

QUENTIN SKINNER

Visions of Politics

VOLUME II

Renaissance Virtues



CAMBRIDGE

CAMBRIDGE

more information - www.cambridge.org/0521581060

VISIONS OF POLITICS

Volume 2: Renaissance Virtues

QUENTIN SKINNER

Regius Professor of Modern History, University of Cambridge



PUBLISHED BY THE PRESS SYNDICATE OF THE UNIVERSITY OF CAMBRIDGE
The Pitt Building, Trumpington Street, Cambridge, United Kingdom

CAMBRIDGE UNIVERSITY PRESS
The Edinburgh Building, Cambridge CB2 2RU, UK
40 West 20th Street, New York, NY 10011-4211, USA
477 Williamstown Road, Port Melbourne, VIC 3207, Australia
Ruiz de Alarcón 13, 28014 Madrid, Spain
Dock House, The Waterfront, Cape Town 8001, South Africa
<http://www.cambridge.org>

© in this collection Quentin Skinner 2002

This book is in copyright. Subject to statutory exception
and to the provisions of relevant collective licensing agreements,
no reproduction of any part may take place without
the written permission of Cambridge University Press.

First published 2002

Printed in the United Kingdom at the University Press, Cambridge

Typeface Baskerville Monotype 11 / 12.5 pt *System* L^AT_EX 2_ε [TB]

A catalogue record for this book is available from the British Library

ISBN 0 521 58106 0 hardback
ISBN 0 521 58925 8 paperback

Contents

VOLUME 2 RENAISSANCE VIRTUES

<i>List of plates</i>	<i>page</i> vii
<i>General preface</i>	ix
<i>Full contents: Volumes 1–3</i>	xii
<i>Acknowledgements</i>	xiv
<i>Conventions</i>	xvii
1 Introduction: The reality of the Renaissance	1
2 The rediscovery of republican values	10
3 Ambrogio Lorenzetti and the portrayal of virtuous government	39
4 Ambrogio Lorenzetti on the power and glory of republics	93
5 Republican virtues in an age of princes	118
6 Machiavelli on <i>virtù</i> and the maintenance of liberty	160
7 The idea of negative liberty: Machiavellian and modern perspectives	186
8 Thomas More's <i>Utopia</i> and the virtue of true nobility	213
9 Humanism, scholasticism and popular sovereignty	245
10 Moral ambiguity and the Renaissance art of eloquence	264
11 John Milton and the politics of slavery	286
12 Classical liberty, Renaissance translation and the English civil war	308

13	Augustan party politics and Renaissance constitutional thought	344
14	From the state of princes to the person of the state	368
	<i>Bibliographies</i>	414
	<i>Index</i>	451

Plates

The plates are between pages 204 and 205

- 1 *The city and countryside under tyranny* (western wall)
- 2 *The rule of tyranny* (western wall)
- 3 *The rule of virtuous government* (northern wall)
- 4 *Justice and Concord* (detail of Plate 3)
- 5 *The effects of virtuous government in the city* (eastern wall)
- 6 *The effects of virtuous government in the countryside* (eastern wall)
- 7 *The effects of tyranny in the city* (western wall)
- 8 *Siena as Supreme Judge of the Sienese* (detail of Plate 3)
(Plates 1–8: Ambrogio Lorenzetti, *Buon governo*, fresco cycle, Sala dei Nove, Palazzo Pubblico, Siena)
- 9 Giotto, *The Last Judgement*, fresco (western wall, Cappella degli Scrovegni, Padua)
- 10 *Dancers in the city* (detail of Plate 5)
- 11 Giotto, *Justice*, fresco (southern wall, Cappella degli Scrovegni, Padua)
- 12 Andrea di Bonaiuto, *Allegory of the Church*, fresco (Cappellone degli Spagnoli, Santa Maria Novella, Florence)

Full Contents: Volumes 1–3

VOLUME 1: REGARDING METHOD

1	Introduction: Seeing things their way	<i>page</i> 1
2	The practice of history and the cult of the fact	8
3	Interpretation, rationality and truth	27
4	Meaning and understanding in the history of ideas	57
5	Motives, intentions and interpretation	90
6	Interpretation and the understanding of speech acts	103
7	‘Social meaning’ and the explanation of social action	128
8	Moral principles and social change	145
9	The idea of a cultural lexicon	158
10	Retrospect: Studying rhetoric and conceptual change	175

VOLUME 2: RENAISSANCE VIRTUES

1	Introduction: The reality of the Renaissance	1
2	The rediscovery of republican values	10
3	Ambrogio Lorenzetti and the portrayal of virtuous government	39
4	Ambrogio Lorenzetti on the power and glory of republics	93
5	Republican virtues in an age of princes	118
6	Machiavelli on <i>virtù</i> and the maintenance of liberty	160

Full contents: volumes 1–3

xiii

7	The idea of negative liberty: Machiavellian and modern perspectives	186
8	Thomas More's <i>Utopia</i> and the virtue of true nobility	213
9	Humanism, scholasticism and popular sovereignty	245
10	Moral ambiguity and the Renaissance art of eloquence	264
11	John Milton and the politics of slavery	286
12	Classical liberty, Renaissance translation and the English civil war	308
13	Augustan party politics and Renaissance constitutional thought	344
14	From the state of princes to the person of the state	368

VOLUME 3: HOBBS AND CIVIL SCIENCE

1	Introduction: Hobbes's life in philosophy	1
2	Hobbes and the <i>studia humanitatis</i>	38
3	Hobbes's changing conception of a civil science	66
4	Hobbes on rhetoric and the construction of morality	87
5	Hobbes and the classical theory of laughter	142
6	Hobbes and the purely artificial person of the state	177
7	Hobbes on the proper signification of liberty	209
8	History and ideology in the English revolution	238
9	The context of Hobbes's theory of political obligation	264
10	Conquest and consent: Hobbes and the engagement controversy	287
11	Hobbes and his disciples in France and England	308
12	Hobbes and the politics of the early Royal Society	324

Introduction: The reality of the Renaissance

As the title of this volume intimates, I see considerable virtue in continuing to speak about the era of the Renaissance. This commitment needs defending, however, since the concept of the Renaissance has in recent times fallen into disrepute, and a number of reasons have been given for avoiding it. One is simply that the term is too vague to be of much use. A second doubt has stemmed from the post-modern critique of meta-narratives and the teleological forms of historical writing to which they give rise. But the most widespread suspicion has arisen from the fact that the metaphor embodied in speaking of the Renaissance – the metaphor of revival and more specifically of rebirth – is so clearly an honorific one. The difficulty here is that, as soon as we reflect on the contours of early-modern European history, it becomes embarrassingly obvious that a majority of the population would have been surprised to learn about a rebirth or a recovery of anything that added any value to their lives. The most prevalent objection to employing the term is thus that it marginalises and devalues those for whom the Renaissance never happened.¹

These are serious objections, but there is no escaping the fact that, in the period covered by the chapters that follow, there was *something* that, for *some* people, was undoubtedly reborn and restored. This is by no means to imply that we can point to a determinate moment at which (to invoke the other traditional metaphor) the dark ages ended and a new light began to dawn. There remains a marked tendency among intellectual historians to think in these terms, and to speak of ‘a decisive break’ and a ‘rapid transformation’ of Italian cultural life around the year 1400, after which we can see that ‘the threshold between the Medieval and the Renaissance has been crossed’.² As I argue in chapter 2, however,

¹ As Kelly 1999 classically argues, this category included most women. Cf. my discussion in chapter 5, section II below.

² Baron 1966, pp. 8, 449; Pocock 1975, p. 52.

no such moment of sudden transition can be observed in the history of moral or political thought. If there was a rebirth, it was a protracted and difficult one.

If we are looking for origins, we probably need to direct our gaze as far back as the twelfth century, the period in which the Italian universities emerged as centres for the teaching of Roman law. As a preliminary to studying Justinian's *Codex*, students were introduced to the *Ars rhetorica*, and thus to the idea that successful forensic oratory will often depend at least as much on persuasive delivery as on legal proof. Towards the end of the thirteenth century, the teaching of rhetoric began to be approached in a new way, evidently under the influence of the methods of instruction prevailing in the French cathedral schools. No longer were the manuals of ancient rhetoric examined simply as sources of practical rules; they were also used as guides to the acquisition of a better Latin style. Out of this renewed interest in the language of ancient Rome arose the first glimmerings of the humanist movement.³ A growing number of *literati* – most of them originally trained as lawyers – began not merely to study the classics but to reacquaint themselves with the full range of the *studia humanitatis*.⁴ There was a humanist circle at Arezzo in the early fourteenth century, and a further group centring on the poet and historian Albertino Mussato at Padua shortly afterwards. These were among the earliest writers to reimmerse themselves in Roman poetry, especially Horace and Virgil; in the Roman historians, especially Livy and Sallust; and in the writings of such moralists as Juvenal, Seneca and, above all, Cicero, whom they turned into the best-known and most widely cited author of classical antiquity.

Once the language and literature of ancient Rome became the objects of so much fascination, the humanists began to busy themselves about the recovery of ancient manuscripts, the editing of texts, the establishment of attributions and so forth. But some of them – above all Petrarch and his disciples – continued to pursue the broader ambition of reviving the Roman syllabus of the *studia humanitatis*, thereby giving wider currency to the study of ancient rhetoric, poetry, history and moral philosophy. This was the rebirth of which the humanists of the *quattrocento* liked to speak. Leonardo Bruni, in the *Dialogus* he addressed to Pier Paolo Vergerio in 1401, singles out Petrarch as ‘the man who restored the *studia humanitatis* at a time when they had become extinct’.⁵ A generation later,

³ On the early humanists as teachers of the rhetorical arts see Kristeller 1962.

⁴ For the Paduan background see Billanovich 1981 and Siraisi 1973, pp. 43–58.

⁵ Bruni 1952, p. 94: ‘hic vir studia humanitatis, quae iam extincta erant, reparavit’.

we find Lorenzo Valla proclaiming in the Preface to his *Elegantiarum Latinae Linguae* that ‘whereas good letters had almost died out, they are now revived and reborn in our own time’.⁶

I have little to say in the chapters that follow about the revival of classical poetry, since my principal focus of attention is on the rebirth and development of the other three elements in the *studia humanitatis*: rhetoric, history and moral philosophy. I turn to the place of classical rhetoric in Renaissance moral theory in the course of chapter 10, but I am concerned in several earlier chapters with the pivotal place occupied by the *Ars rhetorica* in the evolution of humanist political thought. As I show in chapter 2, the *dictatores* or teachers of rhetoric in the Italian law-schools were at the same time the originators of a genre of advice-books for the guidance of city magistrates, a genre that had a remarkably enduring impact on Renaissance thought. I trace the emergence of this pre-humanist literature in chapter 2, while in the first half of chapter 3 I examine in greater detail its leading themes. By the early decades of the fourteenth century we already find the *dictatores* engaged in polemics against the rival scholastic tradition of political philosophy. Coluccio Salutati was to summarise the quarrel at the end of the century when he declared that, whereas the dialectical methods of the schoolmen merely ‘prove in order to teach’, the humanists recognise the need for a moral theory with the power ‘to persuade in order to guide’.⁷ One of the distinguishing features of humanism came to be the belief that wisdom must never be disjoined from eloquence. We must always seek to teach and persuade at the same time.⁸

I am also much concerned with the role of history in Renaissance political theory, and thus with the next major element in the *studia humanitatis*. As early as the mid-thirteenth century, we already find the *dictatores* espousing a Ciceronian view of history as the light of truth and the best guide to acting prudently in public life. They particularly liked to draw their lessons from the histories of Sallust, their favourite authority on the rise and fall of republican regimes. As we shall see when we come to John Milton’s political writings in chapter 11, Sallust retained his popularity throughout the Renaissance, and remains the ancient historian whom Milton quotes most frequently. Meanwhile the Italian humanists devoted themselves from an early stage to writing the history of their

⁶ Valla 1543, *Praefatio*, p. 4: ‘ac pene cum literis ipsis demortuae fuerint, aut hoc tempore excitentur ac reviviscant’.

⁷ Emerton 1925, p. 358.

⁸ For two classic discussions of this point see Gray 1963 and Seigel 1968.

own times in an increasingly classical style. We already find Albertino Mussato in his *De Gestis Italicorum* meditating in the style of Sallust on the fall of the Paduan commune, while the vicissitudes of the Florentine republic later gave rise to a sequence of remarkable histories from the pens of Leonardo Bruni, Poggio Bracciolini and, last and most influentially, Niccolò Machiavelli in his *Istorie Fiorentine* of the 1520s.

Of all the elements in the *studia humanitatis*, however, the one on which I principally concentrate is the final and culminating element, the study of ancient moral and political philosophy. With the investigation of this theme, we reach the point at which it becomes not merely convenient but inescapable to speak of the distinctive contribution of Renaissance humanism to the history of moral and political thought.

The context out of which the political theory of the humanists initially arose was that of the city-republics of the *Regnum Italicum*.⁹ These communities began to evolve their distinctive political systems as early as the closing decades of the eleventh century. It was then that a number of Italian cities took it upon themselves, in defiance of papal as well as imperial suzerainty, to appoint their own ‘consuls’ and invest them with supreme authority. This happened at Pisa in 1085 (the earliest recorded instance), at Milan, Genoa and Arezzo before 1100, and at Bologna, Padua, Florence, Siena and elsewhere by the 1140s.¹⁰ During the second half of the twelfth century a further important development took place. The consular system was gradually replaced by a form of government centred on ruling councils chaired by officials known as *podestà*, so called because they were granted supreme power or *potestas* in executive as well as judicial affairs. Such a system was in place at Parma and Padua by the 1170s, at Milan and Piacenza by the 1180s, and at Florence, Pisa, Siena and Arezzo by the end of the century.¹¹ By the opening years of the thirteenth century, many of the richest communes of Lombardy and Tuscany had thus acquired the *de facto* status of independent republics, with written constitutions guaranteeing their elective and self-governing arrangements.

Soon afterwards the *dictatores* began to produce their advice-books for the leaders of these communities, the earliest surviving example being the anonymous *Oculus Pastoralis* of c.1220. I examine this genre from various angles in chapters 2, 3 and 4, paying as much attention to the visual as to the literary representation of the city-republics and their

⁹ This was the name generally given to that area of modern Italy, extending south as far as Rome, which had originally formed part of Charlemagne’s *Imperium*.

¹⁰ Waley 1988, p. 35; Jones 1997, pp. 130–51. ¹¹ Waley 1988, pp. 42, 196, 201, 205, 207.

distinctive forms of government. I focus in particular on the greatest surviving attempt to convey their ideals in visual terms, the so-called *Buon governo* frescoes painted by Ambrogio Lorenzetti in the Palazzo Pubblico of Siena in the late 1330s. I argue in chapter 3 that Lorenzetti presents us with a typically pre-humanist analysis of virtuous rule, while in chapter 4 I explore the connections he draws between the upholding of civic virtue and the attainment of glory and greatness, the highest goals for cities and citizens alike.

The revival of classical republicanism was a relatively short-lived spectacle in early Renaissance Italy. The central tenet of the *dictatores* was that, if you wish to live in peace and rise to glory, you must cleave to an elective system of government. By the end of the thirteenth century, however, this cardinal assumption was beginning to be widely questioned, not least because it seemed to many observers that self-government had simply proved to be a recipe for endless and debilitating civil strife. If peace and glory are your goals, they instead began to urge, it will always be safer to entrust your community to the strong government of a single *signore* or hereditary prince. These sentiments served at once to legitimise and encourage the widespread shift during this period *dal' commune al principato*, from traditional systems of elective government to the acceptance of princely rule. Such changes took place at Mantua and Verona in the 1270s, at Pisa, Piacenza and Parma by the end of the 1280s and at Ravenna, Rimini and elsewhere before the end of the century.¹²

I follow this transition in chapter 5, showing how the genre of advice-books for city magistrates mutated into the so-called mirror-for-princes literature of the high Renaissance. I sketch the evolution of this latter genre in the fifteenth century, and go on to claim that it supplies us with the context we need in order to make sense of Niccolò Machiavelli's *Il Principe* of 1513. I argue that Machiavelli's text is best viewed as a further contribution to the mirror-for-princes genre, but at the same time as a satirical attack on its fundamental assumption that princely virtue is the key to glory and greatness.

The transition from elective to hereditary systems of government in the *Regnum Italicum* was by no means universal nor uncontested. Florence and Venice clung onto their status as independent city-republics throughout the fourteenth and fifteenth centuries, and in the course of that period engendered a new political literature in which the values of self-government were eloquently carried over into the age of princes.

¹² Waley 1988, pp. 165–72.

I turn in chapter 5 to show how the humanists of *quattrocento* Florence revived the classical ideal of the ‘free state’ or *vivere libero* and restated it in the highest rhetorical style. I end by arguing that this background of Florentine ‘civic humanism’ provides us with the context that enables us to grasp what Machiavelli is doing in his *Discorsi*, his commentary on the early books of Livy’s history of Rome. While the *Discorsi* are largely given over to a passionate, almost nostalgic restatement of the great tradition of Florentine republicanism, Machiavelli at the same time reiterates and develops his earlier attack on the humanist ideal of civic virtue and its role in public life.

If we reflect on the political literature surveyed in the first half of this volume, we can readily isolate a number of elements that go to make up the distinctive contribution of Renaissance humanism to early-modern political thought.¹³ The most important concept revived by the humanists was the classical idea of the *civitas libera* or ‘free state’. Freedom in the case of a political body, the humanists argue, means the same as in the case of a natural one. A body politic, like a natural body, is free if and only if it is moved to act by its own will. But to speak of a political body as moved by its own will is to speak of its being moved by the general will of its citizen-body as a whole. It follows that, when we speak of living in a free state, what we mean is that we are living in a self-governing community, one in which the will of its citizens is recognised as the basis of law and government.

Closely associated with this ideal of the *civitas libera* in the minds of the humanists is the category of the *civis* or citizen, whose standing they like to contrast with that of the *subditus* or subject. As these terms imply, the humanists think of citizens as prescribing laws to themselves, while *subditi* are merely subject to laws imposed on them by kingly overlords. The significance of citizenship for the humanists is in turn connected with two further values of which they endlessly speak. One is the importance of living a life of *negotium*, of active participation in civic affairs, and not of *otium* or contemplative withdrawal, the value extolled in Aristotelian and scholastic thought. An early and pointed expression of this commitment can be found in a letter written by Pier Paolo Vergerio in 1394. He imagines himself as Cicero, responding to Petrarch’s expressions of disgust in his *Vita Solitaria* at the fact that Cicero had devoted so much of his time to public affairs. ‘It has always seemed to me’, Cicero is made to retort, ‘that the man who surpasses all others in his nature and way of

¹³ For an interesting attempt to isolate a more extensive set of values said to be definitive of Renaissance thought see Burke 1974, pp. 245–7.

life is the one who bestows his talents on the government of the *respublica* and in working for the benefit of everyone.¹⁴ The life of *negotium*, the life of those who willingly commit themselves to furthering the goals of their community, is the one that deserves the highest praise.¹⁵

If we all have a duty as citizens to serve the public good, we need to know what talents we must cultivate if we are to pursue the life of *negotium* to the best effect. This brings the writers I am considering to the core value of which they speak, that of *virtus* or civic virtue. It is by means of *virtus*, they all agree, that good citizens can alone hope to sustain their city in war and peace, thereby bringing glory to their community as well as to themselves. As I show in chapter 8, a further note of hostility to scholasticism becomes audible at this point, since the schoolmen generally insist that lineage and wealth are no less necessary than virtue for the effective practice of citizenship. By contrast, the humanists make it one of their slogans that *virtus vera nobilitas est*, that virtue alone enables us to play our part as citizens of true nobility and worth.

One further concept that sounds throughout the political writings of the humanists is that of *libertas*, the term they use to describe the freedom of individual citizens as well as of communities. Chapters 2 and 5 trace the emergence of a neo-Roman understanding of this value, showing that it was treated as a property of citizens by contrast with slaves, and was consequently defined in terms of independence and absence of arbitrary domination by others. Among humanists of the high Renaissance, I argue that the fullest and most influential restatement of this classical vision was furnished by Machiavelli in his *Discorsi*. Having outlined in chapter 5 the intellectual context out of which his views arose, I turn in chapters 6 and 7 to scrutinise his theory of *libertà* itself. In chapter 6 I focus on his concept of *corruzione*, and hence on his analysis of how citizens are prone to undermine the conditions of their own freedom. In chapter 7 I turn to his distinctive vision of civic *virtù*, and hence to his complementary analysis of the qualities we need to cultivate if we are to uphold the *vivere libero* and our own *libertà* at the same time.

So far I have spoken of the first half of this volume, in which I concentrate on the humanist political theories of the Italian Renaissance. In the second half I trace the fortunes of these theories in northern Europe, and especially in early-modern England. I begin with the initial reception of humanist values in the opening years of the sixteenth century.

¹⁴ Vergerio 1934, pp. 439–40: ‘ita semper visum est praestare omnibus vel genere vel vita quisquis ad administrandam rempublicam impertiendosque saluti omnium labores se accommodasset’.

¹⁵ See Vergerio 1934, p. 439 on *negotium* and p. 444 on fleeing *solitudo*.

Chapter 8 considers Sir Thomas More's *Utopia* of 1516, which I take to be one of the earliest and most original attempts to introduce a classical understanding of civic virtue and self-government into English political thought. In chapter 9 I turn away from humanist theories of freedom and citizenship to the contrasting understanding of these concepts espoused by the schoolmen of the early sixteenth century. I concentrate on the figures of Jacques Almain and John Mair, for whom the securing of liberty was connected not with the cultivation of civic virtue but with the maintenance of natural rights. Arguing in contractarian terms wholly foreign to humanism, they envisage civil associations essentially as devices for ensuring that the rights we possess in the pre-political state of nature are more effectively upheld. I argue in chapters 6 and 7 that, because of the powerful hold still exercised by this analysis over modern political philosophy, several features of the rival neo-Roman theory have been misleadingly dismissed as confused. One of my aims in this group of chapters is to contrast these two models of freedom, and at the same time to rescue the neo-Roman model from a number of misunderstandings propagated by its scholastic critics and their modern counterparts.

I turn in chapters 10, 11 and 12 to consider the fortunes of humanist political theory in early-modern England. Chapter 10 looks at the reception of classical rhetoric in Tudor England and the subsequent growth of hostility to the humanist ideal of a union between reason and eloquence. Chapters 11 and 12 follow the rise and temporary triumph in English political theory of the neo-Roman understanding of political liberty. I illustrate the neglected but enormously powerful impact of this theory in helping to destabilise the Stuart monarchy, and later in helping to legitimise the 'free state' briefly established after the execution of Charles I in 1649.

With chapter 13 I move from the seventeenth to the early eighteenth century. I investigate the process by which the distinctive preoccupations of Renaissance humanism, above all as articulated in the political theory of Machiavelli, were adopted and developed by the so-called neo-Harringtonian opponents of the later Stuart monarchy.¹⁶ I also show how it came about that, in the early decades of the eighteenth century, these neo-classical ideals were pressed into service as part of Lord Bolingbroke's campaign to unseat the whig oligarchy. What emerges is the remarkable extent to which the spirit of Machiavelli's *Discorsi* haunts the party politics of Augustan England.

¹⁶ For the coinage of the term see Pocock 1975, pp. 423–61.

I bring this volume to a close with a chapter on the acquisition of the concept of the state as the master noun of our political discourse. According to the humanist vision of politics, the most basic aim of any ruler, as Machiavelli expressed it, must always be *mantenere lo stato*, to maintain his state or standing as a prince.¹⁷ This eventually yielded place to the much more abstract idea that there is an independent apparatus, that of the state, which every ruler has a duty to maintain. This is the momentous transition I attempt to outline in chapter 14. I conclude with the figure of Thomas Hobbes, the earliest and greatest philosopher to argue with complete self-consciousness that the person standing at the heart of politics is not the person of the ruler but the purely artificial person of the state.

Mention of Hobbes brings me, finally, to the connections between this volume and volume 3 of the present work. Hobbes is the most formidable enemy of the values I take to be definitive of Renaissance political thought. His theory of the covenant collapses any distinction between subjects and citizens. His claim that in covenanting we specifically give up our right to govern ourselves undermines the need for an active and virtuous citizenship. His theory of freedom repudiates the claim that anyone living in conditions of domination and dependence must have been deprived of their liberty. His theory of state sovereignty challenges the fundamental humanist contention that sovereignty in a free state must remain the possession of the citizen-body as a whole.

What swings into view at this juncture is one of the deepest divisions in modern European political thought. On one side stands the neo-Roman theory of freedom and self-government, the theory most influentially formulated by the humanists of the Renaissance. On the other side stands the modern theory of the state as the bearer of uncontrollable sovereignty, the theory developed by the defenders of absolutism in the seventeenth century and definitively articulated in the philosophy of Hobbes. Having devoted the present volume to the first of these visions of politics, my principal aim in volume 3 will be to show how Hobbes attempted to obliterate and replace it.

¹⁷ Machiavelli 1960, pp. 16, 25–6, 73–4, 80.

*The idea of negative liberty: Machiavellian
and modern perspectives*

I

My aim is to explore a possible means of enlarging our present understanding of the concepts we employ in social and political argument. A prevailing orthodoxy bids us proceed by consulting our intuitions about what can and cannot be coherently said and done with the terms we generally use to express the concepts involved. But this approach might with profit be supplemented, I shall argue, if we were to confront these intuitions with a more systematic examination of the unfamiliar theories within which even our most familiar concepts have sometimes been put to work at different historical periods.

One way of proceeding with this line of thought would be to offer a general defence of this view about the ‘relevance’ of the history of philosophy for the understanding of contemporary philosophical debates. But I shall instead attempt to follow a more direct, if more modest, route by focusing on one particular concept which is at once central to current disputes in social and political theory and is at the same time overdue, it seems to me, for this type of historical treatment.

The concept I have in mind is that of political liberty, the extent of the freedom or liberty of action available to individuals within the confines imposed on them by their membership of civil associations.¹ The first point to be observed is that, among Anglophone philosophers of the present generation, the discussion of this topic has given rise to one conclusion which commands a remarkably wide measure of assent.

This chapter is a revised version of an essay that originally appeared under the title ‘The Idea of Negative Liberty: Philosophical and Historical Perspectives’ in *Philosophy in History*, ed. Richard Rorty, J. B. Schneewind and Quentin Skinner (Cambridge, 1984), pp. 193–221.

¹ Discussing this concept, some philosophers (for example Oppenheim 1981) prefer to speak of social freedom, while others (for example Rawls 1971) always speak of liberty. As far as I can see nothing hangs on this difference of terminology. Throughout the following argument I have accordingly felt free (or at liberty) to treat these two terms as synonyms and to use them interchangeably.

This is that – to cite the formula originally owed to Jeremy Bentham and more recently made famous by Isaiah Berlin – the concept of liberty is essentially a ‘negative’ one. Its presence is said to be marked by the absence of something; specifically, by the absence of some impediment that inhibits the agent concerned from being able to act in pursuit of his or her chosen ends. As Gerald MacCallum expresses the point, in a form of words that has become standard in the recent literature, ‘whenever the freedom of some agent or agents is in question, it is always freedom from some constraint or restriction on, interference with, or barrier to doing, not doing, becoming or not becoming something’.²

It would be no exaggeration to say that this assumption – that the only coherent idea of liberty is the negative one of being unimpeded – has underpinned the entire development of modern contractarian political thought. We already find Thomas Hobbes expressing it at the outset of his chapter ‘Of the Liberty of Subjects’ in *Leviathan*, in which he presents an extremely influential statement of the claim that ‘Liberty, or Freedome, signifieth (properly) the absence of Opposition’ and signifies nothing more.³ The same assumption, often couched specifically in terms of MacCallum’s triadic analysis, continues to run throughout the current literature. Benn and Weinstein, for example, implicitly adopt MacCallum’s framework in their important essay on freedom as the non-restriction of options, as does Felix Oppenheim in his discussion of social freedom as the capacity to pursue alternatives.⁴ The same analysis is likewise invoked – with direct reference to MacCallum’s classic article – in John Rawls’s *Theory of Justice*, in Joel Feinberg’s *Social Philosophy* and in many other accounts.⁵

It is true that, in spite of this basic and long-standing agreement, there have always been disputes among proponents of the ‘negative’ thesis about the nature of the circumstances in which it is proper to say that the freedom of some particular agent has or has not been restricted or infringed. For there have always been divergent beliefs as to what counts as opposition, and thus as the sort of constraint that limits the freedom as opposed to merely limiting the ability of agents to act. Far more important, however, for the purposes of my present argument is the widespread endorsement of the conclusion that – as Charles Taylor has put it in his attack on the consensus – the idea of liberty should be construed as a pure ‘opportunity concept’, as nothing but the absence of constraint,

² MacCallum 1972, p. 176. ³ Hobbes 1996, p. 145.

⁴ Benn and Weinstein 1971, p. 101; Oppenheim 1981, p. 65.

⁵ Rawls 1971, p. 202; Feinberg 1973, pp. 11, 16.

and hence as unconnected with the pursuit of any determinate ends or purposes.⁶

It is typical of negative theorists – Hobbes is again a classic example – to spell out the implications of this central commitment in polemical terms. The aim of doing so has generally been to repudiate two contentions about social freedom – both occasionally defended in the history of modern political philosophy – on the grounds of their incompatibility with the basic idea that the enjoyment of social freedom is simply a matter of being unobstructed. One of these has been the suggestion that individual liberty can be assured only within a particular form of self-governing community. Put most starkly, the claim is that (as Rousseau expresses it in *Du Contrat Social*) the maintenance of personal freedom depends on the performance of public services. The other and connected suggestion often targeted by negative theorists is that the qualities needed on the part of each individual citizen to ensure the effective performance of these duties must be the civic virtues. To put it starkly once more (as Spinoza does in *Tractatus Politicus*), the claim is that freedom presupposes virtue; that only the virtuous are truly or fully capable of assuring their own liberty.

By way of responding to these paradoxes, some contemporary theorists of negative liberty have simply followed Hobbes's lead. They have argued that, since the liberty of subjects must involve, in Hobbes's phrase, 'Immunitie from the service of the Commonwealth', any suggestion that freedom might involve the performance of such services, and the cultivation of the virtues necessary to perform them, must be totally confused.⁷ Isaiah Berlin remarks, for example, that to speak of rendering myself free by virtuously performing my social duties, thereby equating duty with interest, is simply 'to throw a metaphysical blanket over either self-deceit or deliberate hypocrisy'.⁸

The more usual and more moderate riposte, however, has been to suggest that, whatever may be the merits of the two heterodox claims I have singled out, they are certainly not consistent with a negative analysis of the concept of freedom. They must point to a different conception – perhaps even a different concept – of political liberty. This appears to be Berlin's own view in an earlier section of his essay about the two allegedly different concepts of liberty. He concedes that we might entertain a secularised version of the belief that God's service is perfect freedom 'without thereby rendering the word "freedom" wholly meaningless'.

⁶ Taylor 1979, p. 177. ⁷ Hobbes 1996, p. 149. ⁸ Berlin 1969, p. 171.

But he adds that the meaning we should then be assigning to the term cannot possibly be the one required by a theory of negative liberty.⁹

Despite these strictures, the more fairminded defenders of negative liberty have sometimes conceded the possibility of constructing a coherent – even if unfamiliar – theory of social freedom in which the liberty of individuals might be connected with ideals of virtue and public service.¹⁰ As Berlin has emphasised, all that need be added if we wish to make sense of such claims is the ultimately Aristotelian suggestion that we are moral beings with certain true ends and rational purposes. If this is so, then it might certainly make sense to suggest that we can only hope in the fullest sense to enjoy our liberty if we live in such a community and act in such a way that those ends and purposes are realised as completely as possible.¹¹

Some contemporary writers have added that we ought in fact to insert this further premise. We ought to recognise that (in Charles Taylor's words) freedom is not merely an 'opportunity' but an 'exercise' concept. We are free only 'in the exercise of certain capacities', so that we 'are not free, or less free, when these capacities are in some way unfulfilled or blocked'.¹² Having made this move, such theorists characteristically go on to suggest that this commits us to considering the reinstatement of both the claims about social freedom so firmly repudiated by Hobbes and his modern disciples. First of all, as Taylor observes, if human nature does indeed have an essence, it is certainly not implausible to suppose that its full realisation may only be possible 'within a certain form of society'. We may need, that is, to serve and uphold such a society if our true natures, and hence our own individual liberty, are to reach their fullest development.¹³ And secondly, as Benjamin Gibbs, for example, has put it in his book *Freedom and Liberation*, certain conclusions about the relations between freedom and virtue then become hard to resist. Once we acknowledge that our liberty depends upon 'attaining and enjoying those cardinal goods appropriate to our natures', the virtues may well appear indispensable to the performance of just those morally worthwhile actions that serve to mark us out as 'consummately free'.¹⁴

⁹ Berlin 1969, pp. 160–2.

¹⁰ But by no means all have been so broadminded. Strict followers of Hobbes (such as Steiner 1974–5, Day 1983 and Flew 1983) insist that the only coherent account we can hope to give of the concept of liberty is a negative one. And, insofar as MacCallum's analysis suggests a negative understanding of freedom as the absence of constraints upon an agent's options (which it does), this is also the implication of his account and of those which depend on it.

¹¹ Berlin 1969, pp. 145–54. ¹² Taylor 1979, p. 179.

¹³ Taylor 1979, p. 193. ¹⁴ Gibbs 1976, pp. 22, 129–31.

Much of the debate between those who think of social freedom as a negative 'opportunity' concept and those who think of it as a positive 'exercise' concept may thus be said to stem from a deeper dispute about human nature. The argument is *au fond* about whether we can hope to distinguish an objective notion of *eudaimonia* or human flourishing.¹⁵ Those who dismiss this hope as illusory – such as Berlin and his many sympathisers – conclude that this makes it a dangerous error to connect individual liberty with the ideals of virtue and public service. Those who believe in real or identifiably human interests – Taylor, Gibbs and others – respond by insisting that this at least makes it arguable that only the virtuous and public-spirited citizen is in full possession of his or her liberty.

This in turn means, however, that there is one assumption shared by virtually all the contributors to the current debate. Even Charles Taylor and Isaiah Berlin are able to agree on it. It is that we must be able to give some content to the idea of objective human flourishing if we are to make sense of any theory purporting to connect the concept of individual liberty with virtuous acts of public service.

The thesis I propose to defend is that this shared and central assumption is unjustified. By way of defending it, I shall turn to what I take to be the lessons of history. I shall try to show that, in an earlier and now discarded strand of thinking about social freedom, the concept of negative liberty was combined with the ideals of virtue and public service in just the manner nowadays assumed to be impossible without incoherence.¹⁶ I shall thereby try to supplement and correct our prevailing and misleadingly restricted sense of what can and cannot be said and done with the concept of negative liberty by examining the record of the very different things that have been said and done with it at earlier phases in the history of our own culture.

II

Before embarking on this task, one obvious query about this way of proceeding needs first to be answered. It might well be asked why I propose to examine the historical record at this juncture instead of attempting directly to develop a more inclusive philosophical analysis of negative

¹⁵ For emphasising that some such conception lies at the heart of most 'positive' views of liberty I am much indebted to Baldwin 1984.

¹⁶ But for a critique of this contention see Herzog 1986. See also the valuable discussions in Spitz 1995, pp. 125–269 and in Senellart 1995.

liberty. My answer is not that I suppose such purely conceptual exercises to be out of the question. On the contrary, they have I think been among the most probing and original contributions to the contemporary debate.¹⁷ It is rather that, in consequence of certain widespread assumptions about the best methods of studying social and political concepts, it is apt to seem much less convincing to suggest that a concept *might* be coherently used in an unfamiliar way than to show that it *has in fact* been put to unfamiliar but coherent uses.

The nature of the assumptions I have in mind can readily be illustrated from the current literature on the concept of liberty. The basic postulate of the writers I have so far mentioned is that to explicate a concept such as that of social freedom is to give an account of the meanings of the terms habitually used to express it. To understand the meanings of such terms, it is further agreed, is a matter of understanding their correct usage, of grasping what can and cannot be said and done with them.¹⁸

So far so good; or rather, so far so Wittgensteinian, which I am prepared to suppose amounts in these matters to much the same thing. These procedures tend to be equated, however, with giving an account of how *we* generally employ the terms involved. What we are enjoined to study is 'what we normally would say' about liberty, and what we find 'we do not want to say' when we reflect about the uses of the term in an adequately self-conscious way.¹⁹ We are adjured to stay 'as close to ordinary language as possible', the reason being that the highroad to understanding a concept such as that of liberty is to grasp 'what we normally mean' by the term 'liberty'.²⁰

This is not to say that 'ordinary language' is allowed to have the last word. Most of the writers I have cited are at pains to distance themselves from so widely discredited a belief. Rather it is assumed that, once we begin to move towards a position of equilibrium between our intuitions about concepts and the demands of current usage, it may well prove necessary to adjust the one in the light of the other. We may need, that is, to revise what we are disposed to say about liberty in the light of what we

¹⁷ I have in mind especially MacCallum 1972 and Baldwin 1984.

¹⁸ For explicit presentations of these postulates, applied to the case of 'explicating' the concept of freedom, see for example Parent 1974a, pp. 149–51 and Oppenheim 1981, pp. 148–50, 179–82.

¹⁹ Parent 1974b, pp. 432–3. Cf. also Benn and Weinstein 1971, p. 194 on the need to study 'what in general one can appropriately say' about the term 'freedom' in order to understand the concept, and their criticism of Parent's account (Parent 1974b, p. 435) on the grounds that it is 'so evidently contrary to standard usage' that 'one is bound to mistrust the characterisation of freedom which makes it even possible'.

²⁰ For this injunction see Oppenheim 1981, p. 179.

find ourselves saying about other and closely connected concepts such as rights, responsibility, coercion and so forth. The true goal of conceptual analysis – as Joel Feinberg, for example, formulates it – is thus to arrive, by way of reflecting on ‘what we normally mean when we employ certain words’, at a more finished delineation of ‘what we had better mean if we are to communicate effectively, avoid paradox and achieve general coherence’.²¹

As the above quotations reveal, however, the question is still about what *we* are capable of saying and meaning without incoherence. Given this approach, it is easy to see how it comes about that any purely analytical attempt to connect the idea of negative liberty with the ideals of virtue and service is liable to appear unconvincing, and vulnerable to being dismissed out of hand. For it is obvious that *we* cannot hope to connect the idea of liberty with the obligation to perform virtuous acts of public service except at the unthinkable cost of giving up, or making nonsense of, our intuitions about individual rights. But this in turn means that, in the case of all the writers I have been considering, only one of two responses can be offered to someone who insists on trying to explicate the concept in such a counter-intuitive way. The kinder is to suggest that – as Isaiah Berlin for example tends to put it – they must really be talking about something else; they must ‘have a different concept’ of liberty.²² But the more usual is to contend – as for example William Parent does – that they must simply be confused. To connect the idea of freedom with such principles as virtue or rational self-mastery, as Parent patiently reminds us, fails to convey or even connect with ‘what we ordinarily mean’ by the term liberty. From which he takes it to follow that any attempt to forge such links will only result in a confused misunderstanding of the concept involved.²³

It is in the hope of preventing myself from being ruled out of order in this fashion that I propose to eschew conceptual analysis and turn instead to history. Before doing so, however, one further preliminary note of warning must be sounded. If there is to be any prospect of invoking the past in the manner I have sketched – as a means of questioning rather than underpinning our current beliefs – we shall have to reconsider, and indeed repudiate, the reasons usually given for studying the history of philosophy by many of its leading practitioners at the present time.

²¹ See Feinberg 1973, p. 2. For similar commitments see Parent 1974a, p. 166; Raz 1970, pp. 303–4; and Oppenheim 1981, pp. 179–80, who cites both Feinberg and Raz with approval.

²² Berlin 1969, esp. pp. 154–62. Cf. Ryan 1980, p. 497.

²³ Parent 1974a, pp. 152, 166; and 1974b, p. 434. Cf. also Gray 1980, p. 511, who insists that, by reflecting on ‘intelligible locutions having to do with freedom’, we can dismiss MacCallum’s contention that the term always denotes a triadic relationship.

For a representative discussion of these reasons, consider the Introduction to J. L. Mackie's revealingly titled book, *Problems from Locke*. This opens by articulating the basic presupposition of much contemporary work in the history of philosophy. There is a certain determinate range of problems, we are told, that go to make up the discipline of philosophy. We can therefore expect to find a corresponding range of historical treatments of these problems, some of which may prove to be 'of continuing philosophical interest'.²⁴ It follows that, if we want a usable history, there are two guidelines to be observed. The first is that we should concentrate on just those historical texts, and just those sections of just those texts, in which it is immediately apparent that familiar concepts are being deployed to construct familiar arguments with which we can then take direct issue. Mackie gives clear expression to this rule in the methodological Introduction to his book. He remarks that he 'makes no attempt to expound or study Locke's philosophy as a whole, or even that part of it which is to be found in the *Essay*'. This is because he is exclusively concerned with 'a limited number of problems of continuing philosophical interest' that happen to be raised and examined at various moments in Locke's texts.²⁵

The underlying assumption is thus that the reason for exhuming the great philosophers of the past is to help us arrive at better answers to our own questions. The second guideline we are exhorted to observe then follows from this commitment. We must be prepared to recast the thought of the philosophers we are investigating in our own idiom, seeking to produce a rational reconstruction of their beliefs rather than a picture of full historical authenticity when these two projects begin to collide. Mackie offers a particularly clear statement of this further rule, observing that the main purpose of his work 'is not to expound Locke's views or to study their relations with those of his contemporaries and near contemporaries, but to work towards solutions of the problems themselves'.²⁶

The value of following these rules, we are finally assured, lies in their capacity to provide us with a ready and easy way of dividing up our intellectual heritage. Suppose we come upon a philosophical text, or even a section of an otherwise interesting text, in which the author begins to discuss a topic which (as Mackie puts it) 'is not a live issue for us'. The right response at this juncture is to reallocate the text for study under the separate heading of 'the history of ideas'.²⁷ This is held to be the name

²⁴ See Mackie 1976, p. 1 and for a similar commitment cf. O'Connor 1964, p. ix.

²⁵ Mackie, 1976, p. 1. ²⁶ Mackie 1976, p. 2. ²⁷ Mackie 1976, p. 4.

of a distinct discipline that concerns itself with issues 'of purely historical' as opposed to 'intrinsically philosophical' significance.²⁸ Sometimes it is rather strongly implied that it is hard to see how these issues (not being 'live') can have much significance at all. But it is usually allowed that they may well be of interest to those who happen to be interested in such things. It is just that such people will be historians of ideas; they will not be engaged in an enquiry of any relevance to philosophy.

I have no wish to question the obvious truth that there are large continuities in the history of modern philosophy, so that it may sometimes be possible to sharpen our wits by arguing directly with our elders and betters. I do wish to suggest, however, that there are at least two reasons for questioning the assumption that the history of philosophy should be written as though it is not really history.

It seems to me in the first place that to recover what a given philosopher may have said about some particular issue can never be sufficient to provide us with an historical understanding of their work. I have already sought to explain this commitment in volume 1 chapter 6 of the present work. Here I need only observe that to mount an argument is always, I take it, to argue with someone, to reason for or against a certain conclusion or course of action. This being so, the business of interpreting any text that contains such forms of reasoning will always require us (to speak over-schematically) to follow two connected lines of approach. The initial task is obviously to recapture the substance of the argument itself. If we wish, however, to arrive at an interpretation of the text, an understanding of why its contents are as they are and not otherwise, this still leaves us with the further task of recovering what the writer may have meant by advancing that particular argument. We need, that is, to be able to give an account of what they were *doing* in presenting their argument: what conclusion or course of action they were supporting or defending, attacking or repudiating, ridiculing with irony, scorning with polemical silence, and so on, and on through the entire gamut of speech acts embodied in the vastly complex act of intended communication that any work of discursive reasoning will comprise.

One of my doubts about the prevailing approach to the history of philosophy is that it systematically ignores this latter aspect of the interpretative task. I now turn to my other criticism, which I propose to treat at much greater length. It is that the notion of 'relevance' embodied in

²⁸ For a statement of the issue in these exact terms see Scruton 1981, pp. 10–11.

the orthodox approach is a needlessly constricting and philistine one. According to the view I have been outlining, the history of philosophy is only 'relevant' if we can use it as a mirror to reflect our own beliefs and assumptions back at us. If we can do this, the subject takes on 'intrinsic philosophical significance'; if we cannot, it remains 'of purely historical interest'. The only way to learn from the past, in short, is to appropriate it. I wish to suggest instead that it may be precisely those aspects of the past which appear at first glance to be without contemporary relevance that may prove upon closer acquaintance to be of the most immediate philosophical significance. For their relevance may lie in the fact that, instead of supplying us with our usual and carefully contrived pleasures of recognition, they enable us to stand back from our own beliefs and the concepts we use to express them, perhaps forcing us to reconsider, to recast or even (I shall next seek to suggest) to abandon some of our current beliefs in the light of these wider perspectives.

To open the pathway towards this broader notion of 'relevance', I am pleading for a history of philosophy which, instead of purveying rational reconstructions in the light of current prejudices, tries to avoid them as much as possible. Doubtless they cannot be avoided altogether. It is deservedly a commonplace of recent hermeneutic theories that, as Hans Georg Gadamer in particular has emphasised, we are likely to be constrained in our imaginative grasp of historical texts in ways that we cannot even be confident of bringing to consciousness. All I am proposing is that, instead of bowing to this limitation and erecting it into a principle, we should fight against it with all the weapons that historians have already fashioned in their efforts to reconstruct without anachronism the alien *mentalités* of earlier periods.

III

The above remarks are excessively programmatic and in danger of sounding shrill. I shall now attempt to give them some substance by relating them to the specific example I have raised, the example of what can and cannot be coherently said and done with our concept of negative liberty. As I have already intimated, my thesis is as follows. We need to look beyond the confines of the present disputes about positive *versus* negative liberty in order to investigate more fully the range of arguments about social freedom that arose in the course of modern European political philosophy. This quest, I hope to show, will bring us to a line of

argument about negative liberty which has largely been lost to view in the course of the present debate, but which serves to cast some doubt on the terms of that debate itself.

