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REPRESENTING IGNORANCE*

By Russell Hardin

I. Introduction

If we wish to assess the morality of elected officials, we must understand their function as our representatives and then infer how they can fulfill this function. I propose to treat the class of elected officials as a profession, so that their morality is a role morality and it is functionally determined. If we conceive the role morality of legislators to be analogous to the ethics of other professions, then this morality must be functionally defined by the purpose that legislators are to fulfill once in office. Hence, the role morality of legislators will largely be determined by our theory of representation. We will need not a normative account of their role, but an empirical explanatory account. In David Hume's terms, the morality of role holders is one of "artificial" duties, that is to say, duties defined by their functional fit with the institutional purposes of a profession.[1] Our most difficult problem, therefore, is to understand the role of our elected representatives.

This problem is severely complicated by the nature of democratic choice and participation in a modern, complex society. A central problem of democratic theory for such a society is the general political ignorance of the citizens. In *Capitalism, Socialism, and Democracy* (1942), Joseph Schumpeter argues that citizens have no chance of affecting electoral outcomes and, therefore, no reason to learn enough about politics even to know which candidates or policies would serve their interests. He writes, "[W]ithout the initiative that comes from immediate responsibility, ignorance will persist in the face of masses of information however complete and correct."[2] If the problem of knowing enough to judge elected government officials is already hard, the lack of incentive to correct this problem is

* I am indebted to my fellow contributors to this volume, to participants in the Monday Night Theorists at New York University, and to Ellen Frankel Paul for comments on an earlier draft of this essay.

[1] Russell Hardin, "The Artificial Duties of Contemporary Professionals," *Social Service Review* 64 (1991): 528–43. Hume distinguishes "natural" from "artificial" virtues in David Hume, *A Treatise of Human Nature* (1739–40), ed. L. A. Selby-Bigge and P. H. Nidditch, 2d ed. (Oxford: Oxford University Press, 1978), bk. 3, pt. 2, sec. 1. Acting from a natural duty produces a good directly, and more or less immediately. Acting from an artificial duty, such as the duty of justice, produces good only through the mediation of a social institution or norm.

[2] Joseph A. Schumpeter, *Capitalism, Socialism, and Democracy* (1942), 3d ed. (New York: Harper, 1950), 262.

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devastating. Indeed, the costs of knowing enough about government to be able to vote intelligently in one's own interest surely swamp the modest costs, for most people in the United States and other advanced democratic nations, of actually casting a vote, at least on commonplace issues of public policy outside moments of great crisis. Therefore, an economic theory of knowledge or "street-level epistemology" weighs against knowing enough to vote well because the incentives cut heavily against investing in the relevant knowledge.[3] The typical voter will not be able to put the relevant knowledge to beneficial use.[4]

One response to the problem of citizens' incompetence to judge how they should be governed is government by Burkean representatives. Throughout his writings, Edmund Burke (1729–97) supposes that only members of an elite are competent to govern, and the mass of the citizenry ought to turn government over to them to do what they think best.[5] I will suppose that we resort to representative government for a very different, structural reason. It is impossible for the entire polity of a large state to make policy directly or to implement it.[6] We therefore have specialized bodies to do these things. It is this structural fact that wrecks our incentive to know much about the politics that governs much of our lives. Still, we want representative government genuinely to represent us, to adopt the policies that we would adopt if we had relevant knowledge and power. Any actual representative government may have many problems that get in the way of its serving us in such a manner,[7] but I will ignore those problems and focus on the ethics of the representative in trying to

[3] Russell Hardin, "The Street-Level Epistemology of Democratic Participation," *Journal of Political Philosophy* 10, no. 2 (2002): 212–29; reprinted in James Fishkin and Peter Laslett, eds., *Philosophy, Politics, and Society*, vol. 7 (London: Blackwell, 2003), 163–81. The argument here is essentially from the logic of incentives and it casts no blame on anyone. Others hold the political system, the poor educational system, or politicians responsible for the seeming incompetence of voters. See, for example, Matthew A. Crenson and Benjamin Ginsberg, *Downsizing Democracy: How America Sidelined Its Citizens and Privatized Its Public* (Baltimore, MD: Johns Hopkins University Press, 2002).

[4] Martin P. Wattenberg argues that, additionally, there are obstacles even to casting one's vote correctly in the United States, where the act of voting can be almost as difficult as taking a college entrance examination. See Martin P. Wattenberg, *Where Have All the Voters Gone?* (Cambridge, MA: Harvard University Press, 2002), chap. 6.

[5] See, for example, Edmund Burke, "Speech to the Electors of Bristol" (1774), in Hanna Fenichel Pitkin, ed., *Representation* (New York: Atherton Press, 1969), esp. 174–75; and Edmund Burke, "Appeal from the New to the Old Whigs" (1791), in *The Works of Edmund Burke* (London: George Bell & Sons, 1890–1906), 3:85–87. For later views, see Michael Oakeshott, *Rationalism in Politics and Other Essays* (New York: HarperCollins, 1962), esp. Oakeshott's essay, "On Being a Conservative."

[6] Even in a not so modern polity—England and Wales in 1754—the electorate was about two hundred and eighty thousand out of a population of roughly eight million. See Bernard Manin, *The Principles of Representative Government* (Cambridge: Cambridge University Press, 1997), 82. In the United States at the time of ratification of its constitution in 1788, the electorate was about one million out of a population of a little more than three million. Thus, even these relatively small populations, by modern standards, required representative government or some other device for making decisions without involving all citizens at once.

[7] Ibid.

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represent others in the face of both gross ignorance on the part of voters and harsh limits on information for the representative.

I will not assume the position of those who view representative democracy as a forum for deliberation on "the truth." In *The Principles of Representative Government* (1997), Bernard Manin states that political scientist Carl Schmitt (1888–1985) holds this view, namely, "that truth must 'make the law,'" and that "debate is the most appropriate means of determining truth, and therefore the central political authority must be a place of debate, that is, a parliament."[8] I will not deal with this vision here, because I think it largely irrelevant. Parliamentary debate does not often approach "truth," and, in any case, politics is far more about interests than it is about truth.[9] If there is a truth to be discovered and demonstrated, then after sufficient debate there should be consensus and each of us should grasp the truth. In that case, the Schmitt thesis would make sense. When there is a conflict of interests, however, there is no truth of the kind Schmitt envisions. Deliberation on interests is as likely to lead to dissensus as to consensus.[10] I should also note that Schmitt's justification of a parliamentary body does not require that the body actually be representative of the various groups in a society, but only that it be the political decision-making body for the society.

In general, the tasks of representatives will be easiest when they merely represent interests of fairly basic kinds on issues, for example, of economic policy or welfare provision. Their tasks might also seem to be straightforward when they deal with hotly contested issues over which public views are relatively forcefully asserted, as with the contemporary debate over abortion in the United States. Indeed, for any controversial matter such as abortion, representatives might often think of themselves as delegates because they would not expect to get reelected if they reneged on their electioneering commitment to take one side or the other on the issue (although there might be intermediate positions on which they could compromise). The most difficult issues for representatives will generally be those for which clarity is lacking, at least in the sense that citizens do not know where they stand or, rather, where their interests lie. As John Stuart Mill says, individuals distort many issues with their idiosyncratic beliefs, and they tend to discount the future, so that individuals' claims of what their interests are can be distorted.[11]

[8] Ibid., 185. See also Carl Schmitt, *The Crisis of Parliamentary Democracy* (1923), trans. Ellen Kennedy (Cambridge, MA: MIT Press, 1988), 35, 43.

