

**ACCOUNTABILITY:
FUNDAMENTAL TO DEMOCRACY**
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(1) Two conceptions of accountability

Accountability is a popular idea, though for political scientists it can sometimes seem a tiresome and clichéd aspect of democratic theory.² I think we are in danger of underestimating its importance. Too often, accountability is simply identified with elections or with “catching out” those who are charged with public responsibilities, without any sense of its exact contribution to our understanding of democracy.³

In order to see how what and how much it contributes, we need to focus on a narrow conception of accountability. Accountability is used in two main ways in political theory, only one of which has the fundamental importance for democracy that I want to discuss. The first meaning is

(1) *Forensic-accountability*. On this conception, “accountability” denotes the liability of a person to have his actions assessed by a tribunal on the basis of some established norm, such liability being predicated on the availability of a process, formal or informal, to assess his actions in that way. The classic case is that of a person who may be brought before a court: a tyrant or a kleptocrat may be brought before a tribunal to answer for some offense against the people subject to his rule.

¹ I owe an immense debt to John Ferejohn for numerous discussions of accountability in our NYU seminar on democratic theory. I am grateful also to Barry Friedman, Christopher Hood, and Paola Mattei. A version of this was discussed in March 2014 at a seminar at the University of Paris (Sorbonne): I received helpful comments from Bernard Manin, Charles Girard, Pasquale Pasquino, and others on that occasion.

² See Robert Behn, *Rethinking Democratic Accountability* (Brookings Institute, 2001), p. 6. See also Russell Hardin, “Democratic Epistemology and Accountability,” in Ellen Frankel Paul, Fred Miller, and Jeffrey Paul (eds.) *Democracy* (Cambridge University Press, 2000) 110, at p. 113

³ For the complaint about simplistic identification with elections, see Edward Rubin, in “The Myth of Accountability and the Anti-Administrative Impulse,” *Michigan Law Review*, 103 (2005), 2073, at p. 2091; Rubin worries that “accountability” is just “a fashionable term that judges and scholars are invoking whenever they have a position which favors elected officials in some way.” For the identification of accountability with “catching people out,” see Behn, *Rethinking Democratic Accountability*, pp. 3-6.

I call conception (1) “*forensic* accountability,” because of the judicial paradigm that it involves. The tribunal need not be a court in the strict sense. Forensic-accountability applies to any situation where a person’s actions are assessed impartially on the basis of a pre-established standard. But “accountability” may also mean something rather different, and this second meaning is the one I want to concentrate on—

(2) *Agent-accountability*. On this conception, “accountability” denotes the duty owed by an agent to his principal, whereby the principal may demand from the agent an account of the work that the agent has been doing in the principal’s name or on the principal’s behalf, enabling the principal if she sees fit to sanction or replace the agent or terminate the agency relationship. My relation to my realtor is of this character: he makes certain arrangements for the purchase of a house on my behalf; he may even have a power of attorney to act in my name. But I am entitled to insist that he gives me a full account of what he has done and what he is doing and if I judge it adversely I may dispense with his services.

I call conception (2) “*agent-accountability*” for obvious reasons. Conception (2) is basically a legal idea.⁴ What I want to pursue in this paper is the light that the legal idea of agent-accountability can cast in democratic theory.⁵

One key difference between the two conceptions is that agent-accountability involves accountability *to* someone: it indicates the privileged position of someone to whom another person is accountable. Forensic-accountability is not really accountability to anyone. The real accountability is to the law. True, one might say that the person held accountable is accountable to the relevant tribunal, or perhaps accountable to the prosecutor who brings him before the tribunal; but neither of these has much in common with an agent’s accountability to his principal. Another key difference concerns the basis of assessment. In forensic-accountability, the basis of assessment is

⁴ Economists also talk about agency theory and something called “the problem of agency”: see e.g., Kathleen Eisenhardt, “Agency theory: An assessment and Review,” *Academy of Management Review*, 14 (1989), 57. My view does not draw particularly on that literature. For a misleading suggestion that an agency conception of accountability necessarily implicates the economists’ account, see Mark Philp, *Political Conduct* (Harvard University Press, 2007), pp. 221-2.

⁵ I follow James Fearon in thinking that agency is the key: see James Fearon, “Electoral Accountability and the Control of Politicians: Selecting Good Types versus Sanctioning Poor Performance,” in Adam Przeworski, Susan Stokes, and Bernard Manin (eds.) *Democracy, Accountability, and Representation* (Cambridge University Press, 1999), p. 55.

given: there is a standard and something like a tribunal charged with administering that standard. But in agent-accountability, the principal herself decides the basis on which she will assess the actions of her agent.

The two may be connected. It is possible that agent-accountability might also involve forensic-accountability (for example, when an agent's conduct discloses some criminal malfeasance). The principal may have to bring the agent before a court. One of the things I will emphasize is that agent-accountability is often highly complex, layered, and mediated especially in its political manifestations. A forensic component may be part of that layering. But this is by no means necessary. A principal may hold an agent accountable when there is no question of the intervention of any prosecutor or tribunal. And forensic accountability need not involve any form of agent-accountability: someone may be forensically accountable for the violation of a given norm even though he was not acting as an agent on behalf of anyone else. So the two ideas are distinct. I guess what they have in common is the insistence that a given person is not a law unto himself; he may have to answer for his actions in a setting not necessarily of his own choosing; he has to provide a justification of his conduct which will be assessed authoritatively by someone other than himself.⁶

2. Agent-accountability

The elementary accountability of an agent to his principal goes as follows. One person, who is unable or unwilling to do something herself that she wants done (for example, because it demands skills she does not have or time and attention she cannot afford to devote to it), empowers another person—for instance, a realtor, an attorney, a broker, or an accountant—to do that thing on her behalf (to find out what is required or what would be best and to do it). The first person is the principal and the second person is her agent, and when the agent's task is complete (or perhaps at regular periods while the task is being performed), the agent is required to give the principal an account of what he has done or what he is doing and the principal is empowered to modify or terminate the agency relation in the light of this account.

Political theory uses all sorts of legal models—contract and trust, for example. Is the relationship of *agency* different from a relation of *trust* for our

⁶ For a good discussion of the political importance of forensic accountability (though he does not use that term), see Stanley Cohen, "State Crimes of Previous Regimes: Knowledge, Accountability, and the Policing of the Past," *Law and Social Inquiry*, 20 (1995), 7.

purposes? I think it is different, and in section 3 I shall say something about the use of what appears to be a trust model in political theory by John Locke and others.⁷ At this early stage, I would like to emphasize the following difference. In a trust model, we distinguish three roles: the settlor (who sets up the trust), the beneficiary (for whose benefit the trust is set up), and the trustee (the person empowered by the settlor to act for the benefit of the beneficiary). Lines of accountability are much more rigid in this relationship than they are in the agency-model. The beneficiary is mostly passive. The conditions under which the beneficiary (or anyone else) can hold the trustee to account are quite limited and the terms of reference for accountability are those laid down by the settlor—all of which lends a rather unpleasantly originalist cast to any attempt to apply the trust model in politics.⁸

So I am inclined to stick with the model of agent-accountability, so far as our understanding of accountability in a democracy is concerned. Of course there is nothing inherently democratic or even political about agency (except in the very broad sense that “politics” can cover any human relation that is freighted with power). I believe that agent-accountability is key to our understanding of democracy. But that does not mean it is in essence a democratic idea. Agent-accountability can operate in a variety of contexts, many of them non-political. And in its political uses, it need not be associated with democracy, though democracy, as I shall argue, cannot do without it. Of course terms like “trust” and “entrust” are sometimes used loosely without any sense of the technical differences between trustee and agent. It is the form of the relation that is important for my purposes—the more active role of the principal in the agency relation—not any particular terminology.

So, in the basic agency model, the principal actively demands an account from the agent, as she is entitled to do, because it is her business that is being transacted by the agent. Her money is being spent, her property is being dealt with, her affairs are being negotiated or litigated, her obligations are being fulfilled. What is being done by the agent is being done in her name and she, the principal, may have to take responsibility for it. That is the basic idea. Now for some further analytic points:

⁷ See below, text accompanying notes 22 and 30-35.

