

R. Brooks, October 31, 2016.

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Addressing Conflict & Political Address

The following are shortened preliminary chapters of a book project exploring the ways in which we address one another, with an emphasis on the role of law. Address exerts a profound influence on our civil, political and social lives. These simple, often mundane, acts of civility, contempt, deference, insolence and politeness are essential aspects of social order. Titles and forms of address are common in cultures throughout the world. There is a reason for this. They are elemental features of society. Titles and address coordinate behavior from the ground up, subtly yet forcefully guiding individuals through everyday encounters.

I have attached excerpts from chapters three and four. Both are incomplete, preliminary and rough, especially the fourth. Chapters 1 and 2 are available on request to workshop participants, but are not at all necessary for the discussion. I am eager for suggestions, corrections and arguments, for and against what I have written. Please forgive the typos and other errors.

all best, -Rick

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Every encounter, no matter how brief or banal, may escalate into violence. Wherever and whenever people come together there is always a threat of assault, wrote Erving Goffman, “each person becomes a potential victim or aggressor in the potential occurrence of violent interpersonal actions, such as physical or sexual assault, blocking of the way, and so forth.”¹ Beyond their capacity to issue or be subject to physical harm, parties to an encounter are also “in a position to accost or to be accosted by others for the purpose of initiating a state of talk—... they can command and plead with each other, insult or compliment each other, inform and misinform each other.”² So much can go wrong, terribly wrong, in any encounter. Managing the latent violence of mundane encounters is the most basic achievement of civil society. How is this feat accomplished? Thomas Hobbes famously argued that pre-political societies escape their unmanaged violent “state of nature” by subjecting themselves to the greater violence of the Leviathan, the State. Yet even before the State, families, clans, tribes and other informal groupings relied on norms— rules of social engagement, including forms of address and other speech conventions like modulating tone and volume of voices—to defuse the dangers inherent in their routine encounters. They had to!

State and society is simply unimaginable without first solving “the problem of maintaining orderly activity internal to the encounter.”³ Maintaining orderly activity, however, should not be confused with avoiding dominance and subordination within encounters. Dominance is entirely consistent with avoiding direct conflict and violence so long as others present at the situation appreciate their subordinate roles. Situational subordination,

moreover, is often the best response when facing a dominant counterparty or someone who expects to be treated as such, whether or not deference is otherwise merited. Civil address, through which parties learn or affirm their roles and the expectations of others, is arguably the primary means of bypassing unwanted and unintended conflict and violence. There is a further subtlety to see in encounters of civil address. While careless or impolite address (e.g., slights, insults, curses) are often precursors to violence and are themselves instances of conflict, considered and polite address can facilitate even greater harm. Civil address is used not only to avoid violence, but also to achieve it, and in an orderly and most effective manner. Hence, even the Hobbesian State relies on these ancient forms to refine and perfect its own violence.

Controlled Violence

Consider the exchange below, from the courtroom of Judge Elie L. Holton, where an attorney, M.C. Pritchard, questioned George Street in a manner the opposing counsel, Millard Farmer, found objectionable.⁴ “Q.”, indicates a question from Pritchard to Street.

Q. When did this take place, *George*?

Mr. Farmer: *Your Honor*, may I object to I don’t mean to harass Mr. Pritchard too awful much, but we will refer to our client George Street by his first name, because that’s an affectionate way that we feel about him. And, we’ve known him a period of time. But, we would insist that when he is referred to by the prosecutors that he be referred to as Mr. . . .

Mr. Pritchard: In other words, . . .

The Court: I will not direct you to do that.

Q. Do you have any objection to me calling you *George*?

Mr. Farmer: Yes, *sir*, *Your Honor*, I object to . . .

The Court: Objection overruled. You may ask the question.

Mr. Farmer: *Your Honor*, ...

The Court: The objection is overruled. The objection is noted in the record.

Q. *George*, when did Mr. Strickland . . .

Mr. Farmer: *Your Honor*, I object again to him calling my client *George*. ... He is not his friend. He is trying to have him electrocuted.

“Not even the facade of civility,” wrote Robert Cover, “can obscure the violence of a death sentence.”⁵ Farmer would not allow Pritchard’s colloquial address to conceal the violence he sought to levy on Street, himself a convicted murderer. Both men, Pritchard and Street, had a personal awareness of what it took to kill someone and were willing to use instrumentalities available to them for that purpose. Their distinct means and approaches, however, well-illustrate the difference between senseless and thoughtful orderly violence.

Context provides the fundamental distinction between the means and approaches of Street and Pritchard.⁶ Whereas Street acted within a social context seeking to inhibit killings, Pritchard occupied a role within an institutional setting designed to overcome this inhibition. Individuals opposed to capital punishment, for instance, are prohibited from sitting as jurors in the non-sentencing (“the guilt”) phase of capital trials, rendering so-called ‘death-qualified’ juries, which exhibit strong biases toward conviction and execution.⁷ Death qualification is an obvious mechanism for limiting conflict among jurors and other courtroom participants, which further facilitates the institutional administration of violence. Forms of address may be a less obvious but no less important mechanism that serves the same purpose. Some background on the case may clarify the point.

In the courtroom exchange above, reproduced in a 1981 Federal Court of Appeals case, Street was being questioned by Pritchard in the second sentencing phase following his conviction for a murder, which occurred on October 14, 1974. That morning Street’s common-law wife, Ruby Taylor, was raced to the local emergency room. She was pregnant and had gone into labor. They lacked health insurance. Hospital staff told Street that his wife would not be transferred from the emergency room into the hospital without adequate assurance of payment for her expenses. He then left the hospital, hailed a taxi, and directed the driver to several homes, where he sought to borrow money, without success, from various friends and family members. At the last stop, which turned out to be a deserted home, Street and the cabbie, M. B. “Red” Herrin, argued over the mounting taxi fare.

At the deserted home the police later found a trail of blood running from the front yard through the abandoned house into the backyard and over to an old well. Bloodstains curled around the well’s curved wall and disappeared into the water. Reaching over the well wall, the police chief used a pike pole to assess the bottom, but the water was too deep. Then, secured by a rope, the chief himself was lowered into the dark water, where he continued to stir the pike pole until he hooked something. A right shoe first surfaced, still laced to the foot of a man floating upside down in the well. It was Herrin. His bloated body stretched at the seams of more than a dozen

knife cuts. An autopsy identified 14 recent stabs and slashes to his torso and body. The coroner reported “[t]he cause of death was multiple deep knife wounds and drowning, the latter possibly being the terminal event.” It is difficult to imagine a more horrible death—bleeding, drowning, completely submerged upside-down in a dark narrow wellshaft.

Street killed Herrin, in self-defense, he claimed. Words of address were no doubt exchanged between them. Their address in all likelihood escalated, rather than eased, the conflict between them, which was messy, bloody, passionate and senseless.⁸ Killing a man over a \$38 cab fare could hardly be the product of a sensible or rational plan. Later chapters will discuss how address contributes to this kind of ‘senseless’ ‘irrational’ violence. For now the focus is how address controls anticipated planful violence, which exists in its most refined form when the State kills Citizens.* Itself unable to take life, the State must enlist numerous individuals, in various roles, to do its killing. Nor do judges themselves ever kill defendants, or executioners themselves. To execute a convicted defendant, within the U.S. constitutional order, requires a vast “system of roles,” as Robert Cover has observed, wherein “the social cooperation of many others, who in their roles as lawyers, police, jailers, wardens, and magistrates perform the deeds which judicial words authorize.”⁹ Oddly enough, the system of roles seems to enlist even the obliging participation of the defendant, whose “world is threatened. But he sits, usually quietly, as if engaged in a civil discourse.”¹⁰ All these actors know and keep their roles in no small part with the aide of forms of address.

Address contributes greatly to the maintenance of violence in our legal order. It recalls and reinforces the hierarchy of authority required to execute commands, which ordinary individuals (lawyers, jurors and members of the courtroom audience among others) might otherwise eschew.¹¹ To illustrate, let’s return to the case at hand. At his initial trial, Street’s self-defense claim was rejected by jurors. They convicted him of murder

*As Robert Cover noted, this “well-coordinated form of violence is an achievement. The careful social understandings designed to accomplish the violence that is capital punishment, or to refrain from that act, are not fortuitous or casual products of circumstance.” Our expectation of “near perfect coordination” is so great, that its failure disturbs even otherwise indifferent observers. For many, the recent embarrassment of American capital punishment system was not that innocent persons are sometimes executed; Type I errors are predictable outcomes even in highly rational, fair and efficient criminal justice systems. Rather it was the messy and amateurish manner in which state killings were carried out when it became difficult to acquire drugs for their lethal injections. All pretense of rational sanitized execution was lost on April 29th 2014, when the state of Oklahoma executed Clayton Lockett with a mixture of drugs put together by non-medical professionals that left Lockett thrashing and screaming for three quarters of an hour. “‘This shit is fucking with my head,’ he said, head bucking, before he finally died.” S.M., “Death-penalty drugs: Dangerous cocktails,” *The Economist*, April 29th 2015. See also, Jeffrey E. Stern, “The Cruel and Unusual Execution of Clayton Lockett,” *The Atlantic*, June 2015.

and sentenced him to death. The United States Supreme Court vacated the death sentence, on technical grounds, remanding the case for rehearing on the sentencing aspect. It was at this rehearing where Pritchard kept calling Street by his first name, leading Farmer to scathingly remind those present that Pritchard is not Street's friend but is rather "trying to have him electrocuted." As Judge Holton responded to the objection, the exchange continued in revealing form.

The Court: Objection overruled.

Q. *George*, when did . . .

Mr. Farmer: *Your Honor*, I object to him referring to our client . . .

Mr. Pritchard: . . .

Mr. Farmer: . . . by any name . . .

The Court: Don't get up . . .

Mr. Farmer: . . . at all.

The Court: Have a seat. *Mr. Sheriff?*

Sheriff: Yes, *sir*.

The Court: Sit this gentleman down by the name of Mr. Farmer. Don't make that objection again. I will let you have it as a continuing objection throughout the trial.

Mr. Farmer: May we be heard?

The Court: No, *sir*.

Mr. Farmer: May we put up evidence?

The Court: No, *sir*.

Mr. Farmer: *Your Honor*, may we argue this motion?

The Court: No, *sir*. It's already been argued all the Court is going to hear it.

Mr. Farmer: *Your Honor*, may I . . .

The Court: No, *sir*.

Mr. Farmer: May I have time to prepare a motion?

The Court: No, *sir*.

Mr. Farmer: *Your Honor*, may I prepare a motion?

The Court: No, *sir*.

Mr. Farmer: May I make an offer of proof?

The Court: No, *sir*.

Mr. Farmer: May I confer with my client?

The Court: Not at this point, no *sir*.

Mr. Farmer: May I advise . . .

The Court: Your client is on the stand just like . . .

