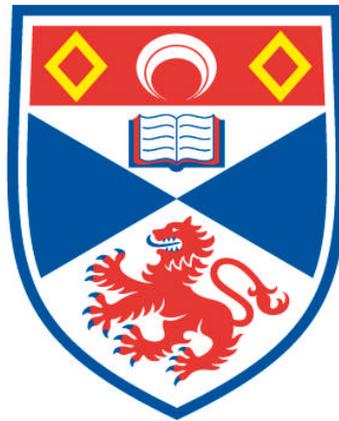


**ANDREW FLETCHER: BRIDGING THE GAP BETWEEN
EARLY MODERN AND CIVIC REPUBLICANISM**

Clairelouise Anderson

**A Thesis Submitted for the Degree of PhD
at the
University of St Andrews**



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Abstract

This thesis explores the progress of contemporary republican theory from its civic roots to its modern conception. Republicanism is a paradigm of liberty, and the transformation of this theory of liberty from concepts of self-government and civic virtue through to contemporary ideas of non-domination and political autonomy will be examined. Using Andrew Fletcher's particular brand of civic-humanist republicanism as a critical model, this thesis will show that republicanism is vital for addressing the issues an increasingly interdependent and unjust global system brings about.

This thesis considers Andrew Fletcher's contribution to republican political theory and demonstrates that his unique approach to liberty, peace and the European political order is an important contribution to the canon of political thought used in contemporary scholarship to understand the political ordering of society. Furthermore, his contribution to the debate surrounding the Treaty of Union is a relevant starting point for consideration of the current Scottish Independence question. It shows that Fletcher's civic-humanist republican theories are both relevant and necessary for the contemporary understanding of the republican theory of liberty, narrowing the gap between the dominant ideologies. Where communitarianism lays at one end of the spectrum, and libertarianism the other, Fletcher's own brand of civic-humanist republicanism narrows this broad spectrum.

I, Clairelouise Anderson, hereby certify that this thesis, which is approximately 90000 words in length, has been written by me, that it is the record of work carried out by me and that it has not been submitted in any previous application for a higher degree.

I was admitted as a research student in Sept 2006 and as a candidate for the degree of PhD. in Sept 2007 the higher study for which this is a record was carried out in the University of St Andrews between 2006 and year 2012.

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This thesis is dedicated in memory of my Dad, Gran and Grandad McEneaney, Uncle Matt and Aunty Cathy, and Uncle Fred.

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An Introduction to Fletcher

Contemporary republican theory comprises arguments for self-government, non-domination, freedom, political autonomy and egalitarianism, it also lacks clarity. Different authors will place emphasis on different aspects, and ignore others completely. It is because of this versatility of form, and the different interpretations of its core doctrine, that republicanism as it is understood today lacks clarity as a normative theory. The theory of non-domination proposed by Pettit, and notions of self-government suggested by Arendt and Habermas, all have their roots in the early modern models of Cicero, Aristotle, Machiavelli and Harrington. However, this is where the so-called 'early modern' canon of republicanism tends to end with most writers. Some may pay tribute to Montesquieu, and will refer to Locke as a liberal republican, but the republican writers of the early seventeenth-century to the enlightenment, when republican theories were at their most prevalent and most significant to contemporary political thought, are largely disregarded. In particular, Andrew Fletcher of Saltoun, writing at the turn of the eighteenth-century, proposed a modern political republican model much more relevant to contemporary politics than Machiavelli, incorporating a conception of commerce and a coherent European (if not global) political society. Fletcher recognises the corrupting yet necessary force of commerce for European peace and proposes a theory of federal perpetual peace based on a republic of republics which can be utilised when considering the ordering of global politics. Despite this, and his popularity in his native Scotland, his theories have gone largely unexamined. Fletcher receives no more than the occasional reference or discussion in contemporary economics, with regards to civic humanism and Machiavelli in political theory texts, or within historical investigation and the Treaty of Union of 1707. His contribution to politics, not least his contribution to republican political theory, has largely been overlooked.¹

¹ See for example, Hont, Istvan *Jealousy of Trade. International Competition and the Nation-State in Historical Perspective*. Cambridge, Mass.: Harvard University Press, 2005. Robbins, Caroline. *The Eighteenth-Century Commonwealthman*. Indianapolis: The Liberty Fund. 2004 and many of the great insights by Roger A. Mason including: in *Scots and Britons: Scottish Political Thought and the Union of 1603*. Cambridge: Cambridge University Press, 1994. Mason, Roger A (ed) *Scotland and England 1286-1815*. Edinburgh: John Donald Publishers Ltd. 1987.

Scholars of republican theory have investigated the British heritage of republicanism through the sixteenth and seventeenth centuries, but its geographical scope is limited; as Andrew Hadfield reminds us, republicanism was not an autonomous political language but rather a 'a literary phenomenon . . . because it consisted of a series of stories'.² According to Honohan, the modern tradition of civic republicanism has roots with the early modern past of ancient Greece and Rome, and although Cicero, Machiavelli, Harrington and Fletcher, through to the revolutionaries in America all wrote in very different worlds with very different intentions, all would have considered themselves as 'building on [the] ancient foundations' of the early modern scholars.³ As Hadfield shows, republican thought was prevalent far beyond the debates in philosophy and politics. Shakespeare's retelling of the Rape of Lucrece is indicative of his enthusiasm for political themes and debate. He portrays Lucrece as a republican heroine, whose fate birthed the history of the Roman republic. Buchanan's retelling of the same story argues that tyrants often disguise their true natures because they are aware of the consequences of their actions, 'For the hatred aroused by a single misdeed loses them all gratitude for their ostentatious generosity'. Their aim is to act 'for the sake of their own absolute power rather than the advantage of the people' and to 'enjoy their own pleasures' instead of governing in the interests of the people they are supposed to serve.⁴ This dishonest and closed form of government encourages the further vice of bad rule - flattery, the 'nurse of tyranny and the most grievous plague of lawful kingship'.⁵

Pocock also looks to Fletcher in his examination of the influence of Machiavelli in Pocock. *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition*. Princeton: Princeton University Press, 1975.

² Hadfield, Andrew. "Republicanism in Sixteenth- and Seventeenth-Century Britain". In David Armitage. *British Political Thought in History, Literature and Theory 1500 – 1800*. Cambridge: Cambridge University Press, 2010.

³ Honohan, Iseult. *Civic Republicanism*. London. Routledge. 2002: 15.

⁴ Buchanan, George. *A Dialogue on the Law of Kingship among the Scots: A Critical Edition and Translation of George Buchanans' De Iure Regni Apud Scotus Dialogus*. Roger A. Mason, and Martin S. Smith (ed. and trans.), Aldershot: Ashgate, 2004: 85-87.

⁵ Buchanan, *ibid.* 3.

Hadfield reckons that the historical and theoretical debate about early-modern republicanism has ‘concentrated on the question of whether it was a language or a programme, a means of articulating an alternative to monarchical government, or a plan of action designed to replace hereditary monarchy’ leading to an over-inclusive understanding that risks seeing any reference to ‘virtue’ as republicanism in miniature, or a programme in opposition with puritanism and Royalism.⁶ Virtue and political participation are considered vital to sustaining civilised society; a community of like-minded people who share common goals of a wider nature than merely familial or other small associations. English republicanism might be described as a faith in the power of institutions to circumscribe the authority of the monarch, allied to a belief that such institutions - Parliament, the law courts, local and national government - had the means to make individuals more virtuous and so better able to govern.⁷ It is therefore to the notions of self-government, as understood by enhanced civic participation and active public life, that republicanism holds most credence.

Contemporary republican thought, associated with Pettit, Arendt and others, emphasises freedom as non-domination as the motivational factor at the heart of the tradition. This civic republican interpretation is often in conflict with the civic humanist interpretation that argues the goods of active political participation: civic virtue, the common good, etc., should be understood in the early modern republican tradition as intrinsically valuable components of the human experience. This positive conception of liberty holds that political freedom is a share in the good life: understood as active citizenship and civic virtue; the political arena is ‘a kind of theatre where freedom *could* appear’, ‘a realm where freedom is a worldly reality’.⁸ Civic republicanism on the other hand, has a decidedly different conception of liberty; a negative theory of freedom as freedom from dependence or the domination of an arbitrary power.⁹ The

⁶ Hadfield. *ibid*:112

⁷ Hadfield. *passim*. Hadfield’s chapter illustrates many republican theories to be found in literature and poetry as well as political theory.

⁸ Arendt, Hannah. *What is Freedom? Between Past and Future: Eight Exercises in Political Thought*. New York: Penguin books. 1993: 154. (emphasis added)

⁹ See Skinner, Quentin *The Idea of Negative Liberty*, in *Philosophy of History: Essays on the Historiography of Philosophy*, Richard Rorty, J. B. Schneewind, and Skinner (eds.), Cambridge: Cambridge University Press. 1984.

early modern values at the core of republican theory: mixed government; political participation; and avoidance of corruption, are instrumental in maintaining political freedom rather than intrinsic as the civic humanists maintain. However, both traditions agree that freedom can be achieved *through* government; self-government does not imply complete freedom from any form of governance; citizens are subject to the rule of law, 'obedience to the law one has prescribed for oneself is freedom'.¹⁰ Furthermore, both traditions agree that anyone who is subject to the *arbitrary* rule of another is not self-governing.

Frustratingly, there is little apparent clarity and conceptual coherence in the thought of contemporary republican authors who are concerned with republican themes. There is little doubt that there is a renewed interest in republicanism, but as Dagger comments, 'it is not clear that the republican tradition truly speaks to contemporary concerns'.¹¹ Michael Sandel argues that early modern republican ideas are a necessary prescription for the trials of today's modern polity, 'procedural liberalism' has overwhelmed (American) politics, leaving politics deprived of debates concerning citizenship, self-government, civic virtue and the community.¹² As a consequence, there is widespread disenchantment with the contemporary political process; the liberal agenda lacking a moral discourse: the early modern republican civic virtue and citizenship, which offer empowerment and enfranchisement by narrowing the gap between the state and the community.¹³

In his 2006 article, Dagger attempts to convince his readers that the revival of republicanism is a good thing; that it can address the political and economic concerns and contribute to the challenges of the twenty-first century. Republicanism is first and foremost a theory of freedom, and only secondly is it a theory of government. It

Maynor, John W. *Republicanism in the Modern World*. Cambridge: Polity Press. 2003. Lovett, Frank. "Milton's Case for a Free Commonwealth," *American Journal of Political Science*. 49, 2005: 466–478.

¹⁰ Rousseau, Jean-Jacques. *On the Social Contract*. R.D. Masters. (ed and trans) New York: St Martin's Press. 1978: 56.

¹¹ Dagger, Richard. "Neo-Republicanism and the Civic Economy". *Politics, Philosophy, and Economics* 2006 5: 151.

¹² Sandel, Michael. *Democracy's Discontent*. Cambridge, MA: Harvard University Press. 1996.

¹³ Sandel, Michael, *ibid*: 323

benefits from a long tradition of ideals of freedom; from the Ciceronian independence of the Roman citizen, through Machiavellian equal citizens of republican Florence who distinguished themselves from the dominated subjects of Catholic Rome and the courts of Europe, and through the Commonwealth-men of Britain who argued against arbitrary rule, divine rights and absolutism. This commonwealth theme was picked up in the eighteenth-century by the colonists of the American Revolution who fought against the domination of a foreign arbitrary parliament. The current renewal of republican thought owes a great debt to these theories from ancient Rome, Italy, England and America. All recognise domination and arbitrary power as the rival to the civic community; freedom from domination means equality and dignity, freedom from fear and deference.

Despite this, there is a lot of scepticism surrounding the efficacy of contemporary republican theory as a normative political theory. The scepticism stems from the claim that republicanism sacrifices individual autonomy in favour of communal identities, claiming that individual agency is a function of collective identity. Republicanism is often presented in a negative position in opposition to liberalism, finding fault with its excessive individualism and support for a morally wanting political culturism, as it advocates a political version of communitarianism which supports the individual freedom of citizens through their civic involvement in the community and in politics. Others claim that republicanism comes too close to liberalism,¹⁴ rendering it meaningless; 'Either Republicanism is non-threatening because it is little more than a somewhat archaic rhetorical skin for a body of modern liberalism or, if substantively distancing itself from liberal precepts is overtly oppressive to a troubling degree'.¹⁵ But for any political theory to have relevance in the context of contemporary politics, it must adopt a basic liberal foundation which recognises individual rights; and every contemporary political theory which claims any degree of plausibility must be in some

¹⁴ Patten, Alan. "The Republican Critique of Liberalism", *British Journal of Political Science*, 26, 1996:25–44. Haakonssen, K. "Republicanism", in *A Companion to Contemporary Political Philosophy*, eds, Robert E. Goodin and Philip Pettit. Oxford: Blackwell Publishers, 1993.

¹⁵ Brennan, Geoffrey and Lomasky, Loren. "Against Reviving Republicanism". *Politics, Philosophy and Economics* 5, no 2, 2006: 222.

way committed to equality.¹⁶ For Fletcher and the neo-republicans, this commitment is both moral and political.¹⁷ Furthermore, the emergence of republicanism as an alternative to liberalism and communitarianism has been an important shift in contemporary political theory; freedom from domination being compared to the liberal theory of freedom from interference,¹⁸ or the communitarian proposal that the people as a collective body are the rightful possessors of sovereignty, and this sovereignty cannot be surrendered to any representative.¹⁹

The enduring importance of freedom and how it is understood within the republican tradition is masterfully examined by Quentin Skinner and Phillip Pettit. Both present a republican theory of liberty that is invaluable to our understanding of politics. Pettit presents freedom as non-domination as the core ethical and political commitment of the republican tradition. He tells us that a society based on the republican tradition will protect its citizens from domination.²⁰ Republicanism offers a practical solution to dependency; freedom as non-domination allows for a coercive state presence that does not interfere with freedom proper, but only restricts movement in collaboration with civil society and the common good. Republicanism emphasises familiar ideas: the importance of having a constitution, written or otherwise, within which government has to operate; the desirability of those in government being elected in such a way as to represent all the different elements of the populace; regular elections to limit the tenure of the executive to avoid arbitrary or accumulation of power; emphasis on the rule of law that the judicial, executive and legislative powers are divided and each authority subject to checks and balances; the existence of an active, concerned citizenry. Republicanism therefore offers a solution

¹⁶ See Kymlicka, Will. *Contemporary Political Philosophy: An Introduction*. Oxford: Oxford University Press 1990, 4-5 and Dworkin, Ronald. *Taking Rights Seriously*. Cambridge, MA: Harvard University Press. 1977: 179-83.

¹⁷ Of course, for Fletcher this equality was limited to male property owners, and he countenanced a form of domestic servitude as a means of taking men out of their miserable condition to the improvement of society as a whole – landowners and churches no longer required to provide for the poor, and thus dragging the whole system down.

¹⁸ Goodin, Robert E. “Folie Republicaine”. *Annual Review of Political Science* 6, 2003: 71.

¹⁹ Rousseau. *Ibid.* Book III Chapter XV.

²⁰ Pettit, Philip. *Republicanism: A Theory of Freedom and Government*. Oxford: Clarendon Press, 1997: 161.

to the challenge of how the state can defend the populace from domination whilst ensuring it does not become the source of domination itself.²¹

Yet, the problem remains that republican political theory is still to be accepted as a viable source of political order in its own right. Given this, this thesis will examine the utility of republican political theory as can be found within the political pamphlets of Andrew Fletcher, and how his influence can make contemporary republican political thought acceptable within a new political order. It will address the question as to whether republicanism is an obsolete model that is at odds with a modern liberal society, or whether it comes too close to liberalism to lose its claim to any distinctiveness. Or, as this thesis concludes, contemporary republicanism based on the civic-humanist model of Andrew Fletcher, based on civic participation, non-dependence and moral autonomy incorporates communitarian and liberal values, reinterprets the principles and yields a republican end product.

This thesis seeks to answer the question: how can contemporary political society apply Andrew Fletcher's theory of republicanism to contemporary republican theory, making it more acceptable as a doctrine for justice and order. Can we make a normative argument for political order based on enhanced civic participation in public life? By highlighting the theories of Andrew Fletcher that unite those of contemporary republican, cosmopolitan republican and communitarian approaches, as well as the liberal aspects that relate to modern politics, this thesis underlines the efficacy of his civic republican model. Furthermore, this thesis demonstrates that Andrew Fletcher has a modern understanding of politics; that his vision for a federal Britain and Europe based on the early modern republican model incorporating civic virtue and the more modern factor of commerce is relevant to today's political order. I will compare Fletcher's models for political order, non-dependence, liberty and virtue with those of contemporary republican and communitarian writers. Contemporary republicanism is

²¹ Richardson, Henry S. *Democratic Autonomy: Public Reasoning About the Ends of Policy*. Oxford: Oxford University Press, 2002.

not a direct revival of the early modern model, and nor should it be, but both are committed to freedom, equality, liberty and justice - the attributes necessary for a political theory to have credence in modern liberal society. It is within the republican model that we find the normative features of self-governance and political action necessary for building just and egalitarian societies.

There is still some controversy concerning the historiography of the republican tradition of thought; how we should interpret the tradition, its development and its role in contemporary political thought. From here the introduction will be divided into three parts: a discussion of methodology and historiography, and the method used to examine the theories of Andrew Fletcher. This is followed by an outline of the context of Fletcher; his history and the political ideas prevalent in his time; those theories directly related to his own political intentions involving the questions of authority and union in Britain, both historical and philosophical, and the deeper questions of sovereignty and natural rights which form the basis of his own philosophical knowledge. Finally, I provide a brief sketch of the arguments to be utilised in order to show the valuable contribution Fletcher can make to contemporary republican political theory.

Methodology

There are copious studies of political ideas around the time of the Scottish-Enlightenment yet Scottish political thought in the preceding years have been neglected. The aim of this thesis is to rectify the omission of these fundamental political ideas by approaching a profoundly influential political thinker in pre-enlightenment Scotland. Andrew Fletcher (1653-1716) was politically active and influential in the years prior to the union of Scotland and England in 1707. His political theories are antecedent to those of the ideas popularized with the Enlightenment, considering ideas of social contract theory, consent/consensus, political obligations and authority, and the right to resist. In order to approach this neglected yet critical

period of political philosophy it is necessary to consider the methodological questions which arise in this area of historical enquiry.

*'History I take to be a mode of thought in which events, human actions, beliefs, manners of thinking, are considered in relation to the conditions, or the circumstantial context, in which they appeared. This circumstantial context, however, is composed of other events, actions, and beliefs, just as the context of a word in a sentence is composed of other words from which we gather its meaning on that particular occasion. That is to say, history is not a mode of thought in which we understand events, actions, and beliefs as examples of the operation of general laws, but one in which we understand events, actions, and beliefs in relation to things of the same kind—namely, other events, actions, and beliefs. The question the historian is out to answer is: What is the significance of this event, or action, or belief in the context of events and beliefs in which it appears.'*²²

The history of political thought has inspired debate concerning the utility of the study of past ideas, whether history can only ever describe the past or if there are benefits to be gained that are applicable to future dilemmas. The history of thought in any discipline is cumulative, where theorists build upon the work of their predecessors in the given field and are subsequently used as a basis for the theories of their successors. Some accounts of history may be outside our realm of experience. We cannot experience life as a citizen in the developing democracy of Athens but does this mean that we must reject the assumptions and political contributions of Plato and Aristotle as fiction? Collingwood would disagree. It is his belief that history has the important task of uncovering how we structure our own experience of reality. The past does not live independent of the present, it lives on in the present, historical knowledge is self-knowledge.²³ E.H Carr suggests we think of history less as a straight line, and more as a winding procession that loops as our circumstances bringing us

²² Oakeshott, Michael. *On History and Other Essays*. Oxford: Blackwell, 1983: 1.

²³ Collingwood, R.G. *The Idea of History*. Oxford: Oxford University Press, 1993.

closer to some parts of the past than to others. Thus giving us good reason to consider the ideas of the past; allowing us to avoid making the same mistakes, or reinventing the wheel. This is not to say that studying the ideas of the past will solve current issues, but it does 'raise the level of debate'.²⁴

David Armitage draws our attention to the growing popularity of British political thought over the last half-century; providing readers with prescriptions for method as well as models of practice. This history of political thought encompasses over four hundred years of political ideas and claims not only British citizens, migrants and descendants. 'The history of British political thought is therefore becoming an enterprise almost as expansive in its subject-matter as it has been in its international impact'.²⁵ Pocock and Shochet founded the Center for the History of British Political Thought in Washington DC in 1985, it's methodology was simple: 'The "great texts" of English, Scottish, and American political thought are secure in their places within our program, but at the same time the "history of political thought" we seek is a history of language, literature, publication and audience. It embraces the ephemeral tracts and pamphlets as well as the great texts.'²⁶ The Cambridge method, associated with the Center and its founders as well as Skinner and Laslett, amongst others, refers to the method of assigning texts to their contexts: the context of historical and political circumstances and language, as well as intention. The choice of language had great significance in the early modern period – political commentators had a choice of languages to use; Latin, English, Greek and of course, the vernacular.

Andrew Fletcher's choice of Italian in discussion of the political ramifications of the Spanish Crisis of Succession and the balance of power in Europe in his *Discorso Della Cosa di Spagna* was suggestive of the profound influence of Machiavelli on Fletcher's thought. The pretence of place of publication, noted as Naples but most

²⁴ Honohan, Iseult. *Civic Republicanism*. London: Routledge, 2002: 3.

²⁵ Armitage, David, "Introduction". In Armitage, *ibid*: 1.

²⁶ Pocock "The History of British Political Thought: The Creation of a Center", *Journal of British Studies*, 24, 1985:284.

certainly in Edinburgh, is indicative of the rhetorical nod to the Spanish Rebel, Tommaso Campanella, whose *De Monarchia Hispanica* was in Fletcher's library.²⁷ Robertson suggests Fletcher's use of irony when discussing the Spanish universal monarchy was indirectly aimed at the British kingdom, meanwhile it's publication at the time of the Darien ships setting sail for Panama may suggest that Fletcher is warning the small European nations of Scotland and Naples that they should use the crisis to their advantage; avoiding being swallowed up by the large and powerful European nations.²⁸ It is for this kind of reason that Skinner et al present the thought of a given author 'as a series of speech acts performed in linguistic and circumstantial contexts, which revealed his intentions and set limits to his ability to perform them, but which may also be used by a historian to recover what they were.'²⁹

Pocock et al suggest that the gap between the historian of political thought and political theorist may be widening due to this contextualisation of political language. While the historian is interested in what the author meant (and was understood) to say, his intention and his success in saying it within a succession of historical contexts, the political theorist wishes to use the author's text for his own purpose of enquiry 'which has no guaranteed identity with the enterprise the author was pursuing'.³⁰ And as the historian and the political theorists purpose and method differ, so does the canon of texts from which they obtain their understanding. The canon of texts from which republican theorists, and historians of republican theory have, in the main, been similar as far as the main contributors appear: Cicero, Aristotle, through Machiavelli and the Florentines, Harrington and the commonwealth-men. But for the historian of (British) political ideas, interested in the validity of a theory to contemporary society, key players are vital in their absence. John Mair, George Buchanan and Samuel

²⁷ Willems, P.J.M. *Bibliotheca Fletcheriana, or the Extraordinary Library of Andrew Fletcher of Saltoun*. Privately published, 1999.

²⁸ See Robertson, John. *The Conceptual Framework of Anglo-Scottish Union*. *Rev. Int. Estud. Vascos. Cuad*, 5, 2009: 125-137.

²⁹ Pocock, J.G.A. Schochet, Gordon and Schwoerer Lois G. "The History of British Political Thought: A Field and its Futures". In David Armitage, *ibid*: 11.

³⁰ Pocock, J.G.A. Schochet, Gordon and Schwoerer Lois G. "The History of British Political Thought: A Field and its Futures". In David Armitage. *ibid*: 11

Rutherford to name but a few crucial Scottish players, address the central republican questions of authority, liberty and the political duties of the citizen but have largely gone unexplored within the republican tradition.

There are concerns with this method. According to MacLure, meaning cannot be divorced from the material form in which it is distributed. Through hermeneutic study, every reader selects significant meanings and affects the meaning by means of editing the text. Therefore the solid canon of texts that scholars of political theory aim to comprehend have acquired different meaning through attempts to understand them better; 'to the extent that political theorizing consists in offering not simply a perspective on the political world but also an orientation to action within it, its containment within conventional genre distinctions looks more like a matter of academic convenience than a characteristic of historical expressions'.³¹ This relates well with John Morrill's theory that history is irrelevant in the writing of political thought due to the varied form of 'past utterances', the concerns for present theorists differ between each other and those of the past, as well as coming from conflicting contextual bases. He argues that British history is not at all British. The three kingdoms of Britain have very distinct histories, and 'the different parts of Britain draw differentially on parts of Europe', British historiography, therefore, 'gains from a comparative European approach'.³²

For the purposes of this study, I turn to Quentin Skinner and his contextual approach towards the study of historical ideas. Skinner highlights the inherent problems with the study of the history of ideas. He argues that historical analysis is fundamentally value-laden, exegetes of this discipline approach historical texts with a preconceived starting point that creates bias in their readings. 'We must classify in

³¹ MacLure, Kirstie. "Reflections on Political Literature: History, Theory and the Printed Book" In David Armitage. *Ibid*: 253

³² Morrill, John. "Thinking about the New British History". In David Armitage. *ibid*: 46

order to understand' and, he argues, 'we can only classify the unfamiliar in terms of the familiar'.³³

The methodological mythologies of doctrine: prolepsis and coherence, outlined by Skinner are the results of the contemporary student being 'set' by the needs, ideologies and structure of the contemporary discipline to which the historical thinker is held to contribute. Each arises, Skinner argues, when we treat the text of the thinker as the limit to our analysis, our only source for consideration. But Skinner also points out that it is equally common for historians to assume that the text is best understood as a reflection and result of the time in which it was written; as a product of its own time, the historical context is thus assumed to explain the text. The problem this engenders is no less significant than that of the mythologies. In particular, the 'independent life of ideas in history must be correspondingly in danger'.³⁴ The way to avoid this problem of context versus canon is, for Skinner, to locate the intention in the context of his or her thought. This can only be achieved by looking at the relationship between the author, the historical context and the audience. As he puts it: 'There seems no question that for every statement there must be some explanatory context, for every action some set of antecedent causal conditions'.³⁵ Therefore, the key to good historical analysis is to disengage from contemporary ways of thinking. The author's intentions must be taken seriously, contextualised historically and then we can make our own normative assumptions clear, and determine whether the author's ideas are confused, incomplete or enlightened. To determine a thinkers intention based on our own paradigmatically held beliefs and with the luxury of historical knowledge, is insufficient. Analysis based on this methodology will be flawed, and empirically questionable.

³³ Skinner. See in particular Skinner. "Meaning and Understanding in the History of Ideas", *History and Theory* 8, 1969: 3-53. *Visions of Politics: Volume I: Regarding Method*. Cambridge: Cambridge University Press, 2002: 31. *The Foundations of Modern Political Thought: Volume I: The Renaissance*. Cambridge: Cambridge University Press, 1978, *Visions of Politics: Volume II: Renaissance Virtues*. Cambridge: Cambridge University Press, 2002.

³⁴ Skinner, 2002 *ibid*: 58.

³⁵ Skinner, 2002 *ibid* : 59.

Fletcher's own philosophical evolution is owed to his humanist education and the political and economic circumstances of Scotland that he witnessed. The works of Cicero and Aristotle, Machiavelli, Pufendorf, Grotius, Hobbes and Locke all lay heavily in his philosophical and historical thought. For the most part, Fletcher's political theories are at odds with the prevalent social contract theories of the time. Both Grotius and Hobbes propose obedience to the state, and the importance of sovereignty resting with one power.

Fletcher draws heavily from the continental influences he was exposed to on his 'grand tour' (and exile) in Europe – including the Hague, Paris and Denmark.³⁶ Not least his association with the political agitators such as Monmouth and the Council of Six with whom he was due to raise a rebellion with in 1698 until an unfortunate incident over a horse resulted in him shooting a man dead and being asked to leave. He was later to be an active member of whiggish 'Club', a group of politically minded gentlemen who had been excluded from the Convention of the Three Estates called by Prince William of Orange, their *raison d'être* was to force the government to listen to their political views, but whose main contribution was to become the 'highly efficient watchdog against court manoeuvres'.³⁷

It is for the reasons outlined above that this thesis will begin by examining the author: his history and intentions, from the *contextualist approach as outlined by Skinner*. In this way we may better understand the republican tradition of thought, Fletcher's contribution to this tradition, and what it can offer contemporary politics. However, it would be an onerous task to attempt to adopt all that Skinner offers us with regards to his methodological criticism; as Collingwood acknowledges, an historian cannot completely understand the context of an historical thinker's thought completely, and it is with this in mind that this thesis proceeds with caution with regards to making claims vis-à-vis Fletcher's political development. This thesis does not

³⁶ MacKenzie, W.C. *Andrew Fletcher of Saltoun*. Edinburgh: The Porpoise Press, 1932: 27.

³⁷ MacKenzie, W.C. *Andrew Fletcher of Saltoun*. *Ibid*: 52-53.

attempt to understand Fletcher, 'exactly as he understood himself', recognising this historicist method as implausible.³⁸ However, it does attempt to properly identify the context of the author as it bears significance on his intention and political development. This thesis does not attempt to credit Fletcher with anticipating contemporary republican political thought, but does show him to be a significant figure within the tradition. Nor does it attempt to 'read between the lines', or decode any viewpoint, thus avoiding crediting Fletcher with ideas that he did not himself present, but it does present a partial account of his political thought. *Recognizing the limitations of the method in this theses attempts to understand Fletcher in a modern context, this thesis balances the contextualist approach with an engagement with the 'perennial questions' approach found in alternative methods of understanding the history of political thought.* This thesis does not attempt to give a full account of republican theory, or the development of any republican tradition, it is a thesis on Andrew Fletcher and how his thought can be utilised in the modern political arena.

The Philosophical Connection. Fletcher's political development via Scottish and European political history.

Andrew Fletcher (1653-1716), the 'Patriot', is best known for his inexorable commitment to his native country and his incorruptible opposition to the Treaty of Union in 1707. However, he is also unfairly remembered, when remembered at all, as a failure. He 'failed' to secure independence for Scotland, and 'failed' to thwart the union.³⁹ It is true that the incorporating Treaty of Union went through and Scotland was unsuccessful in retaining its own parliament, but it was Fletcher's contribution that prevented it going through on entirely English terms. Fletcher's proposed twelve conditions on government; on the authority of the parliament and especially royalty, included annual parliaments; elected members; voting restricted to members of

³⁸ Strauss, Leo. "Political Philosophy and History," *Journal of the History of Ideas*, Vol 10, No. 1 (Jan 1949): 41.

³⁹ See contributions from a number of authors tasked with paying tribute to Fletcher including: Donaldson, Gordon. "Fletcher of Saltoun". Scott. P.H. Andrew Fletcher, "A Pioneer of the European idea". Barrow, Geoffrey. "Andrew Fletcher – A Sturdy Example", in *The Saltoun Papers. Reflections on Andrew Fletcher*. Scott. P.H. (ed). Edinburgh: The Saltire Society, 2003.

parliament only; no royal presence or veto on legislation; war and peace to be with parliamentary consent only; and offices, grants and pardons to be warranted only by parliament; and automatic forfeiture of the throne by any monarch who transgressed any of the limitations.⁴⁰ All of which helped to ensure that the power of the monarch was unable to wield his power arbitrarily, and without accountability, but did not have his desired outcome – the continued independence of the Scottish parliament from English interference. Fletcher's greatest contribution, therefore, is best understood as intellectual rather than political.

Fletcher's writings, of which there are only a few, offer insight into the distinct Scottish political identity and conspicuous historical European approach within Scottish political thought utilised in answering the questions of authority and peace in Britain and Europe. It is in Scotland, with Fletcher, that we first see the concept of a European peace emerging. Due perhaps in part to Fletcher's continued travels around the European continent, but more importantly, Fletcher was attempting to understand the political composition of Europe; its prospects for peace and trade, and Scotland's place within it – how Scotland was to be able to survive amongst the great imperial monarchies.

Despite being absent from Scotland for most of his life, Fletcher's allegiance to his country and the welfare of his countrymen is evident throughout his political pamphlets and discourse'. Each of his political pamphlets and political actions are a product of a particular difficulty Scotland confronted; each is intended to influence decision makers and consequently benefit his country. His dedication saw him being tried for treason twice, sentenced to death in his absence and his lands being forfeited to the crown. His fierce temper and reputation for aggression kept him from serious political office, however, he continued to petition parliament and those of influence to ameliorate his countrymen's troubles.

⁴⁰ Fletcher. *Speeches Made by a Member of Parliament*. Robertson, 1997, *ibid*:

Although Fletcher was born almost in the century before the Enlightenment, his political theory precludes that of Voltaire and Rousseau, and Scottish enlightenment thinkers such as David Hume and Adam Smith. His concern for religion was not a concern for religious matters per se, but a concern for the serious consequences organized religion had on the state and policy; especially the threat that a Catholic king on the throne, in Fletcher's view, would result in arbitrary rule. Fletcher also blamed the church for the appalling conditions many of his fellow Scotsmen were facing. By banishing slavery on moral and religious grounds, the church had freed men whose only estate was their liberty; and by providing for the poor, the church encouraged vagabonds and beggars. 'At length I found the original of that multitude of beggars which now oppress the world, to have proceeded from churchmen, who (never failing to confound things spiritual with temporal, and consequently all good order and good government, either through mistake or design) upon the first public establishment of the Christian religion, recommended nothing more to masters, in order to the salvation of their souls, than the setting such of their slaves at liberty as would embrace the Christian faith, though our Saviour and his apostles had been so far from making use of any temporal advantages to persuade eternal truths, and so far from invading any man's property, by promising him heaven for it, that the apostle Paul says expressly, 'In whatever condition of life every one is called to the Christian faith, in that let him remain . . . This disorder of giving liberty to great numbers of slaves upon their profession of Christianity, grew to such a height, even in the time of Constantine the great, that the cities of the empire found themselves burdened with an infinite number of men, who had no other estate but their liberty, of whom the greatest part would not work, and the rest had been bred to no profession'.⁴¹ This of course led to the conclusion that Fletcher was pro-slavery, but careful reading of his work clearly shows that Fletcher was for liberty of the individual being free to pursue the common good, and this may require him to be an indentured servant so 'that no man might

⁴¹ Fletcher. *Two Discourses Concerning the Affairs of Scotland. The Second Discourse.*

want the necessities of life, nor any person able to work be burdensome to the commonwealth'.⁴²

Fletcher was born in 1653 in Saltoun, East Lothian.⁴³ Eldest son and heir of Robert Fletcher, (1625-1665) and Katharine Bruce (d. 1713), the daughter of Sir Henry Bruce who had claim to the lineage of King Robert Bruce. He was born into a well established family: his grandfather was Lord Innerpeffer, a senator of the college of Justice in Scotland. On his mother's side he was also connected to the Campbell's of Glenorchy and the Haldanes of Gleneagles. Fletcher's early education and influence has often been attributed to Gilbert Burnett, minister of Saltoun and the future Bishop of Salisbury, however, as Burnett only took up the position in 1665 another important influence on Fletcher's early life is probably Patrick Scougal who was minister between 1658 and 1664, before he took up a position as Bishop at Aberdeen. David Steuart Erskine, 11th Earl of Buchan, wrote in his biography of Fletcher which is based on family papers that were discovered in 1792: 'From Burnet he received, as might have been expected, a very pious and learned education, and was strongly imbued with erudition and the principles of free government, which were congenial to the family of Fletcher, and espoused by his mother and those who had, with her, the charge of his nurture'.⁴⁴

During Fletcher's early childhood Scotland was already a conquered country. Charles II had fled to France after his defeat by Cromwell at Worcester. In 1651, Cromwell declared Scotland and England to be one Commonwealth, leaving Scotland without a legally constituted government. During this 'protectorate', Cromwell introduced several structural changes to the political system of Scotland. A uniform system of government was introduced, a united parliament was set up for Scotland, England and Ireland, Scotland allowed to send 30 members. The government was, for the first time, independent of a king, and loyalty to a monarch was no longer an

⁴² Fletcher. *Passim*.

⁴³ A Gap in parish records between 1647-1660 leaves the precise date unknown but 1653 is supported by family records. See <http://www.oxforddnb.com/view/article/9720?docPos=2/andrewfletcher>

⁴⁴ D.S Erskine, Earl of Buchan. *Essays on the Lives and Writings of Fletcher of Saltoun and the poet Thomson: Biographical, Critical, and Political*. London. 1792, p5. in Daiches, Fletcher of Saltoun, vii.

essential element of national integrity. Cromwell was determined to subdue Scotland, and General Monck and other commissioners were sent to ensure that this was achieved. He garrisoned soldiers in all of Scotland's chief towns and strong forts were built in Leith, Perth, Inverness, Inverlochy and Ayr. Although these commissioners were hated by the Scot's, the laws were for the most part and for the first time, generally obeyed. All but the Episcopalians and the Roman Catholics were allowed to worship as they wished. Despite Scotland's history of rebellion and revolution, there was no concerted effort at opposition to Cromwell. Why was there no revolt? Opposition to the government no longer meant violent revolution and challenges to the crown; instead the people were able to find representation through the constitutional system. Furthermore, Scotland was divided religiously, socially and politically and therefore there was little possibility of a united force against Cromwell. The Earl of Glencairn and other highland chiefs attempted to rise in support of the exiled Charles, however, there was much infighting and they achieved very little. General Middleton was sent by Charles to lead the royalist highland forces nevertheless General Monck's force easily defeated them at Dalnaspidal, 1654. After this, Cromwell's protectorate ran relatively peacefully.

After the death of Cromwell in 1658 and the disastrous administration of his son Richard, Charles II was restored to the throne with the help of Monck, his former adversary, who marched to London with an army to demand his restoration. On the 25th May 1660, Charles landed in Dover and the Scot's were again freed from English enforced rule. However, Charles II governed despotically and in absence by means of a privy council that was chosen entirely by him, despite an earlier act of parliament prohibiting him from doing so. As a result, his Privy Council was made up of those who would do entirely his bidding and whose intentions seemed to be motivated by greed; extortion being the gain and cruelty the method.⁴⁵ The Restoration of Charles instigated a rush of the Scot's nobility attempting to gain office and spoils that they

⁴⁵ Letters within the Lauderdale papers show the commissioners of Scotland: Rothes, Dalryell, Hamilton and Drummond to be greedy and abusive men. See Lauderdale papers, vol. 1. Osmund Airy, (ed).Camden Society, 1883-84.

hoped would be available as a result.⁴⁶ Fletcher's *Discourse of Government with Relation to the Militias*, is a direct criticism of this greed and the practice of buying loyalty and office.

'There is not perhaps in human affairs anything so unaccountable as the indignity and cruelty with which the far greater part of mankind suffer themselves to be used under pretence of government. For some men falsely persuading themselves that bad governments are advantageous to them, as most conducing to gratify their ambition, avarice, and luxury, set themselves with the utmost art and violence to procure their establishment: and by such men almost the whole world has been trampled underfoot, and subjected to tyranny, for want of understanding by what means and methods they were enslaved. For though mankind take great care and pains to instruct themselves in other arts and sciences, yet very few apply themselves to consider the nature of government, an enquiry so useful and necessary both to magistrate and people. Nay, in most countries the arts of state being altogether directed either to enslave the people, or to keep them under slavery; it is become almost everywhere a crime to reason about matters of government. But if men would bestow a small part of the time and application which they throw away upon curious but useless studies, or endless gaming, in perusing those excellent rules and examples of government which the ancients have left us, they would soon be enabled to discover all such abuses and corruptions as tend to the ruin of public societies. It is therefore very strange that they should think study and knowledge necessary in everything they go about, except in the noblest and most useful of all applications, the art of government'⁴⁷

⁴⁶ In a draft letter from Charles II to the Earl of Middleton, Charles discloses his disappointment to learn that 'privat barganes' are taking place to 'make sale of my grace and mercie' [sic]. Lauderdale papers, pp92-92 mss 23115, f.118

⁴⁷ Fletcher. *A Discourse of Government with Relation to Militias*. Robertson, 1997, *ibid*: 2

In 1660, Charles authorized commissioners to encourage plantations.⁴⁸ The Scot's wished for their own Scottish colony, but the result was mostly Scottish settlements within English colonies. Despite this, trade developed and grew, especially between Scotland and the America's, the colonies and England. However, the 'Navigation Acts' 1661, prohibited goods being brought into England from ships that were not of English origin. No goods were to be carried to or from colonies except on English ships, besides sugar, tobacco and other commodities that were to be shipped only to England and English colonies.⁴⁹ This mercantilist economic policy badly damaged Scotland's trade, especially with the Americas and was a force behind the first Dutch Wars, Holland at the time a close trading partner with Scotland. Scotland reacted with a similar act declaring that as long as they were excluded from England and Ireland's trade, imports to Scotland would be charged double import duties if they were not from Scottish ships or ship from the country of origin. Despite the attempts by each country to harm each other economically, and improve their own, Scotland did continue to trade with England, however, always at a less agreeable position. A ledger of accounts dated 1st January 1704 shows the disproportion of imports and exports. Exports, including: linen, cloth, salt and fish amounted to 2212,000 merks. However, imports, including: tobacco, sugar, silk and leather, arguably 'luxury' goods, amounted to 4272,000.⁵⁰ It is these luxuries that Fletcher was to argue as the cause of many of Scotland's problems, that the choice of goods and leisure was inseparable from corruption.

In 1661, parliament was called to pass the 'Rescissory Act', which rescinded all acts passed since 1633, fundamentally to proclaim that all acts passed by the covenanters were no longer law.⁵¹ Parliament declared that the king should be head of

⁴⁸ Lauderdale papers p39. Earl of Middleton's Instructions, by his majesty's command, signed Lauderdale. (mss23114, f.88) dated 17th December 1660.

⁴⁹ This was later advised by the duke of Lauderdale, Charles' secretary to Scotland, in an attempt to undermine the position of his opposition: Hamilton, Tweeddale, Morton, Roxburgh, Queensbury and Drummond by gaining monopolies on salt, tobacco and brandy. In a letter dating 29th nov 1673. Lauderdale papers. 23136 f.26.

⁵⁰ National Library Scotland. (NLS) ms16503 ff 117, 127, 139, 141.

⁵¹ Bishop James Sharp refers to this act in his letters to Patrick Drummond. Lauderdale papers pp62-74. mss23115 ff.25, 47, 69.

the church as well as the state, thus destroying everything that the covenanters had fought for, and placing Charles in the position to dictate laws and religion. Placing him in what Fletcher later perceived as a position of tyranny, able to exert arbitrary authority over both the church and state, with no limitations of his government sufficient to secure against his arbitrary power.⁵² The Privy Council later declared episcopacy as the form of church government in Scotland. Laws were passed forcing ministers to request permission to preach at their parish. Many refused and were forced out of their parishes. The congregation was forced to attend church, if they refused they could be heavily fined or soldiers would be placed in their homes until fines or debts were paid or they acquiesced and attended church. The soldiers placed in the homes of the people were rough, nasty and oppressive. In November 1666, the 'Pentland Rising' signified the peak of frustration and the culmination of 'the troubles' with a revolt against the oppressive regime.

In 1667, aged fourteen, Fletcher was enrolled at the University of St. Andrews, his signature can be seen on the matriculation roll of Saint Leonard's college of the University. It is unknown exactly what he would have studied, but it can be assumed by the curriculum of that time that Fletcher would have been taught in the humanist tradition: consolidating his knowledge of Latin, Greek, logic, rhetoric and dialectic. He is known to have left Scotland for London with his tutor, James Graham, in 1668 and so would not have completed his bachelor's degree. Fletcher's movements after his leaving St. Andrews are not well documented and can only be traced through correspondence, receipts and bills. It is believed that he was in the Netherlands by the end of the year of 1668, bills and receipts place him in Paris in 1670, The Hague and Rotterdam in 1671 and back in Paris by the October. Paris again in 1672, 1673 and 1675 and in December 1675 he was in London, returning to Paris by the May of 1676 where he is reported to have remained until the latter half of 1677. Going with the

⁵² Fletcher. *A Discourse of Government with Relation to Militias*. Robertson, 1997, *ibid*: 4

evidence of these bills and receipts it is likely that Fletcher was out of his native country continuously 1668-1678.⁵³

Fletcher's political pamphlets are evidence of his inexorable allegiance to his native country despite his many years of absence, and his personal library of almost 6000 books shows he was a committed and knowledgeable bibliophile. P.J.M Willems has carefully produced the *Bibliographica Fletcheriana*, reconstructing Fletcher's catalogue of books from family records and Fletcher's own bibliography.⁵⁴ Fletcher's own catalogue is dated as being compiled between 1690-1716, but Willems suggests that there is evidence that Fletcher's book collecting started much earlier.⁵⁵ The catalogue classification reflects familiarity with the books and subjects, suggesting that Fletcher did read the books and did not merely collect them. Fletcher classifies his library under several headings, each with further sub-headings: *Literae humaniores*; *Historici*: Miscellaneous, Greek, Roman, Italian, French, Spanish, Portuguese, Scottish, English, and the Low Countries; *Poetea*: Miscellaneous, Greek, et cetera, however these are not consistently maintained throughout; *Oratores*: language, dictionaries, grammars and works from rhetoricians and epistolographers; *Theologi*: philosophy of law, education, diplomacy, history of law, and law; *Legislatores*: science, natural philosophy, medicine, husbandry and economics; *Mathematici*: music, geography, astronomy, art, architecture, military; *luridici*, law.⁵⁶

Fletcher's book collecting continued right until his death. Letters to his nephew, Andrew, in Paris 1715/16 have instructions and lists for Andrew to buy books at auction for Fletcher. Some of these letters list over 50 books, and Fletcher's urgency and determination to get the latest editions newly printed is apparent.⁵⁷ Further

⁵³ National Library Scotland. (NLS). Mss16831 ff 9-81, mss17263 ff 27-112, mss16803, mss16804. Fletcher was in Rotterdam between 1685-86 and back in London by 1688-89.

⁵⁴ P.J.M. Willems. *Bibliographica Fletcheriana: or, the extraordinary library of Andrew Fletcher of Saltoun*. Fletcher's list is part of the collection of Saltoun Papers held in the NLS (mss 17863, 17864).

⁵⁵ Willems suggests the year 1675, based on the enumeration of Fletcher's catalogue that suggests that Fletcher already owned a substantial number of books by the time he started to compile his list.

⁵⁶ NLS mss 17863, 17864. Willems' classification is arranged alphabetically, but also includes reference to Fletcher's own system of classification.

⁵⁷ NLS ms16503 ff 117, 127, 139, 141.

evidence to suggest Fletcher did not merely collect his books is his extensive knowledge on each book that he referenced in his catalogue, and from his political pamphlets, letters and other writings. In a letter to his nephew dated: 10th March 1716, Fletcher claims to be reading, with 'extraordinary application and delight', Daniel's History of France which was published in 1713.⁵⁸ Whether or not he was able to read all of the books in his library cannot be known, and how he managed to buy such a number with his meager means is also unknown.

Scotland, at this time, was far removed from the luxuries of coffee and chocolate houses that Fletcher loved to frequent while on the continent. According to letters from Rothes to Lauderdale,⁵⁹ Scotland was in a deplorable state during the years of Fletcher's absence, and Fletcher could have only looked on in dismay at the troubles his country faced. It is worth surmising that the troubles in Scotland were part reason for Fletcher's continued absence. Rothes reports to Lauderdale, in a letter dated May 13th 1665, that the lack of trade and commerce in Scotland had a heavy effect on the wealth of it's people and money had become scarce. He also discusses the 'troubles' facing the church and its' restructuring from Presbyterian to Episcopalian. He reports on the 'ffanatiek(s) and boayies [sic] that disrupt church sermons.⁶⁰

On his return to Scotland, Fletcher was appointed as a member of the Convention of Estates, representing East Lothian in the June 1678 meeting. He immediately opposed the Duke of Lauderdale who had been virtually ruling Scotland on behalf of Charles II as High Commissioner, and sided with the Duke of Hamilton. It is here that Fletcher first presented himself as an outspoken defender of rights. Responding to the imprisonment of his brother Henry who had smuggled himself into the convention, Fletcher identified one of the High Commissioner's servants as also

⁵⁸ NLS ms 16503 f129

⁵⁹ Collected in the Lauderdale Papers. Vol 1-3,

⁶⁰ Fanatics and boors.Lauderdale papers p221 mss23123 f.55

being unlawfully at the meeting. Lauderdale was thus forced to plead privilege to justify his servant's presence.

Lauderdale had been appointed secretary for Scotland by Charles II in 1661, and succeeded the Earl of Rothes as High Commissioner in 1667. As such, until 1680, Lauderdale effectively ran the country. He had worked hard in 1669-1670 to achieve a union of the parliaments of Scotland and England, but this created a lot of opposition to Lauderdale and the Scots had successfully blocked the scheme. In 1678, Lauderdale outraged the Covenanters of the south-west by garrisoning 9,000 troops, the 'highland host', there. According to the Lauderdale papers, the king had received reports of abuses by the troops, including rapes, murders and robberies. Expecting a major rebellion Lauderdale introduced repressive legislation to suppress it. He was in need of money to raise an army to put down any insurrection and it was for this reason that he summoned the Convention of Estates in 1678.

The timing of Lauderdale's calling of the convention was crucial. Hamilton, the main opposition to Lauderdale, had gone to London with 'ten or twelve of the nobility' and approximately 'fifty gentlemen of quality' to lodge complaints with the King.⁶¹ Lauderdale was thus able to manipulate the votes of the convention in the absence of his main opposition. By the time the nobility were to return from London, Lauderdale was in charge of four parts in five of the assembly, and a land tax of 30,000 annually for five years was granted, thus enabling Lauderdale to maintain a larger standing army. Fletcher would have witnessed these proceedings with growing resentment and indignation. Following the convention, Fletcher had 200 foot soldiers and 46 horsemen quartered on him. Fletcher immediately responded by opposing the Privy Council's plan to implement the 'Council Act' and raise a militia. It is reported by Lord Fountainhall that on July 29th, 1680, 'at privy Council, Fletcher of Saltoun, Sinclair of Stevenston, and Murray of Blackbarronie are paneled for seditiously and factiously opposing, at least obstructing, his Majesty's service, in putting the Act of Privy Council

⁶¹ Burnet, *A History of his own Time*. In Daiches. Fletcher, *ibid*: viii

to executions for levying the 5500 men out of the militia'.⁶² Fletcher also joined a petition in 1681 challenging the legality of the council's actions, claiming the quartering of soldiers contrary to law.⁶³ Fletcher was in trouble with the Convention again in 1682 for obstructing the provisioning of troops garrisoned in east Lothian by failing to set prices on corn and other supplies. Given Fletcher's opposition to the quartering of soldiers it seems probable that he would try anything to thwart the progress of the Council's attempts to raise a standing army.

In 1681, Fletcher was returned to office as commissioner for East Lothian after a contentious election. He immediately opposed the new High Commissioner, the Duke of York: Charles II brother and future James VII and II. James had proposed two acts, the 'Test act' and the 'Succession', that would ensure his succession to Charles II throne despite being catholic. Fletcher proposed that the security of the protestant religion should be made one if the Test act's main objectives, a motion that could hardly be ignored by the government. This proposal resulted in a confused and contradictory legislation that could only embarrass the government and make the act, and James' reign if he was to succeed, be fraught with hypocrisy as he would have to swear, as a catholic, to uphold the preceding Succession Act, as 'the only supreme governor of this realm over all persons and in all causes as well ecclesiastical and civil'.⁶⁴ The intention behind Fletcher proposing this is unclear, he was not particularly interested in religion and it is unlikely that he wanted to secure the protestant religion. He was, however, concerned with the possibility of arbitrary power, whether this was wielded by the church or state. Daiches suggests that Fletcher had intended to embarrass the government, and in this he certainly succeeded. According to Daiches, the Test Act professed to renounce Roman Catholic faith and Covenanting

⁶² Daiches, David *Fletcher of Saltoun. Selected Writings*. Edinburgh, Scottish Academic Press, 1979: ix

⁶³ Daiches *ibid*: ix

⁶⁴ Daiches, *ibid*: xi

Protestantism, however the Succession Act would confirm a Catholic heir to the throne.⁶⁵

The later brush with authority concerning the provisions for troops in 1682 confirmed to Fletcher that his life may be in danger, having unquestionably assured the Duke of York's enmity. In May 1683 he left Scotland for London with Robert Baillie. He was admitted privilege to the secrets of Lord Russell's Council of Six that was concerned with the constitution and liberties of Scotland and England. This Council included the Duke of Monmouth, Charles II illegitimate son and future leader of the revolution against James VII and II. In November of that year Baillie was arrested and executed for treason for his part in the 'Rye House Plot' to assassinate Charles II. In 1681 the Exclusion Bill was introduced in the House of Commons, an attempt to pass an Act of Parliament excluding James from the succession. Charles outmaneuvered his opponents and dissolved Parliament for the final time. This left his opponents with no legal method of preventing James's succession. The 'Rye House Plot' had been an attempt on both Charles II and James' lives. Baillie was offered pardon in return for implicating Fletcher, but he refused. Monmouth was also implicated and forced to leave the country. Neither Scotland nor England were safe for Fletcher and he fled to Paris and moved on to The Hague, a refuge for those opposed to the monarchy. Here Fletcher joined Monmouth and the ill-fated rebellion against James VII and II.

Between 1683 and 1685 Fletcher continued with his passion for collecting books and stayed in contact with other political exiles, including Viscount Stair and the Duke of Argyle. In November 1684, Fletcher was cited, in his absence, to answer to the charge of 'conversing with Argyle and other rebels abroad'. Argyle denied the charges on behalf of Fletcher, claiming that he had written to Fletcher however, his letters had gone unanswered. Again, in January 1685, Fletcher was cited, along with other 'rebels',

⁶⁵ Daiches, *ibid*: xi concern for arbitrary power of church and state was a common one at this time and it is a theme that dominates Fletcher's political writing and activities.

to appear before parliament in the March to answer to charges of treason. Fletcher did not attend either of these citations. In 1685, Charles II died and was succeeded by his brother, James VII and II. Scotland and England were now under the rule of a Catholic royal absolutist. As previously mentioned, Fletcher's concern was not necessarily with the religion of the monarch, but with his opinion that a Catholic King would result in arbitrary rule. Monmouth had been living in Holland still hoping for a peaceful succession to the throne, however, after Charles II death and James VII and II accession he was compelled to claim his right forcibly.

