

3 Republicanism and Democracy

The Tyranny of the Majority in Eighteenth-century Political Debate

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The problem of the tyranny of the majority, one might argue, represents the catch-22 of republican theory. Republican theory – both in its early modern and in its contemporary versions – starts from the idea that you can only be free if you are not subjected to the arbitrary will of another. This means that political freedom consists not in the absence of legal constraints (as liberals like Isaiah Berlin would have it), but in living under a particular kind of legal constraints – constraints that do not reflect the arbitrary will of another, but that can be seen as reflecting the will and interests of the ruled. Republicans therefore have typically pleaded for making government subject to popular control.¹

Another way of phrasing this key idea of republican theory is to say that people can only be free if they are ruled, as the seventeenth-century republican thinker Algernon Sidney put it, “by laws of their own making.” The “principle of natural liberty,” as Sidney elucidated in his *Discourses on Government*, entailed that “nations have a right to make their own laws, constitute their own magistrates; and that such as are so constituted owe an account of their actions to those by whom, and for whom they are appointed” (Sidney 1698, 8).

But this definition of republican liberty entails a problem – the problem of the tyranny of the majority. Since very few laws are made with the unanimous consent of the governed, it follows that all states – even the most democratic ones – will include citizens that are, at least part of the time, governed by rules imposed by others – albeit by the majority of their fellow citizens rather than a king. These citizens, it seems, cannot be counted as free. From this perspective, republican freedom becomes a chimera, an ideal impossible to institutionalize. (For a similar point, see Niko Kolodny, Chapter 5 in this volume.)²

It is important to emphasize that the problem of the tyranny of the majority does not just affect “sticky” or “permanent” minorities, that is, minorities that distinguish themselves from the majority of the population by relatively fixed characteristics, like race or religion (even though it

is especially salient in those cases).³ When it comes to collective decision-making, all minorities that have to live by rules they did not consent to might legitimately feel that they are ruled according to the will of another, and hence are unfree. When the majority of the population decides to impose higher taxes on the wealthy, for instance, that particular minority might with reason feel that this decision was taken without their approval and that hence they are being treated as slaves whenever the tax man comes around – even though rich people clearly do not qualify as a sticky minority.

In this chapter, I discuss the attempts of three highly influential eighteenth-century republican thinkers – Richard Price, John Adams, and James Madison – to come to terms with the problem of the tyranny of the majority. An analysis of these thinkers shows, first and foremost, that the problem of majoritarianism held a central place in late-eighteenth-century republican thought. At the same time, I will demonstrate that eighteenth-century republicans tried to come up with solutions to this problem that were compatible with majoritarianism. This puts them into sharp contrast with neo-republicans like Philip Pettit, who tend to look to counter-majoritarian institutions as a solution for the problem of the tyranny of the majority. This chapter therefore aims to highlight, first and foremost, a major theoretical difference between neo-republicanism and the historical tradition by which it is inspired. Second, I will argue that, at least in this respect, eighteenth-century republicanism is to be preferred to neo-republicanism. More specifically, I will suggest that the eighteenth-century insistence on majoritarianism is more coherent than the neo-republican embrace of counter-majoritarian institutions.

1 Before the Eighteenth Century

Before going on to an analysis of Price's, Adams's, and Madison's writings, I will first address the question of why it took republican writers so long to address this problem in the first place. Republicanism, after all, was not a new way of thinking. Eighteenth-century republicans typically traced their lineage all the way back to the work of the sixteenth-century humanist Niccolò Machiavelli, who had described the republican governments of antiquity as the only "free" governments. In the seventeenth century, republicanism had been particularly vibrant in both England and the Dutch Republic, where it had been propagated by thinkers and activists such as James Harrington, Algernon Sidney, Marchamont Nedham, and the Dutch brothers De la Court.⁴

None of these thinkers, however, seemed particularly worried about the potentially tyrannical nature of majority rule.⁵ This was not because they were impossibly naïve. Rather, it was because they were far more concerned – and not unreasonably so – with another potential tyranny: that of the governing minority. Sixteenth- and seventeenth-century republicans, writing in an age before press freedom or even the existence of a press capable of holding elected public officials to account, constantly worried that these officials would start operating in their own interest rather than in the public interest – or even worse, that they would try to perpetuate their power by turning themselves into unaccountable dictators. There were many precedents for this danger; both in republican Rome and in early modern republics, elected rulers like Julius Caesar, Cosimo de' Medici, or Oliver Cromwell had turned into lifetime dictators while preserving the outward trappings of republican government.

