrayed that historical event as the beginning of a global movement for the establishment of popular power, which had continued in the American and French revolutions, and would eventually lead to future constitutional reform in Britain as well. A year later, Burke published his masterful and vicious attack on Price, turning the full force of his rhetoric against the “dangerous, illegal and unconstitutional” positions and the “democratic and leveling principles” of the

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“spiritual doctor of politics,” and condemning “the wildest democratic ideas of freedom” taken up by republican reformers such as Price. Burke’s *Reflections on the Revolution in France* (1790) opened the great controversy on the French Revolution and secured its status as a classic of political thought. Price died several months later and faded into obscurity.

Scholars familiar with Price’s role in provoking Burke’s *Reflections* sometimes fail to realize that the Price-Burke debate on popular power began almost 25 years earlier, when both were arguing against British policy in North America. Burke was one of dozens of critics who were shocked by the democratic principles in Price’s *Observations* and believed them to be inconsistent with the British understanding of liberty and government. He was also dismayed by the philosophical debate on liberty that the *Observations* provoked. “There are people,” he wrote in this context, “who have split and anatomised the doctrine of free Government, as if it were an abstract question concerning metaphysical liberty and necessity; and not a matter of moral prudence and natural feeling […] Civil Freedom, Gentlemen, is not, as many have endeavoured to persuade you, a thing that lies hid in the depth of abstruse science.”

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5 D. O. Thomas wrote that the impact of the *Reflections* “was so overwhelming that it not only led people to think of Price as the political pamphleteer who had been comprehensively destroyed by Burke, but also established Price’s identity in the history of political thoughts very largely in the mould that Burke had cast for him” – the mode of a rationalist philosopher who argued on the basis of abstract and *a priori* principles and ignored experience and tradition. David Oswald Thomas, *The Honest Mind: The Thought and Work of Richard Price* (Oxford: Clarendon Press, 1977), 309.

6 One important reminder can be found in Frederick Dreyer, "The Genesis of Burke's Reflections," *The Journal of Modern History* 50, no. 3 (1978): esp. 466-467.

7 Burke’s elliptical critique of Price’s *Observations* and the debate it provoked can be found in Edmund Burke, *A Letter from Edmund Burke; One of the Representatives in Parliament for the City of Bristol, to
It is the splitting and anatomizing of the concept of civil liberty and the doctrine of free government, which were taking place in the exchange between Price and his critics, that provides the subject matter for this study. An important theoretical question at the heart of that debate was the relation of civil liberty and free government to democratic participation in government, and this is the central theoretical problem of this study. The primary contribution of the dissertation is to the history of reflection on this problem. It is hoped that the understanding of this history can also enrich contemporary thinking on this issue.

Methodologically, the dissertation is a study in conceptual history, which attempts to understand the meaning of concepts and arguments in their immediate historical context. These are particularly the concepts of civil liberty and free government, but also other concepts related to them, such as democracy, self-government, security, etc. The assumption made here is that concepts and arguments should be understood as part of a conversation that their authors engaged in, and in accordance with the presumed intention of the authors to achieve something in that conversation. There are normally multiple contexts relevant to the understanding of a statement or a text, but there is one context, at least, shared by almost all of the texts examined here: they were all written by Richard Price or by critics that responded to his work during the several years that followed the publication of his Observations. The examination of this group of texts enables us to

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John Farr, and John Harris, Sheriffs of That City, on the Affairs of America (London,: J. Dodsley, 1777), 55-58.

8 The methodological approach taken here has been influenced by Quentin Skinner, "Meaning and Understanding in the History of Ideas," History and Theory 8, no. 1 (1969).
reconstruct a conversation that took place between Price and his critics on the principles of liberty and government.  

The Price Debate is an invaluable resource for historians of political thought and political theorists interested in understanding late eighteenth century Anglo-American thought on liberty and government. Price’s philosophical approach to the American dispute had led him to formulate relatively clear and highly provocative definitions of civil liberty and free government. Many of his critics responded to the challenge and engaged in theoretical debate on the nature and value of these concepts. The resulting debate went beyond the merely rhetorical invocation of liberty often found in eighteenth century political discourse and included a more detailed examination of the principles and institutions of freedom.

In the course of the exchange, Price defended a theory of individual and political self-government that was unusually democratic for its time; Jeremy Bentham and other utilitarian writers developed and defended negative definitions of liberty as the absence of coercion or restraint; and numerous defenders of the old oligarchic order reexamined in various ways the ideas of civil liberty and the free state, in light of the rise of a commercial and industrial society and the demand for more popular and tolerant forms of politics.

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Practically speaking, this means that the dissertation has isolates the body of texts produced by Price and his critics in the years subsequent to the publication of the Observations, and has focused on their engagement with the principles of liberty and government. In particular, it examines different views on the relations between the freedom of individuals in society, the presence of social institutions that bear on their freedom, and the capacity of individuals to influence political decision-making. To use eighteenth century terms, it examines different understandings of civil liberty and free government, focusing on the problem of their relation to the right of individuals to share in government.
Competing accounts of the relation between liberty and democratic participation found in the Price Debate and examined in this study cannot easily be divided along contemporary party lines or according to the retrospectively constructed categories of liberalism and republicanism. Some of Price’s critics were arguing against democratic government on Lockean principles; some self-professed Tories were arguing against Price on the assumption that the people had the right to resist oppression; proponents of civic virtue were arguing against popular participation; and utilitarian critics were charting new territory, defying traditional ideological categories. Emphasis has been placed in the discussion less on placing writers in ideological camps and more on understanding the distinctive features of their arguments and competing positions on liberty and government.¹⁰

In his oft-cited essay on the methodology of conceptual history, “Meaning and Understanding in the History of Ideas” (1969), Quentin Skinner contended that “there are no perennial problems in philosophy, from which we can hope to learn directly through studying the classical texts,” and thus “we must learn to do our own thinking for ourselves;” but he also offered a glimmer of hope for the historian of ideas: the study of classical texts reveals “the essential variety of viable moral assumptions and political commitments,” and illustrates to us the extent to which accepted truths “may in fact be the merest contingencies of our peculiar history and social structure.”¹¹

¹⁰ The Price debate could arguably be seen as a debate on the principles of Whiggism, which is the way Burke described it. See, in particular, Edmund Burke, Appeal from the New to the Old Whigs third edition (London: J. Dodsley, 1791), 56. The fault lines in the Price Debate could also be seen as those between radicals, on one hand, and a Whig-Tory alliance of conservatives, on the other, as H. T. Dickinson has described the divide in late eighteenth century British political ideology. H. T. Dickinson, Liberty and Property: Political Ideology in Eighteenth-Century Britain (London: Weidenfeld and Nicolson, 1977).

to undermine the hegemony of prevalent assumptions and commitments can be valuable indeed, as demonstrated by some of the works of Friedrich Nietzsche and Michel Foucault. But as Skinner seems to have recognized in later work, the study of past ideas can be useful not only in leading us to distinguish between the necessary and the contingent, but also in suggesting alternative ways of thinking and arguing about problems.\textsuperscript{12} There are problems in the history of political thought that, notwithstanding their immersion in different and often alien contexts, remain meaningful to successive generations of readers.

The relation between the freedom of individuals in society and participation in political life, which stood at the heart of the Price Debate, remains meaningful to us, though some of the forms and conditions of freedom or participation may have changed. Arguably, it is one of the fundamental problems of political philosophy. It has remained contested in the history of political thought, particularly since early modernity.

One strand of political thought, incorporating a curious mix of authoritarians and liberals, has argued that liberty consists in the absence of interference in one’s choices and actions, and could easily be enjoyed without participating in government or even having the right to such participation. Thomas Hobbes is famous for the argument that liberty consists in the absence of external impediments, and some measure of it can exist under any form of government.\textsuperscript{13} Isaiah Berlin defended the concept of negative liberty,

\textsuperscript{12} See Skinner’s later work on liberty and the state, and specifically his discussion of the intellectual historian as an archeologist in Quentin Skinner, \textit{Liberty before Liberalism} (Cambridge; New York: Cambridge University Press, 1998), 101-120, esp. 112. See also Skinner’s more recent discussions of Nietzsche’s genealogical methods, for example in Quentin Skinner, “A Genealogy of the Modern State,” \textit{Proceedings of the British Academy} 162 (2009).

defined as “the area within which a man can act unobstructed by others.” He argued that negative liberty has no necessary connection with democracy and self-government, and that it can exist under the rule of a “liberal-minded despot.”

Rousseau, on the other hand, highlighted an aspect of the liberty of the citizen that cannot be separated from the right to participate in legislation. He argued that in addition to civil liberty, whose core is the right to property, the individual gains in the civil state a moral liberty, “which alone makes man truly the master of himself,” because “obedience to the law one has prescribed to oneself is freedom.” In other words, Rousseau believed in the existence of a sense of individual freedom in society, identified with self-mastery, which could only be realized by participating in legislation. Hannah Arendt argued, and attributed the argument to classical political thought, that human freedom could only be realized in the public realm, and is primarily experienced in political action.

These two distinct ways of thinking about liberty, which were contrasted in Isaiah Berlin’s “Two Concepts of Liberty” (1958), were challenged by the neo-republican or neo-Roman account of freedom. Neo-republican theory interprets freedom in terms of non-mastery rather than self-mastery or non-interference. It understands social liberty,

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according to Philip Pettit’s influential formulation of the theory, in terms of the non-dominated status that members of civil society enjoy when they are secure, by virtue of social design, from interference in their choices on an arbitrary basis. Democratic participation, according to Pettit, is related to freedom as non-domination empirically rather than conceptually: the ability to participate in the election of government officials and contest their decisions is not part of the meaning of individual freedom, but rather part of the institutional structure of the free state.

The concept of the free state received particular attention in Quentin Skinner’s work. According to Skinner, the classical idea of the *civitas libera* was the “most important concept revived by the humanists.” In a series of lectures and articles since the 1980’s, Sinner had traced this concept from classical Rome through the Italian Renaissance to neo-Roman thinkers in the seventeenth and eighteenth centuries. He argued that for the neo-Roman writers, the understanding of personal liberty was embedded in an analysis of the free state, and the freedom of the state was associated with the ability of the political body to govern itself. In discussing the conditions for the freedom of the state, Skinner laid an emphasis on the view that a free state is a republic governed by its virtuous citizens; but he acknowledged that not all neo-Roman theorists

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20 See, for example, *Republicanism*, 29-30, 183-205, 292-297. I use the terms “free state,” “free government,” and “free constitution” interchangeably, as many of the writers in the later eighteenth century did.
of the free state were republican, and some attributed the freedom of the state to the existence of laws and institutions that constrain and regulate the power of government. 

Skinner has sketched the career of the neo-Roman theory of liberty in the eighteenth century, but has not, thus far, systematically analyzed it. If we extend the narrative into the eighteenth century, we encounter a celebration of the British constitution as the most perfect constitution in the world and an embodiment of the ideal of the free state, and at the same time, we see an attempt to redefine the idea of the free state and separate it from the legacy of classical republicanism. Both are apparent in Montesquieu’s influential *De l’esprit des loix* (1748). According to Montesquieu, under modern conditions of commerce and virtue, the freedom of the constitution will be found in moderate, constitutional monarchies, in which the powers of government are divided between the legislative, executive and judicial branches. Montesquieu famously singled out England as the “one nation in the world whose constitution has political liberty for its direct purpose.”

In their own formulations of the idea of the free state, British commentators often combined Montesquieu’s doctrine of the division of powers with the more traditional doctrine of the mixed and balanced constitution. Most influentially, William Blackstone’s *Commentaries on the Laws of England* (1765-1769) described the freedom of the state as

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dependent on an intricate institutional arrangement. On the one hand, the free constitution depended on an “equilibrium of power” between three independent branches of the legislature – the king, the “aristocratical assembly” of the House of Lords, and the “kind of democracy” found in the House of Commons. On the other hand, it depended on the distribution of state power, particularly between the executive power, which was entrusted only to the king, and the legislative power, which was entrusted jointly to the King, Lords, and Commons.25

Jean-Louis de Lolme’s Constitution de l’Angleterre (1771), published in English in 1775, pursued at great length the institutional mechanisms of the free state in Britain. Arguing in particular against Roman republicanism and against Rousseau, De Lolme disputed the association of public liberty with anti-monarchism, republican patriotism, and participation in power through suffrage, arguing that liberty consists in the quiet and secure enjoyment of the fruits of one’s industry. He argued that public liberty could be maintained only if the people completely delegated their legislative power to representatives selected “from among those citizens who are most favoured by fortune.”26

Where Price should be situated in the history of civil liberty and the free state in the eighteenth century is a matter for possible contention. Caroline Robbins situated Price

25 William Blackstone, Commentaries on the Laws of England, 4 vols. (Chicago: University of Chicago Press, 1979), 48-52, 142-143. Blackstone also wrote: “In every state, every man, who is supposed a free agent, ought to be, in some measure, his own governor.” Unlike Price, however, his interpretation of this statement was far less democratic. It meant that “the whole body of the people” should be represented as one of the branches of the legislature, and that the people would delegate their powers to representatives who will not be bound “to consult with, or take the advice of” their constituents. Ibid., 154-155.

26 De Lolme, The Rise and Progress of the English Constitution (1838), 835-855. In his follow-up Essay on Constitutional Liberty (1780), De Lolme criticized Price for allegedly thinking that the principle of “every one his own legislator” is “sufficient to constitute the most perfect liberty.” Jean Louis De Lolme, An Essay on Constitutional Liberty Wherein the Necessity of Frequent Elections of Parliament Is Shewn to Be Superseded by the Unity of the Executive Power (London: C. Dilly, J. Robson, and W. Richardson, 1780), 51, footnote.
in the tradition of eighteenth century Commonwealthmen, who forged a language of protest against Whig oligarchy, and claimed kinship with seventeenth century republicans such as Milton, Harrington, and Sydney. Robbins described Price as a “most moderate Commonwealthman,” and argued that “the fundamental difference between Burke and Price must be found in the denial of natural rights by one and in the assumption by the other, by Price, of the right of resistance.” This was not how Burke saw the disagreement: he believed it to hinge on the claim made by Price and others that sovereignty “did not only originate from the people,” but that “in the people the same sovereignty constantly and unalienably resides […] that the people are essentially their own rule.” The interpretation pursued here assumes, with Robbins, that we would benefit from reading Price in the context of the Commonwealth tradition, but follows Burke in viewing Price as posing a radical challenge to received ideas of liberty and government by advocating popular self-rule.

Several scholars have described Price as a moderate reformer, who sought to correct the system of representation and not to change the constitutional regime. For reasons to be elaborated in Chapter 5, I believe this reading to be mistaken. Here it is worth noting that situating Price in the tradition of Commonwealthmen fighting against political corruption, a tradition that has been described as “backward-looking,” may

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29 Burke, *Appeal from the New to the Old Whigs* 56. In the full text of the passage quoted, there are clear allusions to Price’s *Discourse on the Love of Our Country* and Burke’s critique of it in the *Reflections*. 

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contribute to obscuring the original, ground-shaking nature of the challenge that Price posed to political thought in his time.\textsuperscript{30}

J. G. A. Pocock, arguably the greatest historian of the Commonwealth tradition, took a somewhat ambivalent position on Price’s place in the history of this tradition. Pocock read the American controversy in the context of his grand narrative on the fate of classical republicanism or civic humanism in the early modern Anglo-American world. In his account of the American Revolution, he argued that radicals on both sides of the Atlantic shared a quasi-republican tradition of criticism directed at Whig parliamentary oligarchy, but differed in their attitude towards the doctrine of the legislative sovereignty of the King-in-Parliament:\textsuperscript{31} the Americans replaced it with the doctrine of the separation of powers, while the British Country or Commonwealth tradition sought to restore the balance of the mixed constitution and the independence of its parts, and protect it against the corrupt influence of the King and his ministers, stressing the virtuous role of the independent property-owner in the uncertain world of commerce, credit, and debt.\textsuperscript{32}

\textsuperscript{30}Ian Christie called the campaign of Price and his contemporaries for parliamentary reform “backward-looking,” and other scholars offered similar readings. Such readings provoked Isaac Kramnick’s somewhat hyperbolic observation that the scholarly consensus on radical reform in late eighteenth century Britain is that it was reactionary. Isaac Kramnick, Republicanism and Bourgeois Radicalism: Political Ideology in Late Eighteenth-Century England and America (Ithaca and London: Cornell University Press, 1990), esp. 2-4.


Unlike Robbins, Pocock recognized that Price was a leading radical critic of the Whig order, situated “on the extreme fringe of liberal dissent.” But Pocock sidestepped the question of the relation between Price’s proto-democratic radicalism and the Commonwealth tradition. Rather than addressing this issue, he dismissed Price by describing him as “the first and original Left-Wing Intellectual,” identifying him with a new and unwelcome breed of intellectuals, whose “morality is genuinely and intelligibly anti-patriotic.”

Pocock’s reluctance to provide a more substantive account of Price’s radical Whiggism may be the symptom of a methodological difficulty in describing a political thinker whose work was poised in the indeterminate space between shifting conceptual frameworks. Indeed, Price’s work can be read in the context of British Commonwealth concerns: as argued in Chapter 1 of the dissertation, he interpreted the measures taken against the American colonies as part of a campaign to increase the corrupt and oppressive power of the Crown and keep the people in a state of dependence. But the innovative content of his ideas is better captured by terms that had not yet come into use. The term “radical” was only beginning to be used in a political sense in the later part of the eighteenth century.


Elie Halévy traced the idea of political radicalism back to the last few years of the eighteenth century, and attributed its resurfacing after 1810 to John Cartwright and Jeremy Bentham. But the term “radical” already entered into political use at least as early as the 1770’s and 1780’s. Cartwright, for example, was writing in 1776 of a “radical cure” to parliamentary corruption in the form of annual parliaments and equal representation, and other reformers were speaking of “radical reform” in the early 1780’s. See Elie Halévy, The Growth of Philosophic Radicalism, trans. Mary Morris (London: Faber & Faber, 1928), 251-264, esp. 261. John Cartwright, Take Your Choice! Representation and Respect: Imposition and Contempt. Annual
pejoratively, and not normally applied to the modern representative and constitutional state.

Several frameworks have been suggested for describing the challenge posed by Price and the group of reformers surrounding him. Kramnick suggested the term “bourgeois radicalism” to express the individualist, anti-hierarchical vision of society offered by the reformers. Other scholars pointed to the influence of the constitutional crisis between Britain and the colonies in the rise of popular politics, the parliamentary reform movement, and a new political discourse on representation. J. C. D. Clark argued that the revitalization of English reform in the 1760’s and 1770’s owed mainly to the emergence of Dissenting Arianism and Socinianism as a social force. He located the origins of democratic theory in the heterodox theology of Price, Joseph Priestley and other Dissenters. In Jonathan Israel’s magisterial account of the Radical and Moderate Parliaments and Liberty: Long Parliaments and Slavery (London: J. Almon, 1776), 41. Anglia Rediviva: No Defence of the Aristocratic Party, but of the King and People, Mutually Restored to Their Constitutional Action, with the Country at Large to It’s Dignity, and the Blessings of It’s Free Government, by a Reform in the Representation and Duration of Parliament, (London: T. Cadell, 1782), 59.

Kramnick, Republicanism and Bourgeois Radicalism, 1-40, esp. 42-44.


Enlightenment, Price figures quite prominently as “a leading representative of the radical tendency in England.”

While these studies contribute to understanding the roots and nature of Price’s challenge, another idea worth highlighting in this context is Bernard Bailyn’s discussion of the “transforming radicalism” of the American Revolution. Bailyn described how the experience of the American Revolution contributed to the reexamination of the ideas of representation, consent, constitutionalism, rights, and sovereignty, and prepared the ground for a transformed understanding of republican and democratic government. In an essay in which he portrayed 1776 as an annus mirabilis of “blasting challenges to the structure and foundation of Anglo-American life and thought,” Bailyn described Price’s Observations as a “blatant challenge to the entire political establishment,” one of a series of works that contributed to transforming the world. Even if Bailyn was sometimes overdramatic, it would be useful to follow him in thinking of Price’s work as being part of a process of conceptual change that led to the modern understanding of representative and constitutional democracy. His ideas can be read in retrospect as part of an inchoate conceptual framework that he was helping to articulate. When used discriminately and self-consciously, the anachronistic terms of this framework can be helpful in clarifying the issues that were at stake in the Price Debate.


Bailyn, Pamphlets of the American Revolution, 1750-1776, 90-202. “The Transforming Radicalism of the American Revolution” was the title of the introductory essay to this work.

Bernard Bailyn, “1776: A Year of Challenge - a World Transformed,” Journal of Law and Economics 19, no. 3 (1976): esp. 437, 440, 445. As Bailyn noted, this was the year of publication of the following works: Thomas Paine’s Common Sense, the first volume of Edward Gibbons’s History of the Decline and Fall of the Roman Empire, Richard Price’s Observations on the Nature of Civil Liberty, John Cartwright’s Take Your Choice!, Adam Smith’s Wealth of Nations, Jeremy Bentham’s Fragment on Government, and John Adams’s Thoughts on Government.
This is not the appropriate place for a conceptual history of democracy, but a recent attempt at such an account, John Dunn’s *Setting the People Free: The Story of Democracy* (2005), describes democracy’s “Second Coming” in the American and French revolutions as a moment of “misdescription,” in which modern citizens have learned to misdescribe or redescribe representative institutions as democratic, despite their considerably reduced role in public affairs in comparison to the citizens of Athens. The dissertation assumes that Price’s radical principles were part of the process of transforming and redescribing the idea of democracy.

The historical question pursued by the dissertation can thus be reformulated. The object of this study is to describe Price’s democratic reconstruction of the Commonwealth language of liberty and government and the critical response to it. It will be shown that the response consisted in a thorough examination and deconstruction not only of Price’s “wildest democratic ideas of freedom,” to quote Burke, but also of widely prevalent Whig notions of civil liberty and free government.

From an institutional perspective, Price’s radical challenge can be understood as a reassertion of the Greek idea of *demokratia* or the power of the people, whether this is the collective capacity of the people to do things in the public realm, or merely the ability of the people to exercise control over the government, in the context of the modern

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42 Burke, *Reflections*, 95.

representative and constitutional state. Among the institutional mechanisms that Price advocated in the British context were “complete” and “adequate” representation of all free agents in the state, the independence of political representatives from corrupt influence, and most importantly, the ability of the people to control, instruct and dismiss their representatives. The freedom of the state, he argued, depends on these institutional conditions, and the freedom of the individual can only be realized in a free state. In the immediate social and political context of Britain, Price was aiming to democratize the House of Commons rather than to replace the mixed constitution, but he also supported democratic republicanism in America, and hoped that this form of government will eventually spread to the rest of the world.\(^{44}\)

Price’s democratic idea of the free state was posing a challenge to the oligarchic and imperial political order in Britain, but where his true originality lay was in his account of individual freedom. Price identified the freedom of citizens not only with their institutionally protected power of following their own choices in private life, but also with the power of governing themselves by participating in political decision-making, either by holding office, or through the election, instruction, and control of accountable representatives. He went further than most Commonwealthmen in extending moral autonomy into the political sphere and seeing the right to participate in politics as part of the liberty and dignity of the individual.

Thinking of political self-government as a property of the individual rather than a property of the body of the people was highly unusual when Price published his

Observations, and many of his critics found it counterintuitive. Arguably, this shift in the understanding of self-government was an important step in the formation of the modern idea of democracy. Referring to this transformation, the historian Joyce Appleby argued that individual self-government or autonomy was the most radical concept that operated in eighteenth-century Anglo-American thought. Few writers in the eighteenth century Anglophone world contributed to the individualist interpretation of political self-government to the extent that Price did.

In placing an emphasis on individual autonomy, Price’s theory of liberty was similar to Rousseau’s, though it is doubtful that he was following Rousseau: he seems to have been inspired by his philosophical and theological background, and particularly by the work of Samuel Clarke and Joseph Butler. Due to this background, Price’s conception of individual liberty was more individualist than Rousseau’s, placing an emphasis on the freedom of individuals to follow their own sincere convictions rather than to abide by the will of the collective body of the people.

As mentioned above, some of the most important studies written on Price’s work doubted the originality or the radicalism of his principles. Carl Cone, for example, argued

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46 If Price was directly influenced by Rousseau’s discussion of liberty in his Contrat Social (1762), he never acknowledged the influence. The only time Price mentioned Rousseau was in his “Essay on Providence,” where he referred to the Discours sur l'origine et les fondemens de l'inégalité parmi les homes (1755). This would be consistent with the fact that the discourse on inequality was more widely read in England at the time than the Social Contract; despite being translated into English in 1764, the latter work only gained popularity in England during the French Revolution. Sotheby’s catalogue of Price’s library shows no copies of any work by Rousseau. In his early work on Price, Thomas assumed that he was following Rousseau, but the claim was not repeated in his definitive survey of Price’s life and work. See Richard Price, Four Dissertations (London: A. Millar & T. Cadell, 1767), 150. Henri Roddier, J.-J. Rousseau En Angleterre Au XVIIIe Siècle; L'ouvre Et L'homme (Paris: Boivin, 1950), 211-220. A Catalogue of the Library of the Late Richard Price, ([London]: Leigh & Sotheby, 1799). D. O. Thomas, "Richard Price and Edmund Burke: The Duty to Participate in Government," Philosophy 34, no. 131 (October 1959). Thomas, The Honest Mind.
that he was casting conventional ideas and arguments in appealing form, and D. O. Thomas argued that Price was a moderate reformer and not a radical or a republican. Their view stands in direct contrast to the claim made by many of Price’s critics that he was propagating innovative, dangerous, and democratic principles of liberty and government. To quote one alarmed critic: “Give me Dr. Price’s political principles, and I will move all kings out of their thrones, and all subjection out of the world.”

The dissertation suggests that notwithstanding the partisan nature of many of the works written in response to Price, we should take in all seriousness the claims made by the critics: they correctly recognized that Price was challenging the common ideas of liberty and government. One of the things their critique helps in illuminating is the originality and radicalism of his claim that the participation of individuals in politics is not only essential to constituting a free state, but also has value as an integral part of the liberty and dignity of the free citizen.

As already noted, in analyzing the arguments presented by Price and his critics, the dissertation has drawn on the conceptual framework of the neo-republican theory of liberty developed by Quentin Skinner and Philip Pettit. Skinner and Pettit themselves have treated the American Revolution and the period following it as a crucial moment of

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49 This is not to say that we should ignore the partisan nature of the exchange, with the critics seeking to delegitimize Price’s theory by portraying it as outrageously democratic, and Price declaring allegiance to the British mixed constitution and Whig political principles, invoking the authority of Locke, Montesquieu, Blackstone, and even De Lolme. For the latter, see Price, *Additional Observations*, 9-10.
confrontation between the neoclassical idea of liberty as non-domination and the utilitarian idea of liberty as non-interference, a confrontation that led to the demise of the neoclassical theory. Both recognized Price as one of the important thinkers who defended the neoclassical understanding of freedom and government.\textsuperscript{50} In different publications and lectures since the early 1980’s, Skinner has stressed the continuity between Hobbes and Bentham, attributing the “decline and fall” of the neo-classical theory to what he described as the rise of “the neo-Hobbesian analysis of liberty popularised by the classical utilitarians.”\textsuperscript{51} Philip Pettit similarly argued that the “triumph of freedom as non-interference” was made possible by writers who opposed American Independence and revived the Hobbesian notion of liberty, mentioning two of the participants in the Price Debate, Lind and Bentham.\textsuperscript{52}

Indeed, Price was drawing on the language of liberty forged by seventeenth century republicans and eighteenth century Commonwealthmen, and the unraveling of some of the key assumptions of this view by Skinner and Pettit sheds new light on his thought, casting it in the terms of a conceptual framework that was largely unavailable

\textsuperscript{50} Pettit often referred to Price, and acknowledged that he relied on his work in developing the argument of \textit{Republicanism}. Skinner’s historical account culminated in the theory being “[m]ost contentiously of all […] restated by Richard Price and the other so-called commonwealthmen to defend the colonists.” More recently, Skinner discussed Price more extensively as one of the protagonists of the neoclassical view of freedom. Pettit, \textit{Republicanism}, 27, footnote 22; for references to Price, see 27, 29, 34-35, 40, 42-43, 48-49, 64, 71,73-74, 86, 175, 210, 226. Skinner, \textit{Liberty before Liberalism}, 12-13, 49-50. Quentin Skinner, “Political Liberty: The Enlightenment Debate,” The Roy Porter Lecture, given at University College London on May 26, 2010.


\textsuperscript{52} Pettit, \textit{Republicanism}, 41-50.
when the several major studies of Price’s thought were produced. In particular, it helps in elucidating the meaning and importance of his claim that individual liberty can only be realized in the fullest sense in a free state, whose political institutions secure its members from arbitrary interference in their choices.

Furthermore, the neo-Roman framework sheds new light on the response to the Observations. Price’s critics can be understood as reconsidering some of the key assumptions associated with the neoclassical way of thinking about liberty. In particular, they could be seen as reexamining the concept of civil liberty understood as the secure status of the free citizen under social institutions, the concept of the free state and the conditions constituting it, and the relation of these concepts to popular participation in government. The Price Debate can be read as providing rare insight into the deconstruction of these concepts in reaction to the rise of democratic ideas.

At the same time, studying the Price Debate can contribute to refining the historical account and analytical framework of neo-republicanism. To begin with, setting the concepts of civil liberty and free government in this period in the ideological context of the Price Debate refines the account of confrontation between proto-liberal and quasi-republican ideas that comes up in some of the reflections of Skinner and Pettit on the fate of this theory in the late eighteenth century. It highlights the extent to which many of Price’s critics shared many if not most of his key assumptions about liberty and government. Many of them accepted that civil liberty consists in the security of rights under the law, and that it could only be maintained in a free state. Their disagreement

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focused on the relation between individual and institutional freedom and democratic participation.

Even Bentham and Lind accepted important parts of this framework, particularly the ideal of the security of rights under legal and political institutions, while trying to redefine some of its terms. Chapter 4 of the dissertation argues that Bentham’s negative definition of liberty was not formed as an alternative to the neo-classical view: it was a caricaturized interpretation of the democratic theory of liberty defended by radicals on both sides of the Atlantic, and particularly by Price. Bentham used the negative definition of liberty in large part in order to show the absurdity of the ideal of liberty when separated from his own theoretical framework of security and utility. The chapter reconstructs Bentham’s involvement in the Price Debate, arguing that some of Bentham’s most important early formulations of his theory of freedom, particularly in his “Key” manuscripts, should be read as an implicit response to Price. It is further suggested that Bentham’s definition of constitutional liberty in 1780 was modeled after Price’s theory, attempting again to reduce it to an absurd.

In addition to shedding new light on the history of the ideas of civil liberty and free government in this period, the study of the Price Debate highlights the conceptual question of the relation between liberty understood as non-domination and democratic participation in government. In Skinner’s early work on liberty, he drew on the classical republican tradition to ground the normative arguments that individual liberty is related to the performance of virtuous public service, and that citizens may have to be coerced to
perform their civic duties in order to be free.\textsuperscript{54} His later account of the neo-Roman understanding of liberty more cautiously stated that “the government of a free state should ideally be such as to enable each individual citizen to exercise an equal right of participation in the making of the laws,” but acknowledged that few neo-Roman writers were enthused by the idea of democracy, and that they preferred the people to be represented by a representative assembly of “the more virtuous and considering.”\textsuperscript{55}

Pettit has developed a clearer and more elaborate account of the relation between liberty as non-domination and democracy. In \textit{Republicanism}, Pettit argued that “access to the instruments of democratic control, participatory or representative” is not a part of the definition of freedom as non-domination, but republicans thinkers generally regarded democratic participation as a safeguard of liberty, part of the institutional arrangement that constitutes the state of non-domination.\textsuperscript{56} In his work since then, Pettit has been developing an account of republican democracy, which is based on popular sovereignty, electoral competition, and, particularly, the power of contestation.\textsuperscript{57}

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\begin{itemize}
\item Skinner, \textit{Liberty before Liberalism}, 30-36.
\item \textit{Republicanism}, 30.
\end{itemize}
Despite Skinner’s greater emphasis on the idea of the self-government of the political body, and his earlier emphasis on coercing citizens to perform their public duties, his understanding of the relation between individual liberty and democratic participation is arguably quite similar to Pettit’s. Both view democratic participation as instrumentally valuable to the constitution of the free state, in which individual freedom can be realized. Moreover, both either acknowledge or at least never deny that the neoclassical account of civil liberty and the free state can and did stand without assuming the participation of all members of the political community in government. This is an important point, and may easily be missed in contemporary formulations and discussions of the neoclassical theory of liberty, but it plays a central role in the Price Debate.

The point comes across clearly in the arguments against Price described in Chapter 2 as constitutional Whig arguments. Price’s constitutional Whig critics understood civil liberty in terms of the security provided for individual rights under the British constitution. They believed that popular representation in government was an essential constitutive condition of the free state, and served as a safeguard against the abuse of power by the government. But they challenged the view that the liberty of any particular individual depends on the right to participate in government, arguing that civil liberty depends on the right of the people to participate in government in a corporate capacity. They typically argued that the freedom of individuals would be better secured against the folly and tyranny of the majority if participation would be limited to social elites. Their arguments show that support for civic participation that appeals to the value of security is easily employed as an argument for political elitism.

Chapter 3 is devoted to discussing the work of one of the most fascinating constitutional Whigs, Adam Ferguson. In many ways, Ferguson’s reply to the *Observations* was representative of the constitutional Whig position, but his critique was also exceptional in at least two senses. Ferguson’s previous work and his involvement in the Scottish militia campaign established his reputation as a proponent of the spirit of classical republicanism. In addition, he was a pioneering sociologist and political economist, whose penetrating insights into commerce, industrial labor and the institutions of the modern state shaped his understanding of liberty.

Previous studies of Ferguson’s thought have tended to divorce his commitment to civic virtue from his critique of popular participation in the Price Debate. Chapter 3 of the dissertation offers an account of his position as an elitist interpretation of the free state, which saw it as dependent on virtuous civic participation, but attempted to restructure civic virtue around the unequal distribution of resources and social status in commercial society. Ferguson’s position contained most of the theoretical components described by Skinner and Pettit, and it represents one of the compelling examples for a paternalistic and imperialist interpretation of the neo-Roman conception of civil liberty and free government.

Price’s theory of liberty and government, discussed in Chapter 5 of the dissertation, provides an interesting model for a proto-democratic theory that combines the neo-Roman conceptual framework with a deep commitment to democracy. Price’s idea of participation went beyond consent and contestation, advocating the active involvement of citizens not only in controlling government and resisting its abuses of power, but also in reforming society. But Price’s most significant contribution to the theory of democracy may have been his normative justification for individual participation in political decision-making.
Price believed that democratic participation in government is essential as one of the constituents of the free state, a safeguard against tyranny and oppression. But in addition, he insisted on the intrinsic value of participation for the individual. Chapter 5 reconstructs his argument that the value of the right to participate in government is derived from the dignity of being able to exercise one’s freedom in all aspects of human life, including political life. Conversely, the deprivation of this right is a form of humiliation or indignity.

This may seem like a minor adjustment to the instrumental justification for democratic participation, but it is a philosophically and politically interesting difference, because it provides an answer to one of the challenging questions posed by Price’s critics: if the value of participation is in securing individual rights, can this objective not be equally well or even more adequately met through the partial participation of more capable citizens? The line of argument offered by Price is that having the right to participate and influence politics is important not only as part of the institutional structure of the free state, but also as part of the dignity inherent in being able to exercise one’s choices in the public as well as in the private sphere.

The following chapters address these issues employing a mixed-methods approach of historical reconstruction and conceptual analysis. Chapter 1 provides some essential historical context on Price, the Observations, and the response to its publication. Chapter 2 is an overview of the debate, focusing on the critical examination of the concepts of civil liberty and the free state, and their relation to democratic participation. Chapter 3, 4, and 5 are essays on three individual thinkers involved in this Debate – Ferguson, Bentham, and Price. The reason for selecting these three thinkers is that each
contributed in an original way to thinking about the relation between liberty and
democratic participation. The conclusion will argue that contemporary political thought
on this issue can be enriched by their thoughts, and more generally, by the study of the
Price Debate.
CHAPTER 1

The Doctor, the Publication,

And the Sensation

The Story of the Observations

In the late 1760’s and early 1770’s, when Price was already in his forties and fifties, he emerged from his relative obscurity as a rather unsuccessful and dispirited Dissenting minister who dabbled in philosophy, and came to be known as the “learned,” “ingenious,” and “celebrated” Dr. Price, an influential writer, whose critique of policy the government felt unable to ignore. The publication of the Observations was arguably the point of culmination of this process and the point of beginning for Price’s new career as a respected thinker abroad and the enemy of conservatives at home.

The purpose of this chapter is to sketch some of the broad outlines of this story, and in so doing, provide essential background for the theoretical discussion in the following chapters. The first part of the chapter sketches the path of Price’s career up to 1776, focusing on five aspects of his work essential for understanding the Observations and the response to it: Price’s work in moral philosophy and theology; his social position as a Protestant Dissenter and involvement in the struggle against the legal discrimination of Dissenters; his work on political economy, particularly the national debt; his involvement with the parliamentary reform movement; and his connections to the American cause.
The second part of the chapter sketches the argument of the *Observations* in its first part, which laid out the principles of liberty and government as Price understood them. It fleshes out some of the elements that provoked Price’s critics: his definition of liberty as the power of self-government; his statement that every man is his own legislator; and his proposals for constitutional reform, which included the participation of every free agent in government, and the ability of citizens to control and instruct their representatives.

The third part of the chapter discusses the impact of the Price’s *Observations*, examining several indications for the circulation of the pamphlet, the extent of the response to it, and its influence on public discourse. Several explanations are discussed for the unusual impact of the *Observations*: the opportune timing of its publication; the rising reputation of Price as a political economist and respected commentator on public affairs; the promotion of the pamphlet by supporters of the American cause; the possible contribution of the government to the promotion of the *Observations* by commissioning replies to it; and the challenge that Price posed to received notions of civil liberty and free government.

Finally, the last part of the chapter discusses Price’s defense and development of his theory of liberty and government between the American and the French revolutions. The section surveys Price’s replies to his critics in the years following the publication of the *Observations*; his growing international reputation; his advice to the American Founders on the Constitution of the United States; and his role in provoking the debate on the French Revolution.
The account in this chapter has relied in many cases on primary materials, but has also benefited from the work of previous scholars, and particularly from the unmatched contribution of D. O. Thomas to the scholarship on Price. Some contribution to the scholarly literature has been made in the third part of the chapter, which describes the impact of the *Observations*. The primary objective of this chapter, however, is not to uncover new facts about Price or the *Observations*. It is to relate in broad outlines the story of Price Debate and prepare the ground for its theoretical analysis in the following chapters.

**Dissent, Corruption, and America**

Born on 23 February 1723 at Tynton, a farmhouse in Glamorganshire, Wales, the young Richard Price rebelled against the strict Calvinism of his father, the Dissenting minister Rice Price. Under the influence of the liberal and critical theology he was taught at the Pentwyn Dissenting Academy, Carmarthenshire, he came to believe in the hope of every person to achieve salvation by leading a life of virtue in imitation of Christ, based on the exercise of individual reason in searching for the good and the exercise of free will in choosing it. Price’s nephew and biographer, William Morgan, described how Rice Price caught his son reading the heterodox Sermons of Samuel Clarke and “flung the

58 Martin Fitzpatrick described Thomas as the man who “made Richard Price […] his life’s work” and published “the definitive study of Price.” In addition to his excellent study of Price, *The Honest Mind*, Thomas edited or collaborated in editing his correspondence, his political writings, the bibliography of his works, and *The Price-Priestley Newsletter*, which later became the journal *Enlightenment and Dissent*. See Martin Fitzpatrick, “D. O. Thomas: Editor of the Philosopher Richard Price,” *The Independent* (June 17th, 2005).
book in a rage into the fire,” but Price held on to his heterodox views, which he later identified with Arianism.  

At the age of 18, shortly after the death of both his parents, Price moved to London and attended the Dissenting academy at Tenter Alley, Moorfields, where he trained in mathematics and natural philosophy under John Eames, a friend and disciple of Isaac Newton and a fellow of the Royal Society. Upon leaving the Academy, he became a family chaplain at the household of a wealthy merchant and a preacher. During these years, he worked on a philosophical treatise that became his primary contribution to epistemology and moral philosophy, *A Review of the Principal Questions and Difficulties in Morals, particularly those relating to the Original of our Ideas of Virtue, its Nature, Foundation, Reference to the Deity, Obligation, Subject-Matter, and Sanctions* (1758). Drawing on Plato, Ralph Cudworth, Samuel Clarke, and Samuel Butler, and arguing against John Locke, Thomas Hutcheson, and particularly David Hume, Price developed a pioneering theory of moral intuitionism. He described free agency, the exercise of reason, and the conscientious intention to follow the rule of rectitude as the foundations of practical virtue.

It was probably through Eames that Price made what proved to be a fateful acquaintance with the mathematician and Dissenting minister Thomas Bayes. When the latter died, Price found in his papers, pieced together, and published the solution to the

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problem in probability theory that came to be known as Bayes’s Theorem. In recognition of his contribution to science, he was appointed a fellow of the Royal Society in 1765.62

Price’s public reputation soared once he began to employ his mathematical skills in addressing social problems, and established himself as an authority on life insurance and public finance. In 1771, Price published the first edition of his Observations on Reversionary Payments, a pioneering work in actuarial probability that he continued to expand and revise throughout his life. The publication “occasioned great distrust in the mind of the public,” as one contemporary advertisement put it,63 concerning the financial viability of the societies established to provide annuities for widows and for old age, and these were forced to reform their insurance schemes.64

Price’s Observations on Reversionary Payments contained an essay in what he called “Political Arithmetick,” which addressed the issues of public credit and the national debt.65 This essay was expanded and published as an independent work entitled An Appeal to the Public on the Subject of the National Debt (1772). In the Appeal, Price

63 Gazetteer and New Daily Advertiser (27 August 1771).
64 Price, Correspondence, I, 118. Morgan, Memoirs, 40-41.
65 The term “Political Arithmetick” appeared in the subtitle to Richard Price, Observations on Reversionary Payments on Schemes for Providing Annuities for Widows, and for Persons in Old Age, on the Method of Calculating the Values of Assurances on Lives, and on the National Debt (London: T. Cadell, 1771). It was most likely a reference to the essays in “Political Arithmetick” published in the late seventeenth century by the natural philosopher and economist William Petty, the great-grandfather of Price’s patron, the Earl of Shelburne. See also Peter Buck, "People Who Counted: Political Arithmetic in the Eighteenth Century," Isis 73, no. 1 (March 1962).
warned against the policy of the government to draw money out of the sinking fund established for paying off the national debt, arguing that this policy was leading the kingdom into financial ruin. Price portrayed the policy of alienation of the sinking fund as a conspiracy of the Crown to keep the people in a state of “dependence created by the National Debt.”

Price’s work on public finance attracted considerable public attention and bolstered his reputation as “a very able calculator” and “learned and ingenious” author. It excited patriotic responses such as the following, published in one of the London newspapers:

When we see superficial Men, or Men of crafty and ambitious Characters, declaiming in Parliament, or from the Press, against the Abuses of the Times, we naturally disregard, or execrate their unmeaning or their artful Exclamation. But when Men of the best Abilities, and of the most modest Characters, not only give us a warning, but bring us unanswerable Calculation to convince us that our Affairs are in a dangerous Situation, it is high Time, if the Pilots shew no Solicitude about the Safety of the Vessel, on which our All is embarked, for the PEOPLE TO LOOK to THEMSELVES.

In a letter to Price in 1772, Benjamin Franklin referred to the Observations on Reversionary Payments, somewhat hyperbolically, as “the foremost Production of

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67 Middlesex Journal and Evening Advertiser (2-4 May 1775); London Evening Post (20-23 July 1771).
68 Signed “Verax,” Public Advertiser (20 February 1772).
Human Understanding that this Century has afforded us.” In a parliamentary speech in 1775, the Prime Minister, Lord North, referred to Price as a “person of confessed ingenuity,” expressed admiration for his work on the national debt, and said that he “adopted his plan of reduction as much as times and circumstance would permit,” though he was “far from approving all of what he recommends.” In February 1776, several days before the publication of the *Observations on the Nature of Civil Liberty*, Price was reported to have met with North and to have given him advice on the budget. On that occasion, *The Public Advertiser* went as far as calling him “the ingenious Dr. Price, Vicegerent of the Budget for 1776.” In March 1776, in a debate on the American crisis, the opposition politician Charles Fox is reported to have mentioned Price’s pamphlet on the national debt and “pointed to the information which the Minister might have reaped from the assistance of so able a calculator.” Lord North replied “that he looked upon Dr. Price as one of the first characters of the age, both for integrity and abilities,” and that he “held him in the highest estimation, and had often consulted him.”

While Price’s talent for calculation helped to establish his reputation, Morgan attributed his growing passion for public affairs, beginning in the 1760’s, to his sense of failure as a preacher. In 1758, the recently wed Price moved to Newington Green, Hackney, and in the following years he held several pastorates, but being unable to attract

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69 Price, *Correspondence*, I, 126. I am following the editors of *The Papers of Benjamin Franklin* (XIX, 77n) and D. O. Thomas (Price, *Correspondence*, I, 125n), who concluded that Franklin referred in the letter to the second edition of the *Observations on Reversionary Payments*, published in London in January 1771, and not to *An Appeal to the Public on the Subject of the National Debt*, published in 1772.


72 *The Public Advertiser* (7 February 1776).

73 *London Evening Post* (2-5 March 1776).
large audiences and occasionally finding himself preaching to napping parishioners, he was driven to devote more energy to writing and publishing. In 1767 he published a collection of sermons, *Four Dissertations*, which drew the attention of the influential Whig politician William Petty, second earl of Shelburne, who served as the Prime Minister in 1782-1783. Shelburne became Price’s lifetime friend and political patron, and Price joined his intellectual circle, the Bowood Group, which included Joseph Priestley, and later Jeremy Bentham.

His access to Shelburne, and through him to the first earl of Chatham, William Pitt the elder, made Price instrumental in a campaign challenging the legal discrimination against Protestant Dissenters, which is likely to have contributed to the shaping of his views on civil and religious liberty. In 1772, the General Body of the Protestant Dissenting Ministers appealed to Parliament in an attempt to obtain relief from the duty of subscription to the Thirty-Nine Articles of the Church of England, which was required by the 1689 Act of Toleration. Price wrote a paper arguing against the restrictions imposed on the Dissenters by the Act of Toleration, which was preserved in his handwriting at the National Library of Wales. He argued in the paper that the duty

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80 National Library of Wales MSS 23291-23292, 23-28. This seems to be a draft of the paper entitled “Proposed Protest Concerning Dissenters,” which Thomas found among the Shelburne Papers in the possession of the Marquis of Lansdowne at Bowood Park. Thomas inferred that this is the “sketch of a
of civil governors is to “protect all good subjects” and not to regulate religious worship. The principle of toleration, he wrote, must apply without discrimination to “every mode of faith and worship that is not inconsistent with the safety of the State,” and extend even beyond “the limits of the Christian religion,” otherwise the right to religious persecution would be acknowledged in principle. The constitutional protection of the freedom of conscience was to become the core of Price’s understanding of civil and religious liberty. The state must not intervene in the right of individuals to follow their own understanding of right and wrong, he believed, so long as that understanding does not violate the rights of others.

The manuscript on toleration suggests that the distinction between constitutional liberty and liberty as an indulgence, which Price employed during the American debate, may have been formed in the context of the 1772 campaign against discrimination on religious grounds. In his paper on toleration, Price replied to critics who argued that “the penal laws against Protestant Dissenters are never executed, and that consequently they cannot complain of any grievances.” In response Price wrote:

The very existence of laws that fine and imprison and banish peaceable and quiet subjects, for no other crime than scrupling to Subscribe Articles they cannot believe, appears to us a grievance. The State of insecurity in which the body of

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protest” that Price composed and conveyed to Chatham in the hope that the latter would enter a formal protest into the record if the House of Lords rejects the Dissenters’ Bill. See Thomas, “Proposed Protest,” 52-53.

81 Ibid., 23-24.
Dissenters now stand; and their being obliged to hold by connivance an unalienable and sacred right, we judge likewise to be a grievance.\textsuperscript{82}

Price insisted that the Dissenters should be granted “by law that which they have long enjoy’d by indulgence,” and expressed his concern that the opposition to the bill proposed by the Dissenters was motivated by “the base desire of holding the body of Dissenters in dependence, and maintaining undue influence among them, by the terror of the unjust laws which now hang over them.”\textsuperscript{83} Later on, in defending the rights of the American colonists, he would argue that a distinction must be made between free government and freedom that is “nothing but an indulgence of a precariously nature,”\textsuperscript{84} having in mind, most likely, the precarious condition of the Protestant Dissenters under the British Constitution.

Price’s intellectual and political career was influenced by his membership of the Honest Whigs Club, composed largely of Dissenting intellectuals, whom the Boston lawyer and patriot Josiah Quincy aptly described as “Friends of Liberty and Science.”\textsuperscript{85} Among the members were Benjamin Franklin and Joseph Priestley, each of whom became close friends with Price and had considerable influence on his Observations on the Nature of Civil Liberty. Price developed and radicalized the theoretical framework proposed by Priestley in An Essay on the First Principles of Government (1768), and adopted parts of Franklin’s arguments on the American problem.

\textsuperscript{82} Ibid., 24-25.
\textsuperscript{83} Ibid., 26-28.
\textsuperscript{84} Price, Additional Observations, 3. See also Price, Observations, 10-11.
No less significant was Price’s friendship with another member of the Honest Whigs, James Burgh, schoolmaster of the Dissenting academy at Newington Green and one of the most influential Commonwealthmen and political reformers in eighteenth century Britain. In his essays and letters to the newspapers in the 1760’s, and most famously, in his three-volume *Political Disquisitions* (1774-1775), Burgh developed a proto-democratic theory of representative government, and a platform of concrete proposals for reforming the British mixed constitution, including annual parliaments, the secret ballot, the exclusion of placemen and pensioners from the House of Commons, and the enfranchising of all “free agents,” or taxpaying males. 86 Price was profoundly influenced by Burgh’s understanding of free government and account of the deficiencies of the British constitution and incorporated both into the *Observations*.

Price’s growing preoccupation with the corruption of the political system was already apparent in 1772 in his *Appeal to the Public on the Subject of the National Debt*, which complained that the corrupt influence of the Crown in the House of Commons “may in time establish among us a tyranny of the most intolerable kind; a tyranny attended with the mockery of all the forms of liberty; a tyranny created, supported and sanctified by a PARLIAMENT.” Price argued in the *Appeal* that only corrupt influence

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could have led “the guardians of the State” sitting in Parliament to alienate the Sinking Fund and give up “this great security of the kingdom.”