[9] Geoffrey Brennan and James M. Buchanan, *The Reason of Rules: Constitutional Political Economy* (Cambridge: Cambridge University Press, 1985); and Russell Hardin, "Deliberation: Method, Not Theory," in Stephen Macedo, ed., *Deliberative Politics: Essays on Democracy and Disagreement* (New York: Oxford University Press, 1999), 103–19.

[10] See Hardin, "Deliberation: Method, Not Theory"; and Cass Sunstein, "Deliberative Trouble? Why Groups Go to Extremes," *Yale Law Journal* 110 (2000): 71–119.

[11] John Stuart Mill, *Considerations on Representative Government* (1861), in John Stuart Mill, *Essays on Politics and Society*, vol. 19 of *Collected Works of John Stuart Mill*, ed. J. M. Robson (Toronto: University of Toronto Press, 1977), 444–45.

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II. Voter Ignorance

If, in general, we make the effort to know something in large part *because we think it will serve our interest to know it*, then we cannot expect people to know very much about what their representatives do. In the argument of the "economic theory of democracy," a citizen typically does not have very much interest in voting. One vote has a miniscule chance of making a difference, so miniscule that, even when it is multiplied by the value of making a difference and getting one's preferred candidate or policy, the expected value of the vote is vanishingly slight. Therefore, if there is any real cost involved in casting a vote, this cost swamps the expected benefit to the voter of voting. Hence, there is little point in knowing enough actually to vote well.

Most of the research on and debate over voting since Schumpeter's *Capitalism, Socialism, and Democracy* and Anthony Downs's *An Economic Theory of Democracy* (1957)[12] has focused primarily on the incentive to vote rather than the incentive to know enough to vote intelligently.[13] The latter is at least logically derivative from the former, because it is the lack of incentive to vote that makes knowledge of how to vote well virtually useless, so that mastering such knowledge violates the pragmatic understanding of knowledge. Since my vote has miniscule causal effect on democratically determined outcomes, there is no compelling reason for me to determine how to vote intelligently. Or, to put this the other way around, the fact that I would benefit from policy *X* does not give me reason or incentive to know about or to understand the implications of policy *X* unless I can somehow affect whether policy *X* is to be adopted.

In what follows, I will simply take for granted that typical citizens do not master the facts they need to know if they are to vote their interests intelligently. There is extensive evidence on this claim, although there is, of course, also great difference of opinion on its significance for electoral choices. For example, political scientist Samuel Popkin canvasses problems of voter ignorance in American presidential elections and then refers to "low-information rationality," which is rationality despite abysmal factual ignorance.[14] He also argues for a 'Gresham's law' of political information: bad facts drive out good facts. According to this law, "a small amount of personal information [on a candidate] can dominate a large amount of historical information about a past record."[15] The personal information might be some minor fact that comes up during a campaign. However, the effect of Gresham's law might often run against Popkin's claim for low-information rationality by driving out the little bit of policy-

[12] Anthony Downs, *An Economic Theory of Democracy* (New York: Harper, 1957).

[13] Hardin, "The Street-Level Epistemology of Democratic Participation." (Passages in the next two pages are taken from pages 217–19 of this essay.)

[14] Samuel L. Popkin, *The Reasoning Voter: Communication and Persuasion in Presidential Campaigns*, 2d ed. (Chicago, IL: University of Chicago Press, 1994).

[15] Ibid., 73.

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relevant information the voter has. If the personal information seems to be politically relevant, however, its dominance over other information might not matter so much. For example, Italy's prime minister, Silvio Berlusconi, has been caught up in an ongoing scandal over accusations that he bribed his way to wealth and, thence, to political power. Sociologist Renato Mannheimer says, "Italians don't understand the contents of the processes against him, so they make their judgments according to their political leanings."[16] But some voters might judge him for his use of office to serve his own interests.[17]

Manin argues that the form representative democracy now takes is "audience democracy."[18] The trouble with the large amount of historical information that is, at least in principle, available is that voters do not typically know much about it because it would be silly for them to invest the time needed to acquire such information. Hence, in this age of media and celebrity, we vote for personalities rather than for policies and thereby give an outsized role to personal information.

As evidence of how seldom voters even seek better information before voting, consider the difficulty that candidates have in getting their message across to voters. Congressional scholar Richard Fenno elegantly portrays the burden that candidates for the U.S. House of Representatives face in merely finding people to talk to.[19] Even professional political scientists, who have a strong interest in knowing more about politics than their mere interest in the outcome of elections would suggest, find it hard to keep up with much of what happens. Weekly tallies of votes in the U.S. House of Representatives and Senate, for example, are reported in some newspapers, but with such brevity that only specialists on a particular issue would find them meaningful.

Results of referenda on even relatively simple issues suggest astonishing misunderstanding by voters. California voters displayed cavalier irresponsibility in a 1994 referendum (Proposition 184) on a so-called three-strikes sentencing law that mandates harsh minimum prison terms for repeat offenders.[20] Consider two early cases to which the law was applied. The first involved a thief with a prior record, who was sentenced to a term of twenty-five years to life, with no possibility of parole before serving at least twenty years, for his "felony petty theft" of one slice of pizza.[21] In the second case, Russell Benson was sentenced to a similar

[16] Quoted in Frank Bruni, "Italy, a Land of Tolerance, Even to Prime Ministers," *New York Times*, May 28, 2003, late edition–final, sec. A, p. 4, col. 3.

[17] He pushes legislation that would directly benefit him as an oligopolistic media owner. See "Italian Leader Faces Dissent over Control of the Media," *New York Times*, April 6, 2003, late edition–final, sec. A, p. 4, col. 1.

[18] Manin, *The Principles of Representative Government*, 218–32.

[19] Richard F. Fenno, Jr., *Home Style: House Members in Their Districts* (Boston, MA: Little, Brown, 1978).

[20] Susan Estrich, *Getting Away with Murder: How Politics Is Destroying the Criminal Justice System* (Cambridge, MA: Harvard University Press, 1998).

[21] "25 Years for a Slice of Pizza," *New York Times*, March 5, 1995, sec. 1, p. 21.

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term for shoplifting a twenty-dollar carton of cigarettes.[22] The three-strikes referendum was provoked by some truly gruesome crimes, yet it is so badly framed that it brutalizes petty felons.

