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- articulates, some would say amends, his view at length in *Political Liberalism*. See especially Lecture V, pp. 173–211.
- 58 Thomas Nagel, 'Rawls on Justice', *Philosophical Review*, 1973, vol. LXXXII, pp. 220–34, repr. in N. Daniels (ed.), *Reading Rawls*. See the latter at pp. 6–10.
- 59 The general conception and the two principles are cited in their final versions from *Theory of Justice*, pp. 302–3.
- 60 This formal statement (*Theory of Justice*, p. 152), conceals some dreadful social choices which have been the occasion of anguished historical judgement. Isaac Deutscher, considering whether Russia could have emerged from barbarism by using less barbarous means, is a celebrated example. See in particular the final two chapters of I. Deutscher, *Stalin: A Political Biography*, rev. edn, Harmondsworth, Penguin, 1966.
- 61 Rawls, *Political Liberalism*, p. 187.
- 62 Those wishing to take the matter further should note the significant alterations in the principle as stated in *Political Liberalism*, Lecture VIII (at p. 291), in response to the criticisms of H.L.A. Hart, in particular. See H.L.A. Hart, 'Rawls on Liberty and its Priority', *University of Chicago Law Review*, 1973, vol. 40, pp. 534–55, repr. in N. Daniels (ed.), *Reading Rawls*, pp. 230–52.
- 63 Rawls deploys a battery of arguments against average utility, as a principle one might select in the original position. See *Theory of Justice*, §§ 28–9. The case for average utility is made by J.C. Harsanyi, 'Cardinal Utility in Welfare Economics and the Theory of Risk Taking', *Journal of Political Economy*, 1953, vol. 61, and, discussing Rawls, 'Morality and the Theory of Rational Behaviour', in A.K. Sen and B. Williams (eds), *Utilitarianism and Beyond*, Cambridge, Cambridge University Press, 1982.
- 64 Is envy a feature of human nature that can't be eradicated by honest and careful reflection? Perhaps it is, but so too, one might think, is the docile and unquestioning acceptance of traditional inequalities, the poor-man-at-the-gate syndrome noted earlier.
- 65 Rawls, *Theory of Justice*, p. 440.
- 66 *Ibid.*, p. 4.
- 67 T. Scanlon, 'Contractualism and Utilitarianism', in A.K. Sen and B. Williams (eds), *Utilitarianism and Beyond*. So far as I can see, specific questions concerning justice are not addressed in Scanlon's recent book, *What We Owe to Each Other*, Cambridge, Mass., Harvard University Press, 1999.
- 68 This point is made by T. Nagel, *Equality and Partiality*, pp. 38–40. Does Rawls accept Scanlon's version of contractualism, which

rejects the apparatus of the original position, the veil of ignorance, and consequently, maximin reasoning governing choice under conditions of uncertainty? In *Political Liberalism*, despite commendatory remarks, he doesn't say.

- 69 To my knowledge, Rawls does not express a clear view as to whether private ownership of the means of production or some variety of socialism (common ownership by the community or by workers in firms are two different models) is best. The contours of the property system will be delineated by 'the traditions, institutions, and social forces of each country, and its particular historical circumstances', *Theory of Justice*, p. 274. He *does* argue for a market system of fixing prices (*ibid.*, pp. 270–4) and favours a property-owning democracy wherein property includes 'productive assets'. If 'productive assets' mean tools and raw materials, the idea is quaint; if it means stocks and shares, the ideal is under-described. So far as the *powers* of private shareholders in public companies are concerned, they may as well be given cash. See J. Rawls, 'Preface for the French Edition of *A Theory of Justice*', in J. Rawls, *Collected Papers*, ed. S. Freeman, Cambridge, Mass., Harvard University Press, 1999, p. 419.
- 70 So I claim. Rawls himself distinguishes the idea of the 'welfare state' from that of the 'property-owning democracy', endorsing the latter and rejecting the former: the welfare state may allow such 'large and inheritable inequalities of wealth [as are] incompatible with the fair value of equal liberties . . . as well as large disparities of income that violate the difference principle' (*ibid.*). Would that these terms were so well defined that such distinctions could be confidently drawn!
- 71 This objection is put by R. Nozick, *Anarchy, State and Utopia*, pp. 213–27, David Miller, *Social Justice*, Oxford, Clarendon Press, 1976, pp. 46–8 and Ronald Dworkin, 'What is Equality? Part I: Equality of Welfare; Part II: Equality of Resources', *Philosophy and Public Affairs*, 1981, vol. 10, pp. 185–246, 283–345.
- 72 For a full-length treatment, see George Sher, *Desert*, Princeton, N.J., Princeton University Press, 1987.
- 73 J. Rawls, *Theory of Justice*, p. 101.
- 74 *Ibid.*, pp. 303–10.
- 75 Important contributions to this literature include: A. MacIntyre, *After Virtue*, London, Duckworth, 1981; C. Taylor, 'Atomism', in *Philosophy and the Human Sciences*, vol. 2 of *Philosophical Papers* and 'Cross-purposes: The Liberal-Communitarian Debate', in N. Rosenblum (ed.), *Liberalism and the Moral Life*, Cambridge, Mass.,

