

Carlsbad 1819

Like another Chouannerie

Communalists and constitutionalists

October 15, 2017 by Nulle Terre Sans Seigneur

Liberalism and democracy are not the same, as I've mentioned in the context of the doctrinaires (<https://carlsbad1819.wordpress.com/2017/04/28/aristocratic-liberalism-a-brief-tour-of-an-extinct-tradition/>) and ancients v. moderns (<https://carlsbad1819.wordpress.com/2017/05/07/constant-remusat-and-the-tensions-between-ancient-and-modern-liberties/>).

"Illiberal democracy" is used as an epithet to refer to various top-heavy presidential or parliamentary republics where elections serve a mostly symbolic role to give the dog (the public) a bone. And I don't mean blow them like in the AC/DC song. Although, figuratively, this may indeed be it.

But that's quite a limited way of grasping the distinction. Instead let's use a dichotomy of "communalism" and "constitutionalism." Such as between, say, the Swiss mountain cantons of the Grey League, and... Luxembourg. Luxembourg? Yes, not even the venerable Grand Duchy was spared from the Great European Chimpout of 1848. Grand Duke William II conceded a constitution.

You could tell a lot about its instigators by art.25 of the 1848 Constitution: "The freedom to express one's opinions by speech in all matters and freedom of the press are guaranteed, except for the repression of offenses committed in the exercise of these freedoms. Censorship can never be established. No security for writers, publishers or printers may be required. The stamp duty of native newspapers and periodicals is abolished. The publisher, the printer or the distributor can not be prosecuted if the author is known, if he is a Luxembourger and domiciled in the Grand Duchy."

Moreover, in art.40: "The King Grand Duke has the right to confer titles of nobility, without ever being able to attach any privileges."

The men of letters were very afraid. They still are.

If the type of charter, one of many examples being say Francis I of France's *Édit du Plessis-Macé* (https://fr.wikisource.org/wiki/%C3%89dit_du_Plessis-Mac%C3%A9) (1532) granted to the Estates of Brittany, represents an assurance to traditional elites that their judicial and fiscal prerogatives will be respected, then liberal constitutionalism must represent an assurance to the men of letters that their public agitation and seditious pamphleteering will be respected – nay, encouraged.

In any event, let's look at a primitive principality. Novi Vinodolski in Croatia is a good example, as it's known for its surviving *Vinodolski zakonik* (<http://www.cuvalo.net/?p=50>) from 1288. This was back in the days when the Croats kept their plebs in check. Today they elect "devout Catholic" abortionists (https://en.wikipedia.org/wiki/Kolinda_Grabar-Kitarovi%C4%87) for President.

Art.57 of the Vinodol Statute tells us that there may be no assembly, public or private, in a town or elsewhere, on any business which comes under the district's competence, unless there is a man of the Prince's there. Illegitimate assemblies are to be shut down and their property confiscated.

The justice system is one based on compurgation, its two main sources of evidence on behalf of defendants being oaths and character witnesses. Widespread acceptance of the faith made such testimonies more reliable than they would be today. The procedure for rape (art.56) is particularly intricate, involving oaths with hands placed on scripture, numerous character witnesses (all of them women) and a final sealing oath by the accuser: "Verily do I swear with this oath." If it is not followed to the letter, the accused is acquitted.

Possession of the fisc (art.33) or unowned property is by default the prince's, as it is "nobody's and hence should accrue to the court irrespective of whether an official order or demand in respect of it had been made."

The proximate cause given for the writing down of this statute is the convening of an assembly by the prince in which laity and clergy were summoned alike, the "Vinodol elders."

Quite notable is that the first several articles deal with imposing restrictions on the powers of the bishop in various ways. This was also a means by which several Swiss communes in the north gained their sovereignty, by wresting the regalia (esp. taxes, tithes and grazing rights) of e.g. the Bishop of Chur in the case of the Rhaetian communes.

The oath to the lord was redirected into a communal oath of arms-bearing freemen pledging for mutual defense. Legitimacy transfers from a person to a corporation of people not internally marked by any formal honors or dignities.

(Initially, there was a coexistence between communal and princely institutions, sometimes with the latter's consent when it let him delegate administrative tasks. The commune would swear its oath from a certain point onward while allowing lords to continue exacting certain dues from personal lieges.)