California voters also apparently displayed complete misunderstanding of a 1998 referendum (Proposition 3) to undo a prior referendum (Proposition 198 of 1996) on open primaries. The prior referendum, passed by the voters in presumable ignorance of its consequences, would stupidly have disallowed California representation at the national Republican and Democratic Party nominating conventions in the year 2000. After the electorate failed to pass Proposition 3, administrative devices were used to enable the state to distinguish Democratic and Republican voters in its presidential primary elections, thereby securing representation at the two party conventions.[23] In this failure to enact Proposition 3, democracy was a charade and, when it failed due to ignorance and widespread misunderstanding, a knowledgeable bureaucrat, California Secretary of State Bill Jones, intervened against the democratic result. (In a subsequent suit by the major parties against the law, the U.S. Supreme Court overturned Proposition 198 as a violation of the constitutional right of the political parties to assemble.)[24]

III. Madisonian Representatives

Edmund Burke supposes that constituents are apt not to understand what would serve the public good and, therefore, he suggests that representatives should act in the true interest of the public rather than as their constituents might want them to act.[25] He further supposes that constituents should recognize the superiority of their representatives to carry out the task of serving the public interest. His view is not contrary to Schmitt's, and it would allow the selection of members of a parliament by criteria other than representativeness of the polity. On this view, all representatives represent everyone, or the public as a whole. Virtually no one supposes this today, however, and from U.S. constitutional debates forward, we generally assume that representatives primarily represent merely the interests of their constituencies and of those who supported their campaigns.

Let us drop two of Burke's views: that representatives ought to be concerned with the overall public good and that representatives are or should be superior individuals, imbued with character and values that only hereditary elites can acquire. A national party or a national executive might claim to fulfill the first, although parties are invariably partisan and national executives are commonly partisan. On the second, contrary to

[22] Elisabeth R. Gerber et al., *Stealing the Initiative: How State Government Responds to Direct Democracy* (Upper Saddle River, NJ: Prentice Hall, 2001), 64.
[23] Ibid., 71–74.
[24] *California Democratic Party v. Jones*, 530 U.S. 567 (2000).
[25] See also Mill, *Considerations on Representative Government*, 511–12.

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what Burke wants, what might set legislators apart is that they become competent at politics, legislation, and governance through their specialized roles. Our representatives even tend, in Manin's characterization, to become aristocratic in that they must have relatively high levels of competence and achievement to attain and hold their offices.[26] They clearly do not represent their constituents in the sense of being like them. There are, for example, almost no working-class representatives in modern democratic governments, and lawyers are radically overrepresented in U.S. legislative bodies. Representation of groups must often be through so-called active representation by people who themselves do not directly share the interests of the groups they represent. For example, Senator Ted Kennedy (D–MA) often represents the interests of union members and the poor, although he has no experience of either status in his own life.

An obvious but painful implication of the Schumpeterian world, in which the public exhibits a general political ignorance, is that representatives can take advantage of citizens. This is true not merely in the manner of Italy's Berlusconi, who has used his official power to enact laws that specifically benefit him by helping him avoid trial for bribery, an offense that he has implicitly admitted.[27] It is true more fundamentally in the sense that, even without such overt actions as Berlusconi's, government personnel can be parasitic on the larger society, making themselves wealthier than they otherwise could have been in any other profession, giving themselves prerogatives far beyond their ordinary emoluments, and securing long tenure for themselves and often even their relatives. In a sense well beyond Manin's, they become an aristocratic class apart from the society that they both govern and represent.

Even the slightest Madisonian or Humean view of human nature as self-interested yields this implication. Political sociologist Robert Michels (1876–1936) claims that democratic government within political parties—especially European socialist parties—produced an aristocracy with great power over rank-and-file members.[28] This claim is true more generally of democratic governments, although they may typically be subjected to greater scrutiny that might impede some of the worst excesses of oligarchic power. In Michels's famous slogan, "Who says organization says oligarchy." Perversely, who says representative democracy evidently also says oligarchy.

[26] Manin, *The Principles of Representative Government,* chap. 4.

[27] Members of Berlusconi's party in the Italian Parliament introduced legislation to exempt the top five government officials from facing trial while they hold office (Jason Horowitz, "World Briefing/Europe: Berlusconi Immunity Plan," *New York Times,* May 30, 2003, late edition–final, sec. A, p. 8, col. 5). Berlusconi previously pushed through legislation to reform the courts in ways that might have permitted him to avoid prosecution for bribery, complaining that "to search for, and single out, individual culprits [is] disingenuous and inherently unjust" when there is so much suspicious activity to go around (Bruni, "Italy, a Land of Tolerance").

[28] Robert Michels, *Political Parties: A Sociological Study of the Oligarchal Tendencies of Modern Democracy* (1911), trans. Eden and Cedar Paul (Glencoe, IL: Free Press, 1949).

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According to the Manin and Michels theses of an aristocracy of leadership, in some sense it is not the individual elected officials but the class of them that is problematic. As John C. Calhoun (1782–1850) writes: "The advantages of possessing the control of the powers of the government, and thereby of its honors and emoluments, are, of themselves, exclusive of all other considerations, ample to divide . . . a community into two great hostile parties."[29] As a class, the political aristocracy is parasitic on the society that it ostensibly serves and that has the power of election over it. Although some representatives may be very well grounded in their constituencies, many representatives are far more likely to view their fellow "aristocrats" as their reference group than their respective electorates. The supposedly mighty citizenry with its power of election over officials does not have the power to refuse to elect any of them; it can only turn out the occasional overtly bad apple. The electorate usually does not have the temerity to overcome incumbents' advantage. Burke believes that citizens should be deferential to their aristocratic leaders. Few people would argue for such social deference today, although there is pervasive deference to the power of elected officials and to their celebrity, which is a peculiarly ugly aspect of modern democracies, perhaps uglier and more pervasive in the United States than in other advanced democracies.

The U.S. Constitution does not explicitly say either that elected officials have a special status or that they have a duty to represent their constituents. *It is essentially a social convention that they should represent their constituents*. Social conventions generally are not morally binding except through considerations other than the fact that they are conventions. Moreover, there is no constitutionally determined principle of representation to which elected officials are bound. The range of possible principles is so large and various that all officials could claim to be living up to one or another principle. For example, a legislator could claim to represent some part of a particular geographical constituency and to support whatever the leaders of the relevant interest groups in that constituency want.

Add to various visions of the nature of representation the problem of citizens' ignorance. This is a problem that does not bother a Burkean, because Burke's arguments are grounded in the presumption of citizens' ignorance and their deep incapacity to decide what policies their government should adopt. It is also not a problem for Schmitt's views, because he supposes that the role of the representative body is not to represent but to find truth; that citizens do not know truth is taken for granted in the very structure and purpose of legislative government. In both Burke's and Schmitt's views, elected representatives might suppose that they should do for citizens what citizens do not even know they want done. Indeed, citizens might not even want it done once they had given it some

[29] John C. Calhoun, *A Disquisition on Government and Selections from the Discourse* (1851), ed. C. Gordon Post (Indianapolis, IN: Bobbs-Merrill, 1953), 14–15.

thought because, virtually by definition, they are not in the places of the Burkean or Schmittian representatives who have superior capacities for determining what should be done.