Harvard University Press, 1989; M. Sandel, *Liberalism and the Limits of Justice*, Cambridge, Cambridge University Press, 1982; M. Walzer, *Spheres of Justice*, Oxford, Blackwell, 1983. Valuable reviews of these debates are found in W. Kymlicka, *Liberalism, Community and Culture*, Oxford, Clarendon Press, 1989 and S. Mulhall and A. Swift, *Liberals and Communitarians*, Oxford, Blackwell, 1992. The classical source of communitarianism is Aristotle's *Politics*, of modern communitarianism, G.W.F. Hegel, *Philosophy of Right*, §§ 142–57.

6 Political obligation

- 1 I introduce the qualification here to avoid the implication of legal positivism that any formally authoritative legal prescription gives rise to a legal obligation. Thus, in the case of an unjust law one may have a legal obligation, but no moral obligation, to comply. The issue is too large to broach. Classic modern sources include H.L.A. Hart, *The Concept of Law*, Oxford, Clarendon Press, 1961, L. Fuller, *The Morality of Law*, New Haven, Yale University Press, 1969 and R. Dworkin, *Taking Rights Seriously*, London, Duckworth, 1977.
- 2 Leslie Green distinguishes the questions of whether the state has legitimate authority from the question of whether citizens have a political obligation by claiming that political obligation is an obligation held by *all* citizens to obey *all* laws. It is 'doubly universal'. By contrast the state may have authority under limited conditions which do not require it to have authority over all persons. See L. Green, *The Authority of the State*, Oxford, Clarendon Press, 1988, pp. 228–40, cited at p. 228. Likewise, Joseph Raz argues for the 'separateness of the issues of (1) the authority of the state; (2) the scope of its justified power; (3) the obligation to support just institutions; (4) the obligation to obey the law', J. Raz, *The Morality of Freedom*, Oxford, Clarendon Press, 1986, p. 104. I judge these matters to be controversial, but have tried not to beg any questions by my use of this range of terminology. Where a substantial philosophical conclusion is at stake, I try to argue the point. Thus, for example, I reject the claim that political obligation is 'doubly universal'.
- 3 We shall examine this assumption later.
- 4 Poor Shaw published the quaintly named *Ladies Directory*, giving names, addresses, photographs and listing the special skills of prostitutes. There's an Internet fortune awaiting Shaw's successor.