Price’s views on constitutional reform were more fully developed in a paper in his handwriting entitled “Sketch of an Address and Petition to the King,” probably written in 1775, which is found among his papers at the National Library of Wales. In this paper, which may have been co-authored with other members of the Honest Whigs, Price wrote that the essence of the British constitution consists in the requirement “that the three States which compose the Legislature should be independent of one another.” In the Glorious Revolution, according to Price, the part of the constitution that consists of the representatives of the people “acquired its just weight and importance.” The “enemies of liberty,” however, had more recently been attempting to destroy the power that the representatives of the people acquired at the Glorious Revolution, by increasing the “undue influence” of the Crown over the legislature. Price argued that this influence was “increasing with the increase of taxes, luxury, the Army and the national debt,” as well as with the recent patronage of the Crown for the East India Company. These causes, joined by the “inadequateness of the representation and the long duration of Parliaments,” had made the House of Commons dependent on the government, and this, wrote Price, “we reckon our greatest grievance, by which the constitution is undermined, and our only Security under God for the preservation of our Liberties is insidiously taken from us, and converted into an instrument of oppression and a Sanction of Slavery.” Price went as far

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87 National Library of Wales MSS 23291-23292, 35-38. This paper has not been published, and has largely if not wholly been overlooked by scholars.
as referring to the ministers who formed and maintained this “System of corruption” as “Traitors” and “the most dangerous of all the enemies of this country.”

The “Sketch of an Address and Petition to the King” described the corrupt influence of the Crown on the representatives of the people as the “malignant root” of policy decisions that posed inherent dangers to liberty, including the expulsion of John Wilkes from the House of Commons, the alienation of the sinking fund, and the establishment of a standing army. Price considered the most serious danger to lie in the measures taken by the government against the American colonies. These measures, according to Price, represented an attempt to change the form of government in America into one “more favourable to despotism.” He warned that “Success in establishing Such a government in America would be a dreadful preparation for Similar Success here.”

The “Sketch of an Address and Petition to the King” reflects the view shared by Price and some of the other members of the Honest Whigs Club, who saw the cause of America as part of the struggle against corruption and oppression under the British government. Joseph Priestley, in his writings on liberty and government, and James Burgh, in his publications on constitutional reform, supported the American patriots in this spirit, and laid the ground for Price’s double-pronged attack on political corruption and colonial oppression in the Observations. Priestley and Burgh were both influenced,

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88 Ibid., 35-37.
if not actively aided, by Benjamin Franklin,\textsuperscript{90} just as all three are likely to been
influenced by their “incomparable friend Dr. Price,” to quote Burgh in the \textit{Political
Disquisitions}.\textsuperscript{91} Price’s \textit{Observations} was unquestionably the fruit of his own labor, but it
can also be seen as the product of an ongoing conversation in this milieu of intellectuals
who shared a passion for resisting what they saw as the encroachments of the King and
his ministers on popular power.

During the years leading up to the publication of the \textit{Observations}, Price met with
several of the American representatives who came to London, and corresponded with
several ministers and professors in the colonies.\textsuperscript{92} An important theme that comes out of
this correspondence is the transatlantic community of non-conformists on both sides of
the Atlantic, and Price’s view of America as a future haven for the oppressed religious
minorities in Britain. In 1772-1775, Price was corresponding with Henry Marchant,
Attorney General of Rhode Island, and Ezra Stiles, Minister of the Second
Congregational Church at New port, Rhode Island, regarding the intention of the Church
of England to appoint an American Bishop.\textsuperscript{93} In a letter to Stiles from November 1773,
Price justified the apprehension of the Americans that the appointment of Bishops would
lead to religious oppression. He claimed that the appeal of the Dissenting ministers for
legal toleration in the previous years had failed because “the Bishops enter’d into a

\begin{thebibliography}{9}
\bibitem{89} James Burgh, and the Authorship of "the Colonist's Advocate" Letters," \textit{The William and Mary Quarterly} 32, no. 1 (January 1975).
\bibitem{90} Crane, \textit{Benjamin Franklin's Letters to the Press}, 286.
\bibitem{91} Burgh, \textit{Disquisitions}, I, 36.
\bibitem{93} Price, \textit{Correspondence}, I, 149-151, 164-166, 215-223, 233-235. See also Charles Chauncy’s letter in Price, \textit{Correspondence}, I, 88-89.
\end{thebibliography}
confederacy against us,” and as a result, the Dissenters in England “must go on to hold at mercy that liberty of conscience to which we have a natural and unalienable right.” Price argued that the Americans must learn from the bitter experience of their brethren in England and “resist, with never ceasing and unconquerable zeal” any attempt to enslave them through the introduction of Episcopal power. In a letter he sent to Marchant on the same day, he wrote:

You are in a country that is increasing and improving fast, and likely in time to be the seat of the greatest empire that ever existed. I am in a country that is, I am afraid, declining. Corruption and venality have undermined the foundations of civil liberty among us; and as to religious liberty, allmost all that we enjoy of it is an indulgence or connivance contrary to law. May our American brethren guard against the evils which threaten us with ruin. I admire the exertions of the spirit of liberty among them: and I detest the unjust and miserable policy which our governors have for some time been per[suing] with respect to them. My heart is indeed with [them], and I am continually attending to the accounts of what passes among them. America is the country to which most of the friends of liberty in this nation are now looking: and it may be in some future period the country to which they will be all flying. For our own sakes, therefore, we have reason to with they may keep themselves free.

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94 Ibid., 165-166.
95 Marchant, who was a member of Stiles’s Second Congregational Church at Newport, Rhode Island, visited England in 1771-1772, and Price introduced him to other Dissenting ministers. An account of their acquaintance is given in David S. Lovejoy, “Henry Marchant and the Mistress of the World,” William and Mary Quarterly 12, no. 3 (1955): 390-391. Lovejoy’s description of Price as of the “lieutenants” of the republican Thomas Hollis is questionable.
96 Price, Correspondence, I, 164.
In 25 February 1775, shortly before the outbreak of the American Revolutionary War, Price wrote to Charles Chauncy, Minister of the First Church in Boston and one of Price’s chief American correspondents in those years,\(^97\) that he considered America as “a future asylum for the friends of liberty here, which it would be a dreadful calamity to lose.” Indeed, he added, “the influence of the Crown has already in effect subverted liberty here; and should this Influence be able to establish itself in America, and gain an accession of strength from thence, our fate will be sealed, and all security for the sacred blessing of liberty would be destroy’d in every part of the British dominions.”\(^98\) Responding to Chauncy’s reports of the resolve of the American patriots to resist what they saw as the attempts of the British to enslave them, and of the steps taken by the Continental Congress to boycott commercial goods from the mother country,\(^99\) Price counseled non-violent resistance:

It is from themselves that, our Brethren in American must look for deliverance […] if the Americans relax, or suffer themselves to be intimidated or divided, they will indeed deserve to be slaves. For my own part, were I in America, I would go barefoot; I would cover myself with skins, and endure any inconveniences sooner than give up the vast stake now depending; and I should be encouraged in this by knowing that my difficulties would be temporary, and

\(^{98}\) Price, Correspondence, I, 189.
\(^{99}\) Ibid., 181-185.
that I was engaged in a last struggle for liberty, which perseverance would
certainly crown with success.100

Price’s conviction that the struggle for liberty in American would determine the
fate of the oppressed in the mother country as well, and his alarm at the effect of the War
on the national debt, had made him anxious to prevent the commencement of the war.
According to Morgan, he believed that the resistance of the colonies did not enjoy
sufficient popular support in Britain, and he decided to serve the cause by “leading the
public to more correct opinions “ on civil liberty in general and on the rights of the
American colonists. Consequently, in the winter of 1775, he devoted most of his time to
writing the Observations.101 On January 6th, 1776, he sent to Shelburne for correction the
conclusion of the pamphlet, which summarized Shelburne’s proposals for conciliation
with the colonies.102 A little more than a month after that, about February 10, 1776,103
Thomas Cadell published the work in London, thus inaugurating the Price Debate.

100 Ibid., I, 188.
101 Morgan, Memoirs, 54-57.
102 Price, Correspondence, I, 237.
103 This is the date established by Thomas et. al. in their bibliography of Price’s works. Joseph Priestley
wrote to Caleb Rotherdam on February 9th, 1776: “To-morrow will come out an excellent pamphlet of Dr.
Price’s. He sent me a copy last night, and I sat up till after one o’clock to read it.” Life and Correspondence
of Joseph Priestley, ed. by John Towill Rutt (1831-1832), I, 289-290. The pamphlet may have been
published a day or two late, though. On February 14th, 1776, Price wrote to William Adams that the
pamphlet “has not been published above three days; and almost the whole Edition, consisting of a thousand
copies, is sold.” Price, Correspondence, I, 243. On February 13th, Priestley sent a copy of the pamphlet to
Franklin, and wrote: “By the same hand you will receive a most excellent pamphlet by Dr. Price, which, if
any thing can, will, I hope, make some impression upon this infatuated nation. An edition of a thousand
copies has nearly sold in two days.” The Works of Benjamin Franklin, ed. by Jared Sparks (1836-1840),
VIII, 171. Both letters would seem to suggest that the work was published on February 11th or 12th.
The Analysis of Liberty

In formulating the case for the right of the American colonists to be self-governing, Price’s *Observations* drew on his various interests and concerns, and brought together his work on moral philosophy, concern with legal discrimination against non-conformists, expertise in public finance, preoccupation with the corruption of the British Parliament, and support for the cause of the American colonists. In fusing these together, Price drew on Lockean as well as on Commonwealth language.

The question that Price posed at the beginning of the *Observations* is whether the colonies are justified in their persuasion “that GREAT BRITAIN is attempting to rob them of that Liberty to which every member of society, and all civil communities, have a natural and inalienable right.” The second, longer part of his reply was a more conventional contribution to the debate on British imperial policy: Price argued that the war with America is unjust; that it is incompatible with the principles of the British Constitution; that it constitutes unsound policy; that it disgraces the British nation; and that it is doomed to fail. The first part was unusual: Price offered remarks on the nature of liberty in general, and civil liberty in particular, expecting his readers to apply them to the dispute between Britain and the colonies. His theoretical engagement with the concepts of civil liberty and free government provides the subject matter for this study.

In discussing the liberty of the American colonists, the *Observations* followed in the footsteps of arguments raised in previous pro-American publications. As amply documented in studies, pro-American writers appealed to the authority of Locke,

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Harrington, Sidney, Montesquieu, and others. They employed neoclassical language, identifying the possession of civil and political rights with the status of freemen, and contrasting it with the state of slavery.  

James Otis’s *The Rights of the British Colonists Asserted and Proved* (1764), for example, inquired into the origins and end of government, and into the natural, civil, and political rights of the colonists. He argued that taxation without representation deprives the colonists of their rights as freemen. “No man can take away my property from me without my consent,” he wrote. “If he does, he deprives me of my liberty, and makes me a slave.” Otis even anticipated Price’s identification of liberty with self-government: “If a man is not his own assessor in person, or by deputy,” he wrote, “his liberty is gone, or lays intirely at the mercy of others.”

Price was familiar with the pro-American literature, and yet he believed his observations on the dispute between Britain and the colonies to be innovative in laying a “more general and abstracted nature” foundation for the discussion. In the opening section of the *Observations* he insisted that “it is impossible to judge properly of this question without correct ideas of Liberty in general; and of the nature, limits, and principles of Civil Liberty in particular.” In the beginning of Part II, he added:

Before I proceed, I beg it may be attended to, that I have chosen to try this question by the general principles of Civil Liberty; and not by the practice of

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former times; or by the *Charters* granted the colonies […] I wish to have this question brought to a higher test, and surer issue. The question with all liberal inquirers ought to be, not what justification over them *Precedents, Statutes*, and *Charters* give, but what reason and equity, and the rights of humanity give.\(^{108}\)

Price’s understanding of his own innovativeness may have been a bit exaggerated: other writers, such as Otis, had addressed questions of principle as well. None of them, however, had made a sustained effort of developing a general theory of liberty and government to support their arguments. The debate, especially in the 1770’s, had centered on the principles of the British Constitution. Price was exceptional in approaching the question of freedom as a philosopher and trying to uncover the moral and metaphysical foundations of the position taken by the American patriots.

What is the nature of Liberty in general, according to Price? In order to discover the principle of freedom, Price divided it into four heads, which he believed to comprehend all the possible kinds of liberty. He offered the following four definitions:

- **Physical Liberty** – “that Principle of *Spontaneity*, or *Self-Determination*, which constituted us *Agents*; or which gives us a command over our actions, rendering them properly *ours*, and not effects of the operation of any foreign cause.”

- **Moral Liberty** – “the power of following, in all circumstances, our sense of right and wrong; or of acting in conformity to our reflecting and moral principles, without being controuled by any contrary principles.”

• Religious Liberty – “the power of exercising, without molestation, that mode of religion which we think best; or of making the decisions of our own consciences, respecting religious truth, the rule of our conduct, and not any of the decisions of others.”

• Civil Liberty – “the power of a Civil Society or State to govern itself by its own discretion; or by laws of its own making, without being subject to any foreign discretion, or to the impositions of any extraneous will or power.”

According to Price, the idea running through all the different definitions is that of “Self-direction, or Self-government.” Being unfree, in each case, involves being subdued by “a force which stands opposed to the agent’s own will; and which, as far as it operates, produces Servitude.” Thus, being physically unfree means being subject to the force of nature, and being incapable of free will and voluntary action. Being morally unfree means being a slave to the passions. Lack of religious freedom means being prevented by some human authority from following one’s own religious convictions. Lack of civil freedom means that the community is governed by a foreign will and not by the will of the majority of the people.

In general, “the line between Liberty and Slavery” is drawn by the presence or absence of the power of self-government:

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109 Ibid., 2-3.
110 Ibid., 3-5.
As far as, in any instance, the operation of any cause comes in to restrain the power of
Self-government, so far slavery is introduced: Nor do I think that a preciser idea than this
of Liberty and Slavery can be formed.\textsuperscript{111}

Liberty, then, either consists in the power of self-government, or the power of
self-government is a necessary component of it. In the Observations, Price never clarified
which is the case, but in the Additional Observations, he defined liberty as the power of
self-government possessed by agents in their different capacities and spheres of action.\textsuperscript{112}

In concluding his discussion of the nature of liberty in general, Price briefly
addressed the question of the value of liberty. He argued that liberty is “a blessing truly
sacred and invaluable,” that “there is not a word in the whole compass of language which
expresses so much of what is important and excellent,” and that nothing “can be of so
much consequence to us as Liberty.” The proof, in Price’s eyes, lies in reflecting on the
deprivation of freedom: without physical, moral, religious, and civil liberty, individuals
would be lacking the foundation of their dignity as human beings.

The next two sections of the Observations, [I]II and [I]III, focus on civil liberty,
though Price suggested that it would be useful to maintain “an enlarged view” of the
subject, that is, to keep in mind the other divisions of liberty and the principle of self-
government running through them. Section [I]II, entitled “Of Civil Liberty and the
Principles of Government,” discusses the principles of free government.

\textsuperscript{111} Ibid.: 5.
\textsuperscript{112} To be more precise, in the Additional Observations, Price defined physical, more, religious, and civil
liberty as the power of self-government that agents possess in their capacity as agents, moral agents,
religious agents, and members of civil society. Price, Additional Observations, 2.
In speaking of “free government” and “free state,” Price was following the language and theory of early modern republicans, who generally assumed that individuals could only enjoy civil liberty in a free state, whose citizens are free both from internal despotism and from external oppression by another state.113 James Harrington, for example, described in *The Common-Wealth of Oceana* (1656) “the essentials of the form of a free Commonwealth.” Marchmont Needham entitled one of his works *The Excellencie of a Free State* (1656). John Milton entitled one of his own treatises *The Readie and Easie Way to Establishe a Free Commonwealth* (1660). Hobbes, on the other hand, recognized only the external aspect of the freedom of the state: “free Commonwealths,” he claimed, were those whose “representative had the liberty to resist, or invade, other people.”114 In contrast to Hobbes, and in the spirit of the seventeenth century republicans, Price referred to the principles of a free state and “the excellency of a free government.”115

The normative framework for the discussion of free government is set in the opening paragraphs of this section, which proved to be the most controversial paragraphs of the *Observations*. The gist of Price’s argument was that the authority of government and laws derives from the people, and civil liberty exists only where the people continue to exert effective control over the government. In Price’s words:

> From what has be[en] said it is obvious, that all civil government, as far as it can be denominated *free*, is the creature of the people. It originates with them. It is

114 Hobbes, *Leviathan*, 21.8
conducted under their direction; and it has in view nothing but their happiness.

All its different forms are no more than so many different modes in which they choose to direct their affairs, and to secure the quiet enjoyment of their rights. – In every free state every man is his own Legislator. – All taxes are free-gifts for public services. – All laws are particular provisions or regulations established by COMMON CONSENT for gaining protection and safety. – All all Magistrates are Trustees or Deputies for carrying these regulations into execution.116

Price went on to argue that liberty is “imperfectly defined” when it is said to be “A Government by Laws, and not by Men” – the definition of the republic in James Harrington’s Oceana (1656) and in John Adams’s Thoughts on Government (1776).117 “If the laws are made by one man, or a junto of men in a state, and not by COMMON CONSENT,” wrote Price, “a government by them does not differ from Slavery.”118 Price was not rejecting the Harringtonian formula – only pointing out that it is a necessary but insufficient condition of free government. Free government combines the rule of law with the expression of common consent in the making of law. It is not “a government of men,” but a government of “laws made with common consent,” as Price wrote in the Additional Observations.119

Price borrowed the phrase “common consent” from constitutional discourse. The phrase appeared in the Petition of Right (1628), where the House of Commons petitioned Charles I that “no man hereafter be compelled to make or yield any gift, loan,

116 Price, Observations, 6-7.
118 Price, Observations, 7.
119 Price, Additional Observations, 17.
benevolence, tax, or such like charge, without common consent by act of parliament.”

Price’s radicalism consisted in identifying “common consent” not merely with legislation by Parliament, but also with popular participation in the enactment of legislation.

Price’s model for civil liberty “in its most perfect degree” was direct democracy in small states, “where every member is capable of giving his suffrage in person, and of being chosen into public office.” He saw representative government not as an alternative for direct democracy, but rather as an approximation of it. The freedom of representative government, according to Price, depends on the degree to which it facilitates popular participation.

In elaborating the conditions for free representative government, Price stressed institutional conditions that would enable popular participation in representative government. The overarching theme for these conditions was that the state will be more or less “free or self-governed […] in proportion as it is more or less fairly and adequately represented.” Price equated freedom with self-government in the sense of being able to follow one’s own will, and free government with a fair and adequate representation that enables the state to follow the will of the community. As he made clear in the Additional Observations, in speaking of a fair and adequate representation, Price referred particularly to the scope of representation, which must encompass all parts and classes of the community; to the absence of undue influence on the voters and representatives.

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120 England and Wales. Parliament, The Petition of Right: Exhibited to His Maiestie, by the Lords and Commons Assembl’d in Parliament, Concerning Divers Rights and the Liberties of the Subject: With His Majesties Severall Answers to Them. Also His Majesties Declaration Upon the Same (London: Printed for George Lindesay are to bee sold by John Gyles, 1642).
particularly vote buying or political corruption; to the short tenures of office and frequent elections; and to the accountability of the representatives to their constituents.\footnote{Price, \textit{Observations}, 10. Cf. Price, \textit{Additional Observations}, 6-7.}

The latter condition, in particular, was central and controversial. In his Speech to the Electors of Bristol in 1774, Edmund Burke famously argued that representatives must exercise their independent judgment, and never sacrifice it to the opinion of their constituents. In contrast, Price argued that representatives must be accountable to their representatives and “subject to their instructions.” He argued that the degree of liberty is proportioned to the “controulling power” that the people have over the people who administrate government. If the representatives “are subject to no controul from their constituents” during their term of office, the liberty of the people is “merely nominal.”\footnote{Price, \textit{Observations}, 10-11.}

In the \textit{Additional Observations}, Price wrote that without the representatives being “accountable to their constituents,” the people will “only enjoy the poor privilege of naming, at certain intervals, a set of men whom they are to serve, and who are to dispose, at their discretion, of their property and lives.”\footnote{Price, \textit{Additional Observations}, 7. Cf. Price, \textit{Observations}, 10.}

In concluding the section on free government, Price returned to the question of the value of liberty, seeking to establish a parallel between the value of civil liberty and the value of moral liberty: “As Moral Liberty is the prime blessing of man in his private capacity, so is Civil Liberty in his public capacity.” Price claimed to be “taking for granted the reasonableness of Civil Liberty,” rather than arguing for it. He did, however, argue that the free government has a “tendency to exalt the nature of man” by endowing individuals with a sense of dignity, and encouraging to develop and improve their human
capacities. Arbitrary government, on the other hand, is both stifling and degrading.\textsuperscript{124} Price contrasted his theory of free government with the theory of the divine right of Kings, noting that many writers had already refuted it, and mentioning in this regard Locke’s \textit{Two Treatises of Government} (1689) and Priestley’s \textit{Essay on the First Principles of Government} (1768). This refuted theory demonstrates, in Price’s opinion, how humiliating the absence of civil liberty can be, when human beings are treated as “a body of vassals, formed to descend like cattle from one set of owners to another, who have an absolute dominion over them.”\textsuperscript{125}

Section III of Part I discusses another aspect of civil liberty: “the Authority of one Country over another.” This section deals with external interference with a community’s power of self-government, whereas the section on free government dealt with “the slavery of a people to internal despots.” Given Price’s definition of civil liberty as the self-government of the community, the absence of civil liberty in cases where one is subjected to another is self-evident. Price argued that this is the worst form of oppression, because it is practiced from a distance. The governing state “cannot be a witness to the sufferings occasioned by its oppressions,” and thus “there is little or nothing to check

\textsuperscript{124} Price contrasted the freedom of an individual or corporate agent with being subject to “arbitrary power.” He understood arbitrary power as an “extraneous will or power” that inappropriately restrains the agent’s own will – whether through subjecting it to an external cause, enslaving it to the passions, subjecting it to human authority in matters of religion, or subjecting it to civil power over which the agent has no control. In the civil context, Price spoke of the agent being subjected to arbitrary power as being “at the mercy” of this power, which is free to interfere with the agent’s choices “at pleasure,” without being bound by laws and by the consent of the agent. See Richard Price, \textit{Observations on the Nature of Civil Liberty, the Principles of Government, and the Justice and Policy of the War with America} (London: T. Cadell, 1776), 3-5. Price, \textit{Additional Observations}, 3-4. Richard Price, \textit{Observations on the Importance of the American Revolution, and the Means of Making It a Benefit to the World} (London, 1784), 16. Richard Price, \textit{Sermons, on Various Subjects} (London: Longman, Hurst, Rees, Orme, and Brown, 1816), 216-218. See also Thomas, \textit{The Honest Mind}, 157-158. Pettit, \textit{Republicanism}, 52-58.

\textsuperscript{125} Price, \textit{Observations}, 16-17.
rapacity; and the most flagrant injustice and cruelty may be practiced without remorse or pity.”

In response to arguments made by pro-government writers, Price discussed the claim that the authority of one community over another can be rightfully acquired by conquest, compact, or conferred obligations. He argued that conquest is never justified, and compacts or incurred obligations cannot justify the absence of civil liberty:

*Civil Liberty is, in this respect, on the same footing with Religious Liberty. As no people can lawfully surrender their Religious Liberty, by giving up their right of judging for themselves in religion, or by allowing any human beings to prescribe to them what faith they shall embrace, or what mode of worship they shall practice; so neither can any civil societies lawfully surrender their Civil Liberty, by giving up any extraneous jurisdiction their power of legislating for themselves and disposing their property. Such a cession, being inconsistent with the unalienable rights of human nature, would either no bind at all, or bind only the individuals who made it. This is a blessing which no one generation of men can give up for another; and which, when lost, a people have always a right to resume.*

Price did not clarify why the right of civil societies to legislate for themselves is as valuable and inviolate as the right of individuals to judge for themselves in matters of religion: is the self-government of the community intrinsically valuable, or is it because it serves other valuable ends? In what follows, I will be assuming that the self-government

126 Ibid., 19-20.
of the community was valuable for Price because he saw it as instrumental to the civil and political rights of individuals.

Price’s discussion in this section relied on the controversial assumption that Britain and the colonies in America were two separate communities forming an empire, rather than one extended kingdom, and this assumption was challenged by some of his critics. His argument would have applied even if the assumption could have been refuted, since he believed that there must be “fair and equal” representation of all the governed even within one kingdom. His argument was that “in the circumstances of different communities, all this holds with unspeakably more force.”

Section III concludes by discussing what Price saw as the international arrangement appropriate for maintaining the civil liberty of communities. This discussion was anticipated by a paragraph in Section II, which briefly outlined Price’s scheme for “universal peace and order.” In this paragraph, Price proposed a European confederacy of free states. Each of those states would manage its internal affairs, but a common senate, consisting of representatives from all the member states, would “possess the power of managing all the common concerns of the united states, and of judging and deciding between them, as common Arbiter or Umpire, in all disputes.” In Section III, Price developed this vision. He made clear that the member states must have “free constitutions of government,” and be independent with respect to legislation and internal taxation.” Under such conditions, “the Empire will be an Empire of Freemen,” rather than

128 Ibid., 8-9.
“an Empire of Slaves.” Price probably saw Shelburne’s plan for reconciliation with the colonies, which he quoted with approval in the conclusion to the Observations, as a realization or approximation of this ideal, since it left the rights of legislation and taxation in the hands of the colonies.

The Impact of the Observations

The success of the Observations far exceeded the expectations of its author, who predicted with a characteristic mix of modesty and pessimism that it would “sink in the first edition.” In reality, it “made a great sensation,” as the Whig politician Horace Walpole, a self-appointed documenter of the period, noted in a journal entry from February 1776. “So eagerly and universally was it read, that the press could not supply the demands for it,” wrote Morgan. Joseph Priestley reported that the first edition of the Observations, consisting of 1,000 copies, was “nearly sold in two days.”

Within a few months, according to Morgan, nearly 60,000 copies of the work had been sold. At least fifteen editions were printed in London in 1776, and additional editions were published in Dublin, Edinburgh, Boston, Charleston, New York, and Philadelphia. The Observations was published in Dutch in Leiden, in French in

129 Ibid., 28-29. Shelburne did not, however, call for the formation of an imperial senate, or for a reformation of the British parliament, to manage the affairs of the Empire on behalf of the different communities that constituted it.
129 Observations, 104-109.
130 Price, Correspondence, I, 248.
132 Morgan, Memoirs, 58.
133 The Works of Benjamin Franklin, ed. by Jared Sparks (1836-1840), VIII, 171.
134 Morgan, Memoirs, 62.
Rotterdam and Berlin, and in German in Braunschweig and Leipzig. It was an international bestseller.\footnote{Thomas et. al., 54-76. The compilers of Price’s bibliography omitted the publications in German. See Sabin et. al., \textit{A Dictionary of Books relating to America} (1885), 468, and C. D. Ebeling, \textit{Amerikanische Bibliothek} (Leipzig, 1777).}

By the end of February 1776, several newspapers, including \textit{The Gentleman’s Magazine}, \textit{The London Chronicle}, and \textit{The London Evening Post}, ran extensive extracts from the pamphlet, a second edition of it was already being circulated, and the debate over Price’s “performance” was heating up in the newspapers and in Parliament. The \textit{Public Advertiser} referred to the \textit{Observations} as an “unanswerable Pamphlet.” In the House of Commons, Charles Fox advised the government to consult with Price,\footnote{Cobbett’s Parliamentary History of England, XVIII, 1292; \textit{Public Advertiser} (25 March 1776); \textit{London Evening Post} (26 March 1776).} and the radical politician and journalist John Wilkes referred to him as “the incomparable Dr. Price.”\footnote{\textit{Public Advertiser} (16 March 1776); \textit{Morning Chronicle and London Advertiser} (16 March 1776).} The newspapers quoted an exchange in the House of Lords, in which Prince Henry, Duke of Cumberland, complimented Price on his “late celebrated Publication” and added that, while suffering from a severe inflammation in his eyes, he “nearly blinded himself by sitting up to read that excellent Pamphlet through.” The lawyer and Member of Parliament John Dunning reportedly replied to Cumberland that Price’s work was “opening the Eyes of the whole British Nation.”\footnote{P. W. Clayden, \textit{The Early Life of Samuel Rogers} (London: Smith, Elder, \& Co., 1887), 34.}

“Dr. Price’s name was in everybody’s mouth,” as a nineteenth century writer later noted.\footnote{\textit{P. W. Clayden, The Early Life of Samuel Rogers} (London: Smith, Elder, \& Co., 1887), 34.} One of the critics responding to Price’s \textit{Observations} professed himself to be “not a little shocked to find, that there is not an Apprentice, a Drayman, a Porter, or Shoe-black in Town, who does not quote him for all the extravagant nonsense they
utter.” A digitized search in the Burney Collection of 17th-18th Century Newspapers shows that in the two years following the publication of the Observations (February 10, 1776 to February 10, 1778) the string “Dr. Price” appeared 325 times, compared to 46 times in the two years prior to the publication.

Price had become a celebrity. His popularity was illustrated by an advertisement for the London Magazine’s May edition, which stated that “As the OBSERVATIONS on CIVIL LIBERTY have been so universally read, the Publisher of the London Magazine flatters himself that he cannot make his Subscribers a more acceptable Present, than an accurate Engraving of the Author […] together with an impartial Character of the Man.” A nineteenth century biography of Price’s intimate friend, the poet Samuel Rogers, noted that despite the animosity and even threats on his life that Price had to endure following the publication of the Observations, “the populace […] loved and reverenced the courageous advocate of popular rights.” Rogers is quoted as saying that when Price rode in the streets of London on his white horse, “like Demosthenes he was often diverted by hearing the carmen and orange-women say, ‘There goes Dr. Price!’ ‘Make way for Dr. Price!’

The impact of the Observations is best measured by the extent of the debate that it provoked. In his survey of 1,400 British pamphlets on the American Controversy published in the years 1764-1783, Thomas Adams listed 34 pamphlets commenting on

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141 J. Moir, Obedience the Best Charter; or, Law the Only Sanction of Liberty. In a Letter to the Rev. Dr. Price (London: Richardson and Urquhart, 1776), 98.
142 See the advertisement in Lloyd’s Evening Post (22-24 May 1776).
143 Clayden, The Early Life, 34.
144 “Nothing could more strongly show the importance of this work and the effect it produced,” wrote Morgan in his Memoirs, referring to the Observations, “than the immense number of pamphlets which were published in answer, or rather in abuse of it.” Morgan, Memoirs, 61.
the Observations alone, making this the most extensive exchange of British pamphlets on the American controversy provoked by any single work in the years 1764-1783. Five more pamphlets were listed by Adams as replies to Price’s Additional Observations on the Nature and Value of Civil Liberty (1777) and the collected edition of the two essays, Two Tracts on Civil Liberty (1778).

Many of the responses to Price were commissioned by the government. “All the hireling writers were employed to answer,” wrote Horace Walpole in his journal. According to Morgan, the ministry was encouraging both its “immediate pensioners” and “such as hoped to recommend themselves to a place among that honourable band” to publish refutations of Price. Adam Ferguson, for example, who had refused on previous occasions to write for the government, was offered a pension of £200 per year around this time, in the hope that his “gratitude and honour” would compel him to compose a reply to Price. When Ferguson fulfilled the expectation, Sir Grey Cooper, joint Secretary of the Treasury, wrote to thank him for his pamphlet, and remarked:

Dr Price’s pamphlet has been circulated with the same zeal that the Methodists circulate their manuals and practices of piety. Like base coin struck in times of disorder and confusion, it has had a value and a currency in the world which no

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145 Adams, II, 921-923, 926. In this count, I have included all pamphlets mentioned in Adams’s “First Price Series,” except no. 32 in this series, which properly belongs in the “Second Price Series” on p. 926, where it indeed reappears. I have also included in the count the two replies and one counter-reply occasioned by Wesley’s Some Observations on Liberty, since they discuss Price’s Observations as well.

146 Price’s work on liberty is referenced in some additional pamphlets, not explicitly provoked by his work. A comprehensive list is offered in the Appendix to this study. No attempt has been made to list the publications on this issue that appeared in the newspapers and were not published in pamphlet form.

147 Walpole, 23.

148 Morgan, Memoirs, 61.

other times could have given it. In that respect he deserves and demands what neither the weight of his argument or the accuracy of his knowledge entitle him to expect – an answer from a good and able writer.150

In assessing the impact of Price’s *Observations*, an instructive comparison can be made with another celebrated pro-American work, Thomas Paine’s *Common Sense* (1776). The first edition of the *Observations* came off the printing press in London a month after Paine’s *Common Sense* appeared in Philadelphia’s bookshops. These two publications were by far the most widely read and influential works published in the years of the crisis between Britain and the colonies, and their impact on the American Revolution has been a matter for some speculation. Morgan wrote that Price’s popularity on the Western side of the Atlantic “so far prevailed, that these observations, in conjunction with another celebrated but less temperate pamphlet [Paine’s *Common Sense*], were believed to have had no inconsiderable effect in determining the Americans to declare their independence.”151 Roland Thomas asserted: “With Paine’s *Common Sense*, which had been circulated a short time before it, Richard Price’s *Observations on Civil Liberty* was a powerful, and it well may be the decisive, factor in the determination of America to declare its Independence.”152

The claim that Price’s pamphlet decisively influenced the decision to declare independence is unsubstantiated. Historians have presented evidence to support the

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contention that Paine’s work helped in persuading the American patriots to declare independence,\textsuperscript{153} but no evidence has been adduced to show the impact of Price’s 
*Observations* on the colonists. There is some evidence that Price’s arguments and the success of his work encouraged the revolutionaries in their struggle with Britain,\textsuperscript{154} and there are indications of his growing stature with the American founders over time.\textsuperscript{155} There is certainly no evidence that his influence in America could rival that of Paine.\textsuperscript{156}

In Britain, however, Price’s work was much more influential than Paine’s. The latter’s revolutionary writings “were little read in England,” as a contemporary writer observed.\textsuperscript{157} Paine’s avowed republicanism and violent attack on the mixed constitution were too extreme even for the friends of liberty, and they failed to excite wide readership or public controversy in London. Thomas Adams lists only four British pamphlets published in response to *Common Sense* in the seven years following its publication.\textsuperscript{158}

Why did Price’s defense of the American colonists have such an impact in Britain? The *Observations* was published at a critical juncture in the crisis between Britain and the colonies, shortly after the outbreak of the war, and before the American Declaration of Independence. Public opinion in London, especially amongst the large and

\textsuperscript{153} Foner, 74-87; Claey, 45-51; Keane 108-139.
\textsuperscript{154} Letter from Arthur Lee.
\textsuperscript{155} Most important, perhaps, was the resolution of the American Congress in October 1778 that appointed Benjamin Franklin, Arthur Lee, and John Adams to inform Price that “it is the Desire of Congress to consider him as a Citizen of the united States, and to receive his Assistance in regulating their Finances,” an offer that Price politely turned down, citing his connection to England and advancing age. Journals of the Continental Congress, 1774-1789 (1908), XII, 984-985. Price, *Correspondence*, II, 29-31, 34-36.
\textsuperscript{156} See the discussion in Cone, 88-90.
\textsuperscript{158} Adams, The American Controversy, II, 924. Another pamphlet published in response to Paine was *Reason. In Answer to a Pamphlet Entitled, Common Sense*, (Dublin: James Hoey, 1776).
liberal community of dissenters and merchants, was uneasy with the war. Samuel Rogers’s biographer wrote:

one of Samuel Roger’s early recollections was, that on one evening after reading from the Bible at family prayers, his father explained to his children the cause of the rebellion in the colonies, and told them that our nation was in the wrong […] When news of the battle of Lexington reached England […] Thomas Rogers put on mourning […] The Recorder of London put on mourning for the same event at the same time […] To this very strong and widespread feeling Dr. Price’s Essay gave powerful literary expression.159

The opportune timing of Price’s publication must have contributed to its impact in Britain, but it cannot sufficiently account for it, since Paine’s Common Sense was published around the same time and received much less attention. A crucial factor seems to have been Price’s reputation. To quote one of his critics: “The reputation of Dr. Price, as a man of ingenuity and learning, increases that éclat to the book, which the spirit of party would have raised, had the author been unknown.”160 As discussed earlier in this chapter, following the publication of his Observations on Reversionary Payments and Appeal to the Public on the Subject of the National Debt, Price became widely respected as an able and ingenious commentator on public affairs, and particularly on matters of public finance. The sensation created by the Observations on the Nature of Civil Liberty can be partly attributed to this reputation, especially when considered together with the

159 Clayden, The Early Life, 32-33.
anxiety of the English patriots that the national debt threatens the independence of the House of Commons.

In Part II of the *Observations*, Price devoted considerable attention to the economic repercussions of the war with the colonies. He warned that it would lead Britain to financial ruin, and included in the Appendix calculations of the national debt to prove it.\(^{161}\) Referring to Price’s *Observations*, Horace Walpole noted in his journal that “the part that hurt Administration was the alarm it gave to the proprietors of the funds,” that is, the proprietors of government securities, “by laying open the danger to which they were exposed by ruinous measures of the Court.”\(^{162}\)

From the point of view of the government, Price’s argument against the war based on political arithmetic might have been perceived as the most damaging part of the *Observations*, due to the apparent objectivity of numbers and Price’s reputation as an able and impartial calculator. An indication that the threat posed by the *Observations* was initially perceived in this manner is provided by the fact that one of the earliest government-commissioned replies to Price, written by the Scottish writer and poet James MacPherson, was a short paper entitled “a Refutation of Doctor Price’s State of the National Debt,” appended to the sixth edition of MacPherson’s widely circulated pamphlet *The Rights of Great Britain Asserted Against the Claims of America* (1776). McPherson accused Price of “gross errors” in his calculations, and derisively suggested that “Great-Britain must immediately sink under the intolerable burden of her debts,

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\(^{162}\) Horace Walpole, *Journal of the Reign of King George the Third*, II, 22. See also Cone, 77.
because Dr. PRICE finds it convenient, for his present purpose, to load her shoulders with many MILLIONS more than she actually OWES.”

Some of Price’s critics attributed the success of his pamphlet to the aggressive measures taken by the supporters of the American cause in circulating and advertizing the Observations, including the printing of excerpts in the newspapers and the distribution of cheap editions of the pamphlet in the streets. The decision made by the Common Council of the City of London to thank Price for the Observations and to honor him with the Freedom of the City presented “in a Gold Box of the value of Fifty Pounds,” must have also advertised the work.

It seems plausible, however, that the government itself inadvertently contributed to the promotion of Price’s work by commissioning replies to it. Price’s Observations enjoyed an initial success independent of the pro-government response to it, but the unprecedented volume of critical discourse devoted to the Observations might have increased public interest in the pamphlet, especially amongst supporters of the government who might not have been exposed to it had it remained unchallenged by pro-government writers.

163 James Macpherson, The Rights of Great Britain Asserted against the Claims of America: Being an Answer to the Declaration of the General Congress. The Sixth Edition. To Which Is Now Added, a Refutation of Dr. Price’s State of the National Debt (London: T. Cadell, 1776), 117-123, esp. 119, 123. This paper was expanded into “A Further Refutation of Doctor Price’s State of the National Debt” in the tenth edition, 117-131. The Morning Post and Daily Advertiser reported on 15 March 1776 that MacPherson was granted an allowance of £400 a year for “the new ministerial pamphlet, which administration makes presents of,” and that “his refutation of Dr. Price has given so much satisfaction to his patrons that it is said he has had the promise of 100l. a year more.”


165 Addresses, Remonstrances, and Petitions (1778), 127-128; London’s Roll of Fame (1884), 57-58.
Surprisingly, in the few existing discussions of the impact of the *Observations*, relatively little credit has been given to the fact that Price boldly challenged the received view on what may have been the single most important concept in eighteenth century Whig ideology: British liberty. The British often congratulated themselves on possessing what they considered to be the freest constitution in the world, and this was one of their primary causes for national pride.\(^{166}\) Price himself indulged in effusive praise for British liberty in an early sermon, entitled *Britain’s Happiness, and the Proper Improvement of It* (1759).\(^{167}\) The extraordinary impact of Price’s *Observations* owes in part to the fact that he reformulated the British idea of liberty in a shocking way that helped in drawing some of his critics into the arena.

Henry Goodricke, for example, portrayed Price’s publication as the most dangerous formulation of the “unwarrantable and licentious principles” that have served to support the American revolt. He thought that Price’s arguments needed to be addressed given the “uncommon sanction” that his work had met with, the “more general systematical appearance” of the treatise in comparison to prior publications, and “because the well-founded literary reputation of the Author, and the singular importance given to it by particular circumstances, lend it an authority capable of doing much more extensive mischief than any thing hitherto published.” For Goodricke, as for some other writers, the most troubling aspect of Price’s *Observations* was its potential to implant false principles of liberty and government in the minds of the British people. His reply explicitly focused

\(^{166}\) See John Philip Reid, *The Concept of Liberty in the Age of the American Revolution* (1988), 1, 74-76.

\(^{167}\) “There is no country where [Liberty] is enjoy’d in such extent and perfection,” he argued in the sermon, elaborating on the different ways in which civil and religious liberty was secured in Britain. See Britain’s Happiness (1759), 6-10. Extracts from the sermon were printed during the French Revolution. In the introductory note added to them, the editor claimed that Price’s words should be taken as an objective testimony on the blessings of British liberty in contrast to republican claims.
on these principles, aiming to refute them and repel the ideological threat they imposed.\textsuperscript{168} Richard Hey similarly chose to focus on Price’s principles, complaining, somewhat more vaguely, that the nature of civil liberty and the principles of government “have been treated confusedly by the most esteemed Writers.” He argued that these principles needed to be determined in the abstract before they could be applied to current affairs.\textsuperscript{169}

Goodricke and Hey seem to have had genuine philosophical interest in the principles of liberty and government. Other critics may have simply identified it as the key to undermining his whole argument, and by implication, the position of the American rebels in the dispute with Britain. John Shebbeare, for example, expressed willingness to meet Price on his own theoretical ground and show his principles to be “erroneous, impracticable and subversive of the ends of national society.” He purported “to demolish that edifice which he has thereon erected,” and added: “The foundation being sapped, the whole fabric necessarily tumbles down.”\textsuperscript{170} John Lind similarly said of Price’s principles: “this is the corner-stone of the whole building; if this be removed all is destroyed. If these principles be false, for the rest of your work we have only to commit it to the flames.”\textsuperscript{171}

James Stewart concluded his own brief examination of Price’s principles of liberty and government by boasting: “Having taken down the ground from under you, like

\textsuperscript{168} Henry Goodricke, \textit{Observations on Dr. Price’s Theory and Principles of Civil Liberty and Government, Preceded by a Letter to a Friend, on the Pretensions of the American Colonies, in Respect of Right and Equity} (York: J. Dodsley, T. Cadell, and R. Baldwin, London; and J. Todd, York, 1776), 1-3, 63-64. Nevertheless, Goodricke attached to his philosophical Observations a “Letter to a Friend” commenting on the claims of the American colonies.


\textsuperscript{171} Lind, 5.
Quicksand, and exposed the Absurdity of your first Principles, your rising Superstructure tumbles down of Course.”

Whatever their motivations, the fact is that many of Price’s critics responded to his theoretical challenge and formulated their own conceptions of civil liberty. Whether they grounded the authority of government in divine right, an ancient constitution, or social happiness, most of them believed Price’s *Observations* to be subversive of the British idea of liberty. As a consequence, the Price Debate, while remaining embedded in the American controversy, also shaped itself into a theoretical exchange on the nature of civil liberty and its relation to democratic participation.

**Price’s Defense and Development of His Theory**

Price was reluctant to enter into a controversy with his critics. He routinely declared his intentions to keep his silence or withdraw from politics, only to be drawn into the arena again and again. His first reply to his critics appeared in the preface to the fifth edition of the *Observations*, dated March 12, 1776. Price was responding to the first government-commissioned reply to his treatise, written by the Scottish philosopher James Stewart, *A Letter to the Rev. Dr. Price, F.R.S. Wherein His Observations on the Nature of Civil Liberty, the Principles of Government, &C. Are Candidly Examined; His Fundamental Principles Refuted, and the Fallacy of His Reasoning from These Principles Detected* (London: printed for the author, and sold by J. Bew, 1776), 20. The *Monthly Review* stated that the style of Stewart’s Letter was “not very polite,” and even “rude” and “illiberal,” but conceded that he was “more shrewd in his arguments than many of the Doctor’s numerous antagonists.” *The Monthly Review*, LV (1776), 65.

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173 “Preface to the Fifth Edition,” in *Observations*, fifth edition (1776); *Additional Observations*, xvi; “The General Introduction and Supplement to the Two Tracts on Civil Liberty, the War with America, and the Finance of the Kingdom” (1778), xxiii; Price, *Correspondence*, I, 252, 258, 270.
James MacPherson. MacPherson’s critique, like many of the pro-government publications that followed in its heels, attempted to delegitimize Price’s theory of liberty by portraying it as being wildly divergent from common wisdom, as well as “utterly incompatible with practice.” Price’s response was to insist that his interpretation of liberty captured the true spirit of British liberty, and that the government was the one betraying its legacy:

The Principles on which I have argued form the foundation of every state as far as it is free; and are the same with those taught by Mr. Locke, and all the writers on civil Liberty who have been hitherto admired in this country. But I find with concern, that they are not approved by our Governors.

Price defended his principles of civil liberty and free government at length in the *Additional Observations*. His initial motivation for this treatise was different: it was born of his desire to refute the claims made by Lord North in his speech on the budget in the Commons on April 24th, 1776. In this speech, the Prime Minister gave a glowing account of the financial state of the nation, explicitly referring to Price and other critics of the government’s financial policies: “however their facts might be just, pertinent, or important,” said the Prime Minister, “their conclusions and predictions generally turned out to be false.” Shortly after the speech, Price started planning his reply, but the

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175 Ibid., 117-118.
plan materialized only in February 1777, when he published the *Additional Observations*, whose second part was a reply to Lord North’s speech. In the meantime, the “torrent of abuse” that he suffered from his “numberless answerers,” persuaded Price to devote the first part of the *Additional Observations* to defending his principles of liberty and government.179

In late January 1778, Price published the collected edition of his two treatises, *Two Tracts on Civil Liberty, the War with American, and the Debts and Finances of the Kingdom*. Unlike the sensational *Observations*, Price’s *Additional Observations* and *Two Tracts* generated only a handful of critical responses. Price was particularly stung by four of the critiques. The first two were published in 1777 by the Archbishop of York, William Markham, and by Edmund Burke.180 Price replied to them at length in the “General Introduction and Supplement” to the *Two Tracts*, which was also published as a separate pamphlet.181 In a letter to his friend William Adams from December 28th, 1778, Price replied to the attack on “Mr. Locke and His Followers” by the Dean of Gloucester, Josiah Tucker.182 Another critique that left Price “astonished” appeared in the 1779 Ash-Wednesday Sermon of the Bishop of London, Robert Lowth. Price replied to it in his Fast Sermon of February 10th that year.183

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178 See the advertisement in the seventh edition of the *Observations*, dated May 6, 1776. See also Price’s discussion of his plans in a letter to William Adams. Price, *Correspondence*, I, 249.
179 Ibid., I, 248; *Additional Observations*, vii.
182 Price wrote to Adam that a friend sent to him “the first part of Dr Tucker’s confutation of Mr Locke’s.” Apparently this was a draft version of Part I of Tucker’s *Treatise Concerning Civil Government* (1781), and it was circulating in London in 1778.
Alongside the continued attacks on Price and his principles, the publication of the *Additional Observations* and the *Two Tracts* cemented his reputation as a leading philosopher of liberty in America and in Europe. Writing from Paris on April 20th, 1777 to thank Price for a copy of the *Additional Observations*, Arthur Lee exclaimed: “I never in my life read any thing with more satisfaction […] May your light and labours, Sir, reform the degeneracy of the times; and re-inspire the spirit of liberty, into the people of England.” On October 1778, the Continental Congress instructed Lee, Benjamin Franklin, and John Adams to offer Price to relocate to America, become a citizen of the United States, and assist the new government in regulating its finances. Price politely refused.

In December 1777, the leading Dutch patriot Joan Derk, Baron van der Capellen, wrote to Price to inform him that he translated the *Observations* and the *Additional Observations* into Dutch, leading to a correspondence between the two. On March 22nd, 1778, Price received a long letter from the French economist and statesman Anne-Robert-Jacques Turgot, Baron de l’Aulne. In this quite arrogant letter, Turgot reproved the British for failing to advance in political science, and claimed that Price was “almost the first” of the writers of his country to demonstrate the “falsity of the notion so frequently repeated by almost all Republican Writers, ‘that liberty consists in being

184 Price, *Correspondence*, I, 253, 255.
186 Price, *Correspondence*, II, 35-36.
188 The correspondence between the two started when Price complimented Turgot, in the *Additional Observations*, on the reforms he introduced as minister of finance. Turgot was provoked, however, by Price’s implication that he was dismissed from his post for “want of address,” and wrote to correct Price, leading to a correspondence between them. Price, *Additional Observations*, 151; Price, *Correspondence*, I, 256; Price, *Observations on the American Revolution*, 90-91, 108-109; Price, *Correspondence*, II, 3-19, esp. 10-11.
subject only to the laws,’ as if a man could be free while oppressed by an unjust law.” He also criticized at length the state constitutions formed by the Americans.\textsuperscript{189} Price decided to make the letter public after Turgot’s death,\textsuperscript{190} and its content, particularly Turgot’s attack on the American imitation of the British mixed constitution, provoked John Adams into writing his \textit{Defence of the Constitutions of Government of the United States of America} (1787).\textsuperscript{191}

Turgot’s appeal to Price, as well as the request of his American friends, to assist the United States in forming its new government,\textsuperscript{192} encouraged him to compose of his most significant and influential works, \textit{Observations on the Importance of the American Revolution, and the Means of Making it a Benefit to the World} (1784). This was an extraordinary document, in which Price declared the American Revolution to have been a providentially ordained event, opening “a new aera in the history of mankind,” in which the new spirit of resistance to tyranny and oppression, free government, and respect for rights would spread and enlighten the world.\textsuperscript{193} Among the advice offered by Price to the Americans, he recommended liberty of conduct in all civil matters; liberty of discussion in all speculative matters, based on the principle of the neutrality of the state towards opinions and doctrines; the separation of state and religion, enabling respect, and not merely toleration, towards all forms of religious belief and practice, including atheism; the preservation of social equality and the simple way of life of the American yeomanry against luxury and corruption; the enhancement of the powers of Congress; the settlement

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\textsuperscript{189} \textit{Ibid.}, II, 11-18. \\
\textsuperscript{191} The expanded edition was entitled \textit{A Defence of the Constitutions of Government of the United States of America, against the Attack of M. Turgot in His Letter to Dr. Price} (1792). \\
\textsuperscript{192} Price, \textit{Correspondence}, II, 17, 30-31, 225. \\
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of national debts; the abolition of tests and oaths; liberal education; and the abolition of slavery. The work was widely circulated in America, and received favorable responses from Benjamin Franklin, Thomas Jefferson, George Washington, and John Adams, amongs others. Honoré Gabriel Riqueti, Comte de Mirabeau, published an abstract of the work with his own reflections of it in French and in English, as well as a separate edition of his *Reflections on the Observations on the Importance of the American Revolution* (1786) in Philadelphia.\(^{194}\) Carl Cone quite persuasively argued that Price’s work influenced the Constitution of the United States.\(^{195}\)

Price’s notorious sermon in commemoration of the Glorious Revolution and praise of the French Revolution, published as *A Discourse on the Love of Our Country* (1789), was an extension of the principles of liberty and government established in the *Observations on the Nature of Civil Liberty*, boosted by the millenialist narrative of progress and enlightenment developed in the *Observations on the Importance of the American Revolution*.\(^{196}\) It was the culmination of the debate begun in 1776, when Price published his sensational defense of the American Revolution. The principles that provoked Burke’s attack on Price in the *Reflections on the Revolution in France* (1790)


\(^{196}\) The millenialist theme is more central to Priestley’s writings, but it can be discerned in Price’s later work, where he speaks, for instance, of “the world outgrowing its evils, superstition giving way, antichrist falling, and the Millenium hastening;” Richard Price, *The Evidence for a Future Period of Improvement in the State of Mankind with the Means and Duty of Promoting It* (London: T. Cadell & J. Johnson, 1787), 25. For an account of Price and Priestley as “republican millenialists,”” see Jack Fruchtman, *The Apocalyptic Politics of Richard Price and Joseph Priestley: A Study in Late Eighteenth Century English Republican Millennialism* (Philadelphia: American Philosophical Society, 1983). See also the critique in Thomas, "Review of Apocalyptic Politics " esp. 610-611.
were the pro-democratic principles of liberty and government that Price elaborated in 1776, and particularly the premise that the authority of government is entrusted to it by the people, and the associated argument that the people have the right and duty to resist oppression, choose their governors, and dismiss them for misconduct. ¹⁹⁷

Price never properly defended his principles against Burke’s attack. His preface to the fourth edition of the *Discourse* (1790) protested Burke’s attribution to him of exalting in the execution of the King of France, and implied that Burke himself was guilty of high treason for denying the limitation of the absolute power of the Crown in the revolution settlement. ¹⁹⁸ Other than that, his standard resolution to take no notice of his detractors, followed by his death on April 19th, 1791, limited his part in the Revolution Controversy. His theory of liberty and government, however, was sufficiently developed and defended in previous writings, particularly in his replies to the critics of the *Observations*.