Although Madison's views include some of the elitism of Burke and others, he is, with Manin, more focused on the way things actually work than on a recommendation that we create a deliberately elitist system. Mill stands somewhere between these theorists in that he supposes that elected parliamentarians should be elite in their qualifications but not, as Burke supposes, via birthright. Mill is also less interested in representation per se, so that he would allow extra votes (which he calls plural votes) to such people as fellows at Oxford and Cambridge Universities, because they would likely be better qualified to vote intelligently.[30] He, too, seems more driven by some (extremely vague and underarticulated) sense of the public good than by concern with representation of varied interests. Perhaps it is the fact that Madison is engaged in actually creating a representative government that makes him the most realistic and focused of all these theorists. His realism is driven in part by his concern to deal with the divisiveness of factions that seemed to fracture the political affairs of several of the states in the United States under the Articles of Confederation.

Madison wants representatives to represent moderately large communities, so that they will not be too focused on narrow issues. (In this, he opposes the Anti-Federalists, who want representation down to the small community level.) But he does not have a conception of "the" public good, and he does not expect the legislature to work for any such good. It would, rather, somehow aggregate diverse interests. One might argue that serving constituency interests would be a way of discovering the collective good in a Madisonian system. This good would not be the true good, as Schmitt would want, but only the product of a compromise of interests negotiated by legislators.

Madison is concerned with at least two overriding issues that he might have thought of as part of the public good. One of these is simply order, and the other is a relatively uniform national economic system that would encourage, or at least enable, economic growth and prosperity by facilitating trade, especially by preventing states from placing restrictions on interstate trade and by standardizing tariffs on foreign trade. There were parties who would have preferred to keep the economic system diverse so that they could free-ride on the anticompetitive practices of others. For example, the antinationalists of Rhode Island benefited from the high tariffs that Massachusetts imposed on goods from England and the Caribbean. Traders in Rhode Island imported goods from these places without tariffs, and then transshipped the goods to Massachusetts, where they could undercut the prices of both domestic and imported goods even while making a substantial profit.

[30] Mill, *Considerations on Representative Government*, chap. 8.

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Henceforth, I will focus on what we might call 'Madisonian', 'Humean', or 'Schumpeterian' representatives (or, with more criticism for the unreality of his vision, 'Millian' representatives). I will also discuss (in Section VB) the nature of representation in the current era of audience democracy. Although they have intellectual appeal, 'Burkean' and 'Schmittian' representatives are not part of our political world and we need not dwell on their conceptions. Madisonian representatives are strongly driven by their interests, and they work for the interests of their constituents not because they necessarily share those interests, but because they will be rewarded for doing so. Representatives elected by parties have an analogous interest in supporting their parties' positions on behalf of the parties' electorates. There appears to be no analogous sense in which politicians of audience democracy have an interest that mirrors that of their constituents.

IV. Austrian Social Theory

So far the focus has been on the ignorance of citizens. Another similarly pervasive and important problem is that central government and its agents cannot know enough to devise good policies in many realms. Much of the relevant knowledge is decentralized to smaller organizations and to citizens. The knowledge relevant to governing is, therefore, extremely dispersed. There are things I know that you do not know, and so forth, and things that each of us knows that no one in government can know. This fact of the nature of our knowledge is clearly of fundamental importance for the prospect of a centralized economy. Indeed, much of the main debate over socialist economic organization during the first half of the twentieth century was about how demand functions could be determined so that they could be matched with supply that was set entirely by central authorities.

Suppose we do not have a centralized economy in anything like the form that existed in the socialist economies of the former Soviet bloc. We have central fiscal policy, centrally determined regulations for many activities, and central oversight of civil liberties. Many of these central determinations of policy seem not only to work reasonably well, but better than the lack of such central controls. Clearly, central authorities ought to oversee or regulate many activities, but not others.

The nearest equivalent to Madisonian theory in the twentieth and early twenty-first centuries has been Austrian economics, as represented by F. A. Hayek among others.[31] Although it is ostensibly an economic theory, its most cogent insights apply to broader social theory. An especially odd aspect of the current hegemony of Austrian and Madisonian views of politics and society—even without these labels attached—is that they were almost purely theoretical when enunciated. In the past, there was no

[31] Russell Hardin, "Seeing Like Hayek," *The Good Society* 10, no. 2 (2001): 36–39.

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way to test Austrian views on the ground. But now they have been and are being tested, and they seem to be acquitting themselves very well, although shenanigans at Enron, WorldCom, and so on are attributed by some to the loosening of government regulation. Madison himself was not willing to practice his theory once he was in office, and perhaps if they had gained office, Hayek and others of the Austrian School would not have been either. But the example of the Soviet world, admittedly a bad version of socialist statism, compared to the freer but partially trammeled markets of the more prosperous West, gave us a chance to see a crude, perhaps second-best test of the Austrian-Madisonian theses.

Of course, my assessment is made while we are in the midst of extensive changes, and it might turn out to be grossly optimistic, a mere extrapolation from the most positive aspects of current appearances. But for the moment, the Austrian and Madisonian schools seem to have the right vision. This is a stunning turn, even more stunning to those on the traditional Left than to Millian libertarians. The most impressive consequence is the reversal of the long historical trend toward ever increasing state hegemony over the economy, and all else when the state fell into bad hands, such as Stalin's or Hitler's.

The centerpiece of the Austrian-Madisonian vision is that the knowledge to run a society is widely distributed and most of it cannot become available to a central government. Hence, a central government should not attempt to manage society in detail, and it should not attempt a massive redesign of society. Austrian economists typically worry about central control of the economy, but they could just as well worry about central control of social relations more generally. Political scientist James Scott especially deplores what Hayek calls "Cartesianism" and what Scott calls the "high modernism" of arrogant redesign of major parts of society, as in the effort to design cities in supposedly more rational ways,[32] or to reorganize peasants into collective farms in the Soviet Union or into Ujamaa villages in Tanzania.[33]

Austrian constraints mean that legislators cannot know in detail what their constituents want. On average, a member of the U.S. Congress has a district of nearly six hundred and fifty thousand people, and a senator from all but a handful of states represents millions of people. These representatives cannot know their constituents. Survey research at its best (as it seldom is) cannot determine very clearly what people want from government or what would benefit them if government acted in relevant ways. Commonly, when government tries to benefit citizens through attention to their narrow interests, it is not by directly providing benefits, but only by regulating, prohibiting, or enabling various activities. Of

[32] James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven, CT: Yale University Press, 1998), chap. 4.

[33] Ibid., chaps. 6 and 7.

course, there are exceptions, as evidenced by the astonishing scale of government largesse toward agriculture both in the United States and the European Union. It is only on relatively big issues that public preferences are likely to be known, and very often even for such issues—for example, health care—understanding is radically defective, so that it is virtually impossible to know what would serve constituents well, much less what would serve them best.

V. Theories of Representation

The two most rigorous accounts of representative government that are relevant to actual practice in modern democracies are those of Mill and Manin. Each focuses much of his discussion on representatives, and each has some sense of the "Austrian" constraints that I discussed above. Let us briefly canvass Mill's and Manin's theories in order to set up an account of what the functions of representatives should be and, from that, infer their role morality. I will not provide a full rendition of the views of Mill and Manin, but only of those aspects that are especially relevant to understanding the role morality of representatives.

