

Democracy, toleration, and the interests of the people

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Democracy, toleration, and the interests of the people

For most of its long history, the term ‘democracy’ has been regarded with hostility. Part of the fascination of the English Revolution has been the unusual spectacle, in a pre-modern culture, of writers who were happy to appropriate the label. They understood ‘the people’ not only as the source from which all licit power must flow (a point on which there was in fact surprisingly widespread agreement) but as a political actor that had and ought to have a permanent and independent role in politics. The emergence of such thinkers is a surprising fact. It becomes yet more surprising when it is realised that those who were willing to think about ‘the people’ in this way were members of a relatively small minority even within the party that supported parliament. Whatever their other beliefs, they favoured ‘liberty of conscience’, that is to say, freedom of worship for those deemed conscience-driven.

In consequence, their major political problem was not so much the obvious one that Lady Fairfax shouted at King Charles’s prosecutor – that ‘not half, not a quarter of the people of England’¹ supported the procedures that led to regicide – as the fact that *prospective* arrangements involving majority rule were virtually certain to encourage persecution affecting significant numbers of English puritans. The problem, moreover, had little to do with former royalists. The parliamentary mainstream was ‘presbyterian’ – in other words, it favoured a uniform national church whose norms would be defended by some measure of coercion. As Edmund Whalley told the officers’ Council at the so-called Whitehall debate a week after Pride’s Purge, there was an incoherence in Leveller attempts to insert or imply a liberty in spiritual affairs as part of their *Agreement of the People* ‘how can we term that to be an Agreement of the people which is neither an agreement of the major part of the people, and truly for anything I can perceive... not the major part of the honest party of the kingdom?’²

The history of the next ten years reveals that this perception was widely shared and probably well founded. The central political crisis of the English Commonwealth – the Army’s intervention in 1653 to put an end to the Rump Parliament – was shaped by a fear of the outcome of an unfettered vote even within a radically purged electorate. In the speech in which he welcomed the Rump Parliament’s successor (the unelected body since generally referred to as Barebone’s Parliament), Cromwell reported that the Rump had planned to use ‘qualifications’, that is, to take steps to prevent the disaffected voting. But the Army had

¹ C.V. Wedgwood, *The Trial of Charles I* (Collins, 1964), pp. 154-5. All books published in London unless otherwise stated.

² *Puritanism and Liberty: Being the Army Debates (1647-9) from the Clarke Manuscripts*, ed. Arthur S. P. Woodhouse (J. M. Dent and Sons, 1992), p. 134.

feared that such measures would be inadequate: the officers ‘desired to know whether the next parliament were not like to consist of all presbyters, whether the qualifications would hinder them or neuters?’ In Cromwell’s view, this justified exclusion of those ‘brethren’ – a term that unmistakably meant fellow-puritans – who might be tempted to abuse their power:

it is one thing to live friendly and brotherly, to bear with a love a person of another judgment in religion; another thing to have any set so far into the saddle upon that account as that it should be in them to have all the rest of their brethren at mercy.³

His anxiety was not that the election would be fixed, but that the likely consequence even of a poll successfully excluding cavaliers would be ‘bringing in of Neuters, or such as should impose upon their brethren, or such as had given testimony to the King’s party’.⁴ The two elected parliaments of his Protectorate confirmed that his anxiety was wholly rational. A radical critic who quoted his speech complained that ‘notwithstanding these fine pretences, the greatest part of your Protectors first Parliament (so called) were Presbyters, Neuters or worse; and the second are as bad and worse than the former’.⁵ Nor did the subsequent experience of something that approached an unrestricted toleration significantly lessen its unpopularity. As Henry Stubbe remarked as late as 1659, ‘such is the posture of this nation at present, that if they be universally enstated in a perfect Liberty, they will invade Liberty of Conscience’. He added that ‘they who are for a free Toleration are the lesse numerous, beyond all proportion’.⁶

It might have been expected, then, that those who favoured liberty of conscience would have been drawn to one of two solutions. One way of addressing the problem was to sever the state from ‘the people’ in order to attach it to the coming reign of Christ. Fifth Monarchists objected to English parliaments precisely because parliaments resulted from elections: ‘the greate objection which they made againste this Goverment [the Protectorate] was because it had a Parliament in it, whereby power is derived from the people, whereas all power belongs to Christ’.⁷ But this repudiation of parliamentary forms was hardly likely to win over moderate opinion. A more traditional response, adopted by John Milton, was to appropriate the term ‘the people’, but to identify that body with its ‘sounder part’. When his literary target

³ *The Writings and Speeches of Oliver Cromwell*, ed. Wilbur Cortez Abbott, 4 vols (Oxford: Clarendon, 1945), vol. III, p. 59.

⁴ *Ibid.*, III, p. 59.

⁵ *A looking-glasse for, or an awakening word to the superiour, and inferiour officers* (1658), p. 58.

⁶ Henry Stubbe, *An essay in defence of the good old cause* (London, 1659), ‘Preface’ [sig.**4+4r.-v].

⁷ *The Clarke Papers*, ed. C.H.Firth (London: Camden Society, 1894-5), vol. II, new series 54, p. 244.

