Political Representation

Edited by

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3   Varieties of public representation

Philip Pettit

I.   Background and basics

Systems of representative government, I shall assume, are designed to give control over government to the people. Far from being an alternative to democracy, as some have taken them (Manin 1997), they embody an institutional framework – or rather a family of frameworks – for realizing the democratic ideal of giving *kratos* to the *demos*, power to the people. The distinction between a participatory and a representative system is not one between democracy proper and some faint approximation but a distinction between rival proposals for the implementation of democracy.

My focus in this chapter is on representation in this democratic, popularly enabling sense. Thus the target of the chapter is narrower than it might have been. As Hobbes in particular argues, the idea of representation may be used, not just of representatives who are subject to the continuing or periodic control of the people, but also of a hereditary, absolute monarch. The defenders of parliament in the 1640s tried to give its members a monopoly right on the use of the word (Skinner 2005), but Hobbes argued against them that it was absurd that a monarch who "had the sovereignty" over his subjects "from a descent of 600 years" should not be "considered as their representative" (Hobbes 1994: 19.3). His own view, to the contrary, was that "the King himself did ... ever represent the person of the people of England" (Hobbes 1990: 120).

But though my focus is narrower than Hobbes's, it is broader than the target to which many contemporary theorists give their attention. As will appear, I use the notion of representation in such a way that any public authorities, and any citizens who assume a legitimate role in public

discourse, may make a legitimate claim to represent the people (Richardson 2002). Others apply the notion, however, only to elected representatives – elected members of the legislature and, where relevant, of the executive and the judiciary. The concept of electoral representation is more tightly circumscribed than my looser concept of democratic representation, but I think that it does not offer the same generality of perspective.[1] I hope that this chapter may help to vindicate that claim.

There are three factors in any relationship or system of representation, whether in my sense of representation or in any other. First there are the representatives or, using a seventeenth-century word, the representers; I prefer this term since the other has an exclusively electoral connotation. Second, there are the represented or, as I shall say, the representees. And, third, there is the relationship that exists between those two parties: the representation that is exercised by representers on behalf of representees.[2]

Representers

Representers may be individual agents or groups of individual agents. And in the case where a group serves in this role, the members may each act for their own ends, according to their own judgments, or they may act on a shared intention to further this or that end. In this latter case the individuals will each intend that together they promote the agreed end and they will each do their bit for the promotion of the end, expecting that others will play their parts too (Bratman 1999); they will be a cooperative grouping, not a mere collection of individual agents.

The cooperative grouping that combines around a joint intention comes itself in two forms. The members may act for shared goals, now on this occasion, now on that, without ever forming a joint intention governing their continuation over time. Or they may form the special, shared intention that over time they together should constitute a corporate agent or agency: a body that simulates the performance of a single agent with a single mind. The intention shared in this case will be that they together cooperate in the organized pursuit of agreed ends according to agreed judgments. The ends will usually be an evolving set of ends selected under agreed procedures, and the judgments an evolving body of judgments selected under agreed procedures (Pettit and Schweikard 2006). The distinctions are mapped in Figure 3.1.

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[1] For a very congenial and insightful account of representation in a broader sense than that of electoral representation, see Rehfeld (2006).
[2] On the emergence and development of the concept of representation in the late seventeenth and early eighteenth century, see Knights (2005).
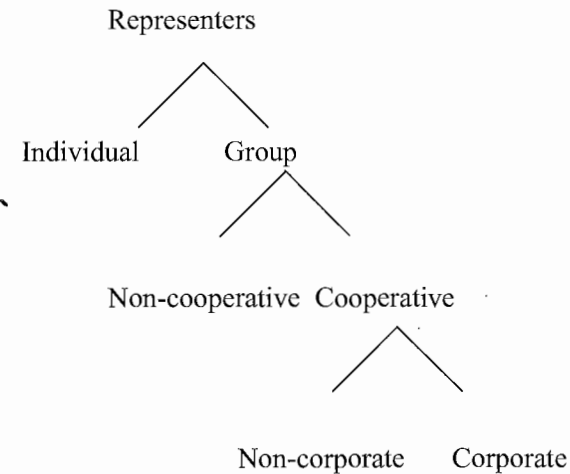
Figure 3.1 Representers.

These distinctions are readily illustrated. The member of the legislature who represents a certain constituency or the President who represents the people as a whole exemplifies the individual representer. And the legislature or the executive as a whole exemplifies the group representer. The members of such a group may behave as a collection of independent agents, each with their own brief, or as a cooperative grouping. And if they behave as a cooperative grouping, then they may or may not incorporate in the manner of a body with a coherent, evolving set of goals and judgments.

The US Congress might be seen as an unincorporated, cooperative grouping that does battle, now on this issue, now on that, looking in each case to see if a more or less ad hoc majority can be assembled to support a certain line. There is some concern with securing coherence between the lines supported over time, of course, as well as coherence with the Constitution. But this concern can take second place to the other concerns of members – say, their concern to display their colors back home. This will especially be so if in any case a presidential veto is likely, or if the Supreme Court is expected to reject or reinterpret the legislation.

The Westminster parliament might be seen, by contrast, as an incorporated, cooperative agency whose members assume a higher degree of responsibility for legislating on coherent lines, at least within the timeframe of a given parliament. The members acquiesce in a procedure whereby a fixed majority will be established and that majority – say, a

single, incorporated party – will bring forward a coherent program of legislation to be enacted after parliamentary discussion in the name of the parliament as a whole.

Representees

So much for the possibility of variation on the side of the representers in a democratic system. There is a corresponding degree of variation on the side of the representees. The representee may be a single individual, as when the member of a legislature takes up some cause on behalf of a constituent. Or the representee may be a group. The group represented may be cast as a mere collection, such as perhaps the electors in a given district, or they may have a more cooperative aspect. And the cooperative representee may be incorporated or unincorporated. In other words the distinctions on the side of the represented may correspond to those that we map on the side of the representing.

The loose pressure group or the ethnic minority that succeeds in finding a spokesperson in the legislature or elsewhere will often be an unincorporated entity whose members are united around just a single issue. But equally an entity with a corporate or quasi-corporate form of organization may figure as representee. The states that are represented by the Senate of the US or Australia are surely entities of this kind.