The missing line of argument I should like to reinstate is the one embedded in the classical and especially the Roman republican theory of citizenship. Before becoming engulfed by more individualistic styles of political reasoning, the Roman vision of freedom and civic equality enjoyed a brief but brilliant revival within the republican regimes of early-modern Europe. Within the Italian city-republics, the most incisive and influential articulation of what I shall describe as the neo-Roman case²⁹ was provided by Niccolò Machiavelli in his *Discorsi* on Livy's history of Rome. After England was proclaimed 'a Commonwealth and free state' in 1649, a similar style of neo-Roman thinking came briefly to the fore, with James Harrington in his *Commonwealth of Oceana* offering the most systematic reworking of the Machiavellian line of argument. Meanwhile the success of the Dutch revolt against Imperial Spain helped to bring the same strand of thinking to still greater prominence in the Netherlands, with Spinoza in his *Tractatus Politicus* making by far the most significant contribution to the debate.

This is the tradition, I shall argue, that we need to retrieve if we wish to provide a corrective to the dogmatism about the topic of social freedom that has marked the writings of more recent theorists of natural and human rights. By way of attempting this act of retrieval, I have chosen to concentrate on Machiavelli's presentation of the neo-Roman case in his *Discorsi* on Livy. I have made this choice in part for reasons of space, but also because the *Discorsi* seems to me the text in which – as Spinoza long ago observed – we encounter the most acute and helpful reworking of the classical theory of citizenship.³⁰ I shall thus be concerned to develop an historical thesis about Machiavelli's intentions in the *Discorsi* as well as a more general argument about the value of trying to recover what I take to be his line of thought. My historical thesis is that, while there are many things that Machiavelli may be said to be doing in the *Discorsi*, perhaps his most central concern is to address – partly to question, but chiefly to reiterate and amplify – that view of *libertas* which had lain at the heart of Roman republican thought. My more general thesis I have already stated: that to recapture the structure of this theory as far as possible in its own terms may in turn

²⁹ For this suggested terminology, and for an account of the fortunes of the neo-Roman theory after the Renaissance, see Skinner 1998.

³⁰ Spinoza 1958, p. 313.

help us to enlarge our own understanding of the concept of negative liberty.³¹

Machiavelli begins to consider what it means to be in possession of our liberty in the opening two chapters of Book 1 of his *Discorsi*. But his main discussion is launched in his ensuing sequence of chapters, in which he examines what ends and purposes we commonly seek within civil associations, and in consequence what grounds we have for valuing our liberty. This is the stage at which he introduces the psychological generalisations I have already discussed in chapter 6. He observes, that is, that in all known polities there have been two distinguishable types of citizen with contrasting dispositions and correspondingly different reasons for prizing their liberty. On the one hand are the *grandi*, who typically desire to obtain power for themselves and to avoid ignominy at all costs. Their principal aim is accordingly to remain as free as possible from any interference (*sanza ostaculo*) in the pursuit of their ascendancy.³² On the other hand are the ordinary citizens, the *plebe* or *popolo*, whose main objective is simply to live in security. Their principal aim is likewise to remain as free as possible from interference, but in their case in the name of following so far as possible an undisturbed way of life.³³

This account of why everyone values their freedom is at the same time an account of what Machiavelli means by speaking of individual freedom within civil associations. The *grandi* and *popolo* alike aim to be free in the sense of being unobstructed in the pursuit of the particular goals they choose to set themselves. As Machiavelli puts it in the opening chapter of Book 1, the crucial contrast is thus between 'free men' and 'those who depend on others'.³⁴ To possess one's liberty is to be free in the ordinary 'negative' sense of being unconstrained by other agents. It is therefore to be free – as Machiavelli adds in his next chapter with reference to collective agents – to act 'according to one's own will and judgement'.³⁵

It is important to underline this point, if only because it contradicts two claims often advanced by commentators on the *Discorsi*. One is that Machiavelli introduces the key term *libertà* into his discussion 'without taking the trouble to define it', so that the sense of the word only emerges gradually in the course of the argument.³⁶ The other is that, as soon as

³¹ For an analysis and critique of my ensuing argument see Senellart 1995.

³² Machiavelli 1960, I. 16, pp. 173–6 and I. 46, pp. 235–6.

³³ Machiavelli 1960, I. 16, pp. 173–6.

³⁴ Machiavelli 1960, I. 1, p. 126: 'uomini liberi o che dependono da altri'.

³⁵ Machiavelli 1960, I. 1, p. 129: 'governate per loro arbitrio'.

³⁶ Renaudet 1956, p. 186. For similar judgements see Pocock 1975, p. 196; Cadoni 1962, p. 462n; Colish 1971, pp. 323–4.

Machiavelli begins to make his meaning clear, it transpires that the term *libertà* as he uses it ‘does not bear the sense’ we should nowadays attribute to it; on the contrary, ‘it must be taken in a wholly different sense’.³⁷

Neither of these contentions seems warranted. As we have just observed, Machiavelli begins by stating exactly what he means by speaking of liberty: he means absence of constraint, especially absence of any limitations or obstructions imposed by other agents on one’s capacity to act independently in pursuit of one’s chosen goals. But as we saw at the outset, there is nothing unfamiliar about assigning the term ‘liberty’ this particular sense. To speak of liberty as a matter of being unconstrained by other social agents, and in consequence able to pursue one’s own ends, is to echo a formula employed by many contemporary theorists of negative liberty, with whose basic framework of analysis Machiavelli appears to have no quarrel at all.

Given that we all have various goals we are minded to pursue, it will obviously be in our interests to live in whatever form of community best assures us the freedom to pursue them. So we next need to know under what type of regime we can most reliably hope to maximise our liberty to attain our chosen ends. By way of answering this question, Machiavelli introduces – at the start of Book 2 – an unfamiliar but pivotal claim into his discussion of individual liberty. The only form of polity, he maintains, in which we can hope to retain our freedom to follow our own pursuits will be one of which it makes sense to say that the community itself is free. Only in such communities can ambitious citizens hope to acquire power and glory for themselves, ‘rising by means of their *virtù* to positions of prominence’.³⁸ Only in such communities can ordinary members of the *popolo* hope to live in security, ‘without having any anxiety that their property will be taken away from them’.³⁹ Only in a free community, a *vivere libero*, are such benefits capable of being freely enjoyed.⁴⁰

It remains to ask what Machiavelli means by speaking not merely of individuals but of communities as living, or not living, a free way of life. The short answer is that he means the same in both cases. As he makes clear at the start of Book 1, a political body, like a natural body, is free if and only if it is able to act according to its own will and in pursuit of its chosen ends. To speak of a free city or a free state is thus to speak of a

³⁷ Guillemain 1977, p. 321; Cadoni 1962, p. 482. For similar judgements see Hexter 1979, pp. 293–4; Prezzolini 1968, p. 63.

³⁸ Machiavelli 1960, II. 2, p. 284: ‘ch’ei possono mediante la virtù loro diventare principi’.

³⁹ Machiavelli 1960, II. 2, p. 284: ‘non dubitando che il patrimonio gli sia tolto’.

⁴⁰ Machiavelli 1960, I. 16, p. 174.

community which is 'not subject to the control of anyone else', and is thus able, in virtue of being unconstrained, 'to govern itself from the outset according to its own will, whether as a republic or a principality'.⁴¹

What, then, is the type of regime best suited to upholding such a free way of life? Machiavelli thinks it possible, at least in theory, for a community to live in liberty under a monarchical form of government. He sees no reason in principle why a king should not organise the laws of his kingdom in such a way as to reflect the general will – and thereby promote the common good – of the community as a whole.⁴² But in practice Machiavelli is deeply sceptical about the capacity of princes to promote our liberty, as he makes clear in a crucial summarising passage at the start of Book 2. 'It is not the pursuit of individual good, but of the common good, that makes cities great, and it is beyond doubt that it is only in republics that this ideal of the common good is properly served, because everything that promotes it is followed out.'⁴³ Machiavelli's resounding conclusion is thus that, if we wish to see the common good fostered, and our individual liberty in consequence upheld, we must make sure that we institute and maintain a system of self-government. We can never hope to live a free way of life unless we live under a republican regime.

This conclusion represents the heart and nerve not merely of the *Discorsi* but of all neo-Roman theories of freedom and citizenship. Among more recent proponents of negative liberty, however, this commitment has usually been dismissed as an obvious absurdity. Hobbes, for example, seeks to dispose of it by sheer assertion, declaring in *Leviathan* that 'Whether a Common-wealth be Monarchicall, or Popular, the Freedome is still the same.'⁴⁴ This contention has in turn been reiterated by many defenders of negative liberty in the course of the contemporary debate, most of whom have explicitly denied that there is any necessary connection between the maximising of individual liberty and the upholding of any particular form of government. Our next task must therefore be to enquire into the reasons Machiavelli offers for insisting that, on the contrary, the preservation of individual liberty requires the maintenance of one particular type of regime.

⁴¹ Machiavelli 1960, I, 2, p. 129: 'si sono subito governate per loro arbitrio, o come repubbliche o come principato'.

⁴² Machiavelli 1960, I, 11, p. 154; I, 36, pp. 193–4; III, 5, pp. 388–90. For an excellent discussion see Colish 1971, p. 345.

⁴³ Machiavelli 1960 II, 2, p. 280: 'non il bene particolare ma il bene comune è quello che fa grandi le città. E senza dubbio questo bene comune non è osservato se non nelle repubbliche: perché tutto quello che fa a proposito si eseguisce.'

⁴⁴ Hobbes 1996, p. 149.

IV

The key to Machiavelli's reasoning at this stage is to be found in his account of the place of *ambizione* in public life.⁴⁵ As we have already seen, he believes that the exercise of ambition is invariably fatal to the liberty of anyone against whom it is successfully directed. This is because it takes the form of a *libido dominandi*, a willingness to coerce others and use them as means to one's own ends. We next need to recognise that this disposition to act ambitiously arises, according to Machiavelli, in two distinct forms, neither of which we have any possibility of fending off unless we live as citizens of an elective and self-governing republic.

One of these forms we have already encountered. It arises – to cite Machiavelli's terminology – 'from within' a community, and reflects the desire of the *grandi* to achieve power at the expense of their fellow-citizens. This is an ineliminable threat, for the *grandi* we have always with us, and they will always pursue these selfish goals. These they characteristically seek to attain by gathering around themselves groups of partisans, aiming to use these 'private forces' to wrest control of the government out of the hands of the public and seize power for themselves.⁴⁶

Machiavelli distinguishes three main ways in which ambitious *grandi* can manage to acquire such partisans. The first, which he considers in Book 1, is that they can use their high social standing to overawe their fellow-citizens and persuade them to adopt measures more conducive to the promotion of sectional interests than the good of the community as a whole.⁴⁷ The other two possibilities are raised in the course of Book 3. One is that the *grandi* can seek to have themselves re-elected to public offices for excessive periods, so becoming sources of increasing patronage as well as objects of increasing personal loyalty.⁴⁸ The other is that they can lay out their exceptional wealth to purchase the support and favour of the *popolo* at the expense of the public interest.⁴⁹ As Machiavelli summarises at the outset of his discussion, in every case the same chain-reaction is set up. 'From partisans arise factions in cities, and from factions their ruin'.⁵⁰ The moral is that 'such is the ambitiousness of the *grandi*

⁴⁵ For systematic analyses of Machiavelli's employment of this term see Price 1982 and Price 1988.

⁴⁶ Machiavelli 1960, III, 22, pp. 448–54 and III, 28, pp. 463–4.

⁴⁷ Machiavelli 1960, I, 33, pp. 206–9 and I, 46, pp. 235–6.

⁴⁸ Machiavelli 1960, III, 22, pp. 448–54 and III, 24, pp. 455–6.

⁴⁹ Machiavelli 1960, III, 28, pp. 463–4.

⁵⁰ Machiavelli 1960, I, 7, p. 148: 'da partigiani nascono le parti nella cittadi, da parti la rovina di quelle'.

that, unless a city devises various ways and means of beating it down, they will quickly bring it to ruin'.⁵¹

The other form of *ambizione* Machiavelli describes is said to threaten free communities 'from outside'. At this stage the pervasive image of the body politic carries the full weight of the argument, since the parallel between natural and corporate bodies is said to extend to their having the same dispositions and natures. Just as some individuals seek the quiet life while others go in quest of power and glory, so too with bodies politic. Some attempt 'to live quietly and enjoy their liberty within their own boundaries', but others seek to dominate their neighbours and coerce them into acting as client states.⁵² As always, ancient Rome is cited as the best illustration of this general truth. Due to their ambitiousness, the Romans waged continuous war on the peoples surrounding them, attaining their 'supreme greatness' by conquering each neighbour in turn, overthrowing their liberty and subjecting them to the service of Rome.⁵³

As in the case of individual *grandi*, so too with entire communities, this disposition to act ambitiously is altogether natural and ineliminable. Some communities always seek to dominate others, from which it follows that 'neighbouring princes and neighbouring republics harbour natural feelings of hatred for one another, the product of this ambition to dominate'.⁵⁴ Moreover, just as the clients of ambitious *grandi* find themselves coerced into serving their patron's ends, so too the citizens of any polity that becomes the client of another will automatically forfeit their personal liberty. They will find themselves forced into doing their conqueror's bidding as soon as their community is reduced to servitude.⁵⁵

There are, in short, two distinct threats to personal as well as civic liberty arising from the omnipresence of ambitiousness. How can they be fought off? Consider first the danger of servitude arising 'from outside'. To meet this threat, the members of a free community must obviously follow the methods and cultivate the qualities needed for effective defence. These Machiavelli takes to be the same for political as for natural bodies. The right method is to establish military ordinances to ensure that all

⁵¹ Machiavelli 1960, I. 37, p. 218: 'perché gli è tanta l'ambizione de' grandi, che se per varie vie ed in vari modi ella non è in una città sbattuta, tosto riduce quella città alla rovina sua'.

⁵² See Machiavelli 1960, II. 19, pp. 334–5, where he warns that this course cannot be followed: 'è impossibile che ad una republica riesca lo stare quieta e godersi la sua libertà e gli pochi confini'.

⁵³ Machiavelli 1960, II. 2, p. 279 and II. 6, p. 294.

⁵⁴ Machiavelli 1960, III. 12, p. 426: 'e' naturali odii che hanno i principi vicini e le repubbliche vicine l'uno contro l'altro: il che procede da ambizione di dominare'.

⁵⁵ Machiavelli makes this point in each of the three books of the *Discorsi*. See, for example, Machiavelli 1960, I. 2, pp. 129–34; II. 19, pp. 333–8; III. 12, pp. 425–8.

citizens act as the defenders of their own liberty, thereby preventing them from adopting the lazy and effeminate alternative of hiring soldiers to fight on their behalf.⁵⁶ To rely on mercenaries, Machiavelli repeatedly warns, is a sure way to ruin your city and forfeit your liberty, simply because their only motive for fighting is the small amount of pay you give them. This means that they will never be so much your friends as to be willing to lay down their lives in your cause. By contrast, a citizen army will always be striving for its own glory in attack and its own freedom in defence, and will therefore be far more willing to fight to the death.⁵⁷

Machiavelli is not of course saying that a city which defends its body with its own arms will thereby guarantee its citizens their liberty. Against overwhelming odds, as the Samnites discovered in their struggles against Rome, there is ultimately no hope of avoiding defeat and enslavement.⁵⁸ But he is certainly admonishing us that, unless we are willing personally to contribute to the defence of our community against external aggression, we shall 'become so weak as to lay ourselves open as a prey to anyone who chooses to attack'.⁵⁹ As a consequence of this effeminate feebleness, we can expect to find ourselves, sooner rather than later, reduced to a state of servitude.⁶⁰

As for the personal qualities we need to cultivate in order to defend our liberty, Machiavelli singles out two above all. We first of all need to be wise. But the wisdom we require is by no means that of the consciously sage and sapient, the *savi*, whom Machiavelli (following Livy) usually treats with marked disdain and irony. To be *savio* is generally to lack precisely those qualities of wisdom which are essential in military (and indeed in civil) affairs.⁶¹ The relevant qualities are those required for the forming of practical judgments, the careful and effective calculation of chances and outcomes. They are, in a word, the qualities of *prudenza*. Prudence tells you when to go to war, how to conduct a campaign, how to bear its changing fortunes.⁶² It is one of the qualities by which the greatest commanders have always been distinguished. As usual, Machiavelli is thinking in particular of the military leaders of early Rome, leaders such as Tullius and Camillus, each of whom was *prudentissimo* in his generalship.⁶³

⁵⁶ Machiavelli 1960, I, 21, pp. 186–7.

⁵⁷ Machiavelli 1960, I, 43, p. 231; II, 10, pp. 302–5; II, 30, pp. 368–71.

⁵⁸ Machiavelli 1960, II, 2, pp. 279–80 and II, 3, pp. 285–7.

⁵⁹ Machiavelli 1960, I, 6, p. 144: 'ei diventa sì vile che tu sei preda di qualunque ti assalta'.

⁶⁰ Machiavelli 1960, II, 10, p. 304; II, 19, pp. 334–6; II, 30, p. 369.

⁶¹ See, for example, Machiavelli 1960, II, 24, p. 349 and II, 27, p. 461.

⁶² See, for example, Machiavelli 1960, II, 12, p. 302; II, 14, p. 314; II, 27, p. 362.

⁶³ Machiavelli 1960, I, 21, p. 186; III, 12, p. 428.

The other quality indispensable for effective defence is *animo*, courage, which Machiavelli sometimes couples with *ostinazione*, sheer determination and persistence. Courage is the other leading attribute of the greatest military commanders, as Machiavelli repeatedly stresses in explaining the military successes of early Rome. When Cincinnatus, for example, was called from his plough to mount the defence of his city, he at once assumed the Dictatorship, raised an army, marched forth and defeated the enemy in a dramatically short space of time. The quality that brought him this decisive victory was *la grandezza dello animo*, his high courage.⁶⁴ Courage is also the quality that must above all be instilled in every individual soldier if victory is to be grasped. Nothing is more likely to bring defeat than the kind of accident that has the effect of taking away the courage of an army and leaving it terrified.⁶⁵ As the conduct of the French in battle above all reminds us, 'natural fury' is never enough; what is needed is fury disciplined by persistence or, in a word, courage.⁶⁶

Even if 'external' ambition is successfully fought off, there is still the more insidious danger that the same malign disposition will arise 'from within' your city, in the breasts of its leading citizens, and thereby reduce you to servitude. How is this to be forestalled? Machiavelli again argues that, in the first instance, this is a matter of establishing the right laws and ordinances, and again alludes to the metaphor of the body politic in describing what laws are required. They must be such as to prevent any single limb or member of the body from exercising an undue or coercive influence over its will. The laws governing the behaviour of the community must express its general will, not merely the will of its active and most ambitious part. But this in turn means that, as Cicero had stressed, there must be specific laws and institutions capable of serving as a *temperamento* – a curb, a means of tempering selfish ambition and factiousness.⁶⁷ For as Machiavelli repeatedly affirms – citing a metaphor much invoked by Virgil as well as Cicero – unless the *grandi* are 'bridled' and 'held in check' their natural intemperance will quickly lead to disorderly and tyrannical results.⁶⁸

⁶⁴ Machiavelli 1960, III. 25, p. 458. ⁶⁵ Machiavelli 1960, III. 37, pp. 486–7.

⁶⁶ Machiavelli 1960, III. 36, pp. 484–5.

⁶⁷ On the Tribunate as *un grande temperamento* on the nobility under the Roman republic, see Machiavelli 1960, III. 11, p. 423. Machiavelli's source appears to be the discussion of the Tribunes as a *temperamentum* in Cicero 1928, III. X. 24, p. 486.

⁶⁸ See Machiavelli 1960, I. 16, p. 173, where he appears to allude to Virgil 1999–2000, I, line 54, p. 266. There we are told that Aeolus holds the winds in his power and curbs them with prison chains – 'imperio premit ac vinculis et carcere frenat'. Machiavelli speaks throughout Book I of the need for a *freno* to curb the nobility. See Machiavelli 1960, I. 3, p. 136; I. 6, p. 142; I. 18, p. 180; I. 37, p. 218; I. 49, p. 243; I. 55, p. 257.

Besides the right *leggi e ordini*, there are certain personal qualities that everyone in public life must cultivate if they are to act as vigilant guardians of their own liberty. Once more Machiavelli singles out two above all. One is again said to be wisdom, but again this is not the wisdom of the professional sage. Rather it is the worldly wisdom or prudence of the experienced statesman, the person with practical ability to judge the best courses of action and follow them out. This quality is not merely indispensable for effective political leadership. It is also a central thesis of Machiavelli's political theory that no community can hope to be 'well-ordered' unless it is 'brought to order' by such a *prudente ordinatore*, such a worldly wise organiser of its civic life.⁶⁹ Furthermore, it is no less crucial that every citizen who aspires to take a hand in government, to help in upholding the freedom of the community, should be prudent by nature. Suppose we ask, for example, how it came about that ancient Rome was able, over so long a period, 'to institute all the laws that maintained her in liberty'.⁷⁰ The answer is that the city was continually organised and reorganised 'by so many leaders who were *prudenti*' that this constituted the key to her success.⁷¹

The other quality that every citizen must cultivate is a willingness to avoid all forms of intemperate and disorderly conduct, thereby ensuring that civic affairs are debated and decided in an orderly and well-tempered style. Taking up the Roman ideal of *temperantia*, Machiavelli closely follows his classical sources – notably Livy and Cicero – in dividing his discussion at this juncture into two parts. One aspect of *temperantia*, as Cicero had explained in *De Officiis*, consists of those qualities that enable a citizen to advise and act in a truly statesmanlike way. The most important of these, he repeatedly declares, are *modestia* and *moderatio*.⁷² Machiavelli completely agrees:

I see no other way for those who offer advice to republics than to consider everything in a moderate way, not to lay claim to any undertaking as their own idea, and to give their opinion without passion, and then modestly and without passion to defend it.⁷³

Machiavelli is scarcely less emphatic than Cicero about the value of conducting public affairs in a dispassionate style.

⁶⁹ Machiavelli 1960, I, 2, pp. 129–30; I, 9, pp. 153–5.

⁷⁰ Machiavelli 1960, I, 49, p. 241: 'provedere a tutte quelle leggi che la mantengono libera'.

⁷¹ Machiavelli 1960, I, 49, p. 244.

⁷² Cicero 1913, I, XXVII, 93, p. 96; I, XXVII, 96, p. 98; I, XL, 143, p. 146; I, XLV, 159, p. 162.

⁷³ Machiavelli 1960, III, 35, p. 482: 'Non ci veggo altra via [sc. per quegli che consigliano una republica] che pigliare le cose moderatamente, e non ne prendere alcuna per sua impresa, e dire la opinione su senza passione, e senza passione con modestia difenderla.'

The other requirement of *temperantia*, Cicero had added, is that everyone should behave 'with orderliness',⁷⁴ a sentiment echoed by Livy with his frequent insistence on the need to act *recte et ordine*, in a right and orderly way. Again Machiavelli completely agrees. To maintain a *vivere libero*, the citizens must avoid all *disordine* and conduct themselves *ordinariamente*, in an orderly way. If intemperate and disorderly methods (*modi straordinari*) are permitted, tyranny will result; but as long as orderly and temperate methods (*modi ordinari*) are followed, freedom can be successfully preserved over long periods of time.⁷⁵

Machiavelli helpfully summarises his argument towards the end of Book 1 in the course of explaining why he believes that the cities of Tuscany could easily have introduced a *vivere civile* if only a prudent leader with a knowledge of ancient statecraft had arisen to command them. As grounds for this judgement he mentions the fact that the Tuscan communes have always displayed *animo*, courage, and *ordine*, temperance and orderliness. From which it follows that, if only the missing ingredient of *prudente* leadership had been added, they would have been able to maintain their liberty.⁷⁶

v

Hobbes insists in *Leviathan* that the classical and neo-Roman theory of liberty I have been considering is in danger of leaving us confused:

The Liberties, whereof there is so frequent, and honourable mention, in the Histories, and Philosophy of the Antient Greeks, and Romans, and in the writings, and discourse of those that from them, have received all their learning in the Politiques, is not the Libertie of Particular men; but the Libertie of the Common-wealth.⁷⁷

We can now see, however, that Hobbes has either failed to grasp the point of the classical and neo-Roman argument I have sought to reconstruct or else is deliberately distorting it. For the point of the argument is of course that the liberty of the commonwealth and the liberty of particular men cannot be separately assessed in the way that Hobbes and his epigoni among contemporary theorists of negative liberty assume. The essence of the neo-Roman case is that, unless a commonwealth is maintained 'in a state of liberty' (in the ordinary sense of being free from constraint

⁷⁴ Cicero 1913, I. XL. 142, p. 144.

⁷⁵ Machiavelli 1960, I. 7, pp. 146–9. See also Machiavelli 1960, I. 22, p. 188; I. 24, p. 191; I. 49, pp. 242–4.

⁷⁶ Machiavelli 1960, I. 55, p. 257. ⁷⁷ Hobbes 1996, p. 149.

to act according to its own will) then the individual members of such a body politic will find themselves stripped of their personal liberty (again in the ordinary sense of losing their freedom to seek their own goals). The grounds for this conclusion are that, as soon as a body politic forfeits the capacity to act according to its general will, and becomes subject to the will of either its own *grandi* or some ambitious neighbouring community, its citizens will find themselves treated as means to their masters' ends, and will thereby lose their freedom to pursue their own purposes. The enslavement of a community thus brings with it the inevitable loss of individual liberty. Conversely, the liberty of particular men, *pace* Hobbes, can only be assured under a 'free commonwealth', an elective and self-governing form of republican regime.

To grasp this point is at the same time to see that there is no difficulty about defending both the claims about social freedom which, as we saw at the outset, contemporary philosophers have been apt to stigmatise as paradoxical, or at least as incompatible with a negative understanding of individual liberty.

The first was the suggestion that freedom is connected with service – that only those who place themselves wholeheartedly at the service of their community are capable of assuring their own liberty. We can now see that, from the perspective of classical and neo-Roman thought, this is not a paradox but a perfectly straightforward truth. For a writer like Machiavelli, the liberty of individual citizens depends in the first place on their capacity to fight off servitude arising 'from outside'. But this can only be done if they are willing to undertake the defence of their polity themselves. A readiness to perform one's military service, to volunteer for active service, to join what we still call the armed services, constitutes a necessary condition of maintaining one's own individual freedom from servitude. Unless we are prepared to act 'in such a way as to exalt and defend our fatherland', we shall find ourselves conquered and enslaved.⁷⁸

The maintenance of personal liberty also depends according to Machiavelli on preventing the *grandi* from coercing the *popolo* into serving their ends. But the only way to prevent this from happening is to organise the polity in such a way that every citizen is equally able to play a part in determining the actions of the body politic as a whole. This in turn means that a readiness to serve in public office, to pursue a life of public service, to perform voluntary services, constitutes a further necessary condition of maintaining one's own liberty. Only if we are prepared

⁷⁸ Machiavelli 1960, II, 2, p. 283 on the need to promote 'la esaltazione e la difesa della patria'.

‘to do good for the community’, to ‘help forward’ and ‘act on behalf of’ the common good, can we hope in turn to avoid a state of tyranny and personal dependence.⁷⁹

Cicero had laid it down in his *De Officiis* that individual and civic liberty can only be preserved if we are prepared to act ‘as slaves to the public interest’.⁸⁰ There are several echoes in Livy’s history of the same use of the vocabulary of slavery to describe the condition of political liberty.⁸¹ Machiavelli is simply reiterating the same classical oxymoron: the price we have to pay for enjoying any degree of personal freedom with any degree of continuing security is voluntary public service.

I turn to the other contention that contemporary writers have generally held to be incompatible with a negative understanding of individual liberty. This is the connected suggestion that the attributes required of each individual citizen in order to perform these public services must be the virtues, and thus that only those who behave virtuously are capable of assuring their own freedom. If we revert to Machiavelli’s account of the qualities we need to cultivate in order to serve our polity in war and peace, we can readily see that this too appears, from the perspective of classical and neo-Roman thought, to be a perfectly straightforward truth.

According to Machiavelli we stand in need of three qualities above all: courage to defend our liberty; temperance and orderliness to maintain free government; and prudence to direct our civic and military undertakings to the best effect. As we saw in chapter 5, however, this is to speak of three of the four ‘cardinal’ virtues invariably singled out by the Roman historians and moralists. They had all agreed that – to cite Cicero’s formulation in *De Inventione* – the overarching concept of *virtus generalis* can be divided into four components, and that these are prudence, justice, courage and temperance.⁸²

It is true that Machiavelli’s analysis differs from Cicero’s in one immensely important respect. He silently makes one alteration – small in appearance but overwhelming in significance – to the classical analysis of the virtues needed to serve the common good. He erases the quality of justice, the quality that Cicero in *De Officiis* had described as the crowning splendour of virtue.⁸³

⁷⁹ Machiavelli 1960, I. 9, pp. 153–4 on the indispensability of citizens who ‘giovare . . . al bene comune’ and act ‘per il bene comune’.

⁸⁰ Cicero 1913, I. X. 31, p. 32: ‘communi utilitati serviatur’.

⁸¹ For example, Livy 1924, V. X. 5, vol. 3, p. 34. For a fuller exploration of this point see Skinner 1998.

⁸² Cicero 1949, II. LIII. 159, p. 326. ⁸³ Cicero 1913, I. VII. 20, p. 20.

This is not to say that Machiavelli fails to discuss the concept of justice in the *Discorsi*. On the contrary, he follows the Ciceronian analysis of the concept almost word for word. As we saw in chapter 5, Cicero had argued in his *De Officiis* that the essence of justice consists in the avoidance of *iniuria* or harm contrary to right. Such harm can arise in one of two ways: either as the product of fraud or of 'brutal' and 'inhumane' cruelty and violence. To observe the dictates of justice is thus to avoid both these vices, and this duty lies equally upon us at all times. For in war, no less than in peace, good faith must always be kept and cruelty eschewed. Finally, the observance of these duties is also said to be in our interests. If we behave unjustly, we shall not only cheat ourselves of honour and glory; we shall undermine our ability to promote the common good and thereby uphold our own liberty.⁸⁴

Machiavelli fully agrees with this account of what constitutes the virtue of justice. But he flatly repudiates the crucial contention that the observance of this virtue is invariably conducive to serving the common good. As we saw in chapter 5, he regards this belief as an obvious and disastrous mistake, a dissenting judgement that takes us to the heart of his originality and his subversive quality as a theorist of statecraft. He responds in the first place by making a firm distinction between justice in war and peace, arguing that in warfare both forms of *iniuria* are frequently indispensable. Fraud is often crucial to victory, and to treat it as inglorious is absurd.⁸⁵ The same is no less true of cruelty, a quality that marked the very greatest of Rome's generals, such as Camillus and Manlius, and proved in each case to be vital to their success.⁸⁶ Moreover, the same lessons apply with almost equal force in civic affairs. Although fraud in this case is detestable, it is often essential to the achievement of great things.⁸⁷ And although cruelty may similarly stand as an accusation against anyone who practises it, there is no denying that it will often have to be practised, and will always have to be excused, if the life and liberty of free communities are to be successfully preserved.⁸⁸

This represents an epoch-making break with the classical analysis of the cardinal virtues; its suddenness and completeness can hardly be overemphasised. But it is scarcely less important to emphasise that this

⁸⁴ For this analysis see above, chapter 5 section II, and cf. Cicero 1913, I. XI. 34 to I. XIV. 45, pp. 36–48.

⁸⁵ Machiavelli 1960, III. 40, pp. 493–4. ⁸⁶ Machiavelli 1960, III. 22, pp. 448–54.

⁸⁷ Machiavelli 1960, II. 13, pp. 311–13.

⁸⁸ Machiavelli 1960, I. 9, pp. 153–5; I. 16, p. 175; II. 13, pp. 311–13; III. 30, pp. 466–9; III. 41, pp. 494–5.

represents Machiavelli's sole quarrel with his Roman authorities. The rest of his analysis of *virtù* and its connections with *libertà* is impeccably Ciceronian in character. He not only centres his entire account around the qualities of courage, temperance and prudence, but he regularly refers to these attributes as elements of virtue as well as preconditions of liberty. When generals or entire armies are described as exhibiting *animo*, they are also said to be displaying an element of *virtù*.⁸⁹ When communities and their members are said to be *bene ordinata*, they are again said to be in possession of an element of *virtù*.⁹⁰ When civic and military leaders are commended for *virtuoso* behaviour, this is often because they are said to have exhibited exceptional *prudenza*.⁹¹ In all these cases, the qualities that assure liberty are cardinal virtues.

It is true that this is to offer an unorthodox reading of Machiavelli's views about the meaning and significance of *virtù*.⁹² Federico Chabod summarises the more usual view when he declares that '*virtù*, in Machiavelli, is not a "moral" quality as it is for us; it refers instead to the possession of energy or capacity to decide and act'.⁹³ But I am not denying this; as far as it goes, this seems to me correct. The widest use to which Machiavelli consistently puts the term *virtù* is in speaking of the means by which we achieve particular results; the means, as we still say, by virtue of which they are achieved.⁹⁴ As a result, when he comes to speak of the results in which he is principally interested in the *Discorsi* – the preservation of liberty and the attainment of civic greatness – he consistently uses the term *virtù* to describe the human qualities needed for these successes to be achieved. Speaking of *virtù* in these connections, he is thus speaking of abilities, talents, capacities. Of generals and armies he frequently remarks that the quality which enables them to defeat their enemies, to win great victories, is their *virtù*.⁹⁵ When discussing the role of *virtù* in civic affairs, he likewise uses the term to describe the talents needed to found cities, to prevent faction, to avoid corruption, to maintain decisive leadership, to impose orderly government and to uphold the other arts of peace.⁹⁶

⁸⁹ See, for example, Machiavelli 1960, I. 43, p. 231; II. 12, p. 310; III. 36, p. 484.

⁹⁰ See, for example, Machiavelli 1960, III. I, p. 380.

⁹¹ See, for example, Machiavelli 1960, I. 1, pp. 125–9; I. 21, p. 186; III. 23, p. 454.

⁹² For a recent and contrasting analysis see Mansfield 1996, pp. 6–52.

⁹³ Chabod 1964, p. 248.

⁹⁴ For representative examples see Machiavelli 1960, I. 15, p. 172; II. 6, p. 295; II. 24, p. 354; III. 1, p. 381.

⁹⁵ For representative examples see Machiavelli 1960, I. 19, p. 184; II. 2, p. 279; III. 22, p. 452.

⁹⁶ For representative examples see Machiavelli 1960, I. 1, p. 127; I. 9, p. 154; I. 17, pp. 178–9.

My objection to Chabod's type of analysis is merely that it does not go far enough.⁹⁷ We still need to ask about the specific nature of the talents or abilities that serve to bring about these great results in civic and military affairs. If we press this further question we find, as we have seen, that Machiavelli's answer comes in two parts. We first need a certain ruthlessness, a willingness to discount the demands of justice when this is necessary to uphold the common good. But the remaining qualities we need are courage, temperance and prudence. At the heart of Machiavelli's political theory there is thus a purely classical message, framed in the same play on words that the ancient theorists had all exploited. If we ask in virtue of what qualities, what talents or abilities, we can hope to assure our own liberty and contribute to the common good, the answer is: in virtue of the virtues.

VI

In the light of the above attempt to outline the structure of a classical and neo-Roman theory of freedom, I now wish to revert to the current disputes about the idea of negative liberty from which I started out. The historical materials I have presented, I shall conclude by suggesting, are relevant to these disputes in two related ways.

They show us, in the first place, that the terms of the contemporary debate have become confused. It is agreed on all hands that a theory of liberty connecting the idea of social freedom with the performance of virtuous acts of public service would have to begin by positing certain ends as rational for everyone to pursue, and then seek to establish that the attainment of those ends would leave us in the fullest or truest sense in possession of our liberty. This is of course a possible way of connecting the concepts of freedom, virtue and service. It is widely (though I think mistakenly)⁹⁸ held to be Spinoza's way of doing so in his *Tractatus Politicus*, and it certainly appears to be Rousseau's way of doing so in *Du Contrat Social*. It is by no means the only way of doing so, however, as present-day analytical philosophers are apt to suppose. In a theory such as Machiavelli's, the point of departure is not a vision of *eudaimonia* or real human interests, but simply an account of the 'humours' or dispositions

⁹⁷ The same seems to me to apply to Price 1973, although this is the best available discussion of the uses of the term *virtù* throughout Machiavelli's political works.

⁹⁸ Because such interpretations underestimate the extent to which Spinoza is restating classical republican ideas, especially as developed by Machiavelli in the *Discorsi*. But for an excellent corrective see Haitsma Mulier 1980.

that prompt us to choose and pursue our various ends. Machiavelli has no quarrel with the Hobbesian assumption that the capacity to pursue such ends without obstruction is what the term 'liberty properly signifieth'. He merely argues that the performance of public services, and the cultivation of the virtues needed for performing them, prove upon examination to be instrumentally necessary to the avoidance of coercion and servitude, and thus to be necessary conditions of assuring any degree of personal liberty in the ordinary Hobbesian sense of the term.

This brings me to the other way in which the classical and neo-Roman theory is relevant to contemporary arguments. As a consequence of overlooking the possibility that a theory of negative liberty might coherently have the structure I have sketched, a number of philosophers have proceeded to enunciate further claims about the concept which they take to be statements of general truths, but which are in fact true only of their own particular theories of negative liberty.

One of these has been the Hobbesian claim that any theory of negative liberty must in effect be a theory of individual rights. As we have seen, this has acquired the status of an axiom in many contemporary discussions of negative liberty. Liberty of action, we are assured, 'is a right'; there is a 'moral right to liberty'; we are bound to view our liberty both as a natural right and as the means to secure our other rights.⁹⁹ As will by now be evident, these are mere dogmas. A neo-Roman theory such as Machiavelli's helps us to see that there is no conceivable obligation to think of our liberty in this particular way. Machiavelli's is a theory of negative liberty, but he develops it without making any use whatever of the concept of individual rights. While he often speaks of that which is *onesto*, or morally right, I know of no passage in his entire political writings where he speaks of individual agents as the bearers of *diritti* or rights.¹⁰⁰ On the contrary, the essence of his theory could be expressed by saying that the attainment of social freedom cannot be a matter of securing personal rights, since it indispensably requires the performance of social duties.

Machiavelli's scholastic contemporaries and their contractarian descendants have tended to respond to these arguments in a similar way. The best means, they suggest, to secure our personal liberty must

⁹⁹ For these claims see respectively Day 1977, p. 270; Day 1983, p. 18; McCloskey 1965, pp. 404–5.

¹⁰⁰ Colish 1971, pp. 345–6 claims that 'Machiavelli often connects *libertà* with certain private rights' and 'clearly identifies freedom with the protection of private rights'. But I can find no textual warrant for these assertions. For a good corrective to such anachronistic claims see Sasso 1958, pp. 333–41.

nevertheless be to conceive of it as a right, as a species of moral property, and to defend it absolutely against all forms of external interference. But to this objection the classical and neo-Roman theorists of freedom have a strong retort. To adopt this attitude, they maintain, is not merely the epitome of corrupt citizenship, but is also (like all derelictions of social duty) in the highest degree an instance of imprudence. All prudent citizens recognise that, whatever degree of negative liberty they may enjoy, it can only be the outcome of – and if you like the reward of – a steady recognition and pursuit of the public good at the expense of all purely individual and private ends.

As we have seen, however, contemporary theorists of negative liberty have not lacked their own retort at this point. They have gone on to denounce the underlying suggestion that it may be in our interests to perform our duties as dangerous metaphysical nonsense. But it will now be evident that this too is a mistake. Machiavelli believes of course that as citizens we have a specific duty (*ufficio*) to perform, that of advising and serving our community to the best of our abilities. So there are many things, he repeatedly tells us, that we ought to do and many others that we ought to avoid. But the reason he gives us for cultivating the virtues and serving the common good is never that these are our duties. The reason is always that these represent, as it happens, the best and indeed the only means for us ‘to do well’ on our own behalf, and in particular the only means of securing any degree of personal liberty to pursue our chosen ends. There is thus a perfectly clear and unmetaphysical sense in which, although Machiavelli never speaks of interests, it would be fair to say that he believes our duty and our interests to be one and the same. He is celebrated, moreover, for the chilling emphasis which he places on the idea that all men are evil, and can never be expected to do anything good unless they can see that it will be for their own advantage. So his final word is not merely that the apparent paradox of duty as interest enunciates, once more, a straightforward truth. Like his Roman authorities, he also believes that it states the most fortunate of all moral truths. For unless the generality of evil men can be given selfish reasons for behaving virtuously, it is unlikely that any of them will perform any virtuous actions at all.

Humanism, scholasticism and popular sovereignty

I

The sixteenth century has rightly been seen as a pivotal moment in the evolution of modern theories of constitutionalism and the right of resistance. There was admittedly nothing new in the idea that a body of people can justifiably resist or even remove a ruler judged to be behaving tyrannically. But the exercise of this power had usually been treated as a temporary response to some specific crisis of legitimacy. What was lacking was the idea that the people constitute the ultimate authority from which all legitimate governments must derive. Although, as we saw in chapter 2, this conception became well entrenched in the city-republics of the *Regnum Italicum* in the course of the thirteenth century, the apologists of monarchy in northern Europe generally continued to regard the institution of kingship as divinely ordained. It was not until the sixteenth century that there rose to prominence a more radical vision of monarchical government, a vision in which kings and other rulers were viewed as agents or mandatories of the people, who were in turn held to possess a continuing right not merely to limit but to control their rule. Only in this period, in consequence, do we begin to encounter the idea that the power to resist and remove tyrannical kings must be regarded as a moral right possessed at all times by the body of the people – and perhaps even its individual members – in virtue of their standing as the ultimate holders of sovereignty.

These developments have often been associated with the rise of revolutionary Calvinism in the latter part of the sixteenth century. Julian Franklin has argued that it was ‘in the political crises touched off by the spread of the Reformation’ that these ideas first appeared in their fully

The original (but very different) version of this chapter appeared under the title ‘The Origins of the Calvinist Theory of Revolution’ in *After the Reformation*, ed. Barbara Malament (London, 1980), pp. 309–30.

developed form.¹ They initially emerged, he adds, most clearly and fully in France, and above all in the works of such leading Huguenot revolutionaries as Theodore Beza, François Hotman and the anonymous author of the *Vindiciae, Contra Tyrannos* of 1579. Michael Walzer in his classic study, *The Revolution of the Saints*, likewise emphasises the causal role played by a new and specifically Calvinist theory of revolution. Walzer begins by speaking of ‘the appearance of revolutionary organisation and radical ideology’ as one of the ‘startling innovations of sixteenth-century political history’. He goes on to argue that ‘it was the Calvinists who first switched the emphasis of political thought’ from the figure of the prince to that of the revolutionary, and in consequence ‘formed the basis for the new politics of revolution’.² My aim in what follows will be to reconsider these claims about the special contribution of Calvinism to the development of modern views of popular sovereignty.

II

There are I think two aspects of Franklin’s and Walzer’s interpretation that no one would wish to challenge. There is no doubt in the first place that most of the leading protagonists of political resistance in mid-sixteenth-century Europe were Calvinists, or at least took some trouble to present themselves as defenders of Calvinism. This is hardly surprising, given that most of the political struggles to which the Reformation gave rise were struggles against the domination of the Catholic church. This applies to the attempted *coups d’état* in Scotland and England in the 1550s as well as to the upheavals in Holland and France in the 1570s. The leaders of all these movements were professed Calvinists, and their principal ideologists were Calvinist preachers and publicists. The roll-call of the theorists involved is impressive: John Knox and George Buchanan in Scotland, John Ponet and Christopher Goodman in England, Theodore Beza and Philippe du Plessis Mornay in France,³ Philip Marnix and Jacob van Wesembecke in the Netherlands.⁴

The other contention not in doubt is that, in connection with these movements, a number of Calvinist writers defended the claim that there must be a moral right on the part of entire communities – and even their individual members – to assert their sovereignty by overthrowing tyrannical governments. It is true that this most radical version of the

¹ Franklin 1969, pp. 11–15. ² Walzer 1965, pp. 1, 2.

³ For these writers see Skinner 1978b, esp. pp. 323–38.

⁴ For these writers see Gelderen 1992, esp. pp. 115–26.

Calvinist theory of revolution was less frequently affirmed in the course of the sixteenth century than is sometimes implied. Consider, for example, the most celebrated Calvinist revolutionary of the age, John Knox. If we turn to his most violent call to arms, his *Appellation* of 1558, we encounter scarcely any trace of these arguments. Knox describes the establishment of political society as a work of God himself, and accordingly treats the lawfulness of forcible resistance not as a moral right but as an aspect of the people's religious duty to uphold the law of God.⁵ Consider, similarly, the Huguenot treatises published in the wake of the St Bartholomew's Day massacre in 1572. Although the Huguenot revolutionaries usually accept that forcible resistance to tyranny is a moral right, they take great care to deny that any such right remains lodged with the body of the people. When, for example, the author of the *Vindiciae* describes the nature of the contracts that inaugurate civil associations, he emphasises that the signatories must be the chosen ruler on the one hand and 'the officers of the kingdom' on the other, without any direct intervention from the people as a whole.⁶ This in turn means that, when he defends the right of forcible resistance, he insists that it is possessed only by the officers to whom the people have transferred their authority. It is only to these officers that a ruler makes a promise to rule justly; it is only they who may in consequence be said to have a right to defend the commonwealth from oppression if this promise is not kept.⁷

There can be no doubt, however, that in a number of Calvinist treatises of the later sixteenth century we do encounter the claim that a moral right of forcible resistance remains lodged with the body of the people, and even with its individual members as well. The earliest treatise⁸ in which this position is taken up is the Latin dialogue by George Buchanan entitled *De Iure Regni apud Scotos*, which was written in Scotland during the 1560s, in the immediate aftermath of the first successful Calvinist revolution.⁹ Buchanan begins by stressing that political societies are in no sense directly ordained by God. All civil associations are instituted by their own members for the improvement of their welfare and the greater security of their rights. The proof lies in the fact that the original condition of mankind was not a political one. Alluding to the *De Inventione*,

⁵ Knox 1994, pp. 83–4, 95–8. See, on this theme, Burns 1996, pp. 122–52.

⁶ *Vindiciae* 1994, pp. 129–37. ⁷ *Vindiciae* 1994, pp. 155–8, 169–72.

⁸ Caprariis 1959, p. 113 and Kingdon 1967, pp. 153–5 both refer to a still earlier tract, *The Civil and Military Defence of the Innocents and of the Church of Christ*, published in Lyon in 1562, which evidently allowed for resistance by the whole body of the people. But the tract has not survived.

