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Reasonableness and Law

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person, even as the criminal imposes an alien will, still the freedom of that particular choice is certainly compromised. The victim will continue to count as a free person to the extent that it can seem like bad luck, not the result of poor protection, that the offence took place. The status of the victim as a free person may only be fully vindicated, of course, if the offender can be apprehended and exposed to measures that help to rectify the crime (see Braithwaite and Pettit 1990; Pettit 1997a, 59).

3 Law

3.1 The Question

On a theory of liberty as non-interference, such as Bentham adopted and popularized, it is inevitable that law will detract from the liberty of citizens; it will interfere with them in coercing them to do or not to do certain things, in imposing levies and taxes, and in applying sanctions to offenders. The benefits it creates by these means may compensate for the fact that it itself represents a form of interference but they cannot cancel it out. On a theory of liberty as non-domination, however, there is a possibility that law may not assume this hostile profile. Law may help to secure for people the sort of protection that establishes them as free persons or citizens. And in doing this it may not detract from their freedom of choice. It will interfere and restrict people's freedom of choice, of course—most dramatically in the case of imprisonment. But it may do this without imposing an alien will; it may restrict choice on a controlled and non-arbitrary basis, and may not represent a form of domination.

Abstract possibilities are one thing, however, realistic prospects another. And the question that we must face in this section is whether there is a realistic possibility that law might not be arbitrary and dominating.

The discussion so far may seem to make this unlikely. Under republican theory laws are given the task, no doubt in combination with suitable norms, of providing for the freedom of the persons who live under them. They are meant to protect citizens on the same basis and in the same domain of choice and to protect them, not just against uncontrolled interference, but also against the corresponding forms of invigilatory and intimidatory control. But if laws are to achieve such an end, they have to be highly intrusive.

The protection that has to be provided will establish a dispensation of enforceable rights, like any legal system, but it is also likely to require a regime in which people are assured of certain powers and options that might otherwise be unavailable. The cause of protecting workers in the sort of labour market associated with industrial capitalism, for example, is likely to require not just the right not to be fired at will but also the power of organizing in unions and the option of leaving an abusive workplace and living on social security. The cause of protecting women in a masculinist culture is going to require not just the right to divorce a husband but also the power to call in the police against a violent partner and the option of living in a

refuge for victims of abuse. The cause of protecting an ethnic minority is likely to require not just the right to lodge a case against discrimination but also the power of organizing as a group and, in some cases, the option of living under a special form of jurisdiction or government.

Given that the law is expected to achieve ends of these kinds, the question as to whether it can be expected to avoid domination becomes quite pressing. How might law adopt such an interventionist profile and yet not be arbitrary and dominating?

3.2 Two Inadequate Answers

One answer that may seem to be supported in the older republican literature is that law cannot be dominating because it is not the work of an intentional agent but the product of an impersonal process. The idea would be that whatever restrictions it imposes, therefore, are as non-intentional and so as un-dominating as the restrictions imposed by natural obstacles. That, it may be said, is the message of Harrington's insistence that the empire of laws is not an empire of men. And it may be taken to be the lesson underlined by the contrast that is often drawn, as for example in Mary Astell, between the "standing rule" of the law and the "inconstant, uncertain, unknown, arbitrary will of men."[5]

I do not think that this answer is ever seriously entertained in the republican literature. Although he makes much of the empire of law as distinct from the empire of men, for example, Harrington still insists, as we saw, that the law is framed by private men (see Harrington 1992, 8). But in any case the answer will not work. The problem is that while laws may emerge as a result of rivalry between houses of parliament, or as a precipitate of custom and court interpretation, still they are by all accounts the achievements of a State. And the State is an agent, albeit of a corporate kind. Thus it is held accountable to a discipline of reason, both internationally and by its own citizens, in a manner that will make no sense unless it is treated as having the status of a legal person and, a fortiori, an agent (see McLean 1999, 123, 2004, 173). In particular, it is an agent that can be held accountable for the laws it maintains. If those laws are uncontrolled by those on whom they are imposed—if, in that sense, they are arbitrary—then they represent the domination of the State in the lives of its citizens.

The failure of this first answer, however, may suggest another. It may seem that if the citizenry or people as a whole control the laws that the State imposes, then those laws, being controlled by those on whom they are imposed, will not be arbitrary. Like the intrusions of the sailors that Ulysses licenses, they will be restrictions that the relevant interferees themselves authorize and welcome.