A. Mill

In his *Considerations on Representative Government* (1861), Mill supposes that a good government must provide order and progress. For this, a sine qua non is obedience (but not excessive obedience). The requisites of order and progress are much the same, because of the dynamism of the problems that human beings face (387).[34] For government to work well, the most important consideration is the quality of citizens (389). Hence, the most important tasks of government are to promote the virtue and intelligence of citizens (390) and to organize what virtue and intelligence already exist (392). Of course, Mill is a welfarist, and therefore his central claim is that government must enable the people to do well. For this and for progress more generally, liberty and individuality are fundamentally important (396–97).[35]

Mill notes that it is historically commonplace to assert that the best form of government is benevolent dictatorship (chapter 3). He says on the contrary that, for example, the benevolent despotism of Augustus set up Romans for the "more odious" reign of Tiberius (403). Moreover, an autocratic government cannot know enough (399) to run the society well. Mill essentially presumes an Austrian social theory. He also anticipates

[34] In this section only, citations to pages and chapters in Mill's *Considerations on Representative Government* will be given in parentheses. See note 11 for complete bibliographic information.

[35] Mill gives a compelling consequentialist justification for liberty, without which progress is eventually stifled.

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Schumpeter's main point, that a voter's incentive is to be ignorant because, as Mill puts it, "a person must have a very unusual taste for intellectual exercise in and for itself who will put himself to the trouble of thought when it is to have no outward effect" (400). Mill holds an essentially pragmatic view of knowledge. He also reinforces this view when he says that no one will take an interest in government who cannot participate (469). This suggests that almost no one will take much interest in government, because almost no one can participate to any significant extent. But Mill's point in this passage seems to have been intended to suggest that people could be motivated to participate through education. Unfortunately, education might sooner lead one to understand just how massive are the obstacles to real participation most of the time. Mill himself concludes that there is very little opportunity for holding office in the central government (chapter 15). Local government, with its smaller scale and higher proportion of office holding, helps (535–36), but even local government in modern democracies is commonly carried out by representatives who have constituencies numbering in the thousands and even hundreds of thousands, so there cannot be very much participation even here.

In a continuation of his quasi-Austrian views, Mill says that what a legislative body is competent to do is quite limited (chapter 5). It can adopt not very precise legislation—for example, in our time, tax policy or environmental regulation. To do much more, it must delegate such things to expert advisers and to committees (430). Even then, laws will tend to become inconsistent over time because no one will have massive oversight of the whole body of law (a task performed by the Nomothetae in ancient Athens [431]). Hence, the proper function of a legislature is the very limited one of watching and controlling the administrative branches of government (432).

Mill famously claims that it is especially useful to engage in debate (433). This is not the "deliberative democracy" of current visions, although Mill's authority is often invoked in its support. His claim may partly suggest Schmitt's concern with deliberation as a device for finding the truth. Against Schmitt, however, Mill thinks that genuine representativeness is required, because it enables the legislature "to indicate wants, to be an organ for popular demands, and a place of adverse discussion for all opinions relating to public matters . . . ; and, along with this, to check by criticism, and eventually by withdrawing their support, those high public officers who really conduct the public business" (433).

Mill attributes the infirmities of representative government to two general causes (chapter 6). First, there is the quasi-Austrian general ignorance and incapacity of government and its agents; second, there is the danger of being under the influence of interests not identical to the general welfare of the community (436). He supposes that the main comparison to be made is between government by bureaucracy and government by repre-

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sentative democracy (438–39). Autocracy and aristocracy are too obviously flawed to merit consideration.

Against the danger of class legislation, Mill optimistically supposes that the few individuals who are public-spirited combined with those whose own interest happens to coincide with the public interest can collude in a majority to carry the day for the public interest (446–47). This is Panglossian. He should have read Madison more attentively. Indeed, he should have read himself more attentively.

In chapter 8 Mill discusses the extent of the suffrage and his view that it should generally be extended and should include women (479–81). Mill argues that fully representative democracy is the only true democracy (467). In keeping with his general view that citizens must be required to be intelligent enough to see their own interests if they are to gain the franchise, he proposes educational requirements on suffrage, because voters must be able to read, write, and do arithmetic if they are to vote intelligently on their own interests. For him this seems to be little more than a definitional implication of the idea of democracy: universal teaching must precede a universal franchise (470).

Mill especially worries about the fact that the large majority of citizens in his England are manual laborers. He supposes that they might abuse their power through their democratic majority to enact class legislation. He was largely wrong about this empirical point, because manual workers in his time were a diverse lot with conflicting interests. Manual laborers included farmers as the largest group, factory workers (who only became the bare majority of the English work force several decades after Mill wrote), and a miscellany of service workers, especially in urban areas. (In the United States in his time farmers were the overwhelming majority of all workers.) These quite diverse groups had little in common. Indeed, the only interest that they might have shared was in redistribution from the middle and upper classes, which in any case was not a viable political program in Mill's day. (Madison, too, worries about the possibility that the poor majority could combine to dispossess the wealthy of their property, a worry that made some sense empirically in his time, but not in ours, when evidence says it does not happen.)

Mill advocates universal but unequal suffrage (473–74). Uniquely among democratic theorists up to his time, he proposes intelligence, not property, as the qualification for extra weight (478). He grants, however, that unequal suffrage may not be a practical suggestion (476). He is also inclined to contrive devices that give greater weight to some voters over others, as through the use of gerrymanders to block workers from achieving a parliamentary majority by concentrating their votes in certain districts that they would win overwhelmingly while diluting their strength elsewhere (477). (This is what he calls a "fully representative democracy.") He gives a not very convincing causal claim in support of such voter inequality. He says that the best incentive to the

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growth of intelligence is rising to power, not having achieved it (479). This claim is a pointless fallacy of composition: the class might rise to power but almost none of its members would. Thus, although the class of workers might rise to power, individual workers generally cannot. Mill thinks that a constitution should not declare ignorance to be entitled to as much political power as knowledge—as the U.S. Constitution virtually does declare (478). He therefore excoriates the American system.

B. Manin

In the first two chapters of his *The Principles of Representative Government*, Manin gives an account of the great transformation from direct to representative democracy.[36] In Athens, there was general representation of all by all in certain bodies of government, coupled with selection by lot of people to serve in more restrictive bodies. Now democracies are with rare exception systems of elected representative bodies. For Madison and Emmanuel-Joseph Sieyes, the great constitutional thinkers of the American and French democratic revolutions, respectively, representative democracy was a new and, for its time, preferable form of government.