In April 1685, the Duke of Argyle set sail for Scotland to raise a rebellion there against the advice of Fletcher. Argyle was assured that Monmouth would follow him within 6 days to raise a similar rebellion in England. Despite disapproving of both expeditions Fletcher 'resolved to run fortunes' with Monmouth,⁶⁶ to support him due to personal loyalties. However, subsequent events were to ensure that Fletcher would not be present at the battle of Sedgemoor that cost Monmouth and many of his supporters their lives. Monmouth was forced to dismiss Fletcher from his service after an 'unfortunate incident' that resulted in Fletcher shooting dead another supporter.⁶⁷

Burnett explains: 'he sent him out on another party: And he, not yet being furnished with a horse, took the horse of one {Heywood Dare, Mayor of Taunton] who had brought in a great body of men from Tuanton. He was not in the way: So Fletcher, not seeing him to ask his leave, thought that all things were to be in common among them, that he could advance the service. After Fletcher had rid about, as he was ordered, as he returned, the owner of the horse rode on, who was a rough and ill bred man, reproached him in very injurious terms, for taking out his horse without his leave. Fletcher bore this longer than could have been expected from one of his impetuous temper. But the other persisted in giving him foul language, and offered a switch or a cane: Upon which he discharged his pistol at him and fatally shot him dead. He went

⁶⁶ Burnet. Cited in <http://www.oxforddnb.com/view/article/9720?docPos=2> and Daiches, *ibid*:

⁶⁷ Burnett, Bishop Burnet's History of His Own Time, *ibid*, 44.

and gave the duke an account of this, who saw it impossible to keep him longer about him, without disgusting and losing the country people, who were already coming in a body to demand justice'.⁶⁸

Monmouth asked Fletcher to leave, and he did so, on the 13th June on the *Helderenberg*, set for Spain. The ship was impounded at Santander and Fletcher imprisoned. However, by the next morning it is reported that he mysteriously escaped. Accounts of Fletcher's movements in Spain have been committed to paper by the Earl Marischal. The Earl was born in 1693, Fletcher died in 1716 when Marischal was only 23, therefore the accounts he has written must have been recalled from memories of conversations taking place when still a young man.⁶⁹ The accounts place Fletcher traveling through Spain in disguise, indulging in his passion for buying books. He is later said to have enlisted in the Hungarian army, however there is very little evidence to sustain either of these claims. Bills and receipts place Fletcher in the Netherlands, under the name of Ebron, by 1687, if not as early as 1686.⁷⁰

Monmouth had fled from the field of battle at Sedgemoor but was later captured on 8th July. He was condemned to execution for committing treason against the king, and beheaded in the Tower of London on 15 July. It is said that it took eight blows of the axe from Jack Ketch to sever his head. The subsequent 'Bloody Assizes' of Judge Jeffreys were a series of trials of Monmouth's supporters in which 320 people were condemned to death and around 800 sentenced to be transported to the West Indies.⁷¹ In his absence Fletcher was tried for treason on 21st December 1685, charged with participating in Monmouth's rebellion. In January 1686 he was found guilty, condemned as a traitor and sentenced to lose both his life and his lands as was the established punishment at that time. James II took advantage of the suppression of the

⁶⁸ Bishop Burnet's *History of his own time*: with the suppressed passages of the first volume, and notes by the earls of Dartmouth and Hardwicke, and Speaker Onslow, hitherto unpublished 1823 :44. Full texts of Bishop Burnet's works can be found here: <http://ebooks.adelaide.edu.au/b/burnet/gilbert/index.html>

⁶⁹ <http://http://www.oxforddnb.com/view/article/9720?docPos=2/view/article/9720?docPos=2> and Daiches, *ibid* : xiii. Biography written many years later. Two fragments, letters to Hume, written 1774.

⁷⁰ <http://http://www.oxforddnb.com/view/article/9720?docPos=2/view/article/9720?docPos=2>

⁷¹ <http://www.oxforddnb.com/view/article/14702>

rebellion to consolidate his power. He asked Parliament to repeal the Test Act. He used his power to appoint Catholics to senior posts, and raised the strength of the standing army. Parliament was dismissed on 20th November after attempting to oppose many of James' moves.

Fletcher was safe in the Netherlands at the time of his trial, a life of exile essential for his well-being. Between 1686-1688, very little is known of his life. He is known to have joined William of Orange at The Hague in 1688 however he was not in a privileged position. He sailed for Scotland with William of Torbay after the main force of William's invasion had already left. In 1688, when the birth of James Francis Edward Stuart heralded a Catholic succession, James II was overthrown in a coup d'état by William of Orange in the Glorious Revolution at the invitation of the disaffected Protestant Establishment. James fled, and William and his wife were offered the throne, England proclaiming them as joint sovereigns in February 1689. Scotland did not follow this until the Convention of Estates claimed James had forfeited his crown and declared William King in the April.

Fletcher had been in London and to his indignation was not a member of the Convention. Outside political favour and developments, he was party to the meeting of Scots nobility and gentlemen, 'The Club', an unofficial group led by Sir James Montgomery and Sir Patrick Hume, whom he encouraged to press for radical limitations on the power of the crown. Fletcher believed that there was a need for a union of the parliaments of the two countries, writing to Andrew Russel in January 1689: 'I thinck we can never come to any trew settlement but by uniting with England in parliament, and Traid. For as for our worship and, particular laws we certainly can never be united to them in thes'.⁷² He was also deeply concerned with the Claim of Rights and its clause against a 'popish king' as he wrote to Patrick Hume in September 1689, fearing an absolutist reign reminiscent of James VII may result. The letter to Russell was written at a time when Fletcher was optimistic about the possibility of

⁷² <http://www.oxforddnb.com/view/article/9720?docPos=2> see NA Scotland RH15/106/690

England's parliament being able to impose limitations on the new royal power. However, subsequent events proved otherwise and Fletcher changed his mind.

Fletcher's patriotism and political ideas were always a result of his concern for his country, his actions always intended to bring certain results for the people of Scotland: political freedom and economic prosperity. England's part in the disastrous 'Darien Scheme', and the hostility England displayed towards Scotland's trading efforts, especially the Company of Scotland Trading to Africa and the Indies' proved to Fletcher that any union was likely to frustrate Scotland's development and, as a result, he became passionately and outspokenly against any such union. It is from this that he responded with his first treatise, *A Discourse of Government with Relation to the Militias* in which he vehemently opposes the maintaining of a standing army and the granting of taxation powers without the guarantee of sufficient government, and it is here that we start to follow Fletcher's pamphlets, all published between the Glorious Revolution of 1689 and ending with the Treaty of Union in 1707.

The Scotland of the 17th century resembles little of the confident, flourishing country of the previous century. The accession of King James VI of Scotland to the English throne in 1603 was a disaster for his first country, two independent kingdoms now uneasily united under one King. At first sight this would seem a great benefit for the people of Scotland, a Scottish king on the English throne. However, James VI and I was to soon forget about his homeland in favour of the interests of the larger, more powerful and prosperous country. The foreign and domestic policies of the two countries were now linked together, and England's priority was to itself. Economically, Scotland was in a poor position vis a vis England. Scotland's mountainous terrain and harsh climate along with centuries of war between England and Scotland resulting in the laying waste of the fertile south of the country, left Scotland in a poor condition agriculturally and economically. It depended on trade with the continent, France and Holland. However, once united under James VI and I, England's wars with Scotland's

trading partners had a negative impact on Scotland's already weakened economy. Duties were increased and trade became much less than it had formerly been.⁷³

Throughout the 17th century, Scotland's economic conditions gradually worsened. Despotic, absent rule by monarch's far removed from the reality of Scotland's situation under the reigns of James's VI and I, and his successor, Charles I, was characterized by intimidation, bribery and repression. During the chapter of the 'wars of the three kingdoms' between 1639-1651, Scotland found itself fighting both against and with the English. Scotland played a large role in the deposition of Charles I. Scotland subsequently appointed Charles II to the Scottish throne, only for him to be quickly deposed by Cromwell taking Scotland by force. All these factors combined to worsen the already deplorable situation. The last years of the 17th century were characterized by the appalling circumstances of the poor. 1696 saw the beginning of 7 years of blight and famine caused by poor harvests, heavy rains, and the perishing of livestock.⁷⁴ The cost of essentials soared beyond the means of the poor, and workhouses and churches struggled to cope with the demand made on their meager resources. The already depleted population was too large to sustain itself, children were sold into slavery, thousands died of starvation, the situation was so bad that, in Mackenzie's words, 'even the dead were left to bury themselves'.⁷⁵

Andrew Fletcher, born in 1653, was brought up and was politically active during the worst of these times. His pamphlet, the 'Two Discourses Concerning the Affairs of Scotland', written in 1698, was a direct response to the misery that many of his fellow Scotsmen were facing. Fletcher recognized the immediate need for social and economic change to alleviate the suffering of the poor and turn around Scotland's problem of mass poverty. In order to respond adequately to this need, Fletcher turned to the early modern writings of Aristotle and the 'ideal' Roman republic, for answers to the wretched condition of Scotland. Fletcher, a steadfast defender of liberty, despaired

⁷³ Hume Brown. *A Short History of Scotland*. 228

⁷⁴ MacKenzie.A.C. *Andrew Fletcher of Saltoun, his Life and Times*. Edinburgh. Porpoise Press. 85

⁷⁵ MacKenzie *passim*: 85

at the situation to the extent that he was willing to sacrifice the individual's autonomy over himself in order to solve the problem. It is from this first pamphlet that we recognise Fletcher as a staunch advocate of civic-republican values, placing the good of the community over the rights of the individual. Fletcher's primary concern is always for his country as a whole; its place in the emerging international economy.

It is Fletcher's belief that the liberty of Europe is ensured through the reliance on a system of political accountability maintained by keeping the 'sword in the hands of the landholding subjects'⁷⁶. The power of the monarchy would remain limited and political power would remain with the people as long as a system of political reciprocation - a domestic balance of power based on mutual reliance, existed. Fletcher maintains that as long as the government relies on the cooperation of the lairds, who have the cooperation of the soldiers, in times of war, then a balance would exist. This balance would keep the government steady; it is a provision against the encroachments of the crown. However, as soon as military power no longer rests in the hands of the people the government has a superior position with regards to control and running of society. Oppression comes under the guise of liberty, and Fletcher is appalled that man would allow himself to be ruled by a corrupt and self-interested government rather than fight for good governance. 'There is not perhaps in humane affairs anything so unaccountable as the indignity and cruelty which the far greater part of mankind suffer themselves to be used under the pretence of government'.⁷⁷ Man is deceived by an outward appearance of good governance and liberty by a tyrannous government until it is too late.⁷⁸ Here, Fletcher is referring to the reign of James VI and I, who, after his accession to the English throne ruled Scotland as an absent monarch using intimidation and bribery to retain control over his first country. 'A Discourse on Government' is Fletcher's discourse on the history of liberty. It is not an appeal to return to the 'barbaric' way of living of the warlike nations, but it is an appeal to the civic morality that existed at that time. Virtue is to

⁷⁶ Fletcher. *Discourse of Government*: 3

⁷⁷ Fletcher. *Ibid*:2

⁷⁸ Fletcher. *Passim*.

be found in history, the Gothic simplicity and militaristic life. The present is characterized by decadence, corruption and debt as man is seduced by extravagance. Virtue is the moral and material foundation of civil social and political life and Fletcher recognizes a need to return to pre-commercial morality.

This idea that freeholders should be given militaristic training in order to be educated in civic virtue is resonant of the Ancient Athenian and Roman attitude. Aristotle asserts that man has civic duties, not rights, and must always place the state before himself. Xenophon shows concern for the loss of Greek values within a democracy; a concern for the political collapse of the polis caused by moral collapse of the democratic rule of the lower class, the undisciplined, self-indulgent masses. 'The practice of physical exercises and the pursuit of culture has been brought into disrepute by the common people as undesirable...'⁷⁹ The decline of Athens in the fourth century has been attributed to moral decline. It is not merely that Athens had been exhausted by the long Peloponnesian War; Athens was active and enterprising enough to fully recover. What happens in the fourth century is a permanent change in the temper of the people: it is the emergence of a different attitude to life. In the fourth century there is the emergence of an awareness of individualism. In Rome, Livy, Tacitus and Plutarch were concerned for the loss of civic virtue during the transition to the Roman Empire.⁸⁰ Fletcher appeals to history to highlight the dangers to society the loss of virtue poses, and this loss of virtue is, for Fletcher, a direct result of the loss of militaristic training and man's natural inclination towards pleasure. The influence of the classics on Fletcher is quite clear. Fletcher asserts that politics requires a civic virtue; a political structure that allows for the pursuit of the common good – the defense of and development of the community as a whole pursued through political interests supported by institutional order.

⁷⁹ Xenophon. I:13 Moore. 1975:39.

Late seventeenth-century Scotland was, in Fletcher's words, in a deplorable condition. There was very little external trade or commerce, and the health of the country was at an all-time low, the nation having endured several plagues and famines. Scotland could no longer live up to its motto: 'Neme me impune laccessit'. The move of the Scottish king to England had disastrous consequences, unforeseen by many Scots who were convinced of the partiality of the king. However, Scotland's affairs were now being ministered in England and English interests inevitably came before those of the Scots. It is because of this deplorable state that Fletcher assumes a great number of Scottish people and businessmen were willing to risk life and money to embark on the Darien Scheme – an attempt by the newly formed African Trading Company to create a colony and port in Darien. Fletcher donated £1000 himself to the scheme, seeing it as an opportunity to make Scotland a great trading nation. The scheme was at first supported by William III despite the English and Dutch being against it, however pressure from English and Dutch industry, the ill health of the Spanish monarch and Williams' desire to secure the Spanish crisis meant he soon withdrew his support and subverted the efforts of the African Trading Company. Many Scotsmen perished through hunger and disease as ports visited on the voyage were warned not to sell provisions or aid in any way. The Darien Scheme ended in death and disaster.

Beyond the domestic front, European politics at the turn of the seventeenth-century was very much in transition with commerce becoming a reason of state. In order for Scotland to be able to survive as an independent nation it needed to be able to defend itself. In order for defence, Scotland required the militia as proposed by Fletcher, and rapid economic growth and stability; growth that Darien was supposed to be the catalyst for. As Fletcher had noted, war had become a trade to live by and Scotland simply could not keep up.⁸¹ Summarised by Istvan Hont; the need of modern warfare created an ever increasing demand for finance on a scale that could not be

⁸¹ Fletcher, *Two Discourses Concerning the Affairs of Scotland*, *ibid*: 39.

met by the expedients of the past.⁸² Trade was necessary for income and defence, as the wars of France and the Spanish succession crisis clearly demonstrated, the new international system was founded on warring nations vying for advantage in the marketplace; a zero-sum competition. Commerce as a reason of state highlighted the need to protect Scotland from aggressive neighbours. Fletcher recognised Scotland's potential – with an abundance of natural resources, harbours and access to the seas of Europe, which only through neglect had not been developed to its full potential; with this potential and its proximity to its longest standing enemy, Scotland was a prime target. It was both a social and economic disaster when the Darien Scheme failed.

Fletcher sees the purposeful interference in Scotland's attempts to make the nation considerable as a direct contravention of the Scottish people's rights and liberties, and the potential destruction of the nation. 'Should it be that his majesty ought not to protect us in our just rights and privileges? That he should break laws and violate his oath by our destruction?'⁸³ By turning his back on the Darien scheme, William not only put English and Dutch interests before Scotland's, but ruined its chances of economic and commercial growth. Fletcher is leading up to his point that Scottish and English interests cannot be fairly managed by the same ministers, that those ministers appointed envoys for foreign affairs cannot even be considered ministers for Scotland; appointed by England, they cannot be sufficiently relied upon to further Scottish interests either at home or abroad. Fletcher is aware that without independent political authority to protect and further its own interests, Scotland would be at the mercy of a market economy that it could not participate fully in. As the examples of the Darien Scheme and the Welsh and the Irish nations before them show, the English state would not hesitate to destroy Scotland's interests were they to impede their own. This reason alone is enough for Fletcher to believe that having the interests of both countries represented by the same government would be disastrous

⁸² Hont, Istvan. "Free Trade and the Economic Limits to National Policy: Neo-Machiavellian Political Economy Reconsidered". John Dunn, (ed) *The Economic Limits to Modern Politics*. Cambridge: Cambridge University press, 1990: 41-120.

⁸³ Fletcher. *Two Discourses Concerning the Affairs of Scotland*, *ibid*: 39.

for Scotland. Therefore it is vital that Scotland is able to extricate itself from its dependence on England within the federal British system.

Despite his acceptance of the monarchy being situated in England and the two countries being united by the crown, Fletcher fully believes in a federal system of governance; advocating a system where two nations are united under one king and the banner of Great Britain with separate parliaments that represent both national and international affairs. This is not to be limited to foreign and economic affairs but in all cases where 'honour of the nation is concerned'.⁸⁴ Clearly a campaigner for representative government, Fletcher is against any removal of Scottish parliamentary influence. It is his belief that members of parliament who represent the public, must be 'truly informed' of the opinions of those they represent, and this is one more reason why Fletcher feels it is only possible within a representative parliament.⁸⁵ Anything less would be to subject Scotland to the mastery of England, rendering it dependent on England for its trade as well as its laws, and subjecting the people to slavery.⁸⁶

As Robertson tells us, what makes Fletcher's intellectual identity unique, and unifies his political work, is his attempt to identify politics of the seventeenth and eighteenth centuries in terms of Europe, the terms in which could do the complexity of the system justice, and the distinctive terms which he chose to give it conceptual coherence'.⁸⁷ The terms Fletcher chose were derived from Machiavelli and the ancients who recognise politics as a distinct sphere of human action with particular goals and values which should be both pursued and remain distinct from any goals or values related to any concern for the next world.

⁸⁴ Fletcher. *Two Discourses Concerning the Affairs of Scotland*, *ibid*: 34.

⁸⁵ *Passim*.

⁸⁶ Fletcher. *Two Discourses*, *ibid*: 35.

⁸⁷ Robertson. *Andrew Fletcher, Political Works*, *ibid*: x

Bruce Lenman claims that Fletcher's contributions are often – but not always, how could they be – as relevant to today as when first articulated.⁸⁸ Fletcher's political ideas are not entirely located within a particular time; they address eternal questions regarding political authority, right governance and freedom. Furthermore, his contribution to the debates surrounding the union in 1707 seems more pertinent with the success of Scottish devolution and the Scottish National Party's plan for independence or 'Devolution Max'. Initially a consequence perhaps, of the abuse of sovereignty by Margaret Thatcher's Conservative party, and the policies imposed on the Scottish nation. Lenman suggests that the Tory dominance over Scottish politics in the 1980s was akin to the political absolutism of Louis XIV. Fletcher, he claims, was concerned for 'an over-mighty executive scheming and plotting to subvert the political structures of a free society. . . [B]ut the effective power of Louis XIV to coerce and bully the other twenty million Frenchmen in his day was in practice far more limited than the capacity of any post 1945 British Prime Minister to coerce and rally the 50,000,000 or so inhabitants of the United Kingdom. . . Thatcher disposes of absolute centralised power (or sovereignty to use the polite and misleading term often used to mask the reality) but she disposes of a vast and subservient bureaucracy in every corner of her realm'.⁸⁹ It is, according to Lenman, this reason that makes Andrew Fletcher relevant to contemporary politics; his concern for the subversion of political structures and the domination of a free people by an arbitrary and absolute political leader who claims legitimacy. And although Lenman is referring to a past time in British politics, his concern is not Margaret Thatcher per se, but what he sees as the centralised absolutism of the British political system; without the rule of law or a written constitution to secure the rights and liberties of the British people.

⁸⁸ Lenman, *ibid*: 44.

⁸⁹ Lenman, *ibid*: 44-45.

P.H. Scott commemorates Fletcher as the Patriot, the man David Hume remarked as 'a man of signal probity and fine genius'.⁹⁰ Scott remarks that Fletcher's 'lucidity and originality' have contributed to his appeal, and recognises him as not only anticipating, but initiating the Scottish Enlightenment; his understanding of the importance of economic factors anticipating the works of Hume, Smith and, he even suggests, Marx, a grandiose claim to say the least, but one not without at least some conjectural foundation.⁹¹ The most accurate introduction to Fletcher comes from Edward J. Cowan, in his discussion of the 'radical Scottish political tradition'. 'He was a man who recognised the economic interdependence of states, a patriot who dreamed of a World Empire, a Scot who looked to the best in his country's past as inspiration for the European and World future'.⁹²

Despite being absent from Scotland for most of his life, Fletcher's allegiance to his country and the welfare of his countrymen is evident throughout his political pamphlets and discourse'. Each of his political pamphlets and actions, are a product of a particular difficulty Scotland confronted; each is intended to influence decision makers and consequently benefit his country. His dedication saw him being tried for treason twice, sentenced to death in his absence and his lands being forfeited to the crown. His fierce temper and reputation for aggression kept him from serious political office, however he continued to petition parliament and those of influence to ameliorate his countrymen's troubles. Fletcher was born almost in the century before the Enlightenment, and his political theory precludes that of Voltaire and Rousseau, and Scottish enlightenment thinkers such as David Hume and Adam Smith. His concern for religion was not a concern for religious matters per se, but a concern for the serious consequences organized religion had on the state and policy; especially the threat that a Catholic king on the throne, in Fletcher's view, would result in arbitrary rule. At the

⁹⁰ Scott. P.H. Quoting David Hume. *History of England*. Scott. P.H. "Andrew Fletcher and the Treaty of the Union". Edinburgh: The Saltire Society, 1992: 2. This is the most recent biography of Fletcher available. See also MacKenzie, W.C. *Fletcher of Saltoun*.

⁹¹ Scott. P.H. (ed) "Andrew Fletcher, a Pioneer of the European Idea". *The Saltoun Papers*, *ibid*: 15.

⁹² Cowan. Edward J. "Andrew Fletcher and the Radical Scottish Tradition". In *The Saltoun Papers*, *ibid*:. 153.

heart of Fletcher's politics, was a desire for the non-dependence of Scotland on external control and influence, and the socio-economic improvement of the country.

Non-dependence rather than independence was the platform from which his analysis of Scottish and European politics was fashioned, and this meant constitutional reform in the shape of limitations on the monarch and free political institutions. Non-dependence also required socio-economic advancement within the state; without it, the deplorable condition that the Scots were in would worsen. Seven years of famine had devastated the nation, and overseas trade had all but collapsed – not helped by the incessant interference of the English parliament in Scottish affairs, including wars with Scottish trading partners.⁹³ Fletcher recognised that overseas trade was necessary to stop mass emigration of the Scots people, emigration that would result in further dependence on the English. It was, for Fletcher, this dependence on the English court that was the cause of Scotland's troubles in the first place and he showed that a free society depended on a working system of trade and commerce. It is because of this socio-economic necessity that Phillipson claims the Scottish parliament had to choose between free trade and a free parliament – the English court only willing to offer free trade in return for an incorporating Union in 1707.⁹⁴ Fletcher understood the advantages of a closer union with England, especially with regards to trade and commerce, but was willing to place his bets on the survival of his country as a fully independent nation than the full dependence on the English.

At the heart of any of Fletcher's pamphlets is the concern for liberty, whether this is set within the civic humanist tradition placing emphasis on virtue, as most notable in his pamphlet concerning the militias, or in his ardent desire to maintain Scotland's own parliament and dependence from England. Fletcher was not entirely

⁹³ Fletcher, Andrew. "Two Discourses Concerning the Affairs of Scotland". Robertson. Andrew Fletcher, Political Works. Cambridge: Cambridge University Press, 1997. Fletcher also blamed the church for the appalling conditions many of his fellow Scotsmen were facing. By banishing slavery on moral and religious grounds, the church had freed men whose only estate was their liberty; and by providing for the poor, the church encouraged vagabonds and beggars. It is Robertson's version of Fletcher's works that will be used throughout this thesis, unless otherwise stated.

⁹⁴ Phillipson, Nicholas. "The Scottish Enlightenment". In Roy Porter and Mikuláš Teich. *The Enlightenment in the National Context*. Cambridge: Cambridge University Press, 1981: 24.

anti-union, recognising the great benefits a closer trading and political union with England could bring Scotland, but he was against the incorporating union that finally passed in 1707. Fletcher saw this as Scotland becoming fully dependent on England.

Post union, Fletcher removed himself from public life, he became isolated politically. His attempt to keep the issue of the succession open by suggesting (with irony) that the crown be offered to the Prussian Hohenzollerns was exposed as a bluff when it was discovered they had no connection with the Scottish royal line. Support for him further deteriorated to the point that Fletcher challenged a once committed supporter, the Earl of Roxburgh, to a duel. At this Fletcher withdrew from active politics. He maintained correspondence with political allies and was arrested (wrongly) on suspicion of involvement in a Jacobite plot in 1708, but never did succumb to Jacobitism himself. Fletcher was out of the country during the Rebellion of 1715, and remarked of the Pretenders inadequacies 'convinces everybody who formerly did not believe it that he is of the family'.⁹⁵ A patriot to the last, Fletcher's dying words were an appeal to the Lord to 'have mercy on my poor country that is so barbarously oppressed'.⁹⁶

Fletcher's civic humanism is most apparent in the European historical approach he uses to highlight the loss and corruption of virtue. It is the fundamental problem of the loss of virtue - participation in politics and public life, and a concern for the common good - which is the cause of society and the main concern for civic humanists (republicans, broadly speaking) rather than the right to resist or proper authority. Pocock recognises the strong influence of Harrington in Fletcher's work; accepting the 'Gothic' roots of modern liberty: where arms and therefore, authority and sovereignty, were in the hands of the land owners; all the while being aware of the post-feudal,

⁹⁵ See Robertson, *Political Works*, 1997 *ibid*: xvii and also Scottish History Society, Miscellany X. *Letters of Andrew Fletcher*. Edinburgh. T & A Constable. Edinburgh University Press. 1904: 155-6

⁹⁶ Again, see Robertson, *passim*. *And the Letters of Andrew Fletcher*, *passim*: 170-2

commercial society which offered liberty new opportunities and also hazards.⁹⁷ Commerce brought specialisation, and the land owners gave up their arms and allowed themselves to 'be defended and governed by others'.⁹⁸ By choosing 'an expensive way of living' man has given up his freedom; selling the means of his liberty so he may afford the trappings of culture.⁹⁹ Pocock sees this Fletcherian response to Britain and the corruption and loss of virtue as the first phase in the critique of modern society, and again, very much based on a neo-Harringtonian version of civic humanism.¹⁰⁰ Fletcher is assumed to have 'elaborated the neo-Harringtonian perspective to the point where it exposed the most difficult of the many problems to perplex eighteenth-century social thought: the apparent incompatibility of liberty and virtue with culture'. 'It is the concern for virtue as the moral as well as material foundation of social and personal life', as well as the use of Machiavelli and Harrington, that places Fletcher in the civic humanist succession, according to Pocock.¹⁰¹

As previously noted, Robertson asserts that Machiavelli was the pre-eminent influence, and 'source of insight into modern politics' for Fletcher. 'From Machiavelli, Fletcher learnt that the wisdom of the ancients, which he revered, lay in recognising politics as a distinct sphere of human activity, with its own values and goals.'¹⁰² It is Machiavelli that gives Fletcher the terms which gives his approach to European politics conceptual coherence. Fletcher draws on the Machiavellian theme of *virtù* and, applying the necessary matter of commerce, adapts it to a neo-Machiavellian political thought which is more compatible to the increasingly commercial political arena.

Unionism in Scotland

⁹⁷ Pocock. *The Ancient Constitution and the Feudal Law. A Study of English Historical Thought in the Seventeenth-Century*. Cambridge: Cambridge University Press, 1987: 371-372.

⁹⁸ Pocock, 1987, *ibid*: 373.

⁹⁹ Fletcher. *A Discourse on Government with Relation to the Militias*. *Ibid*: 6

¹⁰⁰ Pocock, 1987, *ibid*: 373. Pocock sees a major part of the Scottish Enlightenment as an attempt to write the history of English government; a response to the failure of securing the Union in 1707 along more suitable and prosperous terms for Scotland.

¹⁰¹ Pocock. *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition*. Princeton: Princeton University Press, 1975: 446.

¹⁰² Robertson. *Introduction*, *ibid*: x.

Despite the renewed energy for republicanism as an alternative to the normative political theories of liberalism and communitarianism, which have enjoyed being the centre of philosophical debate in the English speaking world, the so-called canon of texts has remained fairly static. No-one questions the use of Cicero and Aristotle, Machiavelli, Harrington, or Sidney but the works of the sixteenth and seventeenth-century British commentators on the state of Britain are conspicuously absent. The question of authority in Britain had been at the forefront of political imagination since before the union of the kingdoms of Scotland and England in 1603. From George Buchanan's *History of Scotland* in which he demonstrates history of popular sovereignty and the need for the consent of the people for monarchical authority, to his former pupil, James VI and I attempts to authorise a divine right of absolute monarchy. Not forgetting the covenantors, commonwealth-men and whigs who dedicated their political arguments to the subject of authority and sovereignty in Britain. What follows is a summary of the main theories that dominated the political debates of the sixteenth and early seventeenth centuries in Scotland centred on the most controversial political events concerning the rights and duties of both the monarch and the people. Fletcher was familiar with each of the tracts mentioned in this section, having heavily annotated versions in his personal library.¹⁰³

It is established that the pro-union arguments prevalent in the sixteenth and seventeenth centuries were presented in order to preserve the protestant faith in Scotland from the threat of the restoration of Catholic dominance.¹⁰⁴ In his *Blast of the Trumpet against the Monstrous Regiment of Women*, John Knox argued that what was of importance was the establishment of Protestantism in Scotland and its safeguarding in England; whether this Union involved confederacy, federacy, perpetual friendship,

¹⁰³ P.J. Willems has carefully identified and catalogued the many hundreds of books in Fletcher's personal library and has includes a helpful introduction. Willems, P.J. *Bibliotheca Fletcheriana: or, the Extraordinary Library of Andrew Fletcher of Saltoun, Reconstructed and Systematically Arranged*. Privately published, Wassenaar, 1999

¹⁰⁴ This link to protection of the Protestant faith is denied in Mason. R. A (ed) *Scotland and England 1286 -1815*, *ibid.*

amity or league did not matter.¹⁰⁵ With the accession of James VI & I to the thrones of Scotland and England, several Scotsmen were appointed to negotiate a closer union between the two countries. This resulted in several tracts which postulated a federal system of unification linking the English and Scottish nations. John Russell (1550 – 1612), again concerned with the religious rule, suggested a strengthening of the union. Robert Ponté (1524-1606) proposed a union based on friendship and religion. While both were concerned with the possibility of Scotland's absorption into the English Empire, Russell was particularly insistent that any union implied partnership and not dominion.

John Mair's *Historia Maioris Britanniae* (1521) assumes that only a Union between Scotland and England would bring about a proper alignment of their (often competing) interests. This union was not based on a capitulation of the Scottish nation as was later achieved in 1707, but was to be grounded on a genuine acknowledgement of partnership and shared interests. Like many of the Scottish philosophers, Mair uses an historical approach as a means of supporting what can only be described as a very Scottish form of philosophy – a practical response to a political problem. Mair produces a history which is intended to be impartial, although he struggles to conceal his favour for his own country and emotional involvement with its struggle to maintain independence. Unlike other histories of Britain at the time, Mair does not try to combine the two separate histories but moves between two narratives. In order to ensure any union is fair and equal, he attempts to show Britain as one geopolitical entity with two very independent and equal nations within that are both entitled to rule in their own right.

¹⁰⁵ *The First Blast of the Trumpet Against the Monstrous Regiment of Women* was aimed at the newly crowned Queen of England, Mary, who was attempting to re-Catholicise England - not Mary Queen of Scots. See Mason, Roger A. (ed) *John Knox, on Rebellion*. Cambridge: Cambridge University Press, 1993.

The History of Great Britain shows Scotland as an autonomous Kingdom, able to unite with England on equal terms.¹⁰⁶ Right reason and common sense will prevail over any nationalistic desires, and the resulting union would bring an alignment of interests and peace. John Mair intended his history as more than a mere chronicle of facts. It was dedicated to the King not for flattery or patronage, but to ensure that he was to read it and hopefully learn from the lesson that Mair hoped to teach – that peace in Britain could only be achieved through a Union on equal terms. '[M]y aim that you may learn from the reading of this history that you may learn not only that thing that was done, but also how it ought to have been done.'¹⁰⁷ Mair contradicts the histories of Boece and the English historians, attributing the cause of British discord to an overemphasis on patriotism and an overweening desire to demonstrate superiority across nations. Only by shaking off the pretensions to historical superiority and imperialism, and unifying the crowns through equal marriage terms, he argued, could Britain become peaceful.

A former pupil of Mair, George Buchanan (1506-1582) went against his old master and wrote a history based on the fantastic account of Hector Boece which was itself inspired by the political events of the time, Mary Queen of Scots' alleged complicity in the murder of her husband Lord Darnley and her consequent marriage to the accused, Lord Bothwell. Buchanan wrote the *De Iure Regni Apud Scotus Dialogus* intending to justify the deposition of Queen Mary as a right of the people of Scotland that dated back to the first kings of Scotland. Sovereignty, on his account, is a privilege extended on the crown by the people, and this can be withdrawn if the monarch becomes unworthy.

This was not the only intention of the *De Iure*. Mason suggests that Buchanan deliberately manipulated the history of Scotland to demonstrate how the laws of

¹⁰⁶ See also Mason, *Scotland and England 1286-1815* *ibid*, and Colin Kidd, *Union and Unionisms: Political Thought in Scotland 1500-2000*. Cambridge: Cambridge University Press, 2008.

¹⁰⁷ Mair, John. *A History of Greater Britain, as well England as Scotland; translated from the original Latin and edited with notes by Archibald Constable, to which is prefixed a life of the author by Aeneas J.G. Mackay*. Edinburgh: Edinburgh University Press for the Scottish History Society, 1892: preface cxxxiv.

nature had been adopted by the early Scots as the basis of their constitution.¹⁰⁸ The dedication to James VI unmistakably sets out Buchanan's purpose - to advise James VI of his duty towards his subjects, and to counsel him against flattery and corruption. It follows the "mirror for princes" form which was popular at that time, and might seem as if it were intended to rebuke and drag James back from tyranny were he to choose that path. However, twelve years elapsed between the composition of the *De Iure* and its eventual publication, so the underlying intention behind the work cannot have been to counsel James VI – although this may have been a factor in its publication. It is, in any case, clear from the date of writing that the defence of the people from a tyrant, Mary, and the provision of evidence for the people's right to depose the monarch, were his foremost goals at the time of writing.

Although Buchanan is considered one of the most influential political commentators of the time, his political interests were more concerned with the character of the sovereign and the people's right to resist, than the characteristics of the nation-state. Nevertheless, his political philosophy remains deeply relevant to the discussion at hand. Buchanan is essentially concerned with the nature of governance with respect to the sovereign and his subjects; the limitations on the authority of the king, and his duties concerning the common good and liberties of his subjects. Buchanan relies on Scotland's independent past to justify the argument that the sovereign requires the people's consent to justify his reign, rather than to argue for an independent Scottish nation or country. Kings, he maintains, are subject to laws and to their people.

This 'fact' that Scottish kings were elected and granted limited authority by the people was based on 'usage-beliefs', 'a body of unwritten traditions which were neither feudal in origin nor in any sense the law of the land'.¹⁰⁹ These describe the

¹⁰⁸ Mason, Roger A. "George Buchanan, James VI and the Presbyterians". In Roger A Mason (ed) *Scots and Britons. Scottish Political Thought and the Union of 1603*, *ibid*: 112-138

¹⁰⁹ Williamson. A.H. *Scottish National Consciousness in the Age of James VI: the apocalypse, the union and the shaping of Scotland's public culture*. Edinburgh: John Donald Publishers. 1979.

reciprocal responsibilities of the people and the monarch.¹¹⁰ Thus, Buchanan is able to draw on the informal interaction, or oral traditions that form the Scottish historical consciousness and hold it as consonant with natural law, using this as the basis of his political thought.¹¹¹ This appeal to Scottish custom, identified with natural law, gives further support to the punishment of Queen Mary and strengthened his argument for accountability. By depicting Scotland as being governed by an ancient, natural law that never changed, Buchanan is able to reinforce his theory of resistance. He acknowledges the necessity of recognizing the king's authority as limited. For Buchanan, the king's right to rule and the extent to which he can rule is given to him by the people. Both the king and his subjects must recognize this given authority in all aspects of government and incorporate it into the system.¹¹² The social arrangement of king over people is legitimate only by agreement, and this agreement is dependent on both parties having reason to honour the terms of the social contract. In return for security and justice, the people agree to be subject to certain laws and obligations. The king must also have laws and duties to which he is accountable to avoid any corruption of his position; he is subject to the limitations of the rule of law. It is for the people to dictate the extent of the king's authority over them to ensure that he himself is subject to laws and performs his duties in gaining the common good for all.¹¹³ If the king is to fail in his duties as protector and provider of justice, or indeed, he himself is to become a threat, the people would have the right to rule themselves and resist his authority.

In his discussion of resistance to tyranny, Buchanan turned to some fundamental questions concerning the problem of political obligation based on consent: when is resistance acceptable? For Buchanan, the obligation of obedience is

¹¹⁰ Bushnell. "George Buchanan, James VI and neo-classicism". In, ed. Roger A. Mason. *Scots and Britons*, *ibid*: 95.

¹¹¹ Williamson, *ibid*: 7.

¹¹² This is an early form of the contractual theory of government later set out by Hobbes, and the modern concept by Rawls.

¹¹³ Buchanan, George. *A Dialogue on the law of Kingship among the Scots: A critical Edition and Translation of George Buchanan's "De Iure Regni Apud Scotus Dialogus"*. Roger A. Mason and Martin S. Smith. Aldershot: Ashgate, 2004: 55. As in Plato, Buchanan sees the good society as one governed by those who seek to achieve the common good. Plato's *Republic* puts forward a theory of a society run by philosopher-kings; educated men who rule for the good of the city and are unbiased by personal interest and gain. Both Buchanan and Socrates emphasize that no such disinterested man exists; humans are prone to corruption by power and flattery, and therefore tyranny.

conditional, based on reciprocal consent. The obligation depends not on any tangible consent but on implicit consent contingent on the character of the government. One has an obligation to obey the edicts of a good government engaged in just action. However, if it is a tyrannical government doing what no government should do, then there is no such obligation to obey. A king who acts contrary to the good of the people should not, according to Buchanan, be considered a king.¹¹⁴ Therefore, the man who was once regarded as king can be punished in accordance with the laws. Any union between Scotland and England that was not based on equality, or promoted the interests of one to the detriment of the other could not be considered a union that was based on consent because, as Buchanan claimed, no man would gladly accept the withdrawal of his rights or powers.

Buchanan proposed a system of vertical dimensions of political accountability regarding the power relations between the state and its citizens. In order for the law and the king to be legitimate, society must be able to adopt political values such as good representation, deliberation and accountability - values critical to justice and legitimacy. Accountability, for Buchanan, allows critics of the government to target the individual tyrant without posing a direct challenge to the political institution. Virtue in public life - political participation - is a necessary attribute for holding the king to account. A lack of accountability paves the way for corruption, greed and self-interested gains.¹¹⁵ A tyrant, then, is one who has come to power without consent or has exercised his power contrary to justice. Any unilateral assumption of power, in the absence of the legitimising framework of deliberation and accountability, is an exemplar of tyranny. Buchanan justifies his theory of resistance in terms of constraints on legitimate authority – the conditions required for any exercise of power to be warranted, and hence generate a duty of obedience. The duty of obedience to higher authority is only due as long as the exercise of this duty does not conflict with obedience to God: human obligations are subsumed by the divine. The tyrant who

¹¹⁴ Buchanan. *De Iure. ibid.*: 89.

¹¹⁵ Buchanan may be advocating, along the lines of Plato, *The Republic* 488, the simile of the ship, that he himself should guard the moral nature of the king.

demands 'ungodly' deeds must be resisted.¹¹⁶ And, similarly, the king who disregards law and assumes powers that are not granted to him may be regarded, and treated, as an enemy of the people and God.

James VI and I accession to the English throne in 1603 should have been a profitable union for Scotland and a popular choice. The Scottish king would rule England, bringing peace between the warring nations, accord of religion, and greater security from external threats. Sadly, infighting amongst the nobility and lack of concord left Scotland wide open for conflict, civil war and invasion – as became evidenced in the following hundred years, a period marked by periodic regicide, the Covenanters' rebellion, and widespread turmoil. Scotland invaded England in several 'Bishop Wars', and anti-monarchy and absolutist theories of governance prevailed. This was an intense period for witch-hunting and persecution; Scotland and England came under the protectorship of Oliver Cromwell, only for the Restoration period to restore the Stuart monarchy in 1660 and for it to collapse again with the exile of James VII and II in 1688. These events ultimately led to the so-called 'Glorious Revolution', and thence to the Treaty of Unions in 1707.

Returning to the theme of union with equality, John Russell wrote *A treatise of the Happie and Blisshed Unioun* in 1604, after James VI and I seceded to the throne of England, and before he had adopted the role as King of Great Britain. Again, it is dedicated to the King and is intended to advise him on the form the union should take to ensure its success. This objective is stated in the opening paragraphs to the treatise: the form in which the union should take in order for it to succeed; and the good reason to why it should proceed. This objective is reiterated in the final chapter with a list of no less than fifteen recommendations for the mould of the union.¹¹⁷

¹¹⁶ This is similar to Knox's view of disobedience to secular authority. See Greaves, R.L. "John Knox, the Reformed Tradition, and the Development of Resistance Theory". *The Journal of Modern History*. Vol 48:3. Sept. 1976: 1 -36. As in Aristotle, it is a citizen's duty to resist a tyrant to protect and preserve society.

¹¹⁷ Russell, John. "Ane Treatise of the Happie and Blisshed Unioun betwixt the tua Ancienne realms of Scotland and England". In *The Jacobean Union. Six tracts of 1604*. Galloway B.R and Levack B.P (eds) Edinburgh. Scottish History Society, 1975: 75, 142.

Russell is in favour of the Union of the Crowns; like Mair, he believes that it would benefit his home country - more, perhaps, than it would England. It is clear from the dedication to James VI however, that Russell is concerned for the future of Scotland if the union is not equal. He reminds James that his Scottish subjects are his first concern, and that they should always be favourable towards him: he needed their consent, as well as that of the people of England, for his peaceable accession to the English throne. Both nations are to be treated as equal and sovereign entities within the British Empire, regardless of the inheritance of a greater kingdom.¹¹⁸ Russell suggests 'ane personall unioun...the concord and harmonie of hairtis and myndis', maintaining a union with full sovereignty and self-government enjoyed by both kingdoms. His is a union which would strengthen commercial ties and alleviate the hostility between the two by retracting the hostile laws between them. The names of Scotland and England would be erased, and replaced with Great Britain; a reciprocal adoption of the term, with both parties living under the same sovereign monarchy.¹¹⁹ This, however, is where the union is to end. There is to be no alteration made to either of the kingdoms in their public estate without the full consent of the parliament concerned.¹²⁰

It was a popular principle held in Scotland at the time that Sovereignty rested with the people. In contrast, Russell assumes that the King is the sole holder of sovereign power - as the only legitimate law-maker - having no superior. Despite this monarchical absolutism there are fundamental laws that even the king is subject to, the 'Trew Law of Free Monarchies' which the king is unable to alter or dispense with.¹²¹ This includes the sovereignty of the country. Any violation of these fundamental laws will result in the ruin of Scotland and its position as an independent nation. The Union shall not be allowed to subvert the fundamental laws of the nation:

¹¹⁸Russell, John., *ibid*: 77.

¹¹⁹ Russell, John., *ibid*:: 136. See also, Levack B.P "Law, Sovereignty and the Union" in Mason. *Scots and Britons*, *ibid*: 213-237.

¹²⁰ Russell, John., *ibid*:: 136.

¹²¹ Russell, John, *ibid*: 87.

*'Sal lane frie kingdome possessing sua ancienne liberties become ane slave, furth of libertie in bondage and servitude – and that of thair auin proper uill, uncompellit or coactit, to the heich honour of Ingland, perpetuall desolatioun of Scotland? Sall Scotland now eftir sua mony ages ressave schame, and amit hir ancienne beautie? The Lord forbid.*¹²²

The union was to be mutual and reciprocal, and not the translation of one estate onto the other, or the subjugation of Scotland. If England commands and Scotland obeys, then Scotland would lose its beauty for ever - its beauty, in this context, being its constitution and independence. The union Russell had in mind was a meeting of the hearts and minds to end the troubles and calamities of the past, and the formation of a true union.¹²³

Like Mair before him, Russell clearly favours union but this is limited to a nominal federation,

*'Bot houseoevir I inclyne to the affirmative, it is with this speciall limitatioun that it sall not import any alteratioun of the kingdoms in haill or in pairt, in religion, policie, lauis, liberteis and ancienne priviledgis, bot to tend to the gude of baith, prejudice of nane.*¹²⁴

Scotland and England both have laws, liberties and policies as good as each other, and no change was required for either.¹²⁵ His desire for the sovereignty of both countries to be maintained is apparent throughout, but Levack suggests the clearest indication of this is his use of the term Empire (Impire) when referring to the two kingdoms. Although not an unfamiliar term at the time, it had been abandoned by many unionists

¹²² Russell, John, *ibid*: 90 see also Levack, *ibid*: 235.

¹²³ Russell, John, *ibid*: 84.

¹²⁴ Russell, John, *ibid*: 125.

¹²⁵ Russell, John, *ibid*: 88.

in favour of British terminology, referring to Britain as one imperial crown rather than two separate imperial kingdoms.¹²⁶

Using the language of empire, Russell indicates his desire for an almost federal unification between the two nations. He argues that union is perhaps not necessary – what is required is a mutual league or contract in which the religion and policies of both nations are maintained in whole, as good reason dictates they should, for the maintenance of amity and friendship between the two empires.¹²⁷ In order to ensure peace between the two nations, the confederacy must be shown to be for the benefit of both with no prejudice of one over the other and no interference in internal matters of state. The union is to be limited to ensure peace between the two, the continued economic growth of both, and their defence against foreign injury. These are all offered as basic principles of a federal arrangement between two equal nations. He gives strength to his argument by referring to several other kingdoms including the Roman Empire, Holland, Germany, Sicily, Hungary, and Austria among others that ‘... have united with other Impyirs yet have not altered their estates, laws or liberties as a consequence and have maintained their integrity as nations’¹²⁸ - including the Duchy of Milan, the kingdom of Portugal and the republic of Genua who, under the rule of the king of Spain, have preserved their fundamental laws and policies.¹²⁹ The use of these federal examples as preferred models to reinforce his argument for limited and equal union, demonstrate unequivocally Russell’s desire for a similar arrangement between Scotland and England.

At the same time, Thomas Craig is arguing for union along the similar lines.¹³⁰ A permanent union consisting of two nations governed in accordance with their own laws and customs. The parliaments are to retain their own status and authority, and no new laws promulgated, or existing laws repealed without the full consent of the

¹²⁶ Levack B.P *ibid*: 224.

¹²⁷ Russell, John., *ibid*: 88.

¹²⁸ Russell, John., *ibid*: 90.

¹²⁹ Russell, John., *ibid*: 97.

¹³⁰ Craig, Sir Thomas of Riccarton. *Scotlands Sovereignty Asserted and de Unione*. www.eebochadwick.com

parliament concerned.¹³¹ Influenced by Bodin, Craig maintains that the king is the sovereign entity with no superior, and this condition means that the king is not able to surrender his sovereignty to another. Nor can a king who governs a free people render them slaves.¹³² The sovereign power in Craig's premise is the protector of the sovereign right on behalf of the nation; he holds no lands or offices. Any king - who is subject to no other - who willingly gives away any part of his sovereignty and becomes beholden to them loses his title and rights to majesty. Of course, James VI & James I would not be giving away Scotland's sovereignty to another, merely holding on to the sovereign rights to both Scotland and England simultaneously, but Craig, like Russell, is concerned for the integrity of Scotland's ancient constitution once James inherits the more tempting England. And, as Russell had suggested, by inheriting England James had inherited an increase in his duties and care towards Scotland in order to ensure their interests were protected and met.

During the height of the Stuart reign's unpopularity, the covenanting movement in the early 1640's was again concerned with the form of governance of Scotland or Britain. Samuel Rutherford and his fellow hard-line Presbyterians had been actively opposing any amendments to the Presbyterian church from the decade following from 1610, and especially the Articles of Perth that were passed at the General Assembly in 1618 which required the congregation to kneel at communion. And there is no doubt that Rutherford had Presbyterian radicals amongst his many friends and correspondents throughout the 1620s. However, it was after Charles I renewed his fervour for religious uniformity throughout Britain in the 1630s that Rutherford and his compatriots became most active in their rebellion. The introduction of a new prayer book in 1637 sparked a riot in opposition, and the covenanting movement formed themselves into a formidable group in 1638, producing and signing the National Covenant – obliging the signatories to maintain the Scottish kirk and its

¹³¹ Craig, *ibid.*

¹³² Craig, *ibid.*

laws, and instigating a five year revolution.¹³³ The Solemn League and Covenant was signed in August, 1643. Samuel Rutherford published his justification for resistance, *Lex Rex* in 1644.¹³⁴

Lex, Rex, (or 'Law before King') is a political text intended to justify resistance to Charles I. It outlines the Presbyterian disaffection from Charles I and their outrage at what they saw as his betrayal of the Reformed church. Coffey suggests that Rutherford's intentions may be found in the fact that it was published at a time when Charles was in negotiations with the Scots and Parliament, and lays out his proposals for limitations on the monarch.¹³⁵ Set out in the Scholastic method, Rutherford structures his arguments in the form of forty-four questions dealing with the origins of government, the relation between king and subjects, and the connection between King and Law - in which Rutherford places the king firmly beneath the law. Rutherford relies on Buchanan's ancient constitution to support his own natural law theories, and his theories concerning popular sovereignty are comparable. He maintains that the people create the king and that true sovereignty belongs primarily to God, not to the people. Upon the election of rulers, the people do not so much surrender their liberties and rights as delegate the authority to govern to the monarch. If the king has become tyrannical, the people may resume their rightful power from him. Rather than being above the law, the prince is under the law and subservient to the ends of the state; he is merely the executor of the state and its interests. And as will become clear, it is these pro-union treatises heavily influence Fletcher's desire for a non-incorporation union between Scotland and England and his wider political thought.

¹³³ For more on the Covenanting movements see MacInnes, *Charles I and the Making of the Covenanting Movement 1625-1641*. Edinburgh: Edinburgh University Press, 1991. Mason, Roger A. "Covenant and Commonwealth: the language of politics in Reformation Scotland". In N MacDougall (ed) *Church, Politics and Society: Scotland, 1408 – 1929*. Edinburgh: Edinburgh University Press, 1994. And Coffey, John. *Politics, Religion and the British Revolutions: the Mind of Samuel Rutherford*. Cambridge: Cambridge University press, 1997,

¹³⁴ It is considered that a great part of the text was written at least 10 years before publication.

¹³⁵ Coffey, J. *Politics, Religion and the British Revolutions. the Mind of Samuel Rutherford*. Cambridge: Cambridge University press, 1997: 149.

It is clear to see that Mair and his contemporaries were not concerned for an independent Scotland or a complete division of political authority between Scotland and England, but rather the question was what form that political authority should take. The union had been a long accepted political reality that was not being contested. The problems lay in the perceived threat to the laws and culture of Scotland, and the inevitable religious divisions. Again, this was not about who had the authority of religion, rather the form that it would take. According to Burgess, the civil wars between Scotland and England were not because of differences over the origins of government, but because of deeper concerns for its purpose.¹³⁶ Arguments over the authority of the sovereign came from concern for final causes, religious and national covenants. These arguments were born out of concern for the potential of the religious covenant inspiring the use of force against a king whenever his policy was deemed unsatisfactory, destabilising the commonwealth and leaving it under threat from religious wars and civil rebellions. In the national covenant, every man was responsible for the religious integrity of the country.

Calvinist political theory does not rely on the natural law theories that abounded in the sixteenth and seventeenth centuries. In fact, Calvinists seem reluctant to use the theory to explain their resistance theories, preferring to use social contract models. Civil society is a construct of consenting individuals given to them by the grace of God. For Buchanan and Rutherford, mankind had lived in huts and caves but came together, not through reason as Aristotle had suggested, but because God asked them to. 'God and nature intendeth the policie and peace of mankinde, then must God and nature have given to mankinde, a power to encompass this end; this must be a power of government.'¹³⁷ But whether using natural law, or scriptural evidence, all agreed that the sovereign's political authority comes from the consent of the people. Any attempt to take power by violent means was illegitimate and could justly be repelled by force.

¹³⁶ Burgess, Glenn. "Revisionism, Politics and Political Ideas in Early Stuart England". *Historical Journal*, 34, 1992: 104.

¹³⁷ Rutherford, Samuel. *Lex Rex. The Law and the Prince; A Dispute for the Just Preorgative of King and People*. Edinburgh: Robert Ogle and Oliver & Boyd MDCCXLIII: I.

Therefore, for peace to endure between the two neighbouring countries, a union of equals with the full consent of the people was required.

This debate grew ever more fierce in the run up to the Treaty of Unions in 1707. Although the Union of Crowns had been accepted and as shown, considered the best model for peace; the Glorious Revolution, the secession crisis and the consequent Act of Settlement in 1701 heralded a new predicament for political relations between the two countries. The political ideas that were coming from Scotland were based almost entirely on attempts to find answers to the particular troubles faced by the country at the time. Furthermore, like the two centuries of political thought preceding it, the political commentaries were not concerned for a wholly independent Scotland, rather the model of governance that was to lead Britain.

The Glorious Revolution (1688) saw Stuart rule replaced by William of Orange, producing a completely new form of constitution in Britain based on contract. The debate concerning the proper authority was part of a broader question in the history of political thought in the sixteenth to eighteenth centuries – that of how a common life, society and morality is possible when members of society are engaged in an open-ended bargaining for their individual rights. Whether it is set in a Grotian ideal natural order or a Hobbesian natural disorder, answers to this question range from contractual, natural law, and natural rights theories.¹³⁸

As Colin Kidd suggests, the history of political thought in Scotland was not a concern for natural rights, or the meaning of life etc., but a concern for authority; the nature of governance and the relationship between monarch and subject. As has been shown, the Scottish desire for self-governance has never been a singular desire for independence from England. In fact, for a large part of Scottish history up until the Treaty of Unions in 1707, Scotland was – and the people very much considered

themselves to be – an independent nation that would benefit from a greater union with England.

The period between the sixteenth and eighteenth-centuries was a crucial time for Scotland, both politically and intellectually. The monarchy was in turmoil and Scotland had endured several long periods of minority rule. Political turmoil and struggles for power were the cause of many of the wars between England and Scotland, and the internal struggles that erupted in violence. However, the story of Scotland is not wholly one of a struggle for independence and freedom from English domination. It was during this period that European confederal theory was developed, a constellation of positions in defence of the people, in which they had the right to resist absolute or tyrannical power. The need for a rethink of the political issues was exacerbated by increased international trade, the expansion of the colonies, overlapping political boundaries and aggressive wars of expansion. This, combined with the religious wars and the constant interfering in religious affairs by political bodies and Kings, signified, for many political thinkers of the time a need for reform of constitutional and political theory. The theory of popular sovereignty was a device created by Parliament leaders to legitimate opposition to royal authority.