⁸ Philp, *Political Conduct*, pp. 221-3, seems to think that a trust conception of accountability is better because the supposed beneficiaries of government action are not always empowered to hold the government accountable.

(i) ***Accountability and fear.*** Sometimes it is said that our insistence on holding political officials accountable is part of “the liberalism of fear.”⁹ We fear the worst that our rulers can do and so we set up mechanisms of accountability as a way of “limiting the inherent hazards of political subjection.”¹⁰ No doubt it is wise to make provision against the dangers of political authority, but not all such provision involves agent-accountability. And the liberalism of fear approach might equally be used to justify forensic accountability where the standards whose violations one fears are already well-established. (Rights-based judicial review is a mechanism of this kind.) No doubt agent-accountability can also be used to identify and respond to egregious abuses on the part of the agent. But its use is not confined to that. Even if the principal has the greatest confidence in her agent, even if that confidence is justified, and even if there is no question of gross mismanagement or abuse, *still* the principal is owed an account from the agent of what he (the agent) is doing with her resources, about her business, and in her name. And this is true in the political case as well. Equally there is no reason to say that accountability applies only where there is fear of venality or corruption.¹¹ Even if there is no reason for suspecting that political officials are abusing their authority, *still* if they are the agents of the people, going about the people’s business not their own, then they owe the people an account of even their wisest and most impeccable behaviour. And it is not impertinent—rather it goes to the essence of the political relationship—for the people to demand such an account.

(ii) ***Accountability and interests.*** In commercial relations between agent and principal, it is the principal’s own interests that are stake, and I guess an economist would say that “the agency problem” is to put the agent’s self-interest at stake in the relationship also. But it may be a mistake to treat this as an essential feature.¹² A principal might have interests other than his own for the agent to take care of. Sometimes this might justify our modelling the

⁹ Judith Shklar, “The Liberalism of Fear,” in her collection *Political Thought and Political Thinkers*, ed. Stanley Hoffman (University of Chicago Press, 1998), 3.

¹⁰ John Dunn, “Situating Democratic Political Accountability,” in Przeworski, Stokes, and Manin (eds.) *Democracy, Accountability, and Representation*, 329, at p. 330. I hope it will be clear in what follows that even when I disagree with John Dunn, I owe an immense amount to his analysis in this essay.

¹¹ Cf. Christopher Hood, “The ‘New Public Management’ in the 1980s: Variations on a Theme,” *Accounting, Organizations, and Society*, 20 (1995), 93, at p. 94.

¹² Cf. Hardin, “Democratic Epistemology and Accountability,” p. 114.

relationship in terms of a trust. Other times, the agency model is sufficient, provided we realize that the principal's business, which the agent is about, need not be restricted to the principal's *self-interested* business.

(iii) *Accountability and sanctions.* People sometimes say that accountability is an inherently punitive idea. They say that we talk of accountability only when there is a question of the principal bringing sanctions to bear on the agent.¹³ Again, this is certainly true of forensic-accountability. And it may be involved in many cases of agent-accountability: agent-accountability may involve the principal dismissing the agent or seeking recompense from him. But the demands of agent-accountability are present even where there is no question of sanctions.¹⁴ The agent is not entitled to say that the only condition under which he has to give an account is when his firing is in prospect. He is about the principal's business: he has to give an account when the principal demands it, and for whatever reason.

(iv) *Disagreement.* Sometimes there is more than one principal in an agency relationship. When my wife and I hire a realtor, we may disagree sometimes about what we want him to do, about what standards we should use to assess what he has been doing, and about the application of those standards. The same is true of any partnership that hires an agent. This may leave the agent in a difficult position. Sometimes he has to defer to me; sometimes he has to defer to my wife. For many purposes, this indeterminacy just stands where it is, and the agent has to make the best of it, for he may never know which of us is going to prove the more powerful in determining his fate as our agent. But eventually there may have to be clarity and the explicit resolution of disagreements between us: either we are to bid on this house or not, and we do need to settle an upper limit on what we will pay for it. And, too, if there is a

¹³ This is assumed, for example, in Bernard Manin, Adam Przeworski, and Susan Stokes, "Elections and Representation," Przeworski, Stokes, and Manin (eds.) *Democracy, Accountability, and Representation*, at p. 40.

¹⁴ Here I agree with Mark Philp, *Political Conduct*, p. 223, and I part company with James Fearon, who thinks that talk of accountability in the absence of sanctions "blurs accountability with moral responsibility and does not square with ordinary usage." See, Fearon, "Electoral Accountability and the Control of Politicians," p. 55n.

Behn, *Rethinking Democratic Accountability*, p. 4, complains that dictionary definitions of the term, by emphasizing "the responsibility to answer, to explain, and to justify specific actions (or inactions) ... have not caught up with the vernacular. When the people seek to hold someone accountable, they are usually planning some kind of punishment." I think he is quite wrong to want to dumb down our understanding of accountability in that way.

question about whether we should drop this man and get another realtor, there will have to be resolution of the disagreements between me and my wife. My wife and I will need a decision-procedure. This as, we will see, is one of the reasons democracies need elections; elections are not just ways of holding rulers accountable, they are ways of resolving disagreements about holding rulers accountable.

(v) **Information.** What the agent owes his principal(s) in the first instance is an account of what he has been doing. Confronted with the demand for such an account, the agent may not say: “Well, it is up to *you* to find out what I have been doing, and then you see if you can understand it and if you are in a position to assess it.” That sort of response is wholly inappropriate in an agent-principal relationship. It is not up to the principal to find out what the agent has been doing: the agent *owes* her an account and the *agent* must provide the necessary information on demand. Moreover, in commercial agent-principal relations we say not only that the agent has an obligation to faithfully render his account of what he has been doing, but also that he must find a way of doing so in a form that can be understood by the principal (if that is at all possible). That is what my realtor must do, and my lawyer, and my accountant. They are not entitled to sit back and see if I have the capacity to piece together what they have been doing from some sources of my own: they have a responsibility to tell me, explain to me, and (if humanly possible) make sure I understand what I have been told. And all this, by the way, is part of the essence of the agent-accountability relation. It is not just a means to the principal’s holding the agent accountable; it is part of what it is for the agent to be held accountable.

I emphasize this because it is sometimes said that the main problem with democratic accountability is that the people do not know and cannot find out what their rulers are doing. This is said as though it were *a problem for the people*, which only they can solve (e.g., by getting more information or paying better attention to the information they have). Practically, it may be a problem for the people, but normatively it represents a dereliction on the part of their rulers. If the rulers are truly the agents of the people then they have a responsibility (owed to the people) to give the people the information that is required, concerning what they have been doing.¹⁵ Accountability, in other

¹⁵ Dunn, “Situating Democratic Political Accountability,” p. 335, sees this when he says that accountability means that rulers are “compelled to describe what they are doing as they govern us.”

words, provides a premise for a normative requirement of open and transparent governance.

I suppose there is a further issue about whether the people, as principal, have what it takes to understand and assess information concerning what their agents, rulers or officials have been doing. Later in the paper I shall talk about various ways in which democratic accountability can be mediated. For now, though, we should note that this is not a problem unique to politics. It applies to all agency relations, and one virtue of focusing, early on, on the commercial examples, is that we see more clearly—more clearly than political scientists have been willing to acknowledge—that this too involves normative obligations on the part of the agent. As far as possible, the agent must find and learn ways of communicating honestly with his principal that aid and permit the principal to understand what the agent is telling her. This is what my realtor owes me when he describes a difficult lease to me, that is what my accountant owes me when he has to pass on the significance of complicated tax changes, and it is what my lawyer owes me when he has to explain some plea bargain he has negotiated on my behalf. In these contexts it is obvious that the assessment difficulties faced by the principal are, normatively speaking, a challenge that the agent, as a professional, must find ways of overcoming; the agent is not entitled to sit back and refuse an account in a way that takes no responsibility for what some critics of democratic accountability have called “apocalyptic levels of ignorance” on the part of the principal.¹⁶

(vi) *Instructions.* In agent-accountability, does the principal necessarily give instructions to the agent and is it on the basis of those instructions that the agent is held accountable? Sometimes the answer is “Yes,” though if we also say that the principal can use only the instructions she has given as the basis of the agent’s accountability, we are heading more towards something like forensic-accountability. In any case, instructions can be more or less specific and they can leave room for more or less independent action and discretion on the part of the agent. But even when there are no explicit instructions, the agent is still accountable to the principal for what he has done.¹⁷

With these preliminary ideas in place, let’s turn to political accountability and then to democratic accountability.