Manin's main thesis on the development of representative government is that it inherently tends toward aristocracy of an odd and familiar kind. Membership in the class of aristocrats is determined by citizens through elections, and the characteristics that earn entry into this class have changed over time, from something like social distinction in Madison's time and earlier in colonial America and England, to something more nearly like celebrity today. This aristocratic tendency of elected representative government was already foreseen by the ancient Greeks, who preferred to select officeholders by lot, considering it more genuinely representative (27). By lot, even the lowliest citizen could be selected for a government position. Montesquieu famously observed that there is a close link between lot and democracy and between election and aristocracy (70). Manin says that rotation in office and selection by lot reflect deep distrust of the professionalism that would follow from specializing in holding office over a long period. Madison and Sieyes, however, want professionalism (32). They worry that democracy could entail putting power in the hands of amateurs (33). They believe that officeholders should be more distinguished than the ordinary run of citizens (94). In actual democracies, wealth, property, and the payment of taxes have often been employed as qualifications for running for office (97–98), and wealth in our time is often still very useful for gaining office by spending lavishly on one's campaign.

[36] In this section only, citations to pages and chapters in Manin's *The Principles of Representative Government* will be given in parentheses. See note 6 for complete bibliographic information.

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In the Constitutional Convention of 1787, and in the state ratifying conventions and the debates leading up to them, the Anti-Federalists held that representatives should fairly closely mirror their constituents (109). Representation was not a matter of giving representatives mandates but of having the diverse U.S. population represented by their own types (109). Anti-Federalist Samuel Chase pointed out that the great majority of the population—farmers and ordinary workers—could never be elected (112). Before early fascist or corporatist guilds, the Anti-Federalists were probably the only true advocates of genuinely representative democracy by station in life rather than by geographical location, and there has been no further debate on the aristocratic nature of election after the Anti-Federalist arguments of 1787–88 (132). Manin concludes that, for solid causal reasons, "election cannot, by its very nature, result in the selection of representatives who resemble their constituents" (149). In the end, however, power is not earned by distinctive traits or capacities but by agreement among the electorate about what traits constitute superiority (158). Apart from his being the son of a former president, one would be very hard pressed to account for the traits that put George W. Bush in the presidency, but one can give an account of how support coalesced around him at various stages in the 2000 election cycle. Still, Manin notes that the principles of distinction and salience that make for election do not violate norms of equality and political right, although the constraint of wealth does (159). Mill thought that American political leaders in his time were woefully undistinguished.[37]

In the traditional view, members of the British Parliament represented the nation as a whole and not merely their constituencies (163), as in the views of Burke and, to some extent, Mill. This view has given way, first to party democracy, in which a party gains control of parliament and governs for its term (206–18), and then to what Manin calls "audience democracy" (218–32), which is substantially formed by the media and the capacity of individual candidates to appeal to the voters.

Against Schmitt's view that deliberation is valued for giving us access to truth, Manin concludes, "It is the collective and diverse character of the representative organ, and not any prior or independently established belief in the virtues of debate, that explains the role conferred on discussion" (187). What makes some resolution of legislative debate a law is some form of consent, not discussion of it or its truth value (189). Moreover, the requisite consent is typically merely majority agreement, whereas truth should command unanimous consent once it is established.

In keeping with Manin's thesis on audience democracy and "celebrity," the great playwright Arthur Miller (1915–) analyzes the acting abilities of

[37] John Stuart Mill, "De Tocqueville on Democracy in America, II," in John Stuart Mill, *Essays on Politics and Society*, vol. 18 of *Collected Works of John Stuart Mill*, ed. J. M. Robson (Toronto: University of Toronto Press, 1977), 175.

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modern American presidents, going back to Franklin Roosevelt.[38] Miller evaluates the acting ability of these presidents as he would assess how and why an actor succeeds on the screen or on the stage. He especially notes the peculiar differences between live and screen performances; in the latter, close-up cameras could turn more intense expressions into something baroque or rococo. In the television age, candidates must be flat; they cannot be orators in the grand style of, say, William Jennings Bryan. Miller argues that successful politicians tend to master performing before the camera and that we the voters value them in part for this success. Miller's analysis is far more sophisticated in its appreciation of the theatricality of politics than we are accustomed to from pundits, who typically lack his professionalism. Miller himself came to appreciate the difference between screen and stage from participating in the filming of *The Misfits* (1961). Clark Gable, the film's star, explained to Miller that he had to play his part very low key. Roosevelt might partly be Miller's favorite from the cast of modern presidents because he politicked in the era before television, which allowed him a florid acting style, rather than the flat affect favored by presidents in the television era.

VI. The Role Morality of Representatives

Carl Schmitt holds that democracy is the identity of ruler and ruled, and this is not compatible with representation; Rousseau believes that representative democracy is slavery.[39] Schmitt's is merely a definitional move. If we suppose Schmitt's identity, it is pointless for us to talk about the role morality of the rulers with respect to the ruled. The issue only arises because there is not an identity between the ruler and the ruled in a representative democracy. Similarly, if representative democracy is a form of slavery, it is silly to speak of a role morality for the overseers of the slaves. Against both these views, elected officials are, by a complex formula, both the agents and the rulers of the citizenry.

My purpose is to analyze the role morality of elected representatives in the light of the more credible theories of representation that I have canvassed: Madisonian constituency representation, party representation, and representation in Manin's audience democracy. I propose that we define the morality of representatives as artificial duties derived from their roles.

There are two other ways that we might proceed. We might apply something like conventional morality to the roles of representatives. Apart from intuitionists, no moral philosopher would do this, but we might suppose that, empirically, there is a broadly expected—therefore conventional—morality for elected officials. One measure of such a con-

[38] Arthur Miller, *On Politics and the Art of Acting* (New York: Viking, 2001).

[39] Manin, *The Principles of Representative Government*, 151, 1. Rousseau specifically discusses England in the eighteenth century. He wrote, of course, before the rise of representative democracy in its fuller forms.

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ventional morality might be gleaned from surveys on why people vote against someone whom they previously supported. I doubt that there is a standard, widely accepted conventional morality for elected officials, but there might be, or there might have been in some eras. Insofar as there is such a conventional morality, it seems likely to be related to the functional role moralities that I will canvass below.

Although it seems unlikely that there is even the hint of a consensus on any broad conventional morality for elected officials in modern democracies, there might be nearly a consensus that our officials should not use their offices to work for their private benefit against the interests of their constituencies or of the larger public. There is a standard moral constraint on agency relationships in general, which bars the agent from taking any action that would be a conflict of interest. Agents should not use their position of acting on the authority of others to take advantage of them. While this principle is seemingly simple in the contexts of many agency relationships—in our dealings with lawyers, doctors, accountants, and so forth—articulation of such a principle for elected officials is complex, as I shall argue below.

A. Functionally determined morality

The role morality of a doctor is to see to the patient's health because this is the function for which the doctor's services are sought; the role morality of a lawyer is, analogously, to see to winning the client's case or giving beneficial legal advice. If we wish to determine what the role morality of elected officials is—by analogy to professional ethics—we must first settle on what the function of an elected official is in relation to a constituent. This depends on our explanatory (not normative) theory of representation. Clearly, there cannot be a generally correct role morality for political representatives in the way that there is for doctors, because there are many theories of representation and these require different principles of action by elected officials.