The right to resist government was one of the most controversial and debated topics in political philosophy in Scotland and Europe. The accountability of governments to the people and the right of rebellion were the issues that marked the progress of liberty and anticipated the Scottish Enlightenment thinkers of the eighteenth century. During the seventeenth century royal absolutism was making progress throughout Europe. Britain had already experienced religious reformation that was to change the political and spiritual make up of the country forever. Calvinist theories dominated throughout Europe, and battle lines were drawn between the religions. The rise of centralised nation-states in the sixteenth century had given popularity to the doctrine of sovereignty. The modern state was characterised by centralised power, the decline of papal and ecclesiastic authority over the state and

the increased power of monarchs. Germany, France, England, Sweden, Denmark and Spain were all involved in the protracted Thirty Years War (1618-48). The Peace of Westphalia marked the end of the Wars of Religion and of active religious persecution, and also indicated the beginning of religious toleration. It meant that men of all creeds had to devise a way in which they could live together peacefully within one state. The Wars of Religion and concomitant theological controversies had a profound effect on social and political life. Alongside the increased secular powers of monarchs, the discovery of the New World and Europe's expansion, the powers of the Princes of Europe increased, as did their pretensions and greed. In France, absolutism was most effective: Louis XIII subdued the Huguenots and harnessed Catholic militarism to serve the monarchy; following a temporary setback caused by the Fronde, the latter half of the century saw a 'golden age' of royal absolutism under Louis XIV, who promoted *raison d'état* as the highest law when dealing with subjects and other states.¹³⁹ In 1673 the French Parliament was deprived of its right to oppose royal edicts, and in 1682 the Declaration of the Clergy of France asserted the independence of Kings from papal control. Elsewhere, absolutism continued to flourish: in Denmark the Danish Estates was closed down in 1660; in Sweden in 1680 constitutional reform effectively established absolutism. Meanwhile, in Britain, attempts to establish royal absolutism were attempted several times and only averted by the execution of one king and the deposition of another.

The political theories of the modern world are largely indebted to natural law theories; in the field of international relations the law of nature is still repeatedly appealed to. During the Reformation and Restoration, controversies concerning *ius naturale* occupied a prominent place. Political philosophy in Scotland was a practical endeavour – intended to address the problems facing the country at that particular time, and what Scotland was facing was the subjugation of the country, laws, culture and people by its dominant and aggressive neighbour, England. Calvinist ideas

¹³⁹ Somerville, J.P. "Absolutism and Revolution in the Seventeenth Century". In Burns, (ed). *The Cambridge History of Political Thought, 1450-1700*. Cambridge: Cambridge University Press, 1991: 348.

concerning the right to resist were popular throughout the sixteenth-century Europe, and found favour with George Buchanan and John Knox in Scotland. As Skinner attests, in order to better understand the evolution of radical politics in early modern Europe, the thought of the schoolmen in the years preceding the Reformation need to be brought centre stage.¹⁴⁰

Republican ideals have long had a tangible effect on the political ideas in Scotland, influencing the pro and anti-unionist authors alike. And, as has been shown, unionism in Scotland is not solely a post-seventeenth-century phenomenon. Equality, virtue and self-governance - even within a Union - have a long conceptual history. Limitations on the authority and influence of the monarch have always been at the heart of Scottish political thought, whether these limitations come from the constitution, the sovereignty of the people or the 'Three Estates'. From Mair, through Buchanan, the pro-unionists and the covenanters, the concern for the liberty of the Scottish people and the nation's independence, English domination have been a central concern. It would be a mistake to apply the term republican to the thought of the aforementioned authors, however their interests are republican in their subject matter.

Structure

In order to establish Andrew Fletcher's distinct civic-humanist republicanism as a valuable model on which to examine contemporary republican theory, this thesis has been divided into four parts. Chapter one introduces republican theory, and highlights the similarities between the neo-republican theories of Pettit and Pocock amongst others, and the civic-humanist republican theory of Andrew Fletcher. These similarities demonstrate the significance of Fletcher to contemporary republican theory. Republicanism has always been concerned with liberty, and the contemporary models for liberty proposed by Pettit et al are attempts to address the challenges of poverty

¹⁴⁰ Skinner, Quentin. *Visions of Politics Volume II: Renaissance Virtues*. Cambridge: Cambridge University Press, 2002: 253.

and injustice on a global scale. However, in an effort to disassociate contemporary republican theory with the failures of the liberal doctrine - making it distinct from the liberal model - neo-republicanism has lost some of its efficacy; fragmenting its usefulness between the different conceptions and confusing the core concepts along the way. A return to the early modern model proposed by Fletcher which combines the most attractive parts of both liberalism and civic humanism; emphasising the need for civic virtue to achieve the common good, would offer a model more in tune with contemporary needs.

This chapter introduces the contemporary republican theories in their many forms and includes the discussion of Pettit, Pocock, Sunstein and Etzioni; examining their value with regards to contemporary issues. This chapter shows that a complete revision of early modern republicanism has neither occurred nor is necessary to answer contemporary political issues, but rather the many forms of modern republicanism have internalised the early modern lessons promoting the common good and political virtue - understood here as political liberty - as the central components at the heart of the ideology. The focus of freedom as non-dependence or non-domination, as opposed to non-interference, is vital for a contemporary global order which is both inter-dependent and interventionist.

Chapter two sets Fletcher up as an example of the republican ideal; his distinctive civic-humanist and somewhat communitarian model of republicanism. By focusing on the fundamental republican theories found within Fletcher's thought and how he utilised these to answer questions regarding the best form of government. Fletcher's use of freedom as non-dependence is a vital component of any canon of republican political thought. It will show that Fletcher's emphasis on freedom as non-dependence; freedom from arbitrary rule and coercion as the fundamental basis for a model republic holds the same normative judgements as contemporary liberalism, considered necessary for a political theory to be considered as having value in contemporary global civil society. Fletcher emphasises freedom of the state as the

foundation for the common good, and the ultimate freedom of the individual within that state.

Chapter three examines Fletcher's international political ideas in order to show that he has a modern understanding of international politics, and that his theories can be utilised as a foundation when considering contemporary issues of order and peace within an increasingly interdependent European, if not global, political context. Using Fletcher as a critical lens, this chapter evaluates the liberal and republican discursive attempts to make sense of the global political order. Fletcher's modernisation of the republican paradigm, and his models for the proper conduct between states, provides a basic model for understanding global justice, and promoting international equality and cooperation.

Finally, while the previous chapters look to how Fletcher's political position was shared by contemporary political authors with regards to the global political system, chapter four outlines what Fletcher has to offer contemporary political theory with regards to his ideas which have yet to be shared amongst the modern republican tradition. Fletcher, unlike his republican predecessors, believes in morality within international relations and it is from this position that he can make his greatest intellectual contribution to contemporary politics - by helping us to understand the nature of power politics, past and present. Republican ideals of liberty and justice, combined with an awareness of the corrupting influence of commerce as well as its contribution to peace, together with a commitment to virtue in politics that he recognizes as being corrupted by the emerging modern state system. Each of these themes can be used to illuminate the operation of contemporary power politics and the theories presented to limit the damage and tender justice.

The purpose of this thesis is to show that Fletcher is a significant figure in the republican tradition, that his intellectual, if not political, contribution is fundamental to a proper understanding of the republican paradigm. Using the civic-humanist and

cosmopolitan representations of the republican model of Andrew Fletcher to critique contemporary republican theories, this thesis offers Fletcher as a vital contributor to the contemporary debates concerned with global order and justice.

Chapter 1. Contemporary Republicanism

The history of republicanism in contemporary political theory is neither linear nor coherent. There are those who appeal to republican values but deny their republicanism, others may include many of the principles of civic humanism and/or early modern republicanism but perhaps not enough to be considered republican. Dworkin finds himself identified as a republican, but would not recognise this distinction himself. One will also find republican values in modern communitarianism, and a conciliation of liberal and republican paradigms in Pettit, Sandel and Onuf.¹⁴¹ What all the aforementioned authors have in common is their appeal to history as an approach to explain the order of things (*res publica*) and to illustrate current political arguments.

In Aristotelian times, *res publica* came to mean the political framework, or even constitution, that would best ensure the common good: a mixed government joining democracy, aristocracy and monarchy. This was reconsidered in Renaissance Italy, most famously by Machiavelli and again in seventeenth and eighteenth century England by the likes of Harrington and Sydney, as well as minor figures such as this thesis' focus, Fletcher. Contemporary republicanism, as with early modern republicanism, disregards the liberal preoccupation with natural rights and unilateral behaviour of individuals in the development of society, and instead focuses on the republican values of civic virtue, public life and community, the achievement of the common good and the eschewal of corruption.¹⁴²

¹⁴¹ For these examples See Barber, B. *Strong Democracy: Participatory Politics for a New Age*. University of California Press, 1984. And Dagger, Richard. *Civic Virtues: Rights, Citizenship, and Republican Liberalism*. Oxford: Oxford University Press, 1997.

¹⁴² To avoid confusion, the early modern republicanism which I refer to in this thesis is a republicanism as recognised by the seventeenth and eighteenth-century political theorists such as Harrington, Needham, and Fletcher who have built upon the Machiavellian, neo-Roman tradition which emphasis civic virtue and participation, freedom from arbitrary rule, and the common good.

It is recognised in modern republican theory that a strong distinction between liberalism and republicanism may be ineffective. Both approaches contain instrumental accounts of certain ideals and virtues that have the effect of enhancing the overall system of freedom for individuals.¹⁴³ There are still arguments as to the shape neo-republicanism should take: Guiner attempts to reconcile human rights and popular sovereignty with a procedural democracy, offering a third way between liberalism and republicanism, whereas Pettit goes further in his attempt to integrate both paradigms more fully with his proposal of a theory of freedom as non-domination.¹⁴⁴ Etzioni insists that society relies on a symbiotic relationship between libertarianism (his all-encompassing phrase for liberalism) and republicanism, his version of a communitarian model.¹⁴⁵ Yet there are those who still insist that the distinction is necessary, critiquing the liberal view that there is no strong divergence between the two approaches: seeing the strong republicanism of Aristotle as incompatible with the liberal ideas of justice.¹⁴⁶

In the western, or 'early modern' republican tradition associated with Machiavelli, Harrington, Sidney et al, the emphasis remains on the importance of civic virtue and political participation for the common good, the dangers of corruption and the need for a mixed constitution providing the rule of law. The early modern republican tradition promotes a conception of the good life achieved through this active political participation and civic virtue, providing the foundation for political liberty.

By contrast, contemporary, or 'civic' republicanism emphasises political liberty understood as non-domination (Pettit). Whereas the early modern republican model is

¹⁴³ Patten, Alan. "The Republican Critique of Liberalism". *British Journal of Political Science*, Vol 26, no 25, 1996: 25-44.

¹⁴⁴ Guinier, Lani. *Lift Every Voice: Turning a Civil Rights Setback into a New Vision of Social Justice*. London: Simon and Schuster, 1998. Pettit, Richard. *Republicanism: A Theory of Freedom and Government*. Oxford: Oxford University Press, 1997.

¹⁴⁵ Etzioni, Amatai. "A Moderate Communitarian Proposal". *Political Theory*. Vol 24, No 2 (May 1996): 155-171.

¹⁴⁶ Maynor, John. "Another Instrumental Republican Approach". *European Journal of Political Theory*. Vol 1, no 1 July 2002: 71-89.

based on a positive conception of liberty, where political participation leads to self-government, contemporary civic republicans have misinterpreted the early modern model and argue in favour of a negative conception of political liberty that no longer sees civic virtue as an intrinsically valuable component of the human experience, but as an instrumental component for achieving political liberty.

For both the early modern and the contemporary civic republican, the central tenet of contemporary republicanism is the notion of freedom from an arbitrary master, it can therefore be argued that there is little difference between the two canons, the only difference perhaps being the means to the end. For the early modern republicans, political participation ensures freedom from arbitrary rule, restricting the opportunity for one to gain arbitrary powers – while for contemporary republicans, the only way to ensure no-one gains arbitrary mastery is to limit his subjects dependency on him. The clearest difference, therefore, is the emphasis on the type of freedom; freedom of non-domination, or a liberal freedom of non-interference. Whereas today political liberty conjures for many the idea of protection of private interests against arbitrary acts of the government, early modern republicanism offers a different ideal of liberty, not the protection from government, but the opportunity to govern oneself: freedom as action, social and political.¹⁴⁷ It is here that the civic-humanist version of republicanism of Andrew Fletcher comes into its own, bridging the gap between the early modern emphasis on political participation providing freedom as self-governance, and the contemporary civic republican emphasis on political liberty understood as non-domination – independence – from an arbitrary or interfering power.

In contemporary international political theory there is no single republican argument but a series of connected strategies that aim to make normative arguments proposing greater individual participation in public life, without interfering with the

¹⁴⁷ Arendt, Hannah. *Between Past and Future: Eight Exercises in Political Thought*. New York: Faber, 1961: 153-157.

freedoms of individuals. However, the division of the republican 'tradition' into restricted and partial arguments based on a limited treatment of the doctrine limits its usefulness as a conceptual framework for contemporary international thought. This chapter identifies contemporary republican international thought and the treatment of the republican tradition in history. It shows that the division of the doctrine into several themes: civic, cosmopolitan, and liberal – *has undermined the value of republicanism for international relations theory*. It demonstrates that the most auspicious way to treat republican theory is to reconstruct the republican tradition of the eighteenth-century; it is only by seeing the republican tradition as a whole, considering concepts of freedom as non-domination, the common good as the motivation for political action, and civic virtue as a moral and political incentive for action that we can begin to utilize republican international theory to its full potential.

This chapter outlines the early modern western republicanism as found in Machiavelli and Harrington amongst others: the history of the concept and an analysis of the seventeenth and eighteenth-century uses of the paradigm. It will summarize and critique some of the major positions on republicanism in contemporary political theory, including J.G.A Pocock's republicanism as a paradigm, Pettit's idea of republican theory of freedom as non-domination, and Etzioni's communitarian model as an alternative to republicanism, as well as a looking at the value of republicanism in modern political thought – its applicability to the contemporary struggles with concepts of global justice and liberty. The chapter concludes that contemporary republicanism is not as contemporary as publicised, and that the early modern republican theories are sufficient to answer these contemporary problems without any systematic dismantling and restructuring of the paradigm.

The Foundations and Revival of the Republican Paradigm.

'By common-wealth, I must be understood all along to mean, not a Democracy, or any Form of Government, but an independent Community which the Latines signified

*by the word Civitas, to which the word which best answers in our Language, is Commonwealth, and most properly expressed such a Society of Men, which Community or City in English does not, for there may be subordinate communities in a Government; and City amongst us has a different notion from Commonwealth.*¹⁴⁸

First and foremost, the republican tradition is a discourse on liberty. From Greece and Rome to the *quattrocento* Florentines, political participation is seen as conducive to social harmony, political stability, and the ‘freedom’ of self-governance. Freedom is dependent on freedom from arbitrary and absolutist rule, and the freedom to participate in public life. It is not a theory of liberty from interference, but the coexistence between the absence from certain forms of constraint, and political participation. This is a theme later picked up by Rousseau in his theories on the social contract. Going against the popular versions of Hobbes, Grotius and Puffendorf, Rousseau proposes a positive conception of liberty that emphasises moral freedom - obedience to laws one has prescribed to oneself - as the key to freedom as non-dependence; the fact that one obeys only himself. Rousseau asserts that ‘Man is born free, and everywhere he is in chains. Those who think themselves the masters of others are indeed greater slaves than they’¹⁴⁹ Self-governance and political participation are the source of liberty, by abandoning claims to individual or natural rights and joining in civil society, individuals will have the means of both preserving themselves and their liberty. This process enables them to discover the general will that obligates them to obey the laws and it is these laws that protect the individual from being subject to the will of any other.¹⁵⁰ Rousseau is attempting to reconcile the freedom of the individual with the necessary authority of that state. It is worth noting that Rousseau is writing this some 50 years after Fletcher wrote in his *Discourse of Government* that ‘the arts of state being altogether directed either to enslave the people, or to keep them under slavery; it is become almost every where a crime to

¹⁴⁸ Locke, John. *Two Treatises of Government*. Peter Laslett (ed). Cambridge: Cambridge University Press, 1960: 355.

¹⁴⁹ Rousseau, Jean-Jaques. *On the Social Contract*. R.D. Masters, (ed and trans) New York. St Martin’s Press. 1978

¹⁵⁰ Rousseau. *Passim*.

reason about matters of government. . . And not only that government is tyrannical, which is tyrannically exercised; but all governments are tyrannical, which have not in their constitution a sufficient security against the arbitrary power of the prince'.¹⁵¹

Pocock proposes that authentic traditions have a conscious timeline; adherents are aware of the beginnings and the continuous descent until their own participation in the tradition. As he puts it,

[t]he tradition in question may be referred back to Aristotle in nearly every respect, but ... so many subsequent authors restated parts of it and were influential in their own ways that, especially under Renaissance conditions, it is hard to define with certainty the particular writer exerting authority at a particular point. We are, in short, confronted by the problems of interpreting a tradition of thought'.¹⁵²

Therefore, the political thinker has to be understood in terms of his linguistic time: a social being whose thoughts and actions are linguistic events; his words and concepts are inherited from shared traditions and discourses as well as languages of legitimation and discourse; and as a consequence, his ability to fully theorise is constrained by the context in which he functions as a social being.¹⁵³ Man is nothing without society, or, as Pocock stipulates, the paradigm which gives his existence meaning.

Pocock defines republicanism in this way, as a language or a mode of discourse, implying a conversation or vocabulary in which political debates are conducted,

¹⁵¹ Fletcher. Robertson; *ibid*: 2-4.

¹⁵² Pocock *The Machiavellian Moment*, *ibid*: 67.

¹⁵³ Pocock's methodological proposals are not the focus of this chapter and for the sake of succinctness I will not go into detail. There are many excellent studies of Pocock's methodological proposals including David Boucher's "Language, Politics and Paradigms: Pocock and the Study of Political Thought". *Polity* Vol 17 no. 4 (Summer 1985): 761-776 and *Texts in Context. Revisionist Methods for Studying the History of Ideas*, Dordrecht, Boston & Lancaster 1985. Robert D. Hume, *Pocock's Contextual Historicism*, in D.N. DeLuna (ed.), *The Political Imagination in History. Essays Concerning J.G.A. Pocock*, Baltimore 2006, 27-55. Preston King, "Historical Contextualism. The New Historicism", in *History of European Ideas* 21 (1995), No. 2, 209-233. Iain Hampsher-Monk, *Political Languages in Time. The Work of J.G.A. Pocock*, in *British Journal of Political Science* 14 (1984): 89-116. Mark Bevir, "The Errors of Linguistic Contextualism", in *History & Theory* 31 (1992), 276-298 William Walker, "J.G.A. Pocock and the History of British Political Thought. Assessing the State of the Art", in *Eighteenth-Century Life* 33 (2009), No. 1: 83-96. According to Boucher, Pocock's prescriptions are unsound for studying contemporary discourse. Boucher, 1985 p774.

including 'virtue', 'corruption' and the 'common good'.¹⁵⁴ Within this 'paradigm of early modern republicanism' the conversation can only take place when certain underlying assumptions are recognised – assumptions regarding human nature – and what is good for the individual in society, how this can be achieved etc. These assumptions constitute a paradigm which must be shared by the community in which the conversation or discourse on republicanism takes place in order for it to be meaningful. Therefore, the central tenet of the 'early modern' republican paradigm is the assumption that human nature has a purpose that can only be fulfilled by participating in public life – there exists an objective public good that can be discovered through virtuous political debate and activity. Furthermore, these ideals must struggle to maintain themselves within a conceptual framework within the historically defined community.¹⁵⁵

This is denied by Mark Tushnet, who in *Red White and Blue: A Critical Analysis of Constitutional Law*, claims that the meaning of words would be readily understood without resorting to complicated theory: 'In the eyes of those of the republican tradition, the limits the constitution places on the government ... [would be] readily understood by all'.¹⁵⁶ In his version of republicanism people draw their 'understanding of themselves and the meaning of their lives from their participation with others in a social world they actively and jointly create', reiterating Pocock's idea that human nature can only be fulfilled by active participation in self-government. According to Daniel Rogers, despite the concept of republicanism being one of the success stories of the 1980's, the rise of the paradigmatic event met formidable obstacles, not least because 'the root texts of the republican synthesis were difficult to the verge of unreadability, highly intellectualistic, and in many respects as consensual as the

¹⁵⁴ Pocock. *Virtue, Commerce and History: Essays on Political Thought and History, Chiefly in the Eighteenth Centuries*. Cambridge: Cambridge University Press, 1985: 1-34.

¹⁵⁵ Pocock, "The Machiavellian Moment Revisited: A Study in History and Ideology," *Journal of Modern History* 53 (March 1981): 333-60.

¹⁵⁶ Tushnet, Mark. *Red, White and Blue: A Critical Analysis of Constitutional Law*. Harvard: Harvard University Press. 1988. See also, Hexter, J. H. Republic, Virtue, Liberty and the Political Universe *On Historians: Reappraisals of the Masters of Modern History* 1979.

consensus history they were designed to supplant'.¹⁵⁷ But, because of the 'vague and supple' nature of the paradigm, republicanism was both difficult for historians to define and therefore easy to manipulate for the ends its formulators and its antagonists alike.¹⁵⁸ By the time republicanism gained its full strength in the 1980's, it had become a massively complicated mixture of renaissance civic-republicanism, eighteenth-century liberal idealism, and twentieth-century theories of freedom. It would seem to the casual observer, that neo-republicanism is searching to recover the forgotten meaning of the term, having been lost in contemporary contributions.

Civic humanism is a theory of citizenship rather than liberty, but the citizenship provides the foundation for political liberty: the moral and rational faculties of individuals can only be fully developed if they act as citizens. It is by actively taking part in political life – performing ones civic duties – that one becomes virtuous. Pocock summarises this Aristotelian conception of the civic ideal: civic humanism denotes a style of thought in which it is argued that the development of the individual toward self-fulfillment is possible only when the individual acts as a citizen, that is, as a conscious and autonomous participant in an autonomous decision-making political community, the polis or republic.¹⁵⁹ The civic humanist ideal originated in the reassertion of the *vita active*: the ultimate goal of the citizen was to assert his virtue in (political) action (for the common good) of which the republic was the frame. Machiavelli claimed that an armed people would be a politically active people, like Republican Rome – who had armed the people. But a people who bore arms only in subjection to a powerful few were not exercising their *virtu*, while the powerful few had lost their *virtu* through the corruption of their powers. *Virtu* could only be maintained through equality. None were to be subject to anything other than the

¹⁵⁷ Rogers, Daniel T. "Republicanism: the Career of a Concept. *The Journal of American History*". (79) 1. June 1992: 12.

¹⁵⁸ Shallhope, Robert E. "Toward a Republican Synthesis". *The William and Mary Quarterly*, Third Series, Vol. 29, No. 1 (Jan., 1972): 49-80. See also Appleby, Joyce. "Republicanism in the History and Historiography of the United States". *American Quarterly*. Special Issue: (37) Fall 1985: 72.

¹⁵⁹ Pocock, J.G.A. *Civic Humanism and Its Role in Anglo-American Thought. Politics, Language and Time*. New York: Atheneum, 1971: 85.

public power.¹⁶⁰ In this civic humanist tradition the republic appears as a mixture of a balance of three independent powers (or virtues), the one the few and the many. These were modes of political action and intelligence. In most versions, the virtues pertained to: in the one - leadership, in the few, reflective wisdom and prudence, and in the many, military.¹⁶¹ In the tradition of Aristotle, it was important to be able to assign to each group the political function appropriate to its virtue and cause it to serve the common good and maintain the balance of powers (virtues). *Whereas contemporary republicanism rejects monarchy, civic humanism and early modern republicans did not reject monarchy outright. Instead, they reject tyranny in whatever form that appeared: monarchy, aristocracy, or the tyranny of the majority (democracy). The ideal form of governance for the civic humanist and early modern republicans would be a mixed government based on virtue and the pursuit of the common good through civil society.*

Humanism motivated the translation and study of early modern texts and was a major influence on the development of political thought in Scotland and pre-civil war England, encouraging the ideas of virtue and honour on public life, and gravitas, emulating the Roman ideals found in the newly translated texts.¹⁶² The humanist scholarly experience emphasised secular historical analysis and political interpretation which influenced political analysis and ideas of public life. Blair Worden insists that humanism encouraged alertness to the contrasting characteristics of the various forms of government – monarchical, aristocratic, democratic and mixed – as identified by the early modern writers.¹⁶³ Despite this genuine republicanism was not embraced as a concept in England until the 1640s despite the works by Italian republicans and about Italian republics being translated into English at the end of the sixteenth-century and

¹⁶⁰ Pocock, J.G.A. (ed). *The Political Works of James Harrington*. Cambridge: Cambridge University Press, 1977: 18.

¹⁶¹ In Machiavelli's version: in other versions the many was common sense, or experience.

¹⁶² Worden, Blair. "Republicanism, Regicide and Republic: The English Experience". In Martin Van-Gelderren and Quentin Skinner. *Republicanism. A Shared European Heritage. Volume I* Cambridge: Cambridge University Press, 2002. He notes that this preoccupation with the early modern forms of government produced as much praise for monarchs as it did criticism, and therefore we should not assume that political thought in England and Scotland was dominated by thoughts of any 'ideal republic' without a monarchical head of state..

¹⁶³ Worden, *ibid*: 310.

finding readership amongst parliamentarians and the landed gentry.¹⁶⁴ English republicanism grew out of the desire to protect the constitution from the increasing threat of overly ambitious and absolutist princes in Europe, especially the Stuarts in Britain. Monarchical prerogative was eroding the institutional safeguards against tyranny; Charles I had been beheaded at the end of the civil war and Charles II had fled to France after his defeat by Cromwell at Worcester. In 1651, Cromwell declared Scotland and England to be one Commonwealth, leaving Scotland without a legally constituted government.

It is as a response to this that Harrington's *Oceania* (1656) calls for a return to the republican principles of early modern antiquity: wisdom, virtue and martial discipline. Unlike the *de facto* writers before him, he does not attempt to make sense of the English Civil War through theories of ability as legitimacy, but through patterns of social change. He wants to locate political order and institutions immune from the corruptibility of all the previous existing governments. Harrington calls for a return to the republican principles of early modern antiquity: wisdom, virtue and martial discipline. Unlike the *de facto* writers before him, he doesn't seek to make sense of the English Civil War through theories of ability as legitimacy, but through patterns of social change. He wants to locate political order and institutions immune from the corruptibility of all the previous existing governments. Harrington believes that laws shape history – that there are universal rules or an underlying force within the social order that is a guide to all political life – and that these laws can be discovered through a rigorous study of the European past.¹⁶⁵

A great admirer of Machiavelli, Harrington's *Oceania* is a model state whose stability is based upon governmental rule which represents the economic structure of society. According to Harrington, a stable government can only be secured so long as

¹⁶⁴ See Worden, Blair. Marchmont Nedham and the Beginnings of English Republicanism 1649-1656, in Wooton, David. *Republicanism, Liberty and Commercial Society, 1649-1776*. Stanford: Stanford University Press, 1994: 46.

¹⁶⁵ Pocock, J.G.A. (ed) *James Harrington: The Commonwealth of Oceana and A System of Politics*. Cambridge: Cambridge University Press, 1992: 24.

the political structure reflects the distribution of economic power in the nation. When the political structure fails to reflect the balance of power, the result is an unstable and weak foundation. Monarchy is only appropriate when the monarch controls the military class through ownership of the bulk of property. Power sharing is required when a bulk of the power – i.e. land and military capabilities – is owned by a broad section of landholding aristocracy or freeholding landowners.

For Harrington, the proper form of government is always dictated by a power arrangement founded in the balance of property ownership – the means of power. The consent of and consultation within these institutions was decreasing despite the general belief that the good will and cooperation of the nobility and landed freeman was necessary for effective rule. Only by adopting the principle of popular sovereignty, with an emphasis on moral dimensions of self-government and its practical outcomes, could an organised society hope to achieve its highest goals. When individual citizens are both empowered and obliged to take an active role in public affairs – and only when equality and personal liberty are secured – can the state realise its potential for greatness and the common good. Courage and public spirit (and the willingness to take a role in common business, the *res publica*), a rejection of luxury and corruption, and sense of liberty that does not require the sacrifice of private interest for public good, are necessary for civil society to flourish. It is not the well-being of individuals that makes cities great, but the well-being of the community; and it is beyond question that it is only in republics that the common good is looked to properly.¹⁶⁶ While the wisdom of the commonwealth may be held in the aristocracy (the few), the interest is in the entire body of the people. ‘The wisdom of the few may be the light of mankind, but the interest of the few is not the profit of mankind, nor of a commonwealth’.¹⁶⁷ Therefore, mandatory rotation of the elected members of the legislature would guarantee equal access and frustrate the formulation of faction.

¹⁶⁶ Machiavelli, Niccolo. *The Discourses*. Book 2 ch 2. New York: Penguin Classics, 1984.

¹⁶⁷ Pocock, *James Harrington*, *ibid*: 24.

Pocock suggests that Harrington wrote the *Oceana* 'less to justify the fall of the English monarchy than to explain it, and this is why the work is so important'.¹⁶⁸ It was for historical necessity and not for any abstract theory of natural rights that made all alternatives to republicanism unworkable and unjust.¹⁶⁹ Corruption is a result of political instability and not the cause of political malaise, the fault lay principally with a political structure out of sync with the economic realities of the day. For Harrington and his successors such as Fletcher, corruption is the lack of public spirit. Neo-Harringtonian's have since attempted to assimilate the anti-monarchical ideas of Harrington with the Whig notion of balanced constitution and limited monarchy.

Isaiah Berlin has claimed that surrendering individual liberties in return for political freedom is the basis for totalitarianism and gave birth to the two most destructive totalitarian regimes of the twentieth-century; fascism and bolshevism. He seeks to find why the idea that sacrificing individual liberties 'on the altar of the community' is considered not an absolute loss, but acceptable and necessary, and as the theoretical legacy of humanist individualism, the Enlightenment and liberalism.¹⁷⁰ Berlin claims that the sacrifice of personal liberty for political freedom has only resulted in the annihilation of the self-government of the political community; political liberty is replaced by the need for security and resignation from both personal liberty and political freedom. As a consequence, the absolutists and elitists arose to totalitarianism.¹⁷¹ The fundamental core of Berlin's stance is that personal and political freedoms cannot be sacrificed one for the other, nor can one replace the other. By contrast liberty means there is no restraint upon those conditions which, in modern civilisation, are the necessary guarantees of individual happiness. There is no liberty if a dominant opinion can control the social habits of the rest without persuading the latter that there are reasonable grounds for the control. The paradox of self-

¹⁶⁸ Pocock. *passim*.

¹⁶⁹ Pocock. *Ibid*: ix.

¹⁷⁰ Zoltan Denes, Ivan. "Personal Liberty and Political Freedom". *European Journal of Political Theory*. Vol 7 no 81, 2008 : 82.

¹⁷¹ Berlin, Isaiah. *The Crooked Timber of Humanity: Chapters in the History of Ideas*. Henry Hardy (ed) New York: Alfred and Knopf, 1991: 91-239.

government is that certain restraints on freedom are necessary to add to individual happiness; no man stands alone, his liberty is never absolute; 'imposition, broadly speaking, is essential to liberty since it makes for peace; and peace is the condition of continued liberty'. 'A man's citizenship is the contribution of his instructed judgement to the public good, and right action is action upon the basis of that judgement'.¹⁷²

Berlin contends that the early modern liberal (negative) notion of freedom:

' (...) Is not, at any rate, logically, connected with democracy or self-government. Self-government may, on the whole, provide a better guarantee of the preservation of civil liberties than other regimes, and has been defended as such by libertarians. But there is no necessary connection between individual liberty and democratic rule. The answer to the question 'Who governs me?' is logically distinct from the question 'How far does the government interfere with me?' it is in this difference that the great contrast between the two concepts of negative and positive liberty, in the end, consists. For the 'positive' sense of liberty comes to light if we try to answer the question, not 'What am I free to do or be?', but 'By whom am I ruled?' or 'Who is to say what I am, and what I am not, to be or do?' The connection between democracy and individual liberty is a good deal more tenuous than it seems to many advocates of both. The desire to be governed by myself, or at any rate to participate in the process by which my life is to be controlled, may be as deep as a wish that for a free area for action, and perhaps historically older. But it is not a desire for the same thing. So different is it, indeed, as to have led in the end to the great clash of ideologies that dominate our world. For it is this, the 'positive' conception of liberty, not freedom from, but freedom to – to lead one prescribed form of life – which the adherents of the 'negative' notion represent as being, at times, no better than a specious disguise for brutal tyranny'.¹⁷³

¹⁷² Laski, Harold. J. *Liberty in the Modern State*. London: Penguin Books. 1937: 159.

¹⁷³ Berlin, Isaiah. *Liberty – Incorporating 'Four Essays on Liberty*. Henry Hardy (ed). Oxford: Oxford University Press, 2002: 177-8.

Berlin understands self-government as a democratic regime. The republican also adopts a democratic position which it attempts to incorporate into representative and participatory frameworks of government. It is a concept of liberty based on both the negative structure of freedom from domination, and a positive perception of freedom to participate, which gives a rich notion of self-government that is attractive and important to the civic republican ideal. It is the positive conception of political liberty that is carried through to the seventeenth-century republicans. This is in contrast to the liberal theory of the later seventeenth-century English and American observers who recognise the individual's natural freedom as freedom from the interference of government; the protection of one's private life and property from any external threat. The discourse of freedom based on individual rights is carried to the limitation of government to the extent of attempts to draw a juridical barrier between a free citizen and their government. Robert Nozick puts it most succinctly: 'individuals have rights, and there are things no person may do to them (without violating their rights). So strong and far reaching are these rights that they raise the question of what, if anything, the state and its officials may do'.¹⁷⁴

It is Richard Fallon Jnr's belief that the revival of interest in republican theory had nothing to do with an 'historical fascination' or an interest in the American constitution-framers' intent, but rather a 'straightforwardly normative or political' source originating from intellectual dissatisfaction with liberalism.¹⁷⁵ Fallon, borrowing from Rawls, defines liberalism here as insisting that the individual is the subject of moral value. In order for society to be just, the individual's rights must be enforced even-handedly.¹⁷⁶ The republicanism being revived encompasses a few core tenets: that human beings are political, that they can only fulfill their natures by participating in self-government, promoting virtue in the community and advancing the common

¹⁷⁴ Nozick, Robert. *Anarchy, State and Utopia*. Basic Books, 1975: ix.

¹⁷⁵ Fallon, Richard H. "What is Republicanism and is it Worth Reviving?" *Harvard Law Review*, vol 102, no 7 (May 1999): 1696.

¹⁷⁶ See Fallon, *ibid*: 1697 and Rawls, John. *A Theory of Justice*. Harvard: Harvard University Press, 1971.

good.¹⁷⁷ He regards Pocock's 'paradigm of early modern republicanism' as a 'poor candidate for contemporary adoption', because the central tenets of virtue and the public good are 'highly uncongenial to modern ontology and epistemology'.¹⁷⁸ He rejects the Pocockian version of republicanism for its inapplicability to modern life, assuming that most people no longer believe in a public good that can be anything other than a version of individual good. His question, therefore, is whether the revived republicanism is the same republicanism studied by historians like Pocock, or some reformulated and modern version.¹⁷⁹ It is with this argument that we can highlight the fundamental weakness in any contemporary republican theory that relies on liberal understanding; that is its emphasis on the liberty of the individual and its neglect of the common good as a moral and political motivator.

Fallon is just one of several neo-republican approaches identifiable in contemporary international relations theory, and there are concurrent themes discernible throughout: the civic virtue; the search for the common good and the proper conduct in public affairs - and what this means to concepts of freedom and private interest - equal and independent political participation; and participation with an emphasis on duty and responsibility. Worden identifies only two types of republicanism: constitutional republicanism which he associates with Quentin Skinner and civic republicanism, adopted by Pocock in his influential *Machiavellian Moment*.¹⁸⁰ He discusses the work of Beard and Morgan amongst others, but there is no doubt the most difficult text to come to terms with is Pocock's *Machiavellian Moment*; according to Pocock, deliberately so.¹⁸¹ For Pocock, the importance of republicanism lies in the contingency of history: he attempts to overturn the individualist paradigm that assumes any developments in the history of political thought from the time of

¹⁷⁷ Fallon, *ibid*: 1697, see also Pocock, *the Machiavellian Moment, ibid.* and Arendt, Hannah. *On Revolution*. New York: Penguin Books, 1963:115.

¹⁷⁸ Fallon, *ibid*:1698, see also Michelman, Frank I. Foreword: "Traces of Self-Government". *Harvard Law Review* 4, 1986: 4-75.

¹⁷⁹ Fallon, *ibid* :1969.

¹⁸⁰ Worden, "Republicanism, Regicide and Republic: The English Experience", *ibid*. See also Tully, James. (ed), *Meaning and Context: Quentin Skinner and his Critics*. Princeton: Princeton University Press, 1988 and Pocock, *The Machiavellian Moment, ibid*.

¹⁸¹ Pocock, "The Machiavellian Moment Revisited", *ibid*: (53) 1.

Machiavelli are contributions to the liberal vocabulary. This is in contrast to Skinner's neo-Roman republicanism in which he emphasises the association of citizens for juridical order and common interest – in this deontological approach, civic participation is not an end in itself but an instrument to attain liberty.

This is to overlook the contribution Pettit and Viroli have made to the republican tradition. Viroli regrets the decline in civic consciousness, and hopes to revive civic concerns. Viroli claims that republican patriotism is vital for preserving self-government, and can only be achieved through participation in the life of the republic, but this patriotism has been denied as a sound basis for contemporary politics.¹⁸² Pettit recognises a completely republican idea of freedom which he traces back to the Roman Republic. In his proposal for freedom as non-domination, the citizen would be immune from any and all arbitrary control. This is different from the idea of freedom as non-interference because this freedom, in the liberal paradigm, does not guarantee non-domination. As can be seen in the master/slave relationship; a master who does not interfere in his slave's decisions is no less a master and does not free the slave from non-freedom.¹⁸³ Pettit opposes the liberal conception of freedom as an absence of interference towards a republican conception of freedom as an absence of domination. In this sense, he defends the traditional distinction between positive freedom and negative freedom, and does not answer to a modern republican conception. In order to guarantee a republican freedom, the states themselves must be that freedom, and not the guarantors of it. Put simply, the institutions constitute the freedoms of the state. This republican freedom should respect the rule of law, the separation of powers within a two chamber system of decentralisation, and the defence of the civic reality – the defence of non-domination as the organisation element can only be guaranteed if everyone recognises and respects it.

¹⁸² Viroli, Maurizio. *Republicanism*. New York: Hill and Wang, 2001, more on which shall be seen in the critique of Halldenus' cosmopolitan republicanism.

¹⁸³ Pettit. *Republicanism: A Theory of Freedom and Governemnt*. Oxford. Oxford University Press, 1997

Early modern republicanism denies any separation between public and private rights or goods; rights cannot be defined independently, and because of its assumption that the good is only identified through political participation and deliberation amongst equal citizens, it is right that the government take steps to mould the character of its citizens. This paternalistic system of government is not, and cannot be made to be, acceptable in a modern world – most of us would likely apprehend such as a form of tyranny. It is easy to see why then, republicanism's assumed counterpart, liberalism, is the predominant theory in the western world and the one that gained most approval in the eighteenth-century, especially following the American Revolution. It regards the human being as the ultimate subject for moral and political action, and aims to protect the individual from oppression or injustice (in this view injustice refers to a disregard for rights). It therefore requires limitations to be placed on the legislators, ensuring the individual's rights are met. Contemporary civic republicans are bound by the limitations the predominance of liberal theory; its concepts and language of the individual, have placed on contemporary politics and as such have struggled to present civic republicanism, with its language of 'the common good', or Rousseau 'common under the supreme direction of the general will', as a viable option.¹⁸⁴

Yet no contemporary republican theory is advocating a government's entitlement to dictate the moral actions of its citizens. Public action is indeed legislated, but political participation cannot be made a moral norm. It might just be the case therefore, that republicanism is a counter-ideology advanced to criticise liberalism, and not one to be adopted as an ideal-type. This is certainly how Tushnet approaches the subject, determining the central assumptions of liberalism and using republican ideals to critique either its usefulness, or to suggest that liberalism itself is more republican in scope than it cares to be. Tushnet argues that liberal theory requires public criteria for the critical judgment of legislation and political rulings, subjecting the legislators to significant restraints – however, liberal practice is not

¹⁸⁴ Rousseau. *The Social Contract*. Cosimo Classics New York. 2008 : 192

constrained in the way that liberal theory requires. According to Tushnet, ‘the techniques of legal reasoning...are so flexible that they allow us to assemble diverse precedents into whatever pattern we choose,’ and therefore judges can ‘do whatever they want’.¹⁸⁵

The revival of republicanism has not been a rehash of the early modern republican values and norms. The paradigm of early modern republicanism fails to address contemporary concerns for individual liberties in a way that is considered acceptable to modern liberal theorists. But rather than abandon early modern republicanism entirely, contemporary republican theorists attempt to suggest non-threatening political action designed to transform society only to a point to which republicanism again becomes credible, while the paradigm of early modern republicanism is limited to the subset of traditional ideals that coincide with contemporary belief structures. Alisdair McIntyre for instance, believes that some form of Aristotelian republicanism, despite perhaps being incompatible in a society morally fragmented along individualistic lines, may have coherence in contemporary politics as the metaphysical and epistemological assumptions of republicanism can be credible in a genuine form of moral community, namely, local forms of community within which civility and the intellectual and moral life can be sustained, (if the traditions of virtue can survive), through ‘the new dark ages which are already upon us’.¹⁸⁶

Fallon suggests two alluring reasons for the popularity of republicanism. First is Michael Sandel’s claim that ‘when politics goes well, we can know a good in common that we cannot know alone’,¹⁸⁷ and second, Michelman’s claim that republicanism promises a more encompassing positive freedom, as opposed to the negative freedoms offered by liberalism – the freedom of prescribing to one’s self, across a more encompassing domain, the laws to which one will be subject.¹⁸⁸ Sandel’s is a

¹⁸⁵ Tushnet, *ibid*: 56.

¹⁸⁶ MacIntyre, Alisdair. *After Virtue: a Study of Moral Theory*. Notre Dame: University of Notre Dame, 1981: 263

¹⁸⁷ Sandel, Michael. “Democrats and Community”. *The New Republic*. No 8. Feb 22, 1988: 20.

¹⁸⁸ Michelman, Frank. I. “Law’s Republic”. *Yale law Journal* Vol 97, 1988:1502.

morally restrictive republicanism which is problematic in contemporary politics, ascribing a moral guardianship to the state. Sandel suggests two governmental initiatives at the local level that are in accord with early modern republican ideals. The first is economic in character, including legislating against ‘the unrestrained mobility of capital, with its disruptive effects on neighbourhoods’, and the protection of jobs. The second involves moral legislation including the prohibition of pornography and other vices, as well as local control of education.¹⁸⁹ Again, the problem with this model is in the assumption that the government can and should be responsible for and legislate the private moral choices of the individual.¹⁹⁰

Both these approaches fit the republican model of freedom through self-government, and the resistance to individual rights as a limit on political action, however, they are beset with problems, not least the threat to the local economy as businesses move to where there is no such restrictive protection, and the liberal response to intolerance and individual rights. Few modern republicans would shun judicially protected individual rights totally in favour of the community, threatening the basic assumptions of the republican tradition and the republican claim to a clear distinction from liberalism. As Fallon suggests, republican revivalists can abandon the tradition’s characteristic stance, if they so wish, but to do so is to embark in a ‘substantial revision of historical republicanism’.¹⁹¹ Fallon claims that the problem with efforts at a contemporary model of republicanism is twofold: if it falls too close to early modern republicanism it risks ‘foundering on modern philosophical sensibilities’; however, if it departs too far from the early modern example, it hazards losing all of its republican distinctiveness. It is here that Fallon misses a very fundamental truth about early modern republicanism: the early modern paradigm never did have such distinctiveness as he makes out, nor did it ever depart from what were then the philosophical sensibilities, nor does it need to now to be considered republican.

¹⁸⁹ Sandel, Michael. *Public Philosophy: Essays on Morality in Politics*. Harvard: Harvard University Press, 2005: 6, 23, 173.

¹⁹⁰ Not unlike Fletcher who asserted that young men in the militia should be flogged for masturbating.

¹⁹¹ Fallon. “What is Republicanism and is it Worth Reviving?” *ibid*: 1725

The central point of early modern republicanism is the commitment to freedom and equality which is achieved through self-government, or the people giving themselves their laws and liberties through political action and law formation.¹⁹² This model certainly does not seem to depart from modern philosophical tendencies nor the model of republicanism as can be found in the ideas of Machiavelli, seventeenth-century England, or the eighteenth-century commonwealth-man. It can be conceded that if the allure of republicanism is in its promise of individual autonomy, then law-making would be impossible, but the autonomy which the republican paradigm defines is not a fully liberal conception of absolute non-interference, but as Pettit suggests, non-domination.

Michelman offers an alternative form of republicanism than Sandel, based on 'practical reason'. Although today we may hold that it is perhaps impossible for individuals acting equally and without coercion to agree to the appropriate resolutions to moral and political issues, we may imagine a possible world in which individuals can hold a conversation in which they agree to appropriate resolutions to moral and political issues.¹⁹³ If we can imagine this civically motivated republican conversation taking place, then we can be enriched by the ideal of positive freedom it exemplifies.

Building on the moderate republican proposals of Sandel and Michelman, Amatai Etzioni postulates a 'moderate communitarian proposal'; avoiding the extreme ends of communitarianism, regarded by some critics as ascribing supreme value to the community itself to the detriment of the individual, and the libertarian ignorance of the community in favour of the dominant value of the individual.¹⁹⁴ He rejects the libertarian view that there are only individuals with individual lives, arguing that 'if one

¹⁹² Michelman, *ibid*: 1493.

¹⁹³ Michelman, *passim*.

¹⁹⁴ Etzioni, Amitai. "A Moderate Communitarian Proposal". *Political Theory*. Vol 24. No 2 (May 1996):155-171. Referring to Philips, Robert. L. "Communitarianism, the Vatican, and the New Global Order". *Ethics & International Affairs*. Vol. 5, issue 1. (March 1991):135-147, Furthermore, Etzioni proposes the term 'libertarian' as an alternative and less obfuscating label for the 'confusing' labels of 'early modern and contemporary liberal used to characterise the critics of communitarianism. See Etzioni, "A Moderate Communitarian Proposal", *ibid*: 168, note 1.

views the community as merely an aggregation of individuals joined for their convenience, one leaves out the sociological need for affective (nonrational) bonds as counterweight to centrifugal forces that seek to disperse communities. One also does not take into account the pivotal role of these bonds in sustaining common values that in turn provide criteria for community-wide shared decisions and policies. He also rejects an altogether communitarian proposal as the community as the sole source of social order and authority as it leaves an 'insufficient basis for individual freedom and individual rights'.¹⁹⁵

Instead, Etzioni sees a third way, namely, recognising the necessity of fusing the two conceptual frameworks together. Using the I and We notation he outlines the assumption that individuals act within a social context and this context is not reducible to an individual act. Instead of the social act being a 'conscious transaction among individuals', it is a 'legitimate and integral part of one's existence'. Both the individual and society rely on one another for survival. In this symbiotic relationship, the individual provides the creativity for change and fulfilment, and the community is the source of service for shared needs and stability.¹⁹⁶ What is necessary is not a focus on individualism (libertarian) or community (communitarianism) but a balance between the two, between the I and the We. Both have the same sociological and moral standing, it is the historical context which dictates which element needs to be 'nourished' at any given time.¹⁹⁷

This is not an altogether radical idea and is certainly not new or contemporary in style or focus. This communitarian proposal fits well within the republican model, before it lost its way amongst the predominant liberal theories. Harrington, Fletcher and Machiavelli recognise the mutual needs of society and the individual – an interdependence that could provide the stability and development required in an age of growth and the coming empire. It is a recognised underlying principle of the

¹⁹⁵ Etzioni, *ibid*: 156.

¹⁹⁶ Etzioni, *ibid* : 157.

¹⁹⁷ Etzioni, *ibid*: 157.

eighteenth-century commonwealth-man and liberals alike. The early modern republicans recognise the need for balance, it just so happens that at the turn of the eighteenth-century, it was the community that needed nourishing, the excessive individualism recognised as the source of corruption to the detriment of society, and as a direct consequence, the individual. There is, in the early modern republican realm, an opportunity for such pluralism as suggested by Etzioni to make a meaningful contribution to both debates about and the practice of politics – but it is one that is largely ignored.¹⁹⁸

Republican Liberty – Freedom by the sword

The republican term of liberty is not a theory based on the individual, but on the commonwealth. Liberty comes from political participation creating laws on behalf of oneself, and the public good, avoiding arbitrary rule – it is a theory based on the concept of non-dominance.¹⁹⁹ When the likes of Machiavelli and Harrington, and the early modern republicans that follow, consider the freedom of states, they are employing the same method of freedom of the state as they do the freedom of the freeman. In order for civil society to be free, it must be capable of acting according to its free will, *viz.* the public interest of its citizens. Republicanism is a phenomenon closely associated with antiquity whereas liberalism is associated with modernism.

Vicki Sullivan attempts to reconcile these ‘contradictory’ terms in *Machiavelli, Hobbes and the Formation of Liberal Republicanism in England*.²⁰⁰ Liberalism posits that political legitimacy comes from the consent of the individual. By nature all are equal and free, and therefore there is no natural governor or governed. Political authority of one over another only exists when the other has given his consent to be

¹⁹⁸ Andrew Fletcher actively promotes pluralism in his individual community proposals, I shall provide an in-depth analysis of Fletcher’s pluralist republicanism in a later chapter.

¹⁹⁹ A term borrowed from Pettit. *Republicanism*, 1997. Although the early republicans would not have recognised this term themselves, as will be shown later, Fletcher has a similar conception of non-dominance, which he refers to as non-dependence and independence.

²⁰⁰ Sullivan, Vicki B. *Machiavelli, Hobbes and the Formation of Liberal Republicanism in England*. Cambridge University Press: Cambridge, 2004.

ruled. Political authority – or government – is established by the individual in order to ensure his natural rights are protected, because law is necessary for the protection of rights and recourse to punish violators required. Thus the government is established to serve the individual. The individual comes before the state; the state is therefore a human construct designed specifically to serve the individuals needs and protect rights.²⁰¹ The most important function of the government is to protect the individuals' interests and property. Locke suggests a moderate form of monarchy as the best option. This is contrary to the republican ideal of individual contribution: political participation; active citizens; to the government for the enhancement of the common good etc. The state is put before the individual. As Montesquieu posits, the moderns find striking the degree to which the citizens of ancient states would put the interest of the state before their own: '[p]olitical virtue is a renunciation of oneself, which is painful'²⁰²; '[l]ove of the homeland leads to goodness in mores, and goodness in mores leads to love of the homeland'.²⁰³

Quentin Skinner, in discussing the concept of political liberty and the early republican theorists – Machiavelli, Sydney and Harrington – tells us they rarely if ever place their main emphasis on the importance of ruling, rather, they are principally concerned with what it means to be a free man living among other free men in civil society.²⁰⁴ What it means to be free is not to be dependent on the goodwill of another. He shows us that the neo-Romans, as they have been called, hold a distinctive idea of liberty, namely that liberty does not come from self-rule; the people do not wish to rule, but rather liberty comes from not being ruled, certainly not being ruled in an arbitrary way. Skinner is right to highlight that the early theorists rarely speak of rights as claims standing outside the boundaries of the state enabling us to judge its legitimacy, and discuss the relations between states and citizens without appealing to

²⁰¹ Sullivan, *ibid*, :2

²⁰² Montesquieu, *The Spirit of the Laws*. Cohler, Miller and Stone (eds) Cambridge: Cambridge University Press. I.3.3

²⁰³ Montesquieu, *ibid*, I.4.4

²⁰⁴ Skinner, Quentin. "On the Slogans of Republican Political Theory". *European Journal of Political Theory*, January 2010 vol. 9 no. 1: 95-102: 97.

the language of rights. Yet he is also right to insist that it is not anachronistic to 'reformulate' the claims about the objectionable nature of arbitrary power in terms of the denial of rights, as the Roman law concept of *sui iuris* that can be expressed in the point that 'if you lose your status of a freeman, you will find yourself bereft of civil rights'.²⁰⁵

So, Skinner challenges the assumption that liberty and political participation can only be connected along Aristotelian lines of the good life; liberty in this republican negative conception can only be present if positive conditions such as civic virtue apply. Freedom of the citizenry depends on the freedom of the state. There are two ways in which the body politic can lose its capacity to act according to its own will. According to Skinner, the loss of standing as a free state occurs when: the power of the state falls under the control of anyone other than the sovereign body of citizens; or into a condition of dependence upon the will of another state as a result of conquest; or any process that has the effect of bypassing the will of the citizens as the source of law.²⁰⁶ The loss of the states freedom reduces the citizen to a state of dependence on another, and so thereby it removes their individual freedom as well.

According to Sullivan, English writers such as Sydney, Nedham, Harrington and Neville, Trenchard and Gordon all attempt to reconcile the inherent contradictions between republicanism and liberalism. Sullivan suggests that the neo-republicans merge republicanism with liberalism by finding that republicanism provides a means for the people to protect their natural rights and pursue happiness within the public arena. Self-interest motivates leaders and therefore the public realm is a vigorous place of political activity and efforts to secure individual rights and thus the public good. The vigorous public activity that takes place serves the private realm.²⁰⁷ Pocock tells us 'There is a conventional wisdom to the effect that political theory became

²⁰⁵ Skinner, *ibid*: 98.

²⁰⁶ Sullivan. *Ibid*:99.

²⁰⁷ Sullivan. *Ibid*: 14.