⁹ Trevor-Roper 1966 argues that Buchanan sketched the *De Iure* late in 1567, although it remained unpublished until 1579. But for further discussion see McFarlane 1981, pp. 392–6.

the figure of Buchanan rhetorically asks his docile interlocutor, Thomas Maitland: 'Do you not think that once upon a time people lived in huts and even in caves, and wandered about like so many aliens, having neither laws nor even any fixed dwelling-places?'¹⁰ As soon as Maitland agrees, Buchanan sweeps on to infer that all legitimate political societies must therefore have arisen out of human desires and decisions, and specifically out of a recognition that some common benefit would be secured that could not be gained from a solitary way of life.¹¹

There is a conspicuous absence in this account of the assumption that the people or their leaders must have sworn a covenant with God at the formation of their commonwealth in order to ensure the rule of righteousness.¹² Buchanan concedes that peoples must originally have been induced to congregate not merely by considerations of utility but also by natural feelings of sociability implanted by God.¹³ But he adds that 'considerations of Utility also have great force in helping to establish and maintain human societies'.¹⁴ The body of the people will consent to the election of a ruler and the inauguration of a law-making authority as soon as they recognise the convenience of having someone to deliberate and concern themselves with the affairs of the community as a whole.¹⁵

Buchanan's humanist vision of the origins of political society is matched by a radically populist analysis of the proper relationship between government and the governed. The people are pictured as consenting to the establishment of a commonwealth essentially in order to secure (but not to alter) their existing system of rights. It follows that rulers must in turn be governed by laws,¹⁶ and must have the status not of overlords but merely of officials or 'elected guardians of society'.¹⁷ There is no question of creating a sovereign who is *legibus solutus*, since 'the people, who grant to the king his power to make laws, prescribe to him the form of his power' in advance.¹⁸ Nor is there any question of alienating or 'transmitting' any rights in the act of instituting a king. Since

¹⁰ Buchanan 1579, p. 8: 'putas ne tempus quoddam fuisse, cum homines in tuguriis atque etiam antris habitarent: ac sine legibus, sine certis sedibus palantes vagarentur?' As befits a leading humanist, Buchanan holds to a Ciceronian rather than an Aristotelian view of the origins of political society. His account very closely follows Cicero 1949, I. I. 1 to II. II. 3, pp. 2–8.

¹¹ Buchanan 1579, p. 9.

¹² See for example the discussion of this covenant in *Vindiciae* 1994, pp. 21–34.

¹³ Buchanan 1579, pp. 9–11.

¹⁴ Buchanan 1579, p. 9: 'Magnam profecto videtur quibusdam Utilitas habere vim ad societatem publicam humani generis & constituendam & continendam.'

¹⁵ Buchanan 1579, pp. 15–16. ¹⁶ Buchanan 1579, pp. 19–20.

¹⁷ See Buchanan 1579, p. 25 on the *rex as custos societatis*.

¹⁸ Buchanan 1579, p. 32: 'populo, qui ei imperium in se dedit . . . eius imperii modum ei praescribat'.

the people are only electing a 'minister' or representative, it is clear that 'just as they originally had the power to create their kings, so they must also have the power to regulate their behaviour' after appointing them.¹⁹

When Buchanan turns to the limits of political obligation, he proceeds to endorse an almost anarchistic view of the right of forcible resistance. He has argued that the people only delegate and never alienate their original sovereignty. Those who nowadays rule as kings 'accepted from our ancestors not a wide but a limited power, restrained within definite bounds, while the people retained a perpetual right which has never been taken away from them by any public decree'.²⁰ The figure of Buchanan in the dialogue is therefore convinced that, as he declares, 'all nations that have ever elected kings and obeyed them must have held this belief in common, that whatever the people may grant to anyone in the way of legal right can always be taken away again if there are just causes for doing so'.²¹ Citing instances from Scottish history, he concludes that, if ever the members of a nation find that they have elected not a king but a tyrant, and thus a mere wielder of unjust force, they can always 'shake off his violent power as soon as they gain sufficient confidence in their own strength'.²² As Buchanan had earlier implied, however, our rulers have a duty to protect not merely the welfare of the community but the rights of individual members at the same time. His other and still more radical conclusion is thus that the right to repel unjust force with force must be lodged 'not merely with the whole body of the people, but even with each individual citizen as well'.²³

Although George Buchanan was both a Calvinist and a revolutionary, we still need to pause before concluding that his *De Iure Regni* illustrates Michael Walzer's thesis about 'the origins of radical politics'. According to Walzer, it was due to their Calvinist allegiances that writers like Buchanan felt moved to adopt their radical stance. But we still need to ask whether the theory of politics they espoused had its origins within the Calvinist movement itself, or whether they merely adopted and developed it from earlier sources and authorities. Granted that the *writers*

¹⁹ Buchanan 1579, p. 62: 'fuerit potestas populi in regibus creandis, & in ordinem redigendis'.

²⁰ Buchanan 1579, p. 66: 'non immensam, sed intra certos terminos constrictam, & finitam potestatem reges nostros a maioribus accepisse . . . & perpetui iuris a populo usurpatio, nullo unquam decreto publico reprehensa'.

²¹ Buchanan 1579, p. 80: 'Omnes nationes, quae regibus a se electis parent, hoc communiter sentiunt, quicquid iuris alicui populus dederit, idem eum iustis de causis posse reposcere.'

²² Buchanan 1579, p. 62: 'populus quoque ubi primum suis viribus coeperit confidere violentum illud imperium poterit excutere'.

²³ Buchanan 1579, p. 97: 'ius est non modo universo populo, sed singulis etiam'. Cf. also Buchanan 1579, pp. 61, 79, 81, and see Burns 1951, pp. 65-7.

who mounted and theorised about the revolutions of sixteenth-century Europe were in general self-proclaimed Calvinists, was it also the case that the *arguments* they invoked were specifically Calvinist in provenance and character?

One of Walzer's main contentions is that this further question must also be answered in the affirmative. Walzer treats the theories of political resistance espoused by the Catholic polemicists of the same period as little more than a reiteration of medieval beliefs. Francisco Suárez is taken as the paradigm of the Catholic outlook, and his view of forcible resistance is said to be that it amounts to nothing more than 'a temporarily necessary form of legal violence' which is brought to an end as soon as order is restored.²⁴ This backward-looking attitude is sharply contrasted with the 'new politics' of Calvinism, a politics centring on the revolutionary attempt to 'set legality and order aside' in order to accommodate the theory and practice of 'permanent warfare'.²⁵ The implication of the contrast is said to be that 'the origins of radical politics' must be sought in a specifically Calvinist set of beliefs and experiences. It was Calvinism that 'taught previously passive men the styles and methods of political activity'.²⁶

As it stands, however, this argument embodies a *non sequitur*. Walzer may be right to claim that the revolutionary theories of the Calvinists were in no way adopted from their Catholic adversaries. But it does not follow that the theories they articulated must have been the products of a distinctively Calvinist set of beliefs and experiences. There remains the possibility that their outlook may have represented one instance of a more general response by the leaders of the Protestant Reformation to the threat of persecution by the defenders of the Catholic church. What remains to be investigated is the possibility that the theories espoused by the Calvinists may have originated with the Lutherans, from whom the Calvinists may have adopted their arguments.²⁷

It is easy to explain why this possibility has so often been overlooked. It has widely been assumed that, as Walzer himself argues, Luther was 'a political conservative', whose followers 'turned away from politics' and left the kingdom of earth, as Luther himself wrote, 'to anyone who wants to take it'.²⁸ But in fact neither Luther nor the other leading

²⁴ Walzer 1965, p. 111 and note. ²⁵ Walzer 1965, pp. 111–12.

²⁶ Walzer 1965, p. 18. For a similar view see Baron 1939, pp. 40–2.

²⁷ For a further but complementary doubt, emphasising the debt of Calvinism to humanist traditions of thought, see Todd 1987.

²⁸ Walzer 1965, pp. 23, 26. For a classic statement of the view that Luther was wholly committed to a doctrine of passive political obedience see Figgis 1960, pp. 73–93.

protagonists of the Lutheran Reformation were consistent in adopting such an unworldly stance. When faced in 1530 and again after 1546 with the threat of an imperial campaign designed to crush their church, they decisively abandoned their earlier posture of political passivity.²⁹ They not only responded by vindicating the lawfulness of forcible resistance, but argued in terms of one of the leading principles later adopted by the Calvinist revolutionaries. Since all rulers, they maintained, are assigned their authority on condition that they institute the rule of justice, any ruler who betrays this trust 'ceases in that to be a Magistrate', as John Locke was later to put it, and may thus be lawfully opposed as a tyrannical wielder of unjust force.³⁰

This argument is stated by Luther himself in his *Warnung an seine lieben Deutschen* of 1531. The specific warning that Luther issues is that the emperor may be about to start a war, which indeed seemed probable at the time. Luther declares that, if this happens, it will no longer be possible to accept the emperor as a lawful magistrate. He will no longer be imposing lawful authority but will merely be exercising the power of the fist. Once this characterisation is established, the conclusion in favour of forcible resistance readily follows. Luther announces that, if war breaks out, he will not reprove those who decide to fight the imperialist murderers and bloodthirsty papists. He will accept their action as an instance of self-defence, since it will not amount to rebellion against a lawful magistrate but merely a case of repelling unjust force with force.³¹

This conclusion has sometimes been dismissed as an uncharacteristic outburst in a moment of crisis, an outburst that failed to exercise any lasting influence.³² But if we turn to the later theoretical writings of Philipp Melanchthon, Luther's chief lieutenant in the Wittenberg Reformation, we find the same line of argument even more plainly set out. Consider, for example, Melanchthon's *Prolegomena* to Cicero's *De Officiis*, a work he originally published in 1530 and reissued in a revised and radicalised form in 1542.³³ One of the new sections he added specifically deals with the office of rulers and magistrates. The discussion opens by pointing to the fact that 'animals have a natural instinct to repel violence, due to the fact that God has implanted in their nature an

²⁹ This point is emphasised in Skinner 1978b, pp. 191–224 and in Kingdon 1991, pp. 200–6.

³⁰ Locke 1988, II, 202, p. 400.

³¹ See Luther 1910 and for a discussion see Brecht 1990, pp. 411–21.

³² See the accounts of Luther's *volte face* in 1530–31 in Baron 1937, p. 422 and Mesnard 1969, p. 228.

³³ See Melanchthon 1850 and for publishing details see Bindseil 1850.

appetite for conserving themselves, while in mankind we also find the same inclination to repulse unjust violence'.³⁴ This 'natural knowledge' is said to be 'the testimony which God has given to us for discriminating between justice and injustice'.³⁵ Melanchthon proceeds to argue the standard humanist case that the reason for instituting civil associations is to guarantee the rule of justice, and thus that the office of rulers and magistrates automatically excludes any right to inflict 'manifest injuries' on their subjects.³⁶ This allows him to restate the crucial conclusion at which Luther had already arrived:

It is lawful to repel unjust force by means of a kind of force that has been ordained, that is to say, through the office of the magistrate when he is able to call on help, or else by one's own hand if the magistrate cannot act, in the manner of someone who kills thieves.³⁷

As Melanchthon explicitly affirms, the lawful power to resist unjust force is not merely lodged with ordained magistrates. It is a power possessed *in extremis* by every individual subject, this being in accordance with the truth of the maxim that 'nature permits us to repel force with force'.³⁸

The same arguments were subsequently restated by a number of Lutheran publicists in the face of Emperor Charles V's campaign against the Schmalkaldic League after 1546. The most important treatise to revive these claims was the *Confessio et Apologia* issued by the pastors of Magdeburg. This was probably written by Luther's close associate Nicholas von Amsdorf, and was published in German and Latin in April 1550.³⁹ The second section of the *Confessio* takes as its point of departure the justification of forcible resistance already offered by Luther in his *Warnung* nearly twenty years before.⁴⁰ Amsdorf first emphasises that all the powers that be are ordained to fulfil a particular office. He then argues that, since magistrates are ordained by God to be an honour to good works and a terror to the bad, it follows that if they begin to honour the bad and persecute the good they cannot

³⁴ Melanchthon 1850, p. 573: 'Bestiae naturale inclinatione repellunt violentiam, quia cuilibet naturae insita est a Deo appetito conservandi sese: in homine autem [est inclinatio] ad depulsionem iniustae violentiae.'

³⁵ Melanchthon 1850, p. 573: 'testimonia de Deo, ostendentia discrimen inter iusta et iniusta'.

³⁶ See Melanchthon 1850, p. 574 on 'iniuria manifesta'.

³⁷ Melanchthon 1850, p. 573: 'vim iniustam repellere licet vi ordinata, scilicet officio magistratus, cum eius auxilio uti potest, aut manu propria, si desit magistratus, ut si quis incidat in latrones'.

³⁸ Melanchthon 1850, p. 573: 'Verum est igitur dictum, vim vi repellere natura concedit'.

³⁹ [Amsdorf] 1550. My ascription is based on the fact that Amsdorf's name stands first in the list of pastors who signed the tract at the end.

⁴⁰ [Amsdorf] 1550, Sig. A. 2^r.

be accounted genuine magistrates.⁴¹ This again is taken to license the conclusion that anyone who resists such actions will not be resisting lawful authority, but merely a wielder of unjust force who may be lawfully repulsed.⁴²

III

It might seem that Michael Walzer's thesis about the origins of radical politics could still be rescued if it were now restated in more general terms. Although there may be little that was distinctively Calvinist about the revolutionary arguments of the mid-sixteenth century, it might still be argued that these arguments were the product of a distinctively *Protestant* psychology and experience. But even this, I think, would be to claim too much. Walzer's basic distinction between the backward-looking philosophy of the Catholic schoolmen during this period and the 'modern' outlook associated with the Reformation cannot be sustained. If we turn to the schoolmen of the early sixteenth century, we find them enunciating the same theory of resistance as was later espoused by such humanist converts to Calvinism as George Buchanan and still later enshrined in such classic restatements of the Calvinist theory as John Locke's *Two Treatises of Government*. The schoolmen of the generation immediately preceding the Reformation have received little attention,⁴³ but it is the main argument of this chapter that they need to be brought centre-stage if we are to gain a better understanding of the evolution of radical politics in early-modern Europe.

The radical arguments deployed by the schoolmen largely stem from two prominent strands of later medieval thought. One was the discussion among civil lawyers of the conditions under which the infliction of violence need not constitute legal injury. The *Digest* of Roman law contains a classic statement of the claim – later taken up by Lutheran as well as Calvinist theorists – that it is always legitimate to repel unjust force with force: *vim vi repellere licere*. The maxim itself appears in Book 43 under the title *De Vi et de Vi Armata*, where Ulpian is quoted as follows:

⁴¹ [Amsdorf] 1550, Sig. F. 3^r.

⁴² On Amsdorf's tract and its significance see Skinner 1978b, pp. 206–11.

⁴³ This was true when this chapter was originally written, but there is now a large and distinguished literature on Almain and Mair. On Almain see Carlyle and Carlyle 1936, pp. 241–7; Burns 1983, Burns 1994; Brett 1997, pp. 116–22. On Mair see Burns 1954 and Burns 1981. See also Oakley 1962 and Oakley 1965, two valuable articles in which Almain and Mair are treated together, and Oakley 1984, a collection of these and related articles. For another valuable treatment of Almain and Mair see Tierney 1997, pp. 236–54.

Cassius writes that it is lawful to repel force with force, and that this is permitted by the law of nature. From which it appears, he says, that armed force may lawfully be repelled with armed force.⁴⁴

The implications of the dictum are spelled out in the analysis of the *Lex Aquilia* in Book 9, where the main example considered is that of robbery with violence. If I kill a thief who is attacking me, there will be no question of my being liable for murder, because natural reason permits everyone to protect themselves from danger. Even if it is only my property rather than my life which is in jeopardy, it may still be lawful for me to kill a thief who comes in the night, provided that I give fair warning.⁴⁵

It is true that none of the jurists intended this justification of private violence to be applicable in the public sphere. But this was not enough to deter a number of writers from adapting and extending their arguments in such a way as to generate a theory of political resistance. Nearly two centuries before Luther and Melancthon made their appeal to the maxim *vim vi repellere licere*, we already find William of Ockham arguing in the same fashion in his *Octo Quaestiones de Potestate Papae*. Discussing the jural relationship between the pope and the emperor in his second *Quaestio*, Ockham considers the parallel question of the relationship between a kingdom and its king. He concedes that 'the king is superior to his whole kingdom in the ordinary course of events'.⁴⁶ But he instantly qualifies this doctrine with the claim that 'in certain circumstances he is inferior to the kingdom'.⁴⁷ This is said to be proved by the fact that 'in cases of dire necessity it is lawful for the subjects of a kingdom to depose their king and keep him in custody'.⁴⁸ And this in turn is said to be justified by the fact that 'we have it from the law of nature that anyone may lawfully repel force with force'.⁴⁹

The other and even stronger foundation for the arguments of the early sixteenth-century schoolmen was provided by the theorists of the Conciliar movement. At the time of the Great Schism at the end of the fourteenth century, Jean Gerson and his followers had adapted the Roman Law theory of corporations in such a way as to defend a thesis

⁴⁴ *Digest* 1985, XLIII. XVI. I. 27, vol. 4, p. 584: 'Vim vi repellere licere Cassius scribit idque ius natura comparatur: apparet autem, inquit, ex eo arma armis repellere licere.'

⁴⁵ *Digest* 1985, IX. II. 4, vol. 1, p. 278.

⁴⁶ Ockham 1940, p. 86: 'Rex enim superior est regulariter toto regno suo.'

⁴⁷ Ockham 1940, p. 86: 'tamen in casu est inferior regno'.

⁴⁸ Ockham 1940, p. 86: 'regnum in casu necessitatis potest regem suum deponere et in custodia detinere'.

⁴⁹ Ockham 1940, p. 86: 'ex iure naturali habet quod cuilibet vim vi repellere licet'.

of popular sovereignty in the church.⁵⁰ They had argued that, as Gerson puts it in his treatise *De Potestate Ecclesiastica* of 1417, the highest power to govern the church must at all times be lodged with the general council as the representative assembly of the faithful, with the pope's *plenitudo potestatis* being assigned to him merely as a matter of convenience.⁵¹ The first inference Gerson draws is that 'if the general council represents the universal church, it is integrally necessary that its power should include the authority of the pope'.⁵² This being so, the pope cannot be considered as the *caput* or head of the members of the church, 'for each of these, as the Apostle says, is also given a duty to perform'.⁵³ Rather the council must be in all ways *maior* or greater than the pope, 'including in coercive power',⁵⁴ and its authority must extend even to deposing and removing the pope from office.⁵⁵ Gerson chooses not to spell out the implications of his theory for other types of *societates perfectae*, such as political communities. But he leaves us with an analysis of ecclesiastical power which, if transferred to the civil sphere, would yield the conclusion that the highest authority to make laws must remain lodged with the people or their representatives at all times.

Early in the sixteenth century these legal and conciliarist ideas were duly applied to the civil sphere by a group of avowed followers of Ockham and Gerson at the University of Paris.⁵⁶ The occasion for this development was the quarrel that the French king, Louis XII, picked with Pope Julius II after the collapse of the League of Cambrai in 1510.⁵⁷ Alarmed by Louis' victory over the Venetians in the previous year, Julius decided to repudiate the alliance he had formed with the French in 1508. Louis responded by appealing over the pope's head to a general council of the church, summoning the council to meet at Pisa in May 1511.⁵⁸ (This in turn alarmed the Florentines, and Machiavelli was one of the emissaries sent to plead for the council to be held elsewhere.)⁵⁹ Besides demanding that a general council should go into session, Louis called on the University of Paris to confirm his claim that the church as a body possesses

⁵⁰ On the Schism see Flick 1930, vol. 1, pp. 262, 271, 312. On Gerson and his followers see Morrall 1960. For earlier conciliarist ideas see Tierney 1955.

⁵¹ Gerson 1965, pp. 217, 222, 232–3.

⁵² Gerson 1965, p. 222: 'si generale concilium repraesentet universalem Ecclesiam sufficienter et integre necesse est ut includat auctoritatem papalem'.

⁵³ Gerson 1965, p. 239: 'non ita ut caput, . . . quibus singulis, ut ait Apostolus, proprium datum est officium'.

⁵⁴ Gerson 1965, p. 240: 'maior in coercitiva potestate'. ⁵⁵ Gerson 1965, p. 223.

⁵⁶ For a classic study of the Sorbonne in this period see Renaudet 1953.

⁵⁷ La Brosse 1965, pp. 58–9. ⁵⁸ Jedin 1957–61, vol. 1, pp. 32–4.

⁵⁹ Renaudet 1922, pp. 469–76.

greater authority than the pope.⁶⁰ The professors at the Sorbonne duly responded with a number of systematic works of political theory, defending the idea of popular sovereignty as a claim not merely about the government of the church but about the location of authority in civil associations as well.⁶¹

The first and most radical exponent of this position was Jacques Almain (c.1480–1515), known to his contemporaries as ‘Splendor Academiae’. Almain was commissioned by the university to furnish its official reply to the king, which was published as *Libellus de Autoritate Ecclesiae* in 1512.⁶² It seems that Almain may have won this commission as the result of a more wide-ranging disputation he had already conducted on the subject of natural, civil and ecclesiastical power. This latter work was first published in 1518 as *Questio in Vesperis Habita*⁶³ and was later reprinted under the more descriptive title of *Quaestio Resumptiva... de Dominio Naturali, Civili, & Ecclesiastico*.⁶⁴ Of still greater importance in these debates was the figure of John Mair (c.1467–1550). Mair was Almain’s teacher, and probably collaborated with him in the writing of his *Libellus*. Later he published similar views about the concept of popular sovereignty,⁶⁵ initially outlining them in his commentary on the fourth book of Peter Lombard’s *Sentences* in 1516⁶⁶ and subsequently restating them in a more accessible style in his *Historia Majoris Britanniae* in 1521.⁶⁷

John Mair has largely been neglected by historians of political theory,⁶⁸ but he is arguably of pivotal significance in the evolution of early-modern theories of popular sovereignty. He not only adopted and developed the

⁶⁰ For the dependence of the ensuing discussions of popular sovereignty by the Sorbonnists (especially Almain and Mair) on the works of Gerson and his associates, see Oakley 1964, pp. 203–4, 213–15; La Brosse 1965, Part II; Brett 1997, pp. 76–87, 116–22.

⁶¹ For the immediate context of these works see Burns and Izbicki 1997.

⁶² My citations are taken from Almain 1706a, the version of the tract issued (under the title *Tractatus* rather than *Libellus*) in 1606 and again in 1706 as an appendix to the works of Jean Gerson. For a translation see Almain 1997a.

⁶³ Almain 1518, 4th pagination, fos. lxii–lxvii.

⁶⁴ This was the title under which the work appeared when it too was republished as an appendix to the works of Jean Gerson. See Almain 1706b. For a translation see Almain 1997b.

⁶⁵ For these and other biographical details see Mackay 1892, pp. xxxiii–xxxviii. For Mair’s date of birth see Burns 1954, p. 83.

⁶⁶ Mair originally published his commentary in 1509, but first added his radical political arguments to the edition of 1516, republishing this version in 1519 and again in 1521. My translations are taken from the 1519 edition.

⁶⁷ See Mair 1521 and cf. Mair 1892, the version from which I quote. The title embodies a pun on *Major*, the Latinised version of Mair’s name. On Mair as an historian see Burns 1996, pp. 59–75.

⁶⁸ This was true when this chapter was originally written, but we now have Burns 1981, Oakley 1984 and Tierney 1997, all important discussions of Mair’s political works.

arguments already adumbrated by his acknowledged masters, William of Ockham and Jean Gerson, but also served as a channel through which their ideas passed into the age of the Reformation and beyond. When Mair began teaching theology at the Collège de Montaigu in the early years of the sixteenth century, one of his pupils there was Jean Calvin himself.⁶⁹ Even more suggestively, when he returned to his native Scotland in 1518, one of the students whom he taught as professor of philosophy and divinity at the University of Glasgow was John Knox.⁷⁰ Most suggestively of all, when he transferred to the University of St Andrews in 1522, one of the young scholars who followed him there 'to sit at his feet' was George Buchanan.⁷¹

For Almain as well as Mair, the point of departure in the analysis of civil associations is with the idea of the original freedom of the people. Mair offers the fullest account of the natural condition of mankind in the later editions of his commentary on the fourth book of Lombard's *Sentences*. He agrees with Gerson that Adam enjoyed a paternal but not a political form of dominion, since there was no need for coercive authority in a sinless world.⁷² He accordingly reiterates – as Gerson had done – the patristic view that the need for secular communities must originally have arisen in consequence of the Fall. Wandering and congregating in different parts of the world, men found it expedient for their own protection 'to constitute a single head for themselves and to live under kingly forms of government'.⁷³ Later, however, they discovered to their cost that kingship tends to degenerate into tyranny, and at that stage Mair imagines a further development. 'Very many kings, it seems to me, must then have been introduced by the consent of the people, and were able justly to maintain their government only by popular consent.'⁷⁴

The chief corollary drawn by Almain and Mair is that no rulers placed in power by a free people can ever possess absolute sovereignty, since they must originally have been installed on agreed terms to serve as delegates or 'ministers' of the community that appointed them. The doctrine is most clearly summarised by Almain at the start of his *Quaestio Resumptiva*. He agrees that the capacity to establish 'civil dominion' must originally have been granted to mankind after the Fall, and he

⁶⁹ Ganoczy 1966, pp. 39–41. ⁷⁰ Ridley 1968, pp. 15–16.

⁷¹ Burns 1954, pp. 85, 92–3; McFarlane 1981, pp. 27–8. ⁷² Mair 1519, fo. cii^v.

⁷³ Mair 1519, fo. ciii^r: 'possent inter se constituere unum caput, & in regia politia vivere'.

⁷⁴ Mair 1519, fo. ciii^r: 'Aliqui autem reges & plurimi, ut opinor, introducti sunt consensu populi: & . . . non poterant iuste tenere regimen sine populi consensu.'

proceeds to note five corollaries. The second states that the *ius gladii* or 'right of the sword' must remain lodged with the *communitas* or body of the people at all times, since 'no perfect Community can abdicate this power, just as no individual person can abdicate the power they possess to conserve themselves in being'.⁷⁵ His third corollary adds that the jurisdictional standing of the ruler of any such community must therefore 'be merely that of an official' appointed by the people.⁷⁶ Almain concedes in his fifth corollary that 'because it is not possible for the whole Community regularly to congregate, it has been thought appropriate that they should delegate this power to a certain person, or group of persons, who are able to meet together easily'.⁷⁷ But he insists in his fourth corollary that such persons can never have a higher standing than delegates of the people, since 'the power that the Community has over the Prince whom it has instituted is one that it is impossible for it to renounce'.⁷⁸

There are two implications that Almain – more explicit and radical than Mair – is particularly anxious to underline. The first, evidently directed against the more conservative outlook of the Thomists, is that we cannot speak of any new rights of sovereignty being established at the inauguration of commonwealths. The Thomists had originally put forward – and Suárez was later to repeat – a strongly contrasting argument. No individual, they had observed, possesses the right to kill, but it is unquestionable that any lawful ruler possesses, in the *ius gladii*, just such a right. They inferred that, although it is true that the people must originally have instituted the legal powers under which they live, the act of doing so must have involved them in creating an authority greater than themselves. Almain retorts that this doctrine is incoherent, on the grounds that 'no one can give what they do not already possess'.⁷⁹ This leads him to argue that, since there is undoubtedly a right of judicial execution in any commonwealth, a similar right must already have existed before the commonwealth was brought into existence.⁸⁰ 'Because it is the Community that gives authority to the Prince to kill, it follows that

⁷⁵ Almain 1706b, col. 964: 'Nulla Communitas perfecta hanc potestatem a se abdicare potest, sicut nec singularis homo potestatem quam habet ad se conservandum in esse.'

⁷⁶ Almain 1706b, col. 964: 'dominium Jurisdictionis Principum est solum ministeriale.'

⁷⁷ Almain 1706b, col. 965: 'quia Communitas regulariter facile congregari non potest . . . congruum fuit, ut eam delegaret alicui, aut aliquibus, qui facile congregari possunt.'

⁷⁸ Almain 1706b, col. 963: 'Non potest renunciare Communitas potestati quam habet super suum Principem ab ea constitutum.'

⁷⁹ Almain 1706b, col. 964: 'Nemo dat quod non habet.' Cf. also Almain 1706a, col. 978.

⁸⁰ Almain 1706b, cols. 963–4.

this authority must originally have been possessed by the Community itself, and not in the way of a grant from anyone else, unless we think of it as a grant from God.⁸¹

Drawing on the theory of natural rights already outlined by Ockham and Gerson,⁸² Almain puts forward a remarkably individualistic argument in proof of this conclusion.⁸³ He presents his case most fully at the start of his *Libellus de Autoritate Ecclesiae*. First he declares that every individual person in the pre-political state of nature 'must have been endowed with a natural right or power to do anything necessary to sustain and conserve themselves, and to repel all harmful things'.⁸⁴ This latter right must have extended, he specifically adds, to include 'the power of killing anyone who makes an unjust attack on us'.⁸⁵ Almain then argues that exactly the same right or power must, by analogy, be possessed by the body of the people, 'since any individual person can be compared with the entire Community as a part to a whole'.⁸⁶ The community must therefore have a natural and inalienable right to repel unjust force with force, 'even to the extent of cutting off by death anyone who may perturb the community' or threaten its capacity to preserve itself.⁸⁷

The other implication Almain underlines is that, since any legitimate ruler must be a mere delegate of the people, the act performed by the whole community in setting up a commonwealth can never be one that involves them in the alienation of their rights. The fullest statement of this claim is again to be found in the opening chapter of the *Libellus de Autoritate Ecclesiae*. Here too Almain appears to be opposing the more conservative outlook of the Thomists. They had argued – and Suárez was later to reiterate – that when a body of people (in Suárez's words)

⁸¹ Almain 1706b, col. 964: 'cum Communitas det Principi auctoritatem occidendi, sequitur quod est prius in Communitate, & non ex datione cuiuscumque alterius, nisi dicatur Dei'.

⁸² Brett 1997, p. 119.

⁸³ The argument is laid out in Almain 1706a col. 977 and again in Almain 1706b, cols. 961–2.

⁸⁴ Almain 1706a, col. 977: 'hominem condidit cum naturali Iure, seu potestate, ea quae suae sustentationi ac conservatione necessaria sunt sumendi, necnon & ea quae nociva sunt repellendi'.

⁸⁵ Almain 1706a, col. 977: 'potestas eum, qui iniuste aggreditur, interimendi'.

⁸⁶ Almain 1706a, col. 977: 'Cum ergo quaelibet persona singularis comparetur ad totam Communitatem, sicut pars ad totum.' Almain's argument is thus that the reason why the community must possess this power is that, by analogy with its individual members, any community must possess whatever rights are necessary for preserving itself. This is not to say (as I originally suggested in Skinner 1980) that the community acquires this power from the fact that its individual members possess it. Burns 1983 supplies this correction. But the inference seems a natural one, and a number of sixteenth-century schoolmen (for example, Domingo de Soto) duly went on to draw it.

⁸⁷ Almain 1706a, col. 977: 'eos quorum vita est in perturbationem Communitatis, etiam per mortem praescindere'.

'makes a transfer of power to a prince' this will involve them 'not in a delegation but rather in a kind of alienation or absolute gift' of their rights, and thus in the creation of a sovereign above the law, not a mere delegate of the sovereign people.⁸⁸ Almain retorts that 'the Power that any perfect Community possesses is one that it can never abdicate, any more than an individual person can voluntarily relinquish their Power to preserve themselves'.⁸⁹ This enables him to insist once more that 'the Power which a King has at his disposal is simply the Power of the Community', and thus that 'the Power of Princes can never be greater than that of the holder of an office'.⁹⁰

It is important to distinguish Almain's and Mair's arguments from those of the humanist writers we examined in chapters 2 and 5. Mair specifically notes in his commentary on Lombard's *Sentences* that the people of ancient Rome elected their consuls, and that the people of modern Venice continue to elect their Doges as leaders drawn from the ranks of the citizen-body itself.⁹¹ But he makes it clear that he is not himself arguing in favour of the neo-Roman thesis that free peoples must ensure that their rulers take their turn at being ruled. He is content to assume that he is talking, as he says, about *regia politia*, about monarchical forms of government. The thesis on which he insists is simply that, whatever type of monarchy we institute, we must ensure that the powers allotted to our kings are consistent with the fact that the body of the people remains the ultimate bearer of sovereignty at all times.

The upshot of Mair's argument, and even more clearly of Almain's, is thus that our rulers must be 'ministers', elected on condition that they protect and uphold the rights of the sovereign people. They accordingly go on to argue that, should our rulers fail to discharge these duties, they can lawfully be resisted and removed. Almain states the inference with his usual briskness at the start of his *Libellus de autoritate ecclesiae*. 'A Prince who rules not for the benefit but for the destruction of the Polity can be deposed.'⁹² Mair endorses the conclusion in his commentary on the fourth book of Lombard's *Sentences*. Here he treats

⁸⁸ Suárez 1975, III. IV. 11, p. 49: 'Quodcirca translatio huius potestatis a republica in principem non est delegatio, sed quasi alienatio seu perfecta largitio.'

⁸⁹ Almain 1706a, col. 978: 'Nulla Communitas perfecta hanc Potestatem a se abdicare potest, sicut nec singularis homo quam habet Potestatem ad se conservandum.'

⁹⁰ Almain 1706a, col. 979: 'Potestas qua Rex utitur, est Potestas Communitatis [ergo] *Dominium Principum esse ministeriale*.' Cf. also Almain 1706b, col. 964.

⁹¹ Mair 1519, fo. ciii^r.

⁹² Almain 1706a, col. 978: 'eum [sc.Principem] (si non in aedificationem, sed in destructionem Politiae regat) deponere potest'.

the right of political resistance, using a favourite and homely simile, as a straightforward corollary of his doctrine of popular sovereignty. Since any ruler is in effect an administrative official, 'who cannot have the same free power over his kingdom as I have over my books', it follows that 'the whole people must be above the king and can in some cases depose him'.⁹³

Two features of this doctrine need to be underlined. One is that the argument is conducted in wholly secular terms. Since Almain and Mair both view the creation of civil associations essentially as a device for protecting the rights and welfare of the people, they defend the lawfulness of resistance entirely as a moral right, wholly bypassing the language of religious duties. The other notable feature of their argument is its radically populist character. The authority to exercise the right of forcible resistance is said to be lodged not merely with the people's representatives but with the body of the people themselves. It is true that Mair is extremely hesitant and in consequence inconsistent at this vital point. When discussing the right of deposition in his *History*, he concludes by warning us that, unless there has been 'a solemn consideration of the matter by the three Estates', even a tyrannical king 'is not to be deposed'.⁹⁴ At an earlier stage in his argument, however, he had suggested that, even though 'the chief men and the nobility who act for the common people' should normally be responsible for checking an evil ruler, his power is ultimately 'dependent upon the whole people'. This leads him to accept the more radical conclusion that 'the whole people must be above the king and in some cases can depose him', and that 'a people may deprive their king and his posterity of all authority, when the king's worthlessness calls for such a course, just as at first it had the power to appoint him king'.⁹⁵

If we turn finally to the younger and less cautious Almain, we find the same doctrine put forward with much greater confidence. He announces his commitment – again with characteristic briskness – at the start of the *Quaestio Resumptiva*. He has already established, he claims, that it must be the body of the people who institute their rulers to protect their interests. So it must be the same body that retains the perpetual power to resist and remove tyrannical rulers if they fail to discharge the duties they were elected to perform. 'Given that the Community cannot renounce the power it possesses over any Prince whom it has constituted, it follows

⁹³ Mair 1519, fos. cii^v–ciii^f. ⁹⁴ Mair 1521, p. 219. Cf. Oakley 1962, p. 18.

⁹⁵ Mair 1521, pp. 213, 214, 215; cf. also Mair 1519, fo. ciii^f.

that it must be the Community that has the power to depose him (if he rules not for its benefit but for its destruction), this being a natural power of the Community itself.⁹⁶

IV

The study of radical politics in early-modern Europe has for some time been dominated by the concept of the ‘Calvinist theory of revolution’. But I have now suggested that in some respects the label is a misleading one. It is true that the political upheavals of sixteenth-century Europe were largely engineered by professed Calvinists, but the theories in terms of which they explained and justified their actions were not, at least in their main outlines, specifically Calvinist at all. When the humanist George Buchanan stated for the first time on behalf of the reformed churches a fully secularised and populist theory of resistance, he was largely restating a series of arguments already mounted by the scholastic theologians at the Sorbonne over a half a century before.⁹⁷ John Mair and his associates bequeathed to the era of the Reformation the leading elements of the early-modern theory of revolution in its most radical form. It only remained for Buchanan – Mair’s own pupil – to take over the concepts and arguments he had learnt from his scholastic teachers and press them into service on behalf of the Calvinist cause.

Once this background is brought into focus, it may even seem that recent studies have been asking the wrong question about the so-called Calvinist theory of revolution. They have generally asked what could have prompted the Calvinists to develop their distinctive analysis and justification of revolutionary activity. Perhaps they ought instead to have asked what prompted the Calvinists to appeal so extensively to the theories already developed by their Catholic adversaries. The significance of the question lies in the fact that it hints at a different view of the relationship between the ideology of the radical Calvinists and their revolutionary practice. Because Michael Walzer, for example, thinks of their ideology as distinctively Calvinist, he sees it as the key to their self-definition and as the fundamental motive for their behaviour.⁹⁸ Once

⁹⁶ Almain 1706b, col. 964: ‘Non potest renunciare Communitas potestati quam habet super suum Principem ab ea constitutum, qua scilicet potestate eum (si non in aedificationem, sed ad destructionem regat) deponere potest, cum talis potestas sit naturalis.’

⁹⁷ McFarlane 1981, pp. 403–4.

⁹⁸ See, for example, Walzer 1965, p. 2, speaking of the Calvinists as ‘moved by new and revolutionary ideologies’.

we see, however, how little of their ideology was distinctively Calvinist, we are bound to ask whether they may have been engaged not merely in a process of self-definition, but also in a more outward-looking ideological exercise designed to appeal to the uncommitted, to reassure those who might be thinking of joining the cause, and above all to neutralise their ideological enemies by showing how far the Calvinist revolutionary programme could be legitimated by reference to accepted beliefs.

It would require a great deal of further research to test such an hypothesis. But if we recall for a moment the situation in which the Calvinists found themselves, we can at least end by making two points about the plausibility of such an argument. Characteristically the Calvinists were in a small minority, trying to promote illegal and subversive behaviour, and confronting a hostile majority dedicated to claiming that their actions were wholly at odds with good and godly government. Given this predicament, it would not be surprising if the Calvinists were in fact motivated, at least in part, by a felt need to try to broaden the basis of their support, and to defuse so far as possible the condemnation of Catholic Europe.

The other point worth making is that, if these were indeed among their motives, it would have been rational for the Calvinists to act in precisely the way in which they acted. When they presented themselves as exponents of a political theory already articulated by a number of Catholic schoolmen, they were arguably adopting the best available means of legitimising their cause. Perhaps this was their own perception; and perhaps it is in this perception that we should be looking, at least in part, for the secret of their success.

Moral ambiguity and the Renaissance art of eloquence

I

If we consider the leading works of English philosophy written in the age of the scientific revolution, we can hardly fail to be struck by the anxiety they frequently register about what John Locke, in his *Essay Concerning Human Understanding*, calls the ‘doubtfulness and uncertainty’, the ‘great uncertainty and obscurity’ afflicting the application of moral terms.¹ This sense of increasing ambiguity and confusion about the description and appraisal of human actions was, for example, widespread within the early Royal Society. It underlies John Wilkins’s plan of 1668 for the construction of what he called a philosophical language,² and it surfaces in the *History* of the society published by Thomas Sprat in the previous year, in which he complains that the use of ambiguous and over-elaborate language has ‘already overwhelm’d most other *Arts* and *Professions*’.³

A similar disquiet pervades Locke’s analysis in Book 3 of the *Essay* of what he calls ‘the imperfections and abuses’ of words:

Men’s Names, of very compound *Ideas*, such as for the most part are moral Words, have seldom, in two different Men, the same precise signification; since one Man’s complex *Idea* seldom agrees with another’s, and often differs from his own, from that which he had yesterday, or will have tomorrow.⁴

This chapter is a much revised and extended version of an article that originally appeared under the same title in *Essays in Criticism* 44 (1994), pp. 267–92.

¹ Locke 1979, III. IX. 4 and 6, p. 477.

² Slaughter 1982 rightly sees the rise of universal language projects as a response to perceived linguistic inadequacies. But in discussing John Wilkins she concentrates on his aspiration to produce fixed definitions and taxonomies in the sciences. It needs to be stressed that he harboured similar ambitions for moral and religious discourse. For a discussion of his wish to unmask the ‘wild errors’ in religion that ‘shelter themselves under the disguise of affected phrases’ see Shapiro 1969, esp. p. 219. For his attempt to provide a fixed typology of the virtues and vices see Wilkins 1668, pp. 206–13. For further discussions of Wilkins’s project see Knowlson 1975, pp. 91–107 and Stillman 1995, pp. 228–62.

³ Sprat 1959, p. 111. ⁴ Locke 1979, III. IX. 6, p. 478.

As a result of these confusions, Locke goes on, there is 'scarce any Name, of any very complex *Idea*, (to say nothing of others,) which, in common Use, has not a great latitude, and which keeping within the bounds of Propriety, may not be made the sign of far different *Ideas*'.⁵

Some time before Locke issued these warnings in 1690, we already find Thomas Hobbes considering the same problem in terms that Locke appears at various moments to follow almost word for word. As early as 1640 Hobbes had observed in *The Elements of Law* 'how unconstantly names have bene settled, and how subject they are to equivocation', and how these ambiguities act as a barrier to the construction of a genuine civil science.⁶ By the time he came to publish his *Leviathan* in 1651 he was ready to carry the argument much further. He not only reasserts the fact that everyone continually disagrees about the application of evaluative terms, so much so that 'the same man, in divers times, differs from himselfe; and one time praiseth, that is, calleth Good, what at another time he dispraiseth, and calleth Evil'.⁷ He now goes so far as to add that this explains why the natural condition of mankind must necessarily be one of mutual hostility, since such differences are the principal causes of 'Disputes, Controversies, and at last War'.⁸

These considerations bring me to the question I want to address. Why was there so much anxiety in this period about what was seen as the increasing inability to agree about the proper application of evaluative terms? The question has lately been much debated by intellectual historians, and one particular answer has won increasing acceptance. The anxiety, we are told, was a response to the growing interest in, and even acceptance of, the doctrines of Pyrrhonian scepticism, an interest that quickened towards the end of the sixteenth century with the rediscovery of the texts of Sextus Empiricus and their exploitation by such writers as Montaigne and Pierre Charron.⁹

⁵ Locke 1979, III. IX. 8, p. 479.

⁶ Hobbes 1969b, p. 23. While Hobbes 1969b is the standard edition, it contains so many transcription errors that I have preferred to quote from BL Harl. MS 4235, arguably the best surviving manuscript, although my page references are to the 1969 edition.

⁷ Hobbes 1996, pp. 110–11. ⁸ Hobbes 1996, p. 111.

⁹ There are interesting discussions in Brunschvicg 1944, pp. 113–54; Battista 1966, pp. 135, 145, 172–5; and Curley 1978, who valuably relates this background to Descartes' philosophy. But the argument has chiefly been developed by Richard Popkin. See Popkin 1979, and for a full list of his contributions see Popkin 1988. The argument has been applied specifically to Hobbes by a number of more recent commentators. See Missner 1983; Sarasohn 1985; Kahn 1985, pp. 154, 181; Tuck 1989, pp. 64, 93, 102; Hampsher-Monk 1992, pp. 4–6; Hanson 1993, pp. 644–5; Flathman 1993, pp. 2–3, 43–7, 51–2. But for an excellent corrective see Sorell 1993.

This has certainly proved a fruitful hypothesis, but it has I think led to an overemphasis on this particular strand of thought. Such writers as Hobbes, Wilkins and Locke were not merely or even primarily responding to a set of epistemological arguments. Rather they were reacting against the entire rhetorical culture of humanism within which the vogue for scepticism had developed. Nor were they mainly concerned with the technical arguments put forward by the sceptics, whether of a Pyrrhonian or an Academic stamp. Rather they were seeking to overcome a more generally sceptical outlook encouraged by the emphasis placed by the humanists on the *Ars rhetorica*, with its characteristic insistence that there will always be two sides to any question, and thus that in moral reasoning it will always be possible to construct a plausible argument *in utramque partem*, on either side of the case. One of the most obvious ways in which Hobbes in particular remains enmeshed in Renaissance rhetorical culture is that he always aspires to control interpretation, to limit the play of ambiguity and to arrive at authorised versions of potentially subversive texts.

My hypothesis is thus that the anxieties expressed by seventeenth-century philosophers about moral ambiguity stem less from the rise of Pyrrhonism than from the Renaissance revival of the classical art of eloquence.¹⁰ Indeed I am tempted to insist that this is not so much a hypothesis as a fact. When Hobbes asks himself in *De Cive* about ‘the true character of those who stir up the populace and incite them to follow new ways’, he replies that what invariably distinguishes such trouble-makers is ‘a powerful form of eloquence separated from a true knowledge of things’.¹¹ When Locke in Book 3 of the *Essay* enquires into the sources of ambiguities and misdescriptions, he too lays most of the blame on ‘Rhetorick, that powerful instrument of Error and Deceit’.¹² He ends by proclaiming that ‘all the Art of Rhetorick, besides Order and Clearness, all the artificial and figurative application of Words Eloquence hath invented, are for nothing else but to insinuate wrong *Ideas*, move the Passions, and thereby mislead the Judgment’.¹³ Summing up the general view, Sprat similarly declares in his *History* that eloquence is ‘fatal to Peace and good Manners’, so fatal that it ‘ought to be banish’d out of all *civil Societies*’.¹⁴

¹⁰ For an attempt to pursue this argument in the case of Hobbes see Skinner 1996.

¹¹ See Hobbes 1983a, XII. XII, p. 193 on ‘*eloquentia potens, separata a rerum scientia*’ as ‘*verus character sit eorum qui populum ad res novas sollicitant & concitant*’.

¹² Locke 1979, III. X. 34, p. 508.