But this answer isn't satisfactory either. It supposes that the people is itself a corporate agent and that, as such, it controls the interference in the lives of

[5] See Hill (1986, 76). The view, applied to common law, also surfaces in the writings of some libertarian authors. See for example Hayek (1988).

individual members that the State perpetrates; it will do this, most obviously, if State and people are taken to be one and the same body. But even if the people are an incorporated agent, the fact that that body licenses the laws imposed on members does not necessarily protect members themselves against domination and does not ensure their individual liberty; at most it ensures the liberty of that corporate body as a whole. The challenge was to show why the laws imposed by a State need not count as uncontrolled and arbitrary from the point of view of the people, taken severally. It is no response to that challenge to argue that from the point of view of the people, taken collectively, they need not count as uncontrolled and arbitrary.

3.3 Breaking Down the Question

In order to confront the challenge raised, it may be useful to break down the question into more specific issues. A first issue, then, is this. Does the very fact that people are born into a coercive State, without any question of choice on their part, mean that they are subject to domination, having to undergo a regime of coercion that they don't control? No, clearly, it does not. No one is forced to live under any form of dispensation just by virtue of not having chosen to enter it. All that will be required for membership to be voluntary is that people can choose to exit. Indeed the right of exit looks to be the crucial thing. A choice of entry without a choice of exit, as in the slave contract, is consistent with a regime of unqualified domination. A choice of exit is necessary as well as sufficient (it seems) to establish membership as voluntary.

To turn to a second issue, then, can the members of a coercive State have the right of exit? To this question the answer is clearly, yes. The bulk of democratic States already give their members the choice of exit, as in allowing them to emigrate. And that might seem to establish that those who do not choose to emigrate choose instead to stay where they are.

But this, of course, is wrong. For while democratic States routinely give their members a right of exit, this right amounts to little in practice. Other States need not give those who want to leave one State a right to enter them. And, worse still, there is no possibility of emigrating to a State-less territory that is free of coercive law. The Earth's habitable surface has been divided up without remainder between States. Rousseau said that man is born free and is everywhere in chains—everywhere bound in the chains of law. The truth is that not only are people everywhere in chains, they are everywhere born in chains; there is no such thing as a State-less, uncoerced existence. Call this the fact of territorial scarcity.

Does this fact mean, to turn to a third issue, that people are dominated by other agencies, even as their own State gives them the choice of exiting? Surely not. It is a brute fact or historical necessity—an obstacle created by nature—that there is no State-less territory available, and people cannot be dominated by such an obstacle; it is not one that is intentionally or quasi-intentionally imposed by any agent or

agency. Nor are people dominated by the States that do not give them a right of entry. Entering another State is not a default option that is taken away from them by the State's boundary, at least not under realistic assumptions about people's baseline alternatives.

But now, to turn to a fourth issue, does the fact of territorial scarcity mean that more is required of the non-dominating State than just that it should provide a right of exit to its members? And the answer to this question is certainly, yes. For a coercive State might exploit the fact that other States are loathe to grant entry to its own citizens—or that other States are even less attractive destinations for emigrants—to impose laws that are quite arbitrary and dominating. So the non-dominating State must do something to establish its credentials over and beyond granting a right of exit.

What then, to raise the next issue, should the State do? I shall assume that it cannot feasibly exempt unwilling members from its laws, dealing in a different way with those in the territory who identify sufficiently to endorse membership, and those who don't. And I shall assume that, consistently with caring about freedom as non-domination, it cannot give special privileges to those who seek such a status; this would mean that the privileged were well placed to dominate the underprivileged. So what can the State hope to do, then, in order to vindicate a claim not to dominate its citizens?

3.4 The Abstract Answer

Once the question is cast in this specific way, the answer becomes fairly clear. In order for the State's coercive laws not to be dominating, it must be the case that the people collectively control the formation of law; that is what gives appeal to the second inadequate answer that I mentioned earlier. But it must also be the case that this collective control of the law does not leave any members of the collectivity out. Assuming that membership is inclusive—by whatever intuitive criterion of inclusion is preferred—all members must share equally in this collective control. An equal share in collective control will give each member the highest possible level of control over the law, consistently with no one being given less than that level. Thus it will give members a level of control such that no one can complain of being treated in a way that neglects their will, as dominating overtures neglect their will. It will enable them each to think that in this less than perfect world—in this world of territorial scarcity—they have all the control over law that is required for them to regard the law as a form of interference that is non-arbitrary and un-dominating.

