THE PRESUMPTION OF POLITICAL FREEDOM: DECONSTRUCTING THE ORIGINS OF DEMOCRACY*

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This paper first presents two prominent and antagonistic accounts of political freedom that identify the latter either with the expression of a collective, sovereign will, or with an open process of mutual recognition and consent-based association in action. In the paradigmatic formulations that Carl Schmitt and Hannah Arendt give of these two models of freedom, one can detect, however, a common methodological assumption. In both cases political freedom is conceived as actualizing itself in some original or founding act or acts. Challenging this assumption by means of a deconstructive perspective on the supposed origin of modern political freedom and democracy, the paper then goes on to formulate an alternative conception of political freedom, starting from the assumption that freedom does not have the character of a present act or a property but of a process characterized by a constitutive futurity. Understanding political freedom in this way shows that democratic freedom, though it may already be in place, has constantly to actualize itself in a self-determining process.

Besides, it is not difficult to see that ours is a birth-time and a period of transition to a new era... The frivolity and boredom which unsettle the established order, the vague foreboding of something unknown, these are the heralds of approaching change. The gradual crumbling that left unaltered the face of the whole is cut short by a sunburst which, in one flash, illuminates the features of the new world.

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But this new world is no more a complete actuality than is a new-born child; it is essential to bear this in mind.

— G. W. F. Hegel, *Phenomenology of Spirit*

The origins of politics have been of concern to political theory since its ancient beginnings. To articulate the event of politics in myths or stories appears to be more than the product of simple fascination. Whether as a fictional account or as a report of a supposedly real event, the concern for origins produces narratives that theory and especially philosophy seem to need in order to elucidate general features of politics—*e.g.*, the autonomy of the political sphere, its relation to other forms of practice, and its very ground (reason, will, violence etc.).

In modernity this connection between philosophy and narration takes a new turn. Contrary to a rationalist prejudice, modernity is not characterized by the end of political narratives, but rather by their proliferation, and, with the advent of modern democracy, their importance even seems to intensify. One reason for this doubtless lies in the idea and experience of political freedom: not only is modern democracy the form of government *built upon* the freedom of its members (as Aristotle characterizes it), but it moreover understands itself as a political order *born out of* freedom, or, at least, out of an act of liberation. Political freedom seems therefore to demand a narrative—more precisely, a history—in order to be fully grasped. As a consequence, it is not simply a coincidence that two of the main theorists of political freedom of the twentieth century, Carl Schmitt and Hannah Arendt, both turn to narratives of modern revolutions (and especially the first bourgeois ones) as soon as a conception of modern democracy is at issue: their (re)constructions of revolutionary events are part of their normative elucidations.

But *in what respect* can history be revealing with regard to democratic politics? If there is in fact some truth to the assumption of a non-accidental connection between democracy and history, there are of course wrong ways to understand their relationship. The question at stake here is not just one about the correct interpretation of historical events, but also one about the sort of clarification one is seeking in and from historical narratives. Despite their substantial differences, Schmitt and Arendt share a methodological assumption in this regard—namely, that historical narratives concerning modern politics cannot but be accounts of its founding acts, and, furthermore, that their reconstruction is crucial because it is in the *emergence* of the phenomenon that one supposedly finds its attributes present in
an undisguised way—a way that can be altered and dissimulated by what follows.¹ Revolutionary events are therefore at the basis of the exemplary narratives that display the essential features of political freedom.² For Schmitt, who locates the rise of modern democracy in the French Revolution, the origin is the moment when the will finds its way into politics—the sovereign will of a people to found a political order in an act of self-determination; for Arendt, by contrast, who takes the American Revolution to be the birth moment of modern politics, it is the contingent beginning of a form of self-government among free and equal persons and built on mutual recognition that unfolded politics as an open process of association and finally led to the founding of a constitution.

Schmitt and Arendt can thereby be seen as prefiguring two different models of democracy that up to today contrast with one another in political theory: theories of (popular) sovereignty and constituent power, on the one hand, and theories of deliberative democracy, on the other.³ Their—antagonistic—conceptions of political freedom, however, offer only a partial perspective on it, or, to be more precise, paradoxically seem to presuppose one another in order to be conceivable at all, yet without being able to account for their counterparts on the basis of their own basic assumptions.