The ultimate representee in any democratic system will be the people as a whole: a body that might be taken as a mere collection but is usually depicted as an incorporated entity. It is of the essence of a democratic system that it is supposed to create a state that represents the people as a whole, acting in their name on the international stage and in dealings with individual citizens and groups of citizens (McLean 2004). Thus John Rawls (1999) says that the government in a well-ordered society – ideally, a liberal democratic society – will be "the representative and effective agent of a people" (ibid.: 38) – "the political organization of the people" (ibid.: 26). The disordered society where a small group usurps power, like the unordered society where political organization fails utterly, will be marked by the absence of precisely this system-wide level of representation.

Representation

Not only are there variations of these kinds in who are represented and who do the representing: that is, in the relata at either end of the representative relationship. There are also variations in the nature of the relationship. I argue that there are two fundamentally contrasting
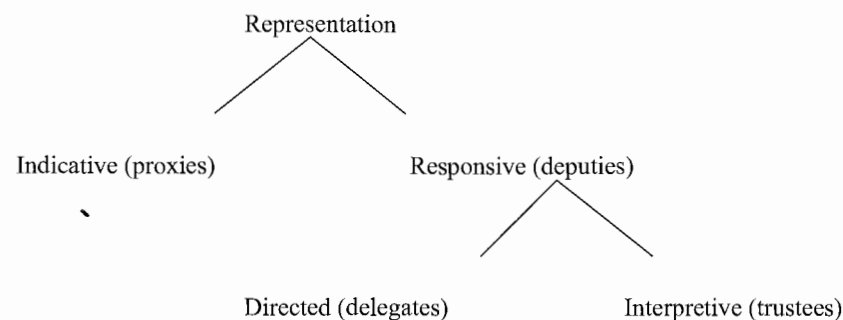

Figure 3.2 Representation.

varieties of representation, indicative and responsive. Indicative representers *stand for* the representees in the sense of typifying or epitomizing them; how they act is indicative of how the representees would act.[3] Responsive representers *act for* or *speak for* the representees, playing the part of an agent in relation to a principal; how they act is responsive to how the representees would want them to act. Both sorts of representation, so I shall assume, have to be authorized by the representees.

Authorized indicative representers I describe as proxies, authorized responsive representers as deputies. Deputies divide, in a traditional distinction, into delegates who are more or less explicitly directed by representees and trustees who have interpretive discretion in determining how to construe their representees. The distinctions appear in Figure 3.2.

Three metaphors have dominated the tradition of thinking about the meaning of representation (Skinner 2005). One of these metaphors is drawn from representation in the pictorial arts, and it maps onto indicative representation. As the painting is indicative of how the subject of the painting looks, so on this image should representers be indicative of representees: they should be proxies. The other two metaphors are drawn respectively from the courts and from the theater: from the way in which an attorney represents a client, and an actor represents a character. These reflect the two different modes of responsive or deputy-style representation: one directed, the other interpretive. As the attorney acts under the explicit or implicit direction of a client, so should

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[3] Pitkin (1972) casts the indicative relationship as descriptive representation: as involving nothing more than the sort of relationship that holds between statistical sample and a population. But she misses the fact that a representee population may appoint a descriptive representer with a view to having things done as it would do them, or want them done; the possibility is nicely illustrated by the British Columbia citizens' assembly that I discuss later. It is only such controlled representation that I describe as indicative.

representers act under the explicit or implicit direction of their representees: they should be delegates. As the actor constructively interprets the mind of a character, so should representers interpret the mind of representees: they should be trustees.

The following two sections review these two conceptions of representation, looking at how they might apply with different sorts of representers and representees but focusing in particular on the representation of a people. The fourth section then asks how these forms of representation might be organized in a democracy, focusing on a particular problem that is raised by responsive representation of the interpretive kind. In order to illustrate the usefulness of the distinctions, the paper concludes with an appendix that considers issues of representation in the presidential and parliamentary systems that are exemplified respectively by Washington and Westminster.

II.   Indicative representation

The standard case

In the standard form of this first conception, the assumption is that there are a number of representers, that the representees are the people as a whole, and the indicative requirement is that the representers should be a reliable or representative sample of the representees. They should faithfully reproduce significant differences among the population, and reproduce them in proportion to their realization within the community. We are familiar nowadays with the idea of indicative representation in the context of statistics. The random sample that is polled in the statistical exercise is a representative sample in the sense of being a good indicator of the population as a whole.

This conception of representation goes naturally with the pictorial or figurative metaphor. As Quentin Skinner (2005: 163) argues, it appears in those parliamentarian writers in England of the mid-seventeenth century who look for a "speaking likeness" of the people in those who rule them, "describing Parliament as a 'representation' – a picture or portrait – of the body of the people."

The relationship that is envisaged between the body of representatives and the body of the people is certainly figurative, as in the likeness between a portrait and the subject of the portrait. But it might best be conceptualized as the relationship whereby a painting or sculpture, particularly one of an abstract kind, can exemplify a feature of the subject: the mass of a body, the elegance of a movement, and so on. As a tailor's swatch contains pieces of cloth that exemplify the purportedly significant features of various fabrics, so figurative works exemplify purportedly significant aspects of an object or substance or situation or whatever (Goodman 1969). And as figurative representations can play this part to an aesthetic purpose, so politically representative bodies ought to serve in a parallel, democratic role. They ought each to exemplify and indicate the presumptively significant aspects of the people they represent, reproducing salient variations amongst its members and in a proportion that corresponds to their distribution in the population.

The idea of indicative representation figures early in democratic theory, since it is the sort of representation that is achieved or is likely to be achieved under the lottery system that was favored by the Athenians and that also played an important part in later regimes such as those of the Italian city-republics (Waley 1988; Hansen 1991). This lottery system might be taken as a version of the technique of random sampling, but random sampling put to use in the service of advancing goals espoused by the people as a whole. While it may have been motivated by a desire to have a regular turnover in the representer body, the important thing from our viewpoint is that it would have ensured a degree of proportional and indicative representation.