- His case is discussed in H.L.A. Hart, *Law, Liberty and Morality*, pp. 6–12, citing the judgements at (1961) 2 A.E.R. 446 and (1962) A.C. 223.
- 5 The importance of this purpose to civil disobedience is stressed by Peter Singer, *Democracy and Disobedience*, London, Oxford University Press, 1974, pp. 72–84.
 - 6 T. Hobbes, *Leviathan*, Chs 17–18, quoted at pp. 227 and 230.
 - 7 I ignore the complications introduced in Ch. 29 of *Leviathan*, where Hobbes discusses the dissolution of the sovereign power and the consequent dissolution of citizens' duties. See also Ch. 21, pp. 272–4, where Hobbes discusses cases in which subjects are absolved of their obedience to the sovereign.
 - 8 J. Locke, *Second Treatise*, §6.
 - 9 This matter is well discussed in J. Hampton, *Hobbes and the Social Contract Tradition*, Cambridge, Cambridge University Press, 1986.
 - 10 T. Hobbes, *Leviathan*, Ch. 13, p. 186.
 - 11 *Ibid.*, Ch. 18, p. 238.
 - 12 I. Kant, *The Critique of Pure Reason*, trans. and ed. P. Guyer and A.W. Wood, Cambridge, Cambridge University Press, 1998, pp. 100–1, p. Axii.: *Kritik der reinen Vernunft* (1. Auflage), ed. B. Erdmann, *Kant's gesammelte Schriften*, herausgegeben von der Königlich Preußischen Akademie der Wissenschaften, Band IV (edited by the Royal Prussian Academy of Sciences, vol. IV), Berlin, Georg Reimer, 1911.
 - 13 For a useful compendium of anarchist writings, see G. Woodcock, *The Anarchist Reader*, London, Fontana, 1977. For a history of anarchism, see G. Woodcock, *Anarchism*, Harmondsworth, Penguin, 1963. Two useful philosophical discussions of this tradition are A. Carter, *The Political Theory of Anarchism*, London, Routledge and Kegan Paul, 1971 and D. Miller, *Anarchism*, London, J.M. Dent, 1984.
 - 14 M. Weber, *From Max Weber: Essays in Sociology*, trans. and ed. H.H. Gerth and C.W. Mills, London, Routledge and Kegan Paul, 1946, p. 78.
 - 15 J.-J. Rousseau, *A Discourse on the Origin of Inequality*, in *The Social Contract and Discourses*, p. 45. See also pp. 65–6.
 - 16 S. Milgram, *Obedience to Authority*, London, Tavistock, 1974. This work is summarized in S. Milgram, article on 'Obedience', in Richard L. Gregory (ed.), *The Oxford Companion to the Mind*, Oxford, Oxford University Press, 1987.
 - 17 J.S. Mill, *On Liberty*, Ch. 3. Mill may be the wrong authority to invoke here. A critic (Pat Shaw) suggests that the Milgram effect

- may be worse in liberal regimes than authoritarian ones. In the latter, folks may obey only when they have to! A dismal, but cautionary thought.
- 18 Michael Taylor's books defend anarchism in a fashion that is both philosophically sophisticated and sociologically alert. See *Anarchy and Cooperation*, London, Wiley, 1976, 2nd edn published as *The Possibility of Cooperation*, Cambridge, Cambridge University Press, 1987 and *Community, Anarchy and Liberty*, Cambridge, Cambridge University Press, 1982.
 - 19 I remember from my youth (the reference long vanished) an anarchist tract which compared two postwar refugee camps in East Anglia, one anarchic, the other controlled by a local version of Colonel Blimp. Guess which was the happier, healthier and more productive!
 - 20 R.P. Wolff, *In Defense of Anarchism*, 2nd edn, New York, Harper, 1976, p. 15.
 - 21 Wolff's striking thesis was immediately challenged by J. Reiman, *In Defense of Political Philosophy*, New York, Harper and Row, 1972. Wolff replied in the 2nd edn of *In Defense of Anarchism*. The issue is carefully reviewed in L. Green, *The Authority of the State*, pp. 24–36.
 - 22 The bones of the communitarian application of social metaphysics to the relationship of citizens to the state is presented in M. Sandel, 'The Procedural Republic and the Unencumbered Self', *Political Theory*, 1984, vol. 12, pp. 81–96, repr. in R.E. Goodin and P. Pettit (eds), *Contemporary Political Philosophy: An Anthology*. In *Liberalism and the Limits of Justice*, Sandel advances his views indirectly by way of criticism of Kant, J.S. Mill and Rawls. What story does he tell of allegiance or patriotism – of whatever we may identify as the sentiment distinctive of identification with a *political* community? On my reading: none. He tells us about family life, supposing this to be analogous to the state in respect of the relation of member to association – a hopeless strategy in the absence of an argument that the state is a natural association. G.W.F. Hegel, *Philosophy of Right*, should be the canonical source, explaining the metaphysics of social life in terms of existent normative orders being structures of the free will.
 - 23 G.W.F. Hegel, *Philosophy of Right*. In respect of ethical life generally see §149, 'The individual finds his *liberation* in duty'. Applying this thought to family life, he writes of marriage partners, that 'In this respect [they give up "their natural and individual personalities"] their union is a self-limitation, but since they attain their