As I would like to show in the following, this failure is internally linked to the shared assumption of a transparent point of origin where democratic freedom is supposed to be present in an undisguised shape. My claim against this assumption will be that democratic freedom cannot be traced back to a single actual and revealing event, for it cannot be identified with a concrete act, concrete attributes of persons, or concrete (institutional or practical) forms. If to become free is to liberate oneself from subjection in order to engage

¹ For Schmitt this degeneration is due to the connection between liberalism and democracy (which in his eyes amounts to a contradiction); for Arendt it occurs by public freedom’s gradually being taken over by private freedom.
² According to a very condensed, but convincing characterization, “the revolutionary consciousness gave birth to a new mentality, which was shaped by a new time consciousness of time, a new concept of political practice, and a new notion of legitimation” (Jürgen Habermas, “Popular Sovereignty as Procedure,” in Deliberative Democracy: Essays on Reason and Democracy, [ed.] J. Bohman [Cambridge, MA: MIT Press, 1997], 39)—a concept of political practice, one can specify, connected with a new form of political freedom. Both Schmitt’s and Arendt’s accounts are compatible with this characterization.
³ Although in many regards Arendt’s and Schmitt’s accounts are not as sophisticated as contemporary theories of democracy, they are far more detailed in their elucidations of the notion of political freedom and its corresponding models of legitimacy. This is why they interest me here.
in political self-determination or self-government, then there is no precise moment or deed that corresponds to it or that fully realizes this freedom. Freedom is already effective and can be experienced in the process of liberation, but also needs organization and institution to become actual as collective political freedom. It is by institution that political freedom actually becomes a shared practice and habit; it is only by organization that the process of self-determination is framed in its means, ways, and places, and can therefore be carried out. However, institution and organization would lose their democratic meaning if they were not generated and continuously informed by practices through which people make themselves free. Political freedom appears to be something that, although already in place, still has to actualize itself. It has therefore, so I claim, the character not of an act or a property, but of a process.

According to my criticism of Arendt’s and Schmitt’s approaches I will propose a different reading of democracies’ supposed origins—namely, a deconstructive reading. Deconstructive readings do not end up in a purely negative gesture, but are always entangled with constructive or affirmative claims, or rather are affirmative claims of a special sort. In this case the deconstruction of the supposedly linear genesis of democracy (like the ones Schmitt and Arendt depict) allows us to account for the fact that democratic freedom actualizes itself insofar as it simultaneously recontextualizes itself—re-determines its forms, institutions, practices, means, and members to the extent that it essentially consists in this self-determining process.

My argument starts with a brief sketch of Schmitt’s and Arendt’s accounts, outlining their insights as well as my point of departure from them. It continues with a discussion of Derrida’s deconstruction of the Declaration of Independence and ends with some considerations about how a deconstruction of origins can be revealing for democratic practice.

**Founding Democracy: Popular Sovereignty and Constituent Power**

Carl Schmitt’s elaborations on revolutionary events and the birth of democracy culminate in a quite lapidary formulation: “With complete awareness, a people took its destiny into its hands and reached a free decision on the type and form of its political existence.”

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terse directness of the sentence mirrors the resolute nature of the (political) free will: the rash and unwavering will to become an autonomous political subject. Democratic freedom manifests itself in the instant of the sovereign decision to become free, or rather to effectively decide on the forms and ways that lead one's own political existence. For this decision to be effective, the people must be free from constraints and have the power to realize their collective will. However, these two aspects—and this is why Schmitt’s narrative turns out to be so succinct—are not something that has to be granted to the people or achieved by it, but something the people realize in the very moment in which they manifest their (revolutionary) will to be free and to dispose over their own existence.

That a people is free and not subject to some external authority is then, according to this model, something that becomes true in the very act of claiming this freedom. It is in the pure manifestation of the will of the people—no matter what it wills—that freedom and the power of decision are verified: “It is sufficient that the nation wills it,” as Schmitt explains, quoting Sieyès. The will of the people, according to Schmitt (and to Sieyès), initiates the whole process and corresponds to a new and modern source of politics, the constituent power. For Schmitt, only the French Revolution fully unfolds this new principle, since there the empowerment of the people qua constituent power provoked a change from the inside and replaced the old form of political power with the (drastic) deposition of the king.

At the origin of democracy, therefore, lies the will, and only the will. Modernity knows neither law, nor right, nor authority that could ground a political order and frame political freedom. If democracy is supposed to be the rule of the people, then there can be no authority above the people’s will, for otherwise it would no longer be sovereign, but still subjugated. Only the collective will of those very ones who are to be the addressees of its institutions and laws can give rise and at the same time grant legitimacy to a political order. This is also the reason why the original act of the will must in some sense persist in the very development of political life within the instituted order: “The constitution-making power is not bound by legal forms and procedures; it is ‘always in the state of nature,’ when it appears in this capacity, which is unalienable... The people, the nation, remains the origin of all political action, the source of all power, which expresses itself in continually new forms, producing from itself these ever renewing forms and organizations. It does so,
however, without ever subordinating itself, its political existence, to a conclusive formation."6