The indicative idea also appears in the jury system, as that was developed in medieval Europe (Abramson 1994). To be subjected to the judgment of one's peers, whether in determining that there is a legal case to answer, or that one is legally liable, is to be exposed, not to a random arbiter – a chance enemy, perhaps – but to a body that stands in for the community as a whole. The idea is that the jurors should represent a cross-section of the community, or at least of the fully enfranchised members: in medieval Europe, the mainstream, propertied males.[4]

The ideal of indicative representation was entrenched in the thinking of many of those associated with the American War of Independence and the French Revolution. Melanchton Smith could write in 1788, in opposing the American Constitution: "The idea that naturally suggests itself to our minds, when we speak of representatives is, that they resemble those they represent; they should be a true picture of the people" (Ketcham 2003: 342). Again, it was powerfully endorsed in a speech given by Mirabeau to the French Constituent Assembly in January 1789, though he used the image of a map rather than a picture to get it across. According to this version of the model:

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[4] It is significant that a supporter of the anti-federalist cause in 1787 could complain that in the enlarged United States there would not be a representative body in legislature or jury "which possesses the same interests, feelings, opinions, and views the people themselves would were they all assembled" (Ketcham 2003: 265).

a representative body is to the nation what a chart is for the physical configuration of its soil: in all its parts, and as a whole, the representative body should at all times present a reduced picture of the people – their opinions, aspirations, and wishes, and that presentation should bear the relative proportion to the original precisely as a map brings before us mountains and dales, rivers and lakes, forests and plains, cities and towns. (Pitkin 1969, 77)

With the growth of electoral machinery, the indicative idea was naturally applied to elections for the legislature, providing support for making the electoral system more and more proportional (Mill 1964). Is it also behind the practice of organizing the legislature around geographically dispersed districts? It is hard to believe that it did not play some role in justifying that practice but the evidence, according to Rehfeld (2005), is against this hypothesis. Still, districting does induce a similarity in one dimension – nowadays a fairly unimportant one – between the population as a whole and the legislature that represents it.

The indicative idea survives in the continuing enthusiasm for proportional representation and has been given new life in campaigns for supplementing electoral representation with novel, statistically representative bodies. It is there in the general policy of organizing citizens' juries that would review various policy issues (Stewart, Kendall, and Coote 1994). It is present in the notion of the deliberative opinion poll that is chosen as a random sample and then canvassed for its view on one or another issue at two separate times: first, before members of the sample make contact, and, second, after they come together to receive background information, to hear different points of view, and to debate the right line to take on the issue under consideration (Fishkin 1997). A particularly striking example appears in the citizens' assembly that was recently established in the Canadian province of British Columbia (Fung and Fagotto 2006; Ferejohn 2007). A more or less representative sample of 160 citizens was assembled and given the task, over much of 2004, of reviewing the existing electoral system in the light of various hearings and discussions, and making a recommendation on whether or not it should be amended. The group recommended a change that then went to referendum and won more than 50 percent support – just short of the quota required to trigger a change.[5]

The similarity between representer and representee does not mean, in itself, that the representee has any degree of control over the representer.

[5] Since everything is a perfect indicator of itself, a limit case of indicative representation is the participatory democracy where the whole population is present to vote, not just a sample. Far from being cast as the contrast point for indicative representation, the compulsory, participatory arrangement can be seen as a special case. The case is so special, however, and so infeasible, that I ignore it in this discussion.

The connection between them is not one under which the representer has to track the dispositions of the representee, and respond by acting in conformity to those dispositions. Rather it is a connection under which the representer is a good indicator or model of how the representee might have been disposed to act or speak, if in the position of the representer. Thus the people of British Columbia did not control the citizens' assembly but, given that the assembly was a microcosm of the people, it might be thought to model the decision that the people as a whole would have made had it been given the same information.

But while the indicator relationship does not necessarily give control over representers to representees, it is possible for representees to exercise control by selecting suitable indicators as their representers, by subjecting them to constraints designed to ensure that they remain indicators, and by deselecting them if they fail to act appropriately. Such authorized, indicative representers, as indicated earlier, I describe as proxies of the representees; they stand in for those who determine their selection.

Suppose that I see someone who thinks like me, as we say, and is a good indicator in a certain domain of how I tend to respond on various issues. While I do not directly control what he or she does, I do assume a position of indirect control when I decide to authorize that person to act in my stead, say on a committee. By appointing that person rather than someone else, I make it more likely that the committee will act in a congenial manner: act, as they would have been led to act, had I myself been a member. And this indirect control can be further strengthened by additional measures. I may put other constraints or incentives in place that make it more likely that the person will simulate what I would have done on the committee: for example, I might take steps to insulate the person against special, warping motives. And I may retain the power of de-selecting the person, should he or she, for whatever reason, not serve my interests well. The person is my proxy, someone who takes my place, with my authority.

The extended case

These observations about the control that is possible with indicative representers should prompt us to recognize that while indicative representation has traditionally been associated with the proportional representation of groups, the model can also apply in very different contexts.

Consider the professional or quasi-professional public figures who are appointed by government, often under strict regulations and often with a (limited or unlimited) tenure that is independent of those who do the appointing. Obvious examples will be judges and prosecutors, public

auditors and ombudsmen, agency heads and the members of public commissions. These figures will serve as proxies for the public, being appointed under public authorization because of the likelihood that they will serve the public well.

This likelihood may not be based on a similarity of nature between representers and representees, but it will be based on a similarity in the tendency of their wishes. There will be a convergence between the goals the representers are professionally constrained and motivated to implement – at least ideally – and the goals that the public would want to promote in the domain of their operation. The representers are recruited to public service, plausibly, on the grounds that their interests, if things go well, are likely to be indicative of the interests of the public. And they can be subjected to constraints that make it even more likely that this will be so. Such figures can be cast as proxy representers of the people on the same grounds that certain proportional bodies can be cast as proxies.

Think of those who serve on a central bank like the Federal Reserve in the US. Or think of those who are members of an election commission of the kind that is given responsibility in many countries, at arm's length from parliament, to draw the boundaries of electoral districts. Absent dependency on the elected officials who appoint them – absent reliance on those officials for continuing tenure, for example – such individuals may be moved by motives of professional reputation to act reliably in a manner that answers to the interest of the people as a whole. And this will be especially likely if their performance is subject to public check and commentary. It is surely more likely that an independent electoral commission would act in this way, for example, than that elected members of a parliament or congress would do so, since elected representatives would have special party interests in the shape of district boundaries (Pettit 2004).

The idea of appointing professional figures was not unknown to traditional democratic theory. A good example is provided by the official known as a "podesta," who played a very important role in the life of twelfth- and thirteenth-century Italian city-republics (Waley 1988). The podesta, who might serve at different times in different cities, was an outsider appointed for six months to a year in order to run a city's affairs. He was given a range of issues to control, was often forced to act without having contact with special interest groups within the citizenry, and was subjected to intense scrutiny at the end of his tenure. Since he might hope to be appointed as podesta by different cities at different times, he would also have been susceptible to reputational motives for doing his job to the satisfaction of the citizenry. Such a figure would have been a good example, in our terms, of an indicative representer: a proxy agent who takes the place of those he represents.