Much of early modern republican theory focused on how to make the tyranny of the few impossible. Republicans proposed several solutions. The first, and most obvious, was to make the government subject to constant popular control. But they also argued that the institutional framework should be constituted in a way so as to make the usurpation of power by elected officials or lawmakers less likely. In order to achieve this goal, many republican thinkers put their hopes in “mixed” or “balanced” constitutions, in which governmental power was divided over many different institutions, which were to check each other and to prevent republican government from turning into an unaccountable dictatorship. Machiavelli, for instance, attributed the freedom of the ancient Romans to a large extent to the existence of the tribunes, elected officials whose main job it was to keep an eye on the consuls so that the latter would not abuse their power (Machiavelli 1997, 28–29).⁶

But the problem of the tyranny of the majority was not just ignored by republican theorists. Opponents of republicanism likewise refrained from bringing up this issue. Instead, they claimed that the main problem with republican government was that it would lead to anarchy and licentiousness – that it would lead to lawless government, rather than a government in which lawmaking power was abused in the interests of the majority. This criticism went back all the way to Plato, who in his *Republic* had claimed that the main problem with popular self-government was that it would degenerate to a complete disregard for political authority. Republican freedom was always in danger of spilling over in anarchy, with “rulers ... behaving like subjects, and subjects ... behaving like rulers,” as Plato explained (Plato 2000, 275).⁷ Paradoxically, this anarchical state of affairs would eventually lead to the opposite of freedom – tyranny. For after a while, citizens would become tired of

their unbridled freedom and calls would go out for a strong hand, capable of restoring order.

Plato's views on the dangers of republican freedom had an extremely long shelf-life. In antiquity, his anxieties were repeated verbatim by a long list of thinkers, ranging from Aristotle to Plutarch. In the early modern period, they were put front and center by anti-republican thinkers like Robert Filmer. The examples of both Athens and Rome, Filmer argued, showed that popular government allowed "the impunity of wicked men." "Upon pain of death, [Filmer recounted with horror], 'It was forbidden all [Roman] magistrates to condemn to death or banish any citizen, or to deprive him of his liberty, or so much as to whip him, for what offence soever he had committed, either against the gods or men.'" This was an unavoidable consequence of republican government: "The reason is given: because the nature of all people is to desire liberty without restraint, which cannot be but where the wicked rule." As a result, popular government, "this beast with many heads," led to nothing but "disorder" and "sedition" (Filmer 1991, 27–28).

In short, early modern opponents of republicanism tended to see anarchy or lawlessness rather than the tyranny of the majority as the major problem issuing from a republican system of government, whereas republicans themselves were more focused on the problem of the potential tyranny of the governing minority. In the eighteenth century, however, this began to change. The problem of the tyranny of the majority began to worry an increasing number of republican political thinkers and publicists. Indeed, the very phrase "tyranny of the majority" was coined by John Adams in 1788 (Adams 1788, 291).⁸

So what changed? How did the problem of the tyranny of the majority suddenly become so prominent in eighteenth-century political thought? One possible answer to that question is that, by the late eighteenth century, political thinkers finally began to gain experience with real, existing republics. Popular republics had been an ideal, and a rather far-fetched one at that, for most of the early modern period. But by the late eighteenth century, some republican theorists were able to start thinking about how popular government worked based on their own experience, instead of relying on ancient texts about Rome and Athens. Thus, it is striking that the republican theorists who did most to address the problem of the tyranny of the majority were American politicians, who had actually participated in the government of states that were not only republics, but also rather democratic ones. This experience had apparently convinced them that majoritarianism was just as much a threat to liberty as the arbitrary interference by kings or queens. Hence, they set about attempting to resolve this problem.⁹

2 **Richard Price**

In February 1776, a Welsh clergyman named Richard Price published a short treatise entitled *Observations on the Nature of Civil Liberty, the Principles of Government, and the Justice and Policy of the War with America*. It was not his first book; earlier contributions had included a philosophical disquisition on ethics and a technical pamphlet on the national debt, all of which had established Price's renown as one of the most versatile minds of his age. His new work would give him unprecedented success. Price's treatise went through fourteen editions in 1776 alone and sold over 60,000 copies, while it was also translated into French, German, and Dutch. It made its author – a Unitarian minister who up till 1776 had been mostly known within a small circle of theologians and other intellectuals – famous overnight. At least forty pamphlets were published in response to Price's treatise. Price became a hero to both the American colonists and their British supporters. In 1778, the fledgling American Congress passed a motion requesting Price to move to the United States of America so that he could help the new state with its finances (Price politely declined) (Cone 1952, 69–73).