For Schmitt, the freedom of democratic politics is the freedom of a people to release itself from old bondages (passive subjection) so as to become the (active) subject of the political forms and modes of one’s life. This freedom actualizes and legitimizes itself by the very act that brings it into play: the will of the people to be free means that they are (de jure and de facto) free (though the revolution may in the end fail and democracy be suppressed—but Schmitt does not elaborate on that). Although the self-referentiality of the will as the principle of democratic politics provides the ground for thinking freedom (and liberation) in the strongest possible way—namely, unconditionally—, it also gives rise to questions. If, on the one hand, the unconditional freedom of the will legitimizes itself by its very act, this same will is, on the other hand, also the will for some specific forms of (political) life. What exactly, then, is the relationship between the political will and its objects? Is the will to self-determination itself determinate or indeterminate? Are all motives of the will equally good ones, so long as the nation wills them? As Hegel showed in the Introduction to the Philosophy of Right, only a free will that wills itself can be said to be free. The free will has therefore to stand under at least one condition—namely, its own freedom. In other words, it not only needs to be formally (negatively) free, but must also be moved by or directed towards itself as freedom.7 How can this be the case? And, if this is correct, must not more be said about the formation of the will? This question poses itself even more pressingly from another angle—namely, with respect to the subject of the political will, the people. How is it constituted and what guarantees that this subject has a will and moreover one will? Schmitt (and with him the tradition of “constituent power”8) leaves this question open—that is to say, trapped in an ambivalence that threatens to undermine the whole account. According to the quota-

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6 Ibid.
7 This question already informs Kant’s practical philosophy. Both Kant and Hegel are concerned with explaining how freedom can be its own condition without either becoming nonsensical or losing the character of freedom, although each provides very different answers to it. The constitutional lawyer Schmitt, by contrast, seems uninterested in the question.
tion above, the will appears to be some kind of formless vital principle of politics, something more natural than institutional, like the will of spontaneous mass-formation. Such a will can transcend not only given laws but also the boundaries of a given political order. As natural, the political will exceeds stable political forms and cannot be equated with a fixed political subjectivity. In the same quotation, however, the will also figures in a second and different sense—namely, as the expression of an already constituted political subject, as the will of the nation. In this case, the will is that of a stable political subject. As already instituted, however, the formation of such a subject, in contrast to a deliberative assembly, cannot itself have a democratic character.

The model of sovereignty based on the freedom of the will thereby reveals an antinomy with respect to how the will relates to its object. It splits itself into two possible readings that not only contradict each other, but also are unable to plausibly account for the idea of unconditional freedom. And the antinomy also reiterates itself, since it holds for the determinacy of the content of the political will as well. If “the people” is understood as a somehow spontaneous and formless collective, then its will has more the character of an impulse: it can interrupt, disturb, undermine; or it can demand, claim, support some state of affairs—but lacks the character of an articulated position or proposition. If, on the contrary, “the people” means an instituted and organized collective like the nation, then its will may reach the form of an articulated position or proposition, but only by means of instituted procedures for constituting and representing the people, but which, as such, precede the will and are not necessarily its expression. Thus, if the model of sovereignty attributes to the free will of the people an unconditioned validity, it does not give a satisfactory account of how this will is constituted and how it articulates itself as collective.

**Beginning Democracy: Acting and Deliberating Together**

Hannah Arendt’s notion of politics is sensitive to the different problems implied by (popular) sovereignty. Therefore, on her view, politics is not in the first place a matter for the one will of the people, but for association and acting together. Only by mutual recognition does a political collective come into being at all, since freedom and equality, according to Arendt, are not natural characteristics of men, but (mutually) accorded within a political practice. Precisely because politics always takes place between plural individuals (and is not the affair of a collective singular), Arendt in the end rejects not only the
primacy but also the very idea of the one will of the people as the expression of political freedom. Accordingly, politics is not a matter of sovereignty but of mutually accorded spaces for action that imply plurality as a constitutive element rather than undermining it. Like Schmitt, Arendt holds political freedom to be freedom from subjugation as well as the (collective) faculty of effectively establishing a new "constitutio libertatis." But in contrast to Schmitt, the legitimacy and effectiveness of acts of political freedom do not lie in the unconditional nature of the freedom of the will, but are tied rather to the form of political practice insofar as, and as long as, it implements freedom and equality. Precisely because political practice is built on plurality and is carried out by different people, it has outcomes or produces forms neither foreseeable nor accomplishable by its individual members in isolation from one another. The possibilities of life disclosed by such a practice are legitimized by the very fact that they are the product of a collective acting exempt from subjugation and are effective in that they are practically disclosed through this collective action.

According to Arendt’s detailed reconstruction in *On Revolution*, this form of freedom was discovered and unfolded over the course of the American Revolution. As she reconstructs events, the Revolution is to be seen as an extensive process through which political freedom first had to be discovered by the people. It began with an act of mutual recognition between emigrants (the Mayflower Pact), consolidated itself through the establishment of forms of self-government in the New World (like town halls), and led finally through the claim of chartered English rights to a political revolution and the institution of a new order. The new political order built upon freedom and equality did not therefore originate from the resolute act of a collective will, but from a persistent process of consent-based association between different people and the material forms of freedom that arose from such a shared practice. Thus, acting collectively on the grounds of mutual recognition (what Arendt simply calls “action”) is the condition of existence of the American Revolution as well as the principle of its legitimacy. Action is a practice that has the power to prove its own legitimacy because it is carried out by free and equal persons and because it is built on consent and mutual recognition. So the principle of legitimacy Arendt has in view is contractualist, complemented by a quite original notion of political power. Accord-