Mr. Farmer: . . . my client regarding his rights?

The Court: . . . Don't interrupt the Court. Your client is on the stand. You put him on the stand just like any other witness. He will be treated just like any other witness.

Mr. Farmer: *Your Honor*, I . . .

The Court: No better or no worse.

Mr. Farmer: I didn't put him on the stand to have him discriminated against.

As the tension between them escalates, note the heightened civility (which is not to say politeness) in Holton's expressions, addressing Farmer as *sir* repeatedly and referring to him as a *gentleman* and as *Mr. Farmer*, even as he orders the sheriff (calling him *Mr. Sheriff*) to restrain Farmer. Likewise Farmer maintains an appropriate deference, even a distant formality with the repeated use of "we" near the start (i.e., may *we* be heard? may *we* put up evidence? may *we* argue this motion?), which he switches to "I" as their exchange becomes more heated and personal. Still, while being confrontational, both men maintain civil forms. Their exchange might have continued along this line but for what came next:

The Court: Overruled. Now, don't make that objection again. You have a continuing objection. I mean about the calling him by the name of George.

Mr. Farmer: *Your Honor*, do you object to me calling you Elie?

A line was now crossed. Farmer begins with *Your Honor* but ends with a reference to the judge's first name, Elie. It was an obvious challenge. Holton responds not by saying how dare you ask *me* that question, but by directing Farmer's comment to the institution. In his response, Holton shifts Farmer's address away from himself, as an individual or even as a judge, toward *the Court*, the law, and in doing so enlisted another set of coercive mechanisms.

The Court: *Mr. Farmer*, do not ask the Court any such question as that. That is a direct confront of the Court of its authority. If you do that again I will consider it as a contempt of this Court.

Mr. Farmer: What, *Your Honor*, may I ask *the Court*. I want to inquire . . .

The Court: *Mr. Farmer*, this Court finds your continual interruption of the Court, your refusal to allow us to continue with examination of this witness to be in contempt of the Court. This Court so finds you in contempt of Court. It is the judgment of the Court that you are in contempt of Court. It's the judgment of the Court that you be sentenced to the common jail of this county for a period of 24 hours. *Mr. Sheriff?*

Eight days later Farmer received a second contempt judgement after accusing Holton of participating in and covering up efforts to discriminate against his client:

The Court: All right, *Mr. Farmer*, the statement that the Court wants to cover it up is a direct contempt of this Court, knowingly made by you. I have repeatedly warned you about this. Again you have sought to make that statement. The Court finds you in contempt of Court, *sir*, again. The Court sentences you to 3 days in the county jail, ser . . .

Mr. Farmer: *Your Honor*, may I be . . .

The Court: . . . service to begin at the termination of this case. That's all.

Mr. Farmer: *Your Honor*, may I be heard on this?

The Court: No, *sir*.

Mr. Farmer: *Your Honor*, may I have counsel to represent me and present evidence on this issue?

The Court: No, *sir*.

Mr. Farmer: *Your Honor*, may I for the purpose of here forward understand what can be my role in representing Mr. Street as far as bringing out the reason that I feel that he is being denied a fair trial. I don't understand, *Your Honor?*

The Court: You'll have to exercise your discretion and your knowledge as an attorney.

Mr. Farmer: *Your Honor*, . . .

The Court: That’s all.

Mr. Farmer: *Your Honor*, may I . . .

The Court: No, *sir*, we’re through with that discussion. All right, call the next juror, *Mr. Clerk*.

The exchange between Farmer and Holton is a striking example *regulative mode* of address on display. We see forms of courtroom address used to maintain orderly activity in a context of extraordinary brutality and violence committed by subjects of the law and by legal officials. Address here invokes “scripts,” telling participants in the courtroom encounter (i.e., judge, defense attorney, prosecutor, defendant, witness, bailiff, sheriff, clerk, jurors, aggrieved family members, reporters and other audience) how to behave. Scripts, however, are not sufficient to assure compliance, as the exchange above illustrates. There are a number of reasons for this insufficiency. First, scripts are always incomplete, providing no explicit direction for any number of contingencies that parties may face. Second, scripts are often ambiguous or vague, leaving parties unsure about what is required of them even when there is some nominal direction. Third, parties sometimes contest or reject an unambiguous applicable script. Farmer belonged to this category.

In other courthouse encounters around the same time Farmer had been “rushed by a fist-waving prosecutor, punched by a deputy, banned from a Florida courtroom” and publicly reviled by jurists throughout Georgia. A staunch opponent of the death-penalty, Farmer specifically rejected the scripts associated with the administration of capital punishment, which he viewed as racially biased. In one case he had half of a dozen trial judges removed by asking them, under oath, if they would approve of their daughters marrying black men.[†] In Street’s case, both in and out of court, he called the prosecutor, Pritchard, and the judge, Holton, racists. Pritchard had no patience for Farmer’s approach and accusations, which he saw simply as an effort to “intimidate the court.” Pritchard refused to address Street as *Mr.*, he later told reporters, “because I wouldn’t call any man *mister*, black or white, if I knew he was a mad-dog killer.” Holton, whose home

[†]As reported in a local newspaper account, he had “six trial judges removed . . . after putting some of them under oath and asking if they would approve of their daughters marrying a black or if they would object to sharing a hotel room with one.” The same article observed “In his most publicized case, Farmer represented five blacks accused in 1977 of killing a white man during a robbery in Dawson, Ga. The defendants were acquitted after Farmer warned the jury at one point that the rural Terrell County town was ‘on trial for racism’.” “Newman attorney Millard Farmer: Death-penalty opponent handles cases by challenging the legal system” Georgia newspaper article [get exact cite]. [Note the absence of “man” and “men” following the adjective “black”, but not “white”, in this local newspaper account.]

was picketed while Farmer sat in jail for contempt, took a more forgiving view, observing that Farmer was “a darned good attorney, but sometimes he wants to run the whole show.” And that, for Holton, was what was at stake in the encounter.

Who is to be dominant and who subordinate? In the end, Holton asserted his dominance through the threat of violence, deploying the *in terrorem* and peremptory power of contempt (which is explored in more detail in Chapter 5), but that was only after their exchange of addresses failed to coordinate the various parties engaged in the witness examination. This is important: even while rejecting the script, Farmer still sought to avoid conflict (and jail) through the *correlative mode* of address. Indeed, it was a heat-of-the-moment reference to Holton’s first name, not an address blunder, that resulted in the courtroom coordination failure. Had Farmer not slipped, if it was a slip, a continuing exchange of civil addresses between Farmer and Holton might have lead any one of them to eventually back down. Pritchard might have called Street “*Mr.*,” just to get on with the examination; Holton might have ordered Pritchard to address Street as *Mr.*, which is now required by law; or Farmer might have desisted, if he felt persistence was doing his client more harm than good.[‡] To clarify the dynamics and distinctions of these modes of address in managing conflict, the next section introduces the stylized depiction of conflict know as the hawk-dove interaction or game.

Hawks and Doves

The hawk-dove game is a general representation of situations where individuals (or players) choose from two actions—one more aggressive (*hawk*) and one less aggressive (*dove*). Real world examples are easy to find. Imagine two drivers approaching an intersection where one or both might acquiesce to the other or accelerate through; or take two parties (spouses or business agents) negotiating from positions of conciliation or conflict; or a couple of steadfast pedestrians about to walk directly into each other on a sidewalk unless one steps aside; or a judge and a lawyer at odds about the treatment of a witness on the stand. A two-person version of this game is shown below in the matrix below, where each cell (labeled i, ii, iii or iv) depicts the outcome from combinations of the players’s various actions.[§] When both

[‡]It is worth noting, around the time, that “only two juries in the 200 or so capital cases in which [Farmer had] participated have returned a death verdict.”

[§]Player 1’s actions are depicted along the rows, while player 2’s actions are shown on the columns. Player 1’s outcome is shown in the lower left corner of each cell, while player 2’s in the upper right corner.

are aggressive (*hawk, hawk*), cell (i), the *worse* possible outcome results for each player. When one party is aggressive and the other is not, cells (ii) or (iii), the one who plays *hawk* gets the *best* possible outcome, while the less aggressive party gets a *good* outcome, but would have had a *better* outcome had the other party also chose *dove*. This is the basic structure of the hawk-dove game, which is easy to describe but can be tricky to solve.

		Player II	
		hawk	dove
Player I	hawk	worse worse (i)	good best (ii)
	dove	best good (iii)	better better (iv)

To more easily see the solution, or equilibria, of this game, the terms describing the outcomes in each cell have been replaced by numbers, that fully preserve the basic structure, in the matrix below.[¶] Thus, the payoff to each player when both are aggressive (*hawk, hawk*) is -2, which is the “worse” outcome for the players. When they are both less aggressive (*dove, dove*) each gets a payoff of 1—a fine outcome, indeed “better” than being a *dove* to a *hawk* and getting 0, but not the “best” outcome a player can achieve when the other player plays *dove*. That is, when Player I plays *dove* (the bottom row of payoffs apply) Player II gets a higher payoff (i.e., 2) from playing *hawk* instead of *dove*. And, should Player II in fact choose to play *hawk*, Player I can do no better than to play *dove* (securing a payoff of 0 rather than -2 by playing *hawk* too). Player I choosing *dove* and Player II choosing *hawk* is a Nash Equilibrium: neither player has incentive to change strategy given the other player’s strategy. By symmetry, Player I choosing *hawk* and Player II choosing *dove* is also Nash Equilibrium.¹² From a shared welfare perspective, it doesn’t matter who plays hawk and who plays *dove* so long as both don’t play *hawk*. But from an individual player’s perspective this is the key question. Who shall play *hawk* and who *dove*? Nothing in the

[¶]The figure with numbers below retains the nonnumerical description for the row player (in parentheses) to facilitate translation as the outcomes are characterized in terms of payoffs.

game provides any clue to this question and failure to resolve it may lead to the mutually undesired outcome where both play *hawk*.