¹³ Locke 1979, III. X. 34, p. 508.

¹⁴ Sprat 1959, p. 111.

II

To understand this fear and dislike of the *Ars rhetorica*, we need to begin by reverting to its governing assumption: that in any discussion about moral or civil affairs it will always be possible to mount a plausible argument on either side of the case. From this it follows that, if I am to convince you that I am in the right, I shall need to find some means of shifting or moving you round to my side. This is one of the themes most prominently discussed in Cicero's *De Oratore*, his fullest and most important dialogue on the art of eloquence. The various characters in the discussion repeatedly speak of the need for advocates in a court of law to drive or impel the judge, to sway or move him, to press or coerce him into adopting their point of view.¹⁵ (It hardly needs stressing that both judge and advocate are invariably assumed to be male.) The figure of Antonius even adds that, should an orator find himself confronting a judge 'who is actively hostile to his cause and friendly to his adversary', he must 'try to swing him round as if by some kind of machinery' until he is forced to see things from a different perspective.¹⁶

But how can we hope – as we still put it – to induce people to stand where we stand on some particular issue? According to the classical rhetoricians, we can never hope to speak persuasively if we are lacking in wisdom and the associated capacity for effective reasoning. Without these intellectual talents, Cicero insists, our discourse will be no better than garrulous and inane.¹⁷ But we can never hope to rely on the force of reason alone to carry us to victory in the war of words, simply because it will always be possible to adduce good reasons *in utramque partem*. The inescapable conclusion, according to the rhetoricians, is that if we are to speak 'winningly' we shall have to master the art of persuasion, learning how to empower our reason with the moving force of eloquence.

By far the most influential summary of this fundamental belief is furnished by Cicero himself in the opening pages of his *De Inventione*, a discussion to which the rhetorical theorists of the English Renaissance endlessly return. Cicero concedes that 'eloquence in the absence of wisdom is never of the least advantage to civil communities'.¹⁸ But he insists that, since wisdom in itself 'is silent and powerless to speak', wisdom in the absence

¹⁵ Cicero 1942a, II. XLII. 178, vol. 1, p. 324; III. VI. 23, vol. 2, p. 18; III. XIV. 55, vol. 2, p. 44.

¹⁶ Cicero 1942a, II. XVII. 72, vol. 1, p. 252: when the judge is 'amicus adversario et inimicus tibi', then 'tanquam machinatione aliqua . . . est contorquendus'.

¹⁷ Cicero 1942a, I. V. 17, vol. 1, pp. 12–14 and I. VI. 20, vol. 1, p. 16.

¹⁸ Cicero 1949, I. I. 1, p. 2: 'civitatibus, eloquentiam vero sine sapientia . . . prodesse numquam'.

of eloquence is of even less use.¹⁹ What is needed 'if a commonwealth is to receive the greatest possible benefits' is *ratio atque oratio*, powerful reasoning allied to powerful speech.²⁰ 'A large and crucial part' of any civil science must therefore be occupied by the art of eloquence, and especially 'by that form of artistic eloquence which is generally known as rhetoric, the function of which is evidently that of speaking in a manner calculated to persuade'.²¹

The idea of eloquence as a moving force, a force capable of impelling a doubting or hostile audience to come round to our side, was taken up with much enthusiasm by the vernacular rhetoricians of the English Renaissance.²² Thomas Wilson refers in his pioneering *Arte of Rhetorique* of 1554 to the orator's ability to 'stir' his hearers, to press or push them towards the adoption of some particular standpoint.²³ George Puttenham in his *Arte of English Poesie* of 1589 likewise speaks of the orator's power to 'lead on' an audience,²⁴ while Henry Peacham in his *Garden of Eloquence* of 1593 similarly extols the power of figurative language to 'prevaile much in drawing the mindes' of an audience, thereby helping the orator to 'move them to be of his side, to hold with him, to be led by him'.²⁵ This sense of eloquence as a physical force became encapsulated in a set of metaphors that have remained with us ever since as a way of dramatising the *vis verborum* or power of persuasive utterance. We still refer to the capacity of eloquent speakers to seize the attention of an audience; we also speak of the power of eloquent speech to sway us, to transport us, to carry us away.

It remains to ask by what means the force of eloquence can shift or move us to do what reason commands. According to the classical theorists of rhetoric, it chiefly does so by adding *pathos* to *logos*, by appealing to the passions or affections in such a way as to excite them against our opponents and in favour of our own cause. The figure of Antonius in Cicero's *De Oratore* puts the crucial point with disarming frankness. After capturing the attention of our auditor, we must try 'to shift or impel him

¹⁹ See Cicero 1949, I. II. 3, p. 6 on *sapientia* as 'tacita' and 'inops dicendi'.

²⁰ See Cicero 1949, I. II. 3, p. 6 and I. IV. 5, p. 12 on the need for *ratio atque oratio* to ensure that 'ad rem publicam plurima commoda veniunt'.

²¹ Cicero 1949, I. V. 6, pp. 12–14: 'magna et ampla pars est artificiosa eloquentia quam rhetoricam vocant . . . officium autem eius videtur esse dicere apposite ad persuasionem'.

²² For further details about the vernacular rhetoricians discussed here see Crane 1965 and Skinner 1996, pp. 51–65.

²³ Wilson 1554, Preface, Sig. A 2^v; cf also fos. 34^v, 63^r, 73^r.

²⁴ Puttenham 1970, pp. 147, 151, 189. For the attribution of the *Arte* to Puttenham see Willcock and Walker 1970, pp. xvi–xliv.

²⁵ Peacham 1593, p. 121.

so that he becomes ruled not by deliberation and judgement but rather by sheer impetus and perturbation of mind'.²⁶ Quintilian later expresses the same commitment when discussing the role of the emotions in Book 6 of his *Institutio Oratoria*. It is through arousing the passions, he maintains, 'that the force of oratory is able to display itself to the greatest effect'.²⁷ 'This is the power', he proclaims, 'that dominates tribunals, this is the style of eloquence that rules over all'.²⁸

A deliberate ambiguity in the use of the word *move* may thus be said to lie at the heart of the classical conception of persuasive speech. The essential task of the orator is to shift or move an audience to come round to his point of view. But the surest means of accomplishing this task will be to speak in such a way that the audience is not merely convinced but 'greatly moved'. As Cicero summarises when speaking in his own person in the *De Partitione Oratoria*, 'that speech which has the greatest effect in shifting or moving our hearers will be the one that moves their minds'.²⁹

Drawing on these classical authorities, the Tudor rhetoricians continually come back to the same basic point. Richard Sherry lays it down in his *Treatise of Schemes and Tropes* of 1550 that an orator must always be 'appoynted and readye thorowlye to move and turne mens myndes'.³⁰ Thomas Wilson agrees in his *Arte of Rhetorique* that an orator 'muste perswade, and move the affeccions of his hearers' if he is to ensure 'that thei shalbe forced to yelde unto his saiyng'.³¹ Henry Peacham similarly stresses in *The Garden of Eloquence* that one of the orator's principal aims must be to 'move to the love of the thing', to 'force and move the mind forward, to a willing consent'.³²

We still need to know how we can hope in practice to write or speak in such a moving style. Not without some misgivings, the rhetoricians answer that there is only one possible way. We must find some means of 'amplifying' the facts, of stretching or exaggerating them to make them appear more favourable to our cause than they are in strict truth.³³ The figure of Antonius puts the point with his accustomed frankness in Book 1 of *De Oratore*:

²⁶ Cicero 1942a, II. XLII. 178, vol. 1, p. 324: 'ipse sic moveatur, ut impetu quodam animi et perturbatione, magis quam iudicio aut consilio regatur'.

²⁷ Quintilian 1920-2, VI. II. 3, vol. 2, p. 416: 'quo nihil adferre maius vis orandi potest'.

²⁸ Quintilian 1920-2, VI. II. 4, vol. 2, p. 418: 'hoc est quod dominetur in iudiciis, haec eloquentia regnat'.

²⁹ Cicero 1942b, VI. 22, p. 328: 'maximeque movet ea quae motum aliquem animi miscet oratio'.

³⁰ Sherry 1961, p. 22. ³¹ Wilson 1554, fo. 2^v. ³² Peacham 1593, pp. 63, 65, 77.

³³ For the admission that exaggeration – even 'beyond all reason' – is indispensable, see Wilson 1554, fos. 63^v, 65^r, 78^v.

By his choice of words the orator must succeed in making all those things which in ordinary life are felt to be bad, troublesome and thus to be avoided seem very much graver and more irksome than they are, while managing at the same time by his manner of speaking to amplify and embellish all those things which are generally felt to be most desirable and worthwhile.³⁴

Quintilian makes the point even more forthrightly in the course of conceding that, as critics of the *Ars rhetorica* complain, 'this is an art which relies on moving the emotions by saying that which is false'.³⁵ He admits that such extreme methods can only be justified 'if there is no other possibility of ensuring that the judge is led to arrive at a fair verdict'.³⁶ But he freely acknowledges that, 'since those who sit in judgement are often ignorant, it will often be necessary to speak in such a way as to deceive them if they are not to make mistakes'.³⁷

This use of the term 'amplification' to cover the entire process of arousing the emotions by way of stretching the truth recurs even more prominently among the Tudor rhetoricians. Richard Sherry assigns the topic a section of its own, placing it before (and implicitly contrasting it with) the notion of rhetorical proof. His main contention is that amplification comprises 'a greate parte of eloquence', since an orator will always and inevitably be concerned with 'increasing and diminynshing' the facts in the name of winning over an audience.³⁸ Thomas Wilson likewise argues that the best means of achieving an 'apte movyng of affections' is by means of 'Amplificacion', the term he employs for the technique of 'augmentyng and vehemently enlargyng' our arguments so as to 'set the Judge or hearers in a heate, or els to mitigate and asswage displeasure conceived'.³⁹ Henry Peacham later develops a similar understanding of the term, arguing that all such 'increasing and diminishing' is the work of amplification, the means 'whereby the hearers might the sooner be moved to like of that which was spoken'.⁴⁰

There were generally held to be two principal methods of amplification, both of which are treated by the rhetoricians as parts of *ornatus* and hence as aspects of *elocutio*, the third of the five elements in the classical

³⁴ Cicero 1942a, I. LI. 221, vol. 1, p. 156: 'Orator autem omnia haec, quae putantur in communi vitae consuetudine, mala, ac molesta, et fugienda, multo maiora et acerbiora verbis facit; itemque ea, quae vulgo expetenda atque optabilia videntur, dicendo amplificat atque ornat.'

³⁵ Quintilian 1920-2, II. XVII. 26, vol. 1, p. 336: 'et falsum dicat et adfectus moveat.'

³⁶ Quintilian 1920-2, II. XVII. 27, vol. 1, p. 336: 'si aliter ad aequitatem perduci iudex non poterit.'

³⁷ Quintilian 1920-2, II. XVII. 28, vol. 1, p. 336: 'Imperiti enim iudicant et qui frequenter in hoc ipsum fallendi sint, ne errent.'

³⁸ Sherry 1961, p. 70. ³⁹ Wilson 1554, fos. 63^r and 71^v. ⁴⁰ Peacham 1593, pp. 119, 121.

theory of eloquence.⁴¹ The more important is said to be the use of the figures and tropes to lend additional colour to our utterances, thereby making them more persuasive or 'colourable'.⁴² The other and contrasting method is that of challenging and replacing descriptions instead of enhancing them. The orator's aim in the latter case is to redescribe a given action or situation in such a way as to augment or extenuate its moral significance, thereby hoping to alter the attitude of his audience and enlist them in his cause. It is this contrasting technique, involving what Hobbes was to describe as the 'rhetorication' of moral discourse,⁴³ on which I now wish to concentrate.

As we have already seen in volume 1 chapter 10, the fullest and most influential account of this technique had been furnished by Quintilian, who first discusses it in Book 4 of his *Institutio Oratoria* in the course of considering how best to present a narrative of facts. Suppose we find ourselves facing an opponent who has managed to recount the facts of a case 'in such a way as to rouse up the judges and leave them full of anger against us'.⁴⁴ How should we respond? We must restate the same facts, Quintilian suggests, but not in the same way. 'We must assign different causes, a different state of mind and a different motive for what was done.'⁴⁵ Above all, 'we must try to elevate the action as much as possible by the words we use: for example, prodigality must be more leniently redescribed as liberality, avarice as carefulness, negligence as simplicity of mind'.⁴⁶ We must attempt, in short, to replace the descriptions offered by our adversaries with a set of terms that picture the action no less plausibly, but serve at the same time to place it in a contrasting moral light.

Quintilian's analysis was taken up by all the Tudor rhetoricians I have singled out. Richard Sherry refers us directly to Quintilian in the course

⁴¹ See *Ad C. Herennium* 1954, I. II, 3, p. 6 for perhaps the most influential summary of the view that rhetoric is a five-fold *Ars*, with *elocutio* (incorporating *ornatus*, i.e., the figures and tropes) as its third element. For a discussion of the place of *elocutio* in classical and Renaissance rhetoric see Vickers 1981.

⁴² On *ornatus* as colouring, and on the relations between adding colouring and improving the colourability of arguments, see for example Wilson 1554, fo. 86^r, fos. 89^v to 810^r [*recte* 90^r] and fo. 111^v. For a fuller discussion of this aspect of the theory of persuasive speech see Skinner 1996, pp. 181–211.

⁴³ Hobbes 1983b, p. 26. The phrase is of course due to Hobbes's translator, who has now been identified in Malcolm 2000 as the poet Charles Cotton.

⁴⁴ Quintilian 1920–2, IV. II. 75, vol. 2, p. 90: 'incendit [iudices] et plenos irae reliquit'.

⁴⁵ Quintilian 1920–2, IV. II. 76–7, vol. 1, p. 90: 'eadem [exponemus] sed non eodem modo; alias causas, aliam mentem, aliam rationem dabo'.

⁴⁶ Quintilian 1920–2, IV. II. 77, vol. 2, pp. 90–2: 'Verbis elevare quaedam licebit; luxuria liberalitatis, avaritia parsimoniae, negligentia simplicitatis nomine lenietur.' For an account of how this analysis was taken up by later Roman rhetorical theorists see below, volume 3, ch. 4, section I.

of examining, under the heading of 'Diminution', the process by which 'greate matters are made lyghte of by wordes, as when he was wel beaten by a knave, that knave wyll saye he dyd but a lytle stryke hym'.⁴⁷ Later he adds a number of other examples to illustrate the technique:

The first way of increasyng or diminishing is by chaungynge the worde of the thyng, when in encreasyng we use a more cruell worde, and a softer in diminushynge, as when we call an evyll man a thiefe, and saye he hathe kyllid us, when he hathe beaten us. And it is more vehemente if by correccion we compare greater wordes wyth those that we put before, as: Thou haste broughte not a thiefe, but an extortioner, not an adulterer but a ravyshe, etc.⁴⁸

Although he makes no mention of the fact, Sherry is taking his illustrations almost word for word from the opening of Quintilian's section on amplification.

Thomas Wilson follows Quintilian's analysis scarcely less closely in his *Arte of Rhetorique*. He begins by observing that 'the firste kinde of Amplification is when by chaunging a woorde, in augmentynge we use a greater, but in diminushynge we use a lesse'.⁴⁹ Among examples of how to use the device in extenuation, he suggests calling 'him that is a cruell or mercillesse man somewhat soore in judgement', or 'a naturall foole a playne symple man', or 'a notable flatterer a fayre spoken man, a glutton a good felowe at hys table, a spende all a liberall gentelman, a snudge or pynche peny a good husbände, a thriftye man'.⁵⁰

After these pioneering discussions in the 1550s, we find the same arguments and examples widely taken up.⁵¹ Henry Peacham includes a list of 'extenuating' redescrptions in the first edition of his *Garden of Eloquence* in 1577 by way of illustrating how we can best hope to 'excuse our own vices, or other mens whom we doe defend'.⁵² George Puttenham speaks in very similar terms in his *Arte of English Poesie* of 1589 about 'wordes and sentences of extenuation or diminution' that we can hope to use 'to excuse a fault, & to make an offence seeme less then it is'.⁵³ His examples include saying 'of a great robbery, that it was but a pilfry matter: of an arrant ruffian that he is a tall fellow of his hands: of a prodigall foole, that he is a kind hearted man: of a notorious unthrift, a lustie youth, and such like phrases of extenuation'.⁵⁴

While all these writers view this technique as having immense rhetorical significance, they have differing views about how it should be named

⁴⁷ Sherry 1961, p. 61. ⁴⁸ Sherry 1961, pp. 70–1. ⁴⁹ Wilson 1554, fo. 66^v; cf. also fo. 69^r.

⁵⁰ Wilson 1554, fos. 66^v, 67^r. Cf. Ascham 1970, pp. 206–7. ⁵¹ See Cox 1989.

⁵² Peacham 1971, sig. N, iiiiv. ⁵³ Puttenham 1970, p. 220. ⁵⁴ Puttenham 1970, p. 220.

and classified. Aristotle's original suggestion in Book 3 of *The Art of Rhetoric* had been that, when we augment or diminish an action by re-describing it, we should think of ourselves as employing a species of metaphor.⁵⁵ He was thus inclined to treat the device as one of the tropes of speech. But this was not a proposal that found much favour with the Roman theorists of eloquence. As we have seen, Quintilian's initial suggestion was that the technique should perhaps be categorised neither as a figure nor as a trope but rather as a distinct form of *amplificatio*.⁵⁶ But he later changed his mind, concluding that it ought probably to be grouped among the *schemata* or figures of speech. He adds that those who argue for this classification generally agree that the name of the *figura* we employ 'when we call someone wise rather than astute, or courageous rather than overconfident, or careful instead of avaricious'⁵⁷ is Παραδιαστολή, a term he translates as *distinctio* and defines as 'the means by which similar things are distinguished from each other'.⁵⁸

Quintilian's terminology was widely adopted by the Tudor rhetoricians, although they generally preferred to transliterate his Greek than to offer translations of their own, and hence invented the term *paradiastole*. Henry Peacham agrees that, whenever 'by a mannerly interpretation we doe excuse our own vices, or other mens whom we doe defend, by calling them virtues', we are using the figure of paradiastole.⁵⁹ George Puttenham similarly explains that, 'if such moderation of words tend to flattery, or soothing, or excusing, it is by the figure *Paradiastole*', the name of the device we apply when we seek to lessen or abate the force of words.⁶⁰

It is on the figure of paradiastole that, in the rest of this chapter, I now wish to concentrate. One reason for focusing on it is that so far it has attracted little attention even from historians of rhetoric.⁶¹ But my main reason is that it occupies, I have come to see, a place of major importance in the development of early-modern moral and political thought. I would go so far as to say that most of the anxieties expressed by the philosophers I began by citing about the dangerous implications

⁵⁵ Aristotle 1926, III. II. 10, pp. 355–7.

⁵⁶ Quintilian 1920–2, VI. II. 23, vol. 2, p. 430; cf. VIII. IV. 9–14, vol. 3, pp. 266–70.

⁵⁷ Quintilian 1920–2, IX. III. 65, vol. 3, p. 482: 'Cum te pro astuto sapientem appelles, pro confidente fortem, pro illiberali diligentem.'

⁵⁸ See Quintilian 1920–2, IX. III. 65, vol. 3, p. 482 on *distinctio*, 'qua similia . . . discernuntur'. For a history of the term see below, volume 3, ch. 4, section II.

⁵⁹ Peacham 1971, sig. N, iiiiv. ⁶⁰ Puttenham 1970, p. 184.

⁶¹ For valuable comments, however, see Cox 1989, esp. pp. 53–5 and Whigham 1984, pp. 40–2 and 204–5, and for more recent discussions see Condren 1994, pp. 78–84 and Skinner 1996, pp. 138–80.

of the *Ars rhetorica* were directed against this particular device. Rhetorical redescription was seen by devotees of scientific discourse such as Wilkins no less than by proponents of civil science such as Hobbes as one of the persuasive techniques they most of all needed to neutralise or overcome.

III

There are several obvious questions to ask about the technique of paradiastole, and I shall proceed by considering how the rhetoricians and philosophers set about answering them. It seems worth asking in the first place how we can hope to employ such a method of redescription at all. It might seem, that is, that a virtue such as courage and its opposed vice, cowardice, are the names of actions that are categorically distinct. How can we hope rhetorically to redescribe the one as the other without its becoming obvious that we have ceased to talk about the action concerned?

The answer given by the rhetoricians reflects the continuing influence of Aristotle on the moral as well as the rhetorical thought of the Renaissance. The clue is said to lie in recognising that many of the virtues, and many of the terms we consequently employ to describe and appraise human actions, constitute a mean between two extremes of vice. The crucial implication is that many virtues and vices must therefore stand in a relationship of proximity with each other. As Hobbes was to put it in his Latin translation of Aristotle's *Rhetoric*, they may be said to 'confine' upon one another: like neighbouring countries, they may be described as sharing certain confines or boundaries.⁶²

The Roman rhetoricians place much emphasis on this implication, generally stating it in the form of the claim that good qualities often appear as *vicinae* or neighbours of the vices. Cicero expresses the point in just these terms when discussing the key concept of *honestas* in Book 2 of his *De Inventione*. The dispositions to be avoided if we wish to act well 'are not only the opposite of the virtues, as courage is of cowardice and justice of injustice, but also those which appear close to virtues, and to border on them'.⁶³ For example, 'diffidence is the opposite of confidence

⁶² Hobbes MSS (Chatsworth) MS D 1, p. 24: 'Confinia virtutibus vitia.' This manuscript is a Latin paraphrase of Aristotle's text that Hobbes evidently made for teaching purposes in the early 1630s. For further details about this manuscript see below, volume 3, ch. 1 note 27 and ch. 2 note 79.

⁶³ Cicero 1949, II. LIV. 165, p. 332: 'non ea modo quae his [sc. virtutibus] contraria sunt, ut fortitudini ignavia et iustitiae iniustitia, verum etiam illa quae propinqua videntur et finitima esse'.

and is accordingly a vice, but audacity is not its opposite but is similar and close to it, but is nevertheless a vice. So too with the other virtues, each of which will be found to have a vice bordering on it.⁶⁴ Quintilian outlines a similar argument in his *Institutio Oratoria*, illustrating it specifically from the art of oratory. When considering the merits of untrained orators in Book 2 he repeats that ‘there is a certain neighbourly quality between a number of the virtues and vices’.⁶⁵ He goes on to quote (although without acknowledgement) three of Aristotle’s examples from *The Art of Rhetoric*: ‘slander can pass for frankness, recklessness for courage, extravagance for copiousness’.⁶⁶

With these contentions about virtue and vice as *vicinae*, the rhetoricians arrive at their explanation of why we can always hope to use the technique of paradiastole to excite the feelings of an audience. Because of these neighbourly relations, a clever orator can always challenge the proffered description of an action with some show of plausibility. For he can always extenuate an evil action by imposing on it the name of an adjoining virtue. Alternatively, he can always denigrate a good action by redescribing it with the name of a neighbouring vice. The upshot, as Cicero puts it in *De Partitione Oratoria*, is that ‘we need to take great care lest we find ourselves deceived by those vices which appear to imitate virtue’.⁶⁷ We can easily fall victim to the fact that ‘cunning imitates prudence, insensibility imitates temperance, pride in attaining honours and superciliousness in looking down on them both imitate magnanimity, extravagance imitates liberality and audacity imitates courage’.⁶⁸

The poets and moralists of Tudor England offer a very similar analysis of what makes rhetorical redescription possible. They reveal a special fondness for images of disguise, stressing how the nearness of good and evil makes it all too easy for the vices to mask themselves by hiding under a mantle of goodness. Perhaps the earliest English writer to comment on the technique of paradiastole in this way was Sir Thomas Wyatt in

⁶⁴ Cicero 1949, II. LIV. 165, p. 332: ‘fidentiae contrarium est diffidentia et ea re vitium est; audacia non contrarium, sed appositum est ac propinquum et tamen vitium est. Sic uni cuique virtuti finitimum vitium reperietur.’

⁶⁵ Quintilian 1920–2, II. XII. 4, vol. 1, p. 284: ‘Est praeterea quaedam virtutum vitiorumque vicina.’

⁶⁶ Aristotle 1926, I. IX. 28–9, pp. 96–8. Cf. Quintilian 1920–2, II. XII. 4, vol. 1, p. 284: ‘maledictus pro libero, temerarius pro forti, effusus pro copioso accipitur.’

⁶⁷ Cicero 1942b, XXIII. 81, p. 370: ‘Cernenda autem sunt diligenter, ne fallunt ea nos vitia, quae virtutum videntur imitari.’

⁶⁸ Cicero 1942b, XXIII. 81, p. 370: ‘Nam et prudentiam malitia et temperantiam immanitas in voluptatibus aspernandis et magnitudinem animi superbia in nimis extollendis et despicientia in contemnendis honoribus et liberalitatem effusio et fortitudinem audacia imitatur.’

the version he made in 1536 of Luigi Alammani's satire on court life.⁶⁹ Wyatt is anxious to disclaim the courtly arts himself, but he explains at the same time that courtiers must understand how to conceal their vices under a mantle of virtues:

My wit is naught. I cannot learn the way.
And much the less of things that greater be,
That asken help of colours of device
To join the mean with each extremity:
With the nearest virtue to cloak away the vice.⁷⁰

These reflections were echoed by many moralists of the next generation. Thomas Nashe is one writer who makes extensive play with similar metaphors of masking and concealment. He maintains, for example, in his *Anatomie of Absurditie* that, if Englishmen would only become 'halfe so much Italianated as they are', the vices would no longer find it so easy to 'maske under the visard of virtue'.⁷¹ Thomas Lodge is another conservative moralist who speaks in similar terms. He explains, for example, in the Preface to his translations of Seneca that the reason why we stand in so much need of Seneca's teachings is that nowadays we perceive virtue 'but in a shadow, which serves for a vaile to cover many vices'.⁷²

A second question it seems natural to ask about the technique of paradiastole relates to the point or purpose of using it. Why would anyone want deliberately to introduce such ambiguities into moral and political argument? The Tudor rhetoricians invariably respond by pointing to the value of the device as a method of extenuation, a means of augmenting what can be said in favour of an action or diminishing what can be said against it. When Thomas Wilson discusses 'the first kinde of Amplification' – that of 'augmentynge' or 'diminishynge' the force of an utterance 'by chaunging a woorde' – he assumes that the aim of speaking in this way will always be to exonerate or excuse.⁷³ George Puttenham similarly alludes to the idea of smoothing out blemishes or faults when he proposes to rename the figure of paradiastole 'the *Curry-fauvell*'.⁷⁴ To 'curry' means to groom or comb out, while Fauvel was the name of the horse in Gervais de Bus's fourteenth-century poem *Le Roman de Fauvel*

⁶⁹ For Alammani, and for a reprinting of the poem used by Wyatt, see Mason 1986, pp. 260–3. On the 'self-fashioning' involved in Wyatt's rejection of courtly cynicism see Greenblatt 1980, esp. pp. 127–56.

⁷⁰ Wyatt 1978, p. 187. Cf. Whigham 1984, p. 204, and for a commentary Mason 1986, pp. 283–9.

⁷¹ Nashe 1958, vol. 1, p. 10. ⁷² Lodge 1614, Sig. XX, 1^r.

⁷³ Wilson 1554, fos. 66^v to 67^r. ⁷⁴ Puttenham 1970, p. 184.

whose initials spell the vices of Flatérie, Avarice, Vilanie, Variété, Envie and Lascheté.⁷⁵

To employ the curry-favell, according to Puttenham, is thus to exculpate or at least to extenuate the vices. No doubt owing to the influence of such discussions, the poets and moralists of the period likewise concentrate on the power of rhetorical redescrptions to mitigate and excuse. Sir Thomas Wyatt even refers specifically to the flattering of Fauvel when listing the courtly wiles of those who 'join the mean with each extremity':

As drunkenness good fellowship to call;
 The friendly foe with his double face
 Say he is gentle and courteous therewithal;
 And say that Favel hath a goodly grace
 In eloquence; and cruelty to name
 Zeal of justice and change in time and place.⁷⁶

Wyatt's bitter reflections on courtly hypocrisy are strongly echoed in the next generation by Sir Philip Sidney in the old *Arcadia*. When Prince Basilius loses his way out hunting, he encounters the foolish Dametas, whose rude and violent speech he mistakes for shrewdness. The prince is greatly delighted, and introduces Dametas to his Court 'with apparent show of his good opinion'. Sidney sardonically describes the outcome: 'The flattering courtier[s] had no sooner taken the prince's mind but that there were . . . shadows of virtues found for Dametas. His silence grew wit, his bluntness integrity, his beastly ignorance virtuous simplicity.'⁷⁷ As in Wyatt, one of the marks of a successful courtier is said to be a mastery of paradiastole, the talent for excusing vices by redescrbing them as virtues.⁷⁸

It is obviously one-sided, however, to suppose that paradiastole can actually be *defined* – as Henry Peacham claims – as an 'instrument of excuse'.⁷⁹ As Aristotle had originally observed in his *Rhetoric*, there is no reason why the same device should not be used to perform the opposite task of amplifying what can be said against a given course of action by depreciating its apparently virtuous qualities. To cite Aristotle's own example, it may be possible to denigrate the behaviour of a habitually cautious man by claiming that he is really a person of cold and designing temperament.⁸⁰ The anonymous translation of Aristotle's *Rhetoric* issued

⁷⁵ Harman, Milner and Mellers 1962, p. 121.

⁷⁶ Wyatt 1978, pp. 187–8. ⁷⁷ Sidney 1973, p. 31.

⁷⁸ For the symbolic significance of the episode see Worden 1996, pp. 146, 151–2, 217–19.

⁷⁹ Peacham 1593, p. 169. ⁸⁰ Aristotle 1926, I. IX. 28, p. 96.

as *A Briefe of the Art of Rhetorique* in c.1637 succinctly summarises the general point: the same technique can equally well be used to ‘make the best of a thing’ or else to ‘make the worst of it’.⁸¹

Although the Tudor rhetoricians ignore this latter and more disquieting possibility, a number of the poets and moralists place their main emphasis on it. Sir Philip Sidney in *Astrophil and Stella* mournfully asks to be told whether, even in the celestial regions, the highest virtues are re-described, as they are on earth, in such a way as to leave them upbraided and mocked:

Is constant *Love* deem’d there but want of wit?
 Are Beauties there as proud as here they be?
 Do they above love to be lov’d, and yet
 Those Lovers scorne whom that *Love* doth possesse?
 Do they call Vertue there ungratefulness?⁸²

We encounter some strikingly similar sentiments in John Lyly’s hyperbolically Ciceronian *Euphues* of 1579. Lyly frequently refers to the technique of paradiastole, and invariably points to its use as a means of persuading an audience to view the conventional virtues in a doubtful or ambiguous light. When he speaks in his own person at the outset of his story about ‘those of sharpe capacity’, one of his criticisms is that, if anyone seeks to ‘argue with them boldly, then he is impudent: if coldly, an innocent’.⁸³ When the figure of Euphues later addresses his ‘cooling’ oration to his friend Philautus and all fond lovers, one of the complaints he makes against women is that they are too ready to re-describe the finest manly qualities in such a way as to depreciate them. If a man ‘be cleanlye, then term they him proude; . . . if bolde, blunt; if shamefast, a cowarde’.⁸⁴

A generation before Lyly was writing, we already find Wyatt speaking in similar terms in his satire on court life. Although he begins by criticising those who attempt ‘with the nearest virtue to cloak away the vice’, he immediately goes on to describe the contrasting rhetorical possibility:

And, as to purpose likewise it shall fall,
 To press the virtue that it may not rise.⁸⁵

⁸¹ [Hobbes(?)] 1986, p. 109. For this translation see above, note 62.

⁸² Sidney 1962, sonnet 31, p. 180. ⁸³ Lyly 1868, p. 46.

⁸⁴ Lyly 1868, p. 115. ⁸⁵ Wyatt 1978, p. 187.

Having mentioned both stratagems, he concludes by exemplifying each of them:

And he that suffereth offence without blame
Call him pitiful, and him true and plain
That railleth reckless to every man's shame:
Say he is rude that cannot lie and feign,
The lecher a lover, and tyranny
To be the right of a prince's reign.⁸⁶

Wyatt's shocking examples illustrate the doubly alarming power of paradiastole not merely to excuse the vices but, more directly, to mock the virtues.

Once we recognise that this is the point or purpose of using paradiastole, a further question arises about its role in moral and political argument. What should we think of the technique? Is it to be admired and encouraged, or is it best avoided and shunned? If we turn with these questions in mind to the writers I have been considering, we encounter two sharply conflicting responses. Among the rhetoricians, we find an understandable disposition to point with pride to the technique as one of the most effective means of blurring distinctions between actions and thereby persuading people to view them in unfamiliar ways. George Puttenham, for example, commends the use of paradiastole as one of the most helpful means 'to make the best of a bad thing, or turne a signification to the more plausible sence'.⁸⁷ At this juncture, however, the rhetoricians found themselves in a small minority. Among the educated classes of early-modern England, the fact that an awareness of paradiastole was deliberately inculcated as part of the rhetorical training provided in schools and Universities came to be viewed as a matter of grave concern. As politics and public debate increasingly polarised in the early years of the seventeenth century, a number of commentators began to speak of the technique and its uses not merely with anxiety but with growing frustration and resentment.

One of the sources of this polarisation was the disaffection felt by those of puritan temperament towards the government of the English church and the values of English society more generally. We accordingly find those sympathetic to the puritan cause expressing a growing distaste for prevailing ideals of civilised conduct, complaining in particular about the pride, the licentiousness and the extravagance of the nobility and the court. As a number of these commentators observed, moreover, the

⁸⁶ Wyatt 1978, p. 188. ⁸⁷ Puttenham 1970, pp. 184–5.

technique of rhetorical redescription was used with disgraceful frequency to excuse and even to glorify these typical vices of the age. Joseph Hall, a Caroline bishop who was nevertheless a puritan sympathiser, makes the point with great vehemence in a sermon of 1624 entitled *The Great Imposter*:

The naturall man knowes well how filthy all his brood is, and therefore will not let them come forth, but disguised with the colours and dresses of good; so as now every one of natures birds is a Swan; Pride is handsomnesse, desperate fury, valour; lavishnesse is noble munificence, drunkennesse civility, flattery complement, murderous revenge, justice; the Curtizan is *bona femina*, the Sorcerer a wise man, the oppressor a good husband; *Absolom* will goe pay his vowes; *Herod* will worship the Babe.⁸⁸

What Hall objects to is the use of paradiastole to mislead the pious by deceitfully redescribing a number of prevailing vices as neighbouring virtues.

Still more agonising to those of puritan sensibility was the feeling that they were living in an impious age in which the godly were increasingly viewed with contempt. Again Joseph Hall is a witness to these feelings, and again he refers specifically to the use of rhetorical redescription as a means of mocking and dismissing true piety:

Would the Israelites be devout? they are idle; Doth *David* daunce for joy before the Arke? He is a foole in a Morris; Doth Saint *Paul* discourse of his heavenly Vision? too much learning hath made him mad. Doe the Disciples miraculously speake all the tongues of Babel? They are full of new wine: Doe they preach Christs Kingdome? they are seditious; The resurrection? they are bablers. Is a man conscionable? he is an Hypocrite: is he conformable? he is unconscionable: Is he plaine dealing? he is rudely uncivill: Is he wisely insinuitive? he is a flatterer: In short, such is the wicked craft of the heart, that it would let us see nothing in it[s] owne forme; but faine would shew us evill faire, that we might be inamoured of it, and vertue ugly, that we might abhorre it.⁸⁹

Hall expresses his disgust not merely at the use of rhetorical redescription to excuse vice, but also to perform the still more impious task of scorning and ridiculing virtue. As he summarises, 'such is the envy of nature, that where shee sees a better face than her owne, she is ready to scratch it, or cast dirt in it; and therefore knowing that all vertue hath a native beauty in it, she labours to deforme it'.⁹⁰

Of all the divisions in English society at this time, the most destructive in the longer term arose from the mounting opposition in Parliament

⁸⁸ Hall 1624, p. 33.

⁸⁹ Hall 1624, pp. 34-5.

⁹⁰ Hall 1624, pp. 33-4.

to the policies of the crown, and especially to its allegedly excessive use of the royal prerogative. Seeing their own campaign as an attempt to secure freedom and justice, the crown's opponents were outraged at the opprobrious terms in which their behaviour was continually redescribed by the government. When, for example, Charles I sought to prevent debate about the Petition of Right in 1628, Christopher Wandesford responded by proposing a direct appeal to the king, complaining at the same time that the justice of their cause was being unfairly dismissed:

Let us make our remonstrance for our right. We are his counsellors. We are fallen into a dangerous time; some call evil men good, and good men evil, and bitter sweet. Justice is now called popularity and faction⁹¹. . . popularity and puritanism is objected to the best subjects.⁹²

A graduate of Cambridge, where he would have received a training in the *Ars rhetorica*, Wandesford specifically directs his complaint against the use of paradiastole to undermine the standing of those criticising the government.

John Milton levels the same charge in his invective against Charles I's misgovernment in his *Eikonoklastes* of 1649. He makes the point in thunderous terms in his chapter on the king's hatred of those who dared to question his prerogative:

That trust which the Parliament faithfully discharg'd in the asserting of our Liberties, he calls *another artifice to withdraw the people from him, to their designs*. What piece of Justice could they have demanded for the people, which the jealousy of a King might not have miscall'd, a designe to disparage his Government, and to ingratiate themselves?⁹³

Once again the objection is to the use of paradiastole to make the virtuous conduct of Parliament appear self-seeking and corrupt.

Among the supporters of the crown, however, precisely the same accusation was flung at the leaders of the opposition in Parliament. They were denounced for employing the same technique, cloaking and disguising their wicked and self-interested motives under the names of neighbouring virtues. We already encounter the charge in a letter from Sir Henry Wotton to Sir Edmund Bacon giving a satirical account of the Parliament of 1614. Wotton relates that John Hoskins was one of four members of

⁹¹ *Commons Debates 1628*, vol. 4, p. 115.

⁹² This further phrase comes from the report in the Stowe MSS. See *Commons Debates 1628*, vol. 4, p. 119.

⁹³ Milton 1962, p. 501.

the Commons ‘committed close prisoners to the Tower’ at the end of the session, the offence in his case being ‘licentiousness baptized freedom’. Wotton goes on: ‘For I have noted in our House, that a false or faint patriot did cover himself with the shadow of equal moderation, and on the other side, irreverent discourse was called honest liberty; so as upon the whole matter “no excesses want precious names”’.⁹⁴ Ben Jonson makes a comparable but more intemperate charge when he speaks in his *Discoveries* about those who dare ‘to censure their sovereign’s actions’. The outcome, he complains, is that ‘all the councils are made good or bad by the events’, so that ‘it falleth out, that the same facts receive from them the names; now, of diligence; now, of vanity; now, of majesty; now, of fury: where they ought wholly to hang on his mouth’.⁹⁵

Such accusations only intensified after the outbreak of the civil war in 1642. When John Bramhall published his *Serpent Salve* in 1643, a response to Henry Parker’s *Observations* in support of Parliament, he claimed to see exactly the same rhetorical technique at work in Parker’s hypocritical protestations of patriotism and loyalty. ‘We are now God knowes in this way of Cure’ for the country’s ills, Bramhall retorts, a way in which ‘Ambition, Covetousnesse, Envy, Newfanglednesse, Schisme shal gain an opportunity to act their mischievous intentions, under the cloake of Justice and zeal to the Common-wealth’.⁹⁶ Benjamin Whichcote makes the same accusation – with an even clearer reference to the rhetorical device in play – in his sermon denouncing those ‘who hold the Truth in Unrighteousness’.⁹⁷ One way of committing this sin, he declares, is by ‘doing *that* under one notion, which a Man’s own Judgement will not let him do, under another’, thereby placing our actions ‘under a disguise’. For example, it is a grave case of the sin ‘when any Man is *Conceited*, or of a *Turbulent Spirit in Religion*, for him to please himself with a notion of *Zeal for Truth*’.⁹⁸

Among those who felt so much anxiety about paradiastole, one further question naturally suggested itself. If its cultivation carries with it such grave dangers to the stability of commonwealths, what can be done to limit or neutralise its effects? I turn to this question in volume 3 of the present work – in particular chapter 4 section VI – where I consider the answer offered by such divines as Benjamin Whichcote, Robert South and others who preached specifically against the perils of paradiastolic

⁹⁴ Wotton 1907, vol. 2, p. 37. As Wotton himself notes, his closing phrase quotes Pliny, *Natural History* XXXVII. 12.

⁹⁵ Jonson 1988, p. 404. ⁹⁶ Bramhall 1643, p. 55.

⁹⁷ The text of the sermon is Romans 1.8. ⁹⁸ Whichcote 1698, p. 80.

speech. Here I simply offer, by way of introduction to my later analysis, a summary of their general line of argument.

Although such critics often professed to fear that the prevalence of paradiastolic speech might lead us into a world of complete moral arbitrariness, they generally agreed that the danger can fairly readily be staved off. We first need to recall that words serve as the names of things and states of affairs, and that moral words serve as the names of moral states of affairs.⁹⁹ We then need to ensure, in any dispute about the application of such evaluative terms, that there is agreement both about the facts of the case and about the definitions of the terms involved. If we can succeed in bringing together such definitions and facts, we can hope to see which terms can properly be applied and which redescriptions can in consequence be ruled out. As Robert South summarises, provided that we are willing ‘to consider and weigh circumstances, to scatter and look through the mists of error, and so separate appearances from realities’, we can always hope to arrive at ‘a full discovery of the true goodness and evil of things’.¹⁰⁰

I need to end by stressing, however, that this optimistically ‘realist’ line of reasoning was confronted within early-modern philosophy by one deeply sceptical and challenging voice. The voice was that of Thomas Hobbes,¹⁰¹ who insists in *Leviathan* that all such attempts at a realist solution must be misconceived, simply because words are not the names of things but merely the names of our conceptions of things.¹⁰² When it comes to moral words, moreover, we have to reckon with the fact that our conceptions are in turn affected by our emotional states and attitudes. ‘For though the nature of that we conceive, be the same; yet the diversity of our reception of it, in respect of different constitutions of body, and prejudices of opinion, gives every thing a tincture of our different passions.’¹⁰³ Hobbes traces the implications in a passage of exceptional importance from the perspective of my present argument:

And therefore in reasoning, a man must take heed of words; which besides the signification of what we imagine of their nature, have a signification also of the nature, disposition, and interest of the speaker; such as are the names of Vertues, and Vices; For one man calleth *Wisdome*, what another calleth *fear*; and

⁹⁹ For an account of how the doctrine that words stand for things animated Wilkins’s project for a philosophical language see Slaughter 1982, pp. 161–3.

¹⁰⁰ South 1823a, pp. 130–1.

¹⁰¹ Hobbes’s engagement with the problems raised by paradiastolic speech is taken up at greater length in volume 3, ch. 4, section V.

¹⁰² For a contrast with Locke’s position on this issue see Ashworth 1981, pp. 299–326.

¹⁰³ See Hobbes 1996, p. 31 and cf. James 1997, pp. 131–6.

one *cruelty*, what another *justice*; one *prodigality*, what another *magnanimity*; and one *gravity*, what another *stupidity*, &c. And therefore such names can never be true grounds of any ratiocination.¹⁰⁴

Here Hobbes not only recurs to the problem of paradiastole and repeats a number of examples already made familiar by the ancient and Renaissance theorists of eloquence. He also goes to the extreme of declaring that the power of the technique to generate ambiguity is such that any genuine argument about vice and virtue is thereby ruled out.

A scepticism so deep admits of only two possible solutions, each of which might be thought a *reductio ad absurdum*. One would be to abandon any attempt to map our existing language onto the world. This is the solution implicit in John Wilkins's *Essay*, as Jonathan Swift was later to observe in his satire on the philosophical projectors encountered by Gulliver in his voyage to Laputa. Like the philosophers we have been considering, the members of the Grand Academy of Lagado acknowledge that words rarely succeed in referring unambiguously to things. But whereas Wilkins proposed the construction of a new language, the academicians propose that, 'since words are only names for things, it would be more convenient for all men to carry about them such things as were necessary to express the particular business they are to discourse on'. Theirs is in short 'a scheme for entirely abolishing all words whatsoever'.¹⁰⁵

The other solution, scarcely less draconian, is the one put forward by Hobbes in *Leviathan*. Since our moral appraisals and the terms we use to express them are invariably affected by our emotions, those who call for the acceptance of their own appraisals are merely calling for 'every of their passions, as it comes to bear sway in them, to be taken for right Reason'.¹⁰⁶ The inevitable outcome is that 'their controversie must either come to blowes, or be undecided, for want of a right Reason constituted by Nature'.¹⁰⁷ But this in turn suggests that, if we are to avoid such hostilities, the only alternative is that 'the parties must by their own accord, set up for right Reason, the Reason of some Arbitrator, or Judge, to whose sentence they will both stand'.¹⁰⁸

If we ask who can serve as such an arbitrator, Hobbes's response is that the only possible candidate is the absolute sovereign to whom we submit in the act of instituting a commonwealth. He draws the inference

¹⁰⁴ Hobbes 1996, p. 31.

¹⁰⁵ Swift 1967, p. 230, possibly picking up the unfortunate remark in Wilkins 1668, Sig. a, 2^r to the effect that 'things are better than words'.

¹⁰⁶ Hobbes 1996, p. 33. ¹⁰⁷ Hobbes 1996, p. 33. ¹⁰⁸ Hobbes 1996, pp. 32–3.

most clearly in a crucial summarising passage from the final chapter of *The Elements of Law*:

But this is certayne, seeing right reason is not existent, the reason of some man, or men, must supply the place thereof; and that man, or men, is he or they, that have the Sovereigne power, as hath bene already proved; and Consequently the civill Lawes are to all subjects the measures of their Actions, whereby to determine, whether they be right or wronge, profittable or unprofitable, vertuous or vitious; and by them the use, and definition of all names not agreed upon, and tending to Controversie, shall be established.¹⁰⁹

Putting Hobbes's conclusion the other way round, we can point at the same time to a remarkable and little-noticed feature of his theory of sovereignty. One reason, Hobbes is telling us, why it is indispensable to institute an absolute sovereign, whose judgements in all matters pertaining to the being and well-being of the Commonwealth we must agree in advance to endorse, is that nothing short of this will enable us to overcome the ambiguities attendant on the use of paradiastolic speech.