The Swiss Confederation did not necessarily abolish the territorial lordship idea altogether, but rather subjected it to rotation of office among its confederate states — though with the title of *vogt*, as if simply a chief magistrate. The cantons could also be rather belligerent, as when Zurich occupied the lands of the extinct Toggenburg dynasty of counts in the 1430s and cut off grain supplies to neighboring cantons, triggering a war.

Appropriation of regalian rights belonging to princes and swearing of communal defense oaths would create a corporate body of freemen managing their affairs through assemblies. It so happened that in the rural cantons of the Grey League there prevailed in addition a majoritarian principle of vote-by-head in annual or biannual Bundestagen for election of magistrates, as well as a proportional system for redistributing rights to pasture. For instance, a village could be divided by house numbers, with pastures being shared by a cluster of overlapping neighborhoods. The number of grazing slots per quarter was continuously readjusted every N years.

Labor power was also shared. On the evening before a communal construction project, the village head might post notices on corners of houses naming tasks and people on call for them. Village bells would ring on the morning of the labor initiative, and on the third signal all those summoned had to assemble on the village square equipped with tools (shovels, picks, etc.) Absentees were fined.

The communes were patriarchal and martial in their nature, for normal reasons, but also out of a necessity to preserve their heterodox form of organization from outside belligerents. Carrying a sword and a knife was often required for participating in an assembly.

(When engaging in conquest, the principle was that all the movable goods/spoils should be divided among those who fought, whereas the territory as a whole was to be handed over to the confederation of communes.)

A Venetian ambassador, Giovanni Battista Padavino, describes the variety of communal voting practices:

In taking the vote of the people, everyone who is fit to carry a sword being entitled to have his say, they use various methods ... In some places the decisions are made by the largest number of heads, in others by estates, or by parishes, or by guilds as in Chur. But the general custom is to call the people on Sunday with a bell, and the magistrates publicly read the content of the letters written by the presidents [of the Leagues], after which everyone then has to give his opinion; the magistrate then announces that those who desire to accept the matters that have been proposed should raise their hands, and then they count how many are raised, and which ones remain down to indicate the contrary opinion.

Public voting and the absence of a secret ballot made popular government a very personal affair. After a decision was made, dissent was usually prohibited, and sometimes was even a capital crime subject to high justice. Persuasion, false reports, bribery and even the rather brute method of punching members into forcing their hands raised, were all employed to influence decisions and build consensus. Unanimity and solidarity were of value, not individual expression. Confessional questions were also subject to majority rule, overruling clerics at many times.

Such communalism thus represented a community of armed proprietors, combining individual management of one's stock while being subject and participant of a collective control over the means of production as a whole. One's personal status began to decline in importance relative to one's amount of land, allowing a patrician class to emerge. Above all, communal association was natural and holistic, not a product of volition or individual contract.

Rhaetian constitutional documents in particular displayed a good deal of pessimism, in contrast to the meliorist and triumphalist tone of liberal democracy. The First Ilanz Articles of 1524, part of the Swiss Reformation, which gave Rhaetia an autonomous elect its own pastors, opened up thus: "Now since the fall of the first man, down through the length of years and changes, has in these times made sinfulness creep before reason, and because it is therefore necessary, for the teaching and permanent knowledge of those who will come after us, to commit those things to the evidence of written truth which are intended to live eternally and indestructibly, we therefore declare..."

Eventually, the fall of restraints on alienation of land, the proliferation of freeholds and the decline of territorial lordship in the area would lead to a rise of a patrician oligarchy based on endogamous marriages, persuasion, graft and spreading of families across different communes, as in the Salis family: "Hercules von Salis settled in Gruesch, where he was able to win the favor of the population so quickly, through his friendly and upright demeanor, that he was not only accepted as a citizen, but thereupon

elected to the office of Podesta of Tirano in 1590 with the support of his relatives. This occurred with great applause from the people, but at the expense of irrevocable animosity from some otherwise influential men in the commune, who saw themselves thrust aside in this way by a newcomer.”

Open communalism would largely be supplanted by patrician oligarchy by the 1620s, communalism itself having its heyday in the middle of the 16th century.