Salmasius sarcastically enquired if it had been ‘the people’ (*populus*) who had purged the House of Commons, Milton responded

I say *populus*. Why should I not say that the *populus* did what the more capable, that is, the sounder part of the senate did, in whom the true power of the *populus* was located. What if the majority of the senate should prefer to be slaves, what if they should prefer to sell the republic, should it not be permissible for the minority to stop it and preserve liberty if they can?⁸

Here Milton was appealing to an older way of thinking. One way of thinking of a *populus* was as what might be termed a moralised community: a group that became something more than a mere ‘multitude’ (the usual word, as we shall see, for a mere aggregation) because it was shaped by appropriate moral commitments. For Milton, the concept of popular rule was anti-democratic because the phrase ‘the people’ implied the virtuous, a group that he assumed to be comparatively exclusive; he emphasised that he endorsed Salmasius’s opinion of ‘the lowest of the *plebs*’.⁹ In the last weeks of the Commonwealth, he was still fantasising about a self-perpetuating aristocracy ‘wherin they who are greatest, are perpetual servants and drudges to the public at thir own cost and charges’.¹⁰

The weakness that was shared by such oligarchic schemes was that the characteristics that picked out the oligarchs had little if any connection with existing social structures. In the real political world, there was no solution to this problem: the more the regime reflected the balance of cultural power, the more likely it was to institute religious persecution. In the realm of ideas, however, there were developments that had the effect of rendering both liberty of conscience and democratic rule more thinkable. The distinction between a ‘people’ and a mere ‘multitude’ was not abandoned, but acquired a subtly different basis. The people was now conceived of a group of interest-holders; political action, if licit, consisted in the rationally self-interested defence of a regime protecting individual liberties. Though elements of this line of thought are implicit in Leveller writings, it found its fullest expression in pamphlets written in the 1650s by writers who appealed to classical ideas. A particularly striking characteristic of these writers – John Streater, Marchamont Nedham, James Harrington, and Henry Stubbe – was their explicit endorsement of the term ‘democracy’.

⁸ Milton, *The works of John Milton*, ed. C.W. Keyes (New York: Columbia UP, 1932), vol. VII, p. 356.

⁹ *Ibid.*, VII, p. 392.

¹⁰ J[ohn] M[ilton], *The readie and easie way to establish a free commonwealth*, ‘The second edition revis’d and augmented’ (1660), pp. 27-8.

When their underlying assumptions are correctly understood, the rise of toleration and of popular government turn out to form a part of the same story.

I

The purpose of this chapter, then, is to address two questions. The first has to do with the history of the concept of ‘the people’. The second has to do with the apparent paradox that thinkers who were happy to be called ‘democrats’ were actually members of a small minority with much to lose from genuine majority involvement. My argument diagnoses a discontinuity between an older classical conception of ‘the people’, in which the term itself implied a virtuous multitude, and a more modern conception in which the idea of virtue played no *necessary* part. It would, to be sure, be absurd to suggest that the ubiquitous notion of the ‘freeborn Englishman’ had no association with virtuous qualities; it proved, however, possible to mount an argument for giving ‘the people’ ultimate political control solely in their capacity as rational interest-holders. As we shall see, it was of some importance that both the communal values involved in the earlier conception and the interest-protecting procedures required by the latter could be described, in English, by the same term: ‘the laws’.

Like most of the other materials that these thinkers had to work with, the notion of a rule ‘of laws’ could be found in Aristotle, whose categorisation of constitutional forms remained, throughout the period, the most important source in which ‘democracy’ came into focus. Aristotle had identified three different types of rule (by One, or by the Few, or by the Many). Each of these constitutions could be either good or bad, depending on whether the rulers pursued the public good or their own private interests. Within this familiar sixfold classification, the bad form of a single person’s rule was Tyranny; the good form, Monarchy. The bad form of rule by the Few was Oligarchy; the good form – the rule of the virtuous – was Aristocracy. ‘Democracy’ was the term reserved for the bad form of rule by the Many.¹¹

It will be noted that this classification, according to which ‘democracy’ refers to a bad thing, implies a definite preference for government by the Few. The Greek word *dêmos* literally means ‘village’; in other words, it seems to connote a cross-class whole. The Athenian assembly of the *dêmos* was in any case a gathering of the whole population. To the enemies of Athenian democracy, however, the *dêmos* referred to the Many, if not to the mob: a class that mismanaged the city for what it perceived (often wrongly) as its own benefit. For

¹¹ Aristotle, *Politics*, ed. and transl. Harris Rackham (Cambridge, MA: Harvard University Press, Loeb Classical Library, 1932), 3.5.4.

the most part, Aristotle plainly shared this attitude. It was a basic principle of his political thought that the distinctive purpose of the Greek city-state was ‘living well’, that is, a life of virtue.¹² Living well required a moulding of personality through habits ordained or encouraged by means of appropriate ‘laws’. Law was ‘reason without desire’; it was the necessary corrective of the distorting influence of the passions.¹³ The characteristic attraction of democracy was ‘freedom’,¹⁴ but the underlying assumption of his anthropology was that freedom without this corrective was undesirable. The version of rule by the Many that was unconstrained by laws gave opportunities to demagogues and in the end amounted to collective tyranny.¹⁵ The best form in practice achievable in many situations was the compromise solution that he called *politeia*, a kind of order balancing the claims of wealth and freedom.¹⁶ This kind of constitution had an obvious rationale: as rule by the Few was unstable, it was natural and prudent to buy stability by allotting to the Many some share of political power.¹⁷ A well-known passage stated that this was best achieved where those of middling fortunes had a preponderance.¹⁸

Aristotle also mentioned two further arguments whose implications were pro-democratic. In an admittedly tentative discussion, he noted that it is harder to corrupt a numerous assembly and also that the *dêmos*, considered as a whole, might have an expertise unmatched by any of its parts.¹⁹ These tentative suggestions remained available. It is striking, for example, that John Case’s treatise *Sphaera Civitatis* (1588) – an academic commentary on *The Politics* – was relatively favourable to popular involvement. Case carefully distinguished ‘two types of multitude, one civilised, civic-minded, and disposed to practical wisdom; the other rude, slavish, and impelled to evil: the former moved by intellect more than by appetite; the latter more by the senses than by mind’.²⁰ He agreed with Aristotle that the former had a role in some varieties of decision-making: ‘mixed with better men they can much benefit the city (no less than subtle food mixed in with something coarse can benefit health)’.²¹ Though Case was sure that sovereignty should be possessed by monarchs, he saw an ancillary

¹² *Ibid.*, 3.4.3, 3.5.13.