Faced with the challenge of linguistic ambiguity, Wilkins proposed the creation of a new language, the academicians of Laputa proposed the abolition of language altogether, while Hobbes proposed the regulation of meanings and definitions by fiat. What these hyperbolic solutions have in common is the belief that the problem of moral ambiguity is too intractable to be solved within the framework of our existing linguistic resources. It is hard to imagine a greater tribute to the power assigned by the culture of the Renaissance to the art of eloquence.

¹⁰⁹ Hobbes 1969b, pp. 188–9.

John Milton and the politics of slavery

I

King Charles I was executed on 30 January 1649, and on 17 March the Rump Parliament took the still more revolutionary step of abolishing the office of kingship, arguing that ‘for the most part, use hath been made of the regal power to oppress and impoverish and enslave the subject’.¹ Two days later, by a further Act of Parliament, the House of Lords was declared ‘useless and dangerous’ and was likewise ‘wholly abolished’.² After pausing anxiously for two months, Parliament went on to draw the obvious inference and duly proclaimed that ‘the people of England, and of all the dominions and territories thereunto belonging’ now constituted ‘a Commonwealth and Free State’ governed solely by the people’s elected representatives.³ With this sequence of decisions, a republic was founded for the first and (so far) the only time in British history.

These unprecedented events stood in urgent need of legitimation, and several different strands of political thinking were immediately pressed into service. Some defenders of the commonwealth, including the Rump itself, sought to occupy the highest possible constitutional ground. They argued that Charles I had broken his contract with his people, and that the people’s representatives had simply removed a tyrant and re-established lawful authority under their own command.⁴ Others argued, more concessively, that all governments are manifestations of the will of God, and thus that the new regime, no less than its predecessor, ought to be regarded as providentially ordained. (I shall return to examine this line of thought in detail in volume 3 chapter 10.) Still others suggested in yet more pragmatic vein that no government can hope to survive an

This chapter is a revised and extended version of an article that originally appeared under the same title in *Prose Studies* 23 (2000), pp. 1–22.

¹ *Constitutional Documents 1625–1660*, pp. 384–7. ² *Constitutional Documents 1625–1660*, p. 387.

³ *Constitutional Documents 1625–1660*, p. 388. ⁴ *Constitutional Documents 1625–1660*, pp. 377–80.

examination of its original right to rule, and thus that the capacity of the new regime to protect its subjects should be accepted as a sufficient title to be obeyed. (I shall return to this further argument in volume 3 chapters 6 and 9.)

Alongside these contentions, a number of apologists for the commonwealth instead attempted to defend it in classical and, more specifically, in Roman law terms. According to this version of events, the British people had been living in a state of servitude under the rule of Charles I. The abolition of the monarchy was therefore interpreted as an act of self-liberation on the part of an enslaved people who had thereby succeeded in regaining their birthright of freedom. Historians have found much less to say about these arguments, but there are at least two reasons for paying close attention to them. One is that, as I shall attempt to show in chapter 12, they formed a crucial but neglected element in the attack on the royal prerogative under the early Stuarts, and in consequence helped to legitimise the decision by Parliament to take up arms in 1642. My other reason brings me to the theme of the present chapter. John Milton, incomparably the greatest writer to speak out in defence of the regicide, drew extensively on these classical ideas in the tracts he published on behalf of the commonwealth between 1649 and 1651.⁵ My first aim in what follows will accordingly be to sketch the origins and development of this neo-Roman vision of the British polity. My eventual aim will be to illustrate the continuities between this analysis and Milton's arguments in defence of the regicide. My underlying aspiration is to offer a new account of the sources and character of Milton's theory of free citizens and free states.

II

When anxieties were first voiced about 'fundamental' liberties in the early Stuart Parliaments, the language in which these complaints were generally couched was that of the common law.⁶ Faced with a government inclined to construe their liberties as privileges, the common lawyers in the House of Commons retorted that – in the words of Sir Edward Coke – the people possess their freedom as a matter not of grace but of legal right.⁷ The common law case was perhaps best summarised by

⁵ On the general theme of Milton's classical republicanism see Dzelzainis 1995.

⁶ The classic work is Pocock 1987, but for important revisions see Burgess 1992 and Sommerville 1999, pp. 81–104.

⁷ *Commons Debates 1628*, vol. 3, p. 95.

John Glanville in a speech he was asked to make on behalf of the House at the time of the presentation of the Petition of Right in 1628. There are certain 'lawful and just liberties', Glanville maintains, which give us the status of 'free subjects of this realm'.⁸ They are fundamental in the sense that they are 'absolutely the rights' of free subjects, and are at once declared and confirmed in Magna Carta, from which we can trace 'an inherent right and interest in liberty and freedom in the subjects of this realm as their birthright and inheritance'.⁹

One of the complaints voiced in the Parliament of 1628, and strongly echoed in 1640, was that these rights were being 'miserably violated', especially by the exercise of the royal prerogative to imprison subjects without trial and impose taxes without consent.¹⁰ A deeper grievance was that the very existence of these prerogatives posed a threat to fundamental liberties, leaving them in a state of perpetual danger and insecurity.¹¹ When the Commons debated its Petition in 1628, Sir Edward Coke argued that the remedy lay in rejecting the crown's understanding of the prerogative as a set of 'regal' as opposed to 'legal' rights. 'Magna Carta and all other statutes', Coke replied, 'are absolute without any saving of sovereign power', so that outside the *lex terrae* there can be no prerogative powers at all.¹² When the Long Parliament met in November 1640, the common lawyers and their allies duly pushed through a series of Acts designed to convert this theory into constitutional practice: they abolished the prerogative courts and outlawed the use of prerogative powers to collect taxes without parliamentary consent.

It has recently been argued that, in so far as Parliament had a legal case in favour of taking up arms against Charles I in 1642, it was this conception of the common law and its supremacy on which they relied.¹³ But this interpretation overlooks the presence in the Parliamentary debates of what I have characterised as a classical vision, and more specifically a neo-Roman vision, of fundamental liberties. If the crown, according to this rival analysis, possesses any discretionary powers capable of undermining fundamental liberties, what we have to say is not that these liberties are thereby left in a state of jeopardy. What we have to say is that we do not possess any such liberties, since the very existence of such prerogative powers reduces us to a level below that of free subjects.

As I have already intimated, this argument was taken not from the common law but from the law of Rome. John Milton himself draws

⁸ *Commons Debates 1628*, vol. 3, p. 562.

⁹ *Commons Debates 1628*, vol. 3, pp. 564–5.

¹⁰ *Commons Debates 1628*, vol. 3, p. 565.

¹¹ *Commons Debates 1628*, vol. 3, pp. 496, 528–9, 532–3, 562.

¹² *Commons Debates 1628*, vol. 3, p. 494.

¹³ Cromartie 1999, pp. 78–9, 86, 112, 118.

attention to this fact in one of the entries in his *Commonplace Book* dating from the early 1640s. He notes that, if we wish to see ‘what lawyers declare concerning liberty’, we must turn to the discussions of freedom and servitude in the *Codex* of Justinian.¹⁴ There we learn that ‘the fundamental division within the law of persons’, as the *Digest* puts it, ‘is that all men and women are either free or are slaves’.¹⁵ After this comes a formal definition of the concept of slavery. ‘Slavery is an institution of the *ius gentium* by which someone is, contrary to nature, subject to the dominion of someone else.’¹⁶ This in turn is held to yield a definition of individual liberty. If everyone in civil associations is either bond or free, then a *civis* or free subject must be someone who is not under the dominion of anyone else, but is *sui iuris*, capable of acting in their own right.¹⁷ It likewise follows that what it means for someone to lack personal liberty must be for that person not to be *sui iuris*, but instead to be under the power or subject to the will of someone else.

While this understanding of civil liberty received its definitive articulation in Justinian’s *Codex*, we already encounter it at a much earlier date among the philosophers and especially the historians of ancient Rome. Sallust and Livy both discuss the transition from the servitude imposed on the Roman people by their early kings to the state of liberty they came to enjoy under their ‘free commonwealth’,¹⁸ while Tacitus later examined the causes of their return to servitude under the principate.¹⁹ A further and closely connected issue raised by these writers relates to the social consequences of losing the status of *cives* or free subjects. We can never hope, they maintain, to find any notable exploits – any deeds of glory or greatness – performed by peoples living in conditions of servitude. Livy²⁰ and Tacitus²¹ both issue this warning, but it is Sallust who places the weightiest emphasis on it. His main reason for believing that individual freedom is a necessary condition of civic greatness appears at the outset of his *Bellum Catilinae*, where he explains that powerful kings invariably feel envious and hostile towards any subjects who exhibit notable civic virtues. To cite John Heywood’s translation of 1608, ‘absolute

¹⁴ Milton 1953, pp. 410, 470.

¹⁵ *Digest* 1985, I. V. 3. 35, vol. 1, p. 15: ‘Summa itaque de iure personarum divisio haec est, quod omnes homines aut liberi sunt aut servi.’

¹⁶ *Digest* 1985, I. V. 4. 35, vol. 1, p. 15: ‘Servitus est constitutio iuris gentium, qua quis dominio alieno contra naturam subicitur.’

¹⁷ *Digest* 1985, I. VI. 1. 36, vol. 1, p. 17: ‘Some persons are in their own power, some are subject to the power of others, such as slaves, who are in the power of their masters.’ [‘quaedam personae sui iuris sunt, quaedam alieno iuri subiectae sunt . . . in potestate sunt servi dominorum . . .’]

¹⁸ Sallust 1931a, VI–VII, pp. 10–14; Livy 1919, II. I–III, pp. 218–28.

¹⁹ Tacitus 1925, I. I–III, pp. 2–8. ²⁰ Livy 1919, II. I, pp. 218–20.

²¹ Tacitus 1925, I. II, p. 6.

Princes are alwaies more jealous of the good, then of the badde, because another mans Vertue (as they take it) is a diminution of their respectivenesse, and therefore dangerous'.²² The implications of Sallust's diagnosis are later spelled out by Tacitus at the start of his *Historiae*. Under absolute monarchies the exercise of civic virtue becomes (in the words of Henry Savile's translation of 1591) 'the readie broad way to most assured destruction'.²³ Those who live at the mercy of such rulers learn to curb the very qualities that need to be given the freest rein if civic greatness is to be achieved. The alternative, Tacitus grimly adds, is to learn from experience that under tyranny the possession of outstanding qualities is 'a capitall crime'.²⁴ With virtue effectively proscribed, we are condemned to living in a servile society in which flatterers and time-servers flourish unopposed.

These arguments were much invoked in the years immediately following the execution of Charles I. Before then, however, critics of the royal prerogative preferred to focus on a different reason given by Sallust for believing that individual liberty is a precondition of political glory and greatness. Sallust had offered this further reflection in his *Bellum Iugurthinum*, putting it into the mouth of Gaius Memmius in a speech upbraiding the plebs for allowing themselves to be dominated by the Roman nobility. The outcome of living for many years without security for life or liberty, Memmius tells them, is that they have become so anxious and dispirited that all civic virtue has been lost. If 'care of liberty had possessed your courages', as Heywood's translation puts it, 'the Common-wealth should not, as now lie disgraced'. But the whole populace has fallen into 'slavish patience', becoming 'so corrupted with the same sloth and cowardice' that they have learned to 'tollerate so vile a servitude'.²⁵

As soon as critics of the early Stuart monarchy began to feel anxious about fundamental liberties, they increasingly turned to these accounts of slavery and the servile behaviour to which it allegedly gives rise. The contention that the mere existence of prerogative rights converts free subjects into slaves was loudly voiced in the Parliamentary debates about Impositions in 1610. As opponents of the government stressed, the use of the prerogative to impose customs and other charges presupposes that the right to hold property remains subject to the will of the king. But to live subject to the will of another person, as the *Digest* had

²² Sallust 1608, first pagination, p. 17 [*recte* p. 7]. ²³ Tacitus 1591, p. 2.

²⁴ Tacitus 1591, p. 2. ²⁵ Sallust 1608, second pagination, pp. 29–30.

explained, is what it means to live in servitude. Sir Thomas Hedley duly drew the inference in the great speech he delivered immediately after Sir Francis Bacon had spoken in favour of the prerogative.²⁶ If, Hedley warns, you ‘take away the liberty of the subject in his profit or property’, then ‘you make a promiscuous confusion of a freeman and a bound slave’.²⁷ Towards the end of the session an attempt was made to introduce a Bill for the protection of fundamental liberties, the aim being to ‘leave a monument behind us that may shew to posterity we do unwillingly endure servitude’.²⁸

The same objections resurfaced in 1628 in the course of the protests against the levying of the Forced Loan two years earlier. We are told, Sir Dudley Digges remarked at the outset of the Commons debate, that ‘he is no great monarch’ who cannot take ‘whatsoever he will’. But any king who ‘is not tied to the laws’ and thereby rules by mere caprice is nothing better than ‘a king of slaves’.²⁹ Sir Robert Phelips went on to denounce the employment of the lord lieutenants to collect the Loan. ‘What a miserable grievance is that of lieutenancies, when by an arbitrary warrant I shall have my goods taken away from me as if I were a poor slave.’³⁰ Referring to Livy’s cautionary tale of the Decemvirs, Phelips added that ‘there’s now a decemvir in every county, and amongst that decemvir there’s some Appius Claudius that seek their own revenges’. Sir John Eliot – also invoking Livy’s history – reverted to the same issue later in the debate, stressing once more that the very fact of being ‘liable to the command of a higher power’ is what takes away our liberty.³¹

Still more fundamental than the freedom to hold and dispose of property, everyone agreed, was the value of personal liberty. This commitment gave rise to a further criticism of the government in the Parliament of 1628 for undermining the status of free subjects. The principal grievance was held to be the crown’s use of prerogative powers to imprison without declaring a cause. As Richard Creshald objected, if such a power is permitted we ‘become bondage’, and this condition ‘I am sure is contrary to and against the law of nature’.³² Speaking in support, Sir John Eliot agreed that without this ‘common right of the subject’ we are nothing

²⁶ For a perceptive analysis of Hedley’s speech see Peltonen 1995, pp. 220–8.

²⁷ *Proceedings in Parliament 1610*, vol. 2, p. 192.

²⁸ *Proceedings in Parliament 1610*, vol. 2, p. 329. ²⁹ *Commons Debates 1628*, vol. 2, p. 66.

³⁰ Here I have made a conjectural emendation, for the manuscript reads not ‘slave’ but ‘snake’. See British Library, Stowe MS 366 fo. 10^v (and cf. *Commons Debates 1628*, vol. 2, p. 69). But the comparison with ‘a poor snake’ makes no sense, and given that the rest of the speech is about slavery I assume that the copyist of the notes taken at the debate must have misread ‘slave’.

³¹ *Commons Debates 1628*, vol. 2, p. 72. ³² *Commons Debates 1628*, vol. 2, p. 149.

better than bondmen.³³ Later in the session, Sir Roger North put it to the Commons that their principal duty was to halt these encroachments and thereby 'save ourselves and them that sent us from being slaves'.³⁴

The anxieties voiced by the Roman historians about the social consequences of living in servitude likewise surfaced at numerous moments in these debates. We already find Sir Thomas Hedley speaking in 1610 of the need for 'spirit and courage' to be sustained if civic greatness is to be achieved, and warning against the dire effects of failing to uphold the freedom that enables such virtues to flourish. 'If the liberty of the subject be in this point impeached, that their lands and goods be any way in the king's absolute power to be taken from them', this will leave them 'little better than the king's bondmen', as a result of which 'they will use little care or industry to get that which they cannot keep and so will grow both poor and base-minded like to the peasants in other countries'.³⁵ The same moral was later drawn with even more patriotic assurance by Sir Dudley Digges in the Parliament of 1628:

That king that is not tied to the laws is a king of slaves. I have been in employments abroad. For the propriety of goods and of liberty, see the mischief of the contrary in other nations. In Muscovy one English mariner with a sword will beat five Muscovites that are likely to eat him. In the states where there are no excises, as in trades, they are most free and noble. If these be brought, the king will lose more than he gains.³⁶

The self-congratulating tendency to speak of the free world (by contrast with that of the Muscovites) has a long pedigree.

III

With the recall of Parliament in 1640, similar protests about the undermining of fundamental liberties broke out anew. As soon as the Short Parliament assembled in April, Sir Francis Seymour returned to the attack with an angry speech denouncing evil counsellors for treasonously telling the king that 'his prerogative is above all Lawes' and thus that 'his Subjects are but slaves'.³⁷ By the time Parliament decided on armed resistance in the summer of 1642, the claim that the people were living in servitude had become a staple of debate. When Charles I issued his Commission of Array on 1 July, summoning his subjects to the defence of the realm, the Commons retorted that this command imposed a

³³ *Commons Debates 1628*, vol. 2, p. 6. ³⁴ *Commons Debates 1628*, vol. 2, p. 269.

³⁵ *Proceedings in Parliament 1610*, vol. 2, pp. 194-5. ³⁶ *Commons Debates 1628*, vol. 2, p. 66.

³⁷ *Proceedings of the Short Parliament of 1640*, p. 142.

'heavier Yoke of Bondage upon the People, than that of Ship-money'.³⁸ Rather than merely taking away the right to dispose of their property, it presumed 'a Power in the King without limitation, not only to impose Arms, but to command the Persons of the subjects at pleasure'.³⁹ Such a power, the Commons added, implies a subjugation of the people 'to far greater Bondage' than ever before.⁴⁰

During these months the war of words similarly intensified outside Parliament, with Henry Parker coming forward as the most lucid and resourceful opponent of the royalist cause. Parker is habitually (and rightly) described as the leading pamphleteer in favour of Parliament at this climacteric time.⁴¹ But it is important to recognise that what he principally defended was not the claim that the prerogative should be brought within the ambit of the common law, but the more unsettling suggestion that the very existence of the prerogative leaves everyone enslaved.⁴² The latter charge is vehemently pressed in his earliest tract, *The Case of Shipmony Briefly Discoursed*, which he published to coincide with the convening of the Long Parliament in November 1640. Charles I's use of prerogative powers to collect ship money is roundly denounced as 'incompatible with popular liberty'.⁴³ The King's policy is such that 'to his sole indisputable judgement it is left to lay charges as often and as great as he pleases'. But the effect of this policy will be to turn us into 'the most despicable slaves in the whole world' (pp. 98, 108).

As Parker insists at several points in *The Case of Shipmony*, it is not the oppressive exercise but the mere existence of such prerogatives that reduces us to servitude. His is a conditional anxiety about what *could* be done by any government that enjoys 'a controlling power over all Law' and consequently 'knowes no bounds but its owne will' (p. 109). If the king's prerogative extends thus far, we are left entirely at his mercy; all our liberties are enjoyed 'at the king's meere discretion'. But as Parker rhetorically asks, if this is our predicament, 'wherein doe we differ in condition from the most abject of all bondslaves?' (p. 109).

Parker also takes up the suggestion originally explored by Sallust and Tacitus about the social consequences of living in servitude. His most important tract, his *Observations* of July 1642, begins by proclaiming it 'a great and fond error in some Princes to strive more to be great over

³⁸ Rushworth 1691, vol. 1, p. 661. ³⁹ Rushworth 1691, vol. 1, p. 665.

⁴⁰ Rushworth 1691, vol. 1, p. 665.

⁴¹ For this judgement see Sirluck 1959, pp. 19–25. See also Mendle 1995, pp. 32–50, 70–89.

⁴² For a contrasting attempt to relate Parker's arguments to the common law tradition see Cromartie 1999, pp. 81, 114.

⁴³ [Parker] 1999, p. 96. References to this tract are hereafter given in the body of the text.

their people, then in their people'.⁴⁴ The reason why this is such a grave mistake is that no mighty exploits can ever be expected from subjects condemned to living in an impoverished or demoralised state. It is only 'by infranchising their Subjects' that kings can hope 'to magnifie themselves'. The 'most great and glorious' king will always be the one who 'hath the most and strongest subjects, and not he which tramples upon the most contemptible vassells'. To appreciate the folly of preferring to lord it over an enslaved nation, we need look no further than France. 'Were the Peasants there more free, they would be more rich and magnanimous, and were they so, their King were more puissant' and less 'adulterate' in his greatness (p. 168).

As we have seen, such fears had already been expressed in the parliamentary debates of 1610 and especially of 1628. During the early months of 1642, however, a new and more far-reaching argument began to emerge. Critics of the government began to turn their attention specifically to the prerogative of the 'negative voice', the right of the king to give or withhold his assent to any proposed act of legislation. As we shall see in chapter 12, the occasion for this development was the king's refusal to accept the Militia Ordinance sent for his approval in February 1642. Stunned at first by this exercise of the royal veto, the king's opponents eventually gave their response in a Remonstrance of 19 May 1642. The negative voice permits the king to 'make his own understanding or reason the rule of his government' and thereby enables him to ignore 'the wisdom of both houses of parliament'.⁴⁵ But this leaves the representative body of the nation dependent in its highest decisions upon the king's mere will and caprice, thereby reducing the whole body of the people at a single stroke to a condition of servitude.

As we shall see in chapter 12, these arguments were increasingly made to carry the weight of Parliament's attack on the crown in the summer of 1642. The implications were finally spelled out in the Declaration of 2 August in favour of taking up arms. The king is now alleged to be wholly under the control of the so-called malignant party, whose ambition is to 'alter the government of this kingdom, and reduce it to the condition of some other countries, which are not governed by parliaments, and so not by laws; but by the will of the prince, or rather of those who are about him'.⁴⁶ The policy of the malignants is to 'take all parliaments away; or, which is worse, make them the instruments of slavery, to confirm it by

⁴⁴ [Parker] 1933, p. 168. References to this tract are hereafter given in the body of the text.

⁴⁵ *Parliamentary History of England*, vol. 2, p. 1267.

⁴⁶ *Parliamentary History of England*, vol. 2, p. 1439.

law, and leave the disease incurable'.⁴⁷ Their basic aim is thus to make themselves 'masters of our religion and liberties' and thereby 'make us slaves'.⁴⁸

To speak of Britain as an enslaved nation, however, was scarcely sufficient in itself to yield a justification for armed resistance. Too many people believed that the conduct of our rulers, be they good or evil, must be accepted without question as a part of God's design. Some royalists even went so far as to maintain that slavery itself is ordained by God. When William Ball published his reply to Parker's *Observations* in September 1642 under the title *A Caveat for Subjects*, he explicitly insisted that, when God established 'power and dominion', he not only intended 'that some should bee masters and others servants', but that 'some should become slaves to tyrants'. God sometimes calls us 'to servility', and when he does so the condition must be uncomplainingly endured.⁴⁹

A stronger argument was clearly required if such extreme beliefs about the inviolability of our rulers were to be countered. Those edging towards armed resistance found their answer in the claim that, far from being ordained powers, all rulers are entrusted by their subjects – sometimes in the form of an explicit contract – to govern them in such a way as to promote their safety and benefit. Any king who fails to uphold the *salus populi* may thus be said to have betrayed his trust and thereby forfeited any title to allegiance. This doctrine had been widely debated ever since the 'monarchomach' writers of the French religious wars had developed it a generation earlier,⁵⁰ and we find it increasingly invoked by Parliament in the spring of 1642. When the two Houses resolved on 20 May 'that the king, seduced by wicked counsel, intends to make war against the parliament' they explicitly declared that the king's recent actions constituted 'a breach of the trust reposed in him by his people' and that this in turn justified a resort to defensive arms.⁵¹

Once more, however, the clearest statement of the argument can be found in Henry Parker's *Observations* of July 1642. Parker begins with the crucial contention that, 'in this contestation between Regall and Parliamentary power', we need to recognise that political authority 'is originally inherent in the people' (p. 167). If it is now held by anyone else, this can only be because of a 'paction' or 'contract' by which

⁴⁷ *Parliamentary History of England*, vol. 2, p. 1437.

⁴⁸ *Parliamentary History of England*, vol. 2, p. 1439. ⁴⁹ Ball 1642, p. 12.

⁵⁰ For the evolution of this theory see Skinner 1978b, pp. 302–48; for its introduction into early Stuart England see Salmon 1959, pp. 58–79.

⁵¹ *Parliamentary History of England*, vol. 2, p. 1241.

the people 'by common consent' assigned it to them (pp. 167, 170). The only possible motive a sovereign people could have for entering into such an agreement would be that of improving the safety and security of their 'lives, lands and liberties' (pp. 168–9, 178). It follows that all lawful contracts of government must be 'conditionate and fiduciary' (p. 170). 'Kings receive all royalty from the people' in the form of 'a speciall trust of safety and libertie' expressly limited by the requirement that they preserve the *salus populi* (p. 171). If instead they endanger the safety of the people or undermine their liberties, the people are 'ipso facto absolved of all allegiance' and become 'bound by higher dutie, to seeke their own preservation by resistance and defence' (p. 170).

It is in the light of this argument that Parker proclaims the right – even the duty – of Parliament to take up arms against the king. This is not to say, however, that he thereby abandons his earlier reliance on Roman law doctrines about freedom and slavery. If we turn to consider how he defends his pivotal assumption that any lawful contract of government must be 'fiduciary' in character, we find the distinctions drawn at the start of the *Digest* lying at the heart of his case.

As we have seen, the *Digest* had laid it down that to live in subjection to the discretion of a lord or master is what it means to live in servitude. Parker not only reiterates the argument but draws on the terminology of Roman law to express it. If any nation, he declares, agrees to submit 'to the meer discretion' of a king, it will effectively 'resigne its owne interest to the will of one Lord, as that that Lord may destroy it without injury' (pp. 174, 180). But to enter into such an unlimited contract will be to 'indure that thraldome which uses to accompany unbounded & unconditionate royalty'. Any nation, in other words, which covenants 'to give away its owne proprietie in it selfe absolutely' will be consenting to 'subject it selfe to a condition of servility' (p. 186).

The *Digest* had gone on to stigmatise the institution of slavery as contrary to the law of nature. Here again Parker picks up the argument, claiming that it would be 'unnaturall' for any nation 'to give away its owne proprietie in it selfe absolutely' and thereby 'contribute its owne inherent puissance, meerey to abet Tyranny, and support slavery' (pp. 182, 186). The idea of an unconditional contract of government must therefore be 'contrarie to the supreme of all Lawes', the law of nature (p. 186). So deeply, indeed, does Parker believe that such agreements are 'rebellious to nature' that he even concludes, rather optimistically, that it would not only be unjust but impossible 'for any nation so to inslave it selfe' (p. 174).

Parker next uses these considerations as a lens through which to inspect the government of Charles I. The king, he concludes, has in fact enslaved the nation and thereby violated his trust. One obvious sign of the people's servitude is the king's possession of a negative voice, a prerogative which 'at one blow confounds all Parliaments, and subjects us to as unbounded a regiment of the Kings meere will as any Nation under Heaven ever suffered under' (p. 175). We cannot imagine a free people ever consenting to such an unbounded contract of government. To hand over so much authority would be 'contrary to the originall, end, and trust of all power and Lawe', for it would create 'as vast and arbitrary a prerogative as the Grand Seignior has' and thereby condemn us to servitude (p. 183). It is therefore unquestionable that in these circumstances we are justified 'in taking up armes for our own safety' in accordance with the highest of all laws, 'the principles of Nature' (pp. 183, 210).

IV

As we saw at the outset, the revolution set in train in the summer of 1642 reached its climax in the opening months of 1649, when the monarchy was abolished and the 'Commonwealth and Free state' was proclaimed. Although, as we have seen, the Rump Parliament did not lack for support in its attempts to legitimise these events, it was anxious to supply its own justification for what it had done, and called on John Milton among others to write officially in its defence. Milton initially responded on his own initiative in *The Tenure of Kings and Magistrates*, which he began while Charles I was still on trial, publishing it within a fortnight of the king's death. For this effort he was rewarded by the Council of State with the post of Secretary for Foreign Tongues, and in that capacity he was subsequently commissioned to produce two further treatises in defence of the new regime: *Eikonoklastes*, which appeared in October 1649, and *Pro Populo Anglicano Defensio*, his ambitious address to the learned of Europe, which was first published in February 1651.⁵²

The *narratio* of Milton's *Tenure* contains the clearest statement of his theory of free government, a theory subsequently reiterated in more informal terms at various moments in *Eikonoklastes* and the *Defensio*.⁵³ As a number of scholars have rightly emphasised, what Milton offers is essentially a restatement of the 'monarchomach' view of lawful government as it had been elaborated by critics of the Stuart monarchy at the start

⁵² For the narrative of Milton's pamphleteering at this juncture see Hughes 1962.

⁵³ See Milton 1962, pp. 485–7, 524–5 and cf. Milton 1932, pp. 270–2, 358–62, 378–82.

of the civil wars.⁵⁴ This is not to say that Milton inertly recapitulates these earlier lines of thought. He is at once more individualistic in his premises than a writer like Henry Parker and at the same time more broadly concerned with popular sovereignty than merely with the right of resistance.⁵⁵ Nevertheless, the outlines of Milton's argument are familiar enough. He opens with the ringing affirmation that no one 'can be so stupid as to deny that all men naturally were born free'.⁵⁶ He infers that, if we are now subject to legitimate government, this can only be because we consented to our own subjection by a 'bond or Covenant' (p. 9). The only motive a free people could have for making such an agreement would be the expectation that 'the public safety' and 'the common good' would be the better served (p. 10). This in turn means that the bond in question must be a conditional one: we owe allegiance if and only if we (or our elected representatives)⁵⁷ agree that our rulers are indeed performing their side of the bargain. There cannot be a political covenant specifying that we hand over power absolutely to a ruler who is thereby rendered unaccountable.⁵⁸ It follows that, if we or our representatives judge that our ruler is not acting for our benefit, we are automatically 'disengag'd' from our allegiance and can choose to 'retaine him or depose him' as we will (p. 13).

As with Henry Parker and other protagonists of Parliament in 1642, Milton's account of free government is in turn based on a classical analysis of what it means to live 'in a free state'. But this aspect of Milton's argument has, I think, been less satisfactorily handled in the recent literature. There has been almost no discussion of what precisely he may have understood by the concepts of freedom and unfreedom,⁵⁹ and there has even been a tendency to deny that his theory of free government owes anything to classical models at all.⁶⁰ My aim in what follows will be to try to remedy these deficiencies, at least in a preliminary way. Specifically, I shall argue that the concept of freedom lying at the heart of Milton's

⁵⁴ See, for example, Sirluck 1964, pp. 211–12, 219, 223; Sanderson 1989, pp. 131–5; Dzelzainis 1991, pp. xii–xix.

⁵⁵ These points are excellently brought out in Dzelzainis 1999, pp. 80–1.

⁵⁶ Milton 1991, p. 8. References to this treatise are hereafter given in the body of the text.

⁵⁷ As Sirluck 1964, pp. 213–14 notes, Milton faced the embarrassing fact that a majority of the House of Commons had opposed the execution of the king. He is left having to distinguish between mere majorities and the majority of the uncorrupted. See, for example, Milton 1932, p. 356.

⁵⁸ Milton 1991, pp. 11, 12, 15.

⁵⁹ Dzelzainis 1995 and Dzelzainis 1999 constitute important exceptions to this stricture.

⁶⁰ See Corns 1995, pp. 26–7 and cf. the comment on Kevin Sharpe's work in Norbrook 1999, p. 209n.

defence of the commonwealth is identical with the classical understanding of the concept we have already encountered in earlier critics of the Stuart monarchy.

The simplest way to trace these intellectual allegiances will be to begin by asking what reasons Milton gives for insisting that the bond or covenant underlying a free commonwealth must always be of a limited or conditional character. His answer in *The Tenure* turns out to be wholly dependent on Roman ideas about freedom and slavery. As in the case of Parker, we can distinguish three steps by which the concept of an unconditional trust or covenant is dismissed. Milton first observes that, were we to hand over power absolutely, 'our lives and estates' would be left at the 'meer grace and mercy' of our ruler, and hence 'in the tenure and occupation of another inheriting Lord' (pp. 11–12, 32). But this, he next argues, would be to condemn ourselves to living 'under tyranny and servitude' in the manner of 'slaves and vassals born', without 'that power, which is the root and sourse of all liberty' (p. 32). His third point is that the act of consenting to such servitude would be contrary to the law of nature, and would thus be a moral impossibility. Given that 'all men naturally were born free', such a covenant would involve 'a violation of their natural birthright' and would thus be 'a kinde of treason against the dignitie of mankind' (pp. 8, 10–11).

Milton also reformulates with exceptional clarity the classical assumption that freedom is to be contrasted not with actual but with possible constraint. This too is a point worth underlining, if only because his commentators have paid little attention to the unfamiliar way in which he handles the concept of liberty. Suppose you find yourself living at the 'meer grace and mercy' of a king, so that you are liable to the loss of your fundamental liberties with impunity at any time. If this is your predicament, Milton argues, you have already forfeited your status as a free subject. This is because any government, even if it is 'not illegal, or intolerable', leaves its citizens 'no better than slaves and vassals born', if it 'hangs over them as a lordly scourge' (p. 32).

We find the same assumptions even more clearly at work in the memorable passage from chapter 11 of *Eikonoklastes*, in which Milton steps back from his anti-Stuart tirade and offers us a definition of a free commonwealth:

Every Common-wealth is in general defin'd, a societie sufficient of it self, in all things conducible to well being and commodious life. Any of which requisit things if it cannot have without the gift and favour of a single person, or without leave of his privat reason, or his conscience, it cannot be thought sufficient of

it self, and by consequence no Common-wealth, nor free; but a multitude of Vassalls in the possession and domaine of one absolute Lord.⁶¹

Here again it is the mere fact of owing our well-being and commodious life to the discretion of a ruler which is taken to cancel our liberty.

Attempting a yet further clarification of the same argument, Milton later appeals in his *Defensio* to one of his most cherished classical authorities. 'Listen', he commands, 'to the words of Cicero in his fourth *Philippic*: "What cause of waging war can be more just than that of repudiating slavery? For the most wretched thing about this condition is that, even if the master happens not to be oppressive, he can be so if he should choose."⁶² Once again, it is the mere fact of our dependence that proclaims and seals our servitude.

Having outlined the nature of a free commonwealth in *The Tenure*, Milton proceeds in *Eikonoklastes* to apply these general considerations to the reign of Charles I. The outcome is a virulent denunciation of the king and his evil counsellors for reducing the people to slavery. Charles I's aspiration was 'to set up an arbitrary Government of his own', so that 'all Britain was to be ty'd and chain'd to the conscience, judgement, and reason of one Man'.⁶³ His aim, in other words, was to 'tred down all other men into the condition of Slaves'.⁶⁴ He was 'diligent and careful' to bring it about that 'we should be slaves',⁶⁵ thereby forcing us into a 'fatal struggling for Libertie and life'.⁶⁶

As with the earlier writers I considered, the main evidence for this conclusion is said to be Charles's refusal to give up the prerogative of the negative voice.⁶⁷ The very existence of this power leaves 'our highest consultations and purpos'd laws' subject to being 'terminated by the Kings will'.⁶⁸ But this makes 'the will of one man our Law', after which 'no sottletie of dispute can redeem the Parliament, and Nation from being Slaves'.⁶⁹ To live under such a government is to live in a 'servil condition' in which we are obliged 'to submit like bond slaves'.⁷⁰ Since any decisions made by the people's representatives can always be overturned, Parliament is left with 'no more freedom than if it sate in his Noose, which when he pleases to draw together with one twitch of his

⁶¹ Milton 1962, p. 458.

⁶² Milton 1932, p. 96: 'Audi igitur verba Ciceronis in 4 Philip. *Quae causa iustior est belli gerendi, quam servitutis depulsio? In qua etiamsi non sit molestus dominus, tamen est miserrimum posse si velit.*'

⁶³ Milton 1962, p. 359.

⁶⁴ Milton 1962, p. 412. The claim is repeated in the *Defensio*, in which Milton repeatedly speaks of the *servitus* of the people under Charles I. See Milton 1932, pp. 4, 64, 510, 542, *et passim*.

⁶⁵ Milton 1962, p. 455.

⁶⁶ Milton 1962, p. 569.

⁶⁷ Milton 1962, pp. 408–18.

⁶⁸ Milton 1962, p. 462.

⁶⁹ Milton 1962, p. 462.

⁷⁰ Milton 1962, pp. 577, 580.

Negative, shall throttle a whole Nation, to the wish of *Caligula* in one neck'.⁷¹

Milton accordingly has no hesitation in defending the regicide and the establishment of the commonwealth. The people were undoubtedly justified in throwing off the slavery imposed on them by their tyrannical king in violation of the laws of nature and the inherently limited character of legitimate government. The inference is perhaps drawn most explicitly in chapter 5 of the *Defensio*, at the moment when Milton responds to Salmasius's jibe that the execution of Charles I dishonoured the nation. The true situation, Milton retorts, was that 'with the country almost ruined by debauchery – by which means its slavery was to have been made more bearable – and with its laws overthrown and its religion sold off, the English people liberated themselves from servitude'.⁷²

There is one further way in which Milton shows himself a faithful follower of the classical arguments that Henry Parker and other supporters of the Parliamentary cause had earlier invoked. This is in his account of the social consequences of living in servitude. He strongly endorses the belief that no deeds of glory can ever be expected from the enslaved subjects of tyrannical governments. We need the highest courage and civic spirit to perform such deeds, and these qualities can never be found except among those living in a free state. These claims are already present in the *Areopagitica* of 1644, in which Milton speaks of liberty as 'the nurse of all great wits', and solemnly apostrophises its benign influence:

This is that which hath rarify'd and enlighten'd our spirits like the influence of heaven; this is that which hath enfranchis'd, enlarg'd and lifted up our apprehensions degrees above themselves.

He goes on to declare that, liberated as we have been by Parliament from the tyranny of the malignant party, 'our hearts are now more capacious, our thoughts more erected to the search and expectation of greatest and exactest things'.⁷³

The same connections are subsequently traced in both the *Tenure* and the *Defensio*. In the *Tenure* Milton speaks of 'the voice of our Supreme Magistracy, calling us to liberty' as the means enabling us to perform 'the flourishing deeds of a reformed Common-wealth'.⁷⁴ And in one of the grandest passages of exhortation in the *Defensio* he repeats that 'if you want wealth, freedom, peace and power', you must make sure that you

⁷¹ Milton 1962, p. 579.

⁷² Milton 1932, pp. 282–4: 'Immo luxu pene perditam, quo tolerantior servitutis esset, extinctis deinde legibus, et mancipata religione, [Angli] servientem liberarunt.'

⁷³ Milton 1959, p. 559. ⁷⁴ Milton 1991, p. 32.

live in liberty, for 'to hope for these goods under kingly domination is to hope in vain'.⁷⁵ Those who think otherwise 'are merely confessing that they have been born body and soul to a life of servitude'.⁷⁶

v

My thesis has been that, in his vision of a free commonwealth, Milton combines a classical – and more specifically a Roman law – conception of freedom and slavery with a 'monarchomach' understanding of lawful government. This enabled him to restate, in defence of the regicide, a series of arguments already made familiar by Parker and other parliamentary theorists at the outbreak of the civil war. To leave the story there, however, would be to overlook one important way in which Milton was able at the same time to supplement and transform these earlier presentations of the case. Writing after the abolition of the monarchy, he was in a position to draw more freely on the anti-monarchical prejudices of his Roman authorities, and was able in consequence to add significantly to previous discussions about the relations between individual liberty and the true greatness of kingdoms and states.

We can best approach this further theme by asking why it is, according to Milton, that we cannot hope to find any glorious deeds performed by those living under tyranny. As we have seen, earlier critics of the Stuart monarchy had generally picked up Sallust's suggestion that such subjects will feel too discouraged, too demoralised, to cultivate the necessary civic virtues. Milton at first endorses this simple explanation when, in *Areopagitica*, he issues his thundering denunciation of the Long Parliament's Order of 1643 requiring all books to be officially licensed. The effect, he protests, will be 'to dishearten utterly and discontent' those who seek 'that lasting fame and perpetuity of praise' which accrues to 'those whose publisht labours advance the good of mankind'.⁷⁷ Such inventive spirits will simply give up in the face of potential persecution, as has already happened 'in other Countries, where this kind of inquisition tyrannizes'.⁷⁸ By way of illustrating his argument, Milton recalls the visit he paid to Italy some ten years before:

I have sat among their lerned men, for that honor I had, and bin counted happy to be born in such a place of *Philosophic* freedom, as they suppos'd England was,

⁷⁵ Milton 1932, p. 542: 'si opes, si libertatem, si pacem, si imperium vultis, . . . haec omnia . . . sub regio dominatu necquicquam sperare'.

⁷⁶ Milton 1932, p. 542: 'corpore atque animo ad servitatem natos fatentur esse'.

⁷⁷ Milton 1959, p. 531. ⁷⁸ Milton 1959, p. 537.

while themselves did nothing but bemoan the servile condition into which learning amongst them was brought; that this was it which had damp't the glory of Italian wits; that nothing had bin there writt'n now these many years but flattery and fustian.⁷⁹

Once again, Milton stresses that liberty is jeopardised not merely by actual but by possible constraint. If we fear that some harm might befall us if we were to voice our less conventional thoughts, that in itself will be sufficient to inhibit us from voicing them.

As we have seen, however, Sallust's principal claim about the effects of living under monarchy had been far more explicitly republican in tone. He had suggested – as had Tacitus – that kings as well as tyrants can be relied upon to be actively envious of their most talented subjects. As a result, such subjects will find it far too dangerous to reveal or cultivate the qualities required for performing deeds of greatness or renown. Before the outbreak of the civil war we encounter no hint of this further suggestion, even in so radical a critic of the monarchy as Henry Parker. After the regicide, however, the argument suddenly became thinkable, with Milton coming forward as one of the earliest writers to apply it in defence of the commonwealth.

Milton instantly refers us at the start of *The Tenure of Kings and Magistrates* to Sallust's statement of the case.⁸⁰ The opening paragraph of the *Tenure* echoes the key passage from *Bellum Catilinae* so closely as to amount almost to a translation of it:

Tyrants are not oft offended, nor stand much in doubt of bad men, as being all naturally servile; but in whom vertue and true worth most is eminent, them they feare in earnest, as by right thir Maisters, against them lies all thir hatred and suspicion.⁸¹

If we turn to *Eikonoklastes*, we find the same passage from Sallust quoted on the title-page, and a further paraphrase in the chapter describing Charles I's alleged hatred of those who dared to question his misgovernment:

That trust which the Parlament faithfully discharg'd in the asserting of our Liberties, he calls *another artifice to withdraw the people from him, to their designs*. What piece of Justice could they have demanded for the people, which the jealousie of a King might not have miscall'd, a designe to disparage his Government, and to

⁷⁹ Milton 1959, pp. 537–8.

⁸⁰ On Sallust's influence on Milton at this period see Armitage 1995, esp. pp. 209–14. On Sallust's general presence in the political writings of the 1650s see Armitage 2000, pp. 132–9.

⁸¹ Milton 1991, p. 3.

ingratiat themselves?⁸² To be more just, religious, wise, or magnanimous than the common sort, stirs up in a Tyrant both feare and envy; and streight he cries out popularitie, which in his account is little less then Treason.⁸³

Milton is now prepared to go at least as far as his classical authorities in suggesting that kings may be no different from tyrants in their envy of the qualities that contribute to civic greatness.

Sallust and Tacitus had gone on to suggest that, because the civic virtues will effectively be proscribed under tyrannies, those living under such regimes will eventually be reduced to torpor and servility. Here too Milton not only invokes their arguments but turns them against the rule of kings as well as tyrants. Tacitus had opened his *Annals* with an especially melancholy statement of the case, and Milton duly quotes it against Salmasius in chapter 5 of his *Defensio*:

After the victory of Actium, the condition of the commonwealth was turned upside down. Nothing in the way of ancient or upright manners anywhere remained. With civic equality laid aside, everyone instead began to follow the commands of the prince.⁸⁴

For Milton no less than Tacitus, the moral is that the imposition of slavery invariably breeds servility and slavishness.

We find this insight further developed when Milton turns in *Eikonoklastes* to consider the behaviour of his fellow-citizens under the yoke of Charles I. He is shocked by the extent to which, habituated to a life of servitude, they showed themselves ready to 'choose rather to be the Slaves and Vassals of his will, then to stand against him, as men by nature free'.⁸⁵ He is even more shocked by the slavish attitudes they revealed at the moment of their liberation, a weakness he denounces in one of his fiercest bursts of invective:

But now, with a besotted and degenerate baseness of spirit, except some few, who yet retain in them the old English fortitude and love of Freedom, and have testifi'd it by thir matchless deeds, the rest, imbastardiz'd from the ancient nobleness of thir Ancestors, are ready to fall flatt and give adoration to the Image and Memory of this Man, who hath offer'd at more cunning fetches to undermine our Liberties, and putt Tyranny into an Art, then any British King before him.⁸⁶

⁸² For the figure of speech (paradiastole) against which Milton is here complaining, see above, chapter 10 section III.

⁸³ Milton 1962, p. 501.

⁸⁴ Milton 1932, p. 318, quoting Tacitus *Annals* I. IV: 'Post Actiacam victoriam, verso civitatis statu, "nihil usquam prisca aut integri moris; omnes exuta aequalitate iussa principis aspectare".'

⁸⁵ Milton 1962, p. 543. ⁸⁶ Milton 1962, p. 344.

Milton's deepest anxiety is that, rendered abject and ignoble by the tyranny of the Stuarts, the people may no longer be able to summon the qualities needed to take advantage of their new-found liberty.

Fearing and despising the multitude,⁸⁷ Milton remained haunted by the thought that, even after their triumph over Charles's tyranny, they might still fall back into accepting the rule of kings. He exhorts them at the end of *Eikonoklastes* to see that this would be a shamefully servile as well as a self-destructive act. They would 'shew themselves to be by nature slaves, and arrant beasts; not fitt for that liberty which they cri'd out and bellow'd for'.⁸⁸ Little more than a year later, however, he makes it clear in the *Defensio* that this is precisely the outcome he fears:

Any form of slavery is shameful to a freeborn man; but for you, after recovering your freedom with God as your champion and through your own prowess, and after so many brave exploits, and after making such a memorable example of such a powerful King, to wish to return again to slavery, contrary to your destiny, will not only be the height of shamefulness, but will also be both impious and wicked.⁸⁹

While inveighing against the return of kingship, Milton already seems almost to be predicting it.