- substantial self-consciousness within it, it is in fact their liberation.’ (§162).
- 24 Ibid., Preface, p. 20.
- 25 T. McPherson, *Political Obligation*, London, Routledge and Kegan Paul, 1967, p. 64.
- 26 H. Pitkin, ‘Obligation and Consent’, *American Political Science Review*, 1965, vols LIX(4), and LX(1), repr. in P. Laslett, W.G. Runciman and Q. Skinner (eds), *Philosophy, Politics and Society, Fourth Series*, Oxford, Blackwell, 1972, cited at p. 78.
- 27 I stress: ‘those I have dubbed “communitarians”.’ As I have remarked several times before, I don’t purport to identify a specific school of thinkers, nor implicate specific authors beyond those to whom I refer explicitly.
- 28 For readers who are sceptical of my invocation of Hegel, I recommend that they study §§129–35 of the *Philosophy of Right*, noting in particular his claim that ‘The *right of the subjective will* is that whatever it is to recognize as valid should be *perceived* by it as *good*,’ Hegel, *The Philosophy of Right*, §132.
- 29 J.-J. Rousseau, *A Discourse on the Origin of Inequality*, pp. 93–4.
- 30 Ibid., p. 96.
- 31 T. Hobbes, *Leviathan*, Ch. 17, p. 227.
- 32 All these phrases are used in the *Second Treatise* at §95.
- 33 Rousseau may be. Hobbes and Locke are not, on my reading of them. Since large interpretative questions are at stake, I shall suppose that they are describing possible events. The hypothetical version of the argument will be tackled later.
- 34 John Locke, *Second Treatise*, §119.
- 35 Ibid., §121.
- 36 Hume first uses this argument in the *Treatise*, Bk III, §VIII. It is repeated, forcefully, in his essay, ‘Of the Original Contract’, in D. Hume, *Essays*.
- 37 J. Locke, *Second Treatise*, §121.
- 38 D. Hume, ‘Of the Original Contract’, in *Essays*, p. 462.
- 39 P. Singer, *Democracy and Disobedience*, pp. 45–59.
- 40 Ibid., pp. 48–9. As a reading of Locke this is unconvincing. He cannot be supposing that one is thinking of his obligations all the time that he is accepting the benefits of the state, or worse, all the time that he is not dissenting.
- 41 Ibid., p. 50.
- 42 This is the theme of Part II of Singer’s book.
- 43 The story is told by P. Singer, *Democracy and Disobedience*, pp. 53–4.