¹⁶ Rubin, “The Myth of Accountability,” at p. 2079.

¹⁷ I return to this point in section 5, where I shall discuss at some length Edmund Burke’s theory of the relation between instructions and electoral representation.

3. Kingdoms, republics and democratic accountability

Agent-accountability, I said, is not inherently a political ideal. I have illustrated it with the model of the relation between a realtor and his client. I hope we have already seen that lessons can be drawn from this model for the context we are trying to illuminate. Our eventual aim is to shed light on democratic accountability. To do that, we must move from the commercial to the political context.

But we have to move slowly. For even in political settings, agent-accountability may have nothing to do with democracy. In certain monarchies, the state, its resources, and its people are conceived of as *belonging to the king*. They are part of his patrimony: what is done with them is done in his name; it is done in the first instance for his benefit; what is done with the state, its resources, and its people is his business. But a king, personally, has only so much time and energy to devote to this business. He must act in large part through servants and appointed officials who are, in effect, his agents. And these agents owe their master an account of what they are doing.

Now monarchy, even of this patrimonial kind, might involve some obligation on the part of the monarch to take care of his people. He might promise to do this in his coronation oath and his legitimacy in the eyes of the people may depend on it. But this does not make *him* accountable to the people in the sense of agent-accountability. If the king does not perform the obligations he owes in respect of the people, they may criticize and denounce him, and *in extremis* they may rise up against him. He may even be held forensically-accountable for this. But this is not agent-accountability, for neither on the part of the people nor on the part of the king is he held to be acting on their behalf. Maybe the king owes agent-accountability to God for the way he treats God's people: he may say, with King David, "Against thee, thee only, have I sinned,"¹⁸ meaning not just that he is forensically accountable on the basis of Divine Law but that he is God's agent in dealing with the people committed to his care. Also, the king's servants may be accountable in an agency sense to the king for the way they treat the people. As I indicated when I sketched the basic model, the agent often has to take care of the principal's obligations: and just as my accountant may be accountable to me for failing to file my taxes on time, so the king's sheriff may be accountable to the king for failing to carry out the king's obligation to look after the welfare of the people.

¹⁸ Psalm 51: 4.

But this in itself does not establish a relation of agent-accountability between the king and the people.

Patrimonial monarchy has not lasted, and the growth of something like agent-accountability may have played a part in its demise. In the monarchy that I have been considering, the people may begin to question the premises of their political relation to the king. They may previously have been accustomed to think of themselves as the king's property, to dispose of as he pleases (though hopefully for their benefit), and the king may continue to insist on this view. But some members of the community may question it. And after a while, they may start to develop alternative theories of politics—theories in which the fundamental business of the realm is understood to be *the people's business not the king's*—which, to be sure, the king takes responsibility for, but which he now pursues *on their behalf*. On this basis, the people may begin to insist that he be accountable to them in the sense of agent-accountability, and his servants should be accountable to the people too (perhaps through lines of accountability that the king mediates but that ultimately end up with the people as principal). No doubt the king will resist this line of reasoning and say, with Charles I,

For the people I must tell you that their liberty and freedom consist in having of government, those laws by which their life and their goods may be most their own. It is not for having share in government, Sirs, that is nothing pertaining to them. A subject and a sovereign are clean different things....¹⁹

On this view, the monarch's undoubted obligations to the people do not put them in a position to hold him to account as their agent. But King Charles said this on the scaffold and it was the contrary view that eventually prevailed in England.

Republicanism is the frank acknowledgement that the business conducted by government is the public business of the realm and everyone in it rather than the patrimony of any privileged individual or family; and it is the exploration of what follows from that premise for the whole of the theory of politics.²⁰

¹⁹ Quoted by Geoffrey Robertson, *The Tyrannicide Brief: The Story of the Man who Sent Charles I to the Scaffold* (Pantheon Books, 2005), p. 199.

²⁰ For some reason, modern political theorists who calls themselves republicans veer away from this understanding to a much narrower one: Philip Pettit says that republicans believe freedom is non-domination (see Philip Pettit, *On the People's Terms: A Republican Theory and Model of Democracy* (Cambridge University Press, 2014), p. 1 and Cass Sunstein says that republicanism is the view that preferences should be open to change through deliberation

Republicanism thus provides a premise for any doctrine that those who conduct the business of government are accountable to the people. But republicanism does not necessarily embody that doctrine; I mean it does not necessarily involve the specific doctrine that the people are actively entitled to demand an accounting, in the sense of agent-accountability, of how public business is being conducted. Public business might be conducted as such by nobles, aristocrats, judges, senators, and other notables, with various officials and servants ranged under them. But it may not be thought that the occupants of any of these roles are *agents* of the public in whose name official business is conducted.

There may be internal lines of something *like* agent-accountability, with generals or tax-collectors being required to give an account of their actions to a senate, say.²¹ And this may happen without the senators themselves being regarded as those whose business the generals or the tax-collectors are conducting. Everyone may accept that this is the business of the public generally, not of its ruling elite. But relative to that business, the senators are more like trustees than agents; and the people are more like the beneficiaries of a trust than like the principals of an agency-relationship—and pretty passive beneficiaries at that.²² After a while, perhaps, the precision of these legal distinctions will become unhelpful. But here it does help us distinguish between republicanism as simply the static conviction that the business entrusted to officials is public business and the active relation of accountability of the rulers to those whose business it is.

The kind of republic I have in mind here is the Venetian republic,²³ where the conception of governmental business as public business was not really associated with any idea of active entitlement by ordinary members of the

(Cass Sunstein, “Beyond the Republican Revival,” *Yale Law Journal*, 97 (1988), p. 1539). I have no idea why these theorists neglect the broader and more fundamental conception of republicanism set out in the text.

²¹ Later (in section 6) I shall talk about *mediated* accountability, whereby in a parliamentary democracy, for example, ministers of state are accountable to committees of Parliament, and the members of Parliamentary committees are accountable ultimately to the people who elect them. The system I am imagining is like an attenuated form of this, but one which does not mediate any ultimate accountability to the people.

²² Cf. the discussion of the difference between agency and trust in section 2, above, and the difference in their political applications at the end of this section.

²³ See the excellent discussion by Edward Muir, “Was there Republicanism in the Renaissance Republics? Venice after Agnadello,” in John Jeffries Martin and Dennis Romano (ed.) *Venice Reconsidered: The History and Civilization of an Italian City-State, 1297-1797* (Johns Hopkins University Press, 2000), 137.

public to demand an account from officials of how public business was being conducted. There was scrutiny by the senate, but this was not accountability *to* the senate because the business being conducted by the officials was not conceived by anyone as inherently the business of the nobles who made up the senate. Both officials and senators were trustees for the publicness of public business, but the publicness of public business was not personified in any entity conceived of as entitled actively to demand an account. Instead officials were held to the rule of law; and both they and those who evaluated their actions were expected to exercise and apply standards of civic virtue. It was in the rule of law and in the standards of virtue that the publicness of the republic was represented.²⁴

Some republics, however, *do* use active forms of agent-accountability, and to do this—while keeping active faith with the idea of a republic—they really have to be or become *democratic* republics. What they do is that they empower the whole body of those in whose name and for whose sake the business of republican government is undertaken to insist that government officials give an account to them and to insist that the officials bear and accept the people’s response to this account.

Terminology is again a slight difficulty here. James Madison famously insisted in *The Federalist Papers* that there was an important contrast to be drawn between republics and democracies.²⁵ But his distinction is not the one I am making.²⁶ In fact he regarded both republics and democracies as forms of “popular government,”²⁷ and he thought that in both forms there would be ways of exposing the conduct of government to the verdict of popular voting. A democracy, in Madison’s terminology, was what we would call “direct democracy,” operating in a small polity like ancient Athens and without any system of representation. A republic, by contrast, according to Madison, was a

²⁴ Cf. Vittorio Conti, “The Mechanisation of Virtue: Republican Rituals in Italian Political Thought in the Sixteenth and Seventeenth Centuries,” in Martin van Gelderen and Quentin Skinner (eds.) *Republicanism: A Shared European Heritage*, Vol. II (Cambridge University Press, 2002), 73, at pp. 74-80, drawing on the work of Gaspari Contarini.