“liberal” – whatever that means, and whether or not for more or less Marxist reasons – about the time of Hobbes and Locke, and has in America remained ever so since’.²⁰⁸

There have been recent attempts to revive alternative traditions to moderate the liberal stranglehold over political theory, and considerable interest in the republican tradition since the 1960’s. Most influential in this revival has been Pocock’s *Machiavellian Moment*, in which he traces the civic humanist model from its Aristotelian roots through to 18th Century Britain and the American Revolution, challenging the reigning liberal paradigm en route. He does admit that he is overstating the republican tradition, replacing Locke with Harrington in importance in the eighteenth-century, but sees this as a temporary and tactical necessity in the battle against the entrenched liberal synthesis.²⁰⁹

While Pocock provides an authoritative and highly regarded treatment of the republican tradition, there is a fundamental methodological problem with his thesis. Pocock overstates the theoretical incompatibility of liberal and republican paradigms, and is guilty of what Skinner would classify as anachronism; in particular, he places Aristotle neatly in the parameters of republicanism, ignoring the valuable contribution his theory of polity may make to contemporary liberal and communitarian politics. Onuf, on the other hand, suggests that the transition from eighteenth-century republicanism to nineteenth-century liberalism was more assimilating; in his opinion republics became liberal, yet remained republics, while cosmopolitan republicanism ‘faded into liberalism’.²¹⁰

Freedom as recognised within a republican framework has focused around the Aristotelian tradition which maintains that an individual’s spirit can only fully be realised through political participation, his potential as a social being is only found in

²⁰⁸ Pocock, J.G.A. “The Machiavellian Moment Revisited”, *ibid*: 364.

²⁰⁹ Pocock, *ibid*: 424, 527.

²¹⁰ Onuf, Nicholas. *The Republican Legacy in International Thought*. Cambridge: Cambridge University Press, 1998: 20.

his essential political existence. More recently, the Scholarship of Skinner and Pettit have challenged this claim, asserting the neo-Machiavellian republicanism which recognises negative liberty as it relates to the non-domination of others.²¹¹ A commitment to citizenship and civic virtue is a pre-requisite to living in a free state, they claim, and according to Skinner, an essential component of republican liberty is that it guarantees personal liberty, 'understood in the ordinary sense to mean that each citizen remains free from any elements of constraint (especially those which arise from personal dependence and servitude) and in consequence remains free to pursue his own chosen ends'.²¹²

This version of Neo-Republican or Neo-Machiavellian republicanism equates personal freedom with public freedom, an amalgamation that is unnecessary in the early modern republican paradigm which holds personal liberty as unnecessary for public liberty, and certainly not a necessary liberty. In fact, this is what gives early modern republicanism its distinction from liberalism. The individual liberties are forfeited in favour of the public good, and the freedom of the community, civic virtue is more important than any claim to a right of non-domination. By approaching republicanism from either the historical (Pocock, Skinner) or normative (Pettit) modes of analysis, either fails to articulate an alternative to the dominant liberal discourse. Given Skinner's understanding of liberty within a neo-Roman conception – that assumes liberty is absence of fear – he challenges liberals to consider the various institutions and practices that are characteristic of dependence, but not necessarily indicative of non-liberty.

Republicanism and Liberty

What the neo-Roman writers repudiate *avant la lettre* is the key assumption of early modern liberalism to the effect that force or the coercive threat of it constitutes

²¹¹ Skinner. "The Idea of Negative Liberty: Philosophical and Historical Perspectives", in R. Rorty, J. Schneewind and Q. Skinner (eds) *Philosophy in History*. Cambridge: Cambridge University Press, 1984: 193–221.

²¹² Skinner, *passim*.

the only form of constraint that interferes with individual liberty. The neo-Roman writers insist, by contrast, that to live in a condition of dependence is in itself a source and form of constraint.... To live in such conditions is to suffer a diminution not merely of security or you liberty, but of liberty itself.²¹³ Skinner is proposing that the absence of dependence given in his theory of republican liberty is a more appropriate and durable account of liberty than we may find in any liberal conception. As Halldenius helpfully reminds us, a further important distinction can be drawn at this point between liberal and republican understandings of liberty.²¹⁴ According to the former, civil laws are inevitably the enemies of individual liberty, since their imposition always involves the use of force or the threat of it. But according to the latter, any civil law which I help to enact, and to which I agree to submit myself, can be construed as an expression of my will rather than a restriction upon it, and must therefore be compatible with my liberty.

This idea of freedom as non-domination recognises that liberty is achieved under the condition where one lives in a common society but is at the mercy of none. Of course, as Pettit recognises, one may live within society, subject to some agency – a law or government – without being dominated.²¹⁵ Domination is defined as one person dominating another if and only if they have a certain power over that other, in particular a power of interference on an arbitrary basis.²¹⁶ According to Pettit, this republican conception of freedom as the ‘absence of mastery by others’ or non-domination, is a negatively based conception of freedom that incorporates positive elements, because ‘the condition of liberty is explicated as the status of someone who, unlike the slave, is not subject to the arbitrary power of another, that is, someone who is not dominated by anyone else.’²¹⁷

²¹³ Skinner. *Liberty Before Liberalism*. Cambridge: Cambridge University Press, 1984: 84.

²¹⁴ Halldenius, Lena. “Building Blocks of a republican Cosmopolitanism. The Modality of Being Free”. *European Journal of Political Theory*. Vol. 9 No 1. 2010: 12-30

²¹⁵ Pettit, Richard. *Republicanism: A Theory of Freedom and Government*. Oxford: Oxford University Press, 1997: 51-79.

²¹⁶ Pettit. *Republicanism*, *ibid*: 52

²¹⁷ Pettit, *ibid*: 21-22.

In order to have arbitrary power or dominance, then, an agent must have the power to interfere arbitrarily with the interests of another agent without considering the interests of that other agent. If the agent whose interests are to be interfered with has been consulted, or his interests have been considered, then he is not in this regard being dominated, nor does the other agent have arbitrary power. Within a republic, the onus is on the interfering agent to ensure the interests of the other have been either tracked, or he has been consulted before acting – this is a ‘manifestation of civic virtue and civility’.²¹⁸ For Pettit, what constitutes domination is the fact that the holder of power has the capacity to interfere arbitrarily, even if they have no intention of ever doing so. It therefore follows that agents who are subject to others who may have the capacity to interfere arbitrarily with them are dependent on the will of others for their freedom and, therefore, are not free in the republican sense. Thus, agents are free to the extent that they are not subjected to arbitrary interference. Individuals’ interests may be interfered with, but as long as this is not arbitrary – the individuals’ interests have been tracked or considered – then it does not restrict their freedom. Indeed, it is this interference that, for republicans, helps secure liberty through properly constituted laws and institutions.²¹⁹ The crux of Pettit’s argument is that republican political theory offers a third way, a moderate theory which allows us to disregard the ‘false dichotomy between negative and positive liberty’. This is in line with an early modern conception of republicanism which seeks to limit the powers of the state, not through the abolition of the state or a very limited conception of governance, but a strong state with limitations on power.

John Maynor charges Pettit with making a fundamental mistake in his characterisation of republican liberty, one which leaves his model open to the liberal criticism that it is just another instrumental approach with no significant differences to make it meaningful. According to Maynor, Pettit overlooks the significance of the reciprocal power of non-domination, favouring the constitutional power which

²¹⁸ Maynor. John. W. “Another Instrumental Approach”. *European Journal of Ethical Theory*. July 2002 vol 1 no. 1 1996: 71-89.

²¹⁹ Pettit. *Republicanism*, *ibid*: 23.

emphasises the need for citizens to actively participate in politics to ensure the continued liberties which non-domination provides.²²⁰ In doing so, Maynor criticises Pettit for denying republicanism ‘a robust account of civic virtue and civility which helps to differentiate it from rival liberal approaches in a way which is compelling and attractive’.²²¹ Furthermore, in doing so he is giving weight to the arguments put forth by Rawls and Patten that the Neo-Roman version of republicanism put forth by Skinner and Pettit sides with liberals on these issues because, at its most fundamental level, it favours a negative sense of liberty. The thought is that the versions of citizenship and civic virtue of the neo-Roman republican approach are instrumental to the attainment and maintenance of negative liberty.²²²

However, as I will show in the discussion of the civic-republican theories of Fletcher, this conceptualisation of freedom still holds that it is neither the absence of interference or domination; it is the absence of mastery which is fundamental to liberty. In attempting to develop a model of republicanism that fits within our modern liberal sensibilities but is still distinctive enough from communitarianism (Etzioni), Pettit has uncovered the early modern conception of liberty which differentiates between private and public liberties. Interference is an essential aspect of liberty within the early modern republican tradition, as long as that interference is not arbitrary, because the citizens, through active participation allow that certain interferences secure liberty.²²³

Alan Patten is critical of what he calls this ‘instrumental republican’ approach which emphasises the importance of political institutions – forms of citizenship and civic virtue, and the intrinsic value of each – claiming that these are merely means to

²²⁰ Maynor. “Another Instrumental Republican Approach”, *ibid*: 77. It is essential that citizens play an active role to ensure the continuing amendment and checks on the laws and institutions which are created in their interests as the interests change, and ensure that the laws and institutions do not start to interfere in the interests of the people in an arbitrary manner.

²²¹ Maynor, *ibid*: 77.

²²² Maynor, *ibid*: 86.

²²³ Nowhere is the republican emphasis on freedom as non-domination more apparent than in the early modern republican arguments against standing armies that raged throughout the seventeenth and eighteenth-centuries. More on this in the following chapter.

an end for republicans. It is Patten's belief that republicans draw upon these issues to criticise liberals such as Dworkin and Rawls, and that there is no interesting difference between the two paradigms, or at least none that should matter to liberals, because instrumental republicanism does not offer any improvement on liberal attitudes.²²⁴ The underlying assumption of Patten's argument, and to those other liberals who agree including John Rawls and Will Kymlicka, is that contemporary republicanism has as yet failed to prove that there is any significant difference between it and liberal normative approaches, and thus it adds no value to contemporary debates.²²⁵ This argument is central to the hypothesis that instrumental and contemporary republicanism, according to Rawls anyway, is not in 'fundamental opposition' to liberalism.²²⁶

This is a common critique of contemporary republicanism, the proponents of which seem to have abandoned the fundamental suppositions which gave it its unique and practical attributes. Within early modern republicanism, there could be no assertion that civic virtue or social responsibility was merely a means to an end. But in this respect the liberal critics are wrong. Pettit offers a conception of liberty that is closest in form to that of the early modern civic republicanism as adopted in the sixteenth through eighteenth-centuries, based on a free society which is highly participatory and incorporates checks and balances, the rule of law, with a strong constitution based on equality and liberty. However, according to Patten, there is no special connection between Pettit's conception of negative liberty and public service: 'if freedom is understood as an absence of external constraints on one's activity, then it makes no sense to identify it with a life of active citizenship and virtue'.²²⁷ But, according to Pettit, 'the writers who identify with the broad republican tradition of thinking, take liberty to be defined by a status in which the evils associated with

²²⁴ Patten, Alan. "The Republican Critique of Liberalism". *British Journal of Political Science*, 26, 1996: 25.

²²⁵ Patten, *ibid*: 25. See also Rawls, John. *Political Liberalism*. New York, Columbia University Press 1996, and Kymlicka, Will. "Liberal Egalitarianism and Civic Republicanism: Friends or Enemies" in Allen and Regan (eds) *Debating Democracy's Discontents: Essays on American Politics, Law and Public Philosophy*. Oxford: Oxford University Press, 1998: 131-148.

²²⁶ Rawls. *Political Liberalism*. Columbia University Press, 1995: 205

²²⁷ Patten, *The Republican Critique of Liberalism*, *ibid*: 25

interference are avoided rather than by access to the instruments of democratic control, participatory or representative'.²²⁸

If what contemporary republicans such as Patten are attempting is a neo-republican theory which emphasises a new concept of freedom, one which may be acceptable to our modern sensibilities, then it is sadly lacking in any 'newness'. There is no lack of concern for liberty in early modern republican thought. On the contrary, freedom from interference meant freedom to attend to the common good. 'Libertie ...is not the libertie of particular men; but the libertie of the commonwealth', according to Hobbes.²²⁹ Freedom of non-domination for the eighteenth-century commonwealth-man is freedom from tyranny, from the arbitrary rule of a monarch or governing power. Machiavellian republicanism ('atlantic republicanism' in Pocockian terms), sees a mixed monarchy as the perfect form of governance, avoiding the Polybian cycle of good and bad governance, and more importantly, domination. Under a mixed government therefore, one which provided checks and balances on the powers of the various arms of the state, no one branch would be able to accumulate enough power to exercise those powers arbitrarily 'for if in one and the same state [citta] there was a principality, aristocracy and democracy each would keep watch over the other'.²³⁰

According to Pocock's reading of Machiavelli, inequality is the cause of corruption and corruption is the end to freedom. Corruption is self-interest, and is against virtue and the common good. Corrupt men act in self-interest and use their powers to promote that self-interest over the interests of others. This, in Pettit's republican terminology, would be domination of arbitrary powers and this corruption is therefore contrary to the early modern republican ideals of civic virtue, equality and freedom. Therefore it seems clear that the only thing new about neo-republicanism with regards to freedom is the terminology. It is clear however, that there is a great

²²⁸ Pettit. *Republicanism*, *ibid*: 30

²²⁹ Hobbes, *Leviathan*. Tuck, Richard (ed). Cambridge: Cambridge University Press, 1996: II xxi.

²³⁰ Machiavelli. *The Discourses*. Leslie J Walker. (trans) and Bernard Crick, (ed). London: Penguin Classics, 1983: I ii.

distinction to be made between liberal liberty and republican liberty. Whereas liberal political theorists deny any loss of liberty in the absence of interference, republicans insist there can be a loss of liberty when no interference takes place, what is important is the lack of potential for interference.

But republicanism is not anti-liberal. A 'liberal republicanism' may be characterised by four central principles – civic virtue, equality, the common good (or universalism), and citizenship – all of which derive from an understanding of political freedom, while they also provide ways of limiting governmental power: civic virtue provides the opportunity to input private interests into the deliberative process, private interests being a political issue; equality provides each person the means to participate; the common good is derived from the republican commitment to universalism and made possible through practical reason; while citizenship is manifest in the guaranteed rights of participation.

There is no one conception of republicanism - it does not fit any standardised form. The early modern republicans emphasised the role of the citizen in the polis; the citizen is to subordinate his private interest for the public good as the means of achieving both freedom and civic virtue. This notion of civic virtue is still central to modern republican ideals, but is no longer invoked to inspire the self-improvement of the individual as a member of society but to promote social justice. Under the early modern republican model of politics, law and legislation must be supported by practical reason; self-interest or private deals cannot be fought for nor be a foundation for law. The public good is the sole stimulus of political action and legislation. The central tenet here is that the function of politics is to set values or 'preferences about preferences'.²³¹ But this does not exclude any protection of individual or group autonomy: indeed, moreover individual rights have a purpose in early modern

²³¹ Sunstein.Cass. "Legal Interference with Private Preferences". *University of Chicago Law Review*, vol 53, 1986: 1129.

republicanism, as the preconditions for an ‘undistorted deliberative process’.²³² This, according to Sunstein, is the basis of many liberal systems, the difference being that republicans would not recognise any notion of pre-political or natural rights, and instead the existence of any private right must be justified in public terms.²³³

Richard Dagger also accepts the importance of civic virtue to liberal thought, and insists on a hybrid of liberal-republicanism that combines civic virtue with individual autonomy. As he sees it, for republicanism to be defensible, it must include ‘a commitment to liberal principles such as tolerance, fair play, and respect for the rights of others’.²³⁴ Furthermore, Cass Sunstein claims that modern republicanism is lacking what made eighteenth-century republicanism so important. His aim for contemporary republicanism is to reintroduce the constitutional themes that modern scholarship has ignored. Not ignorant to the difficulties of a ‘revival’ of a tradition, Sunstein carefully predicates his argument:

*‘History does not supply conceptions of political life that can be applied mechanically to current problems. Circumstances change; theoretical commitments cannot be wrenched out of context without regret or risk of distortion; contemporary social and legal issues can never be resolved merely through recovery of features, however important and attractive, of the distant past’.*²³⁵

In addition, eighteenth-century republicanism is based on unattractive elements including racism, sexism, and elitism, but Sunstein insists that eighteenth-century republicanism can still be revived despite these conceptual and distasteful difficulties. In Sunstein’s revival, he draws upon both the liberal and republican traditions, insisting that while the ‘most collectivist forms’ of republicanism contradict

²³² Sunstein, “Beyond the Republican Revival”. *The Yale Law Journal*, Vol. 97, No. 8, Symposium: The Republican Civic Tradition (Jul., 1988): 1551.

²³³ Sunstein, *passim*.

²³⁴ Dagger, Richard. “The Sandelian Republic and the Encumbered Self”. *The Review of Politics*. Vol 61 No 2 (Spring 1999): 181-208.

²³⁵ Sunstein. “Beyond the Republican Revival”. *The Yale Law Journal*, Vol. 97, No. 8, Symposium: The Republican Civic Tradition (Jul., 1988): 1539.

certain versions of liberalism, 'republican thought, understood in a certain way, is a prominent aspect of the liberal tradition'.²³⁶ Even liberalism's preoccupation with rights is historically compatible with the republican tradition. Unfortunately for the early modern republican tradition, Sunstein never extols the virtues of early modern republicanism, or provide an account of historical republicanism with which we may compare with contemporary republicanism, but rather offers a contemporary theory of republicanism and notes that, at times, the founders of the American constitution – the historical republicans as far as Sunstein is concerned – have had similar proposals.

Contemporary uses for Early Modern Republicanism.

Robert Goodin suggests that we were right to look at, and right to reject, republicanism in the quest to find a use for republicanism within contemporary politics.²³⁷ According to Cecile Laborde and John Maynor, this is because proponents of republican theory have suggested it as an alternative to the dominant liberal philosophy.²³⁸ Skinner suggests his updating of the 'second slogan of republican theory' which argues that no state or agency of comparable power should be able to dominate or seek to dominate another state, has a valuable contribution to make to contemporary discussions of global justice. Freedom is a value of fundamental importance, and as such 'to reduce a state to dependence on the goodwill of other states is to cause not merely the state but every one of its individual citizens to fall into a morally intolerable condition of servitude'.²³⁹ However, modern republican theorists have polarised the discussion around two opposing schools of thought. Pettit and Skinner have both shown that the early modern republican tradition has a significant contribution to make to modern debates without being distorted to fit any 'modern conception of liberal sensibilities'. Distributive and global justice can be arranged around principles of equality, mutual respect and non-domination as proposed by

²³⁶ Sunstein, *ibid*: 1561-15613.

²³⁷ Goodin, Robert. "Folie Republicaine", *Annual Review of Political Science*, Vol 6, 2003:55-77.

²³⁸ Laborde, Cecile and Maynor, John (eds) *Republicanism and Political Theory*. Oxford: Blackwell Publishing, 2008: 1.

²³⁹ Skinner. *On the Slogans Of Republican Political Theory. ibid* : 100.

Pettit, based on the early modern ideas of Machiavelli and Harrington, amongst others, including an understanding of the fundamental principles of early modern republicanism as proposed by Sunstein.

The biggest challenge facing contemporary republicans is perhaps not the formulation of a model that will fit with modern ideas of liberty and philosophical sensibilities, but the practicalities of creating a (global) political system based on civic virtue and political participation. David Miller has addressed the general question of what kind of political community is required for republican politics and republican values to flourish.²⁴⁰ He approaches this question with the European community in mind as a potential political community of the ‘right kind’, seeing these republican values as a basis for the prospective European Constitution, but recognising that the bonds of national identity may obstruct the potential of republican values as a motivational force in larger communities.

It is to the question of size that Miller first turns his attention – noting that early modern republicans assumed the city as the source of the political community – and even then the population of citizens was much smaller than the overall population. Even the scholars who investigated the notion of the ‘commonwealth-man’ of the seventeenth and eighteenth-centuries in Britain turned their attention to smaller communities, some suggesting a federal Britain to facilitate the application of republican values as the political model. Put simply, size matters. In order for the community to bond together for the common good, there must be more than just geographical proximity, but there must also be a deterrent on what Miller calls ‘democratic turbulence’ – when passionate beliefs lead a community to act wrongly towards enemies out with, or minorities within, the community.²⁴¹

²⁴⁰ Miller, David. “Republicanism, National Identity, and Europe” in Laborde and Maynor *ibid*: 133.

²⁴¹ Miller, *ibid*:142.

Further, and in a contemporary world where city-states are no longer viable political bodies, it is understandable why David Miller has connected republican politics to national identity. As he puts it, nationality offers the shared history, language and culture necessary for large scale communities to encourage the people to engage politically with one another.²⁴² Leaving the critical evaluation of this model aside, it can easily be argued that Miller is rehashing the early modern republican model; utilising patriotism's worth as a shared interest in the common good that is protected from the interference of others with competing interests. Does republicanism work on a national level? The major problem with national identity as a motivator for political action on a republican level – i.e. for the common good – is the potential for the fragmentation of that shared identity and history to force the communities into smaller political entities or factions. As Machiavelli predicted, there were two ways in which a republic can destroy itself: the division between the nobility and the commons; and the division into factions or small communities within the republic which work not for the common good but for their own narrow interests.

Cecile Laborde claims that the republican tradition faces a bigger challenge in contemporary politics than its inability to provide an acceptable concept of freedom for our modern philosophical sensibilities, suggesting it has to overcome its perceived 'blind spot' with regards to global justice and pressing international issues such as poverty and global inequalities.²⁴³ Laborde addresses the scepticism towards the cosmopolitan argument, namely, that republican cosmopolitanism is an oxymoron with regards to global society because it is not possible to reproduce the institutions and practices necessary for founding and maintaining republics at the international level.²⁴⁴ She refutes this by offering the 'three Vs' of republicanism as 'foundation of a distinctive and attractive republican approach' to theorising global justice.²⁴⁵ The first of which, 'voice', assumes non-domination or 'anti-power': in other words, freedom

²⁴² Miller, *ibid*: 142.

²⁴³ Laborde, Cecile. "Republicanism and Global Justice: A Sketch". *European Journal of Political Theory*. Vol 9 No 48, 2010: 48.

²⁴⁴ Laborde. *ibid*: 49, referencing David Miller, *Citizenship and National Identity*. Cambridge: Polity Press, 2000.

²⁴⁵ Laborde, *ibid*: 50.

from arbitrary rule²⁴⁶ It is Laborde's contention that cosmopolitan republicanism is more valid in a global society characterised by remote and perhaps unchecked decision making by anonymous powers across national borders in which peoples may have little or no say whatever. Within this model, traditional republicanism which highlighted the 'evils of arbitrary power in the sub-state unit' can also be utilised to point towards the evils within the transnational.²⁴⁷

The upshot of Laborde's argument is that global injustice is a primary concern for republicans because injustice breeds inequality and this in turn allows the rich to control the poor. Developing countries become dependent on, and subservient to, large organisations such as the UN, World Bank and IMF, who make decisions over which the developing country has little or no say. But being concerned doesn't necessarily make it a useful model for contemporary politics. Laborde claims that republicans have grounds for extending their critique of inequalities in the global realm: lacking the 'democratic minimum' or the 'right to have rights' is 'functionally equivalent to tyranny'; but the commitment to non-domination provides reasons to combat poverty and global injustice without providing the tools to do so.²⁴⁸ And Laborde admits the insufficiency and incoherence of the republican model basing human rights along lines of political citizenship.

There is however, scope to use the non-domination paradigm of republicanism to address global poverty 'insofar as much as it can be traced to the dominating effect of global inequalities of power and justice'; put another way, the citizens of rich and powerful states have the obligation to ensure that their institutions are not dominating others.²⁴⁹ Non-domination is a moralised conception, but it can be amoral if it is brought down to its most basic level, namely, that sovereign states should neither be

²⁴⁶ Laborde, *ibid*: 49, using Pettit's term 'anti-power' from Pettit, Freedom as Anti-Power, *Ethics* Vol 106, No 3, 1996: 576-604.

²⁴⁷ Laborde, *passim*.

²⁴⁸ Laborde, *ibid*. Quoting Bonham, James. *The Democratic Minimum: Is Democracy a means to Global Justice*. London: Allen and Unwin, 2005.

²⁴⁹ Laborde, *ibid*: 53.

dominated nor dominate others, which is a basic republican argument since the augmentation of state-centred rational in the seventeenth and eighteenth centuries and a central tenet of the democratic institution. This can be applied to international organisations and such as the IMF and UN. There is no question in republican theories of freedom of interference, and this is perhaps why it is a more practical model to answer questions of global justice in a cosmopolitan global society. This early modern republican line of line of reasoning was captured in arguments at the turn of the eighteenth century regarding the balance of power in Europe and the domination of Louis XIV. The point here is not to suggest that Laborde is wrong: on the contrary, Laborde has shown, just as Andrew Fletcher attempted to show in the seventeenth century, that republican theories of non-domination (or in seventeenth-century parlance, independence, or freedom as non-dependence) are suitable for a society that crosses state borders. Granted, the seventeenth century republicans would not have envisaged the global society or concepts of global justice in the same way we do because their main priority was that of their own citizens and states. However, as Machiavelli stressed, freedom comes from not having to fear that another is capable of imposing their will.

For Lena Halldenius, this forms the ‘building blocks’ of a republican cosmopolitanism that is political rather than moral.²⁵⁰ Republican freedom as a political conception should take account of the fact that a person may infringe upon the freedom of another without intent, or even unwillingly, given the structural reality of power and freedom. The institutional theory that Halldenius proposes, however, is in direct opposition to any early modern ideal; by suggesting that, if we are all part of a global community then we all inhabit the same moral world and share the same rights, therefore one must question the ‘political and legal primacy of the state’.²⁵¹ But in this regard it is difficult to see where the republicanism is in Halldenius’ institutional theory of justice in cosmopolitan republicanism. There are few similarities to republicanism as

²⁵⁰ Halldenius, Lena. “Building Blocks of a Republican Cosmopolitanism. The Modality of Being Free”. *European journal of Political Theory*. Vol. 9 No 1, 2010: 12-30.

²⁵¹ Halldenius. *ibid* : 24.

defined by citizenship, participation and civic virtue. Even the dominant contemporary republican theory of freedom as non-domination is inconsistently applied. For Halldenius, 'solidarity is not necessary for political legitimacy'.²⁵²

Conclusion

According to Onuf, modern republicans have absorbed the key themes of ancient republicanism and have attempted to utilise them in an entirely ambiguous context. The function of political society (for the ancient republicans) was for the common good – the provision of the conditions conducive to a shared experience judged as 'good'.²⁵³ Republicanism refers to the organisation of a political society, where political association takes precedence over individual autonomy. For the moderns, as society separated into a system of states, from Grotius through to Kant, the stress is on the interconnectedness over the independence of states. Onuf divides the republicans into two categories, continental and atlantic: continental republicans, he says, believe that international society is bound by its people and states through natural law; meanwhile the atlantic republicans stress the independence of states and set the stage for the rejection of the republican ideal of the common good in international society. Onuf's treatment of republicanism is within the international thought frame of reference, and accordingly, the republican ideal is rule by those best suited, to ensure those who can rule for the common good do so.²⁵⁴

Fallon assumes, therefore, that the republican revival was a consequence of an intellectual dissatisfaction with liberalism, while he also questions whether it is a true revival of the original republican paradigm at all. As this chapter has shown, the contemporary conception of republicanism serves no extra substantive purpose than the conception available from the seventeenth century. It is barely distinguishable

²⁵² Halldenius. "Non-Domination and Egalitarian Welfare Politics". *Ethical Theory and Moral Practice*. Vol 1, 1998: 35-33.

²⁵³ Onuf, Nicholas Greenwood. *The Republican Legacy in International Thought*. Cambridge: Cambridge University Press. 1998: 7

²⁵⁴ Onuf, *passim*.

from the early modern republicanism of the Neo-Harringtons and the commonwealthmen. The major assumptions of these key thinkers are essentially the same.

Virolo attempts to revive the civic consciousness assuming as the early modern republicans did before him, that patriotism is vital for preserving self-government. This patriotism is denied any worth as a useful motivator in global politics, the assumption being it would trigger the fragmentation of society and the factions that, according to Machiavelli, would tear society apart. This would end any attempts at a global justice or bringing an end to global inequalities or poverty. However, the method used to critique Viroli's civic republicanism is an updated and grander (global) version of the (federal) civic society version of the common good offered by Fletcher as the republican answer to a united Britain which will be discussed in the next chapter.

There are of course difficulties in attempting to apply an early modern civic-republican tradition to contemporary politics and institutions, not least the sexist and elitist foundation on which it was built, but also its overly paternalistic system of government in a modern (western) world. In this respect, the revival has not been an exact replication but incorporates a slight modification of the early modern paradigm in order to make it credible – at least, this is Sunstein's approach. Although this in itself has its difficulties as Fallon suggests, it risks a substantial revision of early modern republicanism or at least a loss of its unique characteristics. However, a complete revision is unnecessary in order for republicanism to be a credible model in contemporary politics as it is compatible with modern conceptions of liberty and justice. At its core, the civic republican model has a commitment to freedom and equality, the same values dear to modern republicanism and liberalism. As for its applicability, in a contemporary global system where 'democracy building' is used as a justification for interference in sovereign state affairs, and where this democracy building is known to have failed, it would appear that there should be more emphasis given to a civic-republican exemplar, where freedom and equality are achieved through the democratic process of self-government and political action.

Even Etzioni, when proposing his 'third way' – a communitarian model proposed to counter the extremes of liberalism and republicanism – resembles the neo-early modern republican model. The basic assumption that society requires a balance, built upon the interdependence of society and individuals for their mutual survival and security, as well as the stability of the state, is a fundamental republican hypothesis. Furthermore, both Dagger and Sunstein have proposed a liberal republican theory which would be defensible in contemporary society, and places individual liberties at its foundation, combining civic virtue and individual autonomy. The history of liberalism is in many ways very closely related to the history of republicanism, while the neo-republicans continue to attempt to find a third way. As Skinner and Pettit have shown, the early modern civic-republican tradition has a significant contribution to make without the need for distortion in order for it to fit with modern liberal sensibilities.

In an attempt to make a distinction between early modern and contemporary republicanism, both Pettit and Skinner propose themes of freedom which they suggest contradict the early modern models which subdue personal liberties for the preferred liberty of the state and the obligations to the common good. But once again, if we assume that political participation helps enact laws which the people agree to submit to for the public good, such can be construed as an expression of will and not a restriction of personal freedom (i.e. as an expression of positive freedom). Furthermore, Pettit's theory of freedom as non-domination is, at its very core, a clear early modern republican ideal. The history of early modern republicanism is its conception from arguments concerning patriarchy and arbitrary power and tyranny. The republican model of mixed government is offered to provide checks and balances on the ruling parties to ensure no one authority can achieve the power or influence necessary to act arbitrarily, which Pettit himself recognises in his third way proposal that recognises the false dichotomy between negative and positive liberty and sees both as necessary. Therefore, it is clear that the only thing that differs in this case is

the terminology used. Pettit and Sunstein both recognise that the neo-republicans and third way proponents are old, new republicans.

The biggest challenge civic republicanism faces in contemporary society is how to make it fit with the global challenges of poverty and justice. David Miller's national identity approach misses the key issue of fragmentation and factions within larger societies – if a republic is small it is destroyed by a foreign force, if it is large it is destroyed by 'internal vice'²⁵⁵ – and he misses the opportunity to suggest a federal model based on small republics forming one community of Europe (again, a model that can be seen by ways of analogy to Fletcher's theories for a united Britain) and a united Europe which ensures a balance of power is maintained.

Laborde recognises that issues of global inequality are primary concerns for republicans as inequality leads necessarily to domination. Furthermore, Laborde is right to suggest that republicanism is an ideal model to address global inequalities: its acceptance of interference allows institutions such as the UN and IMF to have some measure of influence in developing communities while they develop democratic institutions and processes, proving republicanism is a suitable model for politics that crosses state borders. Therefore it is clear that neo-republicanism is early modern republicanism redrafted and applied, showing that civic republicanism has value in contemporary politics without any interference in the paradigm. In the next chapter, I will set out the early modern republican theories of Andrew Fletcher as a model for updating contemporary republican theory.

²⁵⁵ Montesquieu. *The Spirit of the Laws*. A Cohler, B Miller and H Stone (eds) Cambridge: Cambridge University Press, 1989: 131.

Chapter 2. Fletcher's Civic Republicanism

'...under arbitrary government (who for the sake, and from a necessity of what they all government, has joined to the quality of a slave the office of a tyrant, and imagines himself a man of quality, if not a little prince, by such pre-eminence) is altogether slavish; since he is under the protection of no law, no not so much as to his life, or the honour of his wife and children; and is subjected to stronger temptations than any man, of being a slave to men in St. Paul's sense, which is a worse sort of slavery than any I have yet mentioned. That is of being subservient to, and an instrument of lusts of his master the tyrant: since if he refuse slavishly to obey, he must lose his office, and perhaps his life. And indeed men of all ranks living under arbitrary government (so much preached and recommended by the far greater part of churchmen) being really under the protection of no law (whatever may be pretended) are not only slaves, as I have defined before, but by having no other certain remedy in anything against the lust and passions of their superiors, except suffering or compliance, lie under the most violent temptations of being slaves in the worst sense, and of the only sort that is inconsistent with the Christian religion. A condition (whatever men may imagine) so much more miserable than that of servants protected by the laws in all things necessary for the subsistence of them and their posterity, that there is no comparison'.²⁵⁶

Andrew Fletcher is a civic republican of great importance. He adapts the republican theories of liberty, civic virtue and the common good to fit the problems facing society (in particular, Scottish society) without losing the fundamental values at the core of the republican paradigm. Fletcher is of significance in contemporary politics because his theories can be utilised in this global political era. His theories of justice and liberty sit well within our modern philosophical sensibilities, and his adaptable ideas encompass a wide range of political issues that we are currently facing. Fletcher

²⁵⁶ Fletcher. *Two Discourses Concerning the Affairs of Scotland*, *ibid*: 63

sees classic republican ideals as the foundations for an ideal society based on civic virtue as participation, the common good, equality and liberty, and the rule of law. Fletcher has a notion of popular sovereignty that is vital to the modern model of a liberal democracy. Despite the suggestion by Robert Axtmann that this idea did not gain wide currency until the late eighteenth-century, Fletcher, Locke and the eighteenth-century commonwealth-men were already arguing for a republic based on the idea of sovereignty resting with the people.²⁵⁷

This chapter will focus on the fundamental republican theories of Andrew Fletcher and how they fit in the early modern model; how he utilises the republican model to answer the key concerns of best government, liberty and the rule of law at the turn of the eighteenth-century. Using Fletcher's as a republican archetype, it will show that Fletcher's unique model of civic republicanism is a valuable addition to any canon of republican theory. It will outline the republican model of freedom as freedom from arbitrary rule as evident with the standing army controversy, and the importance of the republican tradition in the arguments against arbitrary rule – or freedom as non-dependence. Thusly, this chapter will prove the early modern republican influence on contemporary theories of liberty. This chapter concludes that Fletcher's emphasis on popular sovereignty and freedom from arbitrary power and coercion as the fundamental basis for republican freedom holds the same standards and philosophical ideals as the contemporary notion of liberal democracy and Pettit's republican hypothesis of freedom as non-domination. It therefore shows that Fletcher's civic humanist republican theories are both relevant and necessary for the contemporary understanding of the republican theory of liberty. Where communitarianism lays at one end of the spectrum, and liberalism the other, Fletcher's own brand of civic-humanist republicanism narrows this broad spectrum.

²⁵⁷ Axtmann, Robert. *Liberal Democracy in the the Twenty-First Century: Globalization, Integration and the Nation State*. Manchester: Manchester University Press, 1996: 11.

Fletcher, like Pettit and Laborde, believes that inequality results in domination. This chapter will discuss Fletcher's theories on how this domination affects the political order of Scotland, England and Ireland, and his attempts to avoid further domination of Scotland by proposing a model of fair trade and limitations on power between the two. By discussing Fletcher's ideas on the relations between Scotland and England, and the ordering of political society, this chapter will show Fletcher as having the fundamental ideas as the republican theorists discussed in the previous chapter.

Civic humanism motivated the translation and study of early modern texts and was a major influence on the development of political thought in Scotland and pre-civil war England, encouraging the ideas of virtue and honour in public life, and gravitas; emulating the roman ideals found in the newly translated texts.²⁵⁸ The humanist scholarly experience emphasised secular historical analysis and political interpretation which influenced Fletcher's own political analysis and ideas of public life. Worden insists that Humanism encouraged alertness to the contrasting characteristics of the various forms of government: monarchical, aristocratic, democratic and mixed, as identified by the early modern writers.²⁵⁹ He notes that this preoccupation with the early modern forms of government produced as much praise for monarchs as it did criticism, and therefore we should not assume that political thought in England and Scotland was dominated by thoughts of any 'ideal republic' without a monarchical head of state.²⁶⁰ Fletcher himself was not against monarchy per se, rather the arbitrary or tyrannical rule often associated with monarchical rule, which could also be attributed to the Roman Empire immediately before its decline and fall. It is a concern for liberty that is at the heart of any republican theory of politics and is the fundamental concern for Fletcher.

Like Harrington before him, Fletcher calls for a return to the republican principles of early modern antiquity: wisdom, virtue and military discipline. He wishes

²⁵⁸ Worden, Blair. "Republicanism, Regicide and the Republic: The English Experience" *ibid*: 310.

²⁵⁹ Worden, *passim*.

²⁶⁰ Worden. *Passim*.

to establish a political order on institutions that are immune from corruptibility – the imbalance of (arbitrary) power which is the threat to liberty. Fletcher, again like Harrington, approaches politics as history, believing that the underlying forces and laws that shape history could be discovered through a rigorous study of the European past. As was shown, Harrington proposes that the foundation of government is in the sword and that fortune and providence have overthrown the monarchy and left both sword and conscience free to see out new foundations. He offers a civil history of the sword which shows how it has passed from the monarchy and nobility into other hands through processes which were both fortuitous and providential.²⁶¹ Fletcher also offers the sword as the basis of power; the balance of power between the king, the barons and the people, and the limitations of monarchy being based on the necessary condition that the sword remains in the hands of the people. The constitution of the government puts the sword into the hands of the subject, because the vassals depend more immediately on the barons than on the king which effectually secures the freedom of those governments; ‘For the barons could not make use of their power to destroy those limited monarchies, without destroying their own grandeur; nor could the king invade their privileges, having no other forces than the vassals of his own demesnes to rely upon for his support in such an attempt’.²⁶² Since ‘in our times most princes of Europe maintain the sword by standing mercenary forces kept up in times of peace, absolutely depending on them, I say that all such governments are changing from monarchies to tyrannies’.²⁶³

Pocock suggests that Fletcher’s *Discourse of Government with Relation to the Militias* developed the neo-Harringtonian version of history further than anyone else had, and significantly revealed its latent ambivalences. But Fletcher eliminates Harrington’s distinction between ancient prudence and ancient constitution and locates the balance of the commonwealth in modern prudence, maintained by kings,

²⁶¹ The Cromwellian republic was therefore both de facto and de jure. Pocock, J.G.A. *The Political Works of James Harrington*. Cambridge. Cambridge University Press. 1977: 42.

²⁶² Fletcher. *A Discourse of Government, ibid*7: 3.

²⁶³ Fletcher.. *Ibid*: 4.

lords and commons, (feudal tenure) which Harrington had dismissed as ill-regulated disequilibrium. Harrington maintains that the land and sword of the vassals always belonged to his master; Fletcher's Scottish vassal is intractable from his land and helps keep the sword where it belongs – with the subjects.²⁶⁴ According to Fletcher of course, this old way had been eradicated about the year 1500, an 'alteration of government which happened in most countries in Europe'.²⁶⁵ The luxuries and pleasure brought in from Asia and the America's 'brought a total alteration in the way of living, upon which all governments depend'...

*'The far greater share of all those expences fell on the barons... This plunged them into so great debts, that if they did not sell, or otherwise alienate their lands, they found themselves at least obliged to turn the military service their vassals owed them, into money; partly by way of rent, and partly by way of lease... And by this means the vassal having his land no longer at such easy a rate as before, could no longer be obliged to military service, and so became tenant. Thus the armies, which in preceding times had been always composed of such men as these, ceased of course, and the sword fell out of the hands of the barons.'*²⁶⁶

Whereas Harrington sees this as a liberating moment, freeing the vassals from military service, Fletcher sees it as the end of liberty, taking the sword (power) from the subjects and creating an imbalance of power between the political class and the crown - placing the sword in the hands of the prince and his mercenary armies. Fletcher maintains that arms should never be denied to any man who is not a slave since it is the only badge of liberty he has, it maintains the balance of equilibrium between the citizens and their monarch, and denies anyone arbitrary power.²⁶⁷ By holding the means of coercion the monarch holds the majority of power which he can exercise arbitrarily. And, as already shown, this arbitrary power is against both early modern and contemporary conceptions of republican liberty. For Fletcher, freedom

²⁶⁴ Pocock, J.G.A. *The Machiavellian Moment. Florentine Political Thought and the Atlantic Republican Tradition*, *ibid*: 429.

²⁶⁵ Fletcher, *ibid*: 1.

²⁶⁶ Fletcher, *ibid*: 6.

²⁶⁷ Fletcher, *ibid*: 23.

from the dependence on and domination of the arbitrary power of others is the fundamental source of liberty.

Jealousy of Trade and Cosmopolitan Republicanism

International relations at the turn of the eighteenth-century put *raison d'état* before considerations of justice or rights, including the unrestrained use of force in pursuit of the state interest and trade. Fletcher denounces the use of neo-Machiavellian political economy as the justification of the pursuit of economic power and suggests a countervailing paradigm of international relations, civic humanism and republicanism based on pursuing the interest of mankind grounded within the sociability of the human race, or as Hont suggests, cosmopolitan republicanism.²⁶⁸ Fletcher complains that a political theory grounded solely within a paradigm that places the nation at its centre without regard to mankind lacks sufficient measures against the corruption of *raison d'état* and the subsequent aggressive wars of aggrandizement. He opposes state-centrism, declaring that 'not only those who have ever actually formed governments, but even those who have written on the subject... have always framed them with respect only to particular nations, for whome they were designed, and without regard to mankind', a clear indication of a more cosmopolitan inclination within his civic-humanist political ideals.²⁶⁹

Bonham is right to make the strong claim that republicanism is 'neither inherently anti-cosmopolitan nor inseparable from the nation state' despite the republican adage that 'to be free is to be a citizen of a free state' but misses a fundamental aspect of federal republicanism with regards to freedom as non-domination.²⁷⁰ Fletcher sees that non-dependence is vital for the republican state and points out that the threat to Scottish national interests is an issue of domestic politics

²⁶⁸ Hont suggests that this phrase has been borrowed by Fletcher from Harrington. See Hont, Istvan. *Jealousy of Trade*. Massachusetts: Belknap Press of Harvard University, 2005: 65 See also, Harrington's *Oceana*, preliminaries : 72.

²⁶⁹ Fletcher. *An Account of a Conversation*, *ibid.* 209.

²⁷⁰ Bohman, James. "Non-domination and Transnational Democracy". In Laborde and Maynor (eds). *Republicanism and Political Theory*. Oxford: Blackwell Publishing, 2008:190.

that is an indication of the large scale international or European order, and the conflict of commerce and dominance of trade: *'trade is now become the golden ball, for which all nations of the world are contending, the occasion of so great partialities, that not only is every nation endeavouring to possess the trade of the whole world, but every city to draw all to itself'*.²⁷¹

According to Hont, 'Fletcher was convinced that by 1700 jealousy of trade had become an integral part of modern English patriotism'.²⁷² The examples of Ireland and Wales prove to Fletcher that anything less than a fully equal union with limitations on the powers of the parliament regarding interference in trade would be disastrous. Scotland's economic interests would be destroyed as the Irish and Welsh had before. He had no reason to have confidence that the cultural or political integrity of the country would fare any better. Hont uses the term 'jealousy of trade' to refer to England's self-interest and *raison d'état*. He suggests that Fletcher observes in minute detail how England's jealousy of trade towards Ireland played itself out; assuming rich metropolitan countries like England would always override all considerations of morality and justice if they perceived reciprocal trade with poorer nations to be an existential threat to their economy.²⁷³ Fletcher outlines his concerns in his *Account of a Conversation*, suggesting Wales as the only place in the kingdom without considerable trade, a consequence of the dominant force of England and *'a sufficient demonstration that trade is not a necessary consequence of a union with England'*.²⁷⁴

When pressed to give example of England's partialities, Fletcher highlights but refuses to be drawn into a discussion about the failed Darien scheme, nor does he 'enquire how far the late erected council of trade did in that affair second the partialities of a court engaged in mysterious interests with France'.²⁷⁵ Instead, he asks

²⁷¹ Fletcher. *An Account of a Conversation*, *ibid*: 193.

²⁷² Hont, *ibid*: 64.

²⁷³ Hont, *ibid*: 64.

²⁷⁴ Fletcher. *An Account of a Conversation*, *ibid*: 193.

²⁷⁵ Fletcher, *ibid*: 193

the opinion of the assembled party's to England's 'usage' of Ireland, referring to England's foreign and trading policies with regards to Ireland.

*'I speak of a nation, said I, who affirm you have no shadow of right to make laws for them; that the power which the King's council has assumed was gotten by surprise; and that their first submission was founded on a treaty of union, which now on account of some rebellions suppressed, is called a conquest. . . Now if after a union with us the least commotion should happen in Scotland, suppose on account of church government; might we not expect that the suppression of this would likewise be called a conquest, and we our posterity be treated as a conquered people?'*²⁷⁶

Reflecting on the argument that it was necessary for England to treat Ireland with a 'good measure of strictness and severity... to keep them from the thoughts of setting up for themselves, and pretending to no longer depend on England' Fletcher illustrates the extent that England's interests have superseded Ireland's and been allowed to frustrate any attempt at improvement.²⁷⁷ Sir Charles replies that Fletcher is speaking of a conquered nation, but that Scotland and England would be united peacefully, but Fletcher remains unconvinced. He will not accept England will treat Scotland fairly, no matter how wholesome its proposed intentions. To submit Scotland to an incorporationist union with England is to subject it and its people to a dominated position in which it must rely on the goodwill of its master for any benefit or non-interference in its internal affairs. He is particularly concerned that an incorporating union would reduce Scotland to the extent that a dominant English parliament had already reduced both Ireland and Wales. It is Fletcher's belief that England would treat Scotland as it had Ireland before it – as a threat to its economy and trade; seeing English ministers as regarding trade as a zero-sum game, both domestically and internationally. Fletcher prefers the vision of a United Kingdom with shared trading links that will bolster both economies, furthermore, his theories of justice extend to the international system, a system where the rich nations could no longer suppress the

²⁷⁶ *Passim*.

²⁷⁷ Fletcher, Fletcher. *An Account of a Conversation* *ibid*: 194. Here Fletcher has in mind the Navigation Acts of 1650 which disallowed any attempt at tobacco trading and prohibited any exportation of Irish wool.

poor who would enjoy a 'just share in the government of themselves'.²⁷⁸ Fletcher could not suppose that England would 'destroy their own established manufactures to encourage Scotland's and denies that free trade with England would be of 'incomparable advantage', but would rather further exhaust the Scottish people who had recently come through famine and large numbers of emigration, and be the utter ruin of all the merchants.²⁷⁹ By admitting that England wishes to keep Ireland in a position of dependence, Sir Charles is showing it to be no 'benevolent despot' but rather a dominating country which suppresses the interests of its conquests and rivals.

As this example shows, there is no room for both states to flourish under one king and one parliament making the decisions for both, as it stands. England would inevitably put its interests first and fetter any others that may conflict. There is no such thing, to use Pettit's term, as a 'benevolent despot', competing interests will always take precedence.²⁸⁰ The benevolent despot scenario is, as Pettit argues, a non-starter. Trusting one state or organisation with the unconstrained power, or 'source of domination', however benevolent its intentions, would be to allow it unlimited domination and the power to interfere in the choices of all others, not that it would need to as the other states would adjust their interests in order to please the benevolent despot.²⁸¹ This, for Fletcher and Pettit, reduces the state to a position of dominance, and non-dominance and non-dependence are the fundamental bases for liberty. Fletcher is here recognizing the importance of commerce in relation to freedom. One cannot be free if it relies on the goodwill of another for its continued pursuit of its interests, and that goodwill will not be forthcoming if these interests may interfere with the interests of the dominant party. It is a clear that Fletcher sees inequality as a source of domination and injustice.

²⁷⁸ Fletcher. *An Account of a Conversation*, *ibid*: 209.

²⁷⁹ Fletcher. *An Account of a Conversation*, *ibid*: 192.

²⁸⁰ Pettit. "A Republican Law of Peoples". *European Journal of Political Theory*. 9:70, 2010: 80.

²⁸¹ Pettit, *passim*.

Fletcher recognises this problem both in the Anglo-Scottish union and within the European system. England would thwart Scottish development and trade at every turn, as was clearly demonstrated with the interference of the Darien scheme which resulted in many thousands of Scots perishing and the almost complete ruin of the Scottish nation. Whereas in Europe, Louis would only behave benevolently as far as it suits his needs. Fletcher recognises that if Louis is successful in succeeding to the Spanish throne, and with it secures his hegemonic position in Europe, he would gain the power to interfere in the domestic and international affairs of all his neighbours; interfering in their trading and economic efforts, as well as placing them in a position of fear, resulting in their desire to appease Louis for fear of recrimination.²⁸²

There is a growing awareness of the relations between government, war and finance; war is necessary for the constant procurement of luxuries from other countries, and as a consequence, war becomes ‘a constant trade to live by’ as a form of mercantilist warfare emerges.²⁸³ The harsh reality of the European economic competition is revealed in the statement made by Musgrave that:

*‘we must not rely too much upon our own speculations, or think the world can ever be rightly governed; but must take things as they are, and consider the interest of the society in which we live. And if any profitable trade be in the possession of our neighbours, we may endeavour to dispossess them of that advantage for the good of our own society’.*²⁸⁴

Fletcher understands the need for cooperation in the emerging commercial modern system of states, recognising also the reliance Scotland has thus far had on English benevolence, and the resulting decline due to its subservient position. What is necessary is for Scotland to remove itself from this dependence so it may compete

²⁸² Interestingly, whereas Louis never did infer he had benevolent intentions, quite the opposite, George W Bush administration claimed a purely benevolent desire to promote peace, justice and democracy while attempting to secure its militaristic might and invulnerability by limiting the military powers of allies. This regime is what Iris Marion Young has referred to as ‘global dictatorship’. *Global Challenges: War, Self-Determination and Responsibility for Justice*. Cambridge: Polity, 2007.

²⁸³ Fletcher. *A Discourse of Government*, *ibid*: 7.

²⁸⁴ Fletcher. *An Account of a Conversation*, *ibid*: 201.

commercially within the wider international order. This puts him in a unique position at the time, other political commentators recognise the importance of trade, but it is Fletcher who identifies the increasing European interconnectedness.

Fletcher laments that politics is considered purely in terms of distinct societies, disregarding the rights and interests of others. He is adamant that ‘justice is due even in point of trade, from one nation to another... because all mankind have a right to the fruits of their own labour’.²⁸⁵ Accordingly, if the governments of the world were regulated and ordered in such a way as *raison d’état* gave way to considerations of justice and virtue, then mankind could live in a ‘more free and manly way, attended with a more equal distribution of riches than trade and commerce will allow’.²⁸⁶ ‘For the light of nature teaches, that men ought not to use one another unjustly on any account, much less under the specious pretext of government’.²⁸⁷ The function of society is to provide the common good (the other republican ideal) removing individual pursuit of particular interests.²⁸⁸ Therefore, the *raison d’état* of international society should be the interests of mankind as a whole. Fletcher wrote that:

*‘Not only those who have ever actually formed governments, but even those who have written on that subject, and contrived schemes of constitution have, as I think, always framed them with respect only to particular nations, for whom they were designed, and without any regard to the rest of mankind. Since, as they could not but know that every society, as well as every private man, has a natural inclination to exceed in everything, and draw the advantages to itself, they might also have seen the necessity of curbing that exorbitant inclination, and obliging them to consider the general good and interests of mankind, on which that of every distinct society does in a great measure depend. And one would think that politicians, who ought to be the best of all moral philosophers, should have considered what a citizen of the world is’.*²⁸⁹

²⁸⁵ Fletcher. *passim*.

²⁸⁶ Fletcher. *passim*.

²⁸⁷ Fletcher. *An Account of a Conversation*, *ibid*: 202.

²⁸⁸ Nippel, Wilfried. “Ancient and Modern Republicanism: ‘mixed constitution’ and ‘ephors’”. in Fontana, Biancamaria. *The Invention of the Modern Republic*. Cambridge: Cambridge University Press, 1994: 21.

²⁸⁹ Fletcher. *An Account of a Conversation*, *ibid*: 209.

Thus he comprehends that in order for a state to effectively secure the freedom and security of the citizens, it must be representative and effective. For the state to prosper, the citizen must also flourish and vice versa. Fletcher sees that the state/citizen balance is reciprocal - both must work for the good of the other. States that are ineffective, underdeveloped or unrepresentative do not have the mechanisms to ensure the security and freedom of the people. And states that have external interference hampering their development or the political participation of the citizens are in a more difficult position - a stronger state that has the capacity to interfere in another state's decision-making processes -will interfere where interests compete and are threatened. Fletcher sees this as a zero-sum competition which will inevitably leave the weaker state in a worse position than before – unable to develop and become strong enough to challenge the dominating state.

Pettit has developed a similar point, and suggests that states should plan for non-domination amongst themselves in order to avoid the dangers of poverty and dependence that would make the state a prime target for 'predators'.²⁹⁰ He argues that non-domination should be conceptualized in order to command allegiance, supported as it is by common reason already acknowledged with regards to how states should behave towards one another.²⁹¹ This idea is available in Fletcher's proposed federal union, arguing that limitations on the ability of English ministers to interfere in Scottish affairs are uncontroversial and the very minimum requirements for Scotland to be able to secure the future of the nation and the citizens, with regards to sharing a monarch and a parliament with the stronger England.

Fletcher is concerned that England will be able to exert arbitrary power over Scotland if the union goes ahead without the limitations on the monarch being accepted. He fears that the Scottish people will have no say in Scottish affairs – no

²⁹⁰ Pettit. "A Republican Law of Peoples". *European Journal of Political Theory*. 9:1, 2010: 89.

²⁹¹ Pettit, *passim*.

political participation – and English ministers would dictate Scottish policy in ways which would benefit the English interests. This would remove any freedom from the Scottish nation and would be to the very detriment of its society and economy; the conflicting interests of the English nation taking precedence. This is so abhorrent to Fletcher that he states that if the limitations are not accepted by parliament and given royal approval, Scotland and England must fully separate.²⁹² Fletcher, like Mair and others before him, sees the benefits an equal union along federal lines would bring to Scotland in particular, and until this point been a supporter of a united Britain, yet his commitment to freedom from tyranny and arbitrary power is so absolute that he is willing to sacrifice the union. English rule without the limitations is a loss of liberty and the enslavement of the Scottish nation.²⁹³

Fletcher maintains that Scotland is an independent nation whose power and reputation has been very much in decline since the union of crowns. The reason for this decline is the failure to put limitations on the monarch when he took the crown in England and securing certain conditions in order to ensure the continued prosperity of Scotland. He insists that Scotland is right to seize the opportunity to put limitations on the successor to the throne to ensure the continued sovereignty of the kingdom, the freedom, power and frequency of their parliaments and the liberty of religion and trade from either English or foreign influence:

‘...that by the influence of English ministers upon our government, we are brought wholly to depend on that court; that by reason of the prince’s absence, the laws are not put in execution: I say, these being the causes of our present ill condition, what other remedies can be found, that that the parliament of Scotland should for the time to come bestow all pensions and offices both civil and military; that our parliaments should be annual and not interrupted in their sessions, and have power to appoint committees for the administration of the government during the intervals of

²⁹² Fletcher. *An Account of a Conversation*, *ibid*: 147.