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ing to Arendt, the American Revolution was a legitimate revolution not only because it was a fight for freedom and liberation, but moreover because all decisions (including the new constitution) were made by individuals recognized and supported by the (future) members of the political order. The new order was built not against the background of an inner antagonism (as that between the three estates in the French Revolution), but out of inner consent. Also, in Arendt’s view the formation of the new order is as self-referential as it is in Schmitt’s account—it has its ground in itself. But the ground is here a practical process establishing commonality and in some sense also orienting subsequent events. By taking in the whole sequence of historical events, Arendt can reconstruct how the decision for a new political order is supported by the aim to perpetuate and institute the freedom and equality whose experience activated the revolution. Acting together is not only the practical condition for modern politics, but at the same time the ground for its legitimacy and the telos of its institutions.

Although Arendt’s account deals with some of the questions that Schmitt leaves open—the question of the formation of a common will and of the orientation of political decision—, it is in turn marked by certain blind spots. These are woven into the extensive narration of the revolutionary events as various idealizations of the process of association that Arendt depicts. The original act of mutual recognition and association (the Mayflower Pact) that grounds, according to Arendt, the whole process of instituting a new political order, as well as its legitimacy, involves the exclusion of individuals who nevertheless are affected by its formation (Native Americans, the “mob” that came to America together with the pilgrims, women, and so on), so that it already lacks the structure of pure self-referentiality (in the form of an inner consensus). This is even more the case for the foundation of a new political order since this act does not have the structure of an association. It may be built on a broad consensus, but nonetheless cannot structurally rely on the spontaneous and active consent of all those who are affected by it. A constitution must also decide how to actualize freedom and equality within a new political order and is not only the extension of a pre-existing practice but at the same time also the institution of a new one. It is not merely generated by some previous fact, but itself generates new conditions of (political) existence. Furthermore, the original association, as well as the institution, of the new political order (even in the procedural legal and political normativity that corresponds to Arendt’s view) would not have been possible if something like a common intent or will had not already been there. Arendt’s notion of political freedom
and legitimacy, like Schmitt’s, therefore seems to demand another, antagonistic, conception in order to be conceivable, yet without being able to integrate it into its own picture.

Deconstructing the Event of Democracy

Schmitt and Arendt open up contrasting perspectives on the nature of modern politics. The idea of popular sovereignty underlies the fact that politics is a matter of the will: a will to be free and to decide upon the institutions that shall protect and unfold a mode of life. The idea of action and of plural practice underlies the fact that freedom must be materially disclosed and experienced together with others in plurality, and, moreover, that political institutions exist primarily to enable and secure such a deliberative practice. The difficulties the two accounts both encounter show that the aspect of political practice each of them takes into account cannot, in fact, stand on its own, and that a theory of democracy cannot rely solely upon either sovereignty or collective deliberation. Bringing the two dimensions together, however, implies a radical change of theoretical approach. The two models understand themselves as—and are in fact—antagonistic towards each another. Each one has its own take on the different aspects of political practice: its structure, the nature of political freedom, the very sense of institutions, of legitimacy, and so on. Therefore, we cannot simply add a moment of deliberation to sovereign decision and leave everything else as it is.\footnote{As Andreas Kalyvas suggests in his criticism of Schmitt. See Kalyvas, Politics of the Extraordinary, Part Two, Chapter 5.} Thinking deliberation and sovereignty together implies a modification of the status of both dimensions, since bringing plurality into play involves, at least, rejecting the idea of “one people, one will.” On the one hand, rejecting the idea of a unitary subject of the will necessarily changes the status or at least the legitimacy of sovereign decisions. On the other hand, emphasizing the need for sovereign decisions involves a moment of positing that, in its possibility and legitimacy, cannot rely on previous collective consensus.

That the two models do not simply complement each other holds also with respect to their respective genealogical narratives. Not only are the actors and deeds of the two scenarios quite different, but so are the identifications of the revolutionary events. In this regard, we cannot bring the two perspectives together simply by adding events to one or the other of the two narratives or by telling the story of
how the American and the French Revolutions relate to each other. Rather, we have to change the very structure and also the function of the narrative.

Acknowledging the paradoxical interrelation of action and decision causes a quite radical change in theoretical perspective since it necessarily implies a non-linear narrative: a narrative that no longer portrays freedom as something already achieved and expressing itself in decision or action. That is, what the paradoxical interrelation of action and decision implies is the impossibility of the kind of self-referentiality that both Schmitt and Arendt claim for their respective accounts: the self-determination of the autonomous subject of the will, as well as the actual mutual consensus of a plural practice. In the former, it is the subject of freedom (of the will) that seems to be paradoxical; in the latter, the very acts of freedom (of action) cannot be related to the mutual consent of the plural subjects that would be necessary for their legitimacy. In short: in both cases a moment of discontinuity or a certain gap opens up in the linear course of events and in the supposed transparency of political freedom—a moment of discontinuity that affects the actuality of political freedom and the legitimacy of a political order built upon freedom and equality.