Price's *Observations* was written in response to the most explosive political issue of 1776: the growing hostility between Britain and its American colonies. A series of military skirmishes between the British Army and colonist forces had left scores of soldiers dead or wounded. The bloody battle of Bunker Hill, which had resulted in over 1,000 British and 450 American casualties, had hardened public opinion on both sides against a peaceful solution. In August 1775, George III had declared the colonies to be in open rebellion. A full-blown war seemed inevitable.

Despite being British, Price sided with the rebellious colonists. His pamphlet explained why. The war was wrong for many reasons. The British constitution expressly forbade the raising of taxes without representation, therefore the war was unconstitutional. Sending troops across the Atlantic would cost much more than the colonies would ever produce in revenue, so it was also bad policy. But above all, Price maintained, the British stood condemned on the grounds of "the principles of Liberty." By arrogating the right to impose taxes on the American colonists without consulting them – the declared cause of the war – the British were threatening to impose "slavery" on the colonies (Price 1776, 21).

Price realized that this was a claim which might seem overblown to at least some of his readers. After all, compared to actual slaves, the plight of whom was just starting to attract attention in Britain, the fate of American colonists could hardly be said to warrant such an epithet. He therefore spent a good deal of time analyzing the meaning of the concept

of freedom in his treatise. In Price's view, being free in a society or as a society was not defined by the extent to which the government interfered with one's life. Rather, one was free as long as one was able to control the way in which one was governed. As Price put it succinctly: "In every free state every man is his own Legislator. All taxes are free-gifts for public services. All laws are particular provisions or regulations established by common consent for gaining protection and safety. And all Magistrates are Trustees or Deputies for carrying these regulations into execution" (Price 1776, 7).

Price of course realized that most political decisions would not be taken unanimously. He therefore made clear repeatedly in his *Observations* that he believed majoritarianism to be an essential feature of a free regime. Thus, he wrote that "if the persons to whom the trust of government is committed hold their places for short terms; if they are chosen by *the unbiassed voices of a majority of the state*, and subject to their instructions," then "liberty will be enjoyed in its highest degree" (Price 1776, 8, emphasis added). Elsewhere, he also remarked that a state was free if and only if it was governed according to the will of "the Majority of a Community" (Price 1776, 6). This was not to say the majority could do what it wanted. Price repeatedly emphasized, in Lockean vein, that a government could only be legitimate if it protected individual rights such as the right to property. But Price at no point suggested in the *Observations* that counter-majoritarian institutions should be introduced to make sure that majorities refrained from infringing on those rights.

Price's *Observations* was one of the clearest and most coherent expositions of the republican theory of freedom to be published in the eighteenth century. As such, it has rightly been celebrated by contemporary republican theorists like Phillip Pettit (1997, 27, 40). However, the controversy sparked by Price's pamphlet also shows just how contested the republican theory of freedom had become by the 1770s. In response to Price's *Observations*, dozens of works were published. As Yiftah Elazar's recent analysis of this debate shows, they criticized Price's theory of freedom for many different reasons. Some of them continued to echo old-fashioned concerns about the anarchical nature of popular governments rather than worrying about the tyranny of the majority. However, a number of Price's critics used a very different and more new-fangled argument against Price's claims: that democratic participation might lead to the tyranny of the majority rather than lawlessness and anarchy (Elazar 2012).

One of the many critics who raised this worry was the English politician Henry Goodricke. "Some people," Goodricke wrote in his *Observations on Dr. Price's Theory and Principles of Civil Liberty and Government*,

“who have never considered the matter, are apt weakly to imagine, that Democracy is a security against Tyranny.” In reality, however, he continued to argue that democracy tended to lead to mob government. “And what is more likely to be abused, than power in such hands? – from want of judgment and of wisdom; from irresolution and precipitation; from the influences of faction, of ambition, of revenge, and of every evil disposition. Hence it is that Republican tyranny and oppression have been so frequent, so obstinate, so capricious, and so arbitrary; and have vented their fury so much on the best of mankind” (Goodricke 1776, quoted in Elazar 2012, 68).