		Player II	
		hawk	dove
Player I	hawk	<div style="display: flex; justify-content: space-between; align-items: center;"> -2 -2 </div> <div style="display: flex; justify-content: space-between; align-items: center;"> (worse) 2 </div> <div style="display: flex; justify-content: space-between; align-items: center;"> (best) 0 </div>	<div style="display: flex; justify-content: space-between; align-items: center;"> 2 0 </div> <div style="display: flex; justify-content: space-between; align-items: center;"> (worse) 2 </div> <div style="display: flex; justify-content: space-between; align-items: center;"> (best) 0 </div>
	dove	<div style="display: flex; justify-content: space-between; align-items: center;"> 0 2 </div> <div style="display: flex; justify-content: space-between; align-items: center;"> (good) 1 </div> <div style="display: flex; justify-content: space-between; align-items: center;"> (better) 1 </div>	<div style="display: flex; justify-content: space-between; align-items: center;"> 0 1 </div> <div style="display: flex; justify-content: space-between; align-items: center;"> (good) 1 </div> <div style="display: flex; justify-content: space-between; align-items: center;"> (better) 1 </div>

Yet perhaps it is not so dire. People don't usually commit themselves unbendingly to an initial decision that turns out to be bad for everyone. Rarely do two approaching pedestrians purposefully walk into each other on sidewalks. Though they sometimes do when both refuse to reconsider their course of action. More often after observing that the other player has also chosen to play hawk, each player decides whether to stay with the initial decision or change to dove. Their interaction is dynamic and each moment that the players simultaneously determine their actions can be thought of as a distinct game where every instance of hawk-hawk conflict imposes some inconvenience or costs on the players. We have all witnessed someone, perhaps even ourselves, walk in the on-coming path of another person and stop just before colliding, and then attempt another route (or not) just to have another near collision because the other person also adjusted (or not), until one or the other (and sometimes very occasionally both) stood still, encouraging or challenging the other person to go around. This dynamic interaction has an equilibrium, similar to that of the one-shot game, where it is expected that Player I will choose dove and Player II will choose hawk following any number of previous hawk-hawk near misses. There is also an equivalent equilibrium where in the next moment Player I is expected to choose hawk and Player II to choose dove irrespective of their prior interactions. As with the one-shot game, an expectation that either player will play hawk supports an equilibrium where the other plays dove, just as an expectation that one will play dove supports an equilibrium where the other plays hawk. The dynamic game is a little more complicated and perhaps a lot more realistic, but there is still nothing in the game that resolves the

indeterminacy of who is going to play hawk and who should play dove for their part of the equilibrium.

Correlating Behaviors on Social Distinctions

One way to resolve the indeterminacy of the games equilibria is to take cues from outside of the game. External cues can assign the role of hawk to one player and dove to the other.^{||} For example, players might correlate their behaviors based on some observed event, like rainfall, such that when it is raining Player I plays hawk, while Player II takes that role when it is not raining. Road rules can operate along these lines, encouraging one driver to be more or less aggressive with respect to another following some mutually observed weather or road condition. More generally, game theorists have developed randomized correlated strategies (using a coin flip, for instance, to assign hawk to Player I and dove to Player II if “heads” and the reverse if “tails”) to resolve indeterminacy in coordination games like Hawk-Dove.

There is, however, no reason for the assignments to be strictly random, even if they are arbitrary. The key feature is that the players have shared expectations about who will do what in the interaction between them. An infinite number of things can bring about these expectations. For example, when two players face off, the bigger one or the surlier one may be expected to play hawk. Sex differences might also determine assignment, where tradition may establish an expectation that males play hawk in coed encounters. Any physical difference, including skin color, may be enlisted to correlate behavior toward certain equilibrium outcomes. A common history between the players might, for instance, predispose lighter skin persons to play the dominant hawk when facing someone darker, or vice versa.¹³

Social distinctions, even more than physical ones, play an essential part in resolving hawk-dove interactions in society. Social distinctions, of course, are often associated with physical differences. Appearance, demeanor, dress, audible speech and accent, apparent age and so on, all contribute to social status. Still, it is possible to isolate purely physical differences, like sex and skin color, from socially determined differences, like gender and race. These strictly social differences, which include titles, honorifics and other forms of address, coordinate much of everyday behavior by providing effective focal bases for organizing activity.** When two individuals agree on their relative social status or rank, for example, that shared

^{||}[Perhaps, elaborate on the distinction between “actions” versus “strategies” here.]

**Titles and address, in particular, can also be used to counter coordination on unwarranted criteria (like, in most cases, skin color, sex, race and gender). [Discuss Delta Airlines and black women doctors].

belief will often determine which one of the two is “entitled” to the *hawk* role and who must be satisfied with *dove*.

Persons assigned to play *dove* based on their status may not like it and might even resist it, but they can do no better in the immediate instance than to follow their assignment. Importantly, it is not fear of sanction or retribution that leads the player assigned *dove* to comply. Compliance follows from the reasonable expectation that the other player will play *hawk*, and given that belief there is nothing to be gained from deviation. It is in this way that fulfilling the roles assigned by one’s social categories facilitates coordination and avoids conflict. However, merely because it is useful, in some sense, to conform to the expectations of one’s social role, does not mean that those expectations will be or should be followed.

Roles, Scripts and Strategies

When and whether to follow the dictates of one’s role are deeply normative questions, whereas the Hawk-Dove game offers only a descriptive account. It is simply a heuristic for considering a stylized form of coordination. Several points are worth noting about the game as thus far described. First, the outcome of the dove-dove strategy combination may be socially preferred to the hawk-dove ones. The summed payoffs are the same for all these outcomes (i.e., 2), but they are shared equally when both players choose dove and perfectly unequally when one chooses hawk and the other dove. Even if there was some way to costlessly tax and redistribute the gains of the one playing hawk so that both players end up with an equal post-tax payoff, or some manner of alternating play so that the payoffs are equal on average, there may still be societal value in having both players choose the same strategy, the less aggressive one, or in denying to any player the more aggressive strategy.

In addition to serving some larger societal purpose, discouraging aggressive play may also be jointly better for the two players. Imagine, for example, that the payoffs for the dove-dove strategy combination were changed from 1 to 1.5, while keeping everything else the same. There would be no change in the pure strategy equilibria of the game, where one player chooses *hawk* and the other *dove*. But now that *dove-dove* strategy combination creates a summed payoff of 3, which is greater than what is produced by any other strategy combination. In this case, society may have a strong incentive to discourage playing *hawk* with legal or social sanctions.

On the other hand, the payoff for each player when both play *dove* could also be changed from 1 to 0, without affecting the pure strategy equi-

libria. Now the *hawk-dove* outcome leads to the greatest joint payoff. A society, in this case, may wish to encourage hierarchy; or perhaps not. Broader societal norms of egalitarian engagement may trump efficiency gains from certain *hawk-dove* exchanges. One can say that such considerations are strictly outside of the game and ought to be discarded, as they have nothing to do with what is optimally determined within the game. But, of course, looking outside of the simple game structure is precisely what must be done to assign actions to players in games with the multiple equilibria. It seems somewhat artificial to say that parties look beyond the game in forming expectations about who will play *hawk* and who will play *dove*, but take no other cues from society.

At the same time, social expectations do not dictate individual behavior. Prescribed norms of behavior are necessarily incomplete.¹⁴ Typically, they only suggest behaviors that should be, or are generally, taken in certain contexts. There remains unspecified contingency in all social interactions, which make the relationship between role and behavior indeterministic. Social roles, moreover, in many contexts offer no unique prescription because individuals occupy multiple roles. *Mother, citizen, lawyer, spouse, employer, daughter, activist, teacher* are social roles that a single person may simultaneously occupy. Situational indeterminism cannot be resolved by prescribed conduct when multiple roles offer differing and conflicting prescriptions.

Additionally, it may be unclear what conduct is called for with any given role or status. Dominant individuals sometimes choose *dove* despite their higher status. This observation raises a fundamental question. What does it mean to play *dove*? Any particular hawk-dove exchange must be considered in light of broader structured interactions that define the individuals' social context. At any moment, choosing the less aggressive strategy can be an indication of a player's dominance—a dominance so evident the player can afford to be generous. Playing *dove* may also create status for a player, in the way that ritual offerings function in traditional gift economies. These rituals are observed in market economies too, of course. Thorstein Veblen described them in the behavior of the gentlemen who enlisted both friends and competitors to demonstrate pecuniary prowess by offering “valuable presents and expensive feasts and entertainments.”¹⁵ Whether gift rituals like potlatch and expensive feast originated in religious or redistributive aims (such as, allowing a subordinate to acquire the better outcome in some particular instance), there is little doubt that these practices endow the giver with honor and status.

Furthermore, an individual's behavior is also importantly determined his or her personality. Some people are simply hawkish and their behaviors are determined as much by individual temperament as they are by social

role. Others have a preference for dove-like conduct, conciliation and sharing being prized by them more so than personal accumulation of material gains. Furthermore, being familiarized, socialized or habitualized with or within certain roles or statuses, “with their characteristic value-orientations, may so affect the formation of personality as to make it sometimes more, sometimes less, difficult to act out the requirements of other statuses.”¹⁶ These are all important caveats, and must be kept in mind in evaluating the predictive and descriptive value of the rational-strategic structure of the interaction. All of the above notwithstanding, there are still useful lessons to be taken from the simple Hawk-Dove game.

The potential for conflict in certain encounters are often addressed by observable social distinctions. Social distinctions create shared expectations of appropriate behavior, which parties may use to coordinate their actions. When they act in accordance with shared prior expectations, individuals tend to avoid conflict and they preserve the status quo. Titles and social roles serve this function exceptionally well, although they are not the only means of establishing social distinction in encounters. Dress, demeanor and even consumption, in everyday and ceremonial forms, all indicate social distinctions that can be enlisted to correlate strategies, as well as spatial distance and gestures, like handshakes, nods and winks. Yet among all these conventions, titles and address represent a particularly universal and effective means of relating people and coordinating expectations. More fluid than dress, more flexible than demeanor, titles and address are pervasive and effective coordination devices for controlling violence in Hawk-Dove situations and other conflictual interactions.

A final lesson to be drawn from the discussion of roles in Hawk-Dove encounters concerns the distinction between “scripts” and “correlated strategies.” Scripts provide independent self-focused instructions for action. Correlated strategies are dependent and outward looking. Parties look to the actual existing context, not to the one presupposed by the script. An analogy may clarify. “All the world’s a stage,” wrote Shakespeare, “And all the men and women merely players.”¹⁷ Players in a Shakespearian play may proceed adequately by following the script—their lines and stage directions. Scripts in the real world, however, as mentioned previously, tend to be ambiguous, vague and incomplete, forcing players on the world’s stage to improvise based cues not in the script.