It is precisely this moment of discontinuity that is of interest to Jacques Derrida in his “Declarations of Independence,” where he presents a very different sort of narrative than those of Schmitt and Arendt. What Derrida’s text shows is, first of all, that the difficulties that Schmitt’s and Arendt’s conceptions encounter—the difficulties of accounting for the subject and for the very act of a revolution of freedom and equality—are not accidental, but in a certain sense necessary. Declarations of independence (and one can add also the empowerment of the people qua constituent power) are paradoxical. They are carried out by a subject, the people, that does not exist prior to the declaration—at least not as a political subject authorized to sign such an act or to create institutions on its own. Moreover, they are paradoxical because there is no moment at which one could definitively say that the act of independence or of empowerment as a collective act has taken place and is recognized by all.

What Derrida’s narrative therefore works out is the outlines of a different perspective on the practice of political freedom. The narrative itself presents something like a fragment of history; it is neither the depiction of the emphatic instant nor the reconstruction of the long historical duration of the revolution. What Derrida in fact pre-

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sents and analyzes is an anecdote about Thomas Jefferson, the main author of the American Declaration of Independence. If Derrida’s approach (focussing on an anecdote involving a single person) evidently cannot be said to be historical, it is nonetheless in a peculiar way genealogical. Derrida does not present political freedom as something already achieved, but rather, as situated in its own becoming. He displays the steps—in this case the foundation of a new order of freedom—that are supposed to lead to freedom, moments of almost freedom. In doing so, deconstruction retraces the developments in a way that brings dimensions and ruptures to the fore and thereby disturbs the narrative linearity of events as well as the evaluative judgement that accompanies such narratives.

However, a deconstruction of political freedom does not aim at a revaluation in the sense of a fundamental critique. The purpose of deconstruction is not to suggest a different final judgement about the events—e.g., by showing that modern political freedom is in fact subjugation by other means. Rather, it unsettles the stabilized assessments of the events precisely in order to defer such a final judgement (because such a deferral is shown to be necessary). Thomas Jefferson therefore does not appear onstage as an emblem of new political freedom. As one of the central leaders before and during the American Revolution, Jefferson can be taken as an exemplary subject of liberation and revolutionary change. He was part of the pre-revolutionary American self-government, he was a material and ideological leader of the revolutionary events, and he even authored the document that prepared the institution of a new order. Jefferson, it seems, is the author and executor of American freedom, the one who experiences it and decides its very future. This is the way in which he is commonly depicted—e.g., in Arendt—yet it is not this that is of interest to Derrida. He takes Jefferson neither as an example nor as a hero of political freedom. Rather, Derrida splits his focus amongst just a few minor moments of Jefferson’s story. Those

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13 Genealogy is clearly used here in a non-Foucauldian sense. Although the difference between a discourse on origins (“Ursprung”) and one on emergence (“Entstehung” or “Herkunft”) corresponds precisely to the difference between historical narratives like Arendt’s and Schmitt’s on the one side, and Derrida’s on the other, the methodology of doing genealogy is completely different in Foucault. The reason why deconstruction can nevertheless be seen as a genealogical undertaking is that it analyzes acts in the components of their becoming rather than as something already achieved. Cf. Michel Foucault, “Nietzsche, Genealogy, History,” in The Foucault Reader, (ed.) P. Rabinow (New York: Pantheon, 1984), 76–100.
moments do not completely undermine the dominant narrative about Jefferson, but neither do they fit easily into it.

Derrida first points to a moment of suffering that seemed to have befallen Jefferson after the Declaration of Independence was written.\(^\text{14}\) This has nothing to do with the supposedly morbid tastes of deconstruction. Jefferson’s unhappiness is taken as a symptom of the complex and somewhat paradoxical actualization of political freedom. The authorship of the Declaration of Independence is paradoxical not only with regard to its supposed author, the people, who do not yet exist as an autonomous political subject with the authority to sign \textit{prior} to the Declaration. It is also paradoxical with regard to the person who, more than any other, seems to have contributed to this document. Jefferson, however, “represents the representatives.” (DI, 8) The text of the Declaration is not merely the expression of his own voice but also that of others and for this reason his text was emended by the other representatives before being made public. As Derrida points out, Jefferson nevertheless “clung” to his text and “suffered” the corrections “especially by his colleagues” and could not have done otherwise. (DI, 12) Jefferson is a representative, but, at the same time, he is also one of the people whose freedom is being declared. The Declaration of Independence also asserts Jefferson’s own individual independence (as well as the individual independence of all other individuals), an independence that must be stated unconditionally and embodied in the person alone. This is why he experienced the corrections as emendations of “himself.” (DI, 12)

The moment in which the individual declares himself or herself to be free alongside others—the wager of modern political freedom—seems to be an impossible one. It never comes or it has always already passed, overwritten by the acts of others, and is therefore never really actual. At first glance, Derrida seems therefore to depict Jefferson, the subject of modern politics, as a melancholic subject, someone who is deploring a loss, the loss of something that he never had: the impossible undertaking, “that the institution of the American people should be, by the same coup, the erection of its proper name. A name of State.” (DI, 12) It would seem that Jefferson’s aim to assert his own freedom unconditionally is disturbed or even made impossible by the collective process of instituting a concrete political order. Interestingly enough, however, Derrida leaves open the question of whether Jefferson failed or succeeded, his own unhappiness.