¹⁹⁷ Price, *Discourse*, 20-34.
CHAPTER 2

The Debate on Liberty
And the Free State

Reconsidering the Price Debate

The “crowd of writers,” as Price referred to the critics of the *Observations*, consisted of paid propagandists, lawyers, conformist and non-conformist clergymen, philosophers, politicians, merchants, and other citizens, mostly outraged. Some wrote letters to the newspapers and published pamphlets whose stated aim was to respond to his publication. Other alluded to his work in the course of their comments on political affairs. This chapter focuses on pamphlets that addressed Price’s theory of liberty and government. I have been able to locate 58 pamphlets that refer or allude to this theory in the years 1776-1784, the vast majority of which were published in the two years following the publication of the *Observations*.

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Despite its exceptional extent and theoretical significance, the Price Debate has received scant scholarly attention. Carl B. Cone discussed it in a few paragraphs, focusing on John Wesley’s reply to Price.\(^{201}\) Henri Laboucheix devoted a brief discussion to Price’s critics, focusing on John Lind, Wesley, and John Fletcher.\(^{202}\) D. O. Thomas carefully analyzed Price’s arguments on liberty, but generally ignored his critics, except for the exchange with Edmund Burke.\(^{203}\) J. A. W. Gunn briefly discussed the response to Price’s *Observations*, mentioning in particular Lind, Richard Hey, and John Shebbeare.\(^{204}\) Gregory I. Molivas mentioned some of the objections to the *Observations* in his discussion of the political implications of Price’s conception of free will.\(^{205}\) John Philip Reid devoted a few paragraphs to the exchange between Price and his critics, framing it as a debate on government by consent.\(^{206}\)


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\(^{201}\) Cone, *Torchbearer of Freedom*, 82-83.
\(^{206}\) Reid, *The Concept of Liberty in the Age of the American Revolution*, 80-82.
Ogden discussed Price’s *Observations* and the response to it, classifying Wesley, John Goodricke, and John Gray as “conservative Lockeans,” because they allegedly maintained Locke’s distinction between the state of nature and civil society, and contrasting them with the utilitarianism of Hey, Lind, and Joseph Wimpey, though Ogden admitted that the latter was the least utilitarian of the three. The rest of the replies to Price were classified as miscellaneous answers, with a special section devoted to Burke’s critique of the *Observations*.\(^\text{207}\)

Ogden’s classification of Goodricke and Wesley as Lockeans, ignoring the fact that the first endorsed Locke’s theory of consent and the second repudiated it, indicates the failure of his theoretical framework to capture the issues at stake in the Price Debate. More fundamentally, his study relied on the assumption that “Locke’s political theory was […] the dominant theory of the first half of the eighteenth century,” and declined in the second half of the century, an assumption that has since been effectively undermined by John Dunn and J. G. A. Pocock.\(^\text{208}\) While the revival of Lockean ideas is important to understanding the American controversy, an exclusive focus on Locke’s legacy misses the engagement of Price and his critics with the legacy of the Commonwealth tradition, and this issue is addressed in the present study.

John Philip Agnew’s unpublished Ph.D. dissertation *Richard Price and the American Revolution* (1949) contained the most comprehensive survey of the Price

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\(^{207}\) Ogden, “Rejection of the Antithesis of Nature and Art,” 59-82.

Debate. Agnew, however, was more interested in the American controversy than in Price’s theory of liberty. His account was mostly descriptive in nature, summarizing the arguments of Price’s critics and offering little in terms of conceptual analysis.

By far the best discussion of the Debate to date is to be found in Peter N. Miller’s *Defining the Common Good: Empire, Religion and Philosophy in Eighteenth Century Britain* (1994). Condensed within the space of 26 pages, Miller’s astute analysis of the Debate paid particular attention to the question of empire and kingdom, but also touched upon the language of slavery, the Price-Priestley disagreement on political liberty, Shebbeare’s critique of Price, the debate on Locke’s legacy, and the use of utilitarian arguments in the Debate.

What this chapter aims to contribute to the existing literature is a conceptual analysis of the Price Debate, which stressed the engagement of the participants with the Whig/neoclassical assumptions about liberty and government and their relation to democratic participation. In reacting to Price’s democratic conception of liberty and government, his various critics will be seen to have reexamined not only the relation between free government and democratic participation, but also the principles of free government, the relation of this concept to the civil liberty of individuals under the law, and the relation between individual liberty and the security of their rights under the law.

The analysis in this chapter has drawn on the insights of Quentin Skinner and Philip Pettit on the neoclassical (or “neo-Roman” or “republican”) understanding of freedom. Looking particularly at the political thought of the seventeenth century parliamentarians

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210 Miller, *Defining the Common Good*, 373-399.
and republicans, and drawing on Pettit’s philosophical analysis of liberty as non-domination, Skinner described the neo-Roman writers as preoccupied with the nature of the conditions required for the secure enjoyment of civil rights. He highlighted two assumptions shared by these writers. First, the neo-Roman writers understood individual freedom to be inseparable from the corporate freedom of the community or the state. Second, their understanding of the possession or loss of freedom is based on an account of slavery as the state of dependence upon the power of another. Skinner argued that according to the neo-Roman view, the freedom of the state is associated with the self-government of the political body, and the latter requires both external and internal freedom. Internal freedom, in turn, implies, at the very least, constitutional constraints on the power of the monarch, which may come in the form of the mixed constitution, and at most, a republican form of government.²¹¹

Price is an ideal example for a thinker whose thought contained these assumptions around the time of the American Revolution. His provocative way of presenting his view, his emphasis on democratic participation in government, and the sensitive timing of the Observations have created a backlash that subjected not only his position, but also the whole way of thinking about liberty described by Skinner and Pettit, to rigorous critique. In particular, the critics reexamined of the idea of the free state and formulated different conceptions of it intended to challenge its association with democratic participation.

Price’s Observations was widely criticized for being innovative, obscure, utopian, and dangerous. But when we examine the arguments and the assumptions made by different critics, we can recognize different critiques of the relations between individual

²¹¹ Skinner, Liberty before Liberalism, 17-57, and see also 59-99.
liberty, institutional liberty and democratic participation framing these claims. Quite a few of the works written in critique of Price were based on constitutional Whig ideas of civil liberty and the free state, and they focused on attacking the relation between these ideas and democratic participation. Other critics attempted to redefine the idea of free government by identifying it primarily with the rule of law, or by associating it with the fit between the laws and some criterion of good government, or by reducing it to the right of violent resistance to government in extreme cases of oppression.

The two most radical critiques were made by some Tory and utilitarian writers. Some Tory writers openly rejected the idea that civil liberty depends on the existence of political security under free government. Some utilitarian writers rejected the idea that individual liberty consists in the security of civil rights under the rule of law. Still, as argued both in this chapter and in Chapter 5, even some of the utilitarian critics, particularly Lind and Bentham, retained important elements of the neoclassical idea that the security of liberty should be protected by the institutional framework of a free state.

**Confused, Visionary, and Dangerous**

Price’s critics employed a variety of arguments against his views, based on reason, law, scripture, history, and social science. Some of the critics focused exclusively on the more political part of the *Observations*, but most addressed his theoretical definitions and
principles as well. The broad consensus seemed to be that Price was propagating new and unreasonable principles of liberty and government.

A recurring complaint was that Price’s definitions were contrary to the common understanding of liberty. John Gray, for example, complained that “the Doctor has presumed to give a meaning to the term Civil Liberty different from the commonly received meaning,” and James Stewart expressed surprise at Price’s “new fangled speculative Principles of Liberty.” Richard Hey commented on the tendency of the Observations “to perplex a subject with arbitrary definitions of terms which in their common and received acceptation are already sufficiently determinate.” John Wesley wrote: “This is not what all the world means by Liberty and Slavery […] Whoever talks thus, should say honestly, ‘Reader, I give you warning, I affix a new sense, not the common one, to these words, Liberty and Slavery.’”

212 In his own comment on the controversy, in the Additional Observations, Price spoke of writers “without number” who had published “virulent invectives” against him. He noted, however, several “writers of opposite sentiments,” who answered him “without abuse or rancour.” He referred to six publications: Experience Preferable to Theory, which was attributed by some to Thomas Hutchinson; Remarks on a Pamphlet Lately Published by Dr. Price, which he knew to have been composed by Adam Ferguson, though he did not mention him by name; Henry Goodricke’s Observations on Dr. Price’s Theory and Principles of Civil Liberty and Government; Richard Hey’s Observations on the Nature of Civil Liberty and the Principles of Government; John Wesley’s Some Observations on Liberty; and John Fletcher’s American Patriotism Farther Confronted with Reason, Scripture, and the Constitution. Price expressed his belief that these works, all of them published in 1776, contained the most important arguments raised against him. In addition, he singled out “the ablest” of his more abusive critics, John Lind. Additional Observations, xiii-xvi.

213 John Gray, Doctor Price’s Notions of the Nature of Civil Liberty Shewn to Be Contradictory to Reason and Scripture (London: T. Becket, 1777), 13. Gray’s pamphlet was favorably reviewed in The Critical Review, XLIII (1777), 73, and in The Monthly Review, LVI (1777), 152, though the latter criticized him for having “failed in the respect which was due to the Dr.’s integrity, and amiable simplicity of character.”

214 Stewart, Letter, 22.

215 Hey, Observations, 6-7.

216 John Wesley, Some Observations on Liberty: Occasioned by a Late Tract (London: Printed by R. Hawes, and sold at the Foundry, in Moorfields, and at the Rev. Mr. Wesley’s preaching-houses in town and country, 1776), 6. See also: “His ideas of Civil Liberty seem to differ greatly from the ideas of other men.” Civil Liberty Asserted, and the Rights of the Subject Defended, against the Anarchial Principles of the Reverend Dr. Price in Which His Sophistical Reasonings […] Are Exposed and Refuted, (London: J. Wilkie, 1776), 7.
Some of the critics argued, not entirely without merit, that Price’s treatment of the principles of liberty in general was “confused and unintelligible,” as Stewart put it. “I cannot say I understand your definitions!” wrote Stewart. “I dare say ninety-nine out of an hundred of your Readers, are in the same Predicament with me! […] I am doubtful whether you yourself rightly know your own Meaning!” 217 John Gray wrote of Price’s “wonderful absurdity and confusion of ideas,” adding that the his “declamatory rant in praise of Dear Liberty […] is remarkable for nothing but inaccuracy and absurdity,” and claiming that Price himself “has nothing but the most blundering notions about it.” 218

Lind wrote that he found in the Observations “abuse of terms – confusion of ideas – intemperate ebullitions of misguided zeal – gloomy pictures of a disturbed imagination.” 219 His main point was that Price erroneously treated liberty as “something positive.” An additional criticism was that Price’s four divisions of liberty did not indicate differences between types of liberty, but between “the acts about which that liberty is employed.” Thus, religious liberty, for example, was simply the liberty of the individual applied to matters of religion. Lind ridiculed Price and claimed that using the same method he could establish as many divisions of liberty as the number of possible human acts. 220 Richard Hey, who read Lind’s original letters to the newspaper, produced

217 Stewart, Letter, 6-7, 9.
218 Gray, Dr. Price’s Notions, 4.
219 Lind, Three Letters, i.
220 On this point, Lind wrote: “Suppose, for instance, you had given us for a fifth division, convivial liberty, or the power of following at all banquets our own sense of sweet or sour, and of eating and drinking in conformity to our own digestive and tasting faculties. Or suppose you have invented some sonorous title for a sixth grand division of liberty, once, and but once, established by the solemn edict of a Roman emperor, which enacted that every man might break wind backwards when he pleased.” Lind, 10-11. Some reviewers thought that Lind’s “affecting to be witty” only weakened the argument of the Three Letters. See The London Magazine (September 1776), in The London Magazine or Gentleman’s Monthly Intelligencer, XLV (1776), 494.
a similar but more systematic critique of Price’s definitions of liberty, relying on his own analysis of the concept of liberty.\textsuperscript{221}

Perhaps a more perplexing issue was that Price defined civil liberty as a property of the political body, “the power of a Civil Society or State,” while the other definitions of liberty referred to the freedom of the individual.\textsuperscript{222} To add to the confusion, Price referred to civil liberty, in other places, as a property of the individual.\textsuperscript{223} John Gray and James Stewart both pointed out this apparent inconsistency.\textsuperscript{224}

Price’s critics were right to complain of the “perplexing obscurity” of his definitions of liberty.\textsuperscript{225} The \textit{Observations} was Price’s “most famous, though not his most scholarly work,” to quote Peter Brown.\textsuperscript{226} His conception of physical and moral liberty was more fully developed in his moral and theological writings. His conception of religious liberty is better understood against the background of the struggle against the legal discrimination of the Dissenters. His idea of civil liberty received much clearer treatment in the \textit{Additional Observations}. The views expressed in the \textit{Observations} seem considerably more coherent when read in the context of his other works.

Obscurity, however, was not the most serious charge brought against Price’s understanding of civil liberty. Another widely shared sentiment was that Price’s

\begin{footnotesize}
\begin{enumerate}
\item Hey distinguished between two methods of analyzing liberty: by looking at different sorts of restraint, or by looking at different kinds of actions from which an individual may be restrained. Thus, for example, civil liberty could be freedom from restraints imposed by the civil laws, or it could be freedom to act without restraint in civil matters. Toleration, according to Hey, is “the absence of Civil Restraints in matters of Religion.” His implication was that Price failed to distinguish between these methods of analysis. Indeed, Price never made it quite clear, for example, whether physical liberty was freedom from physical restraints or freedom to act in physical matters. Hey, \textit{Observations}, 10-24.
\item Price, \textit{Observations}, 3.
\item “As Moral Liberty is the prime blessing of man in his private capacity,” wrote Price, “so is Civil Liberty in his public capacity.” Price, \textit{Observations}, 18.
\item Gray, \textit{Dr. Price’s Notions}, 2-5; Stewart, Letter, 11.
\item Gray, \textit{Dr. Price’s Notions}, 5.
\item Brown, \textit{The Chathamites}, 148.
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principles were removed from reality. The author of *Experience Preferable to Theory*, for example, said that “the Doctor’s republic is altogether Utopian or visionary.”\(^{227}\) John Stevenson addressed Price: “your definition of liberty is so inconsistent with every principle of society, that no subject upon earth can, or ought to enjoy it […] your liberty is real slavery; and your slavery is true liberty.”\(^{228}\) The anonymous author of *Remarks on Dr. Price’s Observations* complained: “Mr. P. proceeds to give us an idea of a government, the child of his own fancy, the very existence of which is inconsistent with human nature.”\(^{229}\) James MacPherson exclaimed that “the NATURE of the Doctor’s civil liberty is too UNNATURAL to have ever existed in any civil society whatsoever […] his PRINCIPLES of Government are too visionary even for theory, and therefore, utterly incompatible with practice.”\(^{230}\)

Partly because it was visionary, the critics believed Price’s theory to be dangerous. It was inciting the people to aspire to ideals that could not be realized, and the attempt to realize them might prove destructive. This line of critique was turned both against Price’s idea of liberty in general, and against his idea of free government.

A number of critics erroneously interpreted Price’s idea of liberty in general to imply that individuals could only be free if they were subject to no externally imposed restraint, including the restraints imposed by law and government. Adam Ferguson, for example, claimed that Price “puts Liberty in contradistinction to Restraint,” and added: “If Liberty be opposed to Restraint, I am afraid it is inconsistent with the great end of civil

\(^{227}\) *Experience Preferable*, 17.
\(^{228}\) Stevenson, *Letters*, 58.
government itself, which is to give people security from the effect of crimes and disorders, and to preserve the peace of mankind.” Alexander Gerard wrote: “That every person should be governed only by his own consent is inconsistent with government.”

Moreover, many of the critics contended that Price’s democratic scheme of free government would lead to the subversion of the social order. The reason, as they understood it, was the corrupt nature of the multitude, and particularly the ignorance and moral depravity of the members of the lower classes, who might use their legislative power to tyrannize over others, and particularly over the rich. In other words, Price’s false, democratic idea of civil liberty might destroy the real achievement of British liberty, which consisted in the protection of individual rights under the law.

Price viewed the debate between himself and his critics as the product of a fundamental disagreement on the source, nature, and limits of political authority. One method of reading the Price Debate would be along these lines. Another would be to separate between different conceptions of the relation between civil liberty, free government, and democratic participation. The following discussion follows both, focusing in particular on the second approach.

231 Adam Ferguson, Remarks on a Pamphlet Lately Published by Dr. Price (London: T. Cadell, 1776), 2-3.
232 Alexander Gerard, Liberty the Cloke of Maliciousness, Both in the American Rebellion, and in the Manners of the Times. A Sermon Preached at Old Aberdeen, February 26. 1778 (Aberdeen, London, and Edinburgh: Alexander Thomson, T. Cadell, and W. Creech, 1778), 9. See also Edmund Burke, Letter to the Sheriffs of Bristol (1777). This was also Bentham’s interpretation: he believed that Price was promoting an ideal of liberty as the absence of coercion. See Chapter 4 below. For a discussion of Price’s theory, see Chapter 5.
233 See, for example, Hey, Observations, 57-58; Ferguson, Remarks, 3-14.
Divine Right and Subjection

The American controversy reopened the seventeenth century debate on the source, nature, and limits of government, often recasting it in the terms of a dispute on the legacy of the Glorious Revolution. In the Observations, Price contrasted his view that government is “the creature of the people” and its powers are delegated and limited by the people with the Tory doctrine of divine authority and the Whig doctrine of the omnipotence of Parliament. He quoted Locke and Priestley as having “abundantly refuted” these doctrines. Price portrayed his own idea of free and popular government as the “fair inheritance of Liberty left to us by our ancestors,” and favorably alluded to the two seventeenth century revolutions in which Charles I and James II were deposed.234 In his replies to his critics, he insisted that the crux of the disagreement was the contrast between his own conception of government by “equal laws made with common consent” and the high Tory account of government whose authority is divine and its power unbounded.235

Indeed, some of Price’s critics were advocating the Tory doctrine of divine right.236 In its original form, the argument advocated the right of kings to rule.237

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234 Price, Observations, 6-7, 14-18.
236 Whether the Tory party and Tory ideology played an important role in late eighteenth century Britain, and what exactly Toryism in this period meant, is a matter of contention among scholars. See the discussion in James J. Sack, From Jacobite to Conservative: Reaction and Orthodoxy in Britain, c. 1760-1832 (Cambridge: Cambridge University Press, 1993), esp. 46-49. Fixing the meaning of “Tory” is made more complex by the polemical use of the term in describing support for the administration of Lord North and opposition to the American Revolution. The discussion of these issues is beyond the scope of this study.
237 James I famously said in Parliament in 1609: “MONARCHIE is the supremest thing upon earth: For Kings are not only GODS lieutenants upon earth, and sit upon GODS throne, but even by God they are called Gods.” James I, Speech to Parliament (1609).
controversy, it reappeared in a modified form, imputing the divine right to rule not only to the King, but also to the King-in-Parliament. John Wesley suggested in 1785 that the employment of this argument is the main criterion for Toryism. A Tory, he wrote to the editor of *The Gentleman’s Magazine*, is: “One that believes GOD, and not the people, to be the origin of all Civil Power.”

The view that traditionally followed from this initial premise was that the people were obliged to follow the doctrine of passive obedience and non-resistance, and could not assert or reclaim their power over government.

In the Price debate, the appeal to divine authority can be found particularly in the work of the Methodists Wesley and John Fletcher. A Church of England clergyman and founder of the Methodist movement, Wesley was an enormously prolific and influential preacher and writer. He described himself as a Tory, “bred up from my childhood in the highest notions of passive obedience and non-resistance,” but not a Jacobite: he accepted the revolution settlement, and sought neither to restore the Stuart succession nor to reassert the supremacy of the King over Parliament.

Prior to the Price debate, Wesley had already established himself as an important advocate for the established political order. His reply to Price drew on two prior publications, *Thoughts Concerning the Origin of Power* and *Thoughts Upon Liberty*, both published in 1772. In the former he developed his argument that the “Supreme Power”

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238 *The Gentleman’s Magazine*, Volume LV, Part II (December 1785), 932.
239 For a reassertion of this doctrine in the context of the American debate, see, for example, the section entitled “On Civil Liberty; Passive Obedience, and Nonresistance,” in Jonathan Boucher, *A View of the Causes and Consequences of the American Revolution* (London, 1775).
241 See, in particular, *Free Thoughts on the Present State of Public Affairs* (1770); *Thoughts Concerning the Origin of Power* (1772) *Thoughts Upon Liberty* (1772); *Calm Address to Our American Colonies* (1775).
over life and death, liberty and property, derives from God, and the people have no right to confer it or to take it away.\textsuperscript{242} In the latter he defended religious liberty, or the freedom of conscience and worship, and civil liberty, which he understood as the liberty “to enjoy our Lives and Fortunes in our own way: to use our Property whatever is legally our own, according to our own choice.” Wesley complained that the “many-headed beast, the People, roars for Liberty of another kind […] the liberty of cutting throats […] of borrowing their Neighbors' Wives or Daughters […] the Liberty of murdering their Prince.” He claimed that England and Ireland were suffering from “Epidemic Madness” for liberty, the result of an intellectual “Poison” that had turned “quiet, reasonable men, into wild bulls, bears, and tigers!”\textsuperscript{243}

Wesley saw Price’s pamphlet as an integral part of the liberty epidemic. On April 4, 1776, he wrote in his journal: “I began an Answer to that dangerous Tract, Dr. Price’s ‘Observations upon Liberty;’ which if practised, would overturn all Government, and bring in universal Anarchy.”\textsuperscript{244} Given this conviction, the pamphlet that Wesley produced, \textit{Some Observations on Liberty: Occasioned by a Late Tract} (1776), was moderate and charitable in tone, crediting Price with being a “masterly writer,” and the \textit{Observations} with being “a masterpiece in its kind.” Wesley did, however, criticize Price’s principles at some length, insisting that the religious and civil liberty that individuals enjoy under government must not be confused with the power of the people. Locke’s supposition, adopted by Price, that the origin of power is in the people, seemed

\textsuperscript{242} John Wesley, \textit{Thoughts Concerning the Origin of Power} (Bristol: printed by W. Pine, 1772), 1-12.
\textsuperscript{243} John Wesley, \textit{Thoughts Upon Liberty} (London: s. n., 1772), 10, 15, 17-18.
\textsuperscript{244} An Extract from the Rev. Mr. John Wesley's Journal, No. XVIII, from January 1, 1776, to August 8, 1779 (London, 1783), 7.
to Wesley indefensible. “There is no power but of God,” he wrote, “rulers are God’s ministers or delegates.”

A similar argument can be found in Fletcher’s *American Patriotism Farther Confronted with Reason, Scripture, and the Constitution* (1776). A Swiss-born Church of England clergyman and a prominent Methodist theologian, Fletcher replied in his pamphlet, simultaneously, to “the ingenious Dr. Price” and to Caleb Evans, a pro-American Baptist minister from Bristol who entered into a public controversy with Wesley. Following Wesley, Fletcher argued that government derives its authority from God and not from the people. He noted that “if governing power came from the people, the people might, whenever they please, choose to disobey their governors, and would have a right to do so.” This, according to Fletcher, would “sap the foundation of all government, and indirectly bring in the lawless democracy.”

Fletcher’s pamphlet, more than Wesley’s, made clear that the divine right to rule extends to the House of Commons, and not only to the King and his ministers. Every Member of Parliament, according to Fletcher – he mentioned Edmund Burke as an example – is “representative of God himself” and acts as “the substitute of God.” The right of the people to choose their representatives, according to Fletcher, must be not be confused with the question of political authority. Fletcher supported his argument on the separation of authority from choice by repeatedly drawing analogies to domestic life:

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246 Fletcher, *American Patriotism*, 47. Fletcher described Evans and Price as “the leading, ecclesiastical patriots of the two greatest cities in the kingdom; Mr. Evans being the champion of the minority in Bristol, as Dr. Price is in London.” (v). For Evans’s argument against Wesley, see Evans, *A Letter to Mr. Wesley* (1775). For Evans’s views on liberty, see his sermon *British Constitutional Liberty* (1775).
The people, that is, the governed, can no more create governing or legislative power, and bestow it upon the members of parliament whom they chuse [...] than the women, who have the right of chusing an husband, can create masculine supremacy; - no more than the servants who have chosen a master, can create masterly power.\(^\text{248}\)

Fletcher was arguing that the governed could choose their governors but not create their authority, just as women and servants could choose their husband or master without creating the structure of power inherent in the household. Their state of subjection was distinguished from a state of slavery, which does not depend upon the consent of the slave and involves the exercise of arbitrary power.\(^\text{249}\) Fletcher distinguished between the servitude of a servant or subject and the state of the “abject slave,” who “is bound to submit himself reasonably or unreasonably to his lawless Sovereign.”\(^\text{250}\) In reply to criticism of the earlier letters collected in *American Patriotism*, Fletcher claimed that his doctrine was opposed to “the Jacobitical tenets of despotism,” and that he was committed “to guard British liberty against the encroachments of arbitrary power.”\(^\text{251}\)

And yet Fletcher’s distinction between slavery and subjection seemed to rely less on the lawful nature of rule, and more on the treatment of the servant or the subject. Fletcher suggested that it would be wrong “to put all the patriotic servants in the kingdom out of conceit with their Servitude, and to make them shake off the yoke of dependence,

\(^{248}\) Fletcher, *American Patriotism*, 65-68. See also: “You rule your own wife, if you have one, in consequence of the choice she made of you for an husband; but not by any authority she conveyed to you.” (83)

\(^{249}\) As Wesley noted in his critique of the slave trade, *Thoughts upon Slavery* (1774).


\(^{251}\) *Ibid.*, 129.
under pretence that servitude is *abject Slavery*, whether a servant is treated well or ill.” He declared himself willing to be “the Servant, the Subject, and if you please, Sir, the SLAVE of GOOD government.”

The underlying message was that British subjects were the servants of their government, and their duty was to “cheerfully submit” to its authority. Even the usurpation of power could only be “lamented,” and it had to be accepted once the power of the usurper had become established. Fletcher was arguing, in effect, for passive obedience to the authority of government.

Despite the resurgence of high Tory arguments in the American controversy, Price was wrong to describe the disagreement with his critics along the lines of the contrast between government by divine right and government by consent. More significant than the use of Tory arguments was their scarcity in the dozens of works written in critique of Price’s *Observations*. Most of Price’s critics believed that government is a human institution, whose authority relies on the people, either because it originated in a social contract, or because its end was the benefit of the governed. They also believed that the people were entitled to resist oppression. They disagreed with the idea of consent in the new and radical formulation that Price had given to it: as the continuous participation of the people in government.

The broad outlines of this position were shared by Whigs and Tories, and justified by appeals to natural rights, utility, or both. In the discussion that follows, these ideological and philosophical distinctions are not insignificant, but the focus will be on

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253 This was, of course, a Tory argument for accepting the Revolution Settlement.
different conceptions of the relation between civil liberty, free government, and
democratic participation, and different arguments employed to support them.

The Relation of Liberty and Law

Perhaps the most basic assumption made in eighteenth century discussions of civil
liberty was that the freedom of individuals in society is related to the government of law,
which serves to secure their rights.\footnote{Locke famously wrote that “where there is no Law there is no Freedom,” and that “the end of Law, is not to abolish or restrain, but to preserve and enlarge freedom.” Locke, Two Treatises (1689), II, 275 (§57).} The vast majority of participants in the Price
Debate were not challenging this assumption. However, three utilitarian jurists involved
in the Price Debate – Bentham, Lind, and Hey – redefined the liberty of individuals in
society in a manner that merits closer examination.

John Lind was the first to publish in print the innovative claim that the idea of
liberty is negative, and denotes “neither more nor less than the absence of coercion.” It
appeared as part of a series of acrimonious letters that Lind wrote to The Gazetteer and
New Daily Advertiser, under the pseudonym “Attilius,” in reply to Price’s
Observations.\footnote{These were the letters later collected and published in the pamphlet entitled Three Letters to Dr. Price. In the letter published on March 27, 1776, Lind claimed that Price was “guilty of a capital mistake” in defining liberty as the power of self-government, and offered his own definition of liberty instead: “Liberty, Sir, is nothing positive; the term conveys only a negative idea: it means neither more nor less than the absence of coercion. I use the term coercion, because it comprises constraint and restraint; by the former a man may be compelled to do, by the latter to forbear, certain acts.” Letter from “Attilius” to the Gazetteer and New Daily Advertiser, March 27, 1776.} We now know that Lind’s definition was partly appropriated from
Bentham, who claimed his title to it in a letter to Lind.\footnote{Lind seems to have generously allowed Bentham to appropriate from him the idea of writing a commentary on Blackstone’s Commentaries, but Bentham was less charitable with the definition of liberty. See Price, Correspondence, I, 204-207, 235; XII, 288, 292-293, 307.} Notwithstanding Bentham’s
claim to his “discovery,” it would seem fair, by his own account, to refer to the definition as a Bentham-Lind formulation.\textsuperscript{257}

The Bentham-Lind definition of negative liberty should be distinguished from another negative definition, published by Richard Hey a few weeks after this exchange. In his *Observations on the Nature of Civil Liberty*, Hey admitted to reading the definition proposed by “Attilius” in the *Gazetteer*, but claimed to have come up with his own definition prior to that, by examining the common use of the word “liberty.” He defined liberty as the absence of restraint, disagreeing with the inclusion of constraint in the Bentham-Lind formulation.\textsuperscript{258} Postponing the discussion of Bentham’s understanding of liberty to a later chapter, this section briefly discusses Lind’s and Hey’s distinct understandings of the relation between liberty and the law.

Lind’s theory of liberty followed the constitutional Whig distinction between civil liberty and natural liberty or licentiousness. His concept of civil liberty was quite conventional: he understood it to consist in the absence of coercion created by the law.

\textsuperscript{257} Bentham admitted that he defined liberty at first as “the absence of restraint,” and Lind came up with the idea that liberty was also the absence of constraint on his own. He insisted, however, that he “discovered the defect” and reached the same conclusion independently of Lind. According to his account, he suggested to Lind the use of the term “coercion” to comprehend both restraint and constraint, and Lind “adopted it in preference to the other two.” In explaining his insistence that Lind should acknowledge his title to the definition, Bentham said: “The definition of Liberty is one of the corner stones of my system: and one that I know not how to do without.” Letter from Bentham to Lind, 27-28 March, 1776, in Luke O’Sullivan and Catherine Fuller, ed. *The Correspondence of Jeremy Bentham: Volume 12: July 1824 to June 1828*, vol. 12 (Oxford: Clarendon Press, 2006), 310-311. Lind published a more extensive acknowledgment, and confirmed Bentham’s account of their respective contributions to the definition, when he published the letters in the form of a pamphlet. See Lind, *Three Letters*, 16-17.

\textsuperscript{258} Hey argued that “Constraint is understood to include something more than a mere deprivation of liberty.” Hey, *Observations*, 9. Bentham had read Hey’s pamphlet “with no small pleasure and satisfaction,” and commented on “the candour and discernment that are so strongly exemplified in that gentleman’s performance.” He drafted a long, somewhat tiresome letter to Lind, which he originally intended for him to publish as an appendix to his *Three Letters to Dr. Price*. In the manuscript letter, entitled “Hey,” Bentham amicably but doggedly criticized Hey’s definition of liberty as the absence of restraint and argued the case for the Bentham-Lind definition of liberty as the absence of coercion. UCL LXIX, 57-68.
and enjoyed by subjects with respect to other subjects.\textsuperscript{259} The unusual feature of his theory of liberty was that it defined liberty in general as an absence of coercion rather than as the power to do or forbear from doing something.

It is important to realize that in proposing the negative definition of liberty, Lind was not introducing a new ideal of liberty, but rather interpreting Price’s idea of liberty as self-government as opposed to the coercion necessary for the happiness of individuals in civil society. Lind was justifying coercion, not arguing for the absence of coercion.\textsuperscript{260} His argument was tantamount to the claim made by many other writers that Price was trying to promote the idea of natural liberty or licentiousness as suitable for civil society.

Lind’s main concern was to refute Price’s claim that every member of society has “a natural and inalienable right” to liberty.\textsuperscript{261} He argued that there could not be a natural right to liberty, because there is no such thing as natural rights.\textsuperscript{262} Right is a legal term, explained Lind, and a right can only be acquired by “the declaration of the legislator.”

\textsuperscript{259} Lind, \textit{Three Letters}, 67. Like Bentham, Lind emphasized that civil liberty is given “to that subject, or class of subjects, upon whom the law does not operate, and against all other subjects upon whom the law does operate.”

\textsuperscript{260} An anonymous writer, calling himself “Philo-Attilius,” understood this well in his response to the \textit{Three Letters}: “This learned and ingenious man has, in the most \textit{explicit} and \textit{concise terms}, pointed out the nature, extent, and design of Liberty, so \textit{clearly} and metaphysically explained what is right and what is wrong, and so \textit{judiciously} stated the origin and advantages of coercion, that unless Dr. Price, with his adherents, are determined to be callous to conviction, they must confess their ideas of Liberty were vague, romantic, and indefinite.” \textit{Gazetteer and Daily Advertiser} (March 30, 1776).

\textsuperscript{261} Price, \textit{Observations}, 1.

\textsuperscript{262} To ground this claim, he relies on Bentham’s definition of right, which he paraphrased as follows: “where no law is, there is no right.” Lind, \textit{Three Letters}, 21. In the pamphlet, Lind attributes this quote to Bentham’s \textit{Fragment on Government} (1776), but the \textit{Fragment} does not contain such a phrase. Lind’s \textit{Remarks}, however, to which Bentham contributed, contains an argument against Locke’s natural right to property, which says, in Bentham’s characteristic style: “Whence arises this right? From the command of the law. It is the law which says to you, the proprietor, take this thing, use it, enjoy it. It is the law, which says to every other man, do not take it, do not use it, do not enjoy it.” John Lind, \textit{Remarks on the Principal Acts of the Thirteenth Parliament of Great Britain. By the Author of Letters Concerning the Present State of Poland. Vol. I. Containing Remarks on the Acts Relating to the Colonies. With a Plan of Reconciliation} (London: printed for T. Payne, 1775), 55-56.
Antecedently to law, a person may be free, but “he cannot have the right to freedom.”

Furthermore, Lind argued that even if there is a natural right to liberty, it cannot be unalienable: “It must, to a degree at least, be alienated in a State of Society, if by Society you mean, as it appears that you do mean, a state of government. Such a state implies Laws. All laws are coercive.” According to Lind,

To be free from coercion is a privilege which belongs not more to man, than to the lion that ranges in the wilds of Africa, or the monkey that skips about in the forests of India.

This excerpt clarifies that Lind was repeating the standard argument against Price: that his idea of liberty is incompatible with law and government, because law and government require the restraint of natural liberty. The originality of the Lind-Bentham argument, insofar as it had any claim to originality, lay in transforming the concept of natural liberty or the concept of licentiousness into the jurisprudential formula that defined this form of liberty as the absence of restraint.

Hey’s conceptual analysis was more radical than that of Lind. Hey constructed a powerful analysis of the concept of liberty, which might be said to anticipate Gerald MacCallum’s definition of freedom as a triadic relation ranging over agents, preventing

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264 Ibid., 24.
265 Ibid., 27.
conditions, and things to do or to become.\textsuperscript{266} He distinguished between two methods of analyzing liberty: by looking at the different sorts of restraints, or by looking at the different kinds of actions from which an individual may be restrained. According to the first method of analysis, natural liberty is “the absence of restraints imposed by the laws of Nature,” civil liberty is the absence of civil restraints, and so on.\textsuperscript{267} According to the second method, freedom of speech is the absence of restraint on speech, freedom of religion is the absence of restraint in matters of religion, and so on.\textsuperscript{268}

Having analyzed liberty in general, Hey addressed the main topic of the debate with Price: the nature of civil liberty. His definition of civil liberty followed the first method of analysis, according to kinds of restraint: civil liberty is “the absence of Civil Restraints.” This definition of civil liberty is almost identical to Hobbes’s definition of the liberty of the subject, in Chapter 21 of \textit{Leviathan}, as “an exemption from laws.”\textsuperscript{269}

Indeed, Hey’s negative definition of civil liberty served him, just as it served Hobbes, to argue against the maximization of civil liberty. According to Hobbes, “if we take liberty for an exemption from laws, it is […] absurd for men to demand as they do that liberty by which all other men may be masters of their lives.”\textsuperscript{270} According to Hey,

Civil Liberty […] is \textit{greater}, as the restraints imposed on us by Civil Laws are fewer. The greatest degree of it would be, to have no Civil Laws at all. This is what no one would wish for; and therefore it may be worth while to consider

\begin{footnotes}
\item[266] According to MacCallum, freedom is always \textit{of an agent or agents, from preventing conditions, to do, not to do, become, or not become something}. Gerald C. MacCallum, Jr., “Negative and Positive Freedom,” \textit{The Philosophical Review} 76, no. 3 (1967): 314.
\item[267] Hey, \textit{Observations}, 10-16.
\item[268] Ibid., 16-18.
\item[270] Ibid.
\end{footnotes}
what has been meant by some writers who, in passing their encomiums on Civil Liberty, appear to have taken it for granted that the greater the Civil Liberty is in any state, the better.\textsuperscript{271}

Hey’s definition of liberty reconsidered the relation between civil liberty and the law in a more fundamental way. It ignored the role of the law in constituting liberty, and focused only on its restrictive nature. It also separated between the idea of civil liberty and the idea of the security of rights under the law. Hey criticized Montesquieu’s idea of liberty as consisting in safety, distinguishing between the absence of restraint, the right to it, and the tranquility of mind resulting from it.\textsuperscript{272} He never disavowed the idea of a right to liberty, but he deconstructed the idea of civil liberty in such a way that it became conceptually separate from security under the law.

The utilitarian attempt to redefine the concept of liberty was taking place at the margins of the Price Debate. More central to the Debate was the relation between individual liberty and political institutions, which could also be framed as the question of the free state.

\textsuperscript{272} Ibid., 34-35.
The Idea of Political Security

Political security is the idea that individuals enjoy institutional security from the exercise of arbitrary power by the government, rather than by other individuals. Lind made the distinction quite clearly: civil liberty is created by the law and bestowed on subjects against other subjects; political security regulates the exercise of power by the governors. Drawing on Bentham’s *A Fragment on Government* (1776), Lind insisted that political security does not consist in the absence of coercion with respect to the governors, but only in the distribution of power between the different parts of government and the sharing of interests between the governors and the governed. But he fully accepted the value of political security.

It is rather difficult to find writers involved in the Price Debate who were explicitly critical of the idea that subjects must enjoy some form of security against their governors. Again, Wesley and Fletcher may be the best candidates. In his reply to Price, Wesley asserted that civil and religious liberty consists in the actual enjoyment of rights, and not in the security from the power of the King and Parliament to take them away:

> The supreme power of my country can take away either my Religious or Civil Liberty; but, till they do, I am free in both respects: I am free now, whatever I

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275 Ibid., 69-74.
may be by and by. Will any man face me down, I have no money now, because it
may be taken from me to-morrow? […]

“But, if the parliament tax you immoderately now, ‘tis possible, they may,
hereafter, tax you immoderately.” It is possible, but not probable: They never
have done it yet, when they do, then complain.

We are not talking of what may be, but what is, and it cannot be denied, they [the
colonists] are free.276

Wesley, then, was questioning the very idea that subjects should have some form of
security against the possibility that their governors would take away their property or tax
them immoderately in the future. He insisted that liberty consists in the rights that
individuals possess at present. Fletcher’s sentiments seem to have been similar. As
already noted, Fletcher understood the difference between tyranny and abject slavery, on
one hand, and good government, on the other, to consists in the good or ill treatment of
the subjects, rather than in constitutional constraints on the power of government.277 In an
earlier pamphlet, Fletcher explicitly rejected the argument that being subject to the power
of mastery is sufficient reason for overthrowing authority:

If pleading that our superiors may abuse their power over us, were a sufficient
reason to shake off the yoke of lawful authority; all apprentices [though ever so
well used] might directly emancipate themselves; for they might adopt your
argument, and say, My master indeed uses me well; but “he is under every

276 Wesley, Some Observations, 5, 7-8.
277 Fletcher, American Patriotism, 34-35.
possible temptation" to starve me; since every meal which he will save in
denying me proper food, will be a meal saved for himself or his own children;
and therefore I will cut and carve for myself, or I will acknowledge him as a
master no more.278

Again, Fletcher’ and Wesley’s rejection of the idea of political security is found at
the margins of the Price Debate. Most commentators argued that some mechanism was
needed to protect the rights of individuals against the abuse of power by the government,
or at least did not explicitly argue against the idea of political security. They engaged in
more subtle attempts to redefine the idea of the free state.

The Free State and the Form of Government

A prevalent argument against Price’s theory of free government was that the
difference between a free and a despotic state lies not in the form of government but in
some other institutional feature of the state. In particular, the critics who employed this
argument wanted to reject the notion that a free state must be a republic. This was,
famously, Montesquieu’s claim in De l’esprit des loix: republics are not by nature free
states; political freedom is to be found only in moderate governments, which separate the
legislative, executive, and judicial powers. Among the theories formulated in response to
Price, we find at least distinct, but occasionally complementary lines of argument that
seek to disengage the idea of the free state from the form of government: one focuses on

278 Fletcher, A Vindication of the Rev. Mr. Wesley’s “Calm Address to Our American Colonies” (London,
1774), 34.
the security of rights under the rule of law; another focuses on the fit between the laws and some criterion that defines good government, particularly utility or justice.

Both lines of argument can be found combined in the anonymous pamphlet *Experience Preferable to Theory*. This pamphlet was attributed to Thomas Hutchinson, the Governor of Massachusetts until 1774 and one of the key players in the events that led to the outbreak of the American Revolutionary War.\(^{279}\) His authorship of this pamphlet, however, remains controversial.\(^{280}\) On the question of free government, the author of the pamphlet wrote:

I am far from thinking there is no such thing as civil liberty, or that the people in all governments are alike free; but this freedom does not depend upon the form of government. I can easily conceive them to be as free under a monarchy as an aristocracy or democracy, and as free under a government composed of all three,

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\(^{279}\) Hutchinson criticized Price’s *Observations* in a letter from February 27, 1776: “A Pamphlet is published within 2 or 3 days by Dr Price […] which makes great noise. It is calculated to do mischief. His principles are not properly republican, but anti-governmental, if you can bear that word, and would soon put down all governments existing, without setting up any other in their stead.” Two months later, on April 24, he noted in his diary: “At Mr Ellis’s and Lord Hillsboro’. All of them spoke in favour of the pamphlet, “*Experience preferable to Theory,*” in answer to Dr Price.” The Diary and Letters of his Excellency Thomas Hutchinson (Boston, 1886), II, 35, 38. The nineteenth century American bibliophile Joseph Sabin suggested that Hutchinson might have been the author of the pamphlet. His bibliography of American literature noted: “Perhaps by Gov. Thomas Hutchinson. One of the best and most decent answers to Dr. Price.” Sabin, *Bibliotheca Americana: A Dictionary of Books Relating to America* (New York, 1873), VI, 303. The attribution was followed by later scholars: Roland Thomas, *Richard Price*, 180; Lawrence Henry Gipson, *Bibliographical Guide to the History of the British Empire, 1748-1776*, 86; Peter N. Miller, *Defining the Common Good*, 382, footnote 144. The *American* bibliophile Obadiah Rich, writing earlier than Sabin, did not attribute the pamphlet to Hutchinson. Rich only commented: “One of the best and most decent replies to Dr. Price.” Rich, *Bibliotheca Americana Nova*, Vol. I (1835), 234.

\(^{280}\) The historian Bernard Bailyn, author of *The Ordeal of Thomas Hutchinson*, argued in a letter to Thomas R. Adams against the attribution of this pamphlet to Hutchinson. See Adams, *The American Controversy*, I, 385-386. It is worth noting that the author of *Experience Preferable to Theory* claimed to be a “European Briton” (93), but demonstrated an intimate knowledge of the events in the colonies that led to the outbreak of the war, which would have been consistent with Hutchinson’s authorship of the pamphlet (49-76). The author claims to have been able to examine “many original papers, as well as records, relative to the several governments,” and to have seen “the depositions, taken here, of several persons who were present in Boston at the time when the tea was destroyed” (49).
as under either simply. The degree of freedom depends upon its being a

“government by laws and not by men.”281

By speaking of “government by laws and not by men,” the author of the pamphlet was not referring to mixed government or to the distribution of power. Lacking from his account is an explicit description of mechanisms generating political security, or constitutional constraints on the exercise of power by the government. The basic condition for the freedom of the state, according to his account, is the existence of known and established laws, which are being impartially executed. In other words, the author identified the free state with any state in which the rule of law is established. He added, however, another criterion for the freedom of the state:

But all government which have known established laws, cannot be said to be equally free. When laws, laying greater restraint than is necessary to answer the end of government, are multiplied, this is my idea of what Dr. Price calls “governing too much:” and where there are laws sufficient to answer this end and no more, and such laws are impartially executed, this is the highest idea I can have of the liberty in a state of government.282

According to the author, the degree of liberty depends on the combination of government by laws and good or moderate government. A good government does not

281 Experience Preferable, 18. Lind criticized the author of this pamphlet for his statement that freedom does not depend on the form of government. “But if from the frame and construction of it,” wrote Lind, “there are infinitely more chances that one given form of government will be better administered than any other, than surely freedom does depend upon the form of government.” Lind, Three Letters, xv.
282 Experience Preferable, 19.
simply limit the restrictive legislation imposed on the subject: it fits the laws to the end of government, which is “the good of the commonwealth.”\textsuperscript{283}

A very similar idea of the free state was developed by Richard Hey. In his *Observations*, Hey examined two senses of free government. One denotes the freedom of the state as a body. Hey pointed out that the political body can enjoy independence and self-government whether or not its members enjoy individual liberty.\textsuperscript{284} In addition, Hey examined the idea of free government that he found in Montesquieu’s *De l’esprit des loix*. He found that it consisted in the right to liberty, or in the protection of every citizen from arbitrarily imposed restraints. Hey insisted that the constitutionally protected right to liberty should be distinguished from liberty itself, defined as the absence of restraint, and from the beneficial effects produced by the right to liberty, namely “Safety, and the Tranquility of mind derived from it.”\textsuperscript{285} He did not, however, reject the idea of a right to liberty. In fact, if we look at his discussion of what he called “the Perfection of Civil Liberty,” we can read it as an account of the free state.

The primary challenge of legislation according to Hey was to determine what degree of restraint would be useful to individuals in society. In order to determine the answer, we would need to know what the primary interests of individuals are. Hey believed that the primary interest of individuals is to be free to pursue their own happiness.\textsuperscript{286} Laws, however, restrain this freedom. Therefore, the challenge for legislators is to find “the proper Medium” of restraint. In general, the guiding principle

\begin{footnotes}
\item[283] Ibid., 15.
\item[286] Their interest is in civil liberty in the second sense of the term, according to Hey’s analysis of liberty: not freedom from civil restraints, but the “General Liberty respecting Civil matters.”
\end{footnotes}
for legislators should be: “To avoid, as much as possible, multiplying restraints upon the subject. This principle leads to the point of Perfection in Civil Liberty.”

The ideal of civil liberty in perfection that Hey endorsed aspired to minimize the oppressive intervention of the state in the individual’s life. He believed that this freedom from excessive interference should be secured by the rule of law. His praise for what he understood as civil liberty and the right to it is summed up in the following excerpt:

And that Civil Liberty which has been the subject of so many panegyrics (and very deservedly), seems to have been, Some degree or state of General Liberty respecting Civil matters, either the best possible state of it or not far from the best on the one side or the other; --- or more frequently, the Right to such Liberty, considered as given and secured by the Civil Laws.

This is indeed a blessing highly valuable. The warmest enthusiast in the cause of Liberty may indulge himself here, in his encomiums, without much danger of extravagance: --- to contend for this blessing with bravery and perseverance, to study the improvement of the civil Constitution with this in view, --- these works mark the true Hero and the genuine Patriot.