To be sure, not all scripts in the social world are so indefinite. Some social roles come with highly articulated scripts (i.e., strictly prescribed conduct) especially when partnered with particular counterpart roles, like *parent* interactionally partnered *child*. When paired in such interactions role-occupants tend to follow well-known scripts. These role-pair scripts

tell individuals what to do—how to behave—in their interactions with each other. If everyone follows her script and if the scripts are “written” to avoid conflict, then coordination is assured, even absent any regard for the expectation of others. The clearer the script the better. “It is relatively easy to decide who is dominant,” observed sociologist Roger Gould, in context where “the people in them occupy roles for with there is an explicit terminology. Children and parents, workers and employers, slaves and masters typically have a vocabulary for the way they relate to each other.”¹⁸

The more explicit the terminology and the distinctions of rank, the less likely violence and conflict will result, continued Gould, as “only one person can plausibly lay claim to preeminent status, at least if the rules are followed.”¹⁹ Yet it is often not sufficient, or necessary, to rely on a belief that the rules will be followed. When, in particular, the terminology of role is unclear or the distinctions of rank are ambiguous, it would be silly to leave one’s face buried in the pages of a script. Parties, instead, look to counterparties and contexts for cues of how they expect to be treated and received in their interaction. Titles and address provide essential clues. Titles, in the broad sense of encompassing social labels, relate members of society to each other—doctor to patient, citizen to police officer, customer to clerk and so on. Beyond these dyads, parties are often subsumed within role-sets that further situate and regulate their behavior, as described below.²⁰

Regulating Role-Sets

A role-set should not be confused with the “multiple roles” that a single person might occupy at any time, such as *mother*, *lawyer*, *niece*, *employee*, *veteran*, *daughter*, *citizen* and on. These roles (or “statuses,” “social positions,” or “social statuses”) come with norms that prescribe various, and often conflicting, demands on an individual occupying them. A young *associate* at a law firm, who is a *parent* to a young child, will often face great difficulty balancing competing social expectations of those two roles alone, particularly but not only when the *parent* is a *mother*. Adding more roles only makes the balancing more challenging, but it is important to see this challenge, ultimately, as a personal one. It is a question of how an individual chooses allocates her time, attention and recourses across the multiple roles she occupies. Role-sets face a different problem, one that is interpersonal rather than personal, because role-sets characterize associated roles, simultaneously occupied by different persons. Each role or social status has complementary roles or statuses.

For example, *mother* is associated with *son* and *daughter* as well as with *father*, while *lawyer* is generally in interactional role-relationships with

client, partner, secretary, clerk, judge, opposing counsel, bailiff, and so on. Someone who is a *lawyer* will, of course, interact with people in other roles too, such as a *babysitter, parent, neighbor, doorman* and *surgeon*, but typically, hopefully, not in her role or status as *lawyer*. In her role or status as *lawyer*, the essential interpersonal problem is, as Merton put it, “identifying the social mechanisms which serve to articulate the expectations of those in the role-set so that the occupant of a status is confronted with less conflict than would obtain if these mechanisms were not at work.”²¹ In organizational settings, address is often the central mechanism that articulates expectations in order to mitigate conflict.

Conflict within role-sets is inevitable. Occupants of connected roles or statuses develop different interests and values, not only due to inherent operational conflict between some roles, such as between prosecutor and defendant, but also, and significantly, as a result of the very processes of social differentiation that lead particular individuals to occupy distinct roles within the set. Moreover, “to the extent that members of the role-set themselves hold substantially differing statuses, they will tend to have differing expectations (moral and actuarial) of the conduct appropriate for the status occupant.”²² Add to this a greater frequency and intensity of interactions within many role-sets and the likelihood conflict becomes increasingly certain.

Merton proposed a number of mechanisms that work to counteract the structural tendency toward conflict within the role-set. Some mechanisms are based on the relative importance, power and authority of the roles in the set (e.g., a judge’s evident supremacy over the courtroom bailiff reduces potential for conflict not only within the judge-bailiff dyad, but also in the judge-jury and lawyer-bailiff dyads among others). Additional mechanisms contain conflict by limiting the observability or verifiability of dyadic exchanges within the larger role-set. Take, for example, the dispensation afforded a lawyer to speak the judge in chambers away from jurors and other audience, or the rule allowing privileged and confidential information between lawyer and client. More extreme responses might even limit or eliminate interactions within a role-dyad.²³ It is sometimes essential to abridge the role-set, e.g., limiting who may speak to whom (as well as how and when), to maintain a stronger “consensus of role-expectations among those who remain.”²⁴

Forms of address serve to articulate and maintain expectations within functional role-sets.²⁵ Address literally verbalizes expectations across role-relationships.²⁶ Conflict reduction is especially important in institutions that deploy purposeful, if not “rational,” violence. Separating senseless violence from the purposeful sort is the first task in the efficient organization of

violence. Next is to eliminate or reduce the senseless and to refine purposeful aggression. Address fulfills a key function at this stage. Think about address practices in organizations that typically engage in violence. Military and mafia address may first come to mind. Members of these organizations are trained and habituated to carry out brutal acts, and the way they address each other and their victims undoubtedly facilitates their efficient operation. Yet, the success of address regulating premeditated violence is best evidenced not by professional killers, but by the way address enlists ordinary civilians to participate in extraordinary violence—sometimes lawful (e.g., capital jurors) sometimes not (mobs engaged in lynching and stoning).

Framework, Unit of Analysis and Further Caveats

Titles and associated address do more than honor their holders. Often the status norm of titles indicates who, if anyone, is to be master of a situation and who is to be subservient. Yet, titles are not the only way to determine situational dominance. Why, then, distinguish them here from other focal coordination devices? One reason is the degree to which titles allow for complexity in relating and coordinating people. Consider, as an alternative, proximity to or possession of physical property, such as clothing, a crown, land or some other object. Possession is an excellent cue of one's dominance over property and one's perceived rights and status with respect to others as signified through that property. In this way possession of property serves a central coordination function by making clear certain expectations of behavior and discouraging wasteful conflict. Property, however, as elaborated in the next chapter, can have constraining, as well as facilitating effects on expectations in interactions. Moreover, possession does not easily distinguish among various relations and contingent claims. One's asserted dominance over property sends the same signal to all manner of those who observe it (with only a limited number variations typically observed; indeed the limited forms of possessory entitlements (i.e., *numerus clausus*) is thought an essential feature of property.

Titles, on the other hand, allow for rights and obligations that vary significantly across categories of individuals, which provides for more nuanced interactions. A hierarchy of n titles allows for $n(n + 1)/2$ unique two-party combinations of titleholders. Just 6 titles (e.g., on a hospital ward—attendant, nurse, resident, doctor, surgeon, and chief—or at a baseball game—ball boy, captain, coach, manager, umpire and fan, called sir or ma'am) will generate 21 distinct pairings, 15 of which are hierarchically nonequivalent. But having more titles comes at a price. Simple possession of property is readily observable with broad social significance, like skin

color in many cultures, making it an obvious candidate for focal coordination. A large number of titles, however, requires much shared knowledge among parties (such as that observed in the military and other hierarchical organizations) or expert interpreters (such as oracles, guilds, arbitrators and lawyers) of the words' meaning. Relying on experts would be, in most situations, very inefficient. Knowledge of titles and their rank among ordinary participants, however, is what advantages them as focal devices. "It is the great convenience of a hierarchical society," as Gordon Woods observed, "that this sort of knowledge is easy to come by and widely diffused."

[the remainder of this final section, to be completed, briefly discusses the unit of analysis; psychologically anonymous agents; partial equilibria and the totality of social encounters; treating "institutions as rules of the game" versus "institutions as equilibria", single-exit frameworks; critique of situational determinism and determinist 'linguistik-system'; and adds a few more minor caveats.].

4. political address

Article I, Section 9 of the U.S. Constitution states that “No Titles of Nobility shall be granted by the United States.” Yet foreign visitors to eighteenth century America were often surprised by the embarrassment of social distinctions and titles among the colonists. Titles were a currency of the time, in wide use and subject to inflation. General George Washington, for example, sought the presidential title *His High Mightiness, the President of the United States and Protector of Their Liberties*. He changed his mind, settling for “Mr. President,” after hearing that “His High Mightiness” sounded too much of royalty. The change of mind was telling. It was not simply a question of titles or even lofty ones. What Americans resisted by prohibiting titles of nobility, as well as corruption of blood, were the prevailing privileges and disabilities of birth.

Noble titles, their precedence and associated conventions, were the cornerstone of the inherited advantages that ordered social relations and exchanges in the countries from which the colonists came. It was not always that way. Venerable titles, like *duke* and *count*, were once based more on merit than the arbitrariness of birth. In Roman antiquity these designations marked titles of office and command over territories. Officeholders had no personal rights over the titles or the territories. All entitlements belonged to the office; the officeholder retained no power beyond the pendency his term. But over time the territories were given as spoils of military and political service, rendering the lands feudal and inheritable, and making “perpetual (being before temporary),” the holding of titles.²⁷

Titles soon ceased to signify office, although they remained attached to the territories: “the feudal dignities were those of duke, marquis, and earl, and were not mere personal distinctions, but annexed to lands.” In time, however, even then annexation to land was abandoned: “men were made dukes, counts, marquises, and barons of places, herein they had neither possession nor command.” Eventually, as Thomas Hobbes observed (relying largely on John Selden) in *Leviathan*, the old “offices of honour, by occasion of trouble and for reasons of good and peaceable

government, were turned into *mere titles*, serving for the most part to distinguish the precedence, place, and order of subjects in the commonwealth.”

Calling them “mere” titles was not meant to suggest that they were insignificant. Hobbes, in fact, thought these mere titles were essential for stable state formation. In *Elements of Law*, he emphasized the importance of shared names and appellations to escape from natural condition to the civil state. “In the state of nature, where every man is his own judge, and differeth from other concerning the names and appellations of things, and from those differences arise quarrels, and breach of peace; it was necessary there should be a common measure of *all things* that might fall in controversy” (emphasis added). While in *Elements of Law* he gives example of the need for common measure of things like what is a ‘pound’ or ‘quart’, else there will be continual fights, in *Leviathan* it clear that persons too must be measured for the same reason. “[C]onsidering what values men are naturally apt to set upon themselves, what respect they look for from others, and how little they value other men, from whence continually arise amongst them emulation, quarrels, factions, and at last war,” Hobbes continued, “it is necessary that there be laws of honour and a public rate of the worth of such men as have deserved or are able to deserve well of the commonwealth, and that there be force in the hands of some or other to put those laws in execution.”

Notwithstanding the claimed necessity “that there be force in the hands of some” to enforce the laws of honor and public rate of worth or rank, it is important to observe that a principal force behind compliance (and avoidance of conflict) was simply having a commonly known order of persons, “announced” through styles and forms of address to those present in situations of potential conflict. The sovereign’s acknowledged prerogative to declare the rank of subjects was the key enabling source of its authority.* “To the sovereign therefore it belongeth also to give titles of honour and to appoint what order of place and dignity each man shall hold and what signs of respect in public or private meetings they shall give to one another.” When Hobbes wrote this he was not suggesting that the sovereign’s statement of rank was completely arbitrary, although it could well have been, and in some cases, no doubt, was arbitrary. He had seen the sovereign’s ranking “a public rate of he worth of such men as have deserved or are able to deserve well of the commonwealth.” But deservingness should not be overstated.