However, a legacy of particularism would remain. “To me, Switzerland is only of interest because Lucerne – which is my fatherland – lies in it. If this canton no longer exists as a free, sovereign part of the Confederation, I care as much for the latter as for Tartary,” wrote Philipp Anton von Segesser in the late 1840s.

A legacy which had to fall, for from the 1830s onward under the influence of the July Revolution in France and similar events, liberal patricians would begin a campaign of *regeneration* so-called. Railing against “foreign, non-Swiss, non-national” elements, meaning aristocracy, Rome and the Jesuits, they would engage in a variety of provocations. Most notable among them was the appointment of David Friedrich Strauss, a liberal theologian who denied the divinity of Jesus, to the faculty of the University of Zurich, an act that led to the so-called Zuriputsch of 1839 where about 2000 armed men gathered with a petition of demands. About 15 putschists died in the ensuing altercation, but the Council of State saw a conservative ascendancy for several years after.

Scenes like the following (<https://archive.org/stream/dierevolutionim00webegoog#page/n72/mode/2up>) rocked the canton of Basel and many others in the 1830s (Basel in 1833 would be divided into the cantons of Basel-Stadt and Basel-Landschaft following a rural v. urban conflict):

Hand in hand with the discussion of the separation [of Basel] went a greater movement within the population. In Liestal and Sissach, liberty trees rose again, initially only in connection with the warlike games of the boys, but soon the matter became more serious: red cockades with inscriptions like “freedom and equality”, “rebellion”, “freedom or death” were seized in public places. “The parish of Liestal sent patrols, for fear of an exodus.

The “warlike games of the boys” consisted of local youths marching outside, waving red flags and raising mischief with political subtexts. In some sense a lower intensity version of what the Burschenschaften college fraternities did in Germany.

Such an analogue to the Burschenschaft (a target of the Carlsbad Decrees) did exist in Switzerland: the Zofingerverein, and Helvetia. Helvetia, founded in 1832, was the most radical of all, advocating a pan-Swiss unitary nationalism (harkening back to Napoleon’s Helvetic Republic) with the pompous motto of *Fatherland, Friendship, Progress*.

By 1848, following the Sonderbund War, Switzerland would transition from loose confederation to a federal state. There is in some sense a parallel to the Union and Confederacy in the USA, though the casualties both political and material were not as great in the Swiss Confederation.

Passions that were once rooted in a village community became redirected to a wider whole of which the revolutionaries had only a tenuous and ideational grasp of. Liberal democracy is at once popular yet anti-communal, for it abhors the type of self-negation and coercive unanimity that characterizes it. On the other hand, it consistently uses the image of the commune as a moral standard without actually understanding its propertarian and patriarchal implications.

As I wrote in a comment over at The Neo-Ciceronian Times:

In a real sense, though, the modern West is actually one giant parody of the ideal of paideia. Pericles (quoted by Thucydides) said that “[we Athenians] regard him who takes no part in these [public] duties not as unambitious but as useless,” — a model that today leads to greater calls for democratic participation, and to a toxic mindset of republican vigilance characterized by exalting the values of the investigative journalist to some paragon of “repaying one’s public duty.” Everyone thinks he’s Demosthenes, when he’s a hack.

Time destroys everything.

This entry was posted in [Liberalism](#), [Political philosophy](#). Bookmark the [permalink](#).

8 thoughts on “Communalists and constitutionalists”

1. Pingback: [Communalists and constitutionalists | Reaction Times](#)

2. Different T says:

[October 16, 2017 at 11:51 am](#)

Liberal democracy is at once popular yet anti-communal, for it abhors the type of self-negation and coercive unanimity that characterizes it. On the other hand, it consistently uses the image of the commune as a moral standard without actually understanding its propertarian and patriarchal implications.

Surely there are those who “actually understand,” aren’t you claiming to be exactly that? It would, therefore, seem that your conception of “Liberal democracy” offered above only encapsulates the thought of a subset of agents.

In a real sense, though, the modern West is actually one giant parody of the ideal of paideia.

Have you read MacIntyre’s AV yet?