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288 Hey may be deriving his idea of the constitutional right to civil liberty in perfection from Montesquieu’s discussion of free government. He inquires what Montesquieu meant by speaking of free government, and concludes that he referred to the right of citizens, secured by the constitution, to enjoy their civil liberty. Ibid., 33-35.
289 Ibid., 39. As this excerpt shows, Hey, like Lind, criticized the pursuit of liberty without restraint, and endorsed an ideal of liberty under the rule of law. His definition of terms, however, was different: what Lind called general liberty, Hey called civil liberty, and what Lind called civil liberty, Hey called the perfection of civil liberty. Like Lind, Hey made strategic use of his distinction between the two kinds of liberty in order to develop his argument against Price. Both attempted to show that to maximize liberty in its negative sense would lead to a state of anarchy and insecurity. If there is a material difference between them, it is in their understanding of the free state.
That Hey had an idea of the free state can also be inferred from the fact that he had an idea of the unfree state, or a state ruled by tyranny. Tyranny, like slavery, is a state of “excessive subjection,” according to Hey. A slave is a person whose subjection “is thought to exceed from rule of Right and Convenience, to be hurtful to the Public, or oppressive and injurious to the Individual.” Under tyranny, a person is “a Slave to his Prince,” and his “actions depend more upon the will of his prince than the purposes of Civil Society require.”

Here we see, again, that the difference between the free state and tyranny lies both in the rule of law, and in the law being fitted to the ends of society and not being overly oppressive.

The argument that a free state is governed by just laws, regardless of the form of government, was also employed by the pamphleteer John Shebbeare. A physician, novelist and political writer, Shebbeare was a notorious critic of Whig administrations in the 1750’s, and a loyal supporter of the government during the reign of George III. His vitriolic style earned him the reputation of “eminence in misanthropy and literature.” He was described by a contemporary as “that violent devil of a Tory Dr. Shebbeare,” and by a more recent historian as “a pig-headed and old-fashioned Tory almost from birth.” But despite his political affiliation with the Tory party, Shebbeare’s thought is not easily forced into ideological categories. It was a mixture of utilitarianism, natural

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290 Ibid., 23, 40, 52.
291 See the account of his life in the August, September, and October issues of The European Magazine, in The European Magazine and London Review, XIV (1788), 83-87, 166-168, 244-245.
292 Ibid., 244. The Monthly Review wrote on Shebbeare’s reply to Price that “his language is frequently intemperate, foul, and opprobrious […] his humour is often coarse, low, and indelicate.” The Monthly Review; or, Literary Journal (1776), 241.
293 Letter to the editor, The Gentleman’s Magazine (November 1777), in The Gentleman’s Magazine and Historical Chronicle, XLVII (1777), 520.
rights theory, “Country” ideology and monarchism, significantly influenced by the ideas of Bolingbroke.

In his earlier writings, Shebbeare occasionally employed the idea of the free state in his polemic against the arbitrary power of Whig governments. But in the series of letter he wrote in response to Price’s Observations, later published as An Essay on the Origin, Progress and Establishment of National Society (1776), he made clear that civil liberty consists “in being governed by just laws alone, whatever be the constitution of the state in which they are enacted.” In speaking of just laws, Shebbeare was referring to laws “that impart to the subjects the full enjoyment of those rights to which, by nature, they are entitled; and defend them from those who would treat them injuriously.” According to Shebbeare, “neither laws nor men can constitute a free government, unless the laws be just, and all the constituents obliged to observe them: and, if that end be effected, by one man or a junto, the state is in the enjoyment of liberty.”

Again, we see that Shebbeare constructed an alternative ideal of the free state, which disengages it from the form of government. He argued that the rule of law is insufficient to establish the liberty of the state: there also needed to be a fit between the laws and a criterion of good government. In this case, Shebbeare’s criterion is an idea of justice based on natural rights. The secure enjoyment of these rights under fairly constituted and well-administered laws is civil liberty under free government.

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296 Shebbeare, Essay, 28-29; see also 70-71.

297 Shebbeare, Essay, 70-71.
Violent Resistance in Extreme Cases

While Hey and the author of *Experience Preferable to Theory* lacked an account of constitutional constraints on the exercise of power by the government, they did offer one safeguard: the violent resistance of the people to oppression. Hey was less explicit on this point. In discussing the possibility that Parliament would pass an oppressive law, which compelled most Englishmen to starve themselves to death, he wrote:

Extreme cases, like this, always bring along with them all the remedy they are capable of. It is to no purpose to lay down rules about them beforehand: for when they happen, all rules and laws cease; violence alone has place.298

Though he refused to lay down a theory of resistance, Hey acknowledged that violent insurrection against rules and laws is the remedy to extreme oppression. The author of *Experience Preferable to Theory* was more explicit on this point:

What remedy then have individuals against oppression and tyranny? There can be none but this: the people in every government, when the oppression and tyranny of rulers can be no longer borne, will break loose, rise, put an end to the old authority and powers, and new will be established in the stead of the old.

298 Hey, *Observations*, 52.
Shebbeare similarly argued for the right of resistance as a remedy in extreme cases of oppression. In his earlier anti-Whig writings, Shebbeare denounced the arbitrary power of government and rejected the Tory doctrine of passive obedience and non-resistance.\(^{299}\) In his reply to Price, he argued against popular sovereignty and for the government of the superior few,\(^{300}\) and added that the people have no right to instruct their representatives and no tribunal to judge their actions, but they do have a remedy in cases of extreme oppression:

> Whenever they so far exceed the bounds of representation, as to bring universal misery and oppression on the nation; the laws of nature will supersede the laws of the state, rouze and justify the people in seeking redress and justice by the sword.\(^{301}\)

The three writers discussed in this section thus far recognized the possibility of recourse to violent resistance as a remedy to tyranny without deriving it from the Lockean theory of the social contract. Arguably, they were following in the footsteps of Hume, who attacked the grounding of the duty of allegiance to government in an original contract, and sought to reestablish the limits of submission on the grounds of advantage and interest. He agreed that “we may resist the more violent effects of supreme power,” but stressed that the doctrine of resistance can be put in practice only in “extraordinary

\(^{299}\) See, for example, Shebbeare, \textit{Letters on the English Nation}, esp. I, 10-26.

\(^{300}\) Shebbeare, \textit{Essay}, 30-36.

\(^{301}\) Shebbeare, \textit{Essay}, 82.
emergencies,” in the face of “egregious” and “grievous” tyranny and oppression.\textsuperscript{302} The same argument, however, could be used by Lockean Whigs as well. Henry Goodricke, for example, endorsed the Lockean right of resistance, conceding that when the representatives of the people become “tyrannical and oppressive,” and when they exceed the limits of their trust, they “may lawfully be resisted, controlled, and even destroyed by the community.” At the same time, he objected to the idea that government could be controlled by the governed in the normal course of affairs.\textsuperscript{303}

The point was perhaps most articulately made by the anti-Lockean Whig Josiah Tucker, Dean of Gloucester. A Welsh churchman, economist, and political writer, Tucker was one of the clearest and most astute of Price’s critics. In his \textit{Treatise Concerning Civil Government} (1781), Tucker wrote that regardless of the mode of creation of civil society, “whether by express Covenant, or otherwise,” he perfectly agreed with “Mr.洛克 and his Disciples,” including Price, that government is a public trust, and that when the trustees act contrary to their duties, and other means of addressing grievances have failed, “then Recourse must be had to the only Expedient still remaining, \textit{Force of Arms}.” The “critical Moment” for such “desperate Remedy” would be when “the Evils suffered are grown so great and intolerable” that they overbalance the evils of resistance to government. Tucker, then, agreed that the people have a right to resist to unjust government, yet he also made clear that the people have no right to vote and give their

\begin{footnotes}
\textsuperscript{302} Hume, Treatise, 3.2.9-10; “Of the Original Contract;” “Of Passive Obedience.” In stressing the relation between obedience and protection, Hume was following Hobbes, but in Hobbes, the obligation to government is also grounded in the social contract.
\textsuperscript{303} Goodricke, Observations, 68-75.
\end{footnotes}
consent “in all the Affairs of Government and Legislation” under normal circumstances.304

The idea of resistance as a remedy to tyranny was used in the Price Debate as an argument for legitimizing government without allowing for the principles of control and accountability. Price was arguing that without the participation of the people in government either directly or through accountable representatives, they are subject to arbitrary power; he was arguing for continuous control over government and resistance to encroachment on individual rights.305 His critics denied the right of the people to control government, and set resistance outside the boundaries of normal politics in civil society, reserving it to extreme cases in which the people revert to the state of nature. At the same time, this residual option served to legitimize government and demonstrate that the people are not subject to arbitrary power.

Security and Consent without Democratic Participation

The most challenging critical responses to Price’s Observations were ones that shared many of his assumptions about civil liberty and free government, but attacked the relation between those two concepts and democratic participation in government. These critics were arguing against his democratic conception of liberty as self-government on the basis of principles derived from or compatible with Whig ideology, and employed a constitutionalist, “neo-Roman” conception of civil liberty and free government. Price

could not dismiss their replies as easily as he dismissed the arguments of Wesley or Lind by associating their views with high Tory doctrines that he considered to be “stupid,” “absurd,” and “abundantly refuted.”

In what follows, I focus on two arguments complementary arguments: a skeptical argument, which questions the value of individual participation, and a consequentialist argument, which asserts that democratic participation would have undesirable effects. Both arguments were used by Whigs and Tories alike, but the following discussion focuses on their use by writers that could be considered as constitutional Whigs, in order to highlight the challenge they posed for Price’s democratic conception of freedom.

The discussion of the constitutional Whig critique can be opened by looking at the work of one of Price’s most capable and liberal adversaries, Henry Goodricke. Goodricke (1741-1784) was a lawyer, and later a Member of Parliament (1778-1780), who lived in York after having lived for many years (1757-1772) in Groningen in the sense that since it assumes the relation between the freedom of individuals and their civil and political security under the British Constitution.


307 The term “constitutional Whig” was occasionally used by contemporary writers, especially in the latter part of the eighteenth century, in referring to Whigs devoted to protecting the balanced constitution from its abuse by the monarchy or by the masses. In a debate in the House of Commons in May 1792, James Martin “begged to call himself a Constitutional Whig,” and offered a definition of the term: “It was entertaining an attachment to the constitution of his country, watching its abuses, correcting its defects; at the same time, that he would support the illustrious family on the throne, professing himself a friend to the people; by the people he did not mean the populace merely; they were many of them very good, and some of them extremely bad.” The History and Proceedings of the Lord and Commons, During the Second Session of the Seventeenth Parliament of Great Britain (London: John Stockdale, 1792), 477. On Martin, see Roland G. Thorne, The House of Commons 1790-1820, Volume I (London: Published for the History of Parliament Trust by Secker & Warburg, 1986), 558-561. As mentioned in Chapter 3, Ferguson was also described by Robert Bisset as a “constitutional whig, equally removed from republican licentiousness, and tory bigotry.” Robert Bisset, "Dr. Adam Fergusson," in Public Characters of 1799-1800 (London: Printed for R. Phillips, 1799), 435-436.

308 The Critical Review wrote of Goodricke’s pamphlet: “He is evidently a writer of judgment, candour, and abilities; nor have we seen any production on the subject of the American controversy which is better entitled to the perusal of either of the parties in the dispute.” The Critical Review, XVII (1776), 71. The Monthly Review disagreed with some of Goodricke’s positions, but applauded “the liberal, candid, and dispassionate manner in which the writer treats his opponent; over whom he has gained the advantage in many particulars.” The Monthly Review LV (1776), 239.
Dutch Republic. While in the Netherlands, Goodricke stood at the center of a public controversy, in which he called for greater doctrinal freedom within the Reformed church, arguing against orthodox Calvinist professors. He was nicknamed “The Goliath of Toleration.” In his moral and theological views, he was close to Price’s Arianism. His son, the astronomer John Goodricke, was educated at the Warrington Academy, a prominent Dissenting academy, where Joseph Priestley was a tutor. He himself had read Price’s *Review* “with great utility and satisfaction,” and considered it “among the most valuable treatises on those matters.”

Goodricke’s *Observations on Dr. Price’s Theory and Principles of Civil Liberty and Government* was published in June 1776 in York, and later translated into Dutch and published in Leiden. In the beginning of the treatise, he criticized the “exploded slavish principles” found in some of the pro-government publications on the American controversy. His reply to Price relied, instead, on the Whig principles of “the most admired writers on Government and civil Liberty,” primarily on Locke and Priestley. In the title page to the more philosophical part of his treatise, he quoted from Cicero, Montesquieu, and Algernon Sidney.

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312 Price, *Observations*, 64.
Goodricke agreed with Price that government is “a TRUST, limited in its nature by the purposes of the civil union, committed to a certain person or persons by the society for the common benefit,” and that “the only just foundation of all civil authority is the consent of the Community.” As already mentioned, he endorsed the Lockean right of resistance, but strenuously objected to the notion that individuals should maintain their power of self-direction under government, call their representatives to account, and subject them to popular instructions. This notion, he wrote, serves as “the basis of the Doctor’s pamphlet,” and “differs considerably from the most eminent writers on the nature of Government.”

Goodricke’s primary disagreement with Price, then, concerned what he considered to be Price’s “democratical scheme of Government.” While he supported popular sovereignty and the right of the people to resist oppression, Goodricke objected to the right of the people to participate in governing on a regular basis. In defending this position against Price, one line of argument he employed is what I have referred to as the skeptical argument, which questioned the value of the self-direction of individuals in matters of civil government.

The question that Goodricke posed was what justifies Price’s assumption that the “democratical Constitution” he described is not merely the best political model, but also the only just and lawful model. “What reasons the Doctor may have to support such strong and peculiar assertions, I can not conceive, as he has not been pleased to alledge any,” wrote Goodricke. His own view was that it would be just and lawful for individuals

315 Ibid., 68-75.
316 Ibid., 97.
to give up their “civil power” and entrust it to others. His skeptical argument was that Price had never really presented persuasive arguments to the contrary.\(^{317}\)

One possible justification for Price’s position was the belief that individual possession of civil power is intrinsically valuable, and individuals would be incapable of giving it away without great personal loss. Goodricke astutely recognized that Price attributed intrinsic value to democratic participation. He observed that Price saw religious liberty and civil liberty as equally inalienable. Goodricke himself believed the analogy to be fallacious. The alienation of the power of self-direction in religious matters, he argued, is fundamentally different from its alienation in civil affairs:

A man can not be saved or be religious by submitting himself to the dictates of another’s conscience; but he and the state may be governed, and well governed too, by the rule and authority of others […] A man, considered as destitute of all religious liberty, has his conscience and judgment, in regard to Truth and Falsehood, Right and Wrong, entirely subject to the authority of others; - his mind is enslaved, - and consequently his whole nature; - he has, strictly speaking, nothing but at the will of another. Whereas a man, that gives up his civil liberty, only submits his outward conduct to be regulated, - for the better security of his person, property, liberty, and private rights […] with tacit reserve of his private judgment, and his natural right to resist or reject this government, when it becomes oppressive or tyrannical.\(^{318}\)

\(^{317}\) Ibid., 91-92.
\(^{318}\) Ibid., 94-95.
The core of Goodricke’s argument on this point is that the alienation of civil power entails no irreparable loss to the individual. There is no intrinsic value in preserving civil power in the hands of the individual, similar to the intrinsic value of exercising self-government in matters of morality and religion. In reply to such criticism, Price repeated and elaborated, in the *Additional Observations*, his arguments on the intrinsic value of self-government in civil affairs.319

Price’s support of democratic participation could also be justified on instrumental grounds. Goodricke thought that this was the real issue or the “proper point of discussion:” the existence of an instrumental relation between the extent of sharing in government and the existence of security against the abuse of power. Indeed, he acknowledged that “where the people share not in the government, they have no security against the abuse of its power.” Crucially, however, he denied that security must be gained through widespread, democratic participation:

there are however many mediums between the people’s having no share whatever in government, and all sharing alike and equally, either in person, or by representatives in Doctor PRICE’s mode. […] Is an English copyholder, is a citizen of *Amsterdam* or of *Bern*, without rights, without property, and in the abject slavery described above, - merely because he has no share whatever in the legislature? No body thinks so, but such as have wrought themselves or others into such a stile by artificial definitions and theories.320

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319 See Chapter 5 below.
320 Goodricke, *Observations*, 94-97
In other words, Goodricke acknowledged that some measure of participation is necessary to maintain free government and secure civil liberty, but denied that widespread, democratic participation is necessary for this purpose. Furthermore, he denied that any particular individual or group are unfree because they cannot participate, directly or indirectly, in making the law.

Different versions of the skeptical argument were employed by many of Price’s critics. This form of argument was used, for example, by the moderate Scottish minister and philosopher Alexander Gerard, the author of An Essay on Taste (1759) and An Essay on Genius (1774). Following Montesquieu, whom he described as “one of the greatest writers of this, or any other age,” Gerard asserted that “Liberty consists only in the power of doing what we ought, and in not being constrained to do what we ought not,” and therefore wherever “laws require only what is right, and forbid only what is wrong, there is liberty, by whomever the laws be made.” Despite refusing to identify freedom with a particular form of government, particularly with the republican form, Gerard recognized that some forms of government provide more security for liberty. “Wherever the form of government gives security for such laws,” he wrote, “it gives proportionable security for liberty.” In other words, liberty consists in the protection from wrongdoing provided to individuals by just penal and civil laws, but the security of liberty is provided by a constitution that protects individuals from the arbitrary power of government. The security from the arbitrary power of government, however, does not derive from democratic participation in power, but rather from the existence of representatives whose interests are shared with the people:

It is our happiness to live under a government which gives the greatest security for this [liberty]: but our security arises not immediately, but only remotely, from part of the legislature being chosen by the people: the circumstance from which it immediately arises, is, that the legislature have the same interest with the body of the people; and this circumstance gives the very same security to those who have no voice in chusing them, as to those who have.

The assumption that the liberty of individuals is only indirectly related to the role and extent of popular participation in choosing political representatives can also be found in the pamphlet Civil Liberty Asserted, and the Rights of the Subject Defended, against the Anarchial Principles of the Reverend Dr. Price (1776). This work, “replete with dogmatical assertions and slanderous invectives,” according to The Monthly Review, was also one of the clearest and most striking statements of the constitutionalist understanding of civil liberty written in this period. The author, a self-professed “FRIEND to the RIGHTS of the CONSTITUTION,” declared at the outset his allegiance to the Lockean conception of civil liberty:

I should be extremely glad to see this dispute decided by Mr. Locke’s principles. He has perhaps the precisest notions of Civil Liberty of any man, and was as warm and as prevalent an advocate for it as lived; but he never called that Liberty

322 LXI (1776), 406.
which was opposed to lawful authority, nor any man a Patriot, who countenanced Rebellion against it.\textsuperscript{323}

In analyzing Price’s idea of civil liberty, the author of this work argued, like many other critics, that Price confused civil liberty with natural liberty, and ignored the tradeoff attending the establishment of civil society, in which “the liberty of man becomes less extensive, but more secure, and productive of ease and happiness.” Following Locke, the author argued that the natural rights of man “extend to the fruit of his own labour and industry, but no further; to these he has an undoubted right, but no security for the enjoyment of that right further than his own power extends to protect it.”\textsuperscript{324} In order to stress the advantage of civil liberty over natural liberty, he compared an imaginary member of pre-modern society, “the Green Man of the Wood, who is a stranger to every comfort of life,” to a poor cobbler, who lives comfortably and enjoys everything but the right to vote:

There’s a poor Cobbler has a stall about fifty yards off, who has a daughter cloathed and kept at school by the parish, a boy in the Blue-coat-hospital, who is not the least expence to him. This poor man is as merry as a lark, smokes his pipe, and drinks his pint of porter in an evening, and his pot, perhaps three pints, on Sundays. He is in all respects at least as happy as my very good Lord the Earl of Shelburne; yet, poor man, he has no vote, he has no representative in

\textsuperscript{323} Civil Liberty Asserted, iii.
\textsuperscript{324} Civil Liberty Asserted, 7-8, 11.
Parliament; therefore, says our philosophic Doctor, he is a wretch, he is a slave,
and doomed to drag the ignominious chain which tyranny is forging for him. 325

The image of the poor and happy cobbler was invoked in order to demonstrate that
civil liberty consists in the security and comfort found only in modern society; it must not
be confused or replaced with the natural, boundless liberty that individuals in pre-modern
societies were imagined to enjoy.

Having established the nature and value of civil liberty, the author of Civil Liberty
Asserted proceeded to attack the notion that the liberty of the individual in civil society
had anything to do with the right to participate in government. The condition for the civil
liberty of the individual, according to this author, is that “the State to which he belongs be
a State of Civil Liberty.” A free state does not imply the right of every individual to
participate in government. On the contrary, “taking a free State in its usual acceptation,
then I say, there is no free State in which a man is, or can be his own Legislator.” 326

The author went on to argue that civil liberty consists in “the virtuous laws which
secure liberty,” while the right to participate in making those laws is merely a means to
an end. “The Sophistry of this reasoning of the Doctor’s,” he wrote, “consists in ascribing
that to the means which entirely belongs to the thing which is to be attained by such or
some other means.” In other words, Price was confusing the end, civil liberty, with
democratic participation, the means to that liberty. From the perspective of every single
individual, the two can be completely separated from each other:

325 Ibid., 11-12.
326 Ibid., 13-16.
He who is protected in the peaceable enjoyment of his rights is a Freeman, and enjoys Civil Liberty, tho’ he has no sort of right in framing the laws, by which he is governed; while, on the other hand, he who is molested and interrupted in the free use and enjoyment of his rights, is so far a slave, tho’ he has a right to assist, and actually doth assist at every law that passes.\footnote{Ibid., 17.}

It should be stressed that the author of \textit{Civil Liberty Asserted} was not arguing that individual liberty could exist under any just form of government. Like many pro-government participants in the American controversy, he assumed that liberty is secured by representative government, and that the “perfection of Civil Liberty” consists in a government led by the most capable and virtuous representatives, who are entrusted with steering “the large Vessel of the State.”\footnote{Ibid., 26-30.} Individuals, according to this understanding of representative government, were represented in government regardless of their personal right to vote for representatives. From this perspective, Price’s argument was based on a “fallacious use of the word \textit{Representation}; according to which, no person is, or can be represented, but those who have an actual choice in the appointment of the Representatives.” The author of \textit{Civil Liberty Asserted} saw this interpretation of representation as a “novel invention of seditious complexion, calculated to mislead the weak and distress Government.”\footnote{Ibid., 73, 75.}

The complementary line of compatible with the constitutional Whig critique is the one I refer to as the consequentialist argument. This argument assumes the value of civil
liberty and free government, but claims that Price’s democratic understanding of liberty would adversely affect them. As the author of *Civil Liberty Asserted* put it: “his idea of Civil Liberty […] is not only false but inimical, and productive of principles destructive of liberty, and incompatible with that Freedom which is the object of every Civil State.”

Why did Price’s critics believe his democratic conception of liberty to be destructive of civil liberty? Some critics argued that democratic participation would be inconsistent with good and effective government, which is necessary for the maintenance of civil liberty. According to this argument, the majority of individuals, and particularly the members of the working classes, are unfit to rule, and power should be entrusted to the few individuals whose superior social position and personal merit enable them to promote the good of the community.  

Perhaps the most compelling argument employed against Price was that democratic participation might lead to the tyranny of the majority. Critics who employed this argument usually expected the majority not merely to fail in maintaining civil liberty, but also to actively abuse its power and violate the civil rights of individuals.

One of the many critics who raised this worry was Goodricke. “Some people,” he wrote, “who have never considered the matter, are apt weakly to imagine, that *Democracy* is a security against *Tyranny*,” but the reality, he argued, is that democracy

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330 Grey, *Dr. Price’s Notions*, 15-18. John Gray argued that nothing is “more natural than that […] the vigorous, the active, and industrious, should acquire wealth and influence; the indolent, inactive, and feeble, should procure a subsistence, and should stand in need of the protection of others. By this it appears, that some men are rulers and others subjects by the very nature of man.” Government cannot exist without political inequality, which is based on “the natural inequality of men.” Democratic participation would upset this natural and political order, and would thus undermine the foundations of government and the civil liberty it maintains.
tends to lead to tyranny. In developing this argument, Goodricke relied on Locke, and particularly on Priestley:

I can not but further agree with the last-mentioned excellent writer [Priestley] in considering government in the hands of a great number of people, - as the government of a Mob, liable to the worst of the influences. And what is more likely to be abused, than power in such hands? – from want of judgment and of wisdom; from irresolution and precipitation; from the influences of faction, of ambition, of revenge, and of every evil disposition. Hence it is that Republican tyranny and oppression have been so frequent, so obstinate, so capricious, and so arbitrary; and have vented their fury so much on the best of mankind.331

Goodricke made clear that just as democracy provides no security against the abuse of civil power, neither do monarchy and aristocracy provide such security. The only security lies in the mixed constitution and the division of powers among different individuals and bodies, “as to make them serve as mutual checks on one another.” In this way, it is possible “to avoid the evils of Democracy by excluding the great body of the state,” and yet to ensure that the legislators are “connected and related to the people in general.” Goodricke relied on the authority of Cicero, Grotius, Pufendorf, Locke, Sidney, Hutcheson, Burlamaqui, Montesquieu, Blackstone, and Priestley to argue for the

331 Goodricke, Observations, 106-107. For Priestley on democratic tyranny, see Priestley, Essay (1771), 49-52.
superiority of mixed government over democracy, emphasizing in particular the agreement of his position with Locke’s views.\textsuperscript{332}

As the Doctor particularly names Mr. Locke, I have on this occasion again read carefully over his admirable treatise on Civil Government, but can not find, that he any where patronizes such principles of civil liberty or government as are laid down in the pamphlet now before me: the very reverse appears to me to be the case.\textsuperscript{333}

Goodricke did not specify whom he envisioned as being threatened by the tyranny of the majority,\textsuperscript{334} but the author of Civil Liberty Asserted spelled out the danger that seems to have been worrying many critics: democracy might lead to the working classes robbing the rich landowners of their property. According to the author of Civil Liberty Asserted, “by far the greater part of the people in all civilized States are men of no real property, but live as it were, from hand to mouth by their labour […] the men of real property bear but a small proportion to those that have none.” The assumption was that if only given the equal power of legislature, the poor would employ it to divest the rich of their possessions, and “property would become the most precarious and insecure thing in the world.” Price’s supposed intention of endowing the poor with the right to participate in government was bound to lead to the tyranny of the poor majority:

\textsuperscript{332} Goodricke, Observations, 98-119, 126-128.
\textsuperscript{333} Ibid., 127-128.
\textsuperscript{334} Shebbeare mockingly suggested a scenario in which the majority of the people of England would decide to hang “all Englishmen of Presbyterian and democratic principles,” implying that the Presbyterian and democratic Price would not approve of the will of the majority in such a case. Shebbeare, Essay, 28.
In the nature and reason of things, ‘tis clearly impossible that he that has no property of his own, should have a right to assist in the making laws, concerning the disposal of the property of other people; there never was a more absurd, nor a more dangerous tenet adopted by the most avowed and the most inveterate Enemy of Civil Liberty; and yet this is the doctrine so much insisted on by the Doctor.\(^\text{335}\)

In this strong form, the consequentialist argument implied that “the Doctor’s idea of Civil Liberty” would be “absolutely incompatible with, and destructive of, Civil Liberty” in the sense of the security of property.\(^\text{336}\) Dean Tucker warned that the “Champions for American Republicanism,” headed by “the republican Goliah” Price, are advocating “republican Tyranny, the worst of all Tyrannies, instead of the present Government, which is certainly the least oppressive, the mildest, the best poised, and the most reasonable upon Earth.”\(^\text{337}\) Whereas Price was arguing that civil liberty could only be secured by the active participation of the people in government, his Whig critics were arguing that he turned the principles of liberty and government upside down: democratic participation posed an imminent danger to civil liberty and the security of rights.

\(^{335}\) Civil Liberty Asserted, 19-20.
\(^{336}\) Civil Liberty Asserted, 20.
\(^{337}\) Josiah Tucker, A Series of Answers to Certain Popular Objections, against Separating from the Rebellious Colonies, and Discarding Them Entirely: Being the Concluding Tract of the Dean of Glocester, on the Subject of American Affairs (Glocester: T. Cadell, 1776), 70, 72.
CHAPTER 3

Ferguson on Virtue, Commerce,
And the Absurdity of Democracy

The Price Debate and the Ferguson Problem

Adam Ferguson was one of the most distinguished and unusual contributors to the
debate provoked by Price’s Observations. A Professor of Pneumatics (philosophy of
mind) and Moral Philosophy at the University of Edinburgh, his Essay on the History of
Civil Society (1767) established his reputation as an historian and moralist across Europe.
His independent spirit and fiery character,338 his past service as a chaplain to the First
Highland Regiment of Foot, the Black Watch; his leading role in the Scottish militia
campaign; and his call for regenerating the spirit of civic patriotism in the Essay on the
History of Civil Society – all contributed to his public image, later cemented by the
History of the Progress and Termination of the Roman Republic (1783), as a
representative, in theory and practice, of the virtue of the ancients. His contemporaries
attributed to him a “Roman soul”339 and a “Spartan spirit,”340 and nineteenth century

338 His friend Alexander Carlyle described him as being “the son of a Highland clergyman” who “had the
pride and high spirit of his countrymen;” he added that he was “jealous of his rivals, and indignant against
assumed superiority.” Alexander Carlyle, The Autobiography of Dr. Alexander Carlyle of Inveresk 1722-
339 The Edinburgh Review quoted with approval the statement of an acquaintance that “still burned a
Roman Soul in Ferguson.” Anonymous, “Adam Ferguson,” Edinburgh Review or Critical Journal CXXV
(January 1867): 85.
340 Elizabeth Montagu, the literary critic and leader of the Blue Stocking Society, wrote to Lord Kames on
March 24, 1767, that she wished Ferguson “could infuse to us some of that Spartan spirit he admires so
biographers described him as “Ultimus Romanorum,” the last of the Romans, and a “Scottish Cato.”

In politics, Ferguson was a member of the Moderate party of the Church of Scotland, and a “constitutional whig, equally removed from republican licentiousness, and tory bigotry,” in the words of his neighbor, the anti-Jacobin historian and novelist Robert Bisset. “His strong, enquiring, unprejudiced mind,” added Bisset, “versed in Grecian and Roman literature, rendered him a zealous friend of rational and well-regulated liberty.” Caroline Robbins and Richard Sher described Ferguson as a conservative Whig.

Ferguson was not only a constitutional Whig devoted to the spirit of ancient republicanism; he was also a pioneering sociologist and political economist, whose penetrating insights into commerce, industrial labor and the institutions of the modern state shaped his understanding of liberty. It is with this exceptionally rich perspective that he assumed his controversial role as a participant in the Price debate.

Ferguson was initially reluctant to be drawn into the pamphlet war over the American crisis, but he was finally persuaded to compose a pro-government reply to Price’s Observations. Ferguson’s pamphlet, Remarks on a Pamphlet Lately Published justly.” Quoted in Alexander Fraser Tytler, Memoirs of the Life and Writings of the Honourable Henry Home of Kames (Edinburgh; London: William Creech; T. Cadell and W. Davies, 1807), II, 50-1.

341 Small, Biographical Sketch, 67.
344 For a detailed account of Ferguson’s involvement in the American crisis, see Fagg, "Biographical Introduction," xlvii-lvi. On Ferguson’s reply to Price in the context of the Edinburgh literati’s involvement
by Dr. Price (1776), published anonymously at the government’s expense, was quite moderate in its position on the dispute between America and the colonists and called for negotiation and reconciliation. In earlier correspondence, Ferguson was critical of the British government’s decision to pass the Stamp Act of 1765, believing it to have created an unfortunate conflict, in which the British attempt to “bully” the Americans with military force was at odds with the interests of trade. In the Remarks, he expressed his belief that “as the Americans are growing rich […] they ought to have better security for their property,” and suggested that new rules of taxation should be devised in consultation with the colonies. He also held, however, that the British Parliament had a legal right to tax the colonies, and once the colonists defied its authority, the government had no alternative but to beat the rebels into submission. Most of all, he was rattled by the principles of liberty and government defended by Price.

In his treatment of Part I of the Observations, Ferguson criticized both Price’s definition of civil liberty, and his idea of free government. He argued that Price’s general understanding of liberty, which was applied to the concept of civil liberty, “puts Liberty in contradistinction to Restraint, and makes Restraint, in every case, the essence of Slavery.” Like many other critics of Price, Ferguson identified self-government with the


Ferguson, Remarks, 29-33, 59-60.
power of doing as we please or the absence of restraint. He argued that the absence of restraint is inconsistent with life in civil society, because the end of civil society is to protect people from crime and from despotism. Ferguson’s own definition of civil liberty was the constitutional Whig definition, which identified liberty with the security of rights under the rule of law. “Civil Liberty is not precisely a power to do what we please, but the security of our rights,” he wrote. Ferguson attributed this idea of liberty to Montesquieu.  

Ferguson also followed Montesquieu in warning against identifying civil liberty with the power of the people and republican government. His primary argument was consequentialist: in the absence of moral liberty or virtue, democratic government would be inconsistent with the liberty and happiness of the people. “Corrupt and vicious men,” he wrote, “assembled in great bodies, cannot have a greater curse bestowed upon them, than the power of governing themselves.” More specifically, Ferguson warned against the tyranny of the majority. In democracy, he wrote, freedom from oppression depends on the “rash, precipitate, prejudiced, and inequitable” judgment of the popular assembly,

346 Ferguson, Remarks, 3-8. Montesquieu distinguished between independence, which he identified with “unlimited freedom,” and political liberty, which can only exist under the rule of law. Institutionally, political liberty means living under a government where “no man shall be compelled to do things to which the law does not oblige him, nor forced to abstain from things which the law permits.” Individually, political liberty consists in security, or to be more exact, in “a tranquility of mind arising from the opinion each person has of his safety.” Ferguson adopted from Montesquieu both the opposition between liberty and independence, and the idea that liberty consists in the security of rights under the rule of law. Unlike Montesquieu, he seemed to identify liberty with the objective state of security, and not with the subjective “opinion” or feeling of security. Montesquieu, Spirit, 154-156, 187-158.

347 Ferguson, Remarks, 2-10, esp. 15. Ferguson associates democracy with extreme freedom, an association that has roots in classical thought, and can be found, for example, in Book VIII of Plato’s Republic. In the Remarks, Ferguson derives it from Montesquieu’s discussion of liberty and democracy. In De l’espris des loix, Montesquieu developed his definition of political liberty in contrast to what he saw as the democratic idea of freedom: “as in democracies the people seem very nearly to do what they want,” he wrote, “liberty has been placed in this sort of government and the power of the people has been confused with the liberty of the people.” See Plato, Republic, trans. G. M. A. Grube and C. D. C. Reeve (Indianapolis: Hackett 1992), 232-234 [562b-564a]. Montesquieu, Spirit, 155 [111.152-153].
and the citizen is “in fact subject to a power, which is of all others the most unstable, capricious, and arbitrary.”

Ferguson’s argument against the exercise of power in “great bodies” may seem beside the point, since Price advocated for an adequate representation, which would consist in the right of all free agents to choose their representatives in the House of Commons and exercise control over their political actions; he was not proposing to abolish the British mixed constitution, and he was not calling for the direct participation of the people in a democratic assembly. Indeed, Ferguson agreed with Price that political representation is “one of the happiest institutions of mankind,” and conceded Price’s argument that the representation of the people in the British House of Commons is inadequate.

Crucially, however, Ferguson denied that the political liberty of the state depends on an adequate representation of all free agents in the state. He employed both the skeptical and the consequentialist arguments against the expansion of popular participation through more adequate representation. First, he denied the relation between the freedom of the British constitution and democratic participation. The British constitution, he argued, secures the rights of individuals not by allowing them to participate in government, but by giving “all the different orders of the state” the power to ensure that their interests are represented in the process of legislation. Thus, it is “less material who elects, than it is who may be elected.” As long as capable gentlemen with the property qualifications of British commoners are elected, “the interests of the

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348 Ferguson, Remarks, 9.
349 Ibid., 10-12.
350 By speaking of “the different orders of the state” Ferguson is referring to the feudal estates – the clergy (Lords spiritual), nobility (Lords temporal), and commons.
Commons in the lower house is secure." Second, he argued that the expansion of popular power would be detrimental to liberty:

It is of great moment to extend the participation of power and government, as far as the circumstances and character of a people will permit; but extremely dangerous to confound this advantage with Civil or Political Liberty; for it may often happen, that to extend the participation of power, is to destroy Liberty. When all the powers of the Roman senate were transferred to the popular assemblies, the Liberty of Rome came to an end.

Notice that Ferguson reverted back from addressing the problem of adequate representation to warning against the danger of popular assemblies. His assumption was that the participation of the demos in the election of representatives could be as dangerous as the transfer of power to a popular assembly. Political power would shift from the safe hands of the most capable gentlemen to the unsafe hands of representatives elected and controlled by the demos. In the Remarks, Ferguson made clear that free states normally exclude the demos from participation, and entrust political power only to those most capable of exercising it:

In most free states the populace have as much need to be guarded against the effect of their own folly and errors, as against the usurpation of any other person

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351 Ferguson, Remarks, 13.
352 Ibid., 14. As he was writing these lines, Ferguson was already at work on his three-volume History of the Progress and Termination of the Roman Republic, where he elaborated on the thesis that the exercise of power by popular assemblies, which were easily seduced by ambitious leaders and prone to violent tumults, brought about the collapse of the Republic. See Adam Ferguson, The History of the Progress and Termination of the Roman Republic (London and Edinburgh: W. Strahan, T. Cadell, and W. Creech, 1783), I, 23; II, 111; III, 136, and passim.
whatever. And the essence of political Liberty is such an establishment as gives power to the wise, and safety to all.  

Ferguson’s belief that the people need to be guarded against their own folly associates his theory of political freedom with the theory of political guardianship, most famously developed in Plato’s Republic and endorsed by countless critics of democracy. Like all advocates of political guardianship, Ferguson assumes that the common people lack the knowledge and virtue required for governing themselves, and thus, political power must be entrusted to an elite.

What may be termed the “Adam Ferguson Problem” arises from the apparent tension between Ferguson’s critique of popular power in his riposte to Price and on several other occasions, and his civic sentiments, particularly in the Essay, where

353 Ferguson, Remarks, 8-9.

Ferguson’s attitude toward the French Revolution has received contrasting interpretations. David Kettler argued that Ferguson’s opposition to the French Revolution derived mainly from its perceived threat to England and Europe, and he was otherwise “an interested and not unsympathetic observer,” fascinated by the parallel to the rise of the Roman republic, and attracted by the vigor of the revolutionaries. Kettler, Social and Political Thought, 91-96. Fania Oz-Salzberger followed this line of interpretation, arguing that Ferguson’s attitude to the French Revolution was “exceptionally favourable.” Fania Oz-Salzberger, Translating the Enlightenment: Scottish Civic Discourse in Eighteenth-Century Germany (Oxford: Clarendon Press, 1995), 104-105. Others, however, seem to have been on firmer ground in emphasizing Ferguson’s critical attitude toward the French Revolution. Andreas Kalyvas and Ira Katznelson, Liberal Beginnings: Making a Republic for the Moderns (Cambridge: Cambridge University Press, 2008), 86. Ronald Hamowy, The Political Sociology of Freedom: Adam Ferguson and F.A. Hayek (Cheltenham and Northampton, MA: Edward Elgar, 2005), 176. Ferguson may have been a fascinated observer of the Revolution, but he was hardly a sympathetic one. He compared the Revolution to “Antichrist itself in the form of Democracy & Atheism,” and blamed the French Third Estate for executing “a Tyranny more bloody & terrible than any that is known in the history of Mankind.” His comments imply that an army struck “by a flash of Democratical lightning” and gone rampant was responsible for the Revolution. His
Ferguson argued for the intrinsic and instrumental value of civic engagement in military and political affairs. The Essay drew on anthropological and historical evidence to suggest that human nature is realized and happiness is gained in the exercise of human powers in the public sphere, and particularly in politics and war, where patriotism and honor animate the natural and mutually reinforcing dispositions to associate with friends and contend with enemies. Ferguson suggested in the Essay that commercial states would decline and fall into political slavery if they relied only on the protection of civil rights under the law, neglecting to cultivate the patriotic and martial spirit of their citizens. Ferguson’s claim in the Remarks that power should be entrusted to the wise in order to guard the population against its own folly seems to contradict his argument in the Essay that activity in the public sphere is valuable for its own sake, and that individuals should be the guardians of their own rights.

The problem of reconciling Ferguson’s praise for individual action in the public sphere with his willingness to settle for political guardianship has most commonly been approached on the basis of what might be called “the inconsistency thesis,” or the assumption that Ferguson’s critique of popular participation in the Remarks was, indeed, inconsistent with his civic ideals in the Essay. Proponents of this thesis have assumed that Ferguson’s social and political thought was inconsistent in one way or another—either

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reflections mostly stem from a preoccupation with the possible effects of the developments in France on Britain and Europe. It is with this question in mind that he discussed the military vigor of the revolutionaries and expresses the hope that the threat posed by France will drive Britain to “a just Military Posture.” See Ferguson, Correspondence, II, 336-337, 384-335, 408, 419-321, 423-335. Adam Ferguson, “Of the French Revolution with Its Actual and Still Impending Consequences in Europe,” in The Manuscripts of Adam Ferguson, ed. Vincenzo Merolle (London: Pickering & Chatto, 2006), 135.


Ibid., 251.
internally, or over time; either with regard to the desired scope of political participation, or with regard to its desired nature.

The *locus classicus* on this issue is David Kettler’s *The Social and Political Thought of Adam Ferguson* (1965), which remains the most thorough and thoughtful attempt to confront the “republican” Ferguson with his conservative self. Kettler postulated that Ferguson’s thought was driven by an internal tension from the outset. According to his account, Ferguson’s standard for assessing social reality was “the contribution society in general can make to human virtue,” and from this perspective, the ideal form of government was a moderate democratic republic. This ideal, however, was inconsistent with the social and political order in eighteenth century Britain, and Ferguson found himself in a position of moral hostility to the existing order. In the *Essay*, he expressed concern that it stifled the development of human capacities and virtue, particularly in the lower classes, which were degraded by industrial labor, but also in the upper classes, whose character was corrupted by the separation of military service from citizenship and statesmanship.

According to Kettler’s account, Ferguson’s later works document the development of his reaction to the tension between social reality and his ideals. Somewhat tragically, this reaction consisted in large part in withdrawal and denial. In particular, Ferguson urged the lower classes to accept their degradation, and “abandoned all hope of democracy because he did not believe that the conditions necessary for it could any longer exist.”

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358 Kettler, *Social and Political Thought*, 138-296, esp. 138, 188, 197, 201-132, 233, 238-139, 284. Kettler’s study employed Karl Mannheim’s sociology of knowledge and theory of intellectuals to assess
Other leading scholars have accepted the inconsistency thesis. Lisa Hill called Ferguson’s conservatism, and particularly his failure to call for a broadening of the franchise, “perplexing” and “disappointing.” She condemned his “apparent willingness to pay only lip service to the ideal of mass political participation” and “abandonment of the principle of equality, which, confusingly, he both defends and repudiates in turn.”

Fania Oz-Salzberger wrote that Ferguson’s position on the American crisis “marked the limits of his republican creed,” and suggested that despite his lifelong commitment to the vita activa, Ferguson’s “trust in the rule of the many may have abated as he grew older and witnessed its abuses.” Andreas Kalyvas and Ira Katznelson charted Ferguson’s “trajectory from a predominantly republican to a primarily liberal orientation,” describing him as having given up his earlier “classical republican aspirations” and turned away from the attempt to create modern republics in the American and French revolutions.

Yasuo Amoh noted that Ferguson’s arguments in the Essay on the importance of civic participation were replaced with “grave doubts and anxieties” about wider participation in the Remarks. “In the American crisis,” argued Amoh, “Ferguson came to consider an increasing public participation in the political world as dangerous to the British polity.”

Ferguson’s attempt as an intellectual to “develop an orientation towards the world of practice through the medium of ideas.” He concluded that Ferguson failed in his task as an intellectual, and instead of creating a guideline to social practice, produced a justification for withdrawal from social practice. Ibid., 7-9, 291-296.


Katznelson, Liberal Beginnings, 65, 68, 85-86. See also Andreas Kalyvas and Ira Katznelson, "Adam Ferguson Returns: Liberalism through a Glass, Darkly," Political Theory 26, no. 2 (April 1998).

Amoh, "Ferguson's Views," 75-76.
This chapter challenges the inconsistency thesis. It argues for the consistency of Ferguson’s convictions about the nature and scope of political participation. The interpretation offered here is a rereading of Ferguson’s social and political thought in light of his intervention in the Price debate. It brings to the fore Ferguson’s work on the concept of liberty, and particularly, his contribution to the eighteenth century debate on the nature of the free state and the role of political participation in constituting it.\textsuperscript{363}

Ferguson’s understanding of liberty was profoundly influenced by Montesquieu’s redefinition of modern constitutional monarchies as free states. To Montesquieu’s theoretical framework, Ferguson added a Harringtonian emphasis on the relation between the material foundation and the political superstructure, and a belief, characteristic of the Scottish Enlightenment, in the gradual progress of society. These components of Ferguson’s theory of the free state were employed in the service of a predominantly conservative ideology that aimed to protect the British oligarchic order both from the decline of the ruling classes and from the insurrection of the working classes.

In support of this theoretical framework, Ferguson established in the \textit{Essay} a distinction between constitutional liberty in modern commercial states and liberty in the ancient republics, whose primary support was the civic and martial virtue of the people. His account made clear that the participatory liberty of the ancient republics is “a kind of

\textsuperscript{363} The best account of Ferguson’s theory of liberty to date is Richard B. Sher, "From Troglodytes to Americans: Montesquieu and the Scottish Enlightenment on Liberty, Virtue, and Commerce,” in \textit{Republicanism, Liberty, and Commercial Society. 1649-1776}, ed. David Wootton (Stanford, CA: Stanford University Press, 1994), esp. 389-402. This paper accepts Sher’s basic thesis on the tradeoff of autonomy for security, and develops Ferguson’s theory of the free state and its social foundation. The line of interpretation pursued here is also consistent with recent work by Iain McDaniel, particularly in Iain Robert McDaniel, "Adam Ferguson’s 'History of the Progress and Termination of the Roman Republic' (1783) and Its Place in His Political Thought" (Ph.D Dissertation, University of Cambridge, 2004). This paper, however, in contrast McDaniel’s work, takes as its framework of reference the debate on the nature of civil liberty and its relation to democratic participation rather than the debate on the military organization of modern European states.
liberty for which we are no longer fitted,” as Benjamin Constant would later state. The Essay’s brilliant analysis of the adverse effects of the division of labor on the character of the working classes served Ferguson as the ultimate argument against political equality in commercial society.

For Ferguson, as for Bentham, the threat posed by the democratic conception of liberty first came into view during the Wilkes riots in London in 1769. Ferguson’s concern with the fate of British liberty started shifting its focus at that point from the character of the upper classes to the unruliness of the lower classes. This issue came into particular focus, and gained greater theoretical clarity, during the Price debate.

In response to the democratic threat posed by Price and the American colonists, Ferguson drew on the theoretical foundations found in his earlier writings. In particular, he maintained and developed the view that civil and political liberty depends on a division of social roles, which entrusts the affairs of the state primarily to the most capable and worthy members of the upper classes, while excluding the lower classes or the demos from political and military affairs. His separation of civil rights from political rights in the earlier writings was transformed into a justification for denying the rights of the American colonists to participate in government.

The following sections discuss, in turn, Ferguson’s account of the moral liberty of the ancients; his understanding of the civil liberty of the moderns; his theory of the free state and its material and social foundation; the relation between his analysis of the division of labor and his critique of democracy; his position on the desirable scope and

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nature of participation; and his argument against the American Revolution. The concluding section briefly discusses some of the implications of the interpretation of Ferguson proposed in this chapter.

Moral Liberty: The Simple Dictates of the Heart

Ferguson anticipated Benjamin Constant in distinguishing between the liberty of ancient republics and that of modern commercial states. This section and the following one examine Ferguson’s account of ancient and modern liberty. They argue that despite his concern with civic and martial spirit, Ferguson was never an advocate of the participatory liberty of the ancients, and always understood liberty as the security of rights under the rule of law and the institutions of free government.


366 Ferguson did not use the terms “ancient liberty” and “modern liberty;” they are part of the conceptual framework that I have used in analyzing his theory of liberty. By employing them, I did not mean to imply that Ferguson’s distinction was identical to Constant’s later formulation using the same terms. It is worth noting that the terms “ancient liberty” and “modern liberty” had been in use prior to Ferguson and Constant. In 1734, Lord Hervey, a Court Whig and political writer, already argued for the superiority of the “Modern Liberty” established at the Glorious Revolution. His “Ancient Liberty” was the liberty of the English people prior to the Revolution, rather than the liberty of classical republics. John Hervey, Ancient and Modern Liberty Stated and Compar'd (London: J. Roberts, 1734). The distinction should also be seen in the broader context of an ongoing debate in the late seventeenth and eighteenth century on the relative merits of antiquity and modernity. One of its well-known expressions was the so-called “quarrel between the Ancients and the Moderns” in France and England between 1687 and 1715. This was a cultural controversy on the relative merits of ancient and modern learning, which inspired Jonathan Swift’s satire The Battle of the Books. Another expression was the debate on virtue and commerce. See Jonathan Swift, A Tale of a Tub. Written for the Universal Improvement of Mankind. To Which Is Added, an Account of a Battel between the Ancient and Modern Books in St. James's Library (London: John Nutt, 1704). See also Joan DeJean, Ancients against Moderns: Culture Wars and the Making of a Fin De Siècle (Chicago & London: University of Chicago Press, 1997). Istvan Hont, “The Early Enlightenment Debate on Commerce and Luxury,” in The Cambridge History of Eighteenth-Century Political Thought, ed. Mark Goldie and Robert Wokler (Cambridge: Cambridge University Press, 2006).
The impression that Ferguson was an advocate of the liberty of the ancients has been produced, sometimes unwittingly, by accounts of his thought that emphasized his preoccupation with the fate of civic virtue in modern society. J. G. A. Pocock, for example, argued that Ferguson wanted to infuse the modern citizen with “an aggressive and disciplined passion” that was “visibly Machiavelli’s virtù.” He described the Essay as “a big-bang theory of history, which went on to enquire what became of human energy as society progressed.”\(^{367}\) But Pocock was deliberately interpreting the Essay in the context of a “tunnel history,” pursuing “a single theme, that of the vivere civile and its virtue.” According to Pocock’s own retrospective analysis, he “considered the notion of liberty only in its civic sense of the capacity to participate in self-rule and hardly at all in its liberal sense of the enjoyment of one’s own under the protection of the law.”\(^{368}\)

In what follows, the Essay is treated as a multi-tunnel history, which examines the interactions between virtue, property, and liberty in society. Ferguson’s account of savages, barbarians, ancient republicans, and modern Europeans offers different theoretical models of liberty and government, which are shaped by the influence of property on virtue.