But it is not just public appointees who can count as indicative representers in the extended sense we are examining. For another sort of example, think of the whistle-blowers who can expose abuses in public life, or the "private attorneys general," as they have been called (Rabkin 1998), who serve the public well by challenging certain laws before the courts. The fact that the public or people give whistle-blowers protection, and the fact that they give private attorneys general a license to use the courts as they do, means that these figures are authorized to act in their characteristic manner. In the aggregate they serve the public well, by most accounts, acting as they do on convergent if not always identical interests. Their authorization by the public means that like formally appointed officials, they can be seen as representers who are employed in their characteristic roles, precisely because of the indicative relationship between their dispositions and the presumptive dispositions of the people as a whole.

III.   Responsive representation

Directed responsiveness

Where the indicative idea is that a microcosm or model of the people should rule because it is likely to be a good indicator of how the people as a whole would decide the issues that come before it, the responsive idea takes the complementary line. In this conception the representer tracks what the representee wants and responds with appropriate action, playing a very different role from that of being a passive indicator of the representee's disposition.[6] The judicial metaphor in which the lawyer or attorney acts for the client offers an illustration of the idea in which the representee explicitly or implicitly directs the representer. As the lawyer tracks the client's wishes, so the responsive representer is to track the wishes of the representee.

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[6] I take indicative and responsive representers to be indicative and responsive only in a positive mode. If an indicative agent pursues something, that indicates that it is something that the principal would favor; but if the agent does not pursue something, that does not indicate that it is something the principal would not favor. If a principal has an interest in something, the responsive agent will not have an interest in it but if the principal does not have an interest in something that does not mean that the responsive agent will not have an interest in it. This assumption means that a responsive agent may not be indicative, as an indicative agent may not be responsive.

Under the responsive conception of representation, the wishes of representees exercise a degree of control over how representers act, and they do this with the authorization of the representees themselves; the representative process materializes, if not at their initiative, at least with their knowledge and acquiescence. Indicative representers are recruited or licensed to act because they are or can be made to be indicative. Responsive representers are recruited or licensed to act because they are or can be made to be responsive. Where I describe representers who are authorized to serve in an indicative role as proxies, I describe representers who are authorized to serve in a responsive role as deputies. We shall see that apart from directed deputies who answer to the metaphor of the attorney, there are also interpretive deputies who answer better to the metaphor of the actor.

Responsiveness among representers may materialize spontaneously, as a result of a natural love or reverence or fear of the representees, or it may be manufactured by contextual incentives or constraints that elicit suitable attentiveness. Let the representees form an intention that something be done by the representers and, at least in the directed version of responsive representation, the representers will become disposed to do it. The representers may respond to instructions issued by the representees – that is, to the manifestations of their wishes – or they may not need any such instruction, being disposed to respond to the wishes that the representees manifestly hold. Such explicitly or implicitly directed deputies I describe, in a received term, as delegates of those they represent: they are agents who serve as voiceboxes for the represented (Pitkin 1972; but see Urbinati 2000).

The category of delegates is often taken to be illustrated – rightly or wrongly, as we shall see – by those who serve in the legislature, or perhaps the executive, in sensitivity to the wishes of the electorate.[7] The control that the people exercise over such public representers may take an active, hands-on form, as when the representees impose suitable constraints on representers or give them explicit instructions. But it may often be just virtual in character, constituting a sort of hands-off, arm's-length control (Pettit 2001); while this may also be possible with indicative representers, it is particularly salient with responsive ones. Hands-off control will materialize when the representers behave in a congenial fashion and the representees stand by, ready to reveal relevant attitudes, or impose relevant constraints, only in the event that the representers stop

[7] For a state-of-the-art assessment of political, responsive representation, see Mansbridge (2003). Mansbridge (forthcoming) defends congenial views on indicative representation, as I learned when this paper was in press.

performing to their taste. In this case the representees ride herd on the representers, to use an image from cowboy life. They intervene in the affairs of the representers, eliciting suitable motivation or information, only on a need-for-action basis.[8]

Might the control of responsive representers be increased by ensuring that they are indicative as well as responsive? The hope that it can be increased in this way motivates the drive for ensuring proportionality among elected deputies. The case for proportional, electoral representation is made in John Stuart Mill's classic work on representation (1964 [1861]), as indicated earlier, and it is reinforced by contemporary theorists such as Anne Phillips (1995) and Thomas Christiano (1996). There are many reasons to think that salient divisions among a represented population should be reflected in an elected house of representatives. But it is not so clear that ensuring such proportionality will ensure the indicative reliability that we might expect, for example, in the British Columbia citizens' assembly.

The reason is that no matter how much proportionality is imposed on a parliament or congress, the fact that members are chosen by election from among those who are ready to stand at the polls introduces a framework of motivation that is going to undermine the prospect of parliament operating as a reliable model or microcosm of the people. Those who stand for election are not going to be typical of the society, and even if they are typical, their performance in the legislature is bound to be affected by a special motive: the interest in being elected and reelected. In order to constitute a model of the people, legislators would need to go about their business without a thought for anything but what by their lights it is best to do. And no elected officials can be expected to do that; they are bound to be subject to what from the point of view of the indicative model is a deeply warping influence.

As suggested, there is a serious question as to whether public, responsive representers really can serve as delegates who are explicitly or implicitly directed by their constituents. Directed, responsive representation supposes that the mind of representees is made up and manifested to representers. There are explicit or implicit directives available to express

[8] The notion of control employed across the distinctions we have made is quite univocal. We can say that one party, A, exercises control over another party, B, to the extent that A raises the probability – robustly raises the probability (Lovett 2007: 712–13) – that B will behave in a congenial manner above the level that that behavior might have had in A's absence (Dahl 1957; Pettit 2007). A will have such an effect if A actively elicits the deputy or proxy performance sought. But A will also have this effect in the case where A stands ready to intervene on a need-for-action basis. A will guard against the possibility that B has a change of mind and by raising the probability that B will behave congenially even in that case, A will raise the absolute probability of such behavior.

the mind of representers and the responsive representational job is to track those directives. The problem that we should now note, however, is that representees in the public worlds rarely provide representers with a fully formed, directive mind. Thus responsive representation often has to become interpretive or constructive in a manner that evokes the metaphor of the actor rather than that of the attorney.