¹³ *Ibid.*, 3.11.4.

¹⁴ *Ibid.*, 4.4.2; 4.6.4.

¹⁵ *Ibid.*, 4.4.3-7.

¹⁶ *Ibid.*, 4.6.4-5.

¹⁷ *Ibid.*, 3.6.6, 5.6.4.

¹⁸ *Ibid.*, 4.9.8-10.

¹⁹ *Ibid.*, 3.10.5-6.

²⁰ John Case, *Sphaera civitatis* (Oxford, 1588), p. 253.

²¹ *Ibid.*, p. 256.

function for such a multitude in what he referred to as *media administratio*, including ‘counsels, judgements and elections’.²²

Case’s example shows that a moral multitude could have a secure but subordinate role in a mainstream political theory that set out to make sense of Aristotle. In general, however, the Athenian experiment with democratic rule did very little to encourage democratic thinking. The Roman model was more influential. It could hardly be disputed that the ‘Senate and People of Rome’ had been an extremely successful compound actor and that the Roman *populus* had formed an ordered whole that exercised political power by voting. Moreover, every tolerably educated person knew that the very concept of the Roman *populus* was bound up with commitment to a cluster of shared values. In perhaps the best-known passage of Augustine’s *City of God*, Augustine chose to criticise the Ciceronian view of the Latin word (or phrase) *respublica*: a term that was translated into early modern English by the English word (or phrase) a ‘commonweal’. On Cicero’s definition, a genuine *respublica* was a *res populi* – the idea of the ‘public’ presupposed the existence of a ‘people’ – and a *populus* was ‘the assemblage (*coetus*) of a multitude associated by agreement on right (*iuris consensu*) and commonality of interest’.²³ Augustine went on to remark that if this standard was applied, the Roman state had never been a *respublica*. Within a pagan culture that knew nothing about *ius* (that is, about the absolute justice of the Christian God), there could be no true *populus* because there could be no *consensus iuris*. In consequence, he argued for another definition. The weaker sense of *populus* he chose to substitute referred to ‘the assemblage of a multitude not of beasts but of rational creatures associated by an agreed commonality of things (*rerum*) which it loves’ (in other words, earthly peace and earthly glory).²⁴

This latter definition was an important move, detaching the legitimacy of human polities from claims they were founded on some kind of absolute right. But English thinkers generally focused on the former; given their patriotic pride in England’s legal system, they saw no reason to deny that the English common weal was founded in a true *consensus iuris*. Their main objection to the Ciceronian definition was to the disturbing idea that such a *populus* was kingless. As early as 1470, Sir John Fortescue remarked that ‘St Austen... saith that a People is a multitude of men associated by the consent of lawe and communion of

²² Ibid., pp. 258-9.

²³ Augustine, *The City of God against the Pagans*, ed. and transl. W. C. Greene (Cambridge, MA: Harvard University Press, Loeb Classical Library, 1960), vol. VII, 19.21.

²⁴ Ibid., 19.24.

wealthe. And yett such a people beyng headless...is not worthye to be called a bodie'.²⁵ A people without a head was thus defective, so much so that 'a people that wyll raise themselves into a kingdome, or into any other bodie politique must ever appointe one to be chiefe rueler of the whole bodie'.²⁶ But a people of this sort was still to some extent united even before it acted to erect a monarchy: 'the lawe under which a multitude of men is made a people, representeth the semblance of synews in ye body natural'.²⁷ An important implication was that 'as the head of a bodi natural cannot chaunge his sinewes...no more can a king which is ye head of a bodie politik chaunge the laws of ye bodie'.²⁸ The social consequences were momentous. Unlike their counterparts in France, who lacked security of property, and were, it followed, poverty-stricken and demoralised, the beef-eating, beer-drinking yeomanry of England were both industrious and valiant.²⁹ The constitutional doctrine was inextricably fused with patriotic social theory.

It is, however, worth noting that this vision of the people, if anything, cemented the role of monarchy. For Fortescue and most of his successors, the inescapable image of the *body politic* implied that acephalous order was inconceivable. Sir Thomas Elyot's treatise *The boke named The Governour* (1531) defined a 'public weal' as 'a body lyvyng, compacte or made of sondry astates and degrees of men, whiche is disposed by the ordre of equite, and governed by the rule and moderation of reason'³⁰ and explained that the word 'publike toke his begynnyng of people, whiche in latin is *Populus*; in whiche worde is conteyned all the inhabitantes of a realme or citie, of what estate or condition soever they be'.³¹ In Elyot's view, 'Aristocratia' was open to corruption, while 'Democratia' would lead to tyranny or licence.³² He took it for granted, moreover, that 'one soveraigne governour' was ordinarily.³³

The English Reformation on balance reinforced the logic of this monarch-focused thinking. The famous opening sentence of Henry VIII's *Act of Appeals* (1533) echoed Elyot by speaking of 'an empire...governed by one supreme head and king...unto whom a body politic, compact of all sorts and degrees of people...be bounden to owe and bear next to God a

²⁵ I quote Mulcaster's Elizabethan translation: Sir John Fortescue, *A learned commendation of the politike laws of England*, transl. Richard Mulcaster (1567), fo. 30.

²⁶ *Ibid.*, fo.30v.

²⁷ *Ibid.*, fo.31r.

²⁸ *Ibid.*, fo.31v.

²⁹ *Ibid.*, fos.79-86.

³⁰ Sir Thomas Elyot, *The boke named the Governour* (1530), fo.1.

³¹ *Ibid.*, fo.1v.

³² *Ibid.*, fo.1v

³² *Ibid.*, fo.6v-7r.