We have at least three practical theories of representation that are quite distinct from one another. First, there is the *quasi-Madisonian theory* that focuses on individual legislators as agents of their constituencies. Second, there is the *political party theory* that makes elected officials the agents of their parties, and parties the agents of their partisan constituencies, which typically are broadly defined classes rather than geographical constituencies. Third, there is *Manin's audience democracy*, in which it is not clear that elected officials are agents of anyone other than themselves. The first two theories yield relatively straightforward principles of role morality for representatives. Historically, the role morality that seems most commonly stipulated by citizens in many democracies is that representatives be seen as agents of their constituents or as party loyalists. Given that representatives cannot know in detail what their constituents' wants are, representatives can knowledgeably only address their constituents' inter-

ests as fairly broadly conceived. Therefore, the role morality of an elected lawmaker is to see to the broadly defined interests of his or her constituents. We can call this the 'Madisonian role morality' of elected legislators, which had its greatest influence in the early United States. We can call it 'party role morality' in systems organized by parties, although in a party system, service to one's constituency is rendered indirectly through service to one's party, which serves all relevant constituencies.

If we consider the current stage of development of representation, Manin's audience democracy, we may wonder whether any role morality still applies to elected officials. One might assert a role morality, but the voters are unlikely to be concerned with it, except perhaps when a representative is grossly out of line. Suppose we do not elect our officials on the ground of how we expect them to handle their role in office, but primarily on the ground of who they are, including whether they happen to be celebrities. Then they would seem to have no mandate beyond continuing to be themselves. If media mastery is the route to election, then it might also be the route to renown while in office. It would be perverse for the electorate to complain that their officials are very good at precisely the skills that got them elected.

We might still think that the role morality of representatives is to represent, to work as agents for their constituents' interests, sometimes to seek the larger public good, and sometimes to defend civil liberties. But in America our moral expectations evidently do not explain or even correlate with how we vote to select our representatives. It was a happy fact of both Madisonian individual and later party systems that our interests coincided with our moral expectations for our representatives. In audience democracy, they do not correlate well.

Voters sometimes do hold candidates accountable for lack of media appeal, as in the case of Al Gore and George Bush in 2000, or for loss of it, as in the case of Gary Condit in 2002. Gore was often ridiculed for his stiff, dull manner (with at least one popular comedian comparing him to a wooden cigar store Indian). Bush, who barely won a close election over Gore, had likewise been satirized for his frequent verbal clumsiness. Prior to 2002, Condit had been reelected several times, even though his legislative impact was nil throughout his time in office. When he became the furtive man who refused to speak to the press about his reputed affair with his murdered former intern, his career was doomed, even if it could have been shown that he had played no role in her murder, and even though mere revelation of his affair, had the woman not been murdered, might not have blocked his continued reelection. By appearing indifferent, if not sinister, he simply lost much of the personal appeal that had repeatedly won him reelection.

If personality and media success are the grounds for election, then the electorate is likely to be divided on most politicians just because different personalities are likely to appeal to different voters. It seems probable, for example, that the astonishing divergence of views on Bill Clinton had

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much to do with divergent responses to his personal style. Even as he shifted the Democratic Party toward the center of American politics, he was detested by the American Right as perhaps no one since Franklin Roosevelt. In keeping with Manin's thesis on the evolution from Madisonian to audience democracy, Roosevelt seems to have been despised for his political positions, Clinton for being Clinton.

The development of audience democracy raises the question of whether personality might correlate with political positions to a sufficient degree as to yield the cues that Popkin and others need for their argument that voters base their votes on low-information rationality. There are two interlocking sets of correlations: first, on the side of the candidates and, then, on the side of the voters. Candidate personality must correlate with candidate position, and, given this correlation, candidate appeal must correlate with the voters' positions on issues. These correlations are tenuous reeds for us to hold onto in the hope for rational politics, if we have indeed entered an era of audience democracy. Against even such a slim hope for rationality, it seems likely that audience democracy is a response to the combination of voter ignorance of policy and government and of politicians' ignorance of voters' interests other than in broad terms. If we put the Schumpeterian vision of the limited capacities of voters together with the Austrian vision of the limited capacities of the state, we have representatives who cannot know much about their constituents trying to represent constituents who do not even know their interests in many areas and who, in any case, know very little about their government, its policies, and its officials.

B. Conventionally determined morality

Beyond any role morality that is functionally determined by our theory of representation, we might insist on several other "moral constraints" (that derive from conventional morality) on what our representatives do in office. There is one fairly broad, general concern that representatives are commonly expected to address: the political equality of citizens. This is a concern that seems to follow from the nature and purpose of democracy. We might fundamentally disagree about the extent to which economic inequality is good (as in the theory of justice of John Rawls, who allows inequalities—which might be extreme—that redound to the benefit of the worst off), but we do not generally argue in public that political inequality is good, although some, including Mill and Texas oilman H. L. Hunt, are notable exceptions. Exactly what it takes to make individuals politically equal is not easily determined, but some elements seem clear enough.[40] Anything that is an obstacle to political participation, such as extremely poor education, and that might be affected by public policy is an issue that we might ex-

[40] For discussion, see Thomas Christiano, *The Rule of the Many: Fundamental Issues in Democratic Theory* (Boulder, CO: Westview Press, 1996).

pect our representatives to take on, even though it goes beyond our own interests and beyond their representation of our interests.

As noted earlier, Mill supposes that two of the most important tasks of government are to promote the virtue and intelligence of citizens, and to organize what virtue and intelligence already exist.[41] These two functions are of such salience for him because he supposes that the most important consideration in creating and running government is the "quality" of citizens,[42] which might be partly a concern with political equality. (Against such generosity of interpretation, however, we know that Mill strongly defends inequality of political power grounded in intellectual qualifications.) If we thought that citizens played a substantial and active role in government, then we might agree with this claim, but it is prima facie false that citizens play a great role. They might occasionally mobilize effectively and bring about a change in government policy, as may have happened in the civil rights and anti–Vietnam War movements in the United States. But such activism is surely a rare activity for citizens, who generally attend to their own lives, acquiesce in government's discretion to determine and carry out public policy, and even acquiesce to the extreme as millions are sent off to fight and die in "great" wars.

One might contrive an argument that, say, broader education would redound not only to the benefit of those educated by this new policy, but also to the benefit of more or less all citizens through the creation of a more productive or otherwise more appealing society. But in general, it seems likely that a representative who works for such an egalitarian policy for the whole society will risk harming the interests of his or her constituents, who may not directly benefit from, but may directly pay for, the programs that enhance educational equality. Some things that a representative might seek for his constituents can most readily be attained if they are provided for all those in the relevant class. For example, the best way to guarantee a minimum wage for my constituents might be to legislate it for the entire nation. Hence, I might act in a way that is similar to the actions of a Burkean or Millian representative concerned with the general welfare and not merely with the welfare of my own constituents.

We could stipulate other "moral constraints" on representatives, such as seeing to the constituents' moral development or their religious beliefs. These two purposes were ruled out by the American constitutionalists, although they have been stipulated to be a large part of the mandate of government by many other regimes. In American politics there have been major movements that advocate the use of government for other purposes, for example, the social-agenda crowd that wants regulation of values, the mercantilist-statist Right that wants government to protect business interests, or the socialist-statist Left that wants government to restructure society to achieve greater economic equality.