\(^\text{14}\) Arendt, by contrast, only speaks of Jefferson’s happiness as the result of his experience of public freedom and political friendship. Cf. Arendt, \textit{On Revolution}, Chapter 3.
notwithstanding: “Did he succeed? I would not venture to decide.” (D1, 12)

So, by stating the impossibility of Jefferson’s act, Derrida is not at the same time proclaiming its failure. To deconstruct the structure of political freedom is not to operate on the basis of the validity of the deed, but, as it were, to defer the answer about it. What, precisely, does this deferral mean for political freedom? Derrida does not comment on this, but directly moves on to tell another anecdote, an anecdote within an anecdote, if you will. It is the story of a hatter that Benjamin Franklin told to Jefferson in his attempts to assuage his suffering. Franklin’s hatter must, like Jefferson, come to terms with the effacement of his own text by the intervention of his friends (in this case, the inscription on the signboard of his own shop). The original inscription, “John Thompson, hatter, makes and sells hats for ready money,” accompanied by the image of a hat, was transformed so that only the image and the name remained. Derrida sees a double clue in the anecdote: “The story reflected his [Jefferson’s] unhappiness but also his greatest desire. Taken as a whole, a complete and total effacement of his text would have been better, leaving in place, under a map of the United States, only the nudity of his proper name: instituting text, founding act and signing energy.” (D1, 13)

What does this second anecdote have to do with Derrida’s remark about the undecidable validity of Jefferson’s act, or, to make the same point from another angle, in what respect could the story entail some release for the unhappy Jefferson? Derrida does not comment on what the text nevertheless suggests—namely, that the story should entail some consolation for Jefferson—e.g., by showing how the changes are for the good of all and contribute to bringing the Declaration to the very point of its success—namely, as a declaration of unconditional collective and individual freedom. However, as Derrida remarks, it is this condensation that is missing in the case of the Declaration and that remains Jefferson’s great and unfulfilled desire: to put only his own name on the Declaration of Independence—to declare himself free without any conditions, comments, or specifications that could be modified, misunderstood, etc. Thus, if the second anecdote does not allow the problem or the impossibility of Jefferson’s act simply to disappear, it helps to clarify Derrida’s point. The puzzling character of the anecdote—which consoles and at the same time turns the knife in Jefferson’s wound—points to the dilemma of his situation and sheds some light on the structure of his act. On the one hand, there is the making of the Declaration, the work of a single person standing under commitments, influences, etc., which is at the same time also the work of many others, and which in the end leads
to an unforeseen result: consent given by many, and possibly also a
document better than the work of one man alone. On the other hand,
there is the unconditional and unspecified freedom of the political
subject that corresponds to Jefferson’s will and desire (as well as to
the desire of each single person), the vital decision to be free. Both
inform and guide the Declaration, but they do not complement each
other. Each one seems to disappear as soon as the other is taken into
account. Their difference and, to some extent, also their contrast are,
as we can now see, the reason for the paradoxical structure of the act
and the undecidability of its success. It is impossible to do justice to
both sides at once, yet, at the same time, both are essential to the
pursuit and actualization of political freedom. The more we look at
the particular aspects of the event, the more the freedom of Jeff-
erson’s act (but also of the act of the Declaration as such) seems to
vanish.

How can we make sense of this tension without concluding that
democracy prevents its own actualization, exasperated by its own
inner contradiction? Or does the fact of such a contradiction at the
heart of political freedom signify that “something is rotten” in dem-
ocracy?16

**Actualizing Democracy**

The deconstruction of the act of declaring and founding political
freedom has brought to the fore both dimensions of freedom that
Schmitt and Arendt respectively take as its very essence: the free-
dom of action, its plural structure and unforeseeable development,
and the freedom of the will, of unconditionally and suddenly assert-
ing the end of subjugation. The double anecdote about Jefferson
suggests in a paradoxical sense that the act of the Declaration at once
is and is not the unconditional expression of one’s own freedom—as
it is and is not a moment within a collective practice. The story
Derrida tells presents these different features in a sort of inner
tension that, again, reveals that they do not simply complement each
other. Since this tension does not prevent the act of declaration and
its effectiveness, it also becomes apparent that they can nevertheless