Take, for example, controversy stirred after Henry VIII created his mistress, Anne Boleyn, the Marchioness of Pembroke in 1532, giving her precedence over all her rank. In doing so he disturbed the old and equitable ordering principle, true for property as well as the peerage, of priority going to those first in time. Earlier created marchionesses were surely infuriated that they had to defer to the royal mistress, yet their fury would have only revealed the exceptional nature of the king’s pronouncement. Despite the outrage they would comply with the pronouncement, not necessarily because Boleyn was worthy of the honor and dignity, nor entirely

*A popular eighteenth century pamphlet made this point exceptionally clear: “Precedency, like Forms in Parliament, considered only in itself, is ridiculous and vain: But considered as a Means to the Support of Dignity and Order, is essential to the very Existence of Authority.” *The Question of the Precedency of the Peers of Ireland in England*, 1739.

because they feared retribution from the enforcers of the king's honor regime. The source of compliance was more internal. Self-restraint and self-enforcement were the principle mechanisms of order in the king's court and, eventually, throughout the realm.

A distinction between self-restraint and self-enforcement should be observed as they relate to titles, polite address and other civil practices. In his classic work, *The Civilizing Process*, Norbert Elias described how civility and manners at court, and later in the country, taught subjects to defer their immediate, often violence, impulses. Through forms of address—along with increasingly refined standards concerning table manners, bodily functions and the like—self-restraint became internalized, which supported the conditions for early modern state formation.²⁸ Although not without its critics, Elias's thesis of court etiquette and the process of learning self-restraint undoubtedly provides great insight about violence and the modern state.²⁹ The focus of this chapter, however, is self-enforcement, which operates by a different, although not necessarily independent, mechanism.

A sovereign, as the fountain of all honor within the realm, merely had to state an order of rank and precedence to curb quarrels, factions, and war. Common knowledge of the stated order was enough to sustain deference to that order, both in public encounters and private ones beyond their gaze of the sovereign's enforcers. The ritual public practices of address and other civilities spread the knowledge of rank and the knowledge of the knowledge of that and so on. The sovereign's sole authority to determine, whether rightly or wrongly, where everyone falls along the social scale and the routines for creating public knowledge of that ordering were key to self-enforcement. Any unique ordering—established through titles, honor or other—can be enlisted, even absent external enforcement, to structure all sorts of coordinated interactions that might otherwise end in quarrels and conflicts.

circulation of elites

Hawk-Dove interactions, of the sort described in the prior chapter, offer one clear example of the way in which titles maybe enlisted to circumvent conflict. Titles and the associated conventions of styles and deferential address can create publicly observable (audible) signs that allow parties to correlate strategies. Using correlated equilibrium strategies, parties can limit the risks of coordination failure and conflict across many contexts. Additionally, titles and address are key features of social norms and practice that create (as opposed to simply 'correlate') equilibria. Consider, for instance, the common contest depicted below, known as the *Prisoners' Dilemma*.

In this interaction, each players can choose to either *comply* (i.e., cooperate) with the other player or *dominate* the other, at least attempt to do so. Mutual compliance produces an egalitarian and Pareto Efficient outcome for the parties, leaving each with a payoff of 2 in the stage game. However, if one party chooses to be compliant, the other will find it individually rational to dominate him and get a payoff of 3 instead to 2, while leaving the compliant party with 0. When the game is played once their is only one rational outcome. Each party will have incentive to

		j	
		comply	dominate
i	comply	2, 2	0, 3
	dominate	3, 0	1, 1

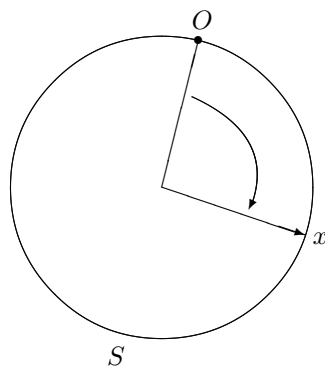
choose *dominate*, and when both do the, they each receive a payoff of 1, the worse joint outcome and the only equilibrium outcome.

Repeating the game for an indefinite number of rounds, however, other equilibrium outcomes become possible. The parties may, for instance, agree to *comply* so long as neither has attempted to dominate the other in any prior round and otherwise choose *dominate* in every subsequent round. For parties who care sufficiently about the future, the threat of facing the grim prospect of a counterparty who will never comply is enough to discourage any immediate desire to dominate him.³⁰ Or the parties can choose to take turns—one dominating while the other complies in any given round and switching in the next round—in a kind of tit-for-tat reciprocal interaction where they end up with roughly comparable payoffs. Numerous other strategies that leave the parties on average better off than the one-round interaction are imaginable.

One might presume that the parties would only, perhaps even could only, choose strategies that result in fairly egalitarian outcomes. Yet observed inequalities across societies and over time counsels this presumption. Rational inequality could very well arise in the context of this interaction with the support of social norms and institutions like polite address and conferred titles. To see this, imagine a society with some large number of individuals, who are uniformly distributed around a circle with circumference equal to distance $2S$.[†] These individuals are matched in every round through some technology to play the stage game described above. To motivate the matching technology, picture some random point on the circumference, say O , as shown in the figure below, that represents the location of player O . Now imagine a spinner set at point O being spun once. The spinner can be spun in either direction, clockwise or counterclockwise, but the pointer will not pass O .

[†]A circle seems appropriate for modeling the American-English context. Compared to the royal centrality of France, where even in “purely spatial terms” the king’s court served as the locus through which the nobility constituted itself, in England, particularly after 1688, the aristocracy relied more on “a multiplicity of focal points,” as Jorge Ardití observed, “around which action is oriented and in terms of which the group takes shape.” see Jorge Ardití, *A Genealogy of Manners: Transformations of Social Relations in France and England from the Fourteenth to the Eighteenth Century*, The University of Chicago Press, Chicago, 1998, at 218. Speaking of sixteenth and seventeenth century France, Ardití writes, “[i]n purely spatial terms—living much of the time close to each other, sharing the same routines, meeting at almost every occasion, having to overcome, together, the very real boredom of life at court—the multitude of courtiers that crowded the king’s palace were literally forced to bear one another’s company for long periods of time.” [145]

The pointer may stop at any other point on the circumference. Let's say it stops at point x following a clockwise spin. There are a number of ways we could describe the likelihood of this outcome occurring.³¹



The spinner could have some pull (drawing it away from its origin) or some resistance, making it more likely to come to rest near its point of departure. Intuitively, this means that the players would be more often matched for interactions with those who are closer to them geographically, socially or however else distance around the circle is interpreted. The circle's circumference defines the space of interaction and the spinner (possibly with resistance or pull) provides the matching technology.

Without loss of generality, assume there is neither resistance nor pull on the spinner, meaning all pairs of players are equally likely to be matched in any round. It is perhaps tempting to imagine that across many interactions and over time the payers would receive relatively equal payoffs, but what if the society on the circle's circumference is divided between noble orders and commoners. Suppose there is some mass $p \in (\frac{1}{2}, 1)$ of commoners and the rest are noble. Suppose further a social norm, similar to that proposed by Dal Bó (2007), where commoners always *comply* and noble elite *comply* only when matched with each other and otherwise *dominate*. So long as the commoners continue to follow the social norm with the threat of playing *dominate* if anyone deviates from the norm, then this norm supports an equilibrium strategy where commoners get $2p$ on average (which is greater than the average alternative payoff where everyone chooses to play *dominate*) and the noble elite get $2 + p$ on average (also better than the alternative).[‡]

A regulated institution of titles with requisite forms of address produces an inegalitarian structure where nobles receive higher payoffs and are deferred to, while they dominate those 'beneath' them and comply only with their peers. Titles

[‡] A formal appendix is available upon request. This equilibria maybe established based on a Folk Theorem result, or as I prefer, based on a simple 2-period model with community enfacement.

divide the society and styles (addresses) makes it common knowledge which actions parties expect in any round. This simple heuristic of play around the circle offers some insight into the structure of early European political formation. It is not the entire story, but is it an important part, with rippling effects across the Atlantic and over time as we shall see. First, however, a little more about the early practice.

order all the way down

Although the written Orders of precedence (in the English Commonwealth) limited their discussions to persons of higher rank—the royal family, the peerage, the baronetage, the knightage, officers of state, ecclesiastic orders, the judiciary and esquires among other privileged social groups—it is important to bear in mind that precedential order was known all the way down to and within the ranks of low commoners.³² Everyone in the feudal regime had his and her place, and this was common knowledge. They held to a strict social hierarchy, believed to be a part of the divine plan, a role for the king, the gentlemen, yeomen, artificers common laborers. At the margins, economic and social movements might influence expectation in the lower orders, which caused some trouble as merchants, artificers, and skilled craftsmen sought greater deference. Artificers in particular, it has been suggested, seemed to be not just moving up but creating their own class above other manual workers. They often took on younger sons of gentlemen as apprentices, observing and seeking to imitate the habits of the gentility. They sought to adopt manners, speech, dress and titles to signal their new status.

Early signs of a fundamental realignment of status-formation—from the old ways to the modern—were visible in market transactions contesting the sovereign’s *legitimate* monopoly to determine the social order. Someone who could afford the trappings of a gentleman might demand to be called Master; while ordinary yeomen wanted to be called goodman. These “[s]ocial upstarts, some critics claimed, not only were dressing above their station; but were expecting to be addressed above it, as well.” It is perhaps unsurprising then, as observed by the renowned professor of English, Joseph Williams, that “the first instance of sustained condemnation of any specific point of English usage concerned not word choice, pronunciation, or grammar, but how Elizabethans used titles of address such as Master, sir, and, goodman. It was the first topic in our social history through which critics alleged that a specific item of usage threatened the social order.”

This was not some pedantic hairsplitting deliberation among fussy English dons. Weighty and trivial everyday affairs hung in the balance. “[W]hen the meaner sort dropped their visible distinctions of dress, some feared that the social order was threatened both by the lack of sartorial distinctions and by the consequent inability to know how to address a stranger. The increasing absence of signs of the social order seemed to threaten the order itself.” It was not the first time (nor, of course, the last) that the market threatened to undermine established social order.[§]

[§]Contestation over the correct allocation of labor, for instance, crystalized in the famous Mill-Carlyle debate over slavery, which led Thomas Carlyle to indelibly dub economics the “dismal science,” for its failure to recognize and follow the divine social order. Releas-

By the time of Queen Elizabeth and her leading jurist, Sir Edward Coke, English titles were set apart from land. It was market that prodded this change. Titles became incorporeal hereditaments—unhinged from real property, thereby allowing alienation of land while preserving a stability of rank—because the evolving feudal regime for transactions involving property introduced glitches in the social order. “By the feudal law dignities were transferable with the feuds to which they were annexed; so that if an estate, which had been erected into a duchy or marquissate, was sold with the consent of the feudal lord, the purchaser acquired the dignity, as well as the estate.”[¶] The market thus became a separate font of honor. The effect of this was not only a challenged the sovereigns exclusive authority to determine social status, but it also confounded the focal device of known and accepted rank.