²⁹³ Fletcher. *An Account of a Conversation*, *ibid*: 150-160.

*sitting'?*²⁹⁴ He argues that since the union of crowns, Scotland's trading powers have diminished through interference from English interests, and the property values have sunk.²⁹⁵

Fletcher's suggestion for a British federal solution, freeing Scotland of the threat of alien control from the English dominant power is simple and effective, avoiding the obvious difficulties with the not-so benevolent despot scenario. Fletcher proposes a federal model of republican governance for Britain in which the constitutional restraints on arbitrary power and checks provided by rotational elected offices, public scrutiny, separation of powers and the rule of law, provide a system of government which empowers the weak and limits the strong, and avoids domination by any one power, believing the only fair system of government for a united Britain is a system based on equality.

Act of Security and Limitations

This notion of justice is a crucial and recurring aspect of Fletcher's political thought. He is passionate against the amalgamation of Scotland and England if it means that power would be centralised in London. Such an incorporationist union, he argues, would be disastrous to Scotland's political and economic interests and would essentially remove all liberty from the people; 'Within 'an incorporating union, as they call it, of the two nations, Scotland will become more poor than ever'.²⁹⁶ He lobbies for a reorganisation of the political administration to ensure a redistribution of wealth throughout the country; introducing a system of local authorities that would bring an end to London's monopoly on the income brought in through parliamentary processes. Not only would this reorganisation spread the wealth of the nation, but would help bring an end to the corruption of the city. To ensure the continued autonomy and

²⁹⁴ Fletcher. *An Account of a Conversation*, *ibid*: 187.

²⁹⁵ Robertson points out that Fletcher may have been mistaken on this point. Referring to T.C Smout's *Scottish Trade on the Eve of the Union 1660-1707*, Robertson shows the contradictory argument that it was not until the 1690's that the crisis of the economy hit. It had been rising, although more dependent on England, until 1688. See Robertson, *Political Works of Andrew Fletcher*. 1997: 185.

²⁹⁶ Fletcher. *An Account of a Conversation*, *ibid*: 192.

development of Scotland, it and its people must be free from domination of or dependence on another. England must be seen to recognise the self-determination of the Scottish nation and not interfere with its goals and interests. Refusing to recognise the self-determination, or willfully interfering or impeding Scottish interests, is akin to domination, and unjust. The relationship between Scotland and England must be constitutionally organised to ensure non-dependence, non-domination and justice. With this federal framework for equality Fletcher presents theories of non-domination as non-dependence, applicable to contemporary republican ideas of the same character. Furthermore, Fletcher is the only theorist at his time considering the union in terms of the implications on liberty and justice, not just in *raison d'état* as a distinct or discrete interest.

Fletcher proposes a decentralisation of power built upon lesser unions working towards the achievements of their own interests and together pursuing the common good of the larger community; the division of power in Great Britain amongst twelve cities. Each of Fletcher's local authority units would provide the basis for participation in society and government at a local level. This would allow for the local units to respond to regional needs.

'if a sufficient provision be made to prevent the exhausting of our money by the attendance of Scotsmen at court, and to take away the influence of English ministers upon our affairs, no condition of men will be more happy. For we shall then be possessed of liberty; shall administer our own affairs, and be free from the corruptions of court, we shall have the certain and constant alliance of a powerful nation, of the same language, religion and government, lying between us and all enemies both by sea and land, and obliged in interest to perpetual peace and amity with us/ and this you cannot but allow to be a much happier condition, than any we ever could propose to ourselves all the projects of union that have hitherto been formed'.²⁹⁷

²⁹⁷ Fletcher. *An Account of a Conversation*, *ibid*: 191.

Furthermore, the decentralisation of power would bring a transparency to the system and thus accountability, reducing the corruption of the politicians and office holders. Each unit would be built to pursue the common good and protect the interests of that region and their nearest neighbours, bringing with it a domestic balance of interests and pursuit of the universal common good'.²⁹⁸ With this bold proposal, Fletcher is proposing a federal balance which provides a lasting peace based on commercial interests. As Onuf, discussed in the previous chapter, Fletcher proposes that the function of society is the pursuit of the common good; Fletcher's republicanism refers to the organization of political society for this good and the liberties of the people within.

Pettit rightly states that 'the free individual is protected against the domination of others by the undominating and undominated state', adding that individuals enjoy freedom from domination by being protected from domination by a non-dominating state.²⁹⁹ This is a well-defined republican position; that freedom can only be achieved if the undominating state is itself free from domination by another state. Fletcher clearly understands freedom as non-dependence to include the state and is quite resolute in his position that English domination of Scotland is equivalent to the enslavement of that nation and its people. Fletcher recognises the sovereignty of the crown, and therefore Scotland and England as interconnected yet self-determined states whose interests and actions necessarily affect one another, but he recognises the sovereignty of both crowns as separate. He is arguing for an institutionalised set of procedures to regulate the activity of each and provide means of negotiation when these activities affect the others interests. His federal system of governance at both the local and national levels provides a means for both nations to be represented fairly and equally at a transnational decision making level. The difficulty lies with

²⁹⁸ This is a commonly held concept in seventeenth-century political literature. Leibniz also considers 'lesser unions' political unions. For him the state was the fifth degree of natural society. The Church of God was the highest natural degree above it, including the church as the representative and the emperor as the defender of the *respublica Christiana*. Below the state were in ascending political order: husbands and wives; parents and children; masters and slaves; and whole households. Both Althusius and Leibniz were in this regard going against the trend in international relations theory at that time by maintaining the hierarchy of political entities both above and below the state.

²⁹⁹ Pettit. "A Republican Law of Peoples", *ibid*: 77.

confederating the sovereignty of the British monarch with the separate self-determination of both countries within the United Kingdom, but Fletcher avoids this by identifying self-determination not as independence or autonomy, but as a form of non-dependence.

Fletcher is '*endeavouring to lay hold on the opportunity put into our hands, of enacting such conditions and limitations on a successor, upon the expiration of the present entail, as may secure the honour and sovereignty of our crown and kingdom, the freedom, frequency, and power of our parliaments, together with our religion, liberty, and trade, from either English or foreign influence*'.³⁰⁰ To ensure the continued freedom of the Scottish nation, freedom from a tyrant, and freedom from external domination of another state, Fletcher has offered the limitations. As Skinner claims 'you can hope to retain your individual freedom from dependence on the will of others if and only if you live as an active citizen of a state that is fully self-governing, and is consequently neither dominating nor dominated'.³⁰¹ Fletcher's federal system, along with the limitations proposed in his speeches, afford the people of Scotland the opportunity to engage politically and construct the institutions that will minimise the domination of England. As Robertson points out, Fletcher's proposed limitations, known as the Act of Security, were a bluff, there was no other viable successor to the throne than from the Hanoverian line, and after one-hundred years of union, England would not accept Scotland's renewed independence or separate monarch.³⁰² Yet, his speeches were insightful and risky, and put Fletcher at the forefront of politics in his own time. The limitations would ensure noninterference, non-domination as non-dependence, and political participation; a civic republic with the ability to develop its economic and social structures for the good of all citizens which, in turn, would benefit the larger British society as a whole.

³⁰⁰ Fletcher. *An Account of a Conversation*, *ibid*.

³⁰¹ Skinner. "On the Slogans of Republican Political Theory". *European Journal of Political Theory*. 9:70, 2010: 100.

³⁰² John Robertson. The Union Debate in Scotland 1698-1707, in Robertson (ed) *A Union for Empire: Political Thought and the Union of 1707*. Cambridge: Cambridge University Press, 2007: 204. Robertson's essay is an excellent historical account of the Union and the debates surrounding it.

Fletcher's limitations are proposed to ensure that the people of Scotland enjoy freedom from domination and an active public life in a self-governing state.³⁰³ These include the mandates that elections should be made every Michaelmas and an equal number of lesser barons be added to the Parliament as nobleman - only noblemen or elected members have the vote in parliament, thus reducing the King's influence on votes. Furthermore, the king must sanction all laws offered by the estates; monarchic approval should be automatic - he cannot refuse the decisions of the parliament. A committee of thirty-one members, chosen by the parliament and not the crown, are to be elected every parliament to replace the Committee of Articles.³⁰⁴ The king cannot make peace or war without the consent of the parliament, nor conclude any treaty; Parliament, and not the crown, shall confer all places and offices. This was a further measure to end the corruption of the parliament and the monarchical bias and manipulation. Fletcher returns to the argument of the standing army when he stipulates that no regiment or companies of horse, foot, or dragoons are to be kept on foot in peace or war, but by consent of parliament. With this Fletcher is returning to his argument that standing armies should be abolished – the consent of the parliament rather than the king is a further measure to limit the potential for arbitrary rule of the crown - a monarch who controls a standing army has the capability of tyrannical rule; 'all fencible men, betwixt sixty and sixteen...are to be armed with bayonets, and no general indemnity or transgression be pardoned without parliamentary consent – yet another instruction intended to limit the biased influence of the crown along with the division and distinction of the two courts of session and judiciary. The lord presidency responsibility is to be shared between three judges and the exclusion of the senators of justice from parliament in order to limit the power of any one standing member, or court from unfair influence. He ends his limitations with the statement that 'if the king

³⁰³ For a full list of the proposed limitations, See Appendix 1.

³⁰⁴ Up until this time, the Committee of Articles depended on the crown to choose the standing members, consequentially, the crown was able to manipulate parliament. This limitation was Fletcher's way of removing monarchical influence over parliament, and constructing an unbiased decision-making process. Robertson, *Andrew Fletcher, ibid*, 1997: 138..

break in upon any of these conditions of government, he shall by the estates be declared to have forfeited the crown'.³⁰⁵

Each of these limitations is designed to provide checks and balances on the decision makers and their offices, reducing the capacity for damaging interference and the potential for arbitrary power. Fletcher himself lays out the intentions of the limitations better than anyone else when he states in this fourth speech, delivered (according to Robertson) to parliament on either the 22nd June or 1st July:

*'These are the ends to which all the limitations are directed, that English councils may not hinder the acts of our parliaments, nor interrupt their sitting; that we may not stand in need of posting to London for places and pensions, by which, whatever particular men may get, the nation must always be a loser, nor apply for the remedies of our grievances to a court, where for the most part none are to be had. On the contrary, of these conditions of government be enacted, our constitution will be amended, and our grievances easily redressed by a due execution of our own laws, which to this day we have never been able to obtain'.*³⁰⁶

This not only demonstrates Fletcher's commitment to Scotland's liberty from the domination of England, but his awareness of the need to implement a federal and peaceful union between the two – Scotland always relying on the goodwill of its powerful neighbour. He has a shrewd understanding of the changing political structure of the emerging European system based on commerce and the need for Scotland to assert its place within it.

To use Dworkin's theoretical framework as a way to explain Fletcher's vision of the state: two countries united under one monarch will each have different conceptions of the good life, and they risk brutality at the hands of the state as a

³⁰⁵ Fletcher. "Speeches by a Member of the Parliament". Robertson. *Andrew Fletcher Political Works*, *ibid*:138-139.

³⁰⁶ Fletcher. *Speeches by a Member of Parliament*, *ibid*::141.

consequence.³⁰⁷ Fletcher regards the two countries as two separate communities united under the banner of Great Britain. This all-encompassing vision of the community raises some moral claims, these claims do not have universal scope but Fletcher does regard them as necessary requirements of justice, and views them as intrinsically political. They are particular and focus on the interest of one community, as Seyed Mohammad Ali Taghav puts it: a cultural community's demand for survival and respect is basically a demand for the survival of, or respect for its own tradition.³⁰⁸

Fletcher wants the laws and modes of conduct to be preserved, and the right to pursue the community's interests with impunity. There is no reason to privilege one over another as both exist in this society as equal. Hence, in so far as their moral demands for survival, respect, the enforcement of their behavioural patterns, and the preservation of some rights for their members involve state action, they should be treated in an equal manner.³⁰⁹ The state must therefore remain neutral in each of the other nation's attempts to secure the good life, to choose one vision over another, or to interfere with one if it interferes with another, is to prejudice the treatment of each – they would be treated unequally – the state has a duty to remain reasonable, neutral and fair.³¹⁰ Fletcher argues that an incorporating union; with one monarch and one parliament, cannot remain neutral. He does not believe that the virtues of tolerance and fairness are enough to secure the common good in Scotland. However, a limited union as he has proposed, with separate and elected parliaments, and a limited monarchical power, has all the attributes of justice and fairness required to allow both countries to be united peacefully and equally with the capacity for growth.³¹¹

³⁰⁷ Dworkin, Ronald. *Taking Rights Seriously*. Cambridge, MA: Harvard University Press, 1977.

³⁰⁸ Seyed, Mohammad Ali Taghav. "Requirements of Justice in a Multicultural Society". *Politics and Ethics Review*, 1(1), 2005:30.

³⁰⁹ Seyed, Mohammad Ali Taghav. "Requirements of Justice in a Multicultural Society", *ibid*: 30

³¹⁰ Dworkin, Ronald. *Taking Rights Seriously*, *ibid*.

³¹¹ But, as Etzioni predicts, by seeing the community as the source of social order and authority, and seeking to impose behavioural standards on individuals for the sake of civil order, this leaves insufficient room for individual freedom and rights.

Of course, according to Fletcher, in his usual rhetorical style, the wisest of Englishmen will be able to see the advantages of his proposals, 'wiser men will consider that when two nations live under the same prince, the condition of one cannot be made intolerable, but a separation must inevitably follow, which will be dangerous if not destructive to both.'³¹² Fletcher appeals once more to the historical and Roman example, and despite his declaration that he does not wish to see the separation of Scotland and England, he has no hesitation in declaring his intention to vote for the separation of the two nations before he will consent to the continued 'miserable and languishing' condition Scotland is presently in, by allowing the continued interference of Scottish affairs by English ministers who refuse the limitations proposed. This is further indicative of Fletcher's belief that an incorporating union, without the limitations proposed, would be an act of enslavement of the entire nation of Scotland, necessitating its dependence on England and therefore placing it in a situation that would be complete domination. As Fletcher and the neo-republicans discussed in the previous chapter would agree - no agency or state should seek to dominate another.

Fletcher attempts to make the limitations more appealing to Queen Anne by making clear that his proposal is for the limitations to be placed on the Scottish monarch only, thus also making it clear that the Scottish parliament should not be dependent on the English to settle the secession, it is a Scottish issue. Furthermore, by stating that his limitations are intended for the Scottish king and parliament in that realm only, the English parliament and crown could not be seen to oppose the limitations without revealing intentions to interfere with the Scottish interests and parliament after the death of Queen Anne.³¹³ He continues to state that he does not wish to separate Scotland and England, but only to limit the influence of English councils and ministers on Scottish decisions, and free Scottish ministers from having to attend court in London. Fletcher is clear that by the 'force and exercise of our

³¹² Fletcher. *Speeches by a Member of the Parliament*, *ibid*: 142.

³¹³ Fletcher, *ibid*:141.

government . . . as far as possible, within ourselves' will result in trade, manufactures, and husbandry flourishing, 'and the affairs of the nation no longer be neglected'.³¹⁴ It is not the prerogative of the king of Scotland he wishes to diminish, but the prerogative of the English ministers of the nation.³¹⁵ Fletcher is not alone in his belief that the sovereign should be limited. Pufendorf, not unlike Fletcher, believed that the sovereign was limited by the very obligations of government – to promote life in society.³¹⁶ They were bound by the rule of law and 'when they have once accepted of the Sovereignty under these Conditions, the solemn Oath by which the engage to observe the Conditions utterly forbids them to use any Means, whether of secret Contrivance or of open Violence, on order to subvert the Laws of the Kingdom and render themselves absolute'.³¹⁷

Fletcher is concerned with the obligations of the monarch to his subjects and the rights the subjects have to ensure that their interests are being considered. His concern with the union as it stands is that the interests and rights of the people of Scotland are not being considered with due care. Following Locke's notion of the right to resist based on the concepts of consent and mutual obligations, Fletcher argues for the limitation of royal powers and advocates the social contract theories of obligation in order that the Scottish interest may be considered more fully and fairly. Fletcher appeals to a Lockean model of political obligation and reciprocity. Fletcher explicitly sets out the terms of the contract, which he calls conditions of government; the constitutional structures of the governments of Scotland and England.³¹⁸ His limitations draw heavily on Locke's model for consent, including the stipulation that the King must sanction the laws offered by the estates; that he cannot, without the

³¹⁴ Fletcher, *ibid*: 141.

³¹⁵ Fletcher, *ibid*: 145.

³¹⁶ Pufendorf, Samuel. *De Jure Naturae et Gentium*. 1672. Translated Andrew Tooke et al 1735. Indianapolis: Liberty Fund: 2002.

³¹⁷ Pufendorf, Samuel. *On the Duties of Man and Citizen*. James Tully (ed) Cambridge: Cambridge University Press: 1991. II, 9, 6

³¹⁸ Fletcher. *Speeches by a Member of the Parliament which began at Edinburgh the 6th of May, 1703*. Edinburgh, 1703, *ibid*.

consent of the parliament, have the power to declare war or peace; and that if he breaks any of these conditions of government, he shall forfeit the crown.

Fletcher uses concepts of political obligation based on consent and legitimacy that are very similar to those of Locke. The government has an obligation to preserve its subjects and society and it does this through the establishment of laws. 'The laws are the only security we have for our lives and properties, which if our sovereign subverts, subjects cannot be blamed, for making use of the ordinary means to preserve them, and since this cannot be done without withdrawing obedience from such a magistrate as goes about to destroy them, such an act cannot properly be said to punish him, (because we take nothing from him which he has a just claim), but do only shun the occasion of making ourselves miserable.'³¹⁹ Fletcher's political understanding has all the fundamental aspects of intrinsic republicanism; he believes that active citizenship has intrinsic value and that the state should educate the citizens into civic virtue. Liberty, for Fletcher, is a matter of freedom from state compulsion - freedom from tyranny. Yet Fletcher's political theories are grounded in those of Lockean liberalism, in particular, the notions of social contract, consent, and human nature.

Fletcher draws his arguments from the canon available to him; republican ideals tempered by a Hobbesian understanding of human nature and a Lockean sense of liberty, to form a richer, more feasible republican theory. A mixture of Hobbesian human nature and a Machiavellian/ Republican inclination to do ones duty for the common good, encouraged by virtue and honour. 'Nature in most men prevails over reason; reason in some prevails over nature: but when these two are joined, and a violent inclination finds itself owned by reason, required by duty, encouraged by the highest praises, and excited by the most illustrious examples, sure that force must be irresistible'.³²⁰ . Fletcher has used Locke to develop a richer variety of republicanism

³¹⁹ Fletcher. *A Letter to a Member of the Convention*, *Ibid*: 5.

³²⁰ Fletcher. *Two Discourses Concerning Scotland*. *ibid*: 34.

that is more suited to his needs and interests, and provides us with an improved republican tradition in which to analyse political history.

Sullivan suggests that the neo-republicans like Fletcher merged republicanism with liberalism by finding that republicanism provided a means for the people to protect their natural rights and pursue happiness within the public arena. Self-interest motivates leaders and therefore the public realm is a vigorous place of political activity and efforts to secure individual rights and thus the public good. The vigorous public activity that takes place serves the private realm.³²¹ Fletcher brings the individual into the political realm in order to secure his natural rights; more specifically the right to liberty. The purpose of government is to secure the liberties of the subjects, and therefore liberty is best served within a republic. Once a monarch attempts to subvert the liberties of the people – his only obligation to the people being to secure their liberties – he is no longer fit to be called the sovereign and must be removed from power. Fletcher is combining his Lockean liberalist leanings with a Harringtonian republicanism in order to posit that consent is necessary and resistance legitimate, while maintaining that the common good of the people is the fundamental duty of each individual above their own interests.

Fletcher's last speech was delivered to parliament on the 7th July 1703, after Queen Anne announced her refusal to accept the limitations proposed by him at the previous sitting. He could not see how this refusal was anything other than a clear statement of intention to interfere with Scottish affairs and continual subjection of Scottish interests to those of the English court. After a long career supporting the federal union between the two nations, Fletcher finally sees that there is no room for the equal status for Scotland, or much hope that England's interests will not supersede its own. As Skinner points out; 'to reduce a state to dependence on the goodwill of other states is to cause not merely the state but every one of its individual citizens to

³²¹ Sullivan, Vickie B. *Machiavelli, Hobbes, and the Formation of a Liberal Republicanism in England*. Cambridge: Cambridge University Press, 2004: 14

fall into a morally intolerable condition of servitude'.³²² Fletcher thus removes all support for the Union and retires from politics.

Republican Theories of Power and Freedom

It is Fletcher's belief that monarchical prerogative in the seventeenth-century was wearing away the institutional safeguards against tyranny. Consent of and consultation with these institutions was decreasing despite the general belief that the good will and cooperation of the nobility and landed freeman was necessary for effective rule. He wishes to '*disabuse those who think them [the monarchies] the same, because they are called the same names; and who ignorantly clamour against such as would preserve that liberty which is left*'.³²³ The balance that was maintained when the monarchies were limited by the relative power of the nobility was being eroded by the threat of the standing army taking the power of the sword out of the hands of the people and placing it directly into the hands of the monarch. *I do not deny that these limited monarchies, during the greatness of the barons, had some defect: I know few governments free from them. But after all, there was a balance that kept those governments steady, and an effectual provision against the encroachment of the crown.*³²⁴

According to Fletcher, all governments who do not have sufficient security in their constitution against the encroachments of the arbitrary power of princes – whether it is through maintaining standing armies in times of peace or tax raising powers – are tyrannical. The ability to coerce individuals through arbitrary means goes against the republican ideals of equality and freedom. It is only by adopting the republican principles of popular sovereignty, or political participation, that the organised society could hope to achieve its highest goals. Sovereignty and political power rest in the hands of the people with the administration of sovereignty resting in

³²² Skinner. "On the Slogans of Republican Political Theory", *ibid*: 101.

³²³ Fletcher, *ibid*: 4.

³²⁴ Fletcher, *ibid*:4.

the hands of the state. When the individual citizens are empowered and obliged to take an active role in the running of the state, and only when equality and liberty are secured, can the state realise its full potential and capacity for achieving the common good. Like Machiavelli before him, Fletcher believes that it is not the well-being of the individual's that make the city great, but the well-being of the community and, as with Machiavelli, it is beyond question that it is only in republics that the common good is looked to properly.³²⁵ What is required is courage, public spirit and a role in *res publica* – those things that according to Fletcher had been eroded by the corruption of luxury and freedom of choice and an individualistic sense of liberty that does not sacrifice self-interest for public good. Although Fletcher accepts that it would not be possible to return to a gothic constitution, he does wish to highlight the causes and consequences of its demise.

Fletcher's first treatise, '*A Discourse on Government with Relation to the Militias*' is a discourse on the history of liberty. It is a treatise on the proposal for the maintenance of a standing army in peacetime. He intends to show that, despite the claims of contemporary governments, they are attempting to subvert the constitution of Scotland and the liberties of their subjects. These governments cannot be the same as the honourable governments of the past because as long as they have standing armies there is no balance to measure the power of the government or the encroachments of the crown.³²⁶ Fletcher argues that a free and fair society requires limitations on the power of the government, by keeping standing armies in times of peace; security and liberty are lost alongside the loss of control of internal affairs. Whosoever controls the means of coercion – the sword - has the power of the state. The sword in the hands of the prince instead of the people destabilizes the balance of power and turns a prince into a tyrant because he who controls the means of coercion, controls liberty.³²⁷

³²⁵ Machiavelli. *Discourses*. London: Penguin Classics, 1983. bk 2 ch 2.

³²⁶ Fletcher. *A Discourse of Government*. *Ibid*.

³²⁷ Fletcher. *A Discourse of Government*, *ibid*: 7.

Fletcher believes that political freedom ensures private liberty and that the political constitution changed for the worse in the sixteenth-century with the change in the form of feudal-monarchical relations, and the unintended ill-consequences of good intentions. With a system overhauled to provide the common man with more individual autonomy came a system that allowed the ruling elite to grasp more power and oppress more people. The alteration of government was intended to emancipate the vassals from military service, allowing them to exist independently; however, this liberation had far reaching social consequences. The most important of which is the corruption of the international system that allows the growth of mercantilism. Not only does this result in the means of coercion being placed in the hands of the state, but a newly burgeoning economy threatens to corrupt the civic way of life. Fletcher, responding to what he sees as the moral degradation of man following his emancipation from the virtuous military way of life, recognises the threat to liberty as a threat from the increasing and arbitrary powers of the decision makers – the king and the nobility. In this regard, Fletcher is equating corruption with the excessive individualism that capitalism and wealth brings. This European historical approach is an attempt to underline the structural causes for the economic and political problems, and provide solutions to improve the infrastructure and with it the wealth and social stability of the nation.³²⁸ He refers to a model of the ideal state and the ‘gothic constitution’, based on a civic and militaristic way of life for a solution.

The formation of standing armies is a product of mans greed. By turning soldiers into tenants, landlords can impose taxes and demand rents however, in times of war there are no vassal soldiers to call upon and so standing armies, kept by the state, are required in times of peace. Standing armies require payment and the government requires income from taxes to make that payment. Similarly, landlords, having been corrupted by luxury and seduced by debt, take command of mercenaries to impose heavier duties on their tenants. This is similar to the Aristotelian civic and

³²⁸ The idea of the gothic constitution as the best system of governance is popular throughout 16th and 17th century European political thought. The monarchy relies on the cooperation of the nobility to rule effectively.

humanist values that define rentiers and entrepreneurs as corrupt, seduced by material gain. War has made the society cohesive, capable of refinement, luxury and specialization. Growth of professional armies is encouraged to enable man to seek material gains and leave defenses to other men. There is a growing awareness of the relations between government, war and finance - war is necessary for the constant procurement of luxuries from other countries, and as a consequence, war becomes 'a constant trade to live by' as a form of mercantilist warfare emerges.³²⁹ Fletcher recognises that the economic growth of the European powers is directly linked with the growth of standing armies – public finance and standing armies are interdependent. As war becomes a trade to live by, the European powers become dependent on the armies they command. This, according to Fletcher, further distracts from the primary good - the public responsibility of economic development to eliminate poverty and create public wealth.³³⁰ Instead of focusing the efforts of government on welfare and social stability, the monarch intends to subvert the constitution and undermine the stability of the nation in order to gain material wealth.

As much as this wealth is necessary for the stability of the nation, Fletcher goes on to argue that the economic growth created through the wars benefit only the English nation. Fletcher is adamant that it is unjust for England to force Scotland to maintain an army for the sole purposes of the English and the Dutch interest, neither of whom had been willing to allow Scotland any attempt to improve their worth. There is no advancement of the common good; since there is no advantage to this force, only disadvantage, Scotland should refuse to maintain a standing army on their behalf.³³¹ The fact that he declares that Scotland should 'refuse' to maintain a standing army on behalf of England is indicative that he maintains a right to the separation of interests

³²⁹ Fletcher. *A Discourse of Government*, *ibid*: 7.

³³⁰ It has been suggested that Fletcher is anticipating the enlightenment by 50 years. See Scott, P.H. Andrew Fletcher and the Treaty of Union. London: Hyperion Books, 1993: 60.

³³¹ Although 30,000 strong Scottish force was require in the war with France – and despite Scotland and France having long-term amity - Scotland was passed over when it came to the sharing of the bounty when peace was settled. Fletcher also insists that both the English and the Dutch had refused to engage in any trading partnership with Scotland, deliberately keeping the country poor. See Fletcher's, *Two Discourses Concerning the Affairs of Scotland*, *ibid*: 45

and powers within Britain. This is indicative of the republican foundation to Fletcher's political machinations; he sees the monarch wielding arbitrary power in England and is attempting to limit this power in Scotland. This is an early modern republican argument that has been utilised in contemporary theories of liberty. F. A Hayek defines personal or individual freedom as 'The state in which a man is not subject to coercion by the arbitrary will of another or others'.³³² The task of a policy of freedom must be to minimize coercion or its harmful effect, even if it cannot eliminate it properly. Standing armies do the opposite; they provide the means for coercion and arbitrary power, increasing it instead of limiting it.

The original meaning of the term freedom, according to Hayek, is 'the possibility of a person's acting according to their own decisions and plans, in contrast to the position of one who was irrevocably subject to the will of another, who by arbitrary decision could coerce him to act or not to act in specific ways', or more simply 'independence of the arbitrary will of another'.³³³ Freedom refers solely to the relation of men to other men, and the only infringement upon it is coercion. Freedom 'does not depend on the range of choice but on whether he can expect to shape his course of action in accordance with his present intentions, or whether somebody else has the power so to manipulate the conditions as to make him act according to that person's will rather than his own'.³³⁴ Freedom thus presupposes that the individual has some assured private sphere, that there is some set of circumstances in his environment with which others cannot interfere.

Fletcher's citizens are not free as long as the threat of the standing army is upon them. They may have options, but not all of them are actual options if they have to consider the threat of the standing army and thus consider the wishes of the monarch, and what he thinks is acceptable. Coercion occurs when one man's actions

³³² Hayek, F.A. *The Constitution of Liberty*. London: Routledge and Kegan Paul, 1960: 80. This is not to be confused with civil or political freedom.

³³³ Hayek. *The Constitution of Liberty*, *ibid*: 13

³³⁴ Hayek, *ibid*: 13.

are made to serve another man's will, not for his own purpose, but for the purpose of others. There is still freedom to choose, but that freedom is to choose the lesser evil under the circumstances. Coercion necessarily implies either the threat of harm or the intention to bring about certain conduct.³³⁵ Power is the power to coerce others into doing ones will through threats of harm. It is this power, the power to subject others to our will or force them to act against their will that is contrary to liberty.

According to Fletcher, the establishment of a standing army has several harmful consequences for society. Standing armies are used by the crown to oppress subjects through a process of intimidation and fear – the main forces of coercion.³³⁶ Unlike ancient times there is no recourse against a tyrannical monarch, no means of deposition if he controls both the power and the purse. The best way to ensure the absolutism of a monarch is to give him a standing army. Fletcher is fundamentally concerned for the liberty of the people and the safeguard of the sovereignty of the people within a representative government. An imposition of a standing army is tantamount to removing sovereignty from the people and this cannot be accepted. Here Fletcher warns that removing the right to political participation – the essence of freedom – is taking sovereignty from the people and giving it to the monarch and thus creates an absolute monarch who will remove the last vestiges of freedom that remain.³³⁷

Hayek agrees that power and coercion are closely related, but denies that one necessarily follows from the other. He prefers the term 'force' or 'violence' to coercion, since it is the threat of force or violence that are the most important forms of coercion, but not the only forms. However, he does agree that the threat of violence is the most powerful form of coercion, and for Fletcher, there is no greater threat of

³³⁵ Laski, Harold J. *Liberty in the Modern State*. London: Penguin Books, 1937 : 89

³³⁶ Furthermore, the loss of liberty is denied because no-one is willing to admit they are being disaffected by their monarch. But as Fletcher attests, these monarchs are not the same as the honourable monarchs of the past - popular sovereignties with sovereign power in the hands of the people, but are styled on the French model of absolute monarchy.

³³⁷ Fletcher. *A Discourse of Government*. *Ibid*:

force than the threat of a standing army in peace-time. Laski puts it succinctly when he says: 'true coercion occurred when armed bands of conquerors make the subject people toil for them, when organised gangsters extort levy for 'protection', when the knower of an evil secret blackmails his victim, and, of course, when the state threatens to inflict punishment and to employ physical force to make us obey its commands'.³³⁸

Pettit adds: I am not free to do what I already do if it is a matter of luck or goodwill that I am not interfered with. If I have no claim to the right to do what I already do, should there be a need to make such a claim, even if that need never actually arises.³³⁹ Pettit describes circumstances where there is no overt interference as the 'invigilation' of the dominated – whereby the domineering power stays watchful of the choices made by the dominated and is ready to intervene when the choices made are not to his taste. In this respect, the dominated find themselves restrained in the options open to them, and are forced to adjust their behaviour, choosing what they believe the dominating party or 'master' is willing to accept in order to avoid intervention which might be detrimental to their interests.³⁴⁰ Being subjected to the will of another is being dominated, and domination undermines the status of the individual as a free agent; all their actions have the 'character of permissions' based on actions that they may perform without intervention from the dominus.³⁴¹ Therefore, the evil of domination as 'unfreedom' is the refusal to acknowledge that 'what marks us off as a species is that we are each able to make our own choices, and indeed to form our beliefs in a reason sensitive way'.³⁴² The emphasis here is not on interference *per se*, but the arbitrary interference of another. Fletcher regards freedom in this same negative sense - as freedom from the arbitrary rule of another.³⁴³ It shows Fletcher is committed first to the conception of the good as it is held in common, and liberty as a result of political contribution to that good life.

³³⁸ Hayek, F.A. *The Constitution of Liberty: The Definitive Edition*. Ronald Hamoway, (ed): 93

³³⁹ Halldenius, Lena. "Building Blocks of a Republican Cosmopolitanism", *ibid*: 14

³⁴⁰ Pettit. *Republicanism*. *Ibid*:

³⁴¹ Skinner. "On the Slogans of Republican Political Theory". *European Journal of Political Theory*,9:1, 2010: 96

³⁴² Pettit. "A Republican Law of Peoples". *European Journal of Political Theory*. 9:70, 2010

³⁴³ This can be viewed as an interesting example of Fletcher's clear separation of political and personal ideas of liberty, having proposed a form of domestic servitude as a solution to the problems caused by the vagrant class.

Fletcher, among other anti-standing army pamphleteers, is of the opinion that the constitution of Britain was based on a limited monarchy for the purposes of balance and liberty. A standing army imposed by a monarch is in direct contravention to the principles of the limited monarchy and would establish the king as an absolutist sovereign, altering the constitution and eliminating liberty. Fletcher is firmly of the belief that a standing army is fatal to a free constitution. Unlike his contemporaries, however, Fletcher approaches the subject from an historical and European perspective. Moyle and Trenchard's Anglo-centric approach misses the originality of Fletcher's arguments, basing them on examples in history that showed nations that had lost their freedom and liberty had only done so after resorting to standing armies. They were only able to regain that freedom after the armies had been disbanded. Fletcher believes the corruption of the Gothic order had been a European phenomenon that began in the 1500's; neither of the Anglo-centric arguments of Moyle and Trenchard on one side, and Somers and Defoe on the other were adequate to address the issues that the establishment of a standing army would cause. The interdependence between the corruption of the constitutional order and the modern political and economic system required the issues to be addressed from a European perspective.³⁴⁴

Fletcher does not appeal for a return to the gothic way of living of the warlike nations, but does appeal to the civic morality that existed at that time. Virtue is to be found in history, the gothic simplicity and militaristic life. He assumes the existence of a certain pre-commercial morality, a civic virtue that was eliminated when men were allowed to choose their education and leisure pursuits. By pursuing an expensive lifestyle, man, according to Fletcher, sells the means of his personal liberties for the materials of culture. Culture is luxury, leisure and choice and each carries its concomitant ill. The present is characterized by decadence, corruption and debt as

³⁴⁴ Robertson, John. "The Scottish Enlightenment and the Militia Issue". John Donald Publishers: Edinburgh. 1985: 30

man is seduced by extravagance. As Pocock observes, the political health of the nation has been corrupted by the intrusion of the war economy into the domestic sphere.³⁴⁵ Virtue is the moral and material foundation of civil, social and political life and Fletcher recognizes a need to return to pre-commercial morality.³⁴⁶

He does not consider – or certainly does not refer in his pamphlets and speeches to – the theory of private interests leading to public good. It may be that he considers that pursuing material goods such as elaborate clothing and jewellery is a corruption of virtue, and thus linking finance with corruption and where private interest may achieve public good. Fletcher’s proposal for civic virtue and the common good is somewhat limited. He assumes that the freedom the people enjoy depends on their active commitment to collective goods, however he does not assume that the people will be motivated to social acts of benevolence, rather the collective goods are governance, trade and defense of the nation. Commitment to the maintenance and development of the parliament and the economy are the essential attributes of the civil society to maintain the freedom of the nation. Compared to our contemporary conception of civic life – or as Honohan calls it, civility and our modern idea of common goods and services, as well as public spirit.

Fletcher recognises that virtue is a weak basis for a republic, especially with commerce as its main competitor for societal progress. Although he does emphasise the need for virtue, he places it within the economic context, arguing that virtue is a sound basis for economic growth, that a strong republic working together to achieve the common good would necessitate growth in trade and commerce, manipulating the greed of the ministers and decision makers. He does not attempt to move away from

³⁴⁵ Pocock, J.G.A. *The Machiavellian Moment*, *ibid*: 423.

³⁴⁶It is common for Fletcher to appeal to history in order to exemplify his arguments. In this instance he appeals to Ancient Rome. He assumes that Rome required a standing army because it was in a state of perpetual war. However, after serving the term the soldiers were returned to their possessions and trades, Rome was not left with the burden of maintaining them. However, those who subverted that government (the greatest that ever was), found themselves obliged to continue the same soldiers always in constant pay and service. Furthermore, he argues that if a man is to live in perpetual war, not allowed to return to his home in times of peace or after serving his time, he becomes useless in peace time. He is consumed by war. Rome’s practice was to change men even during the war, to allow recovery and also to have healthy and willing soldiers available Fletcher, *Discourse of Government*, p15

individual virtue as a basis for a republic, as others had before him, but argues that they are compatible, if not complimentary and beneficial to one another.³⁴⁷ In order to secure the common good, one must exercise virtue, self-restraint from individual interest in political deliberation. However, as Rawls suggests 'We must abandon the hope of a political community if by such a community we mean a political society united in affirming a general and comprehensive doctrine'³⁴⁸ But we should not altogether abandon Fletcher's virtuous community driven by the common good, because such a community does not have to include any substantive common good, but the republican shared principles of liberty and equality.

Honohan notes that the rise of commercial interest is incompatible with republics like the one advocated by Fletcher. Whereas Fletcher's citizens would be motivated by the common good, consumerism is driven by self-interest and private desires – clear indications of corruption.³⁴⁹ It provides governments with the resources to exercise arbitrary power - such as the standing armies in peace time - while the removal of political decision making powers from the community weakens the societal bonds necessary for citizens to desire to work to achieve the common good. Corruption is a necessary consequence of society, with interdependence resulting in the rise of arbitrary power. It is a non-stoppable force and therefore there can be no return to a golden age but there can be freedom within that corruption of society – the freedom from the arbitrary power limiting dependence and inequality which are the main sources of the corruption.³⁵⁰ What has been overlooked in Fletcher's political theories is his attempt to move away from a republican ideal which emphasises virtue to fully integrate commerce into his thought, modernising republicanism and making it relevant to contemporary political thought in a way that Machiavelli, who completely ignores commerce, cannot.³⁵¹

³⁴⁷ See Honohan. *Civic Republicanism*, *ibid*: 79.

³⁴⁸ Rawls, John. *A Theory of Justice*. Harvard: Harvard University Press, 1971.

³⁴⁹ Honohan, *ibid*: 78

³⁵⁰ This is a theme later picked up by Rousseau in his first and second discourses.

³⁵¹ Montesquieu and Adams rework the basic notion of what virtue entails, and would later disagree with Fletcher that a modern republic based on commerce is necessarily corrupt because commerce promotes industry, honesty and

In Fletcher's arguments against the standing army it is clear he is more concerned with freedom than virtue; to maintain freedom powers must be kept in check. Fletcher recognises that a republic based on the pursuance of the common good, as in the Athenian model which he favours, is not workable in large societies and therefore proposes his federal system to provide closer checks on those with power. Freedom requires the ability to make decisions free from influence or interference. This freedom of decision making is also vital for the pursuit of the common good; to realise the common good, citizens must collectively decide on laws, and should neither influence or be influenced by external forces.³⁵² This idea of freedom as non-domination includes the concept that liberty is achieved under the condition where one lives in a common society but is at the mercy of none. Of course, as Pettit recognises, one may live within society, subject to some agency – a law or government - without being dominated, domination defined as one person dominating another if and only if they have a certain power over that other, in particular a power of interference on an arbitrary basis.³⁵³ This definition applies to Fletcher's ideal of political liberty; however Fletcher had a larger concept of freedom in mind. His concern was for the freedom of the state from political interference and the arbitrary power of the monarch or parliament of England. It is Fletcher's belief that interference has a necessarily ill effect; interference can only be for the benefit of the interferer, not those whose autonomy has been interfered with.³⁵⁴

David Miller has outlined three main traditions of thought with regards to notions of freedom. The first, republican notion, maintains that to be free one must be

moderation. Social virtues such as these were necessary to accumulate wealth. See Robertson, Andrew Fletcher Political Works, *ibid*: xxxiv.

³⁵² Honohan, *ibid*: 91.

³⁵³ Pettit. *Republicanism. Ibid*: 51-79.

³⁵⁴ Fletcher was less interested in individual freedoms. As a republican, his concern was for the state as a whole – the common good. *His Discourse Concerning the Affairs of Scotland* considers a form of domestic servitude as a form of freedom – freedom from poverty – and as a justifiable method to improve the Scottish economy and rid it of the problems of vagrancy, including the need to provide for the welfare of the vagrants. In Fletcher's proposal, the servant and his family would have their welfare and educational needs met by their master, but would be free from threats of violence or repression.

part of a free political community – freedom as self-government. The liberal tradition holds that ‘freedom is a property of individuals and consists in the absence of constraint or interference by others’.³⁵⁵ The final ‘idealist’ view claims that to be free meant to be autonomous.³⁵⁶ It is Miller’s contention that these notions can be combined, creating an amalgamation of liberal and republican notions of freedom which is concerned with both the freedom of the political community and the freedom of persons. Rather than choosing between republican freedom and liberal freedom, Miller suggests that we ‘see the former as a precondition of the latter’.³⁵⁷ The important distinction to make with regards to the republican theory of domination is that it is only arbitrary acts of interference which causes the loss of freedom. No actual interference needs to take place to cause the loss of freedom, the possibility that interference may happen, and therefore choices are limited and behaviour is changed in accordance with the possibility of this interference, is enough to render the individual as un-free. Fletcher is motivated by a desire to defend a civic moral way of life centered on equality and independence, and a desire to keep the threat of coercion and arbitrary power out of the lives of the citizens in order to maintain their political freedom which in turn maintains their personal freedom, as in Miller’s intermarriage of republican and liberal notions of freedom.³⁵⁸

According to Fletcher, there are only two securities for liberty: the sword (power) and the purse. With these two elements in the hands of the people, they are free from the threat of arbitrary power and free to participate in public life. The monarch, by attempting to impose a standing army, is attempting to take both of these securities and, if he succeeds, Scotland might as well give up on its constitution altogether.³⁵⁹ The perceived threats from English rule to the constitution and Church of Scotland are indicative of Fletcher’s visions for the segregation of the two decision

³⁵⁵ Miller, David. “Introduction”. *Liberty*. David Miller, (ed). Oxford: Oxford University Press, 1991: 3.

³⁵⁶ Miller, *ibid*: 6.

³⁵⁷ Miller, *ibid*: 30.

³⁵⁸ Furthermore, he is keen to keep Scotland free from the arbitrary power of self-interested Englishmen who would obstruct Scottish development and economic progress. In the discussion of rights, see Fletcher’s conversation...

³⁵⁹ Fletcher. *Two Discourses Concerning the Affairs of Scotland*, *ibid*: 50.

making bodies or parliaments under one crown. Having the monarch reside in England is acceptable, having an English government make decisions on behalf of Scotland is not. In order to balance the King's desire for a standing army and the need to provide defensive militias when necessary against the threats to the constitution, Fletcher proposes a method to transform the militia. Scotland and England would remain independent political entities within a federal Britain, and this federal Britain would be defended by trained militias providing greater security than any standing army or mixed constitution could provide.³⁶⁰

Standing armies provide the opportunity for an unfair power accumulation and arbitrary power; this is against the early modern and contemporary conceptions of non-dominance, or freedom from arbitrary power. In Fletcher's account of republicanism, freedom is a central value - a composition of positive and negative liberties - freedom from interference of arbitrary rule and freedom to pursue the common good by virtuous means. He creates the standard reference for a virtuous republic based on equality of citizens and participation in public life. However, he is deeply skeptical that this is feasible in the modern political realm where material goods and self-interest have corrupted the state. He proposes a model based on self-governance and federal powers, limiting the power of any one institution whether it is the monarchy or parliament, to allow for a republic based on self-governing individuals capable of pursuing the interests of the greater society.

Freedom as non-domination

As previously discussed, Fletcher proposes several limitations on the crown in order to avoid arbitrary power. The parliament of 1703 in which Fletcher was first

³⁶⁰ John Robertson provides a valuable insight into Fletcher's main issues with the standing army in his chapter *The Challenge of Andrew Fletcher*, in the aforementioned book, *The Scottish Enlightenment and the Militia* issue. Fletcher was mostly concerned with domestic consequences, that the standing army will be 'made use to suppress the liberties of the people'.³⁶⁰ Furthermore, the maintenance of a standing army would necessarily enslave a nation who is burdened with their subsistence through taxes. Fletcher makes explicit the hazards a standing army would mean for Scotland as an explicitly separate state from England. He highlights the different dangers each faced, and the current economic and political differences between the two countries. Scotland faced increased poverty and would not be able to pay the eighty four thousand pounds it would be required to maintain the troops without 'reducing it at length to utter destruction'. Fletcher's deliberate distinction between Scotland and England's economic and social barriers to a standing army is indicative of the message that Fletcher wanted to get across - that Scotland and England were two distinct countries within a larger, British realm.

invited as a member was called to discuss the secession of Queen Anne who had no living heirs. The Speeches Made By a Member of Parliament were made at Fletcher's first parliament, this was his first and only opportunity to address the decision makers directly, and he did not waste time in bringing to the attention of parliament the issues that had been the focus of his active political life to-date, including re-addressing the militia and standing army issues, the dire economic situation Scotland was in, and of course the more constitutional issues at stake during the negotiations for a Treaty of Union: the independence of the Scottish nation, freedom from arbitrary power, limited monarchical authority and the rule of law. It is these constitutional issues that highlight Fletcher's commitment to a republican paradigm with evidence of an early modern civic-republicanism which includes communitarian and libertarian elements. It is clear that Fletcher is not against a monarch but against arbitrary rule and tyranny. His conception of freedom has an emphasis on the freedom of the state, not the individual within the state, as a solid foundation for the common good; a state based ideal of non-interference from outside influence for the benefit of the people working towards achieving the common good. Fletcher is not a political philosopher. He does not ask the questions his peers were asking regarding the nature of man or his rights and duties, rather he is interested in liberty and power, and how one can be obtained in the face of the other.

A central tenet of Fletcher's political theory is his idea of the ideal constitution. Fletcher wanted government to be ordered by a system of checks and balances provided for by the political accountability of the governing elites in the hands of the majority. It is through this political system of checks and balances that Fletcher saw the solution to avoiding arbitrary rule and tyranny. If the monarch is to retain his power, he must serve the functions of his office and serve the interests of the community. In return, the people will obey the laws of civil society. In this way, the ruler is a servant of the people. The intention to extend the royal prerogative was one about which Fletcher felt particularly concerned. In several of the speeches made to the Parliament of 1703 Fletcher discussed the prerogative's erroneous form. In the third speech in the

printed collection Fletcher speaks at great length against the expansion of royal privileges in Scotland. 'Prejudice and Opinion', he believes,

'Govern the World to the great distress and ruin of mankind... These Prejudices are yet stronger when they are taken up by great numbers of Men, who confirm in each other thro the course of several Generations, and seem to have their Blood tainted, or, to speak more properly, their animal Spirits influenc'd by them. Of these Delusions, one of the strongest and most pernicious has bin the violent Inclination on many men to extend the Prerogative of the Prince to and absolute and unlimited Power'.³⁶¹

It is in statements such as these that Fletcher's commitment to a limited monarchy becomes most apparent. He is committed to the concept of a mixed constitution, and to a system of political accountability based on reciprocal political obligations which derive legitimacy through the consent of the subjects. He blames the 'speculative doctrine of passive obedience' for the arbitrary rule of King James VII and his attempts to ensure the absolute power of the monarch.³⁶² He argues that James, by attempting to remove opposition to his will and attempting to change the constitution and laws so that he could ensure his absolute power - and, in so doing, eliminating political accountability - gave up his right to rule. It is the subjects' right to resist absolute power; therefore James' overthrow was not only just, but inevitable. Ward suggests that these Lockean philosophical principles were largely ignored by the Whigs at the time - resistance, it was argued by Tyrell, was not a right of everyman. Only the estates represented in government could provide the legal sanction for resistance.³⁶³ Radical Whigism was associated with the beheading of Charles II and the republic of Cromwell, a failed experiment which had left Englishmen deeply suspicious

³⁶¹ Fletcher. Speeches by a Member of the Parliament which began at Edinburgh the 6th of May, 1703. Edinburgh, 1703.

³⁶² Passive obedience theories were put forward by James VI and I, *The Trew Law*; Robert Douglas, *Master Dowglasse His Sermon*; and Honyman *Survey of Napthali*. All available at: <http://eebo-chadwyck.com>. All were intended to ensure the acquiescence of the King's subjects and were attempts to justify blind obedience whether or not one agreed with the policy.

³⁶³ Ward, Lee. *The Politics of Liberty in England and Revolutionary America*. Cambridge: Cambridge University Press, 2004: 280 - 281.

of republicanism. Despite this, Fletcher and Locke still proposed republican values and limited governments.³⁶⁴

In his speeches he proposes a mixed government to avoid the dangers of arbitrary rule and partiality; the government and the sovereign must remain separate. Administration must be carried out by an executive chosen by election via balloting which will in turn limit any unfair influence over the voting procedure. The government will also be limited and there will be checks to ensure that it does not become too powerful.³⁶⁵ As Robertson points out in his essay *Andrew Fletcher's Vision of Union*, Fletcher was not vague in his references to the covenanters whose vision of mixed monarchy he appeared to be reproducing, setting the crown within rather than above the constitution.³⁶⁶ His limitations were recognised as instruments for controlling the monarchy in the interest of Scotland, and were neither new nor radical, having been inspired by the ancient constitution and the liberties 'enjoyed by our ancestors'. Although Fletcher never suggests abolishing the monarchy, he seeks a constitution which limits their input as far as possible within the mixed monarchy framework.

Fletcher recognises that in order for freedom as non-domination to work in the case of Scotland and England, the resources of both must be more equal so that Scotland may defend itself against England's potential for domination. The idea of voluntarily subjecting Scotland to permanent interference from England is incredible. Pettit calls this reciprocal power; if each can defend itself effectively against the interference of the other, then it can avoid being dominated by that other.³⁶⁷ However, the problem of how this equality of defense can be achieved is not easily overcome. Pettit suggests that the only defense from arbitrary power in this sense may be the recourse to punishment, and this may be what Fletcher had in mind when he suggests in his twelfth and final limitation that any monarch found guilty of wielding,

³⁶⁴ Ward, *ibid*: 282.

³⁶⁵ Fletcher. Speeches, by a Member of Parliament. Robertson. *Ibid*:

³⁶⁶ In Mason, Roger (ed) *Scotland and England 1286-1815*. Edinburgh: John Donald Publishers Ltd., 1987:206

³⁶⁷ Pettit. *Republicanism, ibid*, 67

or at least attempting to wield arbitrary power can be deposed.³⁶⁸ Such recourse assures a certain (but not exhaustive) amount of immunity from arbitrary power. Fletcher's limitations are intended to guarantee immunity from interference or arbitrary power, the only way to guarantee this immunity, is to ensure that it is not possible for another to gain the power of interference. It is not enough that one (in this case, England) is able to exert arbitrary influence but chooses not to use it; Scotland has to be correspondingly powerful.

Fletcher's limitations, as set out in his speeches, seem to substantiate Pettit's claim that the republican language of freedom is that of non-domination. Not only is the monarch to be limited but any attempt to impose arbitrary rule is to be deemed illegitimate and the monarch is to be deposed. The arbitrary rule does not necessarily imply the imposition of decisions or laws that were against the will or interests of the people, arbitrary power for Fletcher, implies that the decisions to be made are at the whim of one person or institution without adequate checks or balances. The proposed limitations negate the chance of the monarch to impose arbitrary rule, while governments are constrained by regular elections and the disbanding of sitting parliaments after a certain period of time.

It has been argued that the freedom from non-domination clause in republicanism means it is incompatible with democracy. James Bohman suggests, however, that it is this cause that supplies the normative warrant for democracy that is generally lacking in more liberal version of political cosmopolitanism.³⁶⁹ Freedom as non-interference is intuitively innocuous, non-interference in internal affairs should, according to Fletcher, be a given rather than something that is necessarily fought for. Yet, Fletcher was unable to secure the non-interference in internal affairs for Scotland. England had too vested an interest in being able to interfere with the economic development of a country that may, as a consequence of that development, interfere

³⁶⁸ Pettit. *Passim*.

³⁶⁹ Bohman, James, *ibid*: 201.

with its own economy. Scotland after the Treaty of Union was both dominated by, and entirely dependent on, England.

Unlike Pettit, Fletcher does not limit 'interference' solely with the effect of laws upon an individual's freedom of choice.³⁷⁰ There is an inherent weakness in Pettit's claims for freedom as non-domination that does not exist in Fletcher's theory of freedom as non-dependence, because for Fletcher there is a clear source of domination - the arbitrary use of power and authority, and the subjection of one to a position of dependence on the other. Whereas the source of domination for Pettit may be unknown and unwitting, the source of domination for Fletcher is obvious, it is the attempts of one to make the other dependent upon them and influence their decisions based on this dependence. Furthermore, Pettit talks of the domination of the violent husband, the emotionally volatile parent, and the teacher who forms arbitrary likes and dislikes, amongst others.³⁷¹ These instances of domination would be quite difficult for the state to combat and without accusations of another form of domination – big brother or the nanny state. Fletcher overcomes this problem by ensuring the public and private realms remain separate. Individual freedom remains the responsibility of the individual, achievable by ensuring public liberty. The underlying assumption for both Fletcher and Pettit is that public and deliberative participation in political and social affairs strengthens both their public and individual freedom, and thus their self-interests and equality is guaranteed. In this way, freedom is a choice. People can choose to enjoy freedom from domination by others if and only if they exercise their duties as citizens. It is only through active citizenship that one can be free from the domination of others.

Extending this from a Fletcherian model which considers only the male landed gentry, to Pettit's more egalitarian model, Pettit argues,

³⁷⁰ See Pettit. *A Theory of Freedom. From the Psychology to the Politics of Agency*. Oxford: Oxford University Press, 2001: 70.