²⁵ Alexander Hamilton, James Madison, and John Jay, *The Federalist Papers*, ed. Lawrence Goldman (Oxford University Press, 2008), pp. 52-3 (number 10).

²⁶ It was criticized in the late 18th century by Emmanuel Sieyès (in his controversy with Thomas Paine over monarchy) and it should *not* be accepted now as canonical. See “The Debate between Sieyès and Tom Paine,” in *Sieyès: Political Writings*, ed. Michael Sonenscher (Hackett, 2003), 163, at pp. 167-8.

²⁷ Hamilton, Madison, and Jay, *Federalist Papers*, pp. 51 and 188 (numbers 10 and 39).

species of popular government adapted to a country of large extent and enjoying the benefits of representative government. And although Madison did not label the system of government he envisaged as “democratic,” still he said that “the elective mode of obtaining rulers is the characteristic policy of republican government.”²⁸

[T]he House of Representatives is so constituted as to support in the members an habitual recollection of their dependence on the people. Before the sentiments impressed on their minds by the mode of their elevation can be effaced by the exercise of power, they will be compelled to anticipate the moment when their power is to cease, when their exercise of it is to be reviewed, and when they must descend to the level from which they were raised; there forever to remain unless a faithful discharge of their trust shall have established their title to a renewal of it.²⁹

This account of the elective aspect of legislative representation is a fine statement of what *we* should call the democratic principle of agent-accountability. It signifies that the state belongs to the people and that it is not just something set up for the public benefit. It presents the people of a country as genuine living principals in relation to the tasks and conduct of state officials, who are their agents.

As acknowledged earlier, I have chosen not to approach political accountability in terms of a formal model of trusteeship, bearing in mind that trust and agency are different ideas. I explained the formal advantages of the agency idea in sections 1 and 2. But the notion that government and governmental officials act as trustees for the people is quite common in political theory: it is pervasive in Locke’s political theory, for example, and in Sieyès too.³⁰ It is a superficially attractive idea and Locke uses it in ways that closely resemble the ways I use agent-accountability: those who have set up the legislature, say, as a trustee are entitled to overthrow it when it acts “contrary to

²⁸ Ibid., p. 282 (number 57).

²⁹ Ibid., p. 283 (number 57).

³⁰ John Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge University Press, 1988), pp. 367, 371, 405, 412, and 426 (II, §§149, 156, 210, 221, and 240); Emmanuel Sieyès, “What is the Third Estate?” in *Sieyès: Political Writings*, ed. Sonenscher (Hackett, 2003), 92, at 120n.

their Trust.”³¹ Formally, however, it is difficult to get the legal idea of trust to do this work. Locke does it only by being quite loose in his use of its legal connotations.³² In a trust relationship, neither the settlor nor the beneficiary of the trust has the right to control or to demand an account from the trustee. If they do demand an account, they have to do it through a court, under certain quite rigid conditions, and on the basis of just the terms laid down when the trust was established. All this makes the kind of legal accountability that a trust involves much more like a form of forensic-accountability. The agency notion is sharper and more powerful in the authority and discretion that is deemed to be possessed by the principal in relation to his agent.³³ I should mention also, once again, that the language of political theory is not always precise. Jean-Jacques Rousseau spoke of a class of people being entrusted (*confiée*) with the powers of government by the people, but I don’t think he meant to indicate the technical idea of a trust.³⁴ For he was also perfectly happy to speak of the government as an “agent” of the people.³⁵

4. The people, jointly and severally

Like Madison, we associate accountability with elections and representation. There is no doubt that elections are the main means of holding legislators and other officials accountable. But the connection between accountability and elections is very complicated and before addressing it directly in (section 5), I want to say something about aspects of plurality or multiplicity in connection with democratic accountability.

In the simple model of agent-accountability set out in section 1, we envisaged a single agent being held accountable by and to a single principal. But in modern politics there is multiplicity on both sides of this agency relationship. In a modern state, there are tens or hundreds of thousands of officials, accountable sometimes individually and more or less directly (like a

³¹ Locke, *Two Treatises*, p. 412 (II, §221).

³² See also Laslett’s introductory remarks in his edition of Locke, *Two Treatises*, at p. 114.

³³ John Dunn, “Situating Democratic Political Accountability,” p. 341, talks of “the treacheries and seductions of trust.” I am heartened also by my NYU colleague John Ferejohn’s emphasis on “the agency model” in his paper “Accountability and Authority: Toward a Theory of Political Accountability,” in in Przeworski, Stokes, and Manin (eds.) *Democracy, Accountability, and Representation*, 131, at p. 133.

³⁴ Jean-Jacques Rousseau, *The Social Contract*, trans. Maurice Cranston (Penguin Books, 2004), p. 82 (Bk. III, ch. 5).

³⁵ *Ibid.*, p. 65 (Bk. III, ch. 1)

U.S. President),³⁶ sometimes in arrays (like Congressional or parliamentary representatives), sometimes only indirectly (like civil servants), and sometimes not at all (like members of the federal judiciary). Agent-accountability in modern democracies is often mediated: a civil servant may be accountable to a minister and the minister to parliament and the parliamentarians to voters in their constituencies; but often there is even more complexity than this linear formulation suggests and there are genuine questions about where “the buck stops” so far as ultimate accountability is concerned.³⁷ It’s worth mentioning too that in these intermediate layers of accountability, those who play the part of principals have not only the right but also the duty—owed to the ultimate principals—to hold the agents accountable.³⁸

On the other side of the relation, of course, the multiplicity is massive.³⁹ In democratic agent-accountability, the principal consists of millions of people—in the United States, for example, more than a quarter of a billion, all of them voluble and opinionated with diverse interests and preferences and conflicting expectations of those they vote for. For the rest of this section, I will focus on this issue of the multitude of principals. This will pave the way for our discussion of elections and representation in section 5.

We use phrases like “accountable to the people” as though the singularity of the noun phrase “the people” could take care of this problem of multiplicity. But it cannot. Thomas Hobbes took the problem so seriously that he denounced the very idea of a ruler’s accountability to the people as a confusion. The very circumstance that gives rise to their need for an agent in the first place—diversity of interests and the potential for conflict among them—precludes them from acting as a united principal to hold that agent accountable. They need an agent in the first place, Hobbes argued, because apart from such an agent they—

³⁶ *More or less* directly, on account of the electoral college formalities for presidential elections: see US Constitution, Article II, 1.

³⁷ See the helpful discussion in Christopher Hood, “Blame Avoidance and Accountability,” in Melvin Dubnick and George Frederickson (eds.) *Accountable Governance: Problems and Promises* (M.E. Sharpe, 2011), 167, and Christopher Hood, *The Blame Game: Spin, Bureaucracy, and Self-Preservation in Government* (Princeton University Press, 2010).

³⁸ I am grateful to Barry Friedman for this point.

³⁹ See Fearon, “Electoral Accountability and the Control of Politicians,” at p. 56: “[I]n the case of electoral accountability, additional problems arise from the presence of multiple principals (voters ...) rather than a single principal or a collective body that can act as a single principal. For instance with multiple principals, the question of saying what the principals would want can be difficult, even theoretically as Arrow’s theorem suggests.”

the people—have no agency, no ability to act as a unitary entity at all. They are unable to even act like a principal apart from the agency of their agent. So they need an agent; but having secured one, they have no independent agency of their own to use in holding their agent accountable.⁴⁰

It is a powerful and intriguing argument. But it ignores the possibility that, having been united in one political system by their sovereign, the people might find themselves with an ability to act as a single entity in a way that outstrips the sovereign representation that first made that possible. Hobbes may be right in his claim that it is the sovereign that first constitutes the people as an entity; but he is wrong in his suggestion that once that has happened, that entity can only act through the sovereign. By melding his subjects into a political community, the sovereign may have established paths of communication and unity that have a life of their own, that can operate independently of the sovereign's will, and that conceivably can be turned against him.