Interpretive responsiveness

Where attorneys have to be guided by the explicit or implicit directives of clients, actors bear a much less constrained relationship to the scripted characters that they are required to play. The actor interprets the character, taking the spare lines of the dramatist and giving them life in a pattern of emphasis and presence that makes interpersonal sense; the interpretation lets the character portrayed be understood as a person amongst persons. Representation in this interpretive sense is described by Hobbes (1994: 16) as personation: an act in which the representer speaks with authority for another, in particular for another individual or group of individuals.

Like any form of responsive representation, the interpretive sort that answers to this metaphor has to be authorized by the representees, at least if it has democratic credentials. Representees have to authorize the representers to speak for them, even though they do not provide the representers with the words to use. Where responsive representers on the attorney model are voiceboxes of the people, as we might say, responsive representers on the actor model are spokespersons. Where I describe attorney-like deputies as delegates, I follow tradition in describing actor-like deputies as trustees (Pitkin 1972).

The authorization that representees give interpretive deputies means that those who speak for them do not report the mind of their constituents, as a journalist or opinion survey might report that mind. Subject perhaps to certain provisos, the representees are deemed to think what their authorized spokesperson – or body of spokespersons – says that they think. The authorization is not just a prediction to the effect that the representers will be a pretty good guide to what they think. It is a guarantee that, at least within certain limits and under certain conditions, they can be taken to be minded as the representing words portray them as minded. They can be held to those words.

Responsive representation has to be interpretive with an individual representee if that person is a minor – here authorization may be supplied by a court – or if the person does not express his or her mind on some particular issue where the representer needs to act. But the context in which responsive representation is most clearly required to be interpretive is one of political representation, where there are a number of individuals in the position of representees, and the representer is forced, at whatever level of grain, to ascribe a coherent, enactable set of attitudes to them – a single mind.

Suppose that one or more representers are acting for an unincorporated collection or multitude. Whatever control is exercised by the representees in the multitude it had better allow the representers to act for a consistent set of goals, according to a consistent set of judgments; otherwise the representative actions are liable to undercut one another. Or if that requirement is thought too strict, on the grounds that many agents fall short of consistency, then the control certainly ought to allow the representers to be responsive to charges of inconsistency. They should not be required to have to admit that what they hold or seek on behalf of their representees is an inconsistent package; else they and their constituents would be a laughing stock.

Might the representees impose an arrangement under which they control what the representers do in a goal-by-goal or judgment-by-judgment way, and still hope to satisfy such a coherence constraint? It turns out that they could not. And that suggests that the responsive representation of a multitude is bound at a certain point to become interpretive. Those who serve in such responsively representative roles will have to be spokespersons, not voiceboxes: they will have to be deputies in the trustee mould, not in the mould of the delegate.

The most obvious way in which a multitude might hope to control the actions of its representers would be by forcing those agents always to follow the majority vote of its members. But the "discursive dilemma" shows why this will not work in general (Pettit 2001: ch. 5). The votes of entirely consistent individuals on logically connected issues can generate a set of inconsistent positions on those issues. Suppose that A, B, and C want to establish a majority collective view on three issues: whether p; whether q; and whether p&q. They might be judges in a court who have to decide on whether a plaintiff in tort did harm (p), had a duty of care (q) and so was liable for damages (p&q) (Kornhauser and Sager 1993). It is perfectly possible for A, B, and C each to have a consistent set of views on these issues and yet for the group to be forced by majority voting into endorsing an inconsistent set.

That will happen, for example, if the votes that the individuals submit are as follows. A and B vote that p, C votes against; B and C vote that q, A votes against; and so only B votes that p&q. A and C vote that not-p&q, thereby giving a majority verdict that p, that q, and that not-p&q. The following matrix should make the pattern vivid.

	P?	Q?	P & Q?
A	Yes	No	No
B	Yes	Yes	Yes
C	No	Yes	No
Majority vote	Yes	Yes	No

This paradox is of general significance, since it turns out that no voting system is guaranteed to produce a consistent output from consistent inputs if it is to work with all patterns of input and if, roughly, it is to treat both individuals and issues even-handedly (List and Pettit 2002). The lesson is that if the representers of a multitude are required to enact a coherent mind, furthering a consistent set of goals according to a consistent set of judgments, then they cannot be controlled by representees on an issue-by-issue basis. Such control is liable to provide representers with an inconsistent set of attitudes to enact: a set of attitudes like the judgments that p, that q, and that not-p&q.

The lesson, put more positively, is that in a case like this responsive representation has to be interpretive or constructive. It has to involve, not the faithful reflection of a pre-given mind, but a constructive interpretation in virtue of which the multitude is imputed a coherent mind or mentality. When that occurs, the multitude will assume the status of a corporate agent.

The idea that the interpretive representation of a multitude can transform it into a corporate agent is present in Western thought from at least the fourteenth century. In 1354, Albericus de Rosciate could say that a collegial agent, although it is constituted out of many members, is one by virtue of representation: *collegium, licet constituatur ex pluribus, est tamen unum per representationem* (Eschmann 1946: 33, fn 145). The theme dominates the work of legal theorists of the time, such as Bartolus of Sassoferrato and his pupil, Baldus de Ubaldis, who make much of the way represented groups, in particular the represented people of a city, could figure as corporate agents or persons (Woolf 1913; Canning 1983). Arguing that the *populus liber*, the free people of a city-republic, is a corporate person, Baldus explains that this is because the council represents the mind of that people: *concilium representat mentem populi* (Canning 1987: 198).

The theme reappears in the writings of Thomas Hobbes in the seventeenth century. He makes representation, a term that he uses as an alternative to personation, central to the possibility of a group's creating and enacting a single mind. "A multitude of men are made one person, when they are by one man, or one person, represented." Where does

the unity come from? From the fact that the representing individual – or body – will speak with one voice, thereby testifying to one mind in the group: "it is the unity of the representer, not the unity of the represented, that maketh the person one" (Hobbes 1994: 16.13).

IV.   Representation and democracy

Varieties of democratic representation

Democracy, on the Lincolnian formula, is government of the people, by the people and for the people. Representation has to have a place in any democratic constitution insofar as it is only by courtesy of representers that government can hope to be by the people; popular participation is inevitably restricted to the occasional referendum.

There is obviously room in a democratic constitution for indicative representation, of both the standard and the extended kind. The British Columbia citizens' assembly exemplifies a standard variety of indicative representation that any democracy could usefully institute. And the extended variety of indicative representation is bound to have a place insofar as every plausible democracy requires some statutory officers and bodies, such as judges, ombudsmen, and electoral commissioners, as well as a possibility of contestation by public attorneys general and by other informal invigilators of government.