- 44 According to Jonathan Wolff, this is ‘the central problem of political obligation . . . [that of] accounting for the obligations of those who do not consent’, ‘What is the Problem of Political Obligation?’, *Proceedings of the Aristotelian Society*, 1990/1, vol. XCI, p. 154. I agree. This is the *hardest* and *most important* problem concerning political obligation because the onus of justification is placed on the state. By contrast, where actual consent of some variety is attested, the burden of proof is on those who would deny the normal implications of consent – which is not to say the issue is unproblematic, as we have seen.
- 45 R. Dworkin, ‘The Original Position’, in N. Daniels (ed.), *Reading Rawls*, p. 18.
- 46 This story has its origins in Hobbes’s *Leviathan*, Rousseau’s *Discourse on the Origins of Inequality* and James Mill’s democratic reworking of Hobbes in his *Essay on Government*. It echoes elements of Nozick’s argument in *Anarchy, State and Utopia*, Part I. In recent times, Jean Hampton has done most to revivify this traditional style of argument, see J. Hampton, *Hobbes and the Social Contract Tradition*; Cambridge, Cambridge University Press, 1986 and *Political Philosophy*, Boulder, Col., Westview Press, 1997, Ch. 3.
- 47 H.L.A. Hart, ‘Are there any Natural Rights?’, cited from J. Waldron (ed.), *Theories of Rights*, p. 85; J. Rawls, ‘Legal Obligation and the Duty of Fair Play’, in S. Hook (ed.), *Law and Philosophy*, New York, New York University Press, 1964; R. Nozick, *Anarchy, State and Utopia*, pp. 90–5; A.J. Simmons, *Moral Principles and Political Obligations*, Princeton, N.J., Princeton University Press, 1979, Ch. V; G. Klosko, *The Principle of Fairness and Political Obligation*, Lanham, Md, Rowan and Littlefield, 1992.
- 48 J.-J. Rousseau, *Discourse on the Origins of Inequality*, p. 93.
- 49 Claudia Card notices the inaptness of speaking of debts of gratitude, claiming that the idea is paradoxical, hence metaphorical. See C. Card, ‘Gratitude and Obligation’, *American Philosophical Quarterly*, 1988, vol. 25, pp. 115–27.
- 50 This summarizes the argument of A.J. Simmons, *Moral Principles*, pp. 166–7.
- 51 ‘We are presumed to have a kind of control over our actions that we do not have over our feelings; we can, at least normally, *try* to act in specified ways where we cannot try to have certain emotions or feelings (in the same way). And surely part of the point of a moral requirement is that its content be the sort of thing which we can, at least normally, *try* to accomplish’, *ibid.*, p. 167.

- 52 A.J. Simmons, *Moral Principles*, p. 189. This argument is rejected by A.D.M. Walker, 'Political Obligation and the Argument from Gratitude', *Philosophy and Public Affairs*, 1988, vol. 17. Walker's paper is unusual in modern times in that it defends the gratitude argument. Most writers see it as a soft target.
- 53 This is Walker's view, 'Gratitude', p. 196.
- 54 T. Hobbes, *Leviathan*, Part 1, Ch. 15, p. 209.

7 Democracy

- 1 T. Hobbes, *Leviathan*, Ch. XIX, cited at p. 242. Hobbes's famous argument that the sovereign is the representative of the people, the actor who puts into effect the will of the subject authors, is outlined in Ch. XVI and is the major innovation of *Leviathan*. For James Mill's views, see *Essay on Government* (1819), Indianapolis, Liberal Arts Press, 1955, pp. 60–1.
- 2 J. Locke, *Second Treatise*, §138.
- 3 J.-J. Rousseau, *Discourse on the Origins of Inequality*, p. 86. This remark, as with so many of the sayings which attest Rousseau's genius, is cast to the swine with an insouciance which defies further elaboration. But Hegel picked it up (characteristically without acknowledgement) in one of the most famous and influential passages of *The Phenomenology of Spirit*, the dialectic of 'Master and Slave', which many believe to have been an enormous influence on Marx. See Hegel's *Phenomenology of Spirit*, trans. A.V. Miller, Oxford, Clarendon Press, 1979, ¶178–96, pp. 111–19.
- 4 This is the implication of the first sentence of Bk I, Ch. VI, 'The Social Compact', of the *The Social Contract*: 'I suppose men to have reached the point at which the obstacles in the way of their preservation in the state of nature show their power of resistance to be greater than the resources at the disposal of the individual for his maintenance in that state.'
- 5 *Ibid.*, Bk I, Ch. VI, p. 175.
- 6 J.-J. Rousseau, *Discourse*, p. 54.
- 7 J.-J. Rousseau, *Social Contract*, Bk I, Ch. VII, p. 177.
- 8 *Ibid.*, Bk I, Ch. VIII, p. 178.
- 9 See the discussion at Bk II, Ch. IV (and the comical footnote), pp. 186–9.
- 10 *Ibid.*, Bk I, Ch. IX, p. 181.
- 11 *Ibid.*, Bk II, Ch. XI, p. 204.
- 12 There is a large modern literature on this topic, beginning with