³⁷¹ Pettit. *A Theory of Freedom*, *ibid*: 137.

'This does not mean that the people must have actively consented to the arrangements under which the state acts. But what it does mean is that it must always be possible for people in the society, no matter what corner they occupy, to contest the assumption that the guiding interests and ideas are shared and, if the challenge proves sustainable, to alter the pattern of state activity'.³⁷²

Like Pettit, Fletcher assumes that freedom as non-domination is a social property. That it cannot be satisfied outwith the confines of society – the interactions of individuals acting in accordance with the public good. Freedom is not an individual right, but a public concern. Freedom in this respect has both a negative quality, not to be dominated, and a positive attribute of equality in public life. But unlike Pettit, who it would seem relies on a Humean principle of self-respect and pride underlying his theory of social equality in which the agent wishing to be treated well by others attempts to cultivate positive feelings towards himself by doing the right thing, Fletcher's agent recognises the individual gains of the common-good, and that freedom needs to be sourced for the group in which the individual resides.

However, Pettit claims that 'To enjoy non-domination is to be in a position where no one has that power of arbitrary interference over me and where I am correspondingly powerful'.³⁷³ In light of this argument, it appears that the republican ideal of freedom as non-domination is inherently unachievable since this presupposes that it is possible to eradicate arbitrary power and that the designated authorities will observe the common good. Fletcher's version of non-dependence would go some way in resolving this inherent problem. It is based first and foremost on a concept of non-domination, but with enough lee-way for interference that overcomes the first dilemma, at least. Eradication of the arbitrary power is not necessary as long as one is not dependent on any arbitrary power, thus in some way eradicating the arbitrariness of that power.

³⁷² Pettit. *Republicanism. A Theory of Freedom*, *ibid*: 63.

³⁷³ Pettit. *Republicanism. A Theory of Freedom*, *ibid*: 69.

The most significant problem with contemporary republican theory is that it fails to address the salient source of domination – the corrupting influences of money and power and economic inequalities which act as a source of domination and disempowerment. Fletcher recognises this necessity of economic and political equality.³⁷⁴ Inequality, or the existing structures of property and distribution, does not, according to Pettit, threaten freedom as non-domination. The fact that there are inequalities does not mean that someone is in a dominating position.³⁷⁵ Fletcher however, would argue that although there may not be domination but there is certainly dependence. Freedom does not exist within such an unequal relationship and therefore non-domination alone does not address either the issues of either liberty or justice.

Fletcher's ideal modern republic state, as checked by his limitations was later to be taken up by the authors of the Federalist Papers in discussing the main institutional forms that they endorse:

*'The regular distribution of power into distinct departments; the introduction of legislative balances and checks; the institutions of courts compose of judges holding their offices during good behaviour; the representation of the people in the legislature by deputies of their own election: these are wholly new discoveries, or have made their principal progress towards perfection in modern times. They are means, and powerful means, by which the excellences of republican government may be retained and its imperfections lessened or avoided.'*³⁷⁶

³⁷⁴ Fletcher does not have a substantial contribution to make concerning distributive justice. However, it is important to at least acknowledge his awareness of the issue and cursory attempts to address it, unlike the contemporary authors, such as Maynor and Pettit. For more arguments on this, see Richardson, Henry. "Republicanism and Democratic Justice". *Politics, Philosophy and Economics*. Vol 5: 4. June 2006: 175-200.

³⁷⁵ Pettit. "Freedom in the Market". *Politics, Philosophy and Economics*. Vol. 5:2. June 2006. 139.

³⁷⁶ Madison et al, *The Federalist Papers*. Isaac Kramnic ,(ed) London: Penguin Books, 1987: 119.

As Pettit and Tully point out, this approach to freedom was often intertwined with jurisprudential and natural law thinking of the commonwealth-men. Fletcher, although not explicit in his use of natural rights theories, is happy to follow Locke in using natural rights, as Tully puts it, in order ‘to constrain or limit the king or parliament to act within a known and recognised constitutional structure of lawfulness: to subject their governors to the rule of law by exercising their rights’.³⁷⁷ Perhaps unlike Locke and his fellow Whigs, Fletcher was more teleological in practice. For him it was the ends that mattered – Scotland being free from dependence on and domination of England, and the people being free from arbitrary rule - and not the rules and means used to achieve those ends. But Fletcher’s commitment to this teleological approach in his practical philosophy is already clear from his often contradictory demands on state action. Whereas it is unjust to interfere with the internal affairs of Scotland, it is just for the Scottish parliament to interfere with the internal affairs of individuals insofar as they have a detrimental impact on the common good of the people. Freedom from interference is at a state and not an individual level. Scotland can only be free from English dominance if they are free from arbitrary interference from the English monarch or parliament and free from any dependence on another. However, despite endorsing traditional republican values: rule of law; liberty of non-interference; accountability and the separation of powers, the people within that state are not free from the arbitrary interference in their own affairs in-so-far as they affect the common good.

Republican Rights and Liberty

Freedom for Fletcher is the freedom from arbitrary rule. As Pettit defines freedom – the notion that liberty could only be achieved when others are deprived of arbitrary rule.³⁷⁸ According to Pettit, this notion that freedom could only be achieved in this way is a central tenet in republican theory and it is crucial to Fletcher’s

³⁷⁷ Tully, James. “An Approach to Political Philosophy, Locke in Contexts”, 263 in Pettit. *Republicanism*, *ibid*: 101.

³⁷⁸ Pettit, *Republicanism*. *ibid*. viii.

understanding of freedom.³⁷⁹ For Fletcher, this republican line of argument means one can hope to retain individual freedom from dependence on the will of others if and only if one lives as an active citizen of a state that is fully self-governing - neither dominating nor dominated. Fletcher does not suggest freedom as non-interference, that kind of freedom would cause insecurity and in the case of Scotland, stagnation. He has plans for the public morality of Scotland being influenced and structured by the state.³⁸⁰ In this way, Fletcher's theories are the very antithesis of liberal freedom, but the republican ideal of civic virtue and the common good providing freedom for all are at the heart of his proposition. His suggestion of a militia; compulsory service of all young men of eighteen years of age is an excellent example of Fletcher's belief that the moral and economic welfare of his countrymen has to be regulated and provided for by the state. Individual freedom is not Fletcher's main concern, and he endorses state interference in the private lives of individuals for the sake of the common good.

The liberal premise of citizenship is that the individual is an 'unencumbered self' (Sandel) based on a Hobbesian supposition that man is prior to society: 'consider men as if but even now sprung out of the earth, and suddainly (like Mushromes) come to full maturity without all kind of engagement to each other'.³⁸¹ Sandel's unencumbered self is reminiscent of Hayek's freedom from coercion:

'No role or commitment could define me so completely that I could not understand myself without it. No project could be so essential that turning away from it would call into question the person I am. For the unencumbered self, what matters above all, what is most essential to our personhood, are not the ends we choose but our capacity to choose them... what is denied to the unencumbered self is the possibility of membership in any community bound by moral ties antecedent to choice... Freed from the dictates of nature and the sanction of social roles, the human subject is installed as sovereign, cast as the author of the only meanings there are... we are freed

³⁷⁹ Pettit, *passim*.

³⁸⁰ Fletcher believes the Scot's people to be a rather lazy bunch, and a major cause of their own problems. The country needed guidance from the landed class and a strict regulation of their social and working lives.

³⁸¹ Hobbes, Thomas. *On the Citizen*. Richard Tuck and Michael Silverthorne, (eds) Cambridge: Cambridge University Press, 1998: 117 (VIII, 1).

*to construct principles of justice unconstrained by an order of value antecedently given. And as actual, individual selves, we are free to choose our purposes and ends unbound by such an order, or by custom or tradition or inherited status.*³⁸²

The idea that unfreedom and political injustice stem from the imposition of one person's will or control over another is common. Fletcher has attempted to outline it in the simplest form: freedom from threat of adverse consequences. This is any threat that removes an actor's ability to rightfully believe that certain options are available regardless of whether this is a consequence of manipulation, coercion or arbitrary interference in the decision and acts of any person - any means of obtaining the desired change in belief or circumstance. If the result is a loss of a freedom then the individual is subject to domination. During the seventeenth and eighteenth-centuries, the means of coercion and domination was the standing armies imposed on the communities around Britain; those not complying with the demands of the monarch or earlier, would find themselves host to the troops who would be stationed there to maintain the peace, leaving a long legacy of fear of militaristic dictatorship.

Domination can be overt, as in the case of the imposition of the standing army, or a modern dictatorship subverting the rights of the citizens. In these overt cases, the coercion and domination is obvious and people have some limited recourse to resist, albeit a very violent path to choose. However, in a modern context, some domination is not overt and the path to resistance is not obvious. A multi-national company in a developing country can be in a dominating position, manipulating the choices of the government and the people who rely on the company for their livelihood. If this company is polluting the local area with waste from its factories, several local people become seriously ill and crops fail, and the community wishes to hold the company liable and sue for compensation, what options do the people have? In this example the multinational company has the advantage of power; it can make it so that any legal

³⁸² Sandel, Michael J. "The Procedural Republic and the Unencumbered Self". *Political Theory*. Vol 12 no 1 Feb, 1984: 86.

action would have undesirable consequences for the community and for the country. It may simply refuse to cooperate and thwart legal proceedings by withholding evidence or threatening witnesses, bribing state officials with aid or fiscal benefits. It may threaten to withdraw from the region altogether – with disastrous economic consequences - and avoid legal action. In this respect, the multinational corporation is in a dominant position, removing the people’s ability to change the situation. The company need not even deliberately threaten or coerce, its perceived power and the reliance of the community on it for economic stability may be enough to dissuade any legal action. The community who relies on the company’s good will for their livelihood is unlikely to do anything that may provoke bad will, the option to pursue legal action and compensation is not available. According to Pettit, this kind of domination is currently exercised by corporations and manufacturers with potential for global reach. The corporation may never explicitly threaten to remove its business elsewhere, or to finance opposition parties to ensure the weak state offers favourable conditions or turns a blind eye to environmental infractions. The dominating power is sufficient to render threats and reasoning unnecessary.³⁸³

When is freedom not liberty?

In order for the public model to work, the community has to be free from the arbitrary rule of a government or monarch. Autonomy in political and economic decisions on a local level is vital – it has to be free from the competing interests of others. Freedom as non-domination would be an attractive proposition to Fletcher, desperate as he was to improve Scotland’s miserable condition. Non-domination appeals to his desire not to have to sit and wait for the dictate of a distant, unfriendly and competitive government. Pettit rather interestingly suggests that this freedom – freedom only achieved by non-domination; the deprivation of arbitrary rule – was popular up until citizenship was extended beyond propertied males. It was then

³⁸³ Pettit. “A Republican Law of Peoples”. *European Journal of Political Theory*. Vol 9 no 1, 2010: 101.

impossible to think of freedom as conferring non-domination on women and servants. Freedom then had to be reconsidered.³⁸⁴

Laski suggests that liberty means there is no restraint upon those conditions which, in modern civilisation, are the necessary guarantees of individual happiness. There is no liberty if a dominant opinion can control the social habits of the rest without persuading the latter that there are reasonable grounds for the control. The paradox of self-government is that certain restraints on freedom are necessary to add to individual happiness. No man stands alone, his liberty is never absolute – ‘imposition, broadly speaking, is essential to liberty since it makes for peace; and peace is the condition of continued liberty’.³⁸⁵ ‘A man’s citizenship is the contribution of his instructed judgment to the public good, and right action is action upon the basis of that judgment’. Political freedom is ‘the participation of men in their choice of government, in the process of legislation, and in the control of administration’, derived from the concept of groups of men as a whole which gives them ‘collective liberty’;³⁸⁶ what would commonly be considered republican freedom. But as Hayek points out, to choose one’s government is not necessarily to secure one’s freedom. Political freedom is not essential to a free life.³⁸⁷ And as Fletcher shows, private liberty is not necessary for political freedom, but political freedom is necessary for private liberty.

Thus, communitarianism emphasizes society’s need for strong bonds of community, civic virtue, citizenship, and public deliberation about moral issues. It is often seen as an alternative to contemporary liberalism, criticizing liberals for overly emphasizing doctrines of individual autonomy at the expense of the social allegiances necessary for the common good. Fletcher is almost fully advocating the communitarian principles when he refers to the traditional republican political theory which taught that democratic freedom is accomplished not so much by leaving persons alone as by

³⁸⁴ Pettit *Republicanism. ibid* p133

³⁸⁵ Laski, Harold J. *Liberty in the Modern State*. London: Penguin Books, 1937: 159

³⁸⁶ Laski, Harold J. *Liberty in the Modern State. Passim*.

³⁸⁷ Laski. *Liberty in the Modern State, ibid*: 82.

fostering the virtue it takes to govern according to the common good rather than self-interest, although he combines it with a very cosmopolitan understanding of moral norms.

Fletcher's account of the mechanisms required to maintain the communitarian republic directly challenge those of his liberal contemporaries who were already speaking in terms of the individual. H N Hirsch suggest that any challenge to liberalism includes a specific challenge to the constitutional values of the liberal order. He argues that owing to the contradictory nature of the fundamental values of each, and the resistance to liberal theory, communitarians must oppose the liberal constitution. The liberal theories of Locke, of whom Fletcher was a great admirer, were being popularised at the time of giving his speeches, however Fletcher maintains his position that the proper ordering of society is based on communitarian principles of community, wider political participation, and socially constructed reason, reciprocity and interdependence, the communal realization of values such as freedom, equality, and rights. This is a direct contradiction of the liberal values of individual freedom, autonomy, and liberal analyses of society. It is only on issues of the rule of law and autonomy that Fletcher's view of the state and the liberal view coincide. Yet there is no denying that the liberal view poses the greatest challenge to Fletcher's fundamental political aspirations for the ordering of society.

Fletcher emphasises the commonality of interest: the product of the will of the members of that community that is also the will for the good and interests held in common. Unlike contemporary communitarian thinkers such as Tönnies, Fletcher does not insist on historical ties, as long as the members of the community share common concerns and a view of the good.³⁸⁸ Most importantly, Fletcher's community is not limited geographically or territorially, but may be universal in scope to include 'all of mankind'. Of course, he does not believe that politics can be ordered in such a global

³⁸⁸ See Tönnies, Ferdinand. *Community and Society*. (Gemeinschaft Und Gesellschaft). Loomis, Charles P and Tönnies, Ferdinand (trans) Michigan: Redux Books, 1963.

manner, but morality in international politics recognises the commonality of peoples and their desires for the common good.

Fletcher has a clear regard for what is public and private within the polity. According to Kukathas this is because a community, distinguished by its shared understanding of the public concern, must also recognise the existence of a private realm.³⁸⁹ But Fletcher has a very anti-liberal stance on what is considered as legitimate matters subject to political deliberation, including personal conduct in public life and private: in his militias, young men would be flogged for masturbating; however, what is to be decided by each of the polities regarding religion and trade is clearly a private matter.³⁹⁰ The public and private realm for Fletcher has been turned on its head. What is public is the common good of the individual communities as prescribed in his conversation with Musgrave and others, what is private is the that political community from the overarching authority of the monarch or the government with regards to their movements towards achieving their goods. This early kind of communitarian thinking, according to Bell, is because the whole point of communitarian politics is to structure society in accordance with people's deepest shared understandings.³⁹¹

Republicans took seriously the analogy between the natural and the political, 'Just as natural bodies are said to be free if and only if they are moved to act by their own wills, so too with political ones. To live in a free state is to live under a constitution in which the body politic is never moved to act except by the will of the citizen body as a whole'.³⁹² As Van Geldern and Skinner put it 'the 18th Century republicans assumed that the subjection to unchecked power is equivalent to servitude'.³⁹³ Fletcher is concerned with the interests of the state and the community within that state, not any individual. He certainly would not be an advocate of popular democracy *a la* Athens, but does recognise the need for local level political

³⁸⁹ Kukathas, . *The Liberal Archipelago*. Oxford: Oxford University Press, 2003: 171.

³⁹⁰ See Fletcher. *A Discourse Concerning Scotland*. *ibid*.

³⁹¹ Bell, Daniel. *Communitarianism and Its Critics*. Oxford: Clarendon Press, 1993: 141.

³⁹² Van-Geldern and Skinner, *Republicanism*, Vol 1. *Ibid*: 4.

³⁹³ Van-Geldern and Skinner, *passim*.

participation. Fletcher assumes the community rather than the individual as the basis for his theoretical concept, ascribing value to the community and considering it to be a social necessity as well as the basis for political and moral action. As Loewy puts it:

'Persons are social beings who for that reason have obligations toward each other. Autonomy does not exist in a vacuum but is developed, enunciated, and ultimately exercised in our common life together. To deny the social nexus of autonomy is threatening both to the social nexus and to autonomy. Persons cannot truly be persons outside their social nexus or outside their community, and the community cannot exist, develop, thrive, and grow without the unique contributions of the individuals within it'.³⁹⁴

Conclusion

It is clear that Fletcher puts the community before the individual. He places a love of his country before a love of mankind. By improving the lot of the state as a whole, the condition of the people within would improve as a necessary consequence. This does place him outside the realms of cosmopolitan republicanism, which for some always places the love of mankind before any love of a country, (Nussbaum), and for others sees the primordial community as unable to meet the ambitions and needs of the citizens (Waldron). Fletcher emphasises the common or universal aspects of the republican ideal, seeing the position of the individual within the overall community of the state and of humanity; emphasising the moral and normative aspects that connects all humans, namely their rights and their needs. He recognises that citizens need some form of common identification in order to provide the basis for a freed and equal society based on a local sense of community, identifying needs and sharing the burden and rewards.

³⁹⁴ Loewy, Erich H. "Advance Directives: Panacea for Safeguarding Patient Autonomy or a Convenient Way of Avoiding Responsibility?" In *Health Care Ethics* ed. John F. Monagle and David C. Thomasma. Gaithersburg, MD: Aspen Publishers, Inc, 1994: 123.

Charles Taylor suggests that this is an example of the importance of an Aristotelian particularism within cosmopolitan thinking.³⁹⁵ It is at this point that we see Fletcher's reasoning behind his desire for a Treaty of Union based on equality and mutual interest, and the conflict between his communitarian approaches to social order within Scotland that are not shared with his approach towards Britain. It must be emphasised here that Fletcher was not seeking a universal theory of morality or ethics, but rather was interested only in the political order required to bring Scotland out of its miserable condition and thus improve the quality of life for the citizens within. Fletcher flirts with cosmopolitan idealism in order to give emphasis to society's need to work together to meet the needs of the people, but rejects the same universalism with regards to the idea that the interests and activities of individuals were shared by all men at all times.

The *Speeches Made By a Member of Parliament* were made at Fletcher's first parliament, this was his first and only opportunity to address the decision makers directly, and he did not waste time in bringing to the attention of parliament the issues that had been the focus of his active political life to-date, including re-addressing the militia and standing army issues, and importantly, the threat of arbitrary power, the dire economic situation Scotland was in, and of course the more constitutional issues at stake during the negotiations for a Treaty of Union: freedom, limited monarchical power and the rule of law. It is these constitutional issues that highlight Fletcher's commitment to a republican paradigm with evidence of a civic-humanism which includes communitarian and cosmopolitan elements. It is clear that Fletcher is not against a monarch but against arbitrary rule and tyranny. His conception of freedom has an emphasis on the freedom of the state, not the individual within the state, as a solid foundation for the common good - a state based ideal of non-interference from outside influence for the benefit of the people working towards achieving the common good. Fletcher is not a political philosopher. He does not ask the questions his peers

³⁹⁵ Taylor, Charles. "Why Democracy Needs Patriotism". *Boston Review* (19) Oct/Nov, 1994 :119-21.

were asking regarding the nature of man or his rights and duties, rather he is interested in liberty and power, and how one can be obtained in the face of the other.

Fletcher endorses state interference on the individual at a very profound level. The main issue here is the arbitrariness of the interference. Fletcher is objecting to the idea that if Scotland is subject to the laws and will of England, it may be the case that laws will be imposed by legislators who are not themselves subject to them. Laws are a necessary element for freedom, protecting as they do, the individual from arbitrary power. In order to highlight this same claim, Pettit makes a clear distinction between republican freedom and liberal freedom, that 'interference as such is a secondary evil from the point of view of republican freedom', the law should be viewed as conditioning rather than curtailing freedom.³⁹⁶ The intuitive question is, how can interference understood in the negative sense that it impedes in the life of another, be seen as a secondary evil to domination? Are they not equally disruptive of liberty? Brennan and Lomasky claim, 'Republican theory is compatible with extensive paternalistic control'.³⁹⁷ The emphasis here, however, is on the claim that law conditions freedom. The law is not arbitrary, while the biggest threat to freedom is the dominating relations in which an agent may find themselves in. The rule of law protects the dynamism of republican theory of freedom. Freedom as non-domination is considered a common good, a good that all must work to protect through active civic participation. In this way, freedom is to be protected from the corruptibility of those in power, and extended to the whole of society who can be assured that they are not dominated by any arbitrary power.

According to Axtmann, Hobbes and Locke held that 'the law preserved our liberty essentially by coercing other people. It prevents them from interfering with my acknowledged rights, helps me to draw myself a circle within which they may not

³⁹⁶ Pettit. *Republicanism. Ibid:* 301.

³⁹⁷ Brennan, Geoffrey and Lomasky, Loren. "Against Reviving Republicanism". *Politics, Philosophy and Economics*. Vol. 5, no 2, 2006: 221-252

trespass, and prevents me at the same time from interfering with their freedom in just the same way'.³⁹⁸ And in this way, early modern republican theories of liberty are more important for a contemporary global political order where interference and imposition of international laws are considered essential for the sustainability of that order. Locke assumes consent is necessary for men to enjoy equal rights under the law of nature; no-one may exert any authority over another except with full consent. This consent is also necessary for the formation of government: instituted to protect the life and liberties of the subjects.

The end of liberty is a consequence of giving the power of the sword, military power (the means of coercion) to the monarch; by controlling the means of coercion, the monarch is able to use his power arbitrarily. This power is akin to domination, and both liberals and republicans agree, this means the end of freedom. It is coercion and arbitrary rule that is the threat to freedom both in the contemporary global political order, and the emerging European political order of the late seventeenth-century. Hayek, Laski, Pettit, Laborde and Halldenius are arguing the same points some three hundred years later: unfreedom is coercion and arbitrary power; having to rely on the goodwill of another in the choices that one makes is not freedom, it is dominium, and society should function for the common good of the people. Fletcher even considers the idea of freedom as non-interference, a contemporary liberal concept. Unlike other republican theorists surrounding him, Fletcher's main concern is a concern for freedom, freedom from interference, coercion and arbitrary power. His is a modern republican theory which recognises the importance of non-dependence as well as non-domination, comprehending commerce and economic interdependence and how it is set to change the parameters within which politics is theoretically based.

³⁹⁸ Axtmann, Roland. *Liberal Democracy into the Twenty-First Century: Globalization, Integration, and the Nation-State*. Manchester: Manchester University Press, 1996: 17 (quoting Skinner (1990): 305.

Chapter 3. A Republican European Peace

The Fletcherian republican state is indispensable because it exercises publicly controlled power – that is, a form of anti-power which is intended to counteract domination and secure freedom. The power exercised in a republican state is a common power and intractable from the polity.³⁹⁹ The state must take care not to become a threat to freedom or an instrument of domination while being charged with interfering in the lives of its citizens to ensure the common good. Though, the reverse also being true of the citizenry: to ensure limitations are placed on the government to avoid domination. Both objectives are achieved through constitutional and legal measures and the rule of law. The function of the republican state is to ensure non-domination, the publicly controlled republican state aims to protect its citizens from threats and protect them against domination while providing the platform in which they ensure their private liberties through exercising their political freedoms. In order to protect the liberty of the citizens, the state must also regulate the economic and other activity of powerful individuals and groups within society, including the role and function of the governing body itself. When it operates with a view to the common good of the state, the republican state does not cause the freedom of its residents, it constitutes it. It is this recognition that citizens are members of a republican state with well-functioning institutions that enables the citizenry to conclude they are free from the domination of arbitrary power and coercion. The early modern civic-republican theories of Fletcher allow for such interdependent relationships; what is most important in the civic society is the common good, and if that must mean a limit on certain freedoms then it is the republic's responsibility to the people to do so, and the people's responsibility to give up their rights to individual liberties for the greater good. The political order that he envisages sees the role of the republican government as being the transformation of politics to the international view of the good. He is

³⁹⁹ See Pettit, Philip. "Freedom as Antipower", *Ethics* 106(3), 1996: 576-604.

concerned by the processes by which the state and the people arrive at a conception of the common good, and in what shape politics takes to achieve it.

Freedom as non-domination is best pursued through this Fletcherian model of a republican state, as the current global political order gives us reason to think of freedom as non-domination. The state is no longer the only actor within the domestic sphere and non-state actors threaten the security of non-domination. Many decisions made globally can have profound effects locally and places individuals and states in a position of vulnerability. An argument exists in favour of finding ways to extend the concept of freedom as non-domination beyond the state. Yet this in itself runs into dangerous territory; it is not possible to demand or defend the importance of liberty as non-domination for one group at the expense or denial of the same freedoms for another. Intervention and interference puts some at risk of political and economic domination therefore, the idea of liberty as non-domination is discursively admissible in a global context as it can refer to the whole population (unlike in the eighteenth-century) and has a broad appeal; citizens having a clear interest in it.

According to Skinner, the contractarian places individual rights before civic duties whereas the republican claims that one's rights are a result of being a member of a civic community, grounded in the duties and virtues of the citizens.⁴⁰⁰ John Charvet denies the distinction between rights and duties based theories is clear cut, questioning the validity of systematically aligning contractarianism and republicanism in direct opposition to one another, citing Rousseau as an example of a contractarian-republican.⁴⁰¹ Skinner defines the positive and negative concepts of freedom, negative freedom is said to be an opportunity concept of freedom, one is still free whether or not he uses his power to act or not. Positive freedom, on the contrary, is an exercise concept of freedom and states that a person is only free if he exercises his power to

⁴⁰⁰ Skinner. "The Idea of Negative Liberty: Philosophical and Historical Perspectives". In Rorty, Skinner and Shneewind (eds) *Philosophy in History*. Cambridge: Cambridge University Press. 1994

⁴⁰¹ Charvet, John. "Quentin Skinner on the Idea of Freedom". *Studies in Political Thought*. 2, 1993: 6.

act.⁴⁰² This positive conception is concomitant with the republican tradition of freedom which places political action/civic virtue at the centre of its theory of liberty – freedom as the power of self-determination. The early modern republican theory of liberty relies on certain conditions under which people can act freely in pursuit of their interests, these conditions can be characterised as the rule of law. It is the rule of law that prevents interference in an individual's interests (again, stressed that it is not an individualistic/libertarian view of individual interests, but a common approach to the individual acting in accordance with the common good, interference would not be from other individuals per se, but rather arbitrary powers). The republican regime in which the people practice their civic duties best promotes the rule of law.⁴⁰³ It curbs the abilities of those wishing to dominate others and provides the security of liberty and interests of all concerned parties by providing the opportunity for each to pursue his security through a common system of laws.

Freedom from fear, according to Fletcher, can only be guaranteed within the rule of law. A sovereign power also controlled within the law is unable to coerce or act in such a way as to remove the freedom of the citizens, the rule of law guarantees respect for the freedom of the people, and the inability for power to be used arbitrarily or abusively. Haldenius suggests that it is this capacity of the freeman to act according to his own will without fear of obstruction or interference that is the basis for rights within the republican paradigm. To be entitled to act freely, without vulnerability, is what is ordinarily meant by having a right; there is 'structural affinity' between republican freedom and claims about rights.⁴⁰⁴ Haldenius writes that 'republican freedom adds a substantial element to a justification of human rights in terms of entitlement, rather than mere satisfaction of interests, a satisfied interest is not a satisfied right if the satisfaction is dependent on personal goodwill and can be withdrawn at any time'.⁴⁰⁵

⁴⁰² Skinner, *ibid.*, and J Charvet, *ibid.*:7.

⁴⁰³ Skinner and Shneewind (eds) *Philosophy in History*. Cambridge: Cambridge University Press,1994.

⁴⁰⁴ Halldenius, Lena. "Building Blocks of a Republican Cosmopolitanism", *ibid.*: 11.

⁴⁰⁵ Halldenius. "Building Blocks of a Republican Cosmopolitanism", *ibid.*: 12.

The rule of law is a central tenet of the republican ideal; it is a necessary safeguard against the abuse of power by government. Machiavelli was the first to break away from the scholastic tradition to challenge the divine origins of medieval hierarchical order; to claim power was derived from God was both absurd and blasphemous. Hobbes quite famously claims that the sovereign is not bound by the law as it is impossible for any person to be bound by himself, 'because he that can bind can release'.⁴⁰⁶ The sovereign is the supreme law maker and the sole source of right and wrong, for 'it is not wisdom but authority that makes laws' 'because covenants without swords are but words and no strength at all'.⁴⁰⁷ Fletcher was exposed to Hobbes and this way of thinking – popularised by James I who attempted to claim absolute power on the basis of his divine providence – but Fletcher emphasises the impersonal nature of the state, separating it from those who exercise its powers, namely the king. The validity of the crown and the government rests solely on the ability to promote certain ends: it is the duty of the people to overthrow those exercising arbitrary power, as the tyrant no longer has legitimacy. His proposal for a government elected on a yearly basis does not have the opportunity to accumulate powers that they can exercise arbitrarily.⁴⁰⁸ Both the duty to obey and the duty to overthrow a tyrant or arbitrary power are derived from the same source – the common good. Fletcher's proposed limitations are an attempt at a form of written constitution emphasising the rule of the law and the fundamental maxim that all are equal under the law.⁴⁰⁹ 'Nothing can be more absurd than to say, that one man has an absolute power above law to govern according to his will, for the people's good, and the preservation of their liberty: For no liberty can subsist where there is such a power'.⁴¹⁰

⁴⁰⁶ Hobbes. *Leviathan*. Cambridge: Cambridge University Press, 1983 Ch XXVI.

⁴⁰⁷ Hobbes. *Leviathan*, *passim*.

⁴⁰⁸ See Fletcher. *Speeches Made by a Member of Parliament*, *ibid*.

⁴⁰⁹ Fletcher. *Speeches Made by a Member of Parliament*, *ibid*.

⁴¹⁰ Algernon Sydney. *Discourses Concerning Liberty*. Indianapolis: Liberty Fund, 1990: 440.

Up until the 17th century, the idea of a universal monarchy was popularised by the likes of Dante Alighieri (*Convivio* and *Monarchia*) and the personal ambitions of European Monarchs, especially France and Spain. Drawing on Aristotle's premise that humanity stems from a shared purpose, Dante argues that peace is the vital condition of the human purpose, and can only be achieved if humanity is united. 'Every kingdom divided against itself shall be laid to waste' therefore, 'there must be 'one person who directs and rules mankind, and he is properly called "Monarch" or "Emperor"'.⁴¹¹ In *Convivia* he argues that this is achievable only if 'the whole earth and all that humans can possess be a monarchy, that is, one government under one ruler. Because, he possesses everything, the ruler would not desire to possess anything further, and thus, he would hold kings contentedly within the borders of their kingdoms, and keep peace among them'.⁴¹² The concept of universal monarchy had its origin in the Roman Empire, and was appropriated by the papacy. Emperor Charles V took up the idea, combining the titles of Holy Roman Emperor, King of Spain and Archduke of Austria, as well as titles in Burgundy, Castile and Aragon, Mexico and Peru. Charles' tutor was a student of Dante and he believed his universal monarchy was a fulfilment of God's wishes for him to be the saviour of Christendom.

This ideal fuelled the ambitions of later potential universal monarchs, from the Hapsburgs throughout the 16th and 17th centuries, through the Thirty Years War (1618-1648) and the Glorious Revolution in Britain in 1689.⁴¹³ The main protagonists of the Thirty Years War, France and Spain especially, desired domination of the entire Christian world.⁴¹⁴ Kampman suggests that this desire for universal monarchy was driven through fear; the ambitions of each party were never openly articulated, but assumed by the other.⁴¹⁵ The desire for control was fuelled by a desire not to be

⁴¹¹ Dante. *Monarchia*. Shaw. P. Cambridge. Cambridge University Press. 1995: 1309.

⁴¹² Dante. *The Banquet, (Convivio)* in Nederman, C.J and Forhan K.L (eds) *Readings in Medieval Political Theory 1100–1400*, Indianapolis, Hackett, 1995: 169.

⁴¹³ And arguably as late as Napoleon in the late 18th century.

⁴¹⁴ See Kampman, Christoph. *Peace Impossible?: The Holy Roman Empire and the European State System in the Seventeenth Century*. In Asbach O and Schrioder P. *War, the State, and International Law in Seventeenth Century Europe*. Surrey. Ashgate: 2010.

⁴¹⁵ Kampman, *ibid*: 204

controlled rather than a desire for absolute power. It is this fear of domination that drives conflict and is, according to Fletcher amongst many others, the cause of militarism, dominance and empire building.⁴¹⁶

Two theories concerning the authority and origins of governments predominated in political debate during this time. Support for each theory was dependent on the motivations and requirements of their advocates. As a consequence of the civil disorder, rebellions, wars and oppressions of the previous century, stability of the state became the central concern for politics. The political theories of the time were dominated by the contrasting themes of universal and absolutist monarchs against limited government ideals. Both drew heavily on ideas of contract, on one side to prove the absolute right of the sovereign and on the other to demonstrate the subjects' right to resist.⁴¹⁷ The Thirty Years War (1619-148) saw the European states vying for control and supremacy throughout Europe. Absolutism was most readily established in France: Louis XIII subdued the Huguenots and harnessed Catholic militarism to serve the monarchy, and, following a temporary setback caused by the Fronde, the latter half of the century saw a 'golden age' of royal absolutism under Louis XIV who promoted *raison d'état* as the highest law when dealing with subjects and other states.⁴¹⁸ Elsewhere, absolutism continued to flourish; in Denmark the Danish Estates were closed down in 1660 and in Sweden in 1680 constitutional reform effectively established absolutism. Meanwhile, in England, attempts to establish royal absolutism were attempted several times and only averted by the execution of one king and the deposition of another.

Despite the reasons or arguments in favour of universal and absolute monarchy that were common in the 16th and early 17th centuries, the post-Westphalian system of

⁴¹⁶ Fletcher. *An Account of a Conversation*, *ibid*: 206

⁴¹⁷ Absolutism should not be routinely equated with Royalism; many Royalists were against absolute power of the king, while absolutist theories were concerned with the powers of the government whatever form that may have taken shape in.

⁴¹⁸ Somerville. J.P. *Absolutism and Revolution in the Seventeenth Century*. In Burns, (ed). *The Cambridge History of Political Thought, 1450-1700*. Cambridge, Cambridge University Press. 1991 : 348.

small sovereign states saw its popularity wane. Efforts were made across Europe to prevent France and Spain from establishing a universal monarchy. Charles D’avenant, writing ‘An Essay upon Universal Monarchy’, a response to Philip De Bourbon being settled on the throne in Spain, warns of the dangers of allowing the major powers of Europe to make further gains: ‘ I will venture to say from the time of the Norman Invasion, we never had a more dismal view before us; we are rent asunder by Factions, and are threatened with Attempts from abroad... we shall suspect, and not without Reason, that ever Step which increases the Strength of France, leads towards our Ruin.’⁴¹⁹

Pufendorf saw universal monarchy as the threat of French Catholic dominance across Europe.⁴²⁰ Even the staunchest supporter of absolute sovereignty, Thomas Hobbes, recognised the benefits of a plurality of states, ‘because states uphold the Industry of their Subjects; there does not follow from the international state of nature, that misery, which accompanies the Liberty of particular men’.⁴²¹ Fletcher and Hobbes anticipate the development of international law between sovereign states; Fletcher however, goes further in his development of the idea, drawing up a model of a federal system based on equality and cooperation among states. Fletcher’s model involves dividing Europe into ten sovereign states, each with ten or twelve fortified sovereign cities, ensuring conquest was neither possible nor desirable: ‘[A] conquest divided into twelve parts would be of little account, they could not be made adjacent to the several cities to which they ought to belong’. He outlines the benefits of his republic of republics in his conversation with Sir Edward:

‘But, said he, such conquered places might be governed in common to the advantage of the whole union. That, replied I, would be like a possession in common, for which no man has any particular affection, and on that account lies always

⁴¹⁹ D’avenant, Charles. An Essay upon Universal Monarchy. Written in the Year 1701, soon after Lewis the Fourteenth had settled his Grandson Philip De Bourbon upon the Throne of Spain. London. 1701.

⁴²⁰ Pufendorf. Of the Nature and Qualification of Religion in Reference to Civil Society. 1687. Available here: http://oll.libertyfund.org/?option=com_staticxt&staticfile=show.php%3Ftitle=887&Itemid=27

⁴²¹ Hobbes. *Leviathan*, *ibid*: 196

neglected'. But you talk, said Sir Edw-rd, of sovereign cities; I fancy you mean republics; which is nothing to us, who live under the benign influence of monarchy. You may suppose those cities, said I, to be the capitals of sovereign and independent kingdoms or countries. For of such sovereignties united under one monarch we have many examples. And the prince may either keep his court in each of them successively; or, which is better, reside in the country, and permit no more buildings about his palaces than are absolutely necessary for his domestics, and the dispatch of public business, and not to harbour a crew of lazy, profligate, and vicious wretches, fit only to render his court a mere sink of corruption, and a seminary to propagate all manner of vice through the whole nation. So that we may proceed to reason concerning the excellency of those governments, which consist of divers sovereignties united for their common defense, whether cities or kingdoms; whether independent already, or to be made so in order to put such a design in execution; whether governed by a prince, or by a great council of delegates. But certainly, said he, if these distinct sovereignties were incorporated under one head and city, such a government would be of greater force. If you mean, said I, to disturb their own peace, and that of their neighbours, I grant your assertion'. . . You must acknowledge, said I, that a great city is more tumultuous and disorderly, and therefore more capable of disturbing its own peace than small ones, and much more violently inclined to conquer other countries, because better able to retain the conquest. But sure, said he, if divers small sovereignties were united under one prince, his authority would better preserve peace among them, than if they were governed by a council of delegates, which in my opinion is only proper to set them together by the ears. I am very glad, said I, that you think such united governments more suitable to monarchies than to commonwealths; for if that be true, there will be greater hopes of introducing them into the world. And indeed a prince seems much more fitted to be at the head of such a league, than a council, as to the military part, in which principally such a union has occasion to exert its power. So that I have nothing more to do than to prove that such governments are of all others the best to preserve mankind, as well from great and destructive wars, as from corruption of manners, and most proper to give to every part of the world that just share in the government of

themselves which is due to them. If you can prove, said Sir Chr—, what you undertake, I shall have no more to say. It is indeed, said I, a most surprising thing to me, that not only all those who have ever actually formed governments, but even those who have written on that subject, and contrived schemes of constitutions, have, as I think, always framed them with respect only to particular nations, for whom they were designed, and without any regard to the rest of mankind. Since, as they could not but know that every society, as well as every private man, has a natural inclination to exceed in everything, and draw all advantages to itself, they might also have seen the necessity of curbing that exorbitant inclination, and obliging them to consider the general good and interest of mankind, on which that of every distinct society does in a great measure depend. And one would think that politicians, who ought to be the best of all moral philosophers, should have considered what a citizen of the world is'.⁴²²

Both Rousseau and Kant envisaged a similar peace achievable through a system of states. Rousseau envisaged his *Social Contract* as a solution to war; enabling the establishment of well governed societies in which human beings would realise their full moral and rational potential.⁴²³ Kant took this further with his system of an international state made up of republican states. According to Kant, republican states that, through the constitution, representative government and the rule of law, guarantee the freedom and equality of citizens are less likely to engage in war.⁴²⁴

Where interests compete, and values create tension, Hobbes argues the only way to ensure equitable and fair laws to settle the issue, is to have laws that are drafted by individuals under the reverence of a sovereign who was himself above the law. 'All laws written and unwritten, have need of Interpretation', and due to the controversial nature of some interpretation, the sovereign's word must be final. Of course, Fletcher has argued several times already that the rule of law must apply to the sovereign because the sovereign himself is fallible and subject to partialities. The

⁴²² Fletcher. *An Account of a Conversation*, *ibid*: 207-209

⁴²³ Rousseau. *Social Contract*, *ibid*.

⁴²⁴ Kant. *Perpetual Peace*. Cosimo Classics. New York. 2010.

only way to ensure equitable and fair laws for Fletcher is to ensure the decision-maker: in this case the sovereign, is himself subject to the laws and subject to the scrutiny of his peers.⁴²⁵ The limitations would reduce this authority by placing the monarch on the same level as the parliament: the monarch would require parliament's permission to raise taxes or declare war, and would have no choice but to pass laws on behalf of the parliament – reducing the law-making aspect of the monarchical role to merely procedural. Fletcher wishes to subdue the power of the sovereign, and limit the amount of interference the parliament and its ministers could have in the non-state matters - what Fletcher sees as the private matters of the individual: the economic development of the state through private enterprise and non-interference in international trade.⁴²⁶ The political theory of Fletcher flourished during a time characterised by acute social, economic, political and cultural conflict and turbulence. The conflicts and divisions of the era are apparent throughout the prevailing theories of the period and these ideas were used as weapons in the struggle for political power and control. As such, the theorists were rarely neutral commentators of the political battles, their works were a response intended to influence the outcome.

This was a turbulent period in British politics. Religion and politics were inextricably linked as a consequence of the Reformation and the Union of the Crowns. The Stuarts' fragile reign over both Scotland and England exacerbated the religious/political debate; as a single monarch ruled over two countries each with opposing religious beliefs which demanded the allegiance of their King to their religion. Whig politicians, like the Earl of Shaftsbury, were keen to ensure that James, Charles

⁴²⁵ Hobbes insists that laws and rules do not provide a solid foundation for social cooperation and what is necessary for peaceful society is a political authority with the power to interpret and apply laws, and overrule rival interests; the reason being that man is subject to self-love, interest and partiality, unlike Fletcher, he ignores that the sovereign is also subject to such human traits.

⁴²⁶ The limitations were never going to be popular, and unlikely to be accepted by the monarch who had, since Henry VIII's reign, absolute political authority in the realm. Henry VIII had assumed imperial power – taking secular and ecclesiastical jurisdiction into the single hands of the monarch, dismissing any authority over the monarch, (except for God's) including the pope.. Henry circumvented papal power by assuming the papal position of translator of the bible in England, interpreting the word of God. It is for Henry to say what the law of God is, and the law of God is to be obeyed. Since the political power of the king had been instituted by God, his authority was both just and right, and no-one may do anything against the law of God and therefore the king. Of course, it is this idea of the king as judge and arbiter that created the debates surrounding the right to resist.

II's Catholic brother, could not become heir to the English throne. However, Charles was keen to ensure that the Stuart reign continued and he refused to exclude James from the succession. Shaftsbury's opposition to James resulted in him being tried for treason in 1682, and fleeing to the Netherlands where he died the following year. Although Locke was no longer in residence with Shaftsbury, he was still associated with him and as a consequence his movements were monitored very closely for evidence of sedition or treason.

The 'Glorious Revolution', labelled the most remarkable and successful effort in political control, left a legacy which deepened the understanding of the substance of power within Seventeenth Century England.⁴²⁷ The radical ideas of Locke were not in isolation: publications expounding Lockean ideas contributed to the political debate that influenced the Bill of Rights, and although these radical ideas did not prevail, they played a major role in the political reform which followed the revolution.⁴²⁸ In the year following Locke's *Two Treatises*, the original contract was cited in the case against James II by the Convention Parliament:

*'that King James the Second, having endeavoured to subvert the Constitution of the Kingdom by breaking the Original Contract between King and People, and by the Advice of Jesuits and other wicked Persons, having violated the fundamental Laws, and having withdrawn Himself out of the Kingdom, has abdicated the Government; and that the Throne is thereby vacant'*⁴²⁹

This statement sets out three examples of how the king has failed to uphold his part of the original contract and has therefore forfeited his right to the throne. Constitutional integrity and reform were crucial issues within Seventeenth Century political debate and the theory of contract was the theory most commonly presented as the solution. Because the populace only swore allegiance to the monarch after he

⁴²⁷ Wilson. K. Inventing Revolution: 1688 and Eighteenth Century Popular Politics. *The Journal of British Studies*, 28:4, (oct 1989) :349-386

⁴²⁸ Schwoerer. L.G. Locke, Lockean Ideas, and the Glorious Revolution. *Journal of the History of Ideas*, 51:4 Oct-Dec 1990) :531-548.

⁴²⁹ Convention of Parliament. Sourcebook of Scottish History.

had taken the coronation oath, their allegiance was contingent on this oath and the king's commitment to the constitution. As there was an exchange of oaths, there was, in some form, a contract. Because this contract existed, mutual obligations existed. Obligations to the king were contingent on his performance of his duties as taken upon himself by swearing to the coronation oath. Therefore, subjects had a right not to perform their duties once the monarch had ceased performing his.

The discovery of The Rye House Plot – the conspiracy to kidnap and kill both Charles and James - led by the foremost members of the former 'Shaftsbury Circle' resulted in those members, including Algernon Sidney, being tried for treason and executed. Sidney's political treatise '*Discourses Concerning Government*', questioning the 'Divine Right' of kings and arguing for a limited monarchy, was used in the prosecution case against him.⁴³⁰ Locke himself was at that time composing a similar treatise and, although not directly involved with the plot, he came under more suspicion and fled to the Netherlands in 1683. It was during this time that Locke composed his *Two Treatises*. He returned to England in 1689, after the Revolutionary Settlement of 1688 which removed James II from his disastrous three year reign and put the Protestant William of Orange and his wife Mary, eldest daughter of James, on the throne in 1689. This was fortunate for Locke, as a philosopher and political thinker in the sense that his political ideas and opinions were at last shared with the winning side in the political transformations and, as a consequence, his political ideas continued to be influential for many years. This placed Locke in the fortunate position of being able to speak freely for the first time without fear of punishment or recrimination.

Locke, like Hobbes and Grotius before him, relies on a theory of consent to elucidate the contractual obligations between ruler and subject. Where Locke differs, however, is in his assertion that consent is explicit. Man is not born into the subjection of a state or ruler, rather he subjects himself when he gives consent; it is through their

⁴³⁰ Sidney. A. *Discourses Concerning Government*. Liberty Fund. London.1996

mature will that 'the consent of free-born men born under government' is given.⁴³¹ Man cannot subject himself to the arbitrary power of another because he is bound to preserve himself, therefore he cannot consent to be destroyed at the whim of someone else. This, according to Locke, prevents people from contracting themselves into an arbitrary or absolute government.⁴³² Therefore, any absolute government is illegitimate as it cannot be based on the consent of the subjects. As with slavery, man cannot transfer that which he does not have: we have no right to destroy ourselves, we are the property of God, and therefore we cannot consent to this right being transferred to another.⁴³³

Fletcher uses concepts of political obligation based on consent and legitimacy that are very similar to those of Locke. The government has an obligation to preserve its subjects and society and it does this through the establishment of laws.

*'The laws are the only security we have for our lives and properties, which if our sovereign subverts, subjects cannot be blamed, for making use of the ordinary means to preserve them, and since this cannot be done without withdrawing obedience from such a magistrate as goes about to destroy them, such an act cannot properly be said to punish him, (because we take nothing from him which he has a just claim), but do only shun the occasion of making ourselves miserable.'*⁴³⁴

The withdrawal of consent is not required; the monarch has lost his legitimacy by ruling unjustly. This suggests that consent is tacitly given on condition of the just conduct of both subject and sovereign. Fletcher puts forward the theory that political authority requires the consent of the citizens of the state, and that this consent is conditional on the fulfillment of mutual political obligations, especially the political obligations of the monarch, and therefore some form of social contract must exist between the government and the governed. No-one has the right to political

⁴³¹ Locke. *Two Treatises*, *ibid ST*. para 117

⁴³² Harrison. R. *Hobbes, Locke and Confusions Masterpiece*. Cambridge, Cambridge University Press. 2003:187.

⁴³³ Locke. *Two Treatises*, *ibid ST*. para 6.

⁴³⁴ Fletcher. *A Letter to a Member of the Convention*:p5.

authority; no-one has the right to obedience, nor is anyone obliged to yield to political authority in the absence of a social contract. Fletcher's theory concerning this social contract is motivated by purely practical considerations. He wishes to prevent the monarch from achieving absolute power and exercising it arbitrarily.

Hayek claims arbitrary power is diametrically opposed to the rule of law.⁴³⁵ A well-ordered society needs clear and general rules and laws to ensure the maximum freedom possible without infringing on the freedom of others; A 'highway code' allowing people to drive around without accident, not an order where to go.⁴³⁶ This is where the distinction between law and legislation becomes important. For Hayek, law is a system of general rule; legislation is the commands of the sovereign. Whereas an army may need legislation – direct orders for the achievement of clearly defined goals, society has no such goals and therefore requires only law to allow them to achieve their individual goals without interference from others. The rule of law is the primacy of law over legislation, allowing citizens the freedom from the arbitrary will and demands of the sovereign and the opportunity to pursue their own good; as in Fletcher there is a common purpose.

Between 1688 and 1698 Fletcher wrote several pamphlets from a civic republican position which suggested ways to improve Scotland's condition in Europe. Two of these pamphlets: *Two Treatise Concerning the Government of Scotland* and the *Discorso Della Cosa di Spagna* are particularly concerned with the balance of power in Europe, the federal relationship of Scotland and England and the rights and nature of man. In his 1703 composition, *An Account of a Conversation concerning a Right Regulation of Government for the common Good of Mankind*, Fletcher makes a profound shift from Machiavellian civic republicanism, introducing themes of international justice, perpetual peace based on mutual economic and commercial

⁴³⁵ Hayek, F.A. *Rules and Order*. London: Routledge, 1973.

⁴³⁶ Hayek, F.A. *Road to Serfdom*. London: Routledge, 1994: 55-56

interests, and a balance of power within Europe along federal lines.⁴³⁷ He proposes radical restructuring of both domestic and international political and economic systems in order to redistribute wealth from the corrupt city centres and to organise the nations of Europe into roughly equivalent military alliances.

Fletcher suggests a model for a global political order using themes of civic republicanism and federal organisation of Europe to maintain the balance of power and prevent hegemonic domination and injustice. This model is suited to both the international order of the emerging modern political system and the contemporary global model. Fletcher's civic republicanism is very much based on the Greek ideal that a republic is a political system designed and augmented by the citizens, through maximum participation. He improves on the theories of Machiavelli and the early modern republicans and modernises early modern republican theory by considering commerce as a motivational factor in political decisions. He refuses to be limited by a notion of the autonomy of states as the foundation upon which global order is built, suggesting a peace based on a balanced system of cooperation and interdependence. Fletcher moves away from early modern Machiavellian republican theory in an attempt to modernise his ideas, bringing in the themes of commerce and cooperation which is sorely lacking in the theories of Machiavelli and Harrington. Deudney would recognise this as an attempt at overcoming the republican dilemma; how to become both a large and secure while being free and republican.⁴³⁸ According to Deudney, the main problem facing international relations theories is the current domination of realist and liberalist theories that are unable to account for the increase in interdependence in a global system. In order to make room for globalization, the western political tradition must return to its original republicanism.

⁴³⁷ Andrew Fletcher. An Account of a Conversation concerning a Right Regulation of Government for the common Good of Mankind, In a Letter to the Marquiss of Montrose, the Earls of Rothes, Roxburg and Haddington, from London the first December, 1703. Robertson, John. *Political Works of Andrew Fletcher*. Cambridge: Cambridge University Press, 1997.

⁴³⁸ Deudney. *Bounding Power*, *ibid.*

This chapter will examine Fletcher's original republicanism and his civic republican model for international relations as put forward in his *Account of a Conversation, Two Treatise* and his *Discorso Della Spagna*, paying particular attention to his theory and understanding of International Relations. It will be divided into two major themes and their constituent parts. Theme one will focus on the domestic politics with regards to Scotland and England and Fletcher's desire for a decentralisation of power and an equal union between the two nations. Theme two will be an examination of Fletcher's International Relations theory, including issues surrounding the Spanish Succession crisis, the balance of power in Europe and concepts of international order and peace based on the theoretical framework and examples available to him - as found in the aforementioned texts. This chapter will show that Fletcher has a contribution to make to contemporary republican and international political theory; that he had a mature idea of international relations while the concept itself was still in its infancy. It argues that Fletcher developed a federal system for international peace based on an early model of the balance of power system, proving that Fletcher is an important republican thinker whose ideas are significant to an understanding of contemporary International Politics.

By examining Fletcher's discourses concerning international political structures, and his theories concerning the balance of power and just war, Fletcher's modern understanding of international politics can be seen. Fletcher's theory goes beyond the concept of single state autonomy and sovereignty, bunching states together in an international and interdependent arena and recognising a system of states as the fundamental anchor for a long lasting peace. He shifts further from the prominent seventeenth-century liberal theories, placing the state as the principal component and not seeing it purely in terms of individuals. Fletcher is a significant figure in the political development of enlightenment scholars, and is an important addition to any international relations canon of political theory.

Balance of Power and Federal Power in Europe

*'It is the duty of a patriot to prefer and promote the exclusive interest and glory of his native country: but a philosopher may be permitted to enlarge his views, and consider Europe as a great republic, whose various inhabitants have attained almost the same level of politeness and cultivation. The Balance of Power will continue to fluctuate, and the prosperity of our own or the neighbouring kingdoms may be alternately exalted or depressed; but these partial events cannot essentially injure our general state of happiness, the system of arts and laws, and manners, which so advantageously distinguish, above the rest of Mankind, the Europeans and their colonies.'*⁴³⁹

When the Act of Security failed, and the Union was set to go ahead with only marginal limitations placed on the Monarchy with regards to parliament, Fletcher wrote a critique of incorporating unions and extended this to include his federal vision of Europe and Scotland and England's places in it - *An Account of a Conversation Concerning a Right Regulation of Governments for the Common Good of Mankind*.⁴⁴⁰

European politics at the turn of the seventeenth-century was very much in transition. Commerce had become a reason of state and war 'a constant trade to live by'.⁴⁴¹ The neglect of Scotland's economic affairs continued throughout the seventeenth and eighteenth centuries and economically; Scotland was in a poor position *vis-a-vis* England. It depended on trade with the continent, France and Holland; however, once united under James VI&I, England's wars with Scotland's trading partners had a further negative impact on its already weakened economy. Duties were increased and trade became much less than it had formerly been.⁴⁴² As Fletcher notes, war had become a trade to live by, the golden ball, for which all nations

⁴³⁹ Gibbon, Edward. quoted in Deudney, Daniel H. *Bounding Power*. New Jersey: Princeton University Press, 2007: 141.

⁴⁴⁰ Fletcher. *An Account of a Conversation*, *ibid*.

⁴⁴¹ Fletcher. *A Discourse of Government*, *ibid*: 7.