Partitioned from land, however, mere titles could be maintained without hindering the market for realty or the sovereign’s order.^{||} Separating titles from

ing labor to the impulses of the market, Carlyle argued, only magnified the governance problem of ordering differently abled actors (different by divine design):

what relations the Eternal Maker has establish between these two creatures in the respective qualities, strengths, necessities and capabilities this will be a long problem; only to be solved by the continuous human endeavor, to find the rights terms of a contract that will endure, and be sanctioned by Heaven, and obtained prosperity on Earth between the two.

Carlyle asks, “What are the true relations between Negro and White, their mutual duties under the sight of the Maker of them both; what human laws will assist both to comply more and more with these? Certainly not the laws of supply and demand, he answered,—“this of declaring that Negro and White are unrelated, loose from one another, on a footing of perfect equality, and subject to no law but that of Supply and Demand according to the Dismal Science; this which contradicts the palpablest facts, is clearly no solution, and every hour we persist in this is leading us towards dissolution instead of solution.”

[¶]Cruise, Section 6 (p. 3). See also Blackstone: “The right of peerage seems to have been originally territorial; that is, annexed to lands, honors, castles, manors, and the like, the proprietors and possessors of which were (in right of those estates) allowed to be peers of the realm, and were summoned to parliament to do suit and service to their sovereign: and, when the land was alienated, the dignity passed with as appendant ... But afterwards, when alienations grew to be frequent, the dignity of peerage was confined to the lineage of the party ennobled, and instead of territorial became personal. Actual proof of a tenure by barony became no longer necessary to constitute a lord of parliament; but the record of the writ of summons to them or their ancestors was admitted as a sufficient evidence of the tenure.”

^{||}Blackstone also suggests that the partitioning of titles from property was related to the frequency of alienation of land: “so here it seems like heredity is what causes the removal of titles from the lands annexed to them.” Requiring the sovereign’s express consent for every transfer of ennobled land would reassert the dominance of the sovereign, but increase the transaction costs of sales. Separating the land from the title may have been the lowest costs means of preserving the sovereigns authority. Blackstone provides additional reasons, i.e., occasions of trouble, which may brought about the partitioning of land and titles. In his discussion of the title “baron,” he notes that as it was given to ever more people, the title signified less, until it became a “mere title”: “A barons is the most general and universal title of nobility; for originally every one of peers of superior rank had also a barony annexed to his other titles. But it has sometimes happened that,

property solved the troubles caused by feudal realty law, it also allowed high titleholders greater capacity to exercise dominance beyond the sphere of individual fiefdoms. Landed titles entailed rights and obligations associated with properties, *in rem*, as opposed to the evolved titles, which were more *in personam*. Once titles were no longer confined by property, but rested in the person, the power of the title became as mobile as the person. Imperialist titleholders needn't expand their territorial ownership to increase their dominance. Wherever they moved they carried their dignity, and hence their capacity to dominate, with them.

In terms of the model described above, partitioning title from land would mean that the deference strategy was no longer localized. Nobles could move anywhere on the circle's circumference and expect deference. The expectation of deference itself could make deferring in response an optimal strategy. This allowed a tremendous expansion of authority by nobles over the lower orders. Colonists in America on the eve of their Revolution understood this in all its practical weight. They resisted the incorporeal hereditaments of titles and other emoluments because they knew it was an essential aspect of the political order against which they would revolt. [The remainder of this chapter explores certain historical aspects of titles in colonial and antebellum America. The following chapter pick up this history following the American Civil War.]

native titles

The early European colonists of America did not, of course, find a land devoid of status, rank and precedence. What they did observe among the native tribes, however, was not entirely familiar to them. They saw peculiar organizations of precedence and property, which they attempted to render sensible by overlaying what they knew from Europe. They look at the sachem,—the title given the chief

when an ancient baron has been raised to a new degree of peerage, in the course of a few generation the two titles have descended differently; one perhaps to the male descendants, the other to the heirs general; whereby the earldom or other superior title has subsisted without a barony: and there are also modern instances where earls and viscounts have been created without annexing a barony to their other honors: so that now the rule does not hold universally, that all peers are barons ... It may be collected from king John's magna carta, that originally all lords of manors, or barons, that held of the king in capite [in chief], had seats in the great council or parliament, till about the reign of that prince the conflux of them became so large and troublesome, that the king was obliged to divide them, and summon only the greater barons in person . . . which gave rise to the separation of the two houses of parliament. By degrees the title came to be confined to the greater barons, or lords of parliament only; and there were no other barons among the peerage but such as were summoned by writ, in respect of the tenure of their lands or baronies, till Richard the second first made it a mere title of honor, by conferring it on diverse persons by his letters patent." Additionally, as Blackstone also mentions, "[a] peer cannot lose his nobility, but by death or attainder." So "it has been said indeed, that if a baron waste his estate, so that he is not able to support the degree, the king may degrade him: but it is expressly held by later authorities, that a peer cannot be degraded but by act of parliament." Perhaps the fact that titles could not be taken away led to its dissociation from land and office.

or head of some native New England tribes—and imagined he, or she, exercised dominion over lands (which they called sachemdoms or sachemship, or the realm of a sachem) as European lords dominated their lordships. Like levels in the peerage, there was suggested that among certain tribes “[t]heir principal chiefs were called Sachems; their subordinate ones, Sagamores.” It was not an accurate translation, but by imposing some order of precedence and property over native tribes, various colonial interests were able to effectively exercise authority over sachemships without war and outright conflict. The New England Company, for instance, through a series of transactions eventually became sachem of Wampanoag lands in Massachusetts. As such the corporation could not evict tribal occupants, but it could rightly (even in the eyes of most tribal members) give orders to determine how the land would be used each season and which members of the tribe would enjoy use of which tracts.

Precedence among the early colonists was also different on the frontier than it had been in the metropole. “The wilderness environment from the beginning had threatened the maintenance of elaborate social distinctions.” Along the frontier, said Arthur Schlesinger, “it was man alone, not his ancestors, who counted.” Schlesinger probably leaned too much on the image of the frontier and the figure of the isolated rugged individual. Most colonists lived in societies where kinship mattered, even if differently than it did in Europe. The cultural, political and religious beliefs they brought along with them also continued to resonate in their daily interactions. Which is to say that they brought whole cloth the traditional practices and beliefs of the old world.³³

Moreover, the colonists relied extensively on the militia, particularly in the South, to give structure to civil society. Military rank and titles were “carried over into private life.” The military template for patterning social hierarchy was so pervasive that actual military service was often unnecessary. In Virginia, tavern keepers were called “majors” and gentlemen were “colonels,” regardless of their militia participation. Although these conventions served some local purposes, it must have been perplexing to European travelers to the colonies. As one visitor, “Edward Kimber wrote in 1746, ‘Wherever you travel in Maryland (as also in Virginia and Carolina) your Ears are constantly astonished at the number of Colonels, Majors, and Captains, that you hear mention’.” The militia was not the only source of titles. There were, to be sure, few inherited titles, like duke, earl, or baron—these English titles rarely survived on American soil—but there was no shortages of esquires, doctors, reverends, right reverends, your honors, yeomen, husbandmen, gentlemen, merchants and various tradesmen. These titles, interacting with each other, directed and maintained order within encounters, from the trivial “allocation of talking time” to the serious “inhibition of hostility.”

Social interaction among colonists was less a function of group and class membership, says Gordon Wood, than structured dyadic exchange: “most people could locate themselves only in superiority or in inferiority to someone else. Their behaviors and courtesies were always relative[,]—depending on the person with whom they were dealing.” Titles played the central role in sorting out the relatedness of people, where “the degrees of these relationships could sometimes be calculated with startling precision.” Precision followed from familiarity. When everyone knows their place and those of others it’s easy to figure out what’s required

for order.

revolution and political re-formation

Difficulties arose, however, with the great movements of people and commerce leading up to the American Revolution. Old relational structures become unsettled and new ones were created. Patronage waned as market forces extended their reach, preparing the ground for sweeping political and economic changes. These changes were reflected in the usage of titles and address. As the American Revolution approached the title ‘merchant’, once reserved for a relatively small group of elite businessmen, “lost its exclusivity.” At the same time “the designations of ‘yeoman’ and ‘husbandman’ dropped out of use [while] ‘Mr.’ increasingly came into general use among adult white males.”

In a world where all white men would be “citizens,” even radical elites feared the absence of distinctions among them would promote social conflict and political instability. Conservative calls were made to establish “an order of patricians [with] a title one degree above that of esquire” or a nonhereditary noble class to counter the imminent threat to “the most elemental principles of order and discipline in society.” The American revolutionaries were not so radical as to disregard these elementary principles. Even John Adam, a rabid advocate for the abolition of titles of nobility, argued that “it is of Consequence that the Titles denoting those Ranks should not be confounded.”

The Founders hewed to what they saw as an obvious and necessary distinction between social equality and civic equality (i.e. civil and political equality under law). No revolution could achieve the former, at least none that they imagined or desired. America’s revolution was grounded in the ideals of civil and political equality among capable white men. “In embracing the idea of civic equality,” Gordon Wood notes, “the revolutionaries had not intended to level their society. They knew that any society, however republican and however devoted to the principles of equality, would still have to have ‘some Distinctions and Gradations of Rank arising from education and other accidental Circumstances.’ ”

Some distinctions and gradations were thought natural and inevitable. Few revolutionaries believed women or inferior races could responsibly exercise civic privileges. Nor could white men, rendered disabled by God or nature, vote or engage in civil transactions with sound mind. The rest, however, were equal in law, but law could never make them social equals. This was a basic proposition to the founders of the nation. The proclaimed self-evident truth in the Declaration of Independence, “that all men are created equal,” was a statement of equality before law and the state, not before society.

Yet, however willing to their were to countenance social distinctions, the Founders were fervently committed to the abolition of hereditary titles in the new country. They feared what had become the natural imperialism of noble titles. They knew these titles allowed their holders to exercise authority without enforcers and beyond territories where they held legitimate command. If ennobled persons walked about the territorial landscape of America as privileged citizens, with their

titles and sense of precedence, they would exercise authority over ordinary citizens and always expand the scope of aristocratic authority. This effect and distrust of hereditary titles were very much part of the American revolutionary dialogue.

In 1775, Thomas Paine wrote in the *Pennsylvania Magazine* a “Reflection on Titles,”³⁴ which described an acute awareness of the tendency among the masses to unthinkingly defer to holders of noble titles. “Dignities and high sounding names have different effects on different beholders. The lustre of the Star and the title of My Lord, over-awe the superstitious vulgar, and forbid them to inquire into the character of the possessor.” Bypassing the need for inquiry into character, however, is a key aspect of the power of titles to coordinate. One needn’t assess Anne Boleyn’s character to know whether to defer to her once she was created Marchioness of Pembroke. Titles answered such questions (often given voice through polite address) and if that were all they did, Paine might not have found them so objectionable.