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15. The second moment therefore implies not an anti-political or asocial impulse
for individual freedom, but rather an impulse for an unmediated form of free-
dom.
16. For contemporary controversial discussions on the value of democracy, see
Giorgio Agamben et al., *Democracy in What State?* (tr.) W. McCuaig (New York:
be brought into a kind of unity. Their unity is of course not of the sort suggested by theories of popular sovereignty or of deliberative democracy, which let the distinctiveness of the two moments disappear: either all events during and prior to the Revolution are the expression of the one will, or the decision to set oneself free by a declarative act is but a further step in a process of acting together. The question that now arises, then, is how to think the togetherness of unity and the tension between the two dimensions of freedom, and how this togetherness affects the notion of political freedom and the legitimacy of its outcomes.

As Derrida shows in Force of Law, every just decision has an aporetical structure in a threefold sense. It has a secure foothold neither in existing norms nor in facts, but must nevertheless happen, suddenly, in order to make justice possible. Derrida argues from the aporia of decision that "there is never a moment in which we can say in the present that a decision is just (that is, free and responsible)," and takes the foundation of the nation-state to be its best paradigm. This corresponds to the undecidability that Derrida points out in the Jefferson anecdote. The undecidability in this case arises from the fact that the unconditionality of freedom supposedly expressed by the Declaration (or the self-referentiality of the declarative act) paradoxically vanishes as soon as one (or Jefferson himself) tries to locate it in the course of events. It would seem that the Declaration is mediated in several forms: Jefferson's authorship is simultaneously improved and interrupted by the work of others, just as the will of the people is further legitimized by a whole range of references (God, the laws of Nature), as well as formed by the reality of the institution itself that was not born with democracy, but only reframed by this emerging political form.

As Derrida points out, the reference to God at the beginning of the Declaration disrupts the pure performativity and self-referentiality of the act by introducing a constative moment, or rather a further legitimizing instance that transcends the will of the people, as well as Jefferson's desire, and so frames their supposed consent. The invocation of God or of the laws of Nature is not accidental or out of context. The Declaration needs a "last instance and...ultimate signa-

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19 For a detailed analysis of this argument and the divergent readings of the Declaration by Derrida and Arendt, see Bonnie Honig, *Declarations of Inde-
ture” in order “to have a meaning and an effect,” as any performative act relies on some authority, rule, or habit in order to succeed. (DI, 12) But this last signature, and herein lies the modernity of the Declaration, is—like all other instances that sign or justify the act—bound up in a system of “countersignatures.” (DI, 11) The Declaration of Independence not only does accomplish the revolutionary act, but also dislocates God’s position. God “who had nothing to do with any of this and...doubtless doesn’t give a damn” suddenly takes on a role he never had before—namely, that of justifying a political order built on freedom and equality. (DI, 13)

Nevertheless, precisely because of this system of “countersignatures,” the decision to found a new state is a decision, yet not the direct expression, of unconditional freedom (a pure performative). The unconditional freedom Jefferson desires is nothing that can be actualized as such, although it informs and drives political decisions. Like the freedom and justice of a legal decision, the unconditionality of political freedom cannot be situated in the immediate reasons or means of a decision—there are no existent features that fully conform to the demand. In other words, one cannot state, in the present, that an act is free if the act in question is a founding declaration of such freedom. The same holds true in the political case because political freedom is not only supposed to be unconditional but also collective—it is indissolubly tied to equality and to the participation of others. In fact, however, political decisions cannot simply be the direct expression of a collective, since they must be made (this is the third version of the aporia described by Derrida) in “urgency”20; there is no time to seek the assent of all. Neither unconditional freedom nor the mutuality of association is fully achieved in the act of deciding, although both nevertheless play a role in it. Both figures of self-referentiality (the self-referentiality of the will and of association) are withdrawn by a whole range of mediating instances and circumstances of decision. This is why Derrida claims that “there is never a moment... in the present” in which we can say that a decision “is just” and there is no decision that can fully demonstrate its legitimacy solely through the accomplishment of the act.21 The legitimacy of the act (to unfold political freedom) can only be proved by its effects in the future—namely, by effectively enabling (political) freedom and equality.

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21 Ibid.
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The acts of liberation and institution of democracy can have a self-referential structure only in a temporalized sense. This is so because they neither express and materialize a freedom that is already practically there for all, nor simply implement a theoretically determined idea of democracy. Rather, they decide its very meaning (what democracy will have been) and set the conditions for its further actualization. As defined by freedom and equality, democracy is not completely indeterminate, since these two ideas together certainly disqualify forms of subjugation. The ideas of freedom and equality are however underdeterminate.22 There are different ways to understand them, as is shown, for example, by their liberal and socialist interpretations. Modern democracy cannot even rely on past examples in order to orient itself, since the notions of unqualified and inclusive freedom and equality have no real prototype. Therefore, although the revolutionaries oriented themselves by past images, notions, as well as institutions, such that modern democracy did not come out of nowhere, it still had (and has) to be invented to some extent.23