In any case, even in democratic theory we should not be too obsessed with this entity called “the people.” Democratic accountability may be conceived of as something owed to the people severally as well as jointly. It is owed to persons individually, to persons arrayed in ragged and sometimes *ad hoc* sub-sets of “the people,” as well as to “the people” itself as a notionally and occasionally unified entity. There is no reason why the theory of democratic accountability should be held hostage to any particular political ontology—“the people” as a singular entity, the general will, the will of the people, the majority, etc.

I don't want to preclude such ontology out of hand; perhaps there is a place in political theory for such reification. But the liberal tradition—in which I believe the theory of democratic accountability should be located—is much looser and more open than that. Suppose we stick with the straightforward reality of individual men and women—millions of them. On some theoretical models, government and its officials may be accountable to each and every one of them. Hobbes recognized this in a very rudimentary form when he acknowledged that each individual is entitled to insist on her own survival (considered just by itself, apart from anyone else's survival or security) as an

⁴⁰ Thomas Hobbes, *Leviathan*, ed. Richard Tuck (Cambridge University Press, 1991), pp. 114 and 123 (Chs. 16 and 18).

elementary term of her relation to the sovereign.⁴¹ And along these lines, something much broader is true in modern contractarian theory: Rawls's theory, for example.⁴² The contract idea is not majoritarian. The contractors are individuals and the thing about contracts is that nothing but one's own individual signature will do: one can't be voted into a contract. So there is nothing theoretically implausible at all about saying that there is a relation of accountability to each and every contractor so far as the reasons for her entering into the contract are concerned. If her interests and her liberty are not protected, then she has a legitimate complaint: and the contractarian conception explains why it is not unfair of her to make that complaint on her own behalf. Even apart from contractarian theory, we do say that individuals have rights and that in a sense the government is accountable to each person in regard to the respecting, protection, and promotion of her rights.

This sort of individualism is by no means all there is to be said about accountability, but it is not implausible to think of it as one layer among many. A more socially realistic approach will emphasize that people think, act, and work together as collectivities not just as individuals in their relation to government. But it is a serious mistake to rush from that acknowledgment to the proposition that therefore we should concentrate on the artificial entity called "the people." In between there are many layers of partial collectives, interest groups, factions, the inhabitants of provinces, states, and regions, and members of various corporate entities. Some of these entities act as mediators and facilitators of government accountability to the whole people; but some of them also act as mediators and facilitators of government accountability to individuals or to small groups considered on their own account.

I think, by the way, that all this is very helpful with a problem that John Ferejohn identifies:⁴³ if we concentrate just on accountability to a collective entity called the people, we make it difficult to see how our rulers are accountable to minorities. (Obviously this is also a cost of concentrating too rigidly on accountability through elections.) But if we accept that "the people" comprises groups of all sorts, we can have a multi-faceted conception of

⁴¹ Ibid, pp. 151-3 (Ch. 21). See also Bernard Williams, "Realism and Moralism in Political Theory," in his collection *In the Beginning was the Deed*, ed. Geoffrey Hawthorn (Princeton University Press, 2005), 1, at pp. 3-6.

⁴² John Rawls, *A Theory of Justice*, Revised edition, (Harvard University Press, 1999), pp. 10-30.

⁴³ Ferejohn, "Accountability and Authority," p. 132.

democratic accountability, albeit one that is less tidy than a rigidly collectivized one. The point I want to stress is that both in its agency-aspect and in its accountability-aspect, democratic accountability displays multiple layers of responsiveness. In some respects the government is the agent of each and every one of us, and we are entitled to hold it to account on that basis. In some respects it is the agent of groups and minorities, and they too are entitled to insist on an account. In some respects it is the agent of us all, but when we hold it accountable to us all, we do so in a way that is cognisant also of these other layers among us.

True, individuals and minorities don't have the formal power to throw politicians out of office. But they may have a right to embarrass them with questions and that embarrassment is often politically (and electorally) consequential. And as I emphasized in section 2, demanding an account—demanding that the agent indicate what he has been doing so far as the principal's business is concerned and that he justify it to his principal—is part and parcel of agent-accountability, not just a preliminary to the sanctioning of an agent. Sanctioning may or may not be an immediate prospect. And so too in politics: our rulers are answerable (as agents) to their subjects (their principals) in this sense even when there is no immediate prospect of an election to toss them out of office. And their accountability in this sense is not restricted to responding to demands that can be identified as coming formally from the whole people. They come from here, there, and everywhere—sometimes from individuals, sometimes from groups, sometimes from regions, sometimes from a welling up of querulous demands from the whole nation: “Tell us all—or some of us or any of us—what you have been doing about the public business that is ours (in numerous joint and several senses).” In response to such demands, wherever they come from, the government and its officials are not entitled to say: “This is none of your business; we owe no account to *you*.”⁴⁴ And nor are they entitled to say, “You are nothing to us; we owe only an account to some vague abstraction called *the people*.”

No doubt this is all very untidy: rich accounts often are. And here is one other dimension of untidiness. I said in section 1 that one of things that distinguish agent-accountability from forensic accountability and the

⁴⁴ This was the gist of Kant's criticism of Hobbes in Immanuel Kant, “On the Common Saying: That may be Correct in Theory, but it is of no Use in Practice,” in Immanuel Kant, *Practical Philosophy*, ed. Mary Gregor (Cambridge University Press, 1996), 277, at p. 302 (8: 303-4).

accountability of trustees is that principals are entitled to choose their own criteria for assessing the work of their agents. They are not like a court that has to use criteria established in rules of law, for example, or like the beneficiary of a trust who has to proceed on the terms laid down by the settlor. This is especially important in *informal* democratic accountability.⁴⁵ People, whether individually or in groups will often voice the concerns they have when they demand an account from their agent. In formal elections they need not do so, but informal accountability often involves an explicit confrontation between the agent's account of what he has done and criteria for assessing his performance that the principal(s) have come up with. There is no reason to suppose that people hold their rulers accountable only at the bar of their self-interest. Sometimes one person or one group may hold an official responsible for the way other persons or other groups are treated.⁴⁶ When overlapping groups, large and small, and individuals and whole nations hold politicians accountable at the bar of public opinion, it may be for reasons that are as diverse and overlapping as the political principals are themselves. They may even be downright inconsistent. We should not worry about this at a conceptual level. It is just one of the standard risks of the political vocation: one purports to act as an agent for the public business of a whole people: the business is multifaceted and hydra-headed, and inevitably so are the opinions of the people who will assess what one has done. Inconsistency and unwieldiness in this are business as usual.

So, anyway: accountability in politics involves millions of principals acting for various reasons, individually and in groups and (in complicated ways) as a whole people, to assess, directly and indirectly, many thousands of officials. There is raggedness, there is redundancy, there are overlaps, and there

⁴⁵ In modern democracies, politicians are often obliged to explain themselves to the people via the news media, and an unsatisfactory account, an account that the people or a majority of them are likely to judge harshly, can redound to the detriment of a politician's career. On some accounts, this informal accountability is becoming much more important in modern democracies than formal electoral accountability. One theorist has coined a whole new term to describe it, "monitory democracy"; see John Keane, *The Life and Death of Democracy* (Norton, 2009). Keane thinks it is a new form of democracy. But I wonder whether Keane's monitory forms are altogether disentangled from more formal electoral modes. Sometimes they work because informal accountability feeds back into formal electoral accountability, or is made effective against the background or in the shadow of electoral accountability. It is because politicians fear the verdict of the electorate upon them and their associates that they quail before the tribunal of public opinion, and sometimes resign in anticipation of the electoral damage that it will do.

⁴⁶ See text accompanying note 12 above.

are continuities; all of this is what one would expect in regard to the democratic supervision of the conduct of public business in a large polity.

All of this complicates *but it does not compromise or qualify* what I said in section 4. Democratic accountability is predicated on a fundamental *republican* idea: the business of government is public business. And it adds to that the following strong and active democratic idea: ordinary members of the public, in all sorts of modes and combinations, are entitled to participate actively in supervising the conduct of government business, because it is *their* business conducted in *their* name. Democratic accountability is the accountability of officials to the people whose business—the public business—the officials are conducting. People relate to the activity of government, as members of the public whose business the government is supposed to be conducting, in all sorts of capacities and in a variety of ways. The relation is not monolithic or unitary and so neither is the agent-accountability that it involves.