Equally clearly, there has to be room in a democratic constitution for responsive as well as indicative representation. In order for many reliably indicative representers to be appointed to office, as statutory officers will have to be appointed, there must already be elected and presumptively responsive representers in place. But in any case there are quite independent reasons why no plausibly democratic regime could operate on the basis of indicative representation alone. Such representation requires that people have a standing interest in decisions being made after a more or less determinate pattern, as in requiring judges to adjudicate cases according to established law. And in many cases there would be no such interest available to guide indicative authorities. Thus popular representation is bound to require a role for responsive as well as indicative representation.

Democracy has to make room, then, both for proxies and for deputies. This is not the place to investigate the best way of networking such different kinds of representers in a satisfactory democratic dispensation, nor the best way of frameworking their activities by suitable constitutional and other constraints. Some of the relevant issues will be highlighted

by the discussion in the appendix, which constitutes the final section of the chapter, on the operation of the Washington and Westminster systems. But in the remainder of this section I discuss one serious problem that may be raised about the democratic control of those responsive representers, those deputies, that operate in an interpretive rather than a directed mode. This is a telling issue since the argument at the end of the last section suggests that all public deputies will have to be interpretive trustees rather than directed delegates.

A problem

The medievals who spoke of the representation of a people – as I take it, their interpretive representation – generally appear to have had an intuitively democratic form of representation in mind, at least relative to a citizenry of mainstream, propertied males. They looked to a form of representation in which the individual people not only consented to being represented but exercised an influence over what representers said and did as a corporate spokesperson. They took it for granted that the council of a city-republic would be appointed, at least in good part, by voting and rotation – under the *regimen ad populum* – so that the city or people could be described, in Bartolus's words, as a *sibi princeps*, a prince unto itself (Woolf 1913: 155–60, 180).

Hobbes went beyond this in arguing that the interpretive representation whereby a people assumes the unity of a person might be practiced by a monarch with absolute powers or by a committee of aristocrats: and this with the authorization of members of the people. He did not think that there could be democracy with representation by others, arguing that democracy would require the people to self-represent, ruling themselves in a committee-of-the-whole; this theme was later taken up by Rousseau (1973). Mistakenly, in view of the discursive dilemma, he thought that this self-representation could be achieved under a regime of majority voting (Hobbes 1994: 16.15–17), as indeed did Locke (1960: Bk 2, ch. 8.96) and Rousseau (1973: Bk 4, ch. 2).

The issue as to whether interpretive representation can be democratized is important, given that interpretation is going to be unavoidable when a multitude is responsively represented. We took responsive representation, being a relationship of tracking the representees, to require the control of those representees. The question here is whether such control is available with interpretive representation as well as with responsive. How might interpreters – authorized interpreters, as we can assume – be subjected to the control of representees?

Participation in the committee-of-the whole, as envisaged in Hobbes's vision, is not a feasible way of imposing democratic control. Contemporary societies are just too big to allow for a participatory regime, in particular the sort that would require members to adjust in face of majority support for inconsistent positions. And neither is an electoral regime going to provide an effective democratic discipline. Elected representatives cannot be responsively controlled by the majority attitudes of the population, since those attitudes may be incoherent. And if the only restriction on those members springs from the desire to be reelected, or from the fact of having to live under the laws proposed, still it will leave them free to construct the mind of the people in a relatively unconstrained fashion. So is there any alternative or supplementary discipline that might be imposed on interpretive representers?

A solution?

At the time of the civil rights disputes in the United States, as at many other junctures in American history, the protagonists made rival claims as to what was the way of thinking about racial relations that represented the mind of the American people. Was it the much-vaunted heritage of a state like Mississippi in which strict segregation had been enforced on public transport, in public schools, and in other public amenities? Or was it the message of equality and respect that had long been enshrined in the Constitution and its amendments? The division on this issue created a fault line that ran through the legislatures, the courts, the media, and out onto the streets. Ultimately the constitutionally supported message won out and became a theme around which citizens generally rallied. But did this victory constitute a democratic breakthrough: a win for the right interpretation of the people's mind over the wrong interpretation? Or was it a victory of what was morally right over what was morally wrong? Or was it just a victory for the stronger over the weaker, the more numerous over the less numerous?

I think that there is only one base on which the line taken in a case like this can be justified as the right rather than the wrong interpretation of the people's mind. This is the base provided by considerations in the family of what Rawls (1993, 1999) describes as public reasons. My own view is that the victory in the civil rights disputes can be cast as a democratic victory, so far as the line that emerged triumphant is the only line that had the support of such public reasons.

Central to the idea of a democratic polity is the assumption that citizens can debate with one another about what government and the state should

do from positions of relative equality: positions in which they can see public action as action that they together license and support (Larmore 2003). So at any rate I assume. Given this assumption, it follows that any proposal as to what government is to do should be supported by the sorts of considerations that all can equally recognize as relevant, even if they weight them differently. If one group can argue for a certain policy only on the ground that it is good for its own members, or in line with their particular view of the world, then that cannot be expected to pass muster under the discipline of public debate – not, at least, unless the policy can also be shown to benefit other groups or not to do them any harm (Elster 1986a).

The existence of a political society in which members address one another in arguing for this or that public policy ought, under the assumption of equality, to generate a currency of public reasons. These will be reasons that get established in the course of debate and argument as considerations that are appropriately invoked in assessing public measures and initiatives. If the members of the society cannot find a fund of considerations on which to draw in argument about public policy – a fund of considerations that all will take to be relevant, even while they weight them differently – then the exchanges between them will degenerate into power struggles and they will live in the precincts of civil war.

The assumption of equal positioning in public debate makes it inevitable that certain core considerations are endorsed in any democratic society: in particular, the claim of each member to equal respect and concern. But there are many considerations that may receive endorsement in one society and not in another. One society might endorse considerations that support a system of more or less exclusively private ownership, for example, another considerations that support a system that allows for considerable public property. One society might foster considerations that promote the development of certain cultural norms, another promulgate considerations that provide support for quite different conventions. And so on.

The considerations acknowledged and valorized in any society will typically leave issues of detailed policy underdetermined, of course; what they rule out will be the policies that are unthinkable, certainly indefensible, in the discourse of the public sphere. But even when there are many candidate policies for dealing with a given issue, all of which pass muster in public debate, the public reasons acknowledged in that debate may support one or another procedure for resolving the tie. The supported procedure might involve a parliamentary vote, or reference to an expert committee, or resort to referendum, or even the use of a citizens' assembly.