Commoners did not see the titles and prerogatives of nobles as simply a means to coordinate. “Nay more, they are, as it were, bewitched to admire in the great, the vices they would honestly condemn in themselves.” Titles casted a spell over the political imagination of ordinary men, argued Paine, leading them to surrender critical judgement about the rightness over the order of things. “This sacrifice of common sense is the certain badge which distinguishes slavery from freedom; for when men yield up the privilege of thinking, the last shadow of liberty quits the horizon.”

While “the reasonable freeman sees through the magic of a title, and examines the man before he approves him,” Paine feared the simpleminded masses would defer to noble titles as the pre-existing political regime had demanded of them and their ancestors for nearly a millenia. He was not alone. The mindless deference of the masses to hereditary elites was also discussed at the Constitutional Convention. In resisting popular elections as a means of electing the executive of the newly formed United States of America, Elbridge Gerry argued that “The ignorance of the people would put it in the power of some one set of men dispersed through the Union & acting in Concert to delude them into any appointment. [S]uch a Society of men existed in the Order of the Cincinnati.”

The Order of the Cincinnati—which based its name on the Roman patrician Cincinnatus, an aristocrat who twice took the title dictator, *Magister Populi*, during military challenges to the Roman Republic, and twice relinquished the title and rank after securing victory—was founded as a hereditary society for military officers who served in the American Revolutionary War. George Washington was the first President General of the Order, Alexander Hamilton was the second, and Charles Pinckney the third. The Order’s larger membership was also filled with heroes of the revolutionary war and their sons.

“They are respectable,” conceded Gerry, and through the Order they are “United, and influential. They will in fact elect the chief Magistrate in every instance, if the election be referred to the people.” Beyond Gerry, vocal critics of the hereditary Order included Benjamin Franklin, Thomas Jefferson, and John Adams among other Founders. Concerns of such threats from within, from respectable heroes of the war for American independence, along with the continuing threat from monarchs abroad, with colonial outposts bordering on the fragile Union, en-

couraging the Founders to prohibit noble titles in the Federal Constitution.

The purpose of the prohibition was viewed as apparent and essential. “Nothing need be said to illustrate the importance of the prohibition of titles of nobility,” wrote Alexander Hamilton in *The Federalist Papers* No. 84, “This may truly be denominated the corner-stone of republican government; for so long as they are excluded, there can never be serious danger that the government will be any other than that of the people.”

after the revolution

Article I, Section 9 of the federal Constitution states, in relevant part, that “No Titles of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign state.” The language followed from the Articles of Confederation, which prohibited each state as well as the states assembled (as the United States) from granting “any title of nobility.”³⁵ Individually, states also took it upon themselves to ban titles of nobility.

State constitutions, such as those of Georgia (1777), Maryland (1776), Massachusetts (1780), North Carolina (1776) and Virginia (1776), were all explicit in censuring hereditary titles.³⁶ Moreover, in 1810, the federal congress and the states reaffirmed the nation’s principle opposition to titles of nobility, when the House and Senate passed a proposed amendment to the Constitution stating that “if any citizen of the United States shall accept, claim, receive or retain any title of nobility or honour, ... from any emperor, king, prince or foreign power, such person shall cease to be a citizen of the United States.”

Threatening to denaturalize citizens for accepting foreign honorifics was too much. The proposed amendment failed to carry. But it was close. Had just two more states ratified the proposal, it would have become the Thirteenth Amendment of the Constitution. An irony, to be sure, for it was the eventual Thirteenth Amendment—adopted more than half a century later, and only after a civil war—that removed the sole hereditary distinction inscribed in the Constitution. Yet even in its failure, the would-be Thirteenth Amendment of 1810 reveals important insights about the fear and functioning of noble titles in the early United States.

Why, at this particular point, did Congress seek to disable citizens from accepting foreign titles? The congressional record is thin, but there is some evidence telling an important connection between titles and state formation. Most provocatively, some historians point to the 1803 marriage of Napoleon Bonaparte’s younger brother, Jerome, to an American, Elizabeth (Betsey) Patterson, daughter of a prominent Republican family.³⁷ The short marriage produce one child, a boy, named Jerome Napoleon Bonaparte, who was feared in some quarters to be a real threat to American republican order.³⁸ Yet his uncle, Napoleon Bonaparte, was the more credible and immediate menace.³⁹

Napoleon’s accession in France was evidence of the continuing monarchical threat to American republicanism. French revolutionaries, like their American

counterparts, had abolished titles in the wake of their revolution in 1789. And even though the American Revolution preceded France's, the latter struck a much more profound blow to monarchical order, right in the center of the metropole rather than at some distant colonial outpost. "The reason why the French Revolution was, at least up to its time, the greatest incubator of extremist ideologies, 'progressive' and 'reactionary' alike, in human history was," wrote Clifford Geertz, "because the central organizing principle of political life, the divine right of kings, was destroyed." Napoleon recognized this fact, which facilitated his grasps of the throne. But he would not leave undisturbed the ideological vacuum that allowed his rise.

In 1808, however, Napoleon reinstated titles as part of his empire building in Europe and Northern Africa. Both Napoleon and U.S. Congress understood the importance titles in securing political and social order. Titles are a kind of cultural symbol-system, an ideology as Clifford Geertz puts it, which provide "extrinsic sources of information, templates for the organization of social and psychological processes, [and] they come most crucially into play in situations where the particular kind of information they contain is lacking, where institutionalized guides for behavior, thought, or feeling are weak or absent. It is in country unfamiliar emotionally or topographically that one needs poems and road maps." In other words, it is when institutions are fragile, when they are least able to structure social intercourse, that titles, as an extrinsic source of information, may subtly guide behavior most.⁴⁰

By reviving titles, nobility and *de jure* rank, including the reintroduction of slavery in the French colonies, Napoleon provided a familiar basis to securing his new order. To watch him breathe life in the old order must have been alarming to the Americans and their young republic. Viewed in this light, one need not be convinced that the child, Jerome Napoleon, constituted a threat to the American polity to believe that his mere presence exacerbated popular fears of European influence and reinstitution of the old social order suffused with aristocratic and hereditary privileges.

No doubt some public actors at the time did consider the Bonapartes of Maryland to be a threat to the United States. Betsy Bonaparte's ambitious behavior only contributed to this sense of threat. She actively sought the benefits attendant to European nobility, and she went out of her way to publicly demonstrate her possession of these benefits in Washington, D.C., and Baltimore. In November 1809, Betsy secured a large annuity from Napoleon, which had been promised to her at the time of the marriage to Jerome. This annuity, combined with Betsy's social position and the fact that her child possessed Bonaparte lineage, raised the hackles of Americans who wished to protect the fledgling states from foreign influence.⁴¹

Whether any of this actually threatened the fledgling United States, her spectacle clearly did prompt Senator Thomas Pickering's scrutiny. Pickering recorded rumors that Napoleon had sent a "Squire" to attend to Jerome Napoleon, along with sums of money; and that "every one's eye" was watching the boy "destined by his imperial uncle to a throne." Pickering further wrote that "'a lady of [Betsy's] character' and her 'so connected' son could not 'with safety be allowed to reside within the United States.'" Yet there were larger, more sinister, forces at work

than Betsy and her boy.

The proposed Titles of Nobility Amendment was a manifestation of hostility and fear of foreign influence during the Napoleonic era and the nascence of the United States polity. This was an era where suspicion of political opponents' loyalties was a regular feature of party politics; it was also punctuated by a few conspiracies and scandals that contributed to the the controversy.⁴² There were accusations of collusion between Thomas Jefferson and Napoleon, or John Adams and the British, which certainly seem far-fetched in hindsight.⁴³ Similarly, there were a whole host of conspiracy trials and accusations, some well-founded, leveled against high-ranking members of the United States military in the years leading up to the 1810 proposed Amendment.⁴⁴

When the Amendment was introduced in 1810 by Senator Philip Reed of Maryland, a Democrat-Republican, the language in the first draft was similar to the federal naturalization bill passed in 1795, which required the renunciation of titles and orders of nobility by any emigrant alien applying for citizenship. Old anxieties over hereditary societies certainly played a part in the development of the 1795 Naturalization Act and the proposed Titles of Nobility Amendment. But there were new anxieties at play too.⁴⁵

Whatever fears and concerns that gave rise to it, the proposed Titles of Nobility Amendment was quickly voted out of both houses and ratified by ten states, just two states short at the close of the War of 1812 to become part of the Constitution. [check numbers]. Yet with the end of the war, it appears that urgency behind passing the Amendment had dissipated. The Amendment was never to be ratified into the constitutional text. Yet the imperative behind it—its desire to wipe clean state-sanctioned hereditary privileges—would continue to influence political participation and citizen behavior in fundamental ways through the Civil Rights Movement of the 1960s and after. This is pursued in the next chapter, on civil address..

Notes

¹Erving Goffman, *Behavior in Public Places*, at 197 (1963).

²*Id.*

³Erving Goffman, *Behavior in Public Places*, at 153-154 (1963)

⁴*Farmer v. Holton*, 146 Ga.App. 102, 1978 (emphasis is added for non-pronoun addresses)..

⁵Robert Cover, “Violence and the Word, *Yale Law Journal*, 95:1606-1629 (1985-1986), at 1623.

⁶[I am setting aside any personal dispositions toward violence, about which the record reveals no useful comparative information].

⁷Cite Ellsworth study. Robert Cover helpfully observes that “for most of us, evolutionary, psychological, cultural and moral considerations inhibit the infliction of pain on other people. Of course, these constraints are neither absolute nor universal. [Additionally] in almost all people social cues may overcome or suppress the revulsion to violence under certain circumstances. These limitations do not deny the force of inhibitions against violence. Indeed, both together create the conditions without which law would either be unnecessary or impossible. Were the inhibition against violence perfect, law would be unnecessary; were it not capable of being overcome through social signals, law would not be possible.” Cover, “Violence and the Word, 1613

⁸Two lives lost—one murdered, one executed [confirm date!—over a \$38 cab fare; a cautionary illustration of how disputes over small debts, trivial misunderstandings and perceived slights can spiral quickly out of control. See R. Gould, *Collision of Wills*.

⁹Robert Cover, “Violence and the Word, *Yale Law Journal*, 95:1606-1629 (1985-1986), at 1620.

¹⁰*Id.* at 1607. “It is, of course, grotesque to assume that the civil facade is ‘voluntary except in the sense that it represents the defendant’s autonomous recognition of the overwhelming array of violence ranged against him, and of the hopelessness of resistance or outcry. *Id.*”

¹¹“It is crucial to note here that if the warden should cease paying relatively automatic heed to the pieces of paper which flow in from the judges according to these arbitrary and sometimes rigid hierarchical rules and principles, the judges would lose their capacity to do violence. They would be left with only the opportunity to persuade the warden and his men to do violence. Conversely, the warden and his men would lose their capacity to shift to the judge primary moral responsibility for the violence which [1626] they themselves carry out.” Cover, 1626-1627

¹²Both players choosing *dove* is not an equilibrium outcome because one can do better by playing *hawk* when the opponent chooses *dove*. Similarly, both players choosing *hawk* is not a stable outcome since neither player would maintain strategy *hawk* if convinced the other player was also choosing that strategy. In equilibrium one player plays *hawk* and the other plays *dove*. There is also a third equilibrium to this game where each player randomizes between *hawk* and *dove* in a manner that makes the other players randomized play a best response.