5. Electoral accountability

With all this in hand, let us turn now to electoral accountability. Elections are not all there is to democratic accountability. In ancient Athens, which was a kind of a democracy, certain political officials were selected from the body of the people by lot. They carried out their tasks as the people's agents, and at the end of their term of office each of them was accountable to the people through a formal process called *euthynai*: on leaving office, they were subject to a sort of obligatory scrutiny and audit and any complaints against them were heard and resolved at this stage.⁴⁷ At the end of the *euthynai* there was voting, but it was more like the voting of a jury than like an election. We have no such formal process in modern democracies, but we do have informal versions of it. Departing political officials are held accountable to public opinion. They may have nothing to hope or fear so far as future office is concerned, but we should not be blinded by political scientists' emphasis on electoral sanctions into

⁴⁷ See Bernard Manin, *Principles of Representative Government* (Cambridge University Press, 1997), pp. 11-13 and Jon Elster, "Accountability in Athenian Politics" in Przeworski, Stokes, and Manin (eds.) *Democracy, Accountability, and Representation*, 253.

ignoring the importance of reputational and “legacy” considerations at this stage.⁴⁸

Still, electoral accountability *is* massively important. That is why I am devoting this whole section to it, along with the relation between accountability and representation.

In the previous section, I considered informal accountability relations between officials in a democracy and individual citizens and clusters and groups of citizens, large and small. When we turn to formal accountability through elections it may seem as if we are now, at last, in the arena of accountability to the people as a whole. But even here it is complicated. For one thing, there is the small matter of local politics: municipalities and states, provinces, and regions. I hope I may be forgiven for putting this to one side.

Even in national politics, legislative accountability relates law-makers to particular groups (constituencies) of citizens. In most democracies, law-makers operate in a representative system: the members of a large legislature represent their constituents on a basis of various axes of representation such as geographic interest, party sympathy, ethnicity, and so on. They may be accountable, respectively, to their constituents for this representation among other things.⁴⁹ They may be asked: “How good a representative have you been? Have you ensured that perspectives and experiences like ours are represented in Washington or at Westminster?” But that accountability is layered with considerations of national party politics as well. In theory, an MP from a particular constituency in Bristol, say, is accountable directly only to the voters in that constituency. Indirectly, of course, the voters’ choice in, say, Bristol North West is a way of participating in holding the government of the whole of the UK formally accountable. The voting of their representative in Parliament after all helps determine national policy. Thus, in the 2015 election, many will vote for or against the Conservative incumbent in Bristol North West as a way of assessing the record of the present Coalition government. But some may value or condemn the incumbent for her personal qualities not just her party affiliation. And also, whether they focus on the candidate or the party, they may vote on the basis of interests or opinions particular to their part of Bristol

⁴⁸ We should not underestimate the importance of pride, vanity, honor, and an awareness of one’s place in history in people’s political motivations or the significance of shame and damage to reputation as sanctions.

⁴⁹ Moreover some political offices are elective but not representative: the presidency in the United States is an example, and so too are elective judgeships in those states that have them.

or on the basis of interest or opinions relevant to the government of the UK as a whole. They will be making complicated judgments and different citizens in the constituencies may make these complicated judgments in different ways.

I said in section 2 that when my wife and I hire an agent, we have to establish a decision-procedure among ourselves, as principals. Now, families have all sorts of decision-procedures; in my family, “Carol decides” is mostly the procedure we use. Politics mostly use some version of majority-rule ranging over a defined array of citizens. When the citizens of Bristol North West disagree, as they certainly will, about whether to replace their Conservative MP, a majoritarian decision-procedure is used, assigning the post to her or to whoever among her competitors secures the most votes. Sometimes people say that this means the MP is accountable to “the majority,” but that is misleading. The MP is accountable to the people of Bristol North West, and they use a majoritarian decision-procedure to resolve their disagreements about what to do about their MP. This procedure is valued because it is fair and because it treats all citizens as equals. So: elections are not just a mode of accountability; they represent a way of settling disagreements that arise among the people who are seeking to hold their agents accountable.

By the way, I used Bristol as an example because I also wanted to consider the relation between electoral accountability and instructions. Edmund Burke famously told the electors for the Bristol seat that he won in 1774 that a parliamentary representative should not take instructions from his constituents.⁵⁰ However, it is a mistake to infer from this that Burke’s speech is “a classic defense of not holding representatives accountable to their narrow constituencies.”⁵¹ Instruction is one thing; accountability is another. Even if the MP’s role is determined on a Burkeian theory of representation—rejecting the idea that the MP should take instructions from or conform his judgment to the interests of his constituents—still the MP might be held accountable for all the judgments he makes and for the exercise of his “unbiassed opinion, his mature judgment, his enlightened conscience” (even when these relate to the general interest of the country not just the interests of his constituents). As I said at the very end of section 2, an agent is accountable to his principal whether she has

⁵⁰ See Edmund Burke, “Speech to the Electors of Bristol,” in P. McKevitt (ed.) *Edmund Burke: Speeches and Letters on American Affairs* (J.M. Dent and sons, 1908), 68, at pp. 72-4.

⁵¹ Cf. Alexander Aleinikoff and Samuel Issacharoff, “Race and Redistricting: Drawing Constitutional Lines after *Shaw v. Reno*,” *Michigan Law Review*, 92 (1993) 588, at p. 632n.

given him specific instructions or not.⁵² Indeed, in the absence of instructions, accountability is likely to be more rather than less important. In 1777, Edmund Burke *did* feel constrained to give a lengthy account to his constituents of his parliamentary votes and speeches in the American crisis.⁵³ And of course he accepted the electoral verdict of his constituents in 1780 when they found fault with these actions and voted him out of office.⁵⁴

Let me return now to the main theme of this section. Electoral accountability is not straightforward so far as the relation between the people and their government is concerned. It is layered and it is entangled with the accountability of particular representatives: there are many of us and we hold many officials accountable at the same time. Overall, whether the Labour party replaces the present coalition in the UK in 2015 will depend on patterns of voting over the whole 650 constituencies. We may call this *accountability of the British government to the British people*, but as I emphasized in section 4, it will not do to infer from that anything about the importance of *the people* as a solidly unitary entity given the complexities of the electoral system. But if we have a more relaxed notion of the people, we do not have to abandon the idea of popular accountability just because of these complexities.

Some complexities, however, cannot be handled so easily: some of them generate objections, not just striated layers in the account. A first point is that not all elections involve accountability. Formally the function of an election is to choose a high official and to resolve disagreements about that choice. When the cardinals elect a pope or when the nobles used to elect a king in Poland,⁵⁵ there was no question of holding anyone accountable: these offices were held for life. Even apart from elective monarchy, elections may not seem to have any accountability aspect in a situation where someone's tenure in office is term-

⁵² See text accompanying note 17 above.

⁵³ See Edmund Burke, "A Letter to John Farr and John Harris (Sheriffs of the City of Bristol) on the Affairs of America," in McKevitt (ed.) *Edmund Burke: Speeches and Letters on American Affairs*, 188.

⁵⁴ So I find it difficult to understand the claim by Hardin, "Democratic Epistemology and Accountability," p. 121, that he cannot imagine what it means to hold a Burkeian representative accountable.

⁵⁵ Elective monarchy was practiced in Poland for five hundred years ending in 1791; the electors were nobles, but they constituted a very large electorate, perhaps as many as 100,000 potential voters.

limited. At the end of his term, how can the voters sanction him?⁵⁶ Suppose that, in the United States, an incumbent President has finished his second term. Then the election for his successor is not really a way of holding him accountable—or at least not directly. It is just the choice of a new President. In terms of our agency model, it is more like the choice of an agent than the holding of an existing agent to account. But we should be careful with these cases. We should not underestimate the point that even a term-limited candidate may be held accountable in informal ways and that reputation and legacy may almost be important to him. We should also remember that elections are often about the accountability of parties not just the accountability of individuals. The verdict on an official facing a term limit may be conveyed in the way we vote for or against candidates bound to him by bonds of party.