In distinguishing between savages and barbarians, Ferguson seems to have been following Montesquieu’s distinction between savage and barbarian societies, but adding to it the temporal dimension of stadial history. In Montesquieu’s account, savage peoples are small, scattered tribes of hunters and gatherers, such as the peoples of America and Siberia, whereas barbarians are small nations of shepherds that unite under one leader.


such as the Tartars, the Arabs, or the Germanic tribes. Both types of societies are
governed by mores rather than laws, and enjoy a primordial form of freedom.\textsuperscript{369}

But whereas savages were relegated to a minor role in the \textit{De l’esprit des lois},
they came to the fore in Ferguson’s \textit{Essay}, inspired by traveler accounts of the native
tribes in America, and contrasted with historical accounts of barbarian tribes, particularly
the Tartars. Ferguson’s contrast between “savage” and “barbarian” peoples is based on
their relations to property. The difference between the two ideal types, according to
Ferguson, is that the savage “is not yet acquainted with property,” whereas property to
the barbarian is “a principal object of care and desire.” This creates a “material difference
of character” between the two ideal types, which is essentially the difference between
moral innocence and corruption.\textsuperscript{370}

Unlike some of the eighteenth-century followers of Sir Robert Filmer (1588-
1653), who argued that subjection was the natural state of mankind,\textsuperscript{371} Ferguson
imagined “savages” to possess a natural virtue that allowed them to live together as self-
governing equals without institutional subjection. His depiction of savage societies in the
\textit{Essay} corresponded to the theoretical model that he elsewhere described as “the
government of innocence.”\textsuperscript{372} His account implied that a liberty based on natural
innocence could only exist in a society of hunters-gatherers, who are “not yet acquainted
with property.” These savages, as Ferguson imagined them, are naturally courageous,
sociable, friendly, intelligent and eloquent; they value merit rather than wealth; they

\textsuperscript{369} See, in particular, Montesquieu, \textit{Spirit}, 290-292.
\textsuperscript{370} Ferguson, \textit{Essay}, 81.
\textsuperscript{371} See, for example, Jeremy Bentham’s argument that Filmer demonstrated “the physical impossibility of
the system of absolute equality and independence, by showing that subjection and not independence is the
\textsuperscript{372} Adam Ferguson, \textit{Institutes of Moral Philosophy} (Edinburgh: A. Kincaid & J. Bell, 1769), 285.
possess an independent spirit, and a natural love of equality and justice. Their innocent
virtue enables them to live and act together on equal terms without external restraint.
“Without police or compulsory laws,” wrote Ferguson, “their domestic society is
conducted with order, and the absence of vicious dispositions, is a better security than
any public establishment for the suppression of crimes.” He supposed the savages to
enjoy a “delicious freedom from care, and a seducing society, where no rules of
behaviour are prescribed, but the simple dictates of the heart.”

This liberty of the savages, however, could only exist in an imaginary state of
innocence, where the heart desires no evil, and human relations are unmediated by
property. Once human beings fall from that state of grace, and let the vicious desire for
wealth enter their hearts, the ideal of moral liberty no longer suits their condition. “The
innocent alone,” writes Ferguson in his lecture notes, “are entitled to be free from
Restraint. And the Virtuous alone are entitled to Confidence. The Vicious must be ever
held in distrust.” Ferguson’s depiction of barbarian society pushed to an extreme the
correspondence between viciousness and restraint.

Barbarian society represents the nightmare scenario of individuals ruled by their
vicious passions without a government of law to restrain them. The barbarians are
motivated by greed, competition, jealousy, revenge, and the love of glory; they are
addicted to violence and inclined to sloth. Their condition, according to Ferguson, is

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373 Ferguson, Essay, 80-94, esp. 81, 85, 94.
“slavish, interested, insidious, deceitful, and bloody,” and “bears marks, if not of the least curable, surely of the most lamentable, sort of corruption.”

Ferguson paid no heed to Montesquieu’s belief that most barbarian peoples enjoy “great liberty,” instead modeling his barbarians after Montesquieu’s exceptional case, the Tartars. Montesquieu described the Tartars as living in “political slavery,” completely subordinated to their political leaders. In Ferguson’s *Essay*, the distinguishing feature of barbarian society is its hierarchical nature, and the relations of power and dependence characterizing it. The barbarians “know the relations of patron and client, of servant and master, and suffer themselves to be classed according to their measures of wealth.” Their violent passions require “the bridle of despotism and military force.” In this state of corruption, “Rapacity and terror become the predominant motives of conduct, and form the character of the only parties into which mankind are divided, that of the oppressor, and that of the oppressed.” The account of barbarian society is a caricature of a society ruled by the acquisitive passion, a community whose unadulterated pursuit of material goods has stripped it of all moral liberty and replaced it with extreme restraint.

The ancient republic of Sparta represents yet another variation on the theme of property and liberty: “the government of virtue.” The Spartans, according to Ferguson, managed to cut off the corruptive influence of property at the roots by regulating their manners and severing the connection between material goods and the possession of

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376 Montesquieu, *Spirit*, 294-295, 306. Montesquieu distinguishes the Tartars from the “general case” of peoples who do not cultivate the land. He calls the Tartars “the most singular people on earth.” On their political slavery, he comments: “When a khan is proclaimed, all the people shout, ‘May his work serve him as a sword!’”
honors and power. Spartan citizens were not allowed to display any distinction based on fortune or rank. Even their taste in architecture and furniture was severely regulated in order to prevent ostentation. Only distinctions based on talent and virtue were acknowledged. The countermeasures they took against greed and vanity turned Sparta into the only state in history “whose sole object was virtue.” Ferguson suggested that the government of Sparta should be studied not for its criminal laws or political institutions, but for the success of its political culture “to inspire the virtues of the soul.” In Sparta, according to Ferguson, “the preservatives of civil liberty applied by the state, were the dispositions that were made to prevail in the hearts of its members.”

Despite his attempt in the Essay “to plead the cause of Sparta” in the sense of vindicating the spirit of its citizens, Ferguson had no wish to reproduce the Spartan experiment in living. The government of virtue was maintained at a cost: the Spartans arrested the progress of society at a state of savage-like simplicity, keeping their republic, in a sense, suspended in time. “We must be contented,” argued Ferguson, “to derive our freedom from a different source.”

The liberty of the savages and of the Spartans would both fall under Ferguson’s definition of “moral liberty.” The term was introduced in the Remarks, where Ferguson identified it with “the freedom to do what is just and innocent.” Ferguson may indeed have adopted it from Price’s distinction between physical, moral, religious, and civil liberty. In the Remarks, Ferguson argued that the democratic conception of civil liberty

379 Ferguson, Essay, 152-155.
380 Ferguson, Correspondence, I, 75-76.
381 Ferguson, Essay, 155.
382 Ferguson, Remarks, 5. See also "Of Liberty and Necessity," in Ferguson, Manuscripts, 217.
advocated by Price would only make sense if we presuppose that “Moral Liberty is fully established in the world.”\textsuperscript{383} In a later essay, Ferguson offered the following definition: “Moral liberty is the condition in which Men may judge and act for themselves without any limits but those of Innocence & Justice.”\textsuperscript{384} Notice that the freedom of individuals to judge and act for themselves is not equivalent to an absence of restraint on human desire and action. It is only a lack of \textit{external} restraint on behavior, which is made possible by the presence of internal restraint. In the state of moral liberty, individuals are internally restrained by their natural disposition toward innocence and justice. Moral liberty is self-government in the fullest sense – a government imposed by the self over the self.

Ferguson’s idealized depiction of the moral liberty of the savages and the Spartans is quite possibly the most elusive part of the \textit{Essay}, because it plays a double role in the narrative and easily lends itself to misinterpretation. On the one hand, the account was meant to inspire modern citizens to emulate the patriotic virtue of the ancients. Ferguson wanted to create a poetic vision of history that could “move the heart” and raise the national spirit, just as the mythology of the Greeks “served to inflame that ardent enthusiasm with which this people afterwards proceeded in the pursuit of every national object.” In the traveler accounts of Joseph-François Lafitau (1681-1746), Pierre-François-Xavier de Charlevoix (1682-1761), Cadwallader Colden (1688-1776) and others, Ferguson sought “to behold, as in a mirrour, the features of our own progenitors,” an image of primordial innocence, which could serve as a standard of social virtue.\textsuperscript{385} The same is true for his account of Sparta: it was meant to enrich the moral lives of modern

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\textsuperscript{383} Ferguson, \textit{Remarks}, 5.
\textsuperscript{384} “Of Liberty and Necessity,” in Ferguson, \textit{Manuscripts}, 217.
\textsuperscript{385} Ferguson, \textit{Essay}, 74-80.
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citizens and inspire them to emulate the martial virtue of the ancients rather than the polite manners of the moderns.

On the other hand, the relation that Ferguson described between liberty, property, and virtue should have made clear to contemporary readers that moral liberty is incompatible with the conditions of a modern commercial society. In his discussion of Sparta, Ferguson wrote:

We must be contented to derive our freedom from a different source; to expect justice from the limits which are set to the powers of the magistrate, and to rely for protection on the laws which are made to secure the estate, and the person of the subject. We live in societies, where men must be rich, in order to be great [...] where public justice, like fetters applied to the body, may, without inspiring the sentiments of candour and equity, prevent the actual commission of crimes.386

Ferguson’s account of different societies was meant to serve as a cautionary tale for those who might foolishly attempt to recreate the liberty of the ancients in the world of the moderns. In commercial societies, general innocence or virtue was “not to be expected in human affairs,” he wrote. Modern liberty was to be based on “the government of law.”387

386 Ferguson mentioned in passing proposals to bring about “a new division of property, as the foundation of freedom,” and to “prevent the excessive accumulation of wealth in particular hands,” but stopped short of support for institutional reforms. Ibid., 151-152, 155.
Civil Liberty: Perfect Security and Just Restraint

In contrast to the self-government of savages and ancient republicans, the freedom of the moderns consists in the “safety of the people” or “the secure enjoyment of their rights.” Ferguson referred to modern liberty as “civil” in the sense of being refined or civilized in comparison to earlier stages of human development. It is the product of civilization, the historical process that Enlightenment thinkers believed to have distinguished them from pre-modern and non-European societies, which consists in the refinement of the mechanical, commercial, and liberal arts, as well as the corresponding development of law and government. The capacity of individuals to securely enjoy the fruits of industry and commerce under legal and political institutions is their civil liberty.

The “safety of the people” consists primarily in their protection against two evils: “private crimes and publikk aggressions,” that is to say, the violation of rights in the private sphere and the abuse of power by government officials. In its broader sense, civil liberty could refer to both, but Ferguson seems to have associated it primarily with the security of individual rights under the civil law, whose object is “to ascertain the

rights of individuals whether in respect to their persons or their things,” and under the penal law, whose object is “the punishment or restraint of crimes.” What Ferguson called “political liberty” is related primarily to the “political Law,” whose object is “to ascertain the constitution of government.”

Ferguson made clear that in speaking of liberty as the safety of the people, he was referring not to “any separate class” of the people, but to “all the members of the community, the magistrate as well as the subject.” This, however, should not be taken to mean that all members of civil society have rights to equal things. Some rights are equally distributed, particularly the “original” rights to the integrity and use of body and mind. Other rights may be unequally distributed, particularly the “adventitious” or conventional rights of possession, property, and command over the services and obedience of others. Ferguson wrote that the distribution of these may, in some instances, be “very unequal,” but “the safety of the people is provided for so long as every individual in his place is secured in possession of what he justly claims.” He acknowledged that in some cases, inequalities may be based on usurpation in former ages, but argued that “usurpation may in the sequel become matter of right, if it be such as men are reconcilable to, if they be actually reconciled and freely give and take the mutual advantage of a condition in which they are placed.” In other words, he believed that the members of civil society had consented to the existing inequalities, even if those

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393 Ferguson, Lectures, III, 894-895. Political laws in their perfection “confer on the magistrate sufficient power to suppress disorders and to defend the community but under directions and limitations sufficient to prevent the abuse of this power.” See also Adam Ferguson, Analysis of Pneumatics and Moral Philosophy (Edinburgh: A. Kincaid & J. Bell, 1766), 52.
394 Ferguson, Institutes, 284.
395 Ferguson, Principles, II, 462.
396 Ferguson, Institutes, 195-199. Ferguson, Analysis, 42.
397 Ferguson, Lectures, III, 888-890.
are based on past injustice. The object of civil liberty is to maintain the existing
distribution of property and power.

Ferguson understood civil liberty to be created by the law, rather than abrogated
by the law. In the spirit of seventeenth century republicans and eighteenth century
constitutional Whigs, he wrote that free individuals “live under the government of Laws,
not that of men.” The law serves “as a power erected to guard them, and as a barrier
which the caprice of man cannot transgress.” Under the government of law, individuals
are able to enjoy the most “complete freedom from unjust restraint,” and “the perfect
security that we cannot be wronged.”

As we have already seen, Ferguson contrasted the conception of liberty as the
security of rights with Price’s conception of freedom understood “in contradistinction to
Restraint.” In other places, he acknowledged the natural desire of human beings to
avoid restraint. “They delight in freedom and exercise; they pine under restraint,” he
wrote. He added that the idea of freedom from restraint is pleasing to the human mind:

It is highly grateful to the human mind to pursue its innocent course undirected
and uncontrolled. It is even flattered with the imagination of romantic scenes, in
which nature is free; not bound to any task; not responsible to any authority; not
hampered by any forms; and left to pursue the object of the moment in the way

398 Cf. John Locke, Two Treatises of Government, ed. Peter Laslett (London,: Cambridge University Press,
399 Ferguson, Lectures, III, 894.
400 Ferguson, Essay, 249.
401 Ferguson, Remarks, 7-8.
402 Ibid., 2.
403 Ferguson, Institutes, 2nd Ed., 66.
that the present moment suggests. This we conceive to be the state of the savage in his forest.  

While recognizing the natural tendency for holding this romantic idea of “supposed perfect freedom,” Ferguson believed it to be inconsistent with the idea of liberty as the secure enjoyment of rights. The perfection of the “Natural Liberty” to do as we please would include the power to do wrong, but only innocent and virtuous individuals could be entrusted with such power. In commercial society, endowing anyone with the power to do wrong would put the rights of all others at risk. Thus, civil liberty “cannot subsist without the supposition of every just restraint.”

Over the years, Ferguson became increasingly concerned with the unleashing of the popular “zeal for liberty” and its destructive implications for law and order in commercial society. The natural aversion to restraint, he argued in the *Principles*, leads to “vulgar errors,” which give reason to “dread the greatest danger to the peace and welfare of mankind.” Under the mistaken understanding of liberty in opposition to restraint, “the vulgar conceive a zeal for liberty to consist in opposition to government; take part with every refractory subject; and seem to think that whatever impairs the power of the magistrate must enlarge the freedom of the people.” In Ferguson’s mind, the misguided zeal for liberty turned the people into agents of anarchy and disorder, undermined the power of government, and consequently, endangered the security of rights.

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405 Ibid., II, 460-461.
Skinner and Pettit have stressed the continuity of seventeenth and eighteenth century ideas of civil liberty with the Roman idea of *libertas*. The main classification in the Roman law of persons was between *liberi*, free men, and *servi*, slaves. Only free men enjoyed *libertas*, the ability to do as they wished within the limits of the law. In his seminal study of *libertas*, Chaim Wirszubski described it as the sum of civil rights enjoyed by a free Roman citizen under the civil law. According to Wirszubski, the fundamental idea of *libertas* contained “the notion of restraint which is inherent in every law.” The Romans distinguished *libertas*, or moderate and restrained freedom, from *licentia*, or unrestrained, excessive freedom. Clearly, the Roman understanding of freedom is similar in many ways to Ferguson’s understanding of civil liberty. Interestingly, however, he distinguished between the two, and insisted on the modern pedigree of civil liberty.

Ferguson’s position on this issue is captured in his notes for a lecture he gave at the University of Edinburgh on April 18, 1776. In this lecture, Ferguson distinguished, as he often did, between the idea of “Civil and Political liberty” in the sense of “the safety of the People,” and the competing theory of liberty as the opposite of restraint. Under the latter type of freedom, he included the case of prisoners who are released from their chains or place of incarceration, and the case of a slave who “from being bound in all things to follow the will of his master is set at liberty to follow his own.”

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412 Lectures on Pneumatics and Moral Philosophy (Edinburgh University Library Mss.), Vol. II, April 18, 1776, 495. Ferguson conflated the case of prisoners, whose choices are being restricted in the actual world,
example led Ferguson to discuss the relation between the status of a free person under the
Roman law and the modern idea of liberty:

In this sense [the sense of liberty in opposition to restraint] Libertas in the Latin
from which liberty is derived was put in contradistinction to servitude or
servilium. And every Person under whatever constitution of government if he
were not the property of another was said to have his Liberty.
It was a distinction of the personal condition of a Man, not of the Public
Establishment under which he lives.
We haveing no such private definition, look for Liberty as attribute of Political
felicity.
This Liberty is the effect of Political Establishment.413

Ferguson gave in this lecture an interesting twist to what has become a familiar
contrast between the liberty of the ancients and the liberty of the moderns. Constant
would later argue that the liberty of the ancients was “political,” in the sense that it
consisted in political participation, while the freedom of the moderns is “individual,” in
the sense that it consists in the peaceful enjoyment of individual rights.414 Ferguson

with the case of slaves, who may not suffer from actual interference, but live in fear of arbitrary
interference. He seems to have assumed here that being bound to the will of a master is, in itself, a form of
restraint. Ferguson recognized, however, the distinct evil of mastery. In the Principles, he wrote of the
“discretionary power” of the tyrant: “It is not so much the physical evil which a tyrant may inflict either in
respect to the person or property of his subject, that aggrieves the liberal mind, as the idea held forth under
the despotic government, that, whilst one has aright to inflict such evils, the other is bound to suffer at
discretion.” Ferguson, Principles, II, 503-504.
413 Ferguson, Lectures. II, 495-496 (April 18, 1776). Ferguson was conflating in this lecture the case of a
prisoner, who is bound by actual chains, and the case of a slave, who is “bound in all things to follow the
will of his master.”
414 Constant, "The Liberty of the Ancients Compared with That of the Moderns."
argued in contrast that the freedom of the Romans was indeed individual, in the sense that it was a “distinction of the personal condition of a Man.” To be a free person under the Roman law was the result of an accident of birth or circumstance, and had no direct relation to the freedom of the constitution. The freedom of the moderns, however, and particularly British freedom, is “political,” in the sense that the security of civil rights is “the effect of Political Establishment,” or the product of the state. Ferguson understood this as an advantage: civil liberty was an improvement over Roman libertas because all members of the modern free state enjoyed it equally.

The Free State and Casual Subordination

Ferguson’s adversary in the 1776 debate, Richard Price, distinguished between “a free government, and a government under which […] liberty may happen to be enjoyed.” In a free government, the liberty of individuals is derived “from a constitution of government,” rather than being “an accidental mildness in the administration.” As we have seen, some of Price’s critics argued that liberty consists “in being governed by just laws alone, whatever be the constitution of the state in which they are enacted.” Ferguson did not side with them. He believed, like Price, that the possession of civil rights under the government of law must be “secured by the Forms of a free state.” Ferguson sometimes referred to this aspect of liberty as the “political freedom” of the

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417 Adam Ferguson, Reflections Previous to the Establishment of a Militia (London: R. and J. Dodsley, 1756), 27. The two differed, however, in their views of the nature of free government.
state or the community.\footnote{Ferguson, \textit{Essay}, 58, 124, and more generally, 224-264. Ferguson also used the term “political freedom” in referring to the political rights of individuals. See ibid., 150, 160.} In one of his unpublished essays, he made the following distinction:

\begin{quote}
Civil Liberty is the security of all Civil Rights.

\end{quote}

This section and the following one examine Ferguson’s theory of political liberty or the free state with a view to social inequality and its influence on the distribution of political power in the modern free state. These sections lay the ground for a discussion of the scope and nature of political participation in the modern free state.

Arguably, the fundamental question of Ferguson’s political thought was not that of the relation between the virtuous man and society, as Kettler suggested,\footnote{Kettler, \textit{Social and Political Thought}, 188.} but the question of maintaining the freedom and the happiness of the political community.\footnote{Ferguson, \textit{Institutes}, 283-284.} The existing scholarly literature has focused on one aspect of this problem: Ferguson’s preoccupation with preserving the character or spirit of the people against the tendency of civilized society to undermine its own achievements.\footnote{Ferguson, \textit{Essay}, 160, 235-257. Ferguson, \textit{Reflections}, 8-9.} In his \textit{Reflections Previous to the Establishment of a Militia} (1756), Ferguson advocated for the establishment of a Scottish
militia and insisted on its role in cultivating a patriotic citizenry.\textsuperscript{423} The \textit{Essay} more generally addressed the role of war and social conflict in regenerating the national spirit and preserving the freedom and happiness of the people.\textsuperscript{424}

Ferguson’s somewhat consuming preoccupation with these issues in his early writings, coupled with the interest of late twentieth century scholars in the civic and martial dimension of his work, has caused it to overshadow the general framework of his theory of the free state. While the problem of cultivating the national spirit is central to the \textit{Essay}, it cannot be understood separately from Ferguson’s broader concern with the conditions of freedom in the modern commercial state.

Following Montesquieu, Ferguson repeatedly argued that no model of government is equally adapted to all mankind: different communities have different capacities for governing themselves.\textsuperscript{425} The freedom of the state can be maintained only if the form of its political institutions fits both the moral “character” and the objective “circumstances” of the people.\textsuperscript{426} The character of a people consists in their “degree of virtue, or of other principle, on which the state may rely for the discharge of social and political duties.” The circumstances of the people are “determined chiefly by their casual subordination, and by the extent of their country.”\textsuperscript{427}

\begin{footnotes}
\footnoteref{426} Ferguson, \textit{Institutes, 2nd Ed.}, 261.
\end{footnotes}
The most fascinating component in Ferguson’s theory of the free state is his analysis of the relation between forms of government and casual subordination, or the informal distribution of power. Relations of casual subordination, according to Ferguson, are relations of “power and dependence,” based on social distinctions, which depend on people’s estimation of each other’s relative advantages. Some distinctions, according to Ferguson, are based on natural qualities and character, while others are based solely on external conditions, particularly wealth and birth. The standard of estimation may vary from one society to another. In particular, warlike and commercial nations tend to differ in their standards.

Ferguson argued that societies naturally develop relations of subordination or “power and dependence” on the basis of people’s estimation of each other’s relative advantages. The diversity of personal qualities and situations produces a conventionally based “disparity of ranks,” which, in turn, “suggests the claims of prerogative to persons of one condition; inspires others with deference.” This casual subordination has “preceded any formal intention to regulate the distribution of power.” Before human beings “had conceived the design of a political institution […] they have already ranged themselves into different orders; of which one is in a condition to govern, and another in

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428 Ferguson, Analysis, 51. Hermann Strasser, The Normative Structure of Sociology: Conservative and Emancipatory Themes in Social Thought (London: Routledge & Kegan Paul, 1976), 55-57. The extent of territory also has an important role in shaping the moral character of a people and in constituting a free state. The more extended the territory, the more the people “lose sight of their community,” and the state declines. This is partly why the progress of empire terminates in despotism. See Ferguson, Institutes, 265-266. Ferguson, Essay, 60-63, 256-257.
429 Ferguson, Institutes, 36-40, 292.
430 Ibid. In the second edition of the Institutes, Ferguson revised his section on “Disparity and Rank,” and toned down his critique of the admiration for external conditions, particularly “riches, power, and fame,” as a sign of degeneration. Ferguson, Institutes, 2nd Ed., 36-39.
a state to obey.” According to Ferguson, the development of power relations based on social status is a necessary precondition for the establishment of government: “Before this important change is admitted, men must be accustomed to the distinction of ranks; and before they are sensible that subordination is a matter of choice, must arrive at unequal conditions by chance.”

Ferguson was following the well-established Harringtonian thesis that “Power naturally follows Property,” to quote formulation of the moralist John Brown. But his analysis of the relation between property, conventions, relations of power and political institutions was exceptionally subtle, and the thrust of his argument was the opposite of Harrington’s. Anticipating Karl Marx, Harrington made the revolutionary argument that to change the political superstructure, one must first change the material foundation by redistributing property. Ferguson made the conservative argument that “where we cannot materially change the character and circumstances of the people, it would be folly to attempt any radical change in the form of government.” In other words, the material foundation is given, and consequently, one must not tamper with the superstructure.

The general thrust of Ferguson’s theory of the free state was conservative. He understood the character and circumstances of the people as given, and called upon his readers to accept the form of government that fit them: “where we cannot materially change the character and circumstances of the people, it would be folly to attempt any

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431 Ferguson, Principles, I, 258-262.  
432 Ferguson, Essay, 98.  
434 Adam Ferguson, Institutes of Moral Philosophy, 3rd edition (Edinburgh: John Bell & William Creech, 1785), 313.
radical change in the form of government.” The countermeasures against the corruption of virtue that Ferguson proposed, such as military service or party spirit, were never intended to “materially change the character and circumstances of the people.” He only hoped to influence these factors within predefined parameters.

Building on these theoretical premises, Ferguson refined and modified Montesquieu’s typology of regimes by fleshing out the role of the distinction of ranks in the formation of political institutions and embedding it in a narrative of progress and corruption, which assigned democratic equality to the pre-commercial past. While Montesquieu acknowledged the existence of commercial democracies like Athens, Ferguson argued that small commercial nations are only suited for the regimes of aristocracy or mixed republic, due to the inequality of property and status that arises from the practice of commerce and manufacture. Commercial states of a greater extent are suited for monarchy. The implication is that democracy could only exist in small, military republics where material equality, absence of distinctions based on fortune and birth, and patriotic virtue go hand in hand.

Ferguson believed that modern European states, which were characterized by extended population and territory, and great inequality in the distribution of property, were suited for pure or mixed monarchy. In a pure monarchy, the power of the monarch is limited and kept “within certain bounds of equity, and determinate laws,” by the privileges of the social orders, particularly the nobility. A pure monarchy is suitable for a people whose social distinctions are based purely on birth and fortune; a people “on

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435 Ibid.
436 Montesquieu, Spirit, 48
437 Ferguson, Institutes, 296-299.
whose vanity, and sense of personal importance, rather than virtue, the state must rely for
the discharge of the social and political duties.” The love of equality is inappropriate for a
pure monarchy, because without the distinction of ranks, “the equality to which the
subjects approach, is that of slaves.”

A mixed monarchy, on the other hand, is one in which power is formally divided
between the monarch and the people. It is suitable for a people who are divided into
social classes, but retain some measure of virtue. Ferguson saw Britain as a mixed
monarchy, and favorably contrasted its constitution with that of France, where power “is
committed to a very unsafe hand, that of the King who has a Partial Interest to
Support.”

The Division of Labor and Political Inequality

The most original component of Ferguson’s theory of the free state was his
analysis of “the separation of arts and professions,” Ferguson’s term for the phenomenon
described by Adam Smith as “the division of labor.” Ferguson described the separation
of arts and professions as the key to social progress: “a people can make no great
progress in cultivating the arts of life,” he wrote, “until they have separated, and
committed to different persons, the several tasks, which require a peculiar skill and

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439 See the discussion in Ferguson, Correspondence, I, 85-86
440 Alexander Carlyle, Ferguson’s friend, wrote in his autobiography that Smith had accused Ferguson of
“having borrowed some of his inventions without owning them,” and Ferguson’s account of the division of
labor seems to have been one of them. According to Carlyle, Ferguson denied the charge of plagiarism,
“but owned he derived many notions from a French author, and that Smith had been there before him.”
Carlyle, The Autobiography of Dr. Alexander Carlyle of Inveresk 1722-1805, 299. See also Ronald
attention.” Due to the separation of arts and professions, he added, “the sources of wealth are laid open,” and the state can “procure, by its treasure, that national consideration and power, which the savage maintains at the expense of his blood.”

Ferguson’s discussion of this topic included some highly perceptive observations on the mechanical nature of industrial labor:

Many mechanical arts, indeed, require no capacity; they succeed best under a total suppression of sentiment and reason; and ignorance is the mother of industry as well as of superstition. Reflection and fancy are subject to err; but a habit of moving the hand, or the foot, is independent of either. Manufactures, accordingly, prosper most, where the mind is least consulted, and where the workshop may, without any great effort of imagination, be considered as an engine, the parts of which are men.

Marx quoted this description and credited Ferguson with being the first writer to have demonstrated the adverse effects of the division of labor. Following Marx, more recent commentators have attributed to Ferguson a humanistic critique of the degradation of the workers in commercial society. Most notably, the sociologist John D. Brewer argued that Ferguson’s empathy with the exploited poor had led him to see their

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441 Essay, 172-173.
442 Essay, 174.
condition as unjust. Brewer suggested that the Marxist concept of exploitation “can be reliably
and usefully implanted on his discourse in the Essay.”

The Marxist interpretation of Ferguson, however, overlooks the fact that Ferguson generally treated the separation of arts and professions as an inevitable and beneficial process, and criticized almost exclusively the separation of politics from the art of war. Indeed, the revolutionary Marx can be said to have stood Ferguson on his head. The latter saw the degradation of the workers at the factories, yet justified it as the regrettable price of progress.

Ferguson’s account of mechanical labor had two functions in the Essay, which had great significance for his critique of democracy in commercial society. Initially, the account served Ferguson’s argument that the separation of arts and professions is the product of the natural, probably providential progress of society. It is in this context that he described the automatic nature of the mechanical arts, which prosper without the need for human thought and ingenuity, solely due to “the wisdom of nature.” The argument supported his conservative thesis that the order of society cannot be overturned.

The primary function of the account of mechanical labor was the introduction of new grounds for social and political subordination. Liberal and mechanical occupations, according to Ferguson, have different effects on the intellectual and moral qualities of

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446 See “Of the Separation of Departments,” in Ferguson, Manuscripts, 144.
447 Ferguson, Essay, 173-175.
individuals: laborers and mechanics are “degraded by the object they pursue;” individuals whose professions involve more knowledge and ingenuity are placed in “a superior class;” gentlemen who are “relieved from sordid cares,” like the citizens of the ancient republics, are situated at the top of the social scale. Ferguson argued that it is “certainly reasonable” to distribute social rank according to occupation, and due to the effect of occupation on the character, “In every commercial state, notwithstanding any pretension to equal rights, the exaltation of a few must depress the many.” While we would have liked to imagine that liberal education could have changed the condition of the working classes, the truth is that their “corruption and baseness” is an inevitable part of modern economy and civilization, according to Ferguson.448

The political significance of this account cannot be exaggerated. Ferguson saw the corruption of the lower classes by the separation of arts and professions as the most compelling justification for the exclusion of the demos from participation in office:

The principal objections to democratical or popular government, are taken from the inequalities which arise among men in the result of commercial arts. And it must be confessed, that popular assemblies, when composed of men whose dispositions are sordid, and whose ordinary applications are illiberal, however they may be intrusted with the choice of their masters and leaders, are certainly, in their own persons, unfit to command. How can he who has confined his view to his own subsistence or preservation, be intrusted with the conduct of nations? Such men, when admitted to deliberate on matters of state, bring to its councils

448 Ibid., 175-178.
confusion and tumult, or servility and corruption, or the effect of resolutions ill formed or ill conducted.\textsuperscript{449}

Ferguson conceded that the members of the lower classes may be entrusted with “the choice of their masters and leaders,” but ruled out their direct involvement in public decision-making. In the course of his work he applied this line of reasoning not only to democratic assemblies, but also to representative government, where the political involvement of individuals employed in mechanical professions should be minimized as much as possible.

Ferguson understood this argument against democratic participation as a logical consequence of Montesquieu’s science of politics and his own empirical observations on commercial society. In an earlier discussion of Montesquieu’s system, Ferguson noted that if the principle of virtue and the love of equality are lacking, democracy becomes “fraught with evil,” and the pretension to equality would only serve the lower classes as an excuse for robbing their masters.\textsuperscript{450} Ferguson’s study of the social consequences of the separation of arts and professions exposed “the disparities of condition, and the unequal cultivation of the mind” in commercial society, and thus supplied Ferguson with empirical grounds to “plead against the form of democracy, after the principle is removed; and see the absurdity of pretensions to equal influence and consideration, after the characters of men have ceased to be similar.”\textsuperscript{451} Seen in the broader context of his theory of the free state, Ferguson’s observations on the social structure of commercial

\textsuperscript{449} Ibid., 178.
\textsuperscript{450} Ibid., 67.
\textsuperscript{451} Ibid., 179.
society are his ultimate argument for the absurdity of democratic participation in the modern state.

**The Scope and Nature of Participation**

The two previous sections have suggested that Ferguson’s call for preserving and cultivating vigorous engagement in politics and war should be understood in the context of his theory of the free state, which assumed that the inequality of social status and political power are conditions for constituting political liberty in the modern commercial state. This section looks more closely at Ferguson’s position on the desirable scope and nature of political participation.

Ferguson consistently spoke in favor of extending the participation of individuals in public duties, arguing that it cultivates “the reason and the heart of man,” contributes to individual and national happiness, and serves as a necessary condition for the maintenance of political freedom. 452 In the closing pages of his last published work, *Principles of Moral and Political Science* (1792), he wrote that

> forms of government may be estimated, not only by the actual wisdom or goodness of their administration, but likewise by the numbers who are made to participate in the service or government of their country, and by the diffusion of political deliberation and function to the greatest extent that is consistent with the wisdom of its administration. 453

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If forms of government are evaluated by the number of individuals able to participate in service or government, we might expect the best form of government to be a democracy. Note, however, that Ferguson qualified his statement and limited participation in government to “the greatest extent that is consistent with the wisdom of its administration.” The implication is that the wisdom of administration is valued more than the extension of participation, and democracy may not be consistent with good government.

Indeed, Ferguson noted that “among ancient nations, liberty was supposed peculiar to republics,” but the liberty of the moderns consists neither in “the prevalence of democratic power” nor in “the equality of station or fortune.” The freedom of modern states relies on representation, which enables “every order of the state,” the Lords and the Commons, to take a part in the legislative process and keep “a vigilant eye” on the political process.  

Representation for Ferguson, as for other moderate Whig writers, was not a democratic institution. It offered the people not the right to participate in government but the safety of having representatives who are “of the same mind and interests with themselves” participate in the process of legislation. Ferguson believed that the

454 Ibid., II, 462-464, 467-468. Cf. Ferguson, Essay, 151. In speaking of the representation of “every order of the state,” Ferguson was following the feudal convention that the realm of England is divided into three estates – the clergy, the nobility, and the people. These were consolidated in Parliament into two opposing orders, the Lords and the Commons, or the “aristocratic and popular factions,” as Ferguson referred to them. On the representation of estates, see John Millar, An Historical View of the English Government from the Settlement of the Saxons in Britain to the Revolution in 1688, ed. Mark Phillips and Dale R. Smith (Indianapolis, IN: Liberty Fund, 2006), 305. Pole, Political Representation in England and the Origins of the American Republic, 442-457. Wood, The Creation of the American Republic, 1776-1787, 18-20.

presumed sharing of interests between the representatives and their constituents is insufficient: the liberty of the people depends, more than anything, upon the character of the representative.  

Ferguson denied that individuals have a general right, prior to the social conventions of their society, to participate in office or vote for representatives. Participating in government, he wrote, “is not a matter of right to any one.” Government is a matter of expedience rather than right, and expedience dictates only that government should be entrusted to the “capable and worthy.” The number of people who have the right to vote, or the equality of the system of representation are matters of convention that have no direct bearing on public liberty. Furthermore, all political systems employ arbitrary principles of inclusion and exclusion. Even in ancient Athens and Rome, most individuals were excluded from citizenship, and the citizens themselves “were never in fact collectively assembled,” but represented in the Ecclesia and comitia by the city dwellers who were able to attend.

Is there a contradiction between Ferguson’s willingness to entrust government to the guardianship of the capable and worthy and his argument that participation is valuable both instrumentally and intrinsically? There is certainly no contradiction in the view that a moderate extent of participation would make an optimal contribution for the

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Since the law established property qualifications, which ensured that only rich people could be elected to Parliament, the doctrine of shared interests that Ferguson invoked relied on the dubious assumption that a wealthy gentleman could share and represent the interests of the common people. On the property qualifications for legislators, see H. T. Dickinson, "The Representation of the People in Eighteenth-Century Britain," in Realities of Representation: State Building in Early Modern Europe and European America, ed. Maija Jansson (New York: Palgrave MacMillan, 2007), 20-32. Langford, Public Life and the Propertied Englishman, 1689-1798, 288-295.

456 Ferguson, Principles, II, 469, 474.
457 Ibid., II, 468-474, esp. 471.
liberty and happiness of the state. Admittedly, moderate participation would be inconsistent with maximizing the intrinsic value that all individuals could find in participation, according to Ferguson. His support of limited participation is sensible, however, only if he assumed the lexical priority of living securely in a free state over maximizing every person’s human potential. The interpretation suggested here is that Ferguson believed good government and the security of rights in commercial society to be inconsistent with the maximal realization of the active nature of man, and he simply valued the former more than the latter. Notwithstanding his poetic tribute to martial and political activity in the *Essay*, this had been his position on the scope of participation all along.

A more challenging suggestion would be that while Ferguson’s views on the desirable scope of participation had remained consistent, his position on the desirable nature of participation changed over time. In other words, while Ferguson consistently supported the limited participation of social elites, his earlier enthusiasm for participation in the militia and in politics was transformed into an emphasis on contribution in other aspects of social life, such as commerce and industry.

This argument has been particularly well developed by Kalyvas and Katzenelson, who portrayed Ferguson as gradually shifting from a “republican” emphasis on political autonomy and public spirit to a “liberal” emphasis on individual autonomy, legal rights and material self-interest.458 Describing Ferguson’s literary career as a series of responses to the tension between virtue and commerce, they argued that it charts a “trajectory from

458 Political autonomy, according to Kalyvas and Katzenelson, “includes the principles of democratic legitimation and popular sovereignty,” whereas individual autonomy “denotes economic freedom and the individual right to private property in commercial market society.”
a predominantly republican to a primarily liberal orientation.” According to their narrative, in the *Reflections*, Ferguson saw the republican institution of the militia as a key to resolving the tension; in the *Essay*, he opted for constitutional monarchy; and in the *Principles*, he “tilted the balance between public and private autonomy to favor the latter,” “marginalized republicanism as antiquarian and potentially dangerous,” and advanced a vision of the modern state as a liberal, commercial and juridical state.  

Indeed, Ferguson’s concerns shifted over time. His preoccupation with the problem of corruption and decline of the higher classes had been overshadowed by a concern with the danger of democratic usurpation. The theory of participation framing these concerns, however, remained the same. In order to understand it, we should distinguish between participation in time of peace and in time of danger; participation in matters of policy and war and participation in commerce and industry; and the participation of the upper, middle, and lower classes.

In his earliest published text, a sermon he gave in 1745 as deputy chaplain to the Black Watch, Ferguson distinguished between public duty in a time of emergency and public duty in everyday life. “In times of Peace and Tranquillity,” he said to the soldiers, “every Man may sufficiently contribute to the Support of the common Interest, by keeping within the Sphere of his particular Profession; but more may be requisite when the Publick is in Danger.” The defense of freedom against an invasion or against despotism is “the Business of all,” as Ferguson wrote in the *Reflections*. For this reason,  

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459 Katznelson, *Liberal Beginnings*, 63-68, esp. 57, 65, 68. They also write that in the *Principles*, “Ferguson produced a solution that limited political participation,” implying, erroneously in my view, that in earlier writings he favored a more extended scheme of participation. Ibid., 65.

he proposed to liberalize the game laws and allow the bearing of arms to everyone, even to lower-class poachers, so they could defend their country in a time of emergency.\textsuperscript{461}

While he thought that everyone should be familiar with the use of arms, Ferguson’s plan for the institution of a regular militia modeled itself after “the Degrees of Subordination already established in Britain.” He was explicit on the need for service in the militia to be “classed” and limited to “the most respectable Part of the Nation.” The most respectable part was to be composed first and foremost of country gentlemen possessed of independent wealth – the freeholders, and particularly the gentry, “that part of the Nation, which is the least corrupted, and the most to be trusted with its internal Peace.” Country gentlemen were to be officers of the militia, ranked according to level of income. Soldiers were to be freemen, who “possess a certain Extent of Ground” in the country, or “consist of such as are respectable among the inhabitants” in the cities and boroughs. Ever fearful of a military coup staged by popular leaders, Ferguson proposed to limit participation in national defense to “the most deserving of our People,” and keep it from devolving into “the Hands of the least reputable Class of the People, who cannot be reduced into the Order of an Army, and who are strangers to the Sentiments and the Attention to personal Character, which such a Duty would require.”\textsuperscript{462}

The \textit{Reflections} exemplifies Ferguson’s preoccupation with the relation between honor, patriotism, and social class, which pertained to participation in politics just as much as it does to participation in national defense. Montesquieu believed that in modern monarchies, political virtue is replaced with the motivating passions of ambition and


“false honor,” and noted that the freedom of England is served by the passions of “hatred, envy, jealousy, and the ardent for enriching and distinguishing oneself.” Ferguson associated the motivating passions of “vanity, and sense of personal importance” with a pure constitutional monarchy. He believed that the British mixed monarchy must be animated by a different public morality, which would induce individuals to “easily connect Honour with the Service of their Country.”

A key concept underlying Ferguson’s analysis is what he called “the principle of moral approbation” or “the standard of estimation,” which is the popular opinion of approbation or honor associated with personal qualities or to the external condition of individuals. “This standard of estimation,” wrote Ferguson in the Principles, “is known to be of sovereign influence in the government of mankind; and it is of the highest moment, in the policy of nations, that it should be directed aright. Wherever the standard of elevation and honour is erected, thither will the passions of men be pointed.”

Ferguson warned, especially in the early writings, against the corruption of the standard of estimation, which leads individuals to base their esteem for others on external circumstances rather than virtue, and renders them “blind to every advantage, but that of the rich.” He disapproved of “admitting wealth, unsupported by personal elevation and virtue, as the great foundation of distinction,” but he did not approve of the very existence of distinctions based on wealth. In fact, his scheme for the maintenance of

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463 Montesquieu, Spirit, 26-27, 31-24, 325
464 Ferguson, Institutes, 274.
465 Ferguson, Reflections, 38.
466 Ferguson, Principles, II, 133-151, esp. 149-150. Ferguson, Institutes, 105-109.
468 Ibid., 241.
public spirit is predicated on the unequal distribution of wealth and the sense of honor pervading the higher classes.

In the Reflections, the core of Ferguson’s militia plan was to motivate the higher classes to public service by connecting “the Dignity of Virtue with the Lustre of a Station.” His assumption was that “Men of High Mettle, who are formed for the Profession of Arms, are likewise fond of Honour.” He proposed to distribute privileges and “Marks of Respect and Distinction” to those who would serve as officers in the militia, with the aim of giving military rank “Precedence equal with Titles of Nobility.” His plan was not to undermine the existing system of subordination, but to motivate those who already possess rank to pursue further honors through public service.  

In the Essay, the sense of honor associated with social rank is presented as the primary preservative of freedom in a mixed monarchy. Ferguson distinguished between corrupt and vigorous monarchies, arguing that under “the form of monarchy, while yet in its vigour, superior fortune is, indeed, one mark by which the different orders of men are distinguished; but there are some other ingredients, without which wealth is not admitted as a foundation of precedence.” Among those ingredients are “birth and titles, the reputation of courage, courtly manners, and a certain elevation of mind.” Vigorous monarchies are dependent on the “sense of high birth and hereditary honours which render the boundaries of rank fixed and determinate, and which teach men to act in their stations with force and propriety.” Under such governments, liberty can be maintained if individuals “should be tenacious of their rank, and of their honours; and instead of a zeal for the public, entertain a vigilant jealousy of the rights which pertain to themselves.”

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469 Ferguson, Reflections, 31-52, esp. 35, 37, 39, 42.
Since the arts of policy and war must not be separated from each other, the class-dependent nature of participation in military service applies to participation in politics as well. The political liberty of the state, as Ferguson saw it, is based on the unequally distributed right of every individual to act “in his station.” Individuals are placed in different stations, “where they are properly qualified to act,” and perform different parts in the life of the state. Vigorous participation in war and politics is the role of the higher classes, whose jealous regard for the rights and honor associated with their social status motivates them to act for the public good, and whose superior wisdom enables them to serve as reliable guardians of freedom.

Political liberty, as Ferguson understood it, “gives power to the wise,” which happen to be rich and well-born. This is not to say that the lower and the middle classes cannot contribute to society. In times of peace, they do so by exercising their inventiveness and “active character” in their occupations. Even the industrious poor contribute their part. In one of his earliest publications, *The Morality of Stage-Plays Seriously Considered* (1757), Ferguson wrote:

> It has pleased Providence, for wise purposes, to place men in different stations, and to bestow upon them different degrees of wealth. Without this circumstance there could be no subordination, no government, no order, no industry. Every

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471 Ibid., 218.
472 Ibid., 160, 254, footnote 197.
person does good, and promotes the happiness of society, by living agreeable to
the rank in which Providence has placed him.475

Ferguson argued that the rich and the poor promote the happiness of society by
living agreeably to their ranks and fulfilling the roles bestowed upon them by providence.
“The poor are made to practise arts, and the rich to reward them,” he wrote in the Essay.
The rich, however, are also entrusted with conducting the affairs of politics and war.
Ferguson was particularly concerned that “the higher ranks” would “relinquish the state”
and “cease to possess that courage and elevation of mind, and to exercise those talents
which are employed in its defense, and its government.” 476

The early Ferguson can be read as reasserting what Pocock described as the
Harringtonian “relation of citizenship to arms and of arms to land,” advocating for a
commercial and vigorous mixed monarchy, whose guardians of freedom are armed,
wealthy and public-spirited country gentlemen, while merchants, manufacturers and
laborers act their part in society by contributing to commerce and industry.477 In the later
writings, there is no indication that this framework had changed. Ferguson still believed
that the “poor are destined to labour, and the rich, by the advantages of education,
independence, and leisure, are qualified for superior stations,” 478 as he wrote in the

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475 Adam Ferguson, The Morality of Stage-Plays Seriously Considered (Edinburgh 1757), 24. In this
pamphlet, Ferguson intervened in the debate over John Home’s play Douglas, arguing that the theatre is not
immoral as long as attendance is restricted only to respectable gentlemen. For the social role of the poor,
see also: “When […] luxury is made an article of national lustre and felicity, we only think of it as an
innocent consequence of the unequal distribution of wealth, and as a method by which different ranks are
rendered mutually dependent, and mutually useful. The poor are made to practise arts, and the rich to
reward them.” Ferguson, Essay, 232.
476 Ferguson, Essay, 232, 245-246.
478 Ferguson, History, I, 284.
History of the Progress and Termination of the Roman Republic (1783). He continued to lecture and write on the need to educate the upper ranks to become statesmen and warriors.\textsuperscript{479} The focus of his political thought, however, had changed, as he became increasingly preoccupied with the danger to liberty posed by the possible insurrection of the demos.

The Specter of Democratic Revolution

Inspired by his studies of Roman history, Ferguson was already preoccupied in the Reflections and the Essay with the possibility of a “fatal revolution” in government, involving the corruption of the upper classes, the sharing of power by the plebeians, and the establishment of military government and despotism.\textsuperscript{480} This theoretical threat was made more concrete in the face of the American crisis and the English reform movement. Accordingly, Ferguson’s identification of the primary political danger shifted from the decline of the higher orders to the insurrection of the lower orders.

The change of perspective may have occurred in 1769, during the popular riots that followed the expulsion of the radical John Wilkes from the House of Commons. In several letters written by Ferguson during this period, addressed to the Scottish lawyer and politician William Pulteney, he expressed support for traditional country-party demands for political reform: more frequent parliamentary elections, and removal of

\textsuperscript{479} “Of Statesmen and Warriors,” and “Of the Separation of Departments,” in Ferguson, Manuscripts. Sher, “Problem of National Defense.”

placemen and pensioners from the House of Commons.\textsuperscript{481} By this time, however, the
discourse of the English reformers had undergone a process of “ideological
contamination” by the American debate on representation.\textsuperscript{482} The question was no longer
whether the representatives of the people are corrupt, but whether the people have the
right to participate in ruling. When the people of London raised their voice against
Parliament in the Wilkes affair, Ferguson saw this as “a dangerous Crisis,” and wrote to
Pulteney:

I apprehend / for my own Part that if the Authority of Parliament and of the
Government in all its Parts is not Properly Supported the State will be in the
utmost danger. Our Constitution knows of no authority but that of King Lords &
Commons but we are now fostering a fourth Power in the State, That of the
Populace of London, and at the time in which they are become most Corrupted
we are inviting them to a share in the Government. […] Our Government is said
by Mr Montesquieu and others to be perfect. They only think of the dangers to
Liberty that come from The Crown. They do not consider the dangers to Liberty
that come from the Populace.\textsuperscript{483}

The threat of democratic usurpation, which would lead, in turn, to despotism, had
been raised in theory in the \textit{Essay},\textsuperscript{484} but became palpable in the Wilkes affair. It led
Ferguson to develop and make more explicit his scheme of government by a virtuous

\textsuperscript{481} Ferguson, \textit{Correspondence}, I, 86-7, 91
\textsuperscript{482} Brewer, \textit{Party Ideology and Popular Politics at the Accession of George Iii}, 201-216, esp. 207.
\textsuperscript{483} Ferguson, \textit{Correspondence}, I, 82-83. See also ibid., I, 80, 85, 90
\textsuperscript{484} Ferguson, \textit{Essay}, 72-73.
elite that would be unaccountable to the people. “The Populace are to be told that The house of commons is not to be governed by the consideration of their disspleasure,” he wrote to Pultney.485 “It is the Spirit of our constitution that Members of Parliament shoud be well chosen but that being chosen they shoud be Masters.” Every government posseses “Supreme unaccountable or Arbitrary Power,” according to Ferguson, and the test of well constituted government is committing such power to the safest hands, which are the hands of “King Lords, and commons jointly.”486 Referring again to Roman history, Ferguson warned that the attempt of the opposition to incite the common people against the government and “Govern by force” would end in military government.487

The heightened concern with “the dangers to Liberty that come from the Populace” framed Ferguson’s reply to Price in the American debate. Ferguson was alarmed by Price’s pamphlet, because he saw it as marking a radicalization in the discourse of the Americans and their advocates, who were becoming intoxicated with the idea of liberty as independence, the absence of restraint, and “the power of governing themselves.” He thought that insofar as the colonists were aiming at the liberty of the moderns, which consists in the security of rights, the dispute could be peacefully resolved. However, insofar as the Americans were revolting against the authority of Parliament, and trying to declare independence and establish popular government, Ferguson believed that their “revolt against the state” must be suppressed.488

Ferguson’s position on the relation between liberty and participation in the Remarks was consistent with the principles of his theory of the free state. As discussed

485 Ferguson, Correspondence. I, 80
486 Ibid. I, 85-86
487 Ibid. I, 90
488 Ferguson, Remarks, 2-5, 17-18, 24-26, 29-33, 46, 49-51, 53-54, 57.
above, he believed that the freedom of the state could be maintained only if the form of its political institutions fits the character and the circumstances of the people. In his argument against Price, he reasserted his model of the free state, and warned against a form of government that would be unsuitable for the character and circumstances of a modern commercial empire in a passage that we are now even better positioned to comprehend:

It is of great moment to extend the participation of power and government, as far as the circumstances and character of a people will permit; but extremely dangerous to confound this advantage with Civil or Political Liberty; for it may often happen, that to extend the participation of power, is to destroy Liberty. When all the powers of the Roman senate were transferred to the popular assemblies, the Liberty of Rome came to an end.489

Ferguson argued that the American revolt was not merely unjust, but also dangerous to the liberty of the British Empire. Insofar as the Americans were aiming “at the Liberty designed for them by Dr. Price,” and were “intoxicated with the idea of separation and independence,” they were threatening Great Britain itself with the “disorder and public ruin” associated with democratic struggles.490 According to the theoretical foundations that he laid in the Essay and in the Institutes, the attempt to create an extended republic was bound to end in despotism:

489 Ibid., 14.
490 Ibid., 25-26, 32.
But a republic extending 1200 miles in one direction, is still an experiment to be made in the history of mankind. Our ancestors made the experiment in vain, within narrower limits; they too had high expectations of what mankind were about to exhibit; they thought the millennium and the kingdom of Christ were at hand, but they found, in their stead, the iron reign of an usurper, supported by military force [...] The officer, perhaps, has not yet appeared, who, on that emergency, is to dismiss the Congress as Cromwell did the Parliament. But what title have they to hope for an exemption from the too common fate of mankind; the fate that has ever attended Democracies attempted on too large a scale; that of plunging at once into military government? The armies they form against their country will need no other title to become their masters. 491

Ferguson was reading the American Revolution in terms of Roman history, and worrying that the popular revolt would turn against Britain and endanger its civil and political liberty. He recalled how Rome’s allies “claimed to be enrolled as citizens,” and despite being opposed by “the most candid and virtuous citizens of Rome,” the war they caused was fatal to Rome, and “proved a striking example of what the Doctor does not seem to apprehend, that the power of the people is not the good of the people. Their liberty sunk as their power increased, and perished at last by the very hands that were employed in support of the popular cause.” Accordingly, he asked: “Is Great Britain then to be sacrificed to America, which, by attempting such extravagant plans of Continental

491 Ibid., 22-24. On Ferguson’s concern with the threat of military government, see McDaniel, "Ferguson, Roman History and Military Government."
Republic, is probably laying the seeds of anarchy, of civil wars, and at last of military
government?\(^{492}\)

Admittedly, the relation between Ferguson’s theory of liberty and his ideological
position on the American Revolution was not a relation of necessity. He could have
argued, on the same elitist premises, that without the participation of some American
gentlemen in Parliament, the rights of the colonists could not be secured. He could
alternatively have challenged the claims of the Americans purely on the basis of their
obligations to the British, which placed them in the dependent position of debtors, a point
raised in the *Remarks*.\(^{493}\)

It is significant therefore that Ferguson chose this occasion to mount an attack on
the relation between the liberty of the people and their right to share in government. He
did so not because his civic convictions were shaken in the face of the American
Revolution, as Oz-Salzberger suggested, nor because he came to consider increasing
political participation as dangerous, as Amoh argued.\(^{494}\) Ferguson saw the American
Revolution for what

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\(^{493}\) Ferguson argued that the colonists accepted charters from the Crown and voluntarily submitted to the
authority of Great Britain. Moreover, they were under an obligation to repay their debt to Britain for “the
favours done by the Mother Country to her Colonies” and “all the blood and treasure we have expended in
the common cause.” Their status was that of dependents, a similar status to that enjoyed by servants or
debtors. Britain could not treat them as slaves, and had to guarantee their civil rights, but it lay under no
obligation to grant them political rights. Ibid., 18-22.