This way of developing republican thought fits quite well with the established points of emphasis in the tradition. It respects the emphasis on the role of the people as the source of political power and the unflagging disdain for colonial or dictatorial forms of government. And equally it respects the view that giving the people power does not mean opening up the gates to a tyranny of the majority, an elective despotism. But the abstract answer may prove unsatisfying in itself. It will mean nothing unless we can say something about how it might be institutionally realized.

3.5 Making the Answer Concrete: Invoking the Public Interest

There are a number of conceivable ways in which the collective people might be given an equally shared power over the laws, and more generally the policies, its government implements. But one salient candidate, and one with a powerful republican pedigree, would be to identify a common good or public interest, avowed in common by all, and to establish a process whereby that interest would dictate the policies to be put in force. If there is a plausible conception of the public interest, and a feasible means of giving the public interest the required control over law-making, then there will be some hope of establishing a regime where the laws are not arbitrary and government does not represent a form of domination over individual citizens.

The notion of the public interest or the common good has not had a very good press in recent thought. But this is mainly because it is assumed that if there is such an interest, then it has to consist in an overlap between antecedent private interests. It has to consist in the X-interest shared amongst individuals who have different bundles of interests that they might want the State to satisfy, all of which include an interest in X. No matter how we conceive of interests, there is no guarantee that there will be a substantive overlap between private interests amongst the members of a pluralistic society. And even if there is such an overlap at any moment, there is no guarantee that it won't oscillate over time, as individuals change their tastes or views, or as the collection of individuals who constitute the society alters with birth, death, and migration.

The overlap conception may seem to be supported by the fact that the public interest, on any plausible account, has to involve something that affects the concerns of individuals. There can't be a difference, intuitively, between the public interest of a society at two different moments without a difference in how members are likely to be affected at those two times. This observation applies a principle of normative individualism according to which something makes for an improvement in social and political life only if it makes for an improvement in the lives of individuals (see Kukathas and Pettit 1990). But normative individualism or personalism does not give exclusive support to the overlap conception of the public interest. There is an alternative family of conceptions that is equally satisfactory on this score. They represent a convergence as distinct from an overlap conception of the public interest.

According to a convergence conception, there will be a public interest defined for any society under three plausible assumptions.

1. There are certain domains where everyone would prefer that a single policy be collectively and coercively implemented to nothing's being done by government.
2. There is a constraint such that, special interests aside, everyone would prefer that of the candidate policies in any domain, only one of those that satisfy it be implemented.
3. There is a procedure such that, special interests aside, everyone would prefer that of the policies still remaining in any domain, only the one that satisfies it be implemented.

There are many different potential areas of policy-making and law-making, and the idea here is that in at least a number of those domains, there will be grounds for why some will count as universally acceptable policies and laws. Or at least as policies and laws that are acceptable to everyone, special interests aside. I shall assume that special interests will be put aside amongst individuals who refuse to claim special exemptions and privileges under the laws to be established—amongst individuals, in effect, who are reasonable enough to be willing to deal with others on equal terms (see Rawls 1993). This qualification will not block some people from claiming that there is a reason why they should be treated differently in some respect, provided that that reason can be recognized by all, even those whom it does not favour, as having a certain relevance. But it will block them from making a claim to special treatment on grounds that others cannot be expected to countenance.

All convergence conceptions of the public interest have to agree in assuming, as in the first clause, that in certain domains, everyone prefers that there be a collectively, coercively enforced policy than that nothing is centrally done. This assumption posits the reality of what, altering standard usage, I shall call public goods: specifically, goods that the market cannot be expected to generate on a decentralized basis and—this is where I introduce an alteration—goods that can be produced at a satisfactory level by government. Plausibly, these will include goods like external protection, internal order, and a property dispensation: goods, as we can see them, that are required for ensuring the enjoyment of freedom as non-domination amongst the populace.

Different convergence conceptions of the public interest may differ in their vision of public goods and in their version of the first, public-goods assumption. But, more likely, they will differ in the versions of the second and third assumptions that they defend. Here I shall sketch and support a convergence conception of the pubic interest that we might describe as deliberative, since it draws on a core idea in theories of deliberative democracy.

3.6 The Deliberative Conception of the Public Interest

The core idea, endorsed amongst a wide range of contemporary thinkers, is that there are certain considerations bearing on matters of public policy that all can recognize as relevant to the question of which policy should be implemented, even if the considerations are given different weightings in different circles (see Bohman and Rehg 1997; Elster 1998). According to Gutmann and Thompson "we can define deliberative democracy as a form of government in which free and equal citizens (and their representatives), justify decisions in a process in which they give one another reasons that are mutually acceptable and generally accessible, with the aim of reaching conclusions that are binding in the present on all citizens but open to challenge in the future" (Gutmann and Thompson 2004, 7). The idea that I borrow from this approach is that there are mutually acceptable reasons—reasons that prove in deliberative practice to be mutual acceptable—that can be invoked on all sides in the democratic discussion of government policy.