³³ *Ibid.*, 6r.

natural and humble obedience'.³⁴ On this royalist conception of the English polity, the unifying crown rules a variety of 'people' (there seems to be no question of a definite article). But on the crown's own reading of what was happening, the Reformation was brought in by the head-as-attached-to-the-body: in other words, by the king-in-parliament. It was natural for Sir Thomas Smith's *De republica Anglorum* (written 1565) to account for this by reference to a Roman analogue: 'all that ever the people of Rome might do either in *Centuriatis comitiis* or *tributis*, the same may be doone by the parliament of Englande, which representeth and hath the power of the whole realme, both the head and the bodie'.³⁵

Smith's statement is rightly much-quoted. It documents the presence, in a celebrated text, of a classical understanding of 'the people', in which parliament (including the 'head', that is, the monarch) effectively maps onto a republican assembly. Though Smith loyally insisted 'that I cannot understand that our nation hath used any other and generall authoritie in this realme neither Aristocraticall nor Democraticall, but onely the royall and kingly majestie',³⁶ his detailed account of the nature of English government was startlingly hospitable to popular involvement. The sixfold classification of forms of government could offer helpful intellectual guidance, 'yet you must not take that ye shall finde any common wealth or government simple, pure and absolute in his sort and kinde'.³⁷ The most striking single feature of his analysis was his surprising friendliness to popular involvement. Even in modern monarchies, legitimate government required the 'good will of the people' at the moment of accession.³⁸ Moreover, 'changes of fashions of government of common wealthes be naturall, and do not alwayes come of ambition or malice'.³⁹ For example, 'the source and naturall beginning of the rule of the multitude which the Greeks call *Democratia*' was the wish of the Many 'to save the politicke bodie, to conserve the authoritie of their nation, to defende themselves against all other, their strife being onely for empire and rule, and who should doe best for the common wealth, whereof they would have experience made by bearing office and being magistrates'.⁴⁰ In English circumstances, Smith singled out freeholding yeomen – 'which olde Cato calleth *Aratores* and *optimos cives in Republica*' – as the lowest class who

³⁴ Geoffrey R. Elton, *The Tudor Constitution: Documents and Commentary* (Cambridge: Cambridge University Press, 1982; ii edn), p. 353.

³⁵ Sir Thomas Smith, *De republica Anglorum*, ed. Mary Dewar (Cambridge: Cambridge University Press, 1982), pp. 78-9.

³⁶ *Ibid.*, p. 56.

³⁷ *Ibid.*, p. 52.

³⁸ *Ibid.*, p. 53.

³⁹ *Ibid.*, p. 62.

⁴⁰ *Ibid.*, p. 62.

regularly bore office, but noted that even the landless – England’s *proletarii* – were ‘commonly’ made churchwardens and ‘manie times’ constables.⁴¹

The best-known Tudor book about the nation’s government thus went to some lengths to imagine the inhabitants of England in terms derived from classical writings about politics. It cannot be concluded that Smith was providing a record of a lived reality; the literary exercise that he was undertaking *required* that he discover the Roman civic virtues in England’s forty-shilling freeholders. It is nonetheless important, for present purposes, that the availability of classical ideas about the nature of an ordered ‘people’ encouraged a positive vision of ‘democracy’ itself. The nature and the limitations of this kind of thinking might seem to point to an ideal of mixed government in which the political virtues imputed to the people (deriving from a Fortescue’s picture of the English yeomanry provided a possible basis for the kind of agency that is the focus of the present essay.⁴² It is, however, fundamental to my argument that this was actually the path not taken. In the political crisis of 1642, ideals of mixed government were of course available, but they were actually most prominent in the moderate royalist *Answer to the Nineteen Propositions* (1642). It was Charles, not his opponents, who insisted that ‘the good of Democracy is Liberty, and the Courage and Industry which Liberty begets’.⁴³ As we shall see, the source of the democratising impulse lay in an altogether different pattern of ideas.

II

When parliament gathered its Army in 1642 in order to resist the king’s foreseeable aggression, it carefully avoided claiming the power to make law. Its chosen legal instrument, the Militia Ordinance, was not, strictly speaking, a statute but a somewhat irregular measure that Commons and Lords together had *judged* appropriate. This feature of its position has often been ignored; historians have on the whole agreed with royalists that claims to an unfettered *adjudicative* power amounted to a grab for legislative sovereignty. But parliament’s way of framing its constitutional claims had a decisive influence on subsequent debate. In permitting the Houses to claim that they were acting as a court, it allowed them to pose as defenders of royal authority impersonally realised within the legal system. As the parliamentarian Charles Herle explained

⁴¹ *Ibid.*, pp. 75, 77.

⁴² The interpretation brilliantly expounded in J. G. A. Pocock, *The Machiavellian Moment* (Princeton: Princeton University Press, 1975).

⁴³ [Edward Husbands], *An exact collection of all remonstrances declaration, votes, orders, ordinances, proclamations, petitions, answers, and other remarkable passages* (1643), p. 320.

the faculty of *Legem dare* is not in difference, the question is about the *Declarative*, that of *legem dicere*, the Law is the *rule*, and cannot be framed without all the *three Estates*, but who must *apply* this *rule* by giving it the final and casting *resolution* of its sense?⁴⁴

Moreover,

In *Law*, He judges not but by his *Courts*, in the meanest of which the *sentence* past stands good in *Law*, though the *King* by *Proclamation* or in *Person* should oppose it.⁴⁵

Thus the Houses' official position was that they were taking licit if extraordinary steps to defend the impersonal structures of Crown authority; conversely, the royalist army was a gang of criminals. Under the circumstances of the crisis, the king had been absorbed within a legal apparatus. Unlike the theory of mixed monarchy (which of its nature valued the monarch's agency as a component of an ideal mixture), this was a view of kingship that minimised the role of Charles's personal opinions; indeed, it paved the way towards the radical conclusion that strictly personal monarchy was needless. In the event, the legislation that abolished kingship – *An Act for the abolishing the Kingly Office* (March 1649) – treated its personal aspect as at best superfluous: 'the office of a king in this nation and to have the same in any single person' was 'unnecessary, burthensome, and dangerous to the liberty, safety, and public interest of the people'.⁴⁶