\(^{494}\) Oz-Salzberger, *Translating the Enlightenment: Scottish Civic Discourse in Eighteenth-Century
Germany*, 103. Amoh, "Ferguson's Views," 76.
it was becoming: a democratic revolution, which threatened the moderate Whig conception of civil and political liberty. He took advantage of the opportunity presented by Price’s publication to develop his theory of liberty and elaborate the critique of democratic participation that can be found in his earlier work.
CHAPTER 4

Negative Liberty as a Caricature:
Bentham’s Antidote to Democracy

The Caricatural Version of Negative Freedom

In his famous lecture “Two Concepts of Liberty” (1958), Isaiah Berlin described the concept of negative liberty as an absence of coercion, and traced it back to Hobbes, wryly noting that “Bentham says much the same.” Commenting on Berlin’s account, Charles Taylor described it as “a caricatural version of negative freedom […] going back to Hobbes, or in another way to Bentham, which sees freedom simply as the absence of external physical or legal obstacles.” Taylor referred to it as the “crude Hobbes-Bentham concept” of liberty.

Setting aside questions of continuity between Bentham and Hobbes, this chapter reconsiders Bentham’s “caricatural” or “crude” definition of liberty, to use Taylor’s terms. We know that Bentham claimed at one point that the definition of liberty

495 Berlin, Two Concepts of Liberty: An Inaugural Lecture Delivered before the University of Oxford on 31 October 1958, 8, footnote. See also the reprinted version: Berlin, Four Essays on Liberty, 123, footnote.
496 Charles Taylor, "What's Wrong with Negative Liberty," in The Idea of Freedom: Essays in Honour of Isaiah Berlin, ed. Alan Ryan (Oxford: Oxford University Press, 1979), 176-179. The view is crude, according to Taylor, because it interprets freedom as an opportunity-concept, where being free is a matter of the opportunities open to us, rather than as an exercise-concept, where we would be free only to the extent that we had exercised control over our lives and realized ourselves.
497 The questions of structural similarity and historical influence are worthy of separate consideration. James Crimmins examined the question of the historical influence of Hobbes on Bentham, and found no evidence for the existence of such influence, except on one issue – a commitment to clarifying the language of political analysis. Crimmins, however, did not look at the question of influence specifically with regard to the definition of freedom, and it merits further research. James E. Crimmins, "Bentham and Hobbes: An Issue of Influence," Journal of the History of Ideas 63, no. 4 (2002).
as the absence of coercion was a “kind of discovery” he had made, and served as “one of the corner stones” of his system.\footnote{Timothy L. S. Sprigge, ed. The Correspondence of Jeremy Bentham, Volume I: 1752-76 (London: The Athlone Press, 1968), 310-311. Bentham may have borrowed the distinction between negative and positive ideas from John Locke’s argument that we have no “positive idea” of liberty, and the idea of the eternal is “but a negative idea.” See John Locke, An Essay Concerning Humane Understanding (London: Thomas Basset, 1690), Vol. I, Book II, Chapter XVII, § 13-14.} But the exact role of the definition in his system has proven difficult to pin down. Part of the difficulty may be attributed to the fact that Bentham never wrote a work on liberty, and some of the crucial information about his theory of liberty has been culled from fragmentary notes found in the voluminous collection of his manuscripts. Different ideological readings of these notes have contributed to the confusion. This chapter contends that more careful attention to Bentham’s involvement in the 1776 Liberty Debate between Richard Price and his critics would contribute to the understanding of Bentham’s theory of liberty.

The historical thesis advanced here is that Bentham’s definition of liberty as the absence of coercion was developed, at least in part, as a sort of caricature. A caricature could be defined as an exaggerated representation, intentionally or unintentionally ludicrous.\footnote{Cf. "caricature, n." The Oxford English Dictionary, 2nd ed. 1989, OED Online (Oxford University Press, September 2011) http://www.oed.com/view/Entry/27973.} Bentham’s definition of liberty, though initially developed as a tool for criticizing excessive legislation, was turned during the Price Debate into a caricaturized interpretation of the proto-democratic conception of liberty developed by British and American radicals in the late 1760’s and 1770’s, and particularly a caricature of Price’s definition of liberty as the power of self-government. Bentham used this caricaturized interpretation in order to demonstrate that the radical ideal of liberty leads to an absurd
extreme and collapses into itself when divorced from the more fundamental guiding principles of Bentham’s system, utility and security.

The claim that Bentham developed his ideas on liberty in the context of the American debate, and particularly in the context of the Price Debate, is not new. Several leading Bentham scholars have made this argument. In particular, it appeared in H. L. A. Hart’s important essay on Bentham and America, in Douglas Long’s seminal study on Bentham’s idea of liberty, and in the work of Fred Rosen, the leading writer on the concept of liberty in the revisionist school of Bentham scholarship. The historical claims made by these scholars about Bentham’s involvement in the Price Debate can be reduced to the following group of propositions: 1) Bentham’s conception of liberty was opposed to that of Price; 2) John Lind’s critique of Price relied on the negative definition of liberty that he borrowed from Bentham; 3) Bentham disputed the version of the negative definition of liberty that Richard Hey proposed in his own critique of Price.

The historical contribution of this chapter lies in arguing for the following additional claims: 4) Evidence that has not been given proper consideration to date

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suggests that some of Bentham’s most crucial reflections on liberty were developed in direct response to Price; 5) Bentham understood his definition of negative liberty as an interpretation of Price’s idea of liberty as self-government, and he used this interpretation in arguing against Price’s theory. These claims have not been expressly disputed in the scholarly literature on Bentham, but they have also not been sufficiently developed. They contribute to our understanding of Bentham’s theory of liberty in its historical context.

Building on the reconstruction of Bentham’s views in the context of the Price Debate, the chapter attempts to reconcile two influential and rival interpretations of Bentham’s work – the account developed by Quentin Skinner and Philip Pettit, which has portrayed Bentham as an enemy of the neoclassical conception of liberty, and the account developed by the revisionist Bentham scholars P. J. Kelly and Fred Rosen, which has pointed out the structural similarities between Bentham’s view and the neoclassical or Whig understanding of civil and political liberty in terms of security from arbitrary power. Briefly, the argument made here is that Skinner and Pettit have been right to point out that Bentham broke with the Whig/neoclassical understanding of individual liberty, but they have largely disregarded the important fact, highlighted by some of the recent Bentham scholarship, that Bentham’s institutional account has retained important elements of the neoclassical view.

Dr. Price and His Self-Government

The following sections will examine the formation of Bentham’s theory of liberty, focusing on the years 1770-1780. But I would like to begin by considering a puzzling
comment made by Bentham in later years. In one of his manuscripts, written in the 1790’s, Bentham wrote a short critique of the ideas of self-government and equal representation. He mentioned that under equal representation, “every man would have been his own legislator,” an implicit reference to Price’s Observations on the Nature of Civil Liberty. Bentham added a biographical comment, which was subsequently crossed out: “Dr Price with his self-government made me an anti-American.”

Hart and Long quoted this comment in their accounts of Bentham’s involvement in the Price-Lind exchange. Hart mentioned it as evidence for his claim that “Price had a profoundly irritating effect” on Bentham. Price may have had a similar effect on Long, who justified Bentham’s comment by attributing to Price both zealotry and lack of clarity. At any rate, Long and Hart unearthed Bentham’s biographical comment but gave it no serious consideration. They reflected neither on the significance nor on the apparent oddity of Bentham’s claim that Price’s theory had such a dramatic influence on his own position.

Bentham’s comment may seem odd because we know that his sentiments were pro-British and anti-American before Price published his influential Observations in

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502 UCL CLXX, 175.
503 Hart, “Bentham and the United States of America,” 553. This is evidently true, given that Bentham devoted to Price, after the latter’s death, a bizarre manuscript, in which he discussed his transformation during the French Revolution from a melancholy “croaker” into an angry “carper,” who blamed the government for every infelicitous circumstance; he added that “the size of his wig was commented upon, and as rational a refutation as many I have seen of many of his writings was contained in the appellation of Dr Big-Wig.” There are two almost-identical versions of this fragment. I have followed the one found in UCL CXLIX, 331-332. Compare to the version in UCL CLIII, 233. For Bentham’s discussion of croaking, carping, and puffing, see UCL CLIII, 227-234. I am grateful to Dr. Michael Quinn for alerting me to the existence of this fragment and sharing his of it transcript with me.
504 Long seems to have been referring to Price when he wrote of “enthusiastic” radicals whose “critical faculties were struck dumb in the presence of the political fetish of liberty.” Long, Bentham on Liberty, 10, 55.
February 1776. Early in 1775, Bentham already contributed arguments to the *Remarks on the Principal Acts of the 13th Parliament of Great Britain*, a pro-government pamphlet composed by Lind. He later explained that the pamphlet expressed the sincere convictions of Lind and himself: “For by the badness of the arguments used on behalf of the Americans on that side of the water as well as on this,” he wrote to his literary executor, John Bowring, “my judgment [...] was ranked on the government-side.”

Clearly, then, Bentham already sided with the government in its dispute with the American patriots prior to Price’s celebrated defense of the American case, so that Price could not in this sense have made Bentham an anti-American.

A careful reading of Lind’s Remarks suggests what Bentham might have meant by his odd biographical comment. In an introductory section of the Remarks, Lind criticized Edmund Burke’s assertion that the constitutional superiority of Britain over the colonies should be maintained unimpaired. The statement seemed superfluous to Lind because only “one American,” Benjamin Franklin, “has yet denied it.” Burke’s further assertion that the superiority of Britain over the colonies does not contradict the status of the Americans as freemen seemed to Lind similarly redundant: “These truths, what courtier is hardy enough to dispute?”

The principles that Lind believed to be beyond dispute in 1775 were the very principles that Price challenged in early 1776. The publication of Price’s *Observations*...
and the enormous popularity that it achieved was quite plausibly the development that made Bentham realize that the position of the pro-American camp was shifting toward support for independence and republicanism. Indeed, several months after the publication of Price’s *Observations*, when the American Declaration of Independence was printed in England, Bentham accused the Americans of attempting to establish a theory of government “absurd and visionary,” based on maxims “subversive of every actual or imaginable kind of Government.”\(^{507}\) He complained that by adding liberty and happiness to the list of inalienable rights, the Americans “have out done the utmost extravagance of all former fanatics.”\(^{508}\) Price’s *Observations* already contained some of the principles that Bentham found unacceptable in the American Declaration of Independence.

Bentham’s reference to Price’s influence on his position is surprising for an additional reason. Bentham rarely discussed Price, and when he did, he claimed that Price’s arguments were unworthy of being taken seriously. In a pseudonymous letter to the newspaper from July 26, 1776, Bentham replied to the claim that Price’s theory was “utopian,” and expressed his opinion that “a performance so worthless” as Price’s *Observations* deserved “some less unequivocal note of censure.” Bentham’s assessment of the work was, indeed, unequivocal:

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Of the whole book, theory, principles, and all of it taken together, laid open and exposed as I have seen it, by the masterly writer we are speaking of, I should say, that it was everywhere either, inconsistent or unintelligible; not written to be understood; not worthy to be detested; a hash of nonsense and contradictions, seasoned by spleen, tossed up for quick consumption, doomed to precipitate decay, and suited only to the vitiated palate of a party.  

Given his scathing critique of Price’s principles and arguments, we should be surprised to find out that Bentham’s position was significantly influenced by them. Yet this chapter suggests that we take Bentham’s claim in all seriousness. If the argument here is correct, Price not only made Bentham an anti-American, in the sense of rejecting the emerging democratic principles of the American Revolution: he also and even more significantly influenced the development of Bentham’s theory of liberty. “Dr Price and his self-government” had on Bentham considerably more than an irritating effect.

Bentham’s Involvement in the Price Debate

If we rely on Bentham’s own testimony, he came up with the negative definition of liberty sometime after the outbreak of the American Revolutionary War in April 1775, either when he was still working on his unpublished Comment on the Commentaries, or when he already started working on his Fragment on Government, published on 18 April

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509 Letter from “Hermes” to the Gazetteer and New Daily Advertiser, July 26, 1776.
1776. The Fragment, ostensibly a critique of Blackstone’s views on government, was arguably Bentham’s most substantive contribution to the American controversy. Bentham’s thoughts on liberty, however, did not find their way into the Fragment. He would not have become involved in the Price Debate, and consequently, might not have focused on the concept of liberty to the extent that he did, if not for his close friend John Lind.

In his recollections of this period, Bentham referred to Lind quite dismissively as the first of his “long-robed disciples,” criticized his “loose and negligent” style, and said that “he would have set his signature blindfold to anything I had written.” But at the time, Lind was by far the more accomplished lawyer and political writer. He may not have been as brilliant or pedantic as Bentham, but he was, as Bentham admitted, intelligent, industrious, ambitious, respected in ministerial circles, and though “writing on the government side […] his mind was by no means destitute of the spirit of independence.”

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511 Paola Rudan has persuasively argued that the Fragment can be read in the context of the dispute between Britain and the colonies, as an examination of the constitutional nature of the colonial relationship, as well as a comment on the theory of sovereignty and political obligation. Rudan, "Appropriating the Future." Paola Rudan, “Dalla Constituzione Al Governo. Jeremy Bentham E Le Americhe ” (Università di Bologna, 2007). In the Fragment, Bentham expressed his hope that the decision to resist a disputed law or to submit to it would be taken on the rational basis of utility, and not on the basis of an “ambiguous and sophistical discourse” of rights, which “stimulates and inflames the passions.” Jeremy Bentham, The Comment on the Commentaries and a Fragment on Government, ed. J. H. Burns and H. L. A. Hart (Oxford: Clarendon Press, 1977), 482-484, 491-482. In the preface that he later added to the second edition, Bentham referred to the American controversy and said: “With me it was a matter of calculation: pains and pleasures, the elements of it. No party had argued the question, or taken it up, on that ground […] The battle was fought by assertion. Right was the weapon employed on both sides.” Ibid., 521-2.
512 When Price’s Observations was published, Bentham was seeing the Fragment through the press and working on the Preface. See in particular the letter to Lind from March 27-28, 1776, in Fuller, Correspondence: Volume 12, 310-311. See also Correspondence, I, 235, 292, 294, 304; Bentham, Comment and Fragment, xxv-xxix.
513 Ibid., 519; Works, 54-55.
514 Fuller, Correspondence: Volume 12, 310-311.
Bentham’s definition of liberty in print, are likely to have encouraged the latter to develop his theory of liberty. Richard Hey’s own response to Price, in which he referred to Lind’s letters, further encouraged Bentham to develop his ideas.

Bentham’s letter of protest to Lind, claiming his right to the “discovery” he had made, and the manuscript entitled “Hey,” which Bentham addressed to Lind, hoping that he would include it in the collected edition of his letters, are the most readily available sources on Bentham’s involvement in the Price Debate. Long and Skinner both discussed the “Hey” manuscript, the latter noting, on the basis of this manuscript, that Hey was Bentham’s immediate target in this exchange. In what follows, however, I would like to examine the evidence for the thesis that Bentham developed his negative definition of liberty with Price as his primary target. To that end, I would like to suggest two additional sources for learning about Bentham’s response to Price’s Observations.

One source is Bentham’s only published defense of the negative definition of liberty, which can be found in two letters he sent to the newspaper in July 1776 under the pseudonym “Hermes.” Surprisingly, these letters have been neglected in the scholarly literature on Bentham, and particularly in discussions of his theory of liberty. Long did not even mention them in his otherwise comprehensive survey of Bentham’s early writings on liberty. Other scholars referred to them without discussing their content.

Second, I would like to suggest that we read some of Bentham’s most important comments on liberty in his early manuscripts from 1770’s as direct responses to the Price

515 Ibid., 288-296.
Debate. These are particularly the manuscripts entitled “Key,” which have been extensively discussed by Long, but have not been previously interpreted as part of the Price Debate. The “Key” manuscripts were previously assumed to have been composed before 1776, but there are clear indications that Bentham penned them after the publication of the Observations, and that he had the Price Debate in mind. In these manuscripts, Bentham explicitly referred to Price’s discussion of liberty and security, and discussed the concept of “self-government,” which Price popularized in the Observations.

In the “Key” manuscripts, Bentham also defined liberty as the absence of coercion, and not as the absence of restraint. In the letter to Lind on the definition of liberty from the end of March 1776, Bentham claimed to have corrected the definition in his notes from “restraint” to “coercion” at some indefinite time before the date in which the letter was written. It seems reasonable to speculate that he returned to his reflections on liberty and changed the definition following the public debate on the concept of liberty provoked by the publication of the Observations in February 1776.

Drawing on these materials, the following sections reexamine the development of Bentham’s thought on liberty, arguing that it should be understood primarily as a response to Price: an attempt to develop an “antidote” to the democratic conception of liberty by distinguishing it from security under the law and pushing it to an absurd.

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518 The relevant folder in the Bentham Archives was dated 1774-1775.
519 UCL LXIX, 43.
520 UCL LXIX, 55.
Liberty Prior to the Price Debate

Before considering Bentham’s direct involvement in the Price Debate, this section briefly considers Bentham’s initial formulation of the negative definition of liberty as the absence of restraint prior to the Price Debate. To this end, I would like to examine Bentham’s writings before 1776, and particularly his comments on liberty in the group of manuscripts headed “PPI” (“Preparatory Principles Inserenda”). As Long noted, the “PPI” manuscripts are likely to have been the earliest of the group of manuscripts containing Bentham’s early formulations of the definition of liberty.\(^{521}\) In these manuscripts, Bentham still saw liberty as opposed to restraint, and had not yet changed his definition to include the absence of constraint.\(^{522}\)

In the “Preparatory Principles” manuscripts, Bentham expressed his conviction that his science of critical jurisprudence would have a profound effect on politics. His frequent target for criticism in these texts was Edmund Burke, whose statement in Parliament that he hates “the very sound” of metaphysical distinctions seemed to Bentham preposterous.\(^{523}\) Through metaphysics, which he understood as the “Science of Definitions,” Bentham believed that he could open the eyes of Englishmen who had been misled into rebellion against the authority of government. “If I explain these matters clearly,” he wrote, “I may be a means of giving perpetuity to the constitution of my

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\(^{522}\) LXIX, 153. These manuscripts must have been composed after April 19, 1774, because this is the date in which Burke gave his Speech on American Taxation. Bentham refers to this speech in several places. See, for example, UCL LXIX, 159. Because of Bentham’s usage of the “absence of restraint” formula, they must have been composed before his letter to Lind at the end of March 1776. I am assuming that they were composed before the Price Debate.

\(^{523}\) Edmund Burke, *Speech of Edmund Burke, Esq; on American Taxation, April 19, 1774* (London: J. Dodsley, 1775), 52.
country, I may stifle in embryo or rather intercept the conception of all manner of
disputes, prevent civil wars, fix the peace of empires, and save the lives of
millions.”524

In his earliest manuscripts, Bentham’s attempt to “stifle in embryo” the political
dispute between Britain and its colonies focused on the concept of right and not on the
concept of liberty. Bentham wanted to refute the notion that a right derived from the law
of nature can justify resistance to the government. “The obvious effect of the word right,”
he wrote in the Comment on the Commentaries, “is to make people suppose themselves
justified in disobeying or even opposing any Laws they happen not to like.” Bentham
thought that laws should be reformed, not disobeyed. Resistance is justified only in those
rare cases in which “the probable mischiefs of rebellion seemed less to me than the
probable mischiefs of submission.”525

Bentham’s discussion of liberty in the “Preparatory” manuscripts did not focus on
the political context, but rather on the relation between liberty, property, and the law.
Bentham stressed the relation between liberty and property. No law can be made about a
person’s property, he argued, without narrowing that person’s liberty.526 He pointed out
that ownership or legal possession is nothing but the absence of restraint on the party
favored by the law or “the party left at liberty,” while others are restrained from using the
possessed object.527 Bentham was concerned in these manuscripts to make clear that
liberty is generally not favored by multiplying laws, particularly property laws, and in

524 LXIX, 155-156.
525 Comment and Fragment, 54-55.
526 LXIX, 210-211.
527 UCL LXIX, 140-147. See also Ibid., 169-170.
this context he wrote: “Liberty is the absence of restraint.” Finally, Bentham noted that the jurisprudential use of the word “liberty,” in the sense opposed to restraint and consistent with “liberty to use,” should not be confused with the political senses of liberty.

Bentham’s initial formulation of the definition of liberty as the absence of restraint was part of his project of critical jurisprudence. It was, most likely, a polemical formulation to begin with: the critical edge of this formulation was turned against what Bentham perceived as an excess of restrictive legislation. In what follows, I suggest that in responding to the Price Debate, Bentham developed this definition in a new polemical context, turning the concept of liberty into his weapon of choice against political radicalism.

**Price’s Capital Mistake**

In the “Key” manuscripts, Bentham’s perspective visibly shifted: liberty and its relation to security became more central. We know that these manuscripts were written later than the “Preparatory” manuscripts, because Bentham was using the more mature formula of the negative definition of liberty, referring to “coercion” and not to “restraint.” It would be reasonable to assume that Bentham’s sudden preoccupation with liberty was inspired by the public debate on the concept of liberty following the publication of Price’s *Observations*. But there is also direct evidence that this was the case. On one of

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528 Ibid., 148.
529 Ibid., 153.
the manuscript sheets, Bentham listed several points that he wanted to make in reply to different authors. Next to “Price” he wrote: “Liberty not the Child of Law. Security not destroy’d by unlimited Supremacy.”

How should we interpret Bentham’s comment that “Liberty not the Child of Law” in the context of Price’s *Observations*? Clearly, it states Bentham’s own position, but one would also assume that it implies what Bentham understood to be one of Price’s major mistakes: the erroneous view, from Bentham’s perspective, that “liberty is the child of law.” A straightforward reading of this fragment would seem to suggest that Bentham understood Price to be holding that position. Such reading is enforced by the fact that Price did, in fact, hold that liberty is the child of law. To be more precise, Price understood liberty to be the security that individuals possess under a government by laws made with common consent.

Price, however, was widely misunderstood on this point. In the debate that followed the *Observations*, he was almost universally understood to be defining the civil liberty of the individual not as the security of the individual under the law, but as the freedom of the individual from all restraint. The interpretation proposed here is that Bentham understood Price’s idea of self-government in the same spirit as many of Price’s other critics did. Bentham understood Price’s idea of liberty as being akin to the idea of natural liberty or licentiousness, and as being opposed to the security of rights under the law. Bentham’s argument was not with Price’s definition of liberty as self-government,

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530 UCL LXIX, 43. This manuscript is entitled “Key. Parerga Critica.” It is mentioned in Long, *Bentham on Liberty*, 55.
but with the idea that the absence of restraint or coercion should be made into a political ideal and used to subvert the authority of the government.

The interpretation offered here is based, in part, on Bentham’s early writings, and in part, on Lind’s response to Price. I begin with the latter. The assumption made here is that Bentham’s interpretation was largely similar to Lind’s, and that Lind’s attack on Price can be highly instructive for understanding the relation of Bentham’s negative definition of liberty to Price’s idea of liberty as self-government.

Like other commentators on the Observations, Lind erroneously interpreted some of Price’s statements to mean that he was opposing liberty as self-government to restraint. He was relying in particular on one statement that Price had made: “As far as, in any instance, the operation of any cause comes in to restrain the power of Self-government, so far Slavery is introduced.” Adam Ferguson referred to this exact statement by Price in arguing that the latter “puts Liberty in contradistinction to Restraint.” Lind interpreted Price’s statement in the same way. But while Ferguson thought that Price was wrong to oppose liberty to restraint, Lind thought that this was one instance in which Price saw the light of truth. He took this statement as an indication that Price himself was “well nigh discovering, if not correcting” his mistaken conception of liberty. Referring to the aforementioned statement, he wrote to Price: “you seem to have perceived that [liberty] is not any thing positive.”

Lind proceeded to propose his own amendments to Price’s statement. Lind’s preferred version of it would have read: “As far as, in any instance, the operation of any

532 Ibid.
533 Ferguson, Remarks, 2.
[foreign/extraneous] cause comes in to restrain the power of Self-government, so far [liberty is controlled or curtailed].” Had Price only used this slightly revised formulation, “there would perhaps have been more sound sense in these three lines, than in all of the rest of the pamphlet taken together,” wrote Lind.

Read carefully, Lind’s comments on Price’s definition of liberty as the power of self-government make clear that he had no objection to it, provided that it would be correctly interpreted. Price’s “capital mistake,” according to Lind, was not that he had defined liberty as self-government, but that he misinterpreted the meaning of self-government to imply the possession of a positive power by the agent, rather than the absence of external coercion imposed on the agent:

With respect to any particular act, when you say a man is free, that he enjoys the power of Self-direction or Self-government, what is it you mean? Clearly no more than this; that no other agent whatever has, or means to exercise the power of constraining him to do, or to forbear that act. What then is Liberty? Clearly nothing more nor less than the ABSENCE of COERCION.

In conclusion, Lind understood the definition of liberty as the absence of coercion to be the correct interpretation of Price’s definition of liberty as the power of self-government. The contention made here is that Bentham’s understanding of Price’s definition was similar. Bentham understood Price’s definition to be positive and negative

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534 Lind’s variations have been placed in square brackets.  
536 Ibid., 16.
at the same time, expressing a power possessed by the agent and the absence of restraint
on the agent. Bentham objected to the positive part of Price’s definition and embraced
what he saw as its negative part.

This interpretation is supported by considering Bentham’s only published
intervention in the Price Debate – the hitherto neglected letters that he sent to the
Gazetteer and New Daily Advertiser under the pseudonym “Hermes.” The letters were
written in reply to a commentator calling himself “Ignoramus,” who, despite a professed
aversion to Price’s “utopian” theory and “detestable” principles, expressed dissatisfaction
with Lind’s definition of liberty. Ignoramus argued that the idea of liberty is antecedent
to the idea of coercion, and consists in the positive power to act or to forbear from
acting.

Having poured his wrath on Price in the first letter, Bentham proceeded in the
second, longer letter to examine the definition of liberty. He conceded Ignoramus’s point
that the idea of liberty is antecedent to that of coercion, but argued that it is no proof that
liberty is something positive. To illustrate his point, he offered the contrast between
barrenness and fruitfulness: if Ignoramus were to “labour under the disappointment” of
his wife having no children, he might have formed the idea of barrenness before the idea
of fruitfulness, but the idea of barrenness would still be nothing but “the absence of
fruitfulness.” His second illustration was more directly related to the question of social
freedom.

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537 According to Bentham, Lind “begged” him to reply to Ignoramus, and he consented. Correspondence, XII.
538 Letter from “Ignoramus” to the Gazetteer and New Daily Advertiser, July 13, 1776.
Bentham asked his interlocutor to imagine himself as Robinson Crusoe, stranded on an “uninhabited and unclaimed island.” In this condition, according to Bentham, his interlocutor would be “with reference to all mankind (for liberty is a term of reference) at perfect liberty,” because there would be nobody to coerce him. Bentham then proceeded to stipulate that a savage landed on the island, and turned Robinson Crusoe into his slave, commanding him to do things, and punishing him if he failed to comply. Crusoe’s liberty, with respect to all the things he was constrained to do, was gone. What made it disappear was “this savage; whom (punning apart) you doubtless cannot but allow to have been something positive.” The savage embodies the positive idea of coercion: “Comes the savage, comes coercion: no savage, no coercion; but perfect liberty.” Liberty is nothing but the absence of the savage. Bentham did not express ly say so, but he could clearly have substituted the law for the savage: with respect to the coercive power of the law, liberty, as Bentham understood it, is nothing but the absence of the law.539

In the “Key” manuscripts, Bentham defined self-government to be the state in which “the motive for action is not pain resulting from the will of another person, but pleasure or pain from the powers of inanimate or irrational bodies, or of the parts of one’s own body.”540 Going by this definition, the state of perfect liberty that Bentham attributed to Robinson Crusoe on his uninhabited island was also a state of perfect self-government. Bentham’s objection was not to Price’s definition of liberty as self-government, but to the

539 Letter from “Hermes” to the Gazetteer and New Daily Advertiser, August 1, 1776.
540 The full paragraph reads as follows: “It is self-government, when the motive for action is not pain resulting from the will of another person, but pleasure or pain from the powers of inanimate or irrational bodies, or of the parts of one’s own body. It is self government when I forbear putting my hand into the fire on account of the pain the burning coals would give me. It would be being under your governance […] if I forbore on account of your threatening to beat me if I did. So eating an apple or running from a Bull.” UCL LXIX, 55.
assumption that self-government is a prized possession or an ideal that should be pursued in civil society.

The capital mistake that Bentham attributed to Price was vividly described in the letter to “Ignoramus.” In more modern terms, it could be described as the problem of reification and fetishism of liberty. Bentham believed that Price was one of many commentators who were making the abstract and fictitious notion of liberty into something concrete, which subsequently became the object of their desire. In his reply to “Ignoramus,” he described how “the creative power assumed by language, especially where the imagination which sets it to work is prompted and enlivened by the affections,” leads human beings to reify the idea of liberty:

Liberty for instance coming in this way to be represented as something that can be enjoyed, is, by a continuation of the process, turned as it were into a reality […] It becomes the object of love and rapturous elogium to impassioned politicians. It is a treasure, in short a jewel […] It is sacred, unalienable, inestimable. 541

The reference to “impassioned politicians” and to the “unalienable” nature of liberty indicates that Bentham had the enthusiasm of Price and the American colonists in mind. Their capital mistake, it would seem, was that they followed their passions and imagination and created a reified and glorified image of liberty as a treasure to be had.

541 Letter from “Hermes” to the Gazetteer and New Daily Advertiser, August 1, 1776. The same complaint about liberty is made in the “Hey” manuscript: “We speak of it as being abridged, that is made shorter; of it’s being invaded, broken in upon, as if it had a piece cut out of it: of it’s being violated, as if violence had been done it by a bruise. It is manifest that it is only by means of a fiction that Liberty is any thing that can be the subject of these or any other operations.” UCL LXIX, 62.
Bentham particularly objected to Price’s treatment of liberty as a positive power, a
treatment shared by “Ignoramus.” “Liberty, in truth, is not a – any thing,” wrote
Bentham. “In particular, it is not a species of power.” The “confusion and impropriety” of
speaking of liberty as power, according to Bentham, had been “ably exposed” by Richard
Hey in his “ingenious” reply to Price.542

It is significant that Bentham called himself “Hermes” in these letters, because
this was an allusion to James Harris’s Hermes: or, a Philosophical Inquiry concerning
Language and Universal Grammar (1751). Bentham clearly saw himself as developing
his own universal grammar of jurisprudence. Bentham’s preoccupation in the early
manuscripts with the critique of jurisprudential and political language has been treated by
Long, who tied it to Bentham’s fascination with Locke’s attack on innate ideas and with
the philological critiques developed by James Harris and John Horne Tooke.543
Bentham’s project of critical jurisprudence should also be seen, however, in the context
of a growing anxiety about the use of incendiary language in popular politics.

The idea that fundamental political terms, and particularly “liberty,” were being
perverted and used for rabble-rousing was widespread in the years following the Wilkes

542 Ibid. Bentham’s critique of liberty as power offers one possible solution to a puzzle pointed out by
Skinner: how could Bentham claim to have discovered the negative definition of liberty, given that his
great nemesis, William Blackstone, defined liberty in seemingly negative terms? According to Blackstone,
“natural liberty consists properly in a power of acting as one thinks fit, without any restraint or control,
unless by the law of nature.” But Bentham’s letter to Ignoramus makes clear that he objected to defining
liberty as “a power of acting.” Bentham might have been thinking of Blackstone when he referred to his
definition of liberty as a kind of discovery. His discovery might have consisted in realizing that liberty is
not a power, as Blackstone claimed, but only the empty space created by the absence of coercion. In
rejecting the definition of liberty as power, however, Bentham was in line with the Hobbesian conception
of liberty as the absence of external impediments. Hobbes, too, denied the relation between liberty and
Liberty: The Enlightenment Debate,” The Roy Porter Lecture, given at University College London on May
26, 2010.
Affair and leading up to the American Declaration of Independence. The anxiety about the impact of dangerous words peaked during the Price Debate.

Henry Goodricke, for example, complained that Price was strategically using words like “liberty” and “slavery” that raise “instantaneous feelings of approbation or indignation,” and recommending his principles “by dignifying them with the name of freedom, liberty, and particularly Civil Liberty; and by stigmatizing every restraint of this Liberty, with the odious names of Slavery and Servitude.”

The anonymous author of *Remarks on Dr. Price’s Observations on the Nature of Civil Liberty* (1776) observed: “The words, ‘freemen and slave,’ are magic to the brain – The idea of being deprived of our liberty, banishes every other consideration.”

Bentham’s own concern with the rhetorical impact of the word “liberty” dated back at least to the “Wilkes and Liberty” agitations in 1768-1769. In his first publication, a letter he wrote to the newspaper in December 1770 under the pseudonym “Irenius,” Bentham wrote: “The Aegis of Liberty was to be held up to cover all, and dazzle the eyes

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544 Samuel Johnson’s influential polemic against the American patriots, *Taxation No Tyranny* (1775), suggested that the “incendiaries” have been “taught by some master of mischief, how to put in motion the engine of political electricity; to attract by the sounds of Liberty and Property, to repel by those of Popery and Slavery.” Samuel Johnson, *Taxation No Tyranny; an Answer to the Resolutions and Address of the American Congress* (London: T. Cadell, 1775), 68. The colonial official and religious writer Ambrose Serle, for example, noted in his pro-government pamphlet *Americans against Liberty* (1775): “No Term, in the Compass of Language, is more liable to Perversion, or indeed has been more violently perverted, than the Word LIBERTY.” *Americans against Liberty; or an Essay on the Nature and Principles of True Freedom, Shewing that the Designs and Conduct of the Americans Tend Only to Tyranny and Slavery* (London, 1775), 5. Serle criticized Price in the 1776 edition of his work.

545 Goodricke, *Observations*, 78-82.

of weak-sighted observers.” During the Price Debate, he felt, again, that the dispute between Britain and the American colonies hinged on the import of the word “liberty.” In his draft letter to Lind on Hey’s *Observations*, Bentham wrote:

> it is not uncommon for questions of the first practical importance to depend for their decision upon questions concerning the import of these words. This is what in particular may be seen in the instance of the present unfortunate disputes. ‘Tis from a particular construction put upon the word liberty and a few others that the popular divine whom you combat with so much force has inferred the impropriety of waging the war against America: with a degree of justice equal to that with which it seems to you he might have inferred the propriety of a war of the governed of every other country that is or has been upon their governors.

Bentham thought that the position that individuals held in the dispute between Britain and the colonies could be determined by their understanding of the meaning of liberty. He was persuaded that Price’s interpretation of liberty could be used to justify not only the resistance to the British government in this dispute, but also the resistance of the governed to any government, because he interpreted Price to be advocating an ideal of liberty as the absence of all legal and political restraint. But just as one interpretation subverted the authority of government, another could support it. “It is from a different construction that you support the propriety of the war in question,” he wrote to Lind.

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547 *Gazetteer and New Daily Advertiser* (December 3, 1770).
548 UCL LXIX, 60.
Further along the “Hey” manuscript, in discussing his methodology and its application to the idea of liberty, Bentham wrote:

A sober and accurate apprehension of the import of these fundamental words is a true key to Jurisprudence /the recesses of legal and moral science/, and the only effectual antidote against the fascinations of political enthusiasm.\(^{549}\)

This was Bentham’s project in some of the early manuscripts, captured in the title of the “Key” manuscripts: providing a key to jurisprudence that would serve as an antidote to the political enthusiasm of radicals such as the “popular divine” Richard Price. I have been arguing that Bentham’s weapon of choice in these manuscripts was his negative definition of liberty. Rather than proposing an alternative ideal to Price, Bentham was employing his method of sober analysis to reduce Price’s understanding of liberty to an absurd. If liberty is self-government, and self-government is merely the absence of coercion, then liberty should not be made into an “object of love and rapturous elogium.”\(^{550}\) Bentham’s argument was ultimately a radical version of an argument used by many participants in the Price Debate. Many of the critics who attacked Price’s theory of liberty employed some version of Bentham’s claim that the pre-social, perfect liberty of Robinson Crusoe cannot be reproduced in civil society. But most of them differed from Bentham in their understanding of the relation between liberty, security, and the law.

\(^{549}\) UCL LXIX, 62.  
\(^{550}\) Letter from “Hermes” to the *Gazetteer and New Daily Advertiser*, August 1, 1776.
Bentham and Civil Liberty

As mentioned above, Bentham’s revived interest in the concept of liberty in the wake of the Price Debate can be seen in the “Key” manuscripts. Bentham summarized his reply to Price in these manuscripts in the following words: “Liberty not the Child of Law. Security not destroy’d by unlimited Supremacy.”551 As these two statements suggest, in the “Key” manuscripts Bentham was preoccupied with the relation between liberty, the law, security, and sovereignty.

Bentham’s opening move was to define liberty as the absence of coercion and distinguish it from the security produced by the law:

Liberty then is neither more nor less than the absence of coercion. This is the genuine, original and proper sense of the word liberty. The idea of it is an idea purely negative. It is not anything that is produced by positive Law. It exists without Law, and not by means of Law.

[…] That which under the name of Liberty is so much magnified, as the invaluable the unrivalled work of Law, is not Liberty but Security:

[…] It is of pernicious, most exemplarily pernicious consequence to confound under one and the same name things in themselves so different from one another,

551 UCL LXIX, 43. This manuscript is entitled “Key. Parerga Critica.” It has been mentioned in Long, Bentham on Liberty, 55.
and which have such frequent & such important occasion to be distinguished and contrasted.\(^{552}\)

Bentham’s primary point here was that liberty in its “original” sense is not a product of the law: it is an absence of coercion, which may exist independently of the law. Perfect liberty, as we have seen, can exist on Robinson Crusoe’s uninhabited island, where Robinson Crusoe may be free simply because there is no one else on the island to coerce him. Security, on the other hand, is created when the law coerces one individual in order to protect another. According to Bentham: “Liberty subsists by the restraints not being imposed upon ourselves: Security is produced by restraints being imposed on others.”\(^{553}\)

So far, it seems that Bentham clearly distinguished between liberty and security under the law. However, to complicate matters a bit, he also acknowledged that most individuals owe their liberty to the protection offered to them by the law. In such cases, he admitted, “it is true that the liberty which you possess you are indebted for to the Law, that, in other words, this Liberty of yours is the work of Law.” Bentham further argued that in these cases, liberty is produced not in the person on whom the law acts, but in the person on whom it forbears to act, and therefore liberty is only “the indirect work” of the law. Still, he acknowledged the existence of “liberty by security,” and distinguished it from liberty without security:

\(^{552}\) Ibid., 44.
\(^{553}\) UCL LXIX, 45-46.
Liberty without security is that which is possessed in perfection by Hottentots and Patagonians. Liberty by security is that, the perfection of which is the pride of Englishmen.\textsuperscript{554}

In this paragraph, it seems as if Bentham was simply reproducing the conventional contrast between the wild, insecure liberty of savages and barbarians, and the secure liberty of Englishmen under the rule of law. But if he recognized this distinction, one wonders why Bentham went to all the trouble of arguing that liberty is not the child of law. One may also wonder whether his theory of liberty was really as original as he claimed it to be, or was it simply the Whig theory of liberty guided by the principle of utility.

Before engaging with this question, it is worth noting that in the years following his involvement in the Price Debate, Bentham more fully incorporated the ideal of liberty under the law into the concept of security. He understood the concept of security to be a broader concept, comprising not only security from coercion, but also security from other types of harm. Bentham thoroughly discussed the concept of security in his 1780 manuscripts on the Civil Code, where he wrote that liberty is “a branch of security, a branch of personal security, the absence of coercion.”\textsuperscript{555} By this he meant that one of the aspects of personal security is the absence of coercion that is secured by the law. Bentham was arguing that liberty is only of value within the framework of security, which was, in turn, part of the framework of utility. “It is either comprised a branch of

\textsuperscript{554} UCL LXIX, 55.
\textsuperscript{555} UCL C, 153, and see also C, 167.
security,” he wrote of liberty, “or it is of no value.” This statement clearly indicates that liberty that “comprised a branch of security” is of value. But while acknowledging the value of such liberty, Bentham also expressed his misgivings about the word “liberty,” because of its imprecise and inflammatory use by political radicals:

Liberty therefore not being more fit than other words in some of the instances in which it has been used, and not so fit in others, the less the use that is made of it, the better. I would no more use the word liberty in my conversation when I could get another that would answer the purpose, than I would Brandy in my diet, if my physician did not order me: both cloud the understanding and inflame the passions.

The context in which this statement appears in the manuscripts on the Civil Code is Bentham’s discussion of the confusion between personal liberty, in the sense of the absence of coercion, and political liberty, which he associated with popular power. In saying that the word “liberty” clouds the understanding and inflames the passions, Bentham was pointing to what he understood as the core of his disagreement with Price and other radicals: the potential of liberty to serve as a rallying cry for resistance to the authority of government.

Bentham’s position on the relation between liberty, security, and the law has been given strikingly divergent interpretations, and these have tied in with a broader interpretative controversy on the place of liberty in Bentham’s thought. The primary

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556 UCL C, 156.
557 UCL C, 170.
divide in the interpretation of Bentham’s thought is between the “authoritarian” school of interpretation and the more “liberal” or “individualist” view.\textsuperscript{558} The authoritarian school has been inspired by Elie Halévy’s seminal study *La formation du radicalisme philosophique* (1901-1904), which contrasted Bentham’s utilitarianism with a liberal commitment to the primacy of individual liberty.\textsuperscript{559}

In his influential study *Bentham on Liberty* (1977), Douglas Long offered a complex account of Bentham’s theory that seemed ambivalent about the status of liberty in it. He noted that in the early manuscripts, Bentham was not hostile towards liberty or rights, and was merely opposed to the misuse of these terms by political radicals. Long followed Halévy in arguing that Bentham abandoned the idea of liberty as an end in itself, and subordinated it to the ends of utility and security, inviting the legislator to exercise social control in order to achieve these ends at the expense of individual liberty. But he also argued that there were two phases in the development of Bentham’s thought, corresponding to his work on the penal and the civil law, and in the second phase, Bentham emphasized the distributive and not the coercive functions of the law. In discussing Bentham’s writings on the civil law, Long noted that “the ascendancy of security as a value in the utilitarian system is, throughout Bentham’s works, at the same time the ascendancy of a form of liberty.”\textsuperscript{560} Thus, Long’s study followed Halévy in some respects, but also laid the groundwork for more liberal interpretations of Bentham.


\textsuperscript{559} Halévy argued that Bentham “had never been a liberal” and had “merely passed from a monarchic authoritarianism to a democratic authoritarianism.” Halévy, *The Growth of Philosophic Radicalism*, 375.

In some sense, Quentin Skinner and Philip Pettit can be said to have followed the authoritarian line of interpretation. In their work on the neoclassical tradition of liberty, both have focused on Bentham’s definition of liberty as the absence of coercion, stressing its continuity with Hobbes’s conception of freedom, and thus associating it with authoritarianism. Both have emphasized that Bentham allowed neither for the role of the law in creating freedom, nor for the idea that one could be unfree in the absence of coercive interference.561

Moreover, both Skinner and Pettit have accorded to Bentham an important role in the eclipse of the neoclassical view. Skinner has attributed the “decline and fall” of the neo-classical theory to the rise of “the neo-Hobbesian analysis of liberty popularised by the classical utilitarians,” often referring to Bentham in this context.562 Pettit, too, has argued for Bentham’s pivotal role in the “triumph of freedom as non-interference” over the republican understanding of liberty as non-domination.563

561 Pettit, Republicanism, 35-41. This argument has been repeated in many subsequent publications, but see, in particular, the discussion in Philip Pettit, "Law and Liberty," in Legal Republicanism: National and International Perspectives, ed. Samantha Besson and José Luis Martí (Oxford: Oxford University Press, 2009), esp. 41. Skinner has recently elaborated his view of Bentham in a series of lectures. See, in particular, “Political Liberty: The Enlightenment Debate,” The Roy Porter Lecture, given at University College London on May 26, 2010.


563 According to Pettit, the Hobbesian idea of liberty was revived by a group of writers “opposed to the cause of American independence and, in particular, to the republican rhetoric in which that cause was articulated.” Bentham was one of these writers, and even as he became more progressive in his thought, he carried the notion of liberty as non-interference with him. Pettit has argued that Bentham and William Paley gave the idea of liberty as non-interference “respectable status” and identified it with the cause of liberty and democracy. Bentham “may even be the one who did most to establish it as the modernist notion.” Pettit, Republicanism, 41-50. See also Philip Pettit, A Theory of Freedom (Oxford: Oxford University Press, 2001), 145-149.
Both the authoritarian interpretation and the neoclassical interpretation of Bentham have come under criticism by the some of the revisionist or “liberal” scholars of Bentham’s thought. Paul Kelly and Fred Rosen, in particular, have argued that Bentham followed Montesquieu and identified liberty with personal and constitutional security. “Bentham’s intention of replacing liberty with security does not entail the abandonment of liberty,” argued Kelly in reply to Long, “but a reconstruction of the concept within the context of a utilitarian theory.” Rosen has stated that in “moving from liberty to security Bentham acknowledged the logical difference between liberty as acting as one pleases, and civil and political liberty as security.” Liberty as security, he argued, “is none the less still liberty, and liberty thus remains the key component of Bentham’s utilitarianism.”

In work subsequent to Bentham on Liberty, Long has acknowledged that Kelly and Rosen “show convincingly how the later Bentham rested civil liberty on a foundation of democratic and representative political institutions and processes.” On the basis of their work, he has criticized Skinner for neglecting Bentham’s account of “civil or

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political liberty.” According to Long, “more of the neo-roman theory of civil liberty lived on within the liberal tradition […] than is allowed for in Skinner’s argument.”

In his own reply to Skinner, Kelly has argued that “much of Skinner’s critique collapses into a dispute about words and not any significant conceptual distinctions.” Kelly contended that Bentham’s negative definition of liberty “is only one part of the story of his full theory of freedom as security,” and in his account of personal security and security against misrule, Bentham “accommodates many of the issues that Skinner sees as definitive of the neo-Roman view, though he does it in his own inimitable style and language.”

The revisionist and the neoclassical interpretation of Bentham are both useful to understanding his theory of liberty and its place in his thought. The interpretation offered here will attempt to reconcile these two approaches. One way to start would be to consider the relation between Bentham’s view and Lind’s view.

One advantage of the revisionist interpretation is that it fits well with Lind’s position in his reply to Price. Indeed, Lind’s comments on civil liberty and political security in his *Three Letters to Dr. Price* can be read as an exposition of Bentham’s early ideas on liberty and government, an exposition that is often clearer and more coherent than Bentham’s notes. Lind’s frequent references to Bentham’s *Fragment on Government* reinforce the impression that he was elaborating Bentham’s theory as he understood it.