Consequently, democracy is self-referential in the sense that it has to actualize itself on the basis of its very practice. As Arendt rightly points out, political freedom is a question of practical disclosure. Against her own understanding, however, this implies that political freedom is not simply an abstract freedom, but situates itself on the threshold of the political and the social sphere.24 It is in the midst of (contingent) social situations that arises a practice of self-government that is disclosive of ways and means of autonomy. It is out of these practices and their occasions that the essential aspects to be considered (supported, protected, modified) in and through politics are determined. Precisely because these practices are situated, they do not include everyone in the same way from the outset. There is, however, a difference between practices that detect affairs of general interest and practices that deal with particular interests. The demarcation of these two cases is a contested one, precisely


23 Claude Lefort therefore speaks of a democratic invention ("invention démocratique") in the double sense of the word. See his L’invention démocratique: les limites de la domination totalitaire (The Democratic Invention: The Limits of Totalitarian Domination) (Fayard: Paris, 1981).

24 This interpretation runs against the grain of Arendt’s own understanding of action, which is built on a supposedly clear-cut demarcation of the political sphere and civil society.
because the topics of democratic politics are not strictly predeter-
mined ones. Not only are (universal) freedom and equality underde-
terminate ideas, but, moreover, the very conditions for their actual-
ization have to be practically determined. To identify questions of
general interest is therefore an immanent challenge proper to demo-
cratic politics, and—again—is a matter of decision.

In this sense, the “unity” of action and decision turns out to have
the character of a process in which the related dimensions of free-
dom are constantly in play, while not constituting a linear narrative.
Acting prepares the ground for deciding and offers reasons for it, but
no practical context provides an unequivocal orientation for deci-
sion. Acting, however, constantly needs deciding and is framed by it.
At the same time, decisions are still themselves mediated by actions
and are never the unconditional expression of a pure subjective
freedom (whether the subject in question is one person or a collective).
Precisely because they are moments in a process, neither action nor decision can guarantee its own legitimacy in its very
taking place. In producing new states of affairs and in not being fully
self-referential, they must always prove their validity in the future by
enabling further actions and practices between free and equal be-
ings.

This deferral of legitimacy corresponds to a moment of contin-
gency in decision and action. Since freedom and equality do not
exhaustively determine but rather only orient democratic politics,
the forms and practices in which democracy determines itself cannot
be deduced from these ideas or principles. They are found and
posited in a historical and social process such that some of them may
also unmask themselves as, or, in a later moment, become an obsta-
cle to freedom and equality, and so prove themselves to be illegiti-
mate (or no longer legitimate). In this process there is no positive
moment of the sort Jefferson desired in unconditional freedom, but
this is so because unconditional political freedom is not an attribute
or a feature of decisions and actions, but rather the medium in which
they take place—a medium, however, that cannot prove itself except
by its effects. Unconditional freedom is and is not in play in making
decisions or in pushing practices further: it is in play insofar as
decisions and practices are never fully conditioned and is not in play
insofar as there is no given criterion to guarantee the claim that they
are actually improving freedom and equality.

The process of political freedom is therefore characterized by the
continuous determination and re-determination of democratic forms
and practices. Such a process is not the effect of the changing will of
an already constituted subject working behind the deed (as Nie-
tzsche puts it), but emerges out of the political and social practices and struggles that take place in democratic orders. Like the supposed original act of grounding democracy, so too the acts of re-determining democracy are never the acts of a pure will, but are situated acts, informed by changing social conditions and subjects as well as by the materiality of practices of liberation.

In showing the points of rupture in the genesis of democracy, deconstruction makes a structural claim concerning why and how the institution of democracy is never fully achieved (what Derrida in his later texts notoriously calls “democracy to come”\textsuperscript{25}) and yet has to be actualized (now). Without fully rejecting the historical perspective, deconstructing the narrative of origins means to highlight both sides, the exemplarity as well as the non-exemplarity of the events in question. If democracy needs examples, as it does, then it cannot at the same time overestimate their relevance. Since they are moments in a genealogical account that marks the productive difference between political freedom and its actualizations, or rather the contingency of its forms, there can be no perfect example of democracy, but rather only many and different ones. In this way, a deconstruction of the origins of democracy shows that there is no real end to the genealogical perspective on democracy, since it can never fully coincide with itself or find a final actualization.

If this paper began with a quotation from Hegel’s \textit{Phenomenology} about the beginning of a new era and the processuality that this event presupposes, working through a deconstruction of the founding events of political modernity shows that this processuality has to be understood in a peculiar way. In contrast to Schmitt and Arendt, Hegel emphasizes the fact that the beginning of something new has to develop in time in order to become actual and the phenomenon that it potentially is; democracy requires that we think the process of actualization not simply as the unfolding of a predetermined potential of freedom, but as a process that is free \textit{as a process} in that it discloses its own potentiality by the very act of its actualization.

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