There was, however, a weakness in this plausible position. The concept of representation to which the two Houses appealed was actually novel in its basic character. As we have seen, conceptions of the role of parliament encouraged by the notion of the body politic laid stress on the way it united the whole community: the king surrounded by the *communitas regni* was capable of doing things that the king alone could not. But the whole represented the whole. In the words by Smith we have already quoted, 'all that ever the people of Rome might do either in *Centuriatis comitiis* or *tributis*, the same may be doone by the parliament of Englande, which representeth and hath the power of the whole realme, both the head and the bodie. For everie Englishman is entended to bee there present'.⁴⁷ Commons and Lords together were the representative *body* (as opposed to the head) of the kingdom: the simultaneous presence of

⁴⁴ [Charles Herle], *A fuller answer to a treatise written by Dr Ferne* (1642: WingH1558B), p. 8.

⁴⁵ *Ibid.*, p. 10.

⁴⁶ J.P. Kenyon, *The Stuart Constitution, 1603-1688: Documents and Commentary* (Cambridge: Cambridge University Press, 1986; second edn), p. 306.

⁴⁷ Smith, *De republica Anglorum*, pp. 78-9.

the whole community. The notion of ‘representation’ (that is, a ‘making present’) was a description, not an explanation, of the fact that the men who were present bound the absent. There was no need to speculate about the particular balance of interests involved or about the particular channels through which consent was passed.

Given the situation of Tudor Protestants, this emphasis was very much what might have been expected. The Protestants were initially a small minority that wanted to use parliament to mobilise the nation. Their focus was thus on the power of the representative to act in ways that bound the represented. But in the 1640s almost nobody presumed that the ability of representers to act so as to bind the represented could simply be taken for granted to the latter’s detriment. ‘Representation’ had become a problem, if only because royalists were anxious to cast doubt on parliament’s capacity to represent the people. As Henry Parker put it, ‘the vertue of representation hath beene denied to the Commons, and a severance has beene made betwixt the parties chosen and the parties choosing’.⁴⁸ The intelligent royalist Dudley Digges responded that ‘the sense of it is, a trust is committed to [the Commons], and they are to be guided according to Conscience in the performance of it. Let it be so: but is not this clearely the Kings case, who is entrusted certainly as highly as they?’⁴⁹ What was needed, it seemed, was an argument *predicting* that parliament’s behaviour would be better than the king’s.

That argument was discovered in talk of ‘interests’. Charles Herle maintained that

experience shews that most mens actions are swayed (most what) by their ends and interests; those of Kings (for the most part) as absoluteness of rule, enlargement of Revenue by Monopolies, Patents etc are altogether incompatible and crosse centred to those of Subjects, as Property, Priviledge etc, with which the Parliament’s either ends or interests cannot thus dash and interfere, the Members being all Subjects themselves, not only intrusted with, but selfe interested in those very Priviledges and Properties; besides, they are many, and so they not onely see more, but are lesse swayable.⁵⁰

Just the same logic is observable in Henry Parker’s fascinating tract *Ius Populi* (1644). The main thrust of his argument that parliament (without the king) quite simply *was* the people: it was ‘indeed nothing else, but the very people itself artificially congregated or reduced by an

⁴⁸ [Henry Parker], *Observations on some of his Majesties late answers and expresses* (1642: Wing P412), p. 15.

⁴⁹ [Dudley Digges], *An answer to a printed book intituled Observations on some of his Majesty’s late answers and expresses* (Oxford, 1642), p. 32. There is more than one edition of this work allegedly printed at Oxford. I quote George Thomason’s copy.

⁵⁰ Herle, *Fuller answer*, p. 10.

orderly election, and representation into such a Senate, or proportionable body'.⁵¹ In other moods, however, he tacitly admitted that this was an over-statement. The argument that he presented for treating the two Houses as 'the supreme reason or Judicature' of the nation was that they could have 'no interests different from the people represented, or at least very few, and those not considerable'.⁵²

It was, in other words, as interest-holders that individuals were represented. When Ireton at Putney excluded the poor from elections, he naturally focused on their lack of interests:

This, I perceive, is pressed as that which is so essential and due: the right of the people of this kingdom, and as they are the people of this kingdom, distinct and divided from other people, and that we must for this right lay aside all other considerations...For my part, I think it is no right at all. I think that no person hath a right to an interest or share in the disposing of the affairs of the kingdom, and in determining or choosing those that shall determine what laws we shall be ruled by here – no person hath a right to this, that hath not a permanent fixed interest in this kingdom, and those persons together are properly the represented of this kingdom, and consequently are to make up the representers of this kingdom, who taken together do comprehend whatsoever is of real or permanent interest in the kingdom.⁵³

What is most striking about this is the rapidity with which talk about 'interests' had been assimilated. Part of the explanation must lie in political writings with which the educated were quite familiar. Before the outbreak of the civil wars, the main political use of the idea of 'interest' was to supply analysis of foreign policy, as in the duc de Rohan's famous maxim that 'Princes command the people and interest [singular: *l'interêt*] commands princes'.⁵⁴ An interest-based analysis could serve a range of causes; in Marchamont Nedham's early work *The case of the kingdom stated according to the interests of the severall parties ingaged* (1647), 'interest' was the foundation of a case for royalism. There were, however, good reasons for the place of interests in proto-democratic speculation: the attraction of the concept was that interests predict.