To be sure, even in cases where we are not dealing with term limits or elections for life, even in cases where there *is* an opportunity to sanction an incumbent, we cannot assume that voters think of themselves as taking that opportunity, even when they vote against the incumbent. As Fearon insists, the function of their voting this way may be to transmit policy preferences into the political system or simply to choose a good type of representative or president for the future, irrespective of their verdict on his predecessor.⁵⁷ And of course if some voters are voting this way while others are voting for accountability, there may be no telling what it all adds up to.

But perhaps it is wrong to draw lines too sharply here. I have already argued against the idea that accountability is just a matter of sanctions.⁵⁸ It is a mistake to proceed on the basis that only the punitive use of the ballot counts as democratic accountability. Equally it is a mistake to distinguish the sanctioning of an electee too sharply from forward-looking electoral choice.⁵⁹ At least when there are no term limits, choosing a better agent will be a way of, or it will involve, holding the earlier agent accountable. Certainly that is how it will seem from the agent's point of view: like any agent who values his position, an electee will be concerned about replacement whether that replacement is intended in a strictly punitive sense or not.

⁵⁶ See Fearon, "Electoral Accountability and the Control of Politicians," pp. 63-7 on "last period" effects.

⁵⁷ Ibid.

⁵⁸ See text accompanying notes 13-14 above.

⁵⁹ As Dunn points out, in "Situating Democratic Political Accountability," p. 332, any system of punishment has a forward-looking aspect.

I hope readers will not think that I have complicated the link between elections and accountability out of all recognition. Elections are and remain massively important for democratic accountability: the importance is not diminished, though it is complicated, by the fact that *the people* is not treated as a unitary entity for the purposes of elections and by the fact that voting has other uses besides holding officials accountable. The fact is that we embed the means of holding officials accountable in a complex practice that serves other functions as well. This sort of embedding is not unknown in social and political life. Moreover, none of the other functions that elections serve are utterly independent of accountability. We choose our rulers, we distinguish ourselves agonistically as citizens, we transmit policy preferences to the government, we make it possible for politicians to rotate in and out of office in a Schumpeterian way without continual *coups d'état*, and we sort out disagreements among ourselves. All of this is related to the key premise of accountability in a democracy—namely, that government business is *our* business and we are entitled to be treated as *principals* in regard to the agency of our rulers.

6. Accountability and power

This is all very well. But it is not easy to hold governments and political officials accountable in a democracy. Considered abstractly, accountability implies an asymmetry of authority between principal and agent: the principal has the real authority; the agent is just acting on his behalf and is ultimately supposed to be under the principal's control; the agent has no authority over the principal (though he may have authority to bind her in some transaction he undertakes on her behalf).⁶⁰

This normative scheme works well for some forms of political accountability, like the accountability of a tax-gatherer to a king in the example we imagined at the beginning of section 3. The king, the principal, already holds very considerable real power over his agent.

But in a modern democracy people actually confront their rulers in almost the reverse relation of power. The rulers are there; they are already empowered; they are strong and in control. For the people to be in the position of principal(s), they have to be empowered in ways that are certainly not *given* in their political relations to their rulers, as things stand. John Dunn makes much

⁶⁰ There is a toggle here between two senses of authority: the principal has given the agent authority to bind the principal in the deals the agent transacts on the principal's behalf, and the principal has the authority to control the agent.

of this point. He says quite rightly that accountability arises under conditions of vertical power. It presupposes what any modern theory of government has to presuppose: namely, that there is a powerful and well-organized state ruling over a population and a territory, a state standing distinct as an entity from the people over whom it rules. But Dunn makes too much of this when he says that any theory of accountability “will be parasitic on a well-entrenched and effective practice of subjection” or that we must give priority to subjection over accountability and treat accountability as a sort of *arrière-pensée*.⁶¹ That is like saying we must give danger priority over courage.

Still we do have to reckon with the asymmetry of actual power. Even from a normative point of view, anything we say about accountability is said also in the presence of strong doctrines of political authority and political obligation. The point of these doctrines is to emphasize and explain what people owe to their governments, not vice versa. But this last point at least we may be able to mitigate. Political obligation (owed by citizens) is a separate issue and, by and large, it should not be thought to contradict or diminish democratic accountability.⁶² It doesn't affect accountability: certainly it would be quite wrong to say that citizens in a democracy have a political obligation not to try to hold their rulers to account.⁶³ Nothing remotely like that is true. The normative position is that accountability establishes clear lines of obligation in the other direction—obligations owed by the rulers to the people—and these co-exist with, and are not diminished one little bit by, any theory of the political obligations of citizens. We should remember too that accountability sometimes operates in circumstances where an official has no authority of any sort over the people holding him accountable. An official with a job to do that involves no element of command may still be accountable directly or indirectly to the people for his share of the carrying out of public business.

Still the *de facto* asymmetry remains. Whatever the juridical characteristics of agent and principal, democratic accountability requires the

⁶¹ Dunn, “Situating Democratic Political Accountability,” p. 331.

⁶² Apart from anything else, a clear theoretical understanding of political obligation involves people being obligated to one another rather than to their rulers.

⁶³ The two issues are separated nicely in Kant's dictum “Argue as much as you will and about what you will; only obey!”—Immanuel Kant, “An Answer to the Question: what is Enlightenment?” in Immanuel Kant, *Practical Philosophy*, ed. Mary Gregor (Cambridge University Press, 1996), p. 22 (8:41)—and in Jeremy Bentham's catechism: “[W]hat is the motto of a good citizen? To obey punctually; to censure freely”—Jeremy Bentham, *A Fragment on Government* (Cambridge University Press, 1988), p. 10.

empowerment of people who would otherwise be powerless—the empowerment of the common people, bereft of the money, prestige, power, and means of coercion that are in the hands of government officials. Democratic accountability purports to confer authority on those who are otherwise powerless over those who are well endowed with power. It takes those who have the wherewithal to protect themselves and seeks to make them vulnerable to the verdicts and assessments of those who are, factually speaking, among the least powerful members of society. This vulnerability of the powerful at the hands of the powerless does not come into existence by magic. It has to be constructed and unless something is done to sustain it, it will not last.

Obviously, there are various things that can be done, structures and institutions that can be put in place, to constitute the proper power-relation that accountability requires. Some of these support and constitute accountability in a positive sense. Electoral arrangements are the most obvious: though, as I have argued, the electoral sanctioning of rulers is not all there is to democratic accountability, it is a large part of it and it requires the institution of a system for free and fair elections. In addition, there need to be well-constituted forms of intermediate accountability even when an election is not in the offing.⁶⁴ Ministers, cabinet officials, and heads of agencies need to be accountable to committees of legislative representatives, for example, not because the latter are the principals in this relation but because they act on the principals' behalf in holding these officials accountable.⁶⁵ Other formal arrangements are protective of accountability and its mechanisms in a negative sense: I mean they protect accountability against various standard threats. So there must be freedom of speech and freedom of the press. There must be widespread freedom of association and agitation at the level of civil society. There must be no question of retaliation for those who monitor and criticize, or get together to monitor and criticize, the government or any of its officials.

Above all there must be free access to information about what the government is doing—not (I emphasize again) as a prerequisite of

⁶⁴ But not all internal management techniques within administrations can be equated with mediated democratic accountability, even when the language of accountability is used. (Cf. Hood, “The ‘New Public Management’” and Rubin, “The Myth of Accountability,” pp. 2119-20 and 2075.)

⁶⁵ John Dunn puts this grudgingly but correctly when he says, in “Situating Democratic Political Accountability,” pp. 335-6, that “since in any modern state most citizens cannot really have the foggiest conception of most of what is politically going on,” accountability has to be “very elaborately mediated” (336).

accountability, but as part and parcel of what accountability involves. *In a democracy, the accountable agents of the people owe the people an account of what they have been doing, and a refusal to provide this is simple insolence.* It is like my realtor refusing to provide me with an account of the transactions he has been undertaking on my behalf. There should be no question of tolerating such insolence in democratic politics.