Lind devoted the second part of the *Three Letters* to discussing Price’s theory of civil liberty and his principles of government. Unlike Bentham, Lind developed a clear

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idea of civil liberty, which he associated with the idea of security and distinguished from the idea of liberty in general. Lind argued that if liberty in general is the absence of coercion, civil liberty could not be perfect liberty, or the total absence of coercion. Civil liberty, according to Lind, is the absence of coercion enjoyed by one or more subjects with respect to other subjects. In a formulation that must have been borrowed from Bentham, Lind argued that civil liberty is created by the law, but given to the subjects on whom the law does not operate against all other subjects on whom the law does operate. Civil liberty is given to the individual “by the operation of the law […] on every other person who may attempt to restrain him.”568

Drawing on Bentham’s 'Fragment on Government', Lind insisted that civil liberty could not include an absence of coercion with respect to the governors, because any restraint on the power of government weakens its ability to protect its subjects against oppression. Thus, in a free state, according to Lind, the legislature is omnipotent. There is, however, an important feature distinguishing a free state from a despotic one: “In a free state, besides civil or political liberty, the subject enjoys what is often confounded with it, though very different from it; I mean civil or political security.” Lind quoted Montesquieu in arguing that political security lies not in limiting the supreme power, but in the proper distribution of its parts “as shall best ensure the greatest happiness of the greatest number.” He argued that the distribution of power should lead to an alignment of interests between the governors and the governed, and the more this occurs, the more perfect is the political security enjoyed by the subjects.569

569 Ibid., 69-74.
We see, then, that Lind merged together Bentham’s definition of liberty as the absence of coercion and the Whig/neoclassical understanding of liberty as security. Specifically, he argued that civil liberty is the partial absence of coercion enjoyed by subjects who are protected by the legal restraint imposed on every individual who may try to restrain them. In other words, Lind’s civil liberty was identical to what Bentham called “liberty by security.” Should we conclude, then, with Kelly and Rosen, that Bentham’s liberty by security is nothing but the Whig/neoclassical idea of civil liberty?

Despite the temptation to read Lind as Bentham’s mouthpiece, the argument made here is that we should distinguish between their views. While Lind was trying to align Bentham’s view with the more conventional Whig idea of civil liberty, Bentham was pulling in the opposite direction. Bentham separated the idea of liberty from the idea of security more decisively than Lind did.

Though Kelly and Rosen have written of Bentham’s idea of “civil liberty” or “liberty as security,” it is significant that Bentham himself had never used these terms. Bentham carefully distinguished the idea of liberty from the idea of security. It is true that he saw personal liberty as “a valuable blessing,” and it is true that he saw personal liberty as a branch of security, which means that he understood the absence of coercion as one of the benefits that should be secured by the legislator. But in contrast to the Whig/neoclassical view, he never argued that security is an integral part of the concept of individual liberty in society.

Bentham’s position was the following: liberty proper is the absence of coercion. Liberty by security is the absence of coercion one individual enjoys due to the legal

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570 UCL LXIX, 58.
coercion imposed on other individuals. Thus, the liberty by security of individual x is the state of affairs constituted by the following two conditions: a) the absence of coercion imposed on x; b) the legal coercion imposed on others in order to secure the liberty of x.

What the revisionists have been emphasizing is that Bentham’s preference of the language of security to the language of liberty was not authoritarian in nature, and that “liberty by security” remained a value for Bentham. In other words, they have been arguing that Bentham was interested in a state of affairs in which both a) and b) hold. This is an important point. However, it is also important to understand what happens if we remove condition b), or in other words, what happens if we remove the institutional protection of individual liberty: has the liberty of x been lost or impaired as a result? If Bentham thought that this is the case, he did not say so. The tenor of his comments suggests the opposite: he insisted that liberty is not the child of the law in the sense that it was not necessarily related to security under the law.

One way of challenging this interpretation would be by appealing to Bentham’s critique of slavery. It is arguable whether slavery was an important theme in Bentham’s work, but it would be difficult to contest that Bentham saw slavery as an evil. In his discussions of domestic relations, Bentham discussed slavery and mastership in terms similar to those used by some of the neoclassical writers, and recognized the legal immunity given to servants against the unlimited power of their masters. In An Introduction to the Principles of Morals and Legislation (1789), for instance, Bentham

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571 Lea Campos-Boralevi wrote that “slavery was not one of Bentham’s major themes,” while Fred Rosen has argued that “Bentham might easily stand with Wilberforce and Romilly as an opponent of slavery and the slave trade.” Campos Boralevi, Bentham and the Oppressed, 143. Frederick Rosen, “Jeremy Bentham on Slavery and the Slave Trade,” in Utilitarianism and Empire, ed. Bart Schultz and Georgios Varouxakis (Oxford: Lexington Books, 2005), 49.
discussed a person’s “condition or station in life,” which is “constituted by the legal relation he bears to the persons who are about him.” He defined pure slavery as the condition of being subjected to the absolute and unlimited power of a master, and argued that any legal limitation on the power of mastery creates a fictitious entity of the class of rights, “which is termed a liberty: and sometimes a privilege, an immunity or an exemption.”

Yet in the “Hey” manuscript, Bentham treated the evil of domestic slavery primarily as the evil of being constrained to work rather than as the evil of being in the condition of subjection to absolute power. More importantly, notwithstanding his account of the relationship of master and servant, his account of the liberty of individuals as members of civil society treated liberty as a state of affairs constituted by the absence of coercion and not as a personal condition constituted by legal immunity from arbitrary power, as the neoclassical writers often described it.

Skinner and Pettit thus seem justified in arguing that Bentham’s negative definition of liberty broke with the neoclassical/Whig tradition. Bentham’s acknowledgment of the value of securing individual liberty does not change the fact that he defined individual liberty in a different way, and the difference is not merely “a dispute about words,” as Kelly has argued: it hinges on the question, whether one can enjoy individual freedom in society in the fullest sense by happenstance, as an indulgence of other individuals or the government, without being protected from interference on an arbitrary basis. Where the revisionist Bentham scholars may be justified is in protesting

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573 LXIX, 59.
574 Kelly, "Classical Utilitarianism and the Concept of Freedom," 16.
that the role accorded to Bentham in the story that Skinner and Pettit been telling is unfair towards him, because it neglects the fact that his theory of government retains some important elements of this view.

**Bentham on Political Liberty**

Bentham’s earliest writings show him to have held two complementary views about institutional freedom. Despite reservations about the term “free government,” he used it to describe a government that offers some forms of security against the abuse of power by the governors. He used another term, “political liberty in perfection,” to refer to another aspect of institutional freedom: the absence of unnecessary legal and institutional impositions.

Bentham’s reservation about the terms “free government” or “free constitution” was that it was imprecise: what people meant by these terms was that the subjects were free, in the sense that they enjoyed “security against those in authority.” When “the condition of the people is free, or rather secure […] improperly by a Metonymy the Government is said to be free.” In this imprecise but prevalent sense, “A Government may be said to be more or less free, as more or less care is taken in it of the security of the people.”

Bentham never questioned the constitutionalist assumption that some institutional forms provide the subjects with security against the abuse of power by the governors, and that such forms should be promoted. In the “Preparatory” manuscripts and in his

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575 UCL LXIX, 153, 158.
*Fragment on Government* Bentham outlined the general form of free government: the distribution of powers with some degree of popular representation; the extent of power exercised by the governors being fixed and known in advance by the subjects; and the sharing of interests between the governors and the governed. This is also how Lind described “free government” and “political security” in his *Three Letters.* In the *Fragment,* Bentham went further than Lind, and described amongst the conditions of free government the duty of government to publicize the reasons for its actions, the liberty of the press, and on the liberty of association for the purpose of opposing the government.

Bentham’s preparatory note for an argument against Price in the “Key” manuscripts, “Security not destroy’d by unlimited Supremacy,” referred to his belief that constitutional liberty and the security of the governed consist not in the limitation of the power of government but in its distribution and regulation. In particular, Bentham did not believe that free government should be limited by the power of the people.

Bentham’s view on institutional freedom included another thread of thought. Bentham believed that legislators should aim not only to secure the liberty of the subjects against private and political abuse, but also to reduce the extent of legal restraint as far as possible. He conceded that constitutional laws, which define and limit the power of the governors, are necessary for the maintenance of political security, and “as far as the space necessary for that purpose extends, so far is the bulk and multiplicity of Law favourable

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577 Lind, 72-73.
578 Bentham, *Comment and Fragment,* 484-485.
579 UCL LXIX, 43.
580 Cf. Lind, 72-73.
to Liberty.” However, as already discussed, he believed that with regard to all other laws, especially property laws, “the more Laws the less Liberty.”\textsuperscript{581}

To understand Bentham’s idea of the free state, we must follow his distinction between the maximization of liberty and its perfection. The former he referred to as “political liberty entire,” the state a person would have been in “if he were not subjected to any coercion whatever by the Laws or institutions of any society whatever.”\textsuperscript{582} Clearly, Bentham believes the maximization of liberty to be undesirable. He sought its perfection instead, in the sense of achieving the perfect medium or balance between liberty and coercion. In Bentham’s free state, the balance would be determined by the principle of utility or the good of society:

A Man might be said to possess political liberty in perfection if the Laws & institutions of the society he lived in were such as subjected him to no other coercion than the good of the society required him to be subjected to.\textsuperscript{583}

Bentham’s position on this issue is similar to Hey’s concept of the “Perfection of Civil Liberty.” According to Hey, the challenge for legislators is to find “the proper Medium” of liberty and restraint. In general, the guiding principle for legislators should be: “To avoid, as much as possible, multiplying restraints upon the subject. This principle leads to the point of Perfection in Civil Liberty.”\textsuperscript{584}

\textsuperscript{581} UCL LXIX, 148, §574.
\textsuperscript{582} Ibid. On political liberty in perfection and political liberty entire see Long, Bentham on Liberty, 76-77.
\textsuperscript{583} Ibid., 211.
\textsuperscript{584} Hey, Observations, 39-40, 53-56.
Bentham’s free state was one in which the extent of liberty is governed by the principle of utility and secured by legal and political institutions. During the Price Debate, he was unprepared to include democracy amongst these institutions. Like most of his contemporaries, he saw an inverse relation between the security of liberty and democratic participation. He continued, however, to struggle with this issue over the years, until his final conversion to political radicalism and campaign for democratic reform. The course of this journey falls outside the scope of this chapter. I would like, however, to comment on one of its stops, Bentham’s manuscripts on the Civil Code from 1780, which contain some of his most elaborate reflections on liberty and security. Seen from the perspective of his dialogue with Price, Bentham’s account of liberty in these manuscripts is striking, because he seems to have adopted a strategy quite similar to that he employed with regard to Price’s idea of individual liberty: he adopted Price’s terms, trying to push them to an absurd, and showed a preference for the language of security.

Bentham distinguished in the Civil Code manuscripts between personal liberty and political liberty. The former, as already noted, he defined as “a branch of personal security, the absence of coercion.” The latter was distinguished into two kinds – constitutional and international:

Liberty in a political sense is sometimes used / employed / with a view to constitutional law, and sometimes with a view to international law. In the first case it is the absence of all government other than democratic […] In the other case it is the absence of dependence on the government of a foreign nation.
Bentham’s account of liberty in these manuscripts resembles Price’s account to such an extent that it would be surprising if it were not modeled after it. In the *Additional Observations*, Price distinguished between three sense of civil liberty: the freedom of the citizen, the freedom of government, and the freedom of the community. Bentham’s distinction between personal, constitutional, and international liberty seems to have followed Price’s distinctions. His account of political liberty, and particularly his democratic conception of constitutional liberty, seems to have been an attempt to reduce Price’s view of free government to an absurd, just as his definition of individual liberty as the absence of coercion had been an attempt to reduce Price’s definition of liberty as self-government to an absurd. According to Bentham:

I am deprived of constitutional liberty in as far as the government of the state /under which I live/ deviates from one in which every act of government is exercised by an assembly into which every member of the community / individual in the country / without exception, male and female, adult, and minor, sane and insane, convicts and unconvicted, has a vote.  

Bentham’s implied claim that the democratic conception of constitutional liberty must recognize the right of women, minors, criminals and the mentally ill to vote is reminiscent of the attempt made by several of Price’s critics to caricature his position and demonstrate its absurdity by suggesting that women and children should be included.

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585 UCL C, 168.
amongst the voters. John Wesley, for example, had made this argument.\textsuperscript{586} Lind mocked Price by suggesting that according to his theory, not only every man is his own legislator, but also “Every woman too is her own legisatrix.”\textsuperscript{587}

Bentham noted that there was another sense of constitutional liberty, which understands it to be synonymous with constitutional security. In this sense, liberty means:

security in all its branches in as far as the security of the individual depends upon the texture of the constitution / such part of the law as respects constitutions / or form of government: or more particularly security from all damage of all sorts considered as liable to accrue to individuals by reason of abuse of power on the part of persons exercising the powers of government. In this sense it is the absence of danger to individuals from abuse of power on the part of persons exercising the powers of government.\textsuperscript{588}

No doubt, Bentham was all in favor of political liberty in the sense of constitutional security. But his strategy here, as it was in the case of personal liberty, was not to fight against the improper use of the word, but rather to demonstrate that in its prevalent sense, liberty was not an ideal worth pursuing. Political liberty in the prevalent, radical sense, “seems to have been regarded as a security for personal,” according to Bentham, but experience has proven the opposite.” This is why the less use was made of

\textsuperscript{586} Wesley, Some Observations, 18-19.  
\textsuperscript{587} Lind, Three Letters, 40.  
\textsuperscript{588} UCL C, 153.
the term “liberty,” the better. Bentham was combating the popular and dangerous interpretation of constitutional liberty by embracing it and demonstrating its absurdity.

**Conclusion**

A reexamination of Bentham’s early manuscripts suggests that the negative definition of liberty was born as part of his project of critical jurisprudence, and its purpose was to stress the inverse relationship between individual liberty and the law. In 1776, however, it turned into Bentham’s weapon of choice against Richard Price. It seems likely that Bentham’s mature construction of the negative definition of liberty as the absence of coercion, and his thoughts on the relation between liberty and security, were developed in the polemical context of the Price Debate.

I have been arguing that Bentham, like John Lind, understood the negative definition of liberty as a more accurate formulation of Price’s definition of liberty in terms of self-government. Bentham’s definition dismissed the positive aspect of Price’s definition, and embraced its negative aspect. In doing so, Bentham was exposing what he perceived to be the anarchical nature of Price’s conception of liberty.

Like other critics of Price, Bentham believed the “popular divine” to be advocating the perfect independence of every individual from all coercive interference, an ideal that could be realized, in Bentham’s view, only on Robinson Crusoe’s uninhabited island. Bentham contended that this ideal of individual liberty is worthless, dangerous, and self-refuting when properly understood. He interpreted Price’s theory of

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589 UCL C, 170.
free government along similar lines, as a self-refuting democratic caricature that gave equal power to those incapable of governing. In Bentham’s view, personal and political liberty only had value when secured and limited by penal, civil, and constitutional legislation that was guided by the principle of utility.

Bentham’s critique of excessive legislation and his critique of political radicalism combined to form a conception of liberty that broke with the Whig/neoclassical account of civil liberty in allowing for the existence of individual liberty in society separately from security under the law. This was Bentham’s original contribution to the exchange between Price and his critics on the nature of civil liberty. While other critics questioned the relation between free government and democracy, or the relation between individual liberty and free government, Bentham, followed by Lind and Hey, attacked the Whig/neoclassical assumption on the necessary relation between the civil liberty of individuals and their security under the rule of law.

Bentham’s thoughts on the relation between individual liberty and institutional liberty were more ambiguous. In his early work, he used the term “free government” in describing the institutional conditions for the security of liberty under government. In the case of institutional liberty, as in the case of individual liberty, he thought that the language of liberty had been contaminated by political radicals, and expressed his preference for the language of security. Arguably, however, at the institutional level, what separated Bentham’s account from constitutional Whiggism was mainly a dispute about words. Bentham’s theory of government retained the neoclassical assumption that the liberty of individuals could only be secured by living in a state whose institutional structure secured individuals from the arbitrary power of subjects and governors.
CHAPTER 5

Price on Constitutional Liberty,

Participation, and Dignity

Price’s Radicalism

The object of this chapter is to reexamine Price’s conception of civil liberty and free government in light of the work subsequent to the *Observations*, and particularly in light of his replies to his critics. The chapter aims to contribute to the existing literature on Price in several ways. First, it aims to defend Price, at least in part, against the charge of many of his contemporaries and some of his modern scholars that the proto-democratic conception of civil liberty developed in the *Observations* was incoherent, impracticable, or wildly irresponsible. In particular, the chapter argues that Price’s idea of liberty as self-government was mistakenly conceived by his critics as being opposed to the idea of restraint and incompatible with law and government. Price was an advocate of the rule of law and of constitutional government, which protects individuals not only against the oppression of the few but also against the tyranny of the majority.

At the same time, this chapter contests the interpretation of some of Price’s modern readers, who sought to defend him against his critics by downplaying his

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590 For the critique of Price’s contemporaries, see Chapter 2. More recently, Gunn criticized Price’s definitions and distinctions, claiming that his “obvious disarray left the defenders of the *status quo* with the prospect of a cheap and easy victory.” Gunn, *Beyond Liberty and Property*, 247-249. Thomas subjected Price’s concept of liberty to rigorous analysis and raised some points of difficulty. Thomas, *The Honest Mind*, 151-213. His critique of Price’s refusal to distinguish between civil and political liberty will be discussed below.
radicalism. Thus, for example, Carl Cone, the author of a pioneering scholarly study on Price’s thought, commented on the *Observations*:

Price’s political philosophy was neither esoteric nor unusual. Broadly speaking, his views were those commonly held by the liberals of the period in both England and America. The pre-eminence of the book, in fact, was derived in part from its exposition of current political ideas in plausible arguments and in a style that carried a strong emotional appeal. Price’s thought conformed to the traditional doctrines of inalienable rights, individual liberty, and the rights of the people to rise in rebellion, overthrow a government that had encroached upon their freedom, and erect a new government in the place of the one destroyed.591

While it is true that Price’s *Observations* formulated in philosophical style a set of beliefs that he shared with some of the London reformers and American revolutionaries, these beliefs were hardly conventional, and Price’s own take on them was, in some ways, particularly radical.592 His insistence that the right to participate in government was inseparable from the liberty of the individual, rather than merely an instrumental condition for the liberty of the political body, had radical democratic implications. As the chapter argues in some detail, his non-consequentialist defense of democratic participation was rooted in his conception of human dignity. Moreover, while he advocated moderate political reforms in Britain, Price supported an anti-hierarchical, democratic republican form of government, which he hoped would spread from America

592 D. O. Thomas argued that Price was a moderate, rather than a radical, and objected to his portrayal as a republican. I engage with his position in the course of this chapter.
to the rest of the world. Finally, despite of his emphasis on the right to participate in the
election of representatives, Price developed ideas of active citizenship that required the
continuous exercise of control over government, resistance to violations of rights, and
reform of social and political institutions.

Several full-length works have been devoted to Price’s work as a whole, and several others covered specific aspects of it, particularly his moral philosophy. Dozens of articles have been written about Price and his work, most of them published in the second half of the twentieth century, many of the useful pieces written for the journal *Enlightenment and Dissent*. Valuable discussion of Price’s political ideas can be found in several other works devoted to the period.

Since most of these studies have been written, Quentin Skinner and Philip Pettit have developed their account of the neo-Roman or republican theory of liberty, in which Price has played an important role. Their analysis of the concept of freedom and its relation to the free state offers a particularly valuable framework for understanding Price’s ideas. Yet no thorough analysis of Price along these lines has yet been attempted.

The chapter draws on the conceptual insights offered by the neo-republican theory of liberty, but also on the contextual method of analysis defended by Skinner. By setting

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Price’s work in the context of the debate on the relation between civil liberty, the free state, and democratic participation, it aims to gain new insight into Price’s work. The chapter approaches these issues through the discussion of several themes: the meaning of self-government and its relation to constitutional security; the relation between civil liberty and participation in government; Price’s attitude toward democracy and republicanism; his grounding of civil liberty and democratic participation in the idea of human dignity; and his understanding of the duties of citizenship and patriotism. Based on the discussion of these themes, the account offered here presents Price’s work as a democratic reinterpretation of the neoclassical tradition, which may hold potential insights for theorists of republican and democratic theory.

The Power of Self-Government

“The word, Self-government, is of American origin,” wrote Maurice Richter in his treatise On Self-Government (1847), and he was quite wrong: the word was English, and Price was the first to import it from philosophy and theology into the language of politics. The “idea of Self-direction, or Self-government,” was the leading principle of Price’s Observations. Arguably, it was the idea most widely misunderstood or misrepresented by his critics, who interpreted it as the “power to do what we please”

597 M. A. Richter, On Self-Government; Together with General Plans of a State Constitution, and a Constitution for a Confederation of States, Founded on the Principle of Self-Government (Boston: Crosby & Nichols., 1847), 1. A search of Eighteenth Century Collections Online will show that prior to the Observations, the word was used in the sense of personal self-control.
598 Ferguson, Remarks, 7.
and the complementary absence of restraint. These were identified with lawlessness and insecurity in interpersonal relations, as well as democratic folly and tyranny in the political sphere.

To be fair, some of Price’s statements in the Observations contributed to the misinterpretation of his theory. His assertions that in all cases of servitude, “there is a force which stands opposed to the agent’s own will,” and that slavery is introduced insofar as “the operation of any cause comes in to restrain the power of Self-government,” seemed to imply that liberty is opposed to restraint, and that complete freedom is equivalent to the absence of all restraint.

Price did not, however, identify self-government with the absence of all restraint. Servitude is introduced, according to Price, not by the very existence of restraint, but when the source of control over decisions and actions is no longer the will of the agent whose freedom is being considered. The presence of restraint or constraint is a necessary condition for the absence of self-government and the servitude identified with it. It is not a sufficient condition for the loss of freedom. For restraint to be productive of servitude, it would need to impair the power of self-government.

When would restraint not impair the power of self-government? Price’s paradigmatic case was taken from Platonic moral psychology: the restraint of the

599 Hey, Observations, 10.
600 Price, Observations, 4-5.
601 The term “self-government” is ambiguous: it could imply government over the self or government by the self. For Price, it carried both senses simultaneously. Each of Price’s four divisions of liberty identified a level or an area of potential government over the self; what makes the agent free in each case is the fact that the power of government is being held by the self. The primary question answered by the definition of liberty as self-government is “who governs the self?” or “who is the source of control over the self?” These are the questions that Isaiah Berlin identified with the “positive” concept of freedom; see Berlin, Four Essays on Liberty, 122, 130-131. Price’s assumption was that in each case, including the case of civil liberty, there is some intelligible sense in which the self could be considered as the source of control over itself.
passions by the rational will enables, rather than impairs, the self-government and liberty of individuals in their capacity as moral beings. Similarly, the restraint of despots and of licentious individuals by “the will of the community, made known and declared in the laws,” enables, rather than impairs, the self-government and liberty of citizens and communities.602

The analogy between the citizen and the community, the individual agent and the corporate agent, pervades Price’s theory of freedom. In order to properly understand the meaning of self-government, we would do well to keep it in mind. At the same time, we should keep in mind that Price understood liberty as self-government to be multi-layered. The self-government of an agent is dependent, on one hand, on its internal constitution, and on the other hand, on the environment in which it is embedded. The self-government of the individual agent and the self-government of the corporate agent are thus not only analogous but also interdependent. The remaining part of this section and the next one examine the self-government of the individual and the community and the relationship between them.

Price’s use of the terms “self-determination” and “self-government” is best understood when traced to its roots in his moral philosophy and theology. As Price acknowledged on several occasions, the most crucial influence on his understanding of freedom was the work of the Newtonian philosopher Samuel Clarke.603 In arguing against

602 Price, Observations, 12-3. Licentious individuals, according to Price, are those who wish to misuse their freedom of choice and action, and violate the rights of others. He argued that despotism and licentiousness are closely allied: “one is the licentiousness of great men, and the other the licentiousness of little men […] by the one, the persons and property of a people are subject to outrage and invasion from a King, or a lawless body of Grandees […] by the other, they are subject to the like outrage from a lawless mob.”

the materialism and determinism of Hobbes and Spinoza, Clarke defended the nature of human souls as immaterial substances, “indued with a *Power of beginning Motion*, and with a *Liberty of Will or Choice*.” Following Clarke, Price understood the basic sense of freedom to be the power of the self to be the cause of its own motion and action, independently of any other causes. His understanding of free will and agency was rooted in a Cartesian metaphysics, which saw the body as “nothing but a machine, fitted up for the convenience of the soul,” and the soul as the divine part of human nature, endowed with a “power of self-motion.”

This is the sense of freedom that Price defended in his philosophical dispute with his friend Joseph Priestley. The amicable exchange between the two, published under the title *A Free Discussion of the Doctrines of Materialism, and Philosophical Necessity* (1778), highlighted Price’s anti-Hobbesian position on the relation between freedom and power. Priestley explicitly followed the definition of liberty developed by that “sincere

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604 Samuel Clarke, *A Demonstration of the Being and Attributes of God and Other Writings*, ed. Ezio Vailati (Cambridge and New York: Cambridge University Press, 1998), 126-221, esp. 159. The *Demonstration* was delivered as eight Boyle lectures 1704, and published in 1705. The “followers” of Hobbes and Spinoza that Clarke had in mind included Gottfried Wilhelm Leibnitz and Anthony Collins.


Christian” and “conscientious good man,” Thomas Hobbes. The latter had identified freedom only with the absence of external impediments to action and motion, and denied that freedom is impaired by internal impediments. In particular, he denied that the absence of “the faculty or power” to move or to act can be identified with the absence of liberty. In his reply to Priestley, Price defended the definition of freedom as “a power

607 Priestley described Hobbes as “the first who, in this, or any other country, rightly understood, and clearly stated, the argument” about liberty and necessity. See his introduction to Anthony Collins, A Philosophical Inquiry Concerning Human Liberty. Republished with a Preface, by Joseph Priestley (Birmingham: Thomas Pearson; and sold by J. Johnson, London, 1790), iii-iv. Elsewhere he wrote: “The doctrine of philosophical necessity is, in reality, a modern thing, not older, I believe, than Mr. Hobbes.” Joseph Priestley, The Doctrine of Philosophical Necessity Illustrated Being an Appendix to the Disquisitions Relating to Matter and Spirit. To Which Is Added an Answer to the Letters on Materialism, and on Hartley's Theory of the Mind (London: J. Johnson, 1777), 160. In defending the character of Hobbes, Priestley no doubt had the charges of atheism leveled against himself due to his belief in materialism and his denial of the immortality of the soul. “The charge of Atheism has been so much hackneyed in religious controversy, as to have passed almost into ridicule,” he wrote in this context, “perhaps no character has suffered more generally, and at the same time more undeservedly on this account, than that of Mr. Hobbes; who, notwithstanding his heterodoxy in politics, appears to me, as far as I can judge from such of his writings as have fallen in my way, to have been no atheist, but a sincere christian, and a conscientious good man.” Price and Priestley, A Free Discussion of the Doctrines of Materialism and Philosophical Necessity, xxv.

608 In the beginning of The Doctrine of Philosophical Necessity Illustrated, Priestley quotes with approval the definition of freedom offered by Hobbes in Of Liberty and Necessity (1654): “Liberty is the absence of all the impediments to action that are not contained in the nature and intrinsical quality of the agent. As, for example, the water is said to descend freely, or to have liberty to descend, by the channel of the river, because there is no impediment that way; but not across, because the banks are impediments. And though the water cannot ascend, yet men never say it wants the liberty to ascend, but the faculty or power, because the impediment is in the nature of the water and intrinsical. So also we say he that is tied wants the liberty to go, because the impediment is not in him but in his bands; whereas we say not so of him that is sick or lame, because the impediment is in himself.” Thomas Hobbes and John Bramhall, Hobbes and Bramhall on Liberty and Necessity, ed. V. C. Chappell, Cambridge Texts in the History of Philosophy (Cambridge, U.K.; New York: Cambridge University Press, 1999), 38. Priestley, Doctrine, 2-3. Hobbes wanted to deny the doctrine of free will, and to affirm the compatibility of free agency with compulsion of the will, paving the way for his argument in Leviathan that “Feare, and Liberty are consistent.” Hobbes, Leviathan, 136. See the discussion in Skinner, Hobbes and Republican Liberty, 128-162. In his reply to Price’s argument about free will and moral responsibility, Priestley was following a Hobbesian line on the compatibility of freedom with compulsion of the will. According to Priestley, only “the doctrine of the necessary influence of motives upon the mind of man makes him the proper subject of discipline,” susceptible to promises and threats, rewards and punishment. Without such discipline, individuals cannot form the sort of character that would make them virtuous and happy. Priestley, Doctrine, 73-96.
to act,” or “a power of self-motion, or self-determination.” Hey and Lind both noticed the liberty-power connection in Price’s Observations and criticized him on this point.

Price may have identified liberty in its most basic sense with the possession of a power to act, but he was far from recommending the power to do as we please without restraint. The latter interpretation could only have been made by critics who misunderstood or disregarded Price’s explicit distinction between physical and moral liberty, and his implicit distinction between self-determination and self-government. Physical liberty, according to Price, is the mere possession of a free will, which determines our actions independently of external causes; moral liberty is the power of the self to govern itself according to reason and conscience without being controlled by the passions. Clarke wrote that “mere physical or natural Liberty” is “That Liberty which is common to Man with every living Creature, with the savages Lyon, and with the meanest insect,” but “the Liberty of a Moral Agent and of a rational Being, implies something more. It implies a Liberty of doing what is Right; a Freedom of hearkening to what Reason dictates.” Price followed Clarke in understanding the liberty of the moral agent as the rule of reason over the passions. This rule consists not only in the honest intention of the agent to follow the moral law and do what the agent believes to be good, but also in the constitution of a good character, in which reason and the love of

609 Price and Priestley, A Free Discussion of the Doctrines of Materialism and Philosophical Necessity, 34.
610 Hey, Observations, 19, 41. Lind, Three Letters, 14-16.
611 Price, Observations, 3-4.
613 Ibid.
614 Price, A Review of the Principal Questions in Morals, 184.
virtue have “absolute dominion” over the inferior powers and desires. Price is likely to have appropriated from Joseph Butler the use of the term “Self-government” to express the idea of moral discipline and the attainment of an “inward Constitution or Character” to secure the agent against the dangers of sin.

Price’s definition of civil liberty as “the power of a Civil Society or State to govern itself by its own discretion” was based on the premise that the state is a corporate agent, which has a distinct will of its own. He identified the will of the corporate agent with the will of the majority of the members of the community. In this, as in many other things, Price was following Locke, who argued that in forming civil society, individuals are “thereby presently incorporated, and make one Body Politick, wherein the Majority have a Right to act and conclude the rest,” and “the act of the Majority passes for the act of the whole.” Similarly to Locke, and in contrast with Rousseau, Price believed that the will of the people could be represented, as long as the representative body is “fair and equal.” Price believed that without the proper institutional conditions

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615 Ibid., 213-231, esp. 214, 222.
617 Price, Observations, 3. Price wrote that in general, “to be free is to be guided by one’s own will; and to be guided by the will of another is the characteristic of servitude. This is particularly applicable to Political Liberty. That state, I have observed, is free which is guided by its own will.” Ibid., 11.
618 He wrote that civil servitude is introduced by “any will distinct from that of the Majority of a Community, which claims a power in making laws for it, and disposing of its property.” Ibid., 4-5.
620 Price, Political Writings, 24-26. Locke, Two Treatises of Government, 372-374 (II, §157-8). Compare with Rousseau: “Sovereignty cannot be represented for the same reason that it cannot be alienated; it consists essentially in the general will, and the will does not admit of being represented […] Any law which the People has not ratified in person is null; it is not a law. The English people thinks it is free; it is greatly mistaken, it is free only during the election of Members of parliament; as soon as they are elected, it is enslaved, it is nothing […] the instant a People gives itself Representatives, it ceases to be free; it ceases to be.” Rousseau, The Social Contract and Other Later Political Writings, 114-115.
for expressing the will of the people, the state could not be free, and its members could
not partake in its freedom.

One of the basic assumptions of Price’s theory of freedom was that the liberty of
individuals is inseparable from the corporate freedom of the state. In the Observations,
Price distinguished between the private freedom that individuals enjoy under despotic
government and the constitutional liberty they enjoy as the members of a free state. The
former would be “an indulgence or connivance derived from the spirit of the times, or
from an accidental mildness in the administration.”621

Given the insistence of some of his critics that the civil liberty of individuals does
not depend on the form of government, Price stressed in the Additional Observations the
distinction between “a free government, and a government under which […] liberty may
happen to be enjoyed.” He argued that freedom derived “from a will over which the state
has no controul, and not from its own will; or from an accidental mildness in the
administration, and not from a constitution of government […] is nothing but an
indulgence of a precarious nature, and of little importance.622 He also drew an explicit
analogy between constitutional security in a free state and the “inward constitution” of a
virtuous agent:

It is not, therefore […] the mere possession of Liberty that denominates a citizen
or a community free; but that security for the possession of it which arises from
such a free government as I have described, and which takes place, when there
exists no power that can take it away.

621 Price, Observations, 10-11.
622 Ibid., 3.
It is in the same sense that the mere performance of virtuous actions is not what denominates an agent virtuous; but the temper and habits from whence they spring; or that *inward constitution*, and right balance of the affections, which *secure* the practice of virtue, produce stability of conduct, and constitute a *character*. 623

It seems as if Price understood the free state to be self-governing in the same sense that the free agent is self-governing: the free state possesses both the power of the will to determine itself, and the virtuous constitution of character that regulates its conduct. There is, however, an important disanalogy between the individual and the political body, which creates a potential problem for Price’s theory of free government.

Price’s understanding of the moral liberty of the agent was explicitly modeled after Plato’s depiction of the free soul in the *Republic*. Price described goodness as “the power of reflexion raised to its due seat of direction and sovereignty in the mind; conscience fixed and kept in the throne, and holding under its sway all our passions.” He considered wickedness to be “the deposition of reason, and the exaltation of appetite; the death of the man, and the triumph of the brute.” 624 He explicitly referred to Plato’s *Republic* in comparing the person governed by reason to a well-regulated and harmonious

623 Price, Additional Observations, 14. In the postscript to his 1779 Fast Sermon, in which he replied to the Bishop of London, Robert Lowth, Price stressed again the distinction between “the casual enjoyment of freedom, and a constitution of government securing freedom.” He noted that a state “may enjoy freedom under a despot, if he is wise and virtuous; but such freedom depending on the will of one man, which in the end must prove the misery of all men, and not being derived from a free constitution, the state would, in reality, be enslaved.” Price, Fast Sermon, Postscript, 4-5.

624 Price, *A Review of the Principal Questions in Morals*, 217-218. In Book IX of the *Republic* (578d, 588c-589b), the human soul is envisaged as being composed of a many-headed beast, a lion, and a human being. Justice is the state in which “the human being within this human being has the most control.” The tyrannical soul, which is ruled by its beastly part or by erotic desire, is described as being “full of slavery and unfreedom.” Plato, *Republic*, 248, 260-261.
state, in which “no seditious desire shews itself, and the inferior powers are all harmonious and obedient […] and all unite in cheerful submission to the one wise and good legislature.”

But in Plato’s *Republic*, the analogy between the soul and the city was complete: in both cases, self-government means the control of the better part over the worse part. Price, however, did not advocate a political order based on hierarchy. His understanding of individual virtue and liberty precluded it. Price understood the virtue of the moral agent to consist in freely exercised its intelligence and judgment, following the authority

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625 The full quote reads: “What tranquility and bliss must that mind possess whose oppressors and tyrants lie vanquished and expiring; which has regained its health and liberty; is independent of the world, and conscious of the peculiar care of the Almighty; where no seditious desire shews itself, and the inferior powers are all harmonious and obedient; where hope and love, candour, sincerity, fortitude, temperance, benignity, piety, and the whole train of heavenly virtues and graces, shed their influences, and have taken up their residence? What beauty, or what glory like that of such a mind? How well has it been compared to a well regulated and flourishing state, victorious over every enemy; secure from every invasion and insult; the seat of liberty, righteousness, and peace; where every member keeps his proper station, and faithfully performs his proper duty; where faction and discord never appear; order, harmony, and love prevail, and all unite in cheerful submission to the one wise and good legislature?” A footnote adds: “This comparison is finely drawn in Plato’s Dialogues on a Republick. See particularly the conclusion of the fourth and the ninth dialogues.” *Price, A Review of the Principal Questions in Morals*, 229-230.

626 Speaking of the soul, Socrates said: “whenever the naturally better part is in control of the worse, this is expressed by saying that the person is self-controlled or master of himself.” Similarly, the self-controlled city is one in which “the desires of the inferior many are controlled by the wisdom and desires of the superior few.” This means that “the smallest class and part in it, namely, the governing or ruling one,” aided by the warrior class, rules the moneymaking class, which is the largest part of the city. Plato 1992: 102-121 [427d-444e]. Socrates explained that individuals whose best part is weak, such as manual laborers, should submit to the best people, “because it is better for everyone to be ruled by divine reason, preferably within himself and his own, otherwise imposed from without.” Plato 1992: 262 [590c-d]. The Platonic model of self-government found in the *Republic* is concerned with the justice of the city as a whole. Individuals can partake in justice by fulfilling their appropriate roles in the city, whether this means ruling or submitting. If we try to apply this logic to the free community, the Platonic model of political self-government would presumably imply that freedom belongs to the community as a whole, and individuals can partake in it by fulfilling their appropriate roles. The Platonic model would allow for individuals to be *morally* free by governing their passions, or *politically* free by partaking in the freedom of the community, but it would not require that each individual participate in government, or even have an equal right to participate in government. It would require the better part of the community, whatever that may be, to rule over the worse part. It is arguable, however, that Plato was offering to model the soul after a heavenly city that was not meant to be reproduced on earth. Socrates said of the well-governed city: “there is a model of it in heaven, for anyone who wants to look at it and to make himself its citizen […] It makes no difference whether it is or ever will be somewhere.” Plato 1992: 263 [592b].
of conscience and private judgment, and intending to do the right thing. Following Benjamin Hoadly, whom he regarded as one of the foremost writers on religious and civil liberty, Price believed that virtue is premised on the religious and civil liberty to follow one’s own sincere convictions. Whereas Hoadly applied the principle of candor primarily to questions of religious faith, Price broadened its application to the whole sphere of human conduct.

But if individuals must be free to candidly follow their private judgment, the question remains, what would protect the rights of individuals against other individuals, and what would regulate the will of the majority and keep it from entrenching on the rights of individuals. In other words, the question is what constitutes the rational and virtuous character of the democratically governed state.

627 Price, Review, 177-181, 184. Price’s account of conscience and private judgment was heavily influenced by the moral and theological philosophy of Joseph Butler. In his Fifteen Sermons Preached at the Rolls Chapel (1726), Butler argued that “the authority of reflection or conscience” is the supreme principle of “the system or constitution of human nature.” Price followed Butler in saying that “Every being endowed with reason, and conscious of right and wrong, is, as such, necessarily a law to himself.” Butler, however, believed that there is an objective moral law engraved in the hearts of men, and they are accountable for violating it. For Price, the agent is accountable not for violating the objective moral law, but for “acting contrary to the conviction of his mind.” Butler 1896: II, 9, 13-14, 17, 41-3, 56-60, 63-5. Price, Review, 118-119.

628 “His name as a Divine stands very high,” Price wrote in one of his letters, “but among the writers on civil and religious liberty it stands next to the names of Sidney and Lock and Milton.” Price, Correspondence, II, 212.

The Constitution of Civil Liberty

In the *Observations*, Price was not primarily interested in questions of law and order. He was engaged in an argument for the right of political self-determination. But the idea of the rule of law and the idea of constitutional constraints on the power of government were underlying his polemic. He was arguing that the conception of liberty as “a Government by LAWS, and not by MEN” should be supplemented by the idea of common consent, not replaced by it.\textsuperscript{630}

The idea of the rule of law was manifest in Price’s discussion of licentiousness. A free state, he argued, “makes all its members free by excluding licentiousness, and guarding their persons and property and good name against insult.” His polemical point was that the fear of “the licentiousness of little men” had resigned mankind to “the licentiousness of great men,” by which “the persons and property of a people are subject to outrage and invasion from a King, or a lawless body of Grandees.” Price argued that well-constituted governments guard equally against the licentiousness of individuals and the despotism of governors.\textsuperscript{631}

\begin{footnotes}
\item[630] Price, *Observations*, 7.
\item[631] Price, Observations, 13.
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In the *Additional Observations*, Price elaborated his critique of licentiousness and formulated a conception of civil and religious liberty that anticipated John Stuart Mill’s harm principle.\(^{632}\) He argued that “as far as he does not encroach on the equal liberty of others, every one has a right to do as he pleases in religion.” Similarly, in all civil matters, every individual should enjoy “the power of commanding his own conduct; or, of acting as he pleases, and going where he will, provided he does not run foul of others.”\(^{633}\) Thus, the idea of self-government did not imply the absence of restraint by the law. It implied the limitation of legal restraint according to the principle of harm, and the creation of a sphere of freedom in which individuals would be able to pursue their own life choices.\(^{634}\)

The more difficult question posed by Price’s critics is what regulates and constrains the will of the majority, and what secures individuals from the dangers of unwise policy and democratic tyranny. Price’s explicit answer to this problem consisted in repeated declarations of his allegiance to the idea of the mixed constitution. The need to check and regulate the will of the people was mentioned in passing in the *Observations*:

> In order to form the most perfect constitution of government, there may be the best reasons for joining to such a body of representatives, an *Hereditary Council*, consisting of men of the first rank in the state, with a *Supreme executive Magistrate* at the head of all. This will form useful checks in a legislature; and

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\(^{632}\) Mill argued that “the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.” On Liberty (1859), 22.


\(^{634}\) See also *Observations on the American Revolution*, 21.
contribute to give it vigour, union, and dispatch, without infringing liberty; for, as long as that part of a government which represents the people is a fair representation; and also has a negative on all public measures, together with the sole power of imposing taxes and originating supplies; the essentials of liberty will be preserved.  

Price proposed to democratize the representation of the people in the House of Commons, and to give it control over the powers of imposing taxes and providing supplies for war, but he also recognized the possible benefits of the aristocratic and monarchical parts of the constitution. In the *Additional Observations*, he complained that he was “much misunderstood on this subject,” referring in particular to Goodricke’s critique. Price argued that a government “may be free, and yet not enjoy the best constitution of government.” The best form of government, he added, would join “to an equal and perfect Liberty […] the greatest wisdom in deliberating and resolving, and the greatest union, force and expedition in executing.”

Price’s critics were not persuaded by his disavowal of unmixed democracy, and they continued to attack him on this point. Price was particularly disturbed by Burke’s critique. In his *Letter to the Sheriffs of Bristol on the Affairs of America*, dated April 3, 1777, Burke criticized those “who have split and anatomised the doctrine of free Government, as if it were an abstract question concerning metaphysical liberty and necessity; and not a matter of moral prudence and natural feeling.” Presumably referring

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635 Price, Observations, 12.
to the publications by Lind and Hey, he mentioned the dispute “whether liberty be a positive or a negative idea.” While denouncing political and religious doctrines favorable to the enslavement of mankind, Burke warned that these “shocking extremes, provoking to extremes of another kind; speculations are let loose as destructive to all authority, as the former are to all freedom; and every government is called tyranny and usurpation which is not formed on their fancies.”

In the introduction to the *Two Tracts*, Price noted that he paid little regard to the charge that his views were subversive of civil authority as long as they were “confined to the advocates for the principles which have produced the present war,” but it was impossible for him to disregard the charge when it came from “the authority of a writer of the first character” such as Burke. He explained that his intention was to defend the account of civil government that “derives it from the people, and makes it a limited authority” against the account that “derives it from Heaven; and makes it unlimited.” At the same time, he “repeatedly declared” his admiration of “such a constitution of government as our own would be, were the House of Commons a fair representation of the kingdom, and under no undue influence.” Price protested the charge that his support of adequate representation implied the destruction of all authority:

> Is the authority of equal laws made with common consent no authority? Must there be no government in a state that governs itself? Or, must an institution, contrived by the united counsels of the members of a community, for restraining licentiousness and gaining security against injury and violence, encourage

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638 General Introduction and Supplement, ii.
licentiousness, and give to every one a power to commit what outrages he
pleases.⁶³⁹

Throughout his career, Price continued to proclaim his support for the rule of law
and the mixed constitution. When the first volume of John Adams’s Defence of the
Constitutions of the United States of America was published in 1787, Price sided with his
critique of Turgot’s alleged support for a single legislative assembly, and praised his
proof of “the necessity of providing checks and balances in a constitution of government,
by lodging, as is done in our own constitution, the power of legislation in more than one
assembly, and separating from one another the legislative, executive, and judicial
powers.” He wrote to Adams: “you have convinced me of the main point [...] I wish I
had inserted a Note to signify the difference of opinion between Mr Turgot and me on
that point.”⁶⁴⁰

In the third volume of his work, published in 1788, Adams attacked Marchamont
Nedham’s claim that the people or their representatives are “the best keepers of their own
liberties,” and especially Nedham’s argument that the people “never think of usurping
over other mens rights, but mind which way to preserve their own.”⁶⁴¹ In the course of
the discussion, he criticized Price as well. Referring to a statement made in the Additional
Observations, Adams wrote: “An excellent writer has said, somewhat incautiously, that
‘a people will never oppress themselves, or invade their own rights.’”⁶⁴² Adams replied

⁶⁴⁰ Price, Price, Evidence for a Future Period, 30. See also Price, Correspondence, III, 120, 123.
⁶⁴¹ See Marchamont Nedham, The Excellence of a Free State (London: A. Millar, T. Cadell, G. Kearsly,
and H. Parker, 1767), 2.
⁶⁴² See Price, Additional Observations, 16.
that “the people will never unanimously agree to oppress themselves: but if one party agrees to oppress another, or the majority the minority, the people still oppress themselves, for one part of them oppress another.” In a letter to Adams, Price conceded the force of the objection. “I think it scarcely possible to read your observations on this subject in answer to Nedham and other writers without conviction.”

Price’s endorsement of constitutional checks and balances, however, did little to allay the concerns of his critics that his theory of liberty and government would cause the power of government to devolve into the hands of the multitude and lead to the tyranny of the majority. Price may have misjudged the depth of the disagreement. In his reply to Burke’s critique of the Observations he professed to have been “puzzled” by some of Burke’s statements, but he seems not to have foreseen the rage against his democratic principles unleashed in Burke’s Reflections on the Revolution in France.

Despite addressing the critique of his democratic conception of free government, it is somewhat puzzling that Price did not devote more attention to the problem of the tyranny of the majority. He could not have been unaware of the problem, given that it was clearly spelled out in some of the publications he responded to, and especially given that he was a politically active member of a religious minority that suffered from legal discrimination. One possible explanation might be found in Price’s belief that whatever dangers might attend the exercise of popular power, the evils of the despotic rule of the few are considerably worse. On the other hand, Price’s political thought is pervaded with faith in the progress and enlightenment of mankind. His relatively scant attention to

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643 Price, Correspondence, III, 208.
645 Price, Observations, 14.
the dangers pointed out by some of his critics may have owed to a belief that political reform will go hand in hand with a moral improvement of society, which would make the exercise of democratic power safer for the civil and religious liberty of individuals.

An Advocate for Democracy

One of the charges that sparked Price’s indignation was that of being a “pure” republican or democrat. This was an accusation often leveled against him. Wesley, for instance, wrote that his idea of freedom as self-government is “the very quintessence of republicanism.”646 Tucker referred to him as “the republican Goliah himself.”647 Goodricke analyzed at length his “democratical scheme of Government.”648 The author of an anonymous reply to the Additional Observations referred to him as “an advocate for a pure democracy.”649

“I cannot help thinking it hard,” wrote Price in the Additional Observations, referring to Goodricke’s critique, “after repeated declarations of my preference of such a constitution as our own, to be considered as an advocate for a pure Democracy.”650 In his Evidence for a Future Period of Improvement in the State of Mankind (1787), Price denied again the “very groundless suspicion” that he preferred “a government purely
republican,” and added that any Protestant Dissenter would “tremble at the thought of changing into a Democracy our mixed form of government.”

Assuming the sincerity of Price’s protestations, they should still be taken with a grain of salt. In the first place, Price may not have advocated a “pure” or simple democracy, but he did aspire to reform and democratize the House of Commons in Britain. The ideal of free government that he offered in the Observations was the ideal of the small republic, in which every member of the community is able to vote and be elected into office. He saw representative government as an approximation of this ideal. But in order to approximate it, representative government had to fulfill a set of conditions, which Price elaborated in the Additional Observations: the representation must be “complete,” and allow “every independent agent in a free state […] to have a share in the government”, representatives must be chosen only for short terms; they must be chosen freely rather than elected by paid voters; they must by free of corrupt influence during their term of office; most importantly, representatives must “in all their acts, be accountable to their constituents.”

The idea that free government requires accountability of representatives to their constituents and continuous democratic control of the people over their representatives was Price’s primary improvement, from the standpoint of democratic theory, over Locke’s theory of government. In the Two Treatises of Government (1689), Locke argued that the authority of government is based on the original consent of individuals in

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651 Price, Evidence for a Future Period, 30-31. See also Price’s letter to William Smith from March 1st, 1790, in Price, Correspondence, III, 272-273.
652 Price, Observations, 7-8.
653 Price, Political Writings, 15, 78-80, 93, esp. 80.
654 Additional Observations, 6-7, 10. For a more detailed account of Price’s position on parliamentary reform, see Thomas, The Honest Mind, 201-208.
forming the body politic, as well as on the tacit consent of individuals to obey the laws under which they live.\textsuperscript{655} However, based on the assumption of original or tacit consent, the supreme power is placed in the hands of the legislative power, and the members of the legislature can use it at their discretion, within the boundaries of their trust. According to Locke, the power of the legislature must not be “Arbitrary and at Pleasure;” the legislature must govern by equal laws, designed for the common good; and the property of the individuals can only be taxed by laws made with the consent of the majority of the representatives chosen by the people.\textsuperscript{656} Locke famously argued that the people retain “a Supream Power to remove or alter the Legislative, when they find the Legislative act contrary to the trust reposed in them,” but he also insisted that “this Power of the People can never take place till the Government be dissolv’d;” the people “have given up their Political Power to the Legislative, and cannot resume it,” unless it periodically reverts back to them during elections, or unless the government acts contrary to its trust.\textsuperscript{657}

Locke foresaw the objection that government will be unable to subsist when subjected to the “unsteady opinion and uncertain humour of the People.” He replied by noting that the people are averse to constitutional change, and suffer many wrongs

\textsuperscript{655} John Locke, \textit{Two Treatises of Government: In the Former, the False Principles, and Foundation of Sir Robert Filmer, and His Followers, Are Detected and Overthrown. The Latter Is an Essay Concerning the True Original, Extent, and End of Civil Government} (London: Awnsham Churchill, 1690), 305-319, 341-345 [§387-§399, §119-§122].

\textsuperscript{656} Ibid., 353-365 [§134-§143].