Goodricke did not specify who he believed to be threatened by the tyranny of the majority. But the author of another attack on Price, *Civil Liberty Asserted*, spelled out the danger that seems to have been worrying many of Price’s critics: that popular self-government might lead to the tyranny of the poor over the rich. As the author of *Civil Liberty Asserted* explained, “by far the greater part of the people in all civilized States are men of no real property, but live as it were, from hand to mouth by their labour ... the men of real property bear but a small proportion to those that have none.” If given equal voting power, it was therefore likely that the poor would use this power to rob the rich of their possessions, and “property would become the most precarious and insecure thing in the world” (Goodricke 1776, quoted in Elazar 2012, 68).

In 1777, about a year after he published his original *Observations*, Price attempted to answer his many critics in a new pamphlet, the *Additional Observations*. The controversy had clearly taken a toll on Price. As he explained in the introduction to the *Additional Observations*, he felt aggrieved by the vehement tone of many of his critics. Indeed, he was so disgusted by the uncivil tone of the debate that he had decided to withdraw from public debate altogether (as he announced rather grandiloquently – “I withdraw from politics”) (Price 1777, xvi). Nevertheless, he felt it to be his duty, before laying down his pen, to further clarify and defend his position one more time.

In addressing his critics, Price flatly denied that popular government could lead to the tyranny of the (poor) majority, rather than to freedom for all. Instead, he emphasized that it was absurd to think that a political community would ever oppress itself – thus implying that it was also absurd to think it would ever oppress any of its members. “A people,” he wrote, “will never oppress themselves, or invade their own rights” (Price 1777, 16). Oppression or tyranny would only ever happen if a people was bamboozled into handing over the reins of power to one man or a small elite, who would govern according to their “arbitrary will.”

The possibility that a majority too could impose its “arbitrary will” on a minority was rejected by Price.

Price, in short, was adamant that the people would rule in the general interest. His outright rejection of the idea that the majority could become tyrannical is, as Elazar has pointed out, “somewhat puzzling” (Elazar 2012, 243). After all, as a Dissenting minister, Price was a member of a religious minority that suffered from legal discrimination in England. Nevertheless, Price’s refusal to take seriously the problem of the tyranny of the majority should not necessarily be seen as an intellectual failure on his part. Rather, it seems likely that his unconditional embrace of majority rule was a product of Price’s faith in the beneficial effects of popular government on the moral condition of its citizens. He frequently expressed the belief that political reform would go hand-in-hand with a moral improvement of society. “The subjects of free states,” Price wrote, “have, in all ages, been most distinguished for genius and knowledge” (Price 1776, 10).¹⁰ Hence, his conclusion that, in a truly free or popular state, power would never be abused in the selfish interests of the majority.

3 John Adams

John Adams was a practicing politician first and foremost, and his main claim to fame is of course that he was George Washington’s vice-president and the second president of the United States of America. But Adams was also an important republican theorist, even though he has been somewhat neglected in the existent literature.¹¹ One of his earliest writings was his *Thoughts on Government*, which he wrote shortly after the American colonists declared their independence from Great Britain, and which had an important influence on the state constitutions that were being created at that time. In this pamphlet, Adams explicitly defended republican government as the best form of government, although he argued that the “mixed” republic, with a bicameral legislature and independent head of state, was to be preferred to the more democratic republicanism propagated by, among others, Tom Paine (Siemers 2013, 12).

But Adams’s most important contribution to republican theory was his *Defense of the Constitutions of the United States of America*. Adams wrote this text while he was stationed in London in 1788 as the American ambassador to the British Government. He set out to defend the constitutions of the different American states against the claims made by the French minister Turgot that they were too derivative of the British example. In particular, Turgot had criticized the American republics because they typically had a bicameral legislature and an independent executive power, whereas Turgot believed that properly constituted republics had a single

legislative chamber. Adams tried to refute these criticisms by explaining again, like he had done in his earlier *Thoughts on Government*, that “mixed” or “balanced” republics, in which legislative power was divided between a “democratic” lower house and an “aristocratic” upper house, were, for a number of reasons, superior to republics with a single legislative chamber.