This brings me to a broader point which is very important for democracy. Formal democratic arrangements, including formal structures of accountability, are important. But they need to be supported by an *ethos* of accountability, and a certain change of perspective in the way we think about politics.⁶⁶ For example, a refusal to provide information to the people is not just a wily political strategy that officials are entitled to use in the “agency game” if they can get away with it. And for the people, for their part, a failure to receive information is not just an unfortunate strategic failure—as though they had been outfoxed by their adversaries in the agency game. Rulers and officials are not entitled to taunt their constituents with the constituents’ inability to find out what rulers and officials are doing; they are not entitled to congratulate themselves on the relative immunity that follows from the constituents’ lack of information. And positive political theory should not be echoing that taunting or that celebration.

Theory is not everything, but it makes some difference to the atmosphere in which practices like democratic accountability flourish or wither. If they are to flourish, *we* need to play our part in developing and disseminating theoretical conceptions that present these attitudes—the celebration, by the government, of the people’s lack of information—not just as undesirable but as insolent and as something approaching criminality.⁶⁷ At the very least, we need to treat them as they would be treated in any other agency-relationship in legal or commercial life. I believe some political scientists have done democracy a great disservice by presenting knowledge-asymmetry as a brute matter of fact that simply conditions the agency-game rather than as the consequence of something comparable to malfeasance in office or corruption or electoral fraud.

⁶⁶ John Ferejohn, “Incumbent Performance and Electoral Control,” *Public Choice*, 50 (1986) does an excellent job in figuring out the rational choice basis on which the development of such an ethos might be predicated.

⁶⁷ See Dunn, “Situating Democratic Political Accountability,” p. 336, for a fine example of such condemnation.

7. Appropriating democratic accountability

As I indicated at the beginning, the term “accountability” is quite loose in ordinary usage. I distinguished two senses: (1) forensic-accountability and (2) agent-accountability, and I concentrated on the latter. But “accountability” may also have a third sense:

(3) *Consumer-accountability*. On this conception, “accountability” denotes the fact that it is deemed desirable for an organization to take the views or preferences of specified others into account in deciding how to act.

This sense of accountability is used sometimes in business—with firms regarding themselves as “accountable” to their customers. It is also sometimes used in government—with entities like hospitals, police forces, and inspectorates being “accountable” to those whom they serve or supervise.⁶⁸ Though consumer-accountability may involve elements of forensic-accountability and elements of agent-accountability, it need not. It may convey little more than a sense that it is a rather good idea—perhaps as a matter of management, perhaps as a matter of marketing—for an organization to be seen to be taking people’s preferences into account, irrespective of the basis on which this sense is founded. It definitely does not embrace the point—common to both of the other conceptions—that consequences may follow from the assessment of the conduct of the person or organization said to be accountable, consequences which that person or organization cannot and is not supposed to be able to control. A business that receives feedback from its customers itself decides what to do with that feedback; the gathering of that feedback does not empower the customers nor does it represent any sort of genuine vulnerability on the part of the business.

In political and administrative contexts, consumer-accountability may involve an attempted appropriation of the moral force of one or both of the more specific conceptions, particularly the conception of agent-accountability that—as I have argued—is a crucial component of democratic theory. I hope I have been able to show that democratic accountability, understood as a version of agent-accountability, is a rich, sharp, interesting, and powerful idea and that it is a very attractive idea when it is properly understood. A government agency

⁶⁸ The use of something like consumer-accountability in internal management deserves much greater discussion than I can give it: see Hood, “The New Public Management” and Christopher Hood, *The Art of the State: Culture, Rhetoric, and Public Management* (Oxford University Press, 1998), pp. 49 ff.

may think it advantageous to give the impression that they are operating under the auspices of this rich, sharp, interesting, and powerful idea when in fact all they are doing is deploying some weak sense of consumer-accountability. And they may take advantage of the looseness of the term “accountability” to enable them to do this.⁶⁹ When there are calls for, say, a government medical service to be held accountable, the agency may point proudly to the fact that its patients fill in service-review cards after their dealings with the agency are complete. But this makes a mockery of the call for accountability. At least in a democratic sense, accountability for an entity of this kind requires that it give an account of its operations directly or indirectly to the people in whose name it acts (not just the patients it deals with) and that it hold itself vulnerable to their assessment. An arrangement for receiving consumer feedback is not a way of doing this.

I wonder if there is a similar element of conceptual misappropriation when people substitute forensic-accountability for democratic agent-accountability. The agent-accountability that characterizes democratic politics is—as I said—a rich, sharp, powerful, and attractive idea. In the perennial debate between those who favor a greater role for courts in assessing legislation and those who have democratic misgivings about this, the former may argue that judicial review is just another version of the accountability that democratic theorists are supposed to value. But this is an equivocation unless it is understood clearly that forensic-accountability and agent-accountability are two quite different things, not necessarily substitutable for one another. One of the key differences I mentioned earlier is that in agent-accountability, the principal gets to set the basis on which the agent’s actions are assessed, whereas in forensic accountability the basis of assessment is given independently. This may make all the difference to defenders of democratic accountability, and they will—quite rightly—not want to regard any free-standing form of forensic-accountability as an adequate substitute. Another difference is that in the agent-accountability of electoral politics, disagreements about what the government is doing are resolved fairly among all the citizens acting as equals, not in a way that singles out five or nine judges to decide the matter by voting among themselves. I don’t want to disparage forensic accountability, but it should not be allowed to dilute or distract us from the very particular demands and the very particular empowerment that democratic accountability involves.

⁶⁹ See also the observations in Hood, *The Art of the State*, pp. 223-4, on our need to understand why “management-speak words like ‘accountability’ and empowerment’ have the rhetorical power that they do.”

That said, I should offer a couple of concessionary points. It is possible to view judicial review of legislation as a mediated form of democratic accountability, with scrutiny by a court helping to focus a broader process of democratic accountability and with court procedures operating insistently to require legislators and other officials to give an account of themselves which is then made available to the people.⁷⁰ It is analogous to accountability of cabinet officials and others under oath to a legislative committee.

Also, any full account of these matters would acknowledge John Dunn's point that the dangers we apprehend from our rulers—dangers which, in Dunn's view motivate accountability as a sort of liberalism of fear—are sometimes dangers that are urged on by the very majorities that are involved in democratic accountability. “[H]orizontal hazards between groups of citizens . . . are transposed into vertical hazards.”⁷¹ Sometimes a subset of the principals—a subset of the people—gang up on a minority, in cahoots with those who are supposed to be the people's agents. There has to be a way of preventing this, and forensic accountability in courts may be the answer. But that doesn't make forensic accountability a form of democratic accountability.

8. A Jacobin conception?

Maybe my view of accountability will be judged too extreme. John Dunn talks of certain conceptions of accountability requiring “Jacobin levels of surveillance.”⁷² That sounds unpleasant until we realize that he is referring to surveillance over political officials, not ordinary citizens. The idea is that in the performance of public business, the government and its officials do not have a legitimate *general* interest in concealing from the people information about what they have been up to. Official secrecy may be necessary in very specific areas. But as a general rule, transparency is required and people are entitled to insist on it. We are not required (or permitted) to subject *each other* to this scrutiny, but we are permitted to apply it to our rulers.

In this essay I have tried to locate transparency—the publicity of public business—at the foundation of our conceptions of democracy and democratic accountability. I have been preoccupied with agent-accountability, for I believe

⁷⁰ Notice that this is quite a different point from the requirement that judges give an account of their decision in their judicial opinions. That may enable us to hold the judges accountable. It is not the same as judicial review being a form of democratic accountability.

⁷¹ Dunn, “Situating Democratic Political Accountability,” p. 331 and 333.

⁷² *Ibid.*, p. 335.

that if we focus that conception on democratic politics, we will begin to see some of the real or alleged difficulties of democratic accountability in a different light. Though democratic accountability is indeed a demanding idea, it makes a difference where its normative demands are supposed to fall. Critics sometimes exaggerate its impracticability under the circumstances of modern governance. Accountability requires transparency and the diffusion of information about government, and this can be difficult to achieve. But on a proper understanding, the agent-accountability that is involved in democracy puts the onus of generating that transparency and the conveying of the information that accountability requires *on the persons being held accountable*. It is not for the principal to come up with ways of keeping track of what its agents are doing: the agents owe the principal an account.