The deliberative idea is not outlandish, since the existence of mutually acceptable reasons for policy-making is evident in the fact that even as we build dissensus in democratic societies, we do not come to blows or just resign ourselves to difference.[6] We continue to find considerations that we put before our opponents, confident that even if those reasons do not carry the day, they will not be laughed out of court as simply irrelevant. Those reasons will have much in common across democratic societies, since democracy requires inclusive and equal membership, but they may still vary significantly from one democratic culture to another; they may reflect differences in historical traditions and tastes, say in respect of the rights associated with ownership, or the titles on which ownership may be claimed.

I apply the deliberative idea in developing a version of the convergence approach to the public interest that casts the assumptions as follows:

1. There are public-goods policies in any domain such that everyone would prefer that one of them be collectively and coercively implemented to nothing's being done by government.
2. Only a proper subset of public-goods policies will satisfy the constraint of mutually acceptable reasons in any domain and, special interests aside, everyone would prefer that one of those policies should be implemented there rather than one of the policies that fail it.
3. Only a certain number of procedures for choosing between remaining policies will satisfy the constraint of mutually acceptable reasons and, special interests aside, everyone would prefer that one such procedure be established—on a similarly acceptable basis—and that a policy that is selected by that procedure should be implemented rather than any alternative.

Is this a plausible conception of the public interest? The question divides two. First, are the individual assumptions it incorporates likely to be true? And second, is the conception of the public interest they define one that fits naturally with our intuitions?

To the first sub-question, I think that the answer is, yes, though I cannot argue for it in full. The first public-goods assumption is almost universally endorsed in contemporary political thought. And among those who endorse that assumption no one is likely to lodge a complaint about the idea embodied in the other two: that is, about the proposal to implement all and only those public-goods policies that are consistent with mutually acceptable reasons and that are selected from among

[6] Rawls (1999) may often have such reasons in mind when he speaks of public reasons and my ideas have clearly been influenced by his discussion. See Cohen (1989, 17). I prefer to speak of commonly accepted reasons, emphasizing points that are not made in Rawls and might even be rejected by him: first, that they are generated as a by-product of ongoing debate; second, that they are relevant to such debate, no matter at what site it occurs, private or public, informal or formal; and third that in principle common reasons that operate in a society, or even in the international public world, may not be reasons that carry independent moral force: we may disapprove of their having the role they are given in debate. The language of common reasons, as used here, may be more in the spirit of Habermas than Rawls. See Habermas (1984, vol. 1, 1989, vol. 2), Moon (2003, 257). I am grateful to Tim Scanlon for discussion on this point.

other such policies by a procedure that is itself consistent with mutually acceptable reasons. Since mutually acceptable reasons are the very reasons that people must and do invoke in complaints about government policy—or at least in complaints that they may expect to command a hearing—it is hard to imagine that they might not prefer, special interests aside, that policy-making be directly or indirectly shaped by such reasons.

What to do, it may be asked, when there are a number of procedures that might be used to select the winning policy in a given domain, when all are consistent with mutually acceptable reasons, but when one suits one faction, one another? Here too there is a fairly compelling answer, encoded in the assumption about "a similarly acceptable basis." This is that there will be a further procedure available for choosing between those procedures—at the limit, this may be a lottery[7]—which is itself consistent with mutually acceptable reasons.

To turn now to the second sub-question, do the three assumptions give us an intuitive conception of the public interest? I believe they do, though once again I cannot argue for that answer in full. Disagreement is inherently associated with pluralistic democracy, so that there is little or no hope of finding a stable overlap between people's private interests. Nevertheless, people do continue to argue with one another about what they ought to do together—they do not just come to blows or resign themselves to their differences—finding considerations that they equally recognize as relevant. And yet people do not themselves manage to generate consensus out of that argument, since they may weight those considerations differently or apply them on the basis of different empirical assumptions. In these circumstances—the circumstances of democratic politics (see Waldron 1999)—the only possible basis on which to identify public-interest policies is as those policies that are not ruled out by mutually acceptable, commonly accepted reasons and that are selected for implementation by procedures that are not ruled out by such mutually acceptable, commonly accepted reasons.