[41] Mill, *Considerations on Representative Government*, 390, 392.
[42] Ibid., 389.

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Additionally, we can probably claim that part of the role morality of some government officials in the United States is to defend individual liberties, such as those defined in the Bill of Rights. For many officials, such as legislators, the defense of liberties requires merely refraining from infringing them, although, on occasion, legislators might be called upon to devise new protections, and other officials, especially those in the justice system, might be expected to defend liberties against official abuse. It is primarily the judiciary that has the function and, therefore, the role morality to defend civil liberties. Elected officials and appointed officials, such as the U.S. Attorney General, frequently find civil liberties an annoyance.

Finally, we might wish to press upon legislators as part of their role morality the more general purpose of working for the interest of the entire public, and not merely for their constituents. In a variant on my example of education, many legislators who represent districts in which education meets reasonably high standards might be expected, nevertheless, to vote for legislation mandating such standards for the entire nation, not in order to enhance political competence (as in my original example), but to enrich the life prospects of those who would benefit from the new programs. The votes of these legislators would serve not the interests of their own constituents, but only, in some sense, the broader public good or even only the interests of other citizens outside their constituency, possibly even at a substantial cost to their own constituents. If the policy were seen as a public good, then support for it could easily be justified on Burkean or Millian grounds, but it might sometimes also be argued on the ground of concern for political equality, in which case it would be an outgrowth of a conventional morality.

Clearly, none of these conventional moral principles for legislators is strongly backed by the electorates of many democratic nations. These are in many cases idiosyncratic views endorsed by activists of various stripes, not views inferred from the logic or nature of representation. Some of them might be backed by particular moral theories, such as utilitarianism, which might also back the institutions of representative government, but the principles are still not inherent in the nature of representation.

C. Conflicts of interest

Finally, we ought to consider one aspect of the role morality of anyone who acts as an agent for anyone else. All agents must avoid conflicts of interest that could lead them to benefit themselves at the expense of their principals. If our elected officials are our agents, then they must adhere to this constraint. The problem of conflicts of interest raises what is apparently the most striking difference between traditional professional ethics and any plausible ethics for elected officials: both the traditional professional and the elected official are agents on our behalf, and we want them to act in our interests, but the politician's position is far more complex than that of the traditional professional. For example, every doctor to

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whom I go as a patient should be my agent. But a representative can be seen as my agent and not yours in a meaningful and important sense if I voted for this representative while you voted against her. You cannot claim that she should work for your interests in the same way that I can, because she should act for the majority who elected her, including me, more than for those who opposed that majority.

Moreover, you might want to have her removed from office if she engages in practices that seem to benefit herself at public expense. I might not want her to be removed because I suspect that any replacement would be less committed to serving my interests. Consider the complications that might factor into opposition or support for a politician aside from the merits of any charges against him. As a real-world example, consider the positions of those who supported or opposed the impeachment of President Clinton and his removal from office. (The concern in his case was not over any abuse of office for his own interest.) Obviously, there was a substantial correlation between one's position on these moves and one's interest in having Clinton continue in office. Similarly, supporters of Berlusconi and his Northern League have argued that court actions to try him for bribery are politically motivated and opportunistic and, as I previously noted, they support legislation that would protect him from prosecution.[43]

If we are legislating in advance, when there is no political valence to corruption, then we might all agree that acting from certain classes of conflict of interest should be punished by removal from office. When there is an actual case, you might favor removal while I do not, because your interests are served by removal and mine are not. The role morality for the officeholder will then be whatever we have stipulated by law and will not be colored by our own interests in removal or retention of a particular person in office. We could sensibly say that there is a public interest in blocking certain classes of conflict of interest.

VII. Conclusion

If democracy were strictly representative, then government would be an epiphenomenon determined by the wants and interests of citizens, as in the view of political scientist Arthur Bentley (1870–1957).[44] It is not merely an epiphenomenon, though, because citizens' interests and demands are only weakly determinative. Government takes on a life of its own that has much to do with the elevation of political leaders to a peculiar aristocracy. This aristocracy is not the oligarchy of Michels, because its members are far more subject to election, and they can occasionally be unelected by the larger public. Michels's oligarchs were subject to control only within their organizations, not by the larger public.

[43] Bruni, "Italy, a Land of Tolerance."

[44] Arthur F. Bentley, *The Process of Government* (Chicago, IL: University of Chicago Press, 1908).

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A saving grace of aristocratic representative democracy is that, in any case, democracy works at all only where there is fairly broad consensus on political order and, commonly, civil liberties. This consensus means that most citizens need merely acquiesce in allowing government to run or intrude into large parts of their lives. As political scientist Robert Dahl says, "In a sense, what we ordinarily describe as democratic 'politics' is merely the chaff. It is the surface manifestation, representing superficial conflicts. [These] disputes over policy alternatives are nearly always disputes over a set of alternatives that have already been winnowed down to those within the broad area of basic agreement."[45] This is roughly Tocqueville's view as well: "When a community actually has a mixed government—that is to say, when it is equally divided between adverse principles—it must either experience a revolution or fall into anarchy."[46]

We should qualify Dahl's claim with the note that "the broad area of basic agreement" need only be an area in which the politically effective groups are in agreement. Indeed, it need merely be an area in which the aristocratic political class is in agreement while the rest of the population basically acquiesces.[47] We might revise the Dahl and Tocqueville view to fit current conditions and say that much of the chaff of politics today is more nearly a part of the image than of real policy-oriented concern in its own right. For example, the chaff of Gary Condit's life dominated the media for weeks until it was reduced to its properly trivial status by the terrorist attacks of September 11, 2001.

Finally, note the irony that it is only because citizens began to be somewhat educated that representative democracy could arise in a large state (although the state's capacity to take a census and its technological capacity to collect votes have also played roles).[48] Yet it is the limits of citizens' understanding that makes it difficult for us to assess the quality of the very representatives we elect and, in particular, to determine whether they live up to any role morality we might assign to them. In the face of current trends in electoral motivations, it seems unlikely that the electorate consistently has in mind any role morality, either conventional or functional, for the media masters we put in office.

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[45] Robert A. Dahl, *A Preface to Democratic Theory* (Chicago, IL: University of Chicago Press, 1956), 132–33.

[46] Alexis de Tocqueville, *Democracy in America*, 2 vols. (1835, 1840; reprint, New York: Knopf, 1945), 1:260.

[47] Russell Hardin, *Liberalism, Constitutionalism, and Democracy* (Oxford: Oxford University Press, 1999), chap. 4.

[48] Scott argues that a state's capacity to keep records on us or, in his term, to make us 'legible' allows the state to control us in various ways, such as by raising taxes and armies. This capacity also makes it possible to determine just who is to be represented in a modern democracy. Indeed, the U.S. Constitution requires a periodic census primarily for the purpose of allocating seats in the House of Representatives according to state populations so that representation is relatively equal.

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