Milton's deepest fears were of course fully realised. His final blueprint for a republican government in *The Ready and Easy Way to Establish a Free Commonwealth* appeared in April 1660 while preparations were already under way to welcome the returning Charles II. Throughout *The Ready and Easy Way*, his last political tract, Milton expresses a burning rage against 'the inconsiderate multitude' who now seem 'madd upon' returning to kingship⁹⁰ and 'thir once abjur'd and detested thralldom'.⁹¹ He professes himself incredulous as well as horrified. Accepting the rule of a king, he is now prepared unequivocally to assert, is strictly equivalent to deciding to enslave oneself. The people are agreeing to become 'the slaves of a single person', to 'change thir noble words and actions, heretofore so becoming the majesty of a free people, into the base necessitie of court flatteries and prostrations'.⁹² Still echoing his classical authorities, he points once more to the self-defeating consequences:

⁸⁷ On Milton's 'aristocratic' bias see Fixler 1964, pp. 163–71 and Sanderson 1989, pp. 138–41.

⁸⁸ Milton 1962, pp. 581, 601.

⁸⁹ Milton 1932, p. 542: 'Et servitus quidem omni homini ingenuo turpis est; vobis autem post libertatem Deo vindice, vestroque Marte recuperatam, post tot fortia facinora, et exemplum in Regem potentissimum tam memorabile editum, velle rursus ad servitutem, etiam praeter fatum, redire, non modo turpissimum, sed et impium erit et sceleratum.'

⁹⁰ Milton 1980, p. 446. ⁹¹ Milton 1980, p. 422. ⁹² Milton 1980, pp. 428, 448.

After ten or twelve years prosperous warr and contestation with tyrannie, basely and besottedly to run their necks again into the yoke which they have broken, and prostrate all the fruits of thir victorie for naught at the feet of the vanquished, besides our loss of glorie, and such an example as kings or tyrants never yet had the like to boast of, will be an ignomine if it befall us, that never yet befell any nation possessd of thir libertie; worthie indeed themselves, whatsoever they be, to be for ever slaves.⁹³

Once again Milton echoes Sallust's warning that, in the absence of freedom, there will be no hope of attaining civic glory and greatness.

The Roman historians had entertained one further and yet more tragic thought about the effects of living in servitude. Provided that our loss of liberty is accompanied by a life of ease, they had argued, we may fall into such a state of corruption that we may cease even to wish for the more strenuous life of freedom and greatness. Sallust reports that Catiline taunted the people of Rome by declaring that they would fail to follow him only if 'your spirits bee so basely dejected, that you had rather live in subjection, then command with Honour'.⁹⁴ Following Sallust's lead as so often, Tacitus enlarges on the danger when discussing the conquest of Gaul and England in his *Agricola*. As Savile's translation puts it, 'the French also were once, as we reade, redoubted in warre, till such time as giving themselves over to peace and idlenesse cowardice crept in, and shipwracke was made both of manhood and liberty together'.⁹⁵ As for the English, Tacitus adds that under the thumb of the Romans 'by litle and litle they proceeded to those provocations of vices' which 'the ignorant termed civilitie' but which were in truth nothing more than 'a point of their bondage'.⁹⁶ Still more shameful, Tacitus declares at the start of his *Annals*, is the fact that the Roman nobility behaved in no less craven a fashion after Augustus ended the civil wars and took all power into his hands. This revolution was effected, in the words of Grenewey's translation, 'without contradiction of any: the stowtest by war or proscriptions already spent. And the rest of the nobilitie, by how much the more serviceable, by so much the more bettered in wealth, and advanced in honors'.⁹⁷

In his political tracts Milton has nothing explicit to say about this worst betrayal of the birthright of freedom. But after the restoration of Charles II in 1660, and especially after the re-entrenchment of a base and servile Court, he became deeply preoccupied by the theme. He speaks of it with anguish in *Samson Agonistes*, which first appeared in 1671, especially

⁹³ Milton 1980, p. 428.

⁹⁴ Sallust 1608, first pagination, p. 20.

⁹⁵ Tacitus 1591, p. 243.

⁹⁶ Tacitus 1591, p. 250.

⁹⁷ Tacitus 1598, p. 1.

at the moment when the enslaved Samson meditates on Judah's failure to take part in a fight for deliverance:

Had Judah that day joined, or one whole tribe,
They had by this possessed the towers of Gath,
And lorded over them whom now they serve;
But what more oft in nations grown corrupt,
And by their vices brought to servitude,
Than to love bondage more than liberty,
Bondage with ease than strenuous liberty . . .⁹⁸

Despite the Biblical setting, it is hard not to feel that Milton is here offering his last and bitterest reflection on the failure of the good old cause.

⁹⁸ Milton 1998, lines 265–71, p. 472.

*Classical liberty, Renaissance translation
and the English civil war*

I

Shortly after the publication of Hobbes's *Leviathan* in the spring of 1651, Benjamin Worsley received a letter from his friend William Rand expressing strong agreement with one important element in Hobbes's argument. 'I am of opinion & have long bin with Mr Hobbs,' Rand wrote, 'that the reading of such bookes as Livy's History has bin a great rub in the way of the advancement of the Interest of his Leviathanlike Monarchs.'¹ Hobbes's judgement to this effect had been delivered in chapter 21 of *Leviathan*, in which he had presented it in the form of a cautionary tale about the origins of the English civil war:

It is an easy thing, for men to be deceived, by the specious name of Libertie; . . . And when the same error is confirmed by the authority of men in reputation for their writings in this subject, it is no wonder if it produce sedition, and change of Government. In these westerne parts of the world, we are made to receive our opinions concerning the Institution, and Rights of Common-wealths, from *Aristotle*, *Cicero*, and other men, Greeks and Romanes, . . . And by reading of these Greek, and Latine Authors, men from their childhood have gotten a habit (under a false shew of Liberty,) of favouring tumults, and of licentious controlling the actions of their Sovereigns; and again of controlling those controllers, with the effusion of so much blood; as I think I may truly say, there was never any thing so deerly bought, as these Western parts have bought the learning of the Greek and Latine tongues.²

No modern historian has to my knowledge placed anything like this degree of emphasis on the role of the classics, and especially the Latin classics, in helping to legitimise (and hence to bring about) the outbreak of the English civil war in 1642. Like William Rand, however, I have come to see that there is a great deal to be said for Hobbes's

¹ Rand to Worsley, 11 August 1651, Hartlib Papers (Sheffield) 62/21/2A. On Rand see Webster 1975, p. 301.

² Hobbes 1996, pp. 149–50.

explanation, and my principal aim in what follows will be to examine and assess it.

II

It is not hard to see why Hobbes's explanation has come to be so completely discounted. Recent historians have insisted on treating the debates about the liberties of subjects prior to the civil war as if they were couched entirely in the language of common law.³ As I began to argue in chapter 11, however, this interpretation overlooks the presence in these debates of a strongly contrasting thesis about fundamental liberties.⁴ If the crown, according to this rival analysis, possesses any discretionary powers capable of undermining such liberties, what we have to say is not that they are thereby left in a state of jeopardy as Sir Edward Coke and his associates maintained. What we have to say is that we do not possess any such liberties, since the very existence of such prerogatives reduces us below the level of free subjects.

It is true that some common lawyers included one element of this argument in their criticisms of the prerogative. According to common law theories of land tenure, one way in which a subject may lack the status of a free man is if his property is held not in fee simple but at the discretion of a lord. To be a free man requires, in other words, that you be a 'freeman', not a mere villein 'appendant' to a manor or place. The distinction can already be found in Henry de Bracton's *De Legibus et Consuetudinibus Angliae*,⁵ and it is significant that, after its initial printing in 1569, Bracton's treatise was next republished in 1640.⁶ During the early decades of the seventeenth century, however, the most widely cited discussion of villeinage was that of Sir Thomas Littleton in his fifteenth-century treatise, *Un lyver de exposicion de parcell de les tenures*.⁷ Littleton's analysis, which seems to have attained a broad readership after it was translated into English in 1600, is founded on a sharp contrast between 'a free man' and a 'villein to another'.⁸ A villein is not a slave, since it is

³ See, for example, Burgess 1992 and Cromartie 1999.

⁴ For a survey of debates in Parliament under the early Stuarts see Smith 1999, pp. 101–21.

⁵ See Bracton 1640, I. VI. 4, fos. 4^v–5^r for the distinctions between *servus*, *villanus* and *liber homo*. Bracton's discussion is treated as authoritative by John Cowell in his pioneering law dictionary of 1607. See Cowell 1607, Sig. YYY, 4^r.

⁶ See Bracton 1640.

⁷ This is the heading in Cambridge University Library MS Mm. v. 2, fo. 2^r, the earliest extant manuscript of Littleton's treatise.

⁸ [Littleton] 1600, II, 10, fo. 37^v.

only his property, not his person, which is *sub potestate domini*.⁹ But a villein is less than a free subject, since his property is held 'at the will of his lord', so that if the lord 'commeth within the house of the villeine where such goods be, & there openly among the neighbours claime the same goods to be his', then 'this is said a good seisin in the law'.¹⁰ The same distinction was repeated by Sir Thomas Smith in his *De Republica Anglorum* of 1583, although Smith adds the important rider that, while the law continues to recognise the category of 'appendantes of the manor or place', the fact is that 'so fewe there be, that it is not almost worth the speaking'.¹¹

These distinctions were picked up in the early Stuart Parliaments by a number of common lawyers as part of their assault on the alleged prerogative right to impose taxes without consent.¹² This prerogative first came under heavy fire in the Parliaments of 1610 and 1614, mainly in consequence of the crown's prosecution of the London merchant John Bate in 1606.¹³ When the Levant Company, which had been trading with Venice in currants, was forced to surrender its monopolistic charter, the crown recouped its losses by imposing a custom on the import of these foodstuffs. John Bate refused to pay and was sued in the Court of Exchequer. Giving judgement in favour of the crown, the Exchequer Barons ruled that the king had an 'absolute' power to levy such impositions in the name of the common good.¹⁴ They thereby touched off an explosion in the Parliament of 1610 – which continued to reverberate in 1614 – over whether the royal prerogative lawfully extended to 'imposing' on profits or property.¹⁵

It was in relation to this question that a number of common lawyers appealed to the distinction between villeins and free subjects.¹⁶ To defend prerogative taxes, they argued, is to presuppose that our money and goods can rightfully be taken from us at the will of the king. But this is to imply that our relationship to the king is that of a villein to his lord, and

⁹ This phrase, echoing the *Digest*, already occurs in Bracton 1640, I. VI. 4, fo. 4^v.

¹⁰ [Littleton] 1600, II, 10, fo. 38^f.

¹¹ Smith 1982, p. 136. Smith's discussion is cited in Cowell 1607, Sig. YYY, 3^v.

¹² See Holmes 1992, pp. 129–37 on the crown's efforts to exploit this prerogative during this period. For a survey of James I's relations with his Parliaments see Smith 1973.

¹³ See Smith 1999, pp. 53–4 for details about Bate's case and cf. Peck 1993, pp. 91–4 for the general issue.

¹⁴ See the judgement of Chief Baron Fleming in *Constitutional Documents of the Reign of James I*, pp. 340–5. Burgess 1996, pp. 80–6 claims that such 'absolute' power was still subject to legal constraint, but Sommerville 1999, pp. 140–2, 150–1, 247–8 convincingly reaffirms that 'absolute' power was by definition *solutus*, free of law.

¹⁵ For the debates on this issue in 1610 and 1614 see Smith 1999, pp. 106–8.

¹⁶ For analogous arguments about the status of foreigners (neither slaves nor citizens) see Kim 2000, pp. 1–15.

is thus to undermine our status as free subjects. Sir Thomas Hedley put the case in his great speech to the Commons of June 1610:¹⁷

But now in point of profit or property of lands and goods, there is a great difference between the king's free subjects and his bondmen; for the king may by commission at his pleasure seize the lands or goods of his *villani*, but so can he not of his free subjects. And therefore, 22 *Assisarum*, such commissions are adjudged void and against the law, for the lands or goods of a freeman cannot be taken from him without his consent.¹⁸

The lawyers and their associates continued to hammer away at the point in the Parliament of 1614. Sir Edwin Sandys declared that 'this liberty of imposing' must be agreed 'to trench to the foundation of all our interests', because it 'makes us bondmen, gives use but no propriety'.¹⁹ Referring explicitly to the law of tenures, William Jones reinforced the argument. 'Tenants in ancient demesne' are 'but the King's villeins', and the effect of impositions is to reduce free subjects to the same servile state.²⁰ Later in the session the moral was yet more succinctly drawn by Sir Dudley Digges: 'Impositions imply villeinage.'²¹

During the 1620s, still urgently in need of funds, the government resolved to impose a Forced Loan, authorising the lord lieutenants to employ their own agents to collect the tax.²² This policy not only prompted a renewed attack on non-parliamentary levies in the Parliament of 1628, but caused the policy to be singled out in the Petition of Right as one of the principal misuses of the royal prerogative. 'Your subjects' as the Petition complained, 'have inherited this freedom, that they should not be compelled to contribute to any tax, tallage, aid, or other like charge, not set by common consent in Parliament.' But in spite of this right, 'divers other charges have been laid and levied upon your people in several counties by Lord Lieutenants' in violation of 'the laws and free customs of this realm'.²³

Leading this further battle against the crown, Sir Edward Coke reverted to the claim that to defend such prerogatives is to presuppose that the relationship between the king and his subjects is that of villeins to

¹⁷ On the common law features of this speech see Pocock 1987, pp. 270–7; on its more classical elements see Peltonen 1995, pp. 220–8.

¹⁸ *Proceedings in Parliament 1610*, vol. 2, p. 192.

¹⁹ *Proceedings in Parliament 1614*, p. 147, quoted in Sommerville 1999, p. 144.

²⁰ *Proceedings in Parliament 1614*, p. 311.

²¹ *Proceedings in Parliament 1610*, vol. 2, p. 419. On Digges, Sandys and their antagonism in the 1614 Parliament see Moir 1958, pp. 19, 59–60, 159–60; Raab 1998, pp. 176–92.

²² For details see Cust 1987. One of these agents was Thomas Hobbes. See Skinner 1996, pp. 224, 229.

²³ *Constitutional Documents 1625–1660*, p. 67.

their lord. By 1628 Coke had published the first volume of his *Institutes of the Lawes of England*, in which he had reprinted Littleton's treatise on tenures together with a translation and a commentary.²⁴ Speaking in the Parliament of 1628, Coke leant heavily on Littleton's authority. 'While it is true of "villeins *in nativo habendo*"', he explained, that 'their lord may tax them high or low', such taxation 'is against the franchise of the land for freemen'. To possess such a franchise is to possess liberty in respect of the disposal of land, and no freeman may legally be 'put out of his liberty or franchise'. It follows that 'no benevolence nor aid shall be but by assent of the realm', for to impose such a tax is to reduce free subjects to villeinage.²⁵

III

During the same period, we begin to encounter a much more far-reaching criticism of the royal prerogative on the grounds of its incompatibility with individual liberty. This further attack was grounded not on common law conceptions of villeinage but on classical and especially Roman law distinctions between free citizens and slaves.²⁶ As I began by noting, one reason for emphasising this further argument is that the constitutional debates of this period have too readily been treated as if they were couched entirely in the language of common law.²⁷ A further reason is that, insofar as Roman law arguments have been detected in these early Stuart debates, they have usually been associated with the defence of the allegedly absolute powers of the crown.²⁸ As we shall see, however, the most radical arguments in favour of the liberty of subjects were largely taken from the legal and political writers of ancient Rome.²⁹

²⁴ See Coke 1628, *sub* 'Villeinage', ch. 11, sects. 172–212, fos. 116^r–141^v.

²⁵ *Commons Debates 1628*, vol. 2, p. 64.

²⁶ For the idea that liberty should be contrasted not with coercion but with enslavement see Pettit 1999, esp. pp. 17–41, 51–73, an analysis to which I am greatly indebted. See also the valuable discussion in Ivson 1997, pp. 24–52.

²⁷ A point made against G. R. Elton, Conrad Russell and their admirers in Sommerville 1996a and Sommerville 1996b. The assumption nevertheless persists, and underlies much of the argument of Burgess 1996 and Cromartie 1999.

²⁸ It used to be generally agreed that Roman law mainly served as a prop to absolutism. See for example Mosse 1950 and Simon 1968, p. 267, claiming that the study of the *Corpus Juris* 'put the civil lawyers in the royalist camp'. More recently, thanks largely to Levack 1973, it has been recognised that the situation was more complicated. See, for example, Burgess 1992, pp. 121–30 and Burgess 1996, pp. 63–90. But even Levack 1973, p. 88 and Burgess 1996, pp. 75, 78 still appear to assume a basic consonance between Roman law and royalist thought.

²⁹ For valuable surveys of Roman *libertas* and its revival in early-modern English political theory see Sellers 1994, pp. 69–98; Sellers 1998, pp. 7–11, 17–22; and the important analysis in Peltonen 1995.

To this extent, Hobbes's account in *Leviathan* of the ideological resources on which the parliamentarians drew in 1642 is much closer to the mark than has generally been recognised.

As we saw in chapter 11, we find the Roman law distinction between free citizens and slaves laid out most systematically under the rubric *De statu hominis* at the start of Justinian's *Digest*. There we learn that slavery can be defined as 'an institution of the *ius gentium* by which someone is, contrary to nature, subjected to the dominion of someone else'.³⁰ This in turn is said to yield a definition of individual liberty. If everyone in a civil association is either bond or free, then a *civis* or free subject must be someone who is not under the dominion of anyone else, but is *sui iuris*, capable of acting in their own right.³¹ It likewise follows that what it means for someone to lack the status of a free subject must be for that person not to be *sui iuris* but instead to be *sub potestate*, under the power or subject to the will of someone else.³²

While this understanding of civil liberty received its definitive articulation in the *Digest*, we already encounter it at a much earlier date among the historians and philosophers of ancient Rome, and especially in the writings of Cicero, Sallust, Livy and Tacitus.³³ Anyone in early seventeenth-century England who had received a university education would have been required to study these texts in their original Latin,³⁴ but it is worth recalling that it was in this period that all these writers were made available in English for the first time. Nicholas Grimalde's translation of Cicero's *De Officiis* was issued as early as 1556,³⁵ but it only became a best-seller when it appeared in a dual-language version in 1558, after which it went through at least five editions before the end of the century.³⁶ Meanwhile Henry Savile's translation of Tacitus's *Historiae* and *Agricola* had been published in 1591, with Richard Grenewey's versions of the *Annals* and *Germania* following in 1598.³⁷ Two years later Philemon Holland issued his enormous folio containing

³⁰ *Digest* 1985, I. V. 4. 35, vol. 1, p. 15: 'Servitus est constitutio iuris gentium, qua quis dominio alieno contra naturam subicitur.'

³¹ *Digest* 1985, I. VI. 1. 36, vol. 1, p. 17: 'Some persons are in their own power, some are subject to the power of others, such as slaves, who are in the power of their masters.' ['quaedam personae sui iuris sunt, quaedam alieno iuri subiectae sunt . . . in potestate sunt servi dominorum . . .']

³² Wirszubski 1950, pp. 1–3. ³³ Wirszubski 1950, pp. 9–15. ³⁴ Feingold 1997, pp. 246–56.

³⁵ See Cicero 1556. See also Cicero 1534, a much freer translation of *De Officiis* issued by Robert Whyntont and reprinted in 1540.

³⁶ See Cicero 1558 and cf. Conley 1927, p. 19n, who notes that the dual-language version was reprinted in 1568, 1575, 1583, 1596 and perhaps 1600.

³⁷ See Tacitus 1591 and Tacitus 1598 and cf. Peltonen 1995, pp. 124–35 on these translations and their influence.

the whole of the extant books of Livy's *History*,³⁸ while in 1608 Thomas Heywood published his translations of Sallust's *Bellum Catilinae* and *Bellum Iugurthinum*.³⁹ The themes of Livy's *History* became even better known when Edmund Bolton published his translation of Florus's *Roman Histories* in 1618 (with further editions in 1621 and 1636), thereby putting into circulation an epitome heavily reliant on Livy's text.⁴⁰

Among these writers it is Cicero who is most interested in formal definitions of *libertas* and *servitus*, freedom and servitude. The fear of enslavement figures as a running theme of his speeches denouncing Marcus Antonius as a public enemy of Rome's traditional *civitas libera* or free state.⁴¹ These so-called *Philippics* became one of the most popular of Cicero's works in the early-modern period, with a dozen or more editions appearing by the middle of the sixteenth century.⁴² Cicero repeatedly exhorts the Roman people to reassert the *libertas* they forfeited when they fell under the domination of Julius Caesar, and violently denounces Antonius for aspiring to reduce his fellow citizens to a renewed condition of slavery. Not only does Cicero organise his argument around the contrast between freedom and servitude, but he emphasises that the loss of liberty suffered by slaves is not merely or even basically a matter of being oppressed or coerced. He makes the point most explicitly in a passage from the eighth philippic that became a key text for defenders of the English commonwealth after the abolition of the monarchy in 1649:⁴³

Do you call servitude peace? Our ancestors took up arms not only to be free, but also to win power. You think that our arms should now be thrown away in order that we should become slaves. But what cause of waging war can be more just than that of repudiating slavery? For the most miserable feature of this condition is that, even if the master happens not to be oppressive, he can be so should he wish.⁴⁴

³⁸ See Livy 1600; on Holland's translation see Matthiessen 1931, pp. 182–216 and Peltonen 1995, pp. 135–6.

³⁹ Sallust 1608. But as Conley 1927, pp. 37, 136 notes, Sallust's *Bellum Iugurthinum* had already been translated by Alexander Barclay in c.1520.

⁴⁰ Florus 1618.

⁴¹ Cicero 1926, III. VI. 14, p. 202 formally brands Antonius a public enemy of the commonwealth.

⁴² Information from British Library catalogue.

⁴³ See, for example, Milton 1932, p. 96: 'Audi igitur verba Ciceronis in 4 [recte 8] Philip. *Quae causa justior est belli gerendi, quam servitutis depulsio? In qua etiamsi non sit molestus dominus, tamen est miserimum posse si velit.*'

⁴⁴ Cicero 1926, VIII. IV. 12, p. 374: 'servitutum pacem vocas? Maiores quidem nostri, non modo ut liberi essent, sed etiam ut imperarent, arma capiebant; tu arma abicienda censes, ut serviamus. Quae causa justior est belli gerendi, quam servitutis depulsio? in qua etiamsi non sit molestus dominus, tamen est miserimum posse, si velit.'

As Cicero's closing remark makes clear, to possess *de facto* freedom of action is not necessarily to enjoy personal or political liberty. If your freedom is held at the discretion of anyone else, such that you continue to be subject to their will, then you remain a slave. To enjoy your liberty, in other words, it is not sufficient to be free from coercion or the threat of it; it is also necessary to be free from the possibility of being threatened or coerced.

Cicero was at least as much interested in his *Philippics* in the contrasting ideal of the *civitas libera* or free state, but for the best-known statement of his views about the meaning of civil or public liberty we must turn to his *De Officiis*. We learn in Book 2 that, as Grimalde's translation puts it, 'libertie be all to shaken' when 'the lawes bee sounke by some mans might' and citizens are made to depend on the will of a ruler instead of on the rule of law.⁴⁵ By contrast, as Cicero had already laid down in Book 1, free men can be defined as those who are not dependent on anyone else, but are able 'to use their owne libertie: whose propertie is, to lyve as ye list'.⁴⁶ Summarising in Book 3, Cicero left his early-modern readers to ponder an almost treasonably anti-monarchical inference. Anyone desiring to be a king 'alloweth the overthrow of law, and libertie', so that 'it is not honest to raign as king in that citie, which both hath been & ought to be free'.⁴⁷

Cicero's analysis is very obviously indebted to Aristotle's discussion of freedom and tyranny in *Politics*, and it is a further striking fact that Aristotle's text likewise became available in English for the first time at the end of the sixteenth century. Louis le Roy's French translation was turned into English in 1598, and in this version we are told that kingship degenerates into an enslaving form of tyranny whenever a king 'dooth absolutely commaund and raigne over such as are equall, and all that are better; respecting his owne, and not the subjects profit, and therefore is not voluntarie: for no person that is free dooth willingly endure such a state'.⁴⁸ Later we are given an account of the 'tokens' of political liberty – an account that Cicero follows almost word for word. According to Aristotle, 'obeying and governing by turns, is one token of libertie', so that we may say that 'the end and foundation of the popular state, is Libertie'. To which he adds that 'another token of libertie is, to live as men list', since 'the propertie of bondage is, not to live according to a man's own discretion'.⁴⁹

⁴⁵ Cicero 1558, fo. 81^r. Grimalde is here translating II. VII. 24.

⁴⁶ Cicero 1558, fo. 31^r. Grimalde is here translating I. XX. 70.

⁴⁷ Cicero 1558, fo. 149^r. Grimalde is here translating III. XXI. 83.

⁴⁸ Aristotle 1598, IV. X, p. 208. ⁴⁹ Aristotle 1598, VI. II, pp. 339–40.

Besides drawing on Aristotle, Cicero refers at several points in *De Officiis* to the Law of the Twelve Tables, which he takes to be the earliest legal code established in the *civitas libera* after the expulsion of the kings from Rome.⁵⁰ Cicero alludes to the Twelve Tables again in his *De Legibus*, in Book 3 of which he outlines an ideal constitution for a free state and proceeds to enunciate two golden rules. ‘When giving laws to free peoples’, he reminds us once again, we must first ensure that they are never dominated by the wills of their magistrates.⁵¹ We must ensure that they are entirely ruled by laws, so that ‘just as the magistrates govern the people, so the laws govern the magistrates’.⁵² The other golden rule is said to be the one explicitly stated in the Twelve Tables, according to which the highest duty of magistrates is encapsulated in the maxim *salus populi suprema lex esto*, ‘the safety of the people must be treated as the supreme law’.⁵³

The Roman historians were less interested than Cicero in formal definitions of freedom and servitude, but they thought about these concepts in very similar terms. Sallust at the start of his *Bellum Catilinae* describes how the rule of the early kings degenerated into *dominatio* and thereby enslaved the Roman people.⁵⁴ But the people managed – in the words of Heywood’s translation – to turn this slavery under ‘the Government of one’ into a ‘forme of limited pollicy’, thereby establishing ‘this form of Liberty in Government’.⁵⁵ Tacitus in his *Annals* provides a contrasting description of how the Roman people were forced back into slavery under the early principate, and likewise equates their loss of liberty with the reimposition of arbitrary will as the basis of government.⁵⁶ As Grenewey’s translation puts it, after the ascendancy of Augustus ‘there was no signe of the olde laudable customes to be seene: but contrarie, equalitie taken away, every man endeavored to obey the prince’, so that ‘the Consuls, the Senators, and Gentlemen ranne headlong into servitude’.⁵⁷ Tacitus admits that some later emperors liked to invoke the traditional *praecepta* of the free state, as when Vitellius adjured Meherdates before the Senate ‘that he should not thinke himselfe a Lord and maister to commaund over his subjects as slaves; but a guide, and they citizens’.⁵⁸ But as Tacitus’s tone continually makes clear, he regards such rhetorical flights

⁵⁰ Cicero 1913, I. XII. 37, p. 40 and III. XXXI. 111, p. 390.

⁵¹ Cicero 1928, III. II. 4, p. 460: ‘nos autem, quoniam leges damus liberis populis . . .’

⁵² Cicero 1928, III. I. 2, p. 460: ‘ut enim magistratibus leges, ita populo praesunt magistratus’.

⁵³ Cicero 1928, III. III. 8, p. 466. ⁵⁴ Sallust 1931a, VI–VII, pp. 10–14.

⁵⁵ Sallust 1608, p. 17 [*recte* p. 7]. ⁵⁶ Tacitus 1925, I. I–III, pp. 2–8.

⁵⁷ Tacitus 1598, pp. 2–3. ⁵⁸ Tacitus 1598, p. 158.

as little better than a mockery of the liberty that the Roman people had lost.

In the opening Books of his *History* Livy offers a fuller account of both these processes. Book 2 begins with a much-cited account of the transition from the *dominatio* of the early kings to the liberty enjoyed by the Roman people under their 'free state'. Livy equates this transformation with the establishment of the rule of law and the consequent ending of any dependence on the discretion of the king.⁵⁹ Having expelled the Tarquins, the Romans established 'a free state now from this time forward'. 'Which freedom of theirs', as Holland's translation goes on, was due to the fact that 'the authoritie and rule of laws' was now 'more powerfull and mightie than that of men'.⁶⁰ Bolton's translation of Florus offers a more ingenuous account of the same pivotal episode:

It was agreed, that whereas the authority had before beene single, and perpetual; it should bee now but from yeere to yeere, and bipartite, least either by singularitie, or continuance it should be corrupted: and for Kings they styled them Consuls, that they might remember *the dutie of their place* was to consult, and provide for their Countrey. Such joy was conceived for this new freedom, that they could hardly beleeeve the change.⁶¹

Livy's analysis of this crucial transition concludes with an ironic account of how the slavery of the people and the licentious freedom of the king's courtiers were alike brought to an end. The courtiers 'made mone and complained one to another' that the king had been someone 'at whose hands one might obtaine somewhat, as need required, were the cause right or were it wrong'. But 'as for laws, they are things deafe and inexorable: more holsome and commodious to the poore than to the rich and mightie'. The complaint of those 'seeking to enjoy the same licentious life' under the republic was thus that 'the libertie of others turned to their servitude'.⁶²

Livy draws on this understanding of freedom and slavery in many later passages, but he illustrates the danger of falling back into servitude most fully in his account of the Decemvirate. The Tribunes initially called for the establishment of this magistracy on the grounds that the rule of the consuls was 'too absolute, and in a free state intolerable', since they were able to 'rule of themselves, and use their owne will and licentious lust in steede of law'.⁶³ But within a year of receiving special authority to reform the laws, the Decemvirs instead yielded to the malign influence

⁵⁹ Livy 1919, II. I, pp. 218–20 and II. III, pp. 226–8. ⁶⁰ Livy 1600, p. 44.

⁶¹ Florus 1618, pp. 33–4. ⁶² Livy 1600, p. 45. ⁶³ Livy 1600, p. 87.

of their leader Appius Claudius and seized power for themselves. As a result, the people who in their reforming zeal had been ‘gaping greedily after libertie’ found themselves ‘fallen and plunged into servitude and thraldome’.⁶⁴ This reversion to slavery, Livy repeats, occurred when they lost the protection of the laws and found themselves subjected once more to arbitrary power. ‘The meaner persons went to the wals, and with them they dealt according to their lust and pleasure right cruelly. The person wholly they regarded, and never respected the cause, as with whom favour and friendship prevailed as much as equity and right should have done.’⁶⁵

By contrast, Livy always defines the liberty of cities as well as citizens in terms of not living in subjection to the power or discretion of anyone else. When, for example, he describes the surrender of the Collatines to the people of Rome, he stresses that they were able to take this decision because they were ‘in their owne power’, and hence ‘at libertie to doe what they will’.⁶⁶ The same view emerges yet more clearly from the much later passage in which he discusses the efforts of the Greek cities to restore their good relations with Rome. To be able to enter into such negotiations, one of their spokesmen is made to say, presupposes the possession of ‘true libertie’, the name of that condition in which a people ‘is able to stand alone and maintain it selfe, and dependeth not upon the will and pleasure of others’.⁶⁷

IV

By the time the English Parliament met in 1610, these observations by the Roman historians about ‘free states’ and the attendant dangers of enslavement had all been turned into works of English political thought. Carrying with them the unparalleled prestige accorded to the wisdom of antiquity, these works provided at the same time an explicitly anti-monarchical perspective from which the English could begin if they chose to reflect anew on their own political experiences.⁶⁸ As Hobbes rightly perceived, such reflections were almost certain in the end to have a destabilising impact on the Stuart monarchy. Those who felt threatened by the crown’s understanding of its prerogatives now had available to them a way of thinking about their grievances in the light of which

⁶⁴ Livy 1600, p. 112. For a very similar account see Florus 1618, ch. 24, pp. 101–2.

⁶⁵ Livy 1600, p. 111. ⁶⁶ Livy 1600, p. 28. ⁶⁷ Livy 1600, p. 907.

⁶⁸ On the resulting capacity to imagine republics see Sanders 1998, pp. 11–33 and Norbrook 1999, pp. 34–62.

the crown's policies could easily be represented as nothing less than an aspiration to reduce a free people to servitude.⁶⁹

Among those who began to view their predicament through the lens supplied by these classical arguments, it is possible to distinguish two main groups. It is remarkable in the first place to find how many common lawyers showed a readiness to argue at least partly in these neo-Roman terms. Historians have generally treated the common and Roman lawyers as opposed to each other, but many of the former drew freely on Roman sources when discussing the liberty of subjects. This is not to say that we encounter this syncretism among such leading common lawyers as John Selden or Sir Edward Coke. But when Selden argued in the Parliament of 1628 in favour of relying exclusively on common law, Sir Henry Marten appears to have spoken for many when he responded that 'the common law is the daughter, the civil law is the mother' and that there is no need 'to see such a strangeness between them'.⁷⁰

The other group of critics who made prominent use of classical arguments were those whom Hobbes was later to stigmatise in *Behemoth* as the 'Democratical Gentlemen'.⁷¹ Hobbes's characterisation is in one way misleading, for it gives the impression that the gentlemen in question were self-conscious exponents of a radical ideology designed to limit the powers of the crown. To read their speeches and pamphlets, however, is to be struck not by their radicalism but by their defensive and even reactionary outlook, by their bewilderment as well as outrage as they confronted what they took to be the crown's assault on their standing in the community, and above all by their determination to exploit any arguments tending to uphold their traditional privileges. Hobbes was undoubtedly right, however, to see that their characteristic reliance on classical arguments about liberty and servitude eventually pushed them into adopting a standpoint so radical as to be virtually republican in its constitutional allegiances.⁷² Hobbes bitterly summarises the position into which they stumbled as a result of seeking to defend their interests by recklessly drawing on 'the books written by famous men of the

⁶⁹ The anxiety remained throughout the constitutional upheavals of the century. See Tully 1980, pp. 111–14, 135–46 on the fact that John Locke's reply to Sir Robert Filmer in his *Two Treatises* reiterates the claim that Filmer's views about property and political power have the effect of reducing free citizens to slaves.

⁷⁰ *Commons Debates 1628*, vol. 2, p. 568. As Levack 1973, pp. 117–21 stresses, although Marten was a civilian he came to agree with much of the common law case against the prerogative.

⁷¹ St John's College Oxford, MS 13, p. 24; cf. Hobbes 1969a, p. 26.

⁷² This perspective on the significance of the early Stuart Parliaments is beginning, rightly in my view, to be revived. See, for example, the excellent discussion in Rabb 1998, pp. 60–3 and references there.

ancient Grecian and Roman commonwealths'.⁷³ They found themselves committed to arguing that the very existence of discretionary powers was straightforwardly incompatible with individual liberty, and thus that 'all that lived under Monarchy were slaves'.⁷⁴

The first prerogatives to be targeted in these neo-classical terms were those which subjected the goods of freemen to the discretion of the king. The earliest moment at which we find the authority of the ancient writers widely invoked is accordingly in the debates about Impositions in the Parliament of 1610. Defending the need for such a debate, Thomas Wentworth declared that, unless we are permitted to question this prerogative, then we might as well be sold for slaves.⁷⁵ Later he went on to object that, if we allow the prerogative 'of imposing, even upon our lands and goods', the effect will be to leave us 'at the mercy' of the king.⁷⁶ Sir Thomas Hedley agreed that such a prerogative places the property of free subjects 'in the absolute power and command of another'.⁷⁷ As their classical authorities had explained, however, to live at the mercy or under the absolute power of another is what it means to live in servitude. Hedley duly reminded the Commons that Cicero ('though an heathen yet a wise man') and Tacitus had both drawn exactly this distinction between freedom and servitude. Nor was Hedley willing to concede the usual common law claim that, even if our property is held at the discretion of the king, we are not strictly speaking lowered to the condition of slavery, since our personal liberty remains untouched. To have the power to take away our property, Hedley retorts, is to have the power to take away our means of sustenance, and is thus to have control over those things which 'are rightly called a man's living, for that without these, the natural life cannot be maintained'. The effect, therefore, of placing our lands and goods under the control of another 'is not so much to lose all a man's wealth as the power of holding it', and this is 'nothing else but bondage'.⁷⁸ Hedley already gestures at a definition that was later to become of absolutely central importance: that to speak of 'property' is not merely to speak of our estates but of our very being or 'substance', and is thus to speak of our lives and liberty as well.⁷⁹

⁷³ St John's College Oxford, MS 13, p. 3; cf. Hobbes 1969a, p. 3. ⁷⁴ Hobbes 1996, p. 150.

⁷⁵ *Proceedings in Parliament 1610*, vol. 2, p. 83; cf. Sommerville 1999, p. 97.

⁷⁶ *Proceedings in Parliament 1610*, vol. 2, p. 108. ⁷⁷ *Proceedings in Parliament 1610*, vol. 2, p. 196.

⁷⁸ *Proceedings in Parliament 1610*, vol. 2, p. 194.

⁷⁹ Sir Edward Coke later picked up the point in the Parliament of 1628. See *Commons Debates 1628*, vol. 2, p. 64. For a parallel concern with the connections between the status of freeholder and the possession of civil liberty see Kupperman 1989, pp. 30–2.

During the next session of Parliament in 1614, Christopher Neville found himself imprisoned in the Tower for delivering what appears to have been a bravura indictment of Impositions in the same neo-classical style.⁸⁰ Neville's was one of several interventions stigmatised by the king as 'better becoming a Senate of Venice' than a civil body whose members bear 'the natural capacity of subjects'.⁸¹ Neville's speech is known only by report, but it seems to have been a full-scale rhetorical oration in which (as Sir Henry Wotton somewhat drily observed) he 'gathered together divers Latin sentences against kings' and 'interlarded them with certain Ciceronian exclamations'.⁸² According to a further report by Sir John Holles, Neville explicitly drew at the same time on the analysis of liberty and slavery to be found in the *Digest* of Roman law. According to Holles, Neville not only 'shewed the miseries of the times and lamented them' but also 'shewed by the civil lawyers' definition the difference between free and bond men, in which state impositions had cast us'.⁸³

The same arguments resurfaced in the protests against the Forced Loan in 1628.⁸⁴ Sir Francis Seymour declared that the right to demand such loans is incompatible with the security of property, and thus with the independence of subjects, for if the king 'is pleased to take what he thinks fit', then 'we do not know what we enjoy'.⁸⁵ Later in the session, a number of democratical gentlemen felt driven to express a more general anxiety about the impact of such prerogatives on the freedom of subjects. Sir John Scudamore ruminated on 'how often have I heard it that we could not fall to a resolution to supply his Majesty till we knew whether we were slaves or bondmen; that our vital liberties did in a manner want life'.⁸⁶ Speaking soon afterwards in the debate about the Petition of Right, Sir John Strangeways reaffirmed that such prerogatives undoubtedly serve to enslave, roundly concluding that 'the great work of this day, you know, is to free the subject'.⁸⁷ Speaking in a similar spirit, Sir John Eliot drew the attention of the Commons to Livy's account of how liberties come to be infringed, adding that Livy's explanation 'now reflects upon us'.⁸⁸ After the session of 1629, at the close of which Eliot was imprisoned in the Tower, he occupied himself by writing *The Monarchie of Man*, in

⁸⁰ Moir 1958, pp. 146–7. ⁸¹ This reaction is reported in Wotton 1907, vol. 2, pp. 36–7.

⁸² Wotton 1907, vol. 2, p. 38. ⁸³ Holles 1923, p. 138.

⁸⁴ For a full analysis of the 1628 debates see Russell 1979, pp. 323–89.

⁸⁵ *Commons Debates 1628*, vol. 2, p. 66. On Digges see Underdown 1996, p. 27; on Seymour's opposition see Smith 1994, pp. 45–7 and cf. pp. 60–3 for his subsequent adoption of a 'constitutionally royalist' position.

⁸⁶ *Commons Debates 1628*, vol. 3, p. 193.

⁸⁷ *Commons Debates 1628*, vol. 3, p. 214.

⁸⁸ *Commons Debates 1628*, vol. 2, p. 72.

which he continued to reflect on the same classical themes. Turning again to Livy, but above all to Tacitus – and quoting him in Grenewey's translation⁸⁹ – Eliot devoted the first half of his work to a learnedly neo-classical comparison between tyranny and true monarchy. As well as referring to the Roman historians, he made much use of Aristotle and Cicero, citing the latter as his chief authority for the view that, under monarchy as opposed to tyranny, 'nothing should be taken either of the goods or person of a subject without a judgement of the Senate (who are the makers of the Lawes), or of them who are constituted Judges'.⁹⁰

During the same disputatious session of 1628, a further prerogative was similarly targeted on the grounds that it reduces free subjects to slavery. The power in question, explicitly denounced in the Petition of Right, was that of imprisoning suspects 'without any cause showed' if the king judged their imprisonment to be necessary for public security.⁹¹ This issue had risen to renewed prominence in 1627 after a number of those arrested for refusing to pay the Forced Loan had been left in prison without trial.⁹² As Edward Littleton argued at the Committee of Both Houses on 3 April 1628, the effect was to make what he described as 'personall libertye' dependent on the will of the king, so permitting the 'invasion' of the most fundamental freedom 'established & confirmed by the whole State'.⁹³ Such dependence, many of the democratical gentlemen went on to insist, is the clearest possible sign of thralldom and servitude. As Henry Sherfield summarised, 'if the King may imprison a freeman without a cause', then 'he is in worse case than a villein', for a villein at least enjoys personal liberty, whereas 'to be imprisoned without cause, that is a thralldom'.⁹⁴

V

After the brief and stormy session of 1629,⁹⁵ Charles I summoned no further Parliaments until the need for revenue forced his hand in 1640. As soon as the Short Parliament assembled in April of that year, a renewed campaign was mounted on the royal prerogative, in the course

⁸⁹ For the reference to Grenewey see Eliot 1879, vol. 2, p. 47 and for other quotations from Tacitus see Eliot 1879, vol. 2, pp. 12, 15, 32, 37–8, 46, 57, 60, 62, 66.

⁹⁰ Eliot 1879, vol. 2, p. 49. Cf. Sommerville 1999, p. 147.

⁹¹ *Constitutional Documents 1625–1660*, p. 67. ⁹² Sommerville 1999, pp. 134, 153–8.

⁹³ Cambridge University Library MS li. 5. 32, fos. 218^r–^v, 221^v.

⁹⁴ *Commons Debates 1628*, vol. 2, pp. 189, 208. See also *Commons Debates 1628*, vol. 2, p. 357 for the repetition of the point by Sir Edward Coke.

⁹⁵ See Smith 1999, pp. 118–19.

of which the classical arguments we have been considering were again brought to the fore. At first the king responded by ordering an immediate dissolution, but he quickly found that his worsening financial difficulties left him no such easy avenue of escape. A new Parliament was convened in November 1640, and in less than two years the renewed quarrelling led to civil war.

We need to distinguish two separate phases in this renewed attack on the prerogative mounted by the democratical gentlemen and their allies.⁹⁶ They began by reverting to what they took to be the crown's continuing disregard for the fundamental liberties of individual subjects, above all their personal freedom and property rights. When Sir John Holland spoke at the start of the Long Parliament about 'the great and manifold grievances of this kingdom', he principally emphasised the need for the Commons to preserve 'our *Rights*, our ancient *Rights*, the *Rights* of our Inheritances. Our *Liberties*, our *Priviledges*, our *Proprieties*'.⁹⁷ A few days later, Sir Edward Dering in his opening speech likewise reminded the Commons that every subject 'hath long prayed for this houre in hope to be relieved; and to know hereafter whether any thing hee hath (besides his poore part and portion of the common Ayre he breatheth) may be truly called his owne'.⁹⁸

As things turned out, the question of personal liberty did not prove to be a major stumbling-block until the eve of the civil war. But the issue of property rights, and especially the question of how far the holding of property may be subject to the will of the king, became a focus of debate from the moment when Parliament first reassembled in the spring of 1640. The main reason for this renewed concern was that, in the course of the 1630s, the crown had extended its policy of raising non-parliamentary revenues, in particular by turning the Ship Money levy into what the government's critics regarded as a general tax. When in 1636 John Hampden declined to pay, the government reluctantly decided to turn his refusal into a test case.⁹⁹ Hampden was sued in the King's Bench in 1637, and in the following year a majority of the royal

⁹⁶ When quoting from official Declarations issued by the King and Parliament I basically rely on *Husbands et al.* 1643. However, I cross-reference to *Parliamentary History of England*, vol. 2, a less satisfactory but more readily available text.

⁹⁷ Holland 1640, p. 5. Thomason notes on the title-page of his copy (Thomason Tracts, British Library) that the speech was delivered on 7 November 1640.

⁹⁸ Dering 1640, p. 2. Thomason notes on the title-page of his copy that Dering delivered the speech 'before ye 23 November' 1640.

⁹⁹ The government would have preferred the case not to come to court, but the manoeuvrings of Lord Saye and Sele forced their hand.

justices returned the inflammatory verdict that in times of danger the king possessed the prerogative right to impose additional charges at will, and that the king himself must be 'sole judge both of the danger, and when and how the same is to be prevented and avoided'.¹⁰⁰

When George Peard, a common lawyer, rose in the Short Parliament to speak against this judgement, he reverted to the argument earlier advanced by Sir Thomas Hedley to the effect that the imposing of non-parliamentary levies takes away 'not onely our goods but persons likewise', so reducing us from free subjects to slaves.¹⁰¹ As we saw in chapter 11, however, the most powerful repudiation of the policy from the same neo-classical standpoint appeared in *The Case of Shipmony Briefly Discoursed*, a pamphlet anonymously issued by Henry Parker to coincide with the opening of the Long Parliament in November 1640.¹⁰² Continuing to press the case, the Long Parliament itself went on to produce a general statement to the effect that we forfeit our freedom whenever our properties are made dependent on the will of the king. The occasion for this resolution was the dispute that arose in the opening months of 1642 over the decision by Parliament to take into its own hands the royal arsenal at Hull. When the governor, Sir John Hotham, closed the city gates against the king, Charles I reacted by accusing him of treason, arguing that as sovereign he possessed 'the same title to His Town of Hull, which any of His Subjects have to their Houses or Lands'.¹⁰³ The response of the two Houses – in their Remonstrance of 26 May 1642 – was to proclaim this view of the prerogative blankly inconsistent with the liberty of subjects. Picking up the claim that any threat to the property of freemen is at the same time a threat to their living and substance, Parliament went on to speak – in the litany later made famous by John Locke – of the inherent conflict between such prerogatives and our 'lives, Liberties and Estates'.¹⁰⁴ Kings are prone to believe 'that their Kingdoms are their own, and that they may do with them what they will'.¹⁰⁵ But this principle 'is the Root of all the Subjects misery, and of the invading of their just Rights and Liberties'. It undermines 'the very Foundation of the liberty, property and interest of every Subject in particular, and of

¹⁰⁰ *Constitutional Documents 1625–1660*, p. 109. Cf. Kenyon 1966, pp. 87–8. On Sir Robert Berkeley's judgement see Sommerville 1999, pp. 151–2.