¹³See Richard H. McAdams, *Conformity to Inegalitarian Conventions and Norms: The Contribution of Coordination and Esteem*, 88 *The Monist* (2005).

¹⁴Goffman, Turner (19xx). Scripts are necessarily incomplete because of bounded ratio-

nality (Simon 1954) and indescribability of events yet realized (Maskin and Tirole, 1999). Even the most detailed dramatic script leaves gaps. All scripts are merely “sketched out beforehand.” (1989:55). Behind every actor’s social and theatrical performance lies the already established skein of collective representations that compose culture—the universe of basic narratives and codes and the cookbook of rhetorical configurations from which every performance draws. In a the theatrical performance, the actor strives to realize ‘individual character,’ as Turner (1982:94) put it, but he or she can do so only by taking ‘partly for granted the culturally defined roles supposedly played by the character: father, businessman, friend, lover, fiancé, trade union leader, farmer, poet” (Turner, 94)... The ability to understand the most elementary contours of a performance depends on the audience knowing already, without thinking about it, the categories within which actors behave. In a complex social order, this knowledge is always a matter of degree.”

¹⁵Thorstein Veblen, *The Theory of the Leisure Class*, 1967, at 75.

¹⁶Merton, *Social Theory and Social Structure*, p.381

¹⁷William Shakespeare, *As You Like It*, Act 2, Scene 7.

¹⁸Roger V. Gould, *Collision of Wills* (2003), 44.

¹⁹Roger V. Gould, *Collision of Wills* (2003), 44.

²⁰Robert Merton (1957) introduced the idea of a role-set.

²¹ [114]. “[U]nlike the problems centered upon the notion of multiple roles, this one [the role-set] is concerned with social arrangements integrating the expectations of those in the role-set; it is not primarily concerned with the familiar problem of how the occupants of a status [role] manage to cope with the many, and sometimes conflicting, demands made of them.” *Id.* [114]

²²Merton, 122.

²³For example, restraining orders; removing a disruptive or explosive role-pair; sequestering witnesses or juror, limiting lines of questions, exercising power of criminal contempt]

²⁴Merton, 121. The structural arrangement of tripartite address, where one addresses a second party on behalf of a third, partitions off some role-subsets for a variety of reasons, including limiting conflict. We will return to tripartite address in chapter 7 in the context of swearing.

²⁵“Doubtless, these are only some of the mechanisms which serve to articulate the expectations of those in the role-set.” (Merton at 121) Address is a most effective response to “the general problem of identifying the social mechanisms which serve to articulate the expectations of those in the role-set so that the occupant of a status is confronted with less conflict than would obtain if these mechanisms were not at work.” [114]

²⁶Its centrality is evident in military contexts. Proper address is the first lesson for cadets at West Point, where initiates, like Klinker, must perfectly dispatch the basic declaration—“Sir, New Cadet Klinker reporting to the Cadet in the Red Sash for the first time as ordered, sir”—before beginning their course of study; common recruits in basic training, as well as their drill sergeants, must also master strict rules of address: drill sergeants are to be addressed as such (not *sir*) and “recruits must be referred to as ‘private,’ ‘soldier,’ or ‘warrior,’ or by last name.” Brian Mockenhaupt, “The Army We Have” *The Atlantic* June 2007. [Get reference for how to address “drill sergeants”] On West Point see David Lipsky, *Absolutely American: Four Years at West Point*. 2003, p. 152. See also George A. Akerlof and Rachel E. Kranton, “Identity and the Economics of Organizations” 19(1):9-32 *Journal of Economic Perspectives* (2005) at 9.

²⁷John Seldon, *Titles of Honour*, 1614, Chapter 1, Part 27.

²⁸Elias describes the practices in the first volume, *The History of Manners*, (1969), which he connects to political organization in the second volume, *State Formation and Civilization*, (1982).

²⁹[Describe criticism: “Rise of the Fork,” New York Review of Books; and recent support: Pinker, “Our Better Angles”].

³⁰The punishment need last only long enough to disgorge the immediate gains from dominating a compliant party.

³¹Consider a simple probability model where the spinner can only go clockwise and the pointer is equally likely to come to rest at any point (except O) on the circumference. In the simple case the density function is uniform (i.e., every outcome is equally likely), but we can imagine more complicated matching. For example, in Dixit’s (2003) trade matching model, he adds some resistance to the spinner so that it is less likely that the pointer will come to rest at points farther away from the point of departure, O , going in a clockwise or counterclockwise direction. The area immediately around point O is the most likely place for the pointer to come to rest and the likelihood decreases steadily going toward point S in either direction. The decrease is captured using a negative exponential density function, $e^{-\alpha x}$, where $\alpha > 0$ can be thought of as the degree of resistance added to the spinner. Bigger α ’s means that pointer is less likely to come to rest at a neighborhood near S and far away from O , and as $\alpha \rightarrow 0$ then all neighborhoods become equally likely (we go back toward uniform density). Actually, the density function is a little more complicated:

$$\frac{e^{-\alpha x}}{2[1 - e^{-\alpha S}]/\alpha}.$$

In the continuous case, the probability of any $x \in X$ being selected is zero, and note that $f(x)$, is not the probability of x , rather $f(x)dx$ is the density of the outcome x ?.

³²The earliest systemic evidence of precedence in England may be found in the Doomsday Book, but “[t]he most authoritative pre-Reformation statement of the law of precedence among laymen is the order taken for ‘the placynge of Lordes and Ladyes’, entitled ‘Precedence of Great Estates in their owne degree’ [from 1520].” The document, according to Squibb “can fairly be described at the basis of the modern system of precedence,” relied upon by the Commissioners “in 1595, when they were ordered by Elizabeth I to inquire into place and precedence.”

³³The presence of early American political and religious organization tended, in fact, to undermine rather than bolster regard for traditional institutions and hierarchies. Yet a distinct American order “gradually emerged out of raw frontier areas” and their unique social organization produced new institutions replete with distinctions.

³⁴[cite] Paine used the nom de plume Vox Populi.

³⁵“No State, without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance or treaty with any King, Prince or State; nor shall any person holding any office of profit or trust under the United States, or any of them, accept any present, emolument, office or title of any kind whatever from any King, Prince or foreign State; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.” Articles of Confederation, VI, March 1, 1781.

³⁶Take, for instance, Section VI of the Massachusetts state Constitution (1780), which reads, “No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children, or descendants, or rela-

tions by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural.”

³⁷The wealthy and beautiful Elizabeth Patterson married Jerome Bonaparte, Napoleon’s youngest brother, in 1803, having been introduced by Samuel Chase, a signer of the Declaration of Independence and Associate Justice of the Supreme Court at the time of the introduction. Jerome, described by one historian as “the most splendidly and expensively idiotic of all the Bonapartes,” was only nineteen, and the ambitious Betsy eighteen at the marriage. Napoleon learned of the union from a report in the British press, it is said, he was so furious that when he declared himself Emperor, he left Jerome off the roster of new princes. He also considered imprisoning Jerome. Betsy’s father hoped to encourage Napoleon’s acceptance of the marriage despite his anger. Patterson requested and received the aid of President Thomas Jefferson, Secretary of State James Madison, and Minister to France Robert R. Livingston in this diplomatic endeavor. In the end, the diplomatic attempts came to naught: Betsy and Jerome last saw each other in 1805, with Jerome annulling the marriage at the insistence of his older brother.

³⁸Betsy had one son with Jerome, though: giving birth in England in 1805, Betsy named the child Jerome Napoleon. As the Patterson-Bonaparte marriage faltered, the mother and child returned to the United States, where their presence—and Betsy’s social ambition—would play a role in fomenting fear of foreign influence on the politics of the fledgling United States. By the time Betsy left the United States in 1815, the Titles of Nobility Amendment had faded into a side note in the annals of politics, but the controversy surrounding it demonstrates a great deal about the importance of titles to a young nation seeking to build and strengthen its new social order in the face of the ever-present threat of the old order’s return.

³⁹For many years, the legal history regarding this causal relationship between the Maryland Bonapartes and the Titles of Nobility Amendment was thin at best. However, thanks to original source research conducted by Gideon Hart, we now have a better set of sources for arguing the causal connection. Hart concludes that the marriage of Elizabeth Patterson to Jerome Bonaparte and the birth of their son, Jerome Napoleon Bonaparte, wasn’t the exclusive reason for the proposed Titles of Nobility Amendment, but rather these events “exacerbated a much deeper fear that the European powers would reach across the Atlantic and corrupt the American republic.”

⁴⁰In politics firmly embedded in Edmund Burke’s golden assemblage of ‘ancient opinions and rules of life,’ the role of ideology, in any explicit sense, is marginal. ... But when, as in the revolutionary France, Burke (perhaps his nation’s greatest ideologue) observed those hallowed opinions and rules of life come into question, the search for systematic ideological formulations, either to reinforce them or to replace them, flourishes. “The function of ideology is to make an autonomous politics possible by providing the authoritative concepts that render it meaningful, the suasive images by means of which it can be sensibly grasped.”

⁴¹ For instance, The Connecticut Herald wrote, “Mrs. Jerome Patterson, of Baltimore ... has been created a duchess of the house of Napoleon, with a salary of 50,000 crowns per annum. Her son is created a prince of the French empire ... Baltimore is to be the Imperial and Royal residence for the present?” Betsy Bonaparte did little to dispel the notion that she and her son were now of noble stock. Betsy, who eventually came to be known as Madame Bonaparte throughout the States, proudly flouted American social convention, prompting one poet to accuse her of being “ill suited for the life / Of a Columbian’s modest wife.”

⁴²Most of these suspicions—like that of an American branch of the Bonaparte dynasty being launched by Betsy Bonaparte and her young child—are perhaps best seen as hyper-

bole that manifests the more general fear of European influence and domination prevalent at the time.

⁴³However, other plots were all too real, like former Vice President Aaron Burr's trial for treason, which had only taken place in 1807.

⁴⁴Cite and discuss Hart.

⁴⁵According to one theory, the Democrat-Republicans proposed the amendment to counteract the perception that Thomas Jefferson, James Madison, and others were too close with the French. Another theory emphasized that naturalization bill was at least partly designed to assuage the "fear that former French nobility fleeing the French Revolution would come to the United States and reestablish themselves as a privileged class."