As we have seen, the occasion of the military conflict had less to do with power to create new institutions than with interpretation of the existing ones. It was widely assumed that the basic political problem was to locate the agent that possessed the right incentives to act as the

⁵¹ Henry Parker, *Ius Populi* (1644), p. 18. For a more elaborate account, see Alan Cromartie, 'Parliamentary sovereignty, popular sovereignty, and Henry Parker's adjudicative standpoint' in Richard Bourke and Quentin Skinner (eds), *Popular Sovereignty in Historical Perspective* (Cambridge: Cambridge University Press, 2016), pp. 142-63.

⁵² Parker, *Ius Populi*, p. 19.

⁵³ Woodhouse, *Puritanism and Liberty*, pp. 53-4.

⁵⁴ J.A.W. Gunn, *Politics and the Public Interest* (London: Routledge and Kegan Paul, 1969), pp. 36-8.

defender of English liberties. The royalist solution was expressed by Dudley Digges, who thought it

against common sense to fancy, that he which enjoys all by the benefit of Lawes, should hinder the due administration of justice according to those Lawes, and so wilfully endanger not onely his rights, but safety, by putting his Kingdome into tumults and combustion.⁵⁵

The Rump's official justification of its own position – *A declaration of the parliament of England, expressing the grounds of their late proceedings, and of setting the present government in the way of a free state* (1649) – made use of the language of interests to make very similar claims:

They know their own Authority to be by the Law, to which the people have assented; and besides their particular interests (which are not inconsiderable), they more intend the Common Interest of those whom they serve, and clearly understand the same not possible to be preserved without the Laws and Government of the Nation; and that if those should be taken away, all industry must cease, all misery, blood and confusion would follow, and greater calamities, if possible, than fell upon us by the late King's misgovernment, would certainly involve all persons, under which they must inevitably perish.⁵⁶

Both views were plainly vulnerable to the same objection: if rational self-interest predicts behaviour, then any government will have a clear propensity to put its private interest before that of the public. Only the people as a whole has no such interest.

Thus John Streater's *A glympse of that jewel, judicial, just preserving libertie* (1653) maintained that 'seeing in Government that every Persons interest and good in that bodie is concerned, 'tis clear that the power is essentially in the people..'.⁵⁷ The people, moreover, 'have no other end in what they desire, but common equity; whereas otherwise great persons are swayed by several ends and interests'.⁵⁸ Streater was not by any means indifferent to virtue – his pamphlet is essentially a call to vigilance – but he expected virtue to derive from understanding of the advantages of liberty: 'everyone is to understand that he is equally interested with any member in respect of the common Libertie'.⁵⁹ The defence of law was crucial, but the object of the law was to preserve the status of individuals: 'all Law and

⁵⁵ Digges, *Answer to a printed book*, p. 24.

⁵⁶ *A declaration of the parliament of England expressing the grounds of their late proceedings, and of setting the present government in a way of a free state* (1649: Wing E1499), pp. 24-5.

⁵⁷ John Streater, *A glympse of that jewel, judicial, just preserving libertie* (1653), p. 2.

⁵⁸ *Ibid.*, p. 12.

⁵⁹ *Ibid.*, p. 8.

Government originally ariseth from the Law of Nature, to preserve all in being and propertie'.⁶⁰ The solution that Streater favoured was thus a succession of frequent but shortlived parliaments allowing the represented to exercise control over the doings of their representers.

To prevent the having the Power wrested out of the hands of the People by an assumed absoluteness of persons in trust; suffer not great power to continue longer then one year in the hands of any one member of the Commonwealth. Doubtless, it was upon the same reason of state that that Act of Parliament was passed...that Parliaments should be chosen once a year, or oftner, if need be.⁶¹

At this stage, he avoided the term 'democracy', but he assimilated the English attitude expressed in legislation for annual parliaments to democratic elements of classical republics. As publisher of James Harrington's *Oceana* (1656), he could claim to be the midwife to the greatest synthesis of interest-talk with classical republican arrangements. If he was the J. S. who wrote *What monarchie, aristocracie, oligarchie, and democracie is* (1659), he came to believe that 'democracy' was just a synonym of 'Free-State, or Popular State, or Commonwealth'.⁶²

There was, in other words, a clear democratising logic inherent in the English politics of interests. The working through of the idea that monarchs are entrusted with private interests encouraged the search for an agent that was fully trustworthy. If interest was predictive, then the correct solution was to trust in the agent – 'the people' – with a collective interest in interests being preserved. These interests, moreover, consisted in individual rights of the sort that English law had long defended. In a revealing passage contesting Hobbes's claim that 'liberty' had the same meaning under Turkish despotism as in the republican city-state of Lucca, Harrington made it clear that political 'liberty' is ultimately reducible to private liberties:

whereas the greatest [Turkish] bashaw is a tenant, as well of his head as of his estate, at the will of his lord, the meanest Lucchese that hath land is a freeholder of both, and not to be controlled but by the law; and that 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.⁶³

⁶⁰ Ibid., p. 8.

⁶¹ Ibid., p. 3.

⁶² J. S., *What monarchie, aristocracie, oligarchie, and democracie is. Together with a brief model of the government of the common-wealth, or, free-state of Ragouse* (1659), sig. A2v.

⁶³ *The Political Writings of James Harrington*, ed. J. G. A. Pocock (Cambridge: Cambridge University Press, 1977), pp. 170-1.

Oceana prescribes representative institutions ‘so constituted as can never contract any other interest than that of the whole people’;⁶⁴ the preservation of such institutions was to rest on the assurance that private interests infallibly add up to the public interest.