As a democracy grows, then, we may expect that the trial and error process whereby participants float considerations and find that they are accepted or rejected will generate a currency of considerations that all valorize, and valorize as a matter of common access. Those considerations will provide the blocks out of which any case for changing or conserving the way things are done will have to be built; they will indicate the sorts of presumptions or premises on the basis of which arguments in public policy are to be made. This observation is at the heart of Rawls's conception of public reasons, although he spells it out only occasionally. In one version, he says, "the political culture of a democratic society that has worked reasonably well over a considerable period of time normally contains, at least implicitly; certain fundamental ideas from which it is possible to work up a political conception of justice suitable for a constitutional regime" (Rawls 2001: 34–5).

Returning to our original question, then, how can one argue that the interpretations of the people's mind that are selected and given authority in public life really are the correct interpretations: the interpretations that are controlled in an appropriate sense by the representees? The only available base for arguing this in a large-scale democracy has to be that they are the interpretations that emerge in a process where public reasons are the primary selectional force. The interpretations may be uniquely consistent with considerations that are given the status of public reasons. But more likely they will be that particular set of interpretations, among the sets that are compatible with public reason, that are selected under procedures endorsed in public reason.

Go back, then, to the civil rights case. The argument of public figures in Mississippi and other southern states may have been in line with some local traditions. But it seems clear that in the opinion of the courts, the media, and the vast majority of US citizens those traditions conflicted with the requirements of the idea of equality as that figured and still figures in American law and culture. It is doubtful if the civil rights movement would have won the day had there not been a widespread acceptance that practices of segregation were not supported in the currency of public reasons that were accepted in the country. The inconsistency with public reasons may not have been enough on its own to bring about the changes that occurred in the 1950s and 1960s but, arguably, it was an essential prerequisite for the success of the civil rights movement.

It is time to sum up the overall argument of the chapter. We have seen that representers and representees may be individuals or groups and, if groups, that they may be mere collections, mere cooperatives, or full-scale corporate entities. We have also seen that the relations of representation

come in two broad types, with representers figuring as indicative proxies under the first variety, responsive deputies in the other. And, focusing on issues of politics, we have argued that both sorts of representation are bound to have a place in a democratic regime; that responsive representation is likely to require interpretive trustees, not directed delegates; and that interpretive, responsive representation, however constructive, can be democratically controlled under a discipline of public reason.

But are these ideas and distinctions of any use in considering empirical systems? In order to vindicate their claim to significance I conclude with observations on two ideal types of system, one associated with Washington, the other with Westminster. The distinctions we have made enable us to mark a nice difference in representational priority between these two models: inevitably, these two rather toytown models. And that difference clearly matters.

V.   Appendix: The Washington and Westminster systems[9]

Philip Pettit and Rory Pettit

The Washington model

The Washington system employs individual elected representers at a number of sites. Broadly speaking, members of the House represent districts, members of the Senate represent states, and the President represents the people as a whole. The representation at this level is responsive in character, with members of the House being apparently committed to the service of their districts, members of the Senate to the service of their state, and the President to the service of the nation or union.

Representation is practiced in this system, however, not just at the level of individuals, but also at the level where members of Congress cooperate with one another and with the President and other members of the administration. It is this group, Congress-cum-administration, that ultimately gets various measures into law, performing a representative function that parallels the representative work of the individuals in that group. Where individuals may serve their different constituencies in a responsive way, this group will be expected to serve the people as a whole in a responsive manner. What it promulgates as law and policy is meant to count, under suitable controls, as the law and policy supported by the people.

[9] This builds in some part on R. Pettit (2007).

Given the complexity of views in any district or state, the individual representation of constituency is bound to be fundamentally interpretive. The member of the House or the Senator will have to construct the mind of the constituency he or she serves, operating as a trustee rather than a delegate. Since the views of the people as a whole are even more complex, the representation of the people by the Congress-cum-administration is also bound to be interpretive. But how can the Congress-cum-administration serve as an interpretive representer of the people – a reliable trustee – if it is composed of individuals who often have conflicting briefs? They have to serve as trustees both for their constituency and for the nation or people as a whole.

Congress-cum-administration does not constitute a corporate entity with a coherent set of goals and judgments. If it did, then that entity might be a reliable system-wide trustee, imposing constraints on its members to support suitable policies. Congress-cum-administration operates, rather, as a loose aggregation that provides a majority, now for this compromise and coalition, now for that. It has to get enough members on side in order to create the requisite support for any bill that passes into law. But the majority it musters in support of one bill may be different from the majority it musters in support of another. And in each case it will have to manufacture the majority by buying off various members with favors that will play well with their electors back home. In operating on this pattern, the Congress-cum-administration will be subject to various constitutional constraints, but it is not clear that these provide anything but the lightest level of regulative control.

In this system there is an inherent tension between two sorts of forces. There are pressures on individual members of Congress to represent their different constituencies responsively, on pain on not being reelected. And at the same time there is pressure at the group or system level to generate and maintain a body of law that has the coherence required, and the fit with system-wide public reasons, to pass as the voice of the people (Dworkin 1986).

These forces are quite likely to interact so as to produce laws that fail to fit with one another, and perhaps even with the Constitution. The laws themselves will often involve subclauses designed to pick up the support of swing voters, and such complexity can make the demands of coherence hard to identify. But even when those demands are obvious, the desire to strike a popular, electorally helpful posture is liable to generate support among members of Congress for laws that fail to fit with one another. In that case the buck passes to the President, who may veto the law. And, failing a presidential veto, the buck will pass to those members of the public who may combine to challenge the law and to the courts that will

adjudicate that challenge. If there is a coherent body of law emerging at the end of the process, that will be a product of this interplay of different factors, not the work of any single corporate body.

This result can be summed up by saying that the Washington system prioritizes the individual-level representation of constituencies at a possible cost to the group-level or system-level representation of the people as a whole. It allows members of Congress to serve as trustees for their constituencies, thereby raising a problem for how the administration-cum-Congress can serve as a trustee for the people as a whole. It is directed at ensuring not so much a representative government as a government of representatives – something that resembles what Edmund Burke (1999) described as a congress of ambassadors.

The Westminster model

The reason why the Washington system of representation prioritizes individual-level representation goes back to the fact that the executive or administration is elected directly, not by members of the Congress. This separation means that the fate of the administration does not depend on how the members vote. And so those members are free to vote as they wish, with party constraints serving only as a relatively light discipline, at least under normal conditions. This marks the crucial difference between the Washington and the Westminster regimes.