3.7 The Answer in Public-Interest Terms

I have said absolutely nothing about the institutional means—the democratic and constitutional means—whereby the public interest, deliberatively understood, might be given a significant degree of control over public policy-making. All that I have assumed is something built into the way the deliberative conception is developed: that the public interest has to be defined on the basis of an active enterprise of democratic discussion and contestation amongst the citizenry and so that it requires institutions that make room for such deliberative processes. On this conception, there is no question as to whether people are likely to stand behind the public interest

[7] A more plausible alternative might derive from the pre-established understanding that it is reasonable in have a parliamentary majority decide which procedure to use, thereby privileging the party or parties in power. Other alternatives include referral to an independent committee, or to a statistically representative body assembled for the purpose, or to a popular referendum.

and seek to have it imposed on government. The public interest is identified with those policies that are supported by criteria of selection—the commonly accepted reasons—that are implicitly ratified in the basis on which people question and assess the doings of government.

But though I have said nothing substantive on how to institutionalize the public interest, deliberatively understood, it does not seem outlandishly utopian to assume that things might be organized so that a polity does quite well in this regard. And the final issue, then, is this. Does the fact that a polity empowers the public interest in this way mean that the laws and other measures it imposes on the citizenry are controlled by them on an equally shared basis? Assuming that our abstract answer to the question about law is correct, does it mean that those laws and measures are non-arbitrary and non-dominating?

I claim that it does. Let the public interest rule, and we let an interest rule in which each member of an equally inclusive, contestatory democracy is invested; it is an interest implicit, after all, in the way that discussion and contestation is conducted amongst such members. Let the public interest rule, then, and we let the public rule. More specifically, we let a public rule in which each can claim an equal part, being equally party to the acceptance of the reasons by which that interest is defined. If the public rules in this sense, then members of the public can see the laws imposed as the laws selected by criteria in the ratification of which they are fully and equally complicit. They can see the laws, not as affronts to their freedom as non-domination, but rather as constraints that are sourced, like the actions of Ulysses' sailors, in their own will. They will be positioned, in the words quoted earlier from Harrington, to see the laws as "framed by every private man unto no other end (or they may thank themselves) than to protect the liberty of every private man, which by that means comes to be the liberty of the commonwealth" (Harrington 1992, 8).

4 Conclusion

Suppose that the classical liberal view that Bentham put in place is sound. In that case, we may find reasons for thinking that the constitution that operates in a society should be constrained in one or another manner: that it should establish electoral democracy, for example, or entrench certain personal rights. But we may well have to look for such reasons in considerations that derive from other sources than a concern for freedom. All that freedom as non-interference may clearly require of the constitution, and in particular of coercive law, is that it prevent more infringements against freedom as non-interference than the infringements that it itself imposes. It is for this reason that Paley acknowledges that the best constitution for the promotion of liberty as non-interference may be one that establishes a benevolent despot in power.

If the republican view is sound, however, then things look very different. Considerations of liberty will provide a case for a constitutional and legal regime that enables people to claim the status of free persons in relation to one another. And

though the regime required will license quite a rich form of intervention in civic life, providing for the protection of people against all forms of alien control, considerations of liberty will also argue for constraining the regime in important ways. They will make a case for embodying constraints within the regime that help to make its imposition on citizens assume the profile of a controlled, non-arbitrary form of interference in their lives.

Considered in this light, republican theory can be cast as a research program for constitutional and legal design. It holds out the ideal of a regime that protects people from domination without itself being a dominating force in their lives. It offers an account of the desiderata and constraints that such a regime must satisfy. And it does all of this, without requiring us to endorse anything richer than a well-established conception of what freedom involves. These benefits surely argue for rethinking the Benthamite view of law and liberty. It has prevailed too long.[8]

References

Bentham, J. 1962. Anarchical Fallacies. In *The Works of Jeremy Bentham: Published under the Superintendence of His Executor*. Ed. J. Bowring, vol. 2. New York, N.Y.: Russell & Russell, Inc. (1st edition 1843.)

Berlin, I. 1958. *Two Concepts of Liberty*. Oxford: Oxford University Press.

Blackstone, W. 1978. *Commentaries on the Laws of England*. New York: Garland.

Bohman, J., and W. Rehg, eds. 1997. *Deliberative Democracy: Essays on Reason and Politics*. Cambridge, Mass.: MIT Press.

Braithwaite, J., and Pettit, P. 1990. *Not Just Deserts: A Republican Theory of Criminal Justice*. Oxford: Oxford University Press.