The same untroubled confidence that interests predict pervades the ideas of Nedham in his democratic phase. In Nedham’s view ‘the main Interest and Concernment both of Kings and Grandees’ lay in keeping the people ‘in utter ignorance what Liberty is’; by contrast, ‘in Free-States the People...become immediately instructed that their main Interest and Concernment consists in Liberty; and are taught by common sense, that the onely way to secure it from Great Ones, is, to place it in the Peoples Hands’.⁶⁵ The ‘magnanimous, active, and noble temper of Spirit’ for which the peoples of free states were noted arose from ‘that apprehension which every Man hath of his own immediate share in the publick Interest’.⁶⁶ Contrary to the assertions of the royalists and others, government by the people was ‘the onely preservative of Propriety’: the requirement of ‘common Consent’ had the foreseeable result that ‘every Man’s particular interest must needs be fairly provided for, against the Arbitrary disposition of others’.⁶⁷ Moreover, talk of interests (understood as legal rights) evaded objections founded on the need for expertise; whatever else the people were incapable of judging, they could be assumed to have noticed if their rights were being infringed. As government was thought of as primarily a matter of redressing grievances, the people themselves were the experts on the art of government: they were ‘most sensible of their own burthens... and therefore it is but Reason, they should see that none be interested in the supreme Authority, but Persons of their own election, and such as must in a short time return again into the same condition with themselves’.⁶⁸

It is true that Nedham, like Milton, insisted that ‘the people’ was not identical with the whole body of the population. The phrase did not mean ‘the confused promiscuous Body of the People, nor any part of the people who have forfeited their Rights by Delinquency, Neutrality, or Apostacy etc’.⁶⁹ But the spirit of their theories was wholly different. Milton’s ‘people’ excluded the poorest.⁷⁰ It would forever be the case that the lowest of the *plebs* should be excluded from political action. By contrast, Nedham’s restrictive definition of ‘the

⁶⁴ *Ibid.*, p. 173.

⁶⁵ [Marchamont Nedham], *The excellencie of a free-state* (1656), p. 45.

⁶⁶ *Ibid.*, p. 54.

⁶⁷ *Ibid.*, p. 84.

⁶⁸ *Ibid.*, p. 36.

⁶⁹ *Ibid.*, p. 71.

⁷⁰ Milton, *Columbia Works*, VII, p. 392.

people' arose from a particular and local situation that would presumably be temporary; his interest-based argument not only allowed but required the maximum feasible element of popular involvement.

Streater, Harrington, and Nedham can thus be used to illustrate a single line of thought. In each case, the assumption that interests predict was used to press towards the shared conclusion that the correct solution was 'successive parliaments' elected by a vote of the whole people. The same can be said of a final instructive example: Henry Stubbe's tolerationist pamphlet *An essay on the good old cause* (1659). What makes Stubbe's thought revealing, for present purposes, is that he took up, and then dropped, the word 'democracy', but stayed in essence loyal to the pattern of ideas that seems to have made democratic politics compelling. *An essay on the good old cause* (1659) is highly sympathetic to Harrington's ideas, 'yet as limited to the good people which have adhered to the Good old cause'.⁷¹ This seems to have been thought of as a temporary expedient; another possibility was to introduce 'some influencing Senate, who may so long continue as the necessity of the nation shall require'.⁷² In the long term, he thought that it was 'as impossible for a *Democracy* to be partial, as for one upon a hundred Dice to cast as many [i.e. one hundred], or fifty-one aces'.⁷³

Only a few weeks later,⁷⁴ though, his attitudes had hardened, apparently because he had thought through the implications of Sir George Booth's Presbyterian rebellion. His next publication, *A letter to an officer of the army concerning a select senate*, put flesh on the idea of an 'influencing senate' by distinguishing 'the people', who were the small minority of tolerationists who had been active in resisting Booth, from the 'nation', that is, the general population.⁷⁵ The 'whole Nation' was to be charged with electing parliament – admittedly 'upon due qualifications' – but the 'people' would choose the senate, which would control the army, the ministry, and the universities (that is the institutions where the ministers were trained).⁷⁶ Membership of the people was to be hereditary; 'Papists, Prelatical and Presbyterian persons' were to be forever excluded.⁷⁷ In a startling about-turn, Stubbe now argued that the Spartan constitution was a convincing precedent for aristocracy, while 'the popular constitution of Athens presents us with very little that might endear it unto us'.⁷⁸

⁷¹ Stubbe, *Good old cause* (1659), 'Preface' [sig. **4+3v.].

⁷² *Ibid.*, 'Preface' [sig. **4+3v.].

⁷³ *Ibid.*, 'Preface' [sig. ***4+4].

⁷⁴ George Thomason bought his copy of *An essay* at some point in September 1659. *A Letter to an officer of the army* is dated October 13.

⁷⁵ Henry Stubbe, *A letter to an officer of the army concerning a select senate* (1659), p. 62.

⁷⁶ *Ibid.*, pp. 62-3.

⁷⁷ *Ibid.*, pp. 59-61.

⁷⁸ *Ibid.*, p. 5.

Stubbe's change of heart nicely reveals that it was toleration that he really cared about: the conclusion that he drew from the Booth crisis was that 'the quarrel was Toleration or no Toleration, rather than Monarchy and the Stuartian interest'.⁷⁹ It is, however, striking that he did not give up the underlying logic of his interest-based thinking. He took it for granted that those who set up a government 'may appoint Legislatours for themselves, but not for others directly'.⁸⁰ The senate was to function as a supplementary safeguard, but 'so much *liberty* is due to the such as oppose or are inconsistent with the rising Government, as may consist with the continuance thereof'.⁸¹ It was not 'to intermeddle ordinarily either in the Executive or Legislative power of the nation'; its purpose was that 'so they [i.e. 'the people'] being secured, the other part of the Nation may enjoy that freedom which otherwise could not be permitted them with safety'.⁸² Though he dropped the word 'democracy', he did not abandon the thing. In other words, he favoured as much democracy as was compatible with toleration.