⁴⁴² Hume Brown, P. *A Short History of Scotland*. Edinburgh: Oliver and Boyd, 1951: 228.

contend and Scotland simply could not keep up.⁴⁴³ Trade was necessary for income and defense, as the wars of France and the Spanish Succession Crisis clearly demonstrated, the new international system was founded on warring nations vying for advantage in the marketplace; a zero-sum competition. According to Hont, the need of modern warfare created an ever increasing demand for finance on a scale that could not be met by the expedients of the past.⁴⁴⁴ Commerce as a reason of state highlighted the need to protect Scotland from aggressive neighbours. Fletcher recognised Scotland's potential – with an abundance of natural resources, harbours and access to the seas of Europe, which only through neglect had not been developed to its full potential and through the neglect of its monarch it had been left to deteriorate to its current deplorable condition.

In his *Discorso Della cosa di Spagna*, Fletcher affirms that the balance of power in Europe is under serious threat from France and the crisis of the Spanish Succession. Fletcher's intentions are clear, he wants to show what caused the decline of the Spanish empire and introduce measures for its recovery. His main motivation is to warn the international community that whomsoever is to attain the crown following the death of the current king, will be in a position to disrupt the fragile balance of power in Europe and make himself the 'lord of the world', a universal monarch who has the power to disrupt the interests of all others. This is with particular reference to Louis XIV's aggressive territory building campaign throughout Western Europe. The *Discorso* isn't intended as an authoritative piece on the crisis, merely a further opinion to add to the conversation, a conversation aimed at enabling decision-makers to make better choices. According to Fletcher the right decision was one that was aimed at containing Louis XIV's ambitions.

At the time of writing the *Discorso della Cosa di Spagna* in 1698, France had laid claim to the Spanish throne through Louis XIV's wife, the sister of Charles II who had

⁴⁴³ Fletcher. *A Discourse on Government*, *ibid*: 7.

⁴⁴⁴ Hont, Istvan. "Free Trade and the Economic Limits to National Policy". In John Dunn (ed). *The Economic Limits to Modern Politics*, Cambridge: Cambridge University Press, 1990: 49.

abdicated her right to the Spanish crown on her marriage to Louis. Louis denied that her abdication was legitimate and campaigned for her right to succeed, and his right to become consort. Most of Europe, including Charles II of Spain, The Holy Roman Emperor Leopold I, and William III of Britain, was in agreement that Louis must not succeed. Moreover, it could be argued that William's greatest legacy was his ability to restrain the hegemonic ambitions of France. Throughout the 1670s Louis had led France into aggressive military campaigns through Europe and during the 1680s his territorial desires were sought through the 'Reunions': his lawyers scoured treaties that France had been involved in for evidence of France's claims to territory in Flanders and Germany. In 1683, the Treaty of The Hague was agreed by the Dutch and the Swedish, the association later expanded to include the Holy Roman Emperor who wanted his son to succeed to Spain's throne, and Charles II. This was an attempt to restrain the French militaristic and political might by re-establishing the frontiers agreed to in 1648 and 1678. However, war in Vienna took Leopold's attention elsewhere and the association failed, having to concede to France's Reunion claims.

Fletcher was by his own admission more concerned with the affairs of his own country before any other considerations, however, he was conscious of Scotland's place within Europe and the effects the Spanish succession would have on the country both politically and religiously; James VII and II having been a Catholic ally of Louis XIV and now living in exile in France. Fletcher's idea for a federal union was based on the premise that small independent states could not subsist within the British Isles and would be unable to compete for trade or in war with the larger European nations. A hegemonic power has the ability to exert, according to Pettit, the most powerful kind of alien control – the ability to influence the choices without the need for any overt manipulation or interference: A controls B by always maintaining the possibility to interfere should B make decisions which it may not approve of. In this regard, B maintains a show of independence, avoiding internal conflicts or external

condemnation.⁴⁴⁵ And this is exactly what would happen in Europe if Louis was able to dominate by succeeding to the Spanish throne.

Fletcher's fears for the fragile balance of power in Europe, exacerbated by the threat of a standing army in Britain that would cause other European states to fear the threat of attack and themselves build forces or pre-eminently strike, was the threat of Louis XIV of France gaining control of the Spanish kingdom and all its territories posed a much greater threat. In order to highlight the dangers that the Spanish succession crisis threatened, Fletcher clearly spells out the best tactical way for each interested party – the Princes of Europe – to take Spain by disrupting the balance of power within Europe and shifting allies. He sets out the behaviour required for the Princes to obtain Spain, the advantages Spain would bring to them, and the opposition they would face and how to overcome it. 'I do not speak of the right of succession, leaving that to the Doctors of Laws; nor am I concerned with what princes ought to do, which is for the Divines to teach; I am speaking of what princes have and always will do, which is, by any means, wherever they can, to enlarge their kingdom by occupying neighbouring provinces'.⁴⁴⁶

In order to avoid the misery of war, Fletcher proposes a peaceful system of international order where society would be constituted in such a way as 'would be no less advantageous to our neighbours than ourselves', 'instead of framing governments with regard only to a single society'.⁴⁴⁷ By recognising that the interests of each society are the same, war can be avoided as long as there is equality and justice. Like in a Hobbesian state of nature, international society can only maintain peace if each agrees not to take advantage from the others. The advantage of this system would be based on reciprocal arrangements of what is just – if I take from you I am justifying others to do the same and to take from me.

⁴⁴⁵ Pettit. "A Republican Law of Peoples". *ibid*: 78.

⁴⁴⁶ Fletcher. *Discorso Dela Spagna*, *ibid*: 99.

⁴⁴⁷ Fletcher. *ibid*: 205.

Fletcher's proposal is simple. All nations should be rendered either incapable or unfit for conquest by decentralising the power sources. By dividing Europe into ten distinct alliances:

'God and nature seemed to have marked out certain portions of the world for several great society of men; having divided them from each other by seas and mountains, or some remarkable difference if the soil and climate. The island of Britain and that of Ireland seem conveniently situated for one government: Spain and Portugal for another, because they lie together in one compact body, and are divided from the rest of Europe by the Pyrenan mountains. In like manner France is contained within the Alpes, Jura, the Voge, the Ardennes and the Pyrenees. Italy is separated from all other parts by the Alpes; and the three adjacent islands seem naturally to belong to that low country. The seventeen Provinces, the circles of Westphalia and lower Saxony, with the archbishoprick of Cologne and kingdom of Denmark, seem commodiously places to be united under one government. The rest of Germany, with the Swiss Cantons, and the provinces that le between those countries and the Adriatic sea, might very well compose another. Norway, Sweden Finland, Liefland, and the northern parts of European Muscovy, lying under the same climate, may be conveniently joined together. Poland, Prussia,, Lithuania, and the southern parts of the European Muscovy, with the little Tartary, might likewise be properly united. The countries that lie to the north of Macedonia and Albania, and on the south of the Carpathian mountains, from Austria, Stiria and Carniola to the Euxin sea, might be a ninth distinct government, and Macedonia, Albania, Thessaly, Epirus , Achaia, Morea, Negropont, Candia, and the adjacent islands a tenth'.⁴⁴⁸

Within each of these distinct districts there would be ten or twelve sovereign cities, fortified and equipped to defend itself and its nearest neighbour, thus rendering attempts at conquest impractical, 'a conquest divided into twelve parts would be of

⁴⁴⁸ Fletcher. *An Account of a Conversation*, *ibid*: 203-204. Fletcher's model was clearly the basis for Montesquieu's model for federal republic as shown in the *Spirit of the laws*. Montesquieu was an admirer of Fletcher –having been taught by him at the University of the Hague.

little account, they could not be made adjacent to the several cities to which they ought to belong'. In order to exemplify the utility of this union of unions, Fletcher drew on the Tuscan and Greek city states whose arrangements could be seen in the contemporary examples of the Swiss Confederation and the Netherlands. The union of unions that Fletcher is here proposing is an extension of his proposals for a balance of power in Europe during the Spanish succession crisis.

Fletcher bases his federal framework for Europe and Britain on the balance and participation of a civic republic, providing the basis for security and peace across Europe. His distinct sovereign city states would balance the power within each union, ensuring none could rise to any significant power at the expense of the other, whereas the localised authorities would reduce the social decay caused by large concentrated populations. These self-governed areas would have territorial integrity and be responsible for all the political decisions made within that province, albeit on a smaller scale than the self-determined political units we recognise in contemporary politics. Whether we can apply a similar model to contemporary politics is under question. Deudney is apprehensive of balancing theories, 'internal balancing' might weaken interior balances', centralising the decision making structures and isolating the state and limiting cooperation externally, but he also recognises that with the advent of globalisation, 'various forms of union (alliances, leagues, confederations and federations)' may be necessary.⁴⁴⁹ What Deudney terms co-binding, Fletcher would call balancing of power. It is only when republics join together in a mutually beneficial pact that they can sufficiently secure their positions without undermining the internal balance and freedom. Where Deudney and Fletcher agree is in the emphasis on republican security rather than international security. The emphasis is on the best international structure to ensure the security of the republics citizens not any republican conception of world order, per se, although the balancing system does require international security to work. Where Fletcher and Deudney are best, is in their emphasis on republican cooperation. Republics, by definition as well as by historical

⁴⁴⁹ Deudney. *Bounding Power*, *ibid*: 55-58

record, have a greater record with regards to alliances and cooperation, based on their federal nature.

Fletcher recognises the impact the advent of commerce and technology is having on the natural limitations of republics – size once determined by topography and common language/shared history. But technology and economic development change the material context which determines the political order. The early modern republicans such as Machiavelli recognise war as an important albeit problematic aspect of the polis, it is for this reason that the citizens should be the major players in war as they will fight for a variety of motives, courage and glory as well as security, but Fletcher recognises that war has now become inextricably linked with economic development and thus, the security of the polis is linked with the geopolitical advantage it has for both itself and others. There is no virtue in wars of dominance for financial gain. Fletcher hopes to limit wars of domination for political and economic advantage, he recognises what Deudney later recognises, that military virtue is no longer necessary. Considerations of honour and virtue are vital within the city walls, but for the sake of security, cannot be extended beyond the state. This sets Fletcher apart from his republican peers; he proposes a modern theory of republican security based on the international challenge and the recognition of commerce and empire as a risk to that security; individual states at risk of alien control from dominant external powers whose interests clash. This alien control can be exerted in one of several ways: domination through military control, by a simple military take-over, or by economic barriers. Fletcher has recognised commerce as a major feature in modern social and political interaction and sees it as the main security threat in the contemporary global political order.

Despite the obvious republican basis for Fletcher's political theories, the balance of power is arguably a fundamentally liberal concept – a pact between autonomous sovereign states, with no need for federal systems of governance. The common good is the preservation of peace within the region, banding together to

ensure no one power gains hegemonic power, a 'pretended brotherhood where nations are in a state of war'.⁴⁵⁰ True peace is a necessary condition for true freedom, yet a balance of power system between states is not true peace – it is an uneasy constant game of risk with shifting alliances, weak states are at the mercy of the strong if they cannot find enough small/equal states to band with in order to equalise the power dynamic. Nowhere is this most keenly observed than the Cold War and NATO's role within it. Morgenthau amongst others saw the Cold War and the threat of nuclear war as evidence that a move from sovereign states to a system of world governance was necessary, and it is here that Fletcher's theory of federal Europe comes into its own. Fletcher's federal Europe is a system of world governance based on a balance of power in a system of peace, not war. For Fletcher the balance is equilibrium, unlike the distribution of power definition in which there is no actual balance, just shifting of power centres, the equilibrium requires that no one state is able to gain an advantage of power. Fletcher's republicanism is both civic and global in reach. The common goal is peace and justice.

Deborah Boucoyannis notes that the concept of checks and balances, fundamental to balance of power theory, also form the basis for early modern liberal theory, with interest balancing interest at the core of the liberal solution to anarchy and power; the balance of power is also at the core of the realist approach to international relations.⁴⁵¹ However, in her attempt to show that the balance of power is a 'liberal prediction', and the main alternative to realist IR theory, Boucoyannis misses out the republican tradition – the main proponent of balance of power theory in Europe in the post-Westphalian/ pre- French Revolution era. Indeed, at the turn of the eighteenth-century, the balance of power in Europe was a fundamental concern with Louis XIV threatening the (relative) economic and political stability of the region that had been established with the Westphalian treaties after the Thirty Years War.

⁴⁵⁰ Rousseau. Quoted in Stephanson, Anders. "Fourteen Notes. On the Very Concept of the Cold War. *H-Diplo*, May 1996.

⁴⁵¹ Boucoyannis, Deborah. "The International Wanderings of a Liberal Idea, or Why Liberals Can Learn to Stop Worrying and Love the Balance of Power". *Perspectives on Politics*. Vol 5, 2007: 703.

Describing Europe as a republic was common amongst enlightenment thinkers; recognising the post-Westphalian era as a relatively stable period for Europe, not one based on the anarchical state of nature, nor an hierarchical structure of order - thus illustrating the European order with republican terminology taken from domestic political structures, was an easy analogy to make.

The theory of the balance had been very helpful when one state, whether Hapsburg Spain or Bourbon France, had threatened to dominate Europe and it was necessary to construct a countervailing alliance, but it was less useful when European politics ceased to be dominated by one struggle. Hume, writing his essays in 1752 in order to defend anti-Bourbon policy invokes the anti-Hapsburg policy of the sixteenth century and the balance of power policies used against Louis XIV. Hume's concern with contemporary policy, and with France, is conspicuous:

'Europe has now, for above a century, remained on the defensive against the greatest force that ever, perhaps, was formed by the civil or political combination of mankind. And such is the influence of the maxim here treated of, that tho' that ambitious nation, in the five last general wars, have been victorious in four, and unsuccessful only in one, they have not much enlarged their dominions, nor acquired a total ascendant over Europe In the last three of these general wars, Britain has stood foremost in the glorious struggle; and she still maintains her station, as guardian of the general liberties of Europe, and patron of mankind'.⁴⁵²

Hume is stressing that European liberty depends on the balance of power. Real de Curban agreed with the balancing sentiment:

'Speaking generally, the rulers regard Europe as a balance in which the heaviest side subdues the other side and believe that in order to retain Europe in a solid and peaceful condition it is necessary to maintain between the principal parties this

⁴⁵² Hume. *Essays Moral and Political, Literary*. Indianapolis: Liberty Fund, 1980: 634-35.

*point of equilibrium, which preventing either side of the balance from sinking proves that they are on an exact equal level... The House of France and the House of Austria have been regarded as the scales of the balance of Europe. One or the other of these scales has received their support from England and Holland which acted as the balancers’.*⁴⁵³

In the latter half of the eighteenth century, with Russia partitioning Poland and vying for primacy in Eastern Europe, the links between international affairs in the two halves of Europe became tenuous and the balance theory became less useful. Nothing was found to replace it before the conquests of revolutionary France caused ‘a revival of older ideas of a single state which threatened the European system’.⁴⁵⁴ It became a confusing analogy during the French Revolution when the republic of Europe was being threatened by the excessive republicanism of France. Thus, the republican terminology fell out of favour and the arguments regarding power politics and balance of power, according to Deudney, were picked up and developed by theorists who later came to be known as liberals and realists.⁴⁵⁵

However, as Boucoyannis shows, modern liberalism has again abandoned the balance of power theory in favour of utilitarian idealism, seeing the balance of power as a conservative ideology.⁴⁵⁶ This is a major flaw in the liberalist strategy. One of the fundamental problems facing those who wish to theorise the best order for the global political system to guarantee equilibrium, freedom and justice, is the underlying paradox of self-interest and concentrations of power. Indeed it is recognised that republican pluralist politics is undermined by such concentrations of power where the common good is overlooked in favour of private interest.⁴⁵⁷ The notion of balancing – where the weak band together to refute the domination of the strong – is more

⁴⁵³ Real dr Curban, *La Science du Government*, Paris 1674: 443

⁴⁵⁴ Black, Jeremy. “The Theory of the Balance of Power in the First Half of the Eighteenth Century. A Note on Sources”. *Review of International Studies*, (9)1983 : 60

⁴⁵⁵ Deudney. *Bounding Power*, *ibid*: 142

⁴⁵⁶ Boucoyannis, *ibid*.

⁴⁵⁷ See E.E. Schattschneider: *The Semi-Sovereign People: A Realist’s View of Democracy in America*. New York: Holt Rinehart and Winston, 1960.

necessary now in a pluralist global network than it was even at the conception of the balance of power theory in the seventeenth-century. And this is where we need the early modern republican ideas of Fletcher - asking a very important question for the international state system - how is power turned into order, a question that G John Ikenberry has posed as recently as 2001.⁴⁵⁸ According to Fletcher, international order is both necessary and morally better than international disorder, as it is the case that the maintenance of the balance of power is the best way of maintaining international order, it is a moral duty that states maintain the balance of power. Fletcher sees no alternative to the balance of power for maintaining the peace and security of the European order. Any other alternative would require either a hegemonic state playing the role of international police officer, or an independent 'benevolent despot', both of which we have already seen, would undermine the freedom and independence of the states within that order.

Recent works have asked the question of whether we should abandon the balance of power theory or seek to amend it to fit modern challenges.⁴⁵⁹ Assuming that the current trends for integration and globalisation are to continue in conjunction with the state, what is the ideal version of the international order that we should expect to promote justice and peace? Pettit supports the 'utopian ideal of cosmopolitan justice'; the proposal that those already enjoying non-domination in a representative society should arrange things so that they may both continue to enjoy the republican ideal of non-domination while doing everything they can to facilitate the same agreeable situation for those less fortunate in non-dominating states in order to incorporate them into a non-dominating international society. As we have seen, this theme is apparent in Fletcher's writing, proposals for federal Britain and balance of power in Europe based along a federal republican system. Pettit wants to argue for an

⁴⁵⁸ Ikenberry, G. John. *After Victory: Institutions, Strategic Restraint, and the Rebuilding of Order after Major Wars*. Princeton, NJ: Princeton University Press, 2001: xiii.

⁴⁵⁹ See Randall I. Schweller. *Unanswered Threats: Political Constraints on the Balance of Power*. Princeton: Princeton University Press, 2006. Stuart J. Kaufman, Richard Little, and William C. Wohlforth, eds. *The Balance of Power in World History*. London: Palgrave Macmillan, 2007 and T. V. Paul, James J. Wirtz, and Michael Fortmann, eds. *Balance of Power: Theory and Practice in the 21st Century*. Stanford: California Stanford University Press, 2004.

ideal in which effective, representative regimes avoid domination both by state and non-state actors and seek to enable others to achieve the same.⁴⁶⁰

Martin Wight presents the balance of power as one of the fundamental institutions of international society, 'the first article of the unwritten constitution of the states-system'.⁴⁶¹ Hedley Bull sees the function of the balance of power is to 'prevent the system from being transformed by conquest into a universal empire. . . to protect the independence of states'. He claims that it has 'provided the conditions in which other institutions which international society de-ends (diplomacy, war, international law, great power management) have been able to operate'.⁴⁶² Butterfield sees the balance of power as the best guarantee for national independence and the safest defense against hegemony and empire.⁴⁶³ International society based on a peaceful balance involves a desire to restrict power politics through a constitutional arrangement. According to Hedley Bull, the assumption that states would actually be governed by a decentralised system of international law would be unfeasible; his concept of international society is not a matter of law or constitution but of politics and morality.⁴⁶⁴ The balance of power is an institution of international society and not merely a mechanism of the international system; states often behave as social actors and that they often respect the values, rules and institutions of international society. Therefore, the conduct of the balance of power is not assumed to be based solely on national interests or the interests of temporary alliances, but also to be founded on a commitment towards international society in general.

This is clearly a Fletcherian model of international relations and balance based on conceptions of cooperation and common good; the import of balance and order is clearly of collective significance and therefore an obligation of the state system as a

⁴⁶⁰ Pettit. "A Republican Law of Peoples". *ibid*: 70-94.

⁴⁶¹ Wight, Martin. "The Balance of Power and International Order", in Alan James (ed.), *The Bases of International Order: Essays in Honour of C. A. W. Manning*. Oxford: Oxford University Press, 1973: 102.

⁴⁶² Hedley Bull, *The Anarchical Society: A Study of Order in World Politics*. London: Macmillan, 1977: 106-107.

⁴⁶³ Butterfield, Herbert. 'The Balance of Power'. London: Allen and Unwin, 1966: 140

⁴⁶⁴ Bull, *ibid*: 108.

whole. The core value of international society isn't the establishment of perpetual peace - that, Fletcher maintains, is not possible - but the commodious existence of states in an international society designed to do the least harm. By reducing the capacity for advantage by ensuring that all nations were equipped to defend themselves against the ambitions of others, and reducing the opportunities of gain within the international sphere, 'if the dominions of a state...might not be increased by conquest', a balance of power would be established by Fletcher's alliances, ensuring that no one state would could gain advantage over others; coexistence would be possible in a society predestined for conflict and struggle for survival.⁴⁶⁵ As Robertson notes, Fletcher does not seem aware of any previous statesmen who had proposed such an arrangement, expressing concern that none had done so before him. But returning to the early modern civic tradition, Fletcher points towards the Achaean League and the Greek city states as examples of the archetypal constitution he had in mind. And as Robertson correctly points out, this is an indication of the civic principles which 'gave coherence and precision to Fletcher's constitutional thinking as a whole'.⁴⁶⁶

Fletcher recognises the prominence of state-centrism in international politics, but does not assume this is the only method of interacting with politics on the international sphere; in this respect he differs from Locke, Hobbes and conventional international political theorists of the seventeenth-century, in recognising the state as the principal component and not seeing it purely in terms of individuals. This state-centric view of the international world presented a new dilemma; concerns for security in an ungoverned arena where attempts to dominate or at least limit the power and advantage of others may trigger insecurity in others. Fletcher's reliance on the balance of power system as a source of order provides a convenient model for his vision of perpetual peace that, unlike contemporary realist theories of international relations,

⁴⁶⁵ Fletcher. *An Account of a Conversation*, *ibid*: 207

⁴⁶⁶ Robertson J. "The Scottish Enlightenment and the Civic Tradition". In Istvan Hont and Michael Ignatieff, (eds) *Wealth and Virtue: The Shaping of Political Economy in the Scottish Enlightenment*. Cambridge: Cambridge University Press, 1986: 147.

does not rely on war as a catalyst for peace. Despite his state-centric view of international politics, Fletcher attempts to move away from an entirely pluralistic concept, refusing to accept a minimal view of international politics with the state as the principal factor upon which global order is built. Peace is not merely an absence of war; it is a balanced system of cooperation and goodwill. In this regard, Fletcher anticipates Kant in his vision for perpetual peace based on cooperation, and would benefit theorists such as Iris Marion Young in her quest to develop a 'decentred diverse democratic federalism' a 'thin' theory of global governance which holds principles of morality and international justice.⁴⁶⁷ Fletcher recognises the interconnectedness of the European system of states; their commerce and their security are dependent on the relationships they have with one another and the decisions they make with regards to internal and external politics. He basis his balance of power theory on the self-determined nature of the state within a larger federal European model which, necessarily, recognise each other's integral role in their internal affairs.

Republican terminology at the turn of the eighteenth-century was a consequence of the growth of an interdependent Europe made of independent states. According to Deudney, as the European powers jealously competed for mutual advantage, they became both fearful that another would gain excessive pre-eminence, while becoming aware that their security was bound up within a variety of constraints. They sought to 'locate the sources of their liberty from central rule and the moderation of factional strife' and turned to the familiar language of republicanism to draw analogies between the politics of Europe and republican polities'.⁴⁶⁸ Building on similarities between the domestic pattern of politics in small republics and the European system, an international theory of balance of power politics using republican

⁴⁶⁷ Young, Iris Marion. *Global Challenges*. Cambridge: Polity Press, 2007: 33.

⁴⁶⁸ Deudney, Daniel H. *Bounding Power: Republican Security Theory from the Polis to the Global Village*. New Jersey. Princeton University Press, 2007: 141. Deudney explains that this republican terminology fell out of favour in the latter half of the eighteenth-century after the French Revolution. It became a way of describing the system between the *Ancien Regime* between Westphalia and the French Revolution: 142.

terminology was employed in the eighteenth-century to describe and explain European politics.

The fundamental point that Deudney makes is that republicanism as a tradition of political thought is better equipped than either realism or liberalism to articulate a feasible security theory for the global - nuclear - age. Republican theory recognises the threat to security from hierarchy as well as anarchy. 'The overall republican security project has been to achieve security by simultaneously avoiding the extremes of hierarchy and anarchy over successively larger spaces in response to changes in the material context, particularly changes in violence interdependence'.⁴⁶⁹ The state, according to Deudney, exists to secure the needs of what is the primary referent of security; the individual, 'achieving security requires restraint of the application of violent power upon individual bodies' and any other aspect of international relations is directly linked to the security of the individual.⁴⁷⁰ To achieve security for the individual within the contemporary global political order, political not military, solutions are required. The correct, republican, political order based on political liberty, popular sovereignty and limited government secures the authoritative political conditions necessary; weak or authoritarian states undermine the political order. Here we must consider Fletcher's proposal for a federal Britain and confederate Europe in which both the individual and the 'rulers' are bound by structures of restraint on their capacity to do harm.

Balance for International Order and Perpetual Peace

James Bohman argues that there has been no 'conceptual space' for republican cosmopolitanism despite many of the eighteenth-century republicans being 'clearly cosmopolitan'.⁴⁷¹ He intends to develop a republican form of cosmopolitan order to fill the space he claims is left open, but fails to recognise Fletcher and other turn of the

⁴⁶⁹ Deudney. *ibid*: 4.

⁴⁷⁰ Deudney. *ibid*: 14.

⁴⁷¹ Bohman., *ibid*: 190.

century republicans defending a federal Britain as possessors of cosmopolitan standards, despite recognising Fletcher's cosmopolitan commitment in his statement that 'I think mankind might be best preserved from such convulsions and misery, if instead of framing governments with regard only to a single society, as I believe all legislators have hitherto done, we should constitute such as would be no less advantageous to our neighbours than ourselves'.⁴⁷²

Far from holding contradictory standpoints, Fletcher simultaneously develops his republican ideals within his federal discourse. Fletcher's civic republicanism holds many elements of a cosmopolitan nature, as is most evident in his desire for a federal Europe; developing a cosmopolitan European community that functions to maintain an equilibrium between states and check hegemony. It can also be seen in his vision for a federal Britain, uniting the Scottish and English nations under one crown within federal framework of governance. His is a federal proposal for a united Europe for the sake of continued peace, economic and social development based on equality and freedom.

Fletcher is committed to freedom as non-domination – difficult enough to achieve within a free state insofar as the citizens of the free state relate to one another, but as Bonham points out, there is a further difficulty in extending freedom as non-domination with regards to relations of political communities which are external to that free state; a 'republic of republics' would be necessary to check the dominating tendencies of states over less developed or weaker states.⁴⁷³ Fletcher's model for a perpetual peace is built around a system of states of comparable military power establishing amity between them in order to protect them from external threats. Unlike contemporary balance of power approaches where the weak link up with the strong or along geopolitical maneuvers utilizing proximity to friends and enemies, he promotes a system where small states band together to protect each other from the threat of a single hegemonic power. Power here means military prowess, and military

⁴⁷² Fletcher. *An Account of a Conversation*, *ibid*: 205. Bohman misquotes Fletcher here slightly.

⁴⁷³ Bohman, *ibid*: 7.

might relies on trade. According to the English analyst of trade, Charles Davenant, those who possess the most profitable trade also acquire the best defense against foreign threats and the means to gain more power and wealth as a result: 'War and its discipline, was the chief object of their thoughts, as knowing that riches always follow power, and that iron brings to it the gold and silver of other places'.⁴⁷⁴

Once again Fletcher is moving beyond early modern Machiavellian republicanism, updating it to suit modern conceptions of justice and fairness, with regard to commerce. Machiavelli proposes that expansion of the empire is necessary and should take the form of a league of unequal states or republics: Rome 'rose to such excessive power by gaining 'many partners throughout all Italy who lived with it under equal laws', yet always reserved the seat of the empire and the status of command 'so its partners came to subjugate themselves by their own labors and blood without perceiving it'.⁴⁷⁵ Adopting this model, according to Machiavelli, would preserve the freedom of the dominant republic – in this case, Florence – at the expense of all others, showing Machiavelli's priority as lying with the liberty of one republic only. Fletcher on the other hand wishes to preserve liberty for all republics, recognising that free, nondependent republics are better for preserving peace – appreciating the commercial ties would make them less likely to go to war with one another; this being in the best interests of all states. Fletcher was not alone in recognising commerce as a catalyst for war and peace within republics. According to Kennedy, by the close of the seventeenth-century, republicanism had been 'so transformed by the advent of commercial society that the republican dilemma had now been transcended, Algernon Sydney was to proclaim at this time that trade was the sinews of war and the condition for republican greatness'.⁴⁷⁶ Whereas other republican thinkers of the time, including Sydney, were replacing the republican

⁴⁷⁴ Davenant, Charles. *Essays upon Peace at Home and War Abroad*. In Two Parts. London, 1771 (found online here: <http://gallica.bnf.fr/ark:/12148/bpt6k937772>).

⁴⁷⁵ Machiavelli. *The Discourses on Livy*. Harvey C. Mansfield, and Nathan Tarcov, (eds) Chicago: University of Chicago Press, 1996: 136.

⁴⁷⁶ Kennedy, Geoff. "The 'Republican Dilemma' and the Changing Social Context of Republicanism in the Early Modern Period". *European Journal Political Thought*, 8:3 2009: 317.

discourse of virtue with the political and economic discourse of self-interest, Fletcher was combining the two theories to show that self-interest and the common good were one and the same thing.

Trade in the seventeenth century had forced territorial states to become participants in international commerce and the international marketplace soon became an anarchic arena with ambitious monarchs resorting to war in order to secure lucrative resources and markets. As a consequence of this shift from domestic to international politics, the interests of society and mankind had changed significantly. Fletcher recognises Britain's unique position in Europe; as an island it is separated from many of the conflicts between states on the continent, yet as its neighbour must, for the sake of its own security, be vigilant and active in its foreign policy; engaging in mediation and participating in defensive and offensive alliances and struggles put succinctly by Bolingbroke in 1713:

'Their several interests are the objects of their alliances; and as the former are subject to change, the latter must vary with them. Such variations, whether occasioned by the course of accidents, or by the passions of men, tho made by few, will affect many; because there always are, and always must be, systems of alliances subsisting among these nations; and therefore, as a change in some of the parts of one system necessarily requires a change in all the rest; so the alteration of one system necessarily requires and alteration of the others. Thus are they always tossed from peace to war, and from war to peace'.⁴⁷⁷

Fletcher recognises the inevitable conflict amongst divided nations competing for wealth in an anarchic system with no regard for the general good for mankind, but he also sees the opportunity for peace. Instead of a mercantile peace – trade creating a peaceful bond between market powers (as envisaged by Fletcher et al) – rivalries become more intense and uncertain. Fletcher accepted that war was a prerequisite for

⁴⁷⁷ Henry St John, Lord Viscount Bolingbroke. Works. Vol 1. London, 1754: 427.

trade, and yet hoped for a perpetual peace in Europe also based on trade; supposing an early democratic peace theory in which trading partners preserved peace in order to preserve commerce. In an extension of his domestic federal policy, Fletcher sees a federal Europe as a cure for the corruption of power and the consequential universal wars. He proposes a division of Europe along the natural boundaries of language and culture as well as rivers and mountains. As in the ancient Greek model of city states designated through natural boundaries, small communities could form their own political units. Smaller nations would be capable of defending themselves against powerful enemies; avoiding the threat of one power being allowed to rise in the world and disturbing the peace of all of his neighbours. Fletcher may have had the Greek model of a league of neighbours, or Amphictyonic league in mind when he designed his model of republic of republics. By dividing Europe into ten equal and distinct parts based on disposition as well as language, Fletcher intends that each alliance is obliged to 'preserve common tranquility', if one state should attempt to gain power against the others, the rest would come together against it.⁴⁷⁸

Fletcher had many texts on Greek history and philosophy in his personal library. The Delphic Amphictyony is discussed in Thucydides' History of the Peloponnesian War, a copy of which was also held by Fletcher. The Greek Amphictyonic league had a profound influence on republican theory, Montesquieu endorsed the weighted voting mechanism, and Wilson praises the league for its mission to protect Greece from outside rule and religious defilement. 'the Congress of the United States of Greece, The delegates who compose that august assembly, represented the body of a the nation, and were invested in the full power to deliberate and resolve upon whatever appeared to them to be most conducive to the public prosperity... From the moment of its establishment, the interests of their country became the common concern of all

⁴⁷⁸ Fletcher. *An Account of a Conversation*, *ibid*: 205. x

the people of Greece and the different states, of which the union was composed, formed only and the same republic'.⁴⁷⁹

Fletcher proposes a system of international order based on nations being organised into military alliances of comparable power. Within this balanced international system, no one nation could achieve military advantage and there would be no recourse to aggressive conflict. The societies that made up the balanced international system would, according to Fletcher, be based on small scale local governance; avoiding the corruption of large scale urban centres. They would not have standing armies or the dishonest court systems as exemplified by France and England. As a consequence, the governments which presided over the nations would be more virtuous and organised with the purpose of protecting the interests of their citizens; they would respect the rights of human beings as well as nations. This international system supported by federal governments was 'the best to preserve mankind' from universal wars, and to guarantee 'every part of the world that just share in the government of themselves which is due to them'.⁴⁸⁰ As Hont points out, Fletcher does not think that this would end the differences between rich and poor nations, rather the rich would no longer be able to suppress the poor. Justice, as the preservation of society, would be achieved through the satisfaction of needs.

In *An Account of a Conversation*, Fletcher does not see international order merely in terms of a system of states, but as a value in itself – providing justice and peace. His international order is not based on shared values or norms; accepting that only some states have such shared norms, but a practical condition for the continuation of human social life in an increasingly global society. Based on a system with no common power, there are two fundamental goals: preserving the society of

⁴⁷⁹ Wilson, James. *Lectures on Law*. 1804. <http://www.constitution.org/jwilson/jwilson1.htm> It is also discussed at length by the authors of the Federalist Papers.

For a discussion on how the Amphictyonic league informed republican international thought, see Bederman, D.J. *The Classical Foundations of the American Constitution*. Prevaling Wisdom. Cambridge. Cambridge University Press. 2008: 125

⁴⁸⁰ Fletcher, *An Account of a Conversation*, *ibid*: 206.

states to ensure peaceful trade and cooperation, and maintaining the independence of those involved. The balance of power is a means of preserving the independence of the states, obstructing the hegemonic abilities of the most powerful. He recognises the fragility of the system he proposes. His interlocutor points out that there is nothing to stop half of this great federation combining against the other, to which Fletcher concedes that this is possible, and that the previous thirty years of continuous and universal wars prove it to be so, but he considers this as a failure of the system of universal society. If states are to be framed with regard to the good of only one society, this will continue to be inevitable, but if they are framed with regards to all of humankind peace is attainable. 'The true interest and good of any nation is the same with that of any other. I do not say that one society ought not to repel the injuries of another; but that no people ever did any injustice to a neighbouring nation, except by mistaking their own interest'.⁴⁸¹ Fletcher's vision for a lasting peace in Europe built upon a European confederation of states is predicted to benefit all of humankind, but it is based in true state interest, not lofty idealism – founded on a conception of republican civic virtue and the common good. Bonham sees the creation of a cosmopolitan civil condition based on a federal republic as an obligation to humanity,⁴⁸² Fletcher's model; based on his joint commitment to democracy, freedom and the common good of mankind, and applied on a global scale best meets that obligation.

Just War

In his *Account of a Conversation*, Fletcher continues to examine the supposed expedience of wars for geopolitical advantage in his speculations on the just war theory; with simple logic and using the rhetoric of the Just War tradition, he outlines the imprudence of war for advantage. In a rather short exchange Fletcher claims that this type of war is unjust; his interlocutor, Sir Charles, claims that the interests of the country must come before private interests, that injustice is a consequence of pursuing

⁴⁸¹ Fletcher. *An Account of a Conversation*, *ibid*: 205-206.

⁴⁸² Bohman. *Ibid*: 201.

private war, but it is Fletcher's claim that removing advantage of a neighbour is unjust – pursuing the interests of one's country at the expense of another. 'To take away by force any advantage that belongs to a neighbouring people, you not only do injustice to them, but injure yourself by example'.⁴⁸³ An advantageous war (claimed here as not unjust according to Sir Charles) may be justly renewed in order to reclaim that which was lost, thus the design for perpetual war continues. The only way to ensure that this cycle ends is by ensuring all nations are capable of defending themselves successfully against aggression for advantage, making conquest impossible. Sir Charles argues that advantage for one's own country is more important – a zero-sum game that must be played out, continuing that a war of advantage is only unjust if 'that which is done is to the prejudice of both'. But Fletcher maintains, and Sir Charles eventually concedes, that an unjust war can be waged, and if successful a just war may be used to readdress the injustice done. Fletcher's theory of what constitutes a just war is heavily drawn from St Thomas Aquinas and Augustine before him - war for imperialism or expansionism or through fear of one's neighbour is not a just cause. Fletcher does not mention who has the right to declare war, or what a just war actually entails – Aquinas' first and third conditions for a just war, but it is clear that his own theory is based heavily on his second condition. If the intention of war is advantage at the expense of another's toil, then the cause is unjust and the war unlawful.

Fletcher had a canon of texts on which to develop his theories of justice and just wars based on notions of Natural Law and the Law of Nations. Natural Law for Grotius is founded within the rights to self-preservation and property rather than any common good of mankind. Political Europe had almost been destroyed by war in the seventeenth-century. Grotius rejects the realist contention that states and individuals are subject to separate codes of conduct and morality because both are bearers of rights (a claim that is rejected by Sir Charles Musgrave).⁴⁸⁴ Furthermore, the Law of

⁴⁸³ Fletcher. *An Account of a Conversation*, *ibid*:191.

⁴⁸⁴ ...A citizen in the service of his country... is not obliged to the same scruples as in his private affairs; and must be true to his publick trust, and take care that the commonwealth suffer no prejudice'. Fletcher responds: Then...no man

Nations does not apply to only one or two nations, but the constraints are prescribed to maintain peace and security of all, therefore the doctrine of *raison d'état* is unjustifiable. Boucher contends that Grotius saved politics by developing a language in which politics was able to 'reconquer and encompass war'; war was not where law ended, but was itself subject to the Laws of Nations and Nature.⁴⁸⁵

Like Fletcher, he maintains that a just war is waged in self-defense or to punish aggressors, wars for conquest are unjust. However, according to Fletcher, each man is imbued with a sense of both justice and injustice; and has a duty to be a citizen of mankind as well as to his nation. It can therefore be argued that Fletcher's theories of just and unjust wars are more akin to Pufendorf who stresses a duty of benevolence – including a moral basis within personal relations; state action does not take place in a moral vacuum. Pufendorf had acknowledged that states had rights and duties in relation to one another under the terms of Natural Law. Fletcher's concerns for the obligations and moral actions states and men had to one another (as well as the effects of war, the balance of power and his aspirations for perpetual peace), are consistent with the conceptions of Natural Law and Law of Nations ideas derived from Pufendorf, amongst others.⁴⁸⁶ Although it must be noted that Fletcher does not use the terms himself. Whereas Grotius, Vitoria, Gentili et al are concerned for justice and legitimacy in war, stressing the importance of the Laws of Nations and natural law with regards to recourse to war, Fletcher is more concerned with the consequences of war, believing a war for gain would justify a war for regain and a vicious cycle of so-called just wars would ensue.

can be a good citizen of a particular commonwealth, and a citizen of the world; no man can be a true friend to his country and to mankind at the same time. Fletcher, *An Account of a Conversation*, *ibid*: 206.

⁴⁸⁵ Boucher, David. *Political Theories of International Relations*. Oxford University Press: Oxford 1998: 210.

⁴⁸⁶ It is well documented that Fletcher was an ardent book collector with over one thousand books in his personal library. His personal papers, held in the Scottish National Library in Edinburgh include careful documentation of the books he bought, where and for how much. His personal effects also include notes on many of these books, proving that he read as well as collected them.

Fletcher refers to concepts that were crucial to an understanding of philosophy in the seventeenth-century, without calling them by name. He refers to the corruptibility and selfishness of human nature but prefers to use the term humankind, a justice and Just wars based on concepts of natural jurisprudence. This is Fletcher's method of being able to draw upon many historical and philosophical examples without being tied to one particular viewpoint or convention; by avoiding the familiar terms of natural law etc., Fletcher avoids being considered alongside any particular viewpoint or doctrine. He is able to draw upon the historical examples of Rome and Greece, and the philosophical examples of Plato and Cicero alongside the contemporary jurists and political thinkers without being tied to any one tradition in particular. It is clear he draws heavily from the civic humanist traditions which promote virtue and the common good, but he is also influenced by the liberal ideas of Locke, and the natural law and jurisprudential thought of Grotius. This is what makes Fletcher so important for the study of political ideas – he cannot be pinpointed as being a just war theorist, or a proponent of natural law, yet he has considerable influence in these areas.

It is in the *Account of Conversation* that Fletcher's civic humanism is most apparent, emphasising the moral disposition of the self towards the common, or as Pocock suggests, public good.⁴⁸⁷ Fletcher's ultimate goal is the abolition of war and the happiness of all mankind, achievable through the removal of the incentive for offensive wars and the increase in defensive capabilities. Along these lines, Fletcher believes that states – as autonomous units – will wage war against each other through their desire for security. In this instance, Fletcher is not ascribing moral judgments in political affairs, merely expedience. Although it is unjust to take away by force any advantages of another nation, the threat is caused by 'injuring yourself by example', laying the 'foundation as well for your neighbours to make a just war against you, as for your own nation to make an advantageous war (which you say is not unjust)

⁴⁸⁷ Pocock. "Cambridge Paradigms and Scotch philosophers: a study of the relations between the civic humanist and the jurisprudential interpretation of eighteenth-century social thought". In Hont and Ignatieff (eds) *ibid*: 235.

against them'.⁴⁸⁸ Allowing for wars for advantage, international society would be ruled by fear – each worried that their neighbours military power would be next aimed at them, that empire building would cause fear and stockpiling. By making wars for gain impossible – not through a display of military power, but through convenient alliances, this cycle of fear would end, returning us full circle to Fletcher's arguments against the idea of a universal monarchy.

As with Augustine, Aquinas, Gentili and Vitoria before him, Fletcher maintains that a war can only be just if there has been an injury committed or the goal is to secure peace.⁴⁸⁹ Like Gentili, he believes that mankind is a community in itself, but whereas Gentili uses this community as a foundation for the justice of wars of intervention, Fletcher sees it as a more fundamental foundation for perpetual peace. A reasoned citizen of mankind will see the futility of wars for advantage if they result in retaliation and will endeavour to preserve peace.⁴⁹⁰ Fletcher is incredulous at the fact that politicians, who in his opinion should be the best of moral philosophers, have ignored the duty to mankind in favour of the duty to his nation.⁴⁹¹ One may argue that this makes him a moral philosopher akin to Locke who argues that we have an obligation to preserve both our own life and that of others as best we can.⁴⁹² This comes close to an idea later developed by Christian Von Wolff and Vattel, that states – as the main actors in international relations – have a moral character with rights and duties. These duties are an extension of the moral duties of the individuals that comprised them, and therefore the state must exercise the duty that the individual has to mankind as a whole.⁴⁹³

⁴⁸⁸ Fletcher. *An Account of a Conversation*, *ibid*: 206.

⁴⁸⁹ Although Vitoria extends this to vindictive punishment of a wrongdoer and Aquinas and Augustine allow for moral punishment.

⁴⁹⁰ Fletcher. *An Account of a Conversation*, *ibid*: 206-208

⁴⁹¹ Fletcher. *An Account of a Conversation*, *ibid*: 209

⁴⁹² Fletcher. *Passim*. See also Locke, *Two Treatises*. *Ibid*: 294.

⁴⁹³ See Christian Von Wolff, *The Law of Nations as Treated According to a Scientific Method*, 1748, and Elmer Vattel, *The Law of Nations or the Principles of Natural Law*.

Furthermore, Fletcher's theories of justice are akin to Leibniz's idea of justice as charity governed by wisdom and his theory of international justice. 'Justice... is that which is useful to the whole community, and the public good is the supreme law – a community, however, let it be recalled, not of a few, not of a particular nation, but of all those who are part of the City of God and, so to speak, of the state of the Universe'.⁴⁹⁴ Justice is a social duty, or a duty which preserves society. A society is a union of different men for a common purpose. A natural society is one which is demanded by nature. 'The signs by which one can conclude that nature demands something, are that nature has given us a desire and the powers or force to fulfill it: for nature does nothing in vain. Above all, when the matter involves a necessity or a permanent utility, for nature everywhere achieves the best. The most perfect society is that whose purpose is the general and supreme happiness. Natural law is that which preserves or promotes natural societies, therefore Natural Law is Natural Justice'.⁴⁹⁵ This is where Fletcher overshadows the just war theorists before and after him and what makes him relevant for today. Fletcher looks to history for perspective, and to the contemporary situation for identification of and a prescription to the central issues.

Fletcher further agrees with Locke that uncultivated land should not be left to waste, but it is here that the similarity ends. Whereas Locke insists that man has an obligation to God to utilise the earth to its best advantage, to further preserve the life of all men, and justifies the colonising of the Americas on the basis that the American Indians have left large tracts of land to spoil, Fletcher insists that war and colonialism encourages the populace to the powerful and corrupt cities by centralising trade, and this leaves the earth untilled and wasted. Locke attempts to justify the use of force and colonial expansion on a theory of property rights requiring ones labour (or that of one's employees), but he does not legitimate colonial expansion in lands where the inhabitants have a justified claim to their property or are subdued by unjustifiable force, trade is forcing men to the cities and the seas, a consequence of the great

⁴⁹⁴ Leibniz. "Initium Institutionem Iuris Perpetui". Patrick Riley (ed) Leibniz. *Political Writings*. Cambridge: Cambridge University Press, 1988.

⁴⁹⁵ Leibniz. On Natural Law. Riley 1988: 77.

disorder in human affairs.⁴⁹⁶ But as Pufendorf and Grotius before him, Fletcher does not believe that war for property is a just cause, 'justice is due, even in point of trade, from one nation to another'; every man has the right to the fruits of his own labour, and any nation that suppresses man of this right is violent, and by extension, any nation that attempts to remove this right from another is unjust.⁴⁹⁷ Fletcher, at this juncture, does not agree that anything other than justice and the common rights and goods of man provide reason for the interests of states.

Conclusion.

Fletcher is not the first to recognise the importance of commerce on the increasingly international political order, but is the first to combine it with republican values of virtue and the common good and *raison d'état* to produce a much more viable and workable republican discourse suitable for modern politics. According to Hont, this is Fletcher breaking further away from Machiavellian politics. A new concept of civic virtue was being proposed which sought to secure lasting political communities and preserve peace in Europe.⁴⁹⁸ Fletcher denounces the aggrandizement politics of the Roman empire which Machiavelli so admired and adopted by the universal monarchs; 'Whoever contrives to make a people very rich and great, lays the foundation of their own misery and destruction, which in a short time will necessarily overtake them'.⁴⁹⁹ Institutional restraints were required to overcome man's natural desire for dominion on both a national and private level. Fletcher did not envisage that this utopian ideal would come to pass, nor that a civic republican Europe would break the divide between rich and poor to create a distributive justice or even distribution of wealth, but he did believe that this would bring an end to the rich being able to suppress the poor, and the 'international trade would return to its godly design of satisfying the mutual needs of nations living under the different climates and in regions

⁴⁹⁶ See Boucher. *Political Theories*, *ibid*: 256, And Fletcher. *Account of a Conversation* *ibid*: 200, also Locke. *Two Treatises* *ibid*: 297.

⁴⁹⁷ Fletcher. *Account of a Conversation* *ibid*: 201.

⁴⁹⁸ Hont. *Ibid*: 264

⁴⁹⁹ Fletcher. *An Account of a Conversation*, *ibid*: 210

on varying natural advantages'.⁵⁰⁰ This is indicative of Fletcher's desire for distributive justice, arguing that politics should not consider just the national interest, but also the common interest of mankind.⁵⁰¹

Fletcher's proposals for a federal Britain is a system based on cooperation, equality and balance which he later expands to fit the European model; highlighting his confidence in an international political republic based on amity and peace, one in which states could prosper if *raison d'état* was recognised as dependent on trade and therefore the interconnectedness of states stimulating cooperation. Fletcher's concept of non-dependence leads the way for contemporary republican theorists of non-domination but his most important contribution to republican theory is his modernisation of the paradigm and his theories regarding the proper conduct of affairs between states - that no state should seek to dominate or interfere in the affairs of other states. The right regulation of conduct between states requires a system of checks and balances which limits the influence one state has with regards to another, and thus providing a basic model for global justice and international equality and peace.

Throughout his discourses concerning the balance of power, peace and just war, Fletcher displays a very modern grasp of international relations theory that his contemporaries had yet to present. His is a republican theory of international relations based on economics and interdependence which comprehends the need for morality

⁵⁰⁰ Hont. *Ibid*: 264

⁵⁰¹ This is an interesting dichotomy in Fletcher's political and social theories. Despite his clear concern for the poor and the fair distribution of resources and wealth, Fletcher has a reputation for being an advocate of slavery. Indeed, one proposal to help the labouring poor of Scotland was a form of servitude where men were indentured for a fixed period in return for his and his families rooms, board and education if necessary. Others were to be sent to the Venetian galleys to labour there. Fletcher insisted that this domestic servitude was not the same as slavery. See *Two Discourses Concerning the Affairs of Scotland*. Part of this same domestic proposal to end poverty in Scotland was to insist that any landowner who could not work his land directly must dispose of that land and use the proceeds to buy half the rents of smallholders, thus providing them with the capital to improve their own farming techniques. Robertson suggests that Fletcher was not seeking to eliminate inequalities of wealth; rather wealth was a public good to be spent not on provisions for the poor, but on projects of public benefit. Robertson, 1992 xxi. This line of argument is only acceptable if one is to read the *Two Discourses* alone and not consider Fletcher's obvious concerns for mankind and distributive justice and human rights as seen in his other works, especially the *Account of a Conversation*. It is frustrating that, as a political observer and commentator rather than a philosopher, Fletcher's style was to introduce profound concepts such as distributive justice but not elaborate further.

in politics. As such, Fletcher's international relations theories should be considered an important intellectual contribution to the so-called canon of political texts that contemporary IR theorists rely upon.

Chapter 4: Looking Forward

'Since, then, one nation, in its way, owes to another nation every duty that one man owes to another man, we may confidently lay down this general principle: - one state owes to another state whatever it owes to itself, so far as that other stands in real need of its assistance, and the former can grant it without neglecting the duties it owes to itself. Such is the eternal and immutable law of nature'.⁵⁰²

In a contemporary world where the actions of one necessarily have an impact on the actions and wellbeing of another, it has become more important than ever to regulate relationships between autonomous states. But it is how these relationships can be regulated while respecting the autonomy and self-determination of the citizens that is the focus of this chapter. Communitarians, cosmopolitans, republicans and liberals alike have their own theories on how to structure global civil society for the common good of mankind and, with luck, a form of perpetual peace. Iris Marion Young, for example, offers a conception of 'relational autonomy': self-determination involving institutionalised procedures for negotiating between autonomous units when one's activities will have an effect on the others basic interests.⁵⁰³ The ideals of these thinkers - perpetual peace, global cooperation, equality and freedom - are often dismissed as lofty idealism in a political history that has emphasised realist politics, excessive individualism and self-interest for too long. The increasing interconnectedness and interdependence between and among states is evidence that these notions must be considered more than ideals. They should be used to challenge the current state-centric assumptions and realist models of contemporary global politics. This is not to suggest that any one theory provides the definitive answer - cosmopolitan thinking, for example, neglects the human need for roots - but it is a

⁵⁰² Vattel, Emerich, De. *The Law of Nations, or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns*. G.G. and J Robinson. (eds) London. 1797. 3.47.

⁵⁰³ Young, Iris Marion . *Global Challenges*. Cambridge. Polity Press. 2007:7.

good starting point for the purposes of this argument.⁵⁰⁴ Fletcher is not a cosmopolitan; he does not suggest a model for global governance or attempt to remove self-determination or sovereignty from nation-states, but instead suggests an order based on cooperation and the common good with the same goals of peace and freedom in mind.

The previous chapters have shown that civic republican theory has value in the global political order. Its adaptability and focus on the concept of freedom as non-domination as opposed to freedom as non-interference is vital for a global order that is interdependent and, at times, interventionist. They have outlined the shared political position of Andrew Fletcher and contemporary political thinkers with regards to the global political system; how it should be arranged to maximise the freedom and welfare of the whole of humanity. In this chapter, what Fletcher has to offer contemporary political theory is outlined further. It considers the political ideas that have as yet to be shared by modern republican thinkers; his plans for a republic of Europe, and how his theories may be applied to contemporary republican theory including debates on arbitrary power and the Scottish Independence movement. Fletcher, unlike his early modern republican predecessor Machiavelli, believes there is a place for morality in International Relations and it is from this position that we can see Fletcher as a significant figure for contemporary republican political theory.

Fletcher's doctrine has several major themes – Republican ideals of liberty and justice, combined with an awareness of the corrupting influence of commerce as well as its contribution to peace, together with a commitment to virtue in politics that he recognises as being corrupted by the emerging modern state system. Each of these themes can be used to illuminate the operation of contemporary power politics and the theories presented to limit damage and tender justice. Fletcherian civic-humanist republican themes can be utilised within the British context – the question of the

⁵⁰⁴See Shorten, Andrew. "Borders and Belonging. Recent Work in Cosmopolitan Philosophy". *European Journal of Political Theory*. April 2007 vol 6 no 2: 227

union, devolution and independence. Thus Fletcher's civic humanist version of republicanism is a good match for contemporary British and international politics. This chapter proves that contemporary political theorists should return to the civic republican ideals of Fletcher for a model of global order on which to form their own paradigms; that his intellectual contribution is significant to contemporary debates, especially with the recent developments in British politics and the Scottish independence question.

Commerce and Europe

Fletcher's pamphlets are connected by several themes which are interdependent - marked by a unity of purpose if not method. The first theme is broadly methodological and relates to Fletcher's use of European historical examples to provide credence to his political principles. This contextual methodology is entirely within keeping of his civic humanist pedigree which cultivates his republican views. Fletcher connects the similarities between the decline of the 'Gothic' constitution with the decline of the Athenian and Roman Empires, and uses these examples to warn of the dangers of a loss of virtue which commerce is bringing to Europe. It is Fletcher's belief that the moral health of the civic individual; his ability to concern himself with the commonwealth, is dependent on his independence from the government or executive powers. Linking commerce and wealth with the government or king through the ever increasing public credit and national debts introduced during the reigns of Charles II, William and Ann, and the expanding professional standing armies, increase the dependence of the individual on the government and makes him a threat to civil society. Independence in modes of social and political interaction is necessary for the individual to maintain his virtue and maintain his position as a contributor to the *res publica*.