In the Westminster system the administration stands or falls with the support of the individual members of parliament, in particular the lower House. And that means that those parliamentary representatives who have succeeded in electing an executive – the members of the winning party or coalition – will have to stick together in order to maintain that executive in power. In effect, the party or coalition will have to be organized so that its members are forced to cleave to an agreed party line, on pain of losing party membership and the chance of being reelected. The party or coalition will become a self-policing corporate entity.

Given this pressure, the behavior of parliamentary representatives cannot be dictated by a desire to please those back in the constituency, and to promote the prospects of reelection; they cannot serve as trustee representatives for the constituency. If their party gets enough members into parliament to be able to select the executive, then members will be bound by the party whip to stick on most important matters to the party line. And if their party fails to do this, then they will be bound by the party whip to present a solid face of opposition to the party in power, playing by the same hard-ball rules. This necessity is manifest to voters, of course, so that legislators will be elected in great part on the grounds of

which executive they promise to support in office – usually, an executive composed of members of their own party – not on the grounds of how well they are likely to serve the local constituency.

In the Westminster system, then, the individual-level representation of constituency gets put in a decidedly second place, since individual members will tend to vote as their party votes and will be expected even by those who elect them to vote that way. But if that is the weakness of the system, the strength is that the parliament will operate very efficiently to generate a body of legislation that can be expected to be internally coherent, to cohere with established law and principle, and to be generally responsive to the public reasons that carry weight among the people as a whole. The legislative program for any parliament will have to be planned by a corporate body: the party in power. This party will have had to ensure the coherence of its legislative program. It will have had to advertise the program as that which it would implement in office. And once in office it will have to stick to the program, at least in general outline. Short of being a minority or coalition government, it will have no excuse for departing from it and any departure will be subject to a powerful challenge from the opposition, the media, and the public.

We saw that the Washington system prioritizes the individual-level representation of constituency at a cost to the system-level representation of the people. These comments on the Westminster system show that things there are almost exactly the other way around. The system prioritizes the group-level representation of the people, giving parliament the cast of a corporate body, albeit a body controlled by members of the party that holds office. And it does this to the detriment of the individual-level representation of constituency. In contrast to the Washington model, it is directed at ensuring a representative government rather than a government of representatives.

Significance

The difference of representational priority has enormous implications for other aspects of the two systems, including implications that bear on the claims of each to be a satisfactory democratic regime.[10] The significance of the difference in representational priority comes out in differences of sensitivity to a variety of pressures. We can illustrate the point, somewhat speculatively, with reference to local pressures, expressive pressures, lobby pressures and the pressure of public opinion.

[10] Other assessments of the two systems tend not to focus on this issue of representational priority: see Shugart and Carey (1992); Linz and Valenzuela (1994).

Local pressures   Under the Washington system members of
Congress are bound to be influenced, for good or ill, by a concern for how
their votes will play back home. This localism may occasionally bring real
benefits to their district, as when members can secure legislative favors.
The members of a Westminster parliament will have little occasion to
think locally in this manner, since their votes will be controlled by the
party; local efforts will be restricted to providing some local advisory
services and to playing the part of a celebrity in local events.

Expressive pressures   To act in a purely instrumental way is to act
out of a concern for the outcome of what one does; to act purely expres-
sively is to act out of a concern for the posture associated with acting in
that manner (Brennan and Lomasky 1992). The members of Congress
will often be in a situation where they cannot affect the outcome, even as
part of an effective majority, and where relevant they will be motivated to
take positions on an expressive basis. They will be tempted to grandstand
on issues like prostitution and drugs and crime, for example, focusing
on the symbolic rather than the substantive utility of doing so (Nozick
1994). The members of a Westminster parliament will be less exposed to
this pressure. The party in power will always be able to affect outcomes,
with the result that concern for outcome should balance if not eliminate
the concern for posture and thereby reduce expressive motives. Some-
thing similar may be true of the party out of power, for it will always have
to think about what to do if it wins office.

Lobby pressures   The members of a Washington Congress, being
more or less free to vote as they will, are going to be subject to intense
lobby pressure for their vote, especially when the lobbies involved can
provide campaign finance for those who vote congenially. The members
of a Westminster legislature, not being free to vote against their party,
will not be subject to the same lobbying pressure, at least not outside the
ministry. Lobbies will have to buy over whole parties in order to have a
legislative impact, not just the swing voters on any issue.[11]

Public opinion   The members of Congress will not necessarily
be responsive to a high level of public opinion in favor of a particular
measure. Whether a response is forthcoming will depend, first, on how far

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[11] The very fact that the party in power puts up a unified legislative program for the
duration of a parliament may facilitate the influence of an opinion-forming elite in the
process whereby that program is formed. And that particular danger may be relatively
absent under the Washington system.

that opinion generates local pressure on the representer to do something;
second, on how expressively beneficial or costly will be the posture of
support; third, on how far lobby pressures are silent or supportive on the
issue; and, fourth, on how far the transaction costs of getting a majority
together in support of the measure are manageable. But if public opinion
strongly supports a given measure, then the party in office under the
Westminster system can usually be expected to back the measure. It will
not be subject to the same local, expressive and lobbying concerns; there
will be low transaction costs involved, since it will already be organized as
a corporate entity; and, as an effective agent in power, it will be expected
to respond to public opinion and will run an electoral risk if it fails to
do so. The difference between the two models may help to explain why
the public support for gun control that generally emerges in the wake
of gun outrages routinely elicits a response in Westminster systems and
routinely fails to do so under the Washington model.

If these thoughts are on the right lines, then the representational pri-
ority adopted in a system of government is going to have an enormous
influence on how the system and the society as a whole works. Let the
system go toward Washington and it will activate local, expressive, and
lobby pressures and reduce the impact of aggregate public opinion. Let
it go toward Westminster and it will reduce local, expressive, and lobby
pressures and intensify the impact of public opinion.

These predictions should be qualified for variation in other factors,
of course, and need to be tested against empirical observations. But
assuming they are broadly on the right lines – and there is some evidence
that they are (Foweraker and Landman 2002) – they emphasize the
importance of the issue of representational priority. There are various
normative standpoints possible on that issue, of course, so that some
thinkers may favor the Washington model, some the Westminster. But
no one is likely to think that the issue is insignificant. It demonstrates, if
demonstration is needed, that the theory of representation matters.

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