- Anthony Downs, *An Economic Theory of Democracy*, New York, Harper and Row, 1957. There is a useful summary of arguments pro and con in Loren E. Lomasky and Geoffrey Brennan, 'Is there a Duty to Vote?': *Social Philosophy and Policy*, 2000, vol. 17(1), pp. 65–74.
- 13 J.-J. Rousseau, *Social Contract*, Bk II, Ch. III, p. 185.
 - 14 J.-J. Rousseau, Ch. 2 of the original draft (the 'Geneva Manuscript') of the *Social Contract*, published in *The Social Contract and Discourses* as 'The General Society of the Human Race', cited at p. 160.
 - 15 These and cognate terms excited much interest in the 1950s and 60s. Historians or elderly philosophers should be able to reconstruct the debates without looking up the references: is 'the common good' the familiar and universal nominalization of purposes that politicians commend or attitudes that they express (and if so, which?), or is it descriptive of policy objectives (and if so, what?). These questions should still excite interest (= philosophers' attention). That they don't, is, I suspect, due to the thoroughness of Brian Barry's investigations in *Political Argument*, London, Routledge and Kegan Paul, 1965, Chs X–XV. In political philosophy, careful linguistic analysis is still a valuable technique since its subject matter, political language, is (and will forever remain) a domain ruled by rhetorical techniques. The settling of questions of meaning or the exposure of concepts as essentially contestable is not the end of philosophy since conventional usage may embody falsehoods and contests which seem endemic may turn out to be resolvable.
 - 16 J.S. Mill, *On Liberty*, Ch. II, pp. 80–9.
 - 17 This is Condorcet's result. It is presented as a valuable supplement to Rousseau's argument by Brian Barry, *Political Argument*, Note (A), pp. 292–3. Barry refers to the full discussion in Duncan Black, *Theory of Committees and Elections*, Cambridge, Cambridge University Press, 1958, pp. 164–5.
 - 18 T. Hobbes, *Leviathan*, Ch. 16.
 - 19 J.-J. Rousseau, *The Social Contract*, Bk II, Ch. X, p. 203.
 - 20 James Mill, *Essay on Government*, Ch. VI, p. 66.
 - 21 Benjamin Barber takes the prospect of more direct democracy seriously in *Strong Democracy: Participatory Politics for a New Age*, Berkeley, University of California Press, 1984, though he is not an advocate of telephone voting.
 - 22 John Stuart Mill saw real problems here. He believed firmly that electors should choose representatives who were wiser than