III

Stubbe's thinking is instructive because it clarifies the underlying structure of a cultural situation. In particular, it suggests a plausible answer to the perplexing problem that was raised at the start of this chapter: why did members of a small unpopular minority desire a political system that they themselves believed would be threatening to 'liberty of conscience'? The essence of that answer lies in the possibility supplied by interest-talk of radical separation between secular forms of order and private individual religious practices. To presbyterians like Richard Baxter, it was obvious that order required discipline, and that religious discipline, provided by the church, was indissolubly a part of discipline in general; conversely, institutions that gave power to the people gave power to the enemies of Christianity. A long list of the enemies that godliness confronted included

the Democratical Polititians that are busie about the change of Government, and would bring all into confusion under pretence of the Peoples Liberty or Power, and would have the Major Part of the Subjects to be the Sovereign of the rest; that is, the worst, that are still the most; and the ignorant, that cannot Rule themselves, and the vicious, that are enemies and hinderers of piety...⁸³

⁷⁹ Ibid., p. 10.

⁸⁰ Ibid., p. 49.

⁸¹ Ibid., p. 50.

⁸² Ibid., p. 61.

⁸³ Richard Baxter, *A key for Catholicks* (1659), Ep. Ded. [sig.a4v].

The anti-Presbyterians considered in this chapter had two convergent reasons to adopt a different view. First, the initial framing of civil war debate encouraged parliament's soldiers to understand themselves as principled defenders of legal liberties. When the New Model Army leaders declared that 'we are not a meer Mercenary Army, hired to serve an Arbitrary power of State', they did so on the grounds that they had been 'called forth, and conjured by the several Declarations of Parliament to the Defence of the People's just Rights and Liberties'.⁸⁴ Edward Sexby concurred that 'if we had not a right to the kingdom, we were mere mercenary soldiers'.⁸⁵ In other words, the Army's claim to standing in the matter rested upon defence of *constitutional* liberties that were, as it happened, primarily secular in content. One useful implication of this sort of emphasis was that the Good Old Cause could be regarded as distinct from the project of installing a Presbyterian church. Thus when Oliver Cromwell dissolved his first Protectoral parliament, he complained of a 'strange itch' of some MPs to 'put their finger upon their brethren's consciences, to pinch them there', supporting his position with the well-known remark that 'to do this was no part of the contest we had with the common adversary, for religion was not the thing at the first contested for'.⁸⁶

Secondly, the view of religion that all these writers shared depicted it as something that was plainly too important to be entrusted to another agent. In Harrington's view, 'democracy, being nothing but entire liberty – and liberty of conscience without civil liberty, or civil liberty without liberty of conscience, being but liberty by halves – must admit of liberty of conscience'.⁸⁷ Religion was a natural part of every human life; coercion intruded interest where it did not belong: 'where religion is coercive, or in subjection to interest, there it is not, or will not long continue to be the true religion'.⁸⁸ Nedham agreed that the effect of 'bind[ing] mens Consciencs to retain Notions, ordained for Orthodox, upon civill penalties' was to 'twist the Spiritual Power (as they call it) with the Worldly and secular interest of state'.⁸⁹ Lastly, Stubbe thought that 'things Spiritual' were 'of a different nature, and not subordinate'.⁹⁰ The 'most obvious and universall end of nations in erecting government' was 'the upholding society and entercourse by securing each in their property, and manage of commerce betwixt one another'.⁹¹ But things of a spiritual nature were entirely different:

⁸⁴ *Looking-glasse*, p. 1.

⁸⁵ Cited in *Puritanism and Liberty*, p. 69.

⁸⁶ *The Writings and Speeches of Oliver Cromwell*, vol. III, p. 586.

⁸⁷ Harrington, *Political Writings*, p. 845.

⁸⁸ *Ibid.*, p. 845.

⁸⁹ Nedham, *Excellencie*, pp. 148-9.

⁹⁰ Stubbe, *Good old cause*, p. 1.

⁹¹ *Ibid.*, p. 12.

‘men embody under Magistrates for upholding civill commerce, but they gather into Churches to maintain a spirituall communion’.⁹² Given disparities in spiritual gifts, it would be bafflingly irrational to ‘confer a power on their Magistrate to countenance, promote and uphold they know not what’.⁹³

In an enthusiastic private letter, an Oxford friend regretted that

you continued not your history of toleration down to these times and gave us an account of Holland France Poland etc...when you have added the authority of daily experience that men of different professions may quietly unite (antiquity the testimony) under the same government and unanimously cary the same civill intrest and hand in hand march to the same end of peace and mutuall society though they take different way towards heaven, you will adde noe small strength to your cause...⁹⁴

The fact that this friend was the young John Locke is obviously suggestive: it seems to be a sign of a substantial overlap between the early history of democratic thought and the pre-history of liberalism. It would be easy to conclude by drawing the connections: the secular sphere occupied by talk of interests was conducive both to arguments for popular involvement and also to a politics that saw defence of rights as the sole licit reason for coercion. The more intense the focus on private interests, the more the magistrate’s *duty* of promoting godliness could be excluded from the moral picture. There is, however, another, perhaps less obvious, way in which these lines of thought can be connected. If, as has been suggested, these writers were inclined to think of ‘liberty of conscience’ as something too important to entrust to someone else, it followed that the interest-talk of normal politics was something relatively *unimportant*. As Stubbe perceived, the unregenerate ‘nation’ could be entrusted with political power only when the true liberty he really cared about had been secured by rather different methods; the prize that really mattered had been taken off the table. In other words, democracy became acceptable precisely because the sanctity of liberty of conscience prevented it from being fully sovereign.

⁹² *Ibid.*, p. 26.

⁹³ *Ibid.*, p. 27.

⁹⁴ *The Correspondence of John Locke*, ed. E.S. De Beer (Oxford: Clarendon Press, 1976), vol. I, p. 110.