¹⁰¹ *Proceedings of the Short Parliament of 1640*, p. 172.

¹⁰² Mendle 1995, pp. 32–50 gives an account of the precise political context in which Parker's tract appeared.

¹⁰³ *Husbands et al.* 1643, p. 266. Cf. *Parliamentary History of England*, vol. 2, col. 1300.

¹⁰⁴ *Husbands et al.* 1643, p. 264. Cf. *Parliamentary History of England*, vol. 2, col. 1298.

¹⁰⁵ *Husbands et al.* 1643, p. 266. Cf. *Parliamentary History of England*, vol. 2, col. 1301.

all the Subjects in generall'. To say that a king can dispose of these rights at will is to say that they are held by mere grace, which in turn is to say that we are not free subjects at all.¹⁰⁶

The need to secure life, liberty and estates against such encroachments continued to be asserted throughout the period up to the start of the fighting in the autumn of 1642. During the opening months of that year, however, the democratical gentlemen and their allies suddenly shifted the focus of their attack. As we began to see in chapter 11, they turned to challenge in the name of popular liberty a power of the crown hitherto regarded as sacrosanct by all parties. The prerogative they began to question was that of the 'Negative Voice', the right of the king to give or withhold his assent to any proposed acts of legislation put to him by the two Houses of Parliament.

The democratical gentlemen plunged into this further phase of their campaign over the question of who should control the militia. After the outbreak of the Irish rebellion in October 1641, and after the king's abortive but violent attempt to arrest five members of Parliament in January 1642, the two Houses claimed to be anxious about their own security. Following their decision in January to take over the arsenal at Hull, they proceeded at the beginning of February to draw up a Militia Ordinance which they sent to the king for his assent. Protesting about 'the bloody counsels of Papists and other ill-affected persons', they proposed that 'for the safety therefore of His Majesty's person, the Parliament and kingdom at this time of imminent danger', the control of the militia should be vested exclusively in persons approved by the two Houses of Parliament. They went on to list their local nominees, granting them extensive powers to muster, train and arm the people 'for the suppression of all rebellions, insurrections and invasions that may happen'.¹⁰⁷

As every good royalist knew, the control of the militia was one of the indisputable 'marks' of sovereignty listed by Jean Bodin in his *Six livres de la république*. Although Charles had hitherto accepted a number of bills limiting his prerogative, this further demand at first elicited from him and his advisers a stunned silence.¹⁰⁸ While the king temporised, however, Parliament made an astonishing move that wholly changed the

¹⁰⁶ Husbards *et al.* 1643, p. 266. Cf. *Parliamentary History of England*, vol. 2, col. 1300.

¹⁰⁷ *Constitutional Documents 1625-1660*, pp. 245-6 prints the Ordinance of 5 March, but notes that the same provisions already appear in the version sent for the royal assent on 16 February. Husbards *et al.* 1643, pp. 73-5 prints the list (12 February) of those whom Parliament proposed to entrust with the organisation of the militia.

¹⁰⁸ See Husbards *et al.* 1643, p. 80 for the king's initial response, in which he asks for more time 'to consider of a particular Answer for a matter of so great weight'.

terms of the debate. Voting the king's delay a direct denial,¹⁰⁹ the two Houses passed the Militia Ordinance on their own authority on 5 March 1642,¹¹⁰ and ten days later pronounced it legally binding on the people notwithstanding its failure to secure the royal assent.¹¹¹

'I am so much amazed', exclaimed the king (an unfortunate echo of Shakespeare's *Richard II*) 'that I know not what to Answer.'¹¹² As recently as December 1641 John Pym had explicitly conceded that the prerogative of the Negative Voice was a pillar of the constitution and beyond dispute, assuring the king that it rests 'only in his power, to pass or refuse the votes of Parliament'.¹¹³ Less than three months later, we find the two Houses voting in effect to set this prerogative aside. The outcome was an instant crisis of legitimacy. How could Parliament possibly defend its decision to trample on such a fundamental and hitherto unquestioned flower of the crown?

The answer is that the principles in the light of which the two Houses justified their action were entirely drawn from the legal and moral philosophy of ancient Rome. The resulting campaign mounted by the democratical gentlemen and their allies may in turn be said to have moved forward in two distinct steps. They began by taking their stand squarely on the fundamental maxim that Cicero had cited from the Law of the Twelve Tables: that, in legislating for a free state, *salus populi suprema lex esto*, the safety of the people must be treated as the supreme law. They maintained that the nation was at present in a state of dire emergency, and that the safety of the people would be further imperilled if the control of the militia were to be assigned to anyone other than the two Houses themselves. From this they inferred that they had a positive duty, in the name of *salus populi*, to take over the militia even in the absence of the king's assent.

But what exactly was the dire emergency that justified this revolutionary step? The democratical gentlemen evidently feared that, if the king controlled the militia, he might use it to crush their continuing dissent. But they could scarcely voice this anxiety without appearing to accuse the king of plotting against his own people, and they remained anxious

¹⁰⁹ *Parliamentary History of England*, vol. 2, col. 1108.

¹¹⁰ *Constitutional Documents 1625-1660*, pp. 245-7.

¹¹¹ *Husbands et al.* 1643, p. 112. Cf. *Parliamentary History of England*, vol. 2, col. 1129.

¹¹² *Husbands et al.* 1643, p. 94. Cf. *Parliamentary History of England*, vol. 2, col. 1110. The alleged parallels with Richard II were explicitly pointed out in *The Life and Death of King Richard the Second, Who Was deposed of His Crown, by reason of His not regarding the Councill of the Sage and Wise of His Kingdome, but followed the advice of wicked and lewd Councill*, a parliamentary tract of July 1642.

¹¹³ *Parliamentary History of England*, vol. 2, col. 1003.

at this juncture not merely to uphold the principle that the king can do no wrong,¹¹⁴ but also to insist that they were still doing the king's (true) business.¹¹⁵ As a result, they found themselves driven into arguing that, although the king was undoubtedly innocent of any designs against his subjects, he had nevertheless surrounded himself with a group of evil counsellors bent on subverting the Protestant religion and the privileges of Parliament. This, they insisted, was the dire emergency that made it essential for them to take control of the militia, thereby ensuring that *salus populi* was preserved and the kingdom protected from so terrible a threat.

The House of Commons first began to speak in these terms in the wake of Charles's attempt to arrest the five Members in January 1642. Denouncing this unparalleled assault on their privileges, they declared that anyone attempting to perpetrate any further violence would be branded 'a publike enemy of the Common-wealth'.¹¹⁶ They clearly intended to recall the exact words used by Cicero in his third philippic to denounce Marcus Antonius's violence against the Senate and people of Rome. But they took a step too far in attempting to apply the vocabulary of Roman republicanism so directly to the English polity. Charles I was able to respond in his loftiest tones that, in describing his advisers as 'Enemies to the Common-wealth', the Commons had used 'an English phrase We scarcely understand'.¹¹⁷

Forced to reconsider their terminology, the two Houses began to speak instead of a malignant party whose leaders had seduced the innocent but misguided king. In their Petition of 1 March they assured the king that he stood in need of immediate protection against 'the most malignant enemies of Gods true Religion, and of the peace and safety of Your Selfe, and your Kingdome'.¹¹⁸ Answering his subsequent refusal to pass the Militia Ordinance as a bill, they struck a yet more alarmist note. 'The heads of the Malignant party', they now maintained, believe that 'by new practices, both of force and subtilty' they can make a prey of 'the Religion and Liberty of this Kingdome'.¹¹⁹ The people of England are facing a 'desperate and mischievous Plot of the malignant party',¹²⁰

¹¹⁴ For the continuing importance of this principle see Husbands *et al.* 1643, p. 199 and cf. *Parliamentary History of England*, vol. 2, col. 1253.

¹¹⁵ As Kishlansky 1977 has shown, the Parliamentarians only gradually abandoned the claim that they were continuing to work in the best interests of a misguided king.

¹¹⁶ Husbands *et al.* 1643, p. 39. Cf. *Parliamentary History of England*, vol. 2, col. 1043.

¹¹⁷ Husbands *et al.* 1643, p. 177. Cf. *Parliamentary History of England*, vol. 2, col. 1246.

¹¹⁸ Husbands *et al.* 1643, p. 93. Cf. *Parliamentary History of England*, vol. 2, col. 1109.

¹¹⁹ Husbands *et al.* 1643, p. 195. Cf. *Parliamentary History of England*, vol. 2, col. 1250.

¹²⁰ Husbands *et al.* 1643, p. 214. Cf. *Parliamentary History of England*, vol. 2, col. 1268.

in consequence of which the kingdom is in 'eminent danger; both from enemies abroad, and a Popish and discontented partie at home'.¹²¹

It was hard for the two Houses to avoid a hint of paranoia as they strove to establish the gravity of the menace, and it proved correspondingly easy for Charles and his advisers to satirise their rhetoric. No doubt it is true, the king observed in his Answer to the Declaration of 19 May, that 'the rumour and discourse of Plots and Conspiracies may have bin necessary to the Designes of particular men'.¹²² But the fact remains that, 'after eight Moneths amusing the Kingdom with the expectation of a discovery of a Malignant Party', the two Houses have still been unable to name a single member of it.¹²³ Charles's Answer to the Remonstrance of 26 May adopts a yet more sarcastic tone, ridiculing the view 'that Calamitie proceeds from evill Counsellors, whom no body can name; from Plots and Conspiracies, which no man can discover; and from Fears and Jealousies, which no man understands'.¹²⁴ 'The *Malignant Party*', the king goes on to suggest, appears to be nothing more than the name given by the refractory Commons to 'all the Members of both Houses, who agree not with them in their Opinion' about the prerogative.¹²⁵

Among those who felt convinced, however, that a party of malignants was definitely at work, the constitutional solution proposed by the democratical gentlemen evidently carried much weight. As a result, we find the two Houses putting forward their solution with growing confidence in their numerous declarations about the militia in the spring of 1642. They invariably begin by alluding to *salus populi* as the most fundamental of all the fundamental laws of the land. The vote calling for the Militia Ordinance to be obeyed as a law speaks of 'the safeguard both of his Majestie, and his People' as paramount,¹²⁶ while the Petition of a week later repeats that none of their plans can 'bee perfected before the Kingdome be put into safetie, by settling the *Militia*'.¹²⁷ Summarising their grievances in the Declaration of 19 May, they repeat once more that the fundamental purpose of government is 'the safeguard both of his Majesty, and his people', the maintenance of 'the good and safetie of the whole'.¹²⁸

¹²¹ Husbards *et al.* 1643, p. 207. Cf. *Parliamentary History of England*, vol. 2, col. 1261. This passage from the Declaration of 19 May quotes the Vote of the two Houses of 15 March, on which see Husbards *et al.* 1643, p. 112 and *Parliamentary History of England*, vol. 2, col. 1129.

¹²² Husbards *et al.* 1643, p. 241. Cf. *Parliamentary History of England*, vol. 2, col. 1282.

¹²³ Husbards *et al.* 1643, p. 247. Cf. *Parliamentary History of England*, vol. 2, col. 1288.

¹²⁴ Husbards *et al.* 1643, p. 292. Cf. *Parliamentary History of England*, vol. 2, col. 1339.

¹²⁵ Husbards *et al.* 1643, p. 283. Cf. *Parliamentary History of England*, vol. 2, col. 1330.

¹²⁶ Husbards *et al.* 1643, p. 112. Cf. *Parliamentary History of England*, vol. 2, col. 1129.

¹²⁷ Husbards *et al.* 1643, p. 123. Cf. *Parliamentary History of England*, vol. 2, col. 1138.

¹²⁸ Husbards *et al.* 1643, p. 207. Cf. *Parliamentary History of England*, vol. 2, cols. 1261–2.

The upholding of *salus populi*, they concede, normally requires the two Houses to act in concert with the king. We still find this understanding of the mixed constitution unhesitatingly put forward even in the markedly hostile Declaration of 19 May:

The Kingdome must not be without a meanes to preserve it selfe, which that it may be done without confusion, this Nation hath intrusted certaine hands with a Power to provide in an orderly and regular way, for the good and safetic of the whole, which power, by the Constitution of this Kingdome, is in his Majestic and in his Parliament together.¹²⁹

The two Houses accept, in short, that England is a mixed monarchy, and that in normal circumstances the highest legislative authority can be exercised only when King and Parliament act together as the three Estates of the realm and hence as the joint bearers of sovereignty.¹³⁰

The two Houses next insist, however, that the crisis in which the nation currently finds itself is such that this fundamental principle of the mixed constitution can no longer be upheld. Although the nation is facing a dire emergency, the king is incapable of recognising the gravity of the situation, so completely has he been hoodwinked by the malignant party.¹³¹ Given this predicament, with one of the three Estates effectively disabled from pursuing the public good, it becomes the positive duty of the other two Estates to act together in the name of *salus populi*, even if this involves defying the sadly misguided king.

With this contention, the two Houses arrive at their revolutionary conclusion that, at least in conditions of emergency, the highest legislative authority lies not with the King-in-Parliament but with Parliament alone.¹³² The principle is already implicit in the Militia Ordinance, and soon afterwards we find it explicitly stated by a number of the democratical gentlemen. Sir Simonds D'Ewes heard Henry Marten 'take the

¹²⁹ *Husbands et al.* 1643, p. 207. Cf. *Parliamentary History of England*, vol. 2, col. 1262. During the early seventeenth century there was some dispute (or perhaps merely confusion) about the character of the mixed constitution. Some argued that the Three Estates comprised the Lords spiritual, the Lords temporal and the Commons, with the king acting as their head. See Mendle 1985, pp. 108–10, 112–13 and cf. Sommerville 1999, pp. 165–6. After the exclusion of the Bishops from the House of Lords in February 1642, however, those who wished to defend the theory of the mixed constitution naturally took the three estates to be King, Lords and Commons. See Mendle 1985, esp. pp. 166–8, 176–7.

¹³⁰ For other statements of the theory at this juncture see Mendle 1985, p. 177.

¹³¹ This claim is first strongly stated in the Petition about the Militia presented to the king on 1 March 1642. See *Husbands et al.* 1643, pp. 92–4 and cf. *Parliamentary History of England*, vol. 2, col. 1109.

¹³² On this dramatic revision of the theory of the mixed constitution see Mendle 1985, esp. pp. 176–83. As Mendle 1993 rightly adds, this move in the spring of 1642 undoubtedly involved the two Houses in claiming that sovereignty lay with them alone.

boldnes' to affirm, as early as 8 February 1642, 'that the Kings consent should bee included in the Votes of the Lords howse'.¹³³ D'Ewes also records that Nathaniel Fiennes, in a similar speech of 1 April, declared 'that the King had no negative voice in passing those Acts of Parliament which both howses had agreed unto but was to assent to them'.¹³⁴ The Militia Ordinance had presupposed that no such assent is necessary, whereas Fiennes evidently believed that the king was obliged to assent to anything voted by Parliament, but constitutionally the outcome was the same: the king was denied any standing as a separate Estate endowed with the right to accept or reject any proposed legislation put to him.¹³⁵

This doctrine reached a wider public with the appearance on 21 April¹³⁶ of a brief but remarkable pamphlet entitled *A Question Answered*.¹³⁷ Once again the basic principle invoked – in strikingly classical terms – is that of *salus populi*, 'the good and preservation of the Republique'.¹³⁸ The king can never possess any lawful power to act other than in the name of this basic principle. 'For it cannot be supposed that the *Parliament* would ever by Law intrust the King with the *Militia* against themselves, or the Commonwealth, that intrusts them to provide for their weale, not for their woe.' Drawing a parallel that was later much invoked, the author next tells us that the position of a king is similar to that of an army commander-in-chief. He is assigned the highest powers of command, but only on condition that they are rightly and equitably used:

Nor need this equity be expressed in the Law, being so naturally implied and supposed in all Laws that are not merely Imperiall. . . . And therefore when the Militia of an Army is committed to the Generall, it is not with any expresse condition, that he shall not turn the mouths of his Cannons against his own Souldiers, for that is so naturally and necessarily implied, that it is needlesse to be expressed.

We can readily see the force of the analogy, we are told, if we think about the implication of allowing the king to turn aside any proposals

¹³³ BL Harl. MS 162, fo. 375^v. Cf. Mendle 1985, pp. 177–8.

¹³⁴ BL Harl. MS 163, fo. 452^v [repaginated 58^v]. The passage has been crossed out but is still legible.

¹³⁵ A distinction valuably stressed in Mendle 1985, pp. 178–9.

¹³⁶ Various dates have been suggested. I follow the one entered by Thomason in his own copy of the tract.

¹³⁷ Mendle 1985, Appendix 2, pp. 187–8 argues in favour of Henry Parker's authorship, but Mendle 1995, p. 194 more cautiously lists it under the tracts 'perhaps by Parker'. It is true that one of the arguments in the tract recurs in Parker's *Observations*, but it is striking that Thomason's copy contains no attribution, especially as he would have been well-placed to know if Parker had written it.

¹³⁸ *A Question Answered* is a single-sheet broadside, catalogued in the Thomason Tracts, British Library, as 669. f. 6 (7).

put to him by both Houses of Parliament for assuring the safety of the people. The effect would be to convert 'the legall and mixt *Monarchy*' into 'the greatest *Tiranny*', for 'if Laws invest the King in an absolute power, and the letter be not controled by the equity', our kings would have 'a *Tiranny* confer'd upon them legally, and so the very end of Laws, which is to give bounds and limits to the exorbitant wills of Princes, is by the Lawes themselves disapointed'.

The clear implication of *A Question Answered* is that, if the king attempts to act contrary to the good and safety of the people, the other two Estates in 'the legall and mixt *Monarchy*' have a duty to prevent him by acting alone. There is no such thing, in other words, as a royal veto over measures enacted by the two Houses in the name of the common good. These implications remain inexplicit, however, and it was left to the two Houses themselves to spell them out in their Declaration of 19 May, which they proceeded to do with the utmost confidence. 'The Prince being but one person', they now explain, he 'is more subject to accidents of nature and chance, whereby the Common-Wealth may be deprived of the fruit of that trust which was in part reposed in him'.¹³⁹ When 'cases of such necessity' arise, 'the Wisdome of this State hath intrusted the Houses of Parliament with a power to supply what shall bee wanting on the part of the Prince'.¹⁴⁰ The need for this power is obvious in the case of natural disability, but 'the like reason doth and must hold for the exercise of the same power in such cases, where the Royall trust cannot be, or is not discharged, and that the Kingdome runs an evident and imminent danger therby'.¹⁴¹ But this is to speak, they go on, of the very predicament in which, as a result of the machinations of the malignant party, the nation now finds itself. Given that the nation now faces this danger, the two Houses can and must act according to their own judgement, and 'there needs not the authority of any person or Court to affirme; nor is it in the power of any person or Court to revoke, that judgement'.¹⁴² If one of the three Estates cannot or will not act for the common good, the sovereign power to preserve the commonwealth automatically devolves upon the other two, which acquire the power *in extremis* to act alone.¹⁴³ As the Declaration of 26 May confirms, where 'the publike Weal, and good of the Kingdom' is concerned, the

¹³⁹ Husbands *et al.* 1643, pp. 207–8. Cf. *Parliamentary History of England*, vol. 2, col. 1262.

¹⁴⁰ Husbands *et al.* 1643, p. 208. Cf. *Parliamentary History of England*, vol. 2, col. 1262.

¹⁴¹ Husbands *et al.* 1643, p. 208. Cf. *Parliamentary History of England*, vol. 2, col. 1262.

¹⁴² Husbands *et al.* 1643, p. 208. Cf. *Parliamentary History of England*, vol. 2, col. 1262.

¹⁴³ For the growing belief in this period that the preservation of the state ought to be assigned paramount importance see Baldwin 1998.

two Estates of Parliament 'are the most proper Judges', since they 'are sent from the whole Kingdom for that very purpose'. Nor, we are now assured, has the crown ever questioned their possession of this ultimate sovereign power, 'otherwise then is expressed in that usuall Answer, *Le Roy l'avisera*, which signifies rather a suspension then a refusall of the Royall Assent'.¹⁴⁴

VI

By the end of May 1642, the democratical gentlemen and their allies had fully articulated their revolutionary vision of the mixed constitution. Even the core prerogative of the Negative Voice, they were now prepared to argue, can be set aside by Parliament if the safety of the people might otherwise be jeopardised. We next need to note that, in the course of the months that followed, the two Houses proceeded to open up a different and yet more radical line of attack on the government. Moving beyond their simple invocations of *salus populi*, they began to delve more deeply into their classical heritage, and in particular to appeal yet again to Roman ideas about freedom and servitude.

This further development was prompted by the fact that the government in the meantime succeeded in mounting a damaging counter-attack on their initial line of argument. As Charles I and his advisers soon perceived, the control of the militia was constitutionally a side issue. The key constitutional question was raised by Parliament's underlying rejection of the prerogative of the Negative Voice. Responding to this revolutionary move, the king's advisers began by conceding the basic premises of the Parliamentary case.¹⁴⁵ They agreed that *salus populi is suprema lex*, and thus that the need to uphold 'Peace and safety', the need to be 'vigilant enough for the Publike safetye', must be recognised as the fundamental duty of government.¹⁴⁶ They were even prepared to accept that the king may be said to have a sacred obligation to act 'for the good and safety' of his subjects, and spoke emphatically of 'the Power wherewith he is trusted' and of 'the great trust that, by God and

¹⁴⁴ Husbands *et al.* 1643, p. 269.

¹⁴⁵ As Mendle 1985, pp. 5–6 notes, the chief writer on the king's behalf in the spring of 1642 was Edward Hyde.

¹⁴⁶ See Husbands *et al.* 1643, p. 158 (and cf. *Parliamentary History of England*, vol. 2, col. 1201) for the king's message of 28 April refusing to pass the Militia Ordinance as a bill. See also Husbands *et al.* 1643, p. 175 (and cf. *Parliamentary History of England*, vol. 2, col. 1245) for the king's answer to Parliament's Declaration of 5 May about the militia.

Mans Law is committed to the King, for the Defence and Safety of His People'.¹⁴⁷

Having made these concessions, however, Charles and his advisers went vigorously on the offensive. They did not fail in the first place to invoke the idea of the king's divine right to rule. While acknowledging that the king is entrusted with power to procure *salus populi*, they rejected any suggestion that this trust is imposed on him by his own subjects, thereby blocking any possible implication that the foundations of lawful government may be contractual in character. The king's trust, they replied, is imposed on him directly by God, which makes him answerable to God alone for the manner in which he discharges it. As Charles himself pronounced, his is a trust 'which God and the Law hath granted to Us and Our Posterity for ever'.¹⁴⁸

To these considerations the king and his advisers added a strictly constitutional retort. No one, they maintained, can be obliged to obey a mere bill or ordinance, even if it has been passed by both Houses, if it fails to secure the royal assent. To argue otherwise is to forget that, according to the fundamental laws and customs of the realm, the power to make laws is at all times vested jointly in King-in-Parliament. This was the blank wall that John Pym encountered as soon as he proposed in the debate of 15 March that the Militia Ordinance should be binding on all subjects. 'Divers spake against it', Sir Simonds D'Ewes records, 'and said nothing but a law could binde the Subiect to which was requisite as well the Kings roiall assent as the assent of both howses.'¹⁴⁹ We find the same understanding of the constitution implicit in several of the king's replies to Parliament of May 1642,¹⁵⁰ but for the classic exposition of the argument we must turn to the *Answer to the XIX Propositions* composed for the king by Viscount Falkland and Sir John Culpeper and issued on 18 June.¹⁵¹ The *Answer* unequivocally asserts that 'in this kingdom the Laws are jointly made by a King, by a House of Peers, and by a House

¹⁴⁷ See Husbands *et al.* 1643, p. 181 (and cf. *Parliamentary History of England*, vol. 2, col. 1223) for the king's reply to Parliament's Answer of 9 May about Hull. See also Husbands *et al.* 1643, pp. 287, 290 (and cf. *Parliamentary History of England*, vol. 2, cols. 1334, 1337) for the king's answer to Parliament's Remonstrance of 26 May.

¹⁴⁸ Husbands *et al.* 1643, p. 287. Cf. *Parliamentary History of England*, vol. 2, col. 1334.

¹⁴⁹ BL Harl. MS 163, fo. 427^r [repaginated 33^r].

¹⁵⁰ See Husbands *et al.* 1643, pp. 163–4 (and cf. *Parliamentary History of England*, vol. 2, col. 1213) for the king's answer to Parliament's Declaration of 4 May about Hull. See also Husbands *et al.* 1643, pp. 175–6 (and cf. *Parliamentary History of England*, vol. 2, col. 1245) for the king's answer to Parliament's Declaration of 5 May about the militia. For the adoption of the same vocabulary by royalist pamphleteers after April 1642 see Mendle 1985, pp. 180–2.

¹⁵¹ Mendle 1985, p. 6.

of Commons chosen by the People, all having free Votes and particular Priviledges'.¹⁵² Furthermore, the essence of the king's standing as one of the three Estates derives from the fact that he possesses a Negative Voice. It is an indispensable aspect of 'the King's Regalitie' that, when presented by Parliament with a proposed Act of legislation, he has the right 'to grant or deny such of their Petitions as pleaseth himself'.¹⁵³ Speaking in his own person, Charles adds that any attempt to bypass or even question his veto would amount to denying 'the freedom of Our Answer', when 'We have as much right to reject what We think unreasonable, as you have to propose what you think convenient or necessary'. By the terms of the mixed constitution 'the Manage of Our Vote is trusted by the Law, to our Own Judgement and Conscience', and 'most unreasonable it were that two Estates, proposing something to the 'Third' should be able to bind the third to act according to their will.¹⁵⁴

Charles I's *Answer* has sometimes been viewed as a concessive and conciliatory document.¹⁵⁵ If we place it, however, in the context of Parliament's attack on the royal veto, it appears as an aggressive reaffirmation of the crown's place in the mixed constitution, and as the culmination of a powerful series of responses to the democratical gentlemen and their allies.¹⁵⁶ The crown's replies were admirably written, witty and ironic in tone, highly effective at mocking the hypocrisies of the two Houses as they fulminated against their unnamed enemies. Still more important, the *Answer* contained an unimpeachable account of how the process of legislation was normally carried out, and one in which the prerogative of the Negative Voice was shown to play a pivotal role that no one had previously called in doubt.

It was at this moment that the democratical gentlemen sought to regain the ideological initiative by delving yet more deeply into their classical heritage, and in particular by extending their earlier discussions of freedom and servitude. The main credit for engineering this crucial move appears to be due to Henry Parker, whose *Observations upon some of his Majesties late Answers and Expresses* first appeared anonymously on

¹⁵² Charles I 1999, p. 168.

¹⁵³ Charles I 1999, p. 155. Fukuda 1997, pp. 24–5 sees in this passage the earliest 'Polybian' definition of the English constitution. But the language of the *Answer* closely echoes the Parliamentary declarations to which it was a response.

¹⁵⁴ Charles I 1999, p. 164. ¹⁵⁵ Weston 1965, pp. 5, 26, 29.

¹⁵⁶ Weston 1965, pp. 29–30 overlooks Parliament's earlier claims about the right of the two Houses to act alone, and consequently treats that argument as a radical response to Charles I's *Answer*. But the *Answer* was a counterblast to the radical argument, which as we have seen had already been advanced by Parliament.

2 July 1642.¹⁵⁷ The *Observations* is Parker's most important tract, and, as we shall see, its neo-classical analysis of freedom and free commonwealths exercised an immediate and pervasive influence on other writers in favour of the parliamentary cause.

Parker's is an unusually complex text, however, and it would be misleading to imply that his account of freedom and slavery carries the main burden of his case. Rather he seems to have taken his principal task to be that of lending full support to the radical interpretation of the mixed constitution already put forward by the two Houses of Parliament. He accordingly begins by reaffirming that *salus populi* is 'the Paramount Law that shall give Law to all humane Lawes', enunciating the principle in exactly the terms that Cicero had employed in his *De Legibus*.¹⁵⁸ Parker next concedes that in normal circumstances 'the legislative power of this Kingdome is partly in the King, and partly in the Kingdome', and that 'when it concerns not the saving of the people from some great danger or inconvenience, neither the King can make a generall binding Law or Ordinance without the Parliament, or the Parliament without the King' (p. 182). He then insists, however, that 'where this ordinary course cannot be taken for the preventing of publike mischiefs, any extraordinary course that is for that purpose the most effectual, may justly be taken and executed' in accordance with the paramount duty to ensure that *salus populi* is preserved. If the king should happen to be deaf to some grave crisis in the state, there must be a right in the two Houses of Parliament to act, even 'without his concurrence', to uphold *salus populi* by way of making 'any temporary orders for putting the Kingdome into a posture of defence'.¹⁵⁹

Besides restating this earlier line of thought, however, Parker goes on to develop a further and explicitly neo-classical attack on the prerogative of the Negative Voice. If this prerogative, he declares, is indeed pivotal to the operation of the mixed constitution, then we cannot speak of the English as a free nation at all. The effect of the Negative Voice is to take away the liberty not merely of individual subjects but of the people as a whole. It converts the English from a free people into a nation of slaves.

This further argument runs as a groundswell through Parker's text, but it may be helpful to distinguish two elements in it. One hinges on the nature of the relationship between the king and Parliament presupposed

¹⁵⁷ Mendle 1995, pp. 70–89 gives an account of the precise context in which Parker's text appeared.

¹⁵⁸ [Parker] 1933, p. 169. Cf. Cicero 1928, III. I. 1–3, pp. 458–60.

¹⁵⁹ [Parker] 1933, p. 182. As Mendle 1995, p. 48 puts it, the argument amounts to a defence of 'full-blown bicameral parliamentary absolutism'.

by the claim that the crown possesses a Negative Voice. With this prerogative, Parker objects, the king 'assumes to himselfe a share in the legislative power' so great as to open up 'a gap to as vast and arbitrary a prerogative as the Grand Seignior has' in Constantinople (pp. 182–3). For he assumes a power to 'take away the being of Parliament meereley by dissent', thereby making it 'more servile then other inferior Courts' (p. 187). To allow the Negative Voice, in short, is to render Parliament dependent on the king and thereby reduce it to servitude.

The other element in Parker's argument flows from his assumption that 'the Lords and Commons represent the whole Kingdome' and 'are to be accounted by the vertue of representation as the whole body of the State' (pp. 175, 211). If we allow that the king has a Negative Voice, then 'without the Kings concurrence and consent', the two Houses are reduced to 'livelesse conventions without all vertue and power'. But this is to take away the political virtue and power of the people as a whole. Tracing the implications of this disenfranchisement, Parker closely follows two different formulae used by his classical authorities to describe the onset of national servitude. As we have seen, Livy had equated this condition with the substitution by our rulers of 'their owne will and licentious lust in steede of law'.¹⁶⁰ Parker repeats that the Negative Voice subjects the entire nation 'to as unbounded a regiment of the Kings meere will, as any Nation under Heaven ever suffered under'. For 'what remains, but that all our lawes, rights, & liberties, be either no where at all determinable, or else onely in the Kings breast?' (pp. 175–6). The other formula to which Parker refers is Aristotle's claim that (as the English translation of the *Politics* had put it) we fall into a condition of slavery whenever we become subject to the discretion of others, since 'the proprietie of bondage is, not to live according to a man's own discretion'.¹⁶¹ Parker agrees that, if we permit the king 'to be the sole, supream competent Judge in this case, we resigne all into his hands, we give lifes, liberties, Laws, Parliaments, all to be held at meer discretion' and thereby leave ourselves in bondage (pp. 209–10).

Charles I had complained in his *Answer to the XIX Propositions* that without the Negative Voice he would be reduced from the status of 'a King of *England*' to a mere 'Duke of *Venice*'.¹⁶² Parker daringly picks up the objection as a means of clinching his argument about national servitude. 'Let us look upon the Venetians, and other such free Nations', he responds, and ask ourselves why it is that they are 'so extreemly jealous

¹⁶⁰ Livy 1600, p. 87.

¹⁶¹ Aristotle 1598, VI. II, pp. 339–40.

¹⁶² Charles I 1999, p. 167.

over their Princes'. It is because they fear 'the sting of Monarchy', which stems (as Livy had said) from the power of monarchs to 'dote upon their owne wills, and despise publike Councels and Laws' (p. 192). The jealousy of the Venetians arises, in other words, from their recognition that under a genuine monarchy they would be reduced to slavery. It is 'meerely for fear of this bondage' that they prefer their elected dukes to the rule of hereditary kings (p. 192).

Perhaps foreseeing the conflict to come, Parker adds in minatory tones that no self-respecting people can be expected to endure such servitude. He reiterates that, if a nation is made 'to resigne its owne interest to the will of one Lord, as that that Lord may destroy it without injury', this is to say that the nation in question has been made 'to inslave it selfe' (p. 174). Once more we hear strong echoes of the English translation of Aristotle's *Politics*, which had warned that 'no person that is free dooth willingly endure such a state'.¹⁶³ Parker similarly warns that 'few Nations will indure that thraldome which uses to accompany unbounded & unconditionate royalty' (p. 180). The reason, he adds, is that it is 'contrarie to the supreme of all Lawes' for 'any Nation to give away its owne proprietie in it selfe absolutely' and thereby 'subject it selfe to a condition of servilitie below men' (p. 186). If kings impose this servitude, Parker implies, they must not be surprised if their subjects throw off this unnatural yoke.

While Parker's intervention was of crucial importance, his neo-classical line of argument was not without precedent. The parliamentary Remonstrance of 26 May 1642 had already contained a warning that, if Parliament becomes wholly dependent on the will of the king and his evil counsellors, the English will be no better than a nation of slaves:

We shall likewise addresse our Answer to the Kingdom, not by way of appeal (as we are charged) but to prevent them from being their own executioners; and from being perswaded, under false colours of defending the law, and their own Liberties to destroy both with their own hands, by taking their lives, Liberties, and Estates out of their hands, whom they have chosen and entrusted therewith; and resigning them up unto some evill Counsellors about his Majesty, who can lay no other foundation of their own greatnesse, but upon the ruine of this, and, in it, of all Parliaments, and in them of the true Religion, and the freedome of this Nation.¹⁶⁴

The Remonstrance ends by calling on the people to reflect on the treasonous designs of the malignant party and ask themselves 'whether if they could master this Parliament by force, they would not hold up the

¹⁶³ Aristotle 1598, IV. X, p. 208.

¹⁶⁴ Husbands *et al.* 1643, pp. 263–4. Cf. *Parliamentary History of England*, vol. 2, cols. 1298–9.

same power to deprive Us of all Parliaments; which are the ground and Pillar of the Subjects Liberty, and that which onely maketh *England* a free Monarchy'.¹⁶⁵

A similar line of argument can be found in the speech delivered by Denzil Holles to the House of Lords on 15 June at the impeachment of the peers who had joined the king at York:

I come hither unto your Lordships in the behalfe of the *Parliament*; or rather in the behalfe of the whole *Kingdome*, labouring with much distraction, many feares, great apprehensions of evill and mischief intended against it, and now hatching and preparing by that Malignant party, which thirsts after the destruction of *Religion, Lawes, and Liberty*; all which are foulded up, cherished, and preserved in the carefull bosome of the Parliament.¹⁶⁶

The members of the malignant party, Holles goes on, are fully aware that 'if they can take away Parliaments' then 'all will be at their mercy', for 'not only the Peace, and Happinesse and well-being, but the very *Being* of this Kingdome, can have no other bottom to stand upon, but the Parliament'.¹⁶⁷ The two Houses provide us with 'the only meanes to continue us to be a Nation of freemen, and not slaves, to be owners of any thing; that we may call our wives, our children, our estates, nay our bodies our own'.¹⁶⁸

After the publication of Parker's *Observations*, these neo-classical hints about public freedom and its forfeiture were far more confidently taken up. The Declaration issued by the two Houses on 14 July¹⁶⁹ maintains that the stark choice now facing 'the free-born English Nation' is either to adhere to the cause of Parliament or else 'to the King seduced by Jesuiticall Counsell and Cavaliers, who have designed all to slavery and confusion'.¹⁷⁰ The Declaration of 4 August presents the dilemma in still more lurid terms.¹⁷¹ We are being invited to 'yield our selves to the cruel mercy of those who have possessed the King against us',¹⁷² although it is obvious that their aspiration is 'to cut up the freedom of Parliament by the root, and either take all Parliaments away, or which is worse, make them the instruments of slavery'.¹⁷³ The final Declaration issued by Parliament before the king raised his standard of war on 22 August recurs to the same theme. The leaders of the malignant party 'have now

¹⁶⁵ Husbards *et al.* 1643, p. 279. Cf. *Parliamentary History of England*, vol. 2, col. 1313.

¹⁶⁶ Holles 1642, p. 1. ¹⁶⁷ Holles 1642, p. 2. ¹⁶⁸ Holles 1642, p. 4.

¹⁶⁹ For the date see Rushworth 1692, p. 756.

¹⁷⁰ Husbards *et al.* 1643, p. 464. Cf. *Parliamentary History of England*, vol. 2, col. 1413.

¹⁷¹ For the date see Rushworth 1692, p. 761.

¹⁷² Husbards *et al.* 1643, p. 492. Cf. *Parliamentary History of England*, vol. 2, col. 1434.

¹⁷³ Husbards *et al.* 1643, p. 494. Cf. *Parliamentary History of England*, vol. 2, col. 1437.

advised and prevailed with his Majesty by this Proclamation, to invite his Subjects to destroy his Parliament and good people by a Civill War; and, by that meanes to bring ruine, confusion, and perpetuall slavery upon the surviving part of a then wretched Kingdome'.¹⁷⁴

It would be an overstatement, however, to suggest that these references to slavery and national servitude necessarily reflect any direct acquaintance with classical theories of liberty. These Declarations perhaps imply, but they certainly do not state, the distinctive Roman law assumption that the mere fact of living in dependence on the goodwill of others is sufficient to take away our liberty. We find a very different picture, however, if we turn to the numerous pamphlets and treatises published in defence of Parliament in the weeks immediately following the appearance of Parker's *Observations* at the start of July. A considerable number of these writers reveal a clear understanding of the classical theory of freedom and slavery, and in several instances they put forward this theory as the essence of their increasingly anti-royalist stance.

One of the most forthright statements of the neo-classical case can be found in the anonymous tract of 1 August 1642 entitled *Reasons why this Kingdome ought to adhere to the Parliament*.¹⁷⁵ Despite the calumnies put about by the malignant party, the two Houses are said to remain the people's 'onely Sanctuary of their Religion, Lawes, Liberties, and properties' (p. 6). Referring directly to Parker's 'most excellent' *Observations* (p. 2), the author goes on to assail the prerogative of the Negative Voice as uniquely destructive of the nation's liberties. If any decision made by Parliament can be frustrated by the exercise of the royal veto, this gives the king 'an unlimited declarative power of Law above all Courts, in his own breast'. But this means that 'the last Appeale must be to his discretion and understanding, and consequently, the Legislative power His alone' (p. 11). If we now comply with this view of the constitution, the effect will not only be to 'forsake this Parliament, and leave it to the mercy of the Malignants'; it will also be to leave our 'Religion, Lawes, Liberties, and properties open to the spoyle and oppression of an Arbitrary Government' (p. 12). It is just this openness to being spoiled and oppressed, however, that serves in itself to take away our liberty. If Parliament allows the king a Negative Voice, 'this whole Kingdome shall consist only of a King, a Parliament, and Slaves' (p. 14).

Less than two weeks later, the two Houses ordered the printing of a very similar argument put forward in *A Remonstrance in Defence of the*

¹⁷⁴ Husbands *et al.* 1643, p. 509. Cf. *Parliamentary History of England*, vol. 2, col. 1443.

¹⁷⁵ Thomason adds the date of publication on the title-page of his copy.

Lords and Commons in Parliament.¹⁷⁶ The anonymous author calls on the whole nation to adhere to the two Houses, ‘who are the eyes, eares and understanding of the Common wealth’ (pp. 5–6). If instead we allow the malignants to obtain the power they seek, this will bring ‘the ruine of the Parliament, the destruction of the Kingdome, and the Lawes and liberties of the Subject’ (p. 3). By defending the Negative Voice, the malignants hope to ‘change the forme of Government of this Kingdome, and make it subject to the Arbitrary power of the king’. But to make a kingdom subject to arbitrary power is to reduce it to servitude. The malignants are in effect planning to ‘become masters of our Religion and liberties to make us slaves’ (p. 5).

A further plea to recognise that the very existence of the Negative Voice enslaves the nation can be found in the tract published on 17 August 1642 under the title *Considerations for the Commons in This Age of Distractions*.¹⁷⁷ The Negative Voice gives rise to a consequence that ‘must needs sound harsh in the eares of a free people’. This harsh consequence is that ‘the King withdrawne by evill Councell may at pleasure take away the very essence of Parliaments meere by his owne dissent, thereby stripping them of all power in matters of judicature that they may not determine any thing for the good and safety of the Kingdome’. If this prerogative is allowed, ‘it must needs follow, that its both vaine and needlesse to trouble the whole Kingdome to make choice of its representative body’, for whatever decisions it may reach can always be set aside by the mere dissenting will of the king. The reason why this cannot fail to sound harsh in the ears of a free people is that any king who may ‘at pleasure’ set aside the laws in this fashion is a king of slaves. If Parliament now accommodates with the king, ‘let the World judge what were likely to be the portion of the Communalty of this Kingdom’. No doubt the two Houses will ‘live like Princes, but we like slaves’.¹⁷⁸

Of all the neo-classical defences of Parliament, however, by far the fullest and most sophisticated was the anonymous treatise published on 15 October 1642 under the title *The Vindication of the Parliament And their Proceedings*.¹⁷⁹ The two enemies now facing each other are said to be the malignant party and the two Houses of Parliament. Quoting the Declaration of 2 August, the author first explains that the goal of the

¹⁷⁶ Thomason adds on the title-page of his copy that this tract appeared on 11 August 1642.

¹⁷⁷ Thomason adds the date of publication on the title-page of his copy.

¹⁷⁸ All quotations from *Considerations* 1642, Sig. A, 3^v.

¹⁷⁹ Thomason adds the date of publication on the title-page of his copy. Because of the muddled pagination of *Vindication*, I have given references by signature mark rather than by page.

stand ready to take up arms, and not to lay them down until 'we are assured of a firme peace, and to be ruled as becommeth a free people, who are not borne slaves'.¹⁸⁷

VII

By the time the *Vindication* had reached print, the two Houses of Parliament had already taken the resolve to raise an army and resist the king by force. The plots of the malignant party and other evil counsellors left them no alternative, they proclaimed, but to 'Declare and Ordaine, that it is, and shall be lawfull for all His Majesties loving Subjects, by force of Armes to resist the said severall parties, and their Accomplices'.¹⁸⁸ Those engaging in such acts of resistance will not only be defending 'the Religion of Almighty God' against the aspiration of the malignant party to replace it with popery. They will also be foiling their evil designs by defending 'the Liberties and Peace of the Kingdom' against the imposition of arbitrary government.¹⁸⁹

Historians have generally claimed that the arguments used to justify this final decision to resist were essentially contractual in character.¹⁹⁰ The king had broken the terms of his covenant with his people, who had never given up their natural right to set down whatever form of government they originally consented to set up. There is no doubt that such arguments were brought forward at this juncture. As we saw in chapter II, Henry Parker in his *Observations* made particularly emphatic use of them.¹⁹¹ But it is striking that Parliament itself and many of its supporters preferred to justify their decision to go to war in neo-classical rather than in contractarian terms. The final Declarations issued by Parliament in August 1642 make no mention of the natural rights of the sovereign people. They instead speak of the need to liberate the people from being mastered and enslaved by the 'Malignant Party of Papists, those who call themselves Cavaliers, and other ill-affected persons' who have deliberately driven the country into civil war:

The intention being still the same, not to rest satisfied with having *Hull*, or taking away the ordinance of the *Militia*; But to destroy the Parliament, and be masters of our religion and liberties, to make us slaves, and alter the Government of this

¹⁸⁷ *Vindication* 1642, Sig. E, 1^r.

¹⁸⁸ See *Husbands et al.* 1643, p. 499, in which the declaration is dated to 8 August 1642.

¹⁸⁹ *Husbands et al.* 1643, p. 499.

¹⁹⁰ See for example Salmon 1959, pp. 80–8; Sanderson 1989, esp. pp. 18–21.

¹⁹¹ [Parker] 1933, pp. 167–71.

Kingdom, and reduce it to the condition of some other countries, which are not governed by Parliaments, and so by Laws, but by the will of the Prince, or rather of those who are about him.¹⁹²

It is in the name of staving off such perpetual slavery, they declare, that they have now decided to raise an army under the Earl of Essex, 'with whom, in this Quarrell we will live and dye'.¹⁹³ From the parliamentary perspective, the civil war began as a war of national liberation from servitude.

¹⁹² Husbands *et al.* 1643, p. 497. Cf. *Parliamentary History of England*, vol. 2, col. 1439.

¹⁹³ Husbands *et al.* 1643, p. 498. Cf. *Parliamentary History of England*, vol. 2, col. 1440.