Adams’s vigorous defense of the “mixed” or “balanced” constitution has often been interpreted as motivated by a concern about the suppression of “aristocratic” or elite minorities by the majority. But in fact, as Luke Mayville has recently argued, Adams’s insistence on the necessity of an “aristocratic” upper house was inspired by exactly the opposite concern: his fear of elite power and its corrupting influence. Adams was firmly convinced that, in every society, the wealthy and well-educated formed a “natural aristocracy” capable of exerting an influence far greater than their numbers would suggest. By reserving a separate chamber for these ambitious elite citizens, their sway over the legislative process would be kept within reasonable limits (Mayville 2016).

Adams’s *Defense* in other words focused to a large extent on the traditional republican concern with the tyranny of the few. But Adams also devoted some thought to a very different problem: that of majority tyranny. He did so in direct response to Price’s *Observations* and the theory of freedom spelled out in that work. Adams found much to agree with in Price’s *Observations*. As a committed republican, Adams explicitly endorsed Price’s theory of freedom. He approvingly quoted Price’s claim that civil liberty consisted in “the power of a civil society to govern itself, by its own discretion, or by laws of its own making, by the majority” (Adams 1788, 122). Adams was moreover aware of the fact that this theory of freedom was by no means original to Price. It had also been defended, as he illustrated with extensive quotes, by “the good old republican writers” such as Algernon Sidney and James Harrington (Adams 1788, 124).

But this theory of freedom, as Adams also pointed out, was not unproblematic. Even if the laws were made with common consent, it was still possible that some people living under these laws were oppressed:

A society, by a majority, may govern itself, even by equal laws, that is by laws to which all, majority and minority are equally subject, so as to oppress the minority. It may establish an uniformity in religion; it may restrain trade; it may confine personal liberty of all equally, and against the judgement of many, even of the best and wisest, without reasonable motives, use, or benefit.

(Adams 1788, 123)

Indeed, as Adams continued to argue, it was not even that far-fetched to think that a people would oppress not just a minority, but all citizens, by introducing laws that harmed their individual liberties. A nation of

Catholics, for instance, might unanimously consent to prohibit labor on half of the days in the year, as feast days. The whole American nation might unanimously consent to a Sunday law, which would prevent them from going out and about one day in seven. Such laws would all be equal laws, made with common consent. Nevertheless, they would clearly constrain individual liberty, Adams believed, as they infringed upon people's ability to do what they wanted with no clear benefit to society (Adams 1788, 123).

Adams therefore argued that an additional criterion needed to be added to Price's definition of liberty. If laws were to be framed so that they did not harm liberty, the consent of the majority alone did not suffice. In addition, Adams argued, they should be made in the general interest: "We must add to Dr. Price's ideas of equal laws by common consent, this other – for the general interest, or the public good" (Adams 1788, 123). Under this criterion, the examples cited above, such as the prohibition on labor in a Catholic country, would clearly be oppressive – or, at least, so Adams believed – because it was self-evident that a prohibition on labor was to the detriment of the public interest.

It is important to note, however, that Adams did not believe that judgment over whether this additional criterion was met or not in the making of the laws should be assigned to an extra-majoritarian institution such as the judiciary. Instead, he argued in a surprisingly Rousseauian vein that the nation itself – and hence, of course, the majority of voters – should make that judgment call. As he explained, "it is generally supposed, that nations understand their own interest better than another; and therefore they may be trusted to judge of the public good" (Adams 1788, 124).

Adams, in short, was much less optimistic than Price about the future of republican freedom. Unlike Price, Adams was willing to acknowledge that it was possible for a nation to suppress minorities or even larger numbers of citizens. Nevertheless, Adams refrained from arguing that this problem should be prevented by relying on counter-majoritarian institutions. While there did exist a criterion to judge whether laws made with the approval of the majority infringed liberty or not, it was the majority which should be allowed to judge whether that criterion was met or not. In Adams' view, no one individual or group in society was better equipped to judge what was in their interest or not than the people itself. Or, as Adams put it: "There can be no way of compelling nations to be more free than they choose to be" (Adams 1788, 124).