This approach allows Fletcher to explore the proposition that the several branches of the mixed government – the king, parliament, judiciary, and legislature –

must remain independent from one another, allowing Fletcher to claim the independence of the individual from the government, and the independence of Scotland from English dominance. Unlike the later Enlightenment thinkers such as Smith and Hume, Fletcher's morality in politics is not a result of any concern for individual economic justice or redistribution of wealth - seeing as it was that he was happy for the 'undeserving poor' to be supported through a form of domestic servitude, but morality is due to mankind, and justice is due as a result of one's own labour - a Lockean conception of property being what one earns through his own toil. Commerce is seen as eroding civic virtue and the political agent is selling his participation in the governance of his country to the king and parliament, allowing them to establish political control and dominance over the subjects. However, whereas the early modern republican ideas of Harrington and the Court Party sees commerce merely in terms of corruption, Fletcher also recognises its binding force, acknowledging that mercantile politics on the European stage necessitate cooperation between states, and compels peaceful relations.

To illustrate this point further, Fletcher looks to history for his evidence. He claims Athens increased its power because it developed a mercantile economy - developing trade and expanding its colonies for economic advantage. Rome expanded for glory and lacked any economic or commercial interest. The military domination of Rome saw them rise as an empire while Athens fell, taking commerce with it. Commerce was again to flourish in Machiavelli's time, building Florence and Venice, and opening up Europe to trade. Peaceful intercourse was necessary for commercial Europe to flourish, yet the legacy of empire continued to dominate international politics and commerce once again failed. Fletcher therefore predicts that the end of empire building is necessary for economic growth and cooperation to exist within civil society, moving towards international cooperation as opposed to competition. His study of history leads him to formulate a structure for European politics based on a regular system of relations between independent states that are mutually dependent on the development of commerce. This mutual dependence requires international

politics to develop a system based on principles of justice and law, and it is commerce that Fletcher appreciates is allowing for the revival of republics, not the republics of antiquity, but a republic of Europe based on justice and fairness that would replace the power politics of empire and universal monarchy. Despite lamenting the loss of virtue, Fletcher recognises the binding force of commerce and the potential for peace. He recognizes the need for development of peaceful trade among states for the stability of Europe and the welfare of mankind; it now being necessary for the Roman model of military empire to make way for the Athenian model of peaceful trade.

Fletcher is committed to a universal peace based on commerce; a theme we recognise in the democratic peace theory. He suggests that economic gains could best serve peace by maintaining the mechanisms of the balance of power in Europe than any display of military might could. Overt aggrandizement would only serve to unsettle the neighbouring states and threaten the stability of the region. Growth is much better achieved internally, through economic development. Prosperity is necessary for the stability of the state, sufficient for peace, allowing foreign policy to be directed towards increasing the stability of other states. Fletcher seems to assume that states have an obligation to one another to help them improve their economic status which goes deeper than just the pure self-interest of a state wishing to do trade. There is an inherent moral obligation to provide assistance where assistance is required.⁵⁰⁵ Fletcher outlines this need for morality in politics in his conversation with Sir Musgrave, while outlining the miseries left behind now that 'every nation is endeavouring to possess the trade of the whole world'.⁵⁰⁶ 'Justice is due, even in point of trade, from one nation to another'.⁵⁰⁷

⁵⁰⁵ Unlike Vattel, who some thirty years later wrote on the appropriate action of states against a threat to the balance of power: [Sovereigns] may also mutually favour each other, to the exclusion of him whom they fear; and by reciprocally allowing various advantages to the subjects of the allies, especially in trade, and refusing them to those of that dangerous potentate, they will augment their own strength, and diminish his, without affording him any just cause of complaint, since everyone is at liberty to grant favours and indulgences at his own pleasure'. Vattel. *Law of Nations*. *Ibid* 3.46.

⁵⁰⁶ Fletcher. *An Account of a Conversation*, *ibid*: 193.

⁵⁰⁷ Fletcher. *An Account of a Conversation*, *ibid*: 201.

The general problem Fletcher faced was how to provide this mutual assistance while retaining full sovereignty and interests meanwhile maintaining a peaceful balance within the international state system. Fletcher's approach is a model based on commercial mutuality; he is one of the first political thinkers to recognise commerce as a means to peace, and a source for the balance of power.⁵⁰⁸ ...Mankind might be best preserved from such convulsions and misery, if instead of framing governments with regard only to a single society. . . we should such as would be no less advantageous to our neighbours than ourselves'. As 'no people ever did any injustice to a neighbouring nation, except by mistaking their own advantage'.⁵⁰⁹ To avoid the cycle of unjust wars for advantage, Fletcher's commercially inclined nations are required to appreciate the expedience of preserving a peaceful international society beyond the limitations of the state system; tolerating certain constraints on their trade and interests, and refraining from damaging the trade of other nations, all on a purely voluntary basis.

Fletcher's theories are not based purely on morality or ethics, the goodness of non-dependence and the rights to freedom and self-governance; he is very aware of power politics and how interest determines the interactions between states.⁵¹⁰ Common values are not a necessary element of cooperation, but common interests and the coordination of such have an impact on the political benefits of order. The question is not how we realise an international order which is fully just and peaceful, but under what conditions can man exist peaceably together and avoid the total destruction of universal wars. Fletcher talks of a perpetual peace, but it is clear that he doesn't intend to provide a model for perpetual peace, rather a more pluralistic model for minimising the inevitable conflicts between autonomous sovereign states with competing interests.

Fletcher's proposal for a federal republic of Europe is more than just a balance of power system based on alliances or commerce, but on a republic of republics. The

⁵⁰⁸ A theme picked up by the Enlightenment thinkers around forty years later.

⁵⁰⁹ Fletcher. *An Account of a Conversation*, *ibid*: 205 -206.

⁵¹⁰See Fletcher. *An Account of a Conversation*, *passim*.

republican virtue of the individual state and the limited autonomy held by each would secure the union and the balance; if one state should attempt to gain power against the others, they would come together against it and foreign policy would be a joint venture. This Fletcherian model of federal republic is an uncomplicated process of shared sovereignty and negotiated policy. Commerce brings more benefits than purely economic gains; improved social relations may not eliminate conflict, but the adjudication of conflicts is much less violent – states and merchants recognizing the need for good relations, even if it is for self-interested reasons. The realist assumption that interests are inherently incompatible is tempered by the cooperation required to promote trade. Undermining the Hobbesian state of war, Fletcher hopes to encourage the emergence of a peaceful Europe out of the necessarily cosmopolitan ethic of the commercial interest. Fletcher is conscious of the shared destiny of Europe – that the increasing mutuality in Europe requires peace.

Contemporary neo-liberal politics has ensured that the late twentieth-century has been marked by increased economic globalization in the form of extended capital markets and international supply systems. The impact of globalization is a central concern for policy-makers and civil society. The challenges we face demand new approaches to global governance that are more inclusive and representative. While there are no clear solutions to the challenges facing global governance, different models of global democracy or civil society have been proposed to overcome the global welfare deficit through establishing representative democracy beyond the boundaries of the nation state, and generalizing its norms and institutions around the world. David Held questions whether globalization creates new patterns of inequality and stratification, and if so, whether the state is as important as it once was in addressing issues of justice.⁵¹¹ Local, regional and national forms of self-government are at risk of being supplanted by global forms of governance which obstruct political participation of the ordinary citizen.

⁵¹¹ Held, David. *A Globalizing World? Culture, Economics, Politics*. London: Routledge, 2000. See also

The intergovernmental negotiation model, as exemplified in conventional international negotiated governance, still has the tendency to sacrifice global welfare while prioritising national interests; others have argued for building international governance based on collective movements and recognition of common interests and welfare; a bottom-up approach. Yet, the question remains how any one of these models can gain legitimacy; where is a credible account of how it could come into power and acquire authority, constitutional legitimacy and accountability across national and cultural divides.

The weaknesses of all the current proposed models require us to rethink global governance.⁵¹² Rather than inventing yet another model, there is an argument for the establishment of balances between existing institutions based on Fletcher's idea of checks and balances of the state powers. Globalization has led to the erosion of exclusive government control and we need to revitalise governance as a more encompassing approach that also involves other parts of society. The European Union can be regarded as a contemporary example of Fletcher's republic of republics. It includes high levels of supranational law while remaining entirely committed to negotiation and accord; requiring all members to reach negotiated agreement on action. The European community provides legislation regarding matters that may have an effect on the interests of more than one of its member states, and provides general standards and frameworks by which all must observe, but leaves the implementation of any procedure to the member states themselves.

The failure of the European Union community to agree on a constitution is evidence that there is institutional work still to be done, but a modern, increasingly interdependent global community must continue to find multilevel and effective

⁵¹² The debates surrounding global governance and justice are too numerous and far reaching to be given any justice in this short passage. For a good introduction however, see, amongst others: Archibugi, Daniele, Held, David, and Koehler, Martin (eds.), *Re-imagining Political Community: Studies in Cosmopolitan Democracy*, Stanford: Stanford University Press, 1998. Held, David. *Democracy and the Global Order: From the Modern State to Cosmopolitan Governance*, Stanford: Stanford University Press, 1995. Zolo, Danilo. *Cosmopolis: Prospects for World Government*, Cambridge: Polity Press, 1997. Mearsheimer, John J. *The Tragedy of Great Politics*, New York: Norton, 2003.

governance that is accountable as well as flexible. Therefore, as Thomas Heuglin suggests, 'as long as the history of political thought is recognized as a heuristic tool of guidance, for the intellectual explorer as well as the political engineer, it remains important to advance awareness of historical crossroads and alternatives'.⁵¹³ Fletcher is one such alternative.

Our current need to engage and balance the powers of the state, international politics and civil society in readiness for the governance of global society is paralleled with the concept of the division and limitation of powers at the turn of the eighteenth-century. Fletcher suggests a system of complementary and conflicting interests in a shared power base to increase transparency and accountability while diminishing the opportunity for domination. In both the eighteenth-century and the contemporary circumstances, the pluralism of powers suggested may result in increased cooperation and negotiation; advancing justice and welfare along the way. The presence of competing governance arenas implies that governance initiatives can advance even if they are blocked in one arena. The republic of republics model suggested by Fletcher for both the domestic and international arenas, separates the powers resulting in legislative, judicial and executive decisions being more balanced. This model can be used to address the issues of global governance as well as the domestic model suggested by Fletcher.

Fletcher is self-consciously using both an historical and scientific method as a moral imperative, raising the value of the human community to fit a universal model and committing mankind to peace through his desire for wealth. He is not ignorant of *raison d'état*, but he understands commerce as providing the international system with a need for affinity that could free it from pure power politics; he believes international relations could be ordered through a balance of power mediated by international law and principles of justice. This interpretation of Fletcher suggests

⁵¹³ Heuglin, Thomas. Federalism at the Crossroads: Old Meanings, New Significance. *Canadian Journal of Political Science*. Vol 36, No. 2, June 2003: 291.

similarities between his theories, moving through to Montesquieu and the figures of the Scottish Enlightenment, to contemporary liberal theories of economic interdependence which see the value of peace and cooperation the likelihood of war being minimised by increasing the value of trade over aggression.

Richard Rosecrance claims that states must choose between 'trading states' concerned with promoting wealth through commerce, and 'territorial states' who seek military expansion. Modern conditions push states towards the trading mode - modern wars being too costly. Within the peaceful trading mode 'the benefits that one nation gains from trade can also be realised by others,' and the 'incentive to wage war is absent' within a highly interdependent system. 'Trading states recognize that they can do better through internal economic development sustained by a worldwide market for their goods and services that by trying to conquer and assimilate large tracts of land.⁵¹⁴ Rosecrance (unknowingly) is neatly summarising Fletcher's quite liberal view that interdependence and commerce fosters peace. Neo-realists of course deny that economic interdependence is a basis for peace, insisting that it increases the likelihood of war if one state must rely on another for vital goods – vulnerability increasing the incentive to go to war to assure supply.⁵¹⁵ But for Fletcher, interdependence (not to be confused with dependence) increases cooperation, mutual assistance and is a precursor to peace.

International order has value in itself – as the basis for justice and peace. By ordering international society with regards to individual and independent states with only their own interest in mind, wars are inevitable. By considering the progress of other states as beneficial to the progress of one's own, and the interests of humanity before the interests of individual states, peace is achievable. By combining state

⁵¹⁴ Rosecrance, Richard. *The Rise of the Trading states: Commerce and Conquest in the Modern World*. New York: Basic Books, 1986: 13-14; 24-25. See also Rosecrance. "A New Concert of Powers". *Foreign Affairs*, vol 7: 1 (Spring 1992): 64-82.

⁵¹⁵ See for example Waltz, Kenneth. *Theory of International Politics*. New York: Random House, 1979. Mearsheimer, John J. "Disorder Restored" in Graham Allison and Gregory F. Treverton, eds., *Rethinking America's Security*. New York: W.W. Norton, 1992. And essays by Powell, Snidal and Keohane in David A. Baldwin, ed., *Neorealism and Neoliberalism: The Contemporary Debate* New York: Columbia University Press, 1993.

interest with knowledge of commercial interests and markets, and a commitment to the common good of mankind, Fletcher is able to offer a model of international society that meets the obligations of peace, justice and security that we owe to humanity.

Fletcher's republic of republics is the best system for ensuring the cooperation required to overcome the contradiction of self-interest and a global political order ensuring justice and peace. As the trend for integration and globalisation increases, there is a need in contemporary politics for a commitment towards international society in general. Fletcher recognises this, as do Deudney and Boucoyannis.⁵¹⁶ Fletcher provides us with a model on which to base the best version of international order based on a cosmopolitan republican values. These themes clearly show that Fletcher's political pamphlets are a useful starting position for any contemporary political theorist attempting to answer the questions posed by an increasingly interconnected world which is, quite rightly, concerned with justice, peace and human happiness. Fletcher believes that the well-being of the state begins with the well-being of the community, and it is with republican political theory that the community is looked to properly. More fundamentally, Fletcher's republican values re-focus the debate from what form global governance should take, towards questions of what principles should govern the community of mankind. Fletcher questions what form the international system should take in order to guarantee justice and fairness.

Scottish Politics in the 21st Century – Independence or Devolution Max!

*'I ask every Scot to pause and reflect, not just on what kind of country we are, but on the kind of country we could be, the, kind of country we should be. I am committed to a new chapter in Scottish politics, one in which the story and the script is written by the people and not just by the politicians.'*⁵¹⁷

⁵¹⁶ See Deudney, Daniel H. *Bounding Power: Republican Security Theory from the Polis to the Global Village*, *ibid.* Boucoyannis, Deborah. "The International Wanderings of a Liberal Idea, or Why Liberals Can Learn to Stop Worrying and Love the Balance of Power", *ibid.*

⁵¹⁷ Salmond, Alex. First Minister of Scotland. *Your Scotland, Your Voice: A National Conversation*. SNP White Paper. Nov. 2009.

Fletcher earned his moniker 'the Patriot' during his fierce battle against the incorporationist union of Scotland and England in the parliaments leading to the Treaty of Union in 1707. He is best known for his inexorable commitment to his native country. Despite being absent from Scotland for most of his life, Fletcher's allegiance to his country and the welfare of his countrymen is evident throughout his political pamphlets and discourses. As previously mentioned, each of his political pamphlets, and political actions, are a product of a particular difficulty Scotland confronted. His fierce temper and reputation for aggression kept him from serious political office and he continued to petition parliament and people of influence to ameliorate his countrymen's troubles. His activism against the Union was motivated by his belief that Scotland would be reduced to a slavish state if the incorporationist union went through without any limitations on the monarch and parliament based in Westminster. Fed up with the way Scotland is being treated by the English, Fletcher demands a restructuring of the proposed union and reassurances of Scotland's autonomy. Fast forward almost three hundred years to the devolution process; the Scottish people fed up with the way Scotland has been treated by an (unwanted) Conservative Government in Westminster, and the demand for more Scottish autonomy over Scottish affairs.

Consider Fletcher's political activism against the Treaty of Union in 1707 alongside the arguments for independence coming from Alex Salmond and his ministers in Holyrood. The Scottish National Party has proposed four broad options for Scotland's future:

- The Status Quo - retaining its current responsibilities with 'gradual evolution in response to particular events or pressures'.⁵¹⁸
- Implementing the recommendations of the Commission on Scottish Devolution including: devolved fiscal powers - part of the Budget of the Scottish Parliament

⁵¹⁸ Your Scotland, Your Voice: A National Conversation. SNP White Paper. Nov. 2009: 16.

to be found from devolved taxation under its control rather than from grant from the UK Parliament. The main means of achieving this would be by the UK and Scottish Parliaments sharing the yield of income tax. Also, Stamp Duty Land Tax, Aggregates Levy, Landfill Tax and Air Passenger Duty would be devolved to the Scottish Parliament, again with a corresponding reduction in the block grant. The Scottish Parliament would also be given the power to legislate new taxes that apply in Scotland and Ministers given increased borrowing powers.⁵¹⁹ The boundary of settlement of the Scotland Act should be reconsidered to devolve the powers of legislation regarding constitution and institutions; culture, charities, sport and gaming; employment and skills; energy; environment and planning; health and bio-security; justice and home affairs; marine and fisheries; revenue and tax raising; science, research and higher education; social security; trade and commerce.

- Full devolution, often called 'Devolution Max'. Under full devolution the existing devolution framework would be retained, and Scotland would remain within the United Kingdom. The United Kingdom Government and institutions would continue to have responsibility for many matters; the currency and monetary policy, and decisions on peace and war. Full devolution would give Scotland more responsibility and powers for domestic matters, and would extend the range of measures the Scottish Government and the Scottish Parliament could take to encourage greater sustainable economic growth. Interaction with matters reserved to the United Kingdom, for example foreign affairs, defense, macroeconomic policy, some taxation and, possibly, social protection and pensions. Existing areas of disagreement would continue. Intergovernmental relations would improve, including enforceable principles of parity of esteem.⁵²⁰
- Independence: Favoured by Alex Salmond and his ministers, full devolution with the additional responsibilities that could not be devolved within the

⁵¹⁹ The Commission on Scottish Devolution. Produced by the Commission on Scottish Devolution. June 2009. www.commissiononscottishdevolution.or.uk

⁵²⁰ Your Scotland, Your Voice: A National Conversation. SNP White Paper. Nov. 2009: 17.

United Kingdom. Under independence Scotland would be responsible for all economic and fiscal decisions; education, infrastructure transport and housing; the environment and energy; foreign affairs and defense; the constitution and all matters of legislation, courts and human rights.

Since devolution and the Scotland Act 1997, services such as the NHS have already become devolved, as well as Education and some the courts system maintaining their own forms. Fletcher's federal vision for Britain is clearly recognisable in the 'devolution max' proposal. Scotland would enjoy the full range of powers with regards to the economy and its constitutional responsibilities, while remaining within the free-market economy with England and sharing the responsibilities of national security, defense and foreign affairs; benefiting from the safeguards of being united with England and its political and military strength. According to the Scottish Government, Scotland's lack of financial responsibility has detrimental consequences on its development and economy. The arguments put forth by the Scottish Government for more fiscal autonomy parallel those of Fletcher some three hundred years previous. A balanced and supportive macroeconomic policy framework is essential in fostering investment and development, innovation and job creation, and it is instrumental in creating the right incentives, conditions and opportunities for economic growth. The 'one-size fits all' policy within the United Kingdom with regards to economic policy cannot always meet the needs of both Scotland and England, and, as a consequence, Scotland is often the loser where United Kingdom-wide policies are implemented. Scotland cannot opt out of such policies and is currently limited in the actions it can take to improve or stabilise its economy.

Alex Salmond, First Minister for Scotland and the staunchest advocate of independence for Scotland, when pledging to end over three hundred years of Scottish 'subordination', quotes Fletcher directly, insisting that Fletcher's fears that the 'greater

must always swallow the lesser' were realised with the Treaty of Union in 1707.⁵²¹ Fletcher's influence on the Scottish Government and Alex Salmond is obvious, both in the proposal put forward and the motivations for the desire for independence or federal government. And although Salmond and his party wish for full independence, he has recently accepted the benefits of a federal system similar to that proposed by Fletcher in 1703 with 'Devolution max'. The SNP, like Fletcher, are committed to addressing Scotland's historic underperformance as well as encouraging sustainable economic growth, and both use the rhetoric of equality and justice. Fletcher sees this as achievable through a federal system like the Swiss Cantons, but accepts anything less than full autonomy with regards to fiscal decision making and representation within the United Kingdom with regards to joint matters – defense, war, liberty and the succession of the crown, is intolerable. Likewise, the SNP sees independence as the obvious and best solution to Scotland's social and economic problems but accept that full devolution, taking Scotland to a place of federal union with England (as proposed by Fletcher), is another way of achieving the optimum level of development.

Devolution Max should, in theory at least, provide Scotland with more efficient provision and production of public services; greater responsiveness to citizen preferences, transparent accountability in policymaking, better fits between public goods and their distribution, increased competition, experimentation, and innovation in the public sector, and better alignment of the costs and benefits of government for a diverse citizenry. This devolution, as opposed to decentralisation or delegation, would transfer many functions of Westminster permanently to the Scottish Government providing almost exactly what Fletcher was requesting with his limitations during the parliaments held between 1703 and the Treaty of Union in 1707. The constitutional magnitude of such a move does pose the question as to whether this is indeed possible to achieve within a federal system of dual sovereignty, or whether it is

⁵²¹ Fletcher, Andrew. *State of the Controversy betwixt United and Separate Parliaments of England and Scotland: whether those interests which are to be united by the present treaty, and those interests which by the same treaty are to remain separate and distinct, are more properly and safely lodged under the guardianship of an united Parliament or under that of separate Parliaments* 1706.

necessary to avoid such dual sovereignty and aim for a soft federalism in which the restoration of some powers – fiscal, etc., is combined with the rebalancing of others – defense and foreign policy. And it remains to be seen, with a referendum proposed for 2014, whether Devolution Max is enough to satisfy the desire for self-rule in Scotland. What is clear is that the rise in public opinion favouring independence and its soft federal counterpart is due to a discontent with the status quo.

Devolution Max would provide many of the benefits of independence without the need for a complete separatist movement but is it enough to satisfy the Scottish Government (and the Scottish peoples) desire for self-rule? Devolution Max fails to restore full sovereignty to Scotland, sovereignty would remain with the crown in Westminster and the status-quo would remain. Devolution itself implies that powers are surrendered to a lesser political entity, and the powers gained, although constitutionally difficult to revoke once achieved, would be on-loan, as it was when Devolution for Scotland was first negotiated. A written constitution for Scotland and a fundamental reform of the system of government in Westminster would be necessary in order to clarify and limit the nation's powers. A re-negotiation of the Treaty of Union utilising the constitutional proposals of a non-incorporating union, making use of the twelve limitations and the pre-union status of the parliament of Scotland, as proposed by Fletcher, would go some way to solve the issue of sovereignty.

There are of course other dangers – that of increased competition between Scotland and England, exacerbated by the possibility of protectionism. Scotland may be, in the short-term, unable to manage the increased powers and functions of its government and its social responsibilities. And what of immigration between the two countries? If Scotland does become, as its current leader predicts, one of the more wealthy of the European countries which provides, as it does now, free prescriptions, a better national health service and free education, how long before English migrants flock to these wealthier shores (this is of course dependent on the Scottish government still having the funds to provide these generous services once the 'block

grant' is withdrawn). The antithesis may also be true. Scotland may not be able to increase its wealth and decrease its deficit as predicted, leaving an already poor nation in greater hardship. Would the English border agency accept the poor Scots fleeing to its southern, wealthier neighbour?

The United Kingdom would, in Fletcher's vision, consist of two States: Scotland and the Kingdom of England, Wales and Northern Ireland, both being autonomous over domestic law, policy and finance. Each State would have its own citizenship, its own Crown, its own Parliament, its own responsible Government, and its own Constitution. The Union of Crowns would remain intact; the Queen of England, Wales and Northern Ireland would also be Queen of Scots. The person of the monarch would be united but the Crowns would be distinct and with their own constitutional roles; succession Acts would be negotiated and have to pass both Parliaments. There would be a committee of 31 members, chosen by the parliament and not the crown, to be elected every parliament to replace the Committee of Articles.⁵²² In modern parlance this could consist of the First or Prime Minister of Scotland; The First or Prime Minister of England, Wales and Northern Ireland; Joint Secretaries of Foreign Affairs, Defense and Finance, who shall be appointed upon the joint nomination of the two First Ministers and in charge of joint foreign policy, unified defense but not the administration of its own regiment, and common finances (i.e. the financial affairs of defense and foreign ministries) financed by each states fair contribution to a joint budget.⁵²³ Within this renegotiated, non-incorporating Union, the advantages of independence, including full autonomy in domestic affairs, law and policy may be achieved without the disadvantages of full independence: increased inter-state

⁵²² Fletcher. *Speeches Made by a Member of Parliament Which Began at Edinburgh the 6th May 1703*. IV.

⁵²³ Please note that a joint budget was never a Fletcherian proposal for his federal republic of Britain. Fletcher insists 'The limitation, to which I am about to speak, requires, that all places, offices, and pensions, which have been formerly given by our kings, shall, after her Majesty and heirs of her body, be conferred by parliament so long as we are under the same prince with England. Without this limitation, our poverty and subjection to the court of England will every day increase; and the question we have now before us is, whether we will be freemen or slaves forever? Whether we will continue to depend, or break the yoke of our dependence? And whether we will choose to live poor and miserable, or rich, free, and happy? Let no man think to object that this limitation takes away the whole power of the prince Fletcher. *Speeches Made by a Member of Parliament*. *Ibid*. XIV.

competition, potential loss of confidence of foreign trading partners - and the constitutional difficulties presented by Devolution Max.

*The most effective way to restrict democracy is to transfer decision-making from the public arena to unaccountable institutions: kings and princes, priestly castes, military juntas, party dictatorships, or modern corporations.*⁵²⁴

Fletcher's limitations are an early form of legal constitution – the writing down of legal requirements of governments is combined with his civic humanist republicanism which is more political than legal. The Scottish National Party base many of their claims for independence on their assumption that the British government are making discretionary decisions within the executive branch which have a profound effect on the Scottish nation but without consultation of the Scottish people. Salmond claims, for example, that Scotland would not have 'participated as an independent country in the illegal war in Iraq'.⁵²⁵ He goes on to emphasise the importance of self-government; 'That stresses why you've got to have the ability and determination in order to chart your own way in the world so that you don't get entangled into illegal and disastrous international conflicts'.⁵²⁶

The suggestion that the executive are able to make discretionary decisions without scrutiny from the public or legislature, sits in tension with liberal constitutional values. Fletcher widely rejects the theories that support unaccountable decision making by the executive, even in times of crisis. Whereas Hobbes supports the theory that sovereign powers should not be held accountable to law by their subjects, this theory no longer has much credence in contemporary democratic and liberal politics. Unaccountability is in violation of the rule of law which connects the constitution with the common good. There is no room in Fletcher's (or liberal) constitution for an executive power with unilateral and arbitrary powers. Within a federally constituted and devolved Britain. Salmond argues that the people of Scotland would have full say

⁵²⁴ Chomsky, Noam. *Domestic Constituencies*. *Z Magazine*, May 1998.

⁵²⁵ Salmond, Alex. Quoted in the *Scottish Herald*. 16 May 2011.

⁵²⁶ Salmond, *passim*.

in its political affairs, helping to shape the policies and government of Scotland, the voice of the Scottish people no longer a minority to be ignored by Westminster.

As already noted, the Fletcherian constitutional checks and balances are designed to separate the legislative and executive powers in order to avoid absolutism or arbitrary power. Unreviewable and discretionary decisions breach the constitution which maintains that the executive is held accountable to the public, through the legislature, people and courts. There should be no act made against the public good; any act that is in breach of one is, by definition, in breach of the other, and unreviewable and discretionary decisions are against the public good. Conformity with the checks and balances on the divided powers, as rationally realised through the structural system of the mixed government, limit any need to further restrain the power of the executive. With Machiavelli heavily influencing Fletcher's fundamental political ideas, he questions the nature and purpose of the state, placing its legitimacy at the centre of his political and social analysis. Like Machiavelli, Fletcher assumes the purpose of the state is to promote the virtue and well-being of its citizens, shifting his enquiry away from questions concerning the morality of the government's goals towards questions concerning the acquisition and exercise of political power. Fletcher thus places accountability, legitimacy and obligation as fundamental elements of just rule and the pursuance of the common good.

Fletcher's conditions of government require consent for legitimacy; non-consensual power is both arbitrary and unlawful and may be resisted if necessary. Fletcher proposes a theory of balance of obligations, appealing to his prevailing model of political obligations and reciprocity. Political obligation requires voluntary action; within a political setting this involves the voluntary acceptance of benefits in return for the obedience of laws. At the individual level, by accepting benefits and assistance from another I am accepting the obligation to reciprocate with the same assistance

and benefits when required. This is an 'obligation of reciprocation'.⁵²⁷ Within the broader political setting, the acceptance of protection and other advantages the state can provide obliges the citizens to uphold laws. In order for the state to achieve its obligations, members of society must obey its rules. The members of society benefit from the state's achievement of its aims and therefore are obliged in two ways: they have voluntarily placed themselves under the protection of the state and by choosing to remain within that state consent to the rules of that society; the citizens will benefit from the state and, as a matter of self-interest, must obey that state in order for it to achieve its obligations to them, in return for their obligations to it. There is an argument in favour of independence that the current government in place in Westminster was not given consent by the Scottish people, the Conservative Party only gaining one seat in Scotland in the last general election. Under these conditions, Fletcher would maintain that the Scottish people have the right to resist and are under no obligation to consent to and obey the present government.

The individual citizen benefits from the law-abidance of others, and is therefore obliged to abide by the law themselves so that others may benefit from their law-abidance. The citizen body benefits from the state achievements of its aims and is therefore obliged to ensure the state is capable of achieving its aims. These obligations are reciprocal; the state benefits from the law abidance of its citizens and is therefore obliged to provide the conditions for the continued mutually beneficial status quo.⁵²⁸

'The laws are the only security we have for our lives and properties, which if our sovereign subverts, subjects cannot be blamed, for making use of the ordinary means to preserve them, and since this cannot be done without withdrawing obedience from such a magistrate as goes about to destroy them, such an act cannot properly be said

⁵²⁷ Beran, *The Consent Theory of Political Obligation*. London: Routledge, 1987: 78.

⁵²⁸ Speeches by Member of Parliament, *ibid*: 130-173.

to punish him, (because we take nothing from him which he has a just claim), but do only shun the occasion of making ourselves miserable.⁵²⁹

In his speeches Fletcher explicitly sets out the terms of a social contract between the state and the people, what he calls, 'conditions of government', the constitutional structure of Scotland and England's governments. He sets out twelve conditions of government including the stipulation that the King must sanction all the laws offered by the estates, that he cannot, without the consent of the parliament, have the power to declare war or peace, and that if he breaks any of these conditions of government, he shall forfeit the crown. Fletcher justifies these limitations on monarchical power by means of theories of consent and contractual obligations. Legitimacy is a key concept, and all reciprocal political obligations rely on this principle. Fletcher's social contract theory is subjectivist; it justifies political cooperation and arrangements by showing they would be agreed to as rational means of advancing subjective ends. Persons are motivated by the desires and interests they have at a given time, there is no independent standard of value other than what is required or desired in response to a particular concern.⁵³⁰ If the Scottish National Party were to pay more attention to Fletcher, they may find arguments such as these useful in legitimising their claims for independence; it was similar arguments that helped the Scottish devolution take place in 1998.

As both Skinner and Pettit have claimed, a citizen is only free if he enjoys freedom from dependence within a state that is also free from domination by another state. The nature of contemporary political Britain gives us clear reason to adopt Fletcher's political thought as an exemplar for modeling the United Kingdom. This federal republican model is also intended to fit the newly emerging international system of states. Fletcher's interdependent Europe consisted of independent and autonomous states struggling to find harmony in the chaos left by war, empire building

⁵²⁹ Fletcher, *passim*.

⁵³⁰ Hill, Greg. Reason and Will in Contemporary Social Contract Theory. *Political Research Quarterly*. Vol 48: 1, Mar 1995: 101-116.

and decline, and incipient commercial growth. Fletcher intended to balance the European system and create a perpetual peace based on the interdependence that was created by the developing commercial Europe. By expanding his domestic model of a federal republic to fit the European state system, he produces a model for a balance of power among the states and his version of perpetual peace.

Conclusion:

Deudney has suggested that a republican model of international politics is best equipped to deal with the security issues of the global political order and Fletcher provides a model that recognises the threats to security that come with both hierarchy and anarchy.⁵³¹ His European system was dependent on a cosmopolitan recognition of communal interests, and it is here we can see Fletcher combining the structure of a republic of republics based on a community of mankind sharing an inclusive moral code and economic interest. This moral code is not based on universal shared values or norms, but on a commitment to the continuation of a shared social life; the purpose of protecting the rights of the citizens would oblige the state to respect the rights of all human beings and, as a consequence, nations. Justice would be a result of the obligations to the preservation of society – not as equal or distributive justice, but as the non-domination or suppression of the weak and the poor by the rich. Fletcher has a very valuable contribution to make to modern politics, offering standards for the best ordering of the international system and the proper conduct of states towards one another, all based on conceptions of the common good, interest, and most importantly, peace.

It is clear that Fletcher is a political commentator and not a political philosopher. He does not have a grand theory of human nature, nor attempt the questions as to the meaning of society, or life. He accepts that man was corruptible - that luxury and power threatened social life; that human nature was sociable but

⁵³¹ Deudney, Daniel H. *Bounding Power*, *ibid.*

tempered by greed and avarice. He acknowledges that the system of states is plagued by self-interest and war, and that perpetual peace and universal harmony is not possible. Yet, Fletcher wishes to limit the suffering of his fellow men and limit the dependence man had on the state, and the state had on other states for their welfare and security. He provides a model of universal cooperation which he hopes will limit the wars of aggrandizement which cause so much misery, and advance prosperity and wellbeing throughout Europe. By studying the political works of Fletcher, we can see how important he is to modern republican theory. His introduction of commerce to the doctrine gave it relevance to the political structure of the coming modern age and the enlightenment figures who were able to develop his theories further and who are themselves, vital to our own understanding of politics, history and philosophy. It is John S. Dryzek and Stephen T. Leonard who tell us that one's own discipline's identity depends a great deal on its past and how we write and understand the history of the past.⁵³² Fletcher recognises the importance of his predecessors on his own thought, and the republican theorists of today would be served well by revisiting Fletcher for an understanding of the republican political tradition as it now stands. Fletcher's goals are not unlike our own, we seek to live freely and equally within a just society in which the common goods of man could flourish.

⁵³² Dryzek, John S. and Leonard, Stephen T. "History and Discipline American *Political Science Review* 82 (4), 1988: 1245-1260.

Conclusion - Bringing it Together

It is fairly innocuous to suggest we do not live in a just world. It would be less innocuous, however, to suggest that we should not be attempting to create a just world, or that it would be impossible to do so. It is still unclear what form a just world could take, or exactly what scope justice could take on a world scale, or even as McIntyre asks – whose justice?⁵³³ But it is possible that justice is both impossible and unnecessary, and what is possible and necessary is balance and virtue in politics. It is to these two conceivable components of politics that we should be looking to provide not justice, but dignity and peace, as well as liberty and economic growth and development. With balance and virtue in global politics, the welfare of individuals within states can be better achieved. At least, this is what Fletcher assumes and this gives us the best reason to look to his theories of balance of power, liberty as non-dependence, and peace built on commercial relations and cooperation, as a model for contemporary republican international order. What is more important than any issue of justice is the recognition that the situation is dire for a very large percentage of the world's population and we have yet to find a way of correcting it.

Some argue that humanitarian aid is detrimental, and it is better to help them help themselves. This is the very basis of Fletcher's desire for Scottish independence and self-governance. Recognising that the only way the people of Scotland would get out of their miserable condition is to develop their economic and political infrastructures. Whereas his model of a European federal republic creates a jigsaw of obligations and responsibilities between states that is not universal in practice, it has a global reach. Although some may have an issue with this rather Hobbesian version of justice based on rational recognition of self-interest, preferring a conception of justice based on moral motivations, it can be argued that what matters is the expedience rather than the foundation. Nagel points to the economic facts of injustice; that

⁵³³ McIntyre, Alisdair. *Whose Justice, Which Rationality*. University of Notre Dame Press. 1989.

twenty-percent of the world's population live on less than one dollar a day, with forty-five percent on less than two dollars per day, meanwhile fifteen percent of the population living in high-income economies has on average seventy-five dollars per day. As he states, the situation is so grim that perhaps justice is a side issue.⁵³⁴ Once again, if the situation is as grim as Nagel suggests, and getting more dire by the day, then it does not matter whether improvement of the situation comes from 'justice', an Hobbesian self-interested contract, a Fletcherian balance based on commercial interests, or from an underlying morality of the human condition - what matters is something is done to address the dire circumstances of a large proportion of mankind.

Is there morality in politics? Fletcher certainly thinks so. He does not have a conception of distributive justice or social equality, but does see that economic growth will benefit the whole community and will raise the poor condition in which his fellow Scots live. The moderate communitarian proposals of Etzioni are based on his recognition that the community is a strong foundation for peace and justice; it must be cultivated alongside individual needs to provide a sufficient foundation for rights and freedoms. Fletcher also recognises the mutual needs of the individual and society – identifying the reliance one has on the other for its/their security. The political assumptions of the seventeenth and eighteenth-century republicans with regard to the individual can be compared with modern political discourse. The commonwealth-man regarded the excessive individualism of the new commercial society as the root cause of corruption and insecurity, as each man gives up his virtue and pursuit of the common good for self-interested claims of wealth and luxury. The demands of an integrated international society rely on a solidarist principle which serves the interested of the community of mankind first, an understanding that the individual and the individual state is not ontologically prior to humanity, is required.

⁵³⁴ Nagel, Thomas. The Problem of Global Justice. In Brown, Garrett Wallace and Held, David. *The Cosmopolitanism Reader*. Cambridge: Polity, 2010: 396.

There is no reason to think that Fletcher would suggest a solidarist view of the global political order where states are not the main political actors, but rather an international society in which states, as the main actors, work collaboratively with a shared view and goal; placing the needs of mankind before the needs of the individual or the state. The pluralist argument that asserts states have a morality in and of themselves because of *raison d'état*, is a regular theme in Fletcher's work and Fletcher envisions a European society in which the state is the predominant actor. Political activity is principally focused on the security and welfare of the European region as a whole which, in turn, secures the state and offers the opportunity for growth and economic development which, again, best secures the needs of the individual. By looking beyond the state towards the larger community, the individual is better served. But the question remains as to where the integrity and coherence of international society comes from when the shared norms of religion, ethnicity and even nationhood can no longer be assumed by proximity.

David Miller objects to a European-wide republican model arguing that the institutional devices – federalism, constitutional checks and balances, and public spirit created by the neo-republicans such as Fletcher and Mathison – necessary to preserve liberty in the eighteenth-century cannot easily protect it today.⁵³⁵ It is Miller's contention that national identity provides the historical foundation for civic trust which is necessary for republican citizenship, and therefore it is unlikely that any European sense of patriotism would emerge – certainly not one strong enough to create the bonds of civic trust. Furthermore, factions at a European level promote self-interest above any EU wide notion of the common good; the motivational pre-conditions for European citizenship just aren't present – the basis for cosmopolitan republican citizenship, or what motivates individuals to engage in transnational politics are not present.

⁵³⁵ Miller, David. Republicanism, National Identity, and Europe. Cecile Laborde and John Maynor (eds), *Republicanism and Political Theory*. *Ibid*: 133-159.

What can be said in response however is that Fletcher's vision of small republics coalescing to form a large, European republic, answers Miller's motivational pre-condition concern. Fletcher does not need to consider the historical bond for creating civic trust, as the national politics combined with local politics within his federal republican model requires reciprocity – the mutual assistance of nearest neighbours forming a chain of cooperation and mutual aid if necessary and returning to the balance of power theories presented in a previous chapter. A rudimentary yet plausible form of global community thus presents itself across the international network of republics. Thus, global citizenship is a necessary consequence rather than a necessary pre-condition. But is this mutual assistance across federal republics enough to be considered a global community or a global republican citizenry? Of course, republican citizenship should require a concept of the common good; shared practices of social cooperation and at least, in theory, a notion of distributive justice, as well as the willingness and ability to defend the institutions of their civil liberty.

There is no liberal rejection of patriotism in Fletcher's work, quite the opposite, he assumes patriotism creates community and communities form the bond which is the basis for achieving the common good. This patriotism is extended to include a love of other communities whose development and welfare helps the first achieve its goals.⁵³⁶ Although he begins in his account by rejecting patriotism as a basis for justice and order, Fletcher does see a way in which a man can be a good citizen to both his country and to mankind, supposing patriotism as a virtue necessitates a love of mankind. His model for a federal Europe would be, in his words, 'the best to preserve mankind, as well from great and destructive wars, as from corruption of manners, and most proper to give to every part of the world that just share in the government of themselves which is due to them'.⁵³⁷

⁵³⁶ See Fletcher. *An Account of a Conversation.*, *ibid.*

⁵³⁷ Fletcher., *ibid*: 209.

The purpose of critiquing neo-republican theory was to draw attention to the similarities of the neo-republican theories of Pettit and Pocock, amongst others, and the early modern republican theories of Andrew Fletcher. By comparing the two models this thesis is able to emphasise the importance of Fletcher's thought to contemporary political theory. For example, Pettit's concept of non-domination is analogous to Fletcher's non-dependence model; this non-dependence approach allows us to face the challenges that a global civil society based on inter-dependence and international interference on the internal affairs of a state presents, avoiding. Furthermore, this is evidence of his modern approach to the republican prototype; providing a more easily utilised version than the Harringtonian archetype.

The neo-republican attempts to aid a contemporary global society, struggling to meet the challenges of global poverty and injustice. Dissatisfaction with liberalism's failure to address these issues allowed for the republican paradigm to regain favour, but in attempts to demonstrate the differences between the two models, and establish one as superior to the other, the usefulness of both approaches has been fractured. The Fletcherian method of combining the best aspects of both; emphasising the necessity of working towards the common good in order to achieve the improvement of the individual good – has largely been ignored. Contemporary Republican theorists such as Sunstein and Etzioni offer a republican model which is entirely compatible with contemporary notions of liberty and justice, much closer to the model proposed by Fletcher at the turn of the eighteenth-century. But even Etzioni's 'third way' is barely distinguishable from the early modern republican approach of Fletcher which can be seen to draw together the supposed polar opposites of liberalism and republicanism.

As Onuf suggests, the modern republicans have absorbed the early modern themes of the ancient republican paradigm; accepting that the function of political society was for the common good - the provision of the conditions conducive to a shared experience judged as 'good'. Republicanism refers to the organisation of a

political society, where political association takes precedence over individual autonomy. For the moderns, as society separated into a system of states, from Grotius through to Kant, the stress was on the interconnectedness over the independence of states.⁵³⁸ Of course, the early modern republican models are limited in their efficacy for these contemporary issues, not including any sense of inter-dependence or international commerce, both of which Fletcher is keenly aware. Yet the early modern republican emphasis on self-government and freedom of political action from arbitrary rule fit the needs of a fractured global political order; providing the fundamental blocks to survival for nations struggling to maintain self-rule while coming to terms with increasing international interference. Laborde at least recognises republicanism's positive contribution to the debate surrounding global inequality and domination; republican refusal to reject all interference in internal affairs allows institutions such as the UN and the IMF access to developing communities, allowing them to influence the development of cooperative and stable political societies.⁵³⁹ What is apparent is that the neo-republican theories being rebranded as cosmopolitan republicanism or communitarianism are barely distinguishable from the early modern theories of the sixteenth and seventeenth-centuries, but for the 'modernising' element of commerce which results in a very Fletcherian republican approach that has been, to date, largely ignored.

The civic humanist ideal originated in the reassertion of the *vita activa* – the ultimate goal of the citizen was to assert his virtue in (political) action (for the common good) of which the republic was the frame. Fletcher's history of liberty (as is found in the discourses) highlights his for a civic morality that could not be found within political discourse at the turn of the eighteenth-century.⁵⁴⁰ Fletcher is using republican language and is in many respects purporting republican ideals, tempered by a liberal sense of justice. The common good is a republican ideal, committed to liberty under

⁵³⁸ Onuf, Nicholas Greenwood. *The Republican Legacy in International Thought*. Cambridge: Cambridge University Press, 1998: 7.

⁵³⁹ Laborde, Cecile, *ibid*.

⁵⁴⁰ Pocock, J.G.A. *The Machiavellian Moment: ibid*:432.

law, with responsibility for the collective well-being of the community. It is this that distinguishes Fletchers' republicanism and where his greatest intellectual contribution to republican debates remains, making him entirely relevant to contemporary politics.

The civic tradition, of which Fletcher is a clear advocate, emphasises the concept of sovereignty, the unifying force of governance (the monarchy being exemplary because of its unitary form of government) and freedom from arbitrary rule. According to Robertson, this tradition sees liberty not as freedom to participate in government, nor the good of the community, but as a natural or historical right of the individual. Michael Sandel (1996) and Charles Taylor (1995) both favour a strong civic humanist, neo-Athenian republicanism, emphasising the political participation in self-governing communities, an important aspect of Fletcher's ideal republic, yet Fletcher cannot be considered a neo-Athenian republican proper; his ideal republic being rather a hybrid of Roman and Athenian republican values.⁵⁴¹ The Roman tradition holds that people do not wish not to be ruled, but rather they do not wish to be ruled over arbitrarily. As a neo-Roman republican, Fletcher understands the republican model to be best served by a mixed government that upholds the *res publica* and not their own interests. And this is where Fletcher utilises the Athenian model; incorporating the necessity of political participation and civic duty – thus providing further necessary checks and balances on the government that prevent self-interested and arbitrary rule.

The political dissonance inherent in Fletcher's version of early modern republicanism may be a barrier to his political theories being accepted by contemporary republican theorists, yet it is this dissonance which allows Fletcher to modernise the early modern republican ideas of Harrington and Machiavelli, and provide a model for liberty and good governance based on non-dependence which fits well with our contemporary ideas of social justice and equality. Fletcher is

⁵⁴¹ Sandel, Michael. *Democracy's Discontent*, *ibid.* Taylor, Charles. "Why Democracy Needs Patriotism". *Boston Review* (19) Oct/Nov, 1994. Reprinted in *For Love of Country: Debating the Limits of Patriotism*, Joshua Cohen, (ed). Boston: Beacon Press, 1996: 119-21.

incomprehensible without republicanism, but is not clearly to be found within it. He backs the monarchy, although within its limits, engages in a Machiavellian pursuit of civic responsibility, yet believes in progress and development. He believes in virtue and the common good and blames luxury for the corruption of society, but is eager to promote free-trade and commerce. One could argue that Fletcher was either a poor republican, one who did not quite understand the language or the limits, or the limitations of republicanism were not acceptable to him. Fletcher's civic-humanism is incorporated into his cosmopolitan and communitarian ideals and his desire for progress, as such it is clear that any differences between cosmopolitanism, communitarianism and republicanism, are not as irreconcilable as assumed.

Of the themes that dominate Fletcher's political writings the subjects of self-interest, (whether individual or *raison d'état*), and the common good, liberty and justice are most prevalent. Whereas republican theorists in his own time were attempting to replace the republican paradigm of civic virtue with a more realist concept of self-interest, Fletcher is making attempts to combine the two divergent ideas to show how they both contributed to the common good and were, therefore, two parts of the same achievable goal. Commerce is a key contributor to the common good as well as to the degradation of civic morality – it is both the cause of the corruption of the civic moral way of life and brings an end to the ancient gothic constitution. The growth of a market economy was inevitable and necessary for the primary good – economic development would eliminate poverty and stabilise the nation. It is here that the most common theme in Fletcher's political thought is most apparent – that self-interest prevents cooperation among states unless the state is able to recognise that virtue in commerce (albeit a paradox in terms) is a sound basis for economic growth. By accepting commerce as a force of good, Fletcher can be considered to be abandoning his republican principles, but it should be seen as Fletcher being an astute political observer who recognises the inevitability of commercial society and making plans for it to benefit the republic. Fletcher modernises republican theory by equating a commitment to the developing society

and the economy with virtue and a commitment to the community, the essential attribute to a civil way of life.

It is therefore apparent that a contemporary republican model of politics based on early modern paradigms of the common good, civic virtue and egalitarianism can be the model for a global political order. This idea of a global political order should not be confused with global governance, but equated with the idea of global citizenry – an old idea which has enjoyed a renewed enthusiasm. As such, this thesis suggests a new normative approach to global politics based on a Fletcherian republican template which is attentive to the related theories and goals of cosmopolitanism and communitarianism, but which does not lead to a soft concept of international society concerned purely with morality without considering the needs of commerce and power politics. Fletcher's civic-humanist republicanism reaches far beyond the Treaty of Union in 1707, the Glorious Revolution or the Spanish Succession Crisis, and is a necessary model for contemporary politics and theories of political order. His contribution to political theory cannot be easily dismissed. He articulates a republican political theory of citizenship which, structured as it is around concepts of non-dependence, liberty and equality, is capable of enhancing contemporary liberal and republican principles of non-interference and non-domination. Unlike Machiavelli and Harrington, there is no apparent tension between Andrew Fletcher and the contemporary Republican theorists; the concerns of Fletcher are the same concerns as his modern counter-parts, their approaches towards the solutions are the same.

This evolution of republican political thought has taken some of the best parts of civic humanism (early modern republicanism); civic duty, political participation as the source of liberty and justice, and the emphasis on the common good, combined it with the republican notions of freedom as non-domination, and the liberal ideals of freedom as non-interference, and the pursuit of self-interest promoting the public good. Fletcher combines these republican and liberal ideals in his own version of early modern republicanism, modernising the model by bringing commerce into the

equation for the first time. His republican model incorporates key liberal ideals: collective security, interdependence, the rule of law and human rights. For Fletcher, socio-economic development alongside virtue, recognised here as political participation and self-governance, are required for liberty and justice. It is this that proves Fletcher's model of civic humanism is relevant to modern political theory.

This thesis shows Fletcher as a significant figure in the republican tradition. His intellectual, if not political, contribution is fundamental to a proper understanding of the republican paradigm. Using the early modern republican model of Andrew Fletcher to critique contemporary republican theories, this thesis proves Fletcher is a vital contributor to the contemporary debates concerned with global order and justice. Andrew Fletcher of Saltoun, writing at the turn of the eighteenth-century, is a relevant political theorist for contemporary politics; his vision for a federal Britain and Europe based on the early modern republican model incorporating civic virtue and the more modern factor of commerce is relevant to today's political order. Within Fletcher's model of a federal republic of Europe, similar to the models suggested by contemporary republican and liberal political theorists; his models of non-dependence, liberty and civic virtue, we can recognise the fundamental components of contemporary republican theory.

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Appendix 1.

Act for the security of the kingdom, brought in by the same member.

The estates of parliament considering, that when it shall please God to afflict this nation with the death of our Sovereign Lady the Queen (whom God of his infinite mercy long preserve) if the same shall happen to be without heirs of her body, this kingdom may fall into great confusion and disorder before a successor can be declared. For preventing thereof, our Sovereign Lady, with advice and consent of the estates of parliament, statutes and ordains, that if at the foresaid time, any parliament or convention of estates shall be assembled, then the members of that parliament or convention of estates shall take the administration of the government upon them: excepting those barons and burghs, who at the foresaid time shall have any place or pension, mediately or immediately of the crown: whose commissions are hereby declared to be void; and that new members shall be chosen in their place: but if there be no parliament or convention of estates actually assembled, then the members of the current parliament shall assemble with all possible diligence: and if there be no current parliament, then the members of the last dissolved parliament, or convention of estates, shall assemble in like manner: and in those two last cases, so soon as there shall be one hundred members met, in which number the barons and burghs before-mentioned are not to be reckoned, they shall take the administration of the government upon them: but neither they, nor the members of parliament, or convention of estates, if at the time foresaid assembled, shall proceed to the weighty affair of naming and declaring a successor, until twenty days after they have assumed the administration of the government: both that there may be time for all the other members to come to Edinburgh, which is hereby declared the place of their meeting, and for the elections of new barons and burghs in place above-mentioned. But so soon as the twenty days are elapsed then they shall proceed to the publishing by proclamation the conditions of government, on which they will receive the successor

to the imperial crown of this realm; which in the case only of our being under the same king with England, are as follows.

- *1. That elections shall be made at every Michaelmas head-court for a new parliament every year; to sit the first of November next following, and adjourn themselves from time to time, till next Michaelmas: that they choose their own president, and that everything shall be determined by balloting, in place of voting.*
- *2. That so many lesser barons shall be added to the parliament, as there have been noblemen created since the last augmentation of the number of the barons; and that in all time coming, for every nobleman that shall be created, there shall be a baron added to the parliament.*
- *3. That no man have vote in parliament, but a nobleman or elected member.*
- *4. That the king shall give the sanction to all laws offered by the estates; and that the president of the parliament be empowered by his majesty to give the sanction in his absence, and have ten pounds sterling a day salary.*
- *5. That a committee of one and thirty members, of which nine to be a quorum, chosen out of their number, by every parliament, shall, during the intervals of parliament, under the king, have the administration of the government, be his council, and accountable to the next parliament; with power in extraordinary occasions, to call the parliament together: and that in the said council, all things be determined by balloting in place of voting.*
- *6. That the king without consent of parliament shall not have the power of making peace and war; or that of concluding any treaty with any other state or potentate.*
- *7. That all places and offices, both civil and military, and all pensions formerly conferred by our kings, shall ever after be given by parliament.*
- *8. That no regiment or company of horse, foot, or dragoons be kept on foot in peace or war, but by consent of parliament.*

- 9. *That all the fencible men of the nation, betwixt sixty and fifteen, be with all diligence possible armed with bayonets, and firelocks all of a calibre, and continue always provided in such arms with ammunition suitable.*
- 10. *That no general indemnity, nor pardon for any transgression against the public, shall be valid without consent of parliament.*
- 11. *That the fifteen senators of the college of justice shall be incapable of being members of parliament, or of any other office, or any pension: but the salary that belongs to their place to be increased as the parliament shall think fit: that the office of president shall be in three of their number to be named by parliament, and that there be no extraordinary lords. And also, that the lords of the justice court shall be distinct from those of the session, and under the same restrictions.*
- 12. *That if any king break in upon any of these conditions of government, he shall by the estates be declared to have forfeited the crown.*⁵⁴²

⁵⁴² Fletcher. "Speeches made by a Member of Parliament Which Began at Edinburgh the 6th May, 1703". In Robertson. *Andrew Fletcher Political Works*. Cambridge: Cambridge University Press, 1997: 138-139.