Here are some other quotes you may like: “Totus mundus agit histrionem” -supposedly the Globe Theater’s Motto

and from Nick Land (assuming this quote is understandable as you appear to read him): “Romantic dismissal of capitalism based on aesthetic revulsion to mass consumer culture, on the other hand, is **no more than the pathetic squawk of a hypnotized prey animal**. Anyone who thinks this amounts to a critique of capitalism, however, has not seriously begun to ponder what capitalism is really doing. What it is in itself is only tactically connected to what it does for us — that is (in part), what it trades us for its self-escalation. **Our phenomenology is its camouflage**. We contemptuously mock the trash that it offers the masses, and then think we have understood something about capitalism, rather than about what capitalism has learnt to think of the apes it arose among.

Everyone thinks he’s Demosthenes, when he’s a hack.

Beautiful.

[Reply](#)

o Different T says:

[October 16, 2017 at 1:13 pm](#)

To further highlight that the conception of liberal democracy offered here is only descriptive of the thought of a subset of agents, here is a twitter posting from Urielo (the guy who does Antinomia Imediata):

no liberalism needs be so naive to the point of ignoring that society has purchase upon individuals, their choices and values. But such criticism fails to be consistent to the extent that it believes liberalism is an HONEST lie; a lie the liberal believes.

Liberalism is an occultation, a camouflage. it is a social justification, an ideology, to push forward the autonomy of the instrumental.

All liberalism ends up in: private property. Whatever justification is used (natural rights, utility, etc) is dispensable. Proudhon was arguably the first one to argue that "property is theft." That is, that the social body is hurt by liberalism. In such uncovering argument, he already prefigured cybernetics in his "justice as balance." Later in life he offered a new justification for property as the instrument for human self improvement. Every uncovering brings a new cover.

So, for 21 century mutualism, liberalism needs not extend any further than "property makes us rich", arguably Adam Smith's original argument. Which is but a monkey-friendly version of Land's "capital is self propelling." Liberalism is thus the cult of capital (as Marx wished).

It's important to understand that this doesn't mean that liberalism considers that society is made up of individuals through a contractor that the state comes after (secondary) property as a right, rather than a fact (another important Proudhonian distinction).

There's no anthropological error here, there's a very conscious camouflage for an ugly reality to become palatable to humans. Locke used God, Hobbes used mechanics, Rousseau used the general will (& thus fucked it up considerably with demotic regulation of property), Smith used wealth, Stuart Mill used happiness, Bentham used utility, Rawls used fairness, Hayek used information, Land uses intelligence.

Every new term is a tool to keep monkeys sharp and hungry and hailing Moloch to the singularity. now, one can either accept that, or one can pursue hubris and see one's dreams trampled underfoot by nemesis. socialism and absolutism have that in common that both choose the later. and repeatedly fail.

Reply.

3. Different T says:

October 16, 2017 at 12:02 pm

Time destroys everything.

Why are you highlighting this?

Reply.

4. quaslacrimas says:

October 16, 2017 at 8:28 pm

You should link the Neo-Ciceronian post so we can read the whole comment (or the context, if there is no more to the comment). It's unclear whether you are mocking the Periclean ideal of the *vita activa*, or the application of it in a mass society where there is no public work for most people to do; and likewise what you consider to be the Greek *paideia* and what it's parody.

(My 2¢: the loss of commune-culture is not nearly so corrosive to paideia on the Greek model as the descent into anarcho-tyranny and, earlier, – yes, I’m going to say it, get ready – the pluralist legal standard associated with feudal privilege. In other words, our little Argo has been zipping through Scylla and Charybdis; and having first been battered by the rocks of aristocratic exemption from common mores, it then careened off into an illusory chase after legal equality, fatal to law and order.)

Reply.

5. Different T says:

October 16, 2017 at 9:16 pm

*It’s unclear whether you are mocking the Periclean ideal of the *vita activa*, or the application of it in a mass society where there is no public work for most people to do; and likewise what you consider to be the Greek *paideia* and what it’s parody.*

Do you see that this comment is demonstrative of the issue?

Reply.

6. Colin Alberts says:

October 18, 2017 at 11:48 pm

I’d be very interested in some of your sources that you mined for this article on the subject of Swiss communalism, including not just the Rhaetian experience, but the Bernese one, and the emergence of a patriciate class.

Reply.

7. Pingback: [The left-right spectrum put in its proper meaning and context | Carlsbad 1819](#)

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