\textsuperscript{657} Ibid., 369-371 [§149-§150], 432-467, esp. 270-271 [§211-§243, esp. §243]. Locke was also concerned with the corruption of the system of representation, and believed that the people should have “a fair an equal Representative.” Note, however, that this is consistent with the doctrine of the sharing of interests, which held that the people should not be able to instruct their representatives, but the representatives should share in their interests. Note also that Locke is assuming in this paragraph that “no part of the people however incorporeated has the right to be represented “but in proportion to the Assistance which it affords to the Publick,” which is to say, in proportion to the amount of property tax it pays. Ibid., 378-382 [§157-§158].
“without mutiny or murmur.”658 But Price found little comfort in Locke’s words. Precisely because “a people will bear much, and are seldom driven to resistance,” he argued, the right of rebellion is an insufficient safeguard against oppression. Under adequate representation, “the redress of grievances, as soon as they appear, will be always easily attainable, and the rulers of a state will be under a necessity of regarding the first beginnings of discontent.”659

Like some of the other metropolitan reformers, including James Burgh and John Cartwright, Price claimed that the introduction of parliamentary reforms would not be an innovation, but a return to the original principles of the British Constitution, which were corrupted by the influence of the Crown. He claimed that the British Constitution is excellent in theory, but not in practice, and insisted that he only wanted to “restore it to purity and vigour, by removing the defects in our representation, and establishing that independence of the three states on one another, in which its essence consists.”660 Despite Price’s professions of allegiance to the British mixed constitution, if we look at some of his proposals for reform, we could identify most if not all of the central elements that modern political scientists associate with the democratic process, including the belief that all free agents in the state be able to participate in the election of representatives, and the requirement that constituents be able to exercise regular control over their representatives.661

658 Ibid., 444-447 [§223-§225].
659 Price, Additional Observations, 36.
660 Evidence for a Future Period, 30-31. See also Price’s letter to Adams from March 5th, 1789, in Price, Correspondence, III, 207.
D. O. Thomas argued that Price could not be “legitimately styled a republican – for the simple reason that he explicitly said he was not one.” For Price, argued Thomas, republicanism was identified with the abolition of hereditary monarchy, and he did not seek the abolition of monarchy in Britain. But Price could arguably be considered a democratic republican even on his own terms. His republicanism may not have been for “domestic consumption,” as Jenny Graham wrote of Priestley’s republicanism, but he was a democratic republican in principle and ideal, and he hoped to see this ideal realized in America and eventually spread to the rest of the globe. In the introduction to the Two Tracts, Price foresaw the dawn of a new republican age:

A new aera in future annals, and a new opening in human affairs beginning,
among the descendents of Englishmen, in a new world; - A rising empire,
extended over an immense continent, without BISHOPS, - without NOBLES, - and
without KINGS.

The most urgent component of this vision for Price was arguably the abolishment of religious hierarchy. In the Additional Observations, he complained that the ministers of Christianity became “an independent body of spiritual rulers, nominating one another in perpetual succession; claiming, by divine right, the highest powers; and forming a HIERARCHY, which by degrees succeeded a despotism more extravagant than any that

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664 General Introduction and Supplement, xvi.
ever before existed on earth.”665 His statement on the abolishment of bishops, nobles, and kings in America was made in response to a comment by the Archbishop of York, who expressed his hope for the establishment of an Anglican episcopate in the colonies.666

As he noted, however, in one of his sermons, Price saw himself as “an enemy to all slavish hierarchies.”667 This included opposition not only to Church hierarchy, but also to hereditary honors and titles of nobility. In his advice to the Americans, Price noted that individuals possessing hereditary distinctions are “apt to consider themselves as belonging to a higher order of beings, and made for power and government.” He recommended that honors for merit would “die with the men who have earned them” and not “descend to posterity to foster a spirit of domination.”668

Following Harrington and anticipating Tocqueville, Price understood the relation between political equality and the equality of social conditions. He argued that a minimal degree of social equality would be essential to liberty.669 More radically, he was not entirely dismissive of plans for the abolition of private property in the spirit of Plato and Thomas More.670 Early on, Price was influenced by the work of the Scottish minister and writer on population Robert Wallace (1697-1771), whose Various Prospects of Mankind, Nature, and Providence (1761) proposed a model of perfect government, inspired by

665 Additional Observations, 34.
666 In his reply, Price made clear that the colonists were opposed to “Bishops with civil power,” who would be able to employ the power of the state to undermine between the different religious sects in America. General Introduction and Supplement, x-xiv.
667 Richard Price, Sermons on the Security and Happiness of a Virtuous Course, on the Goodness of God, and the Resurrection of Lazarus. To Which Are Added, Sermons on the Christian Doctrine, as Received by the Different Denominations of Christians (Boston: John West, 1794), 174.
669 In addition to the abolition of hereditary distinctions, he also suggested cancelling the right of primogeniture and limiting foreign trade. Ibid., 71-73.
670 Ibid., 70-71.
More’s Utopia and extended to all of mankind. In his *Four Dissertation* (1767), Price referred to Wallace’s work and predicted the future “downfall of all slavish hierarchies and governments,” adding that a “scheme of government could be imagined that shall, by annihilating property and reducing mankind to their natural equality, remove most of the causes of contention and wickedness.” He believed that once this model of government would be established in one place, “the advantages of it would be so visible […] that in time it would be very likely to become universal.”

Even if he did not expect the immediate abolition of property in America, this is the general light in which Price came to see the significance of the American Revolution: as the establishment of a new form of government based on social and political equality, which would serve as a source of inspiration for universal improvement.

Price’s critique of hierarchy implies that the idea of the mixed constitution that he would have preferred was the one found in John Adams’s *Defence of the Constitutions of Government of the United States of America*, which relied on the principle of checks and balances between the different branches of government more than it relied on the representation of the three estates. The Constitution of the United States, if it were not directly inspired by Price’s work, as Cone argued, was certainly consistent with his principles.

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672 *Four Dissertations*, second edition (1768), 138.
673 See the *Observations on the American Revolution, Evidence for a Future Period*, and *Discourse on the Love of Our Country*.
674 Cone, "Richard Price and the Constitution of the United States." Cone did not discuss the fact that Adams was certainly influenced by Price, and his *Defense of the Constitutions* is said to have influenced the delegates to the Constitutional Convention of 1787.
There is a gulf between Price’s radicalism in principle and moderation in practice. Despite his critique of hereditary distinctions, Price did not expect the abolition of the House of Lords or of the monarchy in Britain. In the *Observations on the Importance of the American Revolution*, he wrote:

I do not mean to express a general preference of a republican constitution of government. There is a degree of political degeneracy which unfit[s] for such a constitution. Britain, in particular, consists too much of the high and low, (of scum and dregs) to admit of it. Nor will it suit America, should it ever become equally corrupt.  

Moreover, on closer examination, Price’s scheme of “complete” representation turns out to be limited in scope. In principle, Price endorsed Cartwright’s principle of the representation of personality and not property. In the *Additional Observations*, Price wrote that anyone “who wants to be convinced of the practicability, even in this country, of a complete representation,” should read Cartwright’s pamphlet *Take Your Choice* (1776). And yet Price believed that only “independent agents” must participate in government, and like the vast majority of reformers in that period, he identified

675 Observations on the American Revolution, 72.
676 *Additional Observations*, 37. Cartwright argued that “personality is the sole foundation of the right of being represented: and [...] property has, in reality, nothing to do in the case.” In the representation of the commons, he wrote, “every individual of them, whether possessed of what is vulgarly called property, or not, ought to have a vote in sending to parliament those men who are to act as his representatives; and who in an especial manner, are to be the guardians of public freedom; in which, the poor, surely, as well as the rich have an interest.” He even added: “A right of being represented, every man owes to God, who gave him his freedom; but many a man owes his wealth to the devil. It ought, in that case, to give him a rope, rather than a representative.” John Cartwright, *The Legislative Rights of the Commonalty Vindicated or, Take Your Choice!* (London: J. Almon, 1777), 28-57, esp. 28, 32, 50.
independence with the possession of minimal qualifications of property. In his reply to the Bishop of London, Price made clear that he advocating the participation of “the body of independent agents in the state,” and not referring to “the women and children and beggars of England.”

Furthermore, while Price advocated, in principle, the complete participation of all free agents, in practice he was more cautious. In August 7th, 1783, he replied to Lieutenant-Colonel Sharman of the Irish Volunteers, who asked for his advice on parliamentary reform. Price wrote to Sharman:

The principles of civil liberty require, that every independent agent in a state (that is, every one who can be supposed to have a will and a judgment of his own) should have a vote in the choice of his Governors. But it has been seldom practicable to extend the right of voting so far. In America, where new forms of government are established more liberal than any the world has yet seen, this right is limited to persons who pay taxes and possess property. Perhaps it may not be prudent in Ireland to go even this length. In these cases, to avoid the danger of losing all by aiming at too much, the attempts of enlightened men should be governed by a regard to what is most practicable, considering present circumstances, and the attachment which always prevails in a country to old establishments. In England I have wished, that the friends of reformation had confined their views at present to the extension of the right of voting to

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677 Additional Observations, 10. In using the term “independent agent,” Price was probably following Burgh, who defined a “free agent” as an individual who is “not, through poverty, absolutely dependent on the will of another.” Burgh, Political Disquisitions: Or, an Enquiry into Public Errors, Defects, and Abuses, I, 25.

678 Price, Fast Sermon, 7.
Copyholders, and to Leaseholders; and the substitution of a hundred knights for counties in the room of a hundred members for boroughs. This, though in theory unspeakably too little, would have been a very important reform.679

Price’s moderate proposals for reform led the English reformer Christopher Wyvill, leader of the Yorkshire Association, to argue in reply to Burke’s Reflections that “Dr. Price was uniformly and from an early period given to the more moderate propositions” of constitutional reform, which excluded Cartwright’s plan for universal suffrage, and therefore it was unjust to impute to him “undue partiality to republican schemes of Government.”680 D. O. Thomas followed the same line of defense against Burke’s attack on Price. As part of his attempt to “salvage something of Price’s reputation,” Thomas argued that Price should be classed as a moderate political reformer, and that Burke misrepresented him as a proponent of radical reform on the basis of speculative, abstract principles that ignored political experience.681 On the other hand, Thomas noted that Price was willing to countenance direct popular action and suspension of the balanced constitution in order to achieve fair and equal representation, and argued that Burke saw more clearly than Price the ways in which this position “threatened the Whig conception of politics.” He criticized the fact that Price remained “vague and indeterminate at those points where precision was urgently required,” and “failed to give

679 Price, Correspondence, II, 189.
an adequate description of ‘the people’ and [...] an adequate description of how they were to be conceived to act.”

While it is certainly true that Price was sensitive to social circumstances and modified his proposals for reforms accordingly, we have seen that he was a radical and a republican in principle and ideal. It is quite possible that he was vague and indeterminate on the scope and exact nature of political participation, because the full realization of his vision would have entailed such radical reform of social and political circumstances in Britain that fully elaborating it would have been futile or dangerous. Price was looking to providence to guide the progress and enlightenment of mankind, and make the world gradually more fit for the spread of the ideal constitution of government, which could quite reasonably and fairly be described as a representative, constitutional democracy.

The Political Liberty of the Citizen

As mentioned in Chapter 2, some of Price’s critics complained that he defined civil liberty in the Observations as a property of the political body, “the power of a Civil Society or State,” while his definitions of physical, moral, and religious liberty referred to the freedom of the individual. The reason for the confusion lies in the polemical context of the work. Price was interested in specifying the conditions for the freedom of the American colonies, which he perceived to be a distinct community. He stipulated the institutional conditions for the internal freedom of the American community, which

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consisted in popular control over government. He also specified the conditions for the external freedom of the American community, which consisted in being free from the control of Britain, and ideally, in being part of a free and equal federation of states that could form “an Empire of Freemen.”\textsuperscript{684} Price’s definitions of physical, moral, and religious liberty primarily served to establish the principle that the freedom of an agent, whether individual or corporate, consists in the power of self-government.

Moreover, Price refrained from explicitly defining the civil liberty of the individual, because one of the general theoretical points he wanted to make was that the freedom of the citizen is inseparable from life under a free government. One might say that the freedom of the citizen is the point of contact between the freedom of the agent and the freedom of the state, the individual power of self-government exercised in a public space regulated and secured by the self-governing state.

For these reasons, Price’s \textit{Observations} was a somewhat curious work in that the single most provocative point it made, which concerned the civil liberty of the individual, remained somewhat obscure. The point was that participation in government was not merely an instrumental condition for the freedom of the political body, which could be fulfilled through limited participation of some members of the political community; participation in government was part of the civil liberty of the individual. In order to fully enjoy civil liberty, one had not merely to live under the protection of the law, but also to possess the right to participate in making the law.

In the \textit{Observations}, the demand for individual participation in lawmaking was provocatively summed up in the oft-cited statement: “In every free state every man is his

own Legislator.” The distinctiveness and radical nature of this claim can be more clearly seen in light of its widespread critique, and particularly in light of its critique by self-professed Lockean Whigs like Goodricke or the author of the pamphlet *Civil Liberty Asserted*. Their argument was that free government requires the consent of the people in their *corporate* capacity, and not the consent of every individual separately. In fact, argued Goodricke, according to Locke’s social contract, “no man is his own Legislator: it is the united voice of the legislative body that makes the laws; it is that body which is the Legislator, supreme over every individual.” The consent of “the people” in their corporate capacity as the legislator must not be confused with democracy, which would entrust every member of the political community with a share of the legislative power.

In the Additional Observations, Price did not back down in the face of the attack on his position, but rather made it more explicit. First he redefined civil liberty in terms that explicitly referred to *individuals*: “their Liberty, as members of communities associated for the purposes of civil government, is their power of self-government in all their civil concerns.” The power of individuals to govern themselves in their civil concerns, he said, is equivalent to the power of the whole community to govern itself by its own will, through the direct or indirect participation of all its members in expressing its will. Again, Price identified the civil liberty of individuals with the democratic government of the community.

Price also explained and defended his statement that in every free state every man is his own legislator. He acknowledged that the statement “has been much exclaimed

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687 *Additional Observations*, 2-3.
against, and occasioned no small part of the opposition which has been made to the principles advanced in the *Observations on civil liberty.*” Rather than seeking to appease the opposition, however, he made his position more pronounced. Appealing to the authority of Montesquieu and Blackstone, he argued that self-legislation “expresses the fundamental principle of our constitution,” and went on to explain the statement as follows:

> the meaning of it is plainly that every independent agent in a free state ought to have a share in the government of it, either by himself *personally,* or by a body of representatives in chusing whom he has a free vote, and therefore all the concern and weight which are possible, and consistent with the equal rights of every other member of the state. 688

If any doubt remains that Price was insisting on a necessary connection between individual freedom and participation, he dispelled it in the *Additional Observations* by more clearly distinguishing between there different aspects of civil liberty: the liberty of the citizen, the liberty of the government, and the liberty of the community, and stressing the relation between the different aspects. This is where Price clearly defined, for the first time, the liberty of the individual as a member of civil society. A citizen is free, according to Price, “when the power of commanding his own conduct and the quiet possession of his life, person, property and good name are secured to him by being his

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688 Ibid., 10.
own legislator.” The definition makes clear that the civil rights of individuals cannot be separated from their political right to participate in legislation.

The relation between individual freedom and political participation is further discussed in an important footnote, in which Price discussed the concept of political liberty. The idea of political liberty, understood distinctly from civil liberty, was only coming into being in the second half of the eighteenth century, and the precise meaning of the term was quite indeterminate. In Chapter 3, we have seen that Ferguson occasionally identified civil liberty with the liberty of the citizen, and political liberty with the liberty of the constitution. This was also the view of the Welsh Dissenting minister, philosopher, and political reformer David Williams (1738-1816), who distinguished between civil liberty as the power of individual citizens to act as they please within the limits of the law, and political liberty as the security of the body of the people from the abuse of power by the government.

Priestley, on the other hand, was innovative in interpreting both civil and political liberty to be aspects of individual freedom. He defined civil liberty as the power of commanding one’s private affairs, and political liberty as the power of the individual to share in government. According to Priestley, the “most perfect political liberty” exists in countries “where every member of the society enjoys an equal power of arriving at the supreme offices.” In countries where an individual is, by birth or fortune, excluded from

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689 Ibid., 13-14.
office or from voting, that individual “has no share in the government, and therefore has no political liberty at all;” his conduct is “directed by others.”

The radical implication of Priestley’s distinction is that the vast majority of British society, which was excluded from office or from voting by birth or by fortune, had no political liberty at all. Priestley went even further by recognizing that political liberty, just like civil liberty, is valuable to the individual in its own sake, because of its effect on dignity, self-development, and happiness. And yet, Priestley did not advocate the pursuit of “perfect political liberty.” He argued that the primary value of political liberty is instrumental: it serves as “the chief guard” of civil liberty. According to Priestley, the good of mankind requires the restriction of political liberty, so that only persons “of considerable fortune” could be elected to high offices, and the poor will have no right to participate in their election. Ultimately, he argued, it is “of small consequence who, or how many be our governors, or how long their office continues,” as long as the power of government is “uniform and certain,” as well as sufficiently restricted.

In his footnote to the definition of the liberty of the citizen in the *Additional Observations*, Price mentioned Priestley’s distinction, and cited his definitions of civil and political liberty. He then commented:

This distinction forms a very proper subdivision of the liberty of the citizen here mentioned; and it may be accommodated to all I have said on this subject, by

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only giving some less general name to that which Dr. Priestley calls *civil* Liberty.\textsuperscript{693}

Price’s mild comment appears to indicate a minor dispute between Price and Priestley on the proper definition of terms, but arguably it points to a substantial disagreement. Priestley’s distinction allowed for the claim that an individual fully enjoys civil liberty, even if he or she does not possess the right to participate in government. The primarily instrumental role that he assigned to political liberty, made it possible to argue that the good of society requires political liberty to be the privilege of the better few. Price was insisting that the right to share in government is an inseparable part of the civil liberty of the individual.

Some of Price’s modern readers criticized him on his refusal to accept the distinction between the political and the civil liberty of the individual. D. O. Thomas wrote in this context:

Price tends to conflate civil liberty understood as the secure enjoyment of natural rights with political liberty understood as the possession of political rights. In doing so he tends to assume that only where men enjoy political rights will they also enjoy civil rights, and that if they participate in the processes of government their natural rights will not be violated. Even though he was convinced that political rights are the strongest available guarantee for the enjoyment of civil rights, it was unfortunate that he identified political liberty and civil liberty in that way, because in doing so he implied that men cannot enjoy civil liberty

unless they possess representative government, and that majorities cannot

oppress minorities.\textsuperscript{694}

Thomas conflated here two separate criticisms. One is that Price believed political liberty to be a sufficient condition for the possession of civil liberty. Price obviously did not think so. He did believe, however, that political liberty is a necessary condition for civil liberty. This is the second position for which Thomas criticized him. Price did not recognize, according to Thomas, that civil liberty could be enjoyed without representative government. But Price did recognize that individuals might be allowed to exercise their private liberty under despotic government. He only refused to recognize this “indulgence” as civil liberty, which he understood to be the freedom of individuals as members of a free community.\textsuperscript{695}

J. A. W. Gunn also criticized Price on this point. According to Gunn, “Price again stumbled in his efforts to make clear the various forms of liberty and their relation […] He refused to adopt Priestley’s distinction between civil and political liberty […] He thus deprived himself of the simplicity of Priestley’s view that political liberty was the guard of civil liberty.”\textsuperscript{696} But Price deprived himself of the simplicity of Priestley’s view for an acceptable reason: he disagreed with it. He believed that political liberty is not merely the guard of civil liberty. He thought that participation in government has an intrinsic value of its own.\textsuperscript{697}

\textsuperscript{694} Thomas, \textit{The Honest Mind}, 159-160.
\textsuperscript{695} Price, \textit{Observations}, 10-11.
\textsuperscript{696} Gunn, \textit{Beyond Liberty and Property}, 248.
\textsuperscript{697} There is a paragraph that presents a difficulty for the interpretation of Price advanced here. On pp. 15-17 of the \textit{Additional Observations}, Price argued that subjection to the government of the Deity is “the same
Price’s critics puzzled over his insistence on the relation between liberty and democratic participation. Some argued that while there is obvious value in exercising self-government in matters of morality or religion, there is no intrinsic value in preserving civil power in the hands of the individual. Others argued that participation is valuable because it enables the people to guard their rights, but the security of rights would be better served through the appointment of suitable guardians, and not through the widespread exercise of the power to participate in government.

In the *Observations*, Price already addressed the value of living in a free state, but given the critique of his views, Price decided to elaborate on this issue. The full title of the *Additional Observations* included not only the “nature” of civil liberty, but also its “value.” An extensive section of the pamphlet was devoted to the “VALUE of Liberty, and with complete freedom,” and added: “Where there any men on whose superior wisdom and goodness we might absolutely depend, they could not possess too much power; and the love of liberty itself would engage us to fly to them, and to put ourselves under their direction.” The point of this counterfactual is that no such men exist, because human nature is such that no individuals “can be raised to an elevation above others without the utmost danger.” Still, one wonders whether the counterfactual does not imply that in principle, individuals could enjoy perfect civil liberty without enjoying political liberty. The difficulty is augmented by Price’s earlier statement (on pp. 3-4) that if civil liberty depends on any human power, it becomes a species of slavery.

A way of resolving the difficulty would be to argue that the government of a perfect elite would not be a free government, and the liberty enjoyed under their direction would not be, strictly speaking, civil liberty. Price distinguished in the *Additional Observations* between “a free government, and a government under which freedom is enjoyed” (p. 3). In the hypothetical case, freedom would be enjoyed under the government of the perfect elite in the sense that all individuals would be secure against oppression, but they would not be enjoying “the liberty of the citizen” in its fullest sense. Eric Gnosh has raised a related difficulty. He argued that the hypothetical case proves that “Price’s civil liberty is not positive,” because an “adherent of positive liberty would argue that even if there is an elite that is absolutely trustworthy, some liberty is lost if we place ourselves under its direction.” If the line of argument proposed above is correct, then Price should have argued that some liberty *is lost* by placing ourselves under the direction of an elite, however perfect it may be.

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the EXCELLENCE of a Free Government.”700 In this works, Price offered three explicit arguments for the value of widespread, popular participation.

First, Price argued that only “such free government as I have described,” in which the people exercise control over the government, could fulfill the primary end of government, and protect individuals against injustice and oppression. He reasoned from the imperfection of human nature – “the weakness and folly of men” and “their love of domination, selfishness, and depravity” – and inferred that individuals will not become secure by blindly trusting in the discretion of their governors. “If a people would obtain security against oppression,” he wrote, ”they must seek it in themselves, and never part with the powers of government out of their own hands.”701

This, in itself, is not a decisive argument for the right of every free agent to participate in government. It proves that free government requires the participation of the people. It could be argued, however, that there is some minimal extent of participation that would satisfy the condition of security against oppression without requiring the participation of all. Arguing that every individual must be the guardian of his or her rights would rely on the empirical assumption that personal security would be served by this arrangement, but if it could be empirically demonstrated that more capable individuals would secure my rights better than I would, the argument from security could be turned into an argument for unequal participation.

A second argument for popular government appealed to the value of equality. Price argued that only free governments are consistent with “the natural equality of
mankind.” He asserted that the “equality or independence of men is one of their essential rights,” a right they received “from the hands of their maker,” and only a government that creates no artificial relations of domination and submission would be consistent with the God-given right to natural equality. Price was drawing on Locke, and he saw some of his opponents, Wesley and Fletcher in particular, as attempting to revive Filmer’s “stupid scheme,” a position he attributed, somewhat unfairly, to Lind as well. Price argued that governors could not all be superior in their qualities; that “wisdom and goodness” are found among the “middle ranks” more often than among the “great and mighty;” and that superiority in intellectual and moral qualification cannot, in any case, justify the claim to dominion. 702

If political equality were taken to have an intrinsic value, this would make a strong case for democratic participation. But this is one of the cases in which Price’s critics believed him to be asserting what needed to be proven. Even on the assumption of natural equality, it remains unclear why individuals could not consent to an unequal distribution of power for the presumed benefit of society. The value of political equality may become more apparent, however, when we study Price’s view of human dignity.

Price’s third argument was based on the contribution of civil liberty to dignity and self-improvement. The two were interlinked in his thought: there is a dignity inherent in freely exercising all human powers, and the “consciousness of dignity,” in turn, encourages “emulation and improvement.” 703 Here I treat dignity as the more

703 Price, Observations, 17.
foundational value, and reconstruct Price’s argument for the relation between democratic participation and human dignity.

Price repeatedly referred in his writings to the dignity of freedom. In the first section of the *Observations*, for instance, when he finished introducing his conception of liberty as self-government, he commented on “the dignity of that blessing to which we give the name of LIBERTY, according to the representation now made of it. In his discussion of free government, he contrasted “the excellency of free government, and its tendency to exalt the nature of man,” with the humiliating light in which the human species is presented under despotism.\(^{704}\)

In speaking of dignity, Price was referring to what distinguishes human beings and makes them worthy of respect. If we look more closely at his understanding of the concept, we find three essential components of it.

First, Price believed that the foundation of dignity is the unique powers of the human mind, especially the ability to exercise reason and free will. In determining itself and exercising reason, the soul is expressing its immaterial, immortal, and divine nature. In his sermon *The Nature and Dignity of the Human Soul* (1766), Price said of the body and the soul: “There is in respect of dignity, the same difference between the two, as there is between the wood and stones of a house and the inhabitant who dwells in it.”\(^{705}\) In his exchange with Priestley, he wrote that the doctrine of determinism offends his pride:

\(^{704}\) Ibid., 16-18. See also *Additional Observations*, 18-19.

But if Dr. Priestley is right, my soul is literally the offspring of the earth; a composition of dust; incapable of all agency; a piece of machinery moved by mechanical springs, and chained to the foot of fate […] What can be more humiliating than this account? – How low does it bring the dignity of man? – I cannot help feeling myself degraded by it unspeakably.  

The possession of a willing and reasoning soul is a necessary precondition for the dignity of man, but true dignity consists in the cultivation and improvement of the soul through the attainment of knowledge and the practice of virtue. Human beings are obligated to enlighten themselves in order to inform their moral decisions. Knowledge, wrote Price, “is the light and the guide of our minds, and the foundation of our whole dignity.” But knowledge is worthless without being attended with virtuous practice. What makes human beings most worthy of respect is the pursuit and practice of virtue.

As we have seen, Price followed Plato in arguing that in order to do good, we must follow reason and overcome the passions. Anticipating Kant, he argued that we must do so out of a pure love of virtue. Unlike Plato, however, Price’s republic of the soul is governed by the individual’s conscience, and not by divine reason. For Price, practical virtue does not consist in following the dictates of an objective moral law, but in following the sincere conviction of each person’s mind.

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708 Richard Price, The Vanity, Misery, and Infamy, of Knowledge without Suitable Practice; Represented in a Sermon Preached at Hackney, November the 4th, 1770 (London: J. Buckland, 1770), 7-31.
When we follow our conscience and the dictates of our heart, we enjoy an inward, moral liberty, and have a free soul. This, according to Price, “is the highest dignity and perfection to which any being can attain.” On the other hand, to “lose inward liberty” and be in a state of moral slavery is “the worst degradation and infamy into which we can sink.” The person who no longer has “self-dominion” is “conscious of giving up his dignity and honour.” In exercising moral liberty, according to Price, we imitate God, and this is why it is the ultimate source of our dignity.

The question is how exactly the freedom and dignity of the soul is related to civil liberty, and more particularly, to political action. Someone like the Stoic philosopher Epictetus might argue that we have no power over external things, and as long as our intentions are true, our dignity remains intact, even if we are enslaved to an absolute monarch or cruel master.

Clearly, this was not Price’s position. He saw moral liberty and the dignity it confers as inseparable from practice. Society is the “sphere of agency” in which free agents exercise their active and self-directing powers. When that sphere is diminished, their ability to act as moral beings is diminished as well:

As far as moral agents have no command over events, or are not permitted to act as they please, so far they have no powers, and lose the capacity of rendering themselves praise-worthy and useful, and of acquiring that good desert which is

710 Ibid., 210-211.
711 Ibid., 375-376.
the chief ground of honour and dignity among intelligent beings, and the necessary recommendation to favor under God’s government.\textsuperscript{712}

Human dignity, then, requires the free exercise of moral agency in the social sphere. This is why there is “nothing indeed more humiliating than the debasement of mankind” under despotic governments. Despotism deprives individuals of their ability to exercise their free will and their conscience in the social sphere, and deprives them of the unique human ability to imitate God, casting them instead in the image of domestic animals.\textsuperscript{713}

Still, we might ask why surrendering their political powers to others would be degrading for individuals. The answer is that Price saw the duty of patriotic citizenship as an integral part of the moral duties of all individuals. This should not be taken to mean that he wanted to force all individuals to participate in political life. Price generally wanted the state not to intervene in individual choices. As a moralist and a minister, however, he preached that human excellence requires the fulfillment of social and political duties. A failure to fulfill those duties would be every individual’s personal problem. But a failure to provide the conditions for individuals to realize their potential would be a political problem. The free state as Price envisioned it provides individuals not only with security for their rights. It enables every free agent to participate in politics, and thereby creates the sphere for the full exercise of its moral powers and the attainment of human dignity.

\textsuperscript{712} Ibid., 285-286.
\textsuperscript{713} Price, Additional Observations, 18-19.
The Meaning of Citizenship

In his otherwise excellent comparison of Price’s attitude towards politics and Priestley’s attitude, Peter Miller commented that Price “was not a pure republican because he, too, repudiated participation in favour of consent.” Miller presumably meant that despite being “deeply committed to a political life controlled by individual citizens,” Price was willing to settle for the right of free individuals to elect their representatives in government and dismiss them for misconduct. He did not demand the active participation of all citizens in the decision-making process.

Indeed, Price argued that in large states, all individuals “cannot be admitted to an immediate participation in the powers of legislation and government.” But in examining his idea of citizenship, we would find that included considerably more than consent through the election of representatives.

First, Price spoke of consent, but also of constituents controlling their representatives during their term of office, and of representatives being accountable to their constituents and “subject to their instructions.” This clearly implied the involvement of citizens in political decision-making in ways other than voting. Price never specified in what ways precisely, but clearly citizens would need to be informed of the actions and intentions of their representatives, and have channels of communication to them, through direct contact, correspondence, protests and appeals, or the expression of public opinion in newspapers and pamphlets.

714 Miller, Defining the Common Good, 379.
715 Ibid., 377.
716 Price, Observations, 13.
717 Ibid., 14, 16.
Second, Price advocated constant vigilance against the abuse of power and resistance to oppression. “There is nothing that requires more to be watched more than power,” he wrote. Price criticized the common view, expressed by some of his critics, that resistance can be justified only in extreme cases of oppression. “The truth is, that oppression cannot be resisted too soon; and that all the tendencies to it ought to be watched,” said. He added that “the resistance and jealousy of a people inquisitive and enlightened” is much preferable to the fury of a people who has been treated like cattle.

Third, Price believed that the duty of “righteous citizens” is also to reform their country. This is particularly apparent in Price’s *Discourse on the Love of Our Country*, where he elaborated on the duties of patriots to their country, and summarized them as “endeavouring to liberalize and enlighten it, to discourage vice and to promote virtue in it, and to assert and support its liberties.”

Price’s *Discourse* should be read as a polemic engagement with the concept of patriotism. It was an attempt to redefine the love of country in light of repeated attacks on the loyalty of Price and the Protestant Dissenters. And yet Price was also genuinely concerned with the meaning of good citizenship and patriotism. It came up early in his writings, and played an important role since then. Price distinguished between the “noble passion” that engages citizens act for the good of their community, and the “spirit of rivalship between different communities,” which is “one of the most destructive principles in human nature.” In the *Observations on the Importance of the American*
Revolution, he wrote that foreign trades helps in checking the excesses of patriotism and “leads every man to consider himself more as a citizen of the world.” Mirabeau criticized Price’s qualified support of domestic patriotism and wrote that in “a free government there is no occasion to bring in the passions to support it.” Price thought that the love of country is important, but believed that the passion should be regulated by reason, and the sense of loyalty reserved for the community and not for its rulers.

In his sermons, Price made clear that the duty of patriotism was a moral and religious duty pertaining to every individual. “It is a sad mistake to think that private men have nothing to do with the administration of public affairs; that there are mysteries in civil government of which they are not judges.” He described the righteous man as an active citizen and a patriot:

a righteous man is the best member of every community, and the best friend to his species, by being the most irreconcileable to slavery, the most sensible to every encroachment on the rights of mankind, the most zealous for equal and universal liberty, and the most active in endeavouring to propagate just sentiments of religion and government. In short, a virtuous man must be a firm patriot.

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725 Ibid., 19-20. See also: “He that expects to be a citizen of the heavenly Jerusalem ought to be the best citizen of this world.” Richard Price, A Discourse Addressed to a Congregation at Hackney, on February 21, 1781 Being the Day Appointed for a Public Fast (London: T.Cadell,, 1781), 24.
Price’s own actions can serve as a model for the meaning of citizenship as he understood it. While he never voted in a legislative assembly or served in public office, Price acted as a citizen to influence government policy: he informed himself, through reading and through his various connections, of the latest political developments; he privately advised and influenced members of the government; he was involved in drafting petitions and appeals for reform; and he published his views on various occasions, protesting some policy measures and advocating others.

Reflecting on his activities, Price said that he devoted his life to serving his country and mankind, and highlighted the publication of his *Observations on the Nature of Civil Liberty* as the crowning achievement of his career as an involved citizen: “there is nothing in the course of my life, that I can think of with more satisfaction,” he said,

Nor would I now for any emoluments part with the satisfaction I feel when I recollect my attempts, by that publication and the publications that followed it, to serve my country, and to propagate just notions of government, and a zeal for that liberty, on which the happiness of man essentially depends, and without which he is a creature scarcely superior to a beast.  

**Conclusion**

I have been arguing that Price’s critics had been wrong to identify his definition of liberty as the power of self-government with the absence of all restraint. Price modeled

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his understanding of political self-government on the neo-Platonic conception of moral self-government that he derived from Clarke and Butler, which incorporated not only the idea of a power to follow one’s own will, but also the idea of an internal constitution or character that provides security against evil.

Admittedly, Price’s account of the institutional mechanisms that provide constitutional security in the self-governing state was somewhat vague, but he upheld the rule of law and expressed support for a mixed constitution. Most crucially, perhaps, he sided with John Adams in his critique of Turgot, Marchmont Nedham, and Price himself for implying that the collected body of the people can be trusted not to violate the rights of individuals. Price made clear that he endorsed Adam’s defense of the division of powers and the principle of checks and balances.

At the same time, Price’s endorsement of the British mixed constitution and his protestations that he was no republican or democrat should not obscure the radical nature of his theory of civil liberty and free government. His proposals for institutional reform aimed at democratizing the British House of Commons; and he developed a vision of an anti-hierarchical society with a republican government, which he hoped to see spreading from America to the rest of the world.

Where Price was most radical, however, was in insisting that political liberty, or the right of individual to participate in politics, was part of the concept of the liberty of the citizen. In other words, he insisted that one could not be a free citizen without participating in government. His democratic definition of the liberty of the citizen was based on the normative position that participation has an intrinsic value, and not only an instrumental one. Price believed that the security of individuals under free government
depends on popular participation in power; but he also believed that participation is valuable because it contributes to the dignity and moral improvement of the individual.

On the basis of his belief in the instrumental and intrinsic value of participation, Price developed the outlines for a theory of democratic citizenship, which went considerably beyond participation in the election of representatives. Price expected democratic citizens to be involved in political decision-making by controlling and instructing their representatives, by being vigilant against the abuse of power, and by performing their patriotic duty to reform their country. In his idea of citizenship, as in his idea of liberty, Price showed himself to have combined the republican tradition in a democratic spirit, and combined the idea that citizens should exercise democratic power with the idea that they have a civic duty of watching and checking it.
CONCLUSION

Edmund Burke wrote during the French Revolution that a perfect democracy is the most shameless and fearless thing in the world.\textsuperscript{728} No legislator, he claimed, “has willingly placed the seat of active power in the hands of the multitude.”\textsuperscript{729} Fifty years later, Alexis de Tocqueville wrote of the gradually progressing equality of social conditions as a providential fact, and called for the development of a new science of democratic politics.\textsuperscript{730} Burke and Tocqueville were both worried about the danger posed to liberty by unmitigated popular power, but in the years separating the \textit{Reflections on the Revolution in France} (1790) from \textit{Democracy in America} (1835-1840), the classical idea of democracy had been transformed, adapted to the theories of representative government and constitutionalism, and made respectable again.

Historians of political thought have yet to tell this story of transformation.\textsuperscript{731} The point of beginning for the narrative and its precise mode of construction are open to debate, but a credible story would prove difficult to tell without giving central place to the rise of the demand for popular participation in politics on both sides of the Atlantic during the crisis between Britain and the America colonies. This study suggests that particular attention would be due to the exchange between Richard Price and his critics on civil liberty and the principles of free government.

\textsuperscript{728} Burke, \textit{Reflections}.
\textsuperscript{729} Burke, \textit{Appeal from the New to the Old Whigs} 97-98.
\textsuperscript{731} But see Dunn, \textit{Setting the People Free}., discussed in the introduction to the dissertation.
Despite his reluctance to use the politically dangerous terms “republicanism” and “democracy,” Price formulated concepts and arguments that would become part of the conception of modern republican democracy inspired by the American Revolution. He was the first to import the term “self-government” from philosophy and theology into political discourse and make it into the leading principle of his theory of liberty and government. A free state, according to Price, was self-governing in the sense of being internally and externally secure against the intervention of a foreign will in its decisions. Internal self-government required giving proper expression to the popular will, which depended, in turn, on the existence of democratic institutions, including the participation of all free agents in the election of representatives and their ability to control and instruct their decisions according to their wishes.

Since Price’s proposals for reform focused on the democratization of the House of Commons and retained the framework of the British mixed constitution, some scholars have described them as moderate. This is not, however, the way in which contemporary critics perceived his proposals and principles. Though most of the critique was politically motivated, and some of it inadvertently or intentionally identified Price’s idea of liberty as self-government with opposition to law and government, Price’s critics were correct in claiming that he wanted to empower the majority of the people and allow them to share in political decision-making. Their characterization of his views as “democratic” and “republican” was not without merit. And indeed, in his reflections on the emerging form of government in America, Price confirmed their suspicions, and advocated for a government without bishops, nobles and kings, a republican government that would serve as a model to the rest of the world.
But Price could also be considered a “republican” in another sense, which he would not have recognized: in the sense that he held a theory of liberty that has recently been associated with the republican tradition, particularly in the work of Quentin Skinner and Philip Pettit. According to this theory, the liberty of the individual is understood as the condition or status of free citizenship constituted by the presence of legal and political institutions that protect the individual from being subject to arbitrary interference in his or her choices. According to this theory, the liberty of the individual is not an indulgence of the administration, to use Price’s terms, but a product of the constitution of the free state.

The dissertation has suggested that we can read the Price Debate as a laboratory of ideas in which the assumptions described by Skinner and Pettit were being reexamined in light of the American Revolution and the rise of popular politics. Price’s theory itself could be seen as a democratic reinterpretation of the republican legacy, which focused on the institutions of representative government, on the one hand, and on the individual freedom to follow one’s own convictions, on the other hand. His critics could be read as offering different reformulations of the Whig/neoclassical framework, questioning the relation between free government and democratic participation, reconsidering the value and mechanisms of political security, and reexamining the relation between individual liberty and security under the rule of law.

Perhaps most interestingly, the exchange between Price and his critics exposed a disagreement within Whig political theory on the role of political participation in constituting the free state. Price’s Whig critics, such as Henry Goodricke or Adam Ferguson, accepted the assumption that the institutional structure of free government
includes the participation of the people in legislation. However, they denied that popular participation must be widespread, democratic participation. Political liberty, as they understood it, is a property of the body of the people, and the body of the people is more effectively self-governing when participation is reserved for the better few. Price challenged this theory by arguing that the individual right to participate in government is an integral part of the liberty of the citizen. He challenged it by arguing that civil liberty, democratically interpreted, is part of the dignity of the individual.

The disagreement between the democratic and the elitist interpretation of free government is strikingly demonstrated by Adam Ferguson’s critique of Price. While Ferguson was interested in reviving the republican spirit of civic virtue and popular contestation, he was not interested in empowering the demos to share in government, not even within the confined framework of the mixed constitution. I have tried to show that Ferguson approved of economic progress, and saw it as necessarily creating social inequality and an unequal distribution of political power. The inequalities of property, occupation, status and power in commercial society made the idea of democratic participation, in his view, impractical and even absurd. What remained is the hope that the republican spirit of political virtue could be cultivated among the upper classes.

Ferguson’s theory outlines the modern elitist solution to the problem of realizing the republican ideals of constitutional liberty and active citizenship in large states and capitalist societies. The solution is to leave political power in the hands of rich and well-educated citizens, whose virtual and virtuous representation of popular interests is supposed to protect the liberty of the lower classes better than they could protect it themselves.
The conceptual framework proposed by neo-republican scholarship has proven particularly useful to analyzing Ferguson’s theory of liberty. Ferguson himself would have objected to being called a “republican,” but in terms of contemporary intellectual history and political theory, he would fit in both the civic humanist and the neo-Roman schools of republicanism. In particular, his theory of liberty and government is very similar to the theory developed by Philip Pettit. Similarly to Pettit, Ferguson argued against the understanding of freedom in opposition to restraint, and defined it as the perfect security that we cannot be wronged, which can be achieved only under legal and political institutions in a free state. Similarly to Pettit, Ferguson believed that the ability of citizens to contest the decisions of government is essential to the maintenance of liberty.

Ferguson’s elitist interpretation of the republican legacy invites, in turn, reflection on Pettit’s theory, and particularly on its account of the relation between non-domination and democracy. Pettit’s ideal of non-domination, and the republican theory of government associated with it, have been criticized for being overly elitist, insufficiently democratic, and even congenial to imperialism. Critics have argued that Pettit’s theory revitalizes the Roman model of government, which was “elitist to the core” and distrustful of democracy; that it reinforces “what is worst about contemporary liberal democracy: the free hand that socioeconomic and political elites enjoy at the expense of the general populace;” and that it promotes a political ideal that pays insufficient

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734 John P. McCormick, "Machiavelli against Republicanism: On the Cambridge School's 'Guicciardinian Moments',' ibid.31, no. 5 (October 2003): 616-617. McCormick’s critique is directed against the work of
attention to involvement in meaningful activity and participation in democratic politics, opening the door to forms of benevolent imperialism.  

The criticism may seem unfair, since Pettit has aspired to equalize as far as possible power relations in the public and private realms. He views the ideal of non-domination as being conducive to the progressive causes of environmentalism, feminism, socialism, and multiculturalism. While his theory views democratic participation as a condition of liberty, rather than a good in itself, democracy has a constitutive role in the formation of non-domination. And while he prefers to entrust political decision-making to committees, rather than to the arbitrary will of the majority, he believes in empowering the public to contest political decision-making and call the government into account. In recent work, Pettit has been developing an account of republican democracy, which is based on popular sovereignty, electoral competition, and, particularly, the power of contestation.

The ideal of liberty as non-domination and the contestatory dimension of Pettit’s theory of republican democracy offer, separately and together, compelling resources for contemporary political theorists. Non-domination is an attractive principle for the design of political institutions and formation of public policies. Liberty as non-domination requires the existence of an institutional arrangement that provides the free person with

scholars of republican political thought associated with the Cambridge School, especially J. G. A. Pocock, Quentin Skinner, Maurizio Viroli, and Philip Pettit.

736 Pettit, Republicanism, 113-117.
737 Ibid., 135-146.
738 Ibid., 19, 30, 106-109.
739 Ibid., 180-202, 239-140, 146-151, 163-185.
security against powerful individuals and their capacity for arbitrary interference, but at the same time, it accommodates state intervention, and thereby aims to reach beyond the “sparse and heartless” government envisioned by neo-liberals, promoting egalitarian institutions and policies.\textsuperscript{741} In addition, the idea of non-domination and the idea of contestation both move away from the Hobbesian idea of individual liberty as the silence of the law, the space left untouched by the sovereign,\textsuperscript{742} in the direction of a more democratic idea of liberty, which involves the empowerment of individuals through institutions and civic norms.

Yet Pettit’s theory has lent itself to critique for being elitist by upholding the value of popular control over decision-making and downplaying the value of popular involvement in accepting political decisions. Moreover, Pettit has insisted on the instrumental relation between liberty as non-domination and democratic participation. The worry of critics may be that his theory may inadvertently reproduce some of the elitist tendencies we can find in elitist interpretations of the republican tradition such as Ferguson’s. Though clearly the contemporary theory of neo-republicanism supports the right of every individual to participate in election and contestation, the worry is that social inequality would reproduce itself in the patterns of participation. The demand for contestation and the exercise of control over political decisions can, and in many cases will be satisfied by members of social elites, creating a class of active citizens and a class of passive citizens, whose interests may be distinct in accordance with their different conditions.

\textsuperscript{741} Pettit, \textit{Republicanism}, viii-ix, 11-12, 21-17, 52-73.  
\textsuperscript{742} Hobbes, \textit{Leviathan}, Chapter 21, 143.
Price was interested not only in the right to participate in the election of representatives, but also in the ability to be involved in politics, whether through contestation of political decisions, instruction of representatives, or political reform. But where his theory offers a particularly interesting possible corrective to Pettit’s account is in the normative value that it accords to individual participation in politics. Price’s position on the value of civic participation offers an interesting middle ground between the argument from security and the Arendtian idea that freedom is experienced in political action.\(^{743}\) Price believed in the relation between democratic participation in government and personal security, and he would have agreed with Pettit that individual participation in politics is instrumentally valuable as a safeguard against tyranny and oppression. But he also insisted on the intrinsic value of participation as a part of human dignity. This is a significant addition, because it serves as a more robust explanation for the value of the participation of a particular individual or group. Someone else might be able to represent my interest in security; but without having the right to participate, my dignity would be impaired.

Price believed that the *duty* of citizenship is a moral duty, and his argument for the *right* of civic participation partly relied on that. But the argument for the right of participation can be separated from the argument for the duty of participation and reconstructed as an independent argument. In his reconstructed form, the value of the right to participate in government is derived from the dignity of being able to exercise

one’s freedom in all aspects of human life, including the political sphere. Conversely, the deprivation of this right is a form of humiliation or indignity.

The account of Price’s theory offered here suggests avenues for further research. First, the relation between liberty, democratic participation and dignity in neoclassical thought is likely to repay attention. The contrast between liberty and slavery often employed by neoclassical writers appears to be referring to two distinct evils associated with the condition of slavery: the evil of insecurity, and the evil of indignity. The indignity of domination or dependence is a theme that can be found in Skinner’s and Pettit’s accounts of this tradition, but it remains to be fully developed, and its relation to the value of political participation remains to be explored.

Second, Price’s work invites us to think about the meaning of individual self-government in modern representative democracy. The context of Price’s formulation of this ideal and the context of twenty-first societies is different, and to a great extent, Price was offering solutions for different problems than those we are faced with today. Here we really must do our thinking for ourselves. But some of the principles offered by Price – individual self-government, instruction and control, patriotic reform, and more – can inspire further thinking, even if we give new content to these terms.

Studying the Price Debate invites reflection on the neo-republican account of liberty and government not only from the perspective of normative political theory, but also from the perspective of the history of political thought. This comes out especially in the chapter on Bentham. This chapter has sought to reconstruct Bentham’s theory of liberty, and particularly his negative definition of liberty, as a product of its unique historical moment. This is not meant to imply that we cannot apply or criticize it, but
rather that we should fully recognize its distinctive meaning before we do so. Understanding it involves careful textual analysis of the body of texts – pamphlets, newspaper articles, letters, and manuscripts – in which the utilitarian idea of negative liberty was articulated, as well as the interpretation of those texts in the historical context of the Price Debate.

The contextualist approach employed in this chapter, and in the dissertation in general, is one of many debts that we owe to the work of Quentin Skinner. Since the 1980’s, however, Skinner has been engaged with the normative project of reconstructing and recovering the neoclassical understanding of liberty and contrasting it with the “liberal” idea of freedom as non-interference. More recently, Skinner has made a methodological shift, and turned to the “genealogy of concepts.” The Skinnerian genealogist studies the history of a concept in order to “uncover the different ways in which it may have been used in earlier times,” and “equip ourselves with a means of reflecting critically on how it is currently understood.” He or she aim to expose “the contingent and contestable character of the concept, the impossibility of showing that it has any essence or natural boundaries,” in the hope that such an exercise would “free us to re-imagine the concept in different and perhaps more fruitful ways.”

Studying the development of an idea across time is compatible with understanding the specific circumstances of each one of its instantiations. The genealogical method, however, involves further commitments on the part of its

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744 Skinner, "Meaning and Understanding."
genealogy is a critical method. It uses rhetorical means in order to problematize and scandalize the origins of beliefs and practices that we took to be natural and inevitable. The genealogist constructs a narrative that traces the present back to the “petty malice” of its beginning, back to a dark moment of origin.

Skinner’s genealogical method is not officially committed to unmasking and denaturing of the kind that Nietzsche and Foucault engaged in. In practice, however, his work has traced Berlin’s idea of negative liberty back to its dark roots in the authoritarian Hobbes. The utilitarians are crucial to the narrative for several reasons. First, they serve as the missing link in a story that leads from the distant seventeenth-century to contemporary liberalism. Second, they serve as the villains in the debate on the American Revolution, and associate the idea of negative liberty, once more, with the cause of absolutism. Third, they help to explain the demise of the neo-classical understanding of freedom. Though he has made similar methodological claims, Pettit’s account has cast Bentham in a similar role.

The resulting narrative is compelling. The examination of Bentham’s ideas proposed in the dissertation suggests that it is also valuable. Skinner and Pettit have been right to argue that Bentham broke with the neoclassical tradition in his understanding of the relation between individual liberty and security under the law. Even if he recognized

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748 Foucault, "Nietzsche, Genealogy, History," 373.
the value of liberty by security, Bentham’s theory has rejected the Whig/neoclassical assumption that the civil liberty of the individual could only exist in the presence of legal and political institutions that secure the individual from arbitrary power.

At the same time, Bentham’s understanding of the value of liberty by security and his account of constitutional security have been left out of the neo-republican account. Consequently, Bentham scholars would be right in protesting that from an historical perspective, the neo-republican account of his theory of liberty is partial if not skewed. While genealogy and contextual history may be compatible in principle, this is one instance in which practitioners of the two methods may have been pulling our understanding of Bentham in different directions.

More generally, the study of the Price Debate in the dissertation lends some evidence for the thesis proposed by Skinner and Pettit that the neoclassical theory had eclipsed around the time of the American Revolution. According to the account offered here, the rise of democratic ideas has created a theoretical crisis in the Whig paradigm of British constitutional liberty, and led to various reinterpretations of the concepts of civil liberty and free government. The debate between Price and his critics vividly demonstrates the unfolding of this process. Whether the reconsideration of the neoclassical assumptions had started around the time of the American Revolution, what role utilitarianism played in this story, and whether the neoclassical view was really replace by the conception of liberty as non-interference are questions that have not been examined here. They remain to be explored in future work.
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