Carter, I. 1999. *A Measure of Freedom*. Oxford: Oxford University Press.

Cohen, J. 1989. Deliberation and Democratic Legitimacy. In *The Good Polity: Normative Analysis of the State*. Ed. A. Hamlin and P. Pettit. New York, N.Y.: Basil Blackwell.

Elster, J., ed. 1998. *Deliberative Democracy*. Cambridge: Cambridge University Press.

Gutmann, A., and Thompson, D. 2004. *Why Deliberative Democracy?* Princeton, NJ: Princeton University Press.

Habermas, J. 1984. *A Theory of Communicative Action*, vol.1. Cambridge: Polity Press.

Habermas, J. 1989. *A Theory of Communicative Action*, vol. 2. Cambridge: Polity Press.

Habermas, J. 1995. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. Cambridge, Mass.: MIT Press.

Harrington, J. 1977. *The Political Works of James Harrington*. Ed. J.G.A. Pocock. Cambridge: Cambridge University Press.

Harrington, J. 1992. *The Commonwealth of Oceana and A System of Politics*. Cambridge: Cambridge University Press.

Hayek, F.A. 1988. *The Fatal Conceit: The Errors of Socialism*. Chicago, Ill.: University of Chicago Press.

Hill, B. 1986. *The First English Feminist: Reflections upon Marriage and other writings by Mary Astell*. New York, NY: St. Martin's Press.

Holmes, S. 1995. *Passions and Constraint: On the Theory of Liberal Democracy*. Chicago, Ill.: University of Chicago Press.

Kramer, M.H. 2003. *The Quality of Freedom*. Oxford: Oxford University Press.

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Kukathas, C., and Pettit, P. 1990. *Rawls: A Theory of Justice and its Critics*. Cambridge & Stanford: Polity Press & Stanford University Press.
Lind, J. 1776. *Three Letters to Dr Price*. London: T. Payne.
Locke, J. 1965. *Two Treatises of Government*. New York: Mentor.
McLean, J. 1999. Personality and Public Law Doctrine. *University of Toronto Law Journal* 49: 123–49.
McLean, J. 2004. Government to State: Globalization, Regulation, and Governments as Legal Persons. *Indiana Journal of Global Legal Studies* 10: 173–97.
Miller, D. 1984. Constraints on Freedom. *Ethics* 94: 66–86.
Moon, J.D. 2003. Rawls and Habermas on Public Reason. *Annual Review of Political Science* 6: 257–74.
Paley, W. 1825. The Principles of Moral and Political Philosophy. In Id., *Collected Works* Vol. 4. London: C. and J. Rivington.
Pettit, P. 1997a. Republican Theory and Criminal Punishment. *Utilitas* 9: 59–79.
Pettit, P. 1997b. *Republicanism: A Theory of Freedom and Government*. Oxford: Oxford University Press.
Pettit, P. 2007. Free Persons and Free Choices. *History of Political Thought* 28: 709–18.
Pettit, P. 2008a. The Basic Liberties. In *Essays on H. L. A. Hart*. Ed. M. Kramer. Oxford: Oxford University Press.
Pettit, P. 2008b. *Made with Words: Hobbes on Language, Mind and Politics*. Princeton, NJ: Princeton University Press.
Pettit, P. 2008c. Republican Liberty: Three Axioms, Four Theorems. In *Republicanism and Political Theory*. Ed. C. Laborde and J. Manor. Oxford: Blackwell.
Price, R. 1991. *Political Writings*. Cambridge: Cambridge University Press.
Rawls, J. 1993. *Political Liberalism*. New York, NY: Columbia University Press.
Rawls, J. 1999. *The Law of Peoples*. Cambridge, Mass: Harvard University Press.
Reid, J.P. 1988. *The Concept of Liberty in the Age of the American Revolution*. Chicago, Ill.: Chicago University Press.
Skinner, Q. 1998. *Liberty Before Liberalism*. Cambridge: Cambridge University Press.
Skinner, Q. 2006. Rethinking Political Liberty. *History Workshop Journal* 61: 56–70.
Skinner, Q. 2008. Freedom as the Absence of Arbitrary Power. In *Republicanism and Political Theory*. Ed. C. Laborde and J. Maynor. Oxford: Blackwell.
Steiner, H. 1993. Individual Liberty. In *Liberty*. Ed. D. Miller. Oxford: Oxford University Press.
Waldron, J. 1999. *Law and Disagreement*. Oxford: Oxford University Press.