- themselves, but 'how are they to judge, except by the standard of their own opinions . . . the tests by which an ordinary man can judge beforehand of mere ability are very imperfect', *Considerations on Representative Government* (1861), Ch. XII, in J.S. Mill, *Utilitarianism, Liberty, Representative Government*, p. 318. Interestingly, one element of his solution to this problem involved qualifications for voting powers among the electorate, the educated having multiple votes.
- 23 Plato, *The Republic*, trans. H.P.D. Lee, Harmondsworth, Penguin, 1955, Bk 7.
- 24 T. Hobbes, *Leviathan*, Ch. 3, p. 97.
- 25 J.S. Mill, *Representative Government*, pp. 249–50.
- 26 Rousseau, *The Social Contract*, Bk I, Ch. 6, p. 174.
- 27 *Ibid.*, Bk II, Ch. IV, p. 187.
- 28 *Ibid.*, Bk II, Ch. IV, p. 186.
- 29 J. Waldron, *Law and Disagreement*, Oxford, Clarendon Press, 1999, p. 15.
- 30 As Rousseau does. *The Social Contract*, Bk IV, Ch. VIII, p. 276.
- 31 This issue was raised by J. Cohen and J. Rogers, in *On Democracy*, Harmondsworth, Penguin, 1983, pp. 154–7. A powerful case in favour of restricting contributions was made by Ronald Dworkin in 'The Curse of American Politics', *New York Review of Books*, October 17, 1996, vol. XLIII(16), pp. 19–25 and the thought that money is a curse on democracy is endorsed by John Rawls in 'The Idea of Public Reason Revisited', in *Collected Papers*, ed. S. Freeman, Cambridge, Mass. and London, Harvard University Press, 1999, p. 580.
- 32 Berlin's pluralism surfaces in many of his essays and plays a notable role in the argument of 'Two Concepts of Liberty'. For a useful survey, analysis and endorsement of Berlin's views which draws together much of this diffuse material, see John Gray, *Isaiah Berlin*, London, Harper Collins, 1995, esp. Chs 2 and 6.
- 33 I distinguish value pluralism and value difference, since the distinction signals different strategies for resolving or accommodating the disagreements within the forums of democracy.
- 34 It is hard to chart the modern ancestry of this movement. Obvious sources include Jürgen Habermas's discourse ethics, notably *The Theory of Communicative Action*, Boston, Mass., Beacon Press, 1984; Rawls's 'Kantian Constructivism in Moral Theory', *Journal of Philosophy*, 1980, vol. 77, pp. 515–72, repr. in *Collected Papers*, ed. Freeman, pp. 303–58; and T.M. Scanlon, 'Contractualism and Utilitarianism', in A.K. Sen and B. Williams (eds), *Utilitarianism and*

- Beyond*, Cambridge, Cambridge University Press, 1982, pp. 103–28. Notable contributions include Joshua Cohen, ‘Deliberation and Democratic Legitimacy’, in A. Hamlin and P. Pettit (eds), *The Good Polity*, Oxford, Blackwell, 1989, pp. 17–34; ‘Procedure and Substance in Deliberative Democracy’, in S. Benhabib (ed.), *Democracy and Difference*, Princeton, N.J., Princeton University Press, 1996, pp. 95–119; and A. Gutmann and D. Thompson, *Democracy and Disagreement*, Cambridge, Mass., Harvard University Press, 1996.
- 35 Rawls first signals the importance of disagreement in his account of varying ‘thick’ conceptions of the good in *A Theory of Justice*. In subsequent essays (reconstructed as a monograph in *Political Liberalism*, New York, Columbia University Press, 1993, republished in J. Rawls, *Collected Papers*, Cambridge, Mass., Harvard University Press, 1999, Rawls suggests that the divergent elements of pluralism include both philosophical (normative) theories, including liberalism and utilitarianism, philosophical disputes, e.g. that between values of equality and liberty, and most serious of all, religious doctrines of the sort that generated the sixteenth- and seventeenth-century Wars of Religion in Europe (and fuel present-day conflicts in Afghanistan, Iraq, Algeria, Nigeria, Indonesia, India the former Yugoslavia and on and on . . .).
- 36 A. Gutmann and D. Thompson, *Democracy*, p. 53.
- 37 J. Cohen, ‘Deliberation’, p. 17.
- 38 J. Rawls, *Political Liberalism*, Lecture VI, pp. 212–54; ‘The Idea of Public Reason Revisited’, *University of Chicago Law Review*, 1997, vol. 64, pp. 765–807, repr. in *Collected Papers*, pp. 573–615.
- 39 A. Gutmann and D. Thompson, *Democracy*, pp. 63–9, cited at pp. 64 and 65.
- 40 John Rawls whistles in the wind in claiming that the right of a woman to an abortion in the first trimester is established by the political value of the equality of women as equal citizens. See the footnote discussion at pp. 243–4 of *Political Liberalism*. This is a strong consideration, but one does not need to look far to find reasonable citizens who accept this value but do not find it decisive in settling the matter.
- 41 The most impressive statement of a procedural conception of democracy has been Robert Dahl, most fully in *Democracy and its Critics*, New Haven, Yale University Press, 1989. Dahl’s views have been criticized by J. Cohen, ‘Procedure and Substance in Deliberative Democracy’, pp. 97–9 and D. Gutmann and D. Thompson, *Democracy*, pp. 27–33.

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