Index

- Acciaiuoli, Donato, 134
 Agathocles of Sicily, 143, 147
 Alamanni, Lodovico, 143
 Alamanni, Luigi, 276
 Alberti, Leon Battista, 126, 134
 Alciato, Andrea, 94n.
 Alemannus, Hermannus, 42
 Allen, W. S., 214
 Almain, Jacques, 8, 256, 257–62
 Althusius, Johannes, 388, 389, 391–2, 394
 Ambrose, St, 61
 Amsdorf, Nicholas von, 252–3
 Amsterdam, 392
Answer to the Nineteen Propositions, 333–4, 336
 Appius Claudius, 166, 168, 291, 318
 Aquinas, St Thomas, 39, 40, 54, 61n., 65, 68–9, 108, 123
 De Regno, 30, 31, 32–4, 122
 Expositio [of Aristotle's *Politics*], 372, 375
 see also Summa Theologiae
 Arezzo, 2, 4, 10, 81, 119
argumentum in utramque partem, 266, 267
 Aristotle, 63, 134, 227, 322, 375, 395
 Art of Rhetoric, 273–5, 277–8
 Nicomachean Ethics, 42, 52, 66, 72–5, 91, 140
 Politics, 12, 30, 32–3, 36, 57, 91, 133, 214–15, 226, 315, 336, 337
 Armada, Spanish, 389
 armies
 citizen, 129, 144, 154, 201–2, 206, 359–61
 mercenary and standing, 346–7, 359–61, 363
 Armitage, David, 303n., 344n.
 Arnall, William, 354
 Artifoni, Enrico, 10n., 18n.
 Athens, 149
 Augustine, St, 12, 48
 Augustus, Roman emperor, 377
 Austin, John, 406
 Averroes, 52, 66
 Azo, Portius, 38, 380
 Lectura, 15–16
 Quaestiones, 14
 Summa, 13–14, 16–17
 Bacon, Edmund, 281
 Bacon, Francis, 291
 Baldus de Ubaldis, 380, 390
 Baldwin, Tom., 190n., 191n.
 Ball, William, 295
 Barbeyrac, Jean, 407
 Barclay, William, 387, 396, 397, 398
 Baron, Hans, 12, 13n., 91, 92, 118n., 149n., 381n.
 Bartolus of Sassoferrato, 17, 133, 380, 390, 391, 394
 Bassanius, Johannes, 14
 Bate, John, 310
Bellum Catilinae (Sallust)
 glory and greatness, 20, 26, 27, 110, 130, 150, 306
 justice, 26, 110
 liberty, 27, 130, 150, 163, 289–90, 306, 316
 monarchy and self-government, 27, 130, 289–90, 303, 304
 Belting, Hans, 94n., 95n., 97n.
 Benn, Stanley I., 187
 Bentham, Jeremy, 187
 Berkeley, George, 348n.
 Berlin, Isaiah, 184, 187, 188–9, 190, 192
 Beroaldo, Filippo, 372, 375
 Beza, Theodore, 246
 Bible (and Apocrypha)
 Book of Wisdom, 51, 72, 73
 Corinthians, 61, 108
 Galatians, 109n.
 Isaiah, 95n.
 John, 108n.
 Luke, 95n.
 Matthew, 111

- Bible (and Apocrypha) (*cont.*)
 Philippians, 108n.
 Proverbs, 107
 Psalms, 111n.
 Revelations, 101n.
 Romans, 83n., 109n., 111n.
 Timothy, 83n.
- Blackstone, William, 409
 Blackwood, Adam, 396, 398n., 400
 Boccacini, Traiano, 159
 Bodin, Jean, 325, 395–6, 397, 398–9, 400–1
 Bolingbroke, Henry St John, Viscount, 8, 344,
 345–8, 349–55, 362–4, 412
 Bologna, 4, 10
 University of, 11, 13, 17
 Bologna, Hugh of, 18
 Bolton, Edmund, 314, 317
 Bonaiuto, Andrea di, 105
 Bossuet, Jacques-Bénigne, 370
 Botero, Giovanni, 158
 Boucher, Jean, 389
 Bourges, 396
 Bracciolini, Poggio, 4, 140, 148
De Nobilitate, 132, 133–4, 224, 225, 226, 227,
 228–9
Historiae, 23
In Laudem . . . Venetorum, 138–9
 Bracton, Henry de, 309
 Bradshaw, Brendan, 214, 240n., 241n., 244n.
 Braga, Martin of, 43, 51, 61n., 62, 63–4,
 65–6, 83
 Bramhall, John, 282
 Brandi, Cesare, 89
 Brescia, Albertano da, 94n., 101, 107, 108
 Brett, Annabel, 253n., 256n.
 Bridgeman, Jane, 103n., 104, 105, 106n.
 Bromley, William, M. P., 345, 347
 Brooke, John, 349, 350
 Brucioli, Antonio, 148
 Bruni, Leonardo, 4, 140, 149, 152, 155–6
Dialogus, 2
Laudatio, 20, 128–32, 134–5, 138
Oratio, 134
 Buchanan, George, 246, 253, 257, 262, 397
De Iure Regni, 247–9, 396, 400
 Budé, Guillaume, 377
 Burckhardt, Jacob, 13, 378
 Burgess, Glenn, 287n.
 Burke, Edmund, 344, 351
 Burke, Peter, 6n.
 Burns, J. H., 253n., 256n., 259n., 351n.
 Bus, Gervaise de, 276
 Butterfield, Herbert, 351
 Caesar, Julius, 27, 152, 160, 166, 167, 175, 314
 Calvin, Jean, 257

- Calvinism, and theory of revolution, 245,
 246–7, 249–50, 253, 262–3
 Campano, Giovanni, 372
 Canute, king of England, 370
 Capua, Thomas of, 18
 Carafa, Diomede, 135, 136
 Carrara, Francesco da, 120, 122, 123
 Cary, Lucius, Viscount Falkland, 333
 Cassian, Johannes, 107, 109, 112
 Castiglione, Baldassare, 136, 377
 Catholic Church, criticism of, 37, 380, 382
 Ceffi, Filippo, 19, 22, 29–30, 42, 45, 119n., 371
 Cerata, Laura, 126
 Charles I, king of Great Britain and Ireland,
 292, 293, 297, 304, 324
 execution of, 8, 286, 290, 301, 356
 on Militia Ordinance, 325, 326–7, 328
 Milton on, 303–5
 and Negative Voice, 294, 325, 332–4
 and Petition of Right, 281, 322
 Charles II, king of Great Britain and Ireland,
 305, 306
 Charles IV, Holy Roman Emperor, 89
 Charles V, Holy Roman Emperor, 252
 Charron, Pierre, 265
 Chesterfield, Philip Stanhope, Earl of, 348
 Cicero, 2, 6–7, 18, 55, 56, 70, 71, 111, 131, 134,
 147, 203, 221, 229, 231, 300, 320, 322,
 326, 370, 371, 379, 395
De Finibus, 48, 215n.
De Inventione, 42, 51, 56, 62, 64, 86, 207,
 247–8, 267–8, 274–5
De Legibus, 316, 335
De Oratore, 267, 268–9, 269–70
De Partitione Oratoria, 269, 275
De Republica, 48, 51, 54–5
Philippics, 314–15, 327
Sannium Scipionis, 63
Tusculanae Disputationes, 63, 123, 215n.
see also De Officiis
- citizenship, 6–7, 9, 399, 410–11
 virtues and 131–3, 134, 140, 154–7, 224–5,
 227–9, 231–2, 234, 242, 361–2
- city-republics, Italian
 decline of, 5, 22–3, 118–19, 157–9
 humanists and, 126–34, 148–57, 196
 jurists and, 13–17
 pre-humanists and, 17–30, 41–56, 57–67,
 109–11
 rise of, 4–5, 10–11, 39
 scholastics and, 30–8, 57
see also Florence; Padua; Siena; Venice
- civil war in England, outbreak of (1642), 288,
 292–3, 294, 296, 297, 308–9, 323, 342–3
 Coke, Edward, 287, 288, 309, 311–12, 319
 Coleman, Janet, 10n., 374n.

- Colish, Marcia, 197n., 199n., 211 n.
- Colley, Linda, 345n., 348n.
- common good
- Machiavelli on, 151, 155, 163–4, 168–9, 174, 178, 208, 381
 - pre-humanists on, 25–6, 47–8, 56, 61, 72, 99, 372, 379–80, 382
 - representations of, 40–1, 76–7, 80, 81–2
 - scholastics on, 34, 372
- Compagni, Dino, 119
- Conches, Guillaume de, 43n.
- concord, civic, 22, 23–5, 31–2, 45–6, 48–50, 56
- representations of, 70–1, 95
 - see also* discord, civic; peace
- consent, and origins of political associations, 15, 79, 257–8, 298, 389–90
- Considerations for the Commons*, 340
- Constantinople, 336
- Contarini, Gasparo, 128, 158, 381, 383, 385–6, 413
- corruption, 7, 152, 212, 352, 361–2, 363–4, 365, 379
- Machiavelli on, 151, 164–70, 172–7, 180–4, 361
- courage, *see* fortitude
- courtiers, 135–6, 221–2, 277
- Cox, Virginia, 273n.
- Craftsman, The*, 345
- Creshald, Richard, MP, 291
- Culpepper, John, 333
- Curley, Edwin, 265n.
- D'Ewes, Simonds, MP, 329–30, 333
- dancing
- as expression of *gaudium*, 111–14, 115–17
 - representations of, 97, 103–4, 105, 106
- Dante Alighieri
- Convivio*, 114, 133
 - De Monarchia*, 119–20
 - Inferno*, 88
 - Purgatorio*, 101n., 118–19
- Davis, Charles T., 13n.
- De Officiis* (Cicero) 42, 43, 313
- common good, 46–7, 68, 155
 - concord, 24–5, 48–9
 - equity, 49
 - justice, 26, 124–5, 207–8
 - magistrates, 60–1, 316
 - monarchy, 315
 - otium* and *negotium*, 219–20, 222
 - private property, 227–8
 - res publica*, 27, 28, 218–19, 391
 - self-government, 28, 29, 315–16
 - virtues, 62–3, 64, 83, 86, 144–5, 204–5, 218–19
- Decembrio, Pier Candido, 135
- Decembrio, Uberto, 135
- Denmark, loss of liberty in, 358–9, 360–1, 362
- dependence, *see* slavery
- Dering, Edward, MP, 323
- Dickinson, H. T., 352, 353
- dictatores*, 3, 4–5, 18–19, 41, 92
- see also* pre-humanists
- Digest of Roman Law*, 13
- equity, 49
 - justice, 52
 - law, 369, 370
 - Lex regia*, 15, 398
 - liberty and slavery, 289, 290–1, 296, 310n., 313, 321
 - self-defence, 253–4
 - see also* Justinian, Codex of
- Digges, Dudley, the elder, 291, 292, 311
- Digges, Dudley, the younger, 397, 400, 401–2
- discord, civic, 22, 23–5, 45–6, 119
- representations of, 69–70, 95–6
- Discorsi* (Machiavelli) 6, 8, 126, 142
- ambition, 164–8, 173, 175, 200–1
 - common good, 151, 155, 163–4, 168–9, 174, 178, 208, 381
 - corruption, 151, 164–70, 172–7, 180–4, 361
 - fortune, 159, 169, 171–2
 - free states, 150–2, 153–4, 161–3, 176, 198–9
 - glory and greatness, 149–50, 151–3, 170, 174, 180–2
 - history, 358–9
 - justice, 154–5, 207–8
 - law, 173–6, 177–85
 - liberty, 7, 150–1, 160–1, 170, 173–6, 177–84, 196–205, 206–10, 211–12, 356, 357–8, 361, 380
 - lo stato*, 384–5
 - mixed constitutions, 153–4, 156–7, 178–80, 203, 357–8
 - necessity, 145, 147, 154–5, 173–4
 - religion, 157, 172–3, 180–4
 - Rome, 150–5, 165, 167–8, 172, 174–5, 179, 202–3, 208
 - self-government, 151, 162–3, 198–9, 381
 - slavery, 162–3, 200–3
 - Venice, 152–3
 - virtù* 154–6, 163–4, 170, 171, 177–8, 201–5, 207–10, 361
 - see also* Livy
- Donato, Maria Monica, 69n., 93n.
- Doni, Francesco, 159
- Downing, Calybutte, 397, 401
- Dzelzainis, Martin, 298n.

- Eliot, John, 291–2, 321–2
eloquence
 Hobbes on, 266
 as moving force, 267–9
 see also rhetoric
- Elyot, Thomas, 225
- Engels, Friedrich, 406
- equity, 48, 49–51, 56, 70–1
- Erasmus, Desiderius, 170, 222n., 240n.
 Enchiridion, 236
 Institutio, 215n., 217, 225, 228–9, 373
- Faba, Guido, 18, 19, 41, 42, 45–6, 60, 72n.,
 94n., 109
 Epistole, 21
 Summa, 63, 64, 108
- Falkland, *see* Cary
- Feinberg, Joel, 187, 192
- Ferdinand of Aragon, 143
- Ferrariis, Antonio de, 135, 140, 224
- Ferreti, Ferreto de', 120
- Ficino, Marsilio, 140, 216
- Fiennes, Nathaniel, 330
- Figgis, J. N., 250n.
- Fletcher, Andrew, 356, 360–1
- Florence, 4, 5–6, 10, 24, 87, 119, 126, 128, 134
 liberty of, 129–30, 148, 381, 383
 Medici and, 137–8, 139–42, 157–8
- Florus, 314, 317
- Foord, Archibald, 350
- Forced Loan (1626), 291, 311, 321, 322
- fortitude, 62–3, 64–5, 66, 131–2, 154, 203,
 207
 representations of, 86–7, 88, 96
- fortune, 136, 147, 159, 169, 171–2
- Foucault, Michel, 413n.
- Franco, Nicolò, 159
- Franklin, Julian, 245–6
- Frederick Barbarossa, Holy Roman Emperor,
 11, 109
- Frederick II, Holy Roman Emperor, 11
- free state
 concept of, 6–9, 29–30, 205–6, 287, 289,
 301, 315–16, 318, 379–82, 385–7, 395, 412
 England as, 286, 297
 Florence as, 128–30, 381
 Machiavelli on, 150–2, 153–4, 161–3, 176,
 198–9
 Milton on, 297–300, 305–6
 Venice as, 127–8, 336–7, 381, 383
- freedom, *see* free state; liberty
- Froissart, Jean, 369, 370
- Frugoni, Chiara, 72–3, 74–5, 83n., 106
- Gadamer, Hans-Georg, 195
- Garnett, George, 390n.

- gaudium*, 108, 112–14
 and glory, 110, 111
 and peace, 109–10, 111, 115
 see also dancing
- Geertz, Clifford, 370n., 413n.
- Genoa, 4, 10
- Gerald of Wales, 11–12
- Gerrard, Christine, 345n., 348n.
- Gerson, Jean, 254–5, 257, 259
- Geuss, Raymond, 166n., 405n.
- Giannotti, Donato, 148
- Gibbs, Benjamin, 189n., 190
- Gibbs, Robert, 95n., 96n.
- Giotto, 84, 100, 101, 105, 113–14
- Girolami, Remigio de', 31
- Glanville, John, MP, 288
- Glasgow, University of, 257
- glory and greatness
 of communities, 5, 7, 118, 127, 133, 139, 171,
 201
 liberty as condition of, 27, 130, 150, 289–92,
 293–4, 301–7, 358, 381
 light as symbol of, 106–7, 111, 115
 Machiavelli on, 143–4, 149–50, 151–3, 170,
 174, 180–2
 of princes, 121–2, 123, 125–6, 136–7, 146
 Sallust on, 20, 23, 26, 27, 110, 130, 150, 306
- Goldie, Mark, 356n.
- Goodman, Christopher, 246
- Gordon, Thomas, 357
- Grafton, Anthony, 12n.
- Gray, Hanna, 3n.
- greatness, civic, *see* glory and greatness
- Greenblatt, Stephen, 223n., 276n., 413n.
- Greenstein, Jack, 96 and n., 97n., 106
- Gregoire, Pierre, 396, 400, 401
- Grenewey, Richard, 306, 313, 316, 322
- Grimalde, Nicholas, 313, 315
- Grosseteste, Robert, 42n., 73, 74
- Grosseto, Andrea da, 107, 108 and n.
- Guicciardini, Francesco, 92, 158
 Discorsi on Florence, 148, 375, 384
 Ricordi, 159, 376, 377
- Gulliver, Lemuel, 284
- Guy, John, 214n., 224n.
- Haitsma Mulier, Eco, 210
- Hall, Joseph, 280
- Hampden, John, 323–4
- Harding, Alan, 374n., 407n.
- Harrington, James, 357, 362
 Aphorisms, 359
 Oceana, 160, 161, 196, 356, 358–9, 361
- Hart, Jeffrey, 351, 352
- Hayward, John, 397, 401
- Hedley, Thomas, MP, 291, 292, 311, 320, 324

- Hegel, G. F. W., 406
 Helinandus of Froimont, 11
 Henri IV, king of France, 388
 Henry IV, Holy Roman Emperor, 11
 Herborn, Academy of, 388
 Hercules, 123
 Hermogenianus (jurist), 369
 Hexter, J. H., 213n., 226n., 237
 Heywood, John (author of *Gentleness and Nobility*), 225
 Heywood, John (translator of Sallust), 289, 290, 314, 316
 history, lessons of, 3–4, 120–1, 150, 173, 190, 249, 358–9, 363
 Hoadly, Benjamin, 405
 Hobbes, Thomas, 9, 160, 161, 188, 189, 266, 271, 274, 318, 406–9
 Behemoth, 319–20
 De Cive, 266, 368, 397, 410–11
 Elements of Law, 265, 285, 395, 397, 399, 402
 see also *Leviathan*
 Holland, John, MP, 323
 Holland, Philemon, 313–14, 317
 Holles, Denzil, MP, 338
 Holles, John, MP, 321
 Holloway, Julia, 89n.
 Holmes, Geoffrey, 351
 Holy Roman Empire, 10–11, 14, 119–20, 379–80, 382
honestas, 217–19, 232, 274
 Horace, 2, 132
 Hoskins, John, 281–2
 Hotham, John, 324
 Hotman, François, 246, 373n., 388, 397, 411
 Hugolinus (jurist), 17
 Huguccio of Pisa, 17
 humanism, 2–3, 4–5, 6–8, 9, 12
 and city-republics, 126–34, 148–59, 196, 372
 and princely government, 120–6, 134–42, 143–7, 374–9
 Hume, David, 166
 Humfrey, Lawrence, 377
Il Principe (Machiavelli) 5, 136
 fortune, 169
 glory and greatness, 143–4
 justice, 154–5
 lo stato, 143, 144, 374–5, 376–7, 378
 virtù, 144–7
imperium, 11, 13–16, 379, 382
 Impositions, 290–1, 310–11, 320–1
 independence, see free state; liberty
 Irnerius of Bologna (jurist), 11, 15
 Isneria, Andreas de (jurist), 382
 Ivison, Duncan, 161n., 312
 Jaucourt, Louis de, 408–9
 John, king of England, 14
 Jones, Philip, 119n.
 Jones, William, 311
 Jonson, Ben, 282
 Julian, Roman emperor, 112
 Julius II, pope, 255
 just war, 123–4
 justice, 25–7, 39–40, 62–4, 82–4, 131, 372
 and avoidance of harm, 124–5, 208
 and clemency, 124–5, 137, 146–7
 commutative, 73–6, 113
 distributive, 73–5, 113
 and lawgivers, 54–5, 71
 and liberality, 124, 137, 146
 Machiavelli on, 154–5, 207–8
 rectificatory, 52–3, 76
 representations of, 78–9, 82, 88, 95–6, 101, 104–5, 113–14
 Justinian, Codex of, 2, 11, 38, 289, 370; see also *Digest of Roman Law*
 Juvenal, 2, 132, 134
 Kant, Immanuel, 166
 Kelly, Joan, 11n., 125n.
 Kempers, Bram, 97n., 98n., 101n.
 Kennet, Basil, 407
 Knolles, Richard, 395n., 401
 Knox, John, 246, 247, 257
 Kramnick, Isaac, 352
 Kraye, Jill, 107n.
 Kristeller, P. O., 18n., 92n., 225n.
 Landino, Cristoforo, 140, 141, 224
 Languet, Hubert, 388; see also *Vindiciae, Contra Tyrannos*
 Latini, Brunetto, 19, 42; see also *Li Livres dou trésor*
 law
 and lawgivers, 54–6, 71, 151, 176, 384
 as source of virtue, 156–7, 173–7, 179–85
 see also justice
 League of Cambrai (1510), 255
 Leiden, University of, 392
 Leuchovius, Deborah, 100n., 101n.
Leviathan (Hobbes)
 liberty, 162, 187–9, 199, 205–6, 308, 312–13
 monarchy, 395, 397
 moral language, 265, 283–5
 persons, 390–1, 399, 402–4
 sovereigns, 284–5, 399–400
 the state, 368, 402–4, 411, 413
 Lewkenor, Lewes, 385, 386, 413
Lex regia, 15–16, 398

Li Livres dou trésor (Latini)

- common good, 25, 47–8
 - concord and discord, 23–4, 46, 50
 - glory and greatness, 110, 111
 - justice, 26, 51, 52–3, 55–6, 75–6, 372
 - nobility, 132–3
 - peace, 22
 - self-government, 27–8, 57, 59–60, 67, 102, 382–3
 - virtues, 61, 62, 64, 66–7, 84–91
- Liber de Regimine Civitatum* (Giovanni da Viterbo)
- on the church, 380
 - common good, 25, 47
 - concord and discord, 23, 25, 45, 46
 - gaudium*, 112, 115n.
 - glory and greatness, 20–1, 26, 110
 - justice, 26, 27, 51–2, 64
 - peace, 44–5, 110
 - self-government, 28, 58, 59–61
 - status civitatis*, 371, 372
 - virtues, 55, 62, 64, 66
- liberality, 124, 137, 146, 226, 227
- liberties, fundamental, 287–8, 290, 291, 292–3, 309, 322–3
- liberty, 7–9, 28–9, 151–4, 257, 259, 379–81
- Harrington on, 160–1, 196, 356, 358–9, 361
 - Hobbes on, 161–2, 187–9, 199, 205–6, 308, 312–13
 - Machiavelli on, 7, 150–1, 160–1, 170, 173–6, 177–84, 196–205, 206–10, 211–12, 356, 357–8, 361, 380
 - as natural, 248, 298, 389–90, 397–8
 - necessary for glory and greatness, 27, 130, 150, 289–92, 293–4, 301–7, 358, 381
 - as ‘negative’, 186–8, 189–90, 192, 195–6, 198, 211–12
 - Roman law on, 289, 290–1, 296, 310n., 313, 321
 - Sallust on, 27, 130, 150, 163, 289–90, 306, 316
 - and slavery, 289–97, 299–301, 313–18, 320–2, 324–5, 335–42, 359–62, 364, 389–90
 - and virtue, 188–90, 192, 207–10, 210–11, 361–2
 - see also* liberties, fundamental
- Libri, Matteo de’, 19, 21, 22, 24, 26, 42, 50, 67, 110, 383
- Littleton, Edward, MP, 322
- Littleton, Thomas, 309–10, 312
- Livy, 2, 130, 218, 291, 321, 322
- History*, 289, 313–14, 317–18, 336, 337, 370
 - Machiavelli’s *Discorsi* on, 6, 142, 149, 168, 202, 204, 205

Locke, John

- Essay*, 193, 264–5, 266
 - Two Treatises*, 251, 253, 319n., 324, 396, 405
- Lodge, Thomas, 276
- Lodi, 20
- Lodi, Orfino da, 19, 41, 42, 43–4, 45, 55, 60, 111
- Logan, George M., 214n., 221n., 242n., 243n.
- Lombard, Peter, 256, 260
- Long Parliament, 288, 293, 302, 323, 324
- Lorenzetti, Ambrogio, 5, 39–40, 41, 93
- common good, 40–1, 76–7, 81–2, 99
 - concord and discord, 69–71, 76, 95–6, 101–2
 - gaudium* (and dancing), 103–6, 108–14, 115–16
 - glory and greatness, 110–11, 115
 - justice, 72–6, 78, 95–6, 101
 - and the *Novae*, 81, 94, 116–17
 - peace, 68–9, 80, 96–8, 103
 - self-government, 77–82, 99–103, 117
 - virtues, 80–1, 82–8, 89–91, 93, 376
 - tyranny, 69, 94, 102–3
 - wisdom, 71–2, 96
- Lothair (jurist), 11
- Louis XII, king of France, 225–6
- Lucca, 10
- Ludlow, Edmund, 357, 360
- Luther, Martin, 251, 252, 254
- Lyly, John, 278
- MacCallum, Gerald, 177n., 187
- Machiavelli, Bernardo, 141, 142
- Machiavelli, Niccolò, 8, 9, 92, 255, 362, 364, 412
- Istorie Fiorentine*, 4, 126
 - see also* *Discorsi*; *Il Principe*
- Mackie, J. L., 193–4
- Macrobius, 61, 63, 64–5
- Magdeburg, 252
- Magna Carta, 288, 359
- magnanimity, 64–7, 84, 96
 - magnificence, 64, 225, 226–7, 233–4, 240–2, 413
- Maio, Giuniano, 135, 136, 137n.
- Mair, John, 8, 256, 257–8, 260–1, 262
- majesty, 136–7, 370, 412–13
- Mamertinus, Claudius, 112
- Manetti, Giannozzo, 134
- manliness, ideal of, 123, 125–6
 - questioned by Machiavelli, 144–5
- Mansfield, Harvey, 351–2, 353
- Mantua, 5, 118
- Marnix, Philip, 246
- Marsilius of Padua, 31, 39, 120, 122n., 124, 215n.
- Defensor Pacis*, 30, 31, 35–7, 380

- Marten, Henry, MP, 319, 329–30
 Martini, Simone, 51, 79–80
 Marx, Karl, 406
 Mary, Queen of Scots, 396
 Medici, Catherine de', 388
 Medici, Cosimo de', 138, 142, 167, 376, 377
 Medici, Lorenzo de', 138, 139, 141, 142
 Medwall, Henry, 225
 Melanchthon, Philipp, 251–2, 254
 Memmi, Lippo, 52
 Mendle, Michael, 329n., 330n., 335n.
 Michels, Robert, 406
 Milan, 4, 10, 20, 29, 111, 119
 Militia Ordinance (1642) 294, 325–30, 333
 Milton, John, 3, 281, 287, 412–13
 Areopagitica, 301, 302–3
 Commonplace Book, 288–9
 Defensio, 297, 300, 301–2, 304, 305
 Eikonoklastes, 297, 299–301, 303–4, 305
 History of Britain, 370
 Ready and Easy Way, 305–6, 387, 412
 Samson Agonistes, 306–7
 Tenure, 297–9, 300, 301, 303, 387
 mixed constitutions, 32, 33–4, 57, 129–30, 329, 332–5, 360, 362–3, 365, 402
 Machiavelli on, 153–4, 156–7, 178–80, 203, 357–8
 Modena, 119
 Moerbeke, William of, 30, 32, 42
 Molesworth, Robert, Viscount, 356–60, 362
 monarchomachs, 246, 295, 297–8, 302, 379, 387–90, 391–4, 395–7, 399–400, 410
 monarchy
 abolished in Britain, 286, 287, 297
 best form of government, 11–12, 32–3, 57, 94, 102–3, 139–42, 215–17, 245
 criticisms of, 27–8, 33–4, 35–7, 57, 131
 source of slavery, 304–7, 315–16, 319–20, 380–1
 Montagnone, Geremia da, 42, 43, 45, 51
 Montaigne, Michel de, 265
 Montaperti, battle of, 79, 100
 Montemagno, Buonaccorso da, 132, 224–5, 227
 moral language, ambiguities of, 264–6, 276, 283–5
 moral philosophy, study of, 3, 4–9, 42–3
Moralium Dogma Philosophorum, 43, 47, 50, 52, 61–4, 83n., 85–6, 98n.
 More, Thomas, 213–14, 215, 217, 220, 222–4, 229, 236–7, 240, 241–4
 see also Utopia
 Mornay, Philippe du Plessis, 246, 388
 see also Vindiciae, Contra Tyrannos
 Morosini, Domenico, 128
 Morpeth, Henry Howard, Viscount, 345, 346
 Moyle, Walter, 356, 357, 360, 361
 Mussato, Albertino, 2, 4, 22, 28, 29, 120
 Nagel, Thomas, 166n.
 Najemy, John, 19n., 143n.
 Namier, L. B., 349, 350, 351, 353
 Naples, kingdom of, 135, 136, 382
 Nashe, Thomas, 276
 necessity, 21, 254, 331–2
 Machiavelli on, 145, 147, 154–5, 173–4
 Negative Voice, *see* prerogative, royal
 Nevile, Christopher, MP, 321
 Neville, Henry, 356, 357, 358
 nobility
 and virtue, 7, 132–3, 134, 140, 224–5, 227–9, 231–2, 234, 242
 and wealth, 7, 133, 140, 225, 226–7, 228–9, 231, 232–4, 242
 Nogarola, Isotta, 126
 Norman, Diana, 106n.
 North, Roger, MP, 292
Nove Signori (Siena), 58–9, 60, 67, 78, 81, 94, 101n., 116–17, 376
 Nozick, Robert, 161
 Oakley, Francis, 253n., 256n.
Observations (Henry Parker) 282, 334, 338, 339
 Charles I, 297, 335
 glory and greatness, 293–4
 liberty, 294, 335
 Negative Voice, 335–6
 right of resistance, 296, 297, 337
 salus populi, 335, 393
 slavery, 294, 296, 335, 336–7
 sovereignty of people, 295–6, 342
 Ockham, William of, 254, 255, 257, 259
Oculus Pastoralis, 4, 19 and n., 41, 42
 common good, 25, 47, 376
 concord and discord, 22, 45
 glory and greatness, 20, 22, 25, 110, 111
 justice, 51, 72n.
 peace, 43, 110–11
 self-government, 58–9
 status civitatis, 371, 376
 tyranny, 94
 Oldradus da Ponte (jurist), 382
 Oppenheim, Felix, 187
optimus status reipublicae, 132, 215–20, 224, 371, 372–3
 Thomas More on, 213, 214, 229–30, 235–6, 240–4, 373

otium and *negotium*, 6–7, 97, 121, 131, 140–1,
216–20, 221–4, 228–31, 233
Ovid, 87
Padua, 2, 4, 10, 22, 29, 120
 see also Scrovegni, Cappella degli
Palmieri, Matteo, 134
paradiastole, 273–4; *see also* rhetorical
 redescription
Parent, William A., 192
Pareto, Vilfredo, 406
Paris, University of, 30, 31, 255–6, 257, 262
Parker, Henry, 298, 299, 301, 302, 303, 397
 Case of Shipmony, 293, 324
 see also *Observations*
Parliament, sovereignty of, 329–32, 335
Parma, 4, 5, 118
Partridge, Loren, 94n.
Paruta, Paolo, 158
patriotism, 348, 350, 351–2, 354–5, 365, 366
Patrizi, Francesco, 135, 139, 375, 383
Pavia, 20
peace, 5, 118
 humanists on, 127–8, 136–7, 139, 372–3
 pre-humanists on, 22–4, 43–5, 56, 61, 67,
 80–1, 109–10, 115
 representations of, 68–9, 95, 96–8
 scholastics on, 31, 32–3, 119–20
Peacham, Henry, 268, 269, 270, 272, 273, 277
Peard, George, MP, 324
Peltonen, Markku, 311n., 312n.
people
 sovereignty of, 14, 16–17, 36–7, 245–6,
 247–9, 255–62, 295–6, 298, 380, 386–7,
 388–9, 390–4, 395, 405–6
 as *universitas*, 14–15, 16, 36–7, 258, 390,
 391–2, 398–9, 410–11
 see also persons
Perrault, Guillaume, 43, 50–1, 52, 62, 63, 64,
 83n., 85, 108
persons
 cities as, 100, 103, 403
 peoples as, 389–93, 398, 399–400, 409–10
 states as, 395, 400, 401–4, 408
Persons, Robert, 389, 393, 397, 401
Perugia, Raniero da, 18
Petition of Right (1628), 288, 311, 321, 322
Petrarch, 2, 130–1, 134–5, 216
 De Republica, 120, 122–5
 De Vita Solitaria, 6, 121
Pettit, Philip, 312n.
Petyt, William, 356
Phelps, Robert, 291
Philip Augustus, king of France, 14
Piacenza, 4, 5, 118
Pico della Mirandola, Giovanni, 141

Pisa, 4, 5, 10, 87, 118, 225
Pisano, Andrea, 84
Pisano, Giovanni, 87
Placentinus (jurist), 15
Plato, 140–1, 216, 219, 220–1, 235
 Laws, 127
 Timaeus, 103n.
Pliny, 87
Plumb, J. H., 344, 346
Plutarch, 169
Pocock, J. G. A., 12, 13n., 287n., 344n., 356n.,
 365n., 381n.
poderà, government by, 4–5, 10, 19, 29, 47, 58,
 371
Ponet, John, 246, 385, 386–7, 412
Pont-à-Mousson, 396
Pontano, Giovanni, 135, 136–7
Popkin, Richard, 265n.
popular sovereignty, *see* people, sovereignty of
pre-humanists, on city government, 17–30,
 41–56, 57–67, 109–11
 see also common good; peace
prerogative, royal
 as infringement of liberty, 288, 290–2,
 292–4, 295–7, 309–12, 318–22
 of Negative Voice, 294, 297, 300–1, 325–6,
 332, 334–42
Price, Russell, 200n., 210n.
princely government, theory of, *see* monarchy;
 signori
princes, and their state (*stato, status*), 9, 143,
 369–72, 373–8, 382–5
 see also *signori*
principles, political, 344–5, 349, 365–7
 as legitimations, 354–6, 366–7
 as motives, 351–3, 366–7
 as rationalisations, 349–51, 356, 366
property, private, 227–8, 242–4
 abolition of, 235–6, 242, 244
 prudence, 62–3, 65, 131, 154, 176, 202, 204–5,
 207, 212
 representations of, 82–3, 84–5, 88, 96
Prudentius, 44–5, 95n., 108
Pseudo-Apuleius, 57n., 66n.
Ptolemy of Lucca, 30n., 31, 35, 36, 57
Pufendorf, Samuel, 407–8, 409
Pulteney, William, MP, 345, 346, 347
Puttenham, George, 268, 272, 273,
 276–7, 279
Pye, Christopher, 413
Pym, John, MP, 326, 333
Quintilian, 269, 270, 271–2, 273, 275
Rabb, Theodore K., 319n.
Rand, William, 308

- Ravenna, 5, 118
Ravenna, Giovanni da, 120, 121, 216, 236n.
Rawls, John, 161, 162, 178–9, 180, 182, 187
Reasons why this Kingdom ought to adhere to the Parliament, 339
religion
 and civic virtue, 156–7, 172–3, 180–4
 in *Utopia*, 237–40
Remonstrance in Defence of the Lords and Commons, 339–40
Renaissance, concept of, 1–2, 6, 9
representation
 of the people, 392
 of the self, 391
 of the state, 403–4, 405, 408, 409–10
republicanism
 in ancient Rome, 22, 27, 130, 260
 in England, 8, 196, 286
 in the Netherlands, 196, 246, 385, 388–9
 in Italy, 4–5, 10–11, 22–3, 118–19, 157–9, 196, 218, 379–85
 see also city-republics; Florence; free states; Venice
resistance, right of, 17, 245, 246–50, 260–2, 341, 342–3
 see also tyranny
rhetoric
 hostility to, 266–7
 study of, 2–3, 18
rhetorical redescription
 Aristotle on, 273
 and denigration of virtue, 275, 277–9, 280–1
 and extenuation of vice, 275, 276–7, 280, 281–2
 as form of amplification, 269–71
 Quintilian on, 271–3
Richard II, king of England, 369
rights, 8, 192, 196, 211–12, 245, 247–9, 258–62, 286–92, 322–5, 342–3
 see also resistance, right of; self-defence, right of
Rimini, 5, 24, 118
Rimini, Henry of, 31, 32, 34–5, 57, 63, 65n., 87n., 127
Rinuccini, Alamanno, 138, 383
Rinuccini, Cino, 134
Riva, Bonvesin della, 20, 29, 70, 111
Robey, David, 119n.
Rogerius (jurist), 15
Roman Law, 2, 3, 11, 13, 14–15, 17, 287–8; see also *Digest* of Roman Law; Justinian, Codex of
Rome, 2, 24, 111, 120
 Machiavelli on, 150–5, 165, 167–8, 172, 174–5, 179, 202–3, 208
 republic of, 22, 27, 130, 260
 slavery of, under principate, 289, 304, 306, 316–17, 358, 360
Rome, Giles of, 31, 32, 57, 61n., 63, 94, 108n., 122, 133
Romulus, 151, 155
Rousseau, Jean-Jacques, 174, 188, 210, 412
Roy, Louis le, 315
Rubinstein, Nicolai, 12, 18n., 30n., 81, 99, 375n., 376n.
Rump Parliament, 286, 297
Sacchi, Bartolomeo (Platina), 132, 135, 136n., 137n., 214
Salisbury, John of, 11–12
Sallust, 2, 3, 4, 18, 42, 218, 314, 370, 379
 Bellum Iugurthinum 20, 23, 45, 69, 110
 see also *Bellum Catilinae*
Salmasius (Claude de Saumaise), 301, 304
salus populi, 295, 296, 316, 326–30, 332–3, 335
Salutati, Coluccio, 3, 29–30
San Gimignano, 52
Sandys, Edwin, MP, 311
Sandys, Samuel, MP, 345, 347
Sardo, Ranieri, 372, 376
Savile, Henry, 290, 306, 313
Savonarola, Girolamo, 142
Scala, Bartolomeo, 141–2, 217n.
scepticism, pyrrhonian, 265–6
Schmalkaldic League, 252
scholasticism, 3, 8, 40–1, 43–4, 57, 91–2
 and city-republics, 30–8, 57, 119–20
 and popular sovereignty, 255–62
 and the virtues, 63, 68–9, 73–4, 82–6
Scrovegna, Cappella degli (Padua), 72, 84, 96n., 100, 104–5, 113
Scudamore, John, MP, 321
Seigel, Jerrold, 3n.
Selden, John, 319
self-defence, right of, 251–2, 253–4, 259
self-government
 humanism and, 126–34, 148–59, 218–20, 223, 224, 382–7
 jurists on, 13–17
 Machiavelli on, 151, 162–3, 198–9, 381
 pre-humanists on, 4–5, 18–20, 27–30, 57–67, 102–3, 379–80, 382–3
 representations of, 77–82, 99–103, 117
 scholasticism and, 30–7, 127
Sellers, M. N. S., 312n.
Seneca, 2, 42, 46, 65, 66, 84, 114, 132, 134, 221, 229, 276, 371
 De Beneficiis, 96n., 109, 215n.
 De Clementia, 47
 Epistulae, 47, 55, 63, 65, 68, 109
 De Tranquillitate Animi, 111–12

servitude, *see* slavery
 Severus, Septimius, Roman emperor, 145
 Seymour, Francis, MP, 292, 321
 Sforza, Caterina, 126
 Shaftesbury, Anthony Ashley Cooper,
 Earl of, 356
 Shakespeare, William, 326
 Sherfield, Henry, MP, 322
 Sherry, Richard, 269, 270, 271–2
 Ship Money, 293, 323–4
 Shippin, William, MP, 345, 346
 Short Parliament (1640), 292, 322, 324
 Sidney, Algernon, 356, 358, 360, 361, 362
 Sidney, Philip, 277, 278
 Siena, 4, 5, 10, 24
 church of San Francesco in, 85
 commune of, 77–80
 constitutions of, 41, 44, 46, 58, 60, 67
 Palazzo Pubblico in, 39, 52, 68, 81, 93,
 116, 376
 representations of, 96–8, 100–2
 see also Nove Signori
 Signa, Boncompagno da, 18
signori
 rise of, 5, 118, 120–1, 126, 134–5
 and theory of princely government, 120–6,
 134–42, 143–7, 374–9
 slavery, 7
 as cause of servility, 289–92, 293–4, 301–7
 dependence as, 289, 290–7, 299–301,
 314–18, 320–2, 324, 335–41
 of England, 287, 290–2, 292–4, 297, 335–43
 and liberty, 289–97, 299–301, 313–18,
 320–2, 324–5, 335–42, 359–62, 364,
 389–90
 Machiavelli on, 162–3, 200–3
 of Rome under principate, 289, 304, 306,
 316–17, 358, 360
 Roman law on, 289, 290–1, 296, 313, 321
 and villeinage, 309–12
 Smalley, Beryl, 18n.
 Smith, Thomas, 310
 Somers, John, Baron Somers, 356
 Sommerville, Johann, 287n., 312n.
 Sorell, Tom, 265n.
 Soto, Domingo de, 259n.
 South, Robert, 282, 283
 Southard, Edna, 79n.
 sovereignty
 of Parliament, 329–32, 335
 of people, 14, 16–17, 36–7, 245–6, 247–9,
 255–62, 295–6, 298, 380, 386–7, 388–9,
 390–4, 395, 405–6
 of the state, 368–9, 379, 386, 395, 398–405,
 407–10

Spagnoli, Cappella degli (Santa Maria
 Novella, Florence), 105
 Spain, loss of liberty in, 363–4
 Spinoza, Benedict (Baruch) de, 188, 196, 210
 Spitz, Jean-Fabien, 190n.
 Sprat, Thomas, 264, 266
 St Andrews, University of, 257
 Starkey, Thomas, 217, 218, 220, 236,
 373, 377, 385
 Starn, Randolph, 94n.
 state
 concept of, 9, 164–5, 381–2, 393–4
 as a person, 395, 400, 401–4, 408
 sovereignty of, 368–9, 379, 386, 395,
 398–405; 407–10
 state (*stato, status*) of princes, 9, 143, 369–72,
 373–8, 382–5
 Strangeways, John, MP, 321
studia humanitatis, *see* humanism
 Suárez, Francisco, 250, 258, 259
Summa Theologiae (Aquinas) 30, 40
 common good, 77
 equity, 49
 justice, 73, 372
 monarchy, 32–3
 peace, 33, 44
 private property, 227
 virtues, 63, 64–5, 73, 82–3, 84–5, 87
 wealth, 226
 wisdom, 71
 Sutherland, Lucy, 350
 Swift, Jonathan, 284
 Tacitus, 289, 293, 303, 320, 322, 357, 392
 Agricola, 306, 313
 Annals, 304, 306, 313, 316–17
 Germania, 313
 Historiae, 290, 313
 Tarlati, Guido, 81
 Tarr, Roger, 106
 Taylor, Charles, 187–8, 189, 190
 temperance, 62–3, 64, 65, 132, 154,
 204–5, 207
 representations of, 85–6, 88, 91, 96
 Thirnyng, William, 369
 Thomas, Keith, 126n.
 Tierney, Brian, 253n., 256n., 380n.
 Tiptoft, John, Earl of Worcester, 224, 225
 Toland, John, 357, 358, 359, 362
 Toulouse, 396
 translations
 of Aristotle, 30, 42, 52, 73, 274, 315
 of Bodin, 395, 401
 of Italian humanists, 132, 356, 385–6, 413
 of Roman historians, 303, 313–14, 317

- of Plato, 127–8
of Pufendorf, 407
treason, 354, 411–12
Trebizond, George of, 127–8
Trenchard, John, 356, 357, 360, 361
Treviso, 118
tristitia, 107–8, 109, 112, 115–16
Tully, James, 161 n., 319 n.
Tuve, Rosemond, 43 n., 65 n., 98 n.
Twelve Tables, Law of, 316, 326
tyranny, 102–3, 118–19, 257, 286, 299, 303–4,
315–16, 322, 360–1, 395–6
representations of, 69–70, 94–6, 98
see also resistance, right of
Tyrrell, James, 356, 359, 360
- Ulpian (jurist), 49, 253–4, 370
universitas
church as, 17
people as, *see* people as *universitas*
Utopia (Thomas More)
nobility, 132, 229–34
optimus status reipublicae, 213–14, 217, 220,
229–30, 235–6, 241, 244
otium and negotium, 221–3, 230–1
private property, 235–6, 242–4
self-government, 8
Utopian religion, 237–40
virtues, 231–2
wealth, 231–3, 240
- Valla, Lorenzo, 3
Vanni, Andrea, 91
Varro, 86
Venice, 5–6, 119, 134, 255, 260, 310, 321,
336–7
constitution of, 34–5, 127–8, 138–9, 148–9,
158, 381, 386
Machiavelli on, 152–3
Vergerio, Pier Paolo, 2, 6, 120, 127, 130,
131, 216
Vergerio, Pietro, 148
Verona, 5, 118
Vespasiano da Bisticci, 375, 376, 377
Vettori, Francesco, 376
Vettori, Paolo, 143
vices, the, 87, 107–9, 123–5, 222, 234–5
Machiavelli on, 145–7, 152, 168
as neighbours of virtues, 274–6
representations of, 69–70, 94–5, 113–4
Vignano, Giovanni da, 19, 21, 27, 42, 50, 67,
112, 114, 119, 383
Villani, Giovanni, 372 n., 374, 375
Vindication of the Parliament, 340–1, 342
Vindiciae, Contra Tyrannos, 246–7, 388, 389–94,
397
Virgil, 2, 87, 203
virtù, Machiavelli on, 144–7, 154–6, 163–4, 170,
171, 177–8, 201–5, 207–10, 361; *see also*
virtues, the
virtues, the, 7, 61–7, 80–8, 122–6, 130–7, 140,
224–9, 231–2
cardinal, 61–2, 80–1, 87–8, 115, 131–2, 207,
218
denigration of, 277–9, 280–1
law and, 156–7, 173–7, 179–85
as neighbours of vices, 274–6
theological, 61, 80–3, 96, 115
of women, 125–6, 232
see also fortitude; justice; liberality;
magnanimity; nobility; prudence;
temperance; *virtù*; *virtus*; wisdom
virtus, 22, 123–6, 128, 130–4, 136–7, 139–40,
144–5
Cicero on, 62–3, 64, 83, 86, 114–15, 204–5,
218–19
see also virtues
Viterbo, Giovanni da, 19, 41–2
see also *Liber de Regimine Civitatum*
Vives, Ludovico, 240 n.
- Waley, Daniel, 10 n.
Walpole, Robert, 344, 345–7, 350–2, 354, 362
Walzer, Michael, 246, 249, 253, 262
Wandesford, Christopher, MP, 281
Weinstein, W. L., 187
Wentworth, Thomas, MP, 320
Werdenhagen, Johann, 392
Wesembecke, Jacob van, 246
Whicchote, Benjamin, 282
Whigham, Frank, 273 n.
White, John, 106, 107
White, Lynn, 90, 91
Wilkins, John, 264, 266, 274, 284, 285
Wilson, Thomas, 268, 269, 270, 272, 276
wisdom, 54–5, 56, 202, 204, 267–8
representations of, 71–2, 96, 113
Witt, Ronald G., 29 n., 381 n.
women, as rulers, 126
virtues of, 125–6
Worsley, Benjamin, 308
Wotton, Henry, 281–2, 321
Wyatt, Thomas, 275–6, 277, 278–9
Wyndham, William, MP, 345, 346, 347
- Xenophon, 123
Yonge, William, 354