4 James Madison

That brings us to our third and final republican thinker, James Madison. Like John Adams, Madison was a practicing politician first and foremost,

but again like Adams, Madison also made an important contribution to republican political theory. In particular, of all Anglo-American republicans, Madison was probably the one who thought longest and hardest about the problem of the tyranny of the majority. His concern about this issue has led some scholars to describe Madison as a “liberal-republican” or even a “liberal” thinker. But this description does not hold water. First and foremost, Madison himself consistently described the principles he propagated as “republican.” Moreover, as we shall see, Madison continued to embrace majoritarianism as the only legitimate decision-making tool in a free state.¹²

Madison made all that clear in his most important theoretical work, his contribution to the *Federalist Papers*. The problem of the tyranny of the majority held a prominent place in several of his contributions. In *Federalist* 10, Madison described this as a problem of factionalism – a specific group trying to push through its own interests while trampling upon the interests of others. In a republican system, Madison explained, the threat of faction did not just come from selfish minorities. The majority of the citizens was just as likely to push through their interests without any regard for the interests of the minority. Indeed, Madison went so far as to say that, in a republic, the problem of the tyranny of the majority was even more daunting than that of the tyranny of the minority, since it was more difficult to prevent:

If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote. It may clog the administration, it may convulse the society; but it will be unable to execute and mask its violence under the forms of the Constitution. When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens.

(Hamilton, Madison, and Jay 2008, 51)

Madison again returned to this issue in *Federalist* 51. A large part of this essay was taken up with a defense of bicameralism, which Madison presented as a protection against governmental abuse of power – in other words, against the tyranny of the ruling minority. But Madison also argued that it was important to guard not just against oppression by the governing elite, but also against the oppression of one part of society by another, and in particular to protect the minority against oppression by the majority: “Different interests necessarily exist in different classes of citizens. If a majority be united by common interest, the rights of the minority will be insecure” (Hamilton, Madison, and Jay 2008, 258).

So how to guard against this evil? In answer to that question, Madison made it very clear that he rejected any solutions that would violate the majoritarian principle. It was of course possible, he explained in *Federalist* 51, to create “a will in the community independent of the majority – that is, of the society itself – and to give that will a say in the decision-making process.” This was precisely what happened “in all governments possessing an hereditary or self-appointed authority.” However, as Madison warned, this was, at best, “but a precarious security; because a power independent of the society may as well espouse the unjust views of the major as the rightful interests of the minor party, and may possibly be turned against both parties” (Hamilton, Madison, and Jay 2008, 258–259).

Instead, Madison proposed two different solutions that were, at least in his own view, compatible with majoritarianism. First and foremost, he argued in *Federalist* 10, the introduction of representative government might be a solution to this problem. By investing legislative and governmental power in the hands of elected representatives rather than the people itself, government was entrusted to a freely chosen elite. In the best-case scenario, this elite would be more likely to take the public interest into account than the masses. Or, as Madison put it, in a representative system, “public views” might be “refined and enlarged” by “passing them through the medium of a chosen body of citizens.” This elective elite might be better able to “discern the true interest of their country” and their “patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations.”

Second, Madison maintained that the tyranny of the majority became less of a potential threat in societies with “a multiplicity of interests.” As the number of interests, and therefore the number of factions based on these interests, was multiplied, it became “less probable,” Madison argued, that “a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength and to act in unison with each other” (Hamilton, Madison, and Jay 2008, 54). Hence, Madison concluded, the threat of the tyranny of the majority was much less of a problem in the “extended” republic that was being created in northern America than it had been the case in the republics of antiquity and of early modern Europe, which were typically much smaller. Moreover, the Union would also be less prone to the tyranny of the majority than each individual state of which it was composed (Hamilton, Madison, and Jay 2008, 54–55).

This second point was clearly the more important one in Madison’s view and he reiterated it again in *Federalist* 51. In the United States

of America, he wrote, the society itself “will be broken into so many parts, interests and classes of citizens, that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority” (Hamilton, Madison, and Jay 2008, 258–259). Hence, as Madison concluded optimistically, it was unnecessary to introduce counter-majoritarian institutions in the United States of America:

In the extended republic of the United States, and among the great variety of interests, parties, and sects which it embraces, a coalition of a majority of the whole society could seldom take place on any other principles than those of justice and the general good; whilst there being thus less danger to a minor from the will of a major party, there must be less pretext, also, to provide for the security of the former, by introducing into the government a will not dependent on the latter, or, in other words, a will independent of the society itself.

(Hamilton, Madison, and Jay 2008, 260)

It is important to note that, as his intellectual career progressed, Madison never deviated from these views. Madison of course famously introduced the Bill of Rights in 1789, and this could be interpreted as a sign that he had changed his mind about how to guard against the tyranny of the majority. More specifically, it could lead us to think that Madison had come to embrace the role of an extra-majoritarian institution, the judiciary, in protecting individual rights.¹³

However, as both Paul Finkelman and Greg Weiner have shown, an analysis of Madison’s own claims about the Bill of Rights does not allow us to come to that conclusion. Indeed, during the debates of the constitutional convention, Madison argued explicitly that a Bill of Rights would be but a poor protection against the tyranny of the majority. His eventual support for a Bill of Rights must be understood as a matter of political expediency, because he saw it as a harmless sop to the more moderate antifederalists. Moreover, Madison did not see the judiciary as an extra-majoritarian institution that should be empowered to defend individual rights against the legislature. In his view, the Supreme Court should simply settle questions of a purely juridical nature, not hand down what he called “general and abstract doctrines.”¹⁴

Like Adams, in short, Madison identified the problem of the tyranny of the majority as a cardinal issue in republican theory. But unlike Adams, Madison also believe that this issue could be resolved, at least under the specific conditions of an “extended” republic like the United States of America, where representative government and, above all, the existence of a multiplicity of interests prevented any one faction from imposing its particular selfish interests on everyone else. These solutions, however, as

Madison himself emphasized, were fully compatible with the republican principle that the will of the majority should rule.

Conclusion

In short, a discussion of Price's, Adams's, and Madison's writings shows that the problem of the tyranny of the majority had become a cardinal one for these republican thinkers. At the same time, it also shows that they came up with solutions to this problem that did not infringe on the majoritarian principle. In Price's view, creating counter-majoritarian institutions was simply superfluous, because he expected that individuals in a free commonwealth would be so rational and enlightened that they would never infringe on the rights of other individuals. Adams and Madison, on the other hand, were less sanguine about the virtuousness of republican citizens. Contrary to Price, they recognized that, in republics, majorities might be formed that would harm the interests of minorities and hence render them unfree. Adams, however, concluded that this was a problem about which not that much could be done; whereas Madison believed that the tyranny of the majority could be avoided under certain conditions without necessitating the creation of extra-majoritarian institutions.

These eighteenth-century reflections on the problem of the tyranny of the majority stand in sharp contrast with those of contemporary republican or neo-republican thinkers. Philip Pettit in particular has devoted much attention to the problem of the tyranny of the majority in his work. Pettit, however, has argued for a wide variety of counter-majoritarian measures designed to protect minorities, including the introduction of a bill of rights, which would take some issues out of the domain of popular voting altogether. Pettit has refrained from spelling out in any detail how conflicts about these rights are supposed to be adjudicated, but one solution he has entertained is that of independent judiciary – which would of course imply giving control over these issues to a small group of elite citizens (Pettit 2012a, 217).¹⁵

By his embrace of counter-majoritarian institutions, Pettit deviates in an important way from the republican tradition by which he claims to be inspired. Of course, that observation is in and of itself not an argument against neo-republicanism. There is no merit in ideological purity as such. Even those committed to thinking within a particular tradition should feel under no obligation to remain beholden to all of its particularities. Moreover, we might feel that the reflections of the eighteenth-century republicans discussed above on the problem of the tyranny of the majority suffer from an overly optimistic belief in, respectively, the beneficial effects of popular government and of “extended” republics.

However, the arguments of these eighteenth-century republicans, as I would like to argue in conclusion, do have the merit of greater coherence when compared with Pettit's embrace of counter-majoritarian institutions. After all, as Madison reminds us, by handing over the protection of specific rights to counter-majoritarian institutions such as hereditary bodies or judges with life-long tenure, we effectively hand over decision-making power in that area to a "will independent of society itself." In other words, we hand over a part of the political process to a will that is not our own – and in the process we render ourselves, in republican terms, unfree. That is why eighteenth-century republicans tried to come up with solutions to the problem of the tyranny of the majority that were compatible with majoritarianism. While we might not necessarily be satisfied with their answers, contemporary